

Alberta Professional Planners Institute

Response to Provincial Discussion Guide

Continuing the Conversation

January 30, 2017

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EXECUTIVE SUMMARY

In November, 2016, Alberta Municipal Affairs released a discussion guide, *Continuing the Conversation: Further Topics for Discussion on the Municipal Government Act*, and accompanying online questionnaire to invite input from Albertans on additional emerging concepts that were garnered from feedback received during cross-province public meetings relative to the release of Bill 21 – the *Modernized Municipal Government Act*. In its release of the discussion guide, Municipal Affairs indicated that these topics may result in additional changes to the MGA.

The discussion guide topics identify potential changes through which the Act can continue to be changed to better reflect the current reality within which municipalities exist, and planners advise, about how best to serve the public interest within that reality.

As the voice and official representation of Registered Professional Planners in Alberta, the Alberta Professional Planners Institute (APPI) re-engaged its MGA Review Task Force to prepare a thoughtful response to this discussion guide.

The Task Force recommendations address only those proposals contained in the discussion guide that it deemed to be germane and significant to planning practice. They do not critique amendments to the Act that have already been approved by the Province. These comments are contained below and cover three general topic areas:

- *How municipalities are empowered to govern;*
- *How municipalities work together and plan for growth; and*
- *General technical amendments considered to have a potential to impact planning practice.*

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).

The topics contained in this provincial discussion guide *Continuing the Conversation: Further Topics for Discussion on the Municipal Government Act*, identify potential changes through which the Act can continue to be changed to better reflect the current reality within which municipalities exist, and planners advise, about how best to serve the public interest within that reality.

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 the voice and official representation of Registered Professional Planners in Alberta, the APPI re-engaged its MGA Review Task Force to prepare a thoughtful response to this discussion guide.

INTRODUCTION

In 2015 and 2016, the Province passed significant amendments to the Municipal Government Act (MGA) (the Act). These amendments were contained in Bill 20 the *Municipal Government Amendment Act, 2015*, Bill 21 the *Modernized Municipal Government Act* (MMGA), plus additional amendments to Bill 21. The Province considered further changes to the Act arising from emerging topics gathered as feedback received during the summer tour of public input meetings across the Province.

These potential additional changes were described in a document entitled [Continuing the Conversation](#). This discussion guide identifies;

- description of emerging topics background and context information, and how the Act could be amended to address them; and
- a listing of proposed general technical amendments.

This discussion guide was available for Albertans' feedback until January 31, 2017. Comments were submitted through an [online questionnaire](#) on the MGA review website (<http://mgareview.alberta.ca>) Feedback on this discussion guide will be used to inform potential amendments to the MGA for Spring 2017.

The Task Force recommendations focus on those proposals contained in the discussion guide. They do not critique amendments to the Act that have already been approved by the Province. While approximately 46 topics were identified in the discussion guide, only those considered germane to the practice of planning in Alberta are addressed. These are contained below and cover three general topic areas:

- a) How municipalities are empowered to govern;
- b) How municipalities work together and plan for growth; and
- c) General technical amendments considered to have a potential to impact planning practice.

It should be noted, however, that several proposed changes which do not have direct implications to the practice of planning address exemptions from municipal taxation or off-site levies. As a general rule, costs of development should be equitably and fairly shared amongst those that benefit from and use any infrastructure required for that development.

TOPICS FOR DISCUSSION

How Are Municipalities Empowered to Govern?

Collaboration with Indigenous Communities

In keeping with Provincial commitments to implementing the principles of the United Nations Declaration on the Rights of Indigenous Peoples, municipalities are being encouraged to continue to take meaningful and reasonable steps to understand and engage with neighbouring Indigenous communities and Peoples in a respectful and culturally appropriate manner, particularly with respect to land use planning and service delivery.

Topic: Agreements with Indigenous Communities

The MGA is currently silent on the relationship between municipalities and Indigenous communities.

Proposed Change: Add a provision to the proposals in the MMGA to clarify that a municipality may invite Indigenous communities to participate in an intermunicipal collaboration framework (ICF) or any sub agreement that is part of an ICF.

