



# BOARD REPORT

**TO:** Chair and Directors

**File No:** LC2554D  
PL20180075

**SUBJECT:** Electoral Area D: Agricultural Land Commission (ALC) Application  
Section 21(2) - Subdivision LC2554D (Richard Clegg Holdings Inc.)

**DESCRIPTION:** Report from Christine LeFloch, Development Services Assistant, dated  
June 18, 2018.  
871 Musgrave Road, Gardom Lake

**RECOMMENDATION:** THAT: Application No. LC2554D, under Section 21(2) Subdivision in the  
ALR, for Lots 2 and 3, Section 8, Township 19, Range 9, Kamloops  
Division Yale District, Plan 74078 be forwarded to the Provincial  
Agricultural Land Commission recommending approval this 16<sup>th</sup> day of  
August, 2018.

### SHORT SUMMARY:

The subject property is located in the Gardom Lake area of Electoral Area D. The owner has made application for a Subdivision in the ALR which proposes a boundary adjustment between the two subject parcels which would create a 5.26 ha parcel and an 18.21 ha parcel. The owner would like to retire to the smaller parcel with his herd of beef cattle and sell the larger parcel to another farmer.

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<b>VOTING:</b>	Unweighted Corporate	<input checked="" type="checkbox"/>	LGA Part 14 (Unweighted)	<input type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder (Weighted)	<input type="checkbox"/>
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### BACKGROUND:

REGISTERED OWNER:  
Richard Clegg Holdings Inc.

AGENT:  
Kent MacPherson c/o Jordan Hettinga

ELECTORAL AREA:  
D

LEGAL DESCRIPTIONS:  
Lots 2 and 3, Section 8, Township 19, Range 9, Kamloops Division Yale District, Plan KAP74078

PIDs:  
025-749-218  
025-749-226

CIVIC ADDRESS:  
Lot 2 - No address

Lot 3 - 871 Musgrave Rd

**SURROUNDING LAND USE PATTERN:**

North = Gardom Lake, Musgrave Road Park, Rural Residential, Bible Camp

South = Medium Holdings, Non-ALR

East = Rural and Resource

West = Agriculture (dairy)

**CURRENT USE:**

Lot 2 – hay and pasture

Lot 3 – pasture, one small cabin on skids

**PROPOSED USE:**

2 lot boundary adjustment subdivision

**PARCEL SIZES:**

Lot 2 – 10.45 ha (25.82 ac)

Lot 3 – 13.33 ha (32.94 ac)

\*Existing parcel sizes are taken from the CSRD GIS.

**PROPOSED PARCEL SIZES:**

Lot 2 – 5.26 ha (13 ac)

Lot 3 – 18.21 ha (45 ac)

\*Proposed parcel sizes are taken from the site plan provided by the applicant.

**DESIGNATION:**

Lot 2 – AG Agriculture

Lot 3 – AG Agriculture

**ZONE:**

Lot 2 – AG1 Agriculture Zone

Lot 3 – AG1 Agriculture Zone

**AGRICULTURAL LAND RESERVE:**

Lot 2 – 100%

Lot 3 – 100%

**SOIL CAPABILITY:**

The subject properties are both within a polygon that is rated 80% Class 5 with topography and stoniness as limiting factors and 20% Class 6 with topography and consolidated bedrock as limiting factors. These soils are not improvable. Class 5 soils have very severe limitations that restrict their capability in producing perennial forage crops and improvement practices are not feasible. Class 6 soils are capable only of producing perennial forage crops and improvement practices are not feasible.

**HISTORY:**

#LC2286 (2003) – Application for a boundary adjustment subdivision of 3 lots, including the 2 subject properties was approved.

#LC2421D (2009) – Application to exclude 17.2 ha of steep land from the ALR and subdivide along the ALR boundary was approved.

**SITE COMMENTS:**

A site visit of the subject properties was completed on June 22, 2018. At the time of the site visit it was noted that Lot 2 and the accessible area of Lot 3 off Mallory Road had recently been hayed. The eastern portion of Lot 3 has been logged. The applicant notes that the stumps have not been removed but the area may be used as pasture. There is a ravine that begins on the adjacent property to the south and extends north through Lot 3 and just onto Lot 2. The ravine is fenced off on the west side and vegetation is very dense so it was not possible to tell whether there is a watercourse present. It was noted that on the property to the south a culvert has been installed to allow a driveway access. No evidence of a watercourse above ground on Lot 2 north of the ravine was observed. The land slopes up toward the south roughly along the boundary between the western portions of Lots 2 and 3. There is evidence of an ephemeral stream on Lot 3 in the location indicated on the site plan. There is also a small cabin located on Lot 3. Musgrave Road lake access is located immediately to the north of Lot 2. Access to the cabin is from Musgrave Road.

