



Review of the Agricultural Land Commission

***Moving Forward: A Strategic Vision of the Agricultural Land Commission
for Future Generations***

November 26, 2010

**Submitted By: Richard Bullock, Chair
Provincial Agricultural Land Commission**

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Finally, I would like to give special thanks to the dedicated staff at the Commission, as without their assistance, I would have been unable to complete this review in the timeframe allotted.



VISION, MISSION AND VALUES

VISION

To preserve British Columbia's agricultural land as the foundation for the business of agriculture.

MISSION

To preserve agricultural land and actively engage farmers and ranchers to collaboratively encourage and enable agricultural businesses throughout British Columbia.

VALUES

The Commission values:

- *the benefits of preserving agricultural land;*
 - *the contribution that agriculture makes to the provincial economy;*
 - *the entrepreneurial spirit of farmers and ranchers;*
 - *partnerships and collaboration with farmers and ranchers;*
 - *partnerships and collaboration with local governments, provincial ministries and agencies and other stakeholders;*
 - *technical information on which to conduct its work;*
 - *transparency and fairness in the conduct of its work; and*
 - *its role as an independent administrative tribunal.*
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CHAIR SUMMARY

In accordance with the direction provided by the Honourable Steve Thomson in his letter of July 30, 2010¹, over the course of a three month period I conducted a review of the Agricultural Land Commission (ALC) regarding operations, policy, regulations and legislation. The purpose of the review was to verify that the ALC is meeting its mandate while looking for ways to improve its decision making processes.

The resulting report is intended to be a high level document that identifies issues and outlines recommendations, but does not go into the fine details on how the recommendations could be implemented. I believe there needs to be some direction provided on these ideas prior to delving into them further. I have identified issues to be considered in order to make the recommended changes - legislation, further consultation and/or funding. A business plan is an integral part of any proposal for change and one will be developed following receipt of further direction.

As part of the review, an ALC review committee travelled throughout the province and met with over 300 individuals from over 60 stakeholder groups. The stakeholder meetings were invaluable and provided very useful feedback regarding the work of the ALC. It was clear that there is overwhelming support of the Agricultural Land Reserve (ALR) program and I believe this support is a sign that after almost 40 years, the relevance of the ALR is no longer in question and that the ALC is well-positioned to explore new opportunities to strengthen the ALR. However, stakeholders were almost unanimous in expressing their concern regarding the inadequacy of the ALC's funding and lack of resources to carry out its existing work, never mind explore new opportunities.

I recognize and accept that these are difficult economic times and that the ALC is not immune to fiscal constraints. Over the last two fiscal years the ALC has been forced to focus on processing applications with minimum or no attention being given to its other statutory obligations. This has lead to stakeholders' dissatisfaction, particularly at the local government level, because the ALC is not available to discuss local and regional matters or to deal with emerging or ongoing issues such as the impact of oil and gas activities on agriculture in northeast BC.

The ALC's current governance structure of 19 commissioners and regional panels needs further scrutiny. From a financial standpoint, between fiscal years 2003/04 to 2008/09 the cost of operating the commission more than doubled.

Furthermore, the existing governance structure has given rise to 6 regional commissions with little evidence that the panels maintain any provincial focus on the agricultural land preservation program. Moreover, there is very limited or no training and education provided to new commissioner upon appointment. New appointees are required to start performing their duties without any meaningful awareness of the job, their roles as a member of an administrative tribunal or on the decision-making process. This is unfair to commissioners and a potential legal liability for the ALC as an organization.

¹ See Appendix A – July 30, 2010 letter from the Minister

I suggest consideration be given to a governance model that establishes a single decision-making body (7 members) while retaining regional representation from each of the ALC's 6 administrative regions. A smaller structure will facilitate more in-depth dialogue amongst commissioners regarding planning, ALR boundary reviews and policy matters while at the same time building a cohesive team with staff. Commissioners would also receive training at a peer level as well as from external agencies such as the Justice Institute of BC and the BC Council of Administrative Tribunals.

Another observation is that the application process appears to be directly opposed to the objectives of the *Agricultural Land Commission Act* of preserving agricultural land and encouraging farming. Whether an application is for exclusion, subdivision or non-farm use, the application process fosters and perpetuates speculation to the detriment of the ALR. For example, the Act provides the opportunity for an individual to purchase prime agricultural land today and apply to remove it from the ALR the next day. Land speculation remains high after nearly 40 years and there is still a pervasive attitude among many that agricultural land is simply holding property until a "*higher or better*" use is identified. In addition, an inordinate amount of resources are consumed in dealing with these proposals. Refocusing the legislation away from applications and towards long range planning, ALR boundary reviews and the needs of bona fide farmers and ranchers will go a long way in addressing the continued speculation to convert agricultural land for other purposes.

Following my review I can confirm that the ALC is extremely challenged to meet its mandate. In my opinion, the ALC has done an admirable job despite financial constraints. After nearly 40 years, I believe the ALR should be looked upon as a solid foundation for the business of agriculture in BC. Regrettably however the foundation has suffered erosion to the land base and loss of support from bona fide farmers and ranchers - but thankfully not to a point that it is irreparable. Continued government, support and adequate funding and resources, will allow the ALC to meet its challenges.

As such, I am recommending that serious consideration be given to several strategic shifts to set the ALC on course for the next 40 years. They are:

- An ALR that has defensible boundaries;
- An ALR that places agriculture first;
- An ALC that evolves to a proactive planning organization and moves away from being reactive and focussed on applications;
- An ALC that places priority considerations on bona fide farmers and ranchers and issues that may impact, positively or negatively, bona fide farmers and ranchers;
- An ALC that builds strong alliances with farm and ranch groups and organizations to identify and cooperatively address emerging issues that may impact, positively or negatively, bona fide farmers and ranchers;
- An ALC that is able to respond to and enforce against improper use of ALR land; and
- An ALC that has up to date technology to undertake its legislated duties.

In order to achieve these strategic shifts, I provide the following recommendations that I believe will allow the ALC to meet its mandate to preserve agricultural land, to encourage farming, and to encourage local governments to enable and accommodate farm use in their planning.

1. That the ALC have sufficient funding and resources to enable it to undertake targeted reviews of ALR boundaries to ensure that the ALR is more accurate and includes land that is both capable and suitable for agricultural use;
2. That the work of the ALC be repositioned away from being reactive and focussed on applications, to a proactive planning model that will enable it to strengthen ties to local government land use planning, deal with emerging issues as they relate to agriculture, and undertake ALR boundary reviews;
3. That the “*encouraging farming*” aspect of the ALC’s mandate take greater prominence so that the ALC can focus its work on farmers, ranchers and the business of farming;
4. That the ALC have sufficient funding and resources for compliance/enforcement and that its compliance and enforcement capabilities be enhanced through legislative amendments;
5. That the ALC have sufficient funding and resources to enable it to fully implement its Online Application Tracking System (OATS), to digitally capture all historic information and to spatially link this information to GIS mapping;
6. That the commission be reconfigured to a single 7-member decision-making body that retains regional representation from each of the ALC’s 6 administrative regions and draws on the knowledge of “Farm Advisors” from each region;
7. That the role of Chair and Chief Executive Officer (CEO) be separated and that the CEO position be determined by the ALC and not by Order-in-Council; and
8. That the *Homesite Severance Policy* be maintained, a new policy not be adopted, and criteria developed, in association with groups such as the BC Cattlemen’s Association and other agricultural stakeholder groups, to consider subdivision proposals meant to facilitate the legitimate inter-generational family transfer of active farm and ranch operations.

MOVING FORWARD: A STRATEGIC VISION OF THE AGRICULTURAL LAND COMMISSION

BACKGROUND

The Agricultural Land Reserve (ALR) was established in 1973 to preserve the Province of British Columbia's limited agricultural land base in the face of rapidly expanding urban areas and non-farm development in rural areas. Through the *Agricultural Land Commission Act*, the Agricultural Land Commission (ALC) is entrusted to uphold the integrity of the agricultural land base and to ensure there is a legacy of farmland for future generations of British Columbians.

When reviewing the issue almost 40 years later, it is evident that the creation of the ALR was appropriate. However, the ALC's business model is becoming increasingly out of sync with a rapidly changing environment and threatens to leave the ALC unprepared to respond to significant challenges and opportunities in the coming years.

STRATEGIC CONTEXT

The context for a discussion of the strategic vision of the ALC includes 3 parts: an assessment of its current position, an environmental scan and an assessment of strengths and weaknesses.

Current Position

The ALC is the administrative tribunal appointed by the Government of British Columbia to preserve the limited agricultural land base in the province in order to provide food security and economic benefits to the people of BC.

The ALC works to preserve agricultural land and to encourage and enable farm businesses by regulating land use within the ALR and by influencing local governments and others to govern land use in a manner that is supportive of agriculture and minimizes the impact of urban growth on agricultural land².

Since its inception, the ALC has refined some of the ALR boundaries as well as developed working partnerships with provincial ministries, local governments and other stakeholders. There have also been a series of minor changes to its guiding legislation and fairly major changes to its structure and operations. The ALC is now in a position where it is struggling to cope with an increasing workload, fewer staff and constrained financial resources.

Environmental Scan

- ***Increasing growth pressures on agricultural land.*** In all regions of the province and particularly within high-growth areas there are ongoing, and in many places, increasing

² See Appendix B – Excerpt from ALC's 2007/8 – 2009/10 Service Plan

pressures to convert ALR land to residential, industrial, commercial, institutional, conservation and other community uses.

- ***Land uses adjacent to the ALR.*** Urban and rural non-farm development adjacent to the ALR is a growing concern requiring the attention of local governments. These uses place mounting pressure on farmers trying to use ALR land for farm purposes as urban and rural non-farm residents tend to consider the agricultural landscape as green space rather than a working landscape.
- ***Economics of farming.*** Economic returns to farming fluctuate and can be unpredictable. As a result, farmers and ranchers are looking at alternative land uses to supplement farm income.
- ***Water.*** Access to water for agricultural purposes continues to be an issue in light of increasing domestic, commercial and industrial water supply demands and climate changes.
- ***Unlawful use of agricultural land.*** The unauthorized use of ALR land has been a problem since the inception of the ALR but is now manifesting itself to a greater degree, which if left unchecked, may result in the permanent debilitation of agricultural land.
- ***Ecological goods and services.*** The ALR and agriculture provide a variety of ecological goods and services that contribute to the general well-being of the environment, wildlife habitat, air quality etc.
- ***Renewed priority on food security and the contribution of agriculture.*** Events around the world and concern over the source and quality of the food we eat, have focused the public's attention on the issue of food security and the ability of the ALR to provide a safe and adequate agricultural land base to accommodate food production for domestic consumption. There is also a growing awareness of the vital role agriculture plays in local economies and the potential for future export opportunities. This has translated into increased public scrutiny of land use decisions that impact the ALR.
- ***Current way of doing business being challenged.*** Critics of the ALC have voiced concern over changes made to the ALC's structure that were intended to improve responsiveness to regional circumstances and about the impact of fewer staff and budget constraints. There are ongoing concerns with respect to the information underlying decisions as well as the ALC's inability to effectively enforce its regulations and decisions. There are gaps, duplications and inefficiencies in the ALC's and other agencies' efforts to preserve agricultural land and to enhance land use planning for agriculture.
- ***Opportunity for change and innovation.*** The evolving government direction regarding agriculture (*Provincial Agricultural Plan*) and its response to the Ranching Task Force necessitate an evaluation of how the ALC carries out its business. This process would also present opportunities to greatly improve the effectiveness and efficiency of the ALC.

STRENGTHS AND WEAKNESSES**Strengths**

- Powerful regulatory tools for controlling land use in the ALR;
- High degree of public support for agricultural land preservation;
- Public and political scrutiny of ALC activities has reinforced the independence of the ALC as an administrative tribunal;
- Willingness of staff and commissioners to engage with local government, provincial ministries and other stakeholders;
- Small organization is adaptable to changing circumstances and needs; and
- High degree of staff and commissioner dedication to program.

Weaknesses

- Little control over planning processes that impact on the ALR;
- Resource pressures impact enforcement of Act and regulations;
- Legislative obstacles to proper investigation and enforcement³;
- Information and background analysis for official community plans and major applications often incomplete or weak;
- Lack of ability to act proactively. Financial constraints, inflexible processes and existing communication levels are obstacles to becoming an effective and innovative leader in agricultural land preservation;
- Legislative mandate to “*encourage and enable agriculture*” is subject to financial constraints and there are no established measurements to assess the ALC’s performance;
- Commissioners do not have the opportunity to discuss emerging issues or major policy matters that affect the provincial focus of the ALR program;
- Focussing on application processing to the detriment of its other responsibilities, such as working with agricultural groups and other stakeholders to strengthen agriculture;
- Antiquated mapping and lack of up to date technology for data base management and spatial alignment for applications, planning, research, public inquiries and business reporting;
- ALC has not continued with its review of the ALR boundaries to ensure that land that is capable and suitable for agriculture is in the ALR;
- Legislation does not differentiate between bona fide farmers and non-farmers and therefore the same opportunities to diversify land uses are available to non-farmers or those individuals with minimal farm activity; and
- Legislation is too rigid to address legitimate farm-related issues and opportunities and too flexible when dealing with proposals from non-farmers or those individuals with minimal farm activity.

A STRATEGIC VISION FOR FUTURE GENERATIONS

- ***An ALR that has defensible boundaries.*** The boundaries of the ALR, and any decisions to change the boundaries, should be based upon a consistent method of evaluating scientific and technical information. The boundaries should be defensible in order to discourage speculation and the proliferation of non-farm uses and subdivisions that erode

³ See Compliance and Enforcement section

the agricultural land base and drive up agricultural land prices. Communities should be encouraged to adopt compact and efficient development patterns that minimize pressure on the ALR boundary.

- ***An ALR that places agriculture first.*** The use of lands for agriculture should take priority over other uses within the ALR. Although the ALR permits many non-farm uses and may protect other public values that occur within it, it is first and foremost a working agricultural landscape. The ALC must have adequate resources to advocate for farmers, ranchers and the agricultural industry to encourage farming.
- ***An ALC that places priority considerations on bona fide farmers and ranchers and issues that may impact, positively or negatively, bona fide farmers and ranchers.*** A flexible, risk-based approach to reviewing and deciding upon proposals that are intended to support and enhance bona fide farms and ranches.
- ***An ALC that builds strong alliances with farm and ranch groups and other organizations to identify and cooperatively address emerging issues that may impact, positively or negatively, bona fide farmers and ranchers.*** Through regular communication and consultation the ALC will be better positioned to participate at an early stage in dialogue on issues of importance to farm and ranch communities.
- ***An ALC that is able to respond to and enforce against improper use of ALR land.*** Ensuring that ALR lands are being used properly will maintain a high quality land base for farming and reduce the potential for lands to be degraded to the extent that they can no longer be used for agricultural production. The ALC must continue to strive to build partnerships with other government agencies and local governments to assist in compliance and enforcement related matters.
- ***An ALC that moves away from being reactive and focussed on applications towards becoming a proactive planning organization.*** This shift would allow the ALC to proactively seek opportunities to improve agricultural land preservation and utilization, encourage farming, and focus on emerging and strategic issues.
- ***An ALC that has up to date technology.*** To utilize technology to integrate mapping (spatial) information with the ALC's database for research, planning, ALR boundary assessments and business reporting. To seek partnerships with other provincial ministries and agencies to share data to further enhance the ALC's technical capacity for research, planning, ALR boundary assessments and business reporting.

Repositioning the ALC – Strategic Shifts

The ALC will not be in a position to achieve its strategic vision without fundamental changes in the way it operates and interacts with partners and stakeholders. The following points describe desirable strategic shifts in how the ALC operates.

Strategic shifts:

<i>From:</i>		<i>To:</i>
A land use planning process that often fails to adequately consider agricultural land, encourages speculation and erodes agricultural infrastructure	➡	A defensible ALR boundary and growth and settlement policies that incorporate and facilitate agricultural land preservation
An organization that focuses primarily on processing applications	➡	An organization that operates as a board of directors and administrative tribunal focused on important and strategic issues
ALC processes that are reactive on matters of preserving agricultural land and passive on matters of encouraging agriculture	➡	An organization that proactively seeks opportunities to improve agricultural land preservation and utilization
Decisions based on incomplete information and evaluation methods that are not consistently applied	➡	Decisions based on a consistent method of assessing information and that are appropriate to the circumstances
Failure to ensure compliance with ALC decisions and to enforce infractions	➡	An organization that works effectively with partners to follow through on ALC decisions and enforcement of infractions
An organization with insufficient staff and financial resources to achieve both legislative obligations and to pursue proactive work needed to increase effectiveness	➡	An organization with sufficient resources and the appropriate professional and technical abilities to fulfill its legislative mandate and to achieve its vision
Business processes and structure that do not reflect risk-based and value-added approaches and which do not make the best use of limited resources	➡	An organization that applies its resources in a manner that is efficient, effective and responsive
Legislation that does not differentiate between farmers/ranchers and non-farmers/non-ranchers	➡	Legislation that provides the ALC with a flexible, risk-based approach to reviewing and deciding upon proposals that are intended to support and enhance bona fide farms and ranches

ISSUES

GOVERNANCE MODEL

BACKGROUND

The ALC functions as an administrative tribunal operating at arm's-length from government and is expected to exercise its role in a nonpartisan manner.

In general, an administrative tribunal is a specialized government agency established under provincial legislation to implement legislative policy. Appointment to such agencies is usually by order-in-council. Candidates for appointment are chosen for their expertise and their experience in the particular sector being regulated by the legislation. Appointees perform a wide range of functions, including research and recommendations, rule making and policy development⁷ adjudication and standard setting.

Administrative tribunals engaged in an adjudicative process function in a manner more closely analogous to the courts. Procedure is less formal than before the courts and the rules of evidence do not apply, although decisions must be based only on cogent evidence.

CURRENT GOVERNANCE MODEL

The ALC's current governance model was implemented in May 2002.

Minister's Presentation to Open Cabinet (January 16, 2002)

"The first shift is to restructure the commission by creating six regional panels and a provincial chair. This structure will provide greater regional presence. Commissioners will be more aware of local issues and will be able to respond more quickly. The panels can meet more readily and work more cooperatively with both applicants and local governments as well as view properties in person.

While the proposed structure will require additional commissioners, this will be offset by cost savings from less travel, as the commissioners will meet only in their regions. The net effect is cost-neutral, but the increased number of commissioners will result in better regional responsiveness.

In terms of structure, I recommend that we appoint 18 new commissioners, based on the following. Communities and agricultural organizations, with whom we've met, will submit names for the panel regions. Government will select at least two members from the list of nominees, provided sufficient names have been forwarded. Government will also appoint a panel vice-chair for each region.

There will be one additional appointment of a provincial chair to provide a provincial perspective, giving us a total of 19 commissioners. Panel members appointed from their regions will reflect the diversity of the regions and be representative of the types of agriculture and other local

issues. As well, an executive committee of the provincial chair and the six regional vice-chairs will meet as required to discuss policy and administrative issues and matters of province-wide importance."

Operation of the Commission

- The chair, vice chairs and members are the board of directors of the ALC;
- The ALC may pass resolutions and bylaws it considers necessary or advisable for the management and conduct of its affairs, the exercise of its powers and the performance of its duties and functions;
- The ALC may delegate any of its functions to the executive committee and, when it performs those functions, the actions and decisions of the executive committee are the actions and decisions of the ALC;
- The ALC must submit a service plan to the minister for each financial year and report on its operations during the preceding financial year;
- The ALC determines the functions and duties of the CEO;
- The executive committee is comprised of the chair and vice chairs;
- The chair is the chair of the executive committee;
- The chair may establish up to 6 panels comprised of two or more members and a vice-chair;
- A panel has all of the powers, duties and functions of the commission in respect of an application or other matter before the ALC and a decision of a panel is for all purposes a decision of the ALC; and
- The chair is responsible for the effective management and operation of the tribunal and the organization and allocation of work among its members.

Full Commission

The full commission is the board of directors of the ALC. It is accountable to the government, via the chair, for achieving the legislated objects of the *Agricultural Land Commission Act*, for ensuring that the appropriate mechanisms and controls are in place to enable commissioners and staff to carry out their duties and for ensuring adherence to the *Governance Policy*. It is responsible for policies and procedures, including the delegation (or resumption) of its powers to (or from) the executive committee. The full commission meets at least once a year.

Executive Committee

The executive committee provides strategic leadership and performs functions delegated to it by the full commission, including the establishment of committees and their terms of reference. The executive committee meets quarterly or at the request of the chair and is accountable to the full commission.

The executive committee is responsible for recommending strategic and policy direction for the ALC to the full commission. In accordance with this commission strategic and policy direction, the executive committee provides direction to the CEO and senior staff with respect to the preparation and implementation of action plans and budgets to achieve the purposes, values and goals of the commission.

Regional Panels

Regional panels make decisions on all matters in their respective regions such as applications and local planning issues. They also liaise with communities of interest and governments in their regions to achieve the purposes of the commission. The chair establishes regional panels. Each panel is comprised of a vice-chair and at least two members. Panel absences and vacancies are filled by participation of the chair or cross-appointment from other panels. The size of a panel may be increased by the chair to address inter-regionally or provincially significant applications.

Regional panels are accountable for making decisions that achieve the objects of the *Agricultural Land Commission Act*.

The Chair

The Chair is accountable for the effective management and operation of the commission as per the *Administrative Tribunals Act* and with reference to the *Best Practice Guidelines* prepared by the Board Resourcing and Development Office. The Chair is also accountable for reporting to and liaising with the host Minister. The Chair is responsible for:

- chairing and effectively managing meetings of the commission as a whole and of the executive committee;
- establishing or modifying panels;
- membership on committees established by the commission or the executive committee in consultation with the executive committee;
- ensuring that a vice-chair is selected to substitute for the chair in periods of absence;
- providing strategic leadership to the commission, the executive committee, and in association with the CEO, to commission staff;
- working with the vice-chairs and CEO to monitor and enforce the *Governance Policy*;
- ensuring coordination between regional panels on cross-panel issues;
- maintaining good relations between commission members and encouraging constructive debate and participation;
- liaising with the public, local governments, stakeholders and the media on behalf of the commission; and,
- ensuring that the commission is appropriately represented at functions and on occasions where it is in the commission's interest to be so represented.

The Vice-chairs

Vice-chairs are accountable to the executive committee and to the full commission for the exercise of their responsibilities. Vice-chairs are accountable for the following position-specific duties:

- Serving as a member of the executive committee;
- Providing leadership to the commission panel;
- Implementing the business plan;
- Effectively managing meetings of the commission panel, including public meetings;
- Maintaining good relations between commission members and encouraging constructive debate and participation;
- Substituting for the chair of the commission if requested by the Chair to do so;
- Working with the chair and CEO to monitor and enforce the *Governance Policy*; and
- Assessing the performance of panel members within the regions.

The Commissioners

Each commission member is accountable to the full commission and vice-chair of the panel to which they are appointed. All commission members are accountable for:

- Reviewing all application related documentation, background material and reports in conjunction with ALR applications and land use planning reviews for the panel region;
- Traveling with fellow panel members up to once per month for approximately 3 days to meet with applicants on-site to view properties under application, to discuss application details and gather land use information;
- Making decisions regarding applications as part of a panel within the spirit and intent of the *ALC Act*;
- Actively participating in a team environment and working closely with colleagues to ensure quality and consistency of decisions;
- Attending full commission meetings at least once per year as determined by the Chair;
- Taking direction from the panel vice-chair regarding distribution of work amongst panel members;
- Substituting for the vice-chair of the panel if requested by the vice-chair or, in the absence of the vice-chair, the Chair;
- Attending commission executive committee meetings on behalf of the panel vice-chair when requested by the vice-chair or, in the absence of the vice-chair, the Chair; and,
- Meeting with local government, agricultural and other stakeholder groups at the request of the panel vice-chair or, in the absence of the vice-chair, the Chair.

In performing these duties commissioners are expected to:

- Maintain a provincial perspective in their region;
- Discharge their duties under the legislation in a fair and impartial manner;
- Implement the ALC business plan;
- Maintain an excellent attendance record at commission meetings;
- Fully participate in meetings of the commission panel, including public meetings;
- Maintain good relations with other commission members and staff;
- Adhere to the terms of the commission *Governance Policy*; and
- Liaise with the public, government representatives, and community of interest stakeholders on behalf of the commission.

STAKEHOLDER COMMENTS

Of the groups that discussed the issue of ALC governance, 50% supported the return to a single provincial panel, 23% supported the existing regional panels, 7% supported a combination of the two options, and 20% supported a review of the panel structure.

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES

Not applicable.

2010 AUDIT OF THE AGRICULTURAL LAND COMMISSION - Auditor General of British Columbia

No specific recommendation.