Impact on Planning: This is an enabling provision, inviting municipalities to include bordering Indigenous communities to participate in the formulation of an ICF or a sub-agreement that is part of an ICF. On the surface, this is a welcomed and potentially beneficial additional input to the quality and comprehensiveness of the resulting ICF.

To be effective, there needs to be a defined standard against which participation is measured. Once an invitation to participate is extended, what constitutes a realistic and meaningful level of participation? Without this, there is the possibility for miscommunication and dissatisfaction on either or both sides of the invitation. What mechanisms are envisioned to reconcile these differences, given that the MGA does not apply to First Nations lands and the planning and development components of the MGA do not apply to Métis Settlements?

To successfully and realistically implement full engagement of a neighboring Indigenous community to the level required for a neighbouring municipality that is regulated by the MGA, consideration needs to be given to the timeframe within which this participation can be concluded. Bill 21 amendments require ICFs to be in place within two years of Bill 21 being proclaimed. ICFs are complex documents with many factors identified to constitute its completeness. Cultural values and expectations amongst participating parties may differ significantly on many of these factors.

Recommendation 1:

That a standard be identified against which meaningful and successful participation in the development of an ICF that involves a neighbouring Indigenous community can be gauged, including measures that can be taken if either party feels they can be detrimentally affected.

That consideration be given to an extension of the prescribed timeframe for completion of ICFs that affirm participation by a neighbouring Indigenous community, in order to incorporate participation in a respectful and culturally appropriate manner.

Rationale: The increasingly complex nature of interactions between municipalities and neighbouring Indigenous communities has to be recognized not only in the number of issues that need to be addressed, but in the length of time that is required to understand and accommodate differing expectations. Differences in governance can increase the amount of time required to come to a consensus that works for all parties. The spirit of collaboration is epitomized by a consensus being reached where each community feels heard and appreciated and protected in resulting policy. When cultural norms differ, yet need to be respected, the timeline to resolution must be extended.

Additionally, guidelines need to be established about what constitutes meaningful and adequate participation. There needs to be a base level of understanding of what participation in the development of an ICF means so that potential inconsistencies with that understanding can be appropriately adjudicated.

Topic: Statutory Plan Preparation

The MGA (s.636) deals with notifications with respect to statutory plans and the provision of opportunities for providing representations and suggestions regarding those plans during the development of the plans.

The MGA currently exempts Métis Settlements from the Planning and Development portion of the Act (Part 17).

Proposed Change: Require municipalities to implement policies with respect to how they will keep neighbouring Indigenous communities informed during the development of statutory plans and require municipalities to inform Indigenous communities that share a common boundary with two-week's notice of a public hearing for statutory plans including notice information (i.e. statement of purpose, date, time, and address of the meeting).

Impact on Planning:

On the surface, there is minimal impact to the practice of planning as a result of this proposed amendment, as it constitutes an administrative process change. Continued dialogue with adjacent Indigenous communities will serve to strengthen the resulting documents. Moreover, this change reflects and supports the principles of the UN Declaration on the Rights of Indigenous Peoples and the Truth and Reconciliation Commission. If the intent is to respectfully honour the input received as a result of this notification, timelines requiring all municipalities to adopt an MDP within two years of Bill 21 coming into force may be challenged.

Recommendation 2:

Support this proposed change with the provision that consideration is given to an extension of the prescribed timeframe for completion of MDPs for those municipalities that border Indigenous communities in order to consider and reasonably incorporate their input in a respectful and culturally appropriate manner.

Rationale: The proposed change ensures that adjacent Indigenous communities will be aware and able to make representation in a manner compliant with the general provisions for statutory plan preparation currently included in the MGA. Respectful consideration of input received may require further dialogue between municipalities and Indigenous communities, potentially unduly straining timeframes imposed for development of MDPs within two years of Bill 21 coming into force.

