

NO: **R229**

COUNCIL DATE: **October 22, 2012**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **October 22, 2012**

FROM: **General Manager, Planning and Development**

FILE: **0540-20 (AFSAC)**

SUBJECT: **Agricultural Land Commission Fee Review and Related Consultation**

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information; and
2. Instruct the City Clerk to forward a copy of this report and the related Council resolution to each of the Agricultural Land Commission (the "ALC") and the Union of British Columbia Municipalities (the "UBCM") as the City's input into the current ALC review process along with a request that, as part of the ongoing consultations, the ALC consult directly with the City of Surrey and other local governments with regard to any proposed changes to the manner in which Agricultural Land Reserve (the "ALR") applications are processed, the fees that are collected and disbursed in relation to such application processes and the intentions of the ALC in relation to ensuring compliance with ALR approvals that are granted.

INTENT

The purpose of this report is to:

- provide an overview of the UBCM member release dated July 20, 2012 (Appendix I), requesting comments or suggestions with respect to the June 2012 public survey process conducted by the ALC;
- provide a summary of the new enabling legislation in the *Agricultural Land Commission Act* and the changes the ALC is considering in its operations; and
- provide comments on the proposed changes that the ALC is pursuing as a means to offset costs of providing services, including comments on the anticipated impact that these changes may have on local governments.

BACKGROUND

The ALC is implementing changes to its operations in response to two Provincial reviews that were undertaken in 2010. These reviews include the:

- *Audit of the Agricultural Land Commission* – from the Office of the Auditor General of British Columbia report that was released in September 2010; and
- *Review of the Agricultural Land Commission – Moving Forward: a Strategic Vision of the Agricultural Land Commission for Future Generations* Chair report that was released in November 2010.

Each of these reviews indicated that the ALC needs to implement measures to better protect farmland and generate revenue in order to transition to a more self-supporting operating model by 2013. Following the reviews the *Agricultural Land Commission Act* (the "Act") was amended in November, 2011 by means of Bill 19.

The *Bill 19* amendments to the *Act* effectively enable the ALC to:

- place a five-year moratorium on having to address a repeat ALC application;
- prescribe the amount of a fee or a method for calculating the amount of a fee in relation to providing a service;
- prescribe the time within which a fee must be paid; and
- prescribe minimum fee that must be paid.

Currently, a local government that receives application fees for Agricultural Land Reserve ("ALR") Inclusion, ALR Exclusion, Non-farm Use, or subdivision under Section 34(3) of the *Act* may retain a prescribed portion of the application fees and must remit the balance of the application fees to the ALC at prescribed times.

On December 1, 2011, the Surrey Agricultural Advisory and Food Security Advisory Committee was advised of the above-referenced legislative changes to the *Act*.

ALC Public Consultation Process

In June 2012, the Province undertook an online survey (Appendix II) to solicit public input on a proposed ALC fee structure. The online survey was advertised by means of an ALC Information Bulletin that invited the public to provide comments on the ALC fee structure to help support its evolution into a more self-sustaining organization. Comments were accepted until July 8, 2012. At the end of the process, the ALC indicated that a summary of public comments would be posted on their website. This summary has not yet been posted.

The UBCM advised the ALC that the online survey was not an appropriate consultation tool by which to engage local governments; particularly given the ongoing partnership that exists in this area. The UBCM suggested that the ALC consult directly with local governments on the new measures that it is proposing to implement. The UBCM has recommended that local governments provide comments or suggestions on how they would like to be consulted with respect to the online application system and the new fee structure.

In August 2012 the Chair of the ALC provided a public statement titled "*Changing the way we do business: An update on the transition of the Agricultural Land Commission*" (a copy of which is attached as Appendix III to this report). The statement includes details on how the ALC will establish its priorities and vision.

DISCUSSION

The ALC, in association with the Ministry of Agriculture and Lands is considering four potential fee opportunities to provide revenues to cover its costs. These fees are described below:

1. **Application Fees** – Increased application fees for ALR exclusion, subdivision, non-farm use and utility corridor applications;
2. **Service Fees** – A new fee associated with the ALC completing its administration of an approved application;
3. **Monitoring Fees** – A new fee associated with the ALC's ongoing monitoring and site inspections of long term approvals; and
4. **Auditing Fees** – A new fee associated with the ALC's oversight and administration of delegation agreements with local governments and other authorities.

