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**The Commission on Land Use
and the Rural Environment**

FINAL REPORT

APRIL 1993

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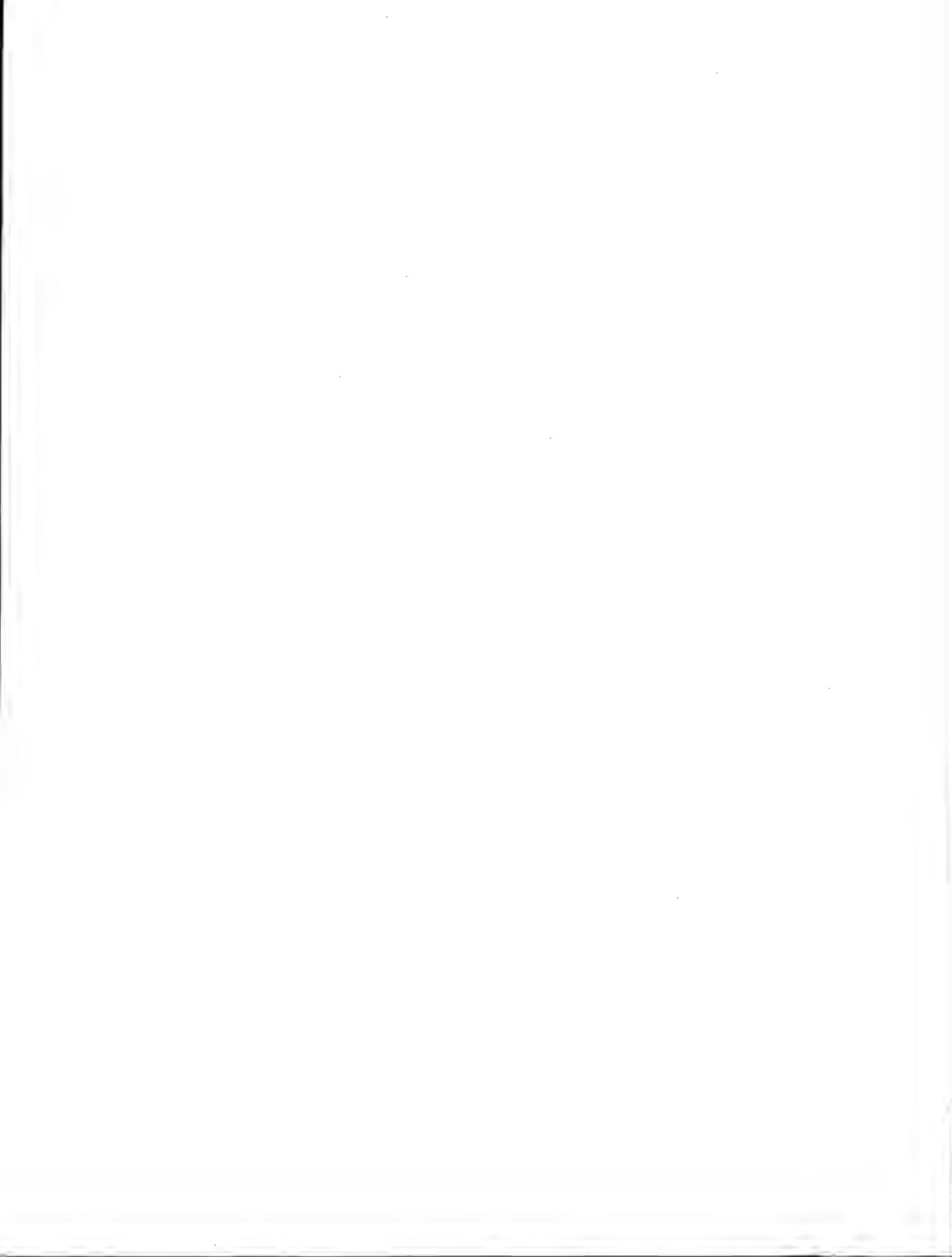
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*Commission on
Land Use
And The
Rural Environment*



**Final
Report**

April 1993

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and the
Rural Environment**

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APRIL 1993

COMMISSION ON LAND USE AND THE RURAL ENVIRONMENT
COMMISSION SUR L'UTILISATION DES TERRES ET L'ENVIRONNEMENT RURAL

March 30, 1993

The Honourable Frank McKenna
Premier of New Brunswick
Centennial Building
P.O. Box 6000
Fredericton, N.B.
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Dear Premier:

We, the members of the Commission on Land Use and the Rural Environment, in accordance with our mandate, are pleased to submit our report.

We express our appreciation to you for granting us the opportunity to be involved in this challenging project. We would also like to express our gratitude to all those who were interviewed, submitted briefs or met with us during the consultation process. Finally, we would like to thank the Commission staff for their outstanding support and the Liaison Committee for its assistance to the Commission.

We trust that our recommendations will be of value in the future planning and development of our province.

Respectfully submitted by:



HENRY IRWIN
Co-Chairperson



LISE OUELLETTE
Co-Chairperson



CHARLES GALLAGHER
Commissioner



HOLLIS STEEVES
Commissioner



SUZANNE ARSENEAU TREMBLAY
Commissioner



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1.0 INTRODUCTION

1.1 COMMISSION MANDATE

The Commission on Land Use and the Rural Environment (CLURE) was established in January, 1992 with a mandate to explore the various issues facing land use and the rural environment in New Brunswick. It was to recommend policies to protect and enhance the quality of our rural environment while fostering sustainable development and responsible use of the natural resources of the Province.

In the preamble to the terms of reference, it was stated that New Brunswickers enjoy an enviable quality of life - a diverse and relatively unspoiled natural environment; abundant natural resources which support most of the economic activity of the province; and, urban and rural communities where a sense of neighbourliness still prevails.

However, significant pressures on our resources and natural environment threaten our quality of life, especially in our rural areas. New Brunswick's rural population has increased dramatically during the past twenty years mainly at the expense of urban areas. Many smaller towns, villages and rural communities have also declined during this period as most of this rapid rural growth has been in the form of sprawl and ribbon development in the non-incorporated areas. This unplanned and largely unregulated growth of residential, commercial and industrial uses has resulted in conflicts with traditional rural activities related to resources and has posed serious threats to our water resources as well as our natural and sensitive areas. This pattern of development has undermined the growth and tax base of municipalities and has resulted in increasing costs to provincial taxpayers in order to provide this inefficient form of development with community services such as police, fire, ambulance and school busing and utilities such as power and, sometimes, water and sewage services. Unplanned rural development affects all New Brunswickers in one way or another.

We still have time to prevent these problems from further damaging our environment and our quality of life. However, we must react quickly and we must change the manner in which we are developing our rural areas. We must develop policies which encourage compatible development and environmental protection while respecting the rights of rural residents and landowners to the reasonable use of their land.

If New Brunswickers are to exist in harmony with each other and without damaging the natural environment, we must abandon the notion that we can do whatever we want with our property and embrace the concept of sustainable development. This is the challenge facing CLURE, the provincial and municipal governments, and all residents of New Brunswick in the years ahead.

More specifically, the terms of reference required CLURE to address the following mandate:

STUDY

A - To examine the current status of land use issues in rural New Brunswick as they relate to the environment and socio-economic problems and opportunities resulting from the actual use of the land, conflicts between uses, controls on the use of land and current land use impacts.

B - To examine the current processes used in rural land use planning. To examine alternative methods and review the experience of other jurisdictions.

CONSULT

C - To conduct broad public consultation so the Commission can develop a good understanding of the issues caused by the lack of land use planning and increase public awareness of those problems and gather public input on methods of addressing the issues. To fulfil this mandate, the Commission shall: 1) - prepare and distribute a discussion paper and other communication material which will serve to stimulate and focus public consultation on the issues, and 2) - undertake consultation by a variety of means ensuring full participation throughout the province.

RECOMMEND

D - To recommend to the Government land use policies which would address the identified problems and opportunities taking into consideration input received from public consultation and being sensitive to the financial implications of the recommendations.

E - To recommend to Government the most effective manner of implementing the measures proposed in "D" and to recommend a process for land use planning which recognizes the role of individuals and communities in planning activities which affect them.

The terms of reference also specified a list of issues related to the use of land and issues related to the process for rural land use planning. These issues have been regrouped as they are presented in this report. They include the following:

A. Structure and Process for Rural Planning

B. Settlement Issues

- Urban Sprawl and Ribbon Development
- Location of Commercial and Industrial Activities
- Tools for Regional Service Delivery
- Building and Development Approval
- Incentives to Encourage or Discourage Development

C. Resource Issues

Protecting Our Agricultural Lands
Multiple Use Of Crown Land
Forestry On Private Land
Gravel Pits, Quarries And Mineral Development
Protecting Our Groundwater Supplies
Managing And Protecting Our Watersheds
Protecting Our Parks And Recreation Areas

D. Natural Environment Issues

Protecting Our Natural And Sensitive Areas
Protecting Our Coasts and Shorelines
Protecting Our Flood Plains
Protecting Our Air Quality
Managing Our Solid Waste And Sewage

COMMISSIONERS AND STAFF

The members appointed to the Commission in January, 1992 included Henry G. Irwin of Fredericton and Lise Ouellette of Riceville as Co-Chairpersons along with Commissioners, Charles Gallagher of Centreville, Hollis Steeves of Salisbury and Suzanne Arseneau-Tremblay of Bathurst. The professional staff retained by the Commission included Frank Flanagan, as Executive Director and Verna Donaher, as Executive Secretary. Other staff members included: Gilles Guérette, planner; Owen Washburn, environmental engineer; Wilson Bell, planner; and Susan Turner, public information and communications. More detailed profiles of the Commissioners are presented in Appendix 1.

1.2 APPROACH TO THE MANDATE

The procedures under taken by CLURE to fulfil its mandate included the following:

1) **Data Collection and Research**

Following a press conference to initiate the project, this phase began in March, 1992 and involved the collection, review and analysis of over 150 documents pertaining to the various issues under study. These included the many past reports on rural planning in New Brunswick as well as a review of how other jurisdictions in Canada, the United States and elsewhere are dealing with these issues. This phase also involved the review and analysis of statistical information pertaining to the various issues.

2) **Preliminary Input from Government and Non-Government Agencies**

In order to update some of the information collected and to gain an appreciation of the current status of government policy on the various issues, a request for position papers was sent out to all government departments seeking input in terms of current and potential concerns and policies. At the same time a cross section of non-government agencies were also asked to submit a position paper expressing their group's concerns or recommendations on the issues identified. This included groups such as the Agricultural Federations in the Province, the nine District Planning Commissions, the four Municipalities Associations, the Conservation Council of New Brunswick and the Rural and Small Town Research and Studies Programme at Mount Allison University. There was an excellent response to this request from all groups. Following review and analysis of the position papers, the Commission held a series of interviews with all groups and departments for further clarification and input. The departments and groups participating in this preliminary input are listed in Appendix 2.

3) **Preparation of A Public Discussion Paper**

After the review of the initial position papers and interviews with the various government departments, non-government agencies and the Premiers Round Table on Environment and Economy, it became clear that, to be at all credible, the public consultation process would have to be expanded beyond the original intent to distribute a discussion paper (5000 copies) and to have two rounds of public meetings in each of the 7 Planning Regions of the Province (total of 14 meetings). It was determined that to have a meaningful and acceptable public consultation process, there had to be a greater attempt to reach the grass roots local groups and residents, who, historically, have been reluctant to participate in public meetings and hearings.

The strategy adopted was to produce a comprehensive but easily read discussion paper, to give it a wide distribution, to concentrate on contacting as many local groups as possible, and to use these groups as the mechanism or contact to distribute the report to their members and residents. Consequently, the Discussion Paper took a workbook format where issues, concerns and options were presented and space was provided for other suggestions and comments. It was decided to double the distribution of the report to 10,000 copies. The paper was distributed during late July and early August in order to give groups up to two months to review the document before public consultation meetings were held. The mailing list included all MLAs, all municipalities, all LSDs, every regional government office, all members of the N.B. Environmental Network, resource groups (agricultural federations, woodlot owners, mining companies, fisherman associations), rural social groups (womens institutes, volunteer fire departments, social clubs), planning commissions, industrial commissions, sewage commissions, solid waste commissions, professional associations, native groups and bands, community futures groups, tourism associations, chambers of commerce, libraries, Premiers Round Table participants, as well as interested individuals.

4) **Public Consultation**

Two rounds of public consultation were held throughout the Province. The first round was in the form of informal discussion group meetings while the second was the actual public hearings, which were structured into an informal afternoon session and a more formal evening session. The complete list of meetings is included in Appendix 3.

For the discussion group meetings, the Commission was divided into two groups, one francophone and one anglophone, for purposes of holding meetings in areas where the population was predominately French or English. This enabled informal discussion groups to be held in 26 rural communities throughout the Province. The intent was to make rural residents more comfortable with, or less intimidated by, the process, to learn about the diversity of concerns around the Province, and to help the groups better prepare oral and written submissions which could be submitted later in the process. Over 1000 individuals participated in the discussion group meetings which began on August 28 and concluded on October 1.

The discussion group meetings were followed by 12 public hearings beginning on September 28 and concluding on November 2nd. These meetings included an informal open house in the afternoon (1:00-5:00pm) and the more formal public hearings in the evening (7:00-11:00pm). Simultaneous interpretation was provided at all public hearings. Approximately 560 people attended the public meetings and 90 formal oral presentations were heard. In addition, 120 written briefs were submitted to CLURE during the consultation process. The results of all public discussion, open house and public hearing meetings were recorded, summarized and reviewed following the public consultation process so that the information and suggestions provided could be

considered in the formulation of recommendations. The list of groups and individuals submitting briefs is contained in Appendix 4.

The public consultation exercise also included several informal meetings by the commissioners and staff with community interest groups throughout the Province. There were also several press releases related to the various stages of the process including public advertising in every daily and weekly newspaper in the Province.

CLURE was very pleased with the turnout and the conduct at all the meetings. Appreciation is expressed to all those who took the time to provide input to the Commission. It provided an opportunity to receive input at the grass roots level and that input is reflected in the recommendations made by CLURE.

5) **Final Report**

After review of the public input, further research was carried out to provide clarification or to address concerns raised during the public consultation process. Several follow-up interviews and meetings were held with government and non-government agencies where further input or clarification was required. These were held during December, 1992 and January, 1993.

January, February and March, 1993, were devoted to assembling the draft report, several meetings between Commissioners and staff as well as liaison, when necessary, with government and non-government agencies. The final report, with recommended policies and actions, was submitted to the Province at the end of March, 1993.

L3 ORGANIZATION OF THE REPORT

The organization of the report is based on the four major groupings of issues that were identified in the discussion paper - Settlement, Resources, Environment and the Structure and Process for Planning. Most of the conflicts in rural areas are caused by unplanned settlement infringing on traditional resource uses and creating negative impacts on the environment. Many of these conflicts have occurred because of the lack of structure and process for planning in rural areas. At the same time, structure and process is seen to be one of the major means to resolve many of these conflicts. For this reason, the structure and process for planning is the first of the four issues dealt with. This is followed by sections on each of the other three issues.

More specifically, Chapter 1 presents the introduction describing CLURE's mandate, the approach used to achieve the mandate, the organization of the report, a clarification on the nature of the recommendations and the background to the issues, including reference to the historical perspective for planning in New Brunswick, to past studies on the topic of rural land use and to some of the concerns leading to the appointment of CLURE.

Chapter 2 presents the overall strategy for rural planning in New Brunswick. It defines rural planning, presents a vision for rural New Brunswick, describes the structure and process for rural planning and presents recommendations for its improvement at the provincial, regional and local levels.

The Provincial Policy issues are presented in Chapter 3 on Settlement, Chapter 4 on Resources and Chapter 5 on Environmental Issues.

Within Chapters 4 and 5, each of the policy issues is presented in the same general format. The background and concerns on each issue are presented first, followed by the goals and objectives identified to overcome the problems and concerns and to steer future growth in desired and positive directions. This is followed by the recommended policies and actions required to fulfil the goals and objectives.

1.4 RECOMMENDED POLICIES AND ACTIONS

Because of the very broad nature of the mandate, the recommendations in this report cover a wide range with respect to the type, applicability and level of detail. They include not only recommendations for land use and development policies, but also for a structure and process that has to be put in place in order to implement the policies. In some cases the recommendations are very firm and specific, in other instances they take the form of more general guidelines, in some cases there are suggested options while, in others, the recommendation is for a process to be put in place.

In Chapter 2 on the overall strategy for rural planning, after defining rural planning and presenting the vision and current concerns, the whole section is a recommended strategy for dealing with the structure and process for planning at the provincial, regional and local levels.

In Chapters 3, 4, and 5, which deal with the major provincial policy issues, there is, again, a wide variety in the type and degree of detail of the recommendations.

In many cases the problem is well defined, there is a consensus among the affected stakeholders, and the solution or direction is clear. In these situations, very **specific and detailed** recommendations can be made. In some cases these recommendations can be taken beyond the policy level and suggestions can even be made for possible contents which might be contained in more detailed regulations.

In some situations, because of the lack of available information or time limitations of the mandate, or because of the need for further input from government or non-government agencies or the general public, the recommendations are more **general in nature**.

In other cases, where there may be several courses of action that would be equally effective, the recommendations are presented in the form of **options or alternatives** that need to be further refined or tested.

In some of these instances, the recommendation is for a **process** to be put in place before a final policy can be determined.

In Chapter 4 on Resource Issues and Chapter 5 on Environmental Issues, the recommendations have been *italicized in bold print*. In Chapter 3 on Settlement Issues, some of the discussions do not lend themselves well to this format but, generally, the recommendations are *italicized* with the major components in **bold print**. In Chapter 2, practically the whole Chapter is a recommended structure and process and, again, did not lend itself well to the use of italics. Major points, however, are shown in **bold type**.

In all cases, CLURE recognizes that its recommendations are suggestions to Government. The policies must be reviewed internally by the various departments and suggestions made for improvements or modifications. Likewise, on some issues, the Government will need to seek input from non-government agencies and the general public. CLURE regrets that the time allotted in the mandate did not permit as much consultation with Government departments or non-government agencies as it would have preferred. That task of follow-up will be left to Government. Some of the policies need and deserve further scrutiny by the Government, the private sector, municipalities, LSDs, and the general public before final Government policies or legislation is adopted. The input of municipalities is highlighted since Provincial land use and development policies will apply to incorporated and non-incorporated areas alike.

In many instances, the Government and its various departments are in the process of developing policy on several related issues which have influence on, or overlap with, CLURE's issues and recommendations. Current studies and efforts towards local government restructuring, regional delivery of services and provincial/municipal fiscal transfers will have to be integrated with CLURE's recommendations. Other committees and departments are considering recommendations from the Premier's Round Table on Environment and Economy or the regional economic conferences, while others are at various stages of review in developing detailed policies with respect to wetlands, floodplains, ecological reserves, provincial parks, rationalization of industrial parks, etc. **These areas of overlap with CLURE's recommendations will have to be reconciled by government.**

Although many of these issues have been aired before the public, several are still at an internal stage within government. It is expected that government will want to consult with municipalities, district planning commissions, local service districts and others on several of these issues. Many issues require this external input and must recognize the very strong message given to CLURE during the public consultation process that **the public expects meaningful participation and input on many of those issues.**

In this regard, CLURE recognizes that public consultation does not mean public decision-making. In our democratic system, major policy decisions must be made by those duly elected to make those decisions after conferring with the citizens they represent. Sometimes tough decisions have to be made and they are not always going to be popular decisions.