CHAIR COMMENTS

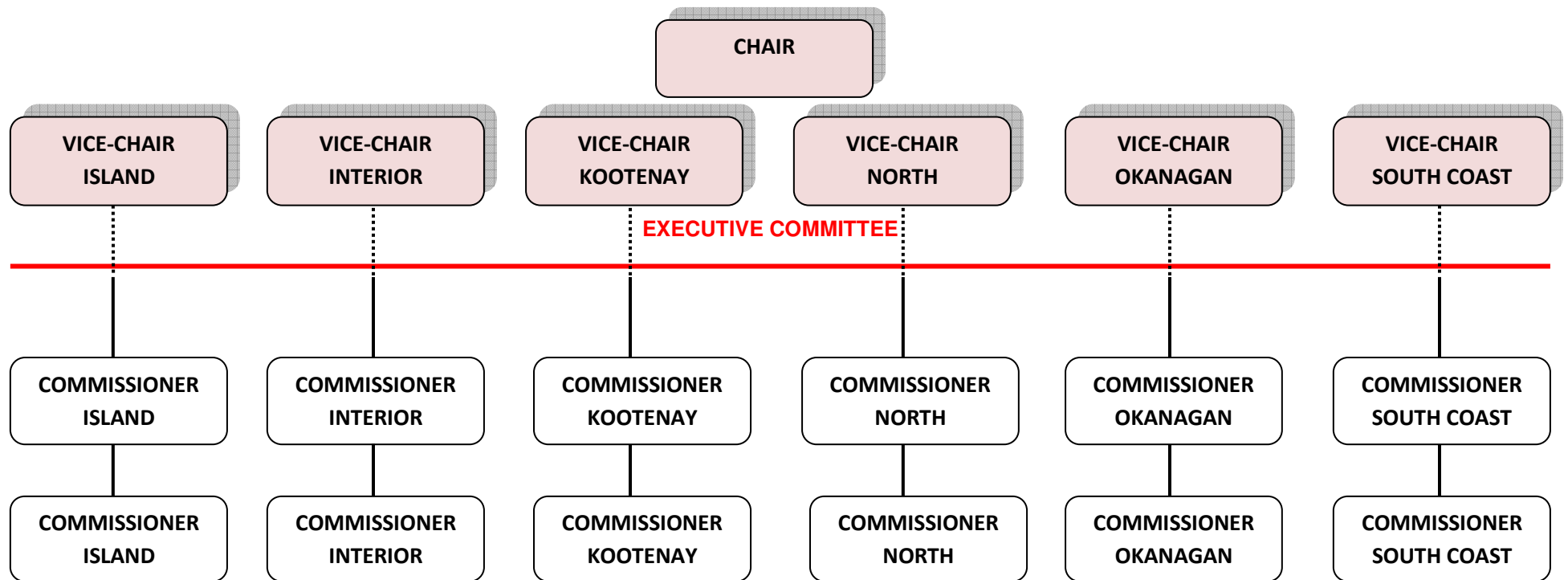
Subsequent to assuming the role of Chair I have had the opportunity to travel with most of the ALC panels. I offer the following observations:

- For the most part the panels are functioning as six independent, regional commissions with little evidence that the panels maintain the provincial focus of the agricultural land preservation program. The ALC's *Governance Policy* stipulates that commissioners are to "maintain a provincial perspective in their region".
- There is very limited or no training or education provided to new commissioners upon appointment. Commissioners are thrust into the job without any meaningful awareness of what the job entails, their role as a member of an administrative tribunal or on the decision-making process. The problem is compounded when you have relatively new commissioners as the primary source of information and advice to new commissioners. During the period when the ALC operated with a single 6 – 7 person board, new commissioners had the ability to engage staff and other commissioners over a period of weeks or months to gain sufficient knowledge and confidence to meaningfully participate in decisions. The current structure offers no such learning experience for new commissioners due to resource constraints. This is unfair to commissioners and a potential legal liability for the ALC as an organization.
- As part of the stakeholder consultation I invited regional commissioners to attend the meetings when in their area. I was shocked to learn that the consultation exercise also provided the opportunity for commissioners to meet commissioners they had not met before. In several circumstances this lack of introduction spanned one and a half years. This scenario was the same for staff meeting commissioners. I understand the last full commission meeting was held in November 2008 - nearly 2 years ago - because of fiscal constraints. During this period there have been a number of new commissioners appointed so it is no wonder the commissioners do not know each other. The full commission annual general meeting was the only opportunity, albeit a modest one, for all commissioners to get together to exchange ideas, debate issues and discuss policy. It is unreasonable to expect the commissioners to retain focus on the provincial perspective and operate as part of the ALC team when they are left on their own without support from their colleagues. This lack of interaction between commissioners is perhaps the most telling reason why the panels have evolved into what are essentially autonomous groups.
- The inability for commissioners to interact with other commissioners and staff has also denied the organization of the ability to discuss major policy issues. In the recent past, issues have arisen such as anaerobic digestion, net zero deforestation, afforestation, climate change, the Ranching Task Force, food security, water for agriculture, etc. These are significant issues and it is imperative that the commissioners have the opportunity to have in-depth discussions in order to formulate a cogent ALC position. This has not been the case due to fiscal constraints and as a result the ALC's voice has been silenced on these matters that have the potential to significantly impact the ALR.

I have also found that on occasion staff has been unfairly criticized for filling the void left by the lack of direction of the commission. This is not a condemnation of commissioners; rather it is further evidence of the need for regular meetings between commissioners and staff. As commissioners meet so infrequently on panels, and in the recent past not at all at the executive and full commission level, ALC staff is left on the front lines to deal with day to day matters and emerging issues. Decisions have to be made, more often than not without much time to respond, and I believe staff has acted professionally and in the best interests of the organization.

- Three member panels do not provide the breadth of experience, knowledge or opinion needed to examine the host of issues to be considered and debated – particularly regarding complex issues. While the Chair has the ability to expand panels, this has not been done on a regular basis due to budget constraints. Furthermore, strong personal biases can prevail over all other arguments with such a small decision-making body.
- Decision-making at the regional panel level has increased the potential for commissioners to be placed in situations of an apprehension of bias of potential conflict of interest.
- The Chair lacks the statutory authority to intervene on a matter before a panel requiring broader debate than can be provided by a three member panel, or a matter that has province-wide implications, or if the panel is not giving sufficient consideration to established ALC policies or to the provincial perspective of the ALR program. While the Chair can sit as an ex officio member of each panel the Chair is only eligible to vote as a member of the panel and does not have the singular authority to direct the processing of an application or other matter before a panel.

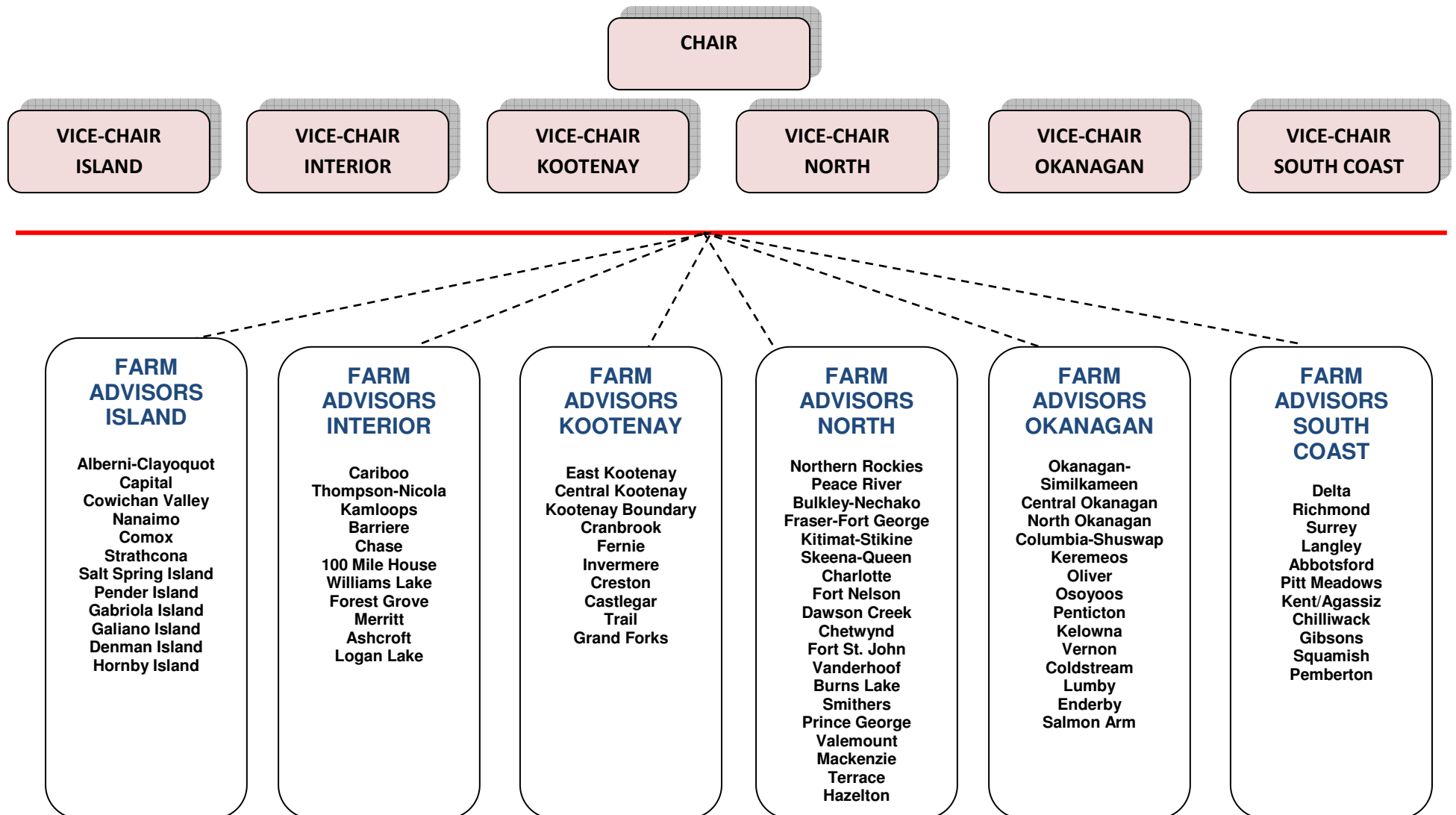
CURRENT GOVERNANCE STRUCTURE: CHAIR AND 18 COMMISSIONERS



Pros and Cons of Regional 3-Member Panels

PROS	CONS
Applicants support decision-making closer to home.	Decision-making too close to local governments and people affected by decisions.
Commissioners are knowledgeable about their region and local issues.	Lack of a provincial focus of the ALR program.
	Do not provide the breadth of experience, knowledge or opinion needed to examine the host of issues that need to be considered and debated.
	Increased potential for commissioners to be placed in situations of an apprehension of bias or potential conflict of interest.
	Recruitment is often difficult and some important agricultural areas are not represented.
	19 member commission is unwieldy.
	Function more as permitting agencies rather than as an administrative tribunal.
	Inconsistent approach to considering applications and administering ALC and provincial policy.
	Personal biases can prevail with such a small decision-making body.
	Chair lacks the statutory authority to intervene on a matter before a panel.
	Considerable staff resources are needed to administer panels rather than more thorough in-depth review of applications and issues.
	Costly to operate.

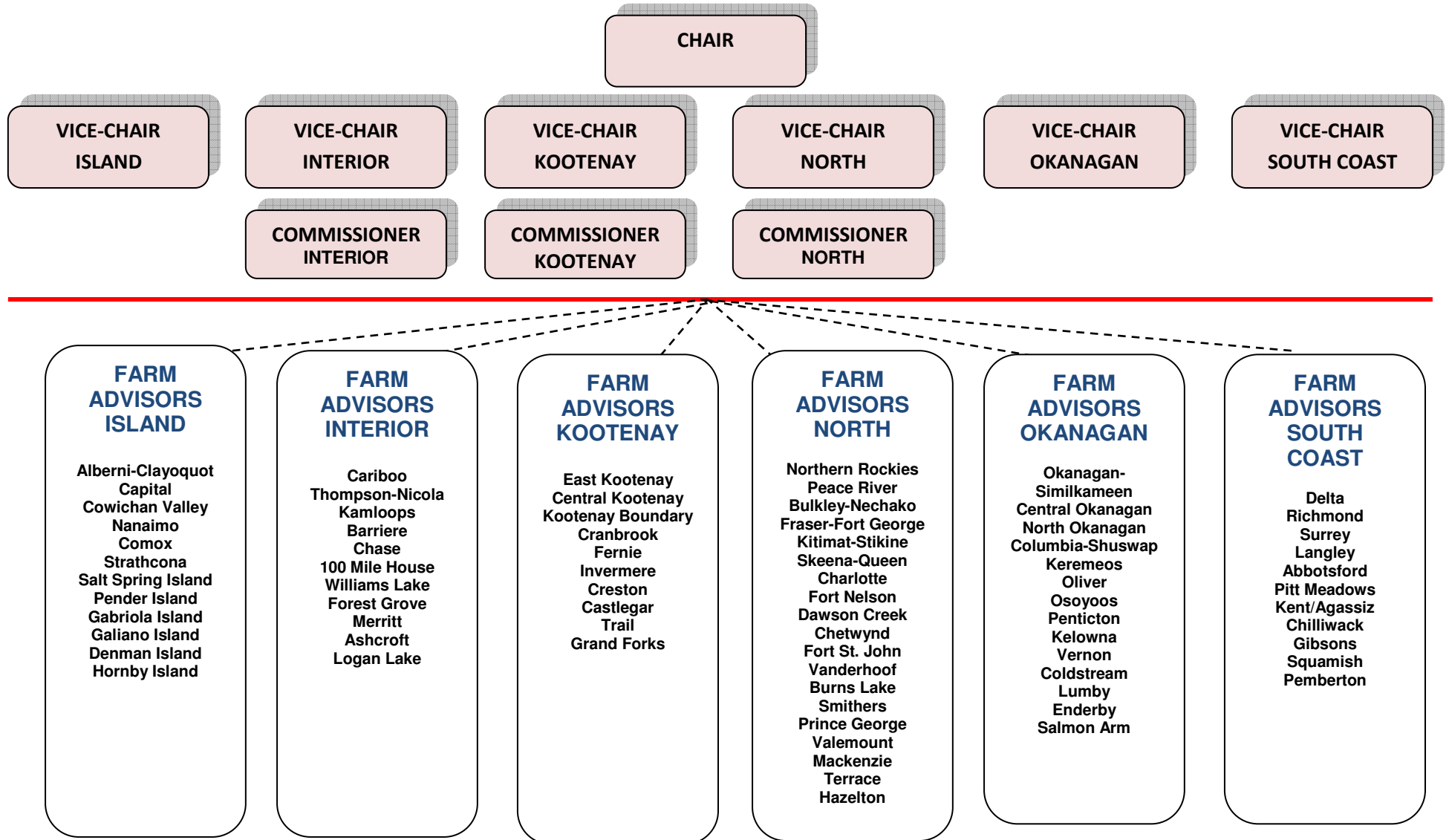
OPTION 1: SINGLE 7-MEMBER COMMISSION WITH FARM ADVISOR SUPPORT



Pros and Cons of a Single 7-Member Commission

PROS	CONS
7 member board is more conducive to team building between commissioners and staff.	Applicants and local governments may not support decision-making farther from home.
Less costly.	
Education and training would be ongoing.	
More controlled turnover of commissioners through staggered appointments, greater continuity at the decision-making level, retention of corporate knowledge by ensuring that new commissioners are adequately trained.	
Decision-making includes consideration of local and regional information while retaining a provincial focus of the ALR program.	
Less exposure to potential conflicts of interests	
A 7 member board, as opposed to a 3 member panel, would provide a broader base of experience, knowledge and opinion needed to examine the host of issues that need to be considered and debated.	
Recruitment would be less difficult and time consuming because there would be fewer commissioner positions to fill.	
Consistent approach to considering applications and administering ALC and provincial policy.	
Personal biases have less impact in a larger decision-making body.	
More staff resources devoted to research and not to administering panels such as organizing trips, developing agendas, scheduling travel, providing documents, etc.	
Better communication between commissioners and staff.	

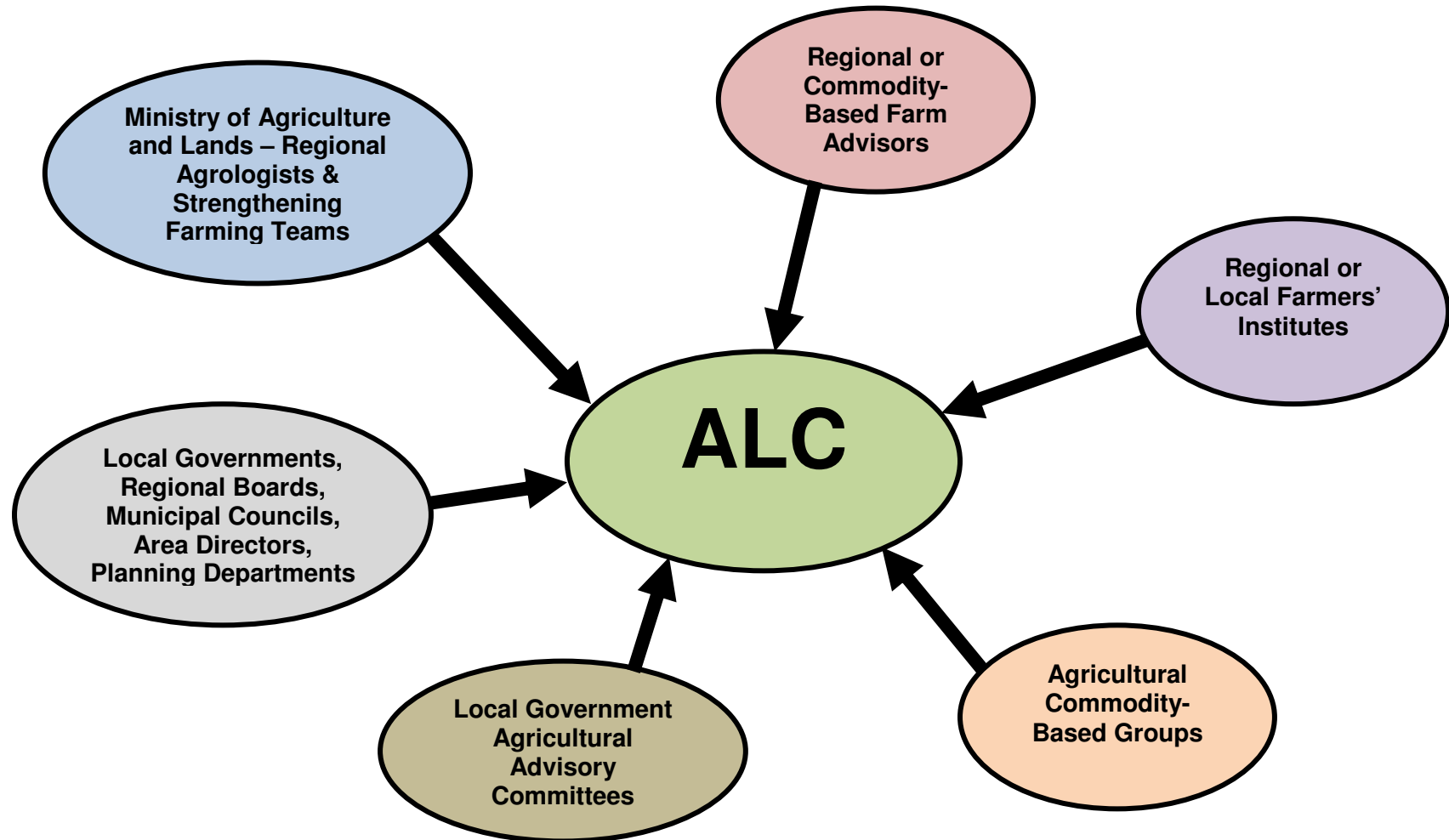
OPTION 2: SINGLE 10-MEMBER COMMISSION WITH FARM ADVISOR SUPPORT



Pros and Cons of a Single 10-Member Commission

PROS	CONS
10 member board is more conducive to team building between commissioners and staff.	Applicants and local governments may not support decision-making farther from home.
Less costly based on fewer commission members.	
Education and training would be ongoing.	
More controlled turnover of commissioners through staggered appointments, greater continuity at the decision-making level, retention of corporate knowledge by ensuring that new commissioners are adequately trained.	
Decision-making includes consideration of local and regional information while retaining a provincial focus of the ALR program.	
Less exposure to potential conflicts of interests	
A 10 member board, as opposed to a 3 member panel, would provide a broader base of experience, knowledge and opinion needed to examine the host of issues that need to be considered and debated.	
Recruitment would be less difficult and time consuming because there would be fewer commissioner positions to fill.	
Consistent approach to considering applications and administering ALC and provincial policy.	
Personal biases have less impact in a larger decision-making body.	
More staff resources devoted to research and not to administering panels such as organizing trips, developing agendas, scheduling travel, providing documents, etc.	
Better communication between commissioners and staff.	
The 3 large rural areas (Interior, Kootenay, North) would have 2 representatives to ensure adequate coverage of the panel regions and rural representation.	
6 of the 10 members would be appointed from the rural areas encompassing the majority of the ALR.	

REGIONAL AND LOCAL INPUT REGARDING ALR ISSUES



CHAIR RECOMMENDATION

That the commission be reconfigured to a single 7 member decision-making body, as per Option 1 noted above, while retaining regional representation from each of the ALC's 6 administrative regions in order to be regionally responsive while retaining consistency in decision-making.

To further enhance regional input it is suggested the ALC compile a list of "Farm Advisors" from each region based on suggestions from local governments, local farmers' institutes and organizations, commodity groups, the BC Agriculture Council, etc. to ensure the ALC has all relevant information from each region when considering issues. Farm advisors would not be government appointments but rather contractor/consultants of the ALC, payable on an "*as needed*" basis (fixed rate fee and out of pocket expenses), when asked to provide comments and recommendations on matters before the ALC. A similar process was used by the ALC during the 1970s and 1980s and proved to be very effective. However, the use of Farm Advisors was discontinued based in part on the lack of remuneration or reimbursement of out of pocket expenses.

LEGISLATION REQUIRED⁴

YES

☐

NO

☒

FURTHER CONSULTATION REQUIRED

YES

☐

NO

☒

FUNDING REQUIRED

YES

☒

NO

☐

⁴ See Sections 4, 5, 10 and 11 of the *Agricultural Land Commission Act*

REVIEW OF CHIEF EXECUTIVE OFFICER (CEO) POSITION

BACKGROUND:

Section 8(1) of the *Agricultural Land Commission Act* provides that the Lieutenant Governor in Council may appoint, during pleasure, a CEO, establish terms of the appointment and set the remuneration of the CEO.

Section 8(2), provides that the ALC may determine the functions and duties of the CEO.

Section 8(3) provides ALC may appoint other officers and employees necessary for the purposes of the commission, determine their duties and set their remuneration.

Role of CEO:

Legislative Role

The CEO has powers and obligations under the *Agricultural Land Commission Act* that cannot be re-assigned by the Commission, including:

- Responding to landowner notices of intent to proceed with certain land uses within the ALR under section 20(4, 5, 6);
- The exercise of delegated authority to approve applications under section 27;
- Making, rescinding or varying stop work orders; and
- Issuing remediation orders and penalties under sections 50 to 54.

Administrative Role

Historically, the CEO administered the staff secretariat that supports the ALC. The administrative role of the CEO is set out and/or discussed in the following documents:

- *ALC Governance Policy* March 20, 2009 – Section H for Terms of Reference for the CEO:
 1. Accountability
The CEO is accountable for the exercise of powers assigned under the *Agricultural Land Commission Act* and other duties as assigned by the commission.
 2. Responsibilities
The CEO performs specific functions assigned by the *Agricultural Land Commission Act* including:
 - a) approval of applications delegated to the CEO by the commission under Section 27; and
 - b) making, varying and rescinding of orders and determinations and the levying of administrative penalties under Sections 50 to 54.
- *ALC Act* Section 8(2) – the following duties are assigned to the CEO:
 - a) manage the staff of ALC to provide administrative support, technical information, and professional advice by preparing documents and reports required by the commission in accordance with government and commission legislation, commission policy and priorities as determined by and through the commission, the executive committee and other committees established by the commission and the executive committee;

- b) be responsible for preparing the business plan and other directions of the commission, executive committee or panels;
- c) report to the minister(s), the commission, the executive committee and panels as required;
- d) keep the commission, the executive committee, chairs of committees established by the commission and the executive committee current on major developments, ensuring the commission has sufficient information to permit it to address potential issues and to make decisions;
- e) direct and monitor the activities of the ALC staff so that the ALC's purposes, policies and priorities are achieved;
- f) develop and recommend to the executive committee the overall structure and staffing of the ALC;
- g) oversee the interfaces among the executive committee, panels, governments and other stakeholders;
- h) liaise with other ministries and organizations which may have interactions with the ALC; and
- i) delegate any of these duties to senior staff.

In October 2005 the ALC's executive committee decided that the executive management structure would consist of 2 executive directors and that the "other" duties of the CEO stipulated in Section H of the *Governance Policy* were assigned to the executive directors. The CEO retained responsibility for the statutory roles specified in the *Agricultural Land Commission Act*.

Between June 2005 and April 2007 the ALC was without a CEO and the statutory roles specified in the Act were not undertaken. This deficiency was addressed in April 2007 when the former Chair of the ALC was appointed by Order-in-Council to the dual role as CEO.

Since 2005 the ALC has been requesting a housekeeping legislative amendment to eliminate the provision in the Act that the CEO appointment be by Order-in-Council to enable the ALC to determine its organizational structure, roles and responsibilities. As recently as April 2009 the Chair recommend to the Minister that consideration be given to:

1. A housekeeping legislative amendment to eliminate the provision in the Act that requires an Order-in-Council to appoint the CEO to enable the ALC to assign the statutory powers of the CEO to staff as appropriate; and
2. Appointing either of the ALC executive directors; who have jointly carried out the administrative and management duties of the CEO since 2005, as CEO until the legislative amendment can be processed.

STAKEHOLDER COMMENTS:

No specific comments.

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES:

Not applicable.

CHAIR COMMENT:

I have reviewed the history of the CEO position and note that since 2005 the two Chairs preceding my appointment have both recommended that the CEO position should no longer be an Order-in-Council appointment. As the ALC may appoint officers and employees necessary for the purposes of the commission, determine their duties and set their remuneration, it makes sense that the appointment of a CEO falls within this responsibility. The ALC should have the responsibility to determine all staff requirements it believes are necessary to best deliver on its mandate. The ALC also needs the flexibility to assign staff duties to meet future challenges.

I should also point out that the Board Resourcing and Development Office's (BRDO) *Best Practices Guidelines* stipulates that it is the board (commission) that provides leadership with specific responsibility to select, assess, compensate and (if necessary) replace the CEO and plan for CEO succession.

Furthermore, BRDO's *Best Practices Guidelines* suggests, that other than in exceptional circumstances, the chair and CEO should not be the same individual. The administration of the *Agricultural Land Commission Act* is not an exceptional circumstance requiring the Chair and CEO to be the same individual. Quite the contrary, I believe having the duties of the two positions performed by one individual is not appropriate given the CEO's compliance and enforcement responsibilities that can be appealed to the commission which is headed by the Chair. To address the Auditor General's position that the ALC ensure that it has a sufficiently robust compliance and enforcement program, it is imperative that the duties of Chair and CEO be separated to avoid any complications that may arise from a potential apprehension of bias or conflict of interest. With regard to compliance and enforcement related matters it is crucial that the ALC conduct itself to the highest standards of administrative law, natural justice and procedural fairness to provide it with the best opportunity of success and to avoid judicial review. I believe it is necessary for the ALC, as a quasi-judicial administrative tribunal, to have a distinct separation between the commission (appointed board) and its secretariat.

2010 AUDIT OF THE AGRICULTURAL LAND COMMISSION⁵ - Auditor General of British Columbia

Recommendation 6: The Auditor General recommends that the ALC ensure that it has a sufficiently robust compliance and enforcement program.

ALC Response: The ALC believes that its compliance and enforcement efforts can be enhanced and given more credibility by increasing resources, developing the ability to effectively use additional legislative tools and instruments and other cost effective measures,

⁵ See Appendix C – Excerpt from 2010 Audit of the ALC

including but not limited to the development of strategic alliances with local government and provincial government officials.

CHAIR RECOMMENDATION:

The ALC needs to appoint one individual to lead administration. To accomplish this I recommend government proceed with the 2005 proposed housekeeping legislative amendment to eliminate the Act's provision that requires an Order-in-Council to appoint the CEO. This will enable the ALC to select, assess, compensate and (if necessary) replace the CEO and plan for CEO succession.

In the meantime, I reiterate the comment of my predecessor that one of the ALC's executive directors should be appointed as CEO until the legislative amendment can be processed.

Once I have received advice on the future direction of the ALC I will recommend which executive director should assume the role as CEO.

