MGA Review

Recommended Changes to the Subdivision and Development Regulation

OVERVIEW

CHBA – Alberta is appreciative of the opportunity to be involved in the discussions surrounding amendments to the Subdivision and Development Regulation. As home and community builders, the development of transparent, consistent and functional rules surrounding subdivision and development is critical in helping our members build homes and communities. The following pages will outline our suggested modifications to the regulation which are aimed at meeting the intent of the proposed MGA amendments while striving to enhance the broader subdivision and development process within municipalities. Attached is a copy of the table provided by the province as part of the discussion which outlines some potential wording for the various policies.

SUMMARY OF PROPOSED CHANGES

The following table broadly highlights our proposed modifications to the regulation. Additional detail and potential wording can be found in the attachment.

Topic	Proposed Change	Rationale
Definition of ER and CR	1) We have proposed inclusion of definitions of both ER and CR within the regulation. These definitions are based on the language in the *Act* and the descriptions provided by the Minister and other department staff as part of the provincial open houses held this summer. These definitions should also be included in the *Act*.	1) Definitions of these reserves will greatly increase the clarity for municipalities, industry and the general population.
Definition of Water Body	1) Slightly modified definition for "water body" so that it includes a reference to "bed and shore" which is a surveyable element. This minor change should also be made in the *Act*. 2) We have included the definition of "bed and shore" from the *Surveys Act* to provide for increased ease of use.	1) As discussed during the regulation consultation sessions, it is important that features be tied to surveyable elements versus more vague or general terms that have multiple interpretations. 2) While not necessary, including this definition provides additional clarity to the regulation.

Other Definitions	1) Added a number of definitions to the regulation to provide consistency, clarity and ease of use for stakeholders. These relate specifically to environmental features and elements associated with lands susceptible to flooding.	1) The inclusion of definitions from other Acts and processes already in use by the government will assist in providing clarity to any users of the regulation.
Pre-Determination of Conservation Reserve (CR)	1) A new section within the regulation that establishes the timing for identifying CR. 2) Limit the reuse or development of CR lands for other land uses. 3) The taking of lands for CR must consider the potential impact on the efficient design of the remaining portions of the subdivision.	1) Municipalities should have some flexibility in the timing, though applicants need some assurance that this will be done prior to submitting a subdivision application. 2) The taking of lands for CR purposes needs to occur with proper diligence and consideration. We do not support alternate uses for CR as the lands are expressly taken for the purpose of conservation. 3) Leaving behind remnant parcels or lands with little to no value should as a result of taking CR should not be encouraged.
Valuation of CR	1) A new section within the regulation that outlines the criteria to be considered when determining a value of lands to be purchased as CR. 2) A new policy that makes municipalities responsible for any costs associated with infrastructure and levies required along boundaries of any CR lands.	1) This criteria will assist all stakeholders and eventually the Land Compensation Board in determining an appropriate value for any CR lands. 2) If a municipality requires roads or serves into / along CR lands, they should be responsible for those costs.
Floodways	1) Provide clarity in the regulation as to what is considered a floodway, flood hazard area and flood fringe through the use of definitions and language that is consistent with the Province's Flood Hazard Mapping. Where Flood Hazard Mapping has not been prepared, municipalities should only be requesting an applicant to prepare mapping when they have empirical evidence (i.e. aerial photography during flood events or a science based study) that a specific property floods.	1) It is important to remove broad and subjective terminology such as "lands subject to flooding" and utilize a scientific basis for determining environmental features or acts of nature. Our proposed amendment would provide a relationship to the province's Flood Hazard Mapping while encouraging municipalities to track and identify lands that may pose potential flood hazards. Identifying these lands through the use of Lidar data and aerial photography is something done by municipalities in many other provinces.

Complete Applications	1) Allow applicants to appeal a decision by the development authority that an application is "not complete". 2) This appeal process should apply to both subdivision and development applications.	1) Municipalities often ask for additional information to accompany applications (i.e. traffic studies, environmental assessments, etc.). While this information is sometimes necessary for evaluating an application, municipalities can prolong the application process indefinitely by requesting this additional information months after the initial application is submitted. This section should make reference to the ability to appeal any additional request if the applicant feels it goes beyond the scope of a reasonable requirement. 2) In wording the policies surrounding this, it needs to be clear that it applies to both subdivision and development applications given the same challenges occur with both process.
Referrals	1) Establish a maximum time limit for referral agencies to respond to an application.	1) Some referral agencies will either refrain from or delay making a decision on a proposed project which leads to significant delays. Municipalities are responsible for adhering to timeframes, so should referral agencies.
Timelines for Cities and Specialized Municipalities	1) Allow cities and specialized municipalities to create a bylaw establishing their own timelines, however, establish a maximum timeframe that goes beyond what is permitted for all other municipalities. 2) Timelines should apply to both Subdivision and Development applications. 3) Municipalities should be prohibited from requiring applicants from signing waivers as part of their applications which remove a municipality's responsibility to adhere to timelines.	1) We understand the need for larger centres to have more time to assess applications, however a legislated maximum is necessary to provide applicants with the ability to either appeal or take a complaint to the Ombudsman. 2) The regulation as written seemingly only applies to subdivision applications where it should legislatively apply to development permit applications as well. 3) Some municipalities currently require applicants to sign a waiver (as part of their subdivision and development application) that absolves the municipality from adhering to the legislated timelines. This needs to be expressly prohibited within the legislation.
Additional Reserve	1) Provide clarity that any additional reserve under Section 17 would exclude lands taken as reserves, including ER and CR. 2) Potentially adjust wording in the regulation so that it is clear that in determining density, a municipality must look at the entirety of the subdivision as established in an Area Structure Plan.	1) Section 668(1) of the MGA appears to already address this but if not, the regulation / MGA should make it clear that when determining the amount of land to be taken for MR, the calculation excludes lands taken for any reserve (including ER and CR). 2) The existing wording is vague and could potentially allow for municipalities to take additional MR for a specific phase of a development versus the entirety of the community / neighborhood as established through as Area Structure Plan.

