

Ministry of Agriculture
BRIEFING NOTE FOR MINISTER FOR INFORMATION FOR MEETING
with the
BC REAL ESTATE ASSOCIATION

Ref: 178624

Date: November 29, 2013

Issue: Core review of the Agricultural Land Reserve

Background:

The British Columbia Real Estate Association (BCREA) represents 11 member real estate boards and their approximately 18,500 realtors on all provincial issues, providing an extensive communications network, standard forms, economic research and analysis, government relations, applied practice courses and continuing professional education. To demonstrate the profession's commitment to improving quality of life in BC communities, BCREA supports policies that help ensure economic vitality, provide housing opportunities, preserve the environment, protect property owners and build better communities with good schools and safe neighbourhoods.

In the summer of 2010 the Agricultural Land Commission (ALC) and the Ministry of Agriculture (AGRI) conducted a series of stakeholder consultations across BC as part of a review of the ALC requested by the Premier. The BCREA was one of the groups consulted.

The BCREA expressed support for the ALR as the cornerstone of provincial food security and a *de facto* urban growth management tool. They also expressed support for the ALC, and noted that the ALC was under resourced relative to its mandate. They also noted that stronger compliance and enforcement was required for violations of ALC rules (e.g. truck parking on farmland), that the ALC should have more input to provincial interest decisions (e.g. LGIC exclusions for major infrastructure projects), and that prime farm land needed stronger protections than under the current rules. The BCREA also commented that marginal land could be treated with more flexibility, and that it was important to support not only farmland preservation, but also farmers and farming.

The BCREA's request of the ALC was for the ALC to engage the BCREA on a proactive basis in long term land use planning.

First Nations Considerations: N/A

Discussion:

BCREA is aware of the Core Review of the ALC and wishes to discuss the potential opportunities and challenges for their members. Their key concerns will be the lack of consultation during the Core Review process, and the need for clear information and certainty for their members.

Suggested Response:

- 1. The Premier has requested that I review the ALR to ensure that it is working for British Columbians – balancing farmland protection, the stability of farm families and the farming industry, and responsible economic development opportunities.**
- 2. No decisions have been made on changes to the ALR or ALC.**

Contact: David Coney, Policy manager, 250 387 3232

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Ministry of Agriculture
BRIEFING NOTE FOR MINISTER FOR INFORMATION FOR MEETING October 31, 2013

Ref: 178816

Date: October 30, 2013

Issue: Site C Dam Environmental Assessment and Removal of ALR Land

Background: BC Hydro has proposed the construction of the Site C Clean Energy Project (Site C) a third dam and hydroelectric generating station on the Peace River in northeastern BC. The proposed reservoir would flood land in the Agricultural Land Reserve (ALR) that is currently, or could be, capable of producing agricultural products.

First Nations Considerations: BC Hydro and Aboriginal groups are engaged in a thorough consultation process that will continue through all stages of the project.

Discussion:

Environmental Assessment:

The AGRI Provincial Soil Specialist engaged with BC Hydro's contractors who reviewed agricultural land capability, suitability and utility within the proposed reservoir foot print. The AGRI Provincial Soil Specialist is also assisted the Agricultural Land Commission (ALC) as a technical advisor. Two northern AGRI staff (Regional Agrologist – Ft. St. John / Crop Protection Specialist-Dawson Creek.) have been engaged at the community level providing local knowledge and context to BC Hydro and their consultants, as well as liaising with other agencies at a regional level.

AGRI participated in the NRS agency comments on the proposed Site C Clean Energy Project and the Environmental Impact Statement (EIS) review. AGRI submitted initial comments through the review process, indicating that they were generally on target and requested additional clarity in a few areas (wildlife impacts, economic impacts, agriculture utility, water supply infrastructure, downstream effects and invasive plants). Subsequently, AGRI staff reviewed the response from BC Hydro and was satisfied that all relevant environmental impact issues are considered in the assessment.

On August 1, 2013, the Canadian Environmental Assessment Agency and the BC Environmental Assessment Office have determined that BC Hydro's amended EIS for the Site C Clean Energy Project is satisfactory.

It is recognized that there will need to be a series of mitigation funds to address the multiple impacts of the project. Further clarity will be required around a compensation fund and its governance. This is outside the scope of the environmental assessment. An agriculture mitigation fund would need to involve AGRI, the ALC, BC Hydro, local governments and affected parties.

Removal of ALR Land:

The potential loss of prime agricultural land appears to be significant as publicly reported in BC Hydro's documents and Environmental Impact Assessment documents; however, in the absence of an application, the ALC has not determined exactly what those impacts might be.

ALC staff have been engaged at a high level on the scope of the project. Based on existing information, the ALC's position is that the reservoir for Site C and all associated facilities, infrastructure, temporary working areas, roads, rights of way, gravel extraction sites, etc., that would be located in the ALR, will require the submission of an application(s) pursuant to the *Agricultural Land Commission Act*. BC Hydro is also aware that section 40 of the *Agricultural Land Commission Act* provides the opportunity for the Lieutenant

Governor in Council to decide on an application(s) considered to be in the Provincial Interest. The Lieutenant Governor in Council may exercise the authority in section 40 on its own initiative, or at the request of local government, a first nation government or the ALC.