There is a flooding covenant (KV113067) registered on title which establishes a 15 m setback from Gardom Creek and a 7.5 m setback from Gardom Lake. It also establishes a flood construction level of 1.5 m above the natural boundary of Gardom Creek and Gardom Lake. There is also covenant (KV113068) registered on title restricting the removal of native vegetation within a horizontal distance of 15 m from the natural boundaries of Gardom Creek and Gardom Lake. There is an easement (KV113069) registered on title, granting the owner of Lot 1, Plan KAP74078, access to Lot 2, Plan KAP74078 for the purposes of maintaining and using a well, water line, and associated infrastructure.

**POLICY:**

Policies that relate to this application include the following:

**Ranchero/Deep Creek Official Community Plan Bylaw No. 750**

3.4 Agriculture

This land use designation applies to lands that are used and valued for agriculture. All lands within the ALR are in this land use designation. The objectives and policies relating to these matters are intended to serve as indicators of community preference and assist senior levels of government in planning and decision making.

Objective 1: Maintain the agricultural land base and protect it from activities that may diminish agricultural value and potential.

Objective 3: Support development that is compatible with the Community Values and Development Criteria.

Policy 1. Lands within the Agriculture designation are shown as "AG" on Schedule 'B'.

Policy 2. Lands within the Agriculture designation shall be maintained as parcels of at least 60 ha (148.25 ac).

Policy 3. For lands within the ALR, the regulations and policies of the Agricultural Land Commission (ALC) apply. Approval must first be obtained from the ALC where land in the ALR is proposed for subdivision, a second dwelling unit, or a non-farm use.

Policy 6. One dwelling unit shall be permitted per lot and one secondary dwelling unit may be considered subject to zoning. The size of the parcel and size of the secondary dwelling unit will be subject to zoning restrictions. The secondary dwelling unit will be subject to special provisions, including:

- (a) setbacks from buildings and property lines, and;
- (b) the provision of required parking and access;
- (c) the provision of adequate servicing that meets Provincial water and sewer regulations.

Policy 8. All development on Agriculture lands will be strongly encouraged to use best practice interface forest fire mitigation techniques for building and landscaping.

## Section 5 Natural Resource Management

### 5.1 Agriculture

Goal: To protect agricultural land both within and outside the ALR for agricultural based activities.

Policy 1: This Plan supports the Agricultural Land Commission's mandate of preserving and encouraging the development of lands for agricultural purposes.

Policy 2: The CSRD encourages the retention of large land holdings within the Plan Area, including the ALR, to maintain future opportunities for farm use.

Policy 3: The CSRD discourages encroachment and fragmentation of farmland by non-farm related uses.

## Section 7 Riparian Areas Regulation Development Permit Area

The Riparian Areas Regulation Development Permit Area is designated under the Local Government Act for the protection of the natural environment, its ecosystems and biological diversity. The objective of the RAR DP is to preserve natural features, functions and conditions to support fish life processes. If there is any proposed disturbance of soils or vegetation within 30 m of a watercourse, or if a subdivision is proposed, a Qualified Environmental Professional (QEP) must complete a Riparian Areas Assessment Report of the proposal and a Development Permit must be approved and issued by the CSRD.

The RAR DPA is comprised of riparian assessment areas for fish habitat, which include all watercourses and adjacent lands shown on Provincial TRIM map series at 1:20,000, as well as unmapped watercourses. The area comprises land:

- Within 30 m of the high water mark of the watercourse;
- Within 30 m of the top of the ravine bank in the case of a ravine less than 60 m wide; and
- Within 10 m of the top of a ravine bank for ravine 60 m or greater in width that link aquatic and terrestrial ecosystems that exert an influence on the watercourse.

It is noted that the following exemptions apply to the RAR DPA and may be applicable in this case:

- Construction, alteration, addition, repair, demolition and maintenance of farm buildings;
- Farming activities

Construction of a residence, residential accessory buildings and land alterations related to a residential use (ie: landscaping, driveway construction) would not be exempt.

## **Rancho/Deep Creek Zoning Bylaw No. 751**

### 3.9 Exemptions from Minimum Parcel Size Requirements

.1 The minimum parcel size regulations for new subdivisions stated in Part 4 do not apply if all the requirements of this subsection are met:

- (a) parcel boundaries are relocated to facilitate an existing development or improve a subdivision pattern;
- (b) no additional parcels are created;
- (c) the siting of existing buildings and structures is not rendered unlawful;
- (d) all parcels are contiguous;
- (e) the subdivision does not result in a parcel in two or more zones;
- (f) no parcel shall be enlarged to a size permitting further subdivision;
- (g) no parcel shall be reduced to a size less than 1 ha; and
- (h) the parcels were not registered as part of a reference, explanatory, or subdivision plan in the Land Title Office after the adoption of this bylaw.