The point must be made that planning is different than other services such as education and health. Planning is not only a **service** that delivers some component to people (ie. approvals or permits), but it is also a **process** that touches our citizens at the very roots of their lives - their land, their homes and their businesses, and we must remain ever sensitive to that reality.

Finally, most of CLURE's recommendations affect the Provincial Government. However, there are several recommendations that must be acted upon by the district planning commissions, the municipalities, or local service districts. The Province can obviously act on those affecting the Provincial Government and its departments. It is also expected, as consultation occurs and

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during the process of finalizing policy decisions, that those recommendations affecting municipalities, planning commissions and other regional and local organizations will be conveyed to the proper authorities for consideration and action.

1.5 BACKGROUND

1.5.1 Historical Context¹

Community Planning legislation was first enacted in New Brunswick in 1912 with a statute known as an **Act Relating to Town Planning**. The Act was primarily concerned with physical elements such as the layout of streets, buildings, open spaces and provision of water, sewer and lighting. The Act allowed for a scheme to guide community development, but it did not allow zoning in the contemporary sense. The Act did recognize that planning should not be limited by artificial boundaries, such as those set up for a municipality, thus, it allowed planning schemes to encompass more than one jurisdiction. The Act was renamed **The Town Planning Act** in 1927. During this period there was not much planning activity due in part to the war and the depression.

In 1936, an entirely new act, **The New Brunswick Town Planning Act**, was introduced. Town Plans and Zoning By-laws were recognized and the concept of subdivision was introduced. It also initiated the concept of a "planning commission" as an advisory body to municipal governments. The Act also required that, before a Town Plan was adopted or changed, a public hearing be held. Both Town Plans and Zoning By-laws were required to have Provincial Government approval before becoming law. The Act also established the Provincial Planning Board to advise the Provincial Government and municipal authorities on planning matters.

Although planning became firmly entrenched in New Brunswick as a result of the 1936 Act, there was not much planning activity until the post-war period when there was a great surge of building activity, especially in housing construction. Planning was dominated during this period by engineers and architects.

In 1952, all previous amendments were consolidated in the Revised Statutes. Under the 1952 Act, several communities adopted zoning by-laws, although very few based them on an Official Plan. The government also established a Planning Branch, although it acted only in an advisory capacity.

In 1961, the name of the Act was changed again to the **Community Planning Act** which included the appointment of a Director of the Planning Branch of the Department of Municipal Affairs to administer the Act. That Act allowed municipalities to establish planning commissions and also provided for the establishment of District Planning Commissions. The Act still allowed zoning without planning and did not provide a suitable mechanism for integrating planning among municipalities.

Comprehensive government reforms were undertaken in 1966 following the recommendations of the Royal Commission on Finance and Municipal Taxation (Byrne Commission). These reforms known as the **Equal Opportunity Program** were based on the reallocation of responsibility between the Province and local government. The Province took over responsibility for the administration of health, welfare and justice and financial responsibility for education as well responsibility for property assessment and tax collection. All county governments were abolished, 90 new villages were created and non-incorporated areas were provided with the opportunity to form local service districts to advise the Minister of Municipal Affairs with respect to the provision of local services.

Major amendments in the Act occurred in 1966 with the introduction of the Program of Equal Opportunity which placed planning in the non-incorporated areas under the responsibility of the Minister of Municipal Affairs. By the late 1960's, problems were evident with the lack of planning among municipalities, the time taken for subdivision approvals, the lack of planning at the Provincial level and the appeal problems encountered with the local zoning appeal boards. These problems were addressed in the Act amendments in 1973. Planning, as opposed to zoning, became the central theme of the Act. The new Act required that, before a zoning by-law could be passed, there had to be either a Basic Planning Statement or Municipal Plan. The problem of lack of planning at the provincial level was addressed by introducing the concept of the Regional Plan. This divided New Brunswick into seven regions based on the six cities and the Chatham-Newcastle area. The regional plans were intended to be the Provincial Policies for the Regions and to stimulate intermunicipal planning. For the first time the Act also stipulated those items which must be considered in the preparation of municipal plans.

Since planning affects the individual's rights to the use of his/her land, all the Province's Planning Acts have had a requirement for public notice. Because of the slow administrative process experienced, the Act placed the authority to administer all planning by-laws in a "development officer". The judicial powers were reserved for the Planning Advisory Committees, District Planning Commissions or the Provincial Planning Appeal Board instead of the Rezoning Appeal Board.

By 1978 it was determined that a good deal of the Act had not been implemented (Planning Regions, Regional and Area Plans), some aspects were not working well (Planning Advisory Committees), and that there were general problems with the philosophy, administration and drafting of the Act. The Act was reviewed and several recommendations for amendment were made in 1979. Unfortunately, none of the major recommended amendments were made and very few subsequent amendments have been made so that the present Act remains essentially as adopted in 1973.

1.5.2 Past Studies and Reviews

The twenty year period from 1971 to 1991 saw the preparation of a multitude of studies and reports related to planning, land use, rural development and the environment. These major studies included:

Task Force on Social Development, 1971
Forest Resources Study, 1974
Saint John River Basin Board, 1975
Task Force on Non-Incorporated Areas, 1971
Select Committee on Rural Life and Land Use, 1977
Agricultural Resources Study, 1977
Community Planning Act Review, 1979
A Study of Sprawl in New Brunswick, 1980
Controlled Access Highway Study, 1981
Agricultural Land Use Task Force, 1981
Land Use and the Environment, 1981
Report of the Land Use Policy Task Force, 1982
Land and Water Use Policy, 1985
Towards Sustainable Development in New Brunswick - A Plan of Action, 1991

There were several other studies and documents prepared, internally by government and externally by consultants, that covered similar issues and concerns.

Although these documents were intended to address specific issues, there was a surprising amount of overlap and consistency with respect to the issues and concerns related to the planning and development of rural areas. **Some of the major common concerns raised included the following:**

- the absence of provincial policies and guidelines for rural development and resource management;
- the absence of a regional planning structure and regional plans;
- the absence of a responsible level of government in rural areas to facilitate meaningful public participation in the planning and development process;
- the absence of mechanisms to provide for comprehensive and integrated plans as well as conflict resolution;
- the emphasis on urban planning methods to deal with rural issues;
- the need to address uncontrolled settlement in the form of sprawl and ribbon development;
- the need to recognize planning as a proactive goal setting and communication process

- and not just a regulatory mechanism;
- the need to balance settlement and resource development needs;
- the need for environmental protection; and
- the need to embrace the concept of sustainable development.

1.5.3 Related Government Action/Inaction

Despite the numerous and common messages contained in these various studies, very little action was taken by the Provincial Government during this period to address these concerns. What action was taken tended to be fragmented, short lived and poorly implemented. Some commendable efforts were made by Government with respect to economic development commissions, solid waste management, watershed protection, tourism strategies, etc. These efforts, however, were single purpose and uncoordinated and represented a very fragmented approach to regional development. There has tended to be a proliferation of special purpose boards and commissions in recent years signifying the need for some form of regional structure within which local groups are able to plan and manage development.

Perhaps the most **progressive measure** undertaken by Government was combining the Departments of Municipal Affairs and Environment in 1985 . There were some very positive steps taken to recognize the interdependencies between land and water use. The Clean Water Act adopted in 1989 was widely heralded as a very progressive piece of legislation. Another step in the right direction was the formation of an Interdepartmental Land and Water Use Committee that functioned for a brief time. An ongoing Committee of that nature is a necessity to properly integrate land and water use planning and management.

Some progress was also made during the early stages of the watershed designation program when land and water use within the watersheds was analyzed in conjunction with steering committees with urban and rural area representatives and initial meetings were held with affected landowners and the general public to receive input on the proposed regulations. These efforts were largely negated, however, by the lack of consultation and poor manner of implementation of the setback restrictions associated with the watershed designations. Although the Government may have had legitimate reasons to act with the haste that it did to bring in the regulations, very few people were informed of the reasons for deviating from the approach that the Government had announced previously and that people affected by the watershed had expected. These are the sorts of measures which hurt the credibility of government and perpetuate the scepticism and mistrust that rural residents hold towards government.

The marriage between the Departments of Municipal Affairs and Environment was short lived. The separation in 1989 occurred largely because of the incompatibility between the roles of the two departments. The predominant regulatory or policing role of the Department of the Environment was not compatible with the proactive or facilitating role of the Department of

Municipal Affairs. One of the side effects of that union was a diminished profile for the Department of Municipal Affairs. The environment was a very big topic during this period and the environmental concerns received such a high profile that planning matters, including the Land Use Planning Branch, faded into the background. This was indicative, however, of the lack of priority associated with planning and the lack of appreciation that planning could be a proactive front-end exercise that could help avoid many of the environmental problems being experienced in the Province. In some ways the splitting of the two departments was unfortunate. Some very positive strides were taken by government as a result of the union and larger measures should have and could have been undertaken. There is, obviously, a very close relationship between land use planning and the environment. The Province would not be experiencing nearly as many environmental problems today, if it had paid greater attention to land use planning in the past.

Generally, there has been a lack of support and priority for planning ever since the current Community Planning Act was brought in. Many aspects of that Act remain unimplemented 20 years later. There is no regional planning structure in the Province, there are no provincial or regional land use policies, there are no regional plans and the Province's first area plan for a planning district was only adopted recently.

Over this period there has been a continued **emphasis on the control or regulatory side** of planning with little appreciation of the need for proactive planning, where local people are involved in developing goals, objectives, policies and plans for their rural communities and then regulations are adopted to help implement their plans.

There has been little recognition that planning is more than just a service to provide subdivision approvals and building permits. Planning is a front-end function for government and all its departments and it should be the basis on which all of its decisions are made.

Despite the fact that problems of sprawl and ribbon development have been evident for the past 20 years, the government has continued, over that period, to pursue **policies and practices that encourage rather than control this inefficient and costly form of development.** Inequities in taxation between incorporated and non-incorporated areas, subsidization for the maintenance of private roads, of culverts, chip seal streets and similar policies, encourages growth in the very areas of the province where we are least able to accommodate it efficiently or in an environmentally acceptable manner. The non-incorporated areas where most of this growth has been occurring are largely unplanned, unregulated and unserved. This has resulted in conflicts between uses, conflicts with resource lands and negative impacts on the highway systems, on adjacent municipalities and rural communities and on the natural environment.

1.5.4 Continued Growth and Escalating Problems

While most of the concerns and issues raised in these past studies have gone unaddressed, the growth in rural areas has continued to increase and the various problems have been compounded, the sprawl and ribbon lifestyle has become ingrained and the cost of servicing and correcting these problems has escalated.

Chapter 2 will deal with the urban / rural growth phenomenon in greater detail. It is suffice to note here that the growth in the non-incorporated areas over the past 20 years has resulted in New Brunswick having the fastest-growing rural, non-farm population in Canada. The population of the non-incorporated areas has increased from 36 percent of the Province's total population in 1976 to 40 percent in 1991. The incorporated areas (cities, towns, villages) have corresponding decreased from 64 percent to 60 percent over the same time period.

It is not the growth in the non-incorporated areas that is a problem, it is the location and manner in which that growth has occurred. It has mainly occurred in the form of sprawl and ribbon development which has been detrimental to the growth of traditional rural communities as well as to incorporated communities. This is discussed in more detail in Chapter 3 on Settlement. CLURE heard concerns from both urban and rural residents with respect to the type of development that has been occurring. Those in incorporated communities are concerned with the erosion of their population and tax base as well as concerns with respect to their water quality, which is threatened by uncontrolled rural development. Smaller rural towns and villages are also threatened by these same concerns and rural residents, in general, are concerned with the impacts on the rural landscape, on resource lands, on groundwater pollution and on rural lifestyle.

1.5.5 Challenge to Urban and Rural Communities and the Province

CLURE was concerned with the amount of antagonism and dissention that exists between incorporated and non-incorporated areas in the Province. In reality, there is a social and economic interdependence between urban and rural areas that exists, without exception, throughout New Brunswick.

In predominantly rural areas, such as Carleton and Victoria counties, the towns and villages are dependent on the strength of the agricultural community which surrounds them. Likewise, the rural community is dependent on the services provided by the urban communities. If either one were to collapse it would have traumatic effects on the other.

Similarly, there is a dependence on the forestry and mining sectors around communities like

Bathurst, Chatham/Newcastle, Campbellton/Dalhousie, and the rural areas depend on the larger communities to service, supply and support the primary sectors. A similar interdependence exists with the coastal communities along the Northumberland Strait, Bay of Chaleur and Bay of Fundy with respect to the fishing industry and its impact on urban and rural communities.

Similar analogies can be made around the larger urban centres as well. The towns and villages along the Kennebecais Valley outside the City of Saint John, which grew up from sprawl and ribbon development and are now incorporated, are still very much dependent on the City for their socio-economic well-being. If the industrial base of Saint John were to collapse, it would be disastrous for those smaller communities. The City, in turn, depends on those communities, as well as those in Kings and Charlotte Counties, to support its businesses and facilities. The Fredericton/Oromocto area plays a similar role in York, Sunbury and Queens Counties as does Moncton/Riverview/Dieppe in Westmorland, Albert and Kent Counties and Edmundston in Madawaska and Victoria Counties.

The animosity that exists between urban and rural communities is unreasonable, inefficient and costly and it must be replaced in the future by a partnership approach to planning that encompasses resource management, economic development and environmental protection ie. that espouses the principles of sustainable development. Although the type of growth the Province has been experiencing presents threats to our overall quality of life, there is still time to react in New Brunswick. We can learn from our mistakes of the past as well as those of our neighbours in more populated jurisdictions.

CLURE believes that people should be able to live wherever they choose with respect to urban and rural communities, provided they do so in such a manner that does not create negative impacts on their neighbours, on resource lands or on the environment and that they are willing to pay for services associated with their choice of location on a fair and equitable basis. CLURE's role is, thus, to recommend to the Province a structure and process at the provincial, regional and local level that will enable urban and rural residents to plan and develop their communities in a coordinated and integrated fashion while respecting the principles of sustainable development.

2.0 OVERALL PROVINCIAL STRATEGY FOR RURAL PLANNING

2.1 INTRODUCTION

Although the mandate for CLURE does not specifically refer to an "**Overall Provincial Strategy**" for rural planning, in essence, that is what has to be developed in order to adequately address the terms of reference. They ask for an examination of, and recommendations for, policies, processes and implementation measures for rural land use planning as they relate to environmental and socio-economic considerations and recognizing the role of individuals and communities in planning for activities which affect them. This requirement encompasses the structure, process and policies which are the essential ingredients of an overall strategy. Meaningful policies can only be developed in the context of a structure and process through which they can be implemented.

The **components** of an overall provincial strategy for rural planning must include the following:

- a definition, in the New Brunswick context, of what is meant by "rural planning";
- a vision for rural New Brunswick;
- a structure and process for rural planning; and
- a set of land use and development policies which address the various issues identified.

The remainder of this chapter presents the definition, vision and structure and process for rural planning while Chapters 3, 4 and 5 present the land use and development policies.

2.2 DEFINITION OF RURAL PLANNING

2.2.1 In the Context of Land Use Planning and Sustainable Development

Before one can define rural planning in the New Brunswick context, it is necessary to have an understanding of planning, in general, and in the context of sustainable development, in particular. The growing recognition and support for the concept of sustainable development has brought an increased awareness of and emphasis on planning.

In general, planning is considered to be **comprehensive**. This is illustrated in Canada by the definition of planning used by the Canadian Institute of Planners (CIP) which includes, "the scientific, aesthetical and orderly disposition of land, building and amenities in use and development for the purpose of securing physical, social and economic efficiency, health and well-being in urban and rural communities".

The 1989 Report of the Canadian Environmental Advisory Council on "Land Use Planning and Sustainable Development in Canada" refers to planning in terms of this standard definition and introduces the additional goal of sustainable development.

"Land use planning is a tool, a methodology, a means. Hitherto it has been directed to goals of short-term efficiency: balancing rival claims on the land, maximizing economic and social values. A new and more important goal has now appeared, recognized as the need to secure a sustainable relationship between people and the planet's surface, its land and water. This must hereafter shape and direct the planning too."¹

The key element and critical integrating factor in sustainable development must be the land base shared by the economic system and the ecosystem. It is the land that supports cities, economic activity, forests, crops and wildlife. Land-based activities govern both the quality of water and demand for it. Land based activities discharge pollution into the air.

Land use planning is a **process** and a **tool** that can contribute significantly to sustainable development. As a **process** a properly conducted land use program includes:

- collecting information and identifying issues;
- establishing goals and objectives;
- developing and evaluating options and strategies;
- implementing chosen strategies or plans;
- monitoring, review and revision of plans, and

- involving effective stakeholder participation in all of the above steps.

With the respect to land use planning as a **tool** to contribute to sustainable development, the Canadian Environmental Advisory Council Report identified the following applications:

- promoting efficient use of land;
- allocating renewable resources;
- protecting lands, resources and features of special value;
- resolving competing demands for land according to predetermined criteria;
- encouraging and facilitating environmentally sound economic development;

The Advisory Council also suggested two major reasons why planning has been neglected as an effective tool for sustainable development. The first is **societal attitudes** towards both "land " and "planning". Typically in North America, and it is strongly evident in New Brunswick, land is equated with private property and the conviction that you can't tell people what they can do with their own land is still widely and firmly held. Similarly, "land use planning" still has the connotation of unacceptable government interference in the rights of the citizen. This has discouraged any strong political commitment, particularly at the provincial level.

The diffuse character or **broad scope** of land use planning is the second basic problem. The fragmentation of authority under which land use planning is carried out, and variety of purposes to which it is applied, prevent its full potential effectiveness from being realized.

Although public recognition of the need to protect the environment is growing, in order to overcome these obstacles, there must be a recognition of land as an integral part of our life support system. Land should be thought of in terms of **stewardship** rather than exploitation. **This does not mean termination of all private rights in land but it does mean recognition of overriding public interest and acceptance of the principle that land is not held absolutely but in trust for future generations.**

With respect to the diversity of planning, the solutions lie in setting policies which accept the principles of environmental protection, resource conservation and sustainable economic development as basic policy goals. Government must recognize the importance of land use policies and make a recommitment to provide consistent leadership, direction and standards for land use policy. Once appropriate legislation is in place, there must also be an effective structure and process to permit urban and rural communities to plan for their own unique situations in the context of overall regional and provincial policies.

2.2.2 In the New Brunswick Context

After reviewing several definitions of rural planning, Floyd Dykeman of the Rural and Small

Town Research and Studies Programme at Mount Allison University compiled a working definition that was considered appropriate for New Brunswick. It states:

"Rural planning is a process that assists local communities and residents to strategically and comprehensively assess future development options and directions with a view to determining appropriate and coordinated resource management and development approaches to effect organized change and action".²

This definition was not an attempt to define the way rural planning was carried out in New Brunswick, but rather a suggestion for the manner in which it could be carried out. When one refers to this and other standard descriptions of "**rural planning**" in traditional planning theory, the terms often encountered include: emphasis on resources; sustainable use; stewardship and conservation as well as emphasis on a participatory bottom-up process. These features often distinguish it from "**urban planning**" which has more emphasis on the orderly disposition of land use and provision of services implemented through a regulatory or top-down process. In most rural areas the imposition of planning controls is often greeted with a negative response because it impacts directly on the livelihood of those dependent on the resources. It is also opposed by rural residents who are not employed in the resource sector and who have located in rural areas to avoid the regulations in urban areas.