Environmental Stewardship

Explicitly including environmental stewardship as a municipal purpose would give municipalities authority to cite environmental consideration in a range of operational and growth decisions. The intent of this proposed inclusion would not permit municipalities to take responsibility for areas covered under provincial environmental legislation, nor to authorize them to protect environmentally sensitive areas without compensating the land owner.

During the 2016 Summer Tour, some stakeholders expressed concern that municipalities lack explicit authority to incorporate environmental stewardship considerations in their operational and land - use decision making processes.

Topic: Environmental Stewardship as a Municipal Purpose

The MGA identifies the following municipal purposes:

- to provide good government;
- to provide services, and
- to develop and maintain safe and viable communities.

The MMGA proposes also including the following as a municipal purpose:

- to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services.

Proposed Change: Include consideration of the stewardship of the environment as a municipal purpose.

Impact on Planning: Most municipalities already take on the role of environmental stewardship, primarily by developing policies intended to develop land in a responsible manner, and that protect the integrity of the environment as an outcome of responsible development. Including it as a municipal purpose legitimizes that role more formally but also instills a responsibility for all municipalities to ostensibly achieve a level of stewardship against which they can be evaluated. While municipal purposes, by their nature are aspirational objectives, additional provisions exist elsewhere in the Act to define and quantify what constitutes reasonable achievement of these purposes and provide tools to empower municipalities to take appropriate actions to reach these levels of achievement.

Recommendation 3:

Support this as a municipal purpose, but ensure that it is defined and quantified elsewhere in the Act or through a regulation so that municipalities have guidelines to use in determining the actions they take when incorporating environmental stewardship considerations in their operational and land - use decision making processes.

Rationale: Unless this purpose is defined and quantified, potentially through development of a regulation, municipalities will be hard pressed to achieve environmental stewardship. Tools exist under the *Alberta Land Stewardship Act* (ALSA) that do not require municipalities to pay compensation to protect environmentally significant areas. By creating conservation reserves – a tool that requires municipalities to pay compensation to steward the environment – there is a significant risk the ALSA tools will be undermined because land owners may prefer financial compensation and to hand over responsibility to the municipality rather than enter into voluntary agreements to conserve and protect the land.

How Do Municipalities Work Together and Plan for Growth?

Municipal Collaboration with School Boards

During the 2016 Summer Tour, municipalities and school boards expressed frustration with the reserve land assembly process. Both advocated for a new approach when acquiring land for sites that exceed the amount of reserve land available through the subdivision process. In addition, many municipalities and school boards advocated for legislative amendments to mandate the establishment of joint use agreements (JUA) as a normal course of business.

Topic: Benefitting Area Contribution

The MGA authorizes the taking of reserve land by a subdivision authority (e.g. provision of land, provision of money in lieu of land, etc.), as well as restrictions on that authority (e.g. percentage of lands taken and percentage of money required to be paid). The MMGA proposes maintaining that same structure for conservation reserve.

These provisions allow for money to be taken in lieu of land, provided that the money only be used for uses that are identified within the Act for that type of reserve, including the purchase of land for any of those uses. This enables a municipality to take cash-in-lieu and then purchase land for a similar purpose in a different area where it is desirable to assemble a parcel larger than that able to be acquired through a single development. Within a developing area, a “benefitting area contribution” structure would enable municipalities to define a geographical catchment area for delivery of services related to these uses. This catchment area would typically have more than one developer involved in its development and would allow for the impact of reserve land dedication to be distributed among contributing developers. It is proposed that a maximum of 50% of the required contribution be taken as cash, ensuring that some communities within the catchment area not be left without some reserve lands. The benefitting area contribution structure would be different from the existing money – in - place of Municipal Reserve (MR), School Reserve (SR) and Municipal and School Reserve (MSR) structure as it would include the costs required for the assembly and servicing of the reserve sites, thereby promoting an equitable distribution of costs required to assemble and service the sites.

Proposed Change: Provide municipalities with increased flexibility to use a ‘benefitting area contribution structure’ that would support land dedication and development parameters with respect to assembly of parks and school sites.

Impact on Planning: The impact on planning results from the importance of defining school and park locations in the design of complete and viable communities and any complication this “contribution” mechanism might introduce into the plan preparation process.

