RED TAPE REDUCTION SUBMISSIONS

Associate Ministry of Red Tape Reduction

1. Mortgage Rules

Issue

Federally imposed mortgage rules were designed for Vancouver and Toronto have been impacting Albertan's seeking affordable market housing along with builders and developers. ATB and Credit Unions are not required to follow the federal rules.

Impact

- The Federal Mortgage Rules are designed to address issues in housing markets within British Columbia and Ontario. The same affordability issues that plague Toronto and Vancouver are not prevalent in Alberta.
- 118,000 households are removed from the entry-level housing market as a result of the Federal Mortgage Rules. This has led to historic numbers of housing inventories across Alberta which are risking the viability of companies and employment within the skilled trades.

Recommendation

1. Government of Alberta to direct ATB to ignore federal mortgage rules for homes <$700,000.

Legislation

- Government directive to ATB

2. Energy Step Codes and Net Zero Ready 2030

Issue

The Federal Government will be mandated Energy Step Codes as part of the National Building Code in 2020. This is viewed as a pathway to all new homes being built to a Net Zero Ready energy standard by 2030. Current models and policies have been largely directed by British Columbia with little consideration of Alberta's climate. Cost impacts will be in the tens of thousands of dollars per house if not properly mitigated.

Impact

- Energy Step Codes have largely been developed in British Columbia and have not undergone scrutiny or assessment for the cost implications of building these homes in Alberta's climate.
- Development of Federally mandated Energy Step Codes will increase the cost of new homes while adding multiple layers of administrative burden for provincial and municipal staff.
- Delayed implementation of the Energy Step Codes will allow the province to evaluate the impacts in other provinces prior to determining the appropriate path for Alberta.

Recommendations

1. Indefinitely delay the implementation of Energy Step Codes in Alberta.
2. Monitor the impacts of Energy Step Codes on housing affordability in other jurisdictions.

3. Work with the home building industry to determine cost-effective and strategic improvements to energy efficiency that maintain housing affordability.

Legislation

- Government Directive / Executive Order.

3. Building Codes in Calgary and Edmonton

Issue

Different interpretations of one specific clause of the City Charters have the potential to lead to costly legal challenges and potentially multiple building codes in Alberta.

Impact

- A policy added to City Charters was intended to support the construction of things like green roofs. City of Edmonton staff have indicated they believe this policy would expand to allow for them to make substantial modifications to the Alberta Building Code on matters related to Energy Efficiency, effectively leading to a situation where builders in Alberta have to contend with multiple building codes.
- Despite multiple conversations between Municipal Affairs and the City of Edmonton, the city is undertaking a legal review to understand the extent to which they can use this new power. This could potentially include the City requiring Net Zero homes at great cost to home builders and future home buyers.
- Builders construct homes in multiple jurisdictions and having to contend with multiple building codes is an untenable situation. This occurred in British Columbia and led to significant confusion and cost increases for builders.
- Removing the proposed policy does not impact financial powers granted to the cities under other sections.

Recommendation

1. Remove Section 7(2) from the City of Calgary Charter Regulation and City of Edmonton Charter Regulation.

Legislation

Municipal Affairs

City of Calgary Charter Regulation

City of Edmonton Charter Regulation

7(2) In the Safety Codes Act, in section 66, the following is added after subsection (3):

(4) Notwithstanding subsection (1), the City may make bylaws relating to environmental matters, including, without limitation, matters relating to energy consumption and heat retention, but only to the extent those bylaws are consistent with all regulations made under this section and section 65.01 and all codes declared in force by those regulations.

4. Joint Worksite Health and Safety Committees

Issue

Joint Worksite Health and Safety Committees do not function effectively in residential construction and require modifications to reduce the administrative burden while improving job site safety/

Impact

- Employers need to contend with multiple committees, representatives or both, creating significant overlap, administrative burden and duplicate costs.
- Most sub-contractors are self-employed persons are on each site for only a fraction of a project's length and often at differing times which makes participating in all committees or as representatives for the duration of temporary projects extremely burdensome.
- Committees and Representatives are responsible for duties that may be best handled by qualified designates who are better equipped to quickly deal with safety challenges on site.
- Employers are not seeing any measurable improvement in safety outcomes onsite since the creation of Joint Work site Health and Safety Committees or Representatives.

Recommendation

1. BILD Alberta is working with Alberta Labour and Immigration on comprehensive changes to Joint Worksite Health and Safety Committees for residential construction.

5. STANDATAs

Issue

Building STANDATAs are a critical resource for home builders to receive clarification in on elements of the Building Code. Removing STANDATAs would increase the amount of red tape at the local level.

