

Municipal Government Act Review

What We Heard: A Summary of Consultation Input

Planning and Development Technical Session

Held in Edmonton on February 5, 2014

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Developed by KPMG for Alberta Municipal Affairs



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Introduction

Purpose

This document provides a summary of what was heard during a consultation session for the *Municipal Government Act* (MGA) review. The summary below includes the comments and opinions of the participants of the Planning and Development Technical Session held in Edmonton.

These contributions have not been reviewed or edited for accuracy. Comments recorded here reflect the opinions of individuals offered in person and recorded by session facilitators; they do not necessarily represent the opinion of the Government of Alberta.

The input summarized below will be considered by Alberta Municipal Affairs as part of the review of the legislation. Municipal Affairs would like to thank the participants of this session, as well as all Albertans participating in the review of the MGA. Any inquiries related to this summary or to the consultation process should be directed by email to the MGA Review Team at mga.review@gov.ab.ca.

The Municipal Government Act Review

The MGA is designed to help build strong, prosperous and sustainable communities throughout Alberta. Alberta Municipal Affairs is reviewing and refreshing the MGA to address evolving circumstances and priorities in Alberta's many communities, and to ensure the MGA continues to meet its objective. A successful MGA review process will continue to position Alberta as the leading Canadian jurisdiction in terms of municipal legislation, having incorporated sound thinking, input and research into a clear Act that meets the needs of the Province and municipalities. In order to achieve this vision, an inclusive and comprehensive engagement process was developed to ensure stakeholders across the province have opportunities to provide input to the review.

As part of the MGA review, regional consultations were held in eleven locations around the province to give Albertans an opportunity to provide input face-to-face. In each location, different types of sessions were held, including Technical Sessions, a Business and Industry Session, a Municipal Administrators Session, an Elected Officials Session, and a Public Open House.

These engagements were conducted in February 2014 to April 2014 in 11 locations throughout the province. Each location was held over 3 days in the following locations:

- Brooks
- Calgary
- Edmonton
- Edson
- Fort McMurray
- Grande Prairie
- Lethbridge
- Medicine Hat
- Peace River
- Red Deer
- Vermilion

Sessions were promoted via news releases, direct email invitations, social media, and by the Minister of Municipal Affairs at stakeholder conventions. Information on regional session locations, dates and registration were on the MGA Review website.

Input to the MGA Review has also been provided through other channels, including the MGA Review website (mgareview.alberta.ca), the MGA Review Consultation Workbook, and official submissions.

Session Overview

Session	Planning and Development Technical Session
Location	Delta Edmonton South Hotel and Conference Centre, Edmonton
Date	February 5, 2014
Number of Participants	54

- This session was open to anyone who wished to attend. Participants were asked to register in advance in order to receive background materials before the session.

Regional Consultation Methodology

How sessions were organized

Regional consultations were structured around one or more of the three themes of the MGA Review:

- Governance and Administration
- Assessment and Taxation
- Planning and Development

Participants were provided with agendas in advance, which identified a list of potential topics for discussion. These topics were taken directly from the MGA Review Consultation Workbook. Several of the topics for discussion appear under more than one of the three themes of the review because they are relevant to more than one theme (e.g. public participation). The agenda is attached as Appendix A.

At this session, participants provided input through facilitated table discussions. The goal of the facilitated conversations was to give the opportunity to all participants to discuss the issues that mattered most to them. Given the large size and scope of the MGA, participants at each table were asked to focus their discussion on those topics that they felt were most important to provide input on, using the list provided in advance. In addition, this session included time for “open discussion” during which participants could provide any additional input that they felt was important to the review. Table facilitators and note takers included staff from Municipal Affairs, KPMG and ADR Education.

Capturing input and reporting

Input from session participants was captured on flipcharts by facilitators during the discussion. It was explained to participants that:

- Comments were being recorded on flipcharts so that they could be captured and considered by Municipal Affairs as part of the review of the MGA.
- Comments would not be attributed to individuals or organizations.
- Other avenues were also available to provide written input to the review.

The summary below documents the input heard from participants and recorded on flipcharts. These comments have been transcribed and organized according to the list of topics for discussion; they have not been screened for accuracy and do not reflect consensus of participants. As a result, comments and opinions listed may be contradictory. Comments that apply to issues outside of the scope of the review (e.g., suggested changes to other legislation) have been removed.

It is important to emphasize that this summary reflects the input heard from participants, and does not necessarily reflect the position of the Government of Alberta.

How the Summary of Responses is Organized

Input from session participants is organized according to the three themes for the review:

- *Governance and Administration*
- *Assessment and Taxation*
- *Planning and Development*

Within these themes, comments are organized according to the applicable topics for discussion, using the list provided to participants in advance. In some sessions, not all themes may have been discussed.