If the Lieutenant Governor in Council considers an application in the Provincial Interest, the ALC retains a referral and advisory role. The ALC is aware of the provincial significance of Site C and how this project can provide significant economic opportunities and benefits to British Columbians. The ALC is also aware that if it is left to make a decision regarding the use of ALR land for Site C that its decision-making will be guided by the purposes of the ALC Act.

Suggested Response:

Continued discussion with BC Hydro is required to clarify a compensation fund and its governance.

A decision on the ALR application process will have to be made if the project proceeds.

Contact: Leslie MacDonald, Asst. Director, SAMB, 604 556-3074

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Ministry of Agriculture
BRIEFING NOTE FOR MINISTER FOR INFORMATION FOR MEETING
with BC Greenhouse Growers' Association on July 30, 2013

Ref: 178030

Date: July 26, 2013

Issue: Corporation of Delta has not yet adopted the Minister's Bylaw Standard on Combined Heat and Power Generation (CHP or Cogeneration) for Greenhouses in the Agricultural Land Reserve.

Background: The Minister established a Bylaw Standard on Cogeneration for greenhouses in the ALR on February 12, 2003 (Decision Note 176209 attached). The Ministry posted the standard on our website and sent a letter to local governments requesting them to consider adopting the new standard on April 10, 2013.

First Nations Considerations: None identified.

Discussion: Cogeneration is most likely to be used by larger greenhouses which are mostly located in the Corporation of Delta. Delta is a regulated local government under the *Local Government Act (LGA)* and as such is expected to adopt Minister's Bylaw Standards established under section 916 of the LGA. Delta referred the issue to their Agricultural Advisory Committee which in turn encouraged Delta Council to adopt the Minister's Bylaw Standard. Ministry staff have spoken to Delta's Planning Department staff who indicate that they are considering the request to amend Delta's zoning bylaw. They are concerned about their zoning bylaw being out of step with the *Agricultural Land Commission Act* and regulation.

Ministry staff are organizing a meeting with Delta and Agricultural Land Commission (ALC) staff to discuss Delta's questions regarding amending their zoning bylaw to incorporate the Minister's Bylaw Standard on Cogeneration for Greenhouses in the ALR.

Next Steps: Ministry staff will meet with Delta and the ALC staff to resolve any concerns Delta may have in amending their zoning bylaw. Staff will report on the outcome of the meeting.

Contact: Bert van Dalfsen, 604-556-3109

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Ref: 178332

Date: October 22, 2013

Issue: A request from SmartCentres to meet with the minister regarding their development plans and how they sometimes overlap with the Agricultural Land Reserve (ALR).

Background: SmartCentres is a Canadian private shopping centre developer and operator which specialize in large-scale, unenclosed shopping centres. They have been in business since 1990.

SmartCentres has approached the Government of British Columbia on two other occasions with regard to an application for exclusion of ALR land in Pitt Meadows for development of up to 27 acres of mixed commercial and industrial lands. The application was submitted to the Agricultural Land Commission (ALC) in October 2012 by the City of Pitt Meadows. A recent ALC decision (August 8, 2013 – Appendix A), has approved the exclusion application subject to four recommendations:

1. A development plan for traffic calming on Old Dewdney Trunk (ODT) Road;
2. Framework, in consultation with the Pitt Meadows Agricultural Advisory Committee, for the beneficial use of topsoil from lands to be excluded from the ALR;
3. With regards to the traffic calming on ODT, completion of construction for the North Lougheed Connector Road; and
4. Implementation of benefits to agriculture including:
 - a. consolidation of land on the north side of the North Lougheed Connector (NLC) Road;
 - b. covenants to protect agricultural land on the north side of NLC;
 - c. financial contributions to improve agriculture in other parts of the city; and,
 - d. potential inclusion of other city-owned lands into the ALR.

Discussion: The ALC is required to undertake all of its functions in accordance with the purposes set out in s. 6 of the *Agricultural Land Commission Act* (ALCA):

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

As a quasi-judicial entity operating at arm's length from government, the ALC makes (and must be seen to make) decisions independent of political influence. To protect this independence, elected officials at the provincial and local level have been given limited and specific channels within the ALCA through which they may inform decisions on applications to the ALC:

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| Local governments: | The ALCA specifically recognizes local governments have a legitimate role to play in the application process. Where a person applies to the ALC for a non-farm use, subdivision or exclusion of land from the ALR, the ALC may not proceed with the application “unless authorized by a resolution of the local government”: ALCA, s. 25(3); s. 30(3) and (4). |
| Province: | Section 40 of the ALCA authorizes the Lieutenant Governor in Council (Cabinet) to use its “Provincial interest” power to appoint a study commission to conduct a public hearing with regard to any application for non-farm use, subdivision or exclusion that are before the ALC. |

The Premier has recently appointed Minister Bill Bennett as Minister Responsible for Core Review, and Minister Bennett has indicated that the ALC will be subject to the Core Review. This review process may result in changes to the ALCA that expand or otherwise alter the role of the Province in informing ALC decisions. However, given the current provisions of the ALCA, the Minister does not currently have the authority to intervene on behalf of SmartCentres or any other company seeking ALR exclusion.

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Conclusion: An application to exclude land in Pitt Meadows for development by SmartCentres has recently been approved by the ALC. SmartCentres may wish to discuss with the Minister options for further developments on ALR land in the future. As currently written, the ALC Act precludes the Minister from intervening directly with the ALC on SmartCentres behalf.

Contact: Heather Anderson, Agrifoods Policy and Legislation, 250 356-1687

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