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For February 21, 2012 LUC Meeting

ALR-01-11 – Shaw

**REPORT TO JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, JANUARY 17, 2012**

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**SUBJECT**    **AGRICULTURAL LAND RESERVE APPLICATION FOR INCLUSION OF LOTS 1 AND 2,  
SECTION 30, OTTER DISTRICT, PLAN 13987**

**ISSUE**

The purpose of this report is to consider the application to include Lots 1 and 2, Section 30, Otter District, Plan 13987 in the Agricultural Land Reserve (ALR).

**BACKGROUND**

The agent for Lots 1 and 2, Section 30, Otter District, Plan 13987 located at 2322 Kemp Lake Road made application to the CRD in September 2011 to include the land comprising 11.7ha in the ALR (Appendix 1). On October 18, 2011, the Land Use Committee considered the application and forwarded it to the Otter Point Advisory Planning Commission, Agricultural Advisory Planning Commission, District of Sooke, Sooke School District, Ministry of Transportation and Infrastructure, and the CRD Planning, Transportation and Protective Services Committee. Agency comments received on the application are attached (Appendix 2). Two public submissions were made and are included in Appendix 3.

The applicant owns three properties within the District of Sooke comprising 16.56ha that are within the ALR and has made application to exclude those lands in exchange for including the two Otter Point properties in the ALR according to their Official Community Plan policy of 'no-net-loss' of agricultural land. The District of Sooke considered the ALR exclusion applications on October 11, 2011 and supports the exclusion of lands subject to the inclusion of the properties in Otter Point.

**ALTERNATIVES**

1. That a letter of support be forwarded to the Agricultural Land Commission with the application to include Lots 1 and 2, Section 30, Otter District, Plan 13987 in the Agricultural Land Reserve advising that, should the application be given favorable consideration, the Regional Growth Strategy, Official Community Plan and zoning bylaw will be amended to reflect the change in land use designation.
2. Do not forward a letter of support to the ALC for the application to include the subject properties in the ALR.

**LEGISLATIVE IMPLICATIONS**

Section 17 of the *Agricultural Land Commission Act* (the 'Act') establishes requirements for applications for inclusion of land in the ALR. Individuals make application to include land in the ALR through the local government pursuant to Section 34 of the Act.

**PUBLIC CONSULTATION IMPLICATIONS**

Owner applicants are not required to provide any public notice regarding application to include property in the ALR. As Section 28 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* (the 'Regulation') requires local governments to receive inclusion applications and submit them to ALC, this allows local government an opportunity to make comment and provide a recommendation on the proposal, however they are not required to comment. Local governments may also decide to hold a public information meeting on the application pursuant to Section 27 of the *Regulation*.

The Juan de Fuca Electoral Area Development Procedures Bylaw No. 3110 does not specify any public consultation requirements for ALR applications. As a courtesy, a notice of intent outlining the inclusion request will be sent to property owners within 500m of the subject properties. Any responses received from the public will be presented at the January 17, 2012 Land Use Committee meeting.

The Advisory Planning Commissions were established to make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 26 of the *Local Government Act*, therefore, the proposal may be referred to the Otter Point Advisory Planning Commission (APC) and Agricultural Advisory Planning Commission (AAPC). The Land Use Committee referred the inclusion application to the AAPC and Otter Point APC for comment and a notice was sent to property owners within 500m of the subject properties

advising them of the meeting and a notice was placed in the local newspaper informing the public of the meeting agenda.

### **REGIONAL GROWTH STRATEGY, OFFICIAL COMMUNITY PLAN AND ZONING IMPLICATIONS**

The CRD Regional Growth Strategy (RGS) Bylaw No. 2952 identifies the subject properties as Rural/Rural Residential Policy Area. Lands within the ALR are identified as Renewable Resource Land Policy Area and are to be retained for the long-term as renewable resource working landscapes. Should the ALC approve the inclusion, the zoning, OCP designation and RGS designation should ultimately reflect the change in land use status to ensure the consistency between these bylaws. As the proposal requires an amendment to the OCP, which was previously approved by the CRD Board for consistency with the RGS, proposals to amend OCPs for the Juan de Fuca Electoral Area should be reviewed by the Board for consistency prior to the introduction of the amending bylaw. Therefore, the application was referred to the Planning, Transportation and Protective Services Committee and the CRD Board for advice.

