



Planning Authorities and Development Decisions **PROCESS GUIDE**

June 2018



**Communities, Land
and Environment**

Disclaimer: This guide has been prepared as a resource to provide municipalities with official plans with information about the general considerations and internal procedures to make development decisions as of June 2018.

It summarizes complex matters and reflects legislation, policies and practices. The material is provided on the basis that the municipality is responsible for assessing the relevance of its content.

This guide should not be relied upon as a substitute for specialized legal or professional advice in connection with activities and decisions pertaining to land use planning.

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PURPOSE OF THIS GUIDE

This guide provides planning authorities with information about the general considerations and internal procedures to make development decisions only. It should not be used as planning or legal advice for any particular development application. Nor should it be used to guide decisions about subdivision applications or building standards.

Please Note: Unless a planning authority is enforcing the National Building Code of Canada, it is making decisions about subdivision and development under the authority of the *Planning Act*.

A planning authority may receive an application to develop land that also involves the division, consolidation, and/or reconfiguration of different parcels of land or parts of a parcel, i.e., a subdivision process.

An application for subdivision usually needs to satisfy different requirements and follow different procedures than an application for development. These are typically set out by planning authorities in their statutory documents: such as the land use bylaws that municipalities adopt to implement their official plans. Planning authorities often establish a staged subdivision application process.

UPCOMING CHANGES MAY AFFECT THIS GUIDE

The Municipal Affairs Branch of the Department of Communities, Land and Environment has prepared this guide. Please contact the Municipal Affairs Branch at municipalaffairs@gov.pe.ca or (902) 620-3558 if you have any questions.

Please Note: Recent updates to the *Planning Act* and the anticipated coming into force of the *Building Codes Act* and *Water Act* will result in changes to the procedures outlined in this guide.

WHAT IS DEVELOPMENT?

In December 2017, the *Planning Act* was amended. The definition of development was updated, in order to provide clear authority to regulate the use of land. The updated definition is in effect and as follows:

“development” means:

(i) site alteration, including but not limited to

(A) altering the grade of the land,

(B) removing vegetation from the land,

(C) excavating the land,

(D) depositing or stockpiling soil or other material on the land, and

(E) establishing a parking lot,

(ii) locating, placing, erecting, constructing, altering, repairing, removing, relocating, replacing, adding to or demolishing structures or buildings in, under, on or over the land,

(iii) placing temporary or permanent mobile uses or structures in, under, on or over the land, or

(iv) changing the use or intensity of use of a parcel of land or the use, intensity of use or size of a structure or building;

- Planning Act [subsection 1. (d)]

Please note: In December 2016, Bill 25, *An Act to Amend the Planning Act*, was also passed, but has not yet been proclaimed. That bill included a range of changes to municipal planning procedures and standards that will apply to municipal planning authorities once it takes effect.

OVERVIEW OF THIS GUIDE

Section 1: FRAMEWORK FOR DEVELOPMENT DECISIONS

Why and how a development application may trigger different requirements

Section 2: PROCESSING A DEVELOPMENT APPLICATION

Factors that internal procedures for an application review must consider

Section 3: LAND USE: TECHNICAL CONSIDERATIONS

Common land use matters in an application review

Section 4: INTER-AGENCY CONSULTATION

Contacts for land use matters

Section 5: COMPLETING AN APPLICATION REVIEW

Tracking the content and results of an application review

Section 6: MAKING A DEVELOPMENT DECISION

When to make which sort of decisions, and how to qualify them

1. FRAMEWORK FOR DEVELOPMENT DECISIONS

This guide summarizes what sort of things a planning authority must consider before making a decision about an application to develop land.

32 municipalities have official plans and land use bylaws, and are planning authorities in the province (June, 2018). The provincial government is the planning authority for the rest of the province (in municipalities without official plans and land use bylaws and in the unincorporated areas). The *Municipal Government Act* (MGA) requires all municipalities to provide land use planning services by December, 2022.

Planning authorities on Prince Edward Island derive their authority primarily from the *Planning Act* and applicable regulations.

Their development decisions need to satisfy specific provisions in applicable municipal planning documents and provincial and/or federal legislation or policy. For example, an application may need to meet requirements related to: water and wastewater servicing, transportation and communications networks, environmentally sensitive areas, stormwater management, intensive livestock uses, excavation, energy systems, tourism accommodation, signage, cannabis cultivation, or automotive salvage and scrap metal collection facilities.

Before making development decisions, planning authorities must review applications to make sure they are:

1. complete,
2. accurate, and
3. satisfy the requirements in all applicable planning documents and legislation.

A planning authority must consider if all necessary requirements have been met or not – even if those requirements are not specified in its own planning documents. This occurs during application review, and is the basis for a decision.

The best practice to make a decision is to have an accredited professional review the application against clear criteria established in planning documents. Consistent internal procedures should be followed in review and decision-making.