General Notes:

- **Proposed amendments by CHBA – Alberta are shown in red text and are highlighted in yellow.**
- **Additional information along with rationale for proposed changes are provided to the right.**

Current and Proposed Subdivision and Development Regulation Wording	**Discussion and Rationale of Proposed Amendment**
Interpretation	
1(1) In this Regulation,	
(a) repealed AR 254/2007 s34;	
(a.1) "abandoned well" means an abandoned well as defined by the AER;	
(a.2) "AER" means the Alberta Energy Regulator;	
(b) "building site" means a portion of the land that is the subject of an application on which a building can or may be constructed;	
(b.1) repealed AR 89/2013 s22;	
(c) "food establishment" means food establishment as defined in the *Food Regulation* (AR 31/2006);	
(d) "hazardous waste management facility" means hazardous waste management facility as defined in the *Waste Control Regulation* (AR 192/96);	
(e) "landfill" means landfill as defined in the *Waste Control Regulation* (AR 192/96);	
(f) "rural municipality" means a municipal district, improvement district, special area or the rural service area of a specialized municipality;	
(g) "sour gas" means gas containing hydrogen sulphide in concentrations of 10 or more moles per kilomole;	
(h) "sour gas facility" means	
(i) any of the following, if it emits, or on failure or on being damaged may emit, sour gas:	
(A) a gas well as defined in the *Oil and Gas Conservation Rules* (AR 151/71);	
(B) a processing plant as defined in the *Oil and Gas Conservation Act*;	

(C) a pipeline as defined in the *Pipeline Act*;	
(ii) anything designated by the AER as a sour gas facility pursuant to section 3;	
(i) "storage site" means a storage site as defined in the *Waste Control Regulation* (AR 192/96);	
(j) "unsubdivided quarter section" means	
(i) a quarter section, lake lot, river lot or settlement lot that has not been subdivided except for public or quasi-public uses or only for a purpose referred to in section 618 of the Act, or	
(ii) a parcel of land that has been created pursuant to section 86(2)(d) of the *Planning Act* RSA 1980 on or before July 6, 1988, or pursuant to section 29.1 of the *Subdivision Regulation* (AR 132/78), from a quarter section, lake lot, river lot or settlement lot if that parcel of land constitutes more than 1/2 of the area that was constituted by that quarter section, lake lot, river lot or settlement lot;	
(k) "wastewater collection system" means a wastewater collection system as defined in the *Wastewater and Storm Drainage Regulation* (AR 119/93);	
(l) "wastewater treatment plant" means a wastewater treatment plant as defined in the *Wastewater and Storm Drainage Regulation* (AR 119/93);	
(m) "water distribution system" means a water distribution system as defined in the *Environmental Protection and Enhancement Act*;	
(n) "well licensee" means a licensee as defined in the *Oil and Gas Conservation Act*.	
"bed and shore" the land covered so long by water as to wrest it from vegetation or as to mark a distinct character on the vegetation where it extends into the water or on the soil itself.	Definition taken from Section 17(3) of the *Surveys Act*.
"Water body" means **(i) A permanent and naturally occurring body of water, or** **(ii) A naturally occurring river, stream watercourse or lake** **that features a bed and shore.**	The majority of the definition is taken from Bill 21 with a modification to tie the features to a bed and shore which is a surveyable element. It is critical that the definition of water bodies and other features be tied to surveyable elements such as a bed and shore.
"conservation reserve" means **developable** ~~the~~ land designated as Conservation Reserve under Division 8 **of the Municipal Government Act;**	Requires a minor modification to the definition provided in 616 of the Act. This slight change will provide additional clarity and make the definition consistent with the language used by the Minister to describe environmental reserve.

