

## **SHARED DECISION-MAKING IN THE ALR**

### **An Information Kit for Local Governments considering Delegated Authority from the Agricultural Land Commission**

April 1, 2003

#### **What is delegation?**

Delegation is the authorization by the Agricultural Land Commission to a local government to act on its behalf to make use and subdivision decisions in the ALR under the *Agricultural Land Commission Act*.

Section 26 of the Act states that the Commission can enter into an agreement with a local government to enable it to exercise the Commission's powers to decide use and subdivision applications for ALR lands. Local governments that agree to assume these powers, through a delegation agreement, make decisions according to the purpose of the Commission, which is to preserve agricultural land and encourage and enable farming. Assuming the powers for making these types of decisions in the ALR is a choice made by local governments and negotiated with the Commission – the process is entirely voluntary.

Decisions made under delegation may be for use or subdivision within the Reserve; exclusion and inclusion decisions can only be made by the Commission. In other words, with delegation in effect, changes to the ALR boundary remain the responsibility of the Commission.

While the provision to delegate these decisions to local governments has been in place since 1994, to date there have been few local governments interested in taking on this responsibility. Currently, there is one delegation agreement between the Commission and a local government, Fraser Fort George Regional District, which came into effect January 2001. Other local governments have requested information on the process for delegation.

The Commission hopes to negotiate delegation agreements with those local governments who are interested, and who have moderate to large areas of ALR and/or volume of applications. The Commission is committed to strengthening its partnerships with local governments, and sharing decision-making in the ALR is an important step in this direction.

#### **Why take on delegated decision-making?**

There are a number of benefits to be gained from assuming these powers:

- Powers delegated can be tailored to specific local government objectives and circumstances (one size does not fit all)
- Potential for enhanced local autonomy and responsibility
- Applications can be processed more quickly, as one level of review and decision is eliminated

- Little additional work will be required where local governments currently research and review applications (before forwarding to the Commission)
- Applicants will save time in the application process
- Local governments may keep the entire application fee which will improve cost recovery
- Improved local knowledge of the property and area can be applied to decision-making
- Decisions may more closely reflect community needs

### **What are some of the issues and challenges?**

There are a number of issues which local governments should be aware of, when considering delegation powers:

- A community plan (OCP) which supports agriculture can provide the foundation for negotiating delegation; the commission will review these plans to ensure agricultural lands will remain protected and available for farming, prior to delegation
- In the absence of an OCP, more detailed criteria would need to be negotiated
- It may be beneficial to have a method of obtaining advice from agricultural and rural constituents to aid the decision process under delegation. One example is an 'agricultural advisory committee'.
- The range of uses in the ALR permitted by local zoning may impact the business of farming. The Commission will review non farm uses permitted under local regulation prior to delegation to ensure farm operations are not jeopardized by non farm uses.
- Similar challenges are raised by minimum lot sizes permitted under zoning for the ALR. This issue will be part of the negotiation process between the Commission and local government.
- Some local governments have little ALR land or very few applications. For these, the delegation option may not be of interest.

### **How does it work?**

#### **Principles**

1. The Commission and local government take a collaborative approach to negotiating delegation.
2. Stakeholders are consulted in the negotiation process leading to delegation of decision powers.
3. A planning and regulatory framework which protects agricultural land and enables the business of farming in the ALR is in place or contemplated.
4. Local governments make decisions in accordance with the purpose, provisions and policies of the *Agricultural Land Commission Act (ALCA)*.
5. Local governments report on decisions made under the delegation agreement, as jointly agreed with the Commission.
6. Delegation agreements are voluntary and can be terminated by either party with notice.

## **Agreements**

When a local government expresses interest in delegation, the Commission and local government may agree to work towards a delegation agreement. A local government should consider the following in determining the scope of powers it wishes to have delegated. For example:

- Geographic areas the agreement would cover (i.e. one or several community plan areas or other areas)
- Types of uses (i.e. all non-farm use applications or specified uses such as home and homesite severance)
- Subdivisions to a minimum lot size specified in an OCP, zoning bylaw or other size as agreed.

The local government and Commission negotiate the terms of the agreement including powers to be delegated, geographic areas of application, responsibilities, monitoring, reporting, transition, enforcement, fees, training, information sharing, term, renewal and cancellation. Once an agreement is drafted, the Commission and the local government Board or Council consider and then sign the agreement to bring delegation into effect.