The Otter Point OCP Bylaw No. 3354 designates the land as Settlement Area and while this designation supports non-ALR agricultural activities, lands within the ALR are designated as Agricultural Land Areas to specifically identify policies that are consistent with the ALC *Act and Regulation*. Pursuant to Section 919.1(1)(c) of the *Local Government Act (LGA)*, Bylaw No. 3354 establishes development permit areas for the protection of farming. These areas are situated immediately adjacent to designated ALR areas and extend 15m from the ALR boundary in order to ensure adjacent land uses do not interfere with farm operations and to mitigate potential conflicts between adjacent uses. Should the properties be included in the ALR, the Otter Point OCP will be amended to re-designate the land and re-align Development Permit Area No. 4: Protection of Farming. The expansion of the Protection of Farming Development Permit Area may have implications for adjacent property owners which could be identified through the referral to the APC and notice of the meeting to adjacent property owners.

The property is currently zoned RR-3 in the Sooke Land Use Bylaw No. 2040. While the RR-3 zone does permit agriculture as a principal use, other permitted uses would be inconsistent with the ALC *Act and Regulation*. The properties would require re-zoning to the Agricultural (AG) zone which reflects permitted uses on ALR lands.

### **PLANNING ANALYSIS**

The application was referred to seven agencies for comment on October 19, 2011. Six responses have been received to date (Appendix 2) and are summarized as follows:

- School District #62 has no concerns with the application;
- Ministry of Transportation & Infrastructure has no objection to the inclusion and states that subdivision potential of the parcels will be limited by the ALR designation;
- The Agricultural Advisory Planning Commission supports the inclusion of land into the ALR but expressed concern over the regional implications of the application as it is tied to an exclusion of a larger area of land within a different jurisdiction and that a 15m development permit area buffer may impact adjacent neighbours;
- The Otter Point Advisory Planning Commission supports the inclusion with no implementation of a development permit area buffer;
- The Planning, Transportation & Protective Services Committee advises that the proposal is in keeping with the over-arching policies of the Regional Growth Strategy pertaining to the long-term use of such lands as renewable resource working landscapes and that mapping amendments required to support the inclusion be made through the Regional Growth Strategy Review process;
- The District of Sooke recommends that the request for exclusion of land from the ALR be forwarded to the ALC with a recommendation of support subject to its consideration in conjunction with a request for inclusion of lands at 2322 Kemp Lake Road;

The 2007 Otter Point OCP identifies approximately 307ha (758.7 acres) of Agricultural Land Reserve land within the Plan area, comprising approximately 9% of Otter Point. The inclusion of 11.7ha of land in the ALR at 2322 Kemp Lake Road would positively contribute to the overall land area available for agricultural production in Otter Point and no objections to the inclusion were received through the consultation process.

The subject parcels are currently within the Rural/Rural Residential policy area of the RGS, the Settlement Area of the OCP and are zoned RR-3. While agricultural activities are permitted under these designations,

there are specific designations for ALR lands. Should the ALC approve the inclusion, the zoning, OCP designation and RGS designation should ultimately reflect the change in land use status to ensure the consistency between these bylaws. An application to amend RGS, OCP and zoning bylaw will be required if the parcels are included in the ALR.

