

BACKGROUND

BILL 36 – BROAD DISCRETION WITH LITTLE ACCOUNTABILITY

The Land Use Framework is an ambitious undertaking intended to guide the management of Alberta's lands and natural resources to achieve long-term environmental, social and economic goals. Its vision and guiding principles promise a new system based on a balance of those goals, and encompasses values of accountability, shared responsibility, collaboration, transparency, fairness, equity, and clear roles, responsibilities and processes. However, these elements are not fulfilled in Bill 36, the *Alberta Land Stewardship Act* (ALSA), which will be the legal framework for the Land Use Framework.

Bill 36 grants very broad discretion to Cabinet for many key elements of the Land Use Framework, meaning that it will be wholly up to Cabinet if and how these elements are put into place. Cabinet may make regional land use plans without any regard to advice from Regional Advisory Councils and without giving reasons for disregarding such advice. In fact, creation of the Regional Advisory Councils is not mandatory under the Bill and is left to Cabinet's discretion, as is the process for developing the regional land use plans. Cabinet is also given the broad ability to exempt decision-making bodies, such as the Energy Resources Conservation Board, that would otherwise be obliged to make their decisions consistent with regional land use plans.

Important aspects of the regional planning process are left totally to Cabinet's discretion, including the scope and structure of the process, any public communications and consultation, the development of provincial policies to guide land use planning across Alberta, and any economic, environmental or social issues to be considered in the planning process. There are few, if any, limitations or checks on this discretion, which leaves the proposed system very prone to undue political influence.

Many of the elements needed to make Alberta's new land use planning system a success are embodied within Bill 36's broad grants of Cabinet discretion. What is needed to provide certainty, consistency and a fair system to Albertans are amendments to legally entrench the key aspects of this system and provide reasonable limitations on Cabinet's discretion. This should include:

- Requiring the appointment of Regional Advisory Councils for each land use region and providing for equal representation of economic, environmental and social perspectives on those councils;
- Requiring Cabinet to provide written reasons when it does not follow the Regional Advisory Council's advice in making a regional land use plan;
- Removing the ability to exempt decision-making bodies from application of Bill 36;
- Making the main elements of the regional land use planning system mandatory, including broad terms of reference for the process, and requirements for public communication and consultation.

Although Albertans have clearly indicated the desire for strong government leadership on land use planning and management, broad and unlimited government discretion does not equate to an effective planning system and flies in the face of stated commitments to accountability, collaboration, shared responsibility and transparency.

About the ELC: The ELC's vision is a clean, healthy and diverse environment protected through informed citizen participation and sound law and policy, effectively applied. Its mission is to ensure that laws, policies and legal processes protect the environment.