That said, the structure to support land dedication and development parameters is likely to be complicated to define and administer. It seems that this process is comparable to an endeavour to assist, used in allocating contributions to the extension of oversized utility infrastructure whereby contributions are made up-front to secure land for development of a school and the contributing “partner” is compensated in the future when other developer partners proceed with subdivision.

Some issues that need to be worked through to determine the implications include the following:

- It appears that there may be more than one issue at play in the assembly and servicing of land for school or park issues where sites transcend property boundary lines. Appropriately, capital costs of providing servicing infrastructure are identified and collected as a consequence of subdivision through off-site levies and the requirement to provide MR, SR or MSR land is also determined as a consequence of subdivision. That said, if a “regional” site is required to satisfy school or park purposes, to be effective, the land dedication and development parameters contemplated in this proposed change would need to be implemented well before the subdivision stage of the planning process.
- It does not appear appropriate to include conservation reserve lands in this process as this reserve is more akin to environmental reserve dedication that is acquired due to the characteristics of the actual site in order to ensure that a single developer is not required to pay for land that cannot be developed.
- Land dedication and development parameters would need to provide a mechanism whereby municipalities and school divisions can agree on future school site locations. Subsequent shifts in site locations, which are common as more detailed planning takes place, would also need to be addressed.
- Given that different school boards often operate within a single municipality and that each board has its own catchment area requirements in order to support the viability of a school, definition of a benefitting area and subsequent administration of the contribution may be difficult.
- Timing of development also presents an issue, especially when the benefitting area is large and outlying parts of it may not subdivide for many years. Who fronts the costs and how will interest be handled with deferred reserves until such time as the outlying developer is ready to subdivide.
- This proposed structure is identified as differing from the existing money-in-place of MR, SR or MSR because it would include the costs required for the assembly and servicing of the reserve sites. What role does contributions that would have been made via an off-site levy bylaw play in the servicing of these sites?

Recommendation 4: In order to better understand the implications of this proposed change, significant additional study, potentially in the form of a pilot project, and stakeholder dialogue is needed before this proposed change is enacted in the MGA.

Rationale: It appears that this proposed change may be an attempt to deal with the larger issue of lack of coordination between subdivision authorities and school authorities. Catchment areas currently cross ownership parcels both within and outside of a single municipality. Given the potential complexity of this benefitting area contribution mechanism, unintended implications may surface through attempts to implement it. Much could be learned and subsequently applied from additional study and stakeholder dialogue that is completed prior to an attempt to introduce this into the Act.

Topic: Mandatory Joint Use Agreements

The MGA (s.670) enables JUAs as a voluntary agreement to address the allocation of municipal and school reserves. Making JUAs mandatory would support collaboration between school boards and municipalities, and ensure municipal reserves are used efficiently and effectively. This change would lead to coordinated decision-making in the use, development, and disposal of school facilities and sites.

Proposed Change: Require municipalities to enter into JUAs with school boards within their municipal boundaries and to collaborate with respect to addressing the effective and efficient use of municipal and school reserve lots. The contents of a JUA would include:

- the process for acquiring and disposing of land and associated servicing standards for the schools;
- a process for enabling and developing long term and integrated planning for school sites/facilities;
- a process for determining access agreements for facilities and playing fields, including matters related to any maintenance, liabilities and fees;
- a dispute resolution mechanism agreed to by both the municipality and the school boards;
- a process for determining ancillary reserve use to complement or enhance the primary school uses for reserve land outlined in the MGA and that have a public benefit;
- a time frame and mechanism for regular review of the joint use agreement.

Consequential amendments may be required to the *School Act* and the *Education Act*.

Impact on Planning: JUAs can be an effective tool in ensuring that community recreation and educational uses are provided in neighbourhoods and that equitable use opportunities are created, thereby supporting the development of safe and viable communities.

Recommendation 5: Support the proposed change for inclusion in the Act, but encourage setting a generous timeframe for their completion.