REVIEWING DEVELOPMENT APPLICATIONS

Regardless of the internal procedures followed by a planning authority, the specifics of an application may result in a need to consider different types of technical information.

Before an application review can be considered complete, inter-agency consultation may need to be carried out by appropriate staff acting on behalf of the planning authority, usually with various provincial departments (Table 1, section 4 of this guide). Specialized studies may also be required before a development decision can be made. Municipal planning documents and/or legislation usually point out when such studies are needed.

Some planning authorities employ professional planners, development officers, and other technical experts such as engineers and building professionals to provide technical advice. Others contract with private-sector service providers on an as-needed basis.

A development application should contain enough detail to confirm if there are matters that need further attention. If it does not, the planning authority should request specific information. More technical information is often required before an application can be reviewed fully.

1.1 INTERNAL PROCEDURES

The *Planning Act* provides planning authorities with the flexibility to establish procedures to receive, review, and make decisions about development applications.

Some municipal planning authorities adopt a **comprehensive land use bylaw** to implement their official plans. Others adopt **separate land use bylaws** to govern subdivision activity, development activity, and/or building activity.

Planning authorities may use different application forms and issue permits specific to a type of development (for example: development variance permits, temporary use permits, conditional use permits, special use permits, demolition permits, etc.). Or, they may use a standard application form and issue a development permit that specifies the details of what they have approved.

Planning authorities may include conditions within a development permit. They may also require a development agreement to ensure compliance with specific requirements. The results of the application review inform the conditions and agreements that a planning authority decides are necessary for a particular approval.

The system of permits and use of agreements affects how planning documents are implemented. Municipal planning authorities must **clearly enable** such tools in their planning documents. In all cases, permits and agreements must be used in ways enabled under the *Planning Act*.

Employees or contract staff must be in place to administer the official plan and land use bylaw(s), including application review. Professional staff, Planning Board, and Council may all have a role to play in making development decisions. The procedures and responsibilities for decision-making may vary according to the type of development application. Specific roles are typically detailed in the **land use bylaws** of municipal planning authorities.

It is the responsibility of each planning authority to follow consistent internal procedures. The requirements for an application are identified using such procedures.

The planning authority must document its reasons for each development decision and all information needed to make that decision. Planning authorities must also maintain and be able to access the records for each decision. Record-keeping is necessary for many reasons:

- decisions may be appealed – complete documentation is required to defend a decision,
- land use impacts extend beyond specific sites – information from application files may be needed in the future to address specific land use constraints,
- questions arise about historical or acquired development rights, and
- the public may have a right to request and receive information.