### 4.6 AG1 Agriculture Zone

#### Principal Uses:

The uses stated in this subsection and no others are permitted in the AG1 Zone as principal uses, except as stated in Part 3: General Regulations:

- (a) agriculture
- (b) cannabis production facility (only permitted in the ALR)
- (c) forestry
- (d) single detached dwelling

#### Secondary Uses:

The uses stated in this subsection and no others are permitted in the AG1 zone as secondary uses, except as stated in Part 3: General Regulations:

- (a) accessory use
- (b) agri-tourism
- (c) bed and breakfast
- (d) child care facility, in home
- (e) guest ranch
- (g) secondary dwelling unit

#### Regulations:

Minimum parcel area created by subdivision: 60 ha  
Minimum parcel width created by subdivision: 100 m

#### **FINANCIAL:**

There are no financial implications to the CSRD with regard to this application.

#### **KEY ISSUES/CONCEPTS:**

The existing properties are 10.45 ha and 13.33 ha size and both have a small amount of frontage on Gardom Lake. This application proposes a boundary adjustment subdivision which would create a 5.26 ha lot with frontage on Gardom Lake and an 18.21 ha lot without any lake frontage. The properties are currently being used in tandem for pasturing dairy cows and for the occasional hay crop. The owners would like to retire to the proposed smaller parcel with their herd of beef cattle and sell the larger parcel to another farmer.

The owner initially applied for subdivision directly to the Ministry of Transportation and CSRD as they felt that the application may be approvable under BC Reg. 171/2002 Agricultural Land Reserve Use, Subdivision and Procedure Regulation of the Agricultural Land Commission Act. A Preliminary Layout Not Approved (PLNA) was issued by the Province because the Provincial Approving Officer did not feel that the application was approvable under the specifications of the regulation. The owner was directed to make application to the Agricultural Land Commission. The PLNA letter also noted that the property to the north of the subject property (PID: 013-903-501) does not have legal access. The owners were advised that they must provide a 20 m wide road dedication to this property, from either Mallory Rd or Musgrave Rd, or they may apply to the Provincial Approving Officer for a waiver. Further details on this are provided below.

#### Zoning:

The property is zoned AG1 Agriculture Zone in Ranchero Deep Creek Zoning Bylaw No. 751. The AG1 zone has a minimum lot size of 60 ha. The proposal meets the requirements of Section 3.9.1 of Bylaw No. 751 (outlined in the policy section above), which allows an exemption from minimum parcel size for boundary adjustment subdivisions subject to specific criteria.

#### Riparian Areas Regulation Development Permit Area:

The property is affected by the Riparian Areas Regulation Development Permit Area (RARDPA) which is designated for all areas adjacent to a lake, watercourse, or ravine within the Ranchero Deep Creek Official Community Plan Bylaw No. 750 area. The RARDPA is triggered at the time of subdivision, at which time a streamside protection and enhancement area (SPEA) would be determined based on an assessment by a Qualified Environmental Professional (QEP). The Development Permit would be issued based on the QEP report and registered on title. It is noted that the SPEA would affect the siting of residential buildings and any alteration of land related to residential use of the property, but agricultural uses and buildings are exempted under the regulation.

#### Access:

The only dwelling on the properties is a small cabin on skids located on Lot 3 near the lake. This area of the property is accessed from Musgrave Road via legal easement across Lot 2 as shown on the site plan in green. The applicant has indicated that this access leads directly to a wet area where an ephemeral stream crosses the property. The applicant has indicated that vehicles and machinery cannot cross this area to access the rest of Lot 3 until approximately mid-July, making it challenging to hay this area. Lot 3 has a second access located off of Mallory Road at the southwest corner of the parcel. However, only a small portion of the property can be accessed from that location due to the presence of a ravine which separates this area from the rest of the property.

In the PLNA letter from the Provincial Approving Officer it was noted that the neighbouring property, Pt. LS 9 located to the north of Lot 3 does not currently have legal access and that road dedication must be provided as a condition of subdivision. Existing access to Pt. LS 9 is from Glenmary Road and crosses lands owned by Gardom Lake Bible Camp. Two options for legal access to Pt. LS 9 across the subject

properties via easement have been noted on the site plan. Option 1 follows the proposed new boundary of the proposed smaller parcel and Option 2 crosses the ravine and follows the southern and eastern boundary of the proposed larger parcel. It is noted that access must be approved by the ALC. Staff suggest that the owners may also wish to approach the bible camp to request a registered easement to secure the existing access.

