

## MGA Review Discussion Paper

# Managing Growth and Development

*This technical document is part of a series of draft discussion papers created by Municipal Affairs staff and stakeholders to prepare for the Municipal Government Act Review. It does not reflect existing or potential Government of Alberta policy directions. This document is the result of a careful review of what is currently included in the Municipal Government Act (MGA) and regulations, definitions of terms and processes, changes requested by stakeholders over the last 18 years, some highlights from other jurisdictions, and identification of potential topics for discussion during the MGA Review. This information will be used to prepare consultation materials as the MGA Review proceeds.*

*These discussion papers have been reviewed and approved by the MGA Stakeholder Advisory Committee, comprised of representatives from major stakeholder organizations: Alberta Association of Municipal and Counties, Alberta Association of Urban Municipalities, Alberta Rural Municipal Administrators Association, Alberta Chambers of Commerce, City of Calgary, City of Edmonton, and Local Government Association of Alberta.*

*The Government of Alberta is asking all Albertans to directly contribute to the MGA Review during online consultation in late 2013 and consultation sessions throughout Alberta in early 2014. This technical document is not intended for gathering stakeholder feedback, but to generate thought and discussion to prepare for the upcoming consultation. Public engagement materials will be available in early 2014. To learn more about how you can join the discussion on how we can build better communities, please visit [mqareview.alberta.ca/get-involved](http://mqareview.alberta.ca/get-involved).*

## Preamble

The *Municipal Government Act (MGA)* provides the legislative framework to guide the operations of municipalities in Alberta. The current *MGA* empowers municipalities with the authority and flexibility to provide services in the best interests of the community. The *MGA* Review will proceed along three major themes: *governance and administration*; *assessment and taxation*; and *planning and development*.

This paper is one of 11 discussion papers exploring aspects relating to *planning and development*. It focuses on land use policies and purposes of planning and development prescribed under the *MGA*. The objective of each discussion paper is to

- 1) Outline the existing legislation,
- 2) Identify issues with specific aspects based on stakeholder requests,
- 3) Look at how other jurisdictions are approaching these issues; and
- 4) Pose questions to help formulate future analysis of, as well as public and stakeholder engagement on the *MGA*.

Below is a list of the papers that relate to the planning and development theme.

- Managing Growth and Development
- Statutory Plans and Planning Bylaws
- Municipal Planning Authorities
- Land – Administrative Decision-Making Processes
- Land Dedication (Reserves)
- Fees and Levies
- Public Participation
- Planning and Intermunicipal Appeals
- Municipal Government Board
- Municipal Relationships and Dispute Resolution
- Fundamental Changes and Municipal Restructuring

## Managing Growth and Development

Planning takes into consideration, among other matters, ways to address needs related to public health and safety, appropriate use and management of the land resource, provision of services and infrastructure, orderly development of new growth, management of risks, and good decision-making models for land-related issues. Planning impacts people's day-to-day lives, public finances and shapes how our municipalities, and our province, look and function.

Municipalities carry out their roles and responsibilities for planning and development through the use of planning mechanisms available under the *MGA*, the provisions of the Subdivision and Development Regulation, and the policies and rules in their own municipal statutory plans and land use bylaws. Municipal policies and plans are required to conform, in turn, with the Land Use Policies adopted under the *MGA*, any regional plans<sup>1</sup> created under the *Alberta Land Stewardship Act (ALSA)*, any growth management plans<sup>2</sup> that are adopted under legislation or intermunicipal agreement, and any other legislation (e.g. *AEPA*, *Water Act*).

### History of Regional Planning in Alberta

From 1950 to 1995, planning in the province was administered by regional planning commissions and these commissions were overseen by the Alberta Planning Board. Every municipality was required to be a member of a regional planning commission and the commissions were responsible for the development of regional plans, and in some cases took care of statutory plan development for municipalities and performed the responsibilities of a subdivision approving authority.

When the new *MGA* was enacted in 1995, regional planning commissions were abolished and in its place, municipalities were given the authority to approve subdivision applications within their boundaries and adopt and amend their own statutory plans. Planning for a region was to occur in two ways: the first is within municipal development plans, and secondly, if adopted, within intermunicipal development plans.

### Land Use Policies

In 1996, Land Use Policies were established to guide municipalities in coordinating municipal land use decisions with provincial objectives. These province-wide policies have served over time as a mechanism to address areas of provincial interests with municipal plans related to land use and growth, and to speak more fully to the planning themes of the *MGA*.

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<sup>1</sup> Regional plans references the seven plans that are being created under the *Alberta Land Stewardship Act*.

