

Alberta Land Use Framework

**Jurisdictional Review of Land Use
and Land Management Policy**

Final Report – Executive Summary

Prepared for:

Alberta Sustainable Resource Development

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Executive Summary

The Government of Alberta required a jurisdictional review to support the development of a Land Use Framework for Alberta. The approach included research and documentation of land use initiatives taken by other governments - not just through their stated policies but also through what they are actually doing and what is and is not working. The consulting team collected, organized, analyzed, and evaluated information on land use initiatives in a way designed to serve the needs of the sponsoring government departments.

The jurisdictional review approach was to scan several Canadian provinces, several American states, and Australia. The Canadian provinces included British Columbia, Saskatchewan, Manitoba, Ontario, and Quebec. The American states included Colorado, Montana, Oregon, Washington, Wyoming, and Utah.

The consulting team searched for innovative and interesting examples of initiatives in four “focus areas”. The best examples were extracted from several initiatives per jurisdiction according to the following four areas:

- Growth and Resource Management
- Planning and Decision-making
- Conservation and Stewardship
- Monitoring and Evaluation.

The jurisdictional review investigated 194 initiatives across the twelve jurisdictions. Information on 181 of these was documented in detailed survey forms. Information on the other 13 was gathered from other sources (e.g. websites, published documents).

The intention was not to present an analysis of how each jurisdiction handles all elements of land use management but to identify certain innovative or important initiatives that may hold relevance to the Land Use Framework. In addition, the review provided the opportunity to gain insights on the range of approaches among jurisdictions in dealing with different aspects of land use policy and management.

It was not the purpose of this jurisdictional review to make recommendations to government, but rather to report on and analyze the most up-to-date, progressive, and Alberta-relevant initiatives being pursued in the jurisdictions. There are overviews and summary charts provided in the specific focus area reports so this executive summary only briefly addresses the findings. The findings were reported in two formats:

- Summarized “condensed documents” for the four Stakeholder Working Groups that were formed to examine the four focus areas and provide advice to government. The condensed documents were provided to the Stakeholder Working Groups in early July.
- More detailed reports for the use of government.

This report represents the detailed report to government. It is made up of several sections. The Introduction is a brief outline of the type of information the Government of Alberta was looking for from this study. It outlines the general scope of the focus areas as described by the government. The review attempted to ensure that the experience of the jurisdictions in relation to these areas was explored.

The Methodology section outlines the process undertaken by UMA/AECOM (the prime consultant) through its offices across Canada and its subcontractors: EDAW in the United States, Integrated Environments in Calgary, and Dr. Douglas Baker in Australia.

The Summary of Jurisdictional Approaches Section provides a comparative summary across the Canadian jurisdictions of some of the elements that are central to the way jurisdictions organize their land use management systems.

Finally, the actual Focus Area Reports are presented. Generalized overviews of the specific focus area findings are presented below. The Initiative Inventories (i.e. completed survey forms for each focus area) have been submitted as separate documents.

Growth and Resource Management

Growth and Resource Management is a vital area particularly in relation to rapidly growing economies such as Alberta's economy. The primary challenge related to growth management is the conflict between different land uses requiring the same land base. This conflict has occurred since time began; however, with growing populations and higher public concern around sustainability the conflicts have been exacerbated. There is a wide range of differing approaches taken by the surveyed jurisdictions in responding to the challenges posed by rapid growth. Much of the information in Growth and Resource Management is closely related to the examples in the Planning and Decision-making Focus Area.

The most widely debated and challenging area identified in the surveys was urban growth settlement patterns. Urban development is resulting in the loss or fragmentation of agricultural land throughout North America, as well as conflicts with other adjacent land uses and values. A number of strategies have been developed to contain urban growth – farmland protection policies, urban growth boundaries, negotiated annexation agreements, and urban separation corridors, for example. In general, the larger the population of the jurisdiction the stronger the controls imposed by the senior government on the municipalities. The other major land use challenge affecting private lands that stems from urban growth is the need for regional infrastructure systems, particularly transportation.

Increased activity by the many users of public land requires the integration of less-compatible or conflicting land uses, in particular forestry and tourism. One of the most widely accepted directions in the management of crown or public lands (which usually account for the majority of the lands in each jurisdiction) is the "integrated land and resource management" approach to the comprehensive planning of crown land. This is more of a systems approach to land management through communication and consultation rather than a set of specific actions that can be commonly applied across the states and provinces. It is instructive to review the material to understand how the different jurisdictions are customizing this approach to meet their situations. There are other initiatives referenced relating to crown land management such as Quebec's move to establish regional boards for the development of policy and the management of crown land.

A number of Growth and Resource Management initiatives relate to the methods used by senior governments to increase urban densities, which are usually connected to efforts to reduce the rate of loss of farmland. Some senior governments make funds available for the cleanup of contaminated sites within municipalities. Other initiatives reviewed relate to the development of wind farms, biodiversity programs, the strengthening of rural economies, and efforts to encourage business sectors operating on crown land in an attempt to resolve their issues themselves with reduced reference to the crown land management structures and processes.