"environmental reserve" means **undevelopable** ~~the~~ land designated as environmental reserve by a subdivision authority or a municipality under Division 8 **of the Municipal Government Act**;	Requires a minor modification to the definition provided in 616 of the Act. This slight change will provide additional clarity and make the definition consistent with the language used by the Minister to describe environmental reserve.
"Flood fringe" Areas of overland flow are part of the flood hazard area outside of the floodway, and are typically considered special areas of the flood fringe.	Definition taken from Provincial Flood Hazard Mapping overview page (found here)
"Flood Hazard Area" The flood hazard area is typically divided into floodway and flood fringe zones and may also include areas of overland flow.	Definition taken from Provincial Flood Hazard Mapping overview page (found here)
"Flood Hazard Mapping" mapping prepared by the province identifying flood areas.	This may need to be modified slightly as the entire province has yet to be mapped but it is important this be referenced in the regulation.
"Floodway" The portion of the flood hazard area where flows are deepest, fastest and most destructive. The floodway typically includes the main channel of a stream and a portion of the adjacent overbank area. New development is discouraged in the floodway.	Definition taken from Provincial Flood Hazard Mapping overview page (found here)
(2) The definitions in Part 17 of the Act and section 1 of the Act, to the extent that they do not conflict with Part 17, apply to this Regulation.	
Bylaw, plan prevails	
2 Nothing in this Regulation may be construed to permit a use of land unless that use of land is provided for under a statutory plan or is a permitted or discretionary use under a land use bylaw.	
AER designations	
3(1) The AER may designate any well, battery, processing plant or pipeline, as defined in the *Oil and Gas Conservation Act*, not included in section 1(1)(h)(i) as a sour gas facility for the purpose of this Regulation, if it emits, or on failure or on being damaged may emit, sour gas or gas containing hydrogen sulphide in concentrations of less than 10 moles per kilomole.	
(2) The AER may designate as a sour gas facility for the purpose of this Regulation	
(a) a well for which a well licence has been issued under the *Oil and Gas Conservation Act*,	
(b) a battery as defined in the *Oil and Gas Conservation Act* the location and construction of which has been approved by the AER,	
(c) a processing plant as defined in the *Oil and Gas Conservation Act* forming part of a gas processing scheme approved by the AER under that Act, or	
(d) a pipeline for which a permit has been issued under the *Pipeline Act*,	

if the operation of the well, battery, processing plant or pipeline has not commenced at the time the designation is made and the AER is satisfied that when it is in operation it will emit, or on failure or on being damaged may emit, sour gas or gas containing hydrogen sulphide in concentrations of less than 10 moles per kilomole.	
(3) The AER must furnish a copy of each designation and each revocation of a designation made by it under this section to the municipality where the affected sour gas facility is or is to be located.	
Part 1	
Subdivision Applications	
Application	
4(1) The owner of a parcel of land, or a person authorized by the owner of a parcel of land, may apply for subdivision of that parcel of land by submitting a complete application for subdivision to the appropriate subdivision authority.	
(2) A complete application for subdivision consists of	
(a) a completed application for subdivision in the form set out in the *Subdivision and Development Forms Regulation*,	
(b) a proposed plan of subdivision or other instrument that effects a subdivision,	
(c) the required fee,	
(d) a copy of the current land title for the land that is the subject of an application, and	
(e) a copy of any agreement(s) that has previously established ER and CR affecting the lands affected by the subdivision application.	This would ensure there is recognition of earlier identification of reserves within the development approval process.
~~(e)~~ (f) at the discretion of the subdivision authority, the information required under subsections (3) and (4).	
(3) The applicant must submit the number of sketches or plans of the proposed subdivision that the subdivision authority requires, drawn to the scale that the subdivision authority requires,	
(a) showing the location, dimensions and boundaries of	
(i) the land that is the subject of the application,	
(ii) each new lot to be created,	

(iii) any reserve land,	
(iv) existing rights of way of each public utility, and	
(v) other rights of way,	
(b) clearly outlining the land that the applicant wishes to register in a land titles office,	
(c) showing the location, use and dimensions of buildings on the land that is the subject of the application and specifying those buildings that are proposed to be demolished or moved,	
(d) showing the approximate location and boundaries of the bed and shore of any river, stream, watercourse, lake or other body of water that is contained within or bounds the proposed parcel of land,	
(e) if the proposed lots or the remainder of the titled area are to be served by individual wells and private sewage disposal systems, showing	
(i) the location of any existing or proposed wells, and	
(ii) the location and type of any existing or proposed private sewage disposal systems,	
and the distance from these to existing or proposed buildings and property lines, and	
(f) showing the existing and proposed access to the proposed parcels and the remainder of the titled area.	
(4) The applicant must submit	
(a) if a proposed subdivision is not to be served by a water distribution system, a report that meets the requirements of section 23(3)(a) of the *Water Act*,	
(b) an assessment of subsurface characteristics of the land that is to be subdivided including but not limited to susceptibility to slumping or subsidence, depth to water table and suitability for any proposed on site sewage disposal system,	
(c) if a proposed subdivision is not to be served by a wastewater collection system, information supported by the report of a person qualified to make it respecting the intended method of providing sewage disposal facilities to each lot in the proposed subdivision, including the suitability and viability of that method,	
(d) a description of the use or uses proposed for the land that is the subject of the application,	