<sup>2</sup> Growth management plans includes the Capital Region Growth Plan that was created under the authority of the Capital Region Board Regulation or the Calgary Metropolitan Plan that was voluntarily agreed to amongst participating municipalities. There are no other areas within the province that are creating growth management plans.

The Land Use Policies encourage:

- cooperation between municipalities and other authorities to address planning issues and to implement plans and strategies;
- the establishment of land use patterns which make efficient use of land, infrastructure, public services and facilities; promote resource conservation; enhance economic development; minimize environmental impact; protect natural environments; develop healthy, safe and viable communities;
- the maintenance and enhancement of a healthy natural environment;
- the maintenance and diversification of the agricultural industry;
- the efficient use of the non-renewable resources;
- the protection and sustainable use of the water resources;
- the preservation, rehabilitation and reuse of historical resources;
- a safe, efficient and cost effective provincial transportation network; and
- the development of well planned residential communities, a high quality residential environment and adequate and affordable housing for all Albertans.

#### Alberta Land Stewardship Act

In 2008, the Province released the “Land-use Framework” to usher a new approach to managing lands and natural resources to achieve Alberta’s economic, environmental and social outcomes. The Land-use Framework includes seven strategies:

- to develop seven regional land-use plans based on seven new land-use regions;
- to create a Land-Use Secretariat and establish a Regional Advisory Council for each region;
- to manage the impacts of development on land, water and air at the regional level through cumulative effects management;
- to develop a strategy for conservation and stewardship on private and public lands;
- to promote efficient use of land to reduce the footprint of human activities on Alberta’s landscape;
- to establish an information, monitoring and knowledge system to contribute to continuous improvement of land-use planning and decision-making; and
- to include aboriginal peoples in land-use planning.

The *Alberta Land Stewardship Act (ALSA)* was enacted in 2009 to provide the legislative framework to plan for the future needs of Albertans and manage growth, while respecting existing property rights. In May 2011, amendments were made to ALSA and the legislation now contains a clear statement that government must respect the property and other rights of individuals and that it does not limit any existing rights to compensation and respects all existing appeal provisions in Alberta legislation.

As regional plans are developed and adopted under *ALSA*, the Land Use Policies will no longer apply in their current form for municipalities within the *ALSA* regional plan area. Additionally, the *MGA* requires all planning and development decision conform with the *ALSA* regional plans.

This means that all municipal statutory plans and land use bylaws must be consistent with an *ALSA* regional plan that has been adopted for a region.

### Growth Management Plans

Additionally, there has been an increasing recognition of the need for municipalities to coordinate and cooperate to manage growth on a regional basis, with this recognition being demonstrated in different ways in different regions. For example, in 2008, the government established the Capital Region Board with a mandate to prepare a growth plan for the Capital Region. The plan was approved by the Province in 2010. The Calgary Regional Partnership, a voluntary organization of municipalities, has prepared and adopted a plan for the participating members<sup>3</sup> within the Calgary region.

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<sup>3</sup> The Calgary Metropolitan Plan does not pertain to or have effect upon the communities not involved within the Calgary Regional Partnership. The Calgary Metropolitan Plan has not yet been formally approved by the Province.

## Discussion Points

Below are some identified discussion topics and questions based on a review of requested amendments, cross-jurisdictional research and issues raised by stakeholders. The requested amendments discussed below draw upon an inventory of requests received by the Province over the past 18 years. It is important to note these requests:

- i) do not necessarily represent the views of most Albertans;
- ii) do not necessarily apply to all municipalities; and
- iii) are categorized by policy topic, and have not been evaluated or ranked by number of requests received.

### 1. Purpose of Planning and Development

#### *Background:*

Under the current *MGA*, the purpose of planning and development in Alberta is:

“to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta, without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest”.

Some say the purpose of planning and development in the *MGA* also needs to speak to the challenges facing those responsible for planning and development policy and decision-making in Alberta, such as intermunicipal cooperation, environmental protection, intermunicipal and intramunicipal growth management including redevelopment within communities, and preservation of agricultural lands, among others.

