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Provincial Land Use Policies Review

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Attached are the comments of Resource Conservation Manitoba (RCM) on the draft Provincial Land Use Policies. We apologize that we could not complete these remarks by last Friday.

The main thrust of our comments is to set the PLUPs firmly on the foundation of Manitoba's *Sustainable Development Act* and *The Climate Change and Emissions Reduction Act* and then propose revisions implied by these acts. Certainly the draft PLUPs contain a number of references to sustainability and climate change and propose policies consistent with these. But in our view these do not go far enough.

The Climate Change and Emissions Reduction Act commits the province to a very specific and absolute GHG emissions reduction target by December 31st 2012. The implementation of the PLUPs in Development Plans must be consistent with that target. To that end we propose that a *Kyoto and Beyond Test* be applied to all Development Plans to ensure that the legislated emission reduction targets shall be met. We also propose a *Peak Oil Test* to assess how resilient communities can be in the face of anticipated petroleum shortages and skyrocketing prices.

When these tests of sustainability and climate change mitigation are applied to the draft PLUPs, the section that we found most troublesome was Policy Area 2, Section C "Sustainable Rural Development." Despite the title, this section appears to promote an increase in a rural commuter culture of people who live in the country without an economic base there and are forced to drive to urban centres for employment, goods and services. This section gave us much grief. It is not clear how developments with this pattern can be made sustainable or pass the Kyoto and Peak Oil tests, but we suggested a few mitigative strategies. This section, we believe, is the most in need of further analysis and reconstruction.

A number of other policies in the draft PLUPS also receive briefer attention.

Sincerely,

Peter Miller, Chair
RCM Policy Committee

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Comments on the Draft Provincial Land Use Policies from Resource Conservation Manitoba (RCM)

Thank you for the opportunity to participate in the consultation on the draft Land Use Policies (PLUPs) for the Province of Manitoba. Resource Conservation Manitoba (RCM) appreciates the effort to update the policies that provide guidance to municipalities, provincial departments and other planning authorities in drafting their Development Plans. In particular we support efforts to integrate a variety of policies and programs that ensure that land is used sustainably and include the province's commitment to reduce GHG emissions, and comply with the Kyoto Protocol.

RCM is a non-profit, non-governmental centre for environmental education and applied sustainability. Our distinctiveness as an environmental organization has always been our blending of strong advocacy with practical action. RCM not only engages in analysis and awareness activities around ecological issues (e.g. waste reduction and climate change), but we then take the next step by developing specific programs and services to help move sectors of the community toward ecological sustainability. Thus our comments focus on integrating concepts of sustainability within Manitoba's development agenda and strengthening opportunities to encourage municipalities, departments and other planning authorities to implement programs and services to meet environmental challenges.

Overall, we are impressed with a number of features of the draft PLUPs, including their organization and clear language (articulating provincial interests, goals, and policies); their intent to integrate sustainable development and climate change policies into planning; and their insistence on analysis and strategic planning for the long-run to ensure that development is economically and environmentally efficient. Our comments and proposals for improvement follow.

INTRODUCTORY MATERIAL

Sustainability Planning

RCM believes that principles of sustainability, a cornerstone of provincial policy prescribed by *The Sustainable Development Act*, should occupy a more central position in the PLUPs. The characterization of the principal of sustainability on p. 5 falls short. It omits reference to ecological limits and the key implications of resource conservation, waste reduction and pollution prevention (although there is some acknowledgment of these elsewhere). A more complete characterization of sustainability can be found in the Principles and Guidelines of *The Sustainable Development Act*, Schedules A and B.

The document might have more urgency if widely recognized issues of peak oil, groundwater contamination, and algal blooms from excess phosphorous were mentioned, in addition to climate change, which is mentioned, but not elaborated.

Other jurisdictions in Canada are required to develop sustainability plans in order access gas tax funding. Although Manitoba currently uses Development Plans to fulfill this function, we should nonetheless work to make our plans as sustainable as possible and meet the standards of other provinces, including Alberta.

While some of these considerations have been taken into account through the revised PLUPs, and the Development Plans will likely be much stronger, other municipalities have found great value in engaging their citizens in visioning processes around sustainability. Municipalities should be encouraged to complete sustainability plans, and this should be acknowledged in the provincial land use policies. Alternatively, strengthened prescriptions in the PLUPs might turn them into sustainability plans.