Summary of Input

General Comments about the MGA

The following input was received and documented related to the MGA in general.

Comments from participants included that:

- There should be a help line for the MGA.
- Alberta needs to remain competitive at a national and international level with the aim of attracting people to the province.
- There should be a plan outlining how the MGA will incorporate new technology.
- It needs to be clear when the MGA has authority on decisions and when it is superseded by another act.
 - Federal vs. municipal jurisdiction needs more clarification.
- Access to subject matter expertise would be helpful to ask and get clarity on the MGA.

Planning and Development

The following input was received and documented related to planning and development.

Fees and Levies

Fees and levies

Comments from participants included that:

- The MGA should outline approaches to handle levies and a toolbox should be available to municipalities.
 - Municipalities need authority to impose their own types of levies for their own purposes, like recreation levies.
 - The MGA needs to allow changes to the permit fee structure to spread levies further and share them wider.
 - Municipalities should be able to impose redevelopment levies, like with infill projects.
 - Funds for art levies should be pooled.
 - Municipalities should have the ability to negotiate ownership of recreation facilities in lieu of levies.
- There needs to be clarification about what off-site levies can be charged for.
 - There needs to be a distinction between costs for housing and recreational use.
 - There needs to be a broader toolkit with multiple approaches and flexibility to finance infrastructure.
 - Systems that spread risk more evenly are needed, like a community financing district.
 - The developer should only be charged once for off-site levies.
- The Province needs to provide more funds and alleviate increases being borne through levies and charged by municipalities.
- More transparency is needed in what is being charged through levies and why.
 - There are concerns that fees being charged are not being used for the purpose for which they were collected.
- There should be more continuity and consistency in levy rates between regions.
- Levies charged should be the same for high-end and low-end subdivisions.
- The Province should establish an appeal process for levies.
 - There should be a fee involved in order to appeal.
 - The Capital Region Board is an option a levy appeal an appeal mechanism in the Capital Region, but more powers for the board would be needed.
 - Appeals should be made at the development permit stage.
 - The costs of the appeal should be shared by the municipality and the developer.
- A mechanism should be in place to subsidize levies being charged for affordable housing.

- The legality of partial or full deferment of levies is unclear.
- More incentives should be available for the inter-jurisdictional levy program.
- The MGA should allow levies to be charged outside of corporate boundaries.
- The MGA should state who pays for infrastructure in the case of for-profit utility companies.

Land Management and Planning Tools

Statutory plans and land use bylaws

Comments from participants included that:

- Statutory plans should only be required after a certain threshold, but the threshold should not be set at 3,500 people. It should be based on the needs and resources of the municipality.
- The MGA needs to enable municipalities to meet or exceed the legislated environmental matters within land use bylaws.
- Planning requirements should consider population trends in municipalities.
 - A mandatory sustainability plan should be created instead of a development plan to take declining populations into account.
 - A sustainability plan should remain voluntary to enable municipalities to choose to plan for sustainability.
- It is unclear what types of plans should be used and when to use them.
 - More clarity around what should be in an Area Structure Plan is needed.
 - The MGA should be more blunt and prescriptive about the use of different plans.
 - The goals and purposes of each plan should be clear.
- Municipalities should be held accountable for the completion and implementation of plans.
- Municipalities need resources to develop complex plans.
- The Province should check in with municipalities on the status of their development plan to see if the plan is still appropriate.
- Municipalities should be asked for their input when resource extractions are taking place within their boundaries.
- Environmental impacts of aggregate removal need to be considered.

Subdivision and Development Authorities and Processes

Planning authorities

Comments from participants included that:

- A quasi-judicial body should be considered to determine development plans within legislation.
- The conflict of interest of council members needs to be addressed. They are currently influencing policy and can vote for or against rezoning and also be on appeal board.
- There needs to be consistency between appeal boards and development boards, for example in their requirements to conform to policy.
- There is no need to add any more planning bodies or authorities.
- One regional appeal board would be preferable to several local boards.

Administrative decision-making processes

Comments from participants included that:

- Clarity on what makes up a complete application is needed. A checklist may be appropriate.
- The MGA should have requirements, as opposed to regulations.
- Liabilities should be downloaded to land owners for oil and gas wells.
- A list of “must dos” and “may dos” should be created to help with decision making.
- The decision-making process is working well and timelines are good.
- There should be a 60-day timeline for the turnaround of development permits.
- A pre-consultation period should be mandatory prior to applying for a development permit.
- There should be a mandatory consultation with developers prior to issuing the development permit.
- The current definitions of non-conforming and conforming buildings are unclear.