These additional fee revenues are intended to enable the ALC to:

- encourage farming by working more proactively with local governments and agricultural stakeholders through planning rather than simply reacting to applications;
- increase its ability to monitor decisions for compliance and to conduct enforcement activities;
- fix, upgrade and maintain the ALC's online application tracking system database to provide enhanced web services to clients;
- conduct targeted ALR boundary reviews; and
- provide greater training for Commissioners and staff.

The ALC holds the view that these changes, together with the new power to refuse a repeat application for an ALR exclusion, a non-farm use or a subdivision within the ALR made within five years of a previously denied similar application will go a long way towards making the best use of the resources available to the ALC.

The application fees for each of ALR exclusion, non-farm use and subdivision applications were last adjusted in 2002. The current (as adjusted in 2002) fee structure is documented in the following table.

Application Type	Application Made To	Application Fee	Local Government Portion of Fee	ALC Portion of Fee
Land owner applications, Exclusion, Subdivision or Non-farm Use	Local Government	\$600	\$300	\$300
Land owner applications, Inclusion	Local Government	\$0	\$0	\$0
Transportation, Utility and Recreational Trail Uses	ALC	\$400	\$0*	\$400*
Local government applications , Exclusion	ALC	\$600	\$0	\$600
Local government application, Inclusion	ALC	\$0	\$0	\$0

*For Transportation, Utility and Recreational Trail Use applications, a \$400 fee is payable to the ALC. If the ALC refers the application to local government for review, \$200 of the fee is remitted to the local government.

Summary of Proposed ALC Fee Changes

It is estimated by the ALC that application work absorbs 80% of the ALC's budget, and the ALC is targeting to have this work account for 30% of their budget. The exact amount of the fee increases that the ALC is considering has not yet been communicated

Potential Impacts of ALC Fee Changes on Local Government

The following is a summary of the possible costs and benefits of the ALC legislative changes on the City of Surrey:

Benefits

- There is some potential for the City's share of ALR application fees to increase, which would help the City offset the costs of processing such applications; and
- The proposed monitoring fee would assist the ALC in having sufficient resources to effectively monitor projects to ensure compliance with ALC conditions of approval. This could assist the City in its enforcement efforts in relation to illegal truck parking, illegal dumping, and unauthorized soil deposition operations in the ALR.

Costs

- There could be an increase to fees for local government applications to the ALC for ALR exclusions under Section 34(2) of the *Act* for such things as transportation corridors or corridors for utilities.

General Comments

Staff holds the view that the recent ALC legislative changes are reasonable and is encouraged that the ALC is working to improve safeguards in relation to protecting British Columbia's agricultural land and to encourage farming. However, staff is of the view that the ALC should provide the following information to local governments prior to finalizing its review:

- the exact amount of ALR application fee increases and the portion that is proposed to be left with the local government to offset their costs in processing such applications;
- new initiatives by the ALC related to compliance and enforcement of non-farm uses in the ALR;
- any other initiatives that will result in changes to the ALC application review and approval process; and
- the anticipated impact of these changes to local governments.

SUSTAINABILITY CONSIDERATIONS

The recommendations in this report address the following scope action items of the City's *Sustainability Charter*:

EC12.1: Work with the region and the province to protect the City's ALR-designated agricultural land base;

EC12.4: Develop policies, regulations and programs that will help to reduce the amount of land in the ALR that is used for non-agricultural use or is out of agricultural production; and

EC13: Seek through the federal and provincial governments, creative reform of municipal finances such that revenue streams available to local government are expanded or replaced by sources that are more directly linked to growth in the economy to promote sustainability and to create a level playing field among municipalities.

CONCLUSION

Based on the above discussion it is recommended that Council instruct the City Clerk to forward a copy of this report and the related Council resolution to each of the ALC and the UBCM as the City's input into the current ALC review process along with a request that, as part of the ongoing consultations, the ALC consult directly with the City of Surrey and other local governments with regard to any proposed changes to the manner in which ALR applications are processed, the fees that are collected and disbursed in relation to such application processes and the intentions of the ALC in relation to ensuring compliance with ALR approvals that are granted.

