

**Alberta Professional Planners Institute**

**Municipal Government Act Review**

Recommendations for Proposed Amendments to the  
Municipal Government Act

June 13, 2014



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## EXECUTIVE SUMMARY

In 2012, Alberta Municipal Affairs put out a call for input on potential revisions to the Municipal Government Act (MGA). As the voice and official representation of Registered Professional Planners in Alberta, the Alberta Professional Planners Institute (APPI) responded by conducting a comprehensive and thoughtful review of the MGA. This report details the APPI's review process, approach, findings, and recommendations for amendments to the MGA, organized around the following themes, primarily focused on Part 17 of the Act (Planning and Development):

- Overall Intent & Purpose
- Fees & Levies
- Land Management & Planning Tools
- Subdivision & Development Authorities
- Land Dedication & Use of Reserves
- Regional Approaches
- Public Participation & Planning Appeals
- Preparation and Sign-off of Statutory Planning Documents

The report summarizes APPI's overall recommendations and provides supporting data from our comment solicitation and analysis process in the Appendices.

The report identifies recommendations for legislative amendments that APPI feels will more closely align planning legislation with the implementation of planning at regional and municipal levels. These recommendations are advanced from a practicing planner perspective, and are aimed at what APPI could be addressed by amendments to Part 17 of the MGA.

What is perhaps even more important for the Province to understand is that the underlying cause of many of the issues behind the recommendations is a lack of adequate funding for municipalities to pursue effective planning to achieve desired 'triple bottom line' results (i.e. the practice of accounting for social, environmental and economic outcomes). Presently, the results of effective planning at a municipal level can only be realized with funding that is generated from senior government grants, municipal property taxes, user fees for specific services, and developer contributions. This raises the question of what sources of funding should most appropriately finance the Public Interest. The uncertain nature of senior government grant funding over any more than a provincial term of office significantly reduces the ability for municipalities to plan with foresight. Reactionary spending tends to result in inefficient use of funds to achieve desired results. Although not a part of one or more of the report's recommendations, APPI would like to call the Province's attention to the need for sustainable and predictable funding sources that enable municipalities to adequately provide services that benefit their residents in a way that does not overly penalize existing property owners or the development industry.

## INTRODUCTION

Amendments to the Municipal Government Act (MGA) are under consideration by Alberta Municipal Affairs. The Province has recognized the Alberta Professional Planners Institute (APPI) to be a major stakeholder in the review and requested APPI to provide input respecting amendments to the MGA. In response, APPI Council established an internal MGA Review Task Force to review the MGA, consult our members, and to offer recommendations for potential changes and/or additions to the MGA that are specific to planning. This report responds to the Province's request for input. APPI members were solicited for their input through special workshops across Alberta, small group discussions, emails and social media. The results of their input provided the foundation for the recommendations contained in this report.

## BACKGROUND

As a preface to this report, it is worthwhile to provide some context into the history of Alberta planning legislation. A more comprehensive review of Alberta planning legislation is located in Appendix A.

Planning was first legislated in Alberta through the 1913 Town Planning Act. The 1929 Town Planning Act introduced a hybrid of British and American planning practices that are still familiar today. With the discovery of oil in Leduc in the 1940s, concerns about rapid suburban growth led to the need for coordinated planning. Through the 1950s, building standards and land-use bylaws in Alberta became standardized. Regional Planning Districts were also established, providing advice and drafting planning documents for municipalities. During the 1960s, the Regional Planning Districts were formalized into Regional Planning Commissions (70% provincial funding, 30% municipal funding) including changes to the Planning Act in 1963 that required the preparation of regional plans. By 1968, the Province also delegated subdivision approval authority to regional planning commissions for all municipalities they represented, which exemplifies further devolution of previous provincial control.

The 1970s witnessed the most significant planning legislation to that date. The 1977 Planning Act overhauled the previous Planning Act into the philosophical framework that is retained in its essence today under Part 17 of the MGA. From 1977 to 1981, the Province's economy grew at a faster pace than any other province in Canada. This resulted in a rapid rate of urban growth, major land use changes and very large demands on municipal infrastructure. There was also increased pressure on conversion of land in the rural/urban fringe from agricultural to rural residential and rural commercial/industrial uses. Thereafter, the 1980s resulted in a marked slowdown in economic activity. Throughout that period, regional planning commissions and regional plans came under increasing pressure from municipalities to relinquish subdivision and planning authority back to those municipalities.

The elimination of regional planning commissions, regional plans and a devolution of subdivision authority to all municipalities was formalized in a substantive 1995 MGA amendment. At this time, the 1977 Planning Act was subsumed under the MGA and became Part 17. One key philosophical change of the 1995 MGA provided for municipalities to act as a "natural person," which expanded the flexibility of a municipal corporation. With the elimination of regional planning commissions, intermunicipal disputes (typically related to urban fringe land use planning) became common areas of conflict across Alberta. Statutory intermunicipal development plans (IDP) were introduced in an attempt to ensure that matters affecting the boundaries of two or more jurisdictions were more coordinated. Many of the "first-generation" IDPs were weak policy documents, ignored by one jurisdiction or another, or used as weapons to elevate issues to provincial authorities. Eventually, some workable examples between municipalities did emerge, but only after years of protracted conflict.

The next significant change in planning legislation came with the Alberta Land Stewardship Act (ALSA) 2009 (rev 2011). Its stated purpose is to articulate core provincial interests, plan for the future at a provincial level and enable sustainable development. In part, it was designed to address the growing number of intermunicipal and regional conflicts that had developed over the past decades. It also was an

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attempt to clarify and coordinate land use policy between both Green Areas (mostly crown land) and White Areas (mostly private land) and provincial interests. Amongst other provisions, ALSA re-established regional plans. These new regional plans would be defined and prepared regionally, and approved by the provincial government, rather than by a separate body such as a planning commission. A notable feature of these plans is the use of major watersheds as regional plan boundaries. This approach follows a trend across Canadian planning jurisdictions and throughout the world. Since ALSA preempts most other legislation, one of the key questions to be discussed is how ALSA and the preparation/ implementation of regional plans should align with the MGA. The current review of the MGA is an opportunity to clarify and coordinate the relationship between ALSA, regional plans, and municipal planning and development.

Since the introduction of the 1913 Town Planning Act, the evolution of planning legislation in Alberta has included the rise, fall and re-emergence of regional planning, increased intermunicipal conflict over land and resource allocation, and increased municipal flexibility and accountability through “natural person powers”. Alberta’s history of repeated boom-bust cycles has largely driven legislation to address issues arising from the previous cycle. As the Province moves into an increasingly complex future, municipalities, regions, and provincial interests as a whole need to examine new forms of municipal, intermunicipal and provincial partnerships.

### PURPOSE OF REPORT: PROFESSIONAL RESPONSIBILITY

APPI is a professional, regulated organization of private and public sector planners practicing in Alberta, the Northwest Territories and Nunavut. The MGA contains provisions that govern the work that planners in Alberta undertake on a daily basis – in fact, Part 17 of the MGA (Planning and Development) specifically addresses how planners carry out their work. The foundation of the planning legislation in Part 17 of the MGA is “...to provide plans and related matters.... for the overall greater public interest” (s.617). As a foundation for planning and the improvement of social, environmental and economic conditions, the greater public interest must be protected. This is not to say that private interests are excluded. Rather, both are recognized in s.617. It is the balance between the two that is the touchstone for the recommendations within this report. Insofar as they can advance the public interest, private sector interests also have an important role to play in Alberta’s economic, social and environmental progress.

Because APPI is governed as a publicly accountable organization with an obligation to serve the public’s interest under the Professional and Occupational Associations Registration Act, it is important that APPI provide a strong, reasoned and practical voice in changes that are made to the MGA as a result of this provincial review.

As noted in this report, the APPI Task Force took a structured approach to reviewing the MGA that provides a sound basis for making recommendations for changes. The intended approach addresses the underlying philosophical approach to the Act and reviews its provisions on a more specific level. Parts 1 – 16 of the Act were addressed as a single component; Part 17 – Planning and Development, which is much more specific to the work of planners on a daily basis, was reviewed in greater detail, identifying areas where current provisions lack clarity, cause confusion with other provisions in the MGA, are inconsistent with other pieces of legislation, or could be improved to better facilitate the intent of the Act.

For the first time, APPI is looking outside the boundaries of current legislation and framing the discussion independent of those employers/clients. Some of the recommendations contained herein will continue to be debated by APPI members. Given the objective to primarily offer comments to the Province at a strategic level, this report may not directly reflect input received from APPI members and divided membership opinions will remain. Members had the opportunity to review the report and offer comments prior to the final report being forwarded to the Province. APPI members are encouraged to contribute directly to the Province if they feel that their concerns are not adequately reflected through this report.

## METHODOLOGY

### Task Force Evolution

In the fall of 2012, APPI Council issued a request for volunteers to form a Task Force committee to research and prepare a report in response to a request from Alberta Municipal Affairs for comments regarding the upcoming review of the MGA. Eventually, a core group of five committee members met throughout 2012 and 2013 to solicit member input and thereafter draft, compile and synthesize the information gathered throughout 2013.

### Defining the Scope

In articulating proposed amendments to the current wording of the MGA, APPI felt that it is necessary to present and advocate for recommendations that are based on the evolution of commonly held planning principles and practices within the consistent philosophy of the primacy of public interest. The evolution of these principles and practices has been articulated from the Member comments received during this engagement process.

*Retaining a conceptual focus* – As a first priority, the Task Force recognized the need to focus on the principles and concepts raised by APPI members. Realistically, Municipal Affairs will need to wordsmith the resulting legislative text to achieve these objectives. The Task Force felt a need to guide specific wording of a provision only when it was warranted to address the scope of the recommendation. Some comments resulted in recommendations for administrative or technical amendments to the MGA.

*Influences from other legislation* – Other pieces of legislation interact with the MGA Part 17 and have an impact on planning decisions. A number of comments made by members recommended changes in other legislation such as the Alberta Building Code, Highway vicinity approvals by Alberta Transportation, water licensing standards and procedures, etc. To further refine the scope of this report, these comments were reviewed by the Task Force in the context of whether a change to the MGA would positively influence these other pieces of legislation or not. If not, then the comments were parked, but not necessarily ignored. Other legislation can affect how planning is done in Alberta, and the Task Force will be recommending that APPI advocate to Alberta Municipal Affairs and other government agencies to improve integration and alignment of the MGA with these other pieces of legislation. A separate Task Force report addressing member comments that can best be achieved through advocacy and education will follow this report.

### Engaging APPI Members

*Online Comments and informal gatherings* – Throughout 2013, APPI emailed all members to inform them of the MGA review process and the role APPI would play in relaying their comments. The email also invited planners to submit their personal suggestions for changes to the MGA. Members were also encouraged to comment via social media. Nearly 100 comments were submitted by planners across the Province of Alberta. The comments were then compiled in a table and posted on the APPI website.

*Regional workshops* – The Task Force and APPI Council worked with the APPI regional event committees to undertake a number of special MGA workshops across the Province during September 2013. Committee volunteers organized five workshops in Fort McMurray, Edmonton, Red Deer, Calgary and southern Alberta (hosted in Lethbridge). A sixth workshop was held during the October 2013 APPI annual conference in Jasper, Alberta.

Overall, approximately 160 members took the time to attend the six workshops. The significant volunteer efforts by workshop coordinators provided a rich database and a great foundation to build upon. APPI would like to thank all the individuals and regional events committees who volunteered their time to prepare, facilitate and document these workshops. The names of workshop coordinators and volunteers are listed in Appendix B.

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## Distilling and Interpreting APPI Member Input

*Condensing member comments* – In total, in excess of 500 individual member comments were received. These were summarized into a more readable 30-page format that was posted on the APPI website. (See Appendix D). The Task Force used this final summary document as a main reference for this report.

*Making Recommendations* – The core group of five Task Force members continued to meet throughout the fall of 2013 and into the spring of 2014 to analyze and assimilate the comments collected and make comprehensive recommendations.

The Task Force divided the recommendations into theme areas as follows, mirroring those themes used by Municipal Affairs in their public engagement:

- Overall Intent & Purpose
- Fees & Levies
- Land Management & Planning Tools
- Subdivision & Development Authorities
- Land Dedication & Use of Reserves
- Regional Approaches
- Public Participation & Planning Appeals
- Preparation and Sign-off of Statutory Planning Documents

## WHAT THE TASK FORCE HEARD

### Call to Action

Of utmost importance is what the Task Force believes to have underlain the majority of comments that APPI membership provided, which was a strong frustration with having to work within provincial legislation that does not recognize municipal funding constraints. These constraints seriously inhibit the implementation of sound planning practices to deliver solutions that protect the public interest and address the Triple Bottom Line (namely economic, environmental, and social considerations) in efforts to build great communities. By its nature, the public interest is served by implementing practices and solutions that are not commodity based and often serve a population that lies beyond a defined development site. Aside from senior government grants, typical revenue sources include property taxes, user fees, and developer contributions. Is it appropriate that these funding sources cover costs associated with the nature or extent of the goods and services that address the public need in a particular planning area without overburdening the funding source?

APPI believes that the solution to this issue is beyond the purview of what independent proposed amendments to the MGA can offer. However, it wishes to call Provincial attention to this dilemma, in the hope that it can be resolved through other legislative changes. The benefits that people bring to Alberta's economy cannot be underestimated: however the sense of community well-being that can be provided through the provision of well-planned, well-funded communities should not be underestimated in its role in attracting and retaining a skilled and diverse workforce to the province to drive a prosperous economy.

### Member Comments

Secondly, and not surprisingly, the vast majority of comments reflected Part 17 of the MGA. While most comments spoke at a conceptual level, there was also reference to specific parts of Part 17. Reflecting the nature of the comments received, the Task Force almost exclusively focused its recommendations on Part 17. Comments received that identified issues in Parts 1 – 16 of the MGA were not comments that could effectively be addressed by introducing changes to the Act. Accordingly, they were set aside. Overall the comments touched on the following areas and comments contained in Appendix D are organized in this fashion:

1. Purpose and intent of the act;
2. Provincial versus local jurisdiction;
3. Regional governance;

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4. Intermunicipal governance;
5. Treatment of large versus small municipalities;
6. Municipal charters;
7. Breaking the MGA into separate acts;
8. Relationship of the MGA with other legislation, specifically the Alberta Land Stewardship Act (ALSA), Safety Codes Act, and the original Provincial Land use Framework document, Highway Development and Protection Act, Housing Act, Heritage Act, Bare Land Condominium Act, Airport Vicinity Regulations;
9. Resource development;
10. Planning instruments such as land-use bylaws, statutory plans, intermunicipal development plans, municipal development plans, area redevelopment plans, area structure plans, bylaw amendment procedures, non-statutory plans, off-site levies, redevelopment levies, and development agreements;
11. Endeavors to assist;
12. Restrictive covenants;
13. Reserve land dedication including all type of reserve dedication, conservation easements;
14. The introduction and use of a new planning instruments;
15. Innovative municipal infrastructure financing methods;
16. Flooding in floodplain management;
17. Affordable housing;
18. Land-use density provisions;
19. Addressing climate change;
20. Environmental building practices;
21. Planning processes such as public consultation, subdivision applications, development permit applications, notices and referrals, public hearings, decisions and appeals;
22. Annexation;
23. Overall clarity of the act; and
24. Other miscellaneous comments.



## RECOMMENDATIONS FOR PROPOSED AMENDMENTS TO THE MGA

Membership comments that APPI felt could best be addressed through changes to the MGA are consolidated into the following issues and resulting recommendations. These issues have been reorganized to parallel the structure that Municipal Affairs has adopted to guide broader ongoing MGA public consultation.

### Overall Intent & Purpose of Part 17

#### **Issue: Enabling Legislation for Greater Municipal Flexibility**

More than ever, municipal sustainability requires flexibility so that interconnected agencies can operate effectively in a symbiotic relationship. The current MGA and other legislation limit the flexibility of school boards, municipalities and the private sector to act together without limitation. Providing enabling legislation allows the parties involved to use innovative tools and pool resources.