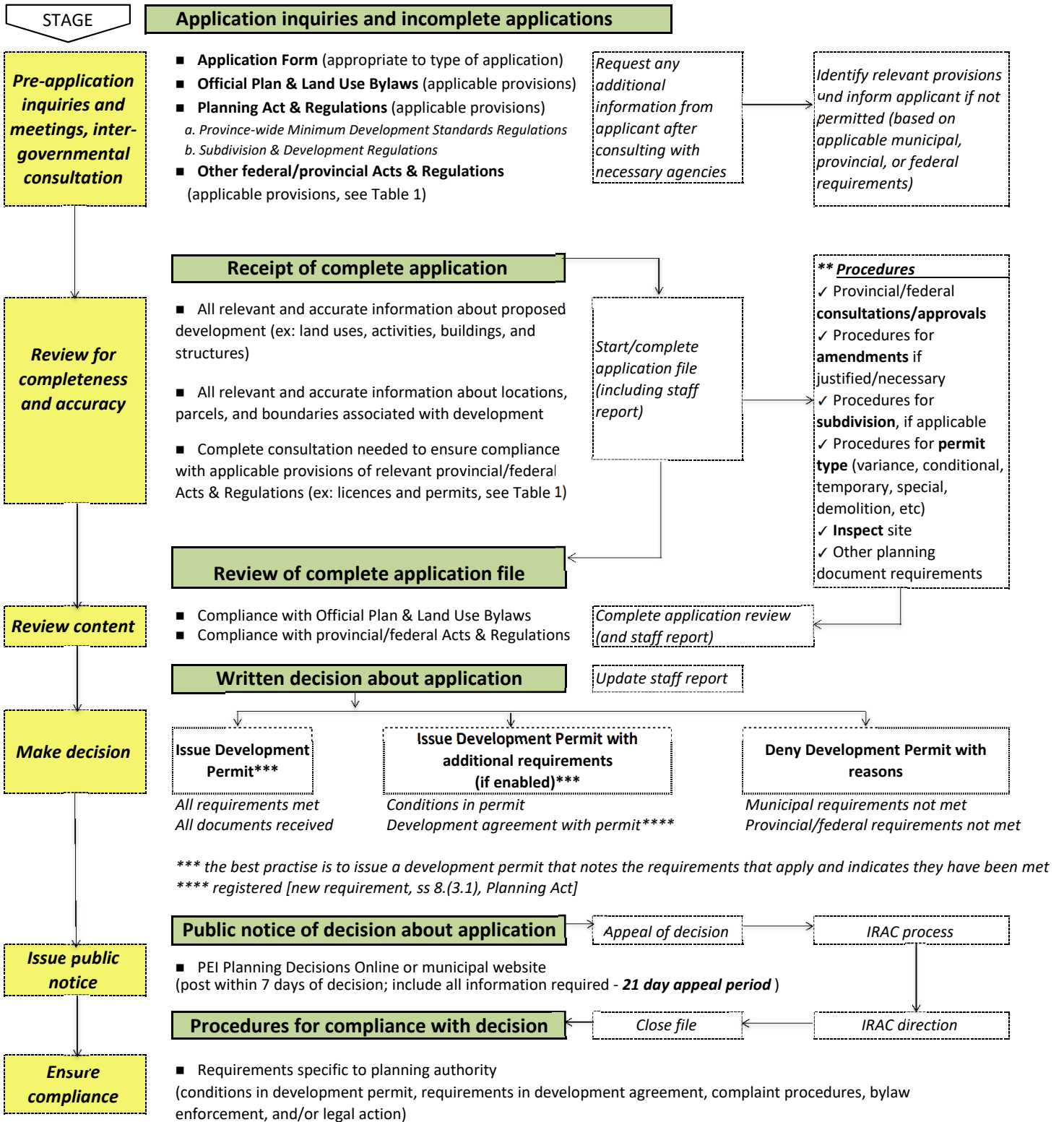
PROCESSING DEVELOPMENT APPLICATIONS

FIGURE A (PROCESSING AN APPLICATION TO DEVELOP LAND) provides a high-level summary of the general process to make development decisions that comply with applicable municipal, provincial and federal requirements.

Depending on the requirements for a particular application, the procedures triggered may be more or less intensive.

Note: All planning authorities must implement the *Planning Act* Province-wide Minimum Development Standards Regulations through their planning documents. The *Planning Act* Subdivision and Development Regulations only apply in certain places within municipal boundaries (those designated as Special Planning Areas).

FIGURE A: PROCESSING A DEVELOPMENT APPLICATION (an application may involve more than one procedure)**



1.2 MUNICIPAL PLANNING DOCUMENTS

Municipal planning documents should be technically competent, up-to-date, and in compliance with relevant provincial and federal legislation. **The *Planning Act* requires that all municipal official plans and implementing land use bylaws be reviewed at least every 5 years, to ensure that they remain current.**

Regardless of how recently a municipal planning authority reviewed its planning documents, all development decisions must still comply with all applicable legislation. Compliance is generally achieved through clear procedures in land use bylaws. Such procedures usually specify when necessary agencies must be consulted and the staff responsible for such tasks.

The requirements of land use bylaws usually differ with the objectives and policies adopted by municipal planning authorities in their official plans — local priorities for long term development vary from community to community. As a result, the technical information required to review an application also varies. Municipal planning documents should specify the level of detail necessary to ensure a complete application.

Municipal land use bylaws typically set out specific criteria against which all applications received must be reviewed. The best practice is for these bylaws to clearly authorize the municipality to require all information needed to review an application and make an informed decision.

Clear communication with applicants about the requirements that must be satisfied before a decision is made is key to receiving complete applications and making timely decisions.

An application in a specific location will usually need to comply with many requirements specified in the land use bylaws. For example, all development may need to meet some general requirements but standards specific to individual zones or secondary plan areas may also need to be satisfied. These could be more or less detailed, such as:

- stormwater management plans for any development,
- design guidelines in heritage districts,
- minimum density standards in an historic downtown,
- buffers that set development back at different distances in environmentally sensitive areas.

In cases where approvals are required from other agencies, a development permit must not be issued without confirmation that the application meets all necessary requirements of those other agencies.

ENSURING COMPLIANCE WITH LEGISLATION

TABLE 1 (ENSURING COMPLIANCE WITH LEGISLATION), in section 4 of this guide, lists the specific provincial departments that are most commonly involved in:

- confirming if legislative requirements for specific matters involved apply to a particular application, and/or
- issuing specific approvals or permits before a planning authority can complete an application review.

Where an application involves a specialized matter not included in this guide or in the planning authority's planning documents, the planning authority should consult with the appropriate provincial department for further guidance (see Table 1, section 4).

The *Planning Act* was amended in December 2016 and 2017. New regulations based on these amendments are being developed. These changes will result in different procedures for municipal planning authorities and a need to amend relevant provisions in planning documents.

Similarly, the Excavation Pits Regulations issued pursuant to the *Environmental Protection Act* have been updated and a different approval process took effect in February 2018.