(e) information provided by the AER as set out in AER Directive 079, *Surface Development in Proximity to Abandoned Wells*, identifying the location or confirming the absence of any abandoned wells within the proposed subdivision, and	
(f) if an abandoned well is identified in the information submitted under clause (e),	
(i) a map showing the actual wellbore location of the abandoned well, and	
(ii) a description of the minimum setback requirements in respect of an abandoned well in relation to existing or proposed building sites as set out in AER Directive 079, *Surface Development in Proximity to Abandoned Wells*.	
(4.1) Subsection (4)(e) does not apply in respect of an application for subdivision solely in respect of a lot line adjustment.	
(4.2) Subsection (4)(e) does not apply if the information to be provided under subsection (4)(e) was previously provided to the appropriate subdivision authority within one year prior to the application date.	
(5) The subdivision authority may require an applicant for subdivision to submit, in addition to a complete application for subdivision, all or any of the following:	
(a) a map of the land that is the subject of the application showing topographic contours at not greater than 1.5 metre intervals and related to the geodetic datum, where practicable;	
(b) if the land that is the subject of an application **is located in a floodway as identified by the provincial Flood Hazard Mapping or potentially in a floodway that has yet to be mapped based on other empirical information**, a map showing the 1:100 flood;	It is important to remove broad and subjective terminology such as "lands subject to flooding" and utilize a scientific basis for determining environmental features or acts of nature. The proposed amendment would provide a relationship to the province's Flood Hazard Mapping while encouraging municipalities to track and identify lands that may pose potential flood hazards. Identifying these lands through the use of Lidar data and aerial photography is something done by municipalities in many other provinces.
(c) information respecting the land use and land surface characteristics of land within 0.8 kilometres of the land that is the subject of the application;	
(d) if any portion of the parcel of land that is the subject of the application is situated within 1.5 kilometres of a sour gas facility, information provided by the AER regarding the location of the sour gas facility;	
(e) a conceptual scheme that relates the application to future subdivision and development of adjacent areas;	
(f) any additional information required by the subdivision authority to determine whether the application meets the requirements of section 654 of the Act.	

(6) Should a development authority request information or materials beyond what is required in Subsection 4(4) and 4(5), an applicant may appeal whether the material requested is necessary to the application.	• This section should make reference to the ability to appeal any additional request if the applicant feels it goes beyond the scope of a reasonable requirement. The SDAB could then render a decision and either force the applicant to comply or deem the application complete in its current form. In the instance of the latter scenario, the development authority would then need to undertake a review of the application to render a decision (subject to the legislated timeframes). • Municipalities often ask for additional information to accompany applications (i.e. traffic studies, environmental assessments, etc.). While this information is sometimes necessary for evaluating an application, municipalities can prolong the application process indefinitely by requesting this additional information months after the initial application is submitted. • The suggested change to the regulation would make municipalities more accountable for identifying this information earlier in the process and protecting applicant's rights to the legislated timeframes. • This should include an additional subsections for 653.1 and 683.1 of the Act to highlight that an applicant can appeal the determination of an incomplete application.
Application referrals	
5**(1)** For the purposes of subsection (5)(d)(i) and (5)(i), "adjacent" means contiguous or would be contiguous if not for a river, stream, railway, road or utility right of way or reserve land.	
(2) For the purposes of subsection (5)(e)(i), "adjacent" means contiguous or would be contiguous if not for a railway, road or utility right of way or reserve land.	
(3) For the purposes of subsection (5)(m), "adjacent land" means land that is contiguous to the land that is the subject of the application and includes	
(a) land that would be contiguous if not for a highway, road, river or stream, and	
(b) any other land identified in a land use bylaw as adjacent land for the purpose of notifications under section 692 of the Act.	
(4) For the purposes of subsection (5)(e)(ii), the Deputy Minister of the Minister responsible for administration of the Public Lands Act may, in an agreement with a municipality, further define the term "~~body of water~~Water body" but the definition may not include dugouts, drainage ditches, man made lakes or other similar man made bodies of water.	
(5) On receipt of a complete application for subdivision, the subdivision authority must send a copy to	
(a) each school authority that has jurisdiction in respect of land that is the subject of the application, if the application may result in the allocation of reserve land or money in place of reserve land for school purposes;	

(b) the Deputy Minister of Environment and Sustainable Resource Development if any of the land that is the subject of the application is within the distances referred to in section 12 or 13;	
(c) if the proposed subdivision is to be served by a public utility, as defined in the *Public Utilities Act*, the owner of that public utility;	
(d) the Deputy Minister of Transportation if the land that is the subject of the application is not in a city and	
(i) is adjacent to a highway where the posted speed limit is less than 80 kilometres per hour, or	
(ii) is within 0.8 kilometres of the centre line of a highway right of way where the posted speed limit is 80 kilometres per hour or greater, unless a lesser distance is agreed to by the Deputy Minister of Transportation and the municipality in which the land that is the subject of the application is located;	
(e) the Deputy Minister of the Minister responsible for administration of the *Public Lands Act* if the proposed parcel	
(i) is adjacent to the bed and shore of a ~~river, stream, watercourse, lake or other~~ "Water body" ~~body of water~~, or	Remove striked through text as this should all be covered under the definition of "water body".
(ii) contains, either wholly or partially, the bed and shore of a ~~river, stream, watercourse, lake or other~~ "Water body" ~~body of water~~;	Remove striked through text as this should all be covered under the definition of "water body".
(f) the Deputy Minister of the Minister responsible for the administration of the *Public Lands Act*, if the land that is the subject of the application is within the Green Area, being that area established by Ministerial Order under the *Public Lands Act* dated May 7, 1985, as amended or replaced from time to time except that for the purposes of this Regulation, the Green Area does not include,	
(i) land within an urban municipality, and	
(ii) any other land that the Deputy Minister of the Minister responsible for the administration of the *Public Lands Act* states, in writing, may be excluded;	
(g) the AER, in accordance with section 10(1);	
(g.1) if an abandoned well is identified on a proposed subdivision, the well licensee of the abandoned well;	
(h) the Deputy Minister of Environment and Sustainable Resource Development if any of the land that is the subject of the application is situated within a Restricted Development Area established under Schedule 5 of the *Government Organization Act*;	