The Act needs to be updated to include contemporary land use and development tools. For example, it is questionable whether inclusionary zoning (the ability to require affordable housing to be provided as a consequential cost of growth) is permissible in the MGA. The application of form-based codes and performance zoning as potential tools run into limitations with the requirement to define permitted and discretionary uses in a land-use bylaw unless the municipality applies a direct control district (s.640 (2) b).

Although the MGA provides “natural person” powers to municipalities, MGA legislation limits the capacity for municipalities to enter into agreements with other agencies and jurisdictions e.g. limitations are imposed on the capacity of municipalities to share municipal services such as recreation centers and libraries with school authorities. Natural person powers under the MGA exist except where the Act specifies limitations.

**Recommendation:** The Province should amend the MGA to enable greater flexibility, while ensuring accountability, for municipalities to creatively solve municipally identified issues and to work collaboratively with other agencies and school boards.

*Rationale:* Municipalities have become increasingly more complex entities since the original Planning Act of 1977. New strategies are required to address increasing growth related pressures for services without increases in municipal and/or school taxes. The Province incorporated natural person powers into the MGA in 1994 except to the extent that they are limited by this or any other enactment (MGA s6). The limitations in the MGA should be reviewed to further empower municipalities to utilize new collaborative tools and relationships.

#### **Issue: Enabling Affordable Housing**

The MGA does not include any planning tools that encourage or mandate the provision of affordable housing as a component of development.

**Recommendation:** Amend the MGA to address the provision of affordable housing as a result of development.

*Rationale:* To address the increasing need for affordable housing as a result of population growth, municipalities need the ability to reasonably require future development (both residential and non-residential) to contribute to the development of affordable housing units.

The availability of housing that is affordable to all Albertans is an important component of safe, diverse and viable communities. A range of housing is also necessary and desirable for economic and social reasons, such as attracting a workforce and enhancing the safety, health and welfare of residents. A stable and secure housing market contributes to creating jobs, attracting new workers, meeting the needs of seniors and families, and keeping the most vulnerable citizens off the street. Evidence shows that

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accommodating this housing, in turn, reduces the impact on the health care system, the justice system, social services and other municipal and provincial services.

### Fees & Levies

#### **Issue: Capital Recreational/Soft Service Infrastructure Cost Funding**

Municipal ability to fund capital costs of recreational and soft services infrastructure is a concern. Capital costs of recreational and soft services infrastructure in new development areas should be considered a cost of development.

**Recommendation:** The MGA should include a mechanism that allows municipalities to fund capital costs associated with recreational and soft services as a cost of growth.

*Rationale:* Adequate and timely delivery of recreational and soft services infrastructure have a significant influence on quality of life in new communities. Given current municipal revenue sources, it is considered an unreasonable burden for the existing tax base to support the capital cost of these infrastructure improvements, particularly in new development areas without a sizeable population. It is more reasonable to require municipalities to support the ongoing operational costs of this infrastructure because the property tax contributions of build-out populations can adequately contribute to these facilities.

#### **Issue: Community Services Reserve (CSR) as a Requirement of s.661**

Currently, CSR is only available as a result of school sites being declared surplus. Community service uses allowed on CSR are often already provided in developed areas where school sites exist. Municipalities require these uses to be provided in greenfield areas but have no mechanism to acquire land for them.

**Recommendation:** Enable CSR to be taken as an eligible part of the 10% reserve dedication at the subdivision stage as either land or cash in lieu of land. Cash in lieu can only be used to purchase land for CSR purposes.

*Rationale:* To ensure that land is available to accommodate development of community uses listed in s.671 (2.1), municipalities require the ability to take CSR at the time of subdivision, thereby incorporating CSR in greenfield areas as well as developed areas.

#### **Issue: Community Services Reserve (CSR) Uses Included in Redevelopment Levy**

The need for CSR uses can arise as a result of redevelopment, yet municipalities have no mechanism to acquire land for these uses.

**Recommendation:** Include land for CSR uses as part of the listed purposes in a redevelopment levy s. 647(2) (a).

*Rationale:* When redevelopment results in increased densification, a need can arise for provision of community service uses to adequately service the increased population. At present, municipalities have no mechanism to acquire land for these uses. Adding the uses identified in s.671 (2.1) to s.647 (2) would provide the ability to use redevelopment levy funds to acquire land for these uses.

#### **Issue: Terms and Conditions of Repayment of Oversized Improvement Costs**

There is a lack of clarity about when and if costs incurred to oversize utility capacities are reimbursed.

**Recommendation:** The MGA should specify the duration and reasonable interest rate provisions for oversizing agreements.

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*Rationale:* s.651 (1) provisions for oversizing agreements are silent on how long an adjacent landowner may be required to contribute to past oversizing. Nor do they specify what would be a reasonable interest rate and how compounding interest could adversely affect a future developer.

### Land Management & Planning Tools

#### **Issue: Statutory Plan Hierarchy**

The plan hierarchy is assumed to be well understood, yet municipalities and the courts have interpreted that hierarchy in different and sometimes contradictory ways. Some consider the Municipal Development Plan to be the highest order plan, yet Land Use Bylaw decisions often trump the expressed desire of a community as contemplated through policy.

**Recommendation:** A standardized plan hierarchy should be developed in a manner that correlates with the size and complexity of the municipality and the level of planning that should take place. Also, the requirements (and name) of intermediate plans (for example, conceptual schemes, outline plans, concept plans) that are sometimes adopted between the ASP and Land Use should be outlined.

*Rationale:* Municipalities differ in size, population and land considerations but in each it is unclear when a statutory plan should be undertaken and to what level. Population levels or geographies attributed should be used to determine the appropriate level of planning that is required.

#### **Issue: Statutory Plan Consistency**

MGA s.638 requires that all plans be consistent with one another, yet in reality, this is the exception and not the rule. Municipalities update Land Use Bylaws regularly but statutory plans tend to be updated at irregular intervals. When a higher order plan is reviewed, it does not follow that related plans are updated either.

**Recommendation:** A section similar to s.638 should be added to each Statutory Plan to ensure compliance is achieved in the production of subsequent plans and that a realistic timeline or trigger be added to ensure plan consistency is attained.

*Rationale:* It is important to note that in order for plans to be implemented effectively, they must connect to contemporary rules and regulations in an integrated fashion.

#### **Issue: Statutory Plan Consultation Requirements**

It is unclear who should be consulted when statutory plan amendments are contemplated. MGA provisions need clarification regarding the nature and type of consultations that should occur in the amendment of these plans.

**Recommendation:** Additional details regarding adequate consultation should be introduced in the MGA to ensure appropriate amendment of statutory documents. The exception clause for amendments to Statutory Plans (s.636 (2)) should be removed, as this is contrary to the need for transparency and openness in making decisions regarding the public interest.

*Rationale:* Statutory plans govern the development and redevelopment of specific areas within a municipality. Decisions rendered as a result of amendments to these plans affect not only area residents but businesses and prospective developers. The social, economic and environmental realities under which these plans operate changes over time. There is a need to review the relevancy of these plans in a timely manner and for openness and transparency within which any changes to these plans are made.

#### **Issue: Floodplain Management Should be a Mandatory Consideration in Planning and Development Issues**

Section 693.1 addresses the Minister's capacity to control development of land in floodways and appears to be a reactionary measure. However, it is incumbent upon municipalities as the local approving

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authority to be the first line of defense against the development of inappropriate uses in flood prone areas.

**Recommendation:** Notwithstanding Section 693.1, amend sections 631 to 636 in the MGA to require municipalities to address flood plain management in planning and development decisions by adding to these sections that statutory plans must consider “any potential for the flooding, subsidence or erosion of the land”.

*Rationale:* With the situation in southern Alberta during the floods of 2013, flood plain management is long overdue and a proactive approach to development in flood prone areas will substantively mitigate the potential for future property damage.

### **Issue: Requirement to Adopt an Intermunicipal Development Plan (IDP)**

Intermunicipal Development Plans are a beneficial tool, but they require a greater degree of certainty as to when a municipality must actually develop an IDP. S.631 should be expanded to define required elements to be considered in an IDP and where the IDP fits in the hierarchy.

**Recommendation:** It is recommended that the MGA be amended to:

- clearly identify the IDP as superseding other Statutory Plans and require that all urban municipalities with a population of 3500 or more adopt Intermunicipal Development Plans that are developed collaboratively with relevant neighbouring municipalities
- delete s. 631.1
- change provisions as areas that an IDP “may address” in s.631(2)(a) to areas that an IDP “must address” in s.631(2)(b)
- expand s.631(2)(b) to address environmental, social and economic matters that need to be addressed between the participating municipalities and to include the manner and form within which annexation proposals will be addressed.

*Rationale:* In order that IDP s become effective tools the matters considered by municipalities at the MDP and ASP stage should also be considered between adjacent municipalities so that the built and physical environments are able to connect regardless of political boundaries.

### **Issue: Requirement for Intermunicipal Issues to be Addressed in a Municipal Development Plan (MDP)**

At present there is a requirement that, in the absence of an Intermunicipal Development Plan, a municipality should address jurisdictional issues when developing its Municipal Development Plan. But the MGA does not specify that consultations with a neighbor must occur.

**Recommendation:** In the absence of a requirement that all urban municipalities with a population of 3500 or more must prepare an Intermunicipal Development Plan, there should be, at a minimum, a requirement added to s.632 (3) (a) (iii) that an MDP must provide for a means of consulting with an adjacent municipality on land use and development applications adjacent to the affected municipality.

*Rationale:* Without an express requirement that municipalities either develop an Intermunicipal Development Plan or that an MDP addresses the requirement for intermunicipal consultations, conflicts may result as a result of municipal land use and development decisions.

### **Issue: Matters that Must Be Addressed in Municipal Development Plans**

s.632 (3) identifies certain matters that are mandated to be addressed within a MDP (3a) but leaves other matters as discretionary (3b). Today a triple-bottom-line approach to planning communities should balance economic, social and environmental matters in planning documents.

**Recommendation:** s.632 (3) (a) should be changed by making it mandatory to consider all issues now listed under s.632 (3) (b). Additionally, it should be mandatory to address water conservation and energy efficiency measures in a MDP.

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*Rationale:* Recognizing the triple-bottom-line premise of planning approaches in the 21<sup>st</sup> century, environmental considerations must be afforded greater attention.

### **Issue: Required Content of Area Structure Plans (ASP)**

An Area Structure Plan is intended to provide more detailed municipal development direction on an area specific basis to ensure consistency with a MDP. Currently, the MGA does not facilitate this “carry-over” of direction. Ideally, ASPs should ensure all relevant provisions contained within a MDP are addressed within an ASP so that the triple bottom line principles (namely economic, environmental, and social considerations) addressed by the MDP are also addressed on an area specific level. Additionally an Area Structure Plan should take account of adjacent areas and address the impact the plan may have on subsequent development/redevelopment on these areas.

**Recommendation:** The matters addressed in s.632 (3) should also be considered in s.633 (2) so that the triple-bottom-line principles addressed at the MDP level are connected at the ASP level.

*Rationale:* s.633 (2) is somewhat weakly defined. It needs to provide enough direction so that municipalities are able to ensure MDP triple bottom line objectives are aligned and are achievable throughout the hierarchy of statutory planning documents.

### **Issue: Is there a More Appropriate Name for Area Redevelopment Plans (ARP)?**

The use of the term “Area Redevelopment Plan” is dated and implies that an area is in need of repair, which may not always be the case.

**Recommendation:** The current name for Area Redevelopment Plans should be changed to something more positive such as “Area Enrichment Plan” or “Area Enhancement Plan.”

*Rationale:* Redevelopment implies a desire to change the nature of a community. In many cases, the plan area is in need of maintenance, modernization or enhancement, but it does not need to be “redeveloped”. The language should be consistent between the intent of the Plan and the need of the plan area.

### **Issue: Clarification of Council Endorsement of Proposed Bylaw Amendments relative to Required Public Hearings**

Currently, s.692 requires that a public hearing be held prior to second reading of a bylaw to amend most statutory plans. If a bylaw does not pass First Reading, there is no obligation for Council to further consider the proposed amendment. The applicant proposing the amendment may be denied due process afforded by conducting a public hearing. Additionally, the public does not have the ability to provide input on the possible merits/impacts of the proposed amendment. Some municipalities choose to use first reading as a “test” to determine whether to even proceed to a hearing.

**Recommendation:** The Act should be amended so that it is clear that a public hearing must be held before a matter can be dismissed.

*Rationale:* Once a matter has been reviewed in terms of the technical merits and municipal priorities, the applicant and the public should be afforded the right to be heard publicly regarding the matter despite the perceived merits of the application.

## Subdivision & Development Authorities

### **Issue: Current Technology Inclusion in Communication Methods for Notices and Referrals**

The MGA has not incorporated newer technology for communication purposes, such as information dissemination, input and referrals. Due to advances and changing trends in communications technology, not all affected individuals may be adequately notified by communication methods currently ensconced in the Act.

**Recommendation:** Amend the MGA to reflect current communication technology and include various means of information dissemination in addition to notices, letters, newspapers, mail-outs, etc. to advise and receive feedback from different affected stakeholders.

*Rationale:* Municipalities may be able to notify and capture input from more people on planning and development matters by using modern communication methods, including social media. The current list of mechanisms for providing notification in the MGA is antiquated.

### **Issue: Coordination and Cooperation between Municipalities and Exempted Agencies**

The MGA does not encourage cooperation and coordination between municipalities and any agencies/bodies identified in exception clauses in s.618-620.

**Recommendation:** Amend the MGA and other legislation to allow more robust municipal input into decisions made by agencies currently identified under sections 618-620.

*Rationale:* Decisions made based on MGA s.618-620 have major implications on the affected municipality. While it is understood that decisions can be made by approving authorities other than municipal approving authorities, cooperation and coordination among the approving authority, municipality, and industry should be a component of the decisions. Omitting one of these parties from the overall process creates problems.

### **Issue: Appeals Filed Under s.690 of the Act**

The process outlined in s.690 does not impede frivolous appeals between municipalities, nor does it allow an affected land owner(s) the possibility to provide input in intermunicipal disputes. Discussions are allowed only between the two municipalities.

**Recommendation:** Incorporate the same intent of mediation that is espoused in s.112.1 into s.690 to reduce the ability of municipalities to walk away from discussions/negotiations and to allow an affected land owner to provide input in the dispute, if all parties agree.

*Rationale:* A number of appeals under s.690 have been raised simply for the sake of submitting the appeal rather than on the actual situation at hand, creating additional costs. Including an acknowledgement that municipalities are expected “to reach their own mutually acceptable settlement of the matter by structuring negotiations, facilitating communication and identifying the issues and interests of the participants prior to filing an appeal” into s.690 (3) should reduce the number of frivolous appeals. When a decision is reached by the municipal authorities that significantly alters the potential use of land, it seems reasonable that the municipal authorities consider the land owner’s point of view in reaching their decision.

### **Issue: Clarity on What Constitutes a Complete Development Permit or Subdivision Application**

The trigger mechanism as to when a development permit or subdivision application is deemed complete is unclear. As a result, appeals are filed when an approving authority did not have adequate information to assess the application.

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**Recommendation:** Amend s.684 of the MGA and s.6(b) of the Subdivision and Development Regulation to indicate that the 40 days or 60 days, respectively, begins after receipt of a complete application, as deemed complete by the municipality. Additionally, this section should be amended to require a municipality to itemize what supporting documentation is required before an application can be deemed “complete.”

*Rationale:* There is confusion on when appeals should or should not be initiated, especially if there was no extension or decision. This lack of communication can be frustrating for an applicant as it can delay a decision being issued for the development permit or subdivision plan. Clarifying the completion process for these applications will ensure applicants understand the required documentation.