Oregon is noted among U.S. states for its statewide planning system and goals. However, Oregon's Measure 37, a state referendum that was passed in 2004, has greatly affected the state's approach for strong regional planning controls. The state is currently undertaking a comprehensive review of its land use planning system, similar in many ways to Alberta's current effort on its land use framework.

Planning and Decision-making

The Planning and Decision-making structures in a jurisdiction are central to all areas of land use as it determines how decisions will be made. It also determines the relations between the various levels of governments and between adjacent municipalities. Unlike the other focus areas, which primarily address the content of issues, Planning and Decision-making looks at the process of managing and resolving issues. As such it is substantially a political discussion and not readily amenable to analysis and evaluation as the other focus areas. That said, the Cross-Sector Forum did indicate there is a need for stronger provincial leadership, guidance, and direction in establishing the basic planning approaches to provincial priority issues.

The Planning and Decision-making structure in a jurisdiction ensures that the legislature's definition of the values and goals of the jurisdiction around land use is implemented and managed. It establishes the day-to-day management structure around private and publicly owned lands and establishes how conflicts should be resolved.

The research undertaken clearly spoke of the common challenge of urban growth impacting non-urban lands. The differing political contexts and experiences of the jurisdictions have resulted in a range of structures and processes all designed to achieve the same end of managing the urban/rural interface.

One of the primary differences between jurisdictions is the question of who decides the overall policy direction on land use matters such as agricultural land preservation and regional servicing solutions. There are examples of such decisions (and a myriad of others) being made by senior governments based on consultation and then by fiat (or in some cases just by fiat) and in many situations by local municipalities working together to craft an acceptable compromise in a senior government policy vacuum. The U.S. examples were particularly instructive on this point. The spectrum of where the decision-making authority actually resides extends from the Oregon example in which the statewide Land Conservation and Development Commission has strong powers over all local municipal planning decisions to the more rural states which can be characterized as "home rule" where the great majority of the planning authority resides with the individual municipalities. Washington is somewhat in the middle with an appeal body that can intervene to require that state policies be better reflected in municipal plans.

All the provinces surveyed have legislation and/or policies related to good municipal land use planning. Several provinces have recently updated their provincial land use policies to provide more detail and a clear expression of provincial interests in municipal land use planning, as well as formally require consistency of municipal plans with the provincial policies.

A common challenge facing the jurisdictions was the coordination of approaches between government departments. This stemmed more from different departments with different mandates addressing major challenges on a situation specific basis and solutions being adopted that were seemingly at cross-purposes with other departments' objectives. Most jurisdictions have developed an integrated land management approach that attempts to ensure adequate cross-department communication and coordination. In addressing this issue, the ad hoc involvement of politicians can result in decisions that may be interpreted as contrary to accepted practices.

The "downloading" of provincial/state strategic or overarching policies onto the lower decision-making levels (municipalities, quasi-judicial tribunals, agencies, etc.) occurs in a variety of ways with varying degrees of flexibility permitted to the decision-makers. Generally, the larger and more populous the jurisdiction the stronger the role the senior government plays in establishing overriding principles. This is likely due to the immediacy of the need to manage the growth issues around cities such as Seattle, Toronto, Vancouver, Portland, and Montreal. In less densely developed areas - the prairie provinces and states, and even the Edmonton-Calgary corridor - provincial level planning policies are often weak and ineffectually enforced.

Questions are often raised about the decision-making processes applied to the numerous conflicts occurring on crown lands. For example, tourism, resource extraction, forestry, and recreational users all propose activities that will affect the same lands. The jurisdictional review research team was presented with a wide range of approaches across the jurisdictions researched. The integrated land management approach referred to earlier of coordinating government departments is increasingly followed in principle although there is still a great deal of room for improvement. Due to the individual approaches used to address the many types of conflicts that emerge, the research team did not investigate any jurisdiction in detail on these matters.

Three types of approaches to regional planning were identified or referenced in the jurisdictional review: (1) voluntary collaboration by municipalities motivated by common interest; (2) voluntary collaboration by municipalities enabled or required by statute; and (3) special purpose regional agencies or commissions created by the provincial/state government.

A major difference between jurisdictions is whether the senior government has established regional planning agencies (boards, commissions) with broad approval powers. An example would be the regional planning commissions that existed in Alberta until the mid-nineties. Where they do exist (British Columbia, Oregon) they provide a tool for the senior government to enforce provincial/state-wide planning policies. However, they restrict the mandate of the local municipalities in dealing with land use matters. An alternative approach used by senior governments to ensure their policies are respected at a municipal level is the creation of an appeal board (Ontario, Washington) to which planning decisions made by municipalities can be referred and/or appealed. The appeal bodies (and the regional planning agencies in the earlier example) are required to make decisions based on guidelines set out by the senior government. Some jurisdictions, such as Ontario, have both types of tertiary level bodies – an appeal board that has authority across the full jurisdiction and individual planning approval bodies responsible for specific geographic areas that may be experiencing high development pressures.