Land Dedication and Use of Reserves

Land dedication (reserves)

Comments from participants included that:

- Section 663 of the MGA (Environmental Reserve) provides the opportunity for municipalities to acquire environmental reserves to preserve the environment.
 - There should be a clearer definition of environmental reserves.
 - Wetlands, lower-order stream courses and river and stream valleys need to be taken into consideration.
 - The MGA needs to account for drainage and water quality, and to define what areas are prone to flooding.
 - There should be a distinction between urban areas and rural areas in the MGA.

- Environmental reserve dedication on lakes and rivers requires different rules as opposed to urban environmental reserves.
- Municipal reserves require clarification.
- The flexibility to collect municipal reserves on lands being redeveloped would be helpful.
- Municipalities should have more flexibility in determining the allocation of reserves.
 - Municipalities should be able to use surplus school sites as Municipal Reserves.
- The MGA should increase the 10 per cent requirement for reserves, forcing municipalities to purchase more land.
- Municipally controlled corporations have trouble accessing reserves or land for their infrastructure.
- Public sentiment supports retaining public green spaces.
- Another category should be created called “municipal and environmental resources” with tiered classifications of environmental reserves. This would give greater flexibility for the use of land within reserves.
- The MGA should describe the outcomes for all reserve land; it should not be a prescriptive list.
- The concept of community services reserves doesn’t work.
 - Currently, there are too many possible conflicting uses of community services reserves.
 - The word “reserve” should be removed because of public perception that these should remain as green space.
- If municipalities accept cash in lieu of reserves, this may result in the municipality realizing less money because of the timing of when the amount is being calculated.
 - For example, if the cash-in-lieu value is calculated based on un-serviced land and the municipality needs to buy additional land, they pay market value.
- Municipalities should be able to transfer a municipal reserve to a municipal and school reserve.
- A process is needed to register and re-designate historic lands to environmental reserves and municipal reserves.
- The MGA should allow for transferable agricultural credits.

Regional Approaches

Municipal relationships and dispute resolution

Comments from participants included that:

- Borders between urban and non-rural areas around municipalities are not working well. Different concepts of sustainable growth need to be used.
- There are not enough provisions in the MGA to solve land use challenges.
 - Tools to manage conflicting interests are voluntary and rely on interpretation.
 - The court system should be used as a last resort.

- There needs to be more tools in the MGA that support proactive approaches for municipalities to collaborate and build relationships.
 - Tools should encourage and facilitate communication and collaboration long before boundaries touch and conflicts arise.
 - Forced collaboration will not work well.
 - More proactive action prior to annexations is needed.
- Compensation for annexation should be based on the undeveloped value of land.
- Communication within regions is working well.
- The MGA should encourage regions to achieve efficiencies by minimizing duplication of services, like developing a centralized water plant.
- Municipal Affairs should have authority to resolve provincial jurisdictional struggles, but some provincial jurisdictions supersede Municipal Affairs.
- The process of dispute resolution needs to be better defined.
- An alternative dispute resolution system with decision-making authority is needed.
- There is a need to prevent developers from taking advantage of municipalities.
- Municipalities should be involved in future development discussions with developers.

Managing growth and development

Comments from participants included that:

- Land use policies are vague and need updating.
- A better long-range approach for municipal plans is needed.
- Each municipality should be required to develop a growth plan with mechanisms that they will use to manage urban fringe. It should also include an outline of how they will work together with other municipalities to develop regional plans.
- The rate of sub-regional planning needs to speed up and be tied into the MGA.
 - Regional planning needs to be conducted from an urban and land use planning perspective.
- The MGA needs to address struggling municipalities through regional plans. In particular, municipalities with constraints on growth and those working with First Nations need regional plans.
- There is inconsistency between the Capital Region Plan and the MGA, which acts as a disincentive to builders to increase urban density.
- Having an integrated framework that aligns major projects would be helpful.
 - Determining where an industry should go should be based on the best thing for the municipality, not the potential to earn revenue.
- The MGA should include a phrase like “municipalities shall involve the Province in developing regional plans,” and “the Province shall involve municipalities.”

Regional funding approaches

Comments from participants included that:

- If the Province ensured all municipalities were funded alike, this would likely have a positive impact on regional collaboration.
 - However, if the Province were to provide equitable funding, municipalities could risk losing compensation from industry for proximity inconveniences.
- Regional collaboration without regional funding approaches can lead to conflict.
- Regional funding needs authority behind it to enforce collaboration.
- Similar standards for services should be apply across the province to ensure a consistent quality of life.
- Developing a “charter region” would help struggling regions and would help resolve major infrastructure problems.
- The Province needs to de-emphasize political boundaries between municipalities.
- Geographic responsibility needs to be reviewed more often by the Province.