Climate Change Analysis and Planning - Applying *The Kyoto and Beyond Test*

The most obvious central component of sustainability planning is climate change mitigation and adaptation. Manitoba is now subject to *The Climate Change and Emissions Reduction Act*, which commits the province to meeting the Kyoto target of lowering absolute GHGs by 6% from the 1990 baseline by December 31, 2012, and to further reductions after that. Other jurisdictions have identified further reductions on the order of 50% to 90% by mid-century as consonant with the warnings and recommendations of climate scientists.

Although climate change is mentioned at a number of places in the draft PLUPs, nowhere is the Kyoto target (or any other mitigation target) set out to guide the planning process. RCM believes that this is an unacceptable omission. It is irresponsible to establish a target for the province that is not reflected in sectoral planning, especially land use planning. As a general principle, each sector should shoulder its share in achieving the overall target. If one sector pleads for a special dispensation, that only increases the load on others. According to the province, the transportation sector is responsible for 37% of Manitoba's GHGs and the Federation of Canadian Municipalities estimates that "up to one-half of Canada's greenhouse gas (GHG) emissions are under the direct or indirect control or influence of municipal governments" (*NEXT STEPS: 2008 Action on Climate Change*, pp. 14 & 35). The implementation of the PLUPs in Development Plans is where the rubber meets the road (to use a car-dependent metaphor).

The implication of the Kyoto commitment is that each Development Plan should incorporate the Kyoto target or better and be required to demonstrate how it plans to meet the target in the areas of its jurisdiction. This means that, under Development Plan By-Law Requirements (p. 20), policy 3. f. "Greenhouse gas emissions inventories and forecasts" should be further specified to include (a) an analysis of projected GHG footprints for alternative land use and transportation options, (b) possible mitigation measures, (c) estimated per capita emissions in 1990 and 2012, and (d) a proportionate Kyoto target (e.g. distributed on a per capita basis) for GHG reductions. We call this analysis *The Kyoto and Beyond Test* for acceptable development plan by-laws.

A related consideration is the arrival of peak oil, the beginning of the end of our fossil-fueled era. Development and transportation plans should consider the implications of soaring fuel prices in the near future and design communities and transportation systems to be resilient under scenarios of high cost fossil fuels. An analogous *Peak Oil Test* should be created for assessing plans.

Intercommunity Conflict and Regional Harmonization

The introductory discussion “Why Provincial Land Use Policies” and “Scope and Application” is generally sound but lacks reference to a very prominent issue - intercommunity conflict.

Examples include (1) a permitted nuisance (e.g. hog barn or disposal grounds) near the boundary of one community destroying the quality of life of current or future adjacent residents in the next community and (2) suburban commuter communities using city facilities, resources and streets without providing support for these facilities from the city tax base. The PLUPs should be no weaker in this respect than existing regulations that require consultations beyond the perimeter of a planning area.

Within the current draft PLUPs, intercommunity conflict could be addressed in part by including harmonization and fairness between communities as part of the public interest (not just public vs. private). Another measure is to point out that the various planning principles listed on pp. 4-5 should apply both within a community’s planning area and in relation to neighbouring communities. Furthermore, communities should be required to consult with their neighbours, not just their residents, in developing their plans. Neighbours and the public should be afforded an opportunity to comment on a community’s draft plan before it is submitted to the province for approval, with comments appended for provincial review, as in the current *Planning Act*.

The draft PLUPs are targeted at municipalities as the planning authorities for municipal lands. Another view, entertained by some RCM members, would urge that development and land-use planning move from municipalities to the regional level, perhaps on a watershed basis. (Indeed we understand that this already occurs in some places where municipalities join a planning district.) This would internalize the negotiations between communities within the planning process and provide a framework for addressing regional ecological, infrastructure, and transportation issues. Moreover it would be a more efficient deployment of planning resources – the multiple analyses that are required and facilitation and drafting of the plan. The province would likely need to take the lead in regional planning and could ensure that provincial policies and priorities find their way into the plan from the outset. We note that Alberta is adopting a regional land-use framework (<http://www.landuse.alberta.ca/>) to be enshrined in law (Bill 36, the Alberta Land Stewardship Act). On the other hand, unfavorable experience with planning in the Capital Region makes some members wary of a regional approach. (See Capital Region discussion below.)