Impact

- Builders and trades often rely on government interpretations of code to ensure the consistent application of rules across the province.
- Discontinuing STANDATAs would create situations where rules are applied differently from municipality to municipality adding to the red tape home builders experience.

Recommendation

1. Preserve STANDATAs and continue developing them in consultation with industry and the Safety Codes Council.

Legislation

- Government procedure.

6. Permit Timelines & Approvals

Issue

Under the Modernized Municipal Government Act legislated approval timelines for municipalities were removed which has added unpredictability and risks increasing costs for projects.

Impact

- All municipalities (regardless of size) should have legislatively mandated timelines to process applications. Removing required timelines does nothing to incentivize municipalities to be more efficient in policy development and internal processes.
- The NDP removed all measures of accountability for municipalities approving subdivision and development applications. This has resulted in a situation where municipalities have no legal requirement to process applications in a timely fashion.

- In addition to property taxes, developers and builders pay fees to help fund municipal staff responsible for processing permits.
- Delays in municipal approvals is a major cost impact on all projects. They result in additional financing costs and the uncertainty puts projects and jobs at risk.
- Re-instating mandated approval timeframes will provide businesses with predictability and encourage investment.

Recommendations

1. Delete of Section 640.1 of the MGA in its entirety.
2. Delete reference to Section 640.1 of the MGA from Section 6 of the Subdivision and Development Regulation.

Legislation

Municipal Affairs

Municipal Government Act

640.1 The council of a city or of a municipality with a population of 15 000 or more may, in a land use bylaw,

(a) provide for an alternative period of time for the development authority to review the completeness of a development permit application under section 683.1(1),

(b) provide for an alternative period of time for a development authority to make a decision on a development permit application under section 684,

(c) provide for an alternative period of time for the subdivision authority to review the completeness of an application for subdivision approval under section 653.1, and

(d) provide for an alternative period of time for the subdivision authority to make a decision on an application for subdivision under the subdivision and development regulations.

653.1 (1) A subdivision authority must, within 20 days after the receipt of an application for subdivision approval under section 653(1), determine whether the application is complete.

683.1 (1) A development authority must, within 20 days after the receipt of an application for a development permit, determine whether the application is complete.

684 (1) The development authority must make a decision on the application for a development permit within 40 days after the receipt by the applicant of an acknowledgment under section 683.1(5) or (7) or, if applicable, in accordance with a land use bylaw made pursuant to section 640.1(b).

(2) A time period referred to in subsection (1) may be extended by an agreement in writing between the applicant and the development authority.

Subdivision & Development Regulation

6 Subject to section 640.1 of the Act, a subdivision authority must make a decision on an application for subdivision within

(a) 21 days from the date of an application being determined or deemed under section 653.1 of the Act to be complete in the case of an 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 an application under section 4(1) being determined or deemed under section 653.1 of the Act to be complete, or

(c) the time agreed to pursuant to section 681(1)(b) of the Act.

7. Approvals from Ministry of Transportation

Issue

All development and construction projects are required to go through municipal approval processes. Often times, applications must also go to Alberta Transportation. Whether it be a simple referral or a more in-depth review, the timelines for response from these provincial departments have become unpredictable and often time consuming.

Impact

- Delays associated with approvals add considerable costs to projects and can risk investment.
- Internal commitments to approval timelines in addition to some minor regulatory changes could reduce delays currently experienced and increase the predictability for private sector investment.

Recommendations

1. Add timelines on permit and regulatory approvals and referrals involving the Ministry of Transportation.
2. Under Section 14 of the Subdivision and Development Regulation, change the referral requirements back to 0.8 km from 1.6 km as currently contained within the regulation. 1.6 km from a highway means that the majority of applications within small and medium sized communities must be referred to Alberta Transportation. This creates additional red tape for applicants, municipal and provincial staff all while delaying applications.
3. Remove the words “at the time of subdivision” Section 14(e) of the Subdivision and Development Regulation. The Ministry of Transportation already receives and is to provide comment / approval on all Area Structure Plans (ASP) in proximity to a highway. If a subdivision application does not conform to the ASP then the ASP must be revised and approved by Council. This will automatically mean that the revised ASP must be considered by Transportation prior to approval. This seemingly minor change adds another step to the approval process and it is entirely unnecessary given an appropriate check and balance already exist.

Legislation

Municipal Affairs and Ministry of Transportation

***Municipal Government Act* – Subdivision and Development Regulation**

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 1.6 kilometres of the centre line of a highway right of way 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 Minister of Transportation at the time of the application for subdivision and the proposed use of the land is permitted under that plan.

