



UNIVERSITY OF ALBERTA
ALBERTA CENTRE FOR SUSTAINABLE
RURAL COMMUNITIES

Alberta's Land Use Framework and Municipal Governance in Rural Communities

A REVIEW OF MUNICIPAL GOVERNMENT ACT AND ALBERTA LAND
STEWARDSHIP ACT

This Research was funded by the Alberta Land Institute



UNIVERSITY OF ALBERTA
Alberta Land Institute



Table of Contents

- i. Executive Summary
- ii. Alberta's Land Use Framework and Municipal Governance in Rural Communities: An Overview
 - ii.i Land Use Framework
 - ii.ii Municipal Governance
- iii. The Existing Legislation
 - iii.i MGA
 - iii.ii ALSA
 - iii.iii Shortcomings and Opportunities
- iv. The Next Step: Recommendations
- v. Conclusion
- vi. Recommended Readings
- vii. References
- viii. About ACSRC

Executive Summary

- Alberta's Land Use Framework (LUF) and Alberta Land Stewardship Act (ALSA) were created in 2008.
- As of 2014, the provincial government continues to develop regional plans under the LUF. The province has completed the Lower Athabasca Regional Plan, the South Saskatchewan Regional Plan and has begun the North Saskatchewan Regional Plan. However, it is unclear how long it will take for the other 4 regional plans to be created or if they will even be created.
- Municipalities lack a meaningful presence throughout the regional planning process. Furthermore, there is also a lack of direct reference to the LUF within the MGA.
- This research project has identified that there are many potential issues and gaps within Alberta's current land-use governance structure that could impact achieving the priorities outlined in the LUF and implementing the seven regional plans. These gaps include: 1) implementation gap; 2) knowledge gap; 3) scalar gap; 4) structural gap.
- This study identified two options for municipal regional governance: the first is an accelerated approach, which would see large-scale amalgamation to increase municipal collaboration; and the second incremental approach, this approach would require municipalities to work together to identify common values and goals and use those commonalities to work towards regional sustainability.

Alberta's Land Use Framework and Municipal Governance in Rural Communities: An Overview

Land Use Framework

Since 2008 Alberta has undertaken a major shift in how land-use planning is conducted. This change will require a transformation in how both rural and urban communities approach, and implement land-use planning, and how they interact with industry, private landowners and the provincial government. This transformation will occur because the province is moving towards coordinated regional land use planning. In 2008 the Government of Alberta proposed the Alberta Land Stewardship Act (ALSA). This legislation was designed to unite Alberta's land-use planning under one piece of legislation. ALSA also resulted in the creation of the province's Land-Use Framework (LUF). This Framework is meant to combine all land-use planning in the province under the overarching objectives of "balancing the competing economic, environmental and social demands" of the land (LUF 2008,6). The LUF divides the province down into seven regions, loosely based on the 7 major watersheds in the province, and required each region to create a regional land-use plan. However, to date (2014) only two regions (Lower Athabasca, South Saskatchewan) have completed a regional plan and another (North Saskatchewan) just began. Based on these recent changes to land use planning in Alberta, the literature review below seeks to understand how land-use planning has changed in Alberta and what these changes mean for municipalities.

Municipal Governance

Municipalities have lacked a meaningful presence throughout the regional planning process. Furthermore, there is also a lack of direct reference to the LUF within the MGA. This is a major issue for municipalities because the regional plans that come out of the LUF will have a direct impact on municipal plans and policies, which will have to come into alignment with the overarching goals that are present in their region's plan (Roth and Howie 2011).

There is substantial ambiguity surrounding the development and implementation of LUF and ALSA (Lavelle 2012). Furthermore, in 2008 Kennett and Schneider wrote that the LUF needs "clearer direction and more detail regarding the design and implementation of the proposed strategies and specific policy initiatives that are critically important for the success of this initiative" (2008, 3) However, six years later, clarity has still not been brought to municipalities and those implementing the LUF and regional plans. This lack of clarity is further compounded by the scattered and disorganized process used to develop a completely new land-use planning approach (Brownsney and Rayner 2009). This lack of clarity leads Brownsney and Rayner (2009) to be very critical of whether the framework will be implemented and achieve its mission. This concern is supported by the fact that the Alberta government has a long and disappointing history of introducing land use initiatives and abandoning them prior to implementation (Kennett and Schneider 2008).