### **Issue: Maximum Limits for Endorsement of Subdivisions**

Clarification of time extensions is needed for subdivisions. The MGA does not note how many extensions can be granted or the overall period of time within which a subdivision approval is valid, if extension(s) have occurred.

**Recommendation:** Amend the MGA to provide clarity on the number of times and the maximum duration through which a subdivision endorsement can be extended.

*Rationale:* It does not seem reasonable that, once granted, a subdivision approval has the potential to remain valid, through Council approved extensions, for an indefinite period of time, especially if the one-year, originally defined period of approval has already expired.

## Land Dedication & Use of Reserves

### **Issue: Introduce Environmental Protection into the Definition of Environmental Reserve (ER)**

ER currently addresses the developability of land, rather than recognizing its ecological function.

**Recommendation:** Redefine ER in s.663 to recognize environmentally significant areas based on scientific assessment of the area’s significance and the potential to mitigate impacts resulting from incompatible development.

*Rationale:* In keeping with the need for municipalities to make decisions within a triple-bottom-line context, (namely social, economic and environmental consideration) identification and protection of environmentally significant areas must become a prime consideration when a municipality makes development decisions.

### **Issue: Protection Required for Environmentally Significant Areas**

Environmental assessments are required to define how best to protect environmentally significant areas

**Recommendation:** In s.633 (2), require that an Area Structure Plan must identify environmentally significant areas within the plan area and must describe the impacts of intended development on them.

*Rationale:* An Area Structure Plan is the appropriate level of planning for identification of environmentally significant area and measures that must be taken to protect them, given the type of development that the ASP contemplates adjacent to these areas.

### **Issue: Change of Reserve Designation from Municipal Reserve (MR) to Municipal and School Reserve (MSR)**

Currently, a municipality can change a reserve dedication of land from MR to SR without adhering to the procedures in s.674. However, if a municipality wishes to change the reserve dedication from MR to MSR and provide for joint interest/ownership by both the municipality and the school authority, the municipality must formally dispose of the MR designation before entering into an agreement between the municipality

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and the school authority to use the land for a purpose intended in s.671(2). The resulting agreement will be outside of the auspices of a reserve designation.

**Recommendation:** Amend s.673 (1) to allow a change of reserve designation from MR to MSR, just as a municipality can change the designation from MR to SR without requiring a public hearing.

*Rationale:* The lack of ability to easily change the reserve designation of land from MR to MRS appears to be an oversight within the MGA. The ability to do so, without the need to formally dispose of the MR designation, would simplify the process to bring the land into joint ownership between the municipality and a school authority and, at the same time, continue to encumber the land with a reserve designation.

### Regional Approaches

#### **Issue: Enabling/Encouraging Regional and Intermunicipal Planning and Cooperation**

The MGA should include opportunities that enable and encourage regional and intermunicipal planning and cooperation/governance.

**Recommendation:** Recognition of the need to establish regional land use bodies as voluntary associations/commissions should be given consideration in the Act. However, in the case of the Calgary and Edmonton regional areas where several municipalities may be struggling to reach collaborative solutions voluntarily, the Province should step in and mandate a process that defines and resolves substantive issues affecting the region. Substantive issues need be addressed using a triple-bottom-line approach that articulates the economic, environmental and social issues and benefits that the region would face as a result of these potential solutions. The MGA should enable other areas with significant diverse issues to be similarly mandated.

*Rationale:* A significant number of issues related to growth and development require several affected municipalities to come together to find equitable solutions to regional issues. These impacts are often considered beyond the scope of an Intermunicipal Development Plan as they may pertain to several municipalities that are not “related” by adjacent boundaries with each other. The ideal would be providing the opportunity to address these issues in a voluntarily and collaborative fashion. However, in cases where differences of opinion amongst affected municipalities are so diverse that identified solutions are unproductive, the Province needs to be able to mandate a regionally defined solution and to require regionally defined adherence to these solutions.

#### **Issue: Provision for Big City Charters**

Not all municipalities have the same issues. The MGA, however, regards all municipalities as equals in all respects.

**Recommendation:** Amend the MGA to enable city charters for Calgary and Edmonton.

*Rationale:* Large cities usually have more complex and larger-scaled issues that require special jurisdictional considerations than other smaller cities in Alberta (e.g., affordable housing, infrastructure renewal, rapid transit, etc.). As such, they should be allowed to have enhanced jurisdiction on these matters as well as have the ability to raise revenues in different ways to provide these services. These charters could be an opportunity to pilot innovative provisions before introducing them into the MGA.

#### **Issue: Annexation Principles**

The Municipal Government Board (MGB) has implicitly followed and implemented a set of principles when dealing with annexations but the Minister has never embodied these in the MGA to make them readily accessible.

**Recommendation:** Amend Part 4, Division 6 and create a new 112.1 to explicitly note the principles of annexation that the MGB uses when making decisions on annexations.



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*Rationale:* Through Section 76 of the MGA “The Minister may publish principles, standards and criteria that are to be taken into account in considering the formation, change of status or dissolution of municipalities and the amalgamation of or annexation of land from municipal authorities.” Having these principles outlined specifically as a provision in the MGA provides additional transparency in the process.

### Public Participation & Planning Appeals

#### **Issue: Communication Methods for Public Input and Public Notification**

Public input and public notification are limited to newspaper, notices, attendance at public meetings and letters.

**Recommendation:** The MGA should be amended to incorporate newer technologies and avenues for public input and notification, as well as require municipalities to pass a public engagement bylaw that will outline what constitutes valid input into the process.

*Rationale:* With the introduction of social media, the MGA should recognize that these new forms of information gathering and expression are equally valid ways for the public to provide their interests in a planning matter.

### Preparation and Sign-off of Statutory Planning Documents

#### **Issue: Preparation and sign-off of statutory municipal planning documents by qualified professionals**

Currently there is no mechanism in the MGA to ensure that statutory municipal planning documents are being prepared by qualified and insured professionals. This exposes municipalities and the public to environmental, social or economic risk.

**Recommendation:** Amend the MGA to include a requirement that only an individual with the Registered Professional Planner (RPP) designation oversees the preparation of and signs off on all statutory plans.

*Rationale:* By having a Registered Professional Planner prepare and sign-off on municipal statutory planning documents, a municipality is assured that the work is being undertaken by a qualified individual, who is insured and accountable under the Registered Professional Planners Regulation of the Professional and Occupational Associations Registration Act. Registered Professional Planners are fully certified by the Alberta Professional Planners Institute. They are held to a professional code of conduct, which includes ethical practice, value of acting in the public’s interest, and a requirement to maintain currency in the knowledge and skills of planning practice.

## Conclusion

Part 17 of the current MGA has guided subdivision and development for 37 years since it was first introduced in the Planning Act in 1977. The basic framework for Alberta’s planning legislation has stood the test of time as reasonably simple, workable, logical and clear. Even though the Act has been amended periodically, it is important to recognize that the social, environmental and economic climates of today’s planning and development are significantly different and more complex than the world of 1977.

The recommendations contained in this report are intended to advance planning legislation to better reflect the current reality and protect the overall public interest as the overriding mandate of Part 17 of the Act.

## APPENDICES

### APPENDIX A

#### Discussion Paper – APPI Task Force on the MGA Review

##### Foundation of Planning in Alberta

Planning was first legislated in Alberta through the 1913 Town Planning Act. However, it was the 1929 Town Planning Act that introduced planning practices that are still familiar today. This practice was a hybrid of British centralized planning and American planning with a focus on master planning and zoning. Many of the concerns that were addressed in the 1929 legislation were about so-called nuisance issues and conservation matters that followed an early era of robust growth (Gordon & Hulchanski, 1985, p. 3).

By the 1940s, following discovery of oil in Leduc, concerns about rapid suburban growth led to the need for coordinated planning. The result was the creation of a Royal Commission on provincial-municipal relations and in turn to the creation of a Provincial City Act in 1951 and the adoption of a uniform municipal code. At this time, the need for rural and urban land-use planning was seen as both a way to better coordinate wasteful development, enhance the provision of infrastructure, and improve the financial position of municipalities (Gordon & Hulchanski, 1985, p. 4).

Major amendments to planning legislation occurred in Alberta in 1948, 1950, and 1953. These included allowing municipalities to require building permits, set minimum standards for construction, and allow for land-use bylaws to levy penalties for infractions. The 1950 amendments to the Planning Act also allowed for the creation of District Planning Commissions (DPC). DPCs would “act in an advisory capacity on any matters pertaining to planning which may be of common concern to any two or more of the represented municipalities” as well as create zoning bylaws and community plans (Gordon & Hulchanski, 1985, p.. 7).

##### ***Regional Planning in Alberta, 1950 to 1994***

|                        |   |
|------------------------|---|
| <b>1929</b>            | <b><i>Alberta Planning Act</i></b>  |
| 1950                   | <i>Edmonton Regional Planning Commission</i>  |
| 1951                   | <i>Calgary Regional Planning Commission</i>   |
| 1952                   | <i>Red Deer Regional Planning Commission</i>  |
| <b>1953</b>            | <b><i>Alberta Planning Act</i></b>  |
| 1954                   | <i>South East (Medicine Hat) Regional Planning Commission</i>   |
| 1955                   | <i>Oldman River (Lethbridge) Regional Planning Commission</i>   |
| 1958                   | <i>Peace River Regional Planning Commission</i>   |
| 1960                   | <i>Battle River Regional Planning Commission</i>  |
| <b>1963 &amp; 1977</b> | <b><i>Alberta Planning Acts</i></b>   |
| 1978                   | <i>Palliser Regional Planning Commission</i>  |
| 1982                   | <i>Yellowhead Regional Planning Commission</i>  |
| 1983                   | <i>Peace River RPC divided:</i> <ul style="list-style-type: none"> <li>• <i>South Peace Regional Planning Commission (Grande Prairie)</i></li> <li>• <i>Mackenzie Regional Planning Commission (Peace River)</i></li> </ul> |
| <b>1994</b>            | <b><i>Alberta Planning Act repealed, Regional Planning Commissions abolished, Planning incorporated into a new <b>Municipal Government Act</b></i></b>  |

(Gordon & Hulchanski, 1985, p. 8)

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In Edmonton, area municipalities joined together to form a district planning commission in 1950. In 1951, Calgary followed suit, followed by other cities in the province. The province and municipality on a 50/50 basis financed commissions. The District Planning Commissions (DPC) was voluntary and thus a municipality could choose whether to join. They were designed to lend support to municipalities that were preparing zoning bylaws or land-use plans.

In the 1960s, both Edmonton and Calgary faced challenges with developments in the urban shadow (also called the fringe) and both cities eventually started working on plans that addressed growth in the broader regional setting. These plans were about land-use and development control rather than policy. This orientation occurred because planning at the time was still largely focused on addressing immediate problems, fixing issues, protecting property values, and controlling growth as opposed to being focused on a future preventative plan that would address and direct growth in the community and the region to prevent issues from arising.

During the 1960s, District Planning Commissions became Regional Planning Commissions (RPCs). In 1963, changes to the Planning Act required the Regional Planning Commission to prepare preliminary Regional Plans. In 1968, the province also delegated subdivision approval authority to Regional Planning Commissions for all municipalities they represented, which exemplifies further devolution of provincial control. The province also required that Regional Plans be completed by 1972, establishing an Alberta Planning Fund in 1970 to support the development of such plans. The Province funded 70% of the cost to operate regional planning commissions and requisitioned the balance from municipalities. Subsequent changes to the Planning Act in 1977 further enshrined the Regional Planning Commission process in Alberta, which stayed in effect until 1994 (Gordon & Hulchanski, 1985, p. 9).

### Philosophical Shifts in Alberta 1995

As part of provincial cost cutting in Alberta, and in part because of pressure from rural municipalities, the province eliminated the Regional Planning Commissions (RPCs) system and replaced it with an intermunicipal approach to planning (Parker, 2005, p. 31). At about the same time, the province replaced Provincial Planning Legislation. Since 1913, the province had maintained separate planning legislation such as the first Town Planning Act (1913).

In 1995, this changed as the Province sought to consolidate a number of separate pieces of legislation into a single statute. The new legislation that was created had a dramatic affect on how municipalities could function. One commentary noted that:

Under previous legislation, municipalities had only those powers specifically set forth by statute. Now, municipalities have all the powers of a natural person unless limited by legislation. The difference being that under the old legislation the municipality had to check the legislation to see if it could do a specific act, now it checks the legislation to see if there is a specific prohibition. The new legislation specifically states that council is to have broad authority and the right to govern in whatever way the council consider appropriate as long as they are within the legislative jurisdiction delegated to it by statute.

The new legislation has also made municipalities more like business corporations rather than a lower form of government. Although the new legislation states that the purposes of a municipality is to provide good government, services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality and

to develop and maintain safe and viable communities, the fact that it now has the powers of a natural person (unless specifically limited) gives it basically the same powers as a corporation incorporated under the Business Corporations Act.

(Carr & Company, 2011, para. 1-2)

### Philosophical Shifts

Since the 1913 Alberta Town Planning Act, the role of land-use planning in Alberta has been based on the utilitarianism philosophy of Jeremy Bentham and J. S. Mill. This philosophy is essentially based on the notion that the “public good” is whatever brings the greatest happiness to the greatest number of people. The introduction of the MGA in 1995 was the most significant philosophical shift in Alberta land-use planning in nearly a century. The shift caused materialism, as a hallmark of the utilitarianism philosophy, to be reinforced, while the utilitarian principle of supporting the greatest good became arguably a lesser concern.

The shift was influenced as well by a decidedly more Libertarian perspective on the rule of law and the role of government. That is to say by focusing more on the view that the free market is inherently just and that a historical perspective should be taken when considering how people should be treated versus the utilitarian perspective that is more forward-looking and based on consequences or outcomes.

This is demonstrated through the adjustments made to the written intent of the Planning Section (Part 17) of the MGA from that of the Planning Act (1977), which augmented the rights of the individual. It is suggested that by shifting focus and power, many were unprepared for the consequences (Greene, J., 2012).

### Regional Planning Commissions in 1995

One of the principal outcomes that came about in the change from the Alberta Planning Act of 1977 to the new Municipal Government Act of 1995 was the elimination of provincial support for regional planning commissions (RPCs) provided by the province through the Alberta Planning Fund. The result of the provincial government’s elimination of financial support was that many municipal governments ceased to contribute to the fund. As a result, regional planning commissions began to slowly unravel. While some regional planning commissions continued to limp along in some fashion, few managed to reframe the roles that were desired by their member municipalities.

While some municipalities chose to retain support for planning through one of these agencies, most created their own planning departments. The challenge for many was that planning, when it was retained, was limited to land-use (zoning) applications, subdivision and development permits, or what is often referred to as “current” planning or “development control.” The focus on development control essentially returned the province to a time when development control was the predominant function of planning (the 1950s).

As the economy began to pick up pace again in the late 90s, many municipalities discovered that their processes, plans, and bylaws were out-dated and did not reflect current legislation or contemporary approaches to development. As a result, municipalities were faced with accelerated growth and development with little ability to anticipate, manage or monitor the potential consequences (both good and bad) of such developments (Greene, J., 2012).

### Intermunicipal Planning - Post 1995

The new Municipal Government Act of 1995 allowed for municipalities to enter into voluntary intermunicipal servicing arrangements with one another and to undertake inter-municipal development plans (IDPs). To a degree, voluntary servicing arrangements did take place. Some of these were completed or done between municipal jurisdictions through bi-lateral agreements, while others were completed with the assistance of the remnant regional planning commissions.

Statutory inter-municipal development plans were an attempt within the structure of the MGA—and combined with the Alberta Provincial Land-Use Policies—to ensure that matters that affected the boundaries of two or more jurisdictions were coordinated. Many of the “first-generation” IDPs were frequently weak policy documents, were ignored by one jurisdiction or another, or were used as weapons to elevate issues to provincial authorities.