## **What does a delegation agreement look like?**

A delegation agreement is customized according to the needs and wants of the local government and the Commission. Different local governments may wish to negotiate agreements ranging from all use and subdivision decision powers over an entire jurisdiction, to selective powers over a reduced or small area. However, the agreement would follow the general format as attached in Appendix 1. Examples of different delegation models are provided in Appendix 2.

## **Who to contact?**

### **Island Panel:**

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## Appendix 1

### Sample Delegation Agreement Outline

#### Delegation Agreement

BETWEEN:

Provincial Agricultural Land Commission

AND:

Regional District Board or Municipal Council

**Principles:**

The local government acknowledges that a decision of the Board or Council is a decision of the Commission for the purposes of the Act....

**Areas of Application:** geographic or plan area defined

**Local Government Exercise of Powers:** specific powers delegated over a specific area

**Notification:** notice to Commission of local government decisions under the agreement according to a specified schedule

**Application Fees:** entire fee may be retained by local government

**Enforcement:** local government enforces its decisions; both parties work together to enforce the Act and regulation; local governments have enforcement and compliance powers of the Commission under the Act.

**Monitoring and Information Sharing:** both parties monitor decision-making under the agreement and share information

**Training:** Commission agrees to train local government staff as needed

**Application of Provincial Interest:** provincial interest sections of the Act apply to decisions made under delegation

**Transition:** process for in-stream applications

**Term:** length of time agreement is in effect and renewal provisions

Signed by Vice Chair of Commission and Chair of Board or Mayor of Municipality

## **Appendix 2**

### **Examples of Different Delegation Models**

#### **Example 1 – Green Acres Municipality**

Background: Green Acres Municipality is a community of 62,000 people near the coast. It has a significant portion of its land area in the ALR (68%) and has a sizable agricultural economy. Farm uses include dairy, poultry, beef and small berry production. It has two urban areas. Green Acres has an Official Community Plan covering the entire municipality, and an Agricultural Area Plan (AAP) covering the rural areas including all ALR.

Local Government objectives: to streamline decision-making and provide 'one stop' permitting for proponents.

Local Government Exercise of Powers: Delegation powers include all subdivision and use applications within the AAP. The Commission and Council have negotiated decision-making powers subject to the following, based on OCP, AAP and zoning:

- Minimum lot size in plan areas designated for agriculture – 8 ha.
- Minimum lot size in plan areas designated for agriculture and country residential (small zone adjacent to urban areas) – 4 ha.
- Permitted uses in plan areas include all farm uses and non farm uses permitted under Act and regulation
- Additional non farm uses permitted in agriculture/country residential zone (as specified by zoning)
- Developments in areas adjacent to the ALR require development permits for the protection of agriculture

#### **Example 2 – Brown Fields Municipality**

Background: Brown Fields is a small district municipality of 7800 people in the Central Interior. It has a relatively small area of ALR and historic subdivision in a portion of that ALR where small lots (2 ha.) predominate. It has a zoning bylaw that covers only the urbanized, non-ALR part of the municipality.

Local Government objectives: to streamline decision-making and provide for small lot agriculture in an area of historic subdivision.

Local Government Exercise of Powers: Delegation powers include all subdivision and use applications within a limited area of the Municipality where small lots predominate, and specified (homesite) subdivision in all ALR areas. The

Commission and Council have negotiated decision-making powers subject to the following:

- Limited area of application (identified on a map) of existing small lots where subdivision may be permitted to minimum of 2 ha.
- Homesite severance where land owned prior to 1972, may be permitted throughout ALR to a minimum lot size required by health authorities

### **Example 3 – Bluewater Regional District**

Background: Bluewater RD is a large Regional District with a range of small and medium sized towns. It has extensive areas of ALR in the valleys between mountain ranges and the predominant agricultural activity is ranching. The same land base has important wildlife habitat values and there are pressures for recreational development in areas adjacent to rivers and lakes. The rural areas have little or no planning and zoning regulation.

Local Government objectives: to streamline decision-making and provide more local autonomy in decision-making.

Local Government Exercise of Powers: The Commission and RD have negotiated decision powers as follows:

- Homesite severance where land owned prior to 1972, may be permitted throughout ALR to a minimum lot size required by health authorities.
- Subdivision to a minimum lot size of 1 ha. within 100 metres of a lake, river or waterway in areas identified by map.
- Where subdivision in the ALR is allowed under delegation, the RD agrees to require fencing to a specified standard around the perimeter of new lots.