8. Statutory Plans

Issue

Calgary and Edmonton are being given the authority to designate any plan as a statutory plan. The only requirement will be that the cities must identify how these plans will interact with other statutory plans which could lead to substantial and unnecessary red tape for developers and home builders.

Impact

- This policy has the potential to add significant costs and red tape to projects. Anytime a new project is initially considered, planned and designed it requires a developer and/or consultants to review and work with the statutory plans to determine what is permitted, site design elements and other factors. While time consuming in its present form, there is a clear hierarchy for these standards. Calgary and Edmonton have numerous non-statutory plans that impact land development and the existing framework allows the cities to convert the policies from their non-statutory plans into policies within their statutory plans. This provides clarity to all applicants on what their requirements are.
- In Calgary, there are over 40 non-statutory plans. Through a relatively simple process those could all now be considered statutory documents. This would mean in preparing any development application you could be subject to reviewing and complying with over 40 statutory plans and obtaining Council approval of any amendments. Furthermore, there will likely be numerous inconsistencies between all these documents. This translates to considerably more work not only for applicants but city staff who will constantly need to provide clarity.
- Calgary and Edmonton already have the power to amend their statutory plans to include any policies from their non-statutory plans so this is an entirely unnecessary power that will lead to increased costs for applicants and the cities.

Recommendation

1. Remove Section (33) from the City of Calgary and City of Edmonton Charter Regulations.

Legislation

Municipal Affairs

***Municipal Government Act* – City of Calgary and City of Edmonton Charter Regulations**

(33) The following is added after section 635 of the Act:

635.1 (1) The City may by bylaw adopt one or more additional statutory plans.

(2) An additional statutory plan referred to in subsection (1) must

(a) indicate the name of the statutory plan,

(b) describe the contents of the statutory plan, and

(c) indicate how the statutory plan is consistent with the City's other statutory plans.

(3) An additional statutory plan referred to in subsection (1) must be consistent with

(a) any intermunicipal development plan in respect of land that is identified in both the statutory plan and the intermunicipal development plan,

(b) any municipal development plan,

(c) any area structure plan in respect of land that is identified in both the statutory plan and the area structure plan, and

(d) any area redevelopment plan in respect of land that is identified in both the statutory plan and the area redevelopment plan.

(34) Section 636(1)(h) is to be read as follows:

(h) in the case of an area structure plan or an additional statutory plan adopted by the City under section 635.1, where the land that is the subject of the plan is adjacent to an Indian reserve or Metis settlement, notify the Indian band or Metis settlement of the plan preparation and provide opportunities for that Indian band or Metis settlement to make suggestions and representations.

9. Municipal Reserve Allocation

Issue

Outdated policies under the MGA could allow municipalities to take additional land from private sector developers.

Impact

- Under amendments to the MGA in 1995 a policy was added that allows municipalities to take an additional 5% (above the already granted 10%) of a developers land at no cost for use as a municipal, school or special reserve. When introduced it was believed that if a municipality would get that land as a bonus for allowing additional density. Since 1995, new communities have changed dramatically and developments are now required by municipalities to have upwards of 40 units / hectare.
- Density used to be determined by market demand but is now being mandated by local governments. Developers and builders have learned to manage under these conditions but allowing municipalities the ability to take an additional 5% of land at no cost when they mandate the density is not reasonable.

Recommendations

1. Remove Section 668(1) from the *Municipal Government Act*.
2. Remove Section 17(1) and 17(2) from the Subdivision and Development Regulation.

Legislation

Municipal Affairs

Municipal Government Act

668 (1) In this section, "developable land" means that area of land that is the subject of a proposed subdivision less the total of

(a) land required to be provided for roads and public utilities under section 662, and

(b) land required to be provided as reserve land.

(2) Subject to section 663, when in the opinion of the subdivision authority a proposed subdivision would result in a density of 30 dwelling units or more per hectare of developable land, the subdivision authority may require municipal reserve, school reserve or municipal and school reserve in addition to that required to be provided under section 666.

(3) The additional land that may be required to be provided under subsection (2) may not exceed the equivalent of 5% of the developable land or a lesser percentage as prescribed in the subdivision and development regulations.

Subdivision and Development Regulation

17 (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

(a) 3% of the developable land 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

(b) 5% of the developable land 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.

10. Offsite Levies

Issue

Offsite levies are a major cost component of any new community. As an industry we support paying for infrastructure and facilities based on the degree of benefit but want to see additional measures of transparency, accountability and fiscal responsibility built into the existing regulation.