The debates arose often through inter-municipal dispute resolution tools that existed within the structure of inter-municipal development plans. Mediators enlisted by the Alberta Dispute Resolution Group at Municipal Affairs were busy during these years (Greene, J., 2012).

Reference:

Carr & Company. (2011). *The Municipal Government Act*. Retrieved from [www.carrlaw.ca](http://www.carrlaw.ca) [material no longer on line]

Gordon, Michael and Hulchanski, J. David. April 1985. *The Evolution of the Land Use Planning Process in Alberta 1945-1984*. Research paper No. 156, 51 pp., Toronto: University of Toronto Centre for Urban and Community Studies.

Greene, J. (2012). Regional Planning 8220, Regional Planning Course Materials. Edmonton: University of Alberta, Faculty of Extension, Government Studies.

## APPENDIX B

### MGA Amendments APPI Member Outreach Program

#### MGA Review Task Force Core Members

| Region     | Member Information          | Role                         |
|------------|-----------------------------|------------------------------|
| Calgary    | Gail Sokolan, RPP, MCIP     | Chair, Contributor           |
| Calgary    | Tammy Henry, RPP, MCIP      | Contributor                  |
| Calgary    | Teresa Goldstein, RPP, MCIP | APPI Councillor, Contributor |
| Canmore    | Frank Liszczak, RPP, MCIP   | Contributor                  |
| Lethbridge | Jeff Greene, RPP, MCIP      | Contributor                  |
|            | Alison Smith                | Editor                       |

#### 2013 Regional Event Program

| Region                           | Registration contact and workshop lead role                      | Workshop Date      | Venue                          | Number of Registered Participants                  |
|----------------------------------|--|--------------------|--------------------------------|--|
| Edmonton                         | Heather Chisolm, RRP, MCIP                                       | October 1, 2013    | Royal Glenora Club             | 42 registered                                      |
| Calgary                          | Brenden Smith, Richard Parker, RRP, FCIP                         | September 18, 2013 | The Kahanoff Conference Centre | 30 registered (55 attended)                        |
| Southern (Lethbridge)            | Tyson Boylan<br>Kent Snyder, RRP, MCIP<br>Jeff Greene, RRP, MCIP | September 24, 2013 | Main Branch Library            | 30 registered                                      |
| Red Deer                         | Amanda McConnell, RRP, MCIP                                      | September 26, 2013 | DWTN Public Library            | 15 registered                                      |
| Fort McMurray                    | Tom Schwerdtfeger, RRP, MCIP                                     | September 5, 2013  | Timberlea Landing room         | 35 registered                                      |
| Jasper (APPI Conference Session) | Bill Symonds, RRP, MCIP<br>Michelle Freethy                      | October 4-7, 2013  | Jasper Park Lodge              | 35-45 table participants throughout the conference |

#### 2013 APPI Jasper Conference Outreach

The MGA Review Task Force invited conference attendees to participate in round-table discussions on the MGA Amendments throughout the 2013 conference. Attendees were invited to also affix comments and potential amendments to a working board centrally located at the conference. More than 35 planners at the conference participated in various MGA amendment related activities.

## APPENDIX C

### Consolidation of Input Received from Individuals and Regional Workshops

This document contains a consolidation of all input from APPI members with regard to changes that could be made to the MGA. This input came from individual comments received from members as well as input collected through regional workshops that were hosted by APPI Regional Events Committees and a session at the APPI conference in Jasper in October 2013. The origin of the comments is provided in brackets at the end of the individual comments and can be identified using the following explanation of the coding, as follows:

|  |   |
|--|---|
| CEC = Calgary Events Committee               | EEC = Edmonton Events Committee   |
| RDEC = Red Deer Events Committee             | SAEC = Southern Alberta Events Committee  |
| RMWB = Regional Municipality of Wood Buffalo | CMGAP = Conference MGA Panel  |
| CDB = Conference Discussion Boards           | IMC = Individual Member/Group Contribution<br>(includes contributions made in the initial<br>callout to members for feedback) |

Comments have been grouped into relevant topics that were used by Municipal Affairs in its presentation at the Jasper conference.

## Intent of the Act

### Purpose

- The intent of the Act should be helpful for Alberta. There should be positive long-term legacy statements at the beginning of the act. (CMGAP)
- In regards to planning the MGA should explicitly state that it does not regulate people and behaviours - It only regulates land use. (SAEC)
- MGA should define a term for the opposite of development. Currently, it only defines what development is. (SAEC)
- The Act should identify common values for municipalities in AB, e.g. sustainability. (SAEC)
  - Including specifics on sustainability could become too prescriptive. (SAEC)
- MGA is philosophically flawed. It identifies that the province always know best, but they don't (RDEC)
  - MGA should be enabling vs. prescriptive legislation (CEC, EEC, RDEC, SAEC, RMWB)
    - Discussion on idea of the MGA. It may be too prescriptive. What is its purpose? Enabling vs. Prescriptive. (CEC)
    - MGA needs more purpose – from vision, rather than prescription. (SAEC)
    - Intent of MGA should be to empower municipalities to make the decisions and define specific regulations. (CEC)
    - Enabling legislation – legislation should facilitate municipalities to make decisions as opposed to providing prescriptive regulations. (CEC)
    - Maintain enabling (flexible) aspect of MGA. (SAEC)
    - Set outcomes required and allow flexibility for municipalities to achieve outcomes -Get ahead of the curve, more proactive planning (i.e. ER designation can take place too late in the game). (EEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Municipalities should have natural person power and be allowed to do whatever they want as long as another level of government doesn't already address it. (RDEC) (popular thought/comment)
- MGA currently limits the tools that apply to land use regulation. Rather, it should enable MDPs to address use of planning tools. (CEC)
- Legislation should facilitate municipalities to make decisions, rather than be prescriptive. It should allow and set criteria. It should also have reporting requirements. (CEC)
- The MGA doesn't allow municipalities to go over and above which leads to everyone doing the bare minimum. (RDEC) (popular thought/comment)

### Provincial vs. Local Jurisdiction

- Provincial and local government should be equal, or at least the MGA should define what the relationship is between the two. (RDEC)
- How are provincial interests accommodated through municipal planning controls? (CEC)
- MGA should enable services to be delivered at local level where possible (i.e. inclusionary zoning, flexible shared municipal services like schools, recreation centres, libraries, etc). (EEC)
- The Act should lay out provincial interests and should clarify where environmental regional plans are layered / used. (CMGAP)
- Should the MGA determine that there are some aspects that a Municipal Council does not have a deciding authority on? (SAEC)

### Regional Governance

- Encouragement for regional governments. (CMGAP)
- Regions should be defined. Should they be based upon political, urban/rural, watershed boundaries? (SAEC)
- Challenge of watershed areas not matching urban areas. (EEC)
- Capital Region Board voting structure gives defacto proviso re: veto for regional development (farther than old 5 mile radius in Planning Act). (EEC)
- Concern of whether Regional Plans / IDPs are enough to truly have coordination of development between neighbouring municipalities. (SAEC)
- How is equality achieved in economic development through regional plans? (SAEC)
- Some opposition to creation of regional districts and BC-like system: Regional systems are beneficial and can resolve municipal fighting. (CEC)
- Re-look at regional planning mechanisms. (CEC)

### Intermunicipal Governance

- Intermunicipal governance should be a topic of discussion. Relationship between municipalities at a local to local metropolitan regional scale. (CEC)
- Principles of equity need to address differences between rural and urban municipalities – e.g. regional infrastructure spending/financing/revenue and expense sharing. (CEC)
- MGA should provide options for different governance arrangements between municipalities. (CEC)
- Mandating an intermunicipal development area (IDA) size. You could compel cooperation between the rural-urban fringe and work with how to deal with revenue sharing in fringe areas. What should the definition of a minimum IDA be? (CEC)
- Scale is very important. One of the issues is that every municipality is treated equal in this province, leading to issues with municipal financing and infrastructure duplication – examples in the Calgary area include CrossIron Mills, twinning of water line - should the City of Calgary be able to cash in all its water rights on the Bow? (CEC)



## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Fully explore / understand costs and benefits of growth. Be transparent and secure. (CDB)
- Rural Assessment Rules have hidden provincial subsidies on agriculture. (CEC)
- Reallocate machinery and equipment tax. (EEC)
  - Heavily weighted to rural. Need to spread more evenly between the urban centres.
  - More regional transfer mechanisms are required to balance the issue of large municipalities subsidizing the services of populations living/paying taxes in adjacent bedroom communities.
  - Stretches small towns as rural municipalities get all of the tax assessment. E.g. is MD of Bonnyville vs. Town of Bonnyville. Tax base is in MD but services are in the municipality.
  - Tax on pipelines in urban areas is lower – should be equal.
- Machinery and equipment tax is not an MGA issue, rather a finance issue.(EEC)

### Small vs. Large Municipalities

- Should there be different legislation for different-sized municipalities? (CEC)
- Larger cities would like wider range of tools to deal with wider range and scale of issues - One size doesn't fit all. (EEC)
- Cities have more unique needs and therefore should have more power than smaller areas. (RDEC)
- How should scalability in the MGA (i.e. MDPs, charters etc.) be addressed? (SAEC)
- There is a fundamental problem with a piece of legislation that applies from summer villages to large cities. There must be a way to differentiate it based on larger versus smaller communities. (CEC)
- Differentiation between permanent and holiday populations a good way to address services without burdening permanent residents (EEC)
  - Could be important to apply to other areas with high transiency – Fort McMurray for example.
- MGA could force small municipalities to dissolve and create specialized municipalities such as happened with Fort McMurray and Wood Buffalo. (EEC)

### Municipal Charters

- Charters can have the broad purpose of recognizing special characteristics of an area and should be explored for resort towns as well as unique circumstances such as exist within RMWB.(RMWB)
- Increase flexibility of legislation; allow charters for any municipality that wishes. Recognize unique aspects of all municipalities. (SAEC)
- Existing plans are limited in what they can do – cities should have more power to ask for things, such as setting thresholds for affordable housing. (EEC)
- Big city charter seems a good idea as the need and complexity level is different for large municipalities i.e. Edmonton and Calgary. (EEC)
- Why limit to Edmonton and Calgary? Why not all cities? The issues are similar, so why not give them all the same tools despite the size? (EEC)
- Clarify difference between charters and plans, such as MDPs. (SAEC)
- Charters can be confusing and require a change in planning for those who work in different areas as they act as a regulation or an act. CRB (Capital Region Board??) equals another level of government. (EEC)
- Benefits are that they may provide more power, autonomy or be able to recognize unique attributes of a jurisdiction. (EEC)
- They may also be intended to reflect regional uses of infrastructure, which could be a slippery slope because then everyone might want one. The issue is really how taxes are allocated. (EEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Charters allow different tax systems – something other than property taxes which we need. (EEC)
- B.C. experience is that charters are another level of bureaucracy and can be agenda driven. (EEC)
- MGA may not be able to capture big city views properly but there is a need to be cautious with the drafting and use of charters. (EEC)
- MGA needs to stay higher level and let municipalities draft their own MDP's rather than getting involved in development of charters. (EEC)
- The MGA should provide options to allow things to happen. (CEC)
- Ceiling on municipal debt – a charter can help raise different funds (EEC)

### **Break the MGA into Separate Acts**

- Should the MGA have separate acts (taxation, planning, and governance)? (CEC, CMGAP)
- Breaking up the MGA may allow for easier and more regular review of respective components (CEC)
- Make a different act for each division. (CDB)
- There are too many regulations in one document (CEC)
- Should we be looking at reducing what is covered in the MGA? Is the MGA getting into things that it doesn't need to get into? Overall assessment as to what is relevant or not today. Reduce specifics of the MGA? (CEC)
- Changing the name might make it more attractive (CEC)
- MGA is one of the longest acts. A complete re-write is not required. Just tweak issues (EEC)
- Organization of MGA can be difficult as there are too many separate sections. Would be helpful to separate planning provisions from the rest of the Act. (EEC)
- There has been some discussion about removing Part 17 from the Act and resurrecting the Planning Act or some variation thereof. I do not support removing subdivision, development control and planning from the broader governance issues. Greater harmonization of Part 17 of the Act with the balance of the Act could lead to improved effectiveness and efficiencies. (IMC)

### **Relationships of MGA with other Legislation**

- Clarity of process within legislation is paramount. (SAEC)
- Would like to see the relationship to other plans/acts. (RDEC) (popular thought/comment)
- Provide links/references from the MGA to other legislation (IMC)
- MGA should have definitions that are consistent with those found in other Acts. (SAEC)
- Consistency of provincial policy requires systems thinking (i.e. flood plain protection, growth boundaries - SDAB may allow bad development) (EEC)
- Relationship of Environmental Reserve with other legislation should be clarified(CEC)

### **Alberta Land Stewardship Act (ALSA)**

- ALSA has good mechanisms i.e. density transfer, transfer of land development right that could be incorporated in MGA. (EEC)
- ALSA and MGA (land use and planning part) could be meshed in one. Governance part of MGA could be a separate act. (EEC)
- Need more consistency regarding how ALSA is to be implemented. Every municipality works differently even under the same legislation. (EEC)
- Consolidate ALSA in to MGA or include part 17 with ALSA or maintain as is. (SAEC)
- Planning should be done on the basis of watersheds (as with the regional plans). (SAEC)
- Need to continue to seek an understanding of local aspirations. (SAEC)
- More direction regarding holistic representation during the preparation of regional plans. (SAEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Need more logical progression of plan preparation and implementation (i.e. regional before sub-regional plans). (SAEC)
- What is the relationship between the Land Use Framework and ALSA? It is unclear which legislation takes precedence. (IMC)
- Should incorporate more common language and be more available to developers and citizens. (SAEC)
- Should provide a better hierarchy of plans. (SAEC)
- Plans should include action statements that are achievable. (SAEC)
- Hierarchy and intention of plans needs better clarity. (SAEC)
- Maintain flexibility in plan requirements such as ASPs/ARPs to continue to allow the haves and have-nots to prepare and implement plans. (SAEC)
- Vision must be measurable. (SAEC)
- Is the provincial government intending to use a regional plan to govern municipal issues? (RDEC)
- Want to see local decisions stay local and regional decisions kept at a regional scale. (RDEC)
- How will the government determine which issues are local and which are regional? (RDEC)
- Would like to see a mandate or set of guidelines to determine what falls within regional and municipal jurisdiction. (RDEC)
- Regional plans don't impact Cities and Towns because they are not provincially owned – so what good are they? (RDEC)
- Is there a need for the Land Stewardship Act? (RDEC)
  - Provide policy papers to support LSA. This could include definitions, regulations, and criteria to define specific lands. Not legislative. (RDEC)
  - Establish regulations to supplement LSA to help manage land trusts, agricultural land uses, etc. (RDEC)
- Environmental Issues (*these comments offered in context of the Land Stewardship Act*) (RDEC)
  - Establish regulations for environmental protection measures at the regional level.
  - Provide equal protection for environmental lands. Ensure that interconnections between various environmental lands are protected.
  - Improve existing setbacks and minimums for environmental lands. Provide more ability to defend and protect these lands.
  - Need more interconnectivity and communication between Alberta Environment and other government agencies.
  - How will the MGA help protect conservation lands?
- Agriculture (*these comments offered in context of the Land Stewardship Act*) (RDEC)
  - How will MGA support agricultural land uses?
  - Will restrictions be established on how much land is subdivided and developed?
  - Provide a set of tools to assist in protecting and preserving working rural lands
- Miscellaneous (*these comments offered in context of the Land Stewardship Act*) (RDEC)
  - Establish milestones for required reporting for municipalities. Review when these reports are (actually) needed.
    - Address what municipalities are required to submit for regular monitoring and reporting to the secretariat.
  - Update policy regarding landfill setbacks.
  - Ensure that timelines for local plans are in accordance with regional plans.
  - Growth plans to be developed for regional areas. To be used to identify concerns that effect larger regions. Provide consistency between adjacent rural municipalities.

