



**Results of the Minister's Bylaw Standard
for Agri-tourism and Farm Retail Sales Consultation**

August 24, 2016

Innovation and Adaptation Services Branch
Ministry of Agriculture

Background to the Consultation

Consumers are increasingly interested in knowing where and how their food is produced, and awareness of local food production is at an all-time high in British Columbia. Beyond shopping at their local farmers' market, consumers are interested in having agri-tourism or rural recreational experiences. Visits to a pumpkin patch, a corn maze or apple festival are just some of the ways British Columbia families interact with the farming community. Weddings and other events are other elements of interaction. The rise in farm experiences often provides a needed secondary income stream to farmers within the province. Agri-tourism is of increased interest to the public and farmers and must be balanced against the protection of viable farmland.

Agriculture in British Columbia is a priority for the provincial government. Prime agricultural land has been protected for farming use through the Agriculture Land Reserve (ALR) since 1973 and the *Agriculture Land Commission Act (ALC Act)* establishes that farming is the priority use of land within its boundaries. The *ALC Act* and the ALR Use, Subdivision and Procedures Regulation (ALR Regulation) identify the farm uses, non-agricultural permitted uses, and activities that may or may not be prohibited by local governments, and uses that do not require applying to the Agricultural Land Commission for approval.

In 2014, the Ministry of Agriculture (Ministry) undertook an extensive consultation process on potential amendments to the ALR Regulation. In-person stakeholder consultations were held in all six regions of the ALR with over 100 stakeholder groups in attendance, including local governments, farm and ranch organizations, agriculture, and farmland advocacy groups. In addition to these regional stakeholder consultations, public input was solicited through a questionnaire on the ALR Regulation Consultation website, and via mail and email to a dedicated ALR Consultation address. While the need for greater clarity was identified the consultation did not identify a consensus on what parameters should be established.

Certainty about what agri-tourism "is and is not" would help farm operators earn additional income by showcasing aspects and attributes of an active farm, while minimizing the impact and potential conflict of such activities on agricultural land, neighbouring farm operations, and local governments. As a result, it was decided to undertake a new consultation process in 2015.

2015 Agri-tourism Consultation

The 2015 consultation began in September 2015 with the circulation of a Discussion (White) Paper. To promote discussion, the paper included a proposed Minister's Bylaw Standard on Agri-Tourism and Farm Retail Sales. Definitions and Bylaw Standards related to aspects of agriculture may be established by the Minister of Agriculture per Section 551 of the *Local Government Act*. Bylaw standards are intended to provide guidance to local governments with respect to enacting community bylaws. The criteria for the proposed Bylaw Standard included new and revised definitions, accessory farm activity and farm class requirements, permitted and ALC approval required agri-tourism activities, and criteria on agri-tourism accommodation, site layout, off-street parking and farm retail sales. The consultation specifically asked whether income should be a determinant of acceptable agri-tourism activity.

Results of the Minister's Bylaw Standard for Agri-tourism and Farm Retail Sales

The Ministry initially consulted on the proposed Bylaw Standard with local governments, and then extended the deadline until January 15, 2016 so that B.C. agri-tourism operators also had the opportunity to provide comments.

The total number of responses, by organization, is as follows:

Number of Responses	Organization
35	Local governments (LGs): 43 submissions includes 6 LGs responding more than once ^[1] : <ul style="list-style-type: none">• 21 Municipalities• 14 Regional Districts and the Islands Trust
14	B.C. Industry Associations and Institutes (Including UBCM and BCAC)
49	Individual stakeholders
106	Total Responses

The input received from local governments, industry associations and Institutes and individual stakeholders were individually reviewed and analysed by Ministry staff. Appendix 1 summarizes the comments received.

As in 2014, the 2015 consultation results identified broad ranging views and a strong focus on agri-tourism but there was no consensus on the best way forward emerging from either consultation process. The range of responses emphasized that while change was needed, a balanced approach was required. The 2015 consultation did identify that the majority of respondents did not see income being used as a determinant of acceptable levels of agritourism and that there should be no limits on how much income could be earned from agri-tourism. Some of the additional 2015 common themes were:

- Agri-tourism was the major area of concern and there were only limited comments provided about other topics
- Agri-tourism should be better defined
- There should be clarity and flexibility about agri-tourism activities
- The rules around agri-tourism should be simple and understandable
- Farming is the purpose of ALR lands but agri-tourism is needed to support farming
- There should be limits on how much agri-tourism should be allowed
- Weddings were an area of particular concern with some communities suggesting that there should be limits on the number and size of weddings allowed on ALR land.
- The rules about agri-tourism need to be communicated more broadly and clearly

^[1] All of the Right to Farm regulated governments (four) responded.