Impact

- Preventing gold-plated or excessive facilities from being taxed on new home buyers and industry.
- Requiring commitments that facilities that are funded by industry and new home buyers are built in a reasonable timeframe.
- Ensure that if a facility is not built, money is returned to the parties who paid it.
- Ensure transparency with levy calculations that can be verified by those paying the levies.
- Lengthen the appeal period understanding these are incredibly complex bylaws that take time to adequately review.

Recommendations

Under Section 3 (General Principles) of the Offsite Levies Regulation, add the following policies:

1) Components of infrastructure or facilities that do not benefit a development are not leviable. This would include items such as retail space, rentable space, public art or building design features that go beyond the core purpose and function of the facility.
2) Municipalities to demonstrate that they will provide the facility or infrastructure for which a levy was collected within a reasonable timeframe or as stimulated by a specified trigger event based on consultation and collaboration with contributing parties.
3) Municipalities shall establish a method and procedure to refund any private entity who provides the front-end cost of infrastructure or facilities so that the entity does not pay more than the established degree of benefit.

Under Section 5 (Principles and Criteria for Determining Levy Costs) of the Offsite Levies Regulation, add the following policies:

4) Any levy shall be based on a formula that is clearly stated with the calculations and input data being easily reproducible and verifiable by outside parties.
5) Any levy bylaw shall include policies requiring any surplus or unused levy funds to be properly accounted for and either used to the benefit of those who funded the levy or returned to the contributing party in instances where the infrastructure or facility was not constructed or constructed to a lesser degree (size, scope or standard) from what was originally planned.

Under Section 11 (Appeal Period), modify the policy as follows:

6) An appeal must be submitted to the Municipal Government Board within ~~30 days~~ 90 days of the day on which the bylaw imposing the levy was passed.

11. Provincial Transportation Levy

Issue

Funding and constructing highway improvements to facilitate private sector investment and development is a complex problem that requires a thoughtful solution.

Impact

- A clause added to the MGA and Offsite Levies Regulation related to off-site levies to pay for new or expanded provincial transportation infrastructure has created substantial confusion amongst industry and municipalities.
- Policies that were introduced conflict with Ministry of Transportation internal policy guidelines which make the implementation of the levy almost impossible.
- The greatest challenge with this infrastructure is finding the upfront funding to facilitate development to fund the levy and generate tax revenue.
- Until the issues have been addressed, the existing policies have the risk of adding significant delays and even risking projects across the province.

Recommendations

1. Delete section 648(2)(c.2) from the *Municipal Government Act*.
2. Delete Section 5.1 from the Offsite Levy Regulation.
3. With stakeholders, undertake a substantial review of funding mechanisms and alternatives for highway infrastructure adjacent to new developments. This needs to include existing Ministry of Transportation internal policy documents.

Legislation

Municipal Affairs and Ministry of Transportation

Municipal Government Act

648 (2) An off-site levy may be used only to pay for all or part of the capital cost of any or all of the following:

(c.2) subject to the regulations, new or expanded transportation infrastructure required to connect, or to improve the connection of, municipal roads to provincial highways resulting from a subdivision or development;

Offsite Levies Regulation (Section 5.1)

Ministry of Transportation Internal Policy Document – Developments Adjacent to Highways (2007)

12. Water Act Approval Timelines

Issue

Delays in *Water Act* approvals can add millions in financing charges, impact jobs and serve as a huge risk for private sector investment.

Impact

- Applications for wetland disturbance under the *Water Act* take, on average, between 12-18 months for review and decision. There is also a high degree of variance in timelines and decision-making outcomes between regions of the Province. Rationale provided by AEP staff state that long review time is due to staff shortages and high demand.
- Longer approval timelines add increased financing charges which impact the viability of projects and cost of the eventual homes constructed. A one year delay results in approximately $1,000,000 in financing charges per quarter section of land. If these charges cannot be passed on, it reduces the return-on-investment and impacts the ability to receive financing on future projects.

- Adding predictability to this process through mandated approval timelines would increase investor confidence, reduce costs on the end consumer and create more jobs through faster construction. Industry is willing to help facilitate this through modest application fee to help increase staffing levels.

Recommendations

1. Mandate a 6 month turn around on *Water Act* review, resulting in increased predictability and would greatly benefit industry.
2. Implement a modest *Water Act* application fee, which would be used to increase staffing to appropriate levels.

13. Ineffective Review Process for Public Lands Act & Water Act

Issue

A lack of integration in review of *Public Lands Act* and *Water Act* applications have added, in many cases, a year or more worth of delays for projects.