### Safety Codes Act

- Recognize that some municipalities/counties in particular do not have the resources (staff and funding) or political will to become or remain accredited under the Safety Codes Act. In those municipalities landowners comply with the Safety Codes Act through private Safety Codes Officers. These officers have to obtain a development permit number in order to issue say a Building Permit. However they give no attention to the municipality's land use bylaw regulations or the development permit conditions (e.g. minimum floor area for a dwelling) or variances that have been granted. Consequently the Safety Codes Officer may issue a building permit that is inconsistent with the Land Use Bylaw or the developmental permit conditions.

Solution offered: Include a section in the MGA that allows or directs municipalities to obtain a copy of the building permit application and/or align the MGA with the Safety Codes Act to require that a Safety Codes Officers must issue a building permit that is consistent with the Land Use Bylaw and development permit. (CDB)

- Why does a subdivision and development regulation not require a municipality to refer a development permit application to government agencies in the same way that it does for a subdivision application?
- Eg) A large campsite/RV campground on the shores of a lake can potentially have a significant impact on the lake, much more than a single 10 acre country residential subdivision in the same location, yet it is not a requirement to refer the development permit application to Alberta Environment. Something about this is not logical.

Solution offered: Add a section to the subdivision and Development Regulation to require that a municipality must refer a development application to AB ENV when it is proposed on land within say 400 meters of a lake, wetland or other body of water. (CDB)

- Rural municipalities want to conserve agricultural land. Many farmsteads have an overland septic discharge system that is required to be set back 300 feet from new property boundaries. When the farmstead is subdivided, it requires a parcel of anywhere between 10 acres and 15 acres which most of the times "wastes" about six to nine acres of agricultural land. If municipalities were able to take the 300 feet of setback or part of it as an easement, many acres of farmland can be "saved" across Alberta each year. In the USA easements for sewage disposal is common in many states. It is actually not the municipality who would take the easement but rather the two affected land titles.

Solution offered: Amend the safety regs for PSDs to allow the 300 foot setback to be protected through an easement or add a section to the MGA that overrides the safety codes regs for an existing farmstead older than say ten years. (CDB)

### Resource Development

- Clarification is required on resource activity in the context of reserve lands. (SAEC)
- Clarity on the requirements for resource extraction in urban areas (are there any? Are more needed?). (SAEC)
- Municipalities need a voice in resource extraction matters (not just oil). (SAEC)
- Re: Oil and Gas, define municipal authority. (RDEC) (popular thought/comment)
- Requirement for municipalities to have input on resource extraction issues. (CEC)
  - The recent flooding brings this into perspective. Did forestry practices in upper-watershed contribute to this? If we are looking at more logging in the upper-watershed areas, collaboration on resource extraction issues must be considered on a regional scale (watersheds maybe?). (CEC)
- Requirement for municipal input on resource extraction issues to be respected. (CEC)
- Today, resource developer approvals are required to inform a municipality, but there are no requirements on what they must do with the feedback. (CEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- There needs to be regional considerations for the impact that resource extraction has on downstream uses. (CEC)
- The MGA should grant urban municipalities the ability to approve/deny the development of oil and gas wells within their borders. (SAEC)
  - Currently at the discretion of the energy regulator, the local municipality only has the ability to provide comments.
  - Oil/gas wells in urban areas sterilize land for development and presents planning issues.
  - Oil and gas wells should be treated similarly to other development and could be regulated by the municipality in terms of setback distances etc.
  - MGA should allow municipalities to take a fee for every oil and gas well within the municipality.

### Other Acts/Legislation

- Alignment in general, with MDPs, LUBs etc. needs to be discussed. (SAEC)
- Look for better alignment with other codes (building etc.). (SAEC)
- Is there too much universalization within regulations, such as code regulations etc.? (SAEC)
- Ensure regulations are achievable. (SAEC)

### Provincial Land Use Framework

- The dichotomy between the Provincial Land Use Framework, under the auspices of Sustainable Resource Development, (a department organized for conservation and protection of water, air, and land resources) with the MGA, under the auspices of Municipal Affairs (a department organized to enhance the viability of Alberta communities) will introduce an unnecessary ambiguity into the maintenance and improvement of the quality of the physical environment within which patterns of human settlement are situated. Better coordination/communication between the Acts or some form of consolidation should be considered. (IMC)

### Highways Development and Protection Act and Regulation

- S.4 and 5 of the Highways Development and Protection Regulation, part of the Highways Development and Protection Act, require Alberta Transportation approval of development permits within 300/800 meters of highways. These sections should be consolidated with Land Use Bylaw provisions (s640 (1) (c) of the Act regarding development permits or with Conditions of a Development Permit (s650). (IMC)

### Housing Act, Heritage Act

- There should be an explanation regarding what the relationship between the MGA, Housing Act, Heritage Act, etc is. Could they be combined? (RDEC)
- There is no mention of Heritage in the MGA. All Heritage legislation rests in Historical Resources Act. Therefore, heritage concerns are not associated with planning approvals. (CEC)

### Safety Codes Act

- MGA needs to have a linkage to the Safety Codes Act so that a person can't get a development permit or land transfer before they comply with the Safety Codes Act. There is a disconnect during inspection in rural areas because the contractors doing the inspections aren't connecting with the municipalities. (RDEC)

### Bareland Condominium Act

- The Bareland Condominium Act should be linked with the Subdivision Section. (IMC)

### Airport Vicinity Regulations

- Clarification is required around federal/provincial jurisdiction over airport vicinity land use and land use districts. (IMC)

### **Planning Instruments**

- MGA does not define who can perform specific tasks (i.e. subdivision/development applications). Should it? (SAEC)
- MGA is somewhat limited because land use planning documents are the only recognized plans. They are limited for achieving other strategic goals that aren't linked to land use. (EEC)
- Planning nomenclature differs amongst Municipalities in the province and should be standardized. It can be confusing (i.e. an "Outline Plan" in SAEC is the same as a "Conceptual Plan" in Medicine Hat). (SAEC)
- Consistency is needed between instruments. (SAEC)
  - s.657 (3) needs clarification to ensure that the development agreement and conditions for subdivision approval are consistent with one another. (SAEC)

### **Alberta Building Code**

- Heritage buildings are required to meet current building code. Is there a better way to address this? Any relaxations? (SAEC)
- Because of the way the MGA is structured, municipalities can't require higher standards than is provided for in the Building Code. This is a major constraint in municipalities asking for higher energy efficiency standards. The ability to ask for more / set higher standards should be allowed with MGA changes. (EEC)
  - **This is a major overall theme – not easy for municipalities to ask for more than the bare minimum set by the Province.** (EEC) (bolding intentional)

### **Land Use Bylaw (LUB)**

- Part 17 of the Act deals with the planning provisions including the requirement in s.639 for every municipality to adopt a land use bylaw. Part 2 of the Act, notably s.7, authorizes a council to pass bylaws for a broader range of activities including but not limited to the safety, health and welfare of people. In the past I have been advised by legal counsel that it is not appropriate to enact a land use bylaw under s.640 (in Part 17) and under s.7 (in Part 2). But the ability to enact a bylaw under both sections would enable a land use bylaw to address more matters directly related to planning and development which, in common practice, often fall under the purview of planning and development departments anyway (e.g. unsightly properties etc.) The ability to enact bylaws under both sections should not be viewed as a power grab by the development authorities, rather it should be viewed as enabling potentially more effective and perhaps more efficient management of municipal affairs. (IMC)
- With reference to s639.1, agriculture is an important part of Alberta's economy but should social, cultural and environmental issues not be highlighted as well? (IMC)
- Protection of prime agricultural land has provincial food security implications and should be protected by the province in the MGA. (CDB)
- Requirement to amend land use bylaw within a certain timeframe after updating the MDP - this would be a really helpful and good thing to ensure consistency, achieving strategic goals and implementation of the MDP. (EEC) (bolding intentional)
- There should be an elimination of the Direct Control District and Discretionary Uses – this would provide for more certainty to developers on what is permitted. (IMC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- s41 (1) of the MDP seems to indicate that a municipality cannot use a DC bylaw if it does not have an MDP. Why not? This should be clarified or removed. (EEC)
- Direct Control Districts – Can the MGA use a different term? (SAEC)
- The way Land Use Bylaws have been structured enables planners to deal with public safety. Just because it is a permitted use does not mean it is in the public good/safe. Maybe a new theme should emerge around safety only. (CMGAP)
- BC used to have opportunity for smaller municipalities to combine and create a compact land use bylaw. Is this something that should be considered in Alberta? (CEC)
- Reduce Municipal powers for off-street parking - Municipalities power to require parking. Curtail parking power. (CEC)
- Reduce Municipal power to prevent secondary suites. Entitlement to two dwelling units on any property. *Some disagreement on supporting this.* (CEC)
- Clearly define what regulating design in an LUB can be. (CDB)
- Single Family Dwellings and Duplex Dwellings should not require development permits. (IMC)
- Replace name “Land Use Bylaw” with “Zoning Bylaw”. This is a publicly understood term. (EEC)
- Please rename the Land Use Bylaw to “Zoning Bylaw”. We are constantly explaining that the Land Use Bylaw is the City’s Zoning Bylaw, and divides the City into zones of permitted and discretionary use etc. The public clearly understands what a Zoning Bylaw is...they do not understand the term “Land Use Bylaw” and get it confused with the Municipal Development Plan’s designation of land on the latter’s Schedules....leading to lots of confusion between the two types of planning documents. (IMC)
- When buying a home, Mike Holmes would insist that you obtain a home inspection report to ensure your interests are protected before completing the purchase. Typically, purchasers would include such other beneficial terms and conditions like the approval of financing, Real Property Report, or an environmental report etc. In this context, I would argue that a municipality should be able to negotiate, in the public interest, for performance requirements to be met by a landowner as a condition precedent to zoning approval. My general comments on a suggested process amendments follows:
  1. A landowner could commit to completing an agreement after 3rd Reading of the Zoning Bylaw. Practically speaking, this means 3rd Reading in effect is Council’s “approval in principle”.
  2. A landowner / developer would be more inclined to enter into a binding agreement with the assurance of 3rd Reading as this would require some additional time and legal costs.
  3. A procedures bylaw would stipulate how long a bylaw could sit at 3rd Reading. When finalized, the agreement, notice, covenant, or such other enabling instrument (i.e. housing agreement) would be registered in Land Titles.
  4. It is expected that the conditions in the agreement could not be changed without a further public hearing.
  5. Upon confirmation of registration in Land Titles, 4th Reading would be considered by the Council. Similar models exist in other planning jurisdictions providing added flexibility to the approval process; and the public has assurance that the conditions of zoning as presented in a Public Hearing will be fulfilled by the landowner (and any subsequent landowner); the details of which are stipulated in the agreement, and not in a LUB or the MGA. (IMC)
- Through the Land Use Bylaw, the MGA allows municipalities to regulate the appearance of buildings. But few municipalities have the resources to adopt and use detailed design standards, The MGA should provide for some leeway where s640 (4) (g) “could have more teeth”, especially for permitted uses. (i.e. allow a use to be permitted but the appearance discretionary). (IMC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- A development authority should be able to assess the merits of a non-conforming building and grant a variance, if justified, to the requirement that makes the building nonconforming. Currently, the only way for this to occur is if the LUB has a specific section that grants the DAA with the authority to grant a variance to a NC building. It should be clear that whether or not a NC status is removed if a variance is granted. (IMC)
- s 643(5)(c) could be misconstrued as allowing a non-conforming building to expand, which is contrary to the overall provision in this section. I would suggest deleting it because it could be misconstrued as allowing to vary the use of the building, not just the footprint. (Unless I am not reading this correctly.) (IMC)
- When a development permit has been issued with conditions, and the development is being undertaken contrary to the permit or the conditions the development authority may issue a Stop Order. The MGA should clearly limit the appeal of a Stop Order to whether the development is in violation of the permit and/or conditions. It should not allow the permit and/or conditions to be reviewed. Once a development appeal deadline ends the permit and conditions should not be subject to perpetual revisiting by an appeal board. (IMC)

### Statutory Plans

- Too limiting in what plans can do. As an example, the any other issues clause in the MDP is good because it leaves things open but ARPs are defined more narrowly. (EEC)
- What content and subject matter constitutes a statutory plan? When is a statutory plan required (needs to be a more significant document). (CEC)
- There should be mandatory energy and water conservation provisions for MDP's, ASP's and IDP's. (IMC)
- Wording should be consistent throughout the provisions of the Act that refer to statutory plans. For example, IDP states 'must include' versus MDP 'must address'. (IMC)
- Consider mandatory timelines on review of ASP, NSP, ARP, zoning bylaw, flood mapping (i.e. 10 year min for statutory plans). (EEC)
- MGA should review case law that leads to more timely updates. (SAEC)
- Make consultation a requirement for amendments to statutory plans in the same way it is required for the initial plan. Remove the MGA's exception. (CDB)
- Require that municipalities must enforce all bylaws, including litigation in the courts, for violations of the Municipal Development Plan, Area Structure Plans, Area Redevelopment Plans, and Land Use Bylaws. (IMC)
- Require any Provincial department, agency or authority to fully comply with the municipal bylaws; if not complying, require appropriate Minister (not Deputy, Chairperson or CAO) to state the over-riding provincial interest. (IMC)
- Lack of alignment and integration of policy documents with the LUB. (IMC)
- Issues with justifying development decisions. (IMC)
- How does a LUB rule leads to implementation of policies?? – No link in legislation. (IMC)
- Review and amendments need to provide tools for justification of decisions. (IMC)
- Crazy that zoning trumps the higher level plans – MDP should have way more standing than the land use bylaws. More tools to be strategic, to be able to hold industry to higher standards. (EEC) (bolding intentional)
- The Act should indicate how statutory plans are related to the LUB. LUB is not a statutory plan, so it should be stated in this section to clarify how/when statutory plans relate to the LUB. i.e. where a conflict exists, does the LUB or statutory plan prevail? (IMC)
- Require that Land Use Bylaws must be consistent with statutory plans. (IMC)



### Intermunicipal Development Plans

- Appreciate Intermunicipal Development Plans, at the very least they get municipalities talking and thinking together. (RDEC)
- Like the idea of IDP's for substantial municipalities as there is a need for coordination. Also a good idea for growing towns. (EEC)
- MGA should address what an Intermunicipal Development Plan is and what it should include; however it shouldn't be prescribed. (RDEC, EEC)
- Urban containment boundaries are a huge piece for municipalities – need tools other than annexation to deal with growth/sprawl; limitation to growth shouldn't be the municipal boundaries alone – needs to be more thoughtful. (EEC)
- Tools/processes for regional cost sharing and revenue sharing needed. (EEC)
- Allows for planning for growth, harmonized regional planning, and expectations identification of shared roles for urban/rural municipalities. There is merit in opening up dialogue and setting rules. (EEC)
- What are the consequences/process if one party municipality repeals the IDP but the other(s) do not? The process is unclear as is how other municipalities involved in the IDP should proceed. (IMC)
- s690, which deals with Intermunicipal Disputes, is being misused, repeatedly misused. This provision either needs to have a "negative consequence for frivolous filings" clause added or it should be eliminated entirely. In the latter case, the Civil Courts could decide whether there is enough valid evidence supporting a claim for damages to allow it to proceed to trial. (IMC)
- A critical piece of Intermunicipal Development Plans is a conflict resolution process (RDEC)
  - Creates an opportunity for conflict if there are no rules (e.g. IDP between St. Albert and Sturgeon – Sturgeon rescinded the IDP, St. Albert did not). (EEC)
- We empower municipalities to jump in the business of others with s.690 which drives away business and taxation. There has to be a better mechanism for dealing with others than just a dispute mechanism. (CEC)
- Within the context of IDP consideration, how should matters of annexation, dissolution be dealt with? (SAEC)
- IDP should not be mandatory. If mandatory, would need a minimum population threshold for one to be developed (like there is a requirement for 3500 population threshold for a MDP). Perhaps there is a need for distinction between population requirements for urban and rural municipalities. (EEC)
- Capital Region Board is a defacto IDP. (EEC)

