



Date: 13/10/2021

To: Chair and Directors, Cariboo Regional District Board

And To: John MacLean, Chief Administrative Officer

From: Nigel Whitehead, Manager of Planning Services

Date of Meeting: Cariboo Regional District Board_Oct22_2021

File: 340-50

Short Summary:

ALR Exclusion Application Policy

Voting:

Corporate Vote - Unweighted

Memorandum:

As of Sept 30, 2020, provincial legislation came into effect prohibiting the Agricultural Land Commission (ALC) from accepting Agricultural Land Reserve (ALR) exclusion applications from private landowners. Since that time staff and the Board have been working to develop a policy on how (or if) the CRD will address requests from private landowners to exclude their land from the ALR.

- At the August 20, 2020 Committee of the Whole (COW) Meeting, policy options were presented to the committee.
- At the September 15, 2020 Policy Committee Meeting, a draft policy for handling future ALR exclusion applications was considered, with resolution made to refer to the North Cariboo Agricultural Development Advisory Committee (NC ADAC) for comment.
- At the October 2, 2020 Board meeting, the Board resolved to additionally refer the draft policy to the Advisory Planning Commissions (APCs).
- On December 8th, 10th, and 13th, 2020, policy options and the draft policy were presented to the Advisory Planning Commissions.

Throughout December 2020 and January 2021, APCs met individually to consider the options, draft policy, and provide comments to staff. The APCs summarily were quite concerned with the underlying principles of the province's legislation. Those that accepted the inevitability of compliance with provincial legislation supported policy options 1, 3, or 4 (see attachment 2 for APC comments and attachment 5 for policy option discussion). Policy option 1 being flow-through applications, option 3 being consideration of requests as received based on OCP guidance, and option 4 compiling landowner requests and reviewing at regular intervals.

A response was received from the North Cariboo ADAC. The ADAC generally agreed with policy option 5 where exclusion requests are earmarked for long-range planning updates, however, to also integrate a process whereby requests with higher merit can be prioritized with a shorter review period.

Since drafting the original policy proposal, staff have raised concerns about the very real risk of being in violation of Section 273 of the Local Government Act (LGA), prohibiting assistance to business, by providing a service to a private landowner, with no lawful ability to recoup the costs of undertaking such a project. Staff's understanding is that the intent of the provincial legislative changes were to ensure that ALR exclusion proposals are considered against a whole-of-community lens, rather than as a benefit to an individual.

The proposed ALR Exclusion Policy has been re-drafted in an effort to protect the Board from a risk of violation of assistance to business, and to strike a balance in reducing the amount of time between a landowner's application, and a CRD-led application to the ALC.

Of the CRD's seven OCPs, three currently identify properties for consideration for exclusion from the ALR. The proposed policy will enable a landowner to make an OCP amendment application to the CRD to have their property identified in this section of the relevant OCP. This process will allow the Board to immediately consider the proposed OCP amendment, rather than as per the original draft policy, waiting for consideration of their request until the time of an OCP update. Through annual business planning, staff and the Board will determine when, how often, and the scope of making applications to the ALC to exclude the identified properties from the ALR. Costs would then be absorbed by the CRD as a regular long-range planning project.

Even with properties identified in OCPs for exclusion, it must be noted, that the provincial legislation has been intentionally drafted to make such a proposal very difficult. The legislation and associated regulations appear to no longer envision a "block exclusion" process where a local government could make a single application to exclude multiple properties. For example, one application may be possible, however the ALR General Regulation presently requires individual signage be posted on each property. The South Cariboo OCP currently identifies approximately 230 properties for exclusion; signage costs alone could reach \$30,000. Should staff move forward with a "block exclusion" process, there may be opportunity to negotiate reduced signage requirements with the ALC, although likelihood of success is unknown.

The proposed amended policy takes into consideration the risk to the Board of contravening "assistance to business" prohibitions. It will allow landowners to make application to the CRD to identify their property for exclusion from the ALR within an OCP or RLUB. The OCP amendment process will allow staff and the Board to consider the proposal against the broader community interest, including OCP policy guidance around protecting agricultural values. Staff and the Board would then have the ability to work towards making a broader application to the ALC to exclude properties on a whole-of-community basis. The exclusion process may have its own unanticipated risks and would be undertaken as a stand-alone department project.

Amendments to five OCP's, and three RLUBS would be required, to add policy wording and mapping sections regarding the identification of properties for potential ALR exclusion. These amendments would be addressed moving forward in future years' business plans – or through a broader OCP consolidation/harmonization project. The Interlakes OCP, Lac La Hache OCP, and South Cariboo OCP currently have such sections and would not require further amendments.

Attachments:

1. ALR Landowner Exclusion Application Policy DRAFT v2
2. APC Comments – ALR Landowner Exclusion Application Policy
3. ADAC Comments – ALR Landowner Exclusion Application Policy
4. ALR Landowner Exclusion Application Policy DRAFT v1
5. Aug 20, 2020 COW Memo – ALR Update and Exclusion Application Policy

Financial Implications:

Financial implications of the proposed policy will be addressed as part of Planning Services' annual business planning. Undertaking ALR exclusion applications for multiple properties on a community-wide basis will require staff resourcing and hard costs (i.e. signage and public meeting advertising).

Policy Implications:

Endorsing a policy will provide certainty to landowners who wish to pursue exclusion of their property from the ALR.

Alignment with Strategic Plan:

- Communication:** Facilitate communication strategies throughout the entire Cariboo Regional District that meet the needs of residents, community stakeholders, and other levels of government.
- Planning:** Intentionally plan services and activities of the CRD to prepare for future needs of residents and community stakeholders.
- Economic Sustainability:** Foster an environment to ensure the economic sustainability of CRD communities and the region.
- Governance:** Ensure that CRD governance policy and practices are intentional, transparent, and respectful.

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CAO Comments:

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Options:

1. Endorse recommendation
2. Receipt and endorse an amended version of the proposed policy;
3. Receipt and other action
4. Receipt

Recommendation:

That the agenda item summary from Nigel Whitehead, Manager of Planning Services, dated October 13, 2021, regarding the proposed Agricultural Land Reserve (ALR) Landowner Exclusion Application Policy be received. Further, that the revised Agricultural Land Reserve Exclusion Application Policy be endorsed as presented.