Original signed by
Jean Lamontagne
General Manager,
Planning and Development

MK:saw

Attachments:

Appendix I	UBCM Member Release, dated July 20, 2012
Appendix II	June 2012, ALC Online Fee Survey
Appendix III	Report titled " <i>Changing the Way We do Business: An Update on the transition of the Agricultural Land Commission</i> "



MEMBER RELEASE

July 20, 2012

TO: Mayor & Council | Chair & Board | Senior Staff
FROM: UBCM Secretariat
RE: **Agricultural Land Commission Changes**

The purpose of this member release is to provide an update on changes that the Agricultural Land Commission (ALC) is considering in its operations and to get member feedback on how it would like to be consulted on the online application system and the new fee structure.

The Agricultural Land Commission is implementing changes to its operations in response to two reviews that were undertaken. Both of these reviews indicated that the ALC needed to implement measures to better protect farmland and to generate more revenue. The purpose of the new measures is to give the ALC the ability to review ALR boundaries to ensure the land is suitable for farming; to implement a proactive planning model with local government; and to ensure enforcement/compliance measures.

In November 2011 the Agricultural Land Commission Act was amended to give the Commission increased authority to implement new fees. Given these amendments the ALC is looking at ways to generate additional revenue that will give it the ability to implement new measures and to recover the costs of its operations.

The ALC is currently developing an Online Application Tracking System (OATS) to digitally capture historic information and to spatially link this information to GIS mapping. The goal is to require that future applications to the ALC be completed online and that it include the information required to properly assess the changes that are being requested.

The ALC is looking at a number of fee increases for services:

- Application Fees
- Service Fees
- Monitoring Fees
- Auditing Fees

The Province has undertaken an online survey to get public input on the ALC fee structure.

UBCM has written the ALC indicating that the online survey is not an appropriate consultation tool to engage local government, particularly given the ongoing partnership that exists in this area. UBCM has suggested that the ALC consult with local government on the new measures that it is proposing to implement and its impact on local government.

UBCM would appreciate any comments or suggestions that you may have on the on how you would like to be consulted with respect to the online application system and the new fee structure.

Please submit your comments by email to kvance@ubcm.ca.

If you have any questions regarding this communication please contact:

Ken Vance
Senior Policy Advisor
Email: kvance@ubcm.ca
Tel: 604-270-8226 ext. 114



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BC Agricultural Land Commission Fee Review Consultation Online Response Form

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Introduction

In accordance with [Government's November 14, 2011 release of a comprehensive reform package](#) for the Agricultural Land Commission (ALC), including the objective to develop sustainable operations and increased revenue generation by the ALC, the ALC and the Ministry of Agriculture have reviewed potential fee opportunities.

Potential funding sources are consistent with the recent amendments to the [Agricultural Land Commission Act](#) regarding fees. Moreover, the comments and recommendations contained in the September 2010 [report by the Auditor General of British Columbia](#) and the November 2010 [report by the Chair of the ALC](#) figured prominently in the review of potential fee opportunities.

Four potential funding sources have been identified:

1. **APPLICATION FEES** – Increase application fees for exclusion, subdivision, non-farm use and utility corridor applications;
2. **SERVICE FEES** – A fee associated with the ALC completing its administration of an approved application;
3. **MONITORING FEES** – A fee associated with the ALC's ongoing monitoring and site inspections of long term approvals; and
4. **AUDITING FEES** – A fee associated with the ALC's oversight and administration of delegation agreements with local governments and other authorities.

Additional resources for the ALC are intended to enable the ALC to:

- Encourage farming by working more proactively with local governments and agricultural stakeholders through planning rather than simply reacting to applications;
- Increase its ability to monitor decisions for compliance and to conduct enforcement activities;
- Fix, upgrade and maintain the ALC's online application tracking system database to provide enhanced web services to clients;
- Conduct targeted ALR boundary reviews; and
- Provide greater training for commissioners and staff.

Begin Survey

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1. Are you making representations on behalf of a local government or industry group?

- Yes
 No

If yes, please specify and skip to question #7

2. In which Regional District do you reside? (Please reference [BC Stats](#) if uncertain.)

Please select Regional District

3. Do you live in a municipality?

- Yes -If yes, please specify:
 No
 Unsure

4. Do you own property in the Agricultural Land Reserve?

- Yes
 No

5. Do you live on a property in the Agricultural Land Reserve?

- Yes
 No

6. Do you operate a farm on property in the Agricultural Land Reserve that has BC Assessment "Farm Status"?

- Yes
 No

7. Keeping in mind the introduction to this survey, do you support the use of fees to augment provincial funding for the ALC and enable sustainable operations?

