

 <p>Agricultural Land Commission</p>	<p>INVOLVEMENT WITH THE ALC APPLICATION PROCESS AND RECORD CLOSURE</p>	<p>POLICY P-14</p> <p>Released December 2024</p>
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The *Agricultural Land Commission Act* (“ALCA”) and *Agricultural Land Reserve General Regulation* provide for a variety of applications to be made related to land that is or could be in the *Agricultural Land Reserve* (“ALR”). This procedural policy outlines the opportunities that may be available to become involved in a specific application process and when closing of the application record may occur.

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MAKING AN APPLICATION

Certain categories of persons identified in the ALCA are able to make certain kinds of applications.

It is important that when originally submitted, the application contain the material (including the evidence and argument) the applicant wishes to be considered when the application is reviewed and adjudicated. The applicant should not count on the opportunity to provide further information other than in the specific instances referred to below.

The website of the Agricultural Land Commission (“ALC” or “Commission”) contains an overview of “What the Commission Considers” on an application. This is a useful

resource for applicants as well as others who may participate in the application process:

<https://www.alc.gov.bc.ca/application-and-notice-process/applications/what-the-commission-considers/>

LOCAL AND FIRST NATION GOVERNMENT REVIEW OF APPLICATIONS

Various applications made under the ALCA are submitted to a local or first nation government rather than directly to the Commission.

In the circumstances set out in ss. 25(3) and 29(4) of the ALCA, those applications cannot be forwarded to the ALC without a resolution from council authorizing that the application proceed. In those situations, the local or first nation government has the power to prevent the application from proceeding any further.

Even where local or first nation governments do not have the power to block an application from proceeding to the ALC, they have an important role to play. In each case, the government that first receives the application has the opportunity to make comments or recommendations, which that government provides to the ALC when forwarding the application. The ALC considers those comments and recommendations as part of its deliberation on the application.

At the local or first nation government level, members of the public may engage with agricultural advisory committees, council or other involved segments of local or first nation governments on whether the government should authorize the application to proceed, or on what comments or recommendations the government should make to the ALC. Those participant submissions (including evidence and argument) may be taken into account in shaping what occurs at the local or first nation government level or may otherwise be forwarded to the Commission.

PUBLIC HEARINGS

A public body or prescribed body must hold a public hearing on applications for inclusion of land into the ALR, or exclusion of land from the ALR. A record of the public hearing is provided to the Commission if the application proceeds.

PUBLIC INFORMATION MEETINGS

On certain exclusion applications, a public body or prescribed body may hold a public information meeting in addition to a public hearing.

PUBLICATION ON ALC WEBSITE

If the ALC receives an application, it publishes on its portal (accessible through its website) the application status and the status date; in general terms, the intent of the application; and the name of the applicant.

A member of the public interested in following ALC applications may use the public search function in the ALC portal using a number of search filters including: Name, Civic Address, Local Government, ALC Administrative Region, Application Type, and Status: <https://portal.alc.gov.bc.ca/public>.

Ultimately, the Commission also posts on its portal the date on which the Commission completed its review of the application; and the Commission's determination and the reasons for it.

WHETHER FURTHER SUBMISSIONS CAN BE MADE AT THE ALC STAGE

For the most part, any submissions on an application (including both evidence and argument) should already be contained in the application package at the time it is received by the Commission. The application package that the Commission receives will contain the applicant's submissions, an authorizing resolution as applicable, local or first nation government comments and recommendations and, to the extent forwarded by the local or first nation government, submissions provided by others (including members of the public) to that government.

The ALC strongly encourages members of the public to make use of any opportunities at the local or first nation government stages to provide input. It is of most assistance to the ALC to have received resolutions, comments and recommendations from local or first nation government informed by such input to the extent relevant.

The ALC recognizes that on some occasions there is not such an opportunity to participate at local or first nation government stages. Some applications go directly to the ALC without there being a local or first nation government stage. Further, on some occasions, new issues may arise only after the application has reached the Commission, although this should generally be rare.

With respect to particular categories of persons who might consider whether it is appropriate for them to participate at the ALC stage, an overview is provided below of whether or how they may do so: ¹

a) Applicants

As noted earlier, the applicant should already have included the information it wishes the Commission to consider in its application when originally submitted. However:

- Commission staff or commissioners may ask the applicant certain questions about the application, which the applicant will have the opportunity to respond to.
- The applicant will have the opportunity to confirm any Site Visit Reports or Applicant Meeting Reports if a Site Visit or Applicant Meeting is held as part of the application review.
- The applicant will have the opportunity to respond to submissions the Commission receives from other persons, unless those submissions are disallowed (e.g., for not conforming to the Letter of Comment requirements set out below).

Further, on an exclusion application, the Commission must hold a meeting (the “Exclusion Meeting”) of which it gives notice to the applicant and at which the Commission may hear representations and/or accept written submissions or any other form of evidence. On other applications, the Commission has discretion regarding whether to hold a meeting with the applicant. The Commission also has discretion regarding whether to hold a site visit on any application.

