



Agricultural Land Commission
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March 20, 2023

Reply to the attention of Michael McBurnie
ALC Planning Review: 46700

Nigel Whitehead,
Manager of Planning Services, Cariboo Regional District
nwhitehead@cariboord.ca

Re: Bouchie-Milburn Neighbourhood Plan

Thank you for forwarding a revised draft of the Bouchie-Milburn Neighbourhood Plan (the "BMNP") for review and comment by the Agricultural Land Commission ("ALC"). The following comments from ALC staff are provided to help ensure that the neighbourhood plan is consistent with the purposes of the *Agricultural Land Commission Act* ("ALCA"), the Agricultural Land Reserve ("ALR") General Regulation, the ALR Use Regulation, and any decisions of the ALC.

The BMNP is a neighbourhood-specific update to the Quesnel Fringe Area Official Community Plan ("OCP"), and will be appended to the OCP.

This letter follows and builds on the ALC's comments from December 2021, on an earlier version of the draft BMNP (See Schedule A: 46700m1). ALC staff provide the following additional comments for the Cariboo Regional District's ("CRD") consideration.

Section 3.2 Diversified & Affordable Housing Policies

PID 015-287-700 on Nazko Road is identified for subdivision, but is partially within the ALR in two places. Please note that separating two portions of ALR requires a subdivision application to the ALC.

6. Transportation & Recreation

ALC staff note that many of the proposed recreational and active transportation routes follow existing roads, but note a few cases where they bisect ALR land, including PID 014-984-091 and Crown parcel PIN 5099640. Additionally, the Road Network Plan in Schedule B of BL 5418 shows a future road through ALR land on PID 015-086-658.

Road or trail uses that cross the ALR require an application to the ALC. ALC staff encourage the CRD to engage with the ALC at an early stage when specific recreational or

transportation uses are proposed for ALR land to determine whether an application is required, and the appropriate application type.

Section 6.2.12 encourages local recreation groups to engage with Recreation Sites and Trails BC and/or the Ministry of Transportation and Infrastructure for development and maintenance of recreation networks on Crown Land. ALC Staff advise that Crown land within the ALR is subject to the ALCA and its regulations, and therefore development and maintenance of recreation networks on ALR land may require an ALC application and approval.

8. Agriculture

Section 8.1.1

ALC staff appreciate the wording update in section 8.1.1 to “Protect current and future agricultural lands.”

Section 8.2.1

8.2.1. The CRD will consider zoning bylaw amendments which align permitted uses in the zoning bylaw with unrestricted agricultural uses under the ALR Use Regulation for parcels over 0.81 hectares (2 acres) and within the ALR. The CRD may also consider development of Farm Use Bylaws in conjunction with the Ministry of Agriculture, Food and Fisheries to limit agricultural uses that may be too intensive for smaller parcels. The CRD recognizes that the ability to regulate “Right to Farm” parcels requires Provincial Government approval, and that early communication with the Ministry of Agriculture, Food and Fisheries is paramount should the CRD wish to move forward with such regulatory development.

ALC Response: ALC staff advise the farm uses permitted in Part 2 Division 2 of the [ALR Use Regulation](#) can be regulated, but cannot be prohibited by a local government. The CRD acknowledges that they may be able to restrict certain farm uses on parcels by way of a Minister's Bylaw. However, unless or until the CRD is able to regulate a farm use by a Minister's Bylaw, it cannot prohibit permitted farm uses within the ALR, regardless of parcel size. ALC staff believe this statement could give the misleading impression that restrictions on agricultural use exist for parcels 0.81 hectares and under, and therefore find that this statement is inconsistent with the ALCA and recommend removing the reference to parcel size.

Please note that under [section 46 of the ALCA](#), local governments must ensure their bylaws are consistent with the ALC Act, the ALR regulations, and the orders of the Commission. A local government bylaw that is inconsistent has no force or effect. However, a hazard of inconsistent bylaws is that they may mislead landowners, contribute to non-compliance, and open the local government to legal action.

Parcels less than 2 acres

ALC staff noted a specific reference to “2 acres” in section 8.2.1 and wish to clarify that reference to parcels “less than 2 acres” is only made in [section 23 of the ALCA](#) as it relates to a possible exception from the restrictions of use in the ALCA:

23 (1) Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the Land Registry Act, R.S.B.C. 1960, c. 208, less than 2 acres in area.