Rationale: Ensuring that school and municipal authorities work together to maximize the use of school site grounds for community and education uses ensures that land is used as effectively as possible. Some of the work related to developing a process for acquiring and disposing of land and enabling and developing long term and integrated planning for school sites undertaken in creating these agreements may inform a pilot project for the land dedication and development parameters contemplated in the proposed “benefitting area contribution” change to the MGA. However, given the number of new policy documents that are mandated in the MMGA and that will consume municipal administrative and financial resources, a generous timeframe should be set for their completion.

Off-Site Levies

Topic: Provincial Transportation Systems

The MGA (s.648) authorizes councils, by bylaw, to impose levies on land that is to be developed or subdivided and sets out parameters for the imposition and collection of levies. The legislation does not currently allow for levies related to provincial infrastructure upgrades. A levy system could be implemented to fund provincial highway improvements that service a new development upon its completion (for example, highway overpasses and interchanges). The context provided for this proposed change in the discussion guide indicates that this would support the creation of more comprehensively planned communities. Approval by the Minister of Transportation would be required to ensure the levy costs align with Alberta Transportation's projected costs for the construction of the Infrastructure. Alberta Transportation would also have an opportunity to review and comment on any proposed new development and its impacts on Provincial highway infrastructure when statutory plans are created.

Proposed Change: Enable off-site levies, by bylaw, to be charged for provincial transportation projects that serve the new or expanded developments. Require approval of the Minister of Transportation before this type of levy can be collected.

Consequential amendment to the Public Highways Development Act may be required to authorize the Minister of Transportation to approve municipal off-site levy bylaws pertaining to provincial highway off-site levies.

Impact on Planning: Successful implementation of land use planning principles is a delicate and ongoing balance between the interests of the province/municipality and of the owner/developer of land. In all cases, one of the most important drivers is the cost of development. These costs have to be borne by one or all of these parties and have to be balanced with the revenues that will offset these costs.

Off-site levies are a tool that the province empowers a municipality to employ to offset the costs of growth by recapturing municipal infrastructure development costs from the developer on a basis of the impact of development. Application of these levies impact the developer's bottom line: accordingly, they impact the viability of undertaking development in a way that meets the municipality's growth and development objectives.

From one perspective, this proposed change to the MGA can be seen as an attempt to download costs that have traditionally been borne at the provincial level (and offset through the collection of provincial taxes) to the municipality and, subsequently to the developer. It represents a fundamental change in the current system of funding the capital costs of provincially owned infrastructure and raises a number of questions that need to be debated before enacting this potential MGA amendment.

- Is it intended that this levy will be voluntarily introduced at a local level or will it be mandated provincially based on future municipal growth plans? A separate proposed change to the MGA suggests that Alberta Transportation be allowed to comment on any area structure plan that involves a highway component.
- Is it intended that this levy will be collected municipally and forwarded to the Province in much the same way that the education portion of municipal taxes is handled?
- Will incoming revenues from this levy be apportioned on a local or regional basis, or will they be pooled to address highway infrastructure demands on a provincial basis in keeping with provincially set priorities?
- How will the timing of highway improvements be tied to completion of, and benefit to, contributing local developments?
- Demand for provincial highway infrastructure is generated by local, regional, provincial and international travel patterns. How will the percentage contribution from each of these sources be allocated to the demand stemming from new or expanded local development?
- What are the downstream impacts of increasing off-site levy charges to local developers, including impacts on the cost of land for subsequent development and the flow through impacts on the affordability of housing?

- Use of infrastructure generates the need for maintenance. What is the intent for these costs also to partially be borne on a local basis in the future? Again, questions regarding proportionate contribution to these needs are raised.
- An off-site levy is imposed at the time of subdivision. Will a desire to offset the impact of this levy influence developers to plan for and implement development on smaller parcels of land that will not trigger a potential demand for highway improvements? Cumulatively, this could lead to decreased development of comprehensively designed communities and run counter to municipal aspirations of developing complete and sustainable communities.
- Could an unintended outcome be to drive developers to acquire and develop lands in smaller communities where the potential to trigger this kind of an increase in levies is less likely?