Manitoba should assess the advantages and disadvantages of moving the focus from municipalities to regions, with municipal plans an outcome as well. Planning at both levels is required, but which should take priority? A policy that works one place might not work in another.

Professional Support for Plan Analysis and Facilitation

The requirements for preparing a development plan by-law (pp. 20-21) are demanding and will need professional assistance, as recognized in point 3. This raises the obvious question of what are the available professional planning resources and who will pay for them? Professional services for background studies and plan facilitation and drafting might come from provincial civil servants or private consultants. If the former, does the Province have sufficient resources? If the latter, many communities may require funding assistance. Alternatively there is a case to be

made for engaging in municipal planning as a component of provincially resourced regional planning rather than separately.

Inclusiveness, Active Transportation, and Child and Youth Friendly Guidelines

The general planning principles (pp. 4-5) should also include reference to concepts of inclusive or universal design and Child and Youth Friendly Land Use and Transportation Guidelines. One point is to recognize the variability of human needs and the need to plan for the entire range. Additionally the Child and Youth Friendly Guidelines encourage settlement and transportation designs that promote active transportation, independence, health and safety for all ages and reduced car-dependence. There are intimate links between inclusivity, health and well-being, child and youth friendly neighborhoods, active transportation and bike-friendly transportation routes, and meeting the Kyoto and Peak Oil tests.

RCM recommends serious consideration of the more detailed briefs from the University of Winnipeg's Centre for Sustainable Transportation (CST) and Bike to the Future on design that is child and youth friendly and bike friendly.

DEVELOPMENT PLAN BY-LAWS

Objective 5 b. (page 21) of the plan requires communities to provide a sufficient supply of lots to accommodate a 5 to 10 year demand for various land uses.

RCM sees density as key to achieving truly sustainable development. RCM believes redevelopment of brownfields, encouraging infill, and requiring denser development is essential to achieving sustainability.

Objective 5.b. commits communities to focus on outward growth, rather than redevelopment and densification. If we continue to designate additional land for residential expansion there will continue to be residential expansion into Greenfield areas.

The province should revise this objective to promote brownfield development and densification. Thus the objective could require a municipality, through its Development Plan to identify areas for densification or redevelopment to accommodate a 5 to 10 year demand for various land uses. Growth and designation should be put into the context of regional growth strategies that prioritize the densification and development of villages, towns, and cities over unserved rural residential development.

POLICY AREA 1: GENERAL DEVELOPMENT

B. COMPATIBILITY BETWEEN LAND USES

The section that focuses on ensuring compatibility between land uses specifies that the dedication of land to non-resource use should not be wasteful (i.e. no sprawl, compact form). Is this not also the case for resource-related uses?

Second, this section focuses on non-resource use and resource uses. In doing so, it excludes a third designation – protected areas/natural landscape designated areas. This policy may be appropriate for minimizing urban sprawl, but does not integrate natural landscape considerations. Although this point is addressed in Policy Area 4, it should not be excluded from general policy development.

The province should revise this section to include reference to protected/natural landscape designated areas, thereby making it consistent with other policy areas in its plan and ensure that Development Plans consider compatibility between non-resource related uses, resource related uses AND protected/natural landscapes.

D. PROMOTING SUSTAINABLE DEVELOPMENT

The language of point 15 (p. 26) should be made more prescriptive so that Development Plans are required to incorporate the listed design concepts and standards where appropriate. Child and Youth Friendly Land-Use and Transportation Guidelines should be added to the list of concepts.

POLICY AREA 2: SETTLEMENT AREAS

The description of the “Provincial Interest” (p. 27) poses a dilemma of reconciling Manitobans’ “ability to choose where they live based on their lifestyle preferences” and the recognition that there are social and environmental costs to those choices that need mitigation. Can we continue to allow life style choices that impose environmental and financial costs on the rest of society?