### IDPs/Regional Planning Commissions (EEC)

- Could have worked more efficiently, but needed more powers to be effective. (EEC)
- Weird that Regional Commissions are not part of the MGA. (EEC)
- Need for regional structure beyond IDPs in the MGA to coordinate regional issues. (EEC)
- There should be the consideration to revisit the Regional Planning mechanisms that Alberta had without the full implementation of Regional Planning Commissions. (CEC)

### Municipal Development Plans

- The Act needs to be strengthened to include involvement and communication through the process of an MDP review. This will minimize the potential for inter-municipal disputes. (IMC)
- Phasing not a part of MDPs – no way for us to say we aren't going to develop certain lands until... (Or can Council make that decision already?) (EEC)
- MDP's in Alberta are fairly weak policy documents. We need to think about how an MDP should look? (CEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- There should be a requirement that other plans, LUB's and Council actions be required to conform or at least align with the MDP. (IMC)
- MGA should enable MDPs to address use of planning tools as they see fit. (CEC)
- Consider incorporating a section similar to s.919.1 (a)-(j) of British Columbia Act to expand on types of policies that may be considered.  
919.1 (1) an official community plan may designate development permit areas for one or more of the following purposes:
  - (a) protection of the natural environment, its ecosystems and biological diversity;
  - (b) protection of development from hazardous conditions;
  - (c) protection of farming;
  - (d) revitalization of an area in which a commercial use is permitted;
  - (e) establishment of objectives for the form and character of intensive residential development;
  - (f) establishment of objectives for the form and character of commercial, industrial or multi-family residential development;
  - (g) in relation to an area in a resort region, establishment of objectives for the form and character of development in the resort region;
  - (h) establishment of objectives to promote energy conservation;
  - (i) establishment of objectives to promote water conservation;
  - (j) establishment of objectives to promote the reduction of greenhouse gas emissions. (IMC)

### Area Redevelopment Plans

- Consider a new name for “Area Redevelopment Plans”. The term “redevelopment” often causes fear in residents when there is no intention by the municipality to undertake a major redevelopment as an outcome of the plan. (IMC)
- My general concern is that these sections do not encourage comprehensive planning of existing areas of our cities, towns, hamlets and/or villages. They do not address the 5 pillars of sustainable planning practice: economic, environmental, social, cultural, and governance. These sections of the MGA take a very dated approach of just addressing physical neighbourhood improvement. I would see these amendments as enabling rather than prescriptive. (IMC)
- Age of ARP's and how they align with current version of MDP. (IMC)

### Area Structure Plans

- Increase MGA requirements that an ASP must fulfill. (SAEC)
  - Could also require ASP's to consider impact on adjacent development, market feasibility etc. (SAEC)
- Municipalities have been “driving the bus” MGA requirements for ASP's need to be updated to reflect the current state of practice. (CMGAP)
- Currently, there is a disconnect between what ASP's can deliver and council wants (ie: green infrastructure, safety codes, etc.). Need a way to update this. (CMGAP)
- ASP's should be expanded to mention socio – economic issues and sustainability s.633 (1). This should also apply to ARP's. (RMWB)

### **Bylaw Amendments**

- There is a lack of clarity on whether a municipality has the ability to reject a proposed bylaw prior to First Reading because the Public hearing is required prior to second reading. It is unclear if all proposed bylaws need to have a public hearing and if not, is this a violation of a right for applicant and public to make their views known? (EEC)
- Make public consultation a requirement for amendments to statutory plans in the same way it is required for the initial plan. Remove the MGA's exception. (EEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Require fixed time periods to respond to request for referrals for statutory plans, amendments statutory plans and land-use bylaw amendments. (IMC)

### Non-Statutory Plans

- Deal with the confusion that is created by the use of “Design Brief”, “Outline Plan”, and similar terminology by consultants, municipalities and land owners. These confuse the average citizen as to what is really the law and can be relied upon. (IMC)
- Role of conceptual schemes is not clearly defined. What do they entail? (SAEC)

### Levies

- Allow municipalities to offer incentives to developers. (RDEC)
- Include broader range of public services/soft services eligible for levies. (EEC)
- What is the purpose of a levy (when applied, timeline, etc. (IMC)
- Consider adding to the range of levies: (RMWB, CMGAP)
  - Betterment Levy – it could be for anything that the municipality deems relevant through a levy and a bylaw. (RMWB)
  - Community revitalization levy? (What could this “levy” be used for?) Uses for what levies can be used for should be broadened). (CMGAP)
  - Additional levies could represent new tools for Area Redevelopment Plans (CMGAP)
- Each municipality should be able to negotiate levies for items such as recreation facilities with the local development community. (SAEC)
- There is a need for a Recreation Levy in addition to the requirement to provide Municipal Reserve. (IMC)
- In general, clarification from the province on capital recreation fees is needed. Current uncertainty with capital recreation contribution must be addressed. Current uncertainty with capital recreation contribution must be addressed. (IMC)
- The MGA needs to address the current uncertainty around recreational amenity fees. Consideration should be given to enabling it as a statutory requirement to provide greater ability for municipalities to collect it possibly as part of s.650. Other areas would benefit from the ability of a municipality to collect fees including: fire halls and police stations. (IMC)

### Off-Site Levies

- S.648 needs to be clearer so challenges similar to the one in Okotoks do not occur in the future. (IMC)
- This may be more applicable to the regulation but with regard to whether off-site levies are collected at the time of approval or in the future, there can be a problem either way. There was a situation where the municipality wanted to defer the payment but the developer wanted to pay upfront. In this case, it was to the detriment of the developer because land and construction prices went up and bylaws were adjusted accordingly. Within 5 years the levies increased by 100%. Not sure how this can be addressed but it should be a mutual agreement rather than just one entity having control. This could have been to the detriment to the municipality as well had the economy been in a downturn. (IMC)
- Allow for more options for use of off-site levies. Why restrict uses? Allow municipalities to choose use. Choice must be set by bylaw - tie it into statutory plans. Doesn't matter what size of municipality you are, you can choose - it is scalable. (CEC)
- There is an argument that provisions for off-site levies should not be in the MGA. The MGA should enable MDP's and that is the tool that municipalities should use to start talking about off-site levies. Sometimes what ISN'T said in the MGA is better than what is said. (CEC)
- In regards to off-site levies, what constitutes infrastructure? (SAEC, CEC)
  - Currently specifies that off-site levies must only be used for arterial roads, major water mains etc.

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- More uses should be included in what off-site levies can be used for, such as social/public uses. This could include both hard and soft services.
- Expansion of municipal infrastructure - expand definitions, range of uses that money can be used for (CEC)
- This needs to be resolved in order that developers pay for soft services in growing communities. The current process is not sustainable, and is often putting municipalities at odds with developers with very little recourse, apart from heavy handed Council decisions with regards to higher level statutory documents. (IMC)
- Off-site levies should include funding for recreational services (trails, libraries, fire halls, police, and community services). S648 of the MGA (EEC, IMC)
- The MGA should allow municipalities to collect off-site levies for growth related costs such as fire halls, police stations and community recreation facilities. (IMC)
- Consider the difference between inner city and suburban development and needs. Reflect true servicing costs where they originate in levies (stop subsidizing sprawl). (EEC)
- Need to be careful about duplication of facilities – MGA should enable and encourage coordination between different services to capitalize on synergies (ie shared facilities between recreation centres, high schools, colleges, etc). (EEC)
- Let municipality be creative about off-site levies. Current regulation in MGA is good. (EEC)

### Redevelopment Levies

- s.647 (Redevelopment Levies) states that such a levy may only be used for a park/school or recreation facilities. This should be expanded to include other uses, such as increased fire protection etc. (SAEC)
- An ARP could determine what would be included in an associated redevelopment levy. (SAEC)
- Expand where levies are appropriate (CRL) -Download responsibility of inner city tax increment finance to city to avoid requirement for provincial approval (ex. downtown levy). (EEC)
- Should there be opportunity for municipalities, other than through L.I.T.'s to collect levies for redevelopment? (SAEC)

### **Development Agreements**

- Common practice requires that, as part of the approval of subdivision, a development agreement be signed before 3<sup>rd</sup> reading of the zoning. This is contrary to s654 (1) (a) that indicates that a parcel to be subdivided must be suitable for the purpose for which the subdivision is intended. (IMC)
- Development agreements are too constrained in terms of what they can provide and through the MGA should be more customizable by the Municipality. (SAEC)
- Development agreements should be able to be specific to the parcel of land. (RDEC)
- Allow phased development agreements. (IMC)

### **Endeavours to Assist**

- Provincial protection is important because SDAB can overturn municipal decisions. (EEC)
- Policies that set the responsibilities and time for ETA agreements. (RDEC)
- Policies related to the application and enforcement of ETA are needed. (RDEC)
- Mechanisms are needed to track ETA. (RDEC)
- Levies vs. ETA needs to be clarified. (RDEC)
- Endeavors to assist should not be formalized in MGA. (EEC)
- Formalize “endeavours to assist” in legislation (EEC)
  - Good for the MGA to formalize the structure – save time in negotiation.
  - Formalize the working model – it’s working well as is now.

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Developers in rural municipalities who pay for high levels of improvements (piped servicing, paved roads) often benefit adjacent landowners who then develop their lands as a result of this infrastructure improvement. Rural municipalities, especially those near urban fringes are often reluctant to impose off site levies for areas that have not established a predictable growth pattern. Nor may they have the desire to charge levies for incidental subdivisions such as an extra farmstead separation, etc.  
At same time, these municipalities wish to treat the original developer fairly and often engage in an “endeavor to assist” by recovering a fair share of the costs of infrastructure structure upgrades from subsequent developers and provide a proportion of those recovered funds back to the original developer.  
Endeavors to assist are common-law instruments and can only accumulate a rate of interest over a limited time period (5-10 years).  
A 15 year time period in legislation provides a reasonable, defined length of time to recover these costs for the original developer.  
As an example, refer to BC Municipal Act;  
*S.939 Excess or extended services and latecomer payments*  
Institute extended services and latecomer payments enabling legislation in the MGA.  
Limit applicable interest rates so as not to unduly penalize adjacent landowners, especially near the end of the legislated time period.

### Restricted Covenants

- A covenant typically restricts the use or development of a property. This I feel should be expanded with the provision for a covenant that is either positive or negative in nature. In other words, a land use or development requirement could be stipulated in an agreement that is to be negotiated between a landowner and municipality for a subdivision, development permit, or rezoning. It would be registered in Land Titles before, or as a condition of, final approval and/or bylaw adoption.
- Under s.651.1 (Restrictive Covenant), a municipality should be able to register a Restrictive Covenant on a title at any time. (SAEC)

### Reserve Land Dedication

- Better definition of reserves. (RDEC) (popular thought/comment)
- Policies that define the use of reserves are required within the MGA. (RDEC) (popular thought/comment)
- Empower municipalities to require more setbacks, etc if they prove why it's needed. (RDEC)
- Change in policies are needed to justify that reserves are not allowed to be taken on parcels less than 0.2 ac. (RDEC)
- Low Impact Development is either a PUL or a park space -Consider flexibility in what larger cities use reserve land for (i.e. Agricultural Designation, Affordable housing, etc). (EEC)
- Provide greater authority to municipalities to require reserves related to social issues. (IMC)
- Municipalities should have ownership of storm water management facilities as PULs. (IMC)

### Land for Roads and Utilities

- s.662 (2) vs. s.662 (3) - This is the threshold before a municipality may apply the 30% rule; subsection (2) and (3) contradict each other. It does not provide clear guidance on how much land 'sufficient land' is, and may result in the land owner providing less land than the required 30% under subsection (2). (IMC)

### Environmental Reserve

#### Reserve Disposition Rules

- Why do we have reserves that we cannot afford to maintain? (CEC)

### Definition/Criteria

- ER requires better definition. (SAEC/CEC/EEC)
  - Greater clarity on what constitutes Environmental Reserve and what it means. It seems to vary between Municipalities. (SAEC)
  - Define environmentally sensitive vs. risk within development criteria. (SAEC)
  - Within natural events, such as waterway movement, still need qualifying, logical and measurable criteria. (SAEC)
  - There is a lack of clarity in the definition of ER and its various landforms. (CEC)
  - Differentiation is needed between the criteria for requiring what makes something environmental reserve (flood plain vs. slopes, riparian) (CEC)
  - Differentiation is required between what constitutes ER in urban and rural contexts (CEC)
  - Allow compensation for wetlands/natural areas that don't meet provincial requirements for protection. (EEC)
  - Need to review what environmental reserves are, how they are defined. Need much clearer definitions (what's a wetland vs. marsh, etc). Revisit definition of what an environmental reserve is (EEC)
- What is defined as ER becomes a catch-all. There is innovation in geotechnical stability that should be considered. Development CAN happen on slopes greater than 15% and it is not undevelopable. Based on new technologies, there must be differentiation in slope categories. That will provide for clearer applications in the planning process for accessing “undevelopable land”. There should be phased in scientific knowledge and a definition formed based on science. There should be greater flexibility between what urban and rural municipalities choose to undertake in terms of slope requirements. (CEC)
- How was the six meter requirement determined? (RMWB, SAEC, EEC)
  - Unclear what is the source of the six meter requirement for ER from bed and shore. The MGA should allow the municipality to determine this. (RMWB)
  - Is six meters sufficient? What other criteria may be involved? (SAEC)
  - Does this setback need to be more flexible? (RDEC)
  - 6 m is the minimum requirement to protect natural water body in the current MGA. 6 m may not be adequate, and a centralized inventory of wetland and ER could help municipalities that should also provide requirement of ER. ER should also include wild life corridors (EEC, PP)
  - In order to achieve more sustainable development moving forward, it is critical that these setbacks are larger, and also require more evidence to be reduced. The lack of regulation currently has forced many municipalities to spend a great deal of resources in either creating their own regulation, or defending decisions that require greater sensitivity to these features. Better policy regulation in this area would help municipalities negotiate better outcomes with private landowners and developers. (IMC)
- Dedication of ER requires systems thinking. (EEC)
  - Environmental Considerations should also be regional. (SAEC)
- Clarification of criteria for ER is required. (IMC)
  - The Province claims bed and shore, leaving the City to claim and secure the remainder of the river valley and ravine slopes and upland areas, leaving policy gaps. Sometimes this results in the environmental degradation of the intended environmental reserve parcel, especially creeks and wetlands in older industrial areas. Environmental reserve criteria should be seamless in their interpretation and jurisdiction.

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Administration and the development industry have had different interpretations and views on the purpose, scope and criteria for environmental reserve under s644(1) of the MGA (i.e. drainage course, preventing pollution, providing public access, flooding and slope instability, natural area conservation, etc. versus the developability of land).
- Expansion of Criteria needs to be considered. (IMC)
  - Tree stands and significant woodlands need to be included. Further, the municipality should be allowed to regulate tree cutting on private property where appropriate. Allowing more significant tree stands to be taken as R would free up MR allocation and reduce the conflict between competing interests of natural area conservation and the provision of MR for active park uses.
  - Significant wildlife habitat should also be added as now ER encompasses both aquatic and terrestrial ecosystems.

### Clarify Timing of ER

- If reserves are taken once in time, they now can't be taken them again (ex. 1m of river environmental reserve taken 20 years ago, now the standard is 6m, but can't go back to take more because it's already been contributed through reserve). This needs to change. (EEC)
- Should ER be taken at one time and be in control of the municipality? (RDEC)
- What should happen to reserve lands that not used as intended? (RDEC) (popular thought/comment)
- Would be good to be able to revisit reserves based on current standards. (EEC)
- The "taking" of ER – responsibility and timing(IMC)
  - The municipality and the Province have split jurisdictions when taking ER. Further, the municipality can only take ER at the time of subdivision. This has resulted in unintended consequences, confusion and lost opportunities for comprehensive land use, recreation and ecological planning.
  - In some cases, natural features have been removed from the landscape prior to subdivision, without all of the appropriate approvals, and the municipality has no recourse in these instances. The municipality should have the ability to claim and protect environmental reserve earlier in the planning process to ensure that misuse and degradation does not occur prior to subdivision and rezoning.
  - The loss of wetland areas often involves compensation to the province. The City has not always been the beneficiary of this compensation. The City Administration has evolved special natural area conservation programs and partnerships. The City, therefore, is in a good position to act responsibly as a compensation agent, to accept funds for wetland loss or establish a wetland mitigation bank.