(i) the Deputy Minister of Environment and Sustainable Resource Development, if any of the land that is the subject of the application is adjacent to works, as defined in the *Water Act*, that are owned by the Crown in right of Alberta;	
(j) the Deputy Minister of the Minister responsible for the administration of the *Historical Resources Act* if	
(i) the Deputy Minister has supplied the subdivision authority with a map showing, or the legal description of,	
(A) the location of each Registered Historic Resource and Provincial Historic Resource under the *Historical Resources Act* or other significant historic site or resource identified by the Deputy Minister, and	
(B) the public land set aside for use as historical sites under the *Public Lands Act*,	
within the jurisdiction of the subdivision authority, and the land that is the subject of the application is within a rural municipality and 0.8 kilometres of a site referred to in paragraph (A) or (B), or is within an urban municipality and 60 metres of a site referred to in paragraph (A) or (B), or	
(ii) the Deputy Minister and the municipality have agreed in writing to referrals in order to identify and protect historical sites and resources within the land that is the subject of the application;	
(k) if the land is situated within an irrigation district, the board of directors of the district;	
(l) the municipality within which the land that is the subject of the application is located if the council, municipal planning commission or a designated officer of that municipality is not the subdivision authority for that municipality;	
(m) each municipality that has adjacent land within its boundaries, unless otherwise provided for in the applicable municipal or intermunicipal development plan;	
(n) any other persons and local authorities that the subdivision authority considers necessary.	
(6) Notwithstanding subsection (5), a subdivision authority is not required to send an application for a subdivision described in section 652(4) of the Act to any person referred to in subsection (5).	
(7) Notwithstanding subsection (5), a subdivision authority is not required to send a complete copy of an application for subdivision to any person referred to in subsection (5) if the land that is the subject of the application is contained within	
(a) an area structure plan, or	
(b) a conceptual scheme described in section 4(5)(e)	

that has been referred to the persons referred to in subsection (5).	
(8) If any person, agency or company referred to in Section 5 fails to respond to a referral within 45 days of notice of a complete application, they will be deemed to have approved the application without condition.	Municipalities are being held to timelines for responses and decisions. This should apply to all other agencies and provincial departments.
Decision time limit	
6(1) With the exception of municipalities referenced in 6(2), a subdivision authority must make a decision on an application for subdivision within	Administrative adjustment to accommodate the different requirements for cities and specialized municipalities.
(a) 21 days from the date of receipt of the completed application in the case of a completed application for a subdivision described in section 652(4) of the Act if no referrals were made pursuant to section 5(6),	
(b) 60 days from the date of receipt of any other completed application under section 4(1), or	
© the time agreed to pursuant to section 681(1)(b) of the Act.	
6(2) Cities and specialized municipalities shall be permitted, by bylaw, to establish individual timeframes not more than 50% higher than the timeframes outlined in 6(1).	We are supportive of cities and specialized municipalities having additional time to assess applications, however, a legislative maximum needs to be in place in order to provide applicants with potential remedies via appeal bodies.
6(3) In determining a complete application, no development authority shall require an applicant to sign any documentation which would negate or modify the application timeframes outlined in 6(1) and 6(2).	Some municipalities currently require applicants to sign a waiver (as part of their subdivision and development application) that absolves the municipality from adhering to the legislated timelines. This needs to be expressly prohibited within the legislation.
Relevant considerations	
7 In making a decision as to whether to approve an application for subdivision, the subdivision authority must consider, with respect to the land that is the subject of the application,	
(a) its topography,	
(b) its soil characteristics,	
(c) storm water collection and disposal,	
(d) any potential for the ~~flooding,~~ subsidence or erosion of the land.	Flooding would now be addressed under 7(i) as outlined below.
(e) its accessibility to a road,	

(f) the availability and adequacy of a water supply, sewage disposal system and solid waste disposal,	
(g) in the case of land not serviced by a licensed water distribution and wastewater collection system, whether the proposed subdivision boundaries, lot sizes and building sites comply with the requirements of the *Private Sewage Disposal Systems Regulation* (AR 229/97) in respect of lot size and distances between property lines, buildings, water sources and private sewage disposal systems as identified in section 4(4)(b) and (c),	
(h) the use of land in the vicinity of the land that is the subject of the application, and	
(i) **any potential for flooding based on provincial or municipal mapping or data,**	**Comments for our *proposed* Section 4(5)(b) apply:** It is important to remove broad and subjective terminology such as "lands subject to flooding" and utilize a scientific basis for determining environmental features or acts of nature. The proposed amendment would provide a relationship to the province's Flood Hazard Mapping while encouraging municipalities to track and identify lands that may pose potential flood hazards. Identifying these lands through the use of Lidar data and aerial photography is something done by municipalities in many other provinces.
(j) any other matters that it considers necessary to determine whether the land that is the subject of the application is suitable for the purpose for which the subdivision is intended.	
Reasons for decision	
8 The written decision of a subdivision authority provided under section 656 of the Act must include the reasons for the decision, including an indication of how the subdivision authority has considered	
(a) any submissions made to it by the adjacent landowners, and	
(b) the matters listed in section 7.	
Part 2	
Subdivision and Development Conditions	
Road access	
9 Every proposed subdivision must provide to each lot to be created by it	
(a) direct access to a road, or	