Recommendation 6:

Significant additional study and stakeholder dialogue is needed before this proposed change is enacted in the MGA.

Rationale: As noted, this proposed change represents a fundamental shift in the way that revenues are collected from local development to fund what have been traditionally considered to be provincially owned infrastructure improvements. While it is recognized that municipal growth and development patterns contribute to demand for provincial highway infrastructure improvements, a number of questions surface that need to be answered, through stakeholder engagement, before determining whether these provisions should be introduced into the Act.

Topic: Intermunicipal Off-Site Levies

The legislation does not currently allow for intermunicipal off-site levies. However, infrastructure required to support development, or the benefitting area of such improvements, may extend beyond municipal borders. Feedback received during the 2016 Summer Tour identified that municipalities should have the ability to levy for off-site infrastructure across municipal borders.

Proposed Change: Enable municipalities to collaborate with one another on the sharing of intermunicipal off-site levies, including the expanded uses (libraries, police stations, fire halls, community recreation facilities).

Impact on Planning: Effective planning is effected through the creation of safe, complete, and viable communities: the provision of adequate levels of both hard and soft servicing is paramount to the success of resulting developments. Benefitting areas for these services can easily extend beyond municipal boundaries depending on the size of the service catchment area. In relation to soft services, this depends on the location where the service is available. With hard services, it relates to the economic viability of installing services of an optimal design capacity. Intermunicipal off-site levies may provide a way to apportion capital costs to best reflect the most desired geographic catchment area, given that an atmosphere of collaboration exists between the affected municipalities.

Recommendation 7: Support the proposed change for inclusion in the Act, but only as an optional implementation tool within an Intermunicipal Collaboration Framework or a Growth Management Plan.

Rationale: Through the introduction of Intermunicipal Collaboration Frameworks and attendant Intermunicipal Development Plans, the MMGA has introduced the requirement for municipalities to collaborate with regard to the provision of both hard and soft services. This opportunity for collaboration also exists through a municipality's participation in a Growth Management Board. Intermunicipal off-site levies could provide one vehicle through which agreements can be made to equitably share capital costs of service provision. Through collaboration, municipalities may find other methods to account for both capital and operating costs and it seems reasonable that intermunicipal off-site levies be a voluntary tool available to municipalities.

Topic: Validating Existing Off-Site Levy Bylaws

This item is not currently addressed in the legislation. However, existing bylaws and agreements that are in place at the time that MMGA provisions come into force should be honored until such time as the agreement expires or the bylaw is amended.

Proposed Change: Specifically, state that any off-site levy fee or charge made by bylaw or agreement before November 1, 2016 is deemed to be valid.

Impact on Planning: Ostensibly, there is no impact on planning that would result from this proposed change. However, if this change is not accepted, implementation of existing planning documents could face a challenge, interrupting the smooth implementation of Council approved planning policy.

Recommendation 8: Support this proposed change for inclusion in the Act.

Rationale: All parties involved in the preparation of planning policy have an understanding that implementation of the policy at the time of adoption will proceed. It does not seem reasonable, especially given the financial impact of legislative changes after the fact, to expect parties to adhere to any implications of the amended legislation, whether of a negative or positive impact.

Conservation Reserve

Conservation reserve was introduced through the MMGA as a new type of reserve land dedication to enable a municipality, in accordance with its MDP, to preserve land that has environmentally significant features but does not qualify as environmental reserve. Acquired by the municipality during the subdivision process, at the market value of the land at the time the application for subdivision is made, these lands would be identified through a "CR" designation which cannot be removed. Feedback received during the 2016 Summer Tour indicated that further clarity is required with respect to how conservation reserves should be identified, transferred between municipalities, and protected.

Topic: Identification of Conservation Reserve

The MGA outlines what a MDP must and may contain (s.632(3))

The MGA indicates that an ASP may contain any other matters a council considers necessary (s.633(2)(b)).