The Existing Legislation

Municipal Government Act: MGA

The Municipal Government Act (MGA) is the legislative document under which all municipalities in Alberta must operate. This Act became legislation in 1994, and brought about major reforms to municipal government in Alberta and across Canada. The MGA charges municipalities with “providing good government, services and facilities, or other things that are necessary or desirable in the council’s opinion, and with maintaining safe communities” (LaSage and McMillan 2009, 396). The MGA reformed gave municipalities increased power and authority through natural persons powers and a sphere of jurisdiction.

In 2013, the department of Municipal Affairs began a Municipal Government Act review process. This process was designed to update and modernize the MGA, a document that has had little revision since its introduction in 1994. There were three main focus areas for the MGA review including: 1) planning and development; 2) governance and administration; 3) assessment and taxation (MGA Review, n.d). Municipal Affairs conducted extensive consultation with key stakeholders from municipalities, business and the general public to further discuss these three focus areas. Throughout 2013/14 Municipal Affairs engaged these stakeholders in 11 three day face-to-face consultations across the province, and online workshop and survey on each chapter of the MGA. This wide spread consultation was important because the MGA is a one-size-fits-all document that grants municipalities the same power regardless of size or capacity. Therefore, it is not surprising that the recommendations from these consultations varied based on the size and capacity of the municipalities.

Alberta Land Stewardship Act: ALSA

In 2008, the province of Alberta created the Alberta Land Stewardship Act (ALSA) and Land-use Framework (LUF) are two documents that outline a new province-wide, integrated approach to land-use planning

This increase in government involvement not only occurs at the direction setting stage but throughout most of the development and implementation of the regional plans. The planning process, which decides what is included and excluded from each regional plan, is left almost entirely up to Cabinet’s discretion (Lavelle 2012). Cabinet is responsible for setting the terms of reference for the Regional Advisory Council (RAC) (ALSA 2008), this council is made up of regional stakeholders who advise cabinet (LUF 2008). However, Cabinet is not required to use any of the recommendations made by the RAC and Cabinet must approve each regional plans before they become official. Although this process of developing these plans is intended to be very collaborative (LUF 2008), municipalities (the primary agent for land use planning on private lands) have been removed from any direct involvement in creating the plans. Municipalities’ only voice in the official LUF planning process is through the few seats held by a municipal representatives on the RAC. Moreover, Cabinet can amend or repeal regional plans without consultation of RAC or the Land-use Secretariat if the deem changes necessary to any regional plan (Lavelle 2012).

The Alberta Land Stewardship Act has greater authority than previous land-use planning regulation (ILM, Regional Planning Commissions) because it has the authority of the law (Roth and Howie 2011). This authority gives the LUF both more regulatory power and greater legitimacy and also allows for legal repercussions for non-compliance (LUF 2008). However, the repercussions for non-compliance are unknown at this point.

Shortcomings and Opportunities

This research project has identified that there are many potential issues and gaps within Alberta's current land-use governance structure that could impact achieving the priorities outlined in the LUF and implementing the seven regional plans. These gaps include:

- 1) implementation gap;
- 2) knowledge gap;
- 3) scalar gap;
- 4) structural gap.

Implementation Gap:

The first and most prominent gap we discovered was the implementation gap. The implementation gap acknowledges that there is no method outlining how ALSA, LUF and regional plans will be implemented by regions or municipalities. Instead, there is a broad hierarchy that recognizes that all other planning in the province must align with regional plans and that all sectors, government departments, businesses and municipalities must come into compliance with these plans. There is, however, no clearly articulated process for how compliance, monitoring and implementation will occur, beyond a broad timeline of when businesses and municipalities must come into compliance.