The Commission may set a record closure timeline with respect to a given application, in which case a “Closure of Record” notice containing an application-specific deadline for receipt of submissions will be posted under that application on the ALC portal in the ‘ALC Review and Decision’ tab. In response to a specific request from the applicant who wishes to submit a late submission, and provides specific justification for such an extension that is satisfactory to the Commission, the Commission may extend the deadline for that applicant.

¹ If appropriate in particular circumstances, the Commission may consider providing certain other opportunities to participate. See, for example, the Commission’s July 15, 2020 discussion in Application No. 58905 (Canadian National Railway): 58905d1 at paras. 73-77.

b) Local or first nation government

Even on applications that are submitted directly to the Commission without going through local or first nation government review, the Commission may seek comments or recommendations from those governments before it makes its decision.

Further, on an exclusion application, the Commission must give notice of the Exclusion Meeting to the local or first nation government that has jurisdiction over the agricultural land that is the subject of the exclusion application. At the Exclusion Meeting, the commission may hear representations, evidence and opinions the Commission considers relevant of that local or first nation government.

c) Certain neighbours in relation to exclusion applications

On an exclusion application, the Commission must give notice of an Exclusion Meeting, if the Commission considers it advisable, to each owner of agricultural land that shares a common boundary with, or is separated by a public road right of way from, the agricultural land that is the subject of the exclusion application. At the Exclusion Meeting, the Commission may hear representations, evidence and opinions the Commission considers relevant of any person present or represented at that meeting.

d) Owner of agricultural land in relation to transportation and utility use applications

If the applicant on a transportation and utility use application is not the owner of the agricultural land that is the subject of the application, the applicant must give notice of the application to the owner within the period stated by the Commission. The owner to whom notice is given will have the opportunity to provide comment. The applicable ALC advisory provides that affected landowners with concerns may submit to the ALC a form setting out their position. The ALC's Transportation and Utility Application Advisory Form can be found here:

https://www.alc.gov.bc.ca/assets/alc/assets/applications-and-decisions/supporting-documents/transportation_and_utility_corridors_and_agricultural_land.pdf

e) Members of the public

If a member of the public wishes to address an application that is before the Commission, that person may provide a letter of comment ("Letter of Comment") within the parameters outlined below:

- A Letter of Comment must only be submitted to the ALC once an application has been received by the ALC and is publicly available on the ALC portal.

- A Letter of Comment (including the name of the author) becomes part of the evidentiary record, is accessible to the public under Policy P-05: Public Perusal of Records, and may also be posted to the publicly accessible portion of the ALC portal.
- A Letter of Comment must be submitted either:
 - by email:
 - Except for soil and fill use applications, to the region where the application at issue is located:

Administrative region	E-mail
Interior	ALC.Island@gov.bc.ca
Island	ALC.Island@gov.bc.ca
Kootenay	ALC.Kootenay@gov.bc.ca
Okanagan	ALC.Okanagan@gov.bc.ca
North	ALC.North@gov.bc.ca
South Coast	ALC.SouthCoast@gov.bc.ca

- if for a soil and fill use application, to SoilandFillApplications@gov.bc.ca ; or
 - by mail, courier or personal delivery to the ALC office at 201-4940 Canada Way, Burnaby, B.C. V5G 4K6.
- A Letter of Comment must:
 - identify the application at issue by ALC Application ID number;
 - describe the nature of the author’s interest in the application;
 - state the author’s views regarding the application, including any relevant information that is useful in supporting or explaining those views. Please note that the Commission’s purpose is specifically as set out in s. 6 of the ALCA, and a Letter of Comment should address these issues. (The author may also wish to consult the “What the Commission Considers” document referenced earlier when preparing their Letter of Comment.) Under s. 6(1) of the ALCA, the Commission’s purposes are to (a) to preserve the ALR; (b) to encourage farming of land within the

ALR 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 land within the ALR and uses compatible with agriculture in their plans, bylaws and policies. Section 6(2) provides that the Commission, to fulfill its purposes under subsection (1), must give priority to protecting and enhancing all of the following in exercising its powers and performing its duties under the ALCA: (a) the size, integrity and continuity of the land base of the ALR; (b) the use of the ALR for farm use; and

- not contain confidential information. The Letter of Comment may be reviewed by persons including ALC staff, commissioners, the applicant, other participants in the application process, and members of the public.
- In the interests of fairness and/or efficiency, the Commission may limit persons to one Letter of Comment.
- The Commission may disallow any Letters of Comment that are not in accordance with these terms or that contain vulgar language, personal attacks or offensive language.
- The Commission may set a closure of public comment timeline with respect to a given application (in respect of any Letters of Comment to be received on an application), in which case a “Closure of Public Comment” notice containing an application-specific deadline for receipt of letters of comment will be posted under that application on the ALC portal in the ‘ALC Review and Decision’ tab.
 - In response to a specific request from a person who wishes to submit a late Letter of Comment, and provides specific justification for such an extension that is satisfactory to the Commission, the Commission may extend the deadline for that person.
- Submitting a Letter of Comment does not enable persons to otherwise participate in the application process or a reconsideration proceeding.

Letters of Comment will be provided to the applicant for response so that the Commission may consider such response in adjudicating the application.

RELATED POLICY

ALC Policy P-05: *Public Perusal of Records*