The *Building Codes Act*, which was adopted in Spring 2017, is anticipated to come into force in the near future as well. The *Building Codes Act* will adopt the National Building Code of Canada province-wide. The new legislation, and its companion regulations (which are being developed), will clarify the requirements for the professional design of buildings and structures.

2. PROCESSING DEVELOPMENT APPLICATIONS

A decision that is informed and that can be defended relies, in large part, upon a complete application that includes sufficient and accurate details about the development proposed.

Once an application has been submitted in writing, it is the responsibility of the planning authority to ensure that all required information is received and considered. General considerations in an application review are outlined below.

2.1 REVIEW FOR ACCURACY AND COMPLETENESS

Planning authorities may find it helpful to refer to Table 1 (section 4 of this guide) to identify if a complete application has been received. Any early consultation that has been carried out with other agencies – for example, to respond to questions from applicants - should also be considered. An application should include specific and verifiable information about, but not limited to, matters such as:

1. *the location(s) associated with the application – for example: parcel boundaries and exact locations of proposed activities, buildings and/or structures on the parcel(s);*
2. *the physical features and existing land use(s) and development on and surrounding the parcel(s) – for example: the location of any environmentally sensitive features as well as existing activities/buildings and/or structures; and*
3. *sufficient detail about the development activity, type of land uses, buildings and/or structures proposed in the application – including the intended level of use of the parcel(s) for different purposes, and the impact on services for the parcel(s) as well as in the surrounding areas.*

Please note: Sections 3 and 4 of this guide provide more direction about common technical (land use) considerations, such as water and wastewater servicing, and transportation.

2.2 OBTAIN ALL NECESSARY INFORMATION

The initial review of an application will assist a planning authority in deciding if more information is needed from the applicant or if other agencies need to be contacted. Any need to follow-up will depend on how clear it is if:

1. *the application satisfies all applicable standards in the planning documents or if it triggers specific procedures (for example: the provisions of the official plan and the land use bylaws, see Figure A, section 1 of this guide);*
2. *the application includes all supporting documentation to confirm that any required provincial or federal requirements have been met (for example: permits, licenses or certificates to conduct a specialized activity, see Table 1, section 4 of this guide); or*
3. *the application triggers a need for approval or advice from other agencies (see Table 1, section 4 of this guide).*

2.3 MAINTAIN AND ORGANIZE RECORDS

All new information received in response to requests for clearer or additional information must be considered during the application review. While missing information may be appropriate to include in the application form, other supporting documentation may need to be included in the application file (see section 6 of this guide for more detail about changes to applications). Planning authorities often organize their application reviews using staff reports.

The best practice is to require clarifications in writing. Staff reports should be updated based on new information gathered during the application review. It will likely be necessary to retrieve such information if a development decision is appealed and needs to be defended.

3. LAND USE: TECHNICAL CONSIDERATIONS

In addition to satisfying provincial/federal requirements, the application must be reviewed specifically against the provisions of the planning documents in force for the planning authority.

Technical considerations often relate to the location and size of the parcel(s) on which development is proposed, the suitability of the location for the scale of the activities and land uses intended, and the size and placement of buildings and/or structures proposed. The application review should account for factors such as:

1. *the bearing that any **physical features** on, adjacent to, and surrounding the parcel(s) may have on the application – including, but not limited to, the presence of environmentally sensitive areas such as designated natural areas, wildlife management areas, watercourses, environmental buffer zones, wetlands, sand dunes, the coastline, contaminated sites, and areas known to be prone to erosion, subsidence or flood risk;*
2. *the bearing that any **past and current development activity**, land uses, buildings and/or structures on the parcel(s) may have on the application – including, but not limited to, the presence of archaeological and paleontological sites, heritage uses, cemeteries, and abandoned buildings;*
3. *the requirements for **transportation access** (highway, public road, driveway, etc) and the management of traffic, both on-site and to and from the parcel(s), which typically vary with road classification and stopping sight distance requirements – including, but not limited to, new accesses to highways or public roads, upgrades to existing accesses, change of use, and the introduction of new roads that provide access for fire safety;*
4. *the ability to meet the demand for **water** associated with the application on-site and/or through connectivity to central water supply systems – including, but not limited to, activities that may result in the need for groundwater exploration or extraction permits or result in concerns regarding restricted areas, abandoned wells, etc.;*