- Yes
 No

Comments:

Application Fees[↑ Top](#)

Application fees for exclusion, non-farm use and subdivision applications were last adjusted in 2002. The current fee structure is shown on the following table.

Application Type	Application Made To	Application Fee	Local Government Portion of Fee	ALC Portion of Fee
Land owner applications, Exclusion, Subdivision or Non-farm Use	Local Government	\$600	\$300	\$300
Land owner applications, Inclusion	Local Government	0	0	0
Transportation, Utility and Recreational Trail Uses	ALC	\$400	0*	\$400*
Local government applications, Exclusion	ALC	\$600	0	\$600
Local government application, Inclusion	ALC	0	0	0

* For Transportation, Utility and Recreational Trail Use applications, a \$400 fee is payable to the ALC. If the ALC refers the application to local government for review, \$200 of the fee is remitted to the local government.

The cost of processing ALR applications exceeds the current application fees. At present, processing applications consumes the majority of the ALC's time and resources. An application fee structure based on a cost recovery model could support increased provincial funding to the ALC to ensure it is capable of meeting its statutory obligations to preserve agricultural land, encourage farming and process applications more effectively. It is estimated that the average cost of processing an application is between \$3,000 - \$5,000.

8. Based on the information provided do you support an application fee based primarily on cost recovery to augment provincial funding for the ALC?

- Yes
 No

Comments:

Applications for exclusion, subdivision and non-farm use are submitted to the local government in which the property is located. Section 35 of the *Agricultural Land Commission Act* provides that a local government may retain \$300 of the application fee.

9. Based on the information provided do you support an increase to the portion of the application fee retained by a local government?

- Yes
 No

Comments:

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Service Fees

If the ALC approves an application subject to the completion of specific conditions, administration of the file continues until all conditions have been satisfied. Oversight of conditional approvals is important to ensure applicants fulfill the requirements of an ALC decision. Service fees could augment provincial funding by allowing the ALC to recover some of the costs associated with completing conditional approvals.

Service fees would apply when additional ALC resources are needed after an approval is granted on an application. Some examples of when these fees would apply include, but are not limited to:

- Covenant review and Land Title Office authorization;
- Administration of a financial security (i.e. a reclamation bond);
- Authorization to the Land Title Office to deposit a subdivision plan;
- Review of a fence or vegetation buffer; and
- Conducting a site inspection.

Depending on the level of administration and complexity of the application, it is anticipated that service fees would range between \$100 - \$500.

10. Based on the information provided, do you support service fees to augment provincial funding so the ALC can administer conditional approvals to ensure compliance with ALC decisions?

- Yes
 No

Comments:

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Monitoring Fees

A monitoring fee would apply to any approval by the ALC that requires regular site inspections. Monitoring would range in complexity and also frequency depending on the type of activity. It is currently anticipated that monitoring fees would primarily apply to soil extraction and fill placement projects. Monitoring fees differ from service fees in that an annual fee would apply for every year an approved project remains active. Monitoring fees could support the ALC with resources to oversee approved projects that could potentially have a negative impact on agriculture if left unattended as well as ensuring proper land reclamation.

For example, the ALC approves on average 50 soil extraction and fill placement projects annually. These projects have an average term of approval of 5 years. As a result, the ALC is administering at least 250 active soil extraction and fill placement projects at any one time.

Depending on the level of administration, number of site inspections and complexity of the application, it is anticipated that monitoring fees would range between \$500 - \$2,000 annually.

11. Based on the information provided, do you support monitoring fees to augment provincial funding so the ALC can effectively monitor projects and ensure proper land reclamation?

- Yes
 No

Comments:

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Auditing Fees

Section 26 of the *Agricultural Land Commission Act* provides the ALC with the ability to delegate specified decision-making authority to a local government, a First Nations government or an authority. Currently the ALC has three delegation agreements with:

1. Regional District of Fraser-Fort George (RDFFG);
2. Regional District of East Kootenay (RDEK); and
3. BC Oil and Gas Commission (OGC).

Applications and other matters dealt with under delegation agreements are not received or decided by the ALC. While delegation agreements reduce the application load on the ALC, the ALC cannot delegate its oversight responsibility. As a result, the responsibility to ensure consistency with the terms and conditions of a delegation agreement rests with the ALC - meaningful, regular and ongoing oversight (auditing) is needed.