Some discussion ensued at the Otter Point Advisory Planning Commission and Agricultural Advisory Planning Commission meetings regarding the potential establishment of a 15m Development Permit Area around the subject properties should they be included in the ALR to protect them from development. The purpose of this development permit area is to ensure that *"adjacent land uses do not interfere with the functioning of normal farm operations and will help mitigate potential conflicts between adjacent uses. Retaining the viability of these lands for agriculture is important in terms of providing local food security and economic diversity but also in terms of preserving valuable rural landscapes for the community."* The potential implications for adjacent property owners was discussed by the AAPC and Otter Point APC (Appendix 2). A letter was submitted from an adjacent resident regarding this issue as well (Appendix 3). Due to the small lot sizes of the adjacent properties to the east, staff recommend that at such time that the OCP/zoning amendment application is received, it be considered that the development permit buffer only be implemented on the larger properties to the west, north and south as they are already under agricultural and forestry production.

Staff recommend that a letter of support be forwarded to the ALC for the inclusion of Lots 1 and 2, Section 30, Otter District, Plan 13987 into the ALR and advise the ALC that, should the application be given favourable consideration, that the RGS, OCP and zoning bylaw will be amended to reflect the change in land use designation.

### **CONCLUSION**

The applicant is requesting to include two properties in Otter Point in the ALR in exchange for excluding land in the District of Sooke, as required in the Sooke OCP. The inclusion application was referred to seven agencies and responses have been received. Staff recommend that a letter of support be forwarded to the ALC for the inclusion of the two properties into the ALR and advise them that amendments to the RGS, OCP and zoning bylaw will be forthcoming should the lands be included in the ALR.

### **RECOMMENDATION**

That the Land Use Committee recommend to the CRD Board:

1. That a letter of support be forwarded to the Agricultural Land Commission with the application to include Lots 1 and 2, Section 30, Otter District, Plan 13987 in the Agricultural Land Reserve advising that, should the application be given favorable consideration, the Regional Growth Strategy, Official Community Plan and zoning bylaw will be amended to reflect the change in land use designation.