5. *the ability to meet the demand for **on-site sewage disposal** associated with the application and/or the need for connectivity to wastewater facilities;*
6. *the ability to reduce or manage **contaminant emissions** to air, water or land that are associated with both temporary and permanent activities that the application involves (including the construction phase), the disposal of waste products (for example: automotive salvage or scrap metal collection facilities), and the need to address any activities that may require an environmental impact assessment;*
7. *the ability to reduce, contain, manage or discharge **stormwater** associated with the application;*
8. *the ability to ensure that all **minimum separation distances** required on the parcel(s) and between the parcel(s) and adjacent uses can be achieved;*
9. *the ability to manage any potential impacts the application may have on **surrounding uses**;*
10. *the ability to confirm **fire safety** compliance, including within buildings and structures, for all development except single-unit owner-occupied dwellings, as well as for subdivisions over 100 dwelling lots;*
11. *the ability to confirm that applicable standards for the **professional design** of development are met – including compliance with provincial standards for barrier-free buildings, condominiums, and any other professionally certified design documents required;*
12. *the ability to meet all applicable **requirements in the planning documents** in force for the planning authority – including the need for professionally certified documents (such as surveys to confirm minimum separation distances or setbacks on and around the parcel(s), engineering studies related to the parcel(s), professional building/architectural design, etc.).*

4. INTER-AGENCY CONSULTATION

The need for inter-agency consultation usually depends on the type of development proposed and its intended location. Table 1 summarizes the agencies with which a planning authority often finds a need to consult in the initial and/or final stages of the application review. Approval or advice from more than one agency may need to be received before the planning authority can make a decision. More complex applications may require consultation with other agencies (for example: energy production, amusement parks, marine uses, cannabis facilities).

TABLE 1: ENSURING COMPLIANCE WITH LEGISLATION

Please note: Table 1 includes matters commonly involved in development decisions. Reviewing an application in the sequence presented may allow any major concerns or approval requirements to be identified **early on**. **Other requirements may also apply if an application involves specialized activities.**

	DOES THIS CONSIDERATION APPLY?	DEPARTMENT
✓	Ownership and Identification of Land	
	<ul style="list-style-type: none"> The <i>Lands Protection Act</i> and the various Regulations issued pursuant to the <i>Act</i> include specific provisions that apply to land ownership in the Province. If development is proposed on land subject to the <i>Lands Protection Act</i> or its Regulations, approvals may be required to cancel, suspend or amend a condition currently imposed on the land. If clarification is needed, please contact the Provincial Planning Branch. 	Communities, Land and Environment: (902) 620-3634
✓	Planning	
	<ul style="list-style-type: none"> All development must comply with the provisions of the <i>Planning Act</i> – Province-wide Minimum Development Standards Regulations; as applicable, the <i>Planning Act</i> – Subdivision and Development Regulations (Special Planning Areas); and official plans and their implementing land use bylaws (locations within the jurisdiction of municipal planning authorities). <p>Note: All municipal planning documents must comply clearly with the applicable provisions of the legislation referenced above. If clarification is needed, please refer to the legislation and contact the Municipal Affairs Branch.</p> <p>Note: Technical advice from relevant subject matter experts and/or consultation with provincial Departments may be needed to meet requirements related to the appropriateness, compatibility and impacts of an application. For instance, technical advice may be necessary to review a change of use application received by the Province, or an amendment proposed to a municipality’s planning documents, or to mitigate land use conflicts or compatibility concerns associated with an application to develop land.</p>	Communities, Land and Environment: (902) 620-3558 Members of the Prince Edward Island Association of Planners are accredited planning professionals and may be reached at peiplanners@gmail.com
✓	Transportation	
	<ul style="list-style-type: none"> Approvals may be required under the <i>Roads Act</i> - Highway Access Regulations, related to access to and from an application site (highways, public and private roads or rights-of-way, and driveways), which typically vary with road classification and stopping sight distance. Traffic studies may be required as well. Road (access) design for subdivision over 100 dwelling lots also requires fire safety approval. 	Transportation, Infrastructure and Energy: (902) 368-5100 Fire Marshal’s Office: (902) 368-4869
✓	Environment	
	<ul style="list-style-type: none"> The <i>Environmental Protection Act</i> and the various Regulations issued pursuant to the <i>Act</i> include specific provisions that apply across the Province and that must be satisfied in order to respect the natural environment. Advice and information about site-specific environmental impacts and hazards may also be available to inform local decisions. 	Communities, Land and Environment (see below for subject specific contact information)

