



Making a difference...together

**REPORT TO THE LAND USE COMMITTEE
MEETING OF TUESDAY, OCTOBER 20, 2020**

SUBJECT **Juan de Fuca Agricultural Land Reserve Application Policy BRD05**

ISSUE SUMMARY

To consider a policy and procedures for considering Agricultural Land Reserve (ALR) applications in the Juan de Fuca (JdF) Electoral Area.

BACKGROUND

Bylaw No. 3885, the Juan de Fuca Electoral Area Development Fees and Procedures Bylaw, was adopted in 2019. Administrative and operational policies to guide procedural considerations of each development application type are now being developed to accompany Bylaw No. 3885. Applications for land development in the Agricultural Land Reserve (ALR) are included in the scope of Bylaw No. 3885.

The Agricultural Land Commission (ALC) establishes fees and procedures for applications for non-adhering residential use, non-farm use, subdivision, ALR inclusion, and the placement of fill or the removal of soil on land in the ALR. These applications are submitted by private landowners to the ALC through an online application portal. Applications are then forwarded by the Commission to local government for review, comment and/or a formal resolution to support or deny the application. Application fees are submitted by the applicant to local government, who retains a portion of fee to cover processing and review costs and forwards the remainder to the Commission.

As a result of Bill 15-2019, private landowners are no longer able to make an application for the exclusion of land from the ALR. Only the provincial government, local or First Nation government, or a prescribed public body may make such applications.

While the application types, requirements and fees are established by the ALC, local government may adopt policies and procedures to guide consideration of the applications.

Staff have prepared a Juan de Fuca Agricultural Land Reserve Application Policy (the Policy) in anticipation of receiving new applications. The Policy includes administrative procedures, public consultation processes, and criteria for various application types.

ALTERNATIVES

Alternative 1:

That the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

- a) That the Agricultural Land Reserve Application Policy be approved; and
- b) That the staff be directed to initiate an amendment to the Juan de Fuca Electoral Area Development Fees and Procedures Bylaw, 2018, Bylaw No. 3885, to increase the application fees for OCP and zoning amendment applications where exclusion from the ALR is also requested.

Alternative 2:

That the Juan de Fuca Agricultural Land Reserve Application Policy be referred back to staff based on Committee direction.

IMPLICATIONS*Legislative*

Section 34(4) of the *ALC Act* requires that local government review applications and, subject to subsection (5), forward to the ALC the application together with comments and recommendations in respect of the application.

Section 29 of the *ALC Act* came into force on September 30, 2020, and specifies that only government, First Nations or a prescribed body may apply to the ALC to have land excluded from the ALR. Therefore, in cases where an individual land owner wished to have land excluded, they would request that the local government apply on their behalf.

The powers of the Juan de Fuca Land Use Committee, as stated by Bylaw No. 3166, include making recommendations to the CRD Board on matters for the Electoral Area regarding applications under the *ALC Act*.

Financial

The ALC prescribes the application fee for most types of applications. Local governments collect the fee and are entitled to a portion of that fee to cover administration costs. If the local government exercises its authority to not forward the application to the ALC, the ALC portion of the fee is returned to the applicant. Otherwise, the remainder of the fee is forwarded to the Commission.

Recent changes by the ALC for exclusion and block exclusion applications do not specifically authorize local governments to charge or collect an application fee for applications made by local governments on behalf of landowners. However, since an OCP and zoning bylaw amendment would likely be required in conjunction with any authorization to allow uses requiring ALR exclusion, staff recommend that the fee specified by Bylaw No. 3885 for zoning and OCP amendments be increased where there is an associated ALR exclusion.

Public Consultation

The ALC establishes public notification requirements for some ALR application types. The proposed policy establishes public notification procedures for all ALR application types in the JdF to include notification to owners and occupants of land within 500 m of the subject property. The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them. There is an Agricultural Advisory Planning Commission (AAPC) for the JdF, but membership is currently inactive. Since this is an administrative policy, public consultation is not required. However, notice of the Land Use Committee meeting and agenda will be posted on the CRD website prior to the consideration of this item by the committee.

Land Use

In order to aid the Land Use Committee and CRD Board in determining whether to support an application, the proposed Juan de Fuca ALR application policy includes criteria by which ALR applications may be evaluated. These include compliance with the Regional Growth Strategy, local OCPs and zoning bylaws; the agricultural suitability and potential of the land to support farm uses; alternative locations for the proposed development on non-ALR lands, the proximity of the

proposed development to existing farms; and the provision of landscaping or buffering to separate minimize the impacts between agricultural and non-agricultural uses. In addition, exclusion requests should consider soil capability ratings to demonstrate to the Commission that the land is not suitable for agricultural production. The proposed policy clarifies that the landowner is responsible for the costs associated with providing such information.

Where exclusion of land from the ALR does not conform with the OCP or zoning bylaw for that area, an amendment to those bylaws would be required. Consistency with the RGS would be determined through that process.

CONCLUSION

Staff have prepared the Juan de Fuca Agricultural Land Reserve Application Policy (Appendix A) to guide consideration of ALR applications. If the LUC is supportive, the policy would proceed to the CRD Board for review and approval. In order to cover the additional costs associated with and ALR exclusion application, staff recommend increasing the associated OCP and zoning bylaw amendment application fees.

RECOMMENDATION

That the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

- a) That the Agricultural Land Reserve Application Policy be approved; and
- b) That the staff be directed to initiate an amendment to the Juan de Fuca Electoral Area Development Fees and Procedures Bylaw, 2018, Bylaw No. 3885, to increase the application fees for OCP and zoning amendment applications where exclusion from the ALR is also required or requested.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager Juan de Fuca Community Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning and Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENT

Appendix A: Juan de Fuca Agricultural Land Reserve Application Policy