LEGISLATION REQUIRED⁶

YES

X

NO

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FURTHER CONSULTATION REQUIRED

YES

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NO

X

FUNDING REQUIRED

YES

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NO

X

⁶ See Sections 1, 8, 20, 27, 51, 52 and 54 of the *Agricultural Land Commission Act*

APPLICATIONS

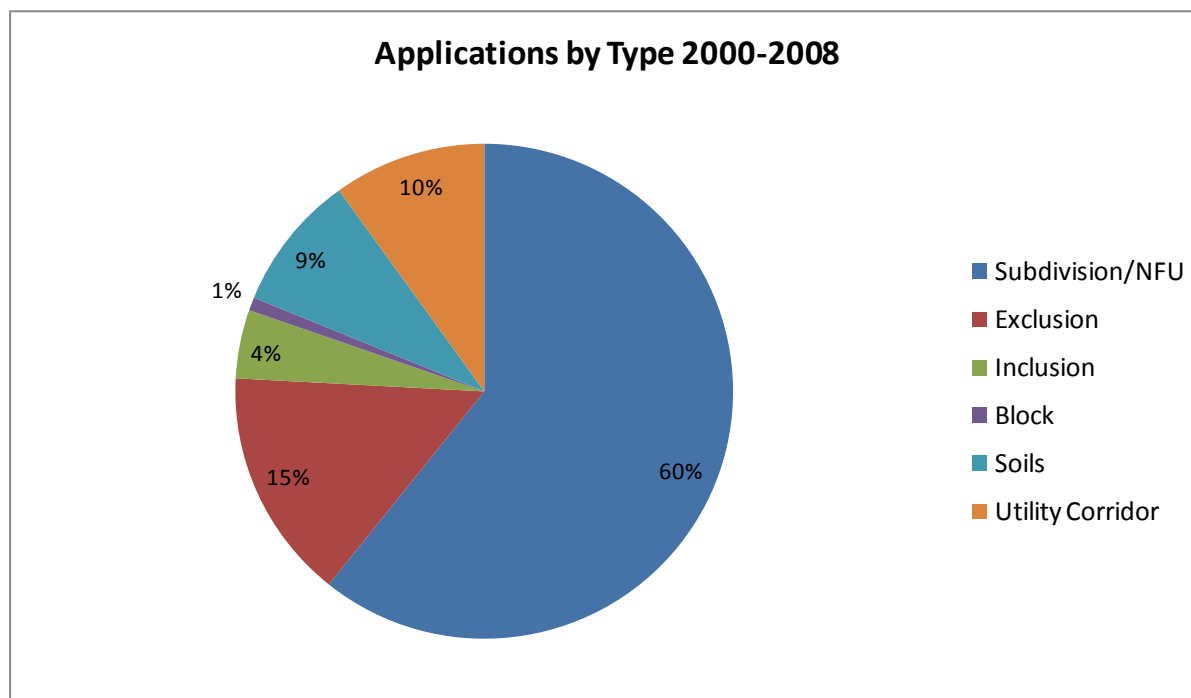
STRATEGIC SHIFTS

An ALC that moves away from being reactive and focussed on applications towards becoming a proactive planning organization. This shift would allow the ALC to proactively seek opportunities to improve agricultural land preservation and utilization, encourage farming, and focus on emerging and strategic issues.

An ALC that places priority considerations on bona fide farmers and ranchers and issues that may impact, positively or negatively, bona fide farmers and ranchers. A flexible, risk-based approach to reviewing and deciding upon proposals that are intended to support and enhance bona fide farms and ranches.

BACKGROUND

In 1975, once the boundaries of the Agricultural Land Reserve (ALR) were established, a process was developed that allowed landowners to apply to have land added to or removed from the ALR (inclusion and exclusion), to subdivide or use the land for non-farm purposes. The application process has essentially remained unchanged since 1975. A landowner can apply to the ALC for permission to change the ALR status of their property, to subdivide it or to engage in a non-farm use activity.



APPLICATION PROCESS

Local Government

Applications by landowners for exclusion, inclusion, subdivision and non-farm use are submitted to the ALC via the local government. The fee for submission of an application is \$600 except in the case of inclusion applications, which require no fee. Local governments are involved at the outset of the ALR application process to give them a chance to either support or oppose projects before they arrive at the ALC. If a proposal is contrary to either zoning bylaw or official community plan (OCP) designations, the local government may elect not to forward the application to the ALC.

Upon completion of the application by the applicant the local government receives the application and does the following:

- ensures the application is complete and all documents are included;
- completes a local government report;
- may refer the application to various committees;
- may hold a public information meeting;
- must refer the application to its Board or Council for recommendations and comments;
- if the land is zoned for agriculture or farm use, or if the proposal requires a bylaw amendment, the Board or Council decides whether to allow the application to proceed to the ALC. If authorization is not granted, the application ends and the local government will return a portion of the application fee to the applicant. If there are no land use bylaws in place for a specific region the local government must forward the application to the ALC and has no ability to prevent the application from being forwarded; and
- if authorization is granted, the application is forwarded to the ALC and the process continues (n.b. inclusion applications do not require a forwarding resolution).

Local governments are often the first point of contact for individuals wishing to make application as they may be more familiar with the local government planning department than the ALC. Local governments typically will provide landowners with application forms, information about ALC contacts and/or the ALC website address. Local government staff may also give an initial assessment of the chances of the application proceeding. As local government decisions on whether to forward applications to the ALC are generally based on meeting either zoning or official community plan criteria it is often possible for local government staff to give applicants an informed opinion about whether or not the application may or may not proceed to the ALC.

While all local governments are required to provide a minimum of information to the ALC, the amount of effort put into reviewing ALC applications varies greatly between jurisdictions and therefore the amount of information the ALC receives about a particular application will also vary greatly. For example, some local governments have passed a standing resolution that authorizes all impacted land owners to make applications to the ALC. These jurisdictions then usually forward applications to the ALC with minimal analysis and information other than very basic information about zoning and official community plan designations as required on the local government report.

At the other end of the spectrum, some local governments forward applications with comprehensive reports, detailed mapping and clarifications on proposals from applicants. In addition, some local governments forward their applications to third parties for review. In these cases the ALC will receive applications from the local government with knowledge about how

proposals are viewed by others in the community who may have a interest in or knowledge of the impact of the proposal on agriculture such as Agricultural Advisory Committees, Ministry of Agriculture staff (in particular regional agrologists) and other relevant bodies such as planning commissions or committees.

Pros and Cons of Local Government Involvement in the Application Process

PROS:	CONS:
Local Governments provide a first point of contact for many applicants reducing the number of general inquiries to the ALC.	Quality of information from each local government varies.
Additional information, maps, analysis and up front research is provided by many local governments.	Upfront local government involvement adds about 1-3 months, in some cases more, to the application processing time.
Local government involvement means that regional input on individual applications is sought up front which could help reduce the perception that “people from far away” are making land use decisions.	Some local governments forward applications via standing resolutions which offer little or no insight into the relevant local government issues.
Local governments can refuse to forward applications to the ALC which reduces the ALC’s workload.	Support by a local government sends a confusing message to applicants who often do not understand why the ALC might refuse a proposal when it was supported by the local government.
Applicants do not make applications that are contrary to local government zoning and OCPs – they know up front what local government’s position is on application.	Local governments often rely on the ALC to refuse applications rather than strongly supporting their own zoning and OCP bylaws.
	Applicants have difficulty understanding the difference between zoning at the local government level and ALR designation which is provincial (i.e., ALR – no minimum parcel sizes).

ALC

Application Setup

A records clerk receives the application and ensures that all required information and the correct fee has been received from the local government. If the file is complete a file number is assigned and the data is entered in the Online Application Tracking System (OATS). A letter is written to the applicant, and copied to the local government, acknowledging receipt of the application.

Mapping

The application is then directed to the mapping department to prepare ALR context maps (showing the location of the property in relation to the ALR boundary), an agricultural capability map and aerial photographs. In addition, the location of the application is recorded both manually on the paper “*appeal*” maps, as well as digitally for eventual use with the OATS system.

Research and Review

Each file is then directed to a land use planner for the region who then:

- reviews the file;
- prepares a staff report;
- schedules the application on a regional panel agenda;
- forwards the staff report to the applicant(s);
- forwards the staff report regional panel members;
- contacts the applicant(s) to arrange a meeting with the regional panel;
- travels with the regional panel during its consideration of the application;
- records the proceedings and decision; and
- prepares the minutes and decision letter.

Process for Specific Application Types

Exclusion Applications

The process for review of exclusion applications is slightly different than for other applications because the ALC and the applicant have additional legislated responsibilities involving exclusion applications. When applying to have land excluded from the ALR, an applicant must notify the public of his/her intent to apply for exclusion of the land in advance of submitting the application to the local government. Notification must be conducted three ways: by posting a sign on the land, by publishing two notifications in a local newspaper and by providing notice of the application to adjacent landowners who own property within the ALR. The notification process is intended to give neighbouring and nearby landowners a chance to comment on the proposal.

The ALC has a legislated requirement to meet with anyone who applies for exclusion of land from the ALR, whereas for all other types of applications a meeting is not a requirement and decisions may be made using only the file material. The meeting may take the form of a site visit, where the regional panel meets the applicant(s) at the subject property and discusses the application while viewing the property or may take the form of a meeting in a location of the ALC's choosing. In this case the applicant can present his/her proposal to the regional panel and be available to answer questions about the proposal (in some cases the ALC will hold both a site visit and a meeting).

Inclusion Applications

The inclusion process allows individuals or government to apply to have land included into the ALR. Unlike the other application types there is no fee for these applications. In the case of inclusion applications the Local Government must forward the application to the ALC.

Applications for Transportation, Utility and Recreational Trail Uses in the ALR

In recognition that linear developments such as roads, trails and transmission lines are slightly different than other non-farm use applications, a different process has been developed. These applications are submitted directly to the ALC rather than through the local government and have a correspondingly lower fee of \$400. These uses are generally proposed by local or provincial government agencies. Additionally, these linear developments may pass through several jurisdictions. Applications for linear developments often impact several land owners and a process has been developed in which it is the responsibility of the applicant to notify affected landowners of the intention to make an application to the ALC. The process allows for landowners to provide the ALC with comments or concerns about the application.

Notice of Intent for Proposals to Place Fill and Remove Soil from the ALR

Until 2002, in addition to the *Agricultural Land Commission Act*, the ALC administered the *Soil Conservation Act* (SCA) which governed the removal of soil and placement of fill in the ALR. When the SCA was rescinded all dealings with soil were added to the *Agricultural Land Commission Act*. Currently the evaluation of proposals to place fill on and remove soil from the ALR is a two tiered process.

Most proposals for the removal of material (including, but not limited to: soil, rock, aggregate and peat) from land within the ALR are exempt from the requirement to file a non-farm use application. However, even though an application may not be required, the regulations state that the ALC must be notified about most proposals to remove material from lands within the ALR. The form of notification required by the ALC is the Notice of Intent (NOI). The NOI has no fee and is submitted directly to the ALC. These proposals are evaluated by the Chief Executive Officer (CEO) of the ALC. The NOI process has legislated timelines in which the ALC must respond to an applicant's request either by:

1. Requesting additional information necessary to properly evaluate the proposal.
2. Directing the applicant that the decision cannot be made by the CEO and therefore a non-farm use application must be made or
3. Approving the project with terms and conditions. In the case of removal of soil, which largely corresponds to gravel pit and quarry requests, an NOI is almost always the correct application to file, the CEO will advise the application if a full application is required following an initial review of the NOI.

In the case of fill, however, a NOI is almost never the correct document as most requests to place fill on ALR land either require a non-farm use application to the ALC or are allowed under the regulations. One of the issues with this process is the evaluation of what may be considered as "*farm use*" for the purposes of fill placement. Staff at the ALC are required, in some cases, to make a judgment call as to whether the proposed fill placement constitutes a farm improvement (and as such is allowed outright under the regulations) or would require a formal non-farm use application in order to proceed. At present, the ALC staff does not include a soils expert (usually an agrologist with a soils specialty) to assist in making these decisions.

The increased number of fill proposals are regional in nature and often driven by forces unrelated to agriculture. Most proposals for fill placement are in the areas of high development pressure areas which generate large quantities of fill material as a by-product of non-ALR development (shopping centres, industrial lands, etc). The creation of this fill, and the need by the development community to dispose of it has led to the creation of a market for disposal sites, authorized or not.

Non-Farm Use Application to Place Fill or Remove Soil

The process for submission and review of a non-farm use application to place fill and remove soil is the same as that for other non-farm use applications by landowner in that the applications are submitted via the local government, cost \$600 and are reviewed by staff and decided on by the ALC. A separate form has been created for this specific non-farm use as the ALC requires specific information about these types of proposals in order to evaluate them properly. This application process is used for fill applications as well as selected extraction proposals (usually when the CEO has determined that the NOI will not be approved).

Application by Local Government or ALC Proposal

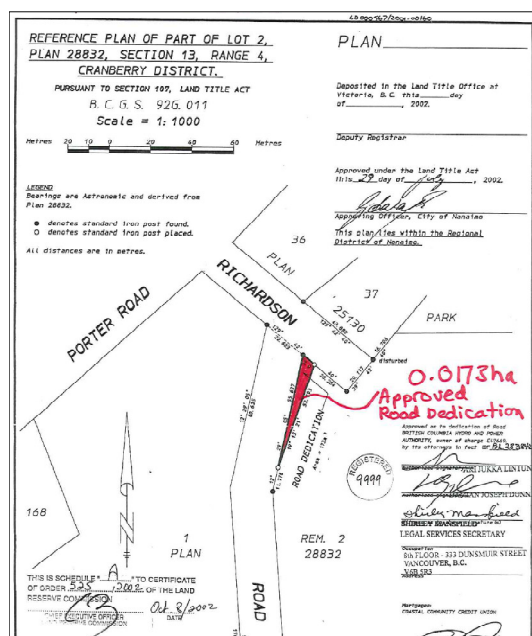
An application by a local government or the ALC is often referred to as a “*block application*”. These applications enable the ALC or local governments to apply to exclude, include or develop a non-farm use(s). Block applications are typically made as a result of a “*fine-tuning*” review or other planning process in which lands had been identified for potential future inclusion or exclusion.

Application examples

The complexity of applications and decisions related to each type of application vary greatly. There are those which are quite straightforward and which the ALC often approves to those which are very complex and require a thorough review and perhaps several meetings, submissions and discussions before a decision can be reached. The two examples below show the immense difference in scope of two different applications for transportation corridors.

EXAMPLE 1

Application: #S-34506
 Proposal: To acquire 173 m² (0.02 ha) for road right of way to improve the existing bridge alignment.
 Site Inspection: None.
 Staff Comment: Recommended approval.
 Decision: Approved as recommended.
 Date Received: August 6, 2002
 Date of Letter: October 3, 2002



EXAMPLE 2

Application: #O-38351
 Proposal: To use approximately 90 ha of land within the ALR for the construction of the South Fraser Perimeter Road (SFPR).
 Meetings: September 2, 2008 – 2 meetings were held, one with affected landowners and later the same day a public meeting
 October 1, 2008 – meeting with applicants.
 Decision: Allowed with extensive conditions (described in summary below)
 Date Received: July 28, 2008
 Date of Letter: December 3, 2008 – not longer?

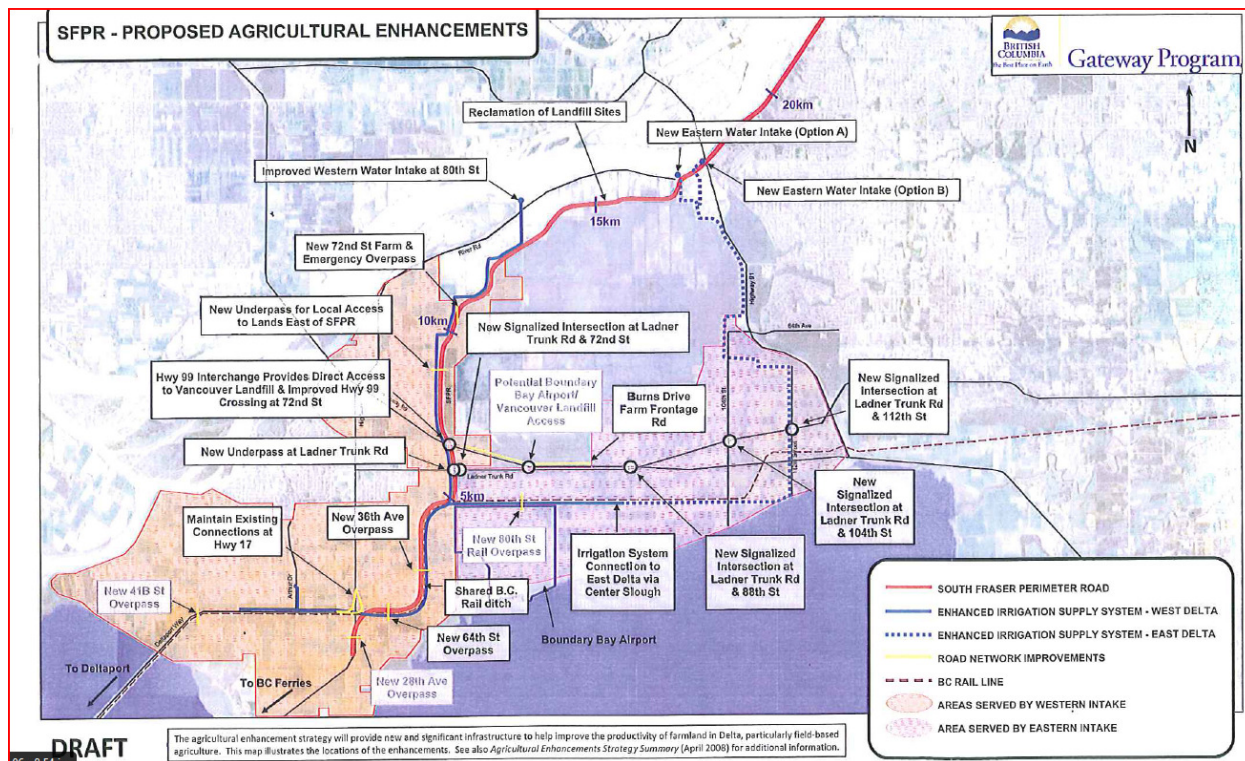
The SFPR is shown schematically in Metro Vancouver’s 1996 Livable Region Strategic Plan. It is intended to distribute car and truck traffic between major elements of the Pacific Gateway south of the Fraser River. It links the Tsawwassen Ferry Terminal, the Deltaport container

terminal, and industrial and port complexes along the Fraser River from Tilbury to Port Kells, with direct connections to the Golden Ears Bridge and the Pacific Highway truck route to the international boundary.

The specific proposal followed several years of planning and federal-provincial environmental assessment, including advice by the South Coast Panel in 2006 directing the proponents that

1. adequate mitigation must be provided in response to farm development or operational problems arising from the construction or operation of the SFPR through the farm area; and
2. the proposed alienation of significant areas of prime farmland must be mitigated by a substantial enhancement to agriculture in the region of the SFPR.

Submitted to the ALC in July 2008, the application proposed a route paralleling the Roberts Bank rail corridor as far as the Boundary Bay Airport, then passing west of Burns Bog before leaving the ALR north of Burns Bog. A connector route to Highway 91 would pass through the ALR near the northeast corner of Burns Bog. The total loss of farmland was measured at approximately 90 ha.



In response to the 2006 direction from the South Coast Panel, the submission proposed mitigation for directly affected farms and a substantial enhancement to agriculture in the form of an irrigation and drainage project to benefit most of Delta's farmland. Agricultural capability is limited by salinity throughout much of Delta. Irrigation from the Fraser River can assist with crop production provided the intake is carefully located, and the proposed drainage component will help flush out salinity over time. Over the long term, the ALC believed that this project had the potential to achieve a major improvement in Delta's agricultural productivity, recouping the loss of 90 ha of prime farmland many times over.

The South Coast Panel met with the directly affected farmers and separately with Delta's wider farm community before giving the application conditional approval. The conditions go beyond ensuring that the offered mitigation is carried out effectively; it also required a memorandum of understanding with the Ministry of Transportation and Infrastructure (MoTI) concerning implementation of the terms and conditions and a commitment that throughout the Province the Ministry will apply similar standards to its highway design, construction and maintenance in the ALR, will require its contractors to avoid the unlawful removal of soil or deposit of fill on agricultural lands, and will identify areas in the ALR that are or have been subject to sand and gravel extraction or the deposit of materials associated with Provincial highway construction and maintenance and take responsibility for reclaiming these lands to agriculturally productive soil conditions.

STAKEHOLDER COMMENTS

Although there was not an overwhelming response to a specific aspect of applications, there was a great deal of discussion on the topic. Examples of comments received from the various groups included:

- The application process takes too long;
 - Decisions are inconsistent;
 - Reconsideration of applications is a problem because they are often not referred to the local government for comment; and
 - The application process should change to make it harder to make an application and restrictions over who can make application (i.e. no applications from non-farmers). This could include a preliminary inquiry process that would allow farmers and ranchers to pursue options that would complement their existing farm operation.
-

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES

The British Columbia Agriculture Plan⁷ – Strategy 21: Preservation of agricultural land for future generations of farm and ranch families.

The urban/agriculture divide creates many issues, but first among them is how to use the land. We need our farms to continue to feed a growing population, particularly as more and more people see British Columbia's many positive attributes and choose to make this province their home. This government firmly believes that the preservation of agricultural land through the Agricultural Land Reserve serves a compelling public interest. We want to protect agricultural land, and particularly prime agricultural land. We also recognize the wide-ranging needs of farm and ranch families with respect to changing production requirements and the intergenerational transfer of farmland. We therefore commit to reviewing the provisions of the Agricultural Land Reserve to ensure it continues to meet our goals of preserving agricultural land over the long term.

⁷ See Appendix D – Excerpts from the BC Agriculture Plan

2010 AUDIT OF THE AGRICULTURAL LAND COMMISSION - Auditor General of British Columbia

The commission is challenged to effectively preserve agricultural land and encourage farming in British Columbia, specifically:

- *the commission has identified limitations in its ability to preserve agricultural land and encourage farming through the application process*

Recommendation 2: The Auditor General recommends that the ALC seek government's support to make changes that will allow it to more effectively preserve agricultural land and encourage farming through the application process.

ALC Response: The ALC believes that it would be appropriate to examine additional measures to more effectively preserve agricultural land by reducing the pressures to convert lands with significant agricultural capability to non-farm development as a result of an application process. The ALC agrees that where applications result in conditional approvals, it should examine how to more effectively encourage farming through the setting of terms and conditions.

CHAIR COMMENTS

The application process as structured appears to be directly opposed to the objectives of the *Agricultural Land Commission Act* of preserving agricultural land and encouraging farming as it allows the consideration of proposals that do not aim to preserve agricultural land or encourage farming. What then is the intent of the application process? The application process, whether it be for exclusion, subdivision or non-farm use, is a “built-in” mechanism in the Act that perpetuates speculation and fuels pressure for land use change. Since the inception of the Act the ALC has considered almost 40,000 applications.

This being said, it is entirely appropriate to have some review mechanism to assess land that may be incorrectly designated as ALR land because land that is not capable or suitable for agriculture should not be retained in the ALR. In reviewing prior iterations of the *Agricultural Land Commission Act* it is interesting to note that the sections pertaining to exclusion applications provided some qualification as to the purpose of exclusion applications - an owner “aggrieved” by the ALR designation could apply to have land excluded from the ALR. The current version of the Act allows any land owner to apply to have the property removed from the ALR. The Act has developed as follows:

LAND COMMISSION ACT, [RSBC 1973] CHAPTER 46**Exclusion from agricultural land reserve**

- 9(2) Subject to subsection (5), an owner of land aggrieved by a designation by the commission of his land as part of an agricultural land reserve under section 8 may, notwithstanding that he appeared before, or made representations to, the municipality, or regional district, or the commission under subsections (3) or (8) of section 8, apply to the commission in the manner prescribed by the regulations to have his land excluded from the agricultural land reserve.

AGRICULTURAL LAND COMMISSION ACT, [SBC 1979] CHAPTER 9**Application for exclusion**

- 12(1) An owner of land aggrieved by a designation of his land as reserve land may, notwithstanding an appearance before or representations to the municipality, regional district or the commission under section 9, apply to the commission to have his land excluded from the land reserve.

AGRICULTURAL LAND RESERVE ACT, [RSBC 1996] CHAPTER 10**Application for exclusion**

- 15(1) Despite an appearance before or representations to the municipality, regional district or commission under section 12, an owner of land aggrieved by a designation of the owner's land as reserve land may apply to the commission in accordance with section 33 to have the land excluded from a land reserve.

While it appears the intent of exclusion applications was to provide a land owner recourse to challenge the ALR designation, presumably believing the land had limited or no agricultural potential, over the years the ALC never attempted to further define what “aggrieved” meant. Over time, the term “aggrieved” became more and more vague to the point that the current version of the *Agricultural Land Commission Act* no longer refers to an “aggrieved” landowner.

AGRICULTURAL LAND COMMISSION ACT, [SBC 2002] CHAPTER 36**Exclusion application by owner**

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

What the aforementioned sections regarding exclusion applications make clear is that anyone can apply to the ALC at anytime regardless of the quality of the land. In the prior iterations of the sections regarding exclusion applications the focus was primarily on the evaluation of the agricultural merits of the land being in the ALR. However, the current version of the Act moved away from this focus and now provides that a land owner can apply regardless of the agricultural quality of the land. In other words, a land owner purchasing prime agricultural land today may apply to remove the land from the ALR tomorrow. This same scenario also applies to subdivision and non-farm use applications.

It is also apparent that applications consume an enormous amount of the ALC resources as it receives between 500 – 700 new applications annually. The work of the ALC has migrated to being application-driven at the expense of more meaningful activities such as long-range planning, ALR boundary assessments and dealing with emerging issues related to agriculture. The ALC has been relegated to a purely reactive role with little or no ability to be proactive. I believe too much prominence has been given to the application process. In order to reduce the number of applications received by the ALC, the following options could be considered for implementation:

- A landowner may not submit an application for 5 years after purchase of the property;
- Private landowners may not make an application to exclude land from the ALR;
- During ALR boundary reviews, applications may not be submitted to the ALC;
- If an application is refused, another application may not be resubmitted for 10 years; and
- A risk-based referral process for farm enhancements from bona fide farmers/ranchers.

Since being appointed to the ALC I have had the opportunity to travel with the regional panels. Panel meetings are usually whirlwind tours of specific areas for 1 – 3 days during which

commissioners are dealing with 30 – 40 issues (applications). My experience has been that the commissioners are afforded little time to discuss each matter in depth and that the decision-making process resembles nothing more than an assembly line. Furthermore, the panel meetings do not provide, in my opinion, the opportunity for meaningful dialogue and interaction with staff to fully discuss the pertinent issues related to each proposal. Take for example the Peace River and Northern Rockies areas. Recently, there has been a marked influx of applications from the north which monopolizes the work of the North Panel, yet little attention is being paid to the energy sector and the effects of oil and gas development on farm and ranch lands.

I am also struck by the fact that the *Agricultural Land Commission Act* does not differentiate between real farmers/ranchers and non-farm owners of ALR land. During my travels with the regional panels I have witnessed many applications from non-farmers hoping to exclude, subdivide or convert their land without any agricultural justification. The rationale for submitting these applications includes such issues as estate planning, financial pressures, divorce, etc. After nearly 40 years of the ALR it is simply unacceptable that the ALC is still accommodating non-farmers with an ability to apply to use or convert agricultural land – especially where prime agricultural land is concerned. There still appears to be a pervasive attitude that agricultural land is just holding property until something better comes along. The current application provisions in the Act continue to foster this attitude.