(b) lawful means of access satisfactory to the subdivision authority.	
Sour gas facilities	
10**(1)** A subdivision authority must send a copy of a subdivision application and a development authority must send a copy of a development application for a development that results in a permanent additional overnight accommodation or public facility, as defined by the AER, to the AER if any of the land that is subject to the application is within 1.5 kilometres of a sour gas facility or a lesser distance agreed to, in writing, by the AER and the subdivision authority. Potential administrative amendment may be needed to define permanent additional overnight accommodation	
(2) If a copy of a subdivision application or development application is sent to the AER, the AER must provide the subdivision authority or development authority with its comments on the following matters in connection with the application:	
(a) the AER's classification of the sour gas facility;	
(b) minimum development setbacks necessary for the classification of the sour gas facility.	
(3) A subdivision authority and development authority shall not approve an application that does not conform to the AER's setbacks unless the AER gives written approval to a lesser setback distance.	
(4) An approval under subsection (3) may refer to applications for subdivision or development generally or to a specific application.	
Gas and oil wells	
11(1) A subdivision application or a development application shall not be approved if it would result in a permanent additional overnight accommodation or public facility, as defined by the AER, being located within 100 metres of a gas or oil well or within a lesser distance approved in writing by the AER.	
(2) For the purposes of this section, distances are measured from the well head to the building or proposed building site.	
(3) In this section, "gas or oil well" does not include an abandoned well.	
(4) An approval of the AER under subsection (1) may refer to applications for subdivision or development generally or to a specific application.	
Application for development permit must include location of any abandoned wells	
11.1(1) An application for a development permit	

(a) in respect of a new building that will be larger than 47 square metres, or	
(b) in respect of an addition to or an alteration of an existing building that will result in the building being larger than 47 square metres	
must include information provided by the AER identifying the location or confirming the absence of any abandoned wells within the parcel on which the building is to be constructed or, in the case of an addition, presently exists.	
(2) Subsection (1) does not apply if the information to be provided under subsection (1) was previously provided to the subdivision or development authority within one year prior to the application date.	
Setback requirements in respect of abandoned wells	
11.2(1) Subject to section 11.3, an application for	
(a) a subdivision, other than a subdivision solely in respect of a lot line adjustment, or	
(b) a development permit in respect of a building referred to in section 11.1(1)(a) or (b)	
made on or after the coming into force of this section shall not be approved if it would result in the building site or building being located within the minimum setback requirements in respect of an abandoned well as set out in AER Directive 079, *Surface Development in Proximity to Abandoned Wells*.	
(2) For the purposes of this section, distances are measured from the wellbore to the building site.	
Transitional	
11.3(1) In this section, "existing building" means a building that exists on the date that this section comes into force.	
(2) An application for a development permit in respect of	
(a) an addition to or an alteration of	
(i) an existing building that is larger than 47 square metres, or	
(ii) an existing building that will result in the building being larger than 47 square metres,	
or	

(b) a repair to or the rebuilding of an existing building larger than 47 square metres that is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation	
shall not be approved if it would result in the building being located within the minimum setback requirements in respect of an abandoned well as set out in AER Directive 079, *Surface Development in Proximity to Abandoned Wells* unless with respect to that building the development authority varies those minimum setback requirements after consulting with the well licensee, and the building will not encroach further onto the abandoned well.	
Distance from wastewater treatment	
12(1) In this section, "working area" means those areas of a parcel of land that are currently being used or will be used for the processing of wastewater.	
(2) Subject to subsection (5), a subdivision authority shall not approve an application for subdivision for school, hospital, food establishment or residential use unless, on considering the matters referred to in section 7, each proposed lot includes a suitable building site for school, hospital, food establishment or residential use that is 300 metres or more from the working area of an operating wastewater treatment plant.	
(3) Subject to subsection (5), a development authority shall not issue a development permit for a school, hospital, food establishment or residence within 300 metres of the working area of an operating wastewater treatment plant nor may a school, hospital, food establishment or residence be constructed if the building site is within 300 metres of the working area of an operating wastewater treatment plant.	
(4) Subject to subsection (5), a subdivision authority shall not approve an application for subdivision for the purposes of developing a wastewater treatment plant and a development authority may not issue a permit for the purposes of developing a wastewater treatment plant unless the working area of the wastewater treatment plant is situated at least 300 metres from any school, hospital, food establishment or residence or building site for a proposed school, hospital, food establishment or residence.	
(5) The requirements contained in subsections (2) to (4) may be varied by a subdivision authority or a development authority with the written consent of the Deputy Minister of Environment and Sustainable Resource Development.	
(6) A consent under subsection (5) may refer to applications for subdivision or development generally or to a specific application.	
Distance from landfill, waste sites	
13(1) In this section,	

(a) "disposal area" means those areas of a parcel of land	
(i) that have been used and will not be used again for the placing of waste material, or	
(ii) where waste processing or a burning activity is conducted in conjunction with a hazardous waste management facility or landfill;	
(b) "working area" means those areas of a parcel of land	
(i) that are currently being used or that still remain to be used for the placing of waste material, or	
(ii) where waste processing or a burning activity is conducted in conjunction with a hazardous waste management facility, landfill or storage site.	
(2) Subject to subsection (5), a subdivision authority shall not approve an application for subdivision for school, hospital, food establishment or residential use if the application would result in the creation of a building site for any of those uses	There should be clarity in the definition of food establishment indicating that this does not include lunchroom facilities. This has resulted in applications being denied in the past and it would be beneficial for the regulation / definition to articulate that this applies to commercially independent food service establishments.
(a) within 450 metres of the working area of an operating landfill,	
(b) within 300 metres of the disposal area of an operating or non-operating landfill,	
(c) within 450 metres of the disposal area of a non-operating hazardous waste management facility, or Please Note: may need an administrative amendment to provide additional guidance that: "within 450 metres of the disposal area of an operating hazardous waste management facility", which is not currently stated in the SDR.	
(d) within 300 metres of the working area of an operating storage site.	
(3) Subject to subsection (5), a development authority shall not issue a development permit for a school, hospital, food establishment or residence, nor may a school, hospital, food establishment or residence be constructed if the building site	
(a) is within 450 metres of the working area of an operating landfill,	
(b) is within 300 metres of the disposal area of an operating or non-operating landfill,	