Many of these traditional features are evident in New Brunswick, however, there is an absence of a participatory process and any planning in rural areas has been based largely on regulation. In examining the New Brunswick situation, one has to examine and define what is meant by both "rural" and "planning".

It should be noted that the terms "**rural**" and "**non-incorporated**" are often used interchangeably in New Brunswick. Table 2.1 presents a breakdown of urban, rural and non-incorporated population growth in New Brunswick over the past 20 years. Statistics Canada defines "rural" as being an area with a population concentration of less than 1000 people and a population density of less than 400 persons per square kilometre. "Non-incorporated" refers to those areas lying outside incorporated municipalities, which are cities, towns and villages in New Brunswick. As noted in the table, in 1991, New Brunswick had a rural population of 378,686 (52.3 percent) and a non-incorporated population of 288,190 (39.8 percent). All of the population in the non-incorporated areas of the province would be included in the rural designation. In addition, some portions of the incorporated municipalities have population concentrations of less than 1,000 people or densities below 400 per square kilometre and are, therefore, included in the rural designation. Thus, there are more people in the rural designation than in the non-incorporated designation.

Table 2.1
 URBAN AND RURAL POPULATION CHARACTERISTICS
 NEW BRUNSWICK AND CANADA, 1971 TO 1991

Characteristics	New Brunswick									
	1971		1976		1981		1986		1991	
	No.	%	No.	%	No.	%	No.	%	No.	%
Urban Population	345,960	54.4	354,420	52.3	353,220	50.7	350,300	49.4	345,214	47.7
Rural Total	288,600	45.5	322,835	47.7	343,185	49.3	359,135	50.6	378,686	52.3
Rural Farm	16,800	2.6	11,685	1.8	14,970	2.1	12,110	1.7	---	---
Rural Non-Farm	271,800	42.9	311,150	45.9	328,215	47.1	347,025	48.9	---	---
Incorporated	408,266	64.3	426,799	63.1	429,025	61.6	426,852	60.2	435,720	60.2
Non-incorporated	226,291	35.7	250,454	36.9	267,378	38.4	282,590	39.8	288,190	39.8
TOTAL	634,557		677,250		696,403		709,442		723,910	---
Characteristics	Canada									
	1971		1976		1981		1986		1991	
	No.	%	No.	%	No.	%	No.	%	No.	%
Urban Population	16,399,920	76.2	17,366,970	75.5	18,435,930	75.7	19,352,085	76.5	20,907,957	76.6
Rural Total	5,168,390	24.0	5,630,630	24.5	5,907,255	24.2	5,957,245	23.5	6,388,902	23.4
Rural Farm	1,162,145	5.2	1,039,560	4.5	1,039,855	4.3	890,490	3.5	---	---
Rural Non-Farm	4,006,245	20.7	4,591,070	20.0	4,867,400	20.0	5,066,760	19.2	---	---
Incorporated	435,720									
Non-incorporated	288,190									
TOTAL	21,568,310		22,997,600		24,343,185		25,309,330		27,296,859	

SOURCE: Statistics Canada - 1971, 1976, 1981, 1991

Incorporated areas in New Brunswick have been losing population to the non-incorporated areas. Between 1976 and 1991 the incorporated areas' share of the Provincial population dropped from 64 percent to 60 percent, while the non-incorporated areas have correspondingly increased from 36 to 40 percent. Over this period the farm population has also been decreasing in New Brunswick. The latest figures show that less than 2 percent of the population live on farms and less than 8 percent earn their living directly from the other resource sectors. **New Brunswick has the fastest growing rural non-farm population in Canada.** This increase in population, combined with the lack of planning, has compounded the planning and development problems in non-incorporated areas.

Rural planning in New Brunswick has been the subject of at least 14 major reports or studies since 1971. In almost all cases, "rural" has been defined as the "non-incorporated" area of the Province ie. that area lying outside cities, towns and villages. The reason for this is that

planning has worked relatively well in municipalities while it has not been implemented or well received in non-incorporated areas.

Thus, CLURE's mandate, in the context of "rural", is also focused on "non-incorporated" areas of New Brunswick ie. the large area outside our cities, towns and villages, which is home to approximately 300,000 residents. Planning and development within municipalities in New Brunswick is not without its problems, but it is significantly better than planning in non-incorporated areas. Urban planning for municipalities is much better defined under the Community Planning Act, most municipalities have development plans and regulations in place, and all have responsible and accountable local government structures that allows meaningful public participation in decisions that directly affect residents. This is certainly not the case in non-incorporated areas, where rural planning is not well defined under the Planning Act, there are very few plans and regulations in effect, and there are no local or regional structures which facilitate meaningful public representation and input to the planning process. Rural planning is further complicated by the fact that, unlike municipalities, planning and development in rural areas has to rely heavily on various departments of government for implementation, a process which now lacks integration and is highly fragmented.

Although CLURE's mandate is focused on overcoming these problems in non-incorporated areas, it also recognizes the **interdependencies and conflicts between urban and rural areas**. Many of the outer areas within municipalities are experiencing similar problems to those of the non-incorporated areas. Development adjacent to municipal boundaries has definite physical, social and economic impacts on municipalities. Overall, urban and rural areas are highly dependent on one another in the socio-economic context and in New Brunswick, where we are also highly dependent on the resource sectors, one cannot exist without the other. CLURE recognizes these interrelationships and makes recommendations that ensure greater integration of urban and rural planning and development.

Concern was sometimes expressed to CLURE with respect to the mandate of the Commission being "land use planning" and not planning in the broader context of "economic planning" or community "development planning". It should be pointed out that, although land use and the rural environment is the central theme of the Commission's mandate, part of its mandate is to "recommend policies to protect and enhance the quality of our rural environment while fostering sustainable economic development and responsible use of our natural resources". **The central focus is to "develop policies that encourage compatible development and environmental protection and respect the rights of rural residents and landowners to the reasonable use of their land"**.

Although CLURE's mandate is broad and must address "land use planning" in its broadest context, planning alone cannot address all the ills facing rural areas. Legitimate concerns have been expressed to CLURE with respect to global economic changes, market forces and technological changes that are affecting the viability of resource-related industries. Concern

was also expressed with respect to changes to the rural social fabric brought about by recent changes in education and health. CLURE's recommendation may help resolve some aspects of these problems but the solutions lie beyond planning alone.

This point was described very well in the Canadian Environmental Council Report referred to earlier. It stated:

"In the final analysis land use planning is only a tool to be employed as society dictates and which can only be as effective as society permits. Achieving sustainable development therefore will require reforms in public and business attitudes, in policy and policy-making, in economic theory and planning, in administrative and institutional structures and processes, that go well beyond the utmost scope of land use planning."³

In addition, there are several studies recently completed and currently ongoing that address environmental, economic, resource-related and urban-centred issues that overlap with CLURE's mandate. The "Premier's Round Table on Environment and Economy, A Sustainable Development Strategy" for New Brunswick contained detailed recommendations currently being considered with respect to environmental and economic issues. The "Economic Conferences", being held in regions throughout the Province, contained very specific proposals for economic development. The Government's recently announced strategy to "Strengthen Municipal Government in New Brunswick's Urban Centres" (regionalization/integration of services) has ramifications with respect to non-incorporated areas. The resource-related Departments within government are currently preparing detailed policy documents affecting management of agriculture, forestry, and mining activities as well as specific areas such as wetlands, ecological reserves, parks and recreation and coastal area management. Government is going to have to consider the recommendations of CLURE along with all these other initiatives where there are varying degrees of overlap.

CLURE recognizes the interrelationships and linkages that exist between land use planning, socio-economic planning and development and resource management. Land use planning can be a major tool for Government in New Brunswick in achieving its commitment to "sustainable development". **CLURE's goal is to recommend a structure and process as well as provincial land use and development policies, which will provide a framework at the provincial, regional and local level, to ensure more comprehensive and integrated planning and development that will facilitate sustainable economic development for rural communities while minimizing conflicts with our resources and environment.**

2.3 VISION FOR RURAL NEW BRUNSWICK

2.3.1 Need For a Collective Vision

In order to plan and manage the future development of our rural areas for the benefit of all New Brunswickers, it is necessary to have a **collective vision** of what constitutes a desirable future for our rural communities. If a common vision is established, the planning process can direct growth and development in the most suitable manner to achieve this vision.

Through an extensive **public consultation process** which included urban and rural representatives of government and non-government agencies, resource related groups, environmental groups, municipal associations, the general public and private citizens, the Commission on Land Use and the Rural Environment was presented with many suggestions for the type of rural environment each would like to see develop in New Brunswick over the next 20 years. This description attempts to interpret, consolidate and summarize these various suggestions into a shared vision for rural New Brunswick.

Although it was expressed in many different ways, a predominant theme was the concept of "**sustainable development**" - a form of development that integrates economic and environmental considerations so that we can pursue economic growth in all our resource and non-resource based industries in a manner that respects, sustains and minimizes impacts on our natural environment. The pursuit of this concept should yield socio-economic benefits to existing residents of New Brunswick without compromising the right of future generations to enjoy the same benefits and quality of life.

Many of the groups and individuals participating in CLURE's consultation process were involved in some way, or were familiar with, the work and recommendations of the Premier's Round Table on Environment and Economy and they echoed many of the suggestions relating to sustainable development that are contained in that document. There were many other residents, who may not have been familiar with the work of the Round Table or the concept of sustainable development, who, nevertheless, expressed the same sentiments as those embodied in the concept.

2.3.2 Vision Statement

The following is an overall vision to guide the planning and development of rural areas.

The collective vision for rural New Brunswick is based on the preservation and enhancement of a rural lifestyle and a quality of life that will facilitate sustainable development for rural communities while minimizing conflicts with our resources and environment. It includes the desire for healthy, vibrant communities whose residents respect the need for clean air, water and soil through the provision of adequate water, sewer and waste disposal systems while providing safe highways and communities free of crime, vandalism and social problems. It also recognizes the need to foster stewardship of our natural resources and to be respectful of the aesthetic qualities of the diverse natural beauty existing throughout the Province. This will enhance and protect our natural and sensitive areas for their scenic, recreational and tourism value and as a habitat for our fish, waterfowl and wildlife.

2.3.3 Explanation of Vision Components

The following elements summarize specific components of the vision for rural New Brunswick. These components will assist with the formulation of goals and objectives to be achieved with respect to the various issues contained in this document.

- **Opportunity for gainful employment.** As might be expected during the midst of such a serious recession, a major vision for many residents was the opportunity to obtain or retain employment in the rural areas. Many would like to see more employment generated in rural areas through healthy competitive resource industries while others were satisfied with access to employment in urban areas as long as they could maintain a rural residential lifestyle. Many of those employed in agriculture and forestry recognized a gainful return on employment as the best means to ensure sustainable development practices.
- **Clean Air, Water and Soil.** Everyone's vision included protection and enhancement of the natural environment: clean, healthy air to breathe; clean water for drinking and recreation as well as for industrial and resource use; soils free from the contaminants often associated with urban and rural uses which threaten both surface and groundwater supplies.
- **Protection of Resource Lands and Water.** Although their reasons or motives varied, most people expressed visions which included protection of agricultural, forestry, mineral and aggregate lands and fisheries. These grew from a desire to protect the resources themselves and the industries that often depend on them as well as the protection of fish and wildlife which are associated with them.
- **Protection of Natural and Sensitive Areas.** The visions expressed indicated a growing recognition among urban and rural dwellers for the need to protect the natural and sensitive habitat of our plants, fish, wildlife and waterfowl - our forests, waterways, wetlands, marshes, deeryards, etc. Some want to see these areas

protected for their recreational, scenic or tourist value while others refer to the need to protect endangered, threatened or rare species.

- **Protection of the Rural Lifestyle.** Although it is difficult to define precisely, the vision for most residents included protection of the rural lifestyle. Its definition often included the protection of the environmental and resource features mentioned previously as well as reference to more open space, less noise, less crime and greater freedom from urban-type regulations.
- **Healthy, Viable Communities.** The vision for many rural residents included the desire for healthy communities - whether it be villages, local service districts or small rural neighbourhoods. Indicators of health include not only clean air, water and soil but also the provision of adequate water and sewer systems, acceptable waste disposal systems, safe highways and streets, retention of natural landscape and aesthetic features and the absence of crime, vandalism and social problems.
- **Enhanced Recreation/Tourism.** Recreation and tourism are often not thought of in a rural perspective but the vision of many rural residents often included the promotion of recreation and tourism uses which were based on, and compatible with, the rural environment. The multiple use of crown land was often included in the vision. The wise use of our forests, parklands, coastal and inland waters for hunting, fishing, swimming, boating, camping, hiking, etc. would benefit residents, visitors and the tourism industry. Associated with this is an increasing concern for the rural landscape and aesthetic considerations. The vision includes a landscape free of erosion, flooding and the scars often associated with forestry and extractive uses as well as free of substandard buildings, unkept junkyards, garbage and litter.
- **Rural Planning.** While most of the previous elements in the vision relate to planning for rural areas, many people commented specifically on what they would like to see with respect to the structure and process for land use planning. It was encouraging to see that there was an awareness and acceptance that the growth and development in rural areas of the Province has reached a point where some form of planning is required to avoid the many conflicts and problems that have arisen in recent years.

At the local level, the vision for planning included a more effective voice for rural residents in the planning and decision-making that directly affects them. They see more empowerment of rural people so, in addition to being consulted, they can actively participate in a more proactive and meaningful manner in making planning decisions at a local or regional level. Residents also desire development that results in fewer conflicts and they would rather see conflicts resolved through a local process and with a minimum of regulations.

At the provincial level, the vision for planning consists of overall provincial land use

policies and guidelines that will provide a framework and direction for future planning and development of the Province's rural areas. The development and implementation of these policies would be done in consultation and partnership with rural area representatives.

2.4 STRUCTURE AND PROCESS FOR RURAL PLANNING

2.4.1 Introduction

The purpose of this section is to present concerns and recommendations for the improvement of the structure and process for rural planning in New Brunswick. Structure refers to the organization for planning; how the Province is set up to provide planning at the provincial, regional and local levels. Process refers to the mechanisms and linkages through which planning services are delivered at each of the levels.

The introductory section explained why this document is divided into four general headings. Many of the problems and concerns with respect to settlement issues, resource issues and environmental issues stem from the fact that the Province lacks a well defined structure and process for rural planning. **Structure and process also presents the major means to resolve many of the conflicts that exist among the settlement, resource and environmental issues.**

Because structure and process can be both the cause and the solution for many of the other planning issues, it will be dealt with first. With an appreciation for an improved structure and process, it will be easier to understand both the concerns and recommended policies and actions that are presented in later sections with respect to the settlement, resource and environmental issues. It will also be clearer as to how an improved structure and process itself can help resolve many of the conflicts among the other issues.

2.4.2 Existing Structure and Process for Rural Planning

The structure for planning refers to the various organizations that have been set up to deliver planning services in the Province at the provincial, regional, district and local levels. The process for planning refers to the mechanisms through which planning is actually delivered and includes the preparation, adoption, administration and implementation of various plans and regulations.

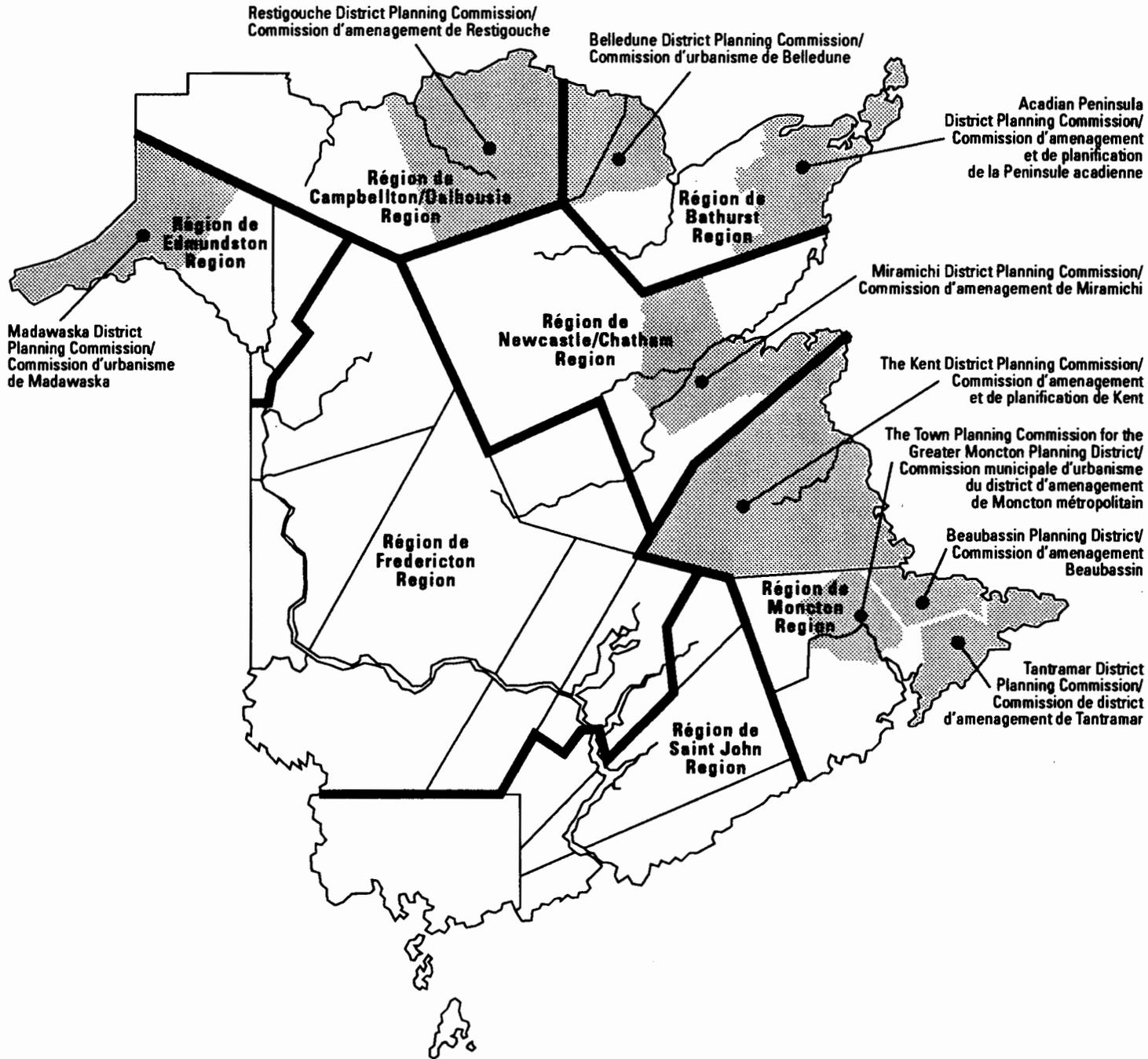
In description and practice, it is very difficult to separate the structure from the process. It is difficult to discuss one without bringing in the other. It is often clearer, in order to understand an issue, to discuss both the structure and process affecting that issue at the same time. Consequently, in the sections which follow, although a modified structure and process will be presented, no conscious attempt has been made to completely separate structural issues from process issues.

The present structure and process for planning in New Brunswick is set out in the **Community Planning Act**. Although there have been several amendments to the Act over the years, it remains largely unchanged since its inception in 1973. The Act sets out a structure for provincial planning which includes.