Knowledge Gap:

The second gap this project discovered is the knowledge gap. The knowledge gap is the fact that while expected to be significant actors in implementation, municipalities simply do not know about regional plans. At the first scenario planning workshop of the 29 participants, only one had ever been to a LUF or regional planning consultation. Some participants had never even seen the LUF document (or ALSA). On one hand this gap is partially a function of time, since regional planning has taken so long must municipalities simply have not kept up with the process.

Scalar Gap:

The third gap identified by this project is a scalar gap. The scale gap recognizes the disconnect between ALSA and MGA. ALSA is a high level document that sets the land use direction for the province and the MGA is an operational document that provides municipalities with functional direction. However, there is little clarity or explanation as to how the high level priorities of ALSA will be operationalize by municipalities through the MGA. Although both ALSA and the MGA recognize that municipalities must be in compliance with regional plans, neither of these documents articulates the process that municipalities must take to do so.

Structural Gap:

Finally, the last gap discovered by this project is a structural gap. This structural gap is related to how municipalities can facilitate and engage in collaboration. There are two dimensions to this challenge: (1) There is no mechanism in place (beyond the AUMA or AAMDC) to facilitate or structure collective decision-making by Albertan municipalities; and (2) The geographic and municipal differences between regions creates a highly differentiated framework of ecological, economic, political and collaborative opportunities and challenges within each region. This regional differentiation is most clearly shown by the number of municipalities in the Lower Athabasca that has 7 municipalities, verses the North Saskatchewan that has 114 municipalities.

Models of Regional Governance:

This study identified that rural municipalities are very interested in regional models of governance. Currently there is not a mechanism within the MGA that allows for municipalities to organize in any way other than summer village, village, town, cities, municipal districts or specialized municipality. This fact restricts the legislative options available to municipalities. Furthermore, municipalities also recognize that amalgamation is not the only way to each this collaborative goal, however, they are uncertain of what other structural options are available.

This study identified two regional options: the first is an accelerated approach, which would see large-scale amalgamation to increase municipal collaboration; and the second incremental approach, this approach would require municipalities to work together to identify common values and goals and use those commonalities to work towards regional sustainability.

This study identified two regional options:

- 1) Accelerated
- 2) Incremental

The accelerated approach to regional governance is relatively easy, but of minimal benefit to individual municipalities. It is a top-down approach that would see large scale amalgamation of municipalities. This approach would follow the model used by Manitoba, where the provincial government forced amalgamation throughout the province in an attempt to reduce redundancies, and increase municipal capacity.

The incremental approach to regional governance has greater difficulty and the potential for high benefit. This approach is about municipal collaboration. The workshop participants in this study did not identify exactly this would look, but they did recognize that there are many different ways it could be achieved, such as: regional government, regional governance, regional service districts or specialized municipalities. The key to this approach is that it would be bottom-up (driven and designed by municipalities) with a focus on municipal collaboration. Instead of one municipality taking over another, this approach would see municipalities come together to work towards a common goal.

The Next Step: Recommendations

Although little MGA reform was recommended by workshops or interviews, based on this research we can see that there is room for reform surrounding the relationship of municipalities to ALSA. This includes:

- Increased clarity to relevant legislation
- Increased engagement of municipalities in the regional and broader LUF design and implementation process
- Greater clarity and consideration of the linkages between the LUF and municipal governments
- Greater consideration to the fiscal, democratic and environmental implications of the LUF when operationalized at the regional and municipal level
- Greater transparency and accountability of the LUF to (and for) municipalities;
- Revised and increased opportunity structures (at multiple levels) for municipal engagement, collaboration and representation in regional land-use initiatives and processes
- Increased opportunity structures for collection municipal decision-making at regional and provincial levels that contributes to alignment, harmonization and the implementation of LUF;

Conclusion

Municipalities will continue to feel disengaged and disconnected from LUF and the regional planning process, unless changes are made to bring about greater clarity surrounding the role of municipalities with regards to implementation and compliance. From this research we have learned that although municipalities are not looking for significant MGA reform, they do want to explore alternative governance structure to help ensure long term municipal sustainability. Furthermore, the provincial government can also make changes to ALSA to provide greater clarity and ensure that municipalities are aware of the role they play in the broader provincial framework.