Emma Taylor, MA  
Planner



June Klassen, MCIP  
Manager, Local Area Planning



Robert Lapham, MCIP  
General Manager, Planning & Protective Services

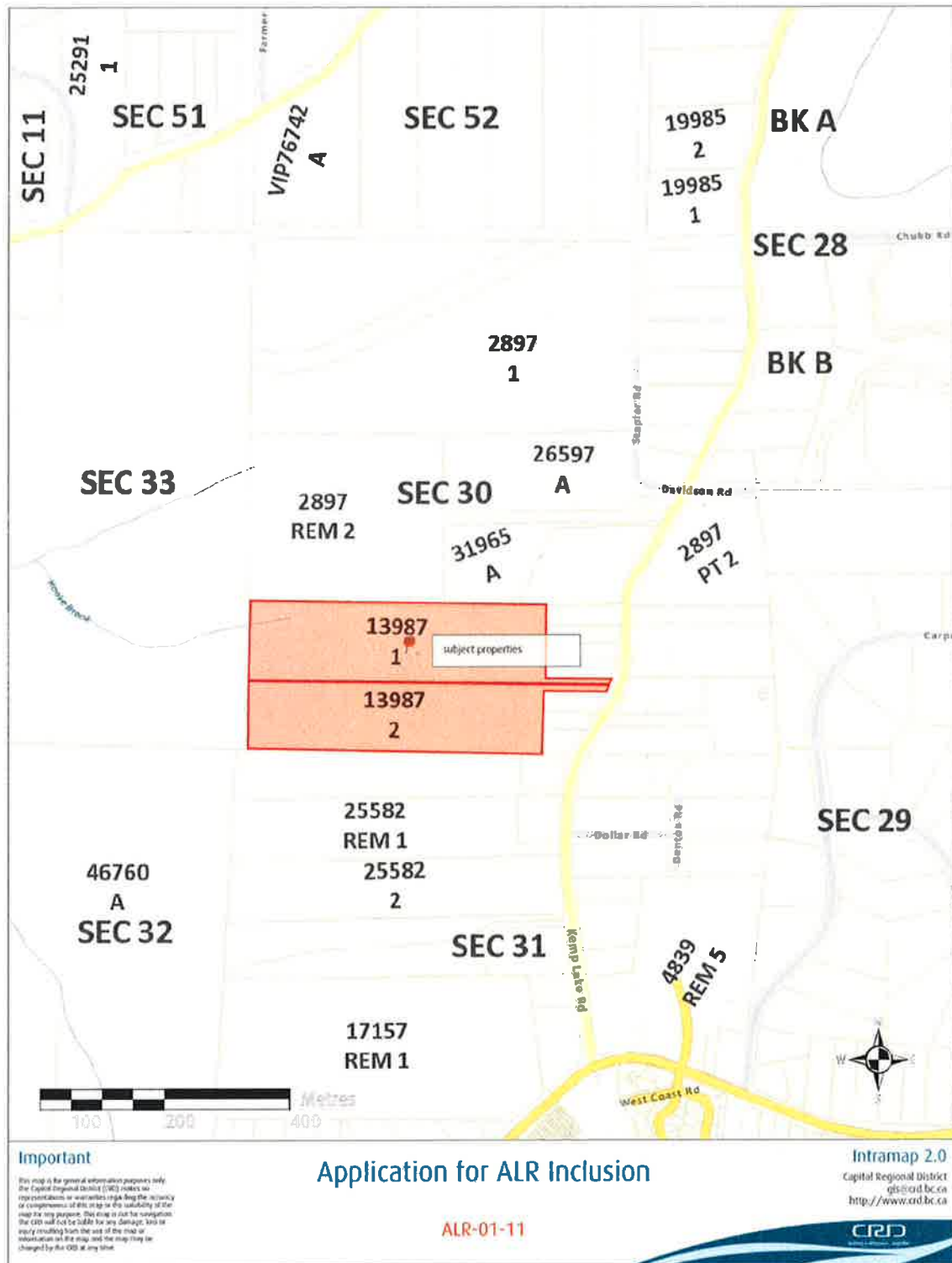


Kelly Daniels, CAO  
Chief Administrative Officer  
Concurrence

### **Appendices:**

1. Location
2. Agency Comments
3. Public Comments

Appendix 1: Location



Appendix 2: Agency Comments

School District #62

**Wendy Miller**

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**From:** Pete Godau <pgodau@sd62.bc.ca>  
**Sent:** Tuesday, November 15, 2011 5:49 PM  
**To:** Wendy Miller  
**Cc:** Jim Cambridge; Graham Farstad; William Wood  
**Subject:** FW: ALR Inclusion Application - ALR-01-11  
**Attachments:** ALR-01-11\_LUC report\_Oct 11\_final.pdf; AgriculturalLandReserveInclusionApplication-ALR-01-11SchoolDistrictSigned.pdf

As attached the School District does not have any concerns with this application.

Peter Godau,  
Manager of Facilities  
School District # 62 Sooke  
(250)474-9841  
(250)361-7330 mobile  
[pgodau@sd62.bc.ca](mailto:pgodau@sd62.bc.ca)

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Ministry of Transportation and Infrastructure

**Wendy Miller**

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**From:** Evanoff, Ryan TRAN:EX <Ryan.Evanoff@gov.bc.ca>  
**Sent:** Friday, October 21, 2011 8:02 AM  
**To:** Wendy Miller  
**Subject:** RE: ALR Inclusion Application - ALR-01-11

Hello Wendy,  
Please accept the following as the Ministry of Transportation's official response:

The Ministry has no objection to the proposed inclusion of land into the ALR as it is presented. Applicant to be made aware that subdivision of these parcels in the future will be severely limited by the ALR designation.

If any further approvals or information is needed please feel free to contact me directly.