### Use of ER

- Who should determine the use of reserves (owner, local government, government)? (RDEC)
- How is it utilized? Slope stabilization, environmental wetland areas, dealing with drainage and effects of that with storm water management. Important to break out ER and deal with it specifically with slope stabilization (different ways to deal with slopes). Should be looked at with integrating ESA's into LUB's and getting reserve credit for it. Drainage/storm water concerns and how do you have innovative ways. This area is such a catch-all that has a huge impact on land use planning. (CEC)
- Intent of ER - some developers use it as a utility R/W. (CEC)
- Consider including multi-functional space integrated into urban landscapes allowing adaptability and innovation. (EEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Need to consider uses within ER – can it have a walkway? Or does that have to be MR? Public access should be maintained in the definition of the MGA. (EEC)
- There must be an operating budget that goes along with it. (CEC)

### Conservation Easements

- Conservation covenants and easements need formal recognition in the MGA. (CEC)
- Ownership and maintenance responsibilities (CEC, SAEC)
  - Conservation easements - Who owns the land and who is responsible for it? (CEC)
  - Standards needed between ER and ERE. (SAEC)

### Other

- It should be made easier to remove Environmental Reserve from a land title, so long as the ER is not needed. (SAEC)
- Should municipalities have to undertake Environmental Impact Assessments? (SAEC)
- ER should allow automatic MSR designation with subdivision (same as MR and SR). (EEC)
- Who is responsible for Alberta lakes? Lake stewardship groups and WPACs would like to know. Municipalities control ASP's around lakes but lakes themselves? (CDB)
- Sustainable Resource Guidelines re: type of water body would be good criteria to have. Are AESRD setbacks legislated or are they recommendations? Should look at using these as criteria for municipalities. (EEC)

## **Municipal Reserve**

- Parks, recreation and open space/natural area development are increasingly viewed as one of the cornerstones to the achievement of municipal land use planning goals such as transit-oriented development and smart growth. (IMC)
- MR needs to be clearly defined as to what is necessary for the public good. (CEC)
- Caution → dedication of public space is to be used for public congregations. (CMGAP)

### Criteria for Dedication

- Need a new flexible formula for the acquisition, assembly and development of these sites given the realities of socio-demographic trends, planning for greater densities, and municipal fiscal sustainability. Arising issues include, but are not limited to: (IMC)
  - Use of cash-in-lieu for assembling very large park sites is not typically cost effective given extended time lines and market forces
  - The provision for taking MR up to the maximum allowed is poorly implemented due to cumbersome and imprecise legislation.
  - MR is not adequately reflected in redevelopment to higher densities, resulting in a tax payer burden rather than a burden to the benefitting development.
- There is a need for increased land dedication for community services reserve. Need a review of municipal needs of MR land versus the needs of school boards, community services needs, etc. 10% MR land is not be enough to cover the various needs. (IMC)
- S666 does not provide authority for municipalities to require land owner to subdivide and transfer ownership of MR land to the municipality. (IMC)
- S668 - Need a better qualifier to justify request for more MR otherwise it penalizes developments and discourage intensification policies (e.g. CRB targets 30-35, 35-45, etc). At present, there is a minimal penalty for more density. (IMC)
- Clarify how and in which document, an over-dedication of municipal reserve may be provided without the municipality having to worry about subsequent demands for the municipality to pay for over-dedication at later stage (e.g. final subdivision within a quarter section. (IMC)



## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- The use of deferred reserve caveats (DRC) should be clearer. There is still a practice of using DRCs as a “tracking system” of how much reserves can be taken from a remnant parcel. However, when you read the provisions on DRC’s the intent is more for when you do not take it and wish to defer it to another parcel or at another time. When I note the DRC as being used as a tracking system, this is the practice where a municipality will place a caveat noting they could take, for example, 10 acres from the remaining 100 acres from a quarter section that has not yet been subdivided. This is confusing as it looks as though an extra 10 acres could be taken from the remnant 100, for a total of 20. The MGA is silent on the latter practice, although s.669 (1) is clear on the intent of a DRC (not taking it at this time or deferring it to another parcel that the applicant owns within the same municipality). As planners we should be doing due diligence in researching parcels for applications before us so the use of a tracking system, albeit streamlined, creates another encumbrance to the title holder, which is not fair. The DRC tracking system was utilized when the Planning Act was not that clear on the entitlement of the Subdivision Authority’s ability to take 10% for reserves. It’s clear now in the current MGA (s.666) so DRCs should not be used in this manner. (IMC)

### Use of MR

- MR - why restrict uses? Allow municipalities to choose use. Choice must be set by bylaw - tie it into statutory plans. Doesn’t matter what size of municipality you are, you can choose - it is scalable. (CEC)
  - Municipal Reserve should be used for other uses other than just parks and schools. (SAEC)
- Currently limited opportunity to include commercial activities, such as cafes, restaurants on MR parcels. (SAEC)
- MGA could define uses within a park that are accessory to the primary park use. (SAEC)
- More clarity on how Municipal/School Reserve is allocated and for what? (SAEC)
- Future use of MR sites needs more clarity. (SAEC)
- Removing MR could be dangerous. (SAEC)
- Combination of land and money could be spent on ‘park development’ (SAEC)
- Who should be developing MR land, in terms of park amenities? (SAEC)
- The responsibility for funding the completion and full development of parkland in suburban communities is left to a future “community league”. This often takes too long. Healthy communities need their fully developed parks just the same as the timely provision of services to property. (IMC)
- Can the MGA be amended so that a City can redesignate MR (Municipal Reserve) land to MSR (Municipal School Reserve), without having to go to City Council to remove the MR and then turn around and create MSR in its place? Without this change, s.675 applies re. Removal of MR. From discussions with our corporate lawyer, I understand there is ability to go from MR to SR (School Reserve) without having to go to City Council, so I believe that the above noted scenario was not considered when the MGA was written, and is in fact silent on the matter. S663 speaks to transferring to school boards or to the City, and there is no reference to going from City ownership to shared City/School Board ownership. The intent of MSR is to keep the original MR parcel as jointly owned by the City and a School Board, and therefore keeping the public reserve designation for municipal purposes on the land. (IMC)
- Minor encroachments into municipal reserve land should be permitted at the discretion of the local authority. Indemnity or encroachment agreements could be signed. (IMC)
- s.671 (2) should be more explicit in whether cash-in-lieu of reserves could be used for facilities related to the park or recreation area, such as washrooms, playground

equipment, etc. It is clear that it cannot be used for maintenance but new or replacement equipment for playgrounds is in a grey area. (IMC)

### Cash in Lieu

- Clarity is needed on what cash-in-lieu can be used for. (SAEC)
- Issue of time value of money needs to be addressed – i.e. when the money is dedicated vs. when it is actually used. (EEC)
- Define how and what cash in lieu can be used. (RDEC)
- Cash-in-lieu payments for municipal / school reserve should be based on raw land value of the land. (IMC)
- Use of cash in lieu should be allowed for purposes other than buying lands for parks i.e. soft services or capital improvements such as fire halls, central recreational facilities, etc. (EEC)
- Taking 10% cash-in-lieu whether it is needed or not – is this appropriate? (EEC)
- There should be a mechanism to ask for more or less cash-in-lieu instead of always taking 10%. For good development and optimum use of land, there should be some level of incentive to lower the requirement of cash in lieu. (EEC)
- Need better accounting for where this money goes.(EEC)
  - Dedication of reserve requirements via cash-in-lieu needs to be ring fenced so that it is linked backed to the community that it comes from. (EEC)

### **School Reserves**

- Control over schools - the presence of schools in community and their opening/closing is vital to health of communities and provincial budgets. These issues don't seem to connect well - relationship between municipal powers and school board powers need to be clarified. (CEC)

### Criteria for Dedication

- MGA should have better defined criteria for requirements of school sites. (SAEC)
- Dedication of school sites for community development – not fundraising purposes – and not just concentrating on land. (CMGAP)
- School boards should prove the need for school reserves. (RDEC) (popular thought/comment)
- Municipalities need more powers to require better justification for both reserve allocation and school site design. More detailed guidance and policy would benefit the allocation of municipal reserves with regards to the planning of schools. The current process in most municipalities leaves them with very little control over appropriate development of school sites, and allows school divisions to obtain a disproportionate amount of reserve sites that often sit vacant for decades, and sometimes are not even used. (IMC)
- Our municipality is struggling to adequately supply enough land for schools as well as parks under the current requirement of 10% reserve dedication. Over the years, the land requirements for schools has increased substantially (see attachment), yet the reserve dedication under s.666 (2) of the MGA has not. This leaves the municipality in a difficult position of requesting more than the 10% reserve dedication under s.668(1) if the density is 30 dwelling units/ha or purchasing more land or relying on the developer to willingly provide additional land for park over and above the 10%. The developers tend to push back on requesting an additional 5% under s.668 (1) as most municipalities are not applying this section of the MGA to subdivision approvals. It would assist municipalities in supplying the amount of land now required for schools and amenity areas if the requirement for reserve dedication was revisited to meet current demands. (IMC)

- (note from Editor) *Attached was a table in .pdf format showing school site sizes from an unreferenced source dated September 24/09 which breaks down school site sizes by the type of school (elementary through high school by the number of students accommodated) into areas required for various components for the building envelope, play fields and softball fields. Notes attached to the table are as follows (and help to explain some of the inadequacies realized by current reserve dedications):*
  - *The land areas indicated assume that bus loading or off-loading and parent drop off occur on the adjacent public streets.*
  - *The areas indicated are minimum areas required and may need to be increased to accommodate specific site shapes, grading and other aspects of the community or site design (pathways, easements, separations from adjacent uses, etc. The building footprint is based on the prototypical school designs of the province.*
  - *The space required for emergency planning (space for freestanding portable classrooms required to accommodate population growth) could be relaxed if play fields can be placed to accommodate these freestanding units until a new school is opened. This also requires sufficient other play space for the total student population.*
- Requirements for onsite storm water management may be relaxed if the municipal systems are designed to accommodate more water flow from the site.
- School boards are noting a larger tract of land is required for new schools, which can be more than the maximum 10% thus leaving no land for MR purposes. The 10% limit may need to be revisited. (IMC)
- Surplus school sites are being created due to volatile demographic and housing market forces. This can result in community conflict over proposed new land uses. (IMC)
- Consider schools purchasing their own sites. (SAEC, PP)

### Use of School Reserves

- Rural communities face a struggle for ownership of school sites that are closing. Clarification needed. (CMGAP)
- Definition of community services reserve is required. (RDEC)
- Consider the establishment school site levy. (RDEC)

### Other

- Need to address the relationships between school boards and future use of cash-in-lieu. (CMGAP)
- Policies that encourage cooperation between school boards should be considered. (RDEC)

## **New Planning Instruments**

- Enabling versus limiting - The current MGA limits the tools that can be applied. There has been legislation out since 1995 and 2000 that expanded our list of tools, but the MGA doesn't recognize this. The MGA needs to open up the full range of land use tools that are available to us. The MGA took away innovative planning zones and things from the Planning Act. (CEC)
- As part of this review, we should have a review of these tools and look into other provinces to see how municipalities could have access to them. Have this review look beyond North America. (CEC)
- The MGA should identify tool for municipalities to address a variety of issues e.g.: climate change, district energy, zoning studies. (RDEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- The MGA should have tools that address high level planning design “ideas” (walkability, etc) as they impact other regions of government such as health care. (RDEC) (Popular thought/comment)

### **New LUB Tools**

- Explore form-based enabling legislation as an alternative to land use segregation. This would provide the opportunity for alternative development patterns (CDB, PP)
- Implement form-based code. With one sentence, you could cut out 10 pages of the MGA that, in terms of land use, require that a municipality must limit land use within the MDP. This would allow different-scaled municipalities to address their unique needs differently. (CEC)
- Allow flexibility to focus on outcome based measures. (EEC)
- There are obstacles to demanding housing mix – e.g. proportion of 1-bedroom, 2-bedroom, 3-bedroom units in multi-unit housing developments to provide for different household sizes (EEC)
- We need new tools for regulating land use. The MGA has to open up and say that you are required to regulate land use. (CEC)
- Need to require justification from municipalities for limitations on land uses. (CEC)

### Innovative Municipal Infrastructure Financing Methods

- Municipalities should be empowered to find their own solutions for funding, partnerships, sponsorships, etc. (RDEC)
- In absence of federal funding, municipalities need alternative sources of funding (EEC)
- Municipalities in Saskatchewan have additional tools at their disposal for generating revenue (taxing options). (RDEC)
  - E.g.: CRL, not charging taxes to encourage redevelopment, land transfer taxes, levies.
- Consultation on funding between the province and municipalities should be ongoing. (RDEC)
- The MGA should address financial sustainability. (RDEC)
- Municipalities should have to report on their infrastructure and asset replacement. (RDEC) (popular thought/comment)
- Require local governments to prepare asset management replacement plans for their infrastructure (e.g. roads, sewers, buildings) as a basic sustainability practice. (IMC)
- Focus should be on providing community amenities rather than subsidizing new developments. (RDEC)
- Look at municipal options in terms of taxation and what tool kits a municipality can have in terms of financing municipal infrastructure. Are there other ways and abilities for value capture, municipal sales tax. We are really limited to paying fees and property tax. We have evolved beyond those things for revenues. (CEC)
- Value capture: Municipality owns land and municipalities can upzone it or create incentives. Then it can be sold to developers and money earned can be reinvested into public infrastructure. You pay X dollars for sq ft of commercial/residential units. All money paid into value capture is reinvested into that particular area. (CEC)
- There are limited tools to finance infrastructure. In this day and age when we are challenged by what we need to build and what we can build - what options do we have? (CEC)
- Tax increment financing is currently allowed, this is a provincial decision to allow municipalities to use it. You ask for it and you may get that power. There must be differentiation between small and large municipalities. (CEC)
- Raising revenue with new tools (i.e. Toronto, Vancouver, Winnipeg) - Authority to provide services is required to implement. (EEC)
- Cross jurisdictional issues need to be addressed regarding resort towns (i.e. Banff gets per capita grants & pays for infrastructure of 20,000 on 10,000 person tax base, requires federal approval of new plans). (EEC)
- Opportunities for municipalities need to be created outside of a one size fits all approach. (EEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Toronto has huge capabilities for financing infrastructure compared to Calgary. They have land transfer taxes, billboard taxes, and vehicle taxes - many tools. There must be an enabling municipal sales tax. Ballot items. (CEC)
- Shared servicing arrangements (revenue sharing and expenses) - user fee (Hinton, Hudson, Yellowhead County) for access to services for a share of linear assessment in the rural municipality. It is limited, but talking about it might increase its use. Could be implemented through MOU's. (CEC)
- Expanding off-site levies and what they may be used for and expanding use of or eliminating controls on uses should be investigated as innovative ways to finance municipal infrastructure. (CEC)
- Examine the feasibility of a regional level of taxation and of tax increment financing. (CEC)
- Implementation of innovative financing tools has a link to charter and municipal powers. (CEC)
- Needs to be accompanied by review of tax distribution with Alberta (EEC)

### Flooding/Flood Plan Management

- Should municipalities that have already been proactively planning for disaster events, such as flooding, be recognized/rewarded? (SAEC)
- A more proactive role in Flood Plain management is required, including the roles to ensure updated flood maps. Identify an appropriate Restricted Development Area. Consider flood resiliency - no new development in risky areas. (EEC)
- There is a need for policies that define mitigation practices. (RDEC)
- What to do with existing communities/buildings already in the flood plain? (RDEC)
- Should flood way/plain protection be the responsibility of the government? (RDEC)
- How to change the definition of areas identified as floodway/plain? (RDEC)(popular thought/comment)
- Determine a flood national standard (1:50, 1:100, and 1:250) and implement it. (RDEC)
- Issues such as flood protection should be included in the MGA and should be very prescriptive. (EEC)
- Identification of floodplains should be the mandate of the AESRD. (EEC)
- Talk about regulatory changes to enable regulation of development in flood plains. (CEC)
- Flood plan management: the Province should step in here because a municipality does not have the required resources. The Province should create database that will identify lands that are not suitable for development. Definition of 1:100 year flood should be revamped. (EEC)
- Flood plain management: (EEC)
  - Definition of "flood prone" – what is that?
  - MGA should require all municipalities to have flood plain management plans.
  - Should development be allowed in a flood area? No. No new development should be allowed and this should be reflected in the MGA. Link any development in a flood area to insurance subsidies.
  - Is it possible to include asset a requirement for management plans for infrastructure, in order to guard against flooding caused by sewer system capacity constraints? It may be possible to ask for a legacy fund from developers.
    - Currently it is only possible to levy for building infrastructure, but there is no mechanism to levy for maintenance costs. This leaves the municipality on the line for the liability in the future. The MGA should create a mechanism to account for the long term costs.