Oddly enough, farmers and ranchers seeking to improve their farm and ranch operations are compelled to use the same application procedure. The Act does not treat farmers and ranchers any differently and I believe this should be corrected. Furthermore, the inordinate amount of time devoted by the ALC to dealing with non-farmers, non-ranchers and non-agricultural issues significantly reduces its ability to deal with bona fide farmers and ranchers and issues related to the business of agriculture. The application process as it is currently structured provides unnecessary flexibility to non-farmers while at the same time being more rigid when considering real agricultural opportunities. In my opinion much more attention has to be paid to farmers, ranchers and the opportunities to expand the business of agriculture and significantly less attention to individuals that own ALR land with little or no intent of pursuing agricultural activities. It will be necessary to establish a definition or measurable threshold to identify bona fide farmers and ranchers. During the stakeholder consultation process it was generally viewed that the minimum qualification for BC Assessment “*Farm Status*” is too low a threshold.

The ALC should explore the merits of a risk-based approach to reviewing proposals from farmers and ranchers that look at opportunities to expand the business of agriculture – a process not dissimilar to the existing Notice of Intent provisions in the Act related to gravel extraction. In 2002 one of the amendments to the Act involved a new referral process for considering several types of proposals, most commonly gravel extraction. Prior to the amendment, gravel extraction proposals required an application. This was replaced with a Notice of Intent referral as a kind of pre-application assessment. If everything is relatively straightforward, the project can receive authority to proceed without an application. In a similar fashion, the Notice of Intent process could be used as a template to review legitimate agricultural proposals in a timely manner and without the burden of the application process or the application fee. This would have to be done through a similar change in the legislation as was undertaken in 2002. It is hoped this option may expedite opportunities to enhance agricultural businesses but it will also serve as a mechanism to identify non-farm related proposals that would be re-directed to the application process. It is time that the work of the ALC focussed on farmers and ranchers and the business of farming.

CHAIR RECOMMENDATION

1. That the work of the ALC be re-focussed away from applications and toward proactive planning, ALR boundary reviews, and dealing with emerging issues;
2. That the “encouraging farming” aspect of the ALC’s mandate takes greater prominence;
3. To reduce the number of applications;
4. To focus the work of the ALC on farmers and ranchers and the business of farming; and
5. To explore the merits of a risk-based approach to reviewing proposals from farmers and ranchers that look at opportunities to expand the business of agriculture – similar to the existing Notice of Intent provisions in the Act.

LEGISLATION REQUIRED⁸
YES

X

NO

--

FURTHER CONSULTATION REQUIRED
YES

X

NO

--

FUNDING REQUIRED
YES

X

NO

--

⁸ See Sections 15, 17(1), 20, 21, 25(1), 29(1) and 30(1) of the *Agricultural Land Commission Act*

PLANNING

STRATEGIC SHIFT

An ALC that moves away from being reactive and focussed on applications towards becoming a proactive planning organization. This shift would allow the ALC to proactively seek opportunities to improve agricultural land preservation and utilization, encourage farming, and focus on emerging and strategic issues.

BACKGROUND

There are now over 140 local governments in BC that have ALR land within their jurisdictional boundaries.

The primary focus of the legislation was, for the first 20 years, on the preservation of land and the encouragement of farming. In 1994, however, in response to a growing recognition of the importance of working with local governments in the land use planning process, significant changes were made to the *Agricultural Land Commission Act* that significantly strengthened the ALC's relationship with local governments. The changes were:

- A new mandate was added "to encourage municipalities, regional districts first nations and ministers, ministries and agents of the governments of British Columbia and Canada to support and accommodate farm use of agricultural land in their bylaws, plans and policies;
- Opportunity was provided for the ALC to enter into agreements with local governments to delegate decision making authority on applications involving subdivision and non-farm use of land within the ALR; and
- The relationship of the ALR to local plans and bylaws was clarified and strengthened. Local governments were required to ensure that their bylaws are consistent with the Act, regulations and orders of the Commission and any inconsistency was of no force and effect.

The wording was slightly changed when the Act was updated in 2002 with a specific reference added relating to land uses compatible with agriculture, the new wording being:

"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."

GROWTH STRATEGIES

Growth Strategies Legislation

The Growth Strategies legislation was introduced in 1995 through an amendment to the *Local Government Act* which was called the *Growth Strategies Statutes Amendment Act*. Subsequent amendments were made in 2003 and 2004. The legislation is intended to enable co-ordinated long term land use planning (20 year plus). It provides a *"framework for interactive planning - a system that relies on a co-operative process, rather than a hierarchy, to ensure that plans fit together. It ensures that municipalities and regional districts work to prepare a regional growth*

strategy as equal partners. And it makes it possible for local government and provincial government to tackle real regional issues in an integrated way."

The legislation requires that an Intergovernmental Advisory Committee be established (*Local Government Act, Section 867*) which is to include representatives from the regional district, member municipalities and provincial representatives of ministries, crown agencies and corporations.

The purpose of a regional growth strategy is to promote human settlement that is socially, economically and environmentally healthy and that makes efficient use of public facilities and services, land and other resources (*Local Government Act Section 849(1)*). Once adopted all subsequent bylaws (including official community plans and land use bylaws) are required under Section 865(1) of the *Local Government Act* to be consistent with the strategy. The following are the main issues that are to be dealt with:

- (a) Avoiding urban sprawl and ensuring that development takes place where adequate facilities exist or can be provided in a timely, economic and efficient manner;
 - (b) Settlement patterns that minimize the use of automobiles and encourage walking, bicycling and the efficient use of public transit;
 - (c) The efficient movement of goods and people while making effective use of transportation and utility corridors;
 - (d) Protecting environmentally sensitive areas;
 - (e) Maintaining the integrity of a secure and productive resource base, including the agricultural land reserve;
 - (f) Economic development that supports the unique character of communities;
 - (g) Reducing and preventing air, land and water pollution;
 - (h) Adequate, affordable and appropriate housing;
 - (i) Adequate inventories of suitable land and resources for future settlement;
 - (j) Protecting the quality and quantity of ground water and surface water;
 - (k) Settlement patterns that minimize the risks associated with natural hazards;
 - (l) Preserving, creating and linking urban and rural open space including parks and recreation areas;
 - (m) Planning for energy supply and promoting efficient use, conservation and alternative forms of energy;
 - (n) Good stewardship of land, sites and structures with cultural heritage value.
- It will be noted that under (e) requiring the maintenance of a secure and productive resource base reference is made of the Agricultural Land Reserve, this provision being specifically added in 2004.

Growth Strategies Important Issues

Growth strategies are overarching land use plans for a 20 year plus time frame to which land use policies in official community plans (OCPs) over a shorter 5 year time frame are required to comply. As such they are very important to the interests of the ALC in that they can:

- Protect the ALR by establishing urban containment boundaries that limit development to areas outside the reserve;
- Include policies that encourage agricultural development within the ALR and discourage non-agricultural development and subdivision;
- Encourage the more efficient use of urban land thereby reducing sprawl and pressure on ALR for future development; and
- Provide the framework for further research that will provide benefits for agriculture.

ALC Involvement in the Growth Strategies Process

Because of their importance the ALC has been and continues to be represented on all Intergovernmental Advisory Committees in the province, with significant commitment in terms of staff time. It is difficult to anticipate the extent to which this involvement will continue. Several of the earlier strategies are now undergoing their second 5 year review, which generally involves less staff time but others are still to get under way. In the case of new strategies it is usual for several public meetings and/or workshops to be held, ALC and Ministry of Agriculture (MA) staff attendance at which is often valuable.

Growth Strategies Strengths and Weaknesses

Strengths	Weaknesses
The inclusion of MAL and ALC representatives (usually the Agri-Team members) on the Intergovernmental Advisory Committee (IAC).	Due to financial constraints the ALC has curtailed the extent to which it has been involved (some meetings only attended by one member of the Agri-Team from with the Agricultural Land Commission or MA, and in some cases by neither). In other cases participation has been via conference calls. While it is not essential that all IAC meetings be attended, it is important, given the important role played by growth strategies in setting long term overarching land use goals, that most be attended.
The need for the Growth Strategy to be consistent with the ALC Act.	Some IACs function more as forums for the endorsement of policies that have been drawn up by technical committees on which the ALC is not represented. This can make it difficult to influence policies and secure changes where needed.
The IAC provides a forum for relationships to be built with other local government representatives and in particular provincial representatives that has proven helpful in resolving issues where there have been competing interests (e.g. environmental verses agricultural).	While there is a universal recognition of the need for growth strategies to be consistent with the ALC Act, regional growth policies are sometimes couched in vague terms to overcome disagreements and achieve consensus. A case in point is the avoidance of specific density targets to allow local governments “wriggle” room. In most, if not all cases, this has resulted in a failure to achieve envisaged densities with significant consequences for the growth strategy and the Commission. The Fraser Valley Growth Strategy provides another example. In this case the strategy is not clear with regard to its protection of agricultural land. Moreover, in order to achieve consensus, it panders to the individual interests of each member municipality with regard to industrial land.

OFFICIAL COMMUNITY PLANS

Official Community Plan (OCP) Legislation

This falls under Part 26, Divisions 1 and 2 of the Act. Under Section 878(1) of the *Local Government Act* (LGA) an OCP may include policies “*respecting the maintenance and enhancement of farming on land in a farming area or in an area designated for agricultural use in the community plan.*”

Under Section 882(3)(c) of the LGA local governments must refer the plan to the ALC for comment after first reading. Under Section 882(4) with respect to an OCP prepared by a regional district, the bylaw can only be adopted with the approval of the Minister. **(Note this provision does not apply to a municipality).** Section 882(6)(a) enables the Minister to define areas where this referral is not necessary but it is not believed that the Minister has exercised his powers under this section. Prior to 1994 the Act only required that regional districts refer the plans to the ALC. As indicated previously, all new OCP provisions must be consistent with a growth strategy (Section 865(1)).

Important OCP Issues

From the outset and well before the important changes made to the ALC Act in 1994 extensive consultation between the Commission and local governments took place with regard to land use planning, with most of whom it enjoyed good relationships. However, until the changes were made, in particular the requirement that local government ensure consistency with the ALC Act, there was less of an incentive for local governments to support agriculture and some local governments were not supportive. Moreover until the *Local Government Act* was amended in 1994 only regional districts were required to refer plans to the ALC after first reading and in some instances, which tended to comprise those municipalities with less sympathy and understanding of agricultural issues, the ALC was not provided with any opportunities to comment.

The 1994 changes were therefore important steps that, of necessity, required that local governments pay attention to agricultural issues in their OCPs. Accordingly for much of the 1990s and early 2000s the focus of the ALC was on ensuring that OCPs, and to a lesser extent land use bylaws, were consistent with the ALC Act. Over this time significant improvements have been made to OCP provisions relating to agriculture. As a consequence, nearly all OCPs now achieve consistency and only in rare exceptions (usually communities where agricultural issues are not paramount) are issues of consistency raised. The focus has consequently increasingly shifted towards finding ways of improving policies and provisions to provide greater benefits for agriculture.

As OCPs deal with a wide range of issues, the improvement to the policies, while of significance, has not in itself resulted in as many benefits for agriculture as might have been expected for two main reasons:

1. OCP provisions tend to be weak with regard to implementation, commonly depending upon changes to land use bylaws and further studies involving other organisations and money; and
2. OCPs lack the necessary detail.

Hence increasing attention has been paid in the last 10 years to agricultural area planning that can build upon the policy framework provided by the OCPs.

ALC Involvement in OCP Process

The formal process requires that OCPs be referred to the ALC after first reading. Until the ALC updated its community planning guidelines in the early 2000s, the ALC reviewed all OCPs and in most cases staff reports were prepared for consideration by the commissioners. Resolutions would draw attention to any inconsistencies requiring further discussion with local government. As agricultural policies in plans improved during the 1990s and early 2000s less time has generally been needed for their review, both by ALC staff and commissioners, although in some instances this was countered by an increase in the complexity of issues.

The preparation of an OCP is usually a time consuming process often taking a year or more with lengthy public consultation, designed to resolve most land use planning issues before first reading. The ALC's involvement usually occurs well before first reading stage, particularly with OCPs that have significant ALR. ALC involvement can take a variety of forms depending upon the complexity of the issues. Initially it might be confined to attendance of ALC staff, as part of the Agri-Team at workshops, public information meetings and discussions with local government planning staff. It is important that key issues be addressed by the ALC well before the formal referral after first reading. This can include site inspections and meetings with local government.

It has been the intention of the ALC since the changes to its legislation in 1994 that the OCP form the basis for land use policy for land within the ALR. In particular the ALC sees the OCP as being the appropriate mechanism to enable assessments to be made and its support obtained for the non-farm use and possible exclusion of land within the ALR. It has envisioned a situation where future applications can only be made where they are consistent with OCP provisions. This would greatly ease the application workload with an increased focus on the OCP process.

OCP Process Strengths and Weaknesses

Strengths	Weaknesses
<p>The requirement in the ALC Act and obligation placed on local governments to ensure that all bylaws be consistent with the Act is a major motivator to local governments to consult with the ALC and ensure that plans are consistent with the Act. In this respect the ALC enjoys an advantage over many other organizations and ensures that careful attention is paid to its comments.</p>	<p>Communication with local government staff has been significantly reduced by the ALC's (and MA's) budget constraints, the effect of which has inevitably been a significant reduction in face to face contact with local government officials. Budget constraints also preclude, in most instances, the involvement of ALC staff at public meetings at the commencement of the planning process where the opportunity could be taken to explain the ALC's legislation and highlight issues that should be addressed in the plan. Likewise the ongoing involvement of the Agri-Team in workshops and other public meetings which could strengthen agricultural policies is no longer possible. This contact is also important in that it provides a mechanism for elected officials to develop a better understanding of agricultural issues and thereby support for constructive agricultural policies in the plan.</p>

Strengths, cont'd	Weaknesses, cont'd
The creation of the Agri-Team has enabled MA and the ALC to build relationships with local government staff that have been helpful in ensuring that there is a better understanding of agricultural issues and has helped resolve issues where there may be disagreement.	The <i>Local Government Act</i> requires referral of the plan after first reading. However, it does not specify a response time. Accordingly it is not uncommon for insufficient time to be given (usually less than 30 days). Resolutions of the ALC that might have valuable suggestions or, more importantly, might deem the plan to be inconsistent with the ALC Act (and therefore of no force and effect) are sometimes only conveyed after the local government has proceeded to second and third reading of the bylaw by which time changes are difficult to make.
	In the case of regional districts the OCP has to be signed off by the Minister of Community, Sport and Cultural Development (Section 882(4)). However this is not a requirement for municipalities. It is thus possible for municipal governments to adopt plans which have provisions that are contrary to a resolution of the ALC and hence of no force and effect.

LAND USE BYLAWS

Land Use Bylaws Legislation

This falls under Part 26, Division 7 of the *Local Government Act*. Whereas the primary focus of OCPs is on policy, the focus of land use bylaws is on regulation. Pursuant to 903(1) local government can under a land use bylaw establish use zones within which specific uses can be prescribed, together with requirements relating to density, height, coverage and building set-backs and dimensions. Specific uses can be prohibited.

Notwithstanding these provisions, under 903(5) a local government must not exercise the powers under this section to prohibit or restrict the use of land for a farm business in a farming area unless the local government receives the approval of the minister responsible for the administration of the *Farm Practices Protection (Right to Farm) Act*. Under Section 903(6) the minister responsible for the *Farm Practices Protection (Right to Farm) Act* may make regulations

- (a) defining areas for which and describing circumstances in which approval under subsection (5) is not required, and
- (b) providing that an exception under paragraph (a) is subject to the terms and conditions specified by that minister."

A local government must not exercise the powers under this section to prohibit or restrict the use of land for a farm business in a farming area unless the local government receives the approval of the minister responsible for the administration of the *Farm Practices Protection (Right to Farm) Act*.

Land Use Bylaws Important Issues

The ALC's involvement with land use (sometimes referred to as zoning) bylaws is much less than it is with OCPs. There is no requirement in the legislation that land use bylaws be referred to the ALC after first reading and, prior to the 1994 changes to the ALC Act, the referral of these bylaws was inconsistent. While the practice of the bulk of the regional districts, particularly those with significant ALR, was to refer such bylaws to the ALC, a significant number of municipalities failed to do so. The situation has significantly improved since the 1994 changes to the Act requiring consistency therewith and only in rare instances are referrals not made.

Among the main considerations are the following:

- To ensure that the permitted uses are in accordance with the ALC's legislation;
- To ensure that provisions relating to coverage, density and height of buildings recognise agricultural needs;
- To ensure that set backs from streams and property boundaries are appropriate; and
- To ensure that minimum parcel sizes are appropriate.

ALC involvement in Land Use Bylaw Process

Liaison between the Agri-Team members is particularly important. As most land use bylaw changes from the ALC's perspective constitute improvements, commonly in response to policies in growth strategies and OCPs, there are few occasions where questions of consistency are raised. Where they most commonly occur is with changes to land use bylaws that were not previously referred to and endorsed by the ALC. Many bylaw referrals are of a minor nature, commonly reflecting ALC decisions and consequently the bulk of the ALC's work is handled by staff without referral to the commissioners. Where major areas of concern arise, it is usual for the bylaw changes to be reviewed by the commissioners and an order (resolution) obtained, particularly if issues of consistency with the ALC Act are raised.

Land Use Bylaw Process Strengths and Weaknesses

Strengths	Weaknesses
The Ministry Guide for Bylaw Development in Farming Areas has been very helpful in setting standards.	It is sometimes difficult to change the land use regulations to bring them into line with improved OCP policies. In particular it is difficult to secure changes that are perceived to reduce the rights of property owners notwithstanding changes that might have been secured to improve policies in the OCP.
The Agri-Team link between the ALC and MAL is particularly important given that the focus is on the regulation of agricultural activity.	The lack of a statutory requirement similar to that for OCPs providing for the referral of land use bylaws to the ALC has occasionally resulted in local governments not referring such bylaws to the ALC. While not a major issue it is a slight concern as updates to land use bylaws are carried out less frequently than is the case with OCPs.

ALC AND STRENGTHENING FARMING - MINISTRY OF AGRICULTURE

Because of its close relationship with the work of the ALC, this next section provides an overview of the work undertaken by the planning for agriculture section of MA's Strengthening

Farming Program (SFP). It then examines its relationship to the work of the ALC and concludes with some suggestions as to how the relationship might be strengthened and changed to achieve greater efficiencies.

Background

One of the outcomes of the Strengthening Farming initiative of MA in the mid 1990s was the establishment of a new division in the ministry at the core of which is the goal of helping to secure farming and ranching's place in the communities of BC. In doing so, the SFP supports sustainable and economically viable agriculture and promotes the use of normal farm practices. The SFP's key planning objectives are to:

- foster strong partnerships between local governments, the farm and ranching community and the province;
- support the right to farm within the agriculture and licensed aquaculture areas of the province;
- encourage a more prominent role for agriculture in local government planning processes and foster local government policy and regulation supporting farming;
- improve land use compatibility between farm and non-farm uses;
- encourage greater focus by local governments on the positive resolution of farm issues; and
- improve agriculture awareness.

The program is divided into two sections – the one responsible for the protection of farm practices and the other – planning for agriculture. The work is generally shared between the Agri-Teams, as outlined below, and a division based in the Ministry's office in Abbotsford that was established in the mid to late 1990s.

Agri-Teams

Each team consists of a Ministry Agrologist and a Regional Planner from the ALC. The intent of the Agri-Teams is to blend the agricultural expertise housed within the Ministry with the planning expertise of the ALC as part of a joint initiative to strengthen the relationship with local government.

The extent to which these teams work together varies according to local circumstances. In some cases ALC planning staff is involved in almost daily communication with their counterparts, in others the communication is much less frequent. They work as a team on all matters relating to land use bylaws including growth strategies (like ALC staff, MA Agri-Team members are on all IACs), agricultural area plans and AACs, at times sharing responsibilities. In this regard, because MA members are more locally based and because agenda items tend to focus on agricultural as opposed to ALR issues, Ministry Agri-Team members, at times, represent both interests. Written advice to local governments has at times been provided jointly but usually advice is submitted separately by each member after consultation to ensure there is no conflict in the responses. ALC reports prepared by staff are referred to the MA Agri-Team members where necessary and can include their comments, if appropriate. MA arranges annual meetings of the Agri-Teams in each region of the province, to which the ALC's land use planners are also invited. The main purpose of the meetings is to assess future work load with regard to OCPs and Agricultural Area Plans.

Agri-Teams Strengths and Weaknesses

Strengths	Weaknesses
<p>An effective way has been provided for MA and the ALC to implement their new and complementary objectives that came about in the mid 1990s.</p>	<p>In some instances there has been a lack of communication between Team Members resulting in differing and sometimes opposing positions. In most cases, small differences of opinion have arisen due to a lack of opportunity for the necessary consultation to take place. In a small number of instances the difference of opinion has been more serious.</p>
<p>MA Agri-team members' advice is very helpful in that it discourages ALC applications where they are not in the best interests of agriculture, it is helpful to local governments in determining whether or not to refer the application to the ALC, and it is helpful in guiding AACs with respect to the issues that need to be addressed by the AACs in providing advice to local governments.</p>	<p>MA Agri-team members can become involved in providing advice to prospective applicants, local governments, agricultural advisory committees (AAC) and farmers' institutes with regard to proposals in the ALR. In some instances the advice provided by the MA Agri-Team members has been contrary to the policies and principals of the ALC. This has occasionally created difficulties for the ALC when reviewing applications and explaining the reasons why its view may differ from that of the MA Agri-Team Member.</p>
<p>Linkages have been improved between stakeholder groups. Agri-teams provide a mechanism that enables two members with different perspectives and technical expertise to discuss and review issues from each perspective with a view to achieving a consensus that is in the best interests of agriculture.</p>	
<p>Linkages and cooperation between MA and the ALC have been strengthened.</p>	
<p>Opportunities have been provided for a sharing of resources. As resources have become stretched this has occurred more frequently. Because, with the possible exception of the South Coast, the MA members are more locally based it is less time consuming for them to attend meetings. Accordingly, the ALC has benefitted by a MA member representing both organisations. However, similar resource challenges are faced by MA and in recent years have increasingly meant that no representation has been possible from either team member.</p>	
<p>The ALC has benefitted from the local knowledge of the MA member.</p>	

STAKEHOLDER COMMENTS

Most comments with regard to planning were that the ALC must be more proactive and the planning should be done in cooperation with local governments. It was indicated that OCPs should be partnerships from the beginning of the process. Stakeholder groups also expressed concern about the ALC's resource constraints and lack of professional staff to participate in local planning exercises or to address emerging issues that may impact agriculture.

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES (PROGRAMS)

Ministry of Agriculture – Strengthening Farming Program

2010 AUDIT OF THE AGRICULTURAL LAND COMMISSION - Auditor General of British Columbia

Recommendation 1: The Auditor General recommends that the ALC ensure that the ALR boundaries are accurate and include land that is both capable and suitable for agricultural use.

ALC Response: The ALC agrees that the accuracy of the ALR boundaries in some regions of the province should be examined to accurately reflect land that is suitable for farm use. Working with local governments to examine the ALR boundary in the context of regional and local land use planning exercises has been the primary approach taken by the ALC during the past two decades. This approach has been ad hoc and reactive and not what the ALC believes is comprehensive as was the case when it undertook and co-ordinated planned ALR boundary fine tuning exercises in the 1980s.

Recommendation 3: The Auditor General recommends that the ALC engage in proactive long term planning with local governments to encourage farming.

ALC Response: The ALC agrees that proactive land use planning at a regional and community level is key to ensuring that local government plans and bylaws are more consistent with the ALC's mandate to preserve agricultural land and encourage farming. The ALC has worked closely with local governments for almost four decades and provided policy and direction, but needs to maintain the working relationship. The commission believes that a shift towards less emphasis on a reactive and presently ad hoc application process will enable it to apply resources to engaging with local governments and others early and strategically in planning exercises.

CHAIR COMMENTS

It is apparent that applications consume an enormous amount of the ALC resources as it receives between 500 – 700 new applications annually. The work of the ALC has migrated to being application process driven at the expense of more meaningful activities such as long-range planning, ALR boundary assessments and dealing with emerging issues related to agriculture. The ALC has become a purely reactive organization with little or no ability to be proactive. I believe too much prominence has been given to the application process and not

enough to long range planning. In fact, the ALC's professional planners are assisting with the processing of applications rather than using their expertise and education to properly research and advise commissioners on technical planning matters and ALR boundary reviews.

CHAIR RECOMMENDATION

Reposition the ALC away from being reactive and focussed on applications to a proactive planning model that will enable the ALC to:

- **strengthen ties to local government land use planning;**
 - **deal with emerging issues as they relate to agriculture; and**
 - **undertake ALR boundary reviews.**
-

LEGISLATION REQUIRED⁹

YES

☐

NO

☒

FURTHER CONSULTATION REQUIRED

YES

☐

NO

☒

FUNDING REQUIRED

YES

☒

NO

☐

⁹ See Sections 6(a) and (b) and 46 of the *Agricultural Land Commission Act*

ALR BOUNDARY REVIEWS

STRATEGIC SHIFT

An ALR that has defensible boundaries. The boundaries of the ALR, and any decisions to change the boundaries, should be based upon a consistent method of evaluating technically sound information. The boundaries should be defensible in order to discourage speculation and the proliferation of non-farm uses and subdivisions that erode the agricultural land base and drive up agricultural land prices. Communities should be encouraged to adopt compact and efficient development patterns that minimize pressure on the ALR boundary.

BACKGROUND

The “*Land Freeze*” was established 1972. On December 21, 1972 all land taxed for farming was prevented from subdivision by Order-in-Council #4483/72. The OIC remained in place until April 1973 when the *Land Commission Act* was adopted establishing the Provincial Land Commission and empowered it to designate Agricultural Land Reserves (ALR) throughout British Columbia. Over approximately two years the ALRs were established with significant input from Regional Districts and the Ministry of Agriculture.

The technical basis for the ALR rested largely on the Government of Canada produced Canada Land Inventory (CLI) maps which were available at a 1:50,000 scale. The CLI system rated land for agricultural capability on a scale of Class 1 – Class 7 based on biophysical factors; soils and climate. Class 1 land is the most suitable for agricultural development, and Class 7 land has no capability for agriculture. The draft ALR maps were produced by the Ministry of Agriculture and then provided to the Regional Districts where recommendations and adjustments were made based on public information from community meetings. The official ALR boundaries were subsequently confirmed by government between 1974 and 1975.

Lands deemed suitable for inclusion into the ALR were CLI Class 1 – 4 lands and CLI Class 5 and 6 lands that were used in conjunction with Class 1 – 4 lands with the goal to identify cohesive agricultural landscapes. Class 1 – 4 lands were deemed suitable for cultivation while Class 5 and 6 lands were usually only suitable for perennial forage crops or seasonal grazing, but were often critical to ranching operations. In addition it should be noted that there were Class 5 lands which were suitable for a narrow range of crops, but which warranted inclusion into the ALR due to their unique characteristics, such as bogs for cranberry production.