- **Planning Regions** (7 regions based on the 6 cities plus the Miramichi area centred on Chatham/Newcastle). The Act provides for each region to have a regional plan which was intended to be a statement of Provincial policies translated into land use terms after consultation with municipalities and district commissions within the planning region. Its purpose was to provide for the general development of the region and to provide a framework within which municipalities and districts could develop their own plans for future development. The regional plans were to be prepared, adopted and administered by the Province (Lieutenant-Governor in Council). To date the regions exist only on paper. Although there has been one serious attempt to prepare a regional plan (Saint John Region), it was turned down by Cabinet and no regional plans have ever been adopted.
- **Planning Districts** which permit regions to be subdivided into smaller divisions. These are intended to provide planning at a more local level in the context of a regional plan and involve municipalities and surrounding non-incorporated areas in the process. There are nine District Planning Commissions in the Province covering approximately 40 percent of the Provinces' population and about 10 percent of its land area (Refer to Figure 2.1). The Commissions are located mainly in the northern and eastern portions of the Province and include Madawaska, Restigouche, Belledune, Acadian Peninsula, Miramichi, Kent, Greater Moncton, Beaubassin and Tantramar. The central, southern and western portions of the province are not covered by District Planning Commissions. Although the Act makes no provision specifically for District Plans, it does provide for Area Plans which could be developed for the non-incorporated area within the district. To date, only one district (Beaubassin) has adopted an Area Plan for the whole district. The Commission has the authority to prepare and administer Area Plans but the plans have to be adopted through the Lieutenant-Governor in Council.
- **Municipalities** are set up under the Municipalities Act and include all cities, towns and villages in the province. The Community Planning Act permits these incorporated areas to prepare, adopt and administer Municipal Plans. Most of the Provinces 6 cities, 29 towns and 83 villages have adopted municipal plans. In theory, municipal plans are to be prepared in the context of the regional plans.
- **Non-incorporated Areas**, which are all areas of the Province lying outside municipalities. The non-incorporated area has been divided up into approximately 291 Local Service Districts (LSD) which are not a locally accountable level of government. LSDs were set up under the Municipalities Act to enable the Minister of Municipalities, Culture and Housing to deliver local services to the non-

figure 2.1

**Planning Regions and Planning Districts/
Régions d'aménagement et districts d'aménagement**





incorporated areas. Approximately 180 of the LSDs have "advisory committees", elected at local public meetings, which advise the Minister regarding the provision of services within the LSD. Although they were not set up to deliver planning services, 17 of the 291 LSDs have Basic Planning Statements in place. These are more basic policy statements (described as mini-municipal plans) that may be developed under the Act for incorporated or non-incorporated communities. Basic planning statements are prepared and adopted as provincial regulations by the Province and administered by "development officers" who may be employed by the District Planning Commissions or the Department of Municipalities, Culture and Housing.

The Act also outlines the **administrative tools** that can be used to implement the various plans including by-laws or regulations such as Zoning, the Building Regulation, Subdivision Regulation, Set Back Regulation and the Mobile Home Parks and Sites Regulation which pertain to non-incorporated areas.

2.4.3 Concerns with the Structure and Process for Rural Planning

The concerns identified in this section with respect to the structure and process for rural planning emanate from many sources. It is essentially a summary of the concerns that have been raised in previous reports and studies, in briefs prepared specifically for CLURE as well as in the public consultation process recently conducted by CLURE. The concerns represent a wide cross section of opinions including: those within the provincial government and municipal government structure; planning professionals at all government levels and from the private sector; non-government agencies related to resources, environment and industry; district planning commissions; municipalities; LSD advisory committees; community groups; and, various segments of the general public.

The concerns are itemized in summary form in this section and described in a more appropriate level of detail under the proposed strategies and recommendations which follow in later sections. A more exhaustive or detailed list could have been provided, however, many of those concerns would probably fall under one of the 20 summary issues identified.

The concerns can be summarized as follows:

- **Failure to Implement the Community Planning Act.** Although the 1973 Community Planning Act needs to be revised, the structure and process that it intended has never been implemented. The actual structure and process that has evolved is not responsive to the needs of effective planning at the provincial, regional or local levels.
- **Lack of Overall Provincial Strategy and Land Use Policies.** One of the reasons why the Community Planning Act has not been implemented is that the Province has

never really articulated an overall strategy for development of the rural areas of the Province. It has not defined what it means by "rural planning" nor has it identified overall goals, objectives, policies or guidelines which would serve as a framework within which the Province, the regions, the districts, the municipalities or the LSDs could effectively plan for any coordinated development. The lack of overall Provincial policies is a big reason why many of the other land use issues exist.

- **Lack of Provincial Department Coordination/Communication.** The present structure at the Provincial level does not facilitate the necessary communication and coordination that is required between the various government departments, if effective planning is to be provided. It does not recognize that land use planning, by its very nature and especially in rural areas, depends on many government departments for its effective delivery and implementation.
- **Lack of Liaison/Partnership Between Provincial and Local Levels.** The present structure does not facilitate or recognize that effective planning requires that linkages or partnerships be created between the Province and the regional or local levels. This could be facilitated through improvements in both structure and process.
- **Failure to Recognize Basic Differences in Planning for Urban and Rural Areas.** The main concern has been that the Provincial interest, particularly in the implementation of the Community Planning Act, **has been almost entirely on municipalities.** Because of this emphasis on urban areas, one of the weaknesses of rural land use planning has been that many **planning efforts tried to use urban planning methods to address rural land use issues.** The Community Planning Act has been criticized for failing to recognize that different factors, mostly related to resource management and socio-economic issues, must be considered in rural areas. These are not generally part of urban planning concepts.
- **Too Much Emphasis On Regulation.** This is a major issue which requires some explanation. Too many people in New Brunswick - politicians, bureaucrats and the general public - have the wrong impression of planning because the Province has historically placed far too much emphasis on the regulatory or negative side of planning.

Planning has two components. **The first is a plan that is developed with local residents.** It contains some basic statements or policies describing how residents would like to see their area or community develop.

Once a plan is adopted, **the second part** is prepared. **It is the regulations or controls** that ensure that development is not contrary to the plan adopted by the residents. These regulations or controls might be zoning maps that show areas, such as good farmland, coastlines or residential areas, which are to be protected from incompatible development. There might also be subdivision regulations that state how large lots

should be to safely accommodate a septic tank system.

Unfortunately, in New Brunswick **we have been doing things backwards**. In our rush to protect residents, resources and the environment, we have put in some rules and regulations for subdivisions, building permits and some zoning without preparing the plan first. **We have not always consulted or involved local residents** in the preparation of the plans. We have to go back a step and find out what rural residents want in the plan and then put the regulations in place to make sure it happens. **Initial reaction of rural-area residents to planning in New Brunswick has been negative** because the emphasis was placed on regulations or controls, not on the positive aspect where people work together to decide the kind of community they want and how to protect it. **This is a more positive or proactive approach and it is the way planning was intended to be.**

Planning has also been perceived in a negative light by many bureaucrats in other government departments because they have not been involved in the proactive side of planning and have most often been exposed to the regulatory side which may have prevented them from undertaking certain development measures.

- **The Province is Not an Effective Vehicle for Local Planning.** Because of the many problems experienced by Planning Commissions and LSDs in trying to deal with the Province for planning related matters, it is obvious the Provincial Government is too far removed to be an effective vehicle through which to deliver planning services to rural areas. There is a **strong mistrust of government in rural areas** which has been fuelled by the long delays in getting plans or regulations through the legal drafting and translation process in Fredericton, problems in getting subdivision approvals through the Provincial Planning Committee in Fredericton and the general lack of communication and effective linkages between the provincial and local levels. **This hurts the credibility of the whole planning process as well as that of the Provincial Government.**
- **Lack of Effective Local/Regional Structure.** The planning process has not worked well at the local or regional level because there is no effective structure. There is no structure at the regional level and there are large portions of the Province (90 percent of the land area and 60 per cent of the population) that are not included in the District Planning Commissions. Even the Planning Commissions have no authority to adopt plans prepared within their districts. The Commissions can administer various aspects of the Community Planning Act and provide planning advice to their member communities. Their role is highly regulatory and not proactive. At the local level, the LSD structure was not intended, nor is it appropriate, for local planning. It does not have accountable elected representation nor the authority to adopt plans. There is need for some form of regional structure as is evidenced by the multiplicity of single purpose boards and commissions (for

economic development, solid waste, watersheds, tourism, etc.) that have been established in recent years.

- **Lack of Effective Local Representation.** When county councils were eliminated under the program of Equal Opportunity, LSDs were set up to provide basic services such as fire protection, ambulance services, street lights, recreation and community services. Although LSDs have worked out relatively well in terms of the delivery of these services, they have not worked effectively for planning purposes. LSDs have no elected Councils, similar to those in municipalities, and thus little accountability. (This is not to say that many do not have very dedicated members on their advisory committees) Many rural residents do not know that they are in an LSD or that it has an Advisory Committee. Many do not accept that non-elected representatives have any right to speak on behalf of residents.

A basic premise of planning is to balance the rights of the individuals in the interests of the common good. Although it is not perfect, planning has worked in municipalities because they have elected Councils which make local planning decisions based on the public good. Rural planning is not working, largely because there are no elected representatives. **The bottom-up process does not work because there is no effective structure at this local level.**

- **Lack of Local Decision-Making Authority.** The absence of a local structure and elected representation gives rural residents no meaningful voice in planning decisions which directly affect them. Major decisions such as adopting and amending basic planning statements, subdivision approvals and variance applications are made in Fredericton by Provincial Government representatives. This often results in long delays, residents lose interest in plans and become frustrated with the "red tape". This harms the credibility of the whole planning process and reinforces the mistrust of government within rural areas.
- **No Regional Plans Have Been Adopted.** Although the Community Planning Act makes provision for regional plans, the development of such plans has never been recognized as a priority and no regional plans have even been adopted. One for the Saint John Region was prepared but turned down at the Cabinet level. The absence of regional plans has provided little guidance for land use plans at the district or local level and has resulted in some LSDs preparing Basic Planning Statements, almost by default.
- **Inconsistency Across the Province.** Because of the absence of either overall provincial policies or regional plans, there is a lot of confusion and inconsistency in planning across the Province. Some areas fall within District Planning Commissions and some do not, some areas require building permits and others do not, in some areas the development officers try to provide a "one-stop shopping" service for building permits while in other areas the individual seeking the permit must seek

approval from 3 or 4 different government departments. There has been very little attempt by the Province to ensure consistent and equitable service for all rural residents.

- **Fragmented Approach.** To date, any efforts at planning for the regional level have been single-purpose such as those dealing with Solid Waste Commissions, Watershed Regulations and Economic Development Commissions. This represents a fragmented approach instead of the comprehensive and integrated approach needed. The multiplicity of boards and commissions also creates confusion with respect to accountability to the general public. Some efforts have been made to deal with regions through acts of various Provincial Government departments. These are not integrated and most are administered from Fredericton with very little local input.
- **Lack of Coordination, Cooperation and Communication.** There is a general lack of communication and cooperation among the various government departments and planning-related agencies at all levels. As a result, planning is not coordinated, comprehensive or integrated.
- **Lack of Public Information and Communication.** There has been no concerted effort on the part of government to educate the public with respect to planning - as to what planning is, why it is needed, how people are affected and how they can participate. People in rural areas do not like rules and regulations but education and communication are necessary if people are to realize that some basic rules and regulations are required to protect rural residents, guide development and to avoid conflicts. Information is also necessary in order to make residents aware of the costs associated with the form of development occurring in rural areas.
- **Lack of Human and Financial Resources.** In many cases the planning process is not working because there are simply not enough human and financial resources to do the job that has to be done. This applies to the Provincial level as well as to the District Planning Commissions. The shortage of human resources is often the cause of delays in plans and permit approvals, lack of proper inspections, lack of enforcement of existing regulations as well as poor public information and communication efforts. Quite often professional skills of planners at the district level are wasted because their time is preoccupied with day to day administration and approvals which could and should be carried out by technical personnel. This has become an even more difficult issue to address in recent years because of financial constraints on government.
- **Poor Image of Planning.** Many of the previous concerns mentioned have resulted in a poor image of planning in New Brunswick. It has been negative because of the regulatory approach generally pursued in the Province, because of the lack of priority given to rural plans and meaningful involvement of the public as well as the

credibility problems associated with the delays and "red tape" in dealing with the Provincial Government in Fredericton.

- **Particular Concerns with the Legal Drafting Process and the Provincial Planning Committee.** The concerns with the legal drafting process essentially stems from the fact that all plans or basic planning statements pertaining to non-incorporated areas have to adopted as provincial regulations and are subject to the legal drafting process in Fredericton. The combination of the demand for plan approvals, the shortage of staff, the lack of communication within departments and between departments and the regions has resulted in unacceptably long delays in plan approvals which undermines the credibility of the planning process. There are also concerns that the modifications and wording changes made through the legal drafting process are difficult for residents to understand.

The concerns with the **Provincial Planning Committee** are related to the fact that many of the matters that have to be sent to Fredericton for approval could be dealt with at the local or regional level with more local input resulting in fewer delays, better local participation in decision making, and greater credibility for the planning process.

- **Revision Required to the Community Planning Act.** During the consultation process there were concerns expressed with the need to revise the Community Planning Act. There is a need not only to make it more readable, but to make it more responsive to the needs of rural areas. This includes provision for resource management and socio-economic considerations. There is also a need to bring it more in line with more modern planning concepts, including the principles of sustainable development.
- **Improvement in Conflict Resolution Mechanisms.** During the public consultation process there were concerns that many of the conflicts currently experienced in rural areas would be dealt with through the imposition of more regulations and controls. Many residents felt that improvements to structure and process for planning in rural areas would be a more appropriate and acceptable means of resolving conflicts.

2.4.4 Goal and Objectives for Structure and Process

The overall goal with respect to this issue is to develop a structure and process that is responsive to the needs of the Province and rural residents, and that will result in a more effective delivery of planning services to the rural area residents to help them achieve healthy and sustainable rural communities.

From an analysis of the concerns presented in the previous section, the following is a brief **summary of the objectives** which should be achieved in any strategy to improve the structure

and process for planning in New Brunswick. These objectives include:

1. To develop an **Overall Provincial Strategy** for rural planning in which the Province, through a consultative process, will define its goals and objectives and articulate policies and guidelines that will provide the framework and direction for future planning and development of the Province's rural areas.
2. To modify the current structure at the provincial level to **Enable Improved Coordination, Cooperation and Communication** between the various government departments in order to ensure more comprehensive and integrated planning and improved liaison and partnership with rural areas.
3. To develop some form of **Regional Structure** to facilitate planning for non-incorporated areas, recognizing that the Province is not an effective vehicle through which to deliver planning services to rural areas. This structure will also facilitate integrated planning for urban and rural areas.
4. To establish some form of **Local Representation** so that people at the grass roots level have the opportunity to participate in a meaningful way in planning decisions which directly affect them.
5. To provide for **Decentralized Decision-Making** with respect to certain planning services in order to facilitate local/regional involvement and to improve the overall credibility of planning in the rural areas.
6. To facilitate the preparation of **Comprehensive and Integrated Regional/District/Local Area Plans**, including the need for improved contents and a better land use data base.
7. To ensure **Improved Cooperation and Coordination Among the Various Government Departments and Regional Agencies** that affect the delivery of planning services to the non-incorporated areas.
8. To **Improve Public Education and Communications** in the non-incorporated areas with respect to land use planning in order to overcome mistrust of the process and the lack of appreciation of its benefits.
9. To recognize that sufficient **Human and Financial Resources** should be allocated within government departments as well as within the district planning commissions to effectively carry out their given mandates.
10. To **Improve the Profile/Image of Planning** in the Province by giving more priority to land use planning and development. This also involves creating a more positive image by emphasizing the **Proactive Aspects of Planning** and with less emphasis on

control and regulation.

11. To **Recognize and Address** the improvements required with respect to the functioning of the **Provincial Planning Committee and the Legal Drafting Process**.
12. To **Revise the Community Planning Act** as required to incorporate the various changes suggested in this document and to recognize the basic differences between urban and rural planning and, specifically, the role of resource management and the integration of socio-economic considerations.

Some of the underlying rationale for these objectives should be presented. Although one hundred percent total agreement with these objectives is unlikely, they do represent a general consensus of the views expressed by rural residents, planning practitioners, provincial and municipal politicians and bureaucrats, Planning Commissions and LSD representatives, and non-government groups and agencies.

What the overall consensus seems to indicate was perhaps best expressed at a rural planning conference at Mount Alison University in 1986 when it was suggested that **"rural planning to protect land resources works best when the top-down provision of goals, guidelines and regulations is matched by a bottom-up process of local involvement, and the availability of incentives to encourage private stewardship."**¹⁴

In New Brunswick there exists little in the form of an effective top-down or bottom-up process. Those trying to plan or develop find themselves stuck in the middle of this dilemma. They are trying to plan without any overall appreciation for what the Province is trying to achieve in rural areas since there is no overall provincial direction in the form of goals, objectives, policies or guidelines. Likewise, the objectives outlined above lead to the conclusion that the Province needs some form of local representation accompanied by some form of regional structure, to facilitate meaningful planning and decision-making at the local level. **Without these three elements (local representation, regional structure, local decisions), it is difficult to have an effective bottom-up process which is necessary if planning is to have credibility, meaningful participation and acceptance at the local level.**

The first five objectives, then, are the key components to be pursued. The objectives for an overall provincial strategy and a modified provincial structure could be pursued right away. The other three objectives represent concepts that, in the past, governments have been reluctant to pursue but, nevertheless, should be implemented as soon as possible.

When **"regional structure"** is mentioned many people have fears that what is being advocated is a return to County government. This is certainly not proposed here. County government is only one form of regional structure and has its advantages and disadvantages. The Equal Opportunity Program, which ended county government in New Brunswick, resulted in vast improvements in education, health, welfare and justice services over that which existed under the County system. However, the replacement for counties - direct

administration by the Department of Municipal Affairs (now Municipalities, Culture and Housing) through a Local Service District structure with optional Advisory Committees - permits little meaningful local involvement and participation. There are other regional structures (without responsibility for fiscal administration which got the Counties in trouble), that would enable more meaningful participation at the regional or district level.

When "**local representation**" is mentioned, it may also bring to mind the 1976 Task Force on Non-Incorporated Areas in New Brunswick, which recommended the formation of 11 "rural municipalities" to include all of the non-incorporated areas of the Province⁵. There are other ways to achieve better local participation, responsibility or representation without going the full route to rural municipalities. Rural municipalities may be a longer term option in New Brunswick but they are not considered affordable or acceptable at the present time.

Reference to "**local decision making**" means decentralization or some devolvement of authority from the Province to the local, district or regional level. This concept is bound to meet with some resistance from some central government authorities. **However, delays, communication and alienation problems associated with the present centralized decision-making process severely affects the credibility of the government, in general, and planning and the Department of Municipalities, Culture and Housing, in particular.** Local decision making does not advocate total relinquishment of authority from Fredericton as there would still be a major decision-making role to be played by the central authorities.

The approach suggested in this document involves a process of discussion, modification and refinement involving provincial, regional and local representatives who are directly involved in the planning process. From this consultative approach it is hoped that the results would be incorporated in the overall provincial strategy referred to earlier.

There are also other objectives that would be easier to implement in the short term. Some of the objectives such as improved communications, public information and interdepartmental cooperation and coordination are aspects which could be addressed immediately. Others, such as strengthening the regional structure, becoming more proactive in rural planning, preparation of more comprehensive and integrated rural plans, and revisions to the Community Planning Act, can commence almost immediately but will also require an on-going consultative process between the province, regional and local representatives to refine these concepts and incorporate them as part of the overall provincial strategy.

