

Denman Conservancy Association Policy on Conservation Securements on Lands Within the Agricultural Land Reserve

Purpose

The purpose of this policy is to outline the principles and process which will guide Denman Conservancy Association (DCA) when assessing proposals for conservation securements on lands within the Agricultural Land Reserve (ALR).

Background

Approximately one half of the area of Denman Island is in the ALR including several potential conservation corridors that traverse ALR land. Any plan to extend conservation areas into ALR lands needs to be cognisant of the authority of the Agricultural Land Commission (ALC). The purposes of the ALC are to preserve agricultural land, and to encourage farming on agricultural land. The ALR refers to agricultural land which is designated under the ALC Act and is established as an agricultural land reserve.

The ALC Act does not currently permit subdivision of land within the ALR unless the Commission grants permission [s. 21.] As a result, any subdivision within the ALR for the purpose of conservation must be referred for approval to the ALC.

The Act also states [s.22(2)] that “A covenant that prohibits the use of agricultural land for farm purposes has no effect until approved by the Commission”. In practice this means the consent of the ALC must be obtained prior to registering a covenant on any land within the ALR.

The ALC is cautious about approving conservation covenants or approving subdivision for conservation purposes because of the long-term potential of a covenant or subdivision prohibiting or restricting agricultural uses. In some cases, conservation covenants may be approved with the addition of a “right to farm” clause, which simply says: “Nothing in this covenant shall prohibit use of the land for farm purposes.”

When a strong case can be made that the environmental values of the proposed covenant should take precedent over the agricultural value, the ALC may grant permission. The ALC provides guidelines for the development of covenants intended to apply to lands in the ALR. These guidelines require that proposals for covenants be substantiated by scientific information that clearly defines the importance of the environmental values.

DCA currently owns or has covenants on five properties that are at least partially within the ALR. The ALC required that all but one of the covenants include the “right to farm” clause. Those covenanted lands that are not owned by DCA are owned by other lands trusts and are all held for conservation in perpetuity with no intent to develop or farm.

Policy

When DCA proposes to accept ownership of a property within the ALR by donation or through purchase, the approval of the ALC is not required. As part of the decision to pursue securement, DCA should balance the property's agricultural values with the environmental values and the long-term impact on the community of a conservation plan.

When a landowner proposes to subdivide their property in order to conserve part of their land through an ecological gift to DCA, DCA will advise the owner that they must make an application to the ALC which must be approved. When the proposed ecological gift property has high value conservation features, DCA may choose to support a landowner in seeking that approval.

When a landowner proposes a conservation covenant on land in the ALR, DCA will advise the owner of the potential challenges in acquiring the ALC's approval for the covenant. When the proposed area for the conservation covenant has high value conservation features, DCA may choose to support a landowner in seeking approval of a covenant that does not include the "right to farm" clause.

Support to a landowner may consist of assisting the landowner in addressing the requirements described in the ALC guidelines for the development of covenants intended to apply to lands in the ALR.

Where the "right to farm" clause is required to be included as part of a covenant proposed by a private landowner, because of the risks posed to the conservation covenant when the land is sold or passes to another landowner, DCA will not generally agree to hold the covenant. Alternatives to a covenant, such as donating the parcel to DCA, may be suggested to the landowner.

Where the "right to farm" clause is required to be included as part of a covenant proposed by a land trust, DCA will consider holding the covenant when the land trust's mandate is to hold the land for conservation in perpetuity with no intent to develop or farm.

Adopted as amended, December 18, 2024