One area where there was clearly no consensus involved the usefulness of the draft Minister's Bylaw Standard. Opinions ranged from the proposed Minister's Bylaw Standard being helpful, to it not being useful and where enforcement and compliance would be difficult.

Moving Forward

Given that two major consultation efforts emphasized the need for change with respect to agri-tourism while taking a balanced approach, the Minister of Agriculture met with staff from the Union of British Columbia Municipalities, the British Columbia Agriculture Council, the Agriculture Land Commission, and the British Columbia Young Farmers Association in February 2016 to find a way forward in order to provide greater clarity on agri-tourism in the ALR. This work was guided by a need for pragmatism (e.g. using suggestions heard during the consultation such as limiting the number of weddings to 10 per year) and principles that reflected the input received from the consultation:

1. Agri-tourism is a legitimate activity that should be supported as a supplement to farm income.
2. Agri-tourism that occurs at a location classified as a farm under the *Assessment Act* should be subsidiary to but supportive of farm production.
3. Provincially, there should be consistency about what is considered agri-tourism.
4. Farm tax status should reflect farming activity not the presence of agri-tourism. Farm tax status is not intended to create a financial advantage for large scale commercial operations that should be located in appropriate commercial zones.
5. The loss and/or fragmentation of farmland due to agri-tourism should be minimized.
6. The process should be simple. Agri-tourism activities must be sufficiently well defined that the ALC is not required to constantly clarify what is considered an acceptable farm or non-farm use.
7. Agri-tourism has local government implications that must be recognized. Local governments have the ability to shape agri-tourism through local government regulatory tools.

Ministry staff also undertook an assessment of the mechanisms available for providing agri-tourism clarity. The options identified were pursuing amendments to the ALC Regulation, redrafting the Minister's Bylaw Standard, and emphasizing local government land use planning tools. Pursuing amendments to the ALC Regulation was identified as the preferred and strongest approach.

On July 29, 2016, B.C. Order in Council No. 602 for amendments to the Agricultural Land Reserve Use, Subdivision and Procedures Regulation, B.C. Reg. 171/2002 came into effect. The amended regulation creates greater clarity on which the types of agri-tourism activities are allowed in the ALR along with their acceptable parameters. This revision takes a balanced approach assisting B.C. farmers enhance their earnings while maintaining agriculture as the primary activity in the ALR.

Appendix 1

Consultation comments are listed by category and shown by source.

GENERAL COMMENTS
<ul style="list-style-type: none"> • Sixteen local governments expressed support for the discussion paper. Two local governments suggested changes to the <i>Agriculture Land Commission Act (ALCA)</i> and <i>Agricultural Land Reserve (ALR) Use, Subdivision and Procedure (USP) Regulation</i>. Others suggested that greater clarity is required on the application process and the intent of the regulations; that agri-tourism should not result in inexpensive housing on farmland; and that wineries should be soil-based and not industrial in nature. • Three industry associations voiced their support for the bylaw standard, while one opposed it. One was opposed to operations making more income from agri-tourism than farming, and having to apply for non-farm use approval from the Agriculture Land Commission (ALC). • Individual stakeholder comments were varied, with many concerned about greater regulation of agri-tourism. Some mentioned that regulations should be flexible, some that agri-tourism could help offset the high cost of farming, and some that income opportunities should not be limited.
COMMENTS ON AGRI-TOURISM
<ul style="list-style-type: none"> • Four local governments expressed either general support for the standard or mentioned that it provides clarity. Two local governments stated that the proposed bylaw standard limits the flexibility that local governments have in regulating agri-tourism. One local government expressed the opinion that the proposed criteria are inconsistent with the ALR USP Regulation and two others stated that the proposed standards would increase required staff resources at the local government level. • Three local governments stated support for second incomes from agri-tourism. Two local governments suggested that weddings should be allowed on a seasonal basis, and two expressed support for agri-tourism education. Two local governments asked for more clarity around agriculture vs. non-farm use. • Three industry associations stated that the proposed standards are too restrictive of agri-tourism, and two stated that farmers should be able to provide education to the public. Others expressed general support for the standards, or commented that existing operations should not be penalized and that the regulations should be flexible or that each operation be considered on a case-by-case basis. • Individual stakeholders commented that the standards should be less prescriptive and more performance-driven and that the focus should be on preserving farmland. Others mentioned that farmers rely on the income from agri-tourism and commercial weddings to subsidize farm operations and that education of the public is important.
COMMENTS ON THE PROPOSED CRITERIAL
<p>Proposed Definitions</p> <ul style="list-style-type: none"> • Most local governments provided feedback on the definitions, with many commenting that the definitions require more clarity and many provided suggestions for changes. • Industry associations did not comment specifically on definitions. • Individual stakeholders had many suggestions for definitions they felt were missing from the standard.
<p>Accessory Farm Activity:</p> <ul style="list-style-type: none"> • Five local governments expressed support for agri-tourism being a subordinate use. • Three local governments oppose using income to determine accessory use. • Eight local governments noted that determining accessory through income is problematic and suggestions were made for alternatives such as using a ratio between agri-tourism area and the area of land in active production. • One local government supported using income as a measure of determining whether or not the use is subordinate, while three opposed this. • Two local governments supported local government policy that is aligned with ALC regulations. • Four local governments requested greater clarity on this component of the discussion paper.

