

CITY OF BURNABY  
ENVIRONMENT COMMITTEE

HIS WORSHIP, THE MAYOR  
AND COUNCILLORS

**RE: AGRICULTURE LAND RESERVE AND TREATY NEGOTIATIONS**

**RECOMMENDATION:**

1. **THAT** Council receive this report for information.

REPORT

The Environment Committee, at its Open meeting held on 2004 September 14, adopted the *attached* report regarding recent changes to the Agricultural Land Commission Act with reference to treaty negotiations.

Respectfully submitted,

Councillor D. Johnston  
Chair

Councillor P. Calendino  
Vice Chair

Councillor C. Redman  
Member

COPY: CITY MANAGER  
DIRECTOR ENGINEERING  
DIR. PLNG. & BLDG.

TO: CHAIR AND MEMBERS  
ENVIRONMENT COMMITTEE

2004 September 09

FROM: DIRECTOR PLANNING AND BUILDING

Our File: 1400 20

SUBJECT: AGRICULTURAL LAND RESERVE AND TREATY NEGOTIATIONS

PURPOSE: To provide an update on recent changes to the Agricultural Land Commission Act with reference to treaty negotiations.

---

**RECOMMENDATION:**

1. THAT the Committee forward of copy of this report to Council for information.

**REPORT**

**1.0 BACKGROUND**

At its meeting of 2004 June 21, Council received a letter from the Chair of the Lower Mainland Treaty Advisory Committee (LMTAC) outlining recent changes to the Agricultural Land Commission Act with reference to treaty negotiations. The Province passed Bill 27 on 2004 May 05, which permits a First Nation with an adopted Agreement in Principle (AIP) to apply directly to the Agricultural Land Commission (ALC) for exclusions. Given the importance of preserving remaining agricultural lands in the region, LMTAC prepared a briefing note on its First Principle #19, *Preserve Agricultural Lands*, to support the efforts of the LMTAC representatives assigned to the various active treaty tables throughout the region, and requested comment by member municipalities by 2004 July 30. Council adopted a staff report on this matter at its meeting of 2004 July 19.

At its regular meeting of 2004 August 23, Council received a letter from Kirk Miller, Chair of the Agricultural Land Commission, which provided an update about additional changes to the ALC Act and associated regulations. Council referred the letter to the Environment Committee, with a request that a report be prepared on the matter. This report addresses that request.

**2.0 CHANGES TO THE AGRICULTURAL LAND COMMISSION ACT, BILL 27**

The report of 2004 July 19 outlined changes to the ALC Act resulting from Bill 27. Prior to Bill 27, a First Nation within municipal boundaries was required to seek authorization of the local government before taking an application to the ALC for exclusions. Bill 27 permitted a First Nation with an adopted AIP to apply directly to the ALC for exclusions. In effect, Bill 27 provided First Nations with the same application opportunity given to local governments.

The purpose of Bill 27 was to provide greater certainty with respect to lands offered as part of a treaty settlement package. While the First Nation may make application for exclusion, any decision of the ALC to exclude lands would not come into effect until such time as the lands were established as treaty settlement lands. Similarly, if the negotiations were suspended, the decision of the ALC would expire at that time.

Of particular concern to local government was the apparent lack of provision for First Nation applications that parallels Section 879 of the Local Government Act, whereby a First Nation undertaking planning and bylaw development would be required to consult with parties it considers to be affected by the proposed changes in land use (in addition to the public hearing requirement). LMTAC has strongly and continually asserted the need for local government and First Nations to be treated equitably on matters that are considered "local government" in nature. First Nation governments should be subject to the same requirements as local governments under the ALC regulations, particularly those related to public notice, public hearings and consultation with the adjacent local government in cases involving ALR exclusions.

### **3.0 ADDITIONAL CHANGES TO THE ALC ACT AND ASSOCIATED REGULATIONS**

On 2004 July 22, the Province brought into effect the Agricultural Land Commission Amendment Act, 2004 and associated amendments to the Agricultural Land Reserve Use, Subdivision and Procedure Regulation. These amendments provide new procedures for the filing of ALR applications with the ALC by First Nations, both pre- and post-treaty. Of particular note is the new provision in the regulations which requires the referral of any application that involves land adjacent to a different government jurisdiction (whether municipal, regional district or First Nation) to that jurisdiction.

It should be noted that the changes to the regulation also apply to local government, as follows:

- For applications by local government or First Nations for inclusion or exclusion from the ALR under Sections 17(1) and 29, new provisions in the regulation require the referral of any application involving land adjacent to a different municipal, regional district or First Nation government jurisdiction to that jurisdiction, and to any municipal, regional district or First Nation jurisdiction whose interests that the applicant considers will be affected.
- For all exclusion and inclusion applications, a local government or First Nation government must forward to the Commission any comments from an adjacent government and any public comments it receives.


These changes address the concerns raised not only by Burnaby, but the GVRD, the UBCM and other municipalities. The changes also mean that local government will now be required

to consult with adjacent governments, as opposed to determining whether such a consultation was necessary, as was the case previously. It also means that local government must forward comments received from adjacent governments (this already existed with regard to public comments). Neither of these new requirements is considered onerous.

4.0 CONCLUSION

At its meeting of 2004 July 19, Council received a report outlining changes to the Agricultural Land Commission Act with reference to treaty negotiations. The Province had passed Bill 27 on 2004 May 05, which permits a First Nation with an adopted Agreement in Principle to apply directly to the Agricultural Land Commission for exclusions. That report indicated that First Nations should be subject to the same requirements as local government, involving public notice, public hearings and consultation with the adjacent local government in cases involving ALR exclusions to ensure that the local context is provided to the ALC.

At its regular meeting of 2004 August 23, Council received a letter from Kirk Miller, Chair of the Agricultural Land Commission, which provided an update about additional changes to the ALC Act and associated regulations. The changes now require consultation with adjacent jurisdictions, and will apply to First Nations as well as local government.

  
for J.S. Belhouse, Director  
PLANNING AND BUILDING

KSF

cc. City Manager