Public Participation and Planning Appeals

Public participation

Comments from participants included that:

- More modern techniques like email and social media should be utilized to notify stakeholders of opportunities for public participation. The more options for delivery outlined in the MGA, the better.
- Notice should be advertised in such a way that a reasonable person would be made aware of changes well in advance.
- The MGA needs to address public education and awareness.
- The language in the MGA should encourage significant public participation.
- The MGA does a good job of engaging and representing the public before the second reading of planning bylaws.
- Provincial engagement of stakeholders should be required through legislation.
- The Province should be able to comment during the municipal engagement process.
- The requirement for public engagement should be adaptable to the population of the municipality.
- Small municipalities may not have the personnel to meet the public engagement requirements in the MGA.
- The MGA needs to ensure there is flexibility for municipalities to mobilize their own best practices.
- The petitions process is not clearly represented to the public in the MGA.
 - The 10 per cent of population requirement doesn’t allow for an open process.
 - 10 per cent is still a large number in big municipalities.
 - The MGA needs to recognize that the petition is based on geographic areas of interest.

Planning and inter-municipal appeals

Comments from participants included that:

- The MGA should clearly say when appeals need to be dealt with in line with provincial and municipal approaches.
- The appeals process should not allow for appeals to circumvent the MGA through other legislation (e.g., the *Alberta Land Stewardship Act*).
- The MGA should establish consistency in the re-appeal process.
- If appeals are continually brought back for consideration it becomes an issue of fairness.
- The decision to deny an appeal should carry weight, so as to disallow appeals process abuse.
- Levels of authority needs to be clarified in the MGA, along with interpretations of stop orders.
- Timing for appeals should be 30 to 40 days after receiving notice of appeal.
- If additional information becomes available, the MGA should allow an appeal board to amend a decision.
- Council should not have a majority of the control of the appeal board.

Governance and Administration

During the discussions surrounding planning and development some discussion occurred on governance and administration. The following input was received and documented related to governance and administration.

Municipal Finances

Financial administration

Comments from participants included that:

- The MGA should outline a schedule for the timing of repayment streams.

Municipal revenue sources

Comments from participants included that:

The Municipal Sustainability Initiative needs review. It does not encourage collaboration.

- There needs to be an incentive to encourage regional cooperation.
- The current system of funding is unsustainable.

Regional Services Commissions

Comments from participants included that:

- The MGA should create the possibility of setting up a Municipal Utility District.

Assessment and Taxation

During the discussions surrounding planning and development some discussion occurred on assessment and taxation. The following input was received and documented related to assessment and taxation.

Taxation and Municipal Finances

Taxation

Comments from participants included that:

- Business tax is not an equitable option to raise more revenue.
- Municipalities would like the flexibility to tax land instead of property for property taxes.

Industrial and Agricultural Property Assessment

Linear property assessment

Comments from participants included that:

- Smaller municipalities without an industrial tax base are at a disadvantage under the current system.

Appendix A: Session Agenda

MGA Review: Planning and Development Technical Session

Agenda Item	Timing
1. Welcome and introductions	4:00-4:10
<p>2. Potential topics for discussion:</p> <p>The following topics will be available for table discussion:</p> <p><u>Subject 1: Fees and Levies</u></p> <ul style="list-style-type: none"> • Fees and levies <p><u>Subject 2: Land Management and Planning Tools</u></p> <ul style="list-style-type: none"> • Statutory plans and land use bylaws <p><u>Subject 3: Subdivision and Development Authorities and Processes</u></p> <ul style="list-style-type: none"> • Planning authorities • Administrative decision-making processes <p><u>Subject 4: Land Dedication and Use of Reserves</u></p> <ul style="list-style-type: none"> • Land dedication (reserves) <p><u>Subject 5: Regional Approaches</u></p> <ul style="list-style-type: none"> • Municipal relationships and dispute resolution • Managing growth and development • Regional funding approaches <p><u>Subject 6: Public Participation and Planning Appeals</u></p> <ul style="list-style-type: none"> • Municipal Government Board • Public participation • Planning and inter-municipal Appeals 	4:10-4:20
3. Change tables (if needed)	4:20-4:25
<p>4. Table facilitation</p> <ul style="list-style-type: none"> ▪ Up to three topics will be prioritized for discussion (~20 minutes each) ▪ Discussion will focus on what is working well, desired changes, and potential impacts of changes to the legislation 	4:25-5:35
<p>5. Open discussion</p> <ul style="list-style-type: none"> ▪ Are there any other relevant topics participants want to address? 	5:35-5:55
6. Wrap-up	5:55-6:00