#### Analysis:

The proposed boundary adjustment would realign the boundary so that the size of Lot 3 would be reduced, the lot would have additional road frontage on Musgrave Road, and would end up with all of the frontage on Gardom Lake. It would also add 5.19 ha to Lot 2, thereby creating a larger, more viable farming parcel and eliminating the barrier created by the ravine, as farm machinery would be able to go around it to access the lands to the east.

The applicant has indicated that the realignment would create a larger 45 acre parcel which would be sufficiently large enough to be attractive to purchase by local dairy farmers as the larger size would allow them to use their harvesting equipment efficiently. The applicant has also noted that removing the lake frontage from the larger parcel will make it more affordable for farmers to purchase, and that the smaller parcel would still be large enough to be used by the owner for a residence and his herd of beef cattle.

The OCP policies support the Agricultural Land Commission's mandate of preserving and encouraging the development of ALR lands for agricultural purposes, and the retention of larger parcels to allow for a wider range of opportunities for farm use. In this case the owners are proposing to increase the size of one parcel such that it may increase the opportunities for farming, while reducing the size of the second parcel. It is suggested that while the second parcel would be smaller, it would still be large enough to support some agricultural uses.

Staff feel that despite the reduction in size of one of the parcels, an improvement to the overall farm use of the properties would result with the proposed boundary adjustment. The increase in size of the second parcel would help to mitigate some of the barriers related to farming that exist due to access issues. Staff also note that the zoning bylaw allows for boundary adjustment subdivisions such as this which do not result in any parcels increased to a size which may allow further subdivision.

There are no OCP policies or zoning regulations related to the provision of access across ALR lands to give guidance to staff and the Board regarding this issue. As this is a technical detail which may be waived by the Ministry of Transportation, it is suggested that the Board support the proposed subdivision, and that issues related to access to lands beyond be dealt with by the Agricultural Land Commission and the Ministry of Transportation.

#### **SUMMARY:**

The Development Services staff recommendation is that application LC2554D, proposing a boundary adjustment subdivision of the subject properties, be sent to the ALC recommending approval, for the following reasons:

- The proposed boundary adjustment is permitted by Section 3.9.1 of Ranchero Deep Creek Zoning Bylaw No. 751;
- The proposed boundary adjustment would allow for better access to the portions of the subject properties east of the ravine;

- Creation of a larger parcel may make it more desirable to farmers wishing to use it for hay and forage crops;
- Removal of lake frontage from the proposed larger lot would help to reduce the land value thereby making it more affordable for local farmers;
- Both proposed parcels would be of a size that would allow for agricultural use; and
- There are no policies or bylaws to direct staff with regard to the provision of access across ALR lands.

**IMPLEMENTATION:**

If this application is approved by the Agricultural Land Commission the applicant will be able to continue with their applications for subdivision to the Ministry of Transportation and Infrastructure and the CSRD.

**COMMUNICATIONS:**

At this time the Electoral Area D Advisory Planning Commission (APC) is not active due to a lack of membership. As such this application has not been referred to the APC for their comments.

**DESIRED OUTCOMES:**

That the Board endorse the staff recommendation.

**BOARD'S OPTIONS:**

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

**LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:**

1. Rancho Deep Creek Zoning Bylaw No. 751
2. Rancho Deep Creek Official Community Plan Bylaw No. 750
3. Provincial Agricultural Land Commission Applicant Submission by Richard Clegg

**Report Approval Details**

Document Title:	2018-08-16_Board_DS_LC2554D_Clegg.docx
Attachments:	- Maps_Plans_Photos_LC2554D.pdf
Final Approval Date:	Aug 2, 2018

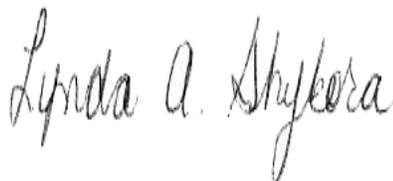
This report and all of its attachments were approved and signed as outlined below:

**No Signature - Task assigned to Corey Paiement was completed by workflow administrator Tommy Test**

**Corey Paiement - Aug 1, 2018 - 4:21 PM**



**Gerald Christie - Aug 2, 2018 - 9:10 AM**



**Lynda Shykora - Aug 2, 2018 - 9:47 AM**



**Charles Hamilton - Aug 2, 2018 - 10:56 AM**