Please note that this section of the ALCA provides an exception to the restrictions on the use (e.g. non-farm use, soil and fill use, non-adhering residential use) of certain ALR parcels that were less than 2 acres on Dec 21, 1972, but it does not exempt the parcel from the farming protections afforded by the ALCA and its regulations. This means that intensive farming cannot be outright prohibited on any ALC parcel, regardless of size.

Buffering

The BMNP mentions buffering in section 9.4. “Rural & Residential Land Use Designation Policies”; however, it is not referenced in other sections where edge planning may be applicable. ALC staff recommend referencing the Ministry of Agriculture and Food’s [Guide to Edge Planning](#) for best practices in buffering between urban and agricultural uses. Specifically, ALC staff recommend incorporating the suggested setback and vegetated buffering requirements to reduce the potential for urban/agricultural conflicts.

Maps

1. Map B “Land Use Designations” identifies two parcels (PID) that will be changed to “Parks Recreation Open Space”:
 - PID 026-000-008 which is newly included within the OCP boundaries
 - Crown parcel PIN 4829570 adjacent to Milburn Lake, which is currently designated “Agriculture and Resource”

The ALR Use Regulation permits two types of parks:

- Section 16 permits parks established under an act of the Provincial Government:
 - (a) a park established or continued under the Park Act or the Protected Areas of British Columbia Act;
 - (b) an ecological reserve established or continued under the Ecological Reserve Act or the Protected Areas of British Columbia Act;
 - (c) a wildlife management area designated under the Wildlife Act;
 - (d) a reserve established under section 15 of the Land Act for recreational use;

- (e) a recreation site established under section 56 of the Forest and Range Practices Act;
- (f) an area established by order under section 7 (1) of the Environment and Land Use Act to protect the environment or restrict land or resource use within the area.
- Section 22 permits an open land park established by a local or first nation government for biodiversity conservation, passive recreation, heritage, wildlife or scenery viewing purposes as long as the area occupied by any associated structures does not exceed 100 m² for each parcel.

Any park uses that do not meet the above criteria, including playing fields or constructed recreational trails, would require an application to the ALC.

Other Comments

The 2014 Quesnel Fringe Area OCP, s. 6.3.6 "Rural Residential" says:

*Rural Residential lots will be located in areas not suited to more intensive residential development for reasons such as: poor soil conditions for onsite sewage disposal; distance from established urban developments; limited access; or topographic limitations. **Agricultural land should not be utilized for Rural Residential subdivisions.** Rural Residential areas are designated on Schedule B in locations where the strengthening of existing rural settlement areas will be facilitated and where there is little likelihood of urban encroachment in the near future.*

In the BMNP, some ALR land is designated as *Rural Residential* (RR1 or RR2). This seems to contradict section 6.3.6 of the OCP, which says agricultural land should not be utilized for Rural Residential subdivisions. ALC staff request clarification on this and suggest that to align with the existing policy in the 2014 OCP, CRD may want to redesignate all *Rural Residential* land in the ALR land as *Agriculture*.

The ALC strives to provide a detailed response to all referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALC Act, the Regulations, or any decisions of the Commission.

This response does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

ALC File: 46700

If you have any questions about the above comments, please contact the undersigned at 236-468-3246 or by e-mail (ALC.Referrals@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read "M McBurnie". The signature is fluid and cursive, with the first name "M" being a large, stylized capital letter.

Michael McBurnie, Regional Planner

Enclosure: Appendix A: 46700m1
 Appendix B: BL 5418 - Bouchie-Milburn Neighbourhood Plan

CC: Ministry of Agriculture and Food – Attention: Gregory Bartle

46700m2



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
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December 9, 2021

Reply to the attention of Michael McBurnie
ALC Planning Review: 46700

Nigel Whitehead,
Manager of Planning Services, Cariboo Regional District
nwhitehead@cariboord.ca

Re: Bouchie-Milburn Neighbourhood Plan

Thank you for forwarding a draft copy of the Bouchie-Milburn Neighbourhood Plan (the “BMNP”) for review and comment by the Agricultural Land Commission (ALC). The following comments are provided to help ensure that the neighbourhood plan is consistent with the purposes of the *ALC Act*, the Agricultural Land Reserve (ALR) General Regulation, the ALR Use Regulation, and any decisions of the ALC.