The resulting ALR was 4.7 million hectares which comprised a multitude of landscapes and thousands of farms. Approximately 50% of the ALR is Crown Land, often undeveloped in natural forest or grassland while the other 50% is privately owned. The majority of the ALR lies in the Peace River, Cariboo, East Kootenay, Bulkley Nechako, Fraser-Fort George and Thompson Nicola Regional Districts.

The Agricultural Land Commission's Fine-Tuning Program

Fine-tuning in its simplest definition is the assessment of the agricultural capability and suitability of land lying within and outside ALR boundaries to determine amendments to the ALR boundary and then undertaking to amend the ALR boundary in the context of the process outlined in the *Agricultural Land Commission Act* and regulation. The objective of a review is to establish a more credible and defensible ALR boundary.

By the late 1970s a number of ALR boundary reviews were initiated by the ALC. It had become apparent that in certain areas of the province the ALR boundary needed to be refined for accuracy. Under the auspices of the Fine-Tuning Program the ALC began to initiate reviews of selected ALR areas in response to its own experience with applications and landowner complaints. Throughout the 1980s the ALC had staff and resources dedicated to reviewing ALR boundaries with much of the decade concentrated on reviewing the ALR along the east coast of Vancouver Island due to the availability of updated agricultural capability mapping. The Fine-Tuning Program ended by 1990.

Other ALR boundary reviews

When time and resources have permitted the ALC has undertaken more modest local and regional ALR boundary reviews. For example in the late 1990s the ALC initiated smaller scale ALR boundary reviews in the Okanagan Valley, the Crescent Valley and in the Peace River Regional District based on planning reviews of these areas. More recently, the ALC started working with the Regional District of East Kootenay in 2008 to review the ALR boundaries in the Fernie area. However, the ALC had to withdraw from active participation in the review due to the budget constraints leaving the Regional District to conduct the review on its own.

The application process

Individual landowners have the ability to apply to the ALC to adjust the ALR boundaries on their own properties; (i.e. include land to or exclude land from the ALR through an application process). Over the past 38 years the ALC has received approximately 40,000 applications, of which almost 25% or 10,000 applications have proposed to exclude land from the ALR. In the absence of a structured ALR boundary review process the onus for initiating reviews rests with land owners.

The application process has proven to be an inefficient method of assessing whether or not land in the ALR is appropriately designated as it is ad hoc, it lacks broader regional and provincial considerations, is time consuming and costly for land owners.

STAKEHOLDER COMMENTS

The issue of an ALR boundary review was brought up by 26 groups, approximately 90% of whom believed that reviews are necessary. Stakeholders indicated that the credibility of the ALR would remain questionable in certain areas of the province if non-agricultural lands remained in the ALR. It was also considered unfair that land owners be burdened with the responsibility to argue the appropriateness of the ALR designations on their properties through the application process especially if it is found that the land should not have been placed in the ALR in the first place. Stakeholders believe that a structured ALR boundary review program

based on scientific and technical information is needed to re-assess the boundaries originally developed in 1974 and 1975.

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES

The B.C. Cattlemen's Association canvassed its members regarding the ALR in the summer of 2008. The Association produced a position statement and recommendations that were provided to the Premier in May 2009¹⁰. With input from the former Chair of the ALC, the Ranching Task Force focused on three issues in keeping with the purposes of *Agricultural Land Commission Act* to preserve agricultural land and encourage farming. These recommendations were intended to support farmers' efforts to remain viable and continue to farm within the ALR. It was recommended that support be given to efforts to review the agricultural suitability of lands in the ALR in selected areas of the province, such as the East Kootenay area, to ensure that the ALR boundary accurately reflects lands with agricultural suitability.

Government's response to the Ranching Task Force Report

4-point Action Plan for Revitalizing B.C.'s Ranching Sector¹¹

The Province announced a 4-point action plan to improve the competitive environment of B.C.'s cattle sector, which includes providing critical strategic investment to help the B.C. beef industry recover from economically challenging times. Investing in export/domestic marketing and research will ensure our industry remains competitive and profitable well into the future.

Action 1¹² - Implementation of regulatory/policy changes across seven ministries and the Agricultural Land Commission, which will result in more secure access to water and forage, solutions for waste disposal and improvements to the Agriculture Land Reserve suitability and boundaries.

The recommendation of the Ranching Task Force and Government's response in Action 1 are consistent with strategic goals and objectives identified in the ALC's business planning documents dating back to 2007.

2010 AUDIT OF THE AGRICULTURAL LAND COMMISSION - Auditor General of British Columbia

Recommendation 1: The Auditor General recommends that the ALC ensure that the ALR boundaries are accurate and include land that is both capable and suitable for agricultural use.

ALC Response: The ALC agrees that the accuracy of the ALR boundaries in some regions of the province should be examined to accurately reflect land that is capable and suitable for farm use. Working with local governments to examine the ALR boundary in the context of regional and local land use planning exercises has been the primary approach taken by the ALC during

¹⁰ See Appendix E – Excerpt from the BC Ranching Task Force Report

¹¹ See Appendix F – Government's Response – 4-Point Action Plan

¹² See Appendix G – Excerpt of Government's Response – Regulatory Review

the past two decades. This approach has been ad hoc and reactive and not what the ALC believes is comprehensive as was the case when it undertook and co-ordinated planned ALR boundary fine tuning exercises in the 1980s. The ALC has carried out preliminary estimates of the resources and necessary funding to engage in fine tuning and will be examining the options for moving forward.

CHAIR COMMENTS

There is a need to take a focused look at the ALR boundaries particularly in the light of significant changes in settlement patterns, the agriculture industry, population growth and demands and transportation infrastructure. These reviews are the responsibility of the ALC as it has exclusive jurisdiction over ALR land and the ALR boundary. Furthermore, these reviews must be based on sound scientific and technical information. It is imperative that such reviews be conducted in an open and transparent manner by engaging local governments, agricultural organizations, other stakeholder groups and the general public.

This being said, it is recognized that not all ALR areas in the province require extensive re-assessment. ALR boundary reviews should initially be focussed in the Kootenays and in the northern and central areas of BC.

CHAIR RECOMMENDATION

That government provide the ALC with sufficient funding and resources to enable it to undertake targeted reviews of ALR boundaries to ensure that the ALR is more accurate and includes land that is both capable and suitable for agricultural use.

LEGISLATION REQUIRED¹³

YES

☐

NO

☒

FURTHER CONSULTATION REQUIRED

YES

☐

NO

☒

FUNDING REQUIRED¹⁴

YES

☒

NO

☐

¹³ See Sections 6(a), 17(1)(a) and 29(1)(a) of the *Agricultural Land Commission Act*

¹⁴ Required funding will decrease over time as the boundaries are reviewed

ENCOURAGING FARMING

STRATEGIC SHIFT

An ALR that places agriculture first. The use of lands for agriculture should take priority over other uses within the ALR. Although the ALR permits many non-farm uses and may protect other public environmental values that occur within it, it is first and foremost a working agricultural landscape. The ALC must have adequate resources to be an advocate for farmers and agriculture and have the ability to encourage farming.

BACKGROUND

The *Agricultural Land Commission Act* stipulates that one of the objectives of the ALC is to encourage farming on agricultural land in collaboration with other communities of interest. However, this objective has taken a back seat to the application process and any effort to encourage farming has not been a priority in the day to day operations of the ALC. The ALC has little opportunity to meet amongst its members let alone engage in any meaningful dialogue with other stakeholders. Moreover, what is meant by “*encouraging farming*” in the context of the ALC’s work is poorly defined and difficult to measure in terms on how well the ALC’s is delivering on this aspect of its mandate.

STAKEHOLDER COMMENTS

The majority of the stakeholder groups expressed the view that while the ALC has been effective at preserving agricultural land, it has been considerably less so at preserving the farmer. The general sentiment was that a healthy agricultural sector is the best preservation tool for farmland and “save the farmer, save the farmland” was a comment heard frequently at the meetings. Conversely, there is no need to preserve agricultural land if there is no one left to farm. Examples of historical programs that were viewed as supportive of agriculture that no longer exist were MA extension programs, farm income assurance, etc. Stakeholders felt the ALC has a role to play in encouraging farming but no specific opportunities were identified.

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES

The BC Cattlemen’s Association canvassed its members regarding the Agricultural Land Reserve (ALR) in the summer of 2008. The Association produced a position statement and recommendations that were provided to the Premier in May 2009. Four of these recommendations became a focus of the Ranching Task Force (RTF). The first – loss of financial support programs for ranchers located in the ALR – is not a matter within the jurisdiction of the ALC.

With input from the Chair of the ALC, the RTF focused on the remaining three issues in keeping with the purposes of *Agricultural Land Commission Act* to preserve agricultural land and

encourage farming. These recommendations will support farmer's efforts to remain viable and continue to farm within the ALR.

The identified issue was to facilitate the development of primary agricultural production and processing infrastructure in the ALR to support agriculture uses of farm and ranch lands by considering greater flexibility with respect to:

- Non-farm uses;
- Processing of agricultural products using more than 50% from off-farm sources; and
- On-farm energy projects such as anaerobic digesters and wind farms.

In the report prepared by the Ranching Task Force it was recommended to develop a protocol agreement between the ALC and the Union of British Columbia Municipalities with participation from the MA to address issues associated with local government's authority under the ALC Act to not forward applications to the ALC. Consult with the B.C. Agricultural Council and the BCCA.

Government's response to the Ranching Task Force Report

4-point Action Plan for Revitalizing B.C.'s Ranching Sector

The Province announced a 4-point action plan to improve the competitive environment of B.C.'s cattle sector, which includes providing critical strategic investment to help the B.C. beef industry recover from economically challenging times. Investing in export/domestic marketing and research will ensure our industry remains competitive and profitable well into the future.

Action 1 - Implementation of regulatory/policy changes across seven ministries and the Agricultural Land Commission, which will result in more secure access to water and forage, solutions for waste disposal and improvements to the Agriculture Land Reserve suitability and boundaries.

The British Columbia Agriculture Plan – Strategy 21: Preservation of agricultural land for future generations of farm and ranch families.

The urban/agriculture divide creates many issues, but first among them is how to use the land. We need our farms to continue to feed a growing population, particularly as more and more people see British Columbia's many positive attributes and choose to make this province their home. This government firmly believes that the preservation of agricultural land through the Agricultural Land Reserve serves a compelling public interest. We want to protect agricultural land, and particularly prime agricultural land. We also recognize the wide-ranging needs of farm and ranch families with respect to changing production requirements and the intergenerational transfer of farmland. We therefore commit to reviewing the provisions of the Agricultural Land Reserve to ensure it continues to meet our goals of preserving agricultural land over the long term.

2010 AUDIT OF THE AGRICULTURAL LAND COMMISSION - Auditor General of British Columbia

The commission is challenged to effectively preserve agricultural land and encourage farming in British Columbia, specifically:

- *the commission has identified limitations in its ability to preserve agricultural land and encourage farming through the application process;*

Recommendation 2: The Auditor General recommends that the ALC seek government's support to make changes that will allow it to more effectively preserve agricultural land and encourage farming through the application process.

ALC Response: The ALC believes it would be appropriate to examine additional measures to more effectively preserve agricultural land by reducing the pressures to convert lands with significant agricultural capability to non-farm development as a result of an application process. The ALC agrees that where applications result in conditional approvals, it should examine how to more effectively encourage farming through the setting of terms and conditions.

Recommendation 3: The Auditor General recommends that the ALC engage in proactive long term planning with local governments to encourage farming.

ALC Response: The ALC agrees that proactive land use planning at a regional and community level is key to ensuring that local government plans and bylaws are more consistent with the ALCs mandate to preserve agricultural land and encourage farming. The ALC has worked closely with local governments for almost four decades and provided policy and direction, but needs to maintain the working relationship. The ALC believes that a shift towards less emphasis on a reactive and presently ad hoc application process will enable it to apply resources to engaging with local governments and others early and strategically in planning exercises.

CHAIR COMMENTS

It can be argued that the role the ALC should play in encouraging farming is as important as preserving agricultural land in that a stable, economic platform for the business of agriculture will in itself play a large role in preserving farmland. The ALC must look at ways to encourage farming in an era of climate change, significant urban expansion, concerns about local food supply, food safety and sustainability. It must shift from a mandate of preserving the land for agricultural production to also supporting other aspects of the food system beyond production (i.e. processing, retail, distribution, waste management). This should include a balanced approach to support a wide spectrum of diverse agricultural uses and infrastructure needs.

This being said, the ALC recognizes that other agencies, such as the Ministry of Agriculture, have an equally important role to play in encouraging farming that is external to, but aligned with, the work of the ALC.

The ALC has done little in the way of pursuing proactive opportunities to work with others to encourage farming. The application process is consuming the vast majority of the ALC's resources and time leaving little or no opportunity to engage stakeholders to explore what it can do to encourage and support the business of agriculture. I believe that due to budget constraints the ALC is not actively pursuing what is likely to be one of the most important aspects of its job. This disengagement from ongoing dialogue with farmers and ranchers has created a separation from our most obvious stakeholders, to the detriment of agriculture in BC. The prevailing circumstance has regrettably fostered an "*us versus them*" attitude in much of the agricultural sector. This should be rectified. The need to re-engage with farmers and ranchers throughout the province far exceeds the value of the existing application process to which the majority of the ALC's resources are deployed.

I have made it clear throughout the stakeholder meetings that the much of the feedback on this issue may be beyond the scope of the ALC's mandate and may be more appropriately the responsibility of another government ministry or agency. Nevertheless, stakeholders were encouraged to speak freely on the understanding that I would attempt to separate opportunities for the ALC to encourage farming while relaying other suggestions to the Minister for consideration by him and/or his colleagues.

The single most significant thing the ALC can do to encourage farming is to ensure that it is not an impediment to farming, associated technological changes or supportive ancillary development.

As I previously commented under the issue of applications, the Act does not differentiate between bona fide farmers/ranchers and non-farm owners of ALR land. Farmers and ranchers seeking to improve their farm and ranch operations are compelled to use the same application procedure as non-farm land owners. The Act does not treat farmers and ranchers any differently and I believe this should be corrected.

Furthermore, the inordinate amount of time devoted by the ALC to dealing with non-farmers, non-ranchers and non-agricultural issues significantly reduces its ability to deal with bona fide farmers and ranchers and issues related to the business of agriculture. The application process as it is currently structured provides unnecessary flexibility to non-farmers and ranchers while at the same time being rigid when considering real agricultural opportunities. In my opinion much more attention has to be paid to farmers, ranchers and the opportunities to expand the business of agriculture and significantly less to individuals that own ALR land with little or no intent to pursue agricultural activities.

In addition, I believe the ALC should play a bigger role or have a stronger voice in standing up for farmers, ranchers and the agricultural sector when emerging issues or competing land uses may pose a threat to ALR land, the ability to farm or the agricultural community.

CHAIR RECOMMENDATION

1. **That the “encouraging farming” aspect of the ALC’s mandate take greater prominence;**
 2. **To focus the work of the ALC on farmers and ranchers and the business of farming; and**
 3. **To explore the merits of a risk-based approach to reviewing proposals from farmers and ranchers that look at opportunities to expand the business of agriculture – similar to the existing Notice of Intent provisions in the Act.**
-

LEGISLATION REQUIRED¹⁵	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
FURTHER CONSULTATION REQUIRED	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
FUNDING REQUIRED	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>

¹⁵ See Section 6(b) of the *Agricultural Land Commission Act*

COMPLIANCE AND ENFORCEMENT ACTIVITIES IN THE ALR

STRATEGIC SHIFT

An ALC that is able to respond to and enforce against improper use of ALR land.

Ensuring that ALR lands are being used properly will maintain a high quality land base for farming and reduce the potential for lands to be degraded to the extent that they can no longer be used for agricultural production. The ALC will continue to strive to build partnerships with other government agencies and local governments to assist in compliance and enforcement related matters.

BACKGROUND

The Agricultural Land Commission (ALC) has a legislative mandate to ensure activities occurring in the ALR are consistent with the *Agricultural Land Commission Act*, regulation and orders of the ALC. In September 2007 the ALC, with the support of the Minister of Agriculture and Lands of the day and the encouragement of several other lower mainland cabinet ministers and MLAs, created its first ever compliance and enforcement program consisting of a coordinator and two officers.

At its 2007 annual general meeting, the ALC executive committee and the full Commission endorsed a plan to establish a compliance and enforcement program in accordance with its legislative mandate. The ALC's concern, and one shared by a number of government members, is that significant damage has occurred, and will continue to occur in the ALR, unless the ALC takes a more active role to ensure agricultural lands are protected from unlawful activities such as the significant instances of land filling in the high population growth regions of the province.

In 2007 the ALC hired two compliance/enforcement officers and used all remaining discretionary funds to equip the officers as best it could. In addition, an existing employee was appointed as an acting compliance/enforcement coordinator but was later reassigned as other workload pressures mounted. Since 2007 the ALC has responded to a substantial increase in the number of compliance/enforcement issues.

Challenges to effective compliance and enforcement

1. The compliance/enforcement section is comprised of 2 compliance officers to deal with issues that may arise on the 4.7 million hectares of ALR land under the ALC's jurisdiction. The ALC relies heavily on resource sharing, local government involvement and assistance from provincial ministries in order to deal with issues around investigations and enforcement of the legislation. While the ALC has formed some meaningful relationships, compliance /enforcement priorities vary greatly between agencies and the ALC must have the ability to act when outside assistance is unavailable.
2. Local government commitment and/or resources to enforce local bylaws vary dramatically around the province. Some local governments defer compliance/enforcement to the ALC

while others with a strong commitment to compliance/enforcement are challenged by the sheer number of issues and funding constraints.

3. The *Agricultural Land Commission Act* lacks provisions that would enable the ALC to conduct more thorough investigations. Most notably, the ALC does not have the ability to compel witnesses or order disclosure when conducting an investigation unlike the Farm Industry Review Board (FIRB) through sections 34(3) and (4) of the Administrative Tribunals Act, SBC 2004, Chapter 45. Without sufficient and reliable testimony or disclosure, the ALC investigative efforts and any potential remediation orders and penalties are compromised.
4. The *Agricultural Land Commission Act* appeal provision requires more clarity and streamlining. At present, “Stop Work” orders issued by compliance officers can either be reviewed by the chief executive officer or the commission as per sections 51 and 55(1) respectively. This can result in a lengthy and financially burdensome process if an individual opted to pursue both a review by the chief executive officer (CEO) and an appeal by the commission. It also means that the CEO would have to defer the consideration of a remediation order or penalty until both processes have been concluded.
5. There is an inherent potential for conflict when the duties of the Chair and the CEO positions are performed by the same individual. Pursuant to sections 52 and 54 of the Act, the CEO has the ability to consider and impose remediation orders and penalties which can be appealed to the commission. The question of apprehension of bias or conflict of interest may arise when a decision of the CEO is appealed to the commission to which the Chair oversees – in essence, would an informed person viewing the matter reasonably and practically and having thought the matter through, conclude as to whether it is more likely than not that the Chair, whether consciously or unconsciously, may exert influence over the commissioners assigned to an appeal.
6. Budget constraints impact the ALC’s ability to obtain legal opinions and advise or to pursue legal action. The ALC’s budget allocation for legal expenses is meant to cover the ALC’s legal issues, including defence of actions brought against the ALC.
7. There is no ALC staff agrologist to undertake analysis, support findings or act as an expert witness on behalf of the ALC.

STAKEHOLDER COMMENTS

Of the 31 groups that mentioned compliance and enforcement, 100% expressed concern about the ALC’s inability to adequately conduct compliance and enforcement activities throughout the province. Stakeholders believe the ALC have more resources dedicated to compliance and enforcement while at the same time should build more partnerships with local governments and provincial ministries.

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES

Integrated Land Management Bureau (ILMB) Compliance and Enforcement Resource Management Coordination Project (2007) proposed vision: *Coordinated Natural Resource Compliance and Enforcement providing efficient & effective C&E service for the Natural Resource Sector.*

The ALC is already participating in the RMCP and has appointed officials to conduct compliance/enforcement activities on behalf of the ALC. These appointments are consistent with section 1 (Definitions) in the *Agricultural Land Commission Act* which provides the following definition: "official" means the chief executive officer and any employee of the commission or a person employed under the *Public Service Act* who is designated by name or title by the chief executive officer to be an official.

2010 AUDIT OF THE AGRICULTURAL LAND COMMISSION - Auditor General of British Columbia

Recommendation 6: The Auditor General recommends that the ALC ensure that it has a sufficiently robust compliance and enforcement program.

ALC Response: The ALC believes that its compliance and enforcement efforts can be enhanced and given more credibility by increasing resources, developing the ability to effectively use additional legislative tools and instruments and other cost effective measures, including but not limited to the development of strategic alliances with local government and provincial government officials.

CHAIR COMMENT

The ALC believes that its compliance and enforcement efforts can be enhanced and given more credibility by increasing resources, developing the ability to effectively use additional legislative tools and other cost effective measures, including but not limited to the development of strategic alliances with local government and provincial government officials.

CHAIR RECOMMENDATION

1. **To fund a compliance/enforcement team consisting of a coordinator and four officers;**
2. **To enhance the ALC's compliance/enforcement capacity and regional responsiveness through additional appointments from the resource management coordination project. In addition, one member of the compliance and enforcement team could be located in a satellite office in the north;**

3. To enhance the ALC'S compliance/enforcement capacity through legislative amendments by:
- Amending the definition of an "official" to facilitate the appointment of local government employee, by mutual consent, in a manner similar to the appointment of a person employed under the *Public Service Act*. *Example wording:* "official" means the chief executive officer and any employee of the commission, a person employed under the *Public Service Act* or a person employed by a local government who is designated by name or title by the chief executive officer to be an official;
 - Amending the appeal section to clarify that appeals pertain to remediation orders and penalties imposed by the chief executive officer – not "Stop Work" orders issued by compliance officers. A less formal scrutiny of "Stop Work" orders should be under the purview of the CEO;
 - Amending the *Agricultural Land Commission Act* to enable the ALC to conduct more thorough investigations through the ability to compel witnesses or order disclosure when conducting an investigation similar to the Farm Industry Review Board (FIRB) through sections 34(3)(4) and 49 of the *Administrative Tribunals Act*, SBC 2004, Chapter 45;

Power to compel witnesses and order disclosure

- 34(3) Subject to section 29, at any time before or during a hearing, but before its decision, the tribunal may make an order requiring a person
- (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an application, or
 - (b) to produce for the tribunal or a party a document or other thing in the person's possession or control, as specified by the tribunal, that is admissible and relevant to an issue in an application.
- (4) The tribunal may apply to the court for an order
- (a) directing a person to comply with an order made by the tribunal under subsection (3), or
 - (b) directing any directors and officers of a person to cause the person to comply with an order made by the tribunal under subsection (3).

Contempt proceeding for uncooperative witness or other person

- 49 (1) The failure or refusal of a person summoned as a witness to do any of the following makes the person, on application to the court by the tribunal, liable to be committed for contempt as if in breach of an order or judgment of the court:
- (a) attend a hearing;
 - (b) take an oath or affirmation;
 - (c) answer questions;
 - (d) produce the records or things in their custody or possession.
- (2) The failure or refusal of a person to comply with an order or direction under section 48 makes the person, on application to the court by the tribunal, liable to be committed for contempt as if in breach of an order or judgment of the court.
- (3) Subsections (1) and (2) do not limit the conduct for which a finding of contempt may be made by the court in respect of conduct by a person in a proceeding before the tribunal.

4. To review other legislative alignments with the *Administrative Tribunals Act* and other provincial statutes; and
5. To separate the role of Chair and CEO to avoid the perceived apprehension of bias or conflict of interest regarding compliance and enforcement matters.

LEGISLATION REQUIRED¹⁶

Primarily a re-alignment with other provincial statutes

FURTHER CONSULTATION REQUIRED

Consistent with stakeholder consultation

FUNDING REQUIRED

YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>

¹⁶ See Sections 49, 50, 51, 52, 53, 54 and 55 of the *Agricultural Land Commission Act*

ALC PRESENCE IN NORTHERN BRITISH COLUMBIA

BACKGROUND:

Approximately half of the land in the Agricultural Land Reserve (ALR) is within the north region of BC with the majority of the ALR in the northeast¹⁷.

The ALC recognizes that oil and gas activities in the ALR are temporary in nature and are an important part of the economic wellbeing of BC. Since 1976 the ALC has worked cooperatively with the oil and gas industry and ALR landowners, allowing oil and gas activities to proceed without an application, except in unique circumstances, provided the land is reclaimed to an equivalent agricultural capability.

In 2004 the ALC and the Oil and Gas Commission (OGC) signed a delegation agreement under Section 26 of the *Agricultural Land Commission Act, 2002*. Section 26 of the Act allows the ALC to exempt specified uses from requiring an application and to delegate decision making authority for oil and gas non-farm uses on ALR lands to the OGC. The ALC delegated its decision-making authority to the OGC in order to further the one window regulation of the oil and gas industry and to streamline the review and approval processes for oil and gas activities and pipelines on ALR lands while preserving agricultural lands and encouraging the farming of agricultural lands. The agreement remains in effect.

In February 2009, an independent auditor, the Forest Practices Board of BC submitted their findings to the ALC. The report titled, *Oil and Gas Activities within the Agricultural Land Reserve: An Audit of the BC Oil and Gas Commission's Performance in Carrying out its Delegated Authority to Decide on Oil and Gas Non-Farm Use Activities and ALC Act Applications within the Agricultural Land Reserve*, provided an independent assessment of the OGC's performance in carrying out its responsibilities, as set out in the Delegation Agreement, to make decisions that respect the purpose and intent of the Act. The audit examined OGC approvals and related activities in the Peace River Regional District occurring in fiscal 2006 and 2007 – April 1, 2006 through March 31, 2008.

The audit revealed that, with one exception, the planning and field activities approved or exempted from application under the Act by the OGC conformed, in all significant respects, with the requirements of the Delegation Agreement. The Auditor of Record recommended that:

1. The OGC develop a process to track whether owners of pipelines are reclaiming the disturbed areas and submitting a Schedule B report within 24 months as required under the Delegation Agreement.
2. The OGC and ALC consider developing best management practices to guide operators in the stripping and stockpiling of soil for well sites, facility sites and associated roads.

¹⁷ See Appendix H – Percentage of ALR by Region and Appendix I – Map of North Panel Region

3. The OGC and ALC review their processes for assessing proposals for facilities associated with oil and gas development.

During the 2008/09 fiscal year a total of 668 oil and gas activities on ALR lands were handled by the OGC. Between 2006 and 2008 the OGC dealt with approximately 2,300 proposed oil and gas activities in the ALR that would otherwise have been forwarded to the ALC. Oil and gas exploration, production and processing remains at a high level in the Peace River and the ALC continues to work collaboratively with the OGC and the Peace River Regional District to balance the needs of the oil and gas industry, the community and farm businesses.