Because these objectives would require varying time frames for realistic implementation, a phased approach will be necessary. This approach is discussed more thoroughly in the next section.

2.4.5 Recommended Strategies For Structure and Process

A. Overall Approach

In addition to being guided by the objectives in the previous section, the overall approach to development of recommended strategies has been and should continue to be **consultative, realistic and incremental**.

The **consultation** with respect to structure and process has involved not only that conducted by CLURE, but there has also been extensive research and consultation with other jurisdictions in Canada and the United States. The opinion of other professionals has been sought and models used in other jurisdictions have been reviewed for their applicability to New Brunswick.

With respect to the review of other models for structure and process, there are no two provinces in Canada that utilize the same model. Each provincial structure is unique and what works in one Province would not, in many cases, work in other Provinces. None of the models reviewed could be totally transferred to New Brunswick, however, there were components of some models which might be workable. The best approach, and the one followed by CLURE, was to develop a model that addresses the issues and concerns that are unique to New Brunswick. It was reassuring to note, however, that most of the components of the New Brunswick model have similar components in other Provinces that are at work or have been working for several years.

A requirement of the Terms of Reference for CLURE was that it be **sensitive to the financial implications of its recommendations**. The approach recognizes the **fiscal constraints that are facing governments at all levels**. There are obviously structures that could be put in place such as vastly expanded provincial planning departments, large new regional planning authorities, fully staffed district commissions, or even regional and rural governments, but these are not practical in New Brunswick, given the size and financial resources of the Province.

In addition to being **realistic** from a financial perspective, the approach is also realistic with respect to what would be **practical structurally** and what would be **publicly acceptable**. There are many aspects to the current provincial structure in New Brunswick that have been working well. The major changes in Provincial/Municipal responsibility instituted during the Program of Equal Opportunity have resulted in a vastly improved fiscal situation as well as a much more consistent and equitable delivery of services to residents of New Brunswick. Massive changes in structure are not practical or needed. There are, however, some definite changes and improvements required in the present structure and more significant changes

with respect to the process for planning in New Brunswick.

The approach must also be **acceptable** to the general public. The approach recognizes the diversity existing within the various areas and regions of the Province. It recognizes that structures must be flexible enough to accommodate the variety of needs and circumstances comprising rural New Brunswick. Public acceptance does not mean that recommendations have to be wishy washy. Some tough measures will have to be accepted by all levels of government and all residents of the Province but these measures have a greater chance of government and public acceptability if they are achievable and affordable.

One way to ensure **achievable, affordable and acceptable** measures is to **incorporate an incremental or phased approach**. As pointed out previously in the discussion of objectives, some are achievable immediately while others require a longer term time frame. There are many improvements to be made and they cannot all be achieved overnight. In many cases, there will have to be a period of transition as new structures or processes are put in place. Certain parts of the existing structure may have to be retained for a period of time as new structures are phased in.

This approach also recognizes that many policies or approaches cannot be applied universally throughout New Brunswick. Some areas of rural New Brunswick, such as those built-up areas adjacent to the major municipalities, have more urgent problems than other more outlying, less-developed areas. Some measures can thus be introduced in those areas first and may not be needed in more outlying areas for many years, if at all.

The incremental approach is also required to **allow consideration of options**. At this stage of the process there could be several optional solutions identified to overcome some problems or circumstances. In some cases pilot projects may be justified. In some cases the course of action for CLURE's recommendations may depend on the response to other government initiatives. The response from municipalities, for instance, to the governments proposal for the urban-centred delivery of regional services, may have an influence on how the built-up portions of non-incorporated areas on the outskirts of municipalities should be handled. Similar options may have to be considered depending on the findings of the Review of Provincial/Municipal Fiscal Transfers, currently being undertaken by the Province.

The incremental approach also recognizes **the need for further and on-going consultation** on many issues. Many recommendations require and deserve greater scrutiny by government departments and analysis by the general public before final and definite policies are set. In many cases government will want to consult with the planning commissions, municipalities, LSDs and the general public. **Public consultation does not mean public decision-making**. In our democratic society decisions should be made by duly elected representatives after thorough consultation and input from all parties affected.

Thus, the overall strategy recognizes that success in setting up an improved structure and process for planning is much more likely if the approach is one that proceeds towards long

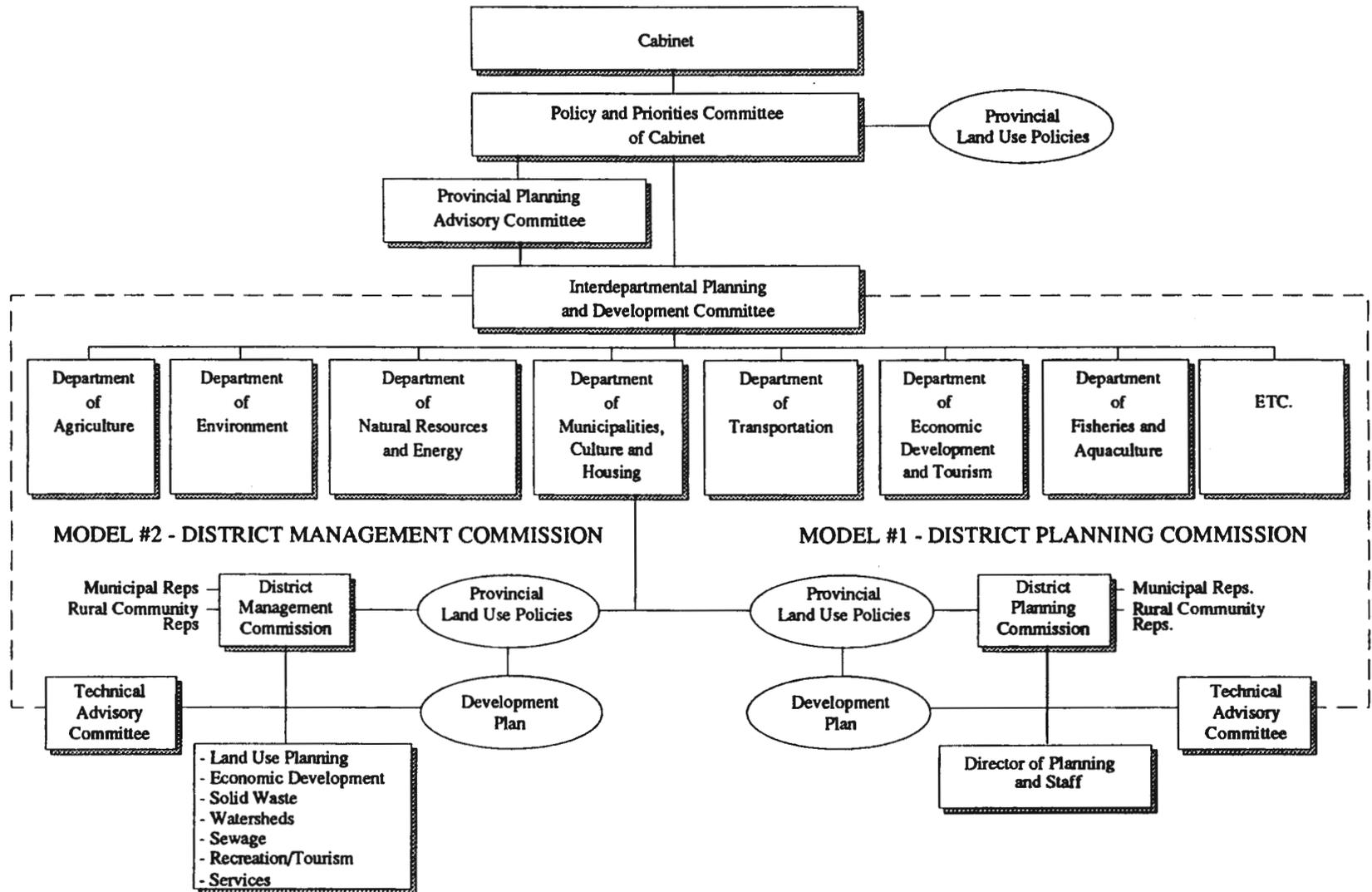
process for planning is much more likely if the approach is one that proceeds towards long term objectives in increments that are achievable, affordable and acceptable.

B. Overview of the Recommended Structure and Process

The overall recommended structure is illustrated on Figure 2.2. This section will present an overview of the structure which will be followed by a more detailed description of rationale for the recommended structure and process. The overall structure includes the following components:

- At the **provincial level** it is recommended that the **Policy and Priorities Committee** of Cabinet be assigned responsibility for recommendations to Cabinet on the establishment and revision of **Provincial Land Use and Development Policies**.
- Two new structures are suggested which would report to the Policy and Priorities Committee.
 - an **Interdepartmental Planning and Development Committee** of Deputy Ministers, which would provide interdepartmental coordination in the development and implementation of land use, resource management and environmental policies and programs.
 - a **Provincial Planning Advisory Committee** of citizens which would provide an independent perspective to introduce new ideas emanating from sources other than the provincial government departments.
- The provincial level restructuring would include a modified Department of Municipalities, Culture and Housing with a branch dedicated to **Rural Planning and Development**.
- The provincial level restructuring would also include a **modified role for the current Provincial Planning Committee**. As many of its current functions are assumed by the Districts, this Committee would either be phased out or would take on responsibilities as a technical advisory committee to the Interdepartmental Planning and Development Committee.
- At the **regional level**, it is recommended that the concept of seven large planning regions be abandoned and replaced with 12 to 15 expanded and enhanced District Commissions in order to provide a more meaningful regional structure to facilitate grass roots involvement in planning.

Figure 2.2
PROVINCIAL PLANNING STRUCTURE
Proposed Options
PROVINCIAL



Two options are presented:

- the first is an enhanced **District Planning Commission** with expanded planning functions and better integration with other regional agencies.
- the second is a **District Management Commission** which formalizes the integration of planning with other regional agencies under a common board.

The first option could represent a phased approach to the second option.

- Both options at the district level include **elected representation** creating more accountability and allowing for more decentralized decision making. It would also permit the adoption of district and local plans and basic planning statements.
- Both options also include the concept of a regional **Technical Advisory Committee** with representatives of government departments and non-government agencies related to rural planning and development. This Committee would be the regional counterpart to both the Interdepartmental Planning and Development Committee and the Provincial Planning Advisory Committee. The Technical Advisory Committee would result in more comprehensive and integrated planning, one stop shopping, better communication, more proactive planning and protection of provincial interests. It would also create better liaison with the provincial level and better public involvement in the planning process.
- At the **local level** the recommendations call for the rationalization of the existing Local Service Districts into **Rural Communities**. The Rural Communities would have elected councils which would appoint a member to sit on the District Planning or Management Commissions along with members representing municipalities within the district. This provides better representation for rural residents and more accountable decision-making. It also ensures more integrated planning for urban and rural areas.

C. Detailed Description of Recommended Strategies for Structure and Process

I. Provincial Level

It is generally recognized that there is a need for a **body or mechanism above the department level** in recognition that rural land use issues cross interdepartmental lines. An improvement is required in the coordination, cooperation and communication among the various government departments, if there is to be effective development and implementation

of Provincial Land Use and Development Policies.

One of the biggest problems encountered with the structure and process of planning is the need for improvement in coordination and communication among the various government departments involved in the process.

The Land Use Planning Branch of the Department of Municipalities, Culture and Housing has the mandate to do land use planning in the non-incorporated areas of the Province. It cannot possibly begin to perform this function without the cooperation of, and coordination with, other government departments and regional agencies. Consider what land use planning involves in the rural area. It deals with resource uses such as forestry, mining and aggregate resources, which are also the responsibility of the Department of Natural Resources and Energy. It deals with farm lands which fall under the Department of Agriculture. It deals with watersheds and watercourses which are the responsibility of the Department of Environment. It involves beaches, parks, recreation areas which fall under the Department of Economic Development and Tourism. It deals with industrial area planning which is the responsibility of the Department of Economic Development and Tourism as well as the Economic Development Commissions. It also affects fisheries and aquaculture in coastal and shoreline areas which falls within the jurisdiction of the Department of Fisheries and Aquaculture. Finally, it involves the Department of Transportation since access to the provincial highway network is affected. Other departments are also affected to a lesser extent.

Although the Department of Municipalities, Culture and Housing has been given the mandate over land use planning, it has to be recognized and appreciated that the nature of land use planning results in overlapping jurisdictions with several other government departments. This very fact alone requires that the leadership and direction must come from the cabinet level.

Several government studies in the past have recognized the need for, and recommended the establishment of a Cabinet Committee on Land Use. The Agricultural Resources Study of 1977 recommended such a committee with responsibility for developing land use policy, coordinating planning activities, developing guidelines for use by local planning authorities and providing leadership on land use matters. Similar committees were suggested by the Forest Resources Study of 1974, the Select Committee on Rural Life and Land Use in 1977, the Urban Sprawl Study, of 1980 and the Agricultural Land Use Task Force of 1981.

a) Policy and Priorities Committee

It is recommended that there be a committee of cabinet responsible for establishment and revision of overall Provincial Land Use and Development Policies. Options examined included use of an existing committee or a new Land Use Planning Committee of Cabinet.

Recognizing the direction the Province has moved in reducing the number of Cabinet Committees, it is recommended that the existing Policy and Priorities Committee be given this overall mandate.

The responsibilities of this Committee would include:

- making recommendations to Cabinet on the establishment and revision of Provincial Land Use and Development Policies relating to land use and rural development in the context of other environmental, resource management and socio-economic initiatives;
- resolving land use issues involving more than one department and resolving conflicts between provincial and local policies; and
- receiving recommendations from an Interdepartmental Planning and Development Committee and a Provincial Planning Advisory Committee. Decisions of the Policy and Priorities Committee would be returned to the Interdepartmental Planning and Development Committee for implementation.

This liaison between the Policy and Priorities Committee and the Interdepartmental Planning and Development Committee is also seen as the key mechanism in the implementation of CLURE's recommendations. Upon receipt of CLURE's report, the Policy and Priorities Committee could refer the report to this committee of Deputy Ministers. This committee would examine each policy recommendation and identify the line department best suited to address the recommendation. Once identified, that department would utilize its Interdepartmental Planning and Development Committee representative to determine the regulatory requirements or amendments needed to effect the policy, including implications for resources. This information would be brought back to the Deputy Minister's committee for submission to the Policy and Priorities Committee.

b) Interdepartmental Planning and Development Committee

This would be a **Committee of Deputy Ministers** chaired by the Deputy Minister of the Policy Secretariat. Because of the potential for conflicts between line departments, chairmanship by the Policy Secretariat ensures greater neutrality and fairness in decision-making. The departments represented would include: Municipalities, Culture and Housing; Environment; Natural Resources and Energy; Agriculture; Health and Community Services; Transportation; Economic Development and Tourism; Advanced Education and Labour; Fisheries and Aquaculture; N.B. Geographic Information Corporation; and the Regional Development Corporation. This Committee would effectively address one of the major constraints affecting successful comprehensive and integrated planning and development in rural areas - interdepartmental coordination. It must be recognized that land use is not the

sole realm or responsibility of the Department of Municipalities, Culture and Housing. Land use, by its very nature, crosses departmental lines and jurisdictions. Land use policies and plans cannot be properly **formulated** without input from all related departments. Similarly, land use and development policies cannot be effectively **implemented** without the cooperation and coordination of all government departments since those policies have to be implemented through Acts and regulations of the various departments.

The Committee would meet regularly and would have the following **responsibilities**.

- provide interdepartmental coordination in the development and implementation of land use, resource management and environmental policies and programs. This would ensure an integrated forum to deal with coordination of policies emanating from within government departments and programs as well as recommendations related to the Premier's Round Table on Environment and the Economy and the Regional Economic Conferences;
- provide an interdisciplinary context within which various land use development issues and planning proposals could be reviewed before being recommended to the Policy and Priorities Committee. This would ensure a more comprehensive approach is incorporated in the planning and development process.
- provide staff resources, information and advice as required to assist with policy development and planning. This may include dealing with, and making recommendations on, matters referred to the Committee from the Policy and Priorities Committee or to provide information to the Provincial Planning Advisory Committee as might be requested.

One of the first responsibilities of this committee of Deputy Ministers would be to oversee the implementation of the government approved recommendations contained in CLURE's report. Following adoption of a policy by central government, the Deputy Minister's Committee would initiate integration of this policy in all line departments.

This Interdepartmental Committee would be a counterpart at the Provincial level to a Technical Advisory Committee which is suggested later for the district level. It would provide a mechanism to ensure better vertical liaison and two-way communication between the Provincial and local/district level. This would address the communication gap and feeling of alienation that exists at the local/district level. Having this linkage between the same departments at the Provincial and local level also ensures consideration and protection of provincial interests at the local/district level.

This Committee would be similar to the Interdepartmental Planning Board in Manitoba, the Land Use Coordinating Committee in PEI and the Interministerial Planning Committee proposed for Ontario.

c) Provincial Planning Advisory Committee

The **purpose** of this Committee is to provide an **independent** (outside government) perspective and to introduce or advocate new and innovative ideas which emanate from the private sector, municipalities, the regions or other sources outside government departments. Groups within the private sector have valuable input which may not agree with the policies or views of government departments and there should be a better mechanism to feed this input into the system. It would be composed of interested citizens representing a cross section of interests associated with planning and development. The members would be appointed by Cabinet through Order-In-Council and could be drawn from such diverse provincial interests as the resource sectors, environmental groups, industry and urban and rural community groups.

This would be an on-going working Committee, possibly with a full time Chairman, which would meet regularly. Its prime function would be to deal with planning matters affecting rural and community development.

Another **option** would be for the Committee to have a **small staff**, some of which could be seconded or transferred from existing government departments. This could include a reallocation of staff from related Departments.

Another **option** would be to set up this committee on a **temporary or transitional basis** for a 5 year period or until more appropriate mechanisms (as described later) are in place at the district level. CLURE recognizes that the Government is attempting to reduce the number of boards and commissions and several recommendations at the regional level address this concern. However, such a structure is needed at present in order to overcome the mistrust and lack of confidence in government. Too many times legitimate issues at the regional level get filtered out at the bureaucratic level before they ever reach the decision makers who were duly elected to make decisions on controversial issues. Such a mechanism would have been valuable during consideration of the watershed designation exercise. Although it is recognized that there were time and legal constraints, if the concerns of farmers and woodlot owners could have been brought to the table during consideration of the 75m setback area and the restrictions imposed therein, these legitimate concerns could have been discussed and improvements made in the regulations. This could have prevented the negative reactions which have evolved and which has affected the credibility of the Department of the Environment and the Government in general.

The main **responsibilities** of the Provincial Planning Advisory Committee would be to:

- initiate, report and advise the Policy and Priorities Committee on matters related to Planning and the Provincial Land Use and Development Policies. This would include

recommendations on the integration of policies related to the physical, socio-economic and environmental aspects of planning and development in the Province. For example, it could advise on the implementation of the recommendations stemming from the Premier's Round Table on Environment and Economy and from the Regional Economic Conferences. For the latter, the Regional Development Corporation would still have responsibility for the program, setting up regional conferences and conveying recommendations to the Advisory Committee. The Committee could have advisory sub-committees eg. on economic development, resource development, environmental issues, etc.