(c) is within 450 metres of the disposal area of a non-operating hazardous waste management facility, or Please Note: may need an administrative amendment to provide additional guidance that: "within 450 metres of the disposal area of an operating hazardous waste management facility", which is not currently stated in the SDR.	
(d) is within 300 metres of the working area of an operating storage site.	
(4) Subject to subsection (5), a subdivision authority shall not approve an application for subdivision, and a development authority shall not issue a permit, for the purposes of developing a landfill, hazardous waste management facility or storage site unless	
(a) the working area of a landfill is situated at least 450 metres,	
(b) the disposal area of a landfill is situated at least 300 metres,	
(c) the working or disposal area of a hazardous waste management facility is situated at least 450 metres, and	
(d) the working area of a storage site is situated at least 300 metres	
from the property line of a school, hospital, food establishment or residence or building site proposed for a school, hospital, food establishment or residence.	
(5) The requirements contained in subsections (1) to (4) may be varied by a subdivision authority or a development authority with the written consent of the Deputy Minister of Environment and Sustainable Resource Development.	
(6) A consent under subsection (5) may refer to applications for subdivision or development generally or to a specific application.	
Distance from highway	
14 Subject to section 16, a subdivision authority shall not in a municipality other than a city approve an application for subdivision if the land that is the subject of the application is within 0.8 kilometres of the centre line of a highway right of way where the posted speed limit is 80 kilometres per hour or greater unless	
(a) the land is to be used for agricultural purposes on parcels that are 16 hectares or greater,	
(b) a single parcel of land is to be created from an unsubdivided quarter section to accommodate an existing residence and related improvements if that use complies with the land use bylaw,	
(c) an undeveloped single residential parcel is to be created from an unsubdivided quarter section and is located at least 300 metres from the right of way of a highway if that use complies with the land use bylaw,	

(d) the land is contained within an area where the municipality and the Minister of Transportation have a highway vicinity management agreement and the proposed use of the land is permitted under that agreement, or	
(e) the land is contained within an area structure plan satisfactory to the **Deputy** Minister of Transportation and the proposed use of the land is permitted under that plan.	We would like clarification that if a plan is considered satisfactory to the Deputy Minister, it is considered the same as being satisfactory to the Minister.
Service roads	
15(1) In this section, "provide" means dedicate by caveat or by survey or construct, as required by the subdivision authority.	
(2) Subject to section 16, if the land that is the subject of an application for subdivision is within an area described in section 5(5)(d), a service road satisfactory to the Minister of Transportation must be provided.	
(3) Subsection (2) does not apply if the proposed parcel complies with section 14 and access to the proposed parcel of land and remnant title is to be by means other than a highway.	
Waiver	
16(1) The requirements of sections 14 and 15 may be varied by a subdivision authority with the written approval of the Minister of Transportation.	
(2) An approval under subsection (1) may refer to applications for subdivision generally or to a specific application.	
Additional reserve	
17(1) In this section, "developable land" has the same meaning as it has in section 668 of the Act.	
(2) The additional municipal reserve, school reserve or school and municipal reserve that may be required to be provided by a subdivision authority under section 668 of the Act may not exceed the equivalent of	Our understanding, based on Section 668(1) of the Act, is that any calculation of additional reserve would exclude lands already taken as reserves (i.e. Environmental Reserve, Conservation Reserve, Municipal Reserve, School Reserve, etc.).
(a) 3% of the developable land **over the entire area of an Area Structure Plan or Area Redevelopment Plan** when in the opinion of the subdivision authority a subdivision would result in a density of 30 or more dwelling units per hectare of developable land but less than 54 dwelling units per hectare of developable land, or	The density calculation should be based on the entirety of the approved Area Structure Plan or Area Redevelopment Plan. If additional MR is required due to the density, it should be identified and accounted for in the overall Area Structure Plan or Area Redevelopment Plan.