STAKEHOLDER COMMENTS:

The suggestion that the ALC have a presence in the north was promoted by the Peace River Regional District in its submission at the stakeholder meeting in Dawson Creek. On October 13, 2010 the Peace River Regional District forwarded a letter to the Select Standing Committee on Finance and Government Services. The Regional District commented as follows,

During the annual UBCM convention we met with members of the Agricultural Land Commission (ALC) about a number of issues related to agricultural lands that we are dealing with in the northeast. Among these are the increasing numbers of oil and gas related applications and constantly changing circumstances relative to the shale gas plays occurring across northeast BC. Many of these applications are located on Agricultural Reserve Lands (ALR) and are affecting the agricultural industry.

It is our belief that with the increase in applications and changes in the oil and gas industry comes the necessity to have an ALC staff person residing in this area. The responsibilities should remain with the Agricultural Land Commission to respond to issues of the ALC/OGC delegation agreement. To provide local staffing would help to alleviate the uncertainty that is presently affecting the industry, agriculture and local government.

With the knowledge that the oil and gas industry is providing the Province with a good portion of the finances to maintain our health and education budgets and the knowledge that the ALR continues to be of high importance to the residents of BC, we request that the Province provide the ALC with an increase in their budget and that a position be established in northeast BC.

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES:

Not applicable.

2010 AUDIT OF THE AGRICULTURAL LAND COMMISSION - Auditor General of British Columbia

Recommendation 5: The Auditor General recommends that the ALC that the work with the Oil and Gas Commission to develop an action plan to implement the recommendations of the 2009 audit.

ALC Response: The ALC agrees that it should develop an action plan to implement the recommendations of the 2009 audit and seek the input of the Peace River Regional District. The ALC has initiated discussions with the OGC during the past year to begin discussions on an implementation approach.

Recommendation 6: The Auditor General recommends that the ALC ensure that it has a sufficiently robust compliance and enforcement program.

ALC Response: The ALC believes that its compliance and enforcement efforts can be enhanced and given more credibility by increasing resources, developing the ability to effectively use additional legislative tools and instruments and other cost effective measures, including but not limited to the development of strategic alliances with local government and provincial government officials.

CHAIR COMMENT:

Northeast BC is agriculturally significant now and I believe it will become even more so in the future. Failure to pay attention to northern agricultural issues now will lead to problems down the road. The most notable issue today is the increase in oil and gas activities. As currently structured the ALC has little or no ability to provide reasonable oversight to these activities nor does it have the ability to regularly communicate with the energy sector, farmers and ranchers, local governments and other stakeholders.

The ALC must position itself with local government to be at the leading edge in discussions relevant to the energy sector and agriculture. The ALC recognizes that oil and gas activities are important to the provincial economy and in no way intends to change the prominence of this economic driver. However, due to budget constraints the ALC has not paid enough attention to the impacts on agriculture caused by these activities, nor to the concerns of the impacted farmers and ranchers. A balance has to be struck between agricultural and oil and gas activities to ensure that they can coexist – not one at the expense of the other.

In addition, the northern portion of BC is agriculturally significant based on the role it can play several generations in the future. This vast area of good agricultural land, with a relatively small population, is essentially unscarred by the development pressures in southern BC.

It is understood that the majority of BC's population growth will continue in the southwest. Pressures to convert agricultural land to accommodate urban growth will continue as will the pressures on farmers to change or stop certain agricultural practices. While I recognize that the *Agricultural Land Commission Act* and the *Farm Practices Protection (Right to Farm) Act* are designed to resist these pressures, there may come a time when farmers themselves will consider relocation thereby resulting in a fundamental shift in the agricultural activities in south west BC. I refer more so to intensive livestock operations in this regard.

I envision that appropriately transferrable agricultural enterprises may look northward – but only if the opportunity exists. Now is the time to recognize the potential future agricultural role of northeast BC. It is also timely to consider the potential economic opportunities for agriculture in years ahead given this huge land base and its proximity to northern transportation routes to Asia and other international markets.

CHAIR RECOMMENDATION:

I concur with the position of the Peace River Regional District that an ALC presence in the north is warranted to develop closer working relationships with farmers and ranchers, local government and the energy sector. Initial consideration is being given to a 3 staff complement (office assistant, planner, compliance officer).

LEGISLATION REQUIRED	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
FURTHER CONSULTATION REQUIRED	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
FUNDING REQUIRED	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>

INFORMATION SYSTEMS AND MAPPING

STRATEGIC SHIFT

An ALC that has up to date technology. To utilize technology to integrate mapping (spatial) information with the ALC's database for research, planning, ALR boundary assessments and business reporting. To seek partnerships with other provincial ministries and agencies to share data to further enhance the ALC's technical capacity for research, planning, ALR boundary assessments and business reporting.

BACKGROUND

The information technology and mapping section of the ALC is currently comprised of 3 staff members and is responsible for a variety of areas:

- Maintaining the spatial representation of the ALR boundary and ensuring that it is accurate and current. Distributing the boundary to stakeholders and the public in hardcopy map form as well as digital or Geographic Information Systems (GIS) data;
- Recording the spatial location of applications and providing mapping information for applications to assist with research and decision-making;
- Responding to mapping inquiries from the public and other government agencies;
- Maintaining the ALC website;
- Maintaining the ALC's Online Application Tracking System (OATS);
- Purchasing and maintaining information technology software and equipment, maintaining user accounts and permissions and helping staff with computer-related questions;
- Assisting staff with special projects and mapping requests, such as boundary reviews; and
- Providing database statistics and mapping for statutory annual reporting.

Mapping

Accurate mapping is crucial to fulfilling the ALC's statutory mandate to maintain the ALR, and staff rely on mapping for daily operations. This includes mapping of the current ALR boundary, changes to the ALR over time, and the spatial location of applications, compliance and enforcement issues, planning reviews and correspondence regarding specific properties. In recent years the mapping section has made progress in its ALR mapping, including aligning the digital boundary to the latest cadastre or property data, performing quality assurance on the digital data to identify and correct errors, replacing the old manual drafting system of ALR maps with GIS-produced maps, and improving the distribution of ALR mapping to the public and other agencies by providing both maps and data on the ALC website in a user-friendly fashion.

However, in terms of other spatial information, the current mapping leaves much to be desired. Staff still update and use a set of paper "appeal maps" on which the location and identification of new applications are recorded using pencil crayons. Historically these maps have been the only spatial representation of the location of ALR applications. Staff rely on these maps when researching the ALC history of a property under application or one that is the subject of a compliance/enforcement matter.

These appeal maps are in a sorry state – they are approaching 40 years old and the integrity of the paper is failing and fragile. Some geographic areas are so cluttered with information that it is

very difficult to decipher, and much of the writing is so faded as to be unreadable. As these paper maps are an invaluable source of corporate information (historic knowledge), it is imperative to preserve the data they contain. Mapping staff are slowly entering this historical data into a GIS format when time permits, which is a time-consuming and labour-intensive process. At present, this exercise is about 80% complete.

As well as application information, the appeal maps contain a spatial record of correspondence. For example, if a staff member sends a map to a property owner confirming the precise location of the ALR boundary within that property, a letter identification is recorded on the appeal maps in order to flag the fact that a piece of correspondence exists on file for that property. This information does not exist in digital form except for very recent correspondence.

Preparing Applications

Some improvements have been made in recent years to the process of preparing maps for applications. The ALC has integrated with the provincial government's GIS resources in order to access the most current software and data at a reasonable price. The quality of application maps has improved as well as the efficiency of map production, with user-friendly templates and automated tools for mapping technicians. New resources have been incorporated, such as Google Earth imagery.

However more improvements are needed. The ability to create application maps is still confined to the mapping department. This is because a crucial component of the OATS project has yet to be delivered – the online mapping tool. This tool will allow all ALC staff to display and query spatial information in a user-friendly fashion. Until that time, general staff members have no access to the digitized appeal map information, and have to rely on the old paper appeal maps. Mapping staff have to keep the paper maps updated for that reason in addition to creating the digital data, which is a duplication of effort.

When all the data and tools are in place, any staff member would have the ability to generate their own application maps, and mapping staff would have more time to devote to other projects such as fine-tuning reviews.

Online Application Tracking System (OATS)

Historically, the non-spatial information associated with applications was kept in the ALC's former database called the Application Tracking System. In recent years a new application was designed and implemented, called the Online Application Tracking System (OATS).

The key objectives of the OATS project were:

- increased efficiency in the processing of applications;
- improved data quality due to more structured data entry procedures;
- improved data integration and support for spatial analysis via integration of application and decision data with ALC's GIS data;
- improved ability for the ALC to monitor conditional application approvals;
- improved support for compliance and enforcement activities;
- improved ability to generate statistical reports for planning, research and statutory annual reporting;
- improved ability to assess the impact of ALC decisions;
- improved research capacity for ALR boundary reviews; and

- improved access by the public to application status information.

OATS has met several of these key objectives, but still needs improvements to meet others. Due to budget constraints the ALC has not established a support contract in order to receive ongoing maintenance. Without a support contract, the ALC will be unable to maintain, fix or enhance OATS thereby leaving the ALC vulnerable to problems that will have a severe impact on its ability to meet its day to day business requirements and responsibilities for annual reporting. Furthermore, without a support contract the design capacity of OATS will be under developed.

In terms of the data that exists within OATS, the amount and quality of data depends on the time period. The older the application, the less digital information is available. For the oldest applications, very little digital data exists and staff must recall paper files from offsite storage in order to research an application. A substantial amount of administrative staff time is spent managing these paper files. The Ministry of Agriculture currently spends approximately \$20,000 annually for the ALC for offsite storage. All previous application and file information should be entered into the OATS database and spatially aligned with GIS mapping.

There are many small changes which could be made to the application to make it much more user-friendly and efficient for staff to use. In its original design, OATS was intended to incorporate digital submission of applications by local governments. This functionality was postponed due to budget constraints. It could be added in the future. OATS could also have functionality added which would generate more information on the status of applications, to be shared with the public. The ALC will then be in a position to study how public inquiries could be handled in a more efficient manner. Potential reductions to this workload could be made by providing more information via the website, improving the quality and distribution of agricultural capability information, and improving communications and procedures with the Land Titles Office (LTO).

Responding to public inquiries

Typical public inquiries to the mapping department have to do with the location of the ALR boundary, accessing and understanding ALR maps, accessing agricultural capability information, and updating LTO records. These inquiries would be less time-consuming if better information was made available. Currently there is no online mapping tools which would allow a property owner to enter their property identifier (PID), and zoom in to a map of their property in relation to the ALR boundary. Capability information is not available in GIS format, except for a small number of areas, and scanned capability maps are not available to the public via the internet. Also, land title records do not give a clear indication of whether a property is in the ALR or not. Titles state that a property “may be affected by the ALR”. The landowner has to contact mapping staff to get a definitive answer, and if the property is not in the ALR then a letter and map is mailed to the Land Titles Office requesting that the notation be removed.

This is an inefficient and time-consuming protocol. Both spatial and database information should be first and foremost accessible by ALC staff and to guarded access by the public. Creating user-friendly access to maps and historical file information would alleviate much of the information pressures placed on the ALC by land owners and freedom of information requests.

STAKEHOLDER COMMENTS

Much of the discussion at the stakeholder meetings focussed on resource constraints and the inability of the ALC to refine ALR boundaries where appropriate.

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES

Citizens @ the Centre: B.C. Government 2.0¹⁸ (Release date October 28, 2010). This strategy is a strategy designed to improve how the BC Public Service delivers public services so they are better, easier, quicker, and more affordable for the people of BC. It also looks at how it can apply technology to help do that in a more coordinated and effective way.

Citizens @ the Centre: B.C. Government 2.0 is based on three principles:

1. Empowering citizens to create value from open government data.
2. Saving citizens time in their interaction with government and make it easier to access better quality services.
3. Encouraging collaboration in the public service because it is integral to delivering quality service to citizens.

There are also three “shifts” or significant changes in how we will work and deliver services:

1. Citizen Participation: engaging British Columbians more directly with their government, particularly through improved access to government data and sharing of information.
 2. Service Innovation: expanding opportunities for citizen self-service by improving and modernizing the government’s online service offerings so they are shaped less by the structure of government and more by citizen needs.
 3. Business Innovation: taking a more corporate approach to technology planning and innovation for the benefit of citizens and public service employees.
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2010 AUDIT OF THE AGRICULTURAL LAND COMMISSION - Auditor General of British Columbia

Recommendation 1: The Auditor General recommends that the ALC ensure that the ALR boundaries are accurate and include land that is both capable and suitable for agricultural use.

ALC Response: The ALC agrees that the accuracy of the ALR boundaries in some regions of the province should be examined to accurately reflect land that is capable and suitable for farm use. Working with local governments to examine the ALR boundary in the context of regional and local land use planning exercises has been the primary approach taken by the ALC during the past two decades. This approach has been ad hoc and reactive and not what the ALC believes is comprehensive as was the case when it undertook and co-ordinated planned ALR boundary fine tuning exercises in the 1980s. The ALC has carried out preliminary estimates of

¹⁸ See Appendix J - Citizens @ the Centre: B.C. Government 2.0

the resources and necessary funding to engage in fine tuning and will be examining the options for moving forward.

Recommendation 7: The Auditor General recommends that the ALC prioritize the completion of the new database and finalize conversion of the original paper ALR maps into digitalized format.

ALC Response: The ALC agrees that one of its priorities is to complete the implementation and conversion of a re-designed (2006 – 2009) research and tracking data base. The ability of the commission to research and track changes to the ALR and land uses and subdivision within the ALR is key to evaluating the results of its decisions. A key component of future evaluation is the ability to acquire land use information it does not currently have and geographically examine and convey the effect of its decision. The complete implementation of the data base tracking and research program, which includes the spatial and geographic analysis tool, is required in order to fully report on the results of commission decisions.

CHAIR COMMENTS

In order to address the challenges listed above, the following steps are recommended.

- Ensure the ALC has sufficient information technology budget to continue to fund software licences for GIS staff. The mapping section cannot do its job without software licences; and
- Enter all historical application information into digital format, to a uniform standard. This includes:
 - Completion of the data entry of appeal maps into a GIS format
 - Entering historical correspondence information into a GIS format, which would be linked to the “Issues” section of OATS.
 - Entering historical resolution numbers and decisions into OATS
 - Completing the scanning of old offsite files
 - Entering ALR boundary history in a GIS format– this is currently done only as far back as 1996.

As completing all these would require a great deal of time, additional resources will be required. This could be met in the form of co-op students, contractors or auxiliary employees.

The benefits of having this information would be enormous. Staff would have desktop access to significantly more information needed for research and would no longer be dependent on degrading paper maps and files. If the proper data and tools were in place, a planner would be able to query a property on an online mapping tool and get instant access to the ALC’s history regarding that property, including past applications, previous correspondence regarding the property, and any compliance and enforcement related issues. The planner would also be able to create their own customized mapping products.

Administrative staff would not need to devote as much time to managing offsite storage of paper files. Mapping staff would not need to devote as much time to the application process once planners were able to access information on their own, and would have more time available to assist on other projects and research such as ALR boundary reviews. Also mapping staff would be able to generate better information. For example, once the ALR boundary history is digitized

and quality assured, staff will be able to recreate the spatial representation of the ALR boundary and determine the area of the ALR for any time period.

The ALC is responsible for the administration of a land base of approximately 4.7 million hectares throughout the very diverse agricultural areas of BC. It is imperative that the ALC has the technological capacity to review land use trends, scientific information and application history from a fully integrated standpoint.

CHAIR RECOMMENDATION

That government provide the ALC with sufficient funding and resources to enable it to fully implement OATS, to digitally capture all historic information and to spatially link this information to GIS mapping.

LEGISLATION REQUIRED¹⁹

YES

☐

NO

☒

FURTHER CONSULTATION REQUIRED

YES

☐

NO

☒

FUNDING REQUIRED

YES

☒

NO

☐

¹⁹ See Sections 12(2)(b), 15(1), 17(1), 20(1) and (3), 25(1) and (2), 29(1), 30(1), (2) and (3), 32, 33(1), 35(1), 48, 49(1), 50, 51, 52(1), 54(1) and 55(1) and (2) of the *Agricultural Land Commission Act*

HOMESITE SEVERANCE, INTER-GENERATIONAL TRANSFER OF FARM OPERATIONS AND ESTATE PLANNING OR SETTLEMENTS

PREAMBLE

The discussions of home site severance, inter-generational transfer of farm operations and estate planning or settlements have been used interchangeably even though they are very different. Before proceeding it is important to differentiate the three categories.

Homesite Severance

This type of subdivision proposal relates to the ALC's *Homesite Severance Policy*²⁰. The purpose of this policy is to provide a consistent approach to situations where property under application has been the principal residence of the applicant as owner-occupant since December 21, 1972 and the applicant wishes to dispose of the parcel but retain a home site on the land. The policy as developed by the ALC is intended to give "special" consideration to subdivision applications submitted by land owners having owned and occupied their land prior to the introduction of the ALR program. It is important to note that the *Homesite Severance Policy* does not differentiate between farmers and non-farmers.

Inter-generational Transfer of Farm Operations

This type of subdivision proposal relates to the transfer of a farm or ranch operation as a going concern to the next generation of family members. The objective of such a proposal in most cases is to facilitate the children taking over an active farm or ranch operation from the parents.

Estate Planning or Settlements

This type of subdivision proposal relates to the transfer of ALR land to family members and applies to both farmers and non-farmers. The objective of such a proposal is in most cases to equitably divide up property for distribution to family members absent the argument that the children, or other heirs, would take over an active farm or ranch operation.

BACKGROUND

Homesite Severance

Between 1974 and 1978 the ALC provided retiring applicants with a leasehold for life over their home and yard area, arguing that a leasehold allowed the farmer to remain in his home, but did not permanently separate the farm home from the productive remnant (reverting it back to the farm parcel when the farmer no longer occupied the home for whatever reason. While many

²⁰ See Appendix K – Homesite Severance Policy

leasehold options were offered to farmers in the Commission's early years, very few were registered because they did not provide a financial dividend to the farmer when circumstances dictated that the home be sold.

The ALC's *Homesite Severance Policy* was established in 1978 as a response to concerns that the retiring farmer was unfairly penalized by provincial legislation restricting the subdivision of farmland. The argument was: unlike other workers in society, when farmers retired not only would they lose their livelihood, but they would also lose their home as well. In light of this the ALC initially adopted an internal policy of sympathy towards the retiring farmer, rationalizing that pre – 1972 landowner/farmers “caught” by restrictive zoning deserved to remain on their land upon retirement. In contrast, those who bought their land after the agricultural zoning was established, purchased the land with their “eyes open” aware of the ALR restrictions on subdivision.

The *Policy* was reviewed by the ALC in 1985 and again in 1990. Following both reviews the policy remained essentially unchanged. During the more extensive 1985 review the question of changing the length of ownership requirement was considered and rejected (a ten year ownership qualification). Also, between 1992 and 1994 a study of homesite severances was conducted by Staff Planner Martin Collins as a thesis requirement for the School of Community and Regional Planning (UBC). The study concluded that on the whole, the number of homesite severances paled in comparison to other types of subdivision permitted in the ALR and that the amount of land lost was very modest. It recommended retention of the policy in its present form (which included the pre – 1972 ownership requirement) because it dealt fairly with long term land owners yet minimized the impacts of subdivision by eventually eliminating the pool of qualified applicants.

Subsequently, the ALC discussed the *Homesite Severance Policy* on two more occasions. In 1995 the ALC discussed the impacts of eliminating the pre – 1972 ownership clause (arising from a BC Fruit Growers' resolution to permit any 20 year land owner a homesite severance). The ALC rejected this proposal arguing that the erosion of farm parcel sizes would continue unabated if the policy was amended. In 1996 the ALC considered whether a formal review of the *Homesite Severance Policy* was warranted, because of concerns that the policy was not being applied consistently. Specifically the issues of a suitable size for a remnant parcel, and subdivision in lieu of homesite severance were discussed. The ALC determined that a formal review (soliciting outside agency and local government comments) was not warranted, and committed itself to be more discriminating about using the policy. A significant rationale for retaining the policy in its existing form was because it was a “sunset” policy. In time, the pool of qualified applicants would be eliminated.

Although the number of qualified applicants is shrinking, there is no clear declining trend in the numbers of homesite severance applications being received, averaging 30 – 40 per year. If a young adult purchased a farm property in the early 1970s (assuming a birth date of 1950) then the youngest landowners that qualify for consideration under *Homesite Severance Policy* would be in their early 60s and approaching retirement. This suggests that the *Homesite Severance Policy* will be relevant for the next 15 – 20 years.

The negative impacts of the *Homesite Severance Policy* are twofold:

- A homesite severance (typically a small lot - 0.2 ha) is eventually sold by the retiring farmer to someone who has no interest in farming, but likes to live in a rural setting. Conflict between the non-farm resident and surrounding farm neighbours may occur, but is

dependent on the intensity of agricultural activity and the resident's acceptance of normal farm practices and odours and noises associated with an active agricultural area. Introducing additional non-farm residents into farm areas raises the potential for conflict, changes the nature of the area, and can result in the decline of agricultural investment and activity.

- Farm land is used to replace the home and yard severed from the farm portion of the property. If the agricultural remnant is relatively small, the loss of even a small amount of farm land represents a significant loss of agricultural potential.

Both of the above noted impacts incrementally erode the agricultural landscape as the number of residential lots increase in farm areas and overall size of farm parcels decline. As farm size declines the likelihood that residential uses will be developed increases.

The benefit of the *Homesite Severance Policy* is that it provides the basis for a sympathetic consideration of a subdivision proposal for long term owners of ALR land (ie: pre – 1972).

Inter-generational Transfer of Farm Operations

This includes the transfer of farm assets, including property, to a next generation family member to allow the current farmer to retire. The purposes of the transfer could be, but are not limited to:

- ensuring that the retiring farmer will have sufficient financial resources for retirement; and
- enabling the transfer of a farm business to the next generation without incurring excessive debt or co-mingling financial matters.

In many ways inter-generational transfer of farm operations might be perceived as the corollary of homesite severance. Whereas the purpose of a homesite severance is to secure a farmer's retirement (with respect to finances and a residence) the inter-generation transfer of a farm operation is broader, addressing not only the retirement aspirations of the farmer but also the acquisition of the farm business by the next generation family member(s).

It should be noted that the inter-generational transfer of farm operations is not estate planning but rather the transfer of a farm business as a going concern to a family member(s) wanting to take over and continue with the business. Estate planning is the general disbursement of all assets (including land) to all heirs regardless of their intention to take over and operate an existing farm business.

In the past, this issue of inter-generational transfer of farm operations has been considered by the ALC through the application process.

In a study conducted by the ALC for the period between January 2002 and December 2006 it was found that approximately 25% (337) of the total number of applications (1320) were for a meant to accommodate a relative, homesite severance, intergeneration transfer of a farm operation or for a second dwelling. On average the approval rate for these types of applications was 70% (with some minor regional anomalies). Of the 1320 applications received in this period only 29 applications were for the specific purpose of facilitating the inter-generational transfer of a farm operation. Of these, 20 (69%) were approved. The unsuccessful applications were refused on the basis of perceived negative agricultural impact or were not found to be legitimate transfers of farm operations. As such, the ALC determined that based on the number of applications received for the inter-generational transfer of a farm operation, and the high

approval rate, that it is meeting the needs of legitimate farmers and ranchers seeking to transfer their business interests.

The timely transfer of a farm business between generations adequately rewards the retiring landowner for a lifetime of productive work and establishes the next family generation as the proprietors of the farm business. However, substantial discussion and negotiation between the two generations is needed to achieve this end.

Land may represent the most significant asset in a farm business and the critical element in the transfer of the farm business. Other assets include access to rented or leased land, quotas, structures, livestock, machinery, etc. The most common request of the ALC is that it permit subdivision to facilitate an inter-generational transfer of a farm operation to provide residential accommodation for the next generation farm business owner without financially encumbering the parents or farm business.

Looked at from a case by case scenario this may seem benign. However, where does one stop subdividing the land for this purpose before the agricultural utility of the land is compromised? While this may be of lesser concern in areas of the province that have large land holdings, it is nonetheless a question that needs to be answered.

There are potentially negative implications to subdivision. As a general observation subdivision into smaller farm parcels reduces agricultural options, alienates agricultural land for new homes/yard and access, contributes to a gentrified, unproductive “estate” home landscape, and precipitates rural residential/farm conflicts. These negative impacts are particularly severe for smaller, single lot, farm businesses, prevalent in the Okanagan, Fraser Valley and on Vancouver Island. Demand for large rural residential lots is very high and the reduction in size of smaller farm parcels could result in many of them going out of production. For example, in the Kelowna area many former 4 ha orchard parcels have been converted to estate home sites.

In addition, after subdivision, there is no certainty (nor is there any mechanism to ensure) that the land will be transferred to the next generation family member nor that the family member will continue to retain and farm the subdivided parcel. Even with the best intentions, subdivision may not result in the continued existence of the farm business. Instead what may occur is the land is sold to non-family members without any interest in farming. The negative implications of subdivision must be weighed against the anticipated, yet uncertain benefits of inter-generational transfer of farm operations.

Estate Planning and Settlement

This type of proposal represents nothing more than a non-agricultural argument for the subdivision of agricultural land. The ALC has historically not entertained such an argument nor has it considered divorces, medical issues, business dissolutions, etc. as arguments justifying the subdivision of ALR land.

STAKEHOLDER COMMENTS

The ALC review committee met with 61 stakeholder groups with a total attendance of 308 people. Approximately 30% of the stakeholder groups brought up the issue of homesite severance and succession planning. Of these groups, approximately half believed that the

homesite severance policy should be more flexible to allow those who do not meet the strict requirements to have the ability to apply for consideration under the Policy. They also believed that the policy should be extended to include farmers who purchased their property after December 21, 1972. The other half believed that the policy should remain as is and sunset out of existence or that it should be cancelled immediately. It was interesting to note that even within stakeholder groups, there was a divide of opinion in relation to the homesite severance issue. Despite this difference of opinion, stakeholders generally believe the ALC should play an important role in maintaining the family farm.

ALIGNMENT WITH OTHER PROVINCIAL INITIATIVES

The B.C. Cattlemen's Association canvassed its members regarding the ALR in the summer of 2008. The Association produced a position statement and recommendations that were provided to the Premier in May 2009. With input from the former Chair of the ALC, the Ranching Task Force focused on three issues in keeping with the purposes of *Agricultural Land Commission Act* to preserve agricultural land and encourage farming. These recommendations were to support farmers' efforts to remain viable and continue to farm within the ALR. It was recommended that the ALC should meet with the BCCA to discuss what criteria the ALC should consider when assessing subdivision proposals meant to facilitate the inter-generational family transfer of active ranch operations.

Government's Response to the Ranching Task Force Report

The ALC should meet with the BCCA to discuss what criteria its members believe the ALC should consider when assessing subdivision proposals meant to facilitate the inter-generational family transfer of active ranch operations.