The frequency and complexity of audits should be based on the level of activity under the delegation agreement and the potential (or risk) of significant cumulative impact to the agricultural land base and farm and ranch operations and/or expressed concerns from the agricultural sector (s).

Auditing fees associated with delegation agreements with local governments would be based per application and delegated decision. It is anticipated that auditing fees in this regard would range between \$1,000 - \$1,500 per application.

The OGC delegation agreement results in approximately 650 developments per year involving land in the ALR. As a result the ALC must have the ability to dedicate considerably more resources for proper oversight and auditing of the delegation agreement. Auditing fees associated with authorities such as the OGC may be more appropriately based on the potential impact of oil and gas developments on agricultural land.

12. Based on the information provided, do you support auditing fees to augment provincial funding so the ALC can undertake the effective oversight and auditing of delegation agreements?

- Yes
 No

Comments:

Please remember to submit this response form to the Ministry **on or before July 8, 2012.**

Submit Form

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Thank you for your time in providing us with your valuable input on the BC Agricultural Land Commission Fee Review.

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PROVINCIAL AGRICULTURAL LAND COMMISSION

MESSAGE FROM THE CHAIR

August 23, 2012

CHANGING THE WAY WE DO BUSINESS: AN UPDATE ON THE TRANSITION OF THE AGRICULTURAL LAND COMMISSION

I. THE NEED FOR CHANGE

On November 26, 2010, in my role as Chair of the Agricultural Land Commission (ALC), I issued a report laying out a strategic vision for the ALC. That strategic vision was based on two fundamental propositions.

The first proposition is that the ALC's mandate – to preserve agricultural land, to encourage farming on such land in collaboration with other communities of interest and to encourage all governments to accommodate farming in their planning processes – is as important today as it was when the Agricultural Land Reserve (ALR) was created almost 40 years ago. As noted in my report, there continues to be overwhelming support for the ALR. That support reflects a consensus within society about the importance of preserving a stable and coherent agricultural land base in British Columbia.

It is widely understood that there are serious challenges to the preservation of British Columbia's limited agricultural land base. Those factors include urban sprawl, increasing populations, changing weather patterns, competing land uses and land speculation. People readily understand that, in addition to the critical importance of the \$10.5 billion agri-food sector to the provincial economy, food security is not something we can take for granted in British Columbia.

The second proposition on which my report was based is that if the *Agricultural Land Commission Act (ALCA)* is to truly achieve its purpose, the ALC itself must be effective. Like any other organization or business, the ALC must be willing to adapt to changing circumstances, and must be willing to re-examine previous ways of doing business. It is not good enough to operate a certain way because that is the way it has always been. It is not good enough to avoid change because some people do not support change, or because their vested interests are

affected. It is not good enough to allow the work demands related to one part of the ALC's mandate (for example, the consideration of non-farm use, subdivision and exclusion applications) to unduly take away from other important statutory responsibilities such as policy and planning, and compliance and enforcement. The ALC has to look for creative ways to become more efficient, and has to make hard decisions about how to triage and use its resources.

In September 2010, the Auditor General of British Columbia produced a report that examined the ALC and made 9 recommendations. These recommendations encouraged the ALC to be more proactive with local government planning processes, to have a sufficiently robust compliance and enforcement scheme, and to fully evaluate decisions with a view to reviewing our overall policy direction.

The 20 months since my report was submitted have only reinforced the need for the ALC to introduce changes to the way it does business. The ALC has had time to reflect on the Auditor General's report and my November 2010 report, and to consider the legislative changes passed in November 2011 to allow the ALC to better manage parts of our workload. I consider it appropriate now to publicly outline the changes we have decided to make in order to better achieve our mandate under the *ALCA*.

II. THE NOVEMBER 2010 CHAIR'S REPORT

My report set out a "Strategic Vision for Future Generations", with the following components:

- 1. *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 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.
- 2. *An ALR that places agriculture first.*** The use of lands for agriculture should take priority over all 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.

3. ***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.*** (This requires) flexible, risk-based approach to reviewing and deciding upon proposals that are intended to support and enhance bona fide farms and ranches.
4. ***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 or 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.
5. ***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.
6. ***An ALC that moves away from being reactive and focused 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.
7. ***An ALC that has up-to-date technology.*** To use 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.