The Bouchie-Milburn Neighbourhood Plan will identify a strategic approach to future development, environmental issues and other land use related priorities that may be identified by the community. The BMNP is a neighbourhood-specific update to the Quesnel Fringe Area Official Community Plan, which was last updated in June 2014 (the “2014 OCP”). Once adopted, the BMNP will be appended to the Quesnel Fringe Area Official Community Plan.

ALC staff recognize and appreciate the amount of research and engagement undertaken by the CRD in the preparation of the neighbourhood plan and provide the following comments for the CRD’s consideration.

Section 1.6. Community Values and Priorities

ALC staff appreciates that agriculture and ranching opportunities was identified as one of the top 5 community values.

Section 3.2 Diversified & Affordable Housing Policies

ALC staff appreciates that parcels identified for future subdivision and housing infill are outside of the ALR. The ALC supports directing residential development away from the ALR and preserving the ALR for agricultural use.

ALC staff note that one property on Nazko Road (PID: 015-287-700) that is identified for subdivision is partially within the ALR in two places. While subdivision on the portion of the

parcel that is outside of the ALR generally does not require an application to the ALC, any subdivision that would separate the two portions of ALR would require a subdivision application.

In the cases where residential development abuts the ALR boundary, ALC staff recommend including urban-side edge planning tools to promote urban/rural compatibility, as described in Part 3 of the Ministry of Agriculture's Guide to Edge Planning (2015). With increased residential density adjacent to the ALR, there may be potential for complaints about farm noise and smells, as well as potential impacts to agriculture, such as trespass, litter, theft, etc. For this reason, ALC staff recommend considering the setback and buffer requirements outlined in the Guide to Edge Planning, including up to a 30 m residential building setback from the ALR boundary, and an associated 15 m vegetated buffer to reduce the potential for urban/agricultural conflicts.

6. Transportation & Recreation

ALC staff notes that many of the proposed recreational and active transportation routes follow existing roads, but notes a few cases where they bisect ALR land, including PID 014-984-091 and Crown parcel PIN 5099640. ALC staff notes that road or trail uses that cross the ALR may require an application to the ALC. ALC staff encourage the CRD to engage with the ALC at an early stage when specific recreational or transportation uses are proposed for ALR land.

Section 6.2.12 encourages local recreation groups to engage with Recreation Sites and Trails BC and/or the Ministry of Transportation and Infrastructure for development and maintenance of recreation networks on Crown Land. ALC Staff note that Crown land may also be ALR land and the development and maintenance of recreation networks on ALR land may require ALC approval.

8. Agriculture

Specific comments are provided below responding to objectives and policies contained in this topic:

8.1. Agriculture Objectives

8.1.1. Protect current and future agricultural values on lands with agricultural viability.

ALC Response: ALC staff suggest removing the word “lands with agricultural viability” and replacing it with “agricultural lands”. It is the experience of the Commission that perceptions of whether a property is “viable” can be fairly subjective and this can lead to speculation among landowners that an exclusion or non-farm use may be possible.

8.1.3. Ensure clarity in CRD land use regulations on parcels where agricultural uses are protected by Provincial legislation and ALR regulation.

ALC Response: ALC staff are pleased to see that clarity in CRD land use regulations on ALR parcels is an identified objective and strongly support this goal.

8.2. Agriculture Policies

8.2.1. The CRD will consider zoning bylaw amendments which align permitted uses in the zoning bylaw with unrestricted agricultural uses under the ALR Use Regulation for parcels over 0.81 hectares (2 acres) and within the ALR. The CRD may also consider development of Farm Use Bylaws in conjunction with the Ministry of Agriculture to limit agricultural uses that may be too intensive for smaller parcels.

ALC Response: ALC staff support aligning the zoning bylaw with unrestricted agricultural uses for all parcels in the ALR and note that all types of agriculture, including intensive agriculture, are permitted in the ALR as per the Farm Practices Protection Act. ALC staff also supports extending this to agricultural parcels outside the ALR.