Recommended Readings

Abbott, J. 2012. "Collaborative Governance and Metropolitan Planning in South East Queensland – 1990 to 2010: From a Voluntary to Statutory Model." Australian Centre of Excellence for Local Government, University of Technology Sydney.

2008. *Land-use framework [electronic resource] / Alberta*. n.p.: Edmonton, Alta. : Government of Alberta, 2008 (Saint-Lazare, Quebec : Canadian Electronic Library, 2009).

MGA Review. 2013. "Municipal Government Act Review: Summary of Input and Identified Issues." Developed by KPMG for Alberta Municipal Affairs. <http://mgareview.alberta.ca/wp-content/uploads/media/Input-and-Issues.pdf>

Lesage, E. C. and M. L. McMillan (2009). *Alberta Foundations of Governance: Municipal Government in Canada's Provinces* A. Sancton and R. Young. Toronto, ON, University of Toronto Press 385-452.

References

2008. *Land-use framework [electronic resource] / Alberta*. n.p.: Edmonton, Alta. : Government of Alberta, 2008 (Saint-Lazare, Quebec : Canadian Electronic Library, 2009).

ALSA. 2009. "Alberta Land Stewardship Act."
<http://www.qp.alberta.ca/documents/Acts/A26P8.pdf>

Brownsey, K. and J. Rayner 2009. "Integrated land management in Alberta: From economic to environmental integration." *Policy and Society* 28(2): 125-137.

Kennett, S. A. and R. R. Schneider. 2008a. *Land-use framework report card: A checklist-based evaluation of Alberta's draft land-use framework*. Edmonton, Alberta: Canadian Parks and Wilderness Society Northern Alberta.

Lavelle, M. 2012. "Ambiguity and the amendments to the Alberta Land Stewardship Act." *Alberta Law Review* 49(3): 579-601.

Lesage, E. C. and M. L. McMillan (2009). *Alberta Foundations of Governance: Municipal Government in Canada's Provinces* A. Sancton and R. Young. Toronto, ON, University of Toronto Press 385-452.

MGA Review. 2013. "Municipal Government Act Review: Summary of Input and Identified Issues." Developed by KPMG for Alberta Municipal Affairs. <http://mgareview.alberta.ca/wp-content/uploads/media/Input-and-Issues.pdf>

Roth, B. J. and R. A. Howie. 2011. "Land-use planning and natural resource rights: the Alberta land stewardship act." *Journal of Energy and Natural Resource Law* 29(4): 471-498.



About ACSRC

The ACSRC fills the gap for research and policy in rural areas by fostering constructive dialogue, promoting interdisciplinary and collaborative research, and developing partnerships between the University of Alberta and rural communities.

Mission

The mission of the ACSRC is to link the research, outreach and educational capacity of the University of Alberta with students, researchers, rural communities, rural community organizations and policy makers at multiple levels across the province, nationally, and internationally in order to support the improved sustainability of rural communities and populations.

General information

The vision of the ACSRC is of resilient rural communities across Canada linked closely to the discovery, dissemination, and application of new knowledge at the University of Alberta through teaching and learning, research and creative activity, community involvement, and partnerships. Such resilient rural communities will hinge on informed citizens actively participating in community governance and development in order to support and sustain the people, livelihoods, regional and local capital, economic development and long-term social viability of rural communities as a key element of the Canadian economy, the natural environment and as home to many Canadians.

www.acsrc.ca

acsrc.tumblr.com

Twitter: @ACSRC

Facebook: Alberta Centre for Sustainable Rural Communities