- provide advice to the Interdepartmental Committee as requested;
- conduct research and monitoring into provincial policy progress or results;
- serve as a major contact with the public, including consultation with the general public and liaison with the District Planning or Management Commissions, municipalities and rural communities as well as various rural interest groups ie. to forge and cultivate partnerships with and between regional groups;

This Advisory Committee would be similar to the Voluntary Planning Board in Nova Scotia, the proposed Provincial Planning Advisory Committee in Ontario or the Rural Land Use Advisory Committee to Cabinet in Saskatchewan.

d) Department Responsible for Rural and Community Planning (Currently, Department of Municipalities, Culture and Housing)

It is usual in the other provincial structures to have the land use policy formally adopted by Cabinet and applied under the statutory responsibility of one minister. In the case of New Brunswick this would logically be the current Department of Municipalities, Culture and Housing. There have been several comments that the Department name does not recognize the rural component of its mandate. Suggestions have included: Department of Urban and Rural Planning and Development; Community and Rural Development; Urban and Rural Affairs; etc. CLURE does not wish to become hung up on a name issue. **It is recommended that, regardless of the Department name, there be a Rural Planning and Development Branch which would encourage, support and administer the development plans for districts, municipalities and rural communities.** It would review all plans to ensure they conform to the Provincial Land Use and Development Policies and the Community Planning Act. The plans would be sent to Fredericton from the District Planning or Management Commissions. The Department would also provide staff support to the Minister as well as to the Interdepartmental Planning and Development Board.

The functions of this Department would be influenced by the options chosen for the district level as well as by any phased implementation. For example, if District Planning

Commissions or District Management Commissions were expanded to cover the whole Province, the role and the staff of the current Land Use Planning Branch could be reduced. The current planners and staff could be reallocated to the District Planning Commissions. If there were a phased-in approach to District Planning or Management Commissions around the Province, then some staff would have to be retained by the Planning Branch to handle those areas outside the Commissions which would still fall under the administration of the Minister.

e) Redefined Provincial Planning Committee (PPC)

As discussed later in Section II, it is recommended that several of the functions currently conducted by the Provincial Planning Committee (subdivision approval, variances and non-conforming uses) will be assumed by the Technical Advisory Committees proposed for the enhanced District Planning Commissions. The role of the PPC will gradually diminish so that it could be phased out or it could be given responsibilities as a technical advisory committee to the Interdepartmental Planning and Development Committee. It would then become a true Provincial Planning Committee, as opposed to the subdivision approval and regulatory role it presently fulfils. It could serve a useful role in an advisory capacity to the Deputy Ministers on the Interdepartmental Committee or on interdepartmental matters of a technical nature. This role will be dependent on acceptance of recommendations relating to the district structure. Similar to the existing Provincial Planning Committee, the departments involved in land use planning and regulation would be represented on this director level committee. Again to maintain neutrality, this Committee could be chaired by the Policy Secretariat. The Director of Planning for the Province would be among the members of this Committee and would provide communication and information exchange between District Planning Commissions and Provincial departments.

f) Revised Community Planning Act

It is recommended that there be a new or modified Community Planning Act which would incorporate a Rural Planning Section recognizing that planning for rural areas should reflect consideration of resource management and socio-economic issues and enabling the establishment and development of policies or plans as recommended in this document. This would enable and require development plans for rural areas to include resource management and socio-economic considerations. It is not the intent to separate rural and urban, but rather to ensure both are considered and integrated. There would also be a section of the Act which would require a public hearing process to deal with major amendments to the Provincial Planning Policies. This would ensure better local participation in the planning process in those non-incorporated areas of the Province that might not initially be covered by a District Planning or Management Commission. Other options

possible to facilitate this requirement would be the adoption of a Provincial Basic Planning Statement or Area Plan containing the Provincial Land Use Policies. This will be presented in the following section. More specific changes to the Planning Act are outlined later in Section III.

g) Provincial Land Use and Development Policies

One of the major components of the Overall Strategy for rural planning in New Brunswick is the development of a set of Provincial Land Use and Development Policies. This statement of the Province's goals, objectives and policies might be contained in a separate document or they could be adopted as part of a Basic Planning Statement (as defined under the Community Planning Act) for the whole Province. Although the policies could be adopted as an "Area Plan" (as defined under the Act) to apply only to the non-incorporated areas of the Province, **it is imperative that the policies apply to the whole Province including the incorporated municipalities.**

By their very nature, the policies would have to be fairly broad since they would have to serve as a guide to a wide range of uses in differing areas of the Province. **They would be intended to provide the overall framework to guide the preparation and assessment of plans at the regional and local level.** Local circumstances can best be understood and interpreted through the preparation of more detailed policies and plans which recognize the unique local circumstances and can be adapted and refined to suit the particular needs found in various parts of the Province. These needs could be accommodated in regional or local plans as long as they conform to the overall intent of the Provincial Policies. For many parts of the Province that are sparsely populated, the Provincial Policies may suffice for many years without the need to adopt more detailed policies or plans at the local level.

The actual land use and development policies will be presented in Chapters 3, 4 and 5. They are grouped in issues related to settlement, resources and environment and will include the following topics:

Settlement Issues

- Urban Sprawl and Ribbon Development
- Location of Commercial and Industrial Activities
- Tools for Regional Service Delivery
- Building and Development Approval
- Incentives to Encourage or Discourage Development

Resource Issues

- Protecting Our Agricultural Lands
- Multiple Use Of Crown Land
- Forestry On Private Land
- Gravel Pits, Quarries And Mineral Development
- Protecting Our Groundwater Supplies
- Managing And Protecting Our Watersheds
- Protecting Our Parks And Recreation Areas

Natural Environment Issues

- Protecting Our Natural And Sensitive Areas
- Protecting Our Coasts and Shorelines
- Protecting Our Flood Plains
- Protecting Our Air Quality
- Managing Our Solid Waste And Sewage

As mentioned previously, there are several options with respect to how these provincial land use and development policies could be presented ie. adopted as a set of Provincial Policies or as a Provincial Area Plan or Basic Planning Statement. Although it could be done, it is unlikely that the Provincial policy statements would be accompanied by an overall land use plan (in map form). As previously noted, there would be a requirement added to the Community Planning Act which would require a public hearing process to deal with any major amendments or proposed developments which did not conform to the Provincial Policies.

Not only would the Provincial Policies or Statements offer consistent policies and land use controls across the whole province, but the mere act of having official policies or a basic planning statement in place would assure that public notification and participation would be required if anything contrary to the policies were contemplated.

For instance, the whole of the non-incorporated part of the Province could be designated for rural use in which most typical rural activities would be permitted. That is, the policies or statements could permit rural uses such as agriculture, forestry, some mineral/aggregate development as well as one and two family residential and local commercial uses, if they meet the new policies and any existing or revised provincial regulations applying to such uses. However, the policies could identify several uses which generally meet resistance in rural areas, ie. uses such as asphalt plants, junk yards, secondary process industries, etc. and permit those uses only by amendment to the Policies or Statement. This does not mean these uses would not be permitted at all in the rural areas. Indeed, there is need for all those uses somewhere in the Province. What the policy would mean is that such identified uses are not automatically permitted in the rural designation. It means that an amendment to the policies would be required in order to permit the use. This, by legislation, requires that a public hearing be held in the area affected to inform the local population about what is proposed and where and to permit the public to have a say in whether or not they support such a use. For this option to

be acceptable, the amendment process would have to be accelerated considerably over that which exists at present.

In this way major recent controversies such as those surrounding the proposed facilities at Lake George and Millbank could have been avoided. This would not mean that controversies and conflicts would not exist, but it would assure that the public would be involved very early in the planning process so that any potentially controversial uses could be identified early. This would enable the proponents of any such uses to carry out investigations or studies early in the process and to work with local residents affected to ensure that their concerns were addressed. **Such an approach establishes mutual respect and fosters cooperative action. It also begins to address one of the major objectives of bringing local responsibility and decision-making closer to the residents of the rural areas.**

These measures to develop and adopt Provincial Policies or a Provincial Basic Planning Statement would not require large increases in staffing or significant changes to the provincial planning structure. The Province could adopt a Basic Planning Statement and hold hearings on amendments without any changes in existing legislation. It would, however, start the process of bringing decision-making and public participation closer to the local residents of the non-incorporated areas and thus begin to improve public education and communications as well as developing more credibility for the whole planning process.

II. Regional/District and Local Level

In this section the local level has been combined with the regional/district structure because it is impossible to discuss the recommendations at the regional/district level without also discussing the proposed local structure. The overall regional/district structure will be described first, followed by a description of the local structure and then by further details related to the proposed structure and process.

a) Regional/District Level

The overall objective for structure and process at the regional level is to develop some form of structure to facilitate planning for non-incorporated areas recognizing that the Province is not an effective vehicle through which to deliver services to the rural areas.

CLURE has reached the conclusion that the seven planning regions as defined under the present Community Planning Act is not the most effective mechanism for planning on a regional basis. In consideration of New Brunswick's relatively small population, it is generally felt that the regions as defined are too large to be effective because they do not constitute a common "community of interest". The seven region planning structure is also considered to be

too grandiose for New Brunswick, given the human and financial resources which would be required to effectively implement regional planning and recognizing the reality of the Province's current and expected fiscal position.

It is, therefore, recommended that the regional planning efforts in New Brunswick be concentrated on areas similar in size to the existing District Planning Commissions. Some size and boundary adjustments would be necessary as the District Planning Commissions would be rationalized and expanded to cover the entire Province. **Thus 12 to 15 District Planning Commissions would replace the seven current planning regions as the basis for regional and rural planning in the Province.** Several past studies, including the Planning Act Review of 1979 recommended that the seven planning regions be abolished in favour of planning at the District Level.

This approach does not prevent two or more districts from getting together to plan on a greater regional basis on some elements if there are mutual benefits and efficiencies to be gained. Planning for industrial development, watersheds, river basins or coastal zones could be possible examples of where this approach might be required.

The District Planning Commission structure has several attributes which makes it a logical candidate as the basic unit through which to effect regional or rural planning. These attributes include:

- They already have a **professional staff** which would have to be augmented to take on increased responsibility;
- They are a structure which already incorporates representatives of **urban and rural areas** where problems of mutual concern can be discussed;
- They are a form of **regional structure** that comes closest to the concept of regional or rural planning; and
- They are a structure that is **closer to the local residents** and is much more effective than other structures such as the Local Service District structure in its ability to deliver planning services.

By beginning with an existing structure and modest increases in staffing, it represents a means to achieve more effective rural planning without significant commitments for staffing and resources and without disruptive changes in structure. Two models at the district level were developed to illustrate how this structure could be further enhanced. Before these two models are discussed, it is necessary to first present a proposed new structure at the local level which is common to the two models.

b) Proposed Structure at the Local Level

Despite significant shortcomings in the Local Service District (LSD) structure, with respect to planning many communities have been successful in providing very important services to their residents. Many groups, however, have expressed strong concerns to CLURE regarding the lack of authority of the LSDs in decision making involving local community affairs. Some of the Advisory Committees went as far as recommending powers similar to municipalities, in their area of jurisdiction. Other rural representatives, however, feared a "governing body" for their community could have an impact on their tax rate and proposed that the organization of rural communities should be kept as simple as possible.

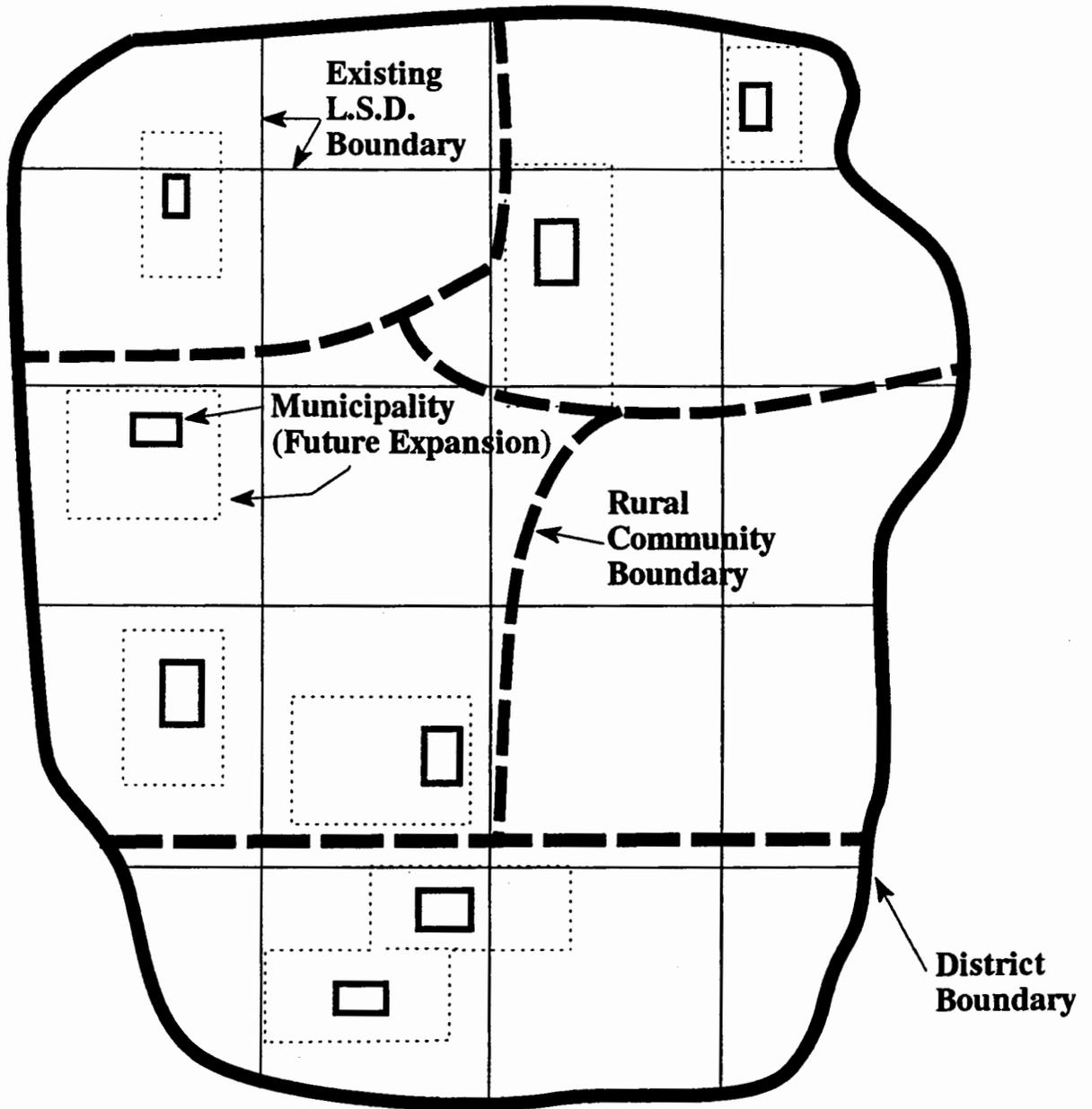
The proposed vision, as well as both district models for planning and development, call for the enhancement of community organizational structures in rural New Brunswick. CLURE strongly believes that community empowerment is essential to achieve sustainable development and efficient representation of the needs and interests of these communities at district and provincial levels.

CLURE recognizes the need for any type of rural organization to be efficient, accountable and credible to the rural population, as well as credible to the municipal, regional and provincial authorities. The very large number of LSDs significantly impedes an efficient participation of rural communities in local, regional and even, provincial planning and development initiatives.

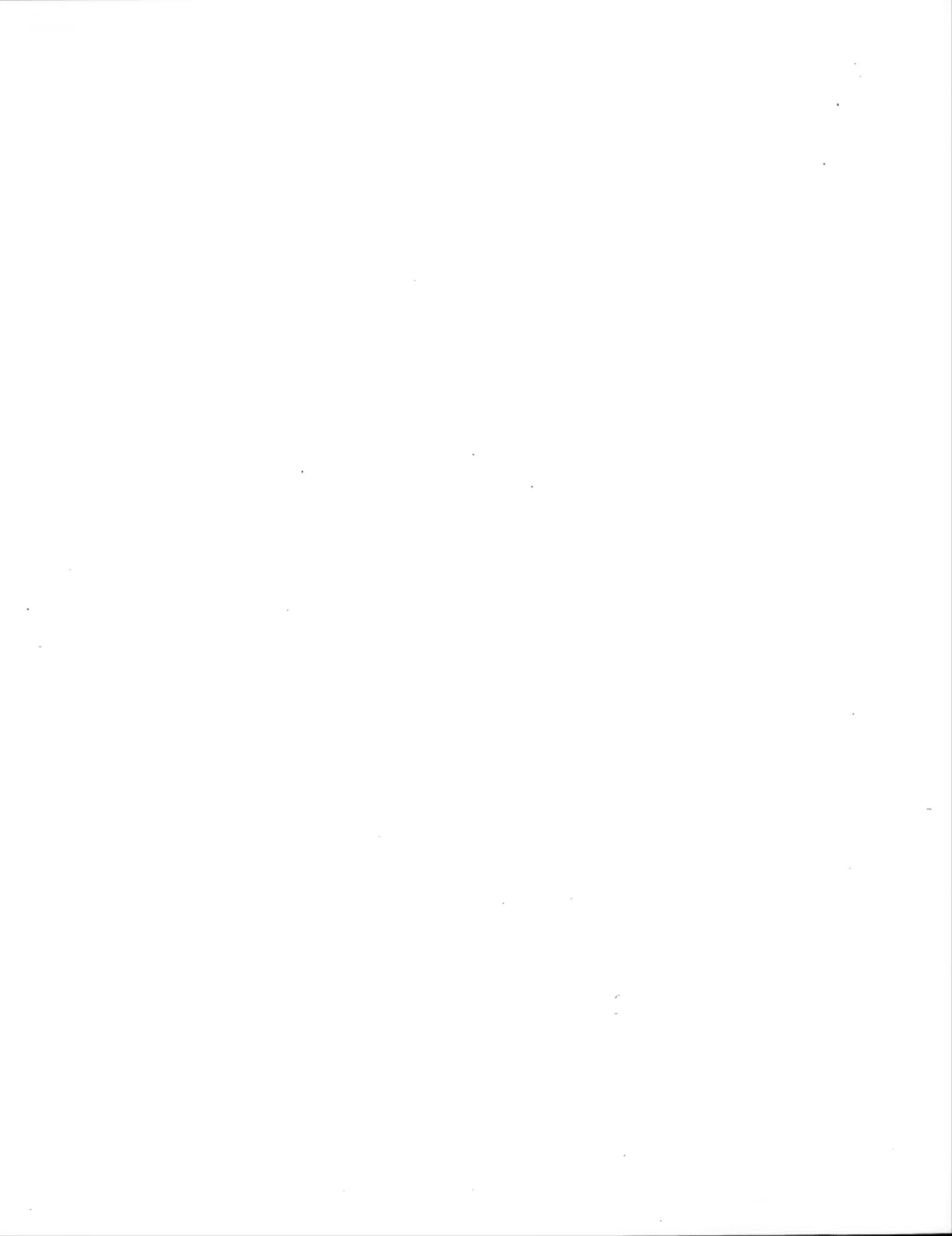
Both district level models call for the consolidation/rationalization of the existing Local Service Districts in each Planning District into larger units called **Rural Communities**. (Refer to Figure 2.3). It is proposed that several LSDs would be combined into a Rural Community which would have an elected **Community Council**. Each present LSD would elect one member to the Rural Community Council. (These elections would be held at the same time as municipal and school board elections). The existing LSDs, in effect, would become wards in a new Rural Community. The Rural Community Council would appoint one of its Councillors to be its representative on the Board of the District Planning Commission or the District Management Commission. (both described in next section) The Planning or Management Commission would also have members appointed by municipalities (which would be elected Councillors) within the District, much as it does in today's structure. By having elected members, the Planning or Management Commission could then adopt and implement its own plans ie. for the whole district and for the municipalities and rural communities within the district.