My report candidly states that in order to achieve many of these objectives (particularly items 1, 5 and 7 above), sufficient funding and resources are necessary. In this regard, a very positive development was the November 2011 legislative amendments that created the possibility of a fee schedule to establish a "user pay" funding model to generate revenue to augment the ALC's base budget appropriation. The ALC awaits advice from Government regarding further developments with regard to this reform.

The ALC is committed to proceeding with our strategic vision, even if this means having to engage in a triage process where lower priority matters give way to allow higher priority matters to be properly addressed.

Part of the reason for this message is to explain to certain stakeholders – particularly those involved in the “application” side of our mandate – why their applications may in future be processed differently. On the positive side, we believe this realigning of priorities to be more consistent with our overall mandate and responsibilities, and will lead to a revitalized and proactive ALC.

III. RE-ESTABLISHING THE ALC’S PRIORITIES

A disproportionate amount of the ALC’s resources are consumed in dealing, on a reactive basis, with the numerous applications made by individuals each year to exclude, subdivide or authorize non-farm uses on ALR land. Dealing with the sheer volume of these applications – 500 to 700 new applications annually – consumes an enormous amount of ALC time and resources. Of these new applications we anticipate that approximately 25% will be the subject of a request for reconsideration (a follow up review of a denied application) which will consume even more ALC time and resources. Requests for reconsideration result in the annual application workload of the ALC increasing to 625 – 875 applications.

It is also a fact that a significant number of applications are nothing more than an attempt to gain a financial benefit from non-agricultural uses, or from removing land from the ALR. As stated in my report regarding land in the ALR “land speculation remains high after nearly 40 years”.

The time has come for the ALC to take control of our agenda and workload. To avoid remaining a largely reactive organization whose priorities are dictated by the volume of applications received, the ALC has had to seriously re-think the resource allocation given to applications relative to other functions.

The ALC has determined that we can no longer afford to be an organization that spends 80% of its time dealing with applications to the detriment of other important areas of our mandate. Within the scope of resources that can be devoted to applications, we need to look beyond a simplistic “first in time, first in line” approach to doing our work and examine other process models based on priority and triage. Finally, we need to do everything we can to ensure that when dealing with applications, our decision-making remains principled, professional, consistent and timely.

The ALC will in good faith continue to perform our duty to consider each application on its merits as appropriate, but it makes no apologies for undertaking and prioritizing work based on a considered assessment of resources and priorities.

IV. RE-ALLOCATING THE ALC'S RESOURCES

A. Planning

The *ALCA* states that a local government's bylaws (including a regional growth strategy, official community plan or zoning bylaw), and a first nations government's laws, must be consistent with the *ALCA*, the regulations and the orders of the ALC. If those laws or bylaws are inconsistent with the *ALCA*, the regulations and the ALC's orders, they are "to the extent of the inconsistency, of no force or effect": s. 46. The ALC has an important role to play in consulting with local governments to ensure that their bylaws are valid and do not contravene s. 46.

In addition, section 882(3) of the *Local Government Act* requires local governments to refer official community plan bylaws to the ALC for comment if the plan applies to land in the ALR. Section 879 of the *Local Government Act* also allows local government to consult with the ALC more generally regarding official community plans. All these powers are directly related to the ALC's mandate to encourage farming and to encourage local governments and first nations to enable and accommodate farm use of agricultural land. As part of the planning process, the ALC needs to encourage communities to adopt compact and efficient development patterns that minimize pressure on ALR boundaries.

The ALC has in the past devoted insufficient resources to these critical planning functions resulting in adverse downstream effects on many of the ALC's objectives, including promoting the use of ALR land for agriculture, preventing unnecessary urban/rural conflicts, discouraging speculative applications, and minimizing enforcement issues. The ALC has also faced significant challenges participating in provincial land use planning, resource management and major infrastructure development.

Proactive ALC participation with local governments and provincial ministries, agencies and Crown Corporations provides considerable help to these valued stakeholders who may not be well briefed on agricultural issues. Such proactive planning requires early and regular ALC communication with local government planners, provincial government representatives and

elected officials. This reflects the ALC's larger responsibility to communicate with and educate local communities and provincial ministries, agencies and Crown Corporations regarding the *ALCA* in particular and agriculture generally.