Results of the Minister's Bylaw Standard for Agri-tourism and Farm Retail Sales

- Four **industry associations** hold the position that linking income to accessory use is problematic or raises concerns.
- Three **industry associations** voiced support for agri-tourism being a subordinate use, and one supported using income as a means of determining if the use is subordinate.
- Five **industry associations** were opposed to using income as a means of determining if agri-tourism use is accessory.
- Two **industry associations** support that agri-tourism enables farming.
- One **industry associations** noted that temporal and spatial measures would be a better way of determining if agri-tourism is accessory.
- Four **individual stakeholders** supported agri-tourism as a subordinate use.
- Eleven **individual stakeholders** stated that agri-tourism income enables farming.
- Seven **individual stakeholders** were opposed to using income as a means of determining if agri-tourism is accessory.
- Eight **individual stakeholders** hold the position that linking agri-tourism accessory use to income is problematic or raises concerns.
- Two **individual stakeholders** suggest the Ministry provide further clarity and/or information.
- **Individual stakeholders** presented a number of ideas for determining if agri-tourism is accessory or problematic that require further review to determine if they could be incorporated into the Minister's Bylaw Standard and if they would ultimately be feasible for local governments to implement.

Farm Class:

- Few **local governments** had comments on this section. One stated that this section provides clarity. Others had concerns over the role of the ALC in enforcement; while another stated that farms should have lower taxes.
- One **individual stakeholder** expressed support for requiring farm class, but no others commented on this section. There were no comments from industry associations.

Temporary and Seasonal Use:

- **Local governments** expressed concern about monitoring and enforcement of these provisions and the staff resources that this would consume.
- One **individual stakeholder** pointed out that interest in agri-tourism has evolved from seasonal direct marketing types of operations to a more educational focus. One suggested that 'temporary' and 'seasonal' are not required if the 50 per cent rule is adhered to, while another stated that 'seasonal' and 'temporary' should apply only to 'accommodation' but not to other activities.

Permitted and ALC approval required agri-tourism activities:

- Eight **local governments** support Table 2 of the Discussion Paper.
- Ten **local governments** suggest the Discussion Paper provide greater clarity of its proposed definitions.
- Four **local governments** suggest the Ministry provide greater clarity on the approval process.
- Two **industry associations** suggest restricting non-farm use to existing available, non-productive lands.
- Two **industry associations** suggest the Ministry encourage marketing and promotion.
- **Industry associations** suggested that the scale of activity needs to be considered relative to the size of the agricultural operation and that the income ratio should be used rather than putting limits on seasonal and temporary.
- Two **individual stakeholders** oppose proposing the regulations restrict commercial assembly events.
- Five **individual stakeholders** take issue with the clarity of uses and definitions.
- Two **individual stakeholders** take issue with the inclusion of additional uses and activities in Table 2 Tier 1.
- Two **individual stakeholders** take issue with the bureaucratic approval process.
- Three **individual stakeholders** take issue with conflicts with local government bylaws.
- Two **individual stakeholders** suggest limiting the number and size of events in a season.