The provisions of Sections A. “Strategic and Planned Settlement” and B. “Strong Urban Centres” generally promote economically and environmentally more efficient forms of development which are thus more sustainable. Section C. “Sustainable Rural Development” is more problematic. It is not enough to encourage strong urban centres. This positive encouragement, while it is a good thing, is not enough to ensure that it will happen. Development lies in the hands of private developers, who will, all things being equal, choose the less expensive green field development as long as that remains open to them as an option.

C. SUSTAINABLE RURAL DEVELOPMENT

SUSTAINABLE RURAL DEVELOPMENT POLICIES:

We find this section the most problematic in the entire document. Rural residential lots and cottage lots are exempt from the requirement that all new development be directed to urban centres. RCM believes that this section does not adequately address the dilemma of lifestyle choices vs. the social and environmental costs they entail. In particular it appears to support, and even promote, an increase in an unsustainable car-dependent commuter culture. If people lived in rural residences and largely stayed put there, grew their own food and livestock or engaged in rural enterprises, that would be a different matter. When this is not the case, in the absence of the development of sustainable transportation and infrastructure alternatives and equitable taxation for public services, a rural residential life style exists by externalizing its costs onto others who live more compactly. The rural residential life style contributes disproportionately to greenhouse gases and to the rapid depletion of oil, a finite resource. Those rural residents who commute into

urban centres also benefit from their amenities without supporting them through taxes. While the urban dweller must pay through property taxes for the streets on which he drives to work, the rural resident, once he leaves his driveway, usually drives on streets that are supported by taxes paid by others.

RCM does not claim to have all the answers, but we wish to raise issues and alternatives identified by our members. As a general principle, we believe that every Development Plan should maximize opportunities for active and public transportation, while minimizing car-dependency, reducing greenhouse gases and limiting use of scarce water, soil and other resources.

In the case of cottage developments within provincial parks, we believe that the parks planning process involving provincial stakeholders and the purposes and principles of park plans, not local park residents, should provide the framework for planning.

Here are additional observations by our members for consideration in a re-examination of the Sustainable Rural Development Policies.

Implications of Lot Size – Small-Scale Agriculture and Cottage Communities

Policy 15 raises the issue of lot size. The PLUP rationale paper notes that “a significant change is that the draft Policies state that rural residential and cottage lot sizes must not be less than fifteen thousand square feet”, as opposed to two acres (in the existing plans). Although reducing large lot sizes is appropriate for lots located within urban areas, it is not appropriate for rural residential lots, particularly those that use septic fields. Moreover, setting the same lot size for rural residential and cottage development has an adverse impact on both.

By reducing the minimum size of the rural lots, the province will create more opportunities for this kind of unsustainable development. The creation of new smaller rural residential lots will open the door to the subdivision of existing rural residential lots, and will greatly expand their number. This will increase density but not in a place where people can be car-independent. In the Capital Region in particular, the reduction of the size of the lot will also make this development more affordable for those who want to escape city property taxes but still enjoy all the benefits and amenities that the city provides, at the expense of others.

People with small market gardens are another story, but they should have at least two acres and probably a minimum of five. In areas where there is soil suitable for agriculture, the move should be toward consolidation, not subdivision, of properties to make them suitable for market garden development. In areas where the land is not suitable for agriculture, the possibility of converting some of the land to protected natural areas should be considered when current owners of these properties wish to sell.

In some cottage developments, the settled areas are fairly compact and serviced by minimal retail and restaurant development. This makes for a compact walkable community with access to the greater common areas such as lakes, rivers and wilderness. Instead of making these centres more spread out and car-dependent by increasing the minimum lot size, the move should be in the opposite direction. The settled area should be consolidated while still giving cottagers access to common natural areas.

For both environmental and financial reasons, piped water should be directed only to settlement areas. Rarely will the recipients have to pay the full cost. This is yet another way in which citizens who live more sustainably subsidize car-dependent development.

A Ban on Further Car-Dependent Residential Development?

Some members advocate a province-wide ban on further car-dependent residential development. In large urban centres this might mean, at a minimum, a ban on development not within easy walking distance of a convenience store and a bus stop with regular service, and not just at rush hour. In more rural areas it might mean a ban on development not within walking or biking distance of a settlement centre that has amenities such as convenience stores, schools, and community offices and has at least occasional bus (or train) service to larger urban centres. What we need to ask is whether people could continue to live in these places if oil prices skyrocketed.