In the ALC's view, the time has come for our planning mandate to have greater prominence, with the following elements:

- Ensuring earlier and more extensive involvement in local government planning processes;
- Ensuring earlier and more extensive involvement with provincial ministries and agencies, and Crown Corporations in land use planning, resource management and major infrastructure planning and development;
- Encouraging local governments to develop and adopt more detailed, agriculturally-focused implementation plans and strategies, such as Agriculture Area Plans and Agricultural Strategies;
- Encouraging local governments to establish Agricultural Advisory Committees;
- Updating “off the shelf” services for local governments, including the ALC's *Planning for Agriculture* document;
- Identifying priority areas for ALR boundary reviews; and
- Expanding joint Ministry of Agriculture and ALC efforts regarding “strengthening farming” legislation: *Farm Practices Protection (Right to Farm) Act*.

B. Policy

The ALC's policy role is closely related to its planning mandate. At the present time, the ALC has policies that outline principles, guidelines, strategies, rules or positions on various interpretative, operational, and fill and soil removal issues. These policies seek to provide clarification of regulations and courses of action consistently taken or adopted, formally or informally. While policies do not have the same status as laws, they are nonetheless extremely important to assist the ALC in developing plans and encouraging farming.

ALC commissioners and staff have a wealth of knowledge and experience to bring to policy development, but that resource is not currently being harnessed owing to the reactive demands on the ALC. Proper policy work cannot be undertaken off the “side of the desk”, and it is not

assisted by having to be developed on an ad hoc basis in response to a pressing need. To be of greatest value, policies that encourage farming need to result from active engagement with stakeholders and the collection of proper data and research, including analysis. The time has come to devote more of the ALC's resources to our policy role.

C. ALR Boundary Reviews

Responsibility for revising the ALR's boundaries rests with the ALC. This role, which the ALC may exercise proactively by way of boundary reviews, is linked directly to the ALC's responsibility to preserve agricultural land.

The ALC initiated a number of boundary reviews throughout the 1980s, but the resources to undertake that work was eliminated by 1990. The ALC today recognizes that the most realistic approach to boundary reviews is to take a more modest and targeted approach based on the areas in greatest need of review.

Any boundary review process requires great care. A boundary review is a superior method for "fine-tuning" ALR boundaries than adjudicating hundreds of disparate applications. The ALR will have greater integrity, and fewer applications will be generated, where boundaries are proactively reviewed to assess whether land is, or is not, appropriately designated as ALR land. At the same time, the purpose of a boundary review must be clear. A boundary review process cannot be allowed to turn into a debate about whether there is a "higher or better use" for agricultural land, or about whether a particular farm is economically viable. As the Courts have recognized, the ALC's duty to preserve agricultural land requires us to take a longer term view, and to recognize that land not suitable for one agricultural purpose today may well be suitable for another agricultural purpose tomorrow.

ALR boundary reviews can generate a great deal of interest, and controversy. 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. It goes without saying that even a modest boundary review will require the allocation of considerable resources.

D. Compliance and Enforcement

The ALR will retain its integrity only if individuals comply with the prohibition against using ALR land for non-farm uses.

The threat of prosecution is not enough to dissuade some people from breaching the *ALCA*. For that reason, in 2002 the ALC was given additional powers to ensure compliance, including the power to inspect land, to issue “stop work” and remediation orders, and to levy administrative penalties.

While the ALC has already established a partnership with the Ministry of Forest, Lands and Resource Operations and there are opportunities to partner with local governments and other provincial ministries, the ALC recognizes that we must have the ability to act when outside help is unavailable.

The ALC has determined that resource allocation to compliance and enforcement activities must be given higher priority than some types of applications. The ALC’s re-allocation of priorities will reflect this reality.

E. Applications

The *ALCA* currently allows several different types of applications to be made to the ALC. These include an application to authorize a non-farm use, and applications to subdivide or exclude land from the ALR.

The ALC application process has remained essentially unchanged since 1975, during which time we have considered almost 40,000 applications. As noted earlier, the ALC currently receives between 500 – 700 new applications per year plus requests for reconsideration.

As discussed earlier, the reality is that the ALC will no longer allow the purely reactive role of dealing with applications to drive our allocation of priorities. This means three things.

Firstly, applications as a class will in future receive a lower relative share of the ALC’s overall resources. Instead of application work accounting for 80% of the ALC’s budget, the ALC is initially targeting to have that work account for 30% of our budget.

