



Bill 33: The Planning Act

June 2005

On behalf of Keystone Agricultural Producers (KAP), I am pleased to share our organization's position with respect to Bill 33 - The Planning Act. KAP is a democratically controlled general farm policy organization representing and promoting the interest of agriculture producers in Manitoba. It is an organization run and funded by its members - farm units throughout Manitoba.

There are some positives within Bill 33, but we must look at where further improvements can be made. The province must look closely at all proposed development plans to ensure that they are reasonable for the agricultural industry and specifically, allow for sustainable livestock development. Another major concern with Bill 33 is that it will not ensure consistency of regulations across the province, as municipalities will continue to have great latitude in requirements for conditional use hearings and siting and separation distances.

We have concerns with this bill and the impact it will have on the continual growth of a sustainable agriculture industry and rural communities. We do agree that all councils need to have development plans in place and we are pleased that the province is aiming for a time frame of two years for compliance. We believe that some areas, those that currently have restrictions and moratoriums in place for livestock, must be given priority and adequate resources must be allocated to ensure that a viable plan is put forward.

We cannot stress enough the need for the province to ensure that all development plans allow for sustainable livestock operations policy, one that will not limit the growth of the industry. Government must not approve development plans with a LO policy that is so restrictive that it allows for no further development of the industry. If such a plan does come forward, the province must negotiate with the council to defend agriculture. *(Section 42(2)(a)(iii))*

The development plan process is an open one and the importance of the active involvement of local rate payers, farmers included, is crucial. A fear of our industry is the influence of outside parties on the development plan process that could negatively impact agricultural growth in the province for the foreseeable future.

The Provincial Land Use Policy (#2) will have a bearing in this process and it is extremely important that the PLUP be updated as soon as possible, and it be done in conjunction and consultation with industry players. The government has agreed that there will be opportunities provided to discuss the policy. *(Section 41)*

A development plan will outline areas that allow livestock development and areas where livestock are prohibited or restricted. If an existing operation is in a prohibited zone, what will be the future of that family farm operation if it can't expand to remain viable or worse, if it has to move? Also, these existing operations that are prohibited will not be able to maintain its property value. There must be compensation provided in cases where operations are adversely affected by this Act. As well, in the case of a fire or other catastrophe, would operations be able to rebuild? This is a requirement of fire insurance and it may become an issue. *(Section 89(2))*

The threshold for the conditional use process is 300 animal units, and the process will include public hearings and a technical review. Each municipality will decide if the same process will be required for development under this threshold and this can impose significant restrictions on our industry. We are sure that councils do not want the onerous task of reviewing a multitude of applications for small increases in animal units.

There is the requirement for a hearing for 300 AU or more, even if the development is in a designated livestock development area. It is KAP's position that if one is applying to develop in a designated area, there should not be the requirement of a hearing. The hearing process has already taken place during the consideration of the development plan which outlines the livestock development areas. If an additional hearing process has to take place it has the potential to open up the whole process again to outside influences with their own agenda which will be to the detriment of the community. *(Section 114)*

The process would require enhanced public notice and hearings for livestock operation applications over 300 animal units, ensuring neighbouring municipalities, planning districts and residents are notified of all species of livestock operation applications. This makes it a process open to emotional and acrimonious debate, as it was previously and does nothing to ensure that only those affected have a voice. It essentially allows for "emotion" and not necessarily science based decisions.

There is a decision to make on the body that will be chairing the TRCs and it is KAP's position that it has to be chaired by Manitoba Agriculture, Food and Rural Initiatives.

A proposal that goes to a Technical Review Committee (TRC) will be evaluated on whether it creates a risk to health, safety or the environment. This determination must be science-based. The TRC then submits a report to Council, who has the option to deny an application, based on much more subjective and undefined criteria, including general compatibility, a perception of detriment to health, safety and general welfare, or an expectation of negative effects on properties or other developments. The language of this clause should be tightened up towards proven criteria not perceptions. This process creates a number of loopholes, particularly as proposed under this bill, Council will not be required to provide a written justification for their decision, and there is no appeal process. If an application is denied then there should be an appeal process in place for the applicants and the cause for denial based on sound science and reasoning must be provided in written form to the applicant. Agriculture is the only land development use where an application can be denied even if it fits all of the criteria set out. *(Section 116(ii))*

The siting and setback standards must be mutual so that rural residential parcels of land do not encroach on an existing farm site. The Act states that the province will provide direction on minimum siting and setback standards as a guide to municipalities. However, rural municipalities will be able to substitute the provincial regulation with stricter local standards; essentially resulting in restrictions on all species of livestock operations. The province should set firmer standards on variation from the provincial minimum standard. It also allows for, what may be simply aesthetic reasons, development plans which restricts or prohibits livestock operations. Under what conditions would the Minister approve a development plan which prohibits livestock? How do we build an industry under such strict conditions? *(Section 73(3)(a))*

The Act allows for conditions on livestock operations to include measures to ensure conformity with the applicable provisions of the development plan by-law, the zoning by-law and any secondary by-law. Does this open the door for the requirement of performance bonds for livestock operations? *(Section 116(2)(a))*

The municipality can require covers on manure storage facilities and also the establishment of shelter belts. Will this clause be used as a deterrent for an operation? Will the municipality ensure that it is the most applicable manure storage covers (proven technology) that is required or will the most expensive options be required? As it relates to shelter belts, will the municipality ensure that the most feasible option is required (PFRA seedlings or nursery trees)? *(Section 107(1)(b))*

Planning Commissions can be established by Council, and could include citizen members that have no electoral responsibility. These Commissions could be used to take the pressure off of Council, but this is not an acceptable method of decision-making. The suggested method of appealing a decision being made by a Planning Commission is to go to Council. This should be an independent body. *(Section 32(2))*

In closing, we would like to stress that Manitoba is increasingly diversified and we have had to adapt to change and more change is needed yet. It is imperative that government and municipalities create an atmosphere that will assist, or at the very least not hinder, this adaptation process. We must work to ensure that this growth does have a positive impact on rural Manitoba. Municipalities must make good decisions which will promote and support the economic develop and viability of a community. It is critical for the future of agriculture and for the survival of rural communities, that all stakeholders accept the growth of the livestock industry in a positive, reasonable and responsible manner.

Presented by David Rolfe, KAP President