#### *Cross-Jurisdictional Research:*

- In Ontario, the purpose of the *Planning Act* identifies what the planning legislation will allow the municipality to carry out in its planning functions. The purpose of Ontario’s act is:
  - to promote sustainable economic development in a healthy natural environment;
  - to provide for a land use planning system led by provincial policy;
  - to integrate matters of provincial interest in provincial and municipal planning decisions;
  - to provide for planning processes that are fair by making them open, accessible, timely and efficient;
  - to encourage co-operation and co-ordination among various interests; and
  - to recognize the decision-making authority and accountability of municipal councils in planning.
- In B.C.’s *Local Government Act*, the overall purpose of planning is not specified, but the legislation does contain provisions identifying the purpose of regional growth strategies. These strategies are intended to promote human settlement that is socially, economically and environmentally healthy and that makes efficient use of public facilities and services,

land and other resources. The legislation also states that regional growth strategies should work toward the following:

- *avoiding urban sprawl and ensuring that development takes place where adequate facilities exist or can be provided in a timely, economic and efficient manner;*
- *settlement patterns that minimize the use of automobiles and encourage walking, bicycling and the efficient use of public transit;*
- *the efficient movement of goods and people while making effective use of transportation and utility corridors;*
- *protecting environmentally sensitive areas;*
- *maintaining the integrity of a secure and productive resource base, including the agricultural land reserve;*
- *economic development that supports the unique character of communities;*
- *reducing and preventing air, land and water pollution;*
- *adequate, affordable and appropriate housing;*
- *adequate inventories of suitable land and resources for future settlement;*
- *protecting the quality and quantity of ground water and surface water;*
- *settlement patterns that minimize the risks associated with natural hazards;*
- *preserving, creating and linking urban and rural open space including parks and recreation areas;*
- *planning for energy supply and promoting efficient use, conservation and alternative forms of energy; and*
- *good stewardship of land, sites and structures with cultural heritage value.*

*Stakeholder and Legislative Amendment Requests:*

- Some members of the public have expressed concern that the *MGA* does not adequately address the needs and rights of private landowners.
- Some members of the public and stakeholder groups have asked that regional collaboration be brought into legislation by emphasizing it as a principle of the *MGA*.

## 2. Managing Growth

*Background:*

Currently, municipalities plan for future growth through their statutory plans and land use bylaws. Concerns have been expressed that the *MGA* may not provide enough tools for municipalities to properly manage growth within their boundaries and on a regional basis. For example redevelopment of lands within a municipality require municipal funding for associated infrastructure upgrades while infrastructure upgrades to facilitate development in new neighbourhoods may be funded through other mechanisms (e.g. off-site levies). This discrepancy may create disincentives for municipalities to pursue redevelopment in established communities and incentives for municipalities to encourage development on previously undeveloped lands (eg. promoting urban sprawl).

The *MGA* does not include provisions related to growth management plans, although there are examples of strategic initiatives of this type among municipalities in the province. For example, the Capital Region Board was created in 2008 through a regulation that specified matters to be

addressed within the growth plan for that region, the process for approving the plan, and actions to be taken by municipalities to conform with the plan. The Capital Region Growth Plan was approved by the Province in 2010, the outcome of collaborative efforts by the 24 municipalities on the board. The Calgary Regional Partnership has created the Calgary Metropolitan Plan, which also describes a growth plan (metropolitan plan) for the Calgary region. The Calgary Regional Partnership is a voluntary organization of municipalities in the region and members' conformance with the plan is a matter addressed by the partnership.

*Cross-Jurisdictional Research:*

- In B.C., there are 27 regional districts and each regional district encompasses several local municipalities. The *Local Government Act* in B.C. says that regional growth strategies “promote human settlement that is socially, economically and environmentally healthy and that makes efficient use of public facilities and services, land and other resources”. The strategies have a 20-year minimum timeframe and provide the long-range planning framework for the regional districts, municipal official plans and community plans.
- Under Saskatchewan's *Planning and Development Act*, municipalities may prepare growth management strategies; however, the highest growth regions (Regina and Saskatoon) are primarily supported through Urban Development Agreements that channel funding to the municipalities under a federal-provincial-municipal funding agreement.
- Manitoba and Nova Scotia have developed legislation that gives their capital regions special powers and provisions to plan growth.
- B.C. and Ontario have implemented provincial brownfield legislation and program to stimulate redevelopment of brownfield sites.

*Stakeholder and Legislative Amendment Requests:*

- Some stakeholders have submitted several requests to amend the *MGA* with respect to some form of regional planning or growth management planning. This includes requests for the Province to:
  - establish formalized regional agencies in metropolitan or high growth areas that have a number a municipalities with more complex intermunicipal relationships;
  - ensure that land use is consistent with regional growth plans;
  - establish a multi-jurisdictional planning process to coordinate land use plans between municipalities and ensure consistency with provincial goals;
  - ensure that municipalities maintain their autonomy and that regionalization is not forced; and
  - develop enabling legislation to authorize the Lieutenant Governor in Council to determine whether a growth plan is required for any region/area in the province.
- Some municipalities have suggested that the *MGA* requires amendment to provide better solutions for conflict in land-use, especially in areas where urban development is occurring in locations without urban services.
- Some stakeholders have suggested using legislation to establish a system of greenbelts and urban growth boundaries to protect agricultural land/resources.