Proposed Change: Clarify that in addition to other types of reserve land that must be included in an MDP, a municipality may include policies addressing the proposed new conservation reserve designation, including types and locations of environmentally significant areas and the environmental purpose of conservation.

Specifically state that municipalities may develop policies addressing reserve lands within their area structure plans. This would include identifying types and locations of environmentally significant areas (ESA) and the environmental value of conservation.

Impact on Planning: This proposed change is posited as an enabling provision for both MDPs and ASPs. However, the MMGA identifies that if a municipality is going to require that conservation reserve be taken with respect to a subdivision, it must be consistent with the municipality's MDP (s.664.2(1)). It follows then, that a municipality can only use CR as a tool to realize the proposed municipal purpose of considering the stewardship of the environment if it does include policies addressing the types and locations of environmentally significant areas and the environmental purpose of conservation in its MDP.

Proactive analysis would be required to inform these policies and it is unrealistic that areas contemplated for conservation reserve could be specifically identified at the scale of planning that an MDP presents. More detailed planning analysis at a more refined level would be required to actually identify specific sites. What is more realistic is that policies included in a MDP, or even an ASP, would identify land characteristics that could qualify for contemplation as conservation reserve, subject to more detailed analysis at the time of subdivision. There is no definition provided in the MGA for environmentally significant features, environmental purpose or environmental value.

Recommendation 9: A regulation is required to carefully define what constitutes an ESA and outline the processes that will be used for making such a determination. The Province should also address what could be an unintended consequence of this change: specifically, how will municipalities that have limited resources undertake the necessary ESA research.

Rationale: Clarification of process and well thought out definitions will help provide clarity to municipalities when using this new tool.

Topic: Disposal of Conservation Reserve

The proposals in the MMGA do not address removal of the conservation reserve designation or sale of conservation reserve lands. The context for this topic in the discussion guide indicates that stakeholders were interested in whether the conservation reserve designation could be removed on lands that have lost their conservation significance.

Proposed Change: Allow municipalities to dispose of land designated as the proposed new CR when a substantive change outside of municipal control occurs to the feature being conserved, while ensuring the public process used to dispose of municipal reserve and school reserves is followed with the disposal of conservation reserve lands

Specifically state that any proceeds from the disposal of conservation reserve would have to be used for conservation purposes.

Impact on Planning: This proposed change seems to jump to the conclusion that the environmental significance of the land cannot be restored as a result of the substantive change resulting from an act outside of municipal control. There is still the possibility that the land could be restored and if not, a process for an alternative use or disposal would need to be identified and implemented.

Recommendation 10: The disposal of CR should be equivalent to the lease or disposal process for ER (MGA s. 676). A CR regulation should identify the circumstances under which conservation significance is deemed to be lost and account for the potential to mitigate and restore CR that has lost its conservation significance.

Rationale: Given the intrinsic environmental value that the land held in its natural state, it seems reasonable to retain, mitigate or restore the environmental significance of the CR before consideration of disposal. This is consistent with the “no net loss” principles contained in other legislation.

General Technical Amendments

Governance

Topic: Advertisement Bylaw

Some stakeholders raised concerns with the potential lack of transparency that could result.

606(2)(d) and 606.1 allow for the same form of notification while including additional transparency and accountability measures if a council wants to use such alternative notification methods. In practice, this means that a municipality could still use their website as a means of satisfying public notification requirements, but only if a bylaw had been passed, following a public hearing, to enable this approach

Proposed Change: Repeal subsection (2)(c), repeal the reference to it in s.606.1(4) and repeal the additional notice requirement in s.606(6)(e) that relates only to notification given on a website under subsection (2)(c).

Impact on Planning: Effective public communication leads to more effective public participation in the planning process. It is important that changes to communication protocols have the input from public who deem themselves to be affected by them.

Recommendation 11: Support the proposed change for inclusion in the Act.

Rationale: This proposed change allows for greater transparency of process and for public input into changes in communication protocols that can affect an individual's ability to receive information in all aspects of the planning process. The date a notice is actually posted on a website should be publicly documented so that provisions authorizing an appeal within a prescribed timeframe can be adhered to.