Agri-tourism Accommodation:

- Two **local governments** oppose the prohibition of kitchens in sleeping units. One local government supports the prohibition.
- Two **local governments** support the draft standards for Agri-tourism Accommodation.
- Two **local governments** support keeping Agri-tourism Accommodation within a 2000 m² farm residential footprint.
- Six **local governments** require more clarity on various components of the Agri-tourism Accommodation criteria.

- Three **local governments** expressed concern that these units will become year-round, permanent residences.
- Three **local governments** mentioned issues with monitoring and enforcement of accommodations.
- Two **local governments** expressed concern about the proliferation of RV parks and deterioration of farmland and lack of farming which occurs on these properties and two local governments mentioned issues with enforcement around RV storage on farmland.
- Two **local governments** suggested prohibiting water and sewer hook-up to agri-tourism sleeping units, and two suggested that the number of units be based on a per ha basis rather than an outright number.
- Other **local governments** suggested limitations on the amount of parking spaces associated with these uses, limiting stays by each person to no more than 30 days in a calendar year, and size limits on the units. One suggested the use of a Temporary Use Permit (TUP) for Agri-tourism Accommodation.
- One **individual stakeholder** supported restricting the area for Agri-tourism Accommodation to 5 per cent of parcel area.
- Two **stakeholders** were opposed to limiting campsites to 10 units (note: these were from the horse industry and were concerned about temporary event camping which would not be affected by the 10 campsite limit).
- Two **stakeholders** (both wineries) desired an increase of the type, quality and number of accommodation units, with one suggesting a 75 unit limit and the other a 40 unit limit.
- One **stakeholder** was opposed to the prohibition on cooking facilities in sleeping units.

Other Agri-tourism Criteria:

- Two **local governments** supported requiring permeable surfaces for agri-tourism parking areas.
- Three **local governments** offered their support for the 'other' criteria.
- One **local government** expressed concern that they do not have jurisdiction to regulate lighting except in relation to off-street parking areas.
- Three **regional districts** mentioned that regional districts do not have the ability to regulate many of these items.
- **Local government** suggestions include: having a maximum site coverage for parking and being more specific about how much parking should be required for retail and accommodation uses; have all agri-tourism uses proceed through a local government/ALC application.
- One **industry association** expressed concern about biosecurity issues and agri-tourism. Another suggested that properties should have to be large enough to provide adequate buffering for neighbours. A third suggested that due diligence should be exercised to avoid nuisances.
- **Individual stakeholders** had a few comments on this section ranging from support for the criteria; allowing local governments to issue permits for these activities; and suggesting additional criteria such as using only less productive areas of the farm and holding events by invitation or ticket sales only (i.e. not open to the public).

Farm Retail Sales and Marketing:

- One **local government** stated that they do not want to see farms becoming retail centres, while their Agriculture Area Committee commented that they were opposed to limiting income from agri-tourism operations.
- Two **local governments** asked for clarification on limits on the sale of off-farm products.
- Suggestions from **local governments** included having a maximum footprint for cideries, wineries, distilleries and farm retail sales and locating these uses close to the road; defining 'bulk sales'. One local government suggested that restaurants should be allowed.
- **Industry associations** commented that they were either opposed to the 50 per cent rule or that the rule was difficult to monitor and enforce. A comment was made that farm retail sales area should not include display areas. One **industry association** commented that the 300 m² maximum floor area should be removed and the ALR USP Regulation number be used instead¹.
- Two **individual stakeholders** mentioned that they support the 50 per cent rule, but three were opposed to using floor area as a means of measuring the 50 per cent. These three stakeholders mentioned that the floor area measurement does not work when using farm products to create value added products or in situations where higher value farm products like meat and sausages take up less room than lower value and bulkier vegetables.
- Three **stakeholders** suggested increasing the maximum floor area allowed for farm retail sales and two of these suggested 500 m² as a new maximum.
- One person suggested that farm retail sales area should be determined on a 'per hectare' basis.

¹ Note: the ALR USP Regulation includes a maximum 300 m² for retail sales areas that include off-farm products, so this may have been a misunderstanding.