### Affordable Housing

- Within the higher level framework for the MGA, there is a need to have measurable outcomes for matters such as “affordable housing” etc. (SAEC)
- What do terms/needs such as “affordable housing” actually mean? What tools can be used to achieve requirements. . (SAEC)
- Is there any merit to exploring creative mechanisms for inclusive municipalities, such as “linkage fees”?
- MGA should give the municipality the authority to require a percent or number of affordable housing units in a development agreement. (RMWB, PP)
- Enable Municipalities to require affordable housing components within higher density developments (IMC)
- Permit Management bodies to borrow directly from Alberta Capital Finance(IMC)
- Include Rental Housing Tax Incentives (IMC)

### Density

- If the developers' choice is to develop low density communities, a special surcharge on off-site levies may work (SAEC)
  - Market dictates, developers pay, and both existing and new communities benefit.
  - Underlying key may be articulated vision from province. This would need to mesh with the fabric of all other legislation.
- Density: should it apply equally or contextually in regards to rural and urban municipalities? (SAEC)
  - Need to avoid having smaller, less financially able communities being required to follow larger communities. (SAEC)
- The MGA does not reference other documents such as transferable development credits. An enabling document would allow municipalities to choose its approach. (CEC, SAEC)
- Enable the requirement of community amenities in return for extra density on a site (IMC)

### Climate Change

- Requirements for municipalities to complete mitigation plans for climate change to be eligible for funding would be a good way to encourage municipalities to think about these issues without putting potentially onerous requirements on the cities. (EEC)
- Issue of climate change should not be addressed through MGA and should not be legislated. There is no measurement tool and the resources for municipality to address this issue. (EEC)

### Environmental Building Practices

- Tools in the MGA should address the need for environmental building practices. (RDEC)
  - Include mechanisms, policies, or goals and then allow the municipalities to go above and beyond what's identified
- Energy efficiency should be addressed in MGA, but should not be too prescriptive. (EEC)
- In recent years, more communities have attempted to address sustainability and green initiatives as well as public safety. But currently there is no effective enabling mechanism to ensure that a green or sustainability issue can be addressed by regulation in an effective and efficient manner. As such, these initiatives are often frustrated or compromised. For example, adding green or sustainability requirements to a development permit is risky at best while Safety Codes Officers typically believe they are obligated to issue permits for plumbing, gas or buildings despite a municipality's efforts to require low flush toilets, efficient furnaces or hot water heaters or similar initiatives. (IMC)

### More enforcement mechanisms needed in MGA

- It is currently difficult to enforce land use regulations. (SAEC)
- If we cannot enforce what powers the MGA gives us, what is the point of having any? (SAEC)
- Enforcement could be like what is found in other Acts (i.e. Building Code and stop work orders etc.).(SAEC)

### **Planning Processes**

- Administration deals with planning issues for their entire careers, Councils can change every 4 years – there is often a lag of 1 – 2 years for council to become proficient in planning processes (SAEC) Can the MGA fix this? (SAEC)
- There is a technical knowledge gap between Administration and Municipal Councils. (SAEC)

### **Public Consultation**

- Really important for our profession. (EEC)
- Need full recognition of all public engagement that has been conducted during plan preparation/amendment, redesignation and development applications. Regardless of level of engagement, Council only seems to care how many people come to a public hearing. The Act should introduce requirements for municipalities to develop a public engagement procedure bylaw that must be consistently implemented. (CEC)
- Requiring ONLY a Public Hearing is before adopting a planning bylaw is right out of the 1950's. It plays into the hands of NIMBY's and others who like the public hearing format to shout down projects that have "public good" written all over them. Public hearing may still have a place in a municipality's "public engagement toolbox", but the tool box needs to be filled with more options/tools. Councils need to be made to recognize that the info gathered from these other tools is just as valid, perhaps even more valid than the shouts and petitions that dominate public hearings. My solution ... require each municipality to adopt a public engagement protocol that specifies the range of public engagement tools that are valid means of gathering public input on planning related matters. The protocol could even go as far as specifying what tools would be used in each type of planning bylaw if the municipality so chose. (IMC)
- Make it meaningful/effective – make it clear what input the public can have. (EEC)
- Clarify best practice in terms of what level of consultation is required for each type of plan. (EEC)
- Get rid of it all? Arguments include that it is too much duplication, or that it takes too much time. (EEC)
- Increase the legislation requirements on public participation in all processes (ASPs, ARPs) amendments, etc. (CMGAP)
- Small towns might just need public hearings, large cities might need open houses etc. (CEC)

### **Subdivision Applications**

- Overall process, although this may be intentional, for development permits is not a clear. There is a separate section for Subdivisions (subdivision of land), but all guidelines, processes for Development Permits are scattered in the Subdivision and Development Regulations and Development Appeals. It is understood that procedural elements should be in the regulation; however, a process element of the 40 days for a decision on a development permit is required, unless an extension is signed, is in the development appeal section of the MGA (s.684). (IMC)



## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Clarify extension period for final endorsement of subdivisions. (SAEC)
  - Current legislation is not clear on how many time extensions can be granted, the overall time limit for extensions (i.e. extensions could keep being granted up to 5 years), or who can grant extensions.
- Establish a simpler subdivision process for single lot severance/boundary adjustments. (CDB)
- Subdivision and development focuses too much on subdivision with regards to review processes (Alberta Environment's involvement). (RDEC)
- Deemed refusals - 40 days. How is the 40 days determined? (CEC)
- Development Permit refused after 40 days. What is unclear is whether or not the applicant has the ability to appeal well in excess of 40 days. The intent of this provision is to ensure decisions are made within a reasonable amount of time. Therefore, the applicant should have the right to appeal anytime after 40 days has lapsed. S.684 suggests that the applicant may appeal anytime after the 40 days; however 686 suggests that the appeal can be filed within 14 days after the 40th day. (IMC)
- Capital recreation contributions as a requirement of subdivision approval needs to be added to the MGA. These contributions are related to funds or direct construction of parks, park equipment and funds for the provision of city wide parks and recreation facilities. The general tax payers should not be expected to pay for the parks (active and passive for new growth neighbourhoods). (IMC)
- Direct road access versus mutual access agreement. Every subdivision should have a direct road access; a mutual access agreement should not substitute for direct access. (IMC)

### Development Permit Applications

- Extend appeal periods for development permits. (SAEC)
- There is often a disconnect between the expectations of a Council and what a Planning & Development Department is able to deliver recognizing that in most cases the development permit process is the key implementation mechanism. (IMC)
- A development authority is compelled to issue a permit for a development if it is a permitted use and the proposal complies with the land use bylaw. To streamline the approval process, many communities have gravitated towards permitted uses (rather than discretionary uses) with along with limited regulations. In some cases, public safety is compromised by issuing these permits recognizing that a development authority is not obligated to consider public safety but it is compelled to issue the permit in the circumstance described. A few years ago the Subdivision and Development Regulation was amended to enable a development authority to address security and crime prevention via s.18 of the Regulation. I ask that Municipal Affairs consider either a broader or an additional provision that enables consideration of public safety and that consideration be given to amending s.617 of the Act to add public safety as a consideration. (IMC)
- If work is commenced without a development permit, enable a municipality to be able to put a note on title to alert banks/future purchasers (e.g. drug houses, garages built without permits). Benefit is that it avoids municipalities having to enforce through the court system. (IMC)
- Should MGA specify that Council should be informed of certain non-Council decisions (i.e. development permits etc.)? (SAEC)

### Notices/Referrals

#### Notices

- MGA should be clearer on who is notified in the subdivision process. (EEC)

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

- Notices are a hard way to provide good notice since newspapers are not published as regularly, nor are they used the same way, as they were 20 years ago. (CMGAP)
- MGA needs to recognize innovations in technology to allow notifications to be undertaken. Consider inclusive, modern media for notifications. How does this process transition from older to newer technologies? (SAEC, EEC)
- MGA should review its notification requirements, why are they included in the current MGA? (SAEC)
- Consider the ability to combine ads for two or more related bylaws together. (EEC)
- There should be more detail on the requirements for public notification – time frame, area of notification. (IMC)
- Ads for road dedication – municipalities are requiring developers to send these but they can't get addresses due to FOIP regulations. This should clearly be the responsibility of the municipality. (EEC)
- Clarify whether advertising required for landowners should also apply to owners of mines and minerals on the same property. (IMC)

### Referral of Planning Documents

- The MGA should help ensure a timely response from external agencies (i.e. AB Environment, AB Transportation) when they are circulated a plan for review. (SAEC)
  - This will help plans that are under review to be consistent with other Acts/Plans.
  - It is a burden on resources when there is a late response from an external agency, resulting in plans that are in progress needing further amendment.
  - Should a timeframe be specified in the MGA (i.e. a response of 4 weeks?) to ensure timely response?

### Subdivision Referrals

- Why are subdivision authorities still required to refer applications to private sector utility companies (telephone, electricity, gas, and cable)? The typical response we get is that the authority should (shall) require the land developer to provide easements to those utility companies. That puts the subdivision authority in the awkward position of being told to ensure a private land developer gives up easements to private utility companies (and being told this by a party we are required to consult.) Are we expected to ensure this as a condition of subdivision approval, because the logic breaks down? My experience is that the recommendation from the utility company is down played.  
Suggestion: Change the nature of the referral to clarify it has only to do with capacity considerations (e.g. can power be supplied or is the substation too small).(CDB)
- Current wording in the Act does not require municipalities to acknowledge/work with other jurisdictions/authorities. (EEC)
  - ATCO, etc, not subject to municipal plans, but municipalities hold other applications to ransom.
  - Authorities may be exempt, but they want a formal relationship with the municipalities to improve coordination.

### Development Permit Referrals

- The Subdivision & Development Regulation requires a municipality to refer a subdivision application to certain government departments. It does not require the same for a development permit application. My experience is that in some cases, a development permit application for, say a large campsite adjacent to a lake, could potentially have significant impacts. The municipality, often a rural municipality with little engineering staff resources, if any, is basically left to investigate and propose development permit conditions to mitigate possible impacts - if the development officer has sufficient experience to even pick up on

## APPI MGA Review Recommendations for Proposed Amendments to the MGA

these possible impacts. I suggest that the Subdivision & Development Regulation be amended to require, or at least suggest, that certain types of development permit must/should be referred to government departments the same way that Part 1 Sections 5, 6 and 7 require of subdivision applications. (IMC)

### Public Hearings

- MGA should include greater clarity on the correct procedure to conduct public hearings. (SAEC)

### Decisions / Appeals

#### Decisions

- S.6 of the Subdivision and Development Regulation requires municipal approval of a subdivision application within sixty days of acceptance of the application. Municipalities understand the requirement and have organized to accomplish most approvals within a sixty day time period. Any delay to the process is usually as a result of the lack of comment from provincial agencies such as Sustainable Resource Development and Alberta Transportation. The system would work much more smoothly if provincial agencies took their responsibility to respond as seriously as municipalities. We suggest if a response from a provincial agency is mandated by the Act or Regulations that the provincial agency be committed to the same sixty day timeline (IMC)
- Review timeframes for decisions and appeals – is more consistency required throughout the MGA? (SAEC)

#### Appeals

- Right of appeal is good overall – SDAB should be kept. (EEC)
- Rights of appeal need to be rationalized - adjacent property owners sometimes have a say, sometimes don't. This needs to be fixed. MGA needs to provide clearer guidance on who has standing. (EEC)
- Can regulations be established to have appeals on subdivision only where the municipality determines it necessary (on an individual basis)? (CMGAP)
- Appeal period extensions should be able to be offered and heard by the municipality. (CMGAP)
- Consider establishing a maximum appeal period for developments/subdivisions. (CMGAP)
- Is it reasonable that as soon as you get into any discretion within the Act, it becomes appealable. (CMGAP)
- How does s.687 (3) (d) apply to Stop Orders? This section lumps orders, decisions, and development permits. Therefore a SDAB has the same authority for Stop Orders as it does with a development permit. In this regard a SDAB may grant approval to a development by way of a Stop Order appeal. The issue is that the development in question would not have gone through the same process as an application for development permit that may include notification and public participation. (IMC)

### Annexation

- Criteria for annexation – what is it, what should it be? (SAEC)
- Division 6 (Annexation) of the MGA provides a prescription for the process for annexation. The principles of annexation (St. Albert/Sturgeon MGB Order 123-06) provide important direction for municipalities in choosing when annexation may be appropriate. The principles are well known and well regarded by most industry professionals. Many of the “must” principles should be included within a revised MGA. (IMC)

### Planning Bodies

### **Municipal Planning Commission**

- There should be more clarity on the Municipal Planning Commission – its role, its members and the parameters it should operate under. (IMC)
- MPC should be reintroduced into mandatory requirements. (CMGAP)

### **Subdivision and Development Appeal Board**

- Better clarification is needed on the composition of boards and who can serve on them. (SAEC)
- Should council members be permitted to be involved with SDAB processes? (CMGAP)
- Appeal powers of SDAB should be made consistent through the MGA. (SAEC)
  - Who is defined as being adjacent or affected?
- MGA should specify that members of SDAB must be trained for their role. (SAEC)

### **Other Input**

#### **Overall Clarity of the Act**

- Would like to have exception clauses right after the initial provision, if applicable. For example, you have the listed uses for reserve lands in s.671, then s. 677 also notes the ability of reserve land being used for roads, etc. Where there is a “notwithstanding” clause to a particular section, this provision should be in that section it refers to. (IMC)
- If the MGA is silent on a particular issue, then there is no clarity if it can or cannot be done. For land use bylaws, if a use is not listed, then it is not allowed, this should be the same practice for the *MGA* as well. (IMC)
- MGA needs to be clearer with its “guidelines” and not create an increased opportunity for litigation.(IMC)
- Better definitions for terms in MGA, such as water bodies. (SAEC)
- Simplify language in the MGA

#### **Miscellaneous**

- MGA should define what a Public Utility is? Should it only refer to utilities that are publically owned? (SAEC)
- Would like to have rural developments be able to get easements when necessary, specifically for sewage setbacks, rather than require additional land (RDEC)
- Change the section that (does not) allow First Nations to be equal members of Regional Service Commissions. (CDB)
- Require criminal record checks for Municipal Election candidates. (SAEC)
- Get input on revising/removing \$40 cap on convention condo fees. Doesn't cover costs always. (CDB)
- The MGA should address property rights (CMGAP)

End of Appendices