DOES THIS CONSIDERATION APPLY?		DEPARTMENT	
✓	<i>Environment - natural features</i>	<ul style="list-style-type: none"> Approvals may be required if environmentally sensitive features such as wetlands, watercourses, sand dunes, buffer zones and the coastline are affected by an application. 	<p>(902) 314-0024 for areas west of Hunter River</p> <p>(902) 314-2737 for Hunter River and areas east of Hunter River</p>
✓	<i>Environment - natural hazards</i>	<ul style="list-style-type: none"> Coastal erosion and flood hazard information may be required to inform the review of an application. 	(902) 368-5028
✓	<i>Environment - environmental impact assessments</i>	<ul style="list-style-type: none"> An Environmental Impact Assessment may need to be carried out if an application could result in significant environmental impacts, if there are contamination concerns on the site, etc. All potential projects with an environmental impact must be registered with the Province and will be assessed to determine whether or not they will trigger the full provincial environmental assessment process. 	(902) 368-5049
✓	<i>Environment - air quality</i>	<ul style="list-style-type: none"> An Air Quality Permit may be required if development or subdivision involves construction or installation of an Industrial Source (asphalt plant), Fuel-burning Equipment (any combustion unit using a fuel with a sulphur content of 0.7% or greater by weight), an Incinerator or a Used Oil Burner. 	(902) 368-5037
✓	<i>Environment - water</i>	<ul style="list-style-type: none"> Approvals are required if an application involves: <ul style="list-style-type: none"> a) groundwater exploration or extraction for central water supplies or for high capacity wells (withdrawal greater than 4 l/s); or b) well construction in a restricted area. Advice about well construction in restricted areas or site-specific individual water well problems may be required to inform land use decisions. 	<p>(902) 368-4668 for inquiries about approvals</p> <p>(902) 368-5062 for standards and technical advice about specific wells</p>

DOES THIS CONSIDERATION APPLY?			DEPARTMENT
✓	<i>Environment - sewage</i>	<ul style="list-style-type: none"> Advice about on-site sewage disposal may be required to meet the standards of the <i>Planning Act</i> - Province-wide Minimum Development Standards Regulations. 	(902) 368-5280 for general inquiries
✓	<i>Environment - central water and wastewater servicing</i>	<ul style="list-style-type: none"> Approvals and advice may be required if an application requires the construction or expansion of water or wastewater facilities, or affects their capacity. 	(902) 368-5036 for technical advice about central water and wastewater servicing
✓	<i>Environment - solid waste</i>	<ul style="list-style-type: none"> Consultation and coordination with the Island Waste Management Corporation may be required if an application indicates that solid waste generation will exceed existing provisions for a site. 	Island Waste Management Corporation: 1 (888) 280-8111
✓	<i>Environment - petroleum storage</i>	<ul style="list-style-type: none"> Approvals may be required if an application involves petroleum storage. 	(902) 368-5567
✓	<i>Environment - excavation pits</i>	<ul style="list-style-type: none"> Approvals may be required if an application involves excavation pits. 	(902) 206-0969 for areas west of Hunter River (902) 394-5487 for Hunter River and areas east of Hunter River
✓	<i>Environment - automotive salvage and scrap metal collection facilities</i>	<ul style="list-style-type: none"> Approvals may be required if an application involves automotive salvage and scrap metal collection facilities. 	(902) 206-0969 for areas west of Hunter River (902) 394-5487 for Hunter River and areas east of Hunter River
✓	Wildlife Protection and Protected Natural Areas		
	<ul style="list-style-type: none"> Approvals and advice may be required if wildlife habitat is affected by an application, under the <i>Wildlife Conservation Act</i> – Wildlife Management Area Regulations, <i>the Planning Act</i> – Morell River Conservation Zone under the Subdivision and Development Regulations, the federal <i>Species at Risk Act</i> and <i>Migratory Bird Act</i>, or the <i>Natural Areas Protection Act</i> – Natural Areas Protection Regulations. 	Communities, Land and Environment: (902) 368-4683	
✓	Archaeological and Paleontological Sites		
	<ul style="list-style-type: none"> Approvals and advice may be required if an application involves a location that is archeologically or paleontologically significant, under the <i>Archaeology Act</i>. 	Aboriginal Affairs Secretariat: (902) 368-6895	