ALC staff understand that the CRD is interested in obtaining the ability to regulate farm uses under section 552 "Farming area bylaws" of the Local Government Act. ALC staff recommend discussing this with the Ministry of Agriculture, however until provincial authority is granted to regulate/prohibit farm activities, CRD is not able to prohibit or unduly restrict farming on ALR land. ALC staff believe this statement could give the misleading impression that restrictions on agricultural use exist for parcels 0.81 hectares and under, and therefore recommend removing the reference to parcel size.

8.2.3. The CRD will advocate for the ALC and Ministry of Agriculture to support and fund the development of an agricultural capability assessment to refine the alignment of ALR boundaries within the plan area. Recommended ALR boundary adjustments are shown on BMNP Map E, although an area-wide assessment for the entire plan area is also recommended. Proposed inclusion areas are based on Farm Class and air photo analysis and are preliminary only, subject to further study and community consultation in accordance with ALC Regulations.

ALC Response: ALC staff note that the ALC does not currently have the resources to fund a regional boundary review. However, the ALC is prepared to work collaboratively with the CRD if it wishes to propose specific parcels for inclusion or exclusion, as shown in Map E as part of an exclusion/inclusion application submitted to the Commission.

8.2.6. The CRD will consider zoning bylaw amendments to allow for diversified housing forms within the ALR as regulatory refinements are developed and released by the Ministry of Agriculture and ALC.

ALC Response: ALC staff understands that this statement is a reference to the upcoming changes to residential uses in the ALR and was written before they were announced. ALC staff appreciates the proactive approach and encourages the CRD to refine the wording of this section for clarity after the new regulations come into effect on December 31, 2021.

8.2.8. The CRD will support and encourage farm gate sales and agritourism when compliant with CRD zoning bylaws and ALR Regulations.

ALC Response: ALC staff appreciates the inclusion of the qualifier “when compliant with CRD zoning bylaws and ALR Regulations”, as farm gate sales and agritourism are both regulated uses in the ALR.

Maps

1. Map E “Agricultural Parcels” identifies a number of parcels for proposed inclusion into and exclusion from the ALR. ALC staff understands that CRD has approached this as a regional planning exercise and wishes to pursue inclusion/exclusion discussions regarding these properties with the ALC. ALC staff appreciate the intent of this map, however request that this is removed from the map and the proposed inclusions/exclusions are pursued through a discussion with the ALC that is separate from the BMNP.

Inclusion and exclusion require approval from the Commission through a formal application which ALC staff are not able to do through the bylaw review process. The Commission would consider each property individually and may support all, some, or none of the proposed changes. Including this map in the BMNP prior to the completion of this process is premature and may lead to speculation or confusion about the status of ALR land.

2. The Gravel Reserve designation on PID 016-427-777 has increased since the 2014 OCP and now includes the entire parcel. ALC staff have no concerns with this change as ALC Application 23441 in 1988 approved the use of the parcel for a gravel operation.
3. Map Z-2 “Current Land Use Designations that Will Change” identifies all of parcel PID 029-134-391 as designated “Recreation Commercial”. However both Map Z-3 “Existing Land Use Designations” and Map Z-1 “Proposed Land Use Designations”, as well as the

2014 OCP identify the ALR portion of this parcel (the eastern half) as “Agricultural and Resource”. This appears to be an error.

4. Map Z-1 “Proposed Land Use Designations” identifies two parcels (PID) that will be changed to “Parks Recreation Open Space”:
 - PID 026-000-008 which is newly included within the OCP boundaries
 - Crown parcel PIN 4829570 adjacent to Milburn Lake, which is currently designated “Agriculture and Resource”

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settlement areas will be facilitated and where there is little likelihood of urban encroachment in the near future.

In the BMNP, some ALR land is designated RR1 or RR2, including some parcels identified for inclusion in the ALR. ALC staff request clarification on this and suggest that to align with the existing policy in the 2014 OCP, CRD may want to redesignate ALR land as Agriculture.

The ALC strives to provide a detailed response to all referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any decisions of the Commission.

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If you have any questions about the above comments, please contact the undersigned at 236-468-3246 or by e-mail (michael.mcburnie@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Michael McBurnie, Regional Planner

Enclosure: Referral of Bouchie-Milburn Neighbourhood Plan

CC: Ministry of Agriculture – Attention: Gregory Bartle

46700m1