A similar ban is needed on retail development that is not easily accessible by alternative means of transportation.

Applying *the Kyoto and Beyond Test* and the *Peak Oil Test*

Policy 16 lists a number of tests for new rural residential and cottage developments. To these we would add (as 16. e. and 16. f.) *The Kyoto and Beyond Test* and *Peak Oil Test* described on p. 2 of this document. That is, Development Plans that include rural residential or cottage development must demonstrate that they can achieve Kyoto and later targets for GHG reduction on a proportionate per capita basis and are resilient enough to withstand repeated and increasing petroleum price shocks. Moreover, these plans must include an integrated analysis of transportation infrastructure, modality, and use, both locally and connecting to urban centres.

Rural Strategies

There is a need to develop additional rural strategies that could facilitate meeting *the Kyoto and Beyond Test* and *Peak Oil Test*.

One is to re-examine Policy 16.b. that requires rural residential and cottage development “to rely on nearby urban centres in the region” for neighbourhood-scale facilities and services. Taken strictly, this policy seems wrong-headed. It would require a cottager at Bird Lake to drive all the way to Lac du Bonnet and back if they ran out of toilet paper. Instead most cottage areas have a neighbourhood store selling commonly needed items, and that seems a less polluting alternative in the circumstances.

Another concept to explore, again inspired by cottage country, is to have nodes of development with a minimum of shared services and a maximum size – a limit to growth to protect the ambient natural features that draw people to cottaging or rural life. If cottages are clustered with a shared water supply and sewage holding tank and neighbourhood store, residents would not be car-dependent while cottaging, although they might require a car to get there. Car-free cottage developments like Victoria Beach are a model to consider, which would be all the better if it were the terminus of a rail line or bus service connected to an urban centre.

This last example underscores the necessity of having a sustainable transportation policy as a part of any Development Plan. A simple rule would be, no new rural residential properties within a commutershed that are not serviced by a bus or rail line suitable for commuting. The Beaver Bus service between Selkirk and Winnipeg may be the only service satisfying this requirement.

Another strategy is to have no net increase in rural residential properties. Many rural areas have become significantly depopulated in the last several decades, so rural residences should be available to newcomers to replace former residents who have left. Unfortunately, though, most of the growth appears to lie in the capital region as part of the exurban commuter culture, whereas the decline lies in more remote areas.

Conclusion on Sustainable Rural Development

Our overall conclusion is that the rural residential and cottage development policies need a deep re-examination with a more thorough exploration of alternatives to status quo patterns. This is an area requiring more research and policy reconstruction by the province and should be so recognized in the PLUPs document until this has been done. RCM has proposed a Kyoto and Beyond Test and a Peak Oil Test as two criteria for the acceptability of development and transportation plans.

POLICY AREA 3: AGRICULTURE

RCM has not developed policies on agriculture other than consistency with more general ecological and resource conservation principles. As observed earlier, it is important to take into account protection of ecological features, including water quality, as equally important as resource-use in rural areas. Thus while we can agree that it is important to protect prime agricultural land and desirable to harmonize rural land uses, we are concerned that protection of ecological features is not part of the mix that needs harmonization.

The above omission makes problematic Policies 3 and 4, for example. Policy 3 might be interpreted to exclude protection of ecological features in addition to residential or industrial encroachment in agricultural lands. If, for example, a broad area of the landscape is designated for agricultural use, would it exclude prescribing adequate buffers for water bodies, prohibiting drainage of marsh areas, or requiring a portion to be maintained in native forest or prairie? Likewise Policy 4 appears to enshrine “normal farming practices” without further restriction, even when the normal is found to be linked to ecological damage (e.g. phosphorous runoff).

So, while protection of agricultural lands is desirable, ecological protection should trump agricultural land protection and the policies should be revised to reflect this priority.

POLICY AREA 4: NATURAL LANDS, RENEWABLE RESOURCES, HERITAGE & RECREATION.

RCM generally supports the protected areas objectives of the province. There is a danger, though, of dividing the landscape into the “sacred,” which is protected, and the “profane,” which is turned over entirely to resource, residential, or commercial use. We reiterate the caution of our comments on agriculture that ecological features need protection in utilitarian landscapes as well. The reconciliation of ecological and utilitarian features is most evident in Part B. Sustaining Renewable Resources and we applaud this integration. What we would urge is that agricultural,

residential and commercial landscapes be reviewed with the same principles in mind and that the policies should make explicit this requirement.