Local Government Permits and Fees:

- One **local government** supported using a TUP for uses that require non-farm use approval by the ALC, and another wanted the ability to use a TUP for uses that a local government may prohibit (such as Agri-tourism Accommodation) as well. Three **local governments** requested greater clarity as to when a TUP could be used and when it should not be used as a permitting tool.
- One **industry association** was supportive of consistent regulation across local government jurisdictions.
- Another **industry association** was opposed to the use of a TUP for commercial weddings, stating that these require certainty with regard to permits due to advance bookings of 12-24 months. Another **industry association** made the suggestion that there should be a one-stop shop for permits and approvals in order to increase efficiency.
- **Individual stakeholder** feedback ranged from supporting the bylaw standard criteria, to not wanting restrictions on agri-tourism. There was some support for not requiring TUPs or rezonings for legitimate agri-tourism activities. While some supported requiring business licences for event and activities, others opposed business licensing in the ALR.

Commercial Weddings:

- Two **local governments** supported a non-farm use approval process for commercial weddings, and two supported using TUPs for permitting this use.
- One **local government** suggested using a special event licence.
- One **industry association** suggested that weddings should be held to the same rules being applied to other agri-tourism businesses and one **industry association** suggested that the number of weddings in a year be limited to ten.
- Four **individual stakeholders** suggested the use of limits, which could allow and restrict weddings on ALR lands; three of these suggest weddings on ALR lands be restricted based on the number of weddings held per year. Two of these stakeholders and two additional stakeholders further suggested using other criteria to allow and restrict weddings in the ALR (e.g., limit the number of guests).
- One **local government** suggested that a TUP would be onerous for the applicant and the local government.
- One **industry association** was opposed to a non-farm use approval for weddings, while another pointed out that weddings are a form of agri-tourism.
- One **industry association** stated that agriculture should remain the priority use in the ALR.
- In general **individual stakeholders** expressed support for commercial weddings as an agri-tourism use with some pointing out that it is likely to raise awareness about farming. Some stakeholders supported low impact weddings on land where farming is occurring and the requirement for non-farm use approval from the ALC.
- Two **individual stakeholders** commented that ALR lands should be used primarily for farming, while one opposed allowing commercial weddings on farmland.
- Six **individual stakeholders** were opposed to either excluding commercial weddings from the definition of agri-tourism, or to restrictions on, or regulation of, weddings in the ALR.
- Two **individual stakeholders** were opposed to having to obtain permits for weddings in the ALR.
- Four **individual stakeholders** requested clarity on the ALR regulations, while three requested clarity on the definition of commercial wedding. One suggested defining commercial wedding based on frequency and impact to the land.
- Six **individual stakeholders** suggested that holding weddings on farms promotes the education of the guests.

Bistros and Restaurants:

- **Local governments** provided numerous ideas for regulating bistros and restaurants in the ALR. These included streamlining the approval process; allowing mobile food carts; and increased clarity on the definition of 'lounge'.
- **Industry associations** did not comment on this section of the proposed standard.
- One **individual stakeholder** commented on the fact that B.C. Assessment views their farm café as a commercial use in spite of selling farm products.
- Two **individual stakeholders** felt that farm cafés are an acceptable form of agri-tourism if the café is selling farm products and would be similar to a lounge that is allowed for wineries, cideries, breweries and distilleries.

OTHER COMMENTS

- **Local governments** had a number of ideas and suggestions for improving the clarity of various sections of the proposed bylaw standard. Five commented on the limited timeframe to review the paper.
- Six **industry associations** mentioned that the short timeframe to review the paper was a hardship.
- Two **industry associations** suggested that there should not be a bylaw standard.
- Other **industry associations** suggested that there should be greater consultation and requested clarity on specific sections of the proposed bylaw standard.
- One **individual stakeholder** commented that the consultation period was too short.

ENFORCEMENT AND COMPLIANCE

- Ten **local governments**, two **industry associations** and two **individual stakeholders** stated that there are issues around enforcement and monitoring of the new bylaw standards.
- One **local government** suggested that the ALC should monitor and enforce the ALC regulations while another suggested that the ALC work with the local government to enforce the regulations.
- Three **industry associations** state that it would be a challenge to enforce any new standards.
- Two **individual stakeholders** state that it would be a challenge to enforce any new standards.