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No specific recommendation

CHAIR COMMENTS

There are several options for dealing with the issue of the *Homesite Severance Policy*:

1. Eliminate the *Homesite Severance Policy*

Pro: Eliminating the policy will stop the erosion of the farm land resource in areas where farm parcel size is relatively small and it will halt further introduction of non-farm residents into farm communities.

Con: The ALC would lose credibility in the eyes of the farm community if it eliminated *Homesite Severance Policy*. Not all farmers that qualify for consideration under the Policy are ready to retire but have likely relied on this subdivision option as part of their future retirement planning. These farmers would rightfully be aggrieved as they would not be

afforded the same subdivision consideration as previous retiring farmers. Retaining the December 21, 1972 ownership qualification date will eventually achieve the sunset of the policy without the need for intervention and the *Homesite Severance Policy* will be spent.

2. Retain the *Homesite Severance Policy* as written

Pro: Retaining the policy would continue to support the retirement aspirations of landowners “caught” by the establishment of the ALR. These landowners would receive a financial benefit at retirement and be permitted to stay in their farm home upon retirement.

Con: If not amended the policy would not address the retirement aspirations of long standing farmers who purchased ALR land soon after 1972.

3. Amend the *Homesite Severance Policy* to allow subdivision for farmers after owning and farming ALR land for a specified number of years (e.g. 25 – 30 years)

Arguably the retirement needs of the farmer remain as compelling today as they were upon the establishment of the ALR – retirement income and a place to live. However, if the qualification date were re-set or eliminated, the slow but steady small lot erosion of the agricultural land base would continue in perpetuity. Currently the number of homesite severance subdivisions average between 30 – 40 annually. In the Okanagan, Vancouver Island and Fraser Valley regions every effort is made to ensure the homesite severance subdivision is for lots as small as possible (0.2 - 0.4 ha). By way of contrast homesite severance subdivision in north and central BC are parcels of 2 ha or larger. However, there is no practical way to ensure that the remainder parcel is used for agriculture, or that new homes, yards etc. do not excessively alienate arable land. In the long term the result of a homesite severance policy without a pre – 1972 qualification date would be the slow and continuous erosion of agricultural lands into farm units too small for commercial farming and better suited for the gentrification and suburbanization of the farm landscape. As written, the *Homesite Severance Policy* applies to all landowners (whether they are farmers or not). It may be possible to amend the policy to only provide homesite severance subdivision opportunities for bona-fide farmers.

Pro: The amendment would provide a financial benefit and facilitate aging in place for legitimate farmers. Moreover, such an amendment would now differentiate between farmers and non-farmers as is not the case with the existing *Homesite Severance Policy*. In other words, it would not apply to those land owners that owned but did not farm ALR land.

Con: It will be necessary to provide a more succinct definition of what level of agricultural activity would constitute bona fide farming. It is not believed that it is sufficient to determine eligibility based on the minimal level for farm assessment by BC Assessment. Also, the primary objective of the *Homesite Severance Policy* would be substantially altered in that subdivision options would be maintained in perpetuity.

The following options were considered for dealing with inter-generation transfer:

1. Continue to review applications for the inter-generation transfer of farm operations through the subdivision application process currently prescribed in the *Agricultural Land Commission Act*

Pro: The ALC retains oversight of subdivision of land in the ALR and has the ability to determine if proposal is to facilitate the inter-generation transfer of a farm operation or for some other motivation such as estate settlement.

Con: Legitimate farmers and ranchers are put through the rigors of the application process which is time consuming and involves scrutiny by both local government and the ALC.

2. Introduce an ability for the ALC to review proposals for the inter-generation transfer of a farm operations outside the subdivision application process currently prescribed in the *Agricultural Land Commission Act*

Pro: The ALC retains oversight of subdivision of land in the ALR and has the ability to determine if proposal is to facilitate the inter-generation transfer of a farm operation or for some other motivation such as estate settlement. A referral process not dissimilar to the existing Notice of Intent provisions in the *Agricultural Land Commission Act* for gravel extraction may be appropriate. Farmers and ranchers would be able to engage the ALC directly in this expedited process, no application and no application fee would be needed for the legitimate inter-generation transfer of a farm operations.

Con: Local governments may object to not being directly involved in the consideration of such proposals.

CHAIR RECOMMENDATIONS

1. Leave the *Homesite Severance Policy* as is;
2. That the ALC not adopt a new policy, similar to the *Homesite Severance Policy*, but rather that it would accommodate special consideration for subdivision if a person(s) has continually farmed ALR land for a specified number of years;
3. That the ALC meet with the BC Cattlemen's Association and other agricultural stakeholders to discuss what criteria the ALC should consider when assessing subdivision proposals meant to facilitate the inter-generational family transfer of active ranch operations; and
4. That once said criteria is established as per 3 above, that the ALC explore opportunities to streamline its review outside the application process when assessing subdivision proposals meant to facilitate the legitimate inter-generational family transfer of active farm and ranch operations.

LEGISLATION REQUIRED²¹

YES

☐

NO

☒

FURTHER CONSULTATION REQUIRED

YES

☒

NO

☐

FUNDING REQUIRED

YES

☐

NO

☒

²¹ See Sections 21 and 25 of the *Agricultural Land Commission Act*

STAKEHOLDER CONSULTATION

Stakeholder consultation was undertaken as part of the ALC review. A committee was formed to conduct the consultation and included Richard Bullock, Chair, Jennifer Dyson, Vice-Chair of the Island Panel and Jim Collins, Commissioner on the North Panel.

A series of stakeholder meetings were held around the province during August and September 2010. Specifically, the meetings were held in Burnaby, Nanaimo, Cranbrook, Nelson, Trail, Kelowna, Kamloops, Prince George, Dawson Creek, Fort St. John and at the Union of BC Municipalities annual convention in Whistler. The meetings were meant to engage in focussed discussions with a broad spectrum of interest groups and resulted in discussions with 61 groups. In all, 308 people attended the meetings.

As an agenda was not provided to the participants before the meetings, stakeholder groups were able to discuss their specific issues of concern with the review committee. A common theme heard throughout the meetings was one of overwhelming support for the ALR program. It was also clear that stakeholders believe that the ALC lacks the necessary resources and funding to carry out its work. In addition, many groups indicated an interest in assisting the ALC in recognition of the ALC's budget constraints. A number of groups noted that agriculture is currently riding a wave of public interest and this situation should be acknowledged and given consideration.

With specific reference to the work of the ALC, the following major issues were discussed:

- 1) The ALC has to shift from being reactive to being proactive:
 - a) more of an advocacy role for agriculture/farmers; and
 - b) move away from processing applications, saying no to exclusions, helping farmers and ranchers and saying yes to programs to assist agriculture.
- 2) Farmland/farming:
 - a) The existence of ALR does not by itself make an agricultural system. A supportive regulatory regime for the farmer is needed;
 - b) There were a number of companion programs ('safety nets') that were put in place with the ALR but they have been lost along the way and nothing has replaced them; and
 - c) The best protection for farming is having the land farmed – having a vibrant agricultural sector and a supportive public are stronger protection measures than legislation.
- 3) Enforcement:
 - a) The ALC has to take a stand on issues; and
 - b) The ALC needs funds and staff to undertake its compliance and enforcement responsibilities.
- 4) Succession/homesite severance.
- 5) Regional differences - the administration of the ALC legislation should consider regional differences.
- 6) ALR boundary review - needs to be reviewed in many, but not all, areas.

- 7) Improved communication with stakeholders is needed.
- 8) Governance:
 - a) Regional panels were thought to have a better understanding of local issues but land use decisions are perhaps being made too close to home;
 - b) The ALC should professional staff for advice – agrologists, planners, climatologists, etc.; and
 - c) A return to a single commission would indicate that the ALR is a provincial resource.

In addition to the stakeholder consultation, the ALC received more than 80 written submissions from the public. The main issues were similar to those heard in the stakeholder meetings and included concerns about the ALC currently being underfunded, soil and water conservation, foreign ownership of ALR land, absentee landlords on ALR land, provincially-led land use planning, improved recognition of the importance of agriculture to BC's economy, and concern about regional panel structure. Concern was also expressed about the lack of a broader opportunity for public input into the review process.

Organizations Invited to Participate in Stakeholder Consultations

Organization	Attendees at Regional Meetings	Attendees at UBCM
Agro-Environmental Consulting	1	
Alberni-Clayoquot Regional District	6	
BC Agriculture Council	4	
BC Agri-tourism Alliance	0	
BC Business Council	0	
BC Cattleman's Association	5	
BC Chamber of Commerce	0	
BC Food Processors Association	1	
BC Fruit Growers Association	8	
BC Grain Producers Association	1	
BC Institute of Agrologists	0	
BC Real Estate Association	14	
BC Wine Institute	1	
Canadian Federation of Independent Businesses	1	
Capital Regional District	1	
Cariboo Regional District	0	7
Citizens For Agricultural Land Reform Society	26	
City of Abbotsford	4	
City of Kelowna	5	
City of Richmond	2	
Columbia Shuswap Regional District	9	
Comox Valley Farmers Institute	1	
Comox Valley Regional District	3	3
Cowichan Agricultural Society & Farmers Institute	2	
Cowichan Valley Regional District	5	
David Suzuki Foundation	0	
Delta Farmers Institute	12	
Don Cameron Associates	0	
Ducks Unlimited	3	
Economic Development Association of BC	0	
Farm Folk / City Folk	1	
Farmland Defence League of BC	5	
Fraser Basin Council	0	
Fraser Institute	0	
Fraser Valley Regional District	4	
Grassland Conservation Council of BC	1	
HB Lanarc	1	
Hudson Hope	0	2

Organization	Attendees at Regional Meetings	Attendees at UBCM
Independent Contractors and Businesses Association	0	
Islands Trust	5	
Kootenay Livestock Association	14	
Lana Popham, NDP	1	
Maple Ridge	0	4
Metchosin	0	3
Metro Vancouver	9	
North Pine Farmers Institute	2	
North Saanich	0	1
Northeast Energy and Mines Advisory Committee	3	
Northern Development Trust Initiative	1	
Northern Rockies Regional Municipality	2	
Peace River Regional District	11	2
Peninsula Agricultural Commission	3	
Planning Institute of BC	1	
Prince George Farmers Institute	12	
Quadra Planning Consultants Ltd.	0	
Regional District of Bulkley-Nechako	1	
Regional District of Central Kootenay	11	
Regional District of Central Okanagan	0	
Regional District of East Kootenay	15	
Regional District of Fraser Fort-George	12	
Regional District of Kootenay Boundary	7	
Regional District of Nanaimo	7	
Regional District of North Okanagan	10	
Regional District of Okanagan-Similkameen	7	
Smart Growth BC (c/o Canada Green Bldg Council)	0	
Strathcona Regional District	2	
Sunshine Coast	0	2
Thompson River University	2	
Thompson-Nicola Regional District	5	
Township of Langley	2	
UBC, Faculty of Land and Food Systems	2	
UNBC, School of Environmental Planning	6	
Union of BC Municipalities	3	
Windermere District Farmers' Institute	1	
Meeting attendees - subtotals	284	24
TOTAL attendees	308	
Number of groups that participated in process	61	

APPENDICES

- A. July 30, 2010 letter from Honourable Steve Thomson, former Minister of the Ministry of Agriculture**
- B. Excerpt from the ALC's 2007/08 – 2009/10 Service Plan (p 11)**
- C. Excerpt from the 2010 Audit of the Agricultural Land Commission – Auditor General of British Columbia (p 2-6)**
- D. Excerpts from the *British Columbia Agriculture Plan* – Strategy 21: Preservation of agricultural land for future generations of farm and ranch families (p 31 & 40)**
- E. Excerpt from the British Columbia Ranching Task Force Report (p 13 & 14)**
- F. Excerpt of the Government's response to the British Columbia Ranching Task Force Report – 4-Point Action Plan for Revitalizing B.C.'s Ranching Sector**
- G. Excerpt of the Government's response to the British Columbia Ranching Task Force Report – Regulatory and Policy Review**
- H. Percentage of ALR by Region**
- I. Map of North Panel Region**
- J. Citizens @ the Centre: B.C. Government 2.0**
- K. *ALC Homesite Severance Policy***

APPENDIX A – LETTER FROM MINISTER



File: 0280-30
Ref: 170665

Richard Bullock
Chair
Agricultural Land Commission
Suite 133 - 4940 Canada Way
Burnaby BC V5G 4K6

RECEIVED
PROV. AGRICULTURAL JUL 30 2010
LAND COMMISSION

Dear Mr. Bullock:

Letter of Direction – Review of Agricultural Land Commission

To ensure the operation and mandate of the Agricultural Land Commission supports farm families and enhance the sustainability of agriculture in BC, I am directing you as the new Chair of the Agricultural Land Commission (ALC) to immediately undertake a review of Commission operations, policy, regulations and legislation. The purpose of this review is to verify that the ALC is meeting its mandate as spelled out in the *Agriculture Land Commission Act* (Section 6) while looking for ways to improve the decision making processes of the Commission.

Within these general parameters, the review must specifically assess the following issues:

- The current organizational structure identifying any resource requirements including the need for the Chief Executive Officer position and its separation from the Chair;
- Administrative and business practices to ensure the effective management and operations of the ALC in light of applicable legislation, policies and procedures governing financial administration, asset management, human resources, succession planning, contract management, risk management, and information management;
- The effectiveness of the current Commission governance structure;
- Compliance and enforcement activities designed to protect the integrity of the Agricultural Land Reserve (ALR);
- The evaluation and reporting methodology on the effectiveness of the Commission in preserving agricultural land and encouraging farming;
- Engagement in local government planning processes;
- Oversight of the decisions made by delegated authorities; and,
- The Act and Regulations including but not limited to boundary adjustment issues, sub-division of land for home-site severance and inter-generational transfer of active farm operations, and the non-farm use of land in the ALR.

.../2

Ministry of Agriculture
and Lands

Office of the Minister

Mailing Address:
PO Box 9043 Stn Prov Govt
Victoria BC V8W 9E2

Telephone: 250 387-1023
Facsimile: 250 387-1522

Web Address: <http://www.alc.gov.bc.ca>

In regards to ALR policies and boundaries, the review must include an effective stakeholder engagement plan and provide recommendations concerning:

- Legislative, regulatory or policy amendments with supporting rationale;
- Boundary review issues with an action plan that will strengthen and improve the accuracy of the ALR boundaries, as well as reduce administrative burden; and,
- Report on stakeholder engagement, summarizing key issues and concerns along with options to address these issues and concerns.

Given the importance of these issues, and my interest in improving the overall effectiveness of the ALC, it is essential that this review commence without undue delay. Ministry staff is committed to working closely with you as you conduct this review. It is understood that the review is being carried out by the Chair of the Commission as per the direction of the Province and any ministry staff will be working under the guidance of the Chair. Finally, I am willing to participate in the review as deemed appropriate.

Thank you in advance for your cooperation in completing this important initiative. I look forward to receiving your report by October 31, 2010.

Sincerely,



Steve Thomson
Minister

RECEIVED
PRAT. AGRICULTURAL
LAND COMMISSION JUL 30 2010

Goals, Objectives, Strategies and Performance Results

Goal 1: Preservation of agricultural land

Agricultural land comprises less than 5 per cent of the total land area of British Columbia. There is ongoing pressure to convert this limited agricultural land to non-agricultural uses. The Commission protects agricultural land in B.C. through the Agricultural Land Reserve or ALR, a provincial land use zone in favour of agriculture. The ALR provides a land base that supports, and creates opportunities for a local food supply, food and agri-product exports and other non-food agricultural products. The protected land base also provides for agricultural expansion and other compatible economic activities.

Objective 1: The boundaries of the ALR reflect agricultural suitability, the needs of the agricultural industry and long term community needs and food requirements

The ALR is primarily intended to preserve B.C.'s limited agricultural land base for food production and to provide land use certainty to encourage agricultural business.

The ALR should be based on agricultural land capability and suitability for the production of a diverse range of agricultural products.

Objective 2: Decision-making practices based on adequate information and that are appropriate to regional circumstances

The nature of the agricultural resource, the agricultural economy and community development pressures vary considerably from region to region.

The regional panel system and the ability to establish larger panels involving members from more than one region enables regional through to broad provincial perspectives to be considered in decision-making.

Objective 3: A high degree of compliance with Commission decisions and the *Agricultural Land Commission Act*

An application focused workload and limited resources mean that the Commission faces ongoing challenges in moving forward with its efforts to enforce land use regulations and decisions of the Commission.

EXECUTIVE SUMMARY

AGRICULTURAL LAND IS AN INDISPENSABLE natural resource. One of the main reasons for preserving farmland — in British Columbia and elsewhere in the world — is to secure food production into an uncertain future. In this province, population growth is a serious threat to prime agricultural land. In the 1970s, concern over the loss of agricultural land to urban development led to the creation of the Agricultural Land Reserve (ALR). The ALR is made up of land located throughout the province, in all totalling approximately 4.7 million hectares.

Responsibility for administering the ALR lies with the Agricultural Land Commission (commission), an administrative tribunal that operates at arm's length from government. The commission makes decisions on applications to add or remove land as well as non-farm uses and subdivisions of land within the ALR. The commission is also responsible for working with local governments regarding land use planning and conducting compliance and enforcement activities.

We carried out this audit to determine whether the Agricultural Land Commission is:

- ♦ effectively preserving agricultural land and encouraging farming in British Columbia;
- ♦ adequately protecting the ALR from damage through its compliance and enforcement activities; and
- ♦ adequately evaluating and reporting on its effectiveness.

The commission is challenged to effectively preserve agricultural land and encourage farming in British Columbia, specifically:

- ♦ the commission has not determined that the boundaries of the ALR are accurate and include lands that are both capable of and suitable for agricultural use;
- ♦ the commission has identified limitations in its ability to preserve agricultural land and encourage farming through the application process;
- ♦ the commission is not sufficiently involved in proactive long-term land use planning with local governments to encourage farming on a broad basis; and
- ♦ oversight of the decisions made by its “delegated authorities” needs strengthening to ensure that agricultural land is being preserved and farming encouraged.

The commission has established policies to guide compliance and enforcement activities. However, the commission has determined that the current staffing resources and enforcement tools to support those policies are not sufficient to protect the ALR from damage caused by unlawful actions such as illegal dumping of construction material. In addition, while the commission is attempting to work with local and provincial governments to enhance compliance and enforcement activities, formal agreements are not yet in place.

The commission is not effectively evaluating the results and impacts of its decisions, in part, because it lacks the necessary information. In addition, while it is reporting on some aspects of its success, it is not clearly describing the extent to which it is achieving its mandate.

SUMMARY OF RECOMMENDATIONS

WE RECOMMEND THAT THE COMMISSION:

- 1** ensure that ALR boundaries are accurate and include land that is both capable of and suitable for agricultural use.
- 2** seek government's support to make changes that will allow it to more effectively preserve agricultural land and encourage farming through the application process.
- 3** engage in proactive long-term planning with local governments to encourage farming.
- 4** work with Fraser-Fort George Regional District to address concerns it has with the District's processes.
- 5** work with the Oil and Gas Commission to develop an action plan to implement the recommendations of the 2009 audit.
- 6** ensure that it has a sufficiently robust compliance and enforcement program.
- 7** prioritize completion of the new database and finalize conversion of the original paper ALR maps into digitalized format.
- 8** evaluate the collective impacts of its decisions on applications and its broader policy decisions.
- 9** report publicly on the cumulative impacts of its decisions.

RESPONSE FROM THE AGRICULTURAL LAND COMMISSION

THE AGRICULTURAL LAND COMMISSION

welcomes the opportunity to respond to the findings and recommendations of the audit conducted by the Office of the Auditor General between September 2009 and March 2010. It is appreciated that the purpose of the audit was to determine whether the commission is effectively preserving agricultural land and encouraging farming, adequately protecting the ALR from damage and adequately evaluating and reporting on its effectiveness. The audit findings are welcomed by the commission as they emphasize a number of the challenges it has identified in the ongoing efforts to administer the Agricultural Land Reserve (ALR) in the face of continued pressures to convert ALR lands for non-farm purposes.

While the commission believes it has preserved agricultural land and encouraged farming during its almost four decades of operation, it appreciates that the audit found that there is a need to devote more resources to more accurately identify lands that are suitable for farm use – this is particularly so in some regions of the province where technical soils and land use information is lacking. The audit also acknowledges that the commission has identified the limitations of the application process with respect to preserving agricultural land and encouraging farming. Furthermore, the commission appreciates that the audit found that there is opportunity for more proactive involvement in local and regional government land use planning to encourage agriculture and that there is a need to strengthen the oversight with respect to delegated decision making authority to ensure agricultural land is preserved and farming is encouraged.

The audit found that protection of the ALR from damage due to unlawful actions is being addressed by the commission through its compliance and enforcement activities and policies and that there have been attempts to collaborate with local and provincial governments. The commission appreciates that the audit recognizes the commission's concerns about not being positioned to significantly enhance its efforts without the necessary resources and tools.

With respect to evaluating the results of decisions and reporting effectively on successes, the audit found that the commission could be more effective in this regard by more clearly describing the extent

to which the mandate is being achieved. The commission notes this finding and will be examining ways to acquire the information it needs to evaluate its decisions more effectively and communicate more aspects of its success.

RESPONSE TO SPECIFIC RECOMMENDATIONS

1. We recommended that the commission ensure that ALR boundaries are accurate and include land that is both capable of and suitable for agricultural use.

Response

The commission agrees that the accuracy of the ALR boundaries in some regions of the province should be examined to accurately reflect land that is suitable for farm use. Working with local governments to examine the ALR boundary in the context of regional and local land use planning exercises has been the primary approach taken by the commission during the past two decades. This approach has been ad hoc and reactive and not what the commission believes is comprehensive as was the case when it undertook and co-ordinated planned ALR boundary fine tuning exercises in the 1980s. The commission has carried out preliminary estimates of the resources and necessary funding to engage in fine tuning and will be examining the options for moving forward.

2. We recommended that the commission seek government's support to make changes that will allow it to more effectively preserve agricultural land and encourage farming through the application process.

Response

The commission believes it would be appropriate to examine additional measures to more effectively preserve agricultural land by reducing the pressures to convert lands with significant land capability to non-farm development as a result of an application process. The commission agrees that where applications result in conditional approvals, it should examine how to more effectively encourage farming through the setting of terms and conditions.

3. We recommended that the commission engage in proactive long-term planning with local governments to encourage farming.

Response

The commission agrees that proactive land use planning at a regional and community level is key to ensuring that local government plans and bylaws are more consistent with the commission's mandate to

RESPONSE FROM THE AGRICULTURAL LAND COMMISSION

preserve agricultural land and encourage farming. The commission has worked closely with local governments for almost four decades and provided policy and direction, but needs to maintain the working relationship. The commission believes that a shift towards less emphasis on a reactive and presently ad hoc application process will enable it to apply resources to engaging with local governments and others early and strategically in planning exercises.

4. We recommended that the commission work with Fraser-Fort George Regional District to address concerns it has with the District's processes.

Response

The commission believes that a collaborative governance approach to shared decision making can be effective and efficient and still maintain consistency with its mandate. The commission is satisfied that the agreements it has with regional governments to date have generally met the expected outcomes, but it needs to devote more resources to oversight including monitoring the results of delegated decisions and reviewing the terms of delegation to ensure agricultural land is preserved and farming is encouraged. During the past year, Fraser-Fort George Regional District has been implementing changes to its delegated application review process suggested by the commission, which will focus the board's attention on agricultural issues and factors pertinent to each application and the consideration of the impacts and benefits of the decisions it makes on the applications.

5. We recommended that the commission work with the Oil and Gas Commission to develop an action plan to implement the recommendations of the 2009 audit.

Response

The commission agrees that it should develop an action plan to implement the recommendations of the 2009 audit and seek the input of the Peace River Regional District. The commission has initiated discussions with the OGC during the past year to begin discussions on an implementation approach.

6. We recommended that the commission ensure that it has a sufficiently robust compliance and enforcement program.

Response

The commission believes that its compliance and enforcement efforts can be enhanced and given more credibility by increasing resources,

developing the ability to effectively use additional legislative tools and instruments and other cost effective measures, including but not limited to the development of strategic alliances with local government and provincial government officials.

7. We recommended that the commission prioritize the completion of the new database and finalize conversion of the original paper ALR maps into digitalized format.

Response

The commission agrees that one of its priorities is to complete the implementation and conversion of a re-designed (2006 – 2009) research and tracking data base. The ability of the commission to research and track changes to the ALR and land uses and subdivision within the ALR is key to evaluating the results of its decisions. A key component of future evaluation is the ability to acquire land use information it does not currently have and geographically examine and convey the effect of its decision. The complete implementation of the data base tracking and research program, which includes the spatial and geographic analysis tool, is required in order to fully report on the results of commission decisions.

8. We recommended that the commission evaluate the collective impacts of its decisions on applications and its broader policy decisions.

Response

The commission agrees that the provision of resources and information that provided technology and research capabilities to evaluate the collective impacts of its decisions, would assist it in understanding the impacts of its application, land use planning and broader policy decisions as well as better inform decision making.

9. We recommended that the commission report publicly on the cumulative impacts of its decisions.

Response

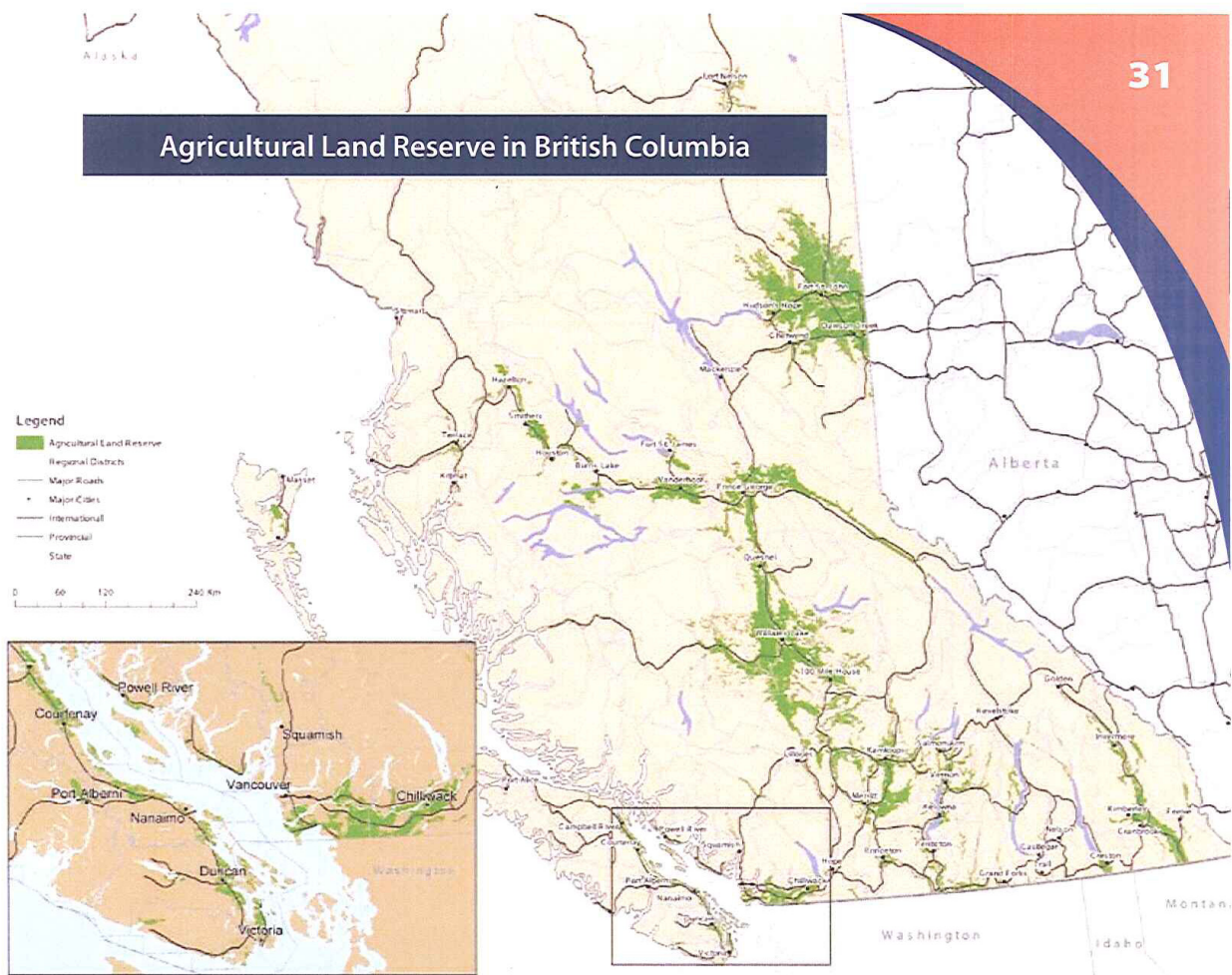
The Commission acknowledges that it has the ability to report and summarize the extent to which the ALR changes and to some limited extent, the change that has occurred within the reserve due to approved land use and subdivision. The Commission agrees that when it is in a position to deploy the technology and research resources necessary, it will examine the options and improve its measurement and reporting on the extent to which its mandate to preserve agricultural land and encourage farming has been achieved.