DOES THIS CONSIDERATION APPLY?	DEPARTMENT
✓ Designated and Registered Heritage Sites	
<ul style="list-style-type: none"> Approvals and advice may be required if an application involves a location that is designated or registered under the <i>Heritage Places Protection Act</i>. 	Education, Early Learning and Culture: (902) 368-5940
✓ Burial Grounds	
<ul style="list-style-type: none"> Approvals and advice may be required if an application impacts a cemetery or burial ground, under the <i>Ancient Burial Grounds Act</i>. 	Justice and Public Safety: (902) 368-4550
✓ Tourism Accommodation	
<ul style="list-style-type: none"> All tourism accommodation must meet the licensing requirements of the <i>Tourism Industry Act</i> and <i>Tourism Industry Act Regulations</i>. Coordination will be necessary if an application involves tourism accommodation (if temporary accommodation is being provided to a guest for a continuous period of less than one month). 	Economic Development and Tourism: (902) 368-5508
✓ Condominium Development	
<ul style="list-style-type: none"> Approvals may be required if an application involves condominium development under the <i>Condominium Act – Condominium Act Regulations</i>. 	Finance: (902) 368-4070
✓ Highway Signage	
<ul style="list-style-type: none"> Approvals and advice may be required if an application involves signage that is visible from a public road, under the <i>Highway Signage Act</i> and <i>Highway Signage Act Regulations</i>. Municipalities that have been exempted from the provincial administration of signage must check the requirements that apply to them under the <i>Highway Signage Act</i> and <i>Highway Signage Act Regulations</i>. 	Economic Development and Tourism: (902) 368-5508
✓ Development Standards	
<ul style="list-style-type: none"> Approvals and advice may be required if an application involves buildings under the <i>Provincial Building Code Act – Barrier-free Design Regulations</i>, <i>Thermal Insulation Regulations</i>. <p>Note: Documentation certified by a professional land surveyor, architect, and/or engineer may be required if an application involves certain types of buildings under the <i>Land Surveyors Act</i>, the <i>Engineering Profession Act</i> and the <i>Architects Act</i>.</p> <p>Note: Planning authorities that do not administer the National Building Code of Canada are presently not responsible for ensuring the accuracy of such required documentation but must ensure the documentation is provided where required.</p> <p>Note: When the <i>Building Codes Act</i> comes into effect, the requirements above are likely to change.</p>	Communities, Land and Environment: (902) 368-5280 Association of Prince Edward Island Land Surveyors: (902) 394-3121 Association of Professional Engineers of Prince Edward Island: (902) 566-1268 Architects Association of Prince Edward Island: (902) 566-3699 Specific advice about the <i>Building Codes Act</i> (not yet proclaimed): (902) 368-4677

DOES THIS CONSIDERATION APPLY?		DEPARTMENT
✓	Fire Safety	
	<ul style="list-style-type: none"> The <i>Fire Prevention Act</i> - Fire Prevention Act Regulations includes requirements for fire safety approval within buildings and structures, road (access) design for subdivisions over 100 dwelling lots, and all development except for single-unit owner occupied dwellings. 	Justice and Public Safety - Fire Marshal's Office: (902) 368-4869
✓	Emergency Access	
	<ul style="list-style-type: none"> Coordination, advice and approvals may be required if development decisions result in the need to name private roadways under the <i>Emergency 911 Act</i> – Emergency 911 Act General Regulations. 	Justice and Public Safety: (902) 894-0385

5. COMPLETING APPLICATION REVIEWS

Depending on the application type and the content of the planning documents in force, specialized **technical advice** may be needed to ensure that all requirements are met. **Site inspections** may need to be carried out to confirm that the information submitted is accurate. **Supporting documentation certified by relevant professionals** may also need to be received.

As outlined in Figure A (section 1 of this guide), all necessary procedures must be followed and all relevant information must be used to complete an application review. For example, an application may require an amendment to a planning document – such as a change to the land use designation for a parcel in a municipal official plan and/or the zoning for a parcel in the land use bylaw. In such a case, a development decision cannot be made unless the amendment is approved under the *Planning Act*.

Similarly, an application review must satisfy the criteria and follow the procedures specified in the planning documents of the planning authority (for example: with respect to subdivision or specific development types such as variances, temporary uses, conditional uses, other special uses, demolition activity, etc).

In cases where legislated procedures or those specified in planning documents involve public consultation, the feedback received must be considered at all the relevant stage(s) of the application review.

As discussed in section 3 of this guide, the review of an application will relate to both the location and characteristics of the parcel(s), as well as to the type, location, scale, intensity and appearance of land uses, buildings and structures proposed on the parcel(s). Since each application and location is somewhat different, the need for technical advice, documentation and approvals will also differ.

For example, requirements for safe access to and from a parcel will depend on the type of rights-of-way to which the parcel may or may not connect at the time of application, and will

likely require consultation with and/or approval from the relevant agencies listed in Table 1 (section 4 of this guide).

If a need for technical advice is identified during the application review, the planning authority should (as supported by clear enabling provisions in its planning documents):

1. *seek all technical advice required (or the planning authority may require applicants to provide additional technical documentation if its planning documents authorize it to do so); and*
2. *ensure that all technical documentation needed to consider the application complete is received and reviewed by a qualified professional.*

The planning authority must consider the assessments, approvals and requirements of all relevant agencies to complete its review. If uncertain about whether a specific requirement has been satisfied, the planning authority should seek written clarification from the agency responsible for the requirement before making a decision.

To ensure that the planning authority's decision complies with any applicable provincial or federal legislation and regulations, during the application review the planning authority:

1. *may coordinate approvals or direct the applicant to obtain the required approvals;*
2. *must ensure that it receives and reviews a copy of all required approvals to be included in the application file; and*
3. *should maintain a written record of its evaluation (typically through the staff report that documents the reasons for the decision).*

6. MAKING DEVELOPMENT DECISIONS

CHANGES TO DEVELOPMENT APPLICATIONS

An application may also need to change in order to receive approval. In such a situation, the initial review of an application may result in the planning authority communicating this need – including the reasons for it, and the type of changes – to the applicant.