Planning and Development

Topic: Environmental Reserve s.664(1)(a)

Changing swamp to wetland will modernize the language in the MGA and harmonize the legislation with the wetland policy that was developed by Environment and Parks.

Proposed Change: Change the reference from swamp to wetland.

Impact on Planning:

Aligning MGA environmental reserve language with that in the Alberta Environmental Protection (AEP) wetland policy will provide clarification and direction to municipalities regarding wetland conservation. However, it will also broaden the amount and characteristics of land that could be considered for designation as Environmental Reserve because the AEP wetland policy applies to all natural wetlands in Alberta, including bogs, fens, swamps, marshes and shallow open water, as well as all restored natural wetlands, including wetlands constructed for the purposes of wetland replacement.

Recommendation 12: Support this change and define "wetland" in the MGA so that it duplicates the intent of the Wetland Policy developed by Environment and Parks.

Rationale: This change provides clear alignment to AEP's adopted wetland policy, a policy that provides municipalities with more detail on wetland conservation, restoration, protection and management and reduces the possibility of conflicting interpretations through implementation of the two provincial documents. It also aligns with the suggested change to make Environmental Stewardship a municipal purpose.

Topic: Statutory Plans s.636.1

Alberta Transportation has indicated that this will assist with their long-range planning.

Proposed Change: Add a requirement that area structure plans with a provincial highway component will need to be referred to Alberta Transportation.

Impact on Planning: There is little impact on the practice of planning as this is an amendment to an administrative process. However, if the circulation is not responded to in a timely manner, it could impact how quickly the plan can be completed.

Recommendation 13: Support the proposed change. However, rather than respond to the needs of a single department, suggest that the change be more generic and require circulation of any statutory plan to any government ministries that might be affected by and/or interested in the contents of any proposed statutory plan and include the ability for a municipality to establish a timeframe within which a response is required to be made by the circulated department(s).

Rationale: Additional input into the contents of a proposed statutory plan can serve to strengthen resulting policies. To effect efficient plan preparation, a municipality should reasonably be empowered to set a timeframe within which responses to circulation are received.

Topic: Subdivision and Development Appeals s.686(1.1)

Development permit decisions can be posted, advertised or mailed, depending on a municipalities land use bylaw. Maintaining this provision, as is, would mean that mailed notices would have 21 days to file an appeal, but that published or advertised notices would only have 14 days.

An amendment to adjust this section to make the appeal period the same for posted, advertised and mailed and published notices was not possible through house amendment.

Proposed Change: Ensure that the appeal period is the same for posted, advertised or mailed notices.

Impact on Planning: Issues and confusion that could arise as a result of inconsistencies in appeal periods will be avoided.

Recommendation 14: Support this proposed change for inclusion in the Act.

Rationale: There is a need for consistent and equitable treatment of all persons affected by the planning appeal process.

CONCLUSION

Amendments made to the MGA through Bill 20 – *Municipal Government Amendment Act* - and Bill 21 - the *Modernized Municipal Government Act* - are extensive and will serve to reflect the current social, environmental and economic climates that planning and development occur within. The government's intent was to amend the MGA to be a forward-looking, innovative piece of legislation by introducing a number of policy shifts. In introducing Bill 21 to the legislature, Minister Larivee indicated that they are very proud of how robust, transparent, and accessible their consultation has been on the MGA. Their desire is to have the final consolidated Act in place before municipal elections occur in October and to that end, they are in the process of developing regulations to assist in the implementation of these policy shifts. The MGA Review Task Force will prepare a formal response to the regulations that affect planning for APPI Council.

The proposed changes contained in the discussion guide represent additional possible amendments to the Act - new policy ideas some of which have been characterized as big and potentially ground breaking. Consultation time was short. The Task Force found that some of the potential amendments truly are big and complex. It noted that additional consultation and consideration of implementation implications will be necessary to flesh out these potential changes. It is hoped that the government will continue with the robust, transparent and accessible consultation that it undertook with regard to Bill 21 as it continues to develop these ideas into sound policy that can be reasonably implemented.