It should be emphasized that the Rural Communities would not be municipalities in the sense that cities, towns and villages are. The responsibilities of the Rural Community Council would initially be limited to those dealing with planning matters within the Rural Community. Each Community Council would appoint a Councillor to sit on the District Planning or Management Commission. Each Community Council would thus be involved in all planning matters

Figure 2.3
CONCEPT FOR DISTRICT STRUCTURE



This illustrates the concept of how a District with 8 municipalities and 20 L.S.D.'s would be rationalized into a District Planning Commission. Each L.S.D. would elect one representative to sit on a Rural Community Council. The Community Council would appoint one of its members to sit on the District Planning Commission. The Planning Commission would have 13 members, one from each of the 8 municipalities and one from each of the 5 Rural Communities.



occurring in their District including the preparation and adoption of District or Area Development Plans.

At the local level the Rural Community Council would be given the authority to adopt its own Basic Planning Statement, if it required one. The Council would work with the District Planning Commission to develop the Basic Planning Statement. The Rural Community Council would also be delegated the authority to accept land dedicated to the Council as part of the subdivision approval process.

With respect to other services, the Community Council could decide to provide any of the services that LSDs can provide under the "First Schedule" contained in the Municipalities Act. Initially, these services would be limited to those provided to the LSDs at the time they are combined. This would include fire protection, solid waste collection, recreation, street lights, etc. The provision of these services would be centralized or consolidated under the elected Rural Community Council. The Council would work initially with the Municipal Services Representative of the Department of Municipalities, Culture and Housing with respect to the preparation and administration of budgets. The Municipal Services Representative would serve as the administrator for all the rural communities within the District. The Council of the rural community, working with the Municipal Services Representative, would determine a tax rate for local services in the same manner as its individual LSDs do at the present time, except the needs of all LSDs (wards) in the rural community would be coordinated and consolidated. Separate tax rates (taxing authorities) could exist as at present to account for the differential service levels that might exist. Over time as services become more uniform or equitable, the differential in tax rates could be reduced.

It is not envisaged that the Community Councils would or could provide harder services such as street maintenance or water and sewer services. If these rural communities grow to the point where provision of harder services would become feasible locally, then incorporation or annexation might be possible but the realization and need for such services would evolve from within the community. It is expected that, as the rural communities grow in population and tax base, the rural community council may choose to provide more or a higher degree of services. This is to be encouraged as long as it can be accomplished within the fiscal capacity of the rural community. It may choose to provide these services or to contract them out to adjacent municipalities. Decisions with respect to provision of harder services would be influenced by the direction the Province and municipalities take with respect to the provision of services on a regional basis. This is discussed in greater detail in Section 3.4 on Tools for Regional Service Delivery.

This model with Rural Community Councils would give rural residents the **better representation** they have been seeking as well as making their representatives **more accountable** than the present LSD Advisory Committees. Each councillor could retain the LSD advisory committee to provide support and advice on matters pertaining to his or her area. The Community Council could also use sub-committees or round tables if it required more community input on specific issues. In addition to appointing a Councillor to sit on the District Planning

Commission, each Council might also delegate members to sit on other regional bodies such as the Economic Development Commission, Solid Waste Commission, etc.

The **boundaries** of the rationalized LSDs and the matter of **representation** of municipal and rural community members on the Planning or Management Commission should only be determined through **consultation** among the various local stakeholder groups involved, principally the Planning Commission, the municipalities and the LSDs. The District Planning or Management Commission would be funded by the participating municipalities and rural communities which would raise the funds through local taxation.

Another option which LSDs might consider would be to annex to adjacent municipalities instead of other LSDs in order to provide better service to its residents. In the case of many LSDs that are heavily built-up, this may be a preferable option.

A further option to be considered might be in cases where the area covered by a Rural Community included a municipality, that municipality might be invited to send a representative to attend meetings of the Rural Community Councils when there were items or issues of mutual concern. A similar reciprocal arrangement could be made with respect to municipal council meetings. This would facilitate further communication and integration between urban and rural communities.

c) Detailed Description of the District Models

After several models were reviewed, the options were reduced to two basic models at the district level. One is an enhanced **District Planning Commission**, while the second is a **District Management Commission**. The first model deals with land use planning in a much broader, more comprehensive and integrated manner than at present, while the second model takes the concept further and integrates planning itself into a broader regional management structure and attempts to reduce and streamline the number of fragmented boards and commissions existing in the regions. The first model could be a phased step towards the second depending on the need for, and the ability to finance, the second model as well as its acceptability to rural residents.

Both models incorporate several common features which would represent a vast improvement over the structure and process of the current District Planning Commissions. Both would result in more meaningful and effective planning for rural areas and would begin to address the objectives identified earlier. These improvements include: coverage of the whole Province; more effective rural and urban representation; better government department and regional agency representation; and preparation, adoption and implementation of overall district plans at the district level. Each of these features will be presented in the following section.

The major difference between the two models is with respect to the degree of integration in

the implementation of the District Plans. The enhanced Planning Commission model would rely on more informal cooperation between the various groups responsible for implementation who would report as they do at present to various boards and commissions. The District Management Commission model would require the various groups to report to one management board. This would create greater accountability but begins to introduce complicating factors with respect to existing municipal and rural structures, lines of responsibility and cost implications. Each model is discussed in greater detail below. The common features in each model will be described first followed by a discussion of the specific differences between the two models.

i) Extend Coverage to the Whole Province

At present there are nine District Planning Commissions in the Province covering about 40 percent of the population and approximately 10 percent of the land area. Commissions exist mainly in the northern and eastern parts of the Province. They include Madawaska, Restigouche, Belledune, Acadian Peninsula, Miramichi, Kent, Beaubassin, Moncton and Tantramar. The central, western and southern portions of the Province have no Planning Commission coverage. **One of the major recommendations to be undertaken is the expansion of District Planning Commissions to cover the whole province. Thus, there would exist no land area in the Province which would not fall within a District Planning Commission. This would require the establishment of several new Commissions and may require the realignment of some of the existing commissions.**

The number of new commissions required and the rationalization of boundaries should be determined through a consultative process involving the Province, the existing Planning Commissions, the municipalities and the existing LSD representatives. Factors such as geographical size, population, language, statistical (enumeration area) boundaries, physical constraints and existing boundaries pertaining to government departments or regional agencies. In this regard specific consideration should be given to the possibility of reconciling the boundaries of the District Planning Commissions and those of the twelve Economic Development Commissions. This would represent the first step towards better coordination and integration between the Planning Commissions and the Economic Development Commissions.

Although the exact boundaries should be determined through a feasibility study, preliminary consideration should be given to forming District Commissions in the following areas.

- 1) in the Saint John district to cover the western portions of Saint John, Kings and Queens Counties;
- 2) in the Sussex district to cover the eastern half of Kings and Queens Counties;
- 3) in the Fredericton district to cover York, Sunbury and part of Queens County;
- 4) in Charlotte County centred on St. Andrews, St. Stephen, and St. George;

- 5) in the Woodstock/Hartland area to serve Carleton County; and
- 6) in the Perth Andover to Grand Falls area to serve Victoria County.

Because each new Commission would initially require a staff of at least three or four people (director, secretary, technician, and possibly an inspector), it is expected that the Commissions would be set up over time as demand or requests from various areas arose. They could first be established around denser developed areas and phased in later in more sparsely populated areas. This would also recognize constraints on human and financial resources. In the interim period, the Provincial Policies or Basic Planning Statement, referred to previously, would ensure that rural residents outside Commissions would be consulted and able to participate in decisions regarding local development issues.

ii) Elected Representation on Commissions

Each model also features a **Board made up of elected officials appointed by municipalities and rural communities**. This feature not only makes it possible for the Board to have the authority to adopt district, municipal and rural community plans, but it also makes the Board more accountable to both urban and rural communities than the Planning Commission Boards are at the present time with a mixture of elected and appointed people for municipalities and appointed members from the non-incorporated areas.

Elected representation would have the following benefits:

- 1) assure that commission members would be people who had a sincere interest in planning for the rural community;
- 2) elected representatives would be more likely to be accepted as spokespersons for, or representatives of, the rural area residents;
- 3) provide a form of local representation closer to the people which should ensure greater accountability and confidence in decisions;
- 4) remove the negative political connotations that can be attached to the appointed positions;
- 5) elected representation could facilitate district adoption of Plans and Basic Planning Statements and avoid the delays encountered with the legal drafting of provincial regulations; and
- 6) elected representation would also permit the Planning Commission to become a legal entity to which public land could be dedicated. As subdivisions are approved, the public land for recreational purposes could be dedicated to the Planning Commission. As it is now, many rural areas have no public recreation land because of the lack of an entity in which to dedicate the land.

This recommendation of more local elected representation was also supported by the report of the Rural and Urban Development Sectoral Group of the New Brunswick Task Force on

Sustainable Development⁶. It stated:

"What the sectoral group did not do was to make recommendations, per se. It was felt that if one idea or concept was to emerge from the work, it should be that communities themselves should be empowered to make decisions that effect their future sustainability. The provincial government, as well as the federal government, could and should provide assistance but the final decisions on issues affecting the future of a community must rest with that community."

A feasibility study including consultation would be needed to establish the number of members or representation of urban and rural communities on the Commission. The favoured approach would be to have one representative from each municipality and each rural community. The difference in representation by population could be accounted for by weighting the voting procedure so that voting on major issues would require a minimum of two-thirds of the board members representing two-thirds of the population base of the district. This provision is intended to accommodate the concerns of both large and smaller communities in ensuring a balanced voice on major issues.

With respect to elected representation, there was strong concern expressed among the resource sector groups that they be assured representation in decision making. Although farmers represent only two percent of the population and the whole resource sector less than eight percent, they represent an important sector of the economy and a large land base. There are two components of these suggested models through which this representation could occur.

- the first is that the resource sectors (such as the agricultural federations and woodlot owners associations) would be represented as the Technical Advisory Committee at the District level. They would thus be involved in Commission meetings and development of all plans and policies;
- the second mechanism is for the resource sectors to encourage and support their members to run for election to the Rural Community Councils. They are often some of the best known and most respected people in the rural communities and they would stand a good chance of election.
- a third mechanism would be the use of a district round table group representing the resource sectors. Such a group would permit resource groups to coordinate their activities and present a united voice on resource-related issues.

iii) Technical Advisory Committee

The whole District Planning Commission structure and function would be enhanced if the various related government departments and regional agencies were represented on the Planning Commission. It is recommended that this group would be most effective as a Technical Advisory Committee (TAC) who would take part in all planning commission meetings and projects. They would provide input on regional issues of relevance to their department or agency. They would function as non-voting members of the Planning Commission. This committee will only be effective on the condition that the departments concerned devolve some central authority to their Regional Representatives on the Committee.

It is envisaged that the following departments and regional agencies would be represented on the T.A.C.

- 1) Department of Municipalities, Culture and Housing - by the Municipal Services Representative or Development Officer;
- 2) Department of Transportation - by the District Highway Engineer or other regional representative;
- 3) Department of Health and Community Services by a District Health Officer, inspector or other regional representative;
- 4) Department of Natural Resources and Energy - by the Regional Resource Managers or other regional representative;
- 5) Department of the Environment - by representatives from regional offices;
- 6) Department of Agriculture - by representatives from regional offices;
- 7) Department of Economic Development and Tourism - by representatives from regional offices;
- 8) Department of Fisheries and Aquaculture - by representatives from regional offices;
- 9) Regional Economic or Industrial Development Commissions - by the Director of each Commission;
- 10) Solid Waste Commission/Committees - by the Director of the Commission or Chairman of Solid Waste Committee; and
- 11) Other regional agencies such as Agriculture Federations, Woodlot Owner's Associations or Fishermen's Associations, where they exist.

The first five departments listed above would be the key groups involved on the T.A.C. They would have special responsibilities if they were to replace some of the responsibilities of the Provincial Planning Committee, as recommended in Section III. They would also confer regularly to facilitate "one stop shopping" for building approvals or permits, as also recommended in Section III. At Commission meetings they would serve a function similar to that performed by professional staff at Municipal Council meetings ie. as advisors to the Commission on planning and development matters affecting their particular departments.

The presence of the other two departments would depend on the regional circumstances. Economic Development and Tourism may be represented in those areas where tourism or recreation activities play a major role or may only need to attend those meetings where that activity is an issue on the agenda. Similarly, the Department of Fisheries and Aquaculture might only need attend if issues related to coastal areas, fisheries or aquaculture are items on the agenda. The need for regular attendance by Agricultural Federations, Woodlot Owner's Associations or Fishermen's Associations would vary from region to region depending on the importance of that activity to the particular region and whether a related item was on the Commission's agenda.

It is envisaged that during certain periods, such as the preparation of a District Plan, that all these groups, and possibly others, would have a role to play as advisors representing their particular groups.

It would obviously be left with each department and group to name their particular representative. Most government departments identified above have sufficient staff in regional offices to appoint representatives to the T.A.C. With 12 to 15 districts eventually required, the Department of Environment might have to assign 2 members from each of its offices to assist the Commissions. It currently has 6 regional offices with 18 professional and technical staff. The Department would have to assign its staff members to the most appropriate Commission. Many of the duties of the Commission, such as approving building permits or preparing information for Provincial Planning Committee meetings or helping with district or local plans, are already functions performed by many of these representatives. The T.A.C. would allow that to occur in a more formalized and regular manner.

The inclusion of the various government departments and regional agencies would provide greatly improved benefits to planning in the Province and its various districts. These benefits are identified in the sections which follow.

1) **Improved Communications, Cooperation and Coordination Among the Departments and Agencies**

The Planning Commission provides the opportunity for all these groups to be involved in the planning process from the very beginning. Each department and agency representative would have the opportunity to express his or her department's policies or concerns with respect to various issues and to hear the concerns emanating from other departments as well as from the elected citizen representatives. This would certainly improve communications between the various groups and facilitate cooperation between groups and better coordination of development efforts.

2) Facilitate More Comprehensive and Integrated Planning

Having the various departments and agencies present on the commission would enable the development of more comprehensive and integrated plans or basic planning statements. It would be much easier to take a more holistic approach to planning since the various departments could provide data, policy and input on resources and the environment as well as socio-economic information. Information on resources such as agriculture, forestry, mineral and aggregate resources could be provided through the district representatives from the Department of Agriculture as well as the Department of Natural Resources and Energy. The Department of the Environment representative could provide information pertaining to all aspects of the environment. Information on the economy and industrial development could be provided by representatives of the Economic Development Commissions as well as regional representatives of Economic Development and Tourism. Social and cultural issues could be addressed by representatives of the Department of Health and Community Services with input from other groups such as the Community Futures Committees, if required. Most of these considerations would impact on highways and access considerations and such issues could be addressed by the District Highway Engineer.

Thus, the whole process - from research and data collection, to setting of goals and objectives, to development of policies and strategies as well as implementation, could be handled in a much more comprehensive, integrated and coordinated fashion. Such an approach recognizes the mix of economic, social and environmental factors that comprise rural areas and permits planning from a systems perspective. It facilitates the expansion of planning beyond the sectoral approach that has been utilized in the past.

In the past, the government has set up various regional bodies on an ad hoc basis to deal with regional issues. These include Regional Solid Waste Commissions, Watershed Designation Committees, Regional Services Studies, Regional Tourism Studies, etc. In the future, with a structure as proposed, the Planning Commission would serve as the coordinating agency for such regional studies or investigations. The Commission as a whole would be the coordinating or supervising body. Sub-committees of specific departments; or agency representatives could also be set up to deal with more defined issues. This aspect will be reflected in discussion of the second model, the District Management Commission.

3) Protection and Communication of Provincial Interest

The presence on the T.A.C. of representatives of the various government departments assures that the interests of the Provincial Government are considered in the formulation or approval of plans for the non-incorporated areas. This is an important consideration which must accompany any devolvement of authority from Fredericton.

Reference was made earlier to the recommendation for an Interdepartmental Planning and Development Committee made up of Deputy Ministers of the various departments related to planning. With the involvement of the various departments at the district level as well, there will be a mechanism for direct contact or linkages between the two levels so that any major policy decisions by any of the departments at the provincial level can be communicated directly to the regions through the regional representatives on the Technical Advisory Committees. Similarly, any problems or concerns on the part of the regional representatives of each department can be sent to the specific representatives on the Interdepartmental Committee for information and action.

4) Facilitate Decentralized Decision Making

The combination of elected representation on the planning commission as well as representation of the various government departments facilitates decentralized decision making. The elected representatives are in a better position to speak on behalf of local residents. The provincial department representatives, with official status on the T.A.C. as well as with linkages to the Interdepartmental Planning and Development Committee in Fredericton, could be in a better position to advise the Planning Commission in its decision making.

The formation of this integrated body would permit many of the issues which are now sent to the Provincial Planning Committee in Fredericton to be dealt with at the district level. The Provincial Planning Committee has members representing the Departments of Transportation, Health and Community Services, Environment, Natural Resources and Energy and Municipalities, Culture and Housing. These same departments would be represented on the T.A.C. of the District Planning Commissions. **Thus, issues such as non-conforming uses, variances, land for public purposes and subdivision plans involving a new access or public street, could be more effectively dealt with at the district level where all representatives are more familiar with the local circumstances.** Representatives of these five departments could meet with the Planning Director on a regular basis to deal with the issues normally sent to Fredericton on a monthly basis.

By handling these cases in the local area, the whole approval process can be speeded up. This would permit local decisions on local issues and would improve the delivery of these planning services to the local area residents. This would also improve the overall image and credibility of the planning process, of local Commissions and of the Department of Municipalities, Culture and Housing as well as government in general.

This does not mean that the Provincial Planning Committee would be abandoned. There would still be issues related to overall provincial policies and interests or complicated situations for which the advice of senior officials in Fredericton would still be sought as well as for dealing with those areas of the Province which might not be covered by District Planning Commissions

right away. The Committee would also be freed up to carry out other duties including an advisory capacity to the Interdepartmental Committee on provincial planning issues.

5) Facilitates Proactive Planning

The combination of elected representation and provincial department involvement in the Planning Commission structure could also facilitate more proactive planning. The Commission staff can then act as a facilitator between government departments and the public in setting goals and objectives and developing plans and policies. With input from residents as well as government departments representing the various sectors, professional planning staff can help the Commission develop plans and policies aimed at creating the type of rural environment and quality of life that the residents want to see develop.

No doubt there will be **compromises** that will have to be made on all sides. **Conflict resolution** is a large part of rural planning but these conflicts can only be resolved when those affected are involved in the analysis of issues and have an opportunity for input into the development of policies intended to address the specific issues.

Planning will then be seen as something positive and useful as opposed to the negative image it has now with planners enforcing zoning and subdivision regulations and building by-laws. There will still be regulations and by-laws but they will be related to long term plans for development of the districts. Local residents will be actively involved in development of the plan and thus will have a better appreciation for the need for regulations. They will be able to see them as tools to help steer growth in the direction they helped identify in the plan development process.