Similarly, a different type of application may need to be submitted than the type originally received. In such a situation, the planning authority may need to request an applicant to withdraw the application and submit the appropriate one.

Where an applicant makes such changes and the planning authority receives all required information, the application review may be completed (as per the changes that have resulted during its initial stages). The planning authority can then make its decision.

An application to develop land should be approved if:

1. *it clearly meets all the standards in the planning authority's planning documents; and*
2. *all applicable provincial and federal requirements are satisfied, as verifiable through the supporting documentation received.*

An application to develop land should not be approved if:

1. *it is not complete;*
2. *the information it contains is inaccurate, as suggested by supporting documentation and/or through site inspection;*
3. *it has not been reviewed completely;*
4. *it does not meet the standards in the planning documents of the planning authority;*
5. *it contravenes the legislative provisions that apply to it;*
6. *if a provincial or federal agency will not issue an approval because the application contravenes the legislative requirements that the agency implements; or*
7. *if the application changes after a federal/provincial agency has provided approval based on different information.*

If an application is denied, the planning authority should record and state the specific reasons for denial in writing. Reasons for denial of an application should connect clearly to the review of the application and the supporting documentation received and included in the application file.

Regardless of whether an application is approved or denied, clear communication and documentation is necessary to support the planning authority if a planning decision is appealed or if a member of the public is seeking access to information about the application and has a right to receive it.

Municipal planning authorities may also establish procedures for the preliminary and conditional approval of development applications through their official plans and land use bylaws. As mentioned in section 1.1 of this guide, they may also use tools such as conditions included in **development permits** and **development agreements** to ensure that the applicant will meet all requirements identified through the application review.

For example, before issuing a development permit, planning authorities may require documentation from a septic contractor or engineering design reports to confirm whether or not the applicable requirements of the *Planning Act* Province-wide Minimum Development Standards Regulations have been satisfied. Similarly, conditions in development permits may require documentation such as footings certificates and utility inspection results to be provided to the planning authority.

Any development agreements associated with an application must be prepared and signed between the planning authority and the applicant before or at the time of an approval being issued. Please note that, with the December 2017 amendments to the *Planning Act* that are in effect, **development agreements must now be registered at the appropriate land registry office** [Section 8.(3.1) of the *Planning Act*]. It is important to include all relevant supporting documentation when registering a development agreement (for instance, the land surveys or registered plans of subdivision to which the provisions of an agreement may refer).

Land use planning tools must be used in the manner that the *Planning Act* permits and to the level that the planning authority's planning documents enable, in consideration of:

1. *whether the requirements are of the type that can be met through preliminary or conditional approvals and/or agreements; and*
2. *whether the permits/approval documents and/or agreements specify how requirements must be satisfied.*

7. RESOURCES AND REMINDERS

A specialized skill set is required to ensure that legally binding planning documents – such as official plans and land use bylaws - are implemented fully and consistently. Accredited planners, development control professionals, related technical professionals, and legal counsel are often involved in providing advice about development decisions.

Since planning authorities must ensure that their decisions comply with both their planning documents and any other requirements that apply, up-to-date and sufficiently detailed planning documents are the most effective tools for making informed and defensible decisions.

The Municipal Affairs Branch provides ongoing advice to municipal planning authorities about the best practices to adopt, amend, review, and implement planning documents. Call us at (902) 620-3558 or write to us at municipalaffairs@gov.pe.ca if you have questions about your planning documents or the procedures that implement them.

Municipalities are required to provide public notice within 7 days of a planning decision, through an acceptable public forum.

If public notice is not provided properly, the 21-day appeal period may be determined to start only after members of the public are able to access the information.

If not using PEI Planning Decisions Online to post your decisions, make sure that Municipal Affairs and the public are aware of the website to which the decisions are being posted (see Section 23.1 and 28 of the Planning Act).

UPDATES TO PROVINCIAL DEPARTMENTS

Development decisions often involve coordination with or reporting to different provincial departments, including:

- **Tourism PEI – Department of Economic Development and Tourism:**
Planning authorities must coordinate approvals and licensing for all tourism accommodation with Tourism PEI. Tourism PEI requires confirmation of compliance with municipal bylaws before it issues a license to operate a tourism establishment within municipal boundaries.
- **Taxation and Property Records - Department of Finance:**
Planning authorities must provide development approval information for the previous month within the first 2 weeks of every month.
- **911 Administration Office – Department of Justice and Public Safety:**
Planning authorities responsible for assigning civic addresses must provide monthly updates at minimum; other planning authorities should direct applicants about the process to have a civic address assigned.
- **Municipal Affairs – Department of Communities, Land and Environment:**
All development permits issued and subdivisions approved must be reported annually in the statistical return (MFIR).



**Communities, Land
and Environment**