Second, applications will not be addressed according to a simple “first in time” rule, but rather according to the priority of the application, after a screening process that takes into account the nature and purpose of the application and the application’s potential to encourage farming and the larger purposes of the *ALCA*.

Finally, within the targeted 30% budget allocated to application work, the ALC must find creative ways to increase our efficiency by streamlining the processing of applications.

To achieve the streamlining objective, several initiatives are being given active consideration; some are underway. One involves creating an application process – in due course, a fully electronic one - that places the onus to provide all relevant information on the person making the application. The days of the ALC helping to “perfect” an application cannot continue. As with all other federal and provincial regulatory processes in which persons seek an approval or a benefit, the onus must be on the person applying to provide all required information. If an application is materially incomplete it will not be processed until the required information is provided by the applicant. While it may in the past have been seen as a helpful public service for ALC staff members to “shore up” deficient applications made by landowners, this is no longer economically feasible.

Other initiatives will also be taken. One will involve an effort to educate local governments regarding applications that are and are not properly prepared. Others will involve changes within the ALC process, including eliminating the ALC staff report to the extent that it merely duplicates information in the file, improving the ALC’s information management systems (as funds are available), applying the ALC’s reconsideration power according to the language and intent of the reconsideration power in the *ALCA*, and improving the decision-making process through ongoing training of commissioners and organization of panels. The ALC believes that these changes, together with the new power to refuse repeat applications for non-farm use, subdivision or exclusion made within 5 years of a previous application (s. 30.1), will go a long way towards allowing us to make the best use of the resources that can be allocated to applications.

V. **TRANSITIONAL PROJECTS SUPPORTING THE ALC'S RE-ESTABLISHED PRIORITIES**

In support of re-establishing the ALC's priorities we have embarked on a number of significant projects using the transitional funding provided by Government which is available to the ALC until March 31, 2013. The ALC has the following transitional projects underway:

- Updating ALR boundary review procedural manual to provide clear and concise guidance regarding the methodology to be employed for reviews and to ensure boundary reviews are conducted in an open and transparent manner;
- Upgrading information technology and information management capabilities of the ALC's Online Application Tracking System (OATS);
- Designing and building a web-based application portal and client self-help kiosk to provide enhanced web services to clients and greater access to information. Establishing the ability to file applications electronically will further reduce the amount of ALC resources devoted to processing applications as the person(s) wishing to file an application will not be able to do so until all information is completed in the form and content acceptable to the ALC. The onus of completing a thorough and well documented application will be placed on the person(s) making the application;
- Populating the ALC database with information from approximately 25,000 applications to provide the ALC and its clients with greater access to information;
- Scanning historical documents from the 25,000 applications to provide the ALC and its clients with greater access to information;
- Digitizing and quality assurance review of historical mapping of the 25,000 applications;
- Digitizing agricultural capability mapping to provide the ALC and its clients with greater access to information. This mapping will also form the technical foundation for ALR boundary reviews; and
- Preparing a compliance and enforcement procedural handbook.

VI. CONCLUDING COMMENTS

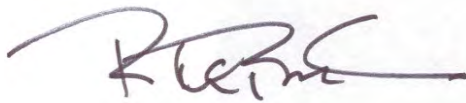
It is admittedly unusual for an administrative tribunal to provide this kind of public statement to explain the reasons for changing the way it does business. However, the ALC recognizes that we are an important regulatory institution within British Columbia, and that if the changes we have set in motion are to be understood, they must be explained.

This message seeks to reflect our respect for the Auditor General's constructive recommendations, for the stakeholders whose views contributed to my November 2010 report (and whose views continue to assist the ALC), for the Minister and Government which considered my report and passed the November 2011 amendments to the *ALCA*, and for the public that the ALC ultimately serves.

We will, as part of our ongoing annual reporting, continue to report on our progress in carrying out the changes announced in this message and the status of the transitional projects, the details of which will be announced as and when appropriate.

As well, when the ALC is provided more certainty from Government regarding the funding model to augment provincial funding, more changes and additional projects will be undertaken to sustain the momentum now underway to enhance the ALC's ability to preserve British Columbia's agricultural land and encourage farming.

Finally, the changes and transitional projects form part of a new and exciting chapter in the history of the ALC; they are just the beginning.



Richard Bullock, Chair
Provincial Agricultural Land Commission