- Municipal and development industry stakeholders have suggested that a provincial policy to facilitate the redevelopment of brownfield<sup>4</sup> sites to productive community use, would contribute to sustainable growth.
- Some stakeholders have stated that increasing density in established communities has major infrastructure impacts that can also affect greenfield development and influence municipal growth patterns.

### 3. Land Use Policies and ALSA Regional Plans

#### *Background:*

Once a regional plan has been created under the *Alberta Land Stewardship Act (ALSA)*, the Provincial Land Use Policies that are currently in place under the *MGA* will no longer apply to that area.<sup>5</sup> Once all seven *ALSA* regional plans have been created, the Land Use Policies will no longer apply to any areas of the province – at least not in their current form as policies supplementary to the planning provisions of the *MGA* and the Subdivision and Development Regulation. Each regional plan will likely contain some policies that are specific to the area encompassed by the plan, as well as policies that may be similar among regions across the province.

The challenge is that, because the Land Use Policies that have been applied province-wide will soon no longer be in place, and because each *ALSA* regional plan applies only to a specific area, there will no longer be a land use policy document that houses the policies that may require application province-wide. For example, one policy that is being included in the development of one of the *ALSA* regional plans is the efficient use of land by municipalities. This policy is among those identified in the Land Use Policies and it may continue to be a desirable policy to guide planning activities across the province.

#### *Cross-Jurisdictional Research:*

- In Manitoba, the Land Use Policies are relatively general and serve as a guide to municipalities. However, these policies are “strictly applied in areas of the Province experiencing more growth or change, such as the capital region, and may be applied with more flexibility in areas experiencing limited growth or change, and where there is little potential for land use conflict.” The development plans that are adopted by municipalities must be generally consistent with the Provincial Land Use Policies and require the approval of the Minister.

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<sup>4</sup> A brownfield site is defined as “an abandoned, vacant, derelict or underutilized property where past actions have resulted in actual or perceived contamination and where there is an active potential for productive community use including reuse and full redevelopment.”

<sup>5</sup> The *Alberta Land Stewardship Act (ALSA)* was created to implement the policies of the Land Use Framework. As a result of its creation, the *MGA* was amended to indicate that once a regional plan was approved under *ALSA*, the LUPs would no longer apply in the region. To date, one *ALSA* regional plan has been approved, the Lower Athabasca Regional Plan; the second, the South Saskatchewan Regional Plan, is being drafted.

- In Saskatchewan municipalities must ensure that official community plans, district plans, zoning bylaws and subdivision bylaws are consistent with The Statements of Provincial Interest Regulations. This regulation highlights fourteen areas of common planning interest between the province and municipalities.

*Stakeholder and Legislative Amendment Requests:*

- There have been several requested amendments or statements regarding land use policy-making within the *MGA*. For example:
  - Several municipalities and their stakeholder organizations have suggested that the Land Use Policies are too advisory in nature and are not strong enough to encourage intermunicipal and regional coordination.
  - Several municipalities and their stakeholder organizations have suggested that the *MGA* should give municipalities in Alberta greater powers and rights to protect riparian lands, wetlands and escarpments. These stakeholders cite the limited ability of municipalities to protect riparian environments under Part 17 of the act, and note that the protection of riparian areas is necessary to ensure safe drinking water and good water quality.
  - Some stakeholders have suggested the *MGA* provide for the implementation of environmental overlays<sup>6</sup> to protect water resources and other sensitive areas in order to preserve biodiversity and ecological integrity.
  - Some stakeholders organizations have suggested using legislation to encourage cluster development along with protection of open space.

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<sup>6</sup> Environmental Overlays are identified areas within a municipality that have environmental significance.

## Discussion Questions



1. Does the current purpose statement in the *MGA* still adequately describe the purpose of planning and development in Alberta? If not, what should be the purpose of planning and development in Alberta?
2. Does the *MGA* strike the right balance between the management of land use, municipal autonomy and the rights of individual landowners? Why or why not?
3. Is there a need for the *MGA* to continue to provide province-wide policies for land use (e.g. Land Use Policies)? If so, what types of land use policies should be standard across the province?
4. What, if any, additional powers do municipalities need to address management of growth?
5. Should legislation for growth management planning on a regional level be included within the *MGA*? If so, what provisions should be included?

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