Impact

- When an impact is proposed to a Crown-owned wetland, an application must be made, reviewed, and approved under the *Public Lands Act* prior to submission and review under the *Water Act*. Current process separates the review under two different acts, and relevant information is often lacking due to an incomplete view of a project or wetland impact. This can lead to misinformed rejection or denial of applications, and costly and time-consuming appeals processes.
- *Public Lands Act* applications take, on average, between 12-24 months for review and decision. Some projects have exceeded that timeline.
- When reviewing applications for disturbance of Crown-owned wetlands, an incomplete picture of the project is presented in the application (focused on the “land” portion of the wetland). Missing components of the “wet” are presented in the *Water Act* application, which is only submitted once a decision is rendered under the *Public Lands Act*.
- An incomplete view of a proposed project, and the opportunities and constraints of a site, can lead to a misinformed decision – either for approval or rejection of an application.

Recommendations

1. Establish a concurrent submission and review process for *Public Lands Act* and *Water Act* applications, when applicable.
2. Integrate teams at AEP so that applications can be reviewed holistically, instead of being compartmentalized.

14. Consistent Application of Wetland Policy

Issue

Developers are witnessing substantial variations in approval timelines and the application of policy from region to region, despite being subject to the same legislation and policy.

Impact

- BILD Alberta (and its legacy organizations) were highly engaged throughout the development of the Alberta Wetland Policy and advocated for a framework that would be consistently applied throughout the Province, resulting in a “level playing field” for development across municipalities.

- Application of policy, including timelines and requirements for approvals, remain widely varied across the Province:
  - Some offices will not meet with applicants as part of the pre-application and approval process.
  - Personal opinions of AEP staff, including objection to greenfield development voiced at meetings which has been perceived as basis to complicate application process or deny approvals.
  - Variation of municipal wetland policy objectives, and roles of municipal staff versus provincial staff, inconsistent across the Province.
- The above has resulted in a perceived advantage of developing in one region of the Province compared to another.

Recommendations

1. Align implementation of existing policy across the Province to make it easy and cost effective for proponents to "do the right thing". This includes working with municipalities on removing barriers to wetland retention within urban settings.
2. Provide training to approvals staff across the Province to ensure consistency of review times and comments on applications.
3. Provide applicants opportunity to meet with AEP staff to discuss projects prior to application to ensure that all components are included to allow for a fulsome and thorough review upon submission.

15. Water Reuse and Stormwater Use

Issue

Existing legislation often prevents the reuse of treated stormwater which benefits the environment, municipalities and industry.

Impact

- Water is a precious and finite resource within Alberta. Existing legislation, including the South Saskatchewan Basin Closure Order, often prevents the reuse of treated stormwater for irrigation, wetland conservation, or other valuable uses. AEP has worked to develop the draft Alberta Water Reuse and Stormwater Use Guidebook, which was circulated on January 21, 2019 for stakeholder discussion purposes, but has not yet finalized the Guidebook for application by industry.
- Conflicting legislation, and lack of guidelines, is preventing the reuse of captured water and treated stormwater within Alberta. This results in a higher than necessary use of potable water, leading to concerns with existing municipal water licenses, potential future drought conditions, and lack of water supply for future population growth.
- Potable water is being used for industrial activities (such as hydraulic fracturing and industrial / commercial processing, natural resource extraction, fire control, etc.) due to lack of guidelines, when there is opportunity to reuse water or use stormwater for the same activity.

Recommendations

1. Finalize the Alberta Water Reuse and Stormwater Use Guidebook, and allow for implementation across the Province on a pilot basis.
2. Engage with user groups to review the results of the pilot after 12 months implementation, and determine if modifications to the Guidebook are necessary.
3. Provide industry a mechanism to feedback valuable information, technology and learnings to AEP staff on an ongoing basis.

16. Missing Directives Under the Alberta Wetland Policy

Issue

An enhanced Alberta Wetland Policy will provide more opportunities for wetland banking and mitigation which benefits the environment and encourages private sector investment.

Impact

- The Alberta Wetland Policy references numerous directives, including two (wetland enhancement and wetland banking) that have yet to be developed. When the policy was released in 2013, it was anticipated that the completion of all directives would be completed in 5 years. Wetland enhancement and wetland banking are two mitigation options that the land development industry would like to implement within urban centres to replace lost wetland functions and provide natural amenities for residents.
- Opportunities for wetland banking and wetland enhancement are being lost due to lack of AEP directive.
- Opportunities for wetland mitigation in urban areas is currently limited to wetland construction. The requirements under the Wetland Restoration Directive severely limit application in urban areas.
- The missing directives do not allow for a fulsome suite of wetland mitigation opportunities within Alberta.

Recommendations

1. Task AEP with development of directives for wetland banking and wetland enhancement.
2. Engage with industry, including BILD AB, on opportunities to implement wetland banking and wetland mitigation directives within urban settings.