Thank you,

Ryan Evanoff

Development Approvals Technician  
Ministry of Transportation, Saanich Area Office  
Phone Number: (250)952-4495 Fax: (250)952-4508

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**From:** Wendy Miller [mailto:wmiller@crd.bc.ca]  
**Sent:** Wednesday, October 19, 2011 9:35 AM  
**To:** Evanoff, Ryan TRAN:EX  
**Subject:** ALR Inclusion Application - ALR-01-11

Good Morning,

Please find attached a staff report for the Agricultural Land Reserve application for inclusion of Lots 1 and 2, Section 30, Otter District, Plan 13987.

Comment requested by November 17, 2011

Thank you,

**Wendy Miller**  
Administrative Clerk | JDF Electoral Area Planning | 250.642.1500, local 208  
Capital Regional District | 2-6858 West Coast Road, PO Box 283, Sooke BC V9Z 0S9

Web: [www.crd.bc.ca/jdf](http://www.crd.bc.ca/jdf)



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Thank you

Agricultural Advisory Planning Commission

**MOVED** by Josie Hill, **SECONDED** by Teresa Willman that the Agricultural Advisory Planning Commission welcomes inclusion of land in the Agricultural Land Reserve; however, the Commission is concerned with the regional implications of this inclusion application because it is tied to an exclusion of a larger area in another district within the local bioregion and that the 15m development permit area buffer will have an impact on adjacent neighbours. **CARRIED**

Otter Point Advisory Planning Commission

**MOVED** by Gerry Neidermeiser, **SECONDED** by Bud Gibbons that the two parcels be included in the ALR and that there be no development permit buffer requirements on surrounding properties.

A Commission member requested that the motion be separated into two motions as there are two separate issues which should be distinguished.

The Chair called the question and it was three in favour, Sid Jorna opposed.

**CARRIED**

The Planning, Transportation & Protective Services Committee

**MOVED** by Director Evans, **SECONDED** by Director Desjardins, That the Committee respond to the referral by the Community Planning office regarding the application to include Lots 1 and 2, Section 30, Otter District, Plan 13987 in the Agricultural Land Reserve, that the proposal is in keeping with the over-arching policies of the Regional Growth Strategy pertaining to the long-term use of such lands as renewable resource working landscapes and that mapping amendments required to support the inclusion be made through the Regional Growth Strategy Review process, should the application to the Agricultural Land Commission be given favourable consideration.

**CARRIED**

District of Sooke

**MOVED** and seconded that Council forward this request for exclusion of land from the ALR with a recommendation of support subject to its consideration in conjunction with a request for inclusion of lands into the ALR at 2322 Kemp Lake Road.

**CARRIED**

Rec'd at 281  
meeting: Oct 18, 2011  
ALR-01-11

Attn: Juan de Fuca Electoral Area Planning  
CRD

My name is Heather Rees. I am property owner of [redacted] and am giving this written submission regarding the rezoning application of 2322 Kemp Lake Rd.

I am at unease because of the 15 meter Protection of Farming and Development Permit Area. My lot is only approx .85 of an acre in which we reside and use the back lot which borders the 2322 subject property, the most! I also have a 650 square ft. shop that sits within 30 feet directly off the subject property fence line. As a home owner I enjoy the availability of what I may or may not wish to do at my home, but would like to do so without any unneeded ~~unnecessary~~ restrictions.

If an agreement could be made on which the property owner of 2322 was willing to designate 15 meters off of his land for the Protection of Farming and Development Permit Area and if it had no effect on my property I would have no objection to the rezoning that I can see.

Thank you

Heather Rees



**Wendy Miller**

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**From:**  
**Sent:** Sunday, November 13, 2011 5:02 PM  
**To:** Jdf Info  
**Subject:** Lots 1 & 2, Sec. 30, Otter Dist., Plan 13987 - 2322 Kemp Lake Road

We wish to advise that we attended at the CRD office in Sooke and spoke with Emma Erwin about this application. After review of the information we wish to lend our support to the application.

Yours truly,  
Marlene & Ron Barry,