RESPONSE FROM THE AGRICULTURAL LAND COMMISSION

CONCLUSION

Many of the challenges facing the commission and identified in the audit have been recognized for some time and initiatives are underway, where resources permit, to address some of the issues. In addition, the newly appointed Chair of the Agricultural Land Commission is presently carrying out a review of all facets of the organization, including operations, policies and legislation, to ensure that it is appropriately positioned to continue the agricultural land preservation program well into the future. The purpose of the review is to determine if the Commission is capable of meeting its mandate as outlined in section 6 of the Agriculture Land Commission Act and to explore opportunities to more effectively and efficiently administer the Agricultural Land Reserve (ALR). The audit has provided several recommendations that will be helpful to the Chair in the review, particularly in the context of improving the commission's effectiveness in preserving agricultural land and encouraging farming, protecting the ALR and carrying out enhanced evaluation and reporting.

APPENDIX D - EXCERPTS FROM BC AGRICULTURE PLAN



Agricultural Land Reserve

Strategy 21: Preservation of agricultural land for future generations of farm and ranch families.

The urban/agriculture divide creates many issues, but first among them is how to use the land. We need our farms to continue to feed a growing population, particularly as more and more people see British Columbia's many positive attributes and choose to make this province their home.

This government firmly believes that the preservation of agricultural land through the Agricultural Land Reserve serves a compelling public interest. We want to protect agricultural land, and particularly prime agricultural land. We also recognize the wide-ranging needs of farm and ranch families with respect to changing production requirements and the intergenerational transfer of farmland. We therefore commit to reviewing the provisions of the Agricultural Land Reserve to ensure it continues to meet our goals of preserving agricultural land over the long term.

Bridging the Urban/Agriculture Divide

I've always said if we look after the farmer, they will look after the ALR and you would have an ALR not an LR.

(Late) David Pendray
Pendray Farms, Sidney

Through the ALR, the protection of valuable and high quality lands near urban centres can be protected. Without this visionary land use policy, current and projected population growth in the large urban centres of the province would have eliminated the possibility of maintaining a diversified agricultural sector in the province.

Lindsay Coulter
David Suzuki Foundation

Strategies and Actions	Agencies Responsible	Implementation Timeline
Strategy 19 – Develop programs for First Nations at postsecondary institutions to build agricultural skill sets.		
First Nations recruitment initiative.	MAL, IAF, BCAC, BCFPA	2008
Support efforts of Gitwankak Band Chief and Council in the establishment of an Aboriginal Agriculture Training Centre.	MAL, First Nations	2008
Work with First Nations and Advanced Education to establish and enhance effective programs for agricultural curriculum in B.C. colleges.	MAE, MAL, First Nations	2008
Bridging the Urban/Agriculture Divide		
Strategy 20 – Increase awareness and interest in agriculture and food among B.C. youth.		
Enhance funding by \$0.1 million to the B.C. Provincial 4-H Council for delivery of 4-H programs to B.C. youth.	MAL, BC Provincial 4-H Council	2008-11
Increase funding by \$0.1 million for agriculture in the classroom programs. (e.g. Agriculture in the Classroom on the Road, Spuds in Tubs, school gardens programs)	AITC, MAL	2008-11
BCAAFE "Award of Excellence" Program for 2010 – supporting fairs and exhibitions.	BCAAFE, MAL	ongoing
Strategy 21 – Preservation of agricultural land for future generations of farm and ranch families.		
Review ALR to ensure the preservation of agricultural land for future generations of farm and ranch families.	MAL, ALC	2008
Strategy 22 – Implement strategies to minimize conflict between rural and urban residents.		
Disclosure of information on normal farm practices as defined in the Farm Practices Protection Act to prospective buyers of lands adjacent to ALR lands.	MAL, ALC	2008
Disclosure of information on existing agreements between landowners and oil and gas companies with regard to future exploration and development activities to prospective farmland purchasers.	MAL	2008
Strategy 23 – Increase agriculture industry input at the local government level.		
Host conferences in major agricultural regions to initiate discussion of how to build on each region's agricultural strengths and opportunities.	MAL, local governments, industry	2008
Establish agricultural advisory committees with industry representation to provide input into Official Community Plans to address urban/rural edge issues (32 to date).	MAL, local governments	ongoing
Review community plans, zoning bylaws and farm use bylaws to ensure a regulatory structure that promotes the growth of farming in B.C.	MAL, local governments, ALC	ongoing

APPENDIX E - EXCERPT FROM BC RANCHING TASK FORCE

Agricultural Land Reserve

The B.C. Cattlemen's Association canvassed its members regarding the Agricultural Land Reserve (ALR) in the summer of 2008. The Association produced a position statement and recommendations that were provided to the Premier in May 2009. Four of these recommendations became a focus of the Ranching Task Force (RTF). The first – loss of financial support programs for ranchers located in the ALR – is not a matter within the jurisdiction of the Agricultural Land Commission (ALC) and is discussed in the next section.

With input from the Chair of the ALC, the RTF focused on the remaining three issues in keeping with the purposes of *Agricultural Land Commission Act* (the ALC Act) to preserve agricultural land and encourage farming. These recommendations will support farmer's efforts to remain viable and continue to farm within the ALR.

Issue

To allow home site severance of ranch lands in the ALR to facilitate the intergenerational family transfer of active ranch operations.

Recommendation

The ALC should meet with the BCCA to discuss what criteria its members believe the ALC should consider when assessing subdivision proposals meant to facilitate the intergenerational family transfer of active ranch operations.

Issue

To facilitate the development of primary agricultural production and processing infrastructure in the ALR to support agriculture uses of farm and ranch lands by considering greater flexibility with respect to:

- Non-farm uses;
- Processing of agricultural products using more than 50% from off-farm sources; and
- On-farm energy projects such as anaerobic digesters and wind farms.

Recommendation

To develop a protocol agreement between the ALC and the Union of British Columbia Municipalities with participation from the Ministry of Agriculture and Lands to address issues associated with local government's authority under the ALC Act to not forward applications to the ALC. Consult with the B.C. Agricultural Council and the BCCA.

Issue

The ALC should improve the accuracy of the ALR by reviewing ALR boundaries to ensure lands suitable for agriculture are within the ALR.

Recommendation

Support efforts to review the agricultural suitability of lands in the ALR in selected areas of the province, such as the East Kootenay area, to ensure that the ALR boundary accurately reflects lands with agricultural suitability.

Ranching Industry Investment Priorities

The RTF has identified opportunities for government to invest in the cattle sector to support industry's viability in the long term. Given the current financial situation being experienced by industry, some members of the RTF consider government investment in the beef industry as essential to preventing further exodus of ranchers from the industry in British Columbia. Given the current state of government revenues, the RTF understands that the government may be limited in its ability to financially assist the sector during this economic downturn or until provincial revenues improve.

Announced Government Commitments

In the past few months, government has made several announcements for programming that respond to priorities that had been raised by the cattle industry. Below are the details of six of the programs that the Ranching Task Force support with the understanding that they meet the expectations of industry as outlined below.

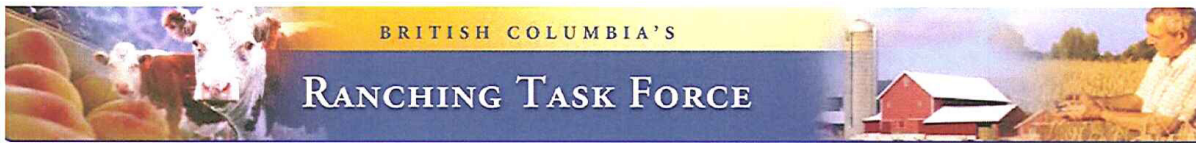
1. Harmonized Sales Tax (HST)

The RTF is in full support of the harmonization of provincial and federal sales tax, with the understanding that the HST will apply to farmers and ranchers on July 1, 2010 in the same way that the Goods and Services Tax currently does.

2. Highway and Rail Corridor Fencing - \$10 M over next 5 years

Fences along highway and rail corridors are necessary to keep livestock off road and rail systems both for the safety of the cattle as well as the motoring public. This program was announced by the Premier in May, 2009. The RTF, in conjunction with the Ministry of Transportation and Infrastructure (MOTI), estimate that \$10 million is needed to improve highway and rail corridor fencing over the next 5 years. MOTI would oversee the program with delivery by the BCCA. The program should begin spring 2010. Due to the MCD range fencing program currently underway, industry would like MOTI to consider ramping up spending on this program over the next 5 years with less money available in the first two

APPENDIX F – GOVERNMENT RESPONSE: 4-POINT ACTION PLAN



4-point Action Plan for Revitalizing B.C.'s Ranching Sector

The Province has announced a 4-point action plan to improve the competitive environment of B.C.'s cattle sector, which includes providing critical strategic investment to help the B.C. beef industry recover from economically challenging times. Investing in export/domestic marketing and research will ensure our industry remains competitive and profitable well into the future.

1. Regulatory and Policy Changes Across Government

- Implementation of regulatory/policy changes across seven ministries and the Agricultural Land Commission, which will result in more secure access to water and forage, solutions for waste disposal and improvements to the Agriculture Land Reserve suitability and boundaries.
- Other government commitments such as introducing the Harmonized Sales Tax, investing in range infrastructure (fencing), and managing invasive plants, also respond to industry priorities and will improve the competitive position of the B.C. cattle industry.
- For a complete listing of these 38 recommendations and government's response, visit the Ranching Task Force website <http://www.ranchingtaskforce.gov.bc.ca/>.

2. Raising the profile of B.C. Ranching

- The Province remains committed to raising the profile of ranching through key activities such as co-hosting "B.C. Beef Day" a celebration of B.C. beef with a barbeque lunch at the Parliament Buildings that will be proclaimed for June 2, 2010.
- The Province is continuing to implement the Ranching Task Force recommendations to further raise the profile of the industry, which includes the continuation of the Parliamentary Secretary role.
- In addition, the Province will pursue opportunities for international trade missions in an effort to expand markets.

3. Leveraging up to \$5 million in funding for the sector

- The Province is providing \$2 million in funding to the ranching industry with the potential to leverage up to \$3 million through the federal Agri-Flex Program.
- The funding will allow the cattle industry to strategically invest in market development opportunities, both domestic and export, and research to help position the sector to take advantage of the growing global markets for beef, while focussing on providing British Columbians with a high quality, locally raised product.
- The Ranching Task Force will reconvene to determine the specific program details for this fund.

4. Beef Cattle Industry Development Fund (CIDF) Continuation

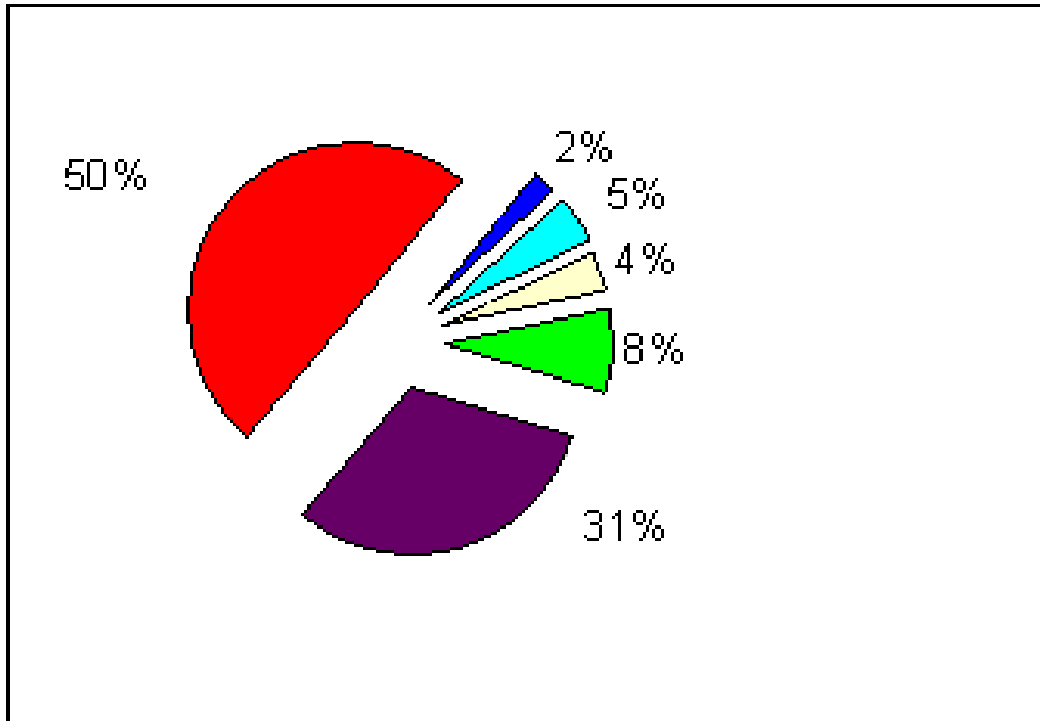
- The \$9.347 million CIDF fund is due to terminate in June 2014, however, the Ministry of Agriculture has negotiated to extend this fund in perpetuity.
- In the past 16 years, the Cattle Industry Development Council has managed to leverage over \$10.0 million to pursue projects that will improve the long term viability of the cattle sector in B.C.

APPENDIX G – GOVERNMENT RESPONSE: REGULATORY & POLICY REVIEW

REGULATORY AND POLICY REVIEW - RANCHING TASK FORCE REPORT GOVERNMENT RESPONSE - MAY 28, 2010				
	Recommendation	Page	Response	Explanation
Ministry of Agriculture and Lands				
1	Waste Disposal (Specified Risk Material and non-SRM). Collaborate with MOE, local governments and the Agricultural Land Commission to pursue low-cost, regional short and long-term solutions for the disposal of slaughterhouse waste.	12	Yes	
2	On-Farm Energy. Collaborate with other agencies (MOE, MEMPR and ALC) to facilitate the production of on-farm energy.	12	Yes	
Agricultural Land Commission				
3	The ALC should meet with the BCCA to discuss what criteria its members believe the ALC should consider when assessing subdivision proposals meant to facilitate the intergenerational family transfer of active ranch operations.	13	Yes	
4	To develop a protocol agreement between the ALC and the Union of British Columbia Municipalities with participation from the Ministry of Agriculture and Lands, to address issues associated with Local government's authority under the <i>Agriculture Land Commissions Act</i> to not forward applications to the ALC. Consult with the B.C. Agricultural Council and the BCCA.	13	Yes	
5	Support efforts to review the agricultural suitability of lands in the ALR in selected areas of the province, such as the East Kootenay area, to ensure that the ALR boundary accurately reflects lands with agricultural suitability.	14	Yes	Pending budget.
Ministry of Aboriginal Relations and Reconciliation				
6	Minimize the impacts on ranch and range lands of treaty settlements.	12	Yes	
7	Where impact is unavoidable, mitigate and/or compensate ranchers for economic losses.	12	Yes	
8	Through the MOU that exists between MARR and BCCA, ensure communication and collaboration between all stakeholders, including MAL, at each step of the treaty negotiation process.	12	Yes	
Ministry of Community and Rural Development				
9	Communicate to and encourage local government to take advantage of legislation that enables them to require fencing when subdivision occurs adjacent to rangelands.	10	Yes	
Ministry of Environment				
10	Water Access. 1. Through Water Act modernization, secure access to water that will meet the needs of livestock on range and private land.	9	Yes	
11	2. Develop regulations under the <i>Water Act</i> that facilitate off-stream livestock watering and help secure stream health.	9	Yes	
12	3. Develop a process to be followed when dealing with conflict between fish and agricultural uses during periods of drought.	9	Yes	

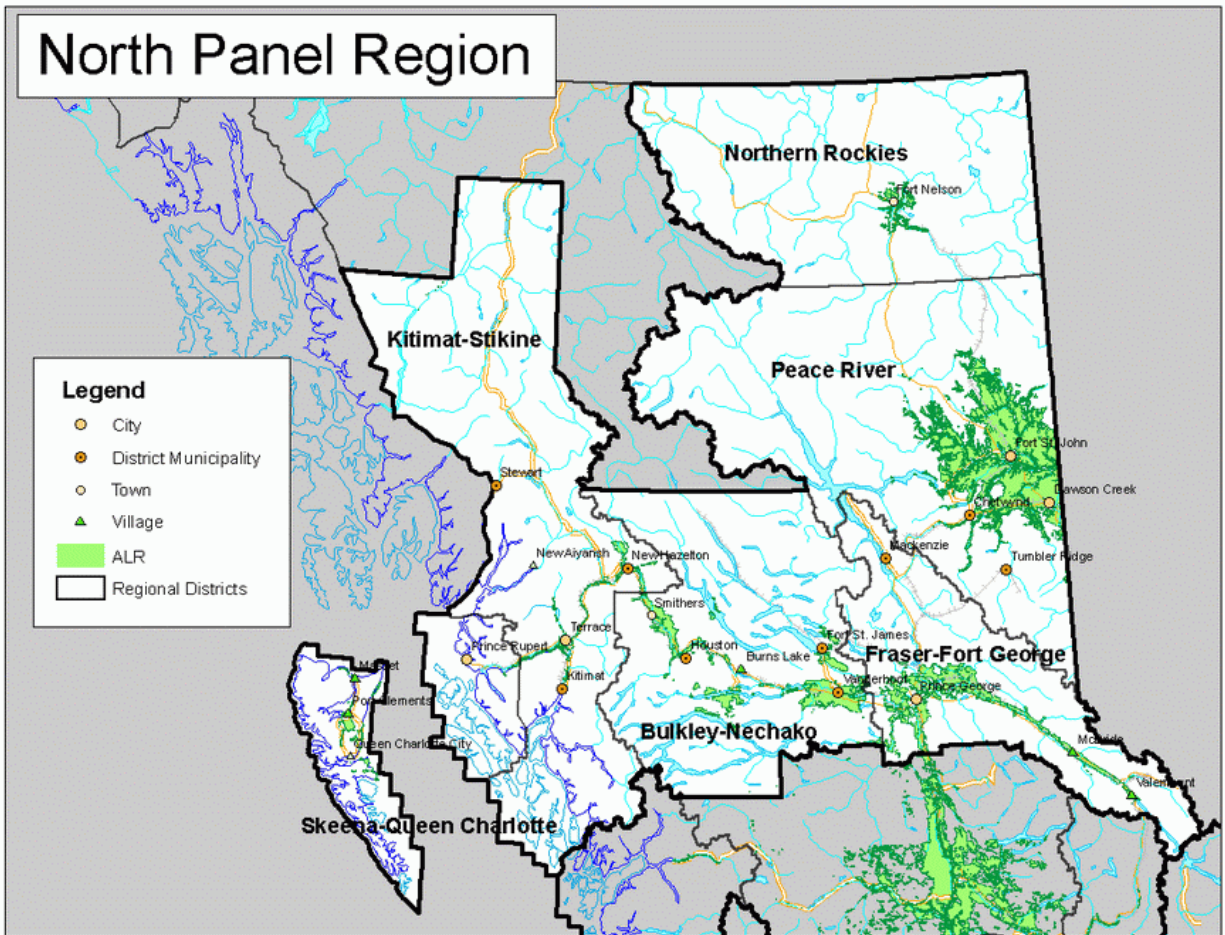
APPENDIX H – PERCENTAGE OF ALR BY REGION

Chart 1: Percentage of ALR by Region
January 1, 2008



Region	Colour
North	
Interior	
Kootenay	
Okanagan	
South Coast	
Island	

APPENDIX I – MAP OF THE NORTH PANEL REGION



APPENDIX J – CITIZENS @ THE CENTRE: BC GOVERNMENT 2.0



Where ideas work

Good afternoon.

Today marks another significant milestone in how the BC Public Service is transforming who we are as an organization.

In 2006, we created *Being the Best*, the Corporate HR Plan, to guide who we are. Today we're taking another step in releasing *Citizens @ the Centre: B.C. Government 2.0*, a transformation and technology strategy that will serve as a companion document to *Being the Best*.

This Gov 2.0 strategy is about how we transform the way we serve the people of B.C. and how we can apply technology to help us do that in a more coordinated and effective way. Demographics, technological advancements and citizen expectations are shifting in ways they never have before. This plan is our response, setting out a vision to ensure the BC Public Service continues to demonstrate its ability to innovate and improve the interaction between citizens and government.

Citizens @ the Centre: B.C. Government 2.0 is based on three principles:

1. We will empower citizens to create value from open government data.
2. We will save citizens time in their interaction with government and make it easier to access better quality services.
3. We will encourage collaboration in the public service because it is integral to delivering quality service to citizens.

There are also three "shifts" or significant changes in how we will work and deliver services:

1. Citizen Participation: engaging British Columbians more directly with their government, particularly through improved access to government data and sharing of information.
2. Service Innovation: expanding opportunities for citizen self-service by improving and modernizing the government's online service offerings so they are shaped less by the structure of government and more by citizen needs.
3. Business Innovation: taking a more corporate approach to technology planning and innovation for the benefit of citizens and public service employees.

It is a bold strategy designed to improve how we deliver public services so they are better, easier, quicker, and more affordable for the people we serve. But it is also very much about improving how all of us work within government, making it possible for you to do your work in better ways with better tools. You'll hear more about how we're going to make these goals a reality in the coming weeks and months. More detail about what this means for the experience of working in the BC Public Service will be included in the upcoming edition of *Being the Best*.

In the meantime, visit [@Work](#) to read the full Gov 2.0 strategy and how it will guide all of us in our approach to serving citizens.

Allan Seckel
Deputy Minister to the Premier and
Head of the BC Public Service

APPENDIX K – HOMESITE SEVERANCE POLICY

<i>Agricultural Land Commission Act</i>	Policy #11 March 2003 HOMESITE SEVERANCE ON ALR LANDS
<i>This policy provides advice to assist in the interpretation of the Agricultural Land Commission Act, 2002 and Regulation. In case of ambiguity or inconsistency, the Act and Regulation will govern.</i>	

The purpose of this policy is to provide a consistent approach to situations where property under application has been the principal residence of the applicant as owner-occupant since December 21, 1972 and the applicant wishes to dispose of the parcel but retain a homesite on the land.

An application under Section 21 (2) of the *Agricultural Land Commission Act* is required.

Persons making use of this policy should understand clearly that:

- a) no one has an automatic right to a "homesite severance";
- b) the Commission shall be the final arbiter as to whether a particular "homesite severance" meets good land use criteria; (see #4 below)
- c) a prime concern of the Commission will always be to ensure that the "remainder" will constitute a suitable agricultural parcel. (see #5 below).

Without limiting the generality of the foregoing, the following guidelines apply to "homesite severance" applications.

1. A once only severance may be permitted where the applicant submits documentary evidence that he or she has continuously owned and occupied the property as his or her principal place of residence since 21 December 1972.
2. Where an applicant for a "homesite severance" has had a previous subdivision application approved by the Commission resulting in the creation of a separate parcel, the Commission may consider the previous approval as having fulfilled the objectives of the Homesite Severance Policy and may deny any further consideration under the Homesite Severance Policy.
3. An application for a "homesite severance" will be considered only where the applicant submits documentary evidence showing a legitimate intention to sell the remainder of the property upon the approval of the "homesite severance" application. [An interim agreement for sale, a prospective buyer's written statement of intent to purchase, a real estate listing, or some other written evidence of pending real estate transaction would be acceptable as documentation.]

In considering the application, the Commission may make its approval subject to sale of the remainder within a specified period of time.

A Certificate of Order authorizing the deposit of the subdivision plan will be issued to the Registrar of Land Titles only when a "transfer of estate in fee simple" or an "agreement for sale" is being registered concurrently.

4. There will be cases where the Commission considers that good land use criteria rule out any subdivision of the land because subdivision would compromise the agricultural integrity of the area, and the Commission must therefore exercise its discretion to refuse the "homesite severance". Where the Commission decides to allow a "homesite severance", there are two options:

- a. the existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property (plus a reasonable area, where required, for legal access purposes); or
 - b. where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would, in the Commission's opinion, create potential difficulty for the agricultural operation or management of the "remainder", the Commission may, as it deems appropriate, approve the creation of a parcel elsewhere on the subject property.
5. The remainder of the subject property after severance of the homesite must be of a size and configuration that will, in the Commission's opinion, constitute a suitable agricultural parcel. Where, in the Commission's opinion, the "remainder" is of an unacceptable size or configuration from an agricultural perspective, there are three options:
 - a. the Commission may deny the "homesite severance";
 - b. the Commission may require that the "remainder" be consolidated with an adjacent parcel; or
 - c. the Commission may require the registration of a covenant against the title of the "remainder" and such a covenant may prohibit the construction of dwellings.
6. A condition of every "homesite severance" approved by the Commission shall be an order stipulating that the homesite is not to be resold for five years except in the case of estate settlements. Prior to the issuance of a Certificate of Order authorizing deposit of the subdivision plan, the owner shall file with the Commission a written undertaking or standard notarized contractual commitment to this effect.
7. Where a "homesite severance" application has been approved by the Commission, local governments and approving officers are encouraged to handle the application in the same manner as an application under Section 946 of the *Local Government Act* insofar as compliance with local bylaws is concerned.