Several jurisdictions use some type of mediation program to facilitate decision-making in challenging areas. The most common relate to annexation and resource management conflicts.

Conservation and Stewardship

Conservation and Stewardship initiatives are rapidly growing across North America as the interest in preservation and sustainability grows. They include a range of policies and programs designed to protect sensitive environments, whether privately or publicly owned. The lands most often subject to these initiatives are either unique from an environmental perspective, or are farmlands in close proximity to growing urban centres. The programs are usually focused on acquiring and/or maintaining lands and often have a strong educational component.

Conservation authorities have owned and managed environmentally sensitive lands on behalf of governments for several decades but within the last 15 years there has been much more interest and many more organizational conservation approaches have been pursued. The original conservation boards had substantial control over specific lands and often had a board of directors

fully or partially elected. Today, there is a wide range of initiatives – from fully government organized, operated, and funded through locally based initiatives supported by local municipalities to initiatives created and operated totally by volunteer boards.

The U.S., especially the eastern U.S. (possibly because of the affluence and high population density), has much more experience in developing conservation initiatives and various forms of land trusts. Most forms of public-based stewardship initiatives require favourable or at least not restrictive federal, provincial tax and corporate law provisions. Modification to tax and accounting codes to support these initiatives are ongoing and have a significant impact on the ability of different provinces, for example, to generate land donations. Some of the more innovative initiatives go beyond providing tax credits for dedicated land and actually provide funds in return for farmers undertaking environmental improvements on their lands.

Judging from the variety of initiatives currently being undertaken, each jurisdiction has developed a range of solutions tailored to its needs. No “best practices” emerged; although the Australian examples point the way to using market-based instruments to achieve land conservation goals (e.g. protect important areas, achieve better land management creatively, and require offsets for land development). Likely, the major learning from the research related to the clear need in this area for creativity and flexibility on the part of all levels of government. Another insight was the potential for public-private partnerships in the design, implementation and funding of market-based programs.

Monitoring and Evaluation

The Monitoring and Evaluation Focus Area addresses a relatively new area of land use management and a vital one. Over the last 50 years, many of the issues that have led to major land use related disputes across North America, could have been substantially moderated if high quality land use data were readily available and able to be tested against scientifically and/or politically agreed thresholds. The Monitoring and Evaluation research showed that most jurisdictions are travelling the same path of exploring how best to establish data banks of land use information that can be compared over time. The establishment of actual threshold levels (e.g. the minimum montane region range size for a grizzly or the optimum number of oil wells that can be drilled per quarter section) will continue to progress through research by government, academia, industry, and non-governmental organizations.

There is a saying “What gets measured, gets managed”. Without statistical information, it is difficult to establish the specific measurable goals necessary to develop implemental and effective strategies.

The research undertaken shows a range of government initiatives focusing on monitoring a large range of natural resource, social, and land use indicators. Detailed economic information has been collected for many decades and is readily available. There is similarity between the jurisdictions as to the specific information collected (which allows inter-jurisdictional comparisons) although there are many subtle definitional differences.

Collection of baseline data allows longitudinal comparisons from year to year; but considerably more valuable is the ability to compare performance against a set of “desired” criteria, independently arrived at and agreed to (e.g. what is an acceptable urban density for a senior government to require municipalities to strive for?). This is the work of the scientists, technicians, land planners, managers, policy analysts, and politicians and is proceeding throughout the jurisdictions.

The Monitoring and Evaluation initiatives can be evaluated as to:

- What information is collected?
- How it is collected and organized
- How and to whom it is made available
- What tools can be applied to the information to support planning, management and decision-making? (e.g. manipulation of data sets, information products, map making)
- Is it a data bank only or are the measures defined and compared to an "independent" set of statistical objectives?

The last item is particularly exciting and holds great promise for jurisdictions seriously pursuing a more sustainable future. In these programs, the sustainability goals determine what research is undertaken and how data is collected and organized rather than the individual government departments simply collecting the data they believe is important. Both approaches are important; however, the comprehensive goal setting and monitoring approaches being pursued by some jurisdictions holds great promise as an effective long-range planning and action tool.

The jurisdictional review clearly documented the significant investment that several Canadian provinces and states are making to create integrated, accessible land use information systems, both for public use and internal government use. British Columbia, Manitoba, and Ontario have put considerable resources and funding into government wide systems for resource and land use information. Saskatchewan is undertaking a feasibility study to modernize its current system.

One area that has held much promise and attention over the past decade has been cumulative effects management (CEM). CEM strives to assess or project the combined impact of all the activities and projects on the land base – existing, proposed, and sometimes hypothetical. This system of assessing current impacts and projecting the impacts of future activities and projects is essential for effective land use management. However, its complexity has resulted in ambiguous results across North America. It is clear that an effective CEM approach requires detailed scientific analysis on agreed parameters. The great deal of work currently being pursued in monitoring and evaluation will make CEM programs much more effective in the future.