We note that the PLUPs are intended to apply to all lands under provincial jurisdiction and are to guide both local authorities and provincial departments (p. 7). We are concerned that there is a glaring double standard at present in the area of natural resource management that needs to be remedied. Whereas forest resource companies are required to produce extensive long range and annual plans for their operations, including road building and retirement and many other features, crown lands managed by the provincial government seem to be exempt from such requirements. Where are the long-range and annual forest plans for forests under provincial management? A recent example of a rogue provincial action in the absence of an approved plan is the punching of a road through to Meditation Lake in Whiteshell Provincial Park without any consultation or public plan. Another example is the opening of new cottage subdivisions in the absence of a publically reviewed land-use plan. The province needs to subject itself to the same planning requirements that it imposes on other resource operations.

POLICY AREA 5: WATER

RCM supports the goal of protecting Manitoba's water quality and quantity and aquatic ecosystems, but we have no further comment at this time.

POLICY AREA 6: INFRASTRUCTURE

RCM agrees that both infrastructure and transportation planning are areas of provincial interest that must be integrated into land-use planning. Indeed this is a strong reason favouring planning at the regional rather than the municipal level, as mentioned earlier. Infrastructure and transportation are areas having enormous cost implications for public finance, for health and well-being (e.g. active vs. car-dependent transportation, air and water quality, personal injuries), and for the environment (e.g. water quality and GHGs). And both are intimately connected to land-use patterns. We must ask, then, whether simply "encouraging local authorities to take a responsible and proactive approach to infrastructure" (p. 47) is enough to satisfy the broader, long-range public interest. We believe that much stronger provisions for provincial oversight and intervention are needed.

We are unable to provide detailed comment on the infrastructure policies, but we do agree with the emphasis on reckoning the costs of development, looking for efficiencies, mitigating environmental impacts, and assessing beneficiaries for the costs in new development.

POLICY AREA 7: TRANSPORTATION

As stated above, transportation and land-use planning are intimately related and should be considered together.

Moreover, as the sector with the largest GHG footprint in Manitoba (37% of the total – *Beyond Kyoto*, p. 14), the transportation sector and related land-use policies must be planned with GHG mitigation as a central objective. For this reason it is important to require *The Kyoto and Beyond*

Test described on p. 2 for alternatives under consideration for all land-use, development, and transportation plans.

RCM advocates for policies that consider all modes of transportation. We thus applaud the consideration of integrating the different modes. In addition, the PLUPs should be amended to include a reference to Complete Streets (<http://www.completestreets.org/>) and Child and Youth Friendly Land-Use and Transportation Guidelines (see the CST submission). We support the briefs from Bike to the Future and the Centre for Sustainable Transportation, which elaborate some of these policies.

In addition, we have these specific recommendations

- Policy 1 d) add “and expansion” after “enhancement.”
- Policy 1 e) specifically mention that the connectivity review should be for all modes of transportation for all ages
- Policy 7 replace “should” with “must”.
- Policy 9 restated “To reduce reliance on the automobile and promote shifting to more sustainable forms of transportation, Development Plans must consider policies that support walking, cycling, and transit, such as: ...

POLICY AREA 8: MINERAL RESOURCES

The section on mineral resources enshrines the relatively poorly understood hierarchy of land uses, where mineral development takes precedence over all other land use. By way of illustration, if a company wishes to develop oil and gas in prime agricultural land, they may do so (so long as they mitigate, following development, back to this standard). This is a flaw in Canada’s regulation, which should be modified. At a minimum, the plans should be general so that if this approach is changed, then the land use plans can recognize it.

POLICY AREA 9: CAPITAL REGION

This policy recognizes that planning involves significant regional issues, as we noted earlier. However it is flawed, perhaps fatally so, in leaving that coordination to local authorities and in pressuring urban areas with water and sewer service to extend these services to car-dependent properties beyond their borders. There are also outstanding issues of equitable taxation for city amenities and services that are used by the city’s neighbours without support from their tax base. Similar considerations may apply to other regional urban centres and their exurbs.