(b) 5% of the developable land **over the entire area of an Area Structure Plan or Area Redevelopment Plan** when in the opinion of the subdivision authority a proposed subdivision would result in a density of 54 or more dwelling units per hectare of developable land.	
Security conditions	
18(1) A development authority may	
(a) require an applicant for a development permit to provide information regarding the security and crime prevention features that will be included in the proposed development, and	
(b) attach conditions to the development permit specifying the security and crime prevention features that must be included in the proposed development.	
(2) Subsection (1) applies even if the land use bylaw does not provide for those conditions to be attached to a development permit.	
Approval by council not part of development permit application	
18.1 A development authority may not require, as a condition of a completed development permit application, the submission to and approval by council of a report regarding the development.	
Part 3	
Registration, Endorsement	
Registration	
19 On a proposed plan of subdivision,	
(a) environmental reserve must be identified by a number with the suffix "ER";	
(b) municipal reserve must be identified by a number with the suffix "MR";	
(c) school reserve must be identified by a number with the suffix "SR";	
(d) municipal and school reserve must be identified by a number with the suffix "MSR";	
(e) a public utility lot must be identified by a number with the suffix "PUL";	

(f) conservation reserve must be identified by a number with the suffix "CR".	Administrative amendment.
Deferral	
20 If a subdivision authority orders that the requirement to provide all or part of municipal reserve, school reserve or municipal and school reserve be deferred, the caveat required to be filed under section 669 of the Act must be in the deferred reserve caveat form set out in the *Subdivision and Development Forms Regulation*.	
Endorsement	
21 When a subdivision authority endorses an instrument pursuant to section 657 of the Act, the endorsement must contain at least the following information:	
(a) the percentage of school reserve or municipal reserve or municipal and school reserve required to be provided under the Act, if any;	
(b) the percentage of money required to be provided in place of all or part of the reserve land referred to in clause (a), if any;	
(c) the percentage of reserve land referred to in clause (a) ordered to be deferred, if any;	
(d) the area covered by an environmental reserve easement, if any.	
Part 4	
Provincial Appeals	
MGB distances	
22(1) The following are the distances for the purposes of section 678(2)(a) of the Act with respect to land that is subject to an application for subdivision:	
(a) the distance with respect to a ~~body of water~~ water body described in section 5(5)(e);	
(b) the distance, from a highway, described in section 14 or the distance, from a highway, described in an agreement under section 5(5)(d)(ii);	
(c) the distance, described in section 12, from a wastewater treatment plant;	
(d) the distances, described in section 13, from the disposal area and working area of a waste management facility.	
(2) For the purposes of this section,	
(a) "wastewater treatment plant" means a sewage treatment facility;	

(b) "waste management facility" means a landfill, hazardous waste management facility or storage site.	
Part 5	
Identification of Lands for Conservation Reserve	
23(1) The identification of lands for Conservation Reserve may occur through a written agreement prior to subdivision application as per section 664.1 of the MGA, or through the land use application process.	Based on the discussions during the working group it became evident that there is a need for the formal process / timeline to identify Conservation Reserve. In many cases, the Area Structure Plan, Neighborhood Area Structure Plan or Area Redevelopment Plan phase of a development project (where applicable) is the appropriate time to identify these features. These plans generally require environmental / biophysical assessments which allow for the identification of any features that either warrant protection or require a more detailed assessment (i.e. formal wetland assessment). Where a development is not subject to an Area Structure Plan, Neighbourhood Area Structure Plan or Area Redevelopment Plan, the time where a municipal council makes decisions on land use would be an appropriate mechanism for identifying any CR lands. The wording as proposed provides municipalities flexibility on the timing while still providing applicants with a level of assurance that these lands have to be identified early within the planning process. This may require modifications to Section 664.1 or 664.2 of the MGA depending on how it is drafted.
23(2) Any lands designated as Conservation Reserve are not eligible for alternate uses or disposition.	The taking of lands for CR purposes needs to occur with proper diligence and consideration. We do not support alternate uses for CR as the lands are expressly taken for the purpose of conservation. We expect that municipalities are required to make committed, evidence-based decisions that consider long term value and sustainability when applying public dollars towards conservation efforts.
23(3) Conservation Reserve shall be taken in a manner that minimizes any negative impacts related to servicing or design efficiency on the remaining lands within the subdivision.	Depending on the shape and location of the CR parcel(s) taken by a municipality, it may create remnant or oddly shaped parcel with limited development potential. The loss of development potential on any of those pieces of land needs to be considered as part of the overall valuation. Municipalities should be required to either purchase these lands or accommodate boundary changes to CR lands in a manner that addresses the above concerns.
Part 6	

Criteria for Determining the Value of Lands Identified as Conservation Reserve	
24(1) In determining the compensation required for any lands designated by a municipality for Conservation Reserve, the Land Compensation Board shall have specific regard for: **a) fair market value of the land at the time of subdivision approval or endorsement, assuming the lands are fully developable; and** **b) the value of the subject lands if they were to be fully developed.**	As discussed and agreed to by various stakeholders at the working group, some criteria for determining the value of Conservation Reserve is necessary. The rationale for using the value at the time of subdivision approval is that there are instances where subdivision approvals can take upwards of 1-2 years and the appraisal needs to take into consideration its value once the subdivision is formally approved.
24(2) Municipalities shall be responsible for the costs associated with any infrastructure required along the boundary and any levies paid for on lands designated as Conservation Reserve.	As discussed and agreed to by various stakeholders at the working group meetings, municipalities should be responsible for the costs associated with any infrastructure they require along the boundaries of lands designated as CR.
Part 7	
Transitional Provisions, Repeal, Expiry and Coming into Force	
Transitional	
25 An application for subdivision made under the *Subdivision and Development Regulation* (AR 212/95) and received by the appropriate subdivision authority on or before June 30, 2002 shall be continued to its conclusion under that Regulation as if that Regulation had remained in force and this Regulation has not come into force.	
Repeal	
26 The *Subdivision and Development Regulation* (AR 212/95) is repealed.	
Expiry	
27 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2019.	
Coming into force	
28 This Regulation comes into force on July 1, 2002.	