With the direct involvement of the various provincial government departments in the development of district plans, it should also be easier to implement area plans or basic planning statements for or within the district. Plans are dependent on various provincial departments for implementation. This might include budgeting for particular infrastructure or facilities (roads, parks, services) that falls under the responsibility of government departments such as Transportation, Environment or Economic Development and Tourism. It might also include enforcement of regulations that fall under the acts or legislation of other departments. The enforcement of watershed regulations by the Department of the Environment under the Clean Water Act or the approval of rural septic tank systems by Department of Health and Community Services under the Health Act, are examples of implementation procedures that are much more likely to be enforced by the various departments when they have been directly involved in the development of plan policies and regulations.

6) Facilitates Provision of a Better Data Base and Mapping

The direct involvement of the provincial departments on the T.A.C. would also result in the provision of better information on which to base land use planning decisions. Many provincial departments have information that is valuable as background and resource information in the development of rural area plans. At the present time, the district planner spends considerable time and effort approaching the various departments seeking relevant information on the variety of aspects with which each is involved. That information should be much easier to obtain and the government departments much more willing to cooperate when they are directly involved in development of the plan from the start.

The various departments can also assist through the provision of mapping which helps to identify potentials and constraints for development. Forest inventory mapping, agricultural soils mapping, mineral resource mapping, recreation and wildlife capability mapping, watershed mapping, etc. would all be more accessible to the Planning Commission with representatives of the various departments directly involved in the commission. As geographic information systems continue to be developed in the future, this information in map form will be more readily available and will become a valuable tool for more meaningful land use planning. It is expected that much of this information will be compiled by and available through the Geographic Information Corporation.

7) Facilitates "One Stop Shopping" for Permits and Approvals

Many of the problems raised to CLURE at the public meetings with respect to approvals from the various government departments would be improved considerably with the direct involvement of representatives of these departments on the T.A.C. With representation of the District Highway Engineer, the District Health Officer, and a representative from Environment on the Technical Advisory Committee of the Planning Commission, there should be a better appreciation for the problems associated with approval of building permits and approval of subdivisions, for instance. It may be possible for arrangements to be made so that permit applications could be received by the development officer who would be responsible for bringing the applications to a regular or special meeting of the Technical Advisory Committee. The T.A.C. would discuss the issues and return recommendations to the development officer. This would enable the various government representatives to save time dealing with permits all at once and would also speed the process up and save a lot of legwork on the part of the applicant. This feature, again, would improve the overall image of planning by providing a better, more convenient service to the applicant.

The benefits of "one stop shopping" were also recognized by the Policy Development Group

for the Land and Water Advisory Committee. In its interim report on Comprehensive Policy Framework for Land and Water Use Management, the Policy Group referred to the process as "Single Authorization" or Unification of Approvals" at the district level. It stated:

"Projects which involve a change in the use of land or water which must be approved, because they are not consistent with a land and water use scheme or strategy, should require only a single authorization. The purpose of this is to force the authorizing agency, whether it is a regional commission of some sort or the provincial government, to evaluate the project proposal from a holistic perspective once rather than having multiple evaluations from the perspective of many different interests. Single authorization is also a mechanism for forcing planning to take place in advance. By instituting the principles of land and water use planning schemes and single authorization we would facilitate and encourage economic development which has the desired impact on our resources."⁷

iv) Preparation and Adoption of a District Development Plan

1) General Characteristics of a District Plan

Each District Model incorporates the concept of a **District Development Plan** which would conform to the Provincial Land Use and Development Policies, but would permit a more detailed development plan recognizing the unique characteristics of each particular district. The Plans would include policies related to physical and socio-economic as well as resource considerations. Each plan could also include a land use plan indicating allocations which might be determined for various uses as well as designations for areas or properties which should be reserved or protected from development. The initial plans for districts should be comprehensive and holistic. This does not mean that they cannot also be strategic and focus on priority areas for specific action. The plans for rural areas should not be just land use plans but need to integrate economic development and resource management considerations. They would reflect an overall management system as opposed to a sectoral approach.

This integrated growth management approach reinforces and follows up on statements and initiatives previously stated by the Province. "Towards 2000", New Brunswick's Economic Development Strategy stated "The government will assist in the preparation of regional and sub-regional profiles identifying needs, strengths and opportunities inherent in the regions".⁸ The subsequent input from the regional economic conferences could be incorporated in the District Plan. It was further stated by the Premier's Round Table on Environment and

Economy that "A successful community-based environment and economic management system requires an integrated pursuit of environmental, social and economic objectives by all affected groups and individuals."⁹

Each model also calls for the District Development Plan to be **prepared, adopted and implemented in the district** by an **elected body** similar to the process now undertaken in municipalities. No longer would documents have to be referred to Fredericton for legal drafting and translation, a process which can take several years to go through the process and has created credibility and implementation problems when the document is eventually brought back to the local areas. This is discussed in more detail in Section III.

Just as it was recommended that the Province adopt overall policies or a basic planning statement for the whole Province, it is also recommended that each District Planning Commission adopt a development plan for its whole district. This plan could be in the form of a "Basic Planning Statement" or an "Area Plan" as defined under the Community Planning Act. The Beaubassin District Planning Commission has adopted the first area plan in the Province and the Tantramar District has one in the process of adoption. Under the present Act, an Area Plan covers only the non-incorporated area within the district. **It would be preferable and is recommended that a "District Plan" be defined in the Act.** The present description of "Regional Plan" under the Act would require only slight modifications to enable it to be used as the description for "District Plans". That description requires background research as well as policies on economic, social and physical conditions in the region. It includes reference to management of natural resources, development of industry and commerce, water resources, pollution control, urban and rural land use, housing, transportation and communication systems as well as educational, cultural, recreational and health facilities. It also includes a program for coordinating public works of a regional nature as well as encouraging coordinated development among municipalities within the region.

Thus, there would begin to be a hierarchy of plans or basic planning statements in the Province - with each level conforming to the general policies or proposals of the higher level plans. The plans for each district could deal with issues in greater detail and at a more local level while still conforming with the overall provincial policies. Likewise, if there was a need for further detailed plans at the rural community level, then basic planning statements could be prepared (or existing statements amended as they come up for review) which would also conform to the proposals contained in the District Plan.

There would also be a need for **specialty plans** within a specific district or even overlapping between districts. Plans for **watersheds** should continue to be prepared on a watershed basis. Similarly, **coastal zone** management plans, as well as plans for joint government efforts such as the St. Croix International Waterway Commission, will continue to be required. Development plans for the district, municipalities and rural communities can support and reinforce these more detailed plans. Policies in all plans of course would be in conformance with the Provincial Land Use and Development Policies.

The concept of a plan for the whole planning district is relatively new. Up to this point, most planning commissions have concentrated on development of Basic Planning Statements for Local Service Districts (LSD) or parts of LSDs within their jurisdictions. However, although LSDs are the units that are closest to the rural residents, they are not always an appropriate basis for planning. Of the 291 LSDs in the Province, only 180 have advisory committees, many are too small to plan efficiently and there are just too many LSDs in the Province for the Planning Commissions to administer or for the legal drafting process to handle without extensive delays in approval. Only 17 Basic Planning Statements for LSDs have been approved to date and there are about that many more waiting to be approved. As well, the LSDs, as established under the Municipalities Act, were never intended to be utilized as vehicles for planning. This process would be improved immensely if the LSDs were rationalized into Rural Communities as recommended earlier.

Plans for the whole District would overcome several of the problems associated with LSD plans. Districts can be planned more comprehensively, more efficiently, and can facilitate public participation. With elected representation as proposed earlier in this section, district commissions could adopt plans in much the same way as municipal councils and thereby avoid long delays associated with the legal drafting process (law reform) for provincial regulations.

Although the District Plan must conform to the Provincial Policies, it could develop more comprehensive and detailed policies and land use designations to recognize specific or unique requirements within the particular district.

One related issue which requires further consultation with the district commissions and municipalities is the matter of dealing with municipalities in the District Plans. Most municipalities in the Province already have a Municipal Plan in place. These plans are much more detailed and sophisticated than the Districts Plans will be. There are several ways this could be handled. An Area Plan could be prepared which would contain policies affecting only the non-incorporated portion of the district (such as the Beaubasin District Plan which has recently been adopted). These plans should obviously take into consideration the policies in the Municipal Plans within the district. **However, the approach recommended would be to include the municipalities and rural areas in the preparation of a true District Plan such as described earlier for regional plans as outlined in the Community Planning Act.** The District Plan would not contain details related to the specific issues within the municipalities but it would recognize the major regional-serving facilities and other issues that exist within the municipalities. For instance, the District Plan for the Restigouche Region would recognize the regional role and importance of the airport in Charlo, the port in Dalhousie, the regional industrial park in Eel River Crossing, the tourist and recreational resources common to many communities along its coast and shoreline areas, etc. Such policies would not interfere with the municipalities but would recognize and support its role within the regional framework.

As Municipal Plans are reviewed and amended, its policies would also be coordinated with those of the District Plan.

2) Specific Benefits Associated With a District Plan

● To Facilitate Local Participation

The act of adopting a plan at the district level assures that there is a process set in place which requires local participation through the public hearing process if there is any application to amend the plan. This ensures that the public can present and hear the arguments for and against the proposed uses. Without a plan these opportunities are not available. People are much more likely to accept a plan when they know that they have contributed meaningful input into any decision to adopt or change the plan.

The development of the District Plan itself will require public participation. The public would be involved in the research and data collection phase, in the setting of goals and objectives as well as reacting to policies and proposals for future development. This involvement can come through sub-committees of the Commission and through open public meetings. **The development of a District Plan is another step towards the objective of local responsibility and decentralized decision making. The plan process is also a process which will improve communications between the Planning Commission and the public. Because the public will become involved in a meaningful process in a proactive manner, the overall image of planning will be enhanced.**

● To Optimize Land Use

The plan is the most effective tool to optimize the use of all lands. Land use controls, in turn, are most effective when the physical land use plans are based on an analysis of social, economic and environmental considerations. These components should be more readily incorporated with public participation, elected representation on the Commission and with the participation of the various government departments as recommended in this document.

Land uses could be controlled in a similar manner as that described for the overall provincial plan. Although each District would be free to determine its own level of detail, it is important to keep the plans as simple and uncomplicated as possible. This does not mean that the plan cannot be based on detailed and comprehensive background investigations and research. Especially for first time plans, it is important to introduce basic planning controls and protection for the public and the environment.

For instance, the District Plan may designate the whole area as one category, such as "Rural", to conform with the overall Provincial Plan. This designation could permit the status quo and permit new rural uses such as the primary agricultural, forestry, and mineral resource activities as well as low density residential and local commercial uses. These uses could be permitted anywhere in the "rural" designation provided other provincial regulations pertaining to those uses were met. Similar to the Provincial Plan, the District Plan could identify specific uses which would not automatically be acceptable in the rural area. Such uses normally include asphalt plants, junk yards and secondary or processing industries. This does not mean these uses could not be located within the district. Indeed, the district requires gravel pits and asphalt plants to facilitate road and other construction. What it does mean is that such uses should not be automatically accepted. Such uses would require an amendment to the plan whereby a public hearing would be held for the applicant to provide details on the nature and location of the proposed use. There are some areas where these uses would be acceptable and others where they would not. The hearing process gives the public the opportunity for input as to whether or not it finds the proposed use in the planned location acceptable. Thus, local input would be considered directly and the decision would be made locally by the Planning Commission comprised of local elected representatives and advised by representatives of the various government departments, regional agencies and the general public. This process of relying on amendments for these uses would only be acceptable if the amendment process is accelerated over that which currently exists. This would be possible with the structure recommended.

- To Protect Residents, Resources, Environment

The land use controls and public participation elements described above can help ensure that residents are protected from incompatible uses, that resources (agricultural land, forest uses, aggregate resources, etc.) are protected from encroachment by urban uses and that the environmental features (air, water, soils, vegetation) are protected and enhanced. The public is becoming more sophisticated regarding rural development and the environment and more areas are requesting protection and control.

- To Coordinate Development On The Urban Fringe

District plans are required in order to address land use problems on the urban fringe of municipalities. Plan policies can help to minimize conflicts by coordinating development just outside municipal boundaries with the land use plans for the adjacent areas lying just within the municipality.

- To Promote Self Help In Rural Areas

The process of preparing a district plan builds and strengthens the capacity for rural areas to plan for themselves on an on-going basis. The commission planner then

becomes a facilitator-advising, supporting and assisting the rural residents with plan implementation, review and amendment.

- To Communicate Development Intent

The district plan and its accompanying goals, objectives and policies signifies to existing and new residents what the long term intent is for development in the area. It thus also serves as a vehicle for public education and communication.

- To Enhance Other Objectives

Just as elected representation and the participation of various government departments could contribute towards the achievement of identified objectives for rural planning, the district plan also has an important role to play. In addition to facilitating local participation and decentralized decision making, it could also provide a vehicle to practice comprehensive, integrated planning, as well as the opportunity for more proactive planning. It could provide the opportunity for government departments to participate in a cooperative and coordinated fashion and could also strengthen communications between government departments as well as between the Planning Commission and the local residents.

- To Improve Contents of the District Plan

The development of the district plans, within the proposed commission structure, provides the opportunity to improve the contents of plans over those that have typically been prepared in the past. These improvements could include:

- Keeping the plan as **simple and basic** as possible. First time plans especially should not be too complicated or attempt to over regulate.
- The plans should be **more unique**, ie. creative and innovative plans tailored to the individual or specific requirements of the area under consideration. Past attempts to impose common standards developed in other areas have run into problems in several areas of the Province. This does not mean that there could not be a common model which could be adapted to the specific requirements of each district.
- District plans have to **reflect consideration of social, economic and environmental analysis** ie. a more comprehensive approach not just a land use approach. It should be left for each individual commission to determine how comprehensive it wishes to make its plan. Some Commissions may wish to deal in more detail with specific economic, social or environmental issues depending upon the particular circumstances existing within its jurisdiction.

The opportunity will be there for more comprehensive and integrated planning for those commissions that wish to proceed in that direction. The commission may have to rely on the input of local residents and the various government department representatives to determine how it approaches this subject.

v) **Model No. 1, Enhanced District Planning Commission**

1) **Commission Structure**

It is recommended that consultations be held between the Department of Municipalities, Culture and Housing and District Planning Commission representatives (including municipalities and LSDs) to discuss options for the structure and role of the Commissions under this new strategy.

It is proposed that the commission structure would consist of the following elements.

- **The Board of the District Planning Commission would consist of one representative (a councillor) appointed from each municipality in the District and one representative (a councillor) appointed from the Council of each Rural Community within the District.** The number of commission members would vary from district to district depending on the number of municipalities and rural communities that are created in each. There are 118 municipalities and 291 LSDs in the Province. If there are 15 district commissions there would be an average of 8 municipalities in each district. There would be an average of 20 LSDs per district and, if these were combined as suggested earlier into at least 4 or 5 per rural community, there would be an average of 4 or 5 rural communities in each district. Thus, the average commission would have 12 or 13 members. The numbers would vary across the Province. Those Commissions in Carleton and Victoria County would have smaller boards, for instance, while those in the Acadian Peninsula would be expected to have a larger boards. In districts such as the Acadian Peninsula, where there are over 40 LSDs, there would have to be a greater rationalization of LSDs to retain a manageable commission size.
- **Professional and technical staff**, including a professional planner as Director, a secretary/ receptionist and a planning technician. This skeleton staff would have to be supplemented with junior planners and technicians depending on the size and nature of the particular commission. The staff would be responsible for the proactive planning function as well as the implementation and enforcement of plans and associated by-laws.

- **A Technical Advisory Committee**, as outlined previously, made up of representatives of the various government departments and other regional agencies within the district. These would be non-voting members but they would actively participate in meetings and activities of the commission.

2) Responsibilities of District Planning Commissions

It should be emphasized that, although an expanded and enhanced role for the District Planning Commissions is being recommended, it is not suggesting that the commissions become rural municipalities, that they have taxing powers or that they be responsible for the provision of rural infrastructure. It is envisaged that the Provincial Government would be responsible for the provision of infrastructure and services to the non-incorporated areas unless contracts for services to the more built-up areas were negotiated with adjacent municipalities. The expanded and enhanced role for the commissions would require an increase in human and financial resources over that existing at the present time.

It is envisaged that the roles or responsibilities of the District Planning Commission would include the following.

- **Preparation, Adoption and Administration of Plans and Basic Planning Statements and Related By-Laws**

The major role initially would be to prepare a District Development Plan. Plan preparation would be done under the direction of the Planning Director for the district who would be assisted by planning staff or consultants. Commission members and the Technical Advisory Committee would be involved at every stage of the plan process, ie. formulation of terms of reference, background study and research, setting of goals and objectives, and review of policies and proposals as well as implementation.

Once the district plan was in place, attention could be turned to developing area plans or basic planning statements for rural communities in the district that required a more detailed or sophisticated plan. There may well be many areas which may be quite happy and able to function well with only the policies of the district plan.

The commission would also be responsible for the preparation and implementation of by-laws such as zoning, subdivision and building by-laws. Once districts plans and by-laws were prepared, the commission would also be responsible for their adoption and administration. As outlined earlier in this section, it is recommended that the planning commission with elected representatives be given the same power as municipal councils have to adopt plans and by-laws. The adoption process would follow the same procedure as outlined in the Community Planning Act including public notification, hearing of objections, ministerial approval and registration in the registry office.

Implementation of plans would be through the Planning Commission for local land use components and would rely on the various government departments for implementation through their respective acts and regulations (for transportation, environmental and resource related policies, for instance). It would also rely on various boards and commissions, such as the Economic Development Commission or Solid Waste Commission, for implementation of those aspects lying under their specific mandates. Implementation would be facilitated by having the various government departments and regional agencies represented on the T.A.C. which helped prepare the plans.

The day-to-day administration of the plans and by-laws would be the responsibility of the staff of the commission. Any amendments to the plans or by-laws would involve the whole commission and would have to go through the same procedures as outlined for initial plan and by-law adoption. Any applications for subdivisions, variances or non-conforming uses, which presently go to the Provincial Planning Committee, would henceforth remain with each District Planning Commission for approval by the appropriate department representatives on the Technical Advisory Committee.

Although the District Commission will have the legislative authority for plan and by-law approvals and amendments, it may be appropriate that the variance power rest with some other body. That body might be the present Provincial Planning Committee. Another option would be to delegate the variance power to a committee such as is presently done in the Greater Moncton Commission. These options should be the subject of further discussions between the Province and the planning commissions.

- Public Education/Communications

Once the District Planning Commissions were in place, they could become an effective vehicle for public education with respect to planning. The mere act of setting up a commission structure would provide a forum where members could become aware of the problems and concerns of other municipalities and/or non-incorporated areas. Information could be dispatched to the general public through their representatives on the commission as well as through public meetings which would likely be held as part of the process of developing district plans. The commission would also be the logical source from which to disseminate brochures and other promotional literature on planning, including that produced by the Department of Municipalities, Culture and Housing.

These efforts at public education should foster a better appreciation for, and acceptance of, planning for rural areas. They should also help to reduce the suspicion and mistrust of government in the planning process that currently exists among some segments of the rural population.

- Planning for the Urban Fringe

The urban fringe of municipalities is one part of the non-incorporated area that is specifically addressed in Chapter 3. This area tends to be where many problems associated with uncontrolled rural development are concentrated. This creates problems for the people living in the urban fringe as well as in the adjacent municipality. Since it has a mandate which covers both municipalities and adjacent non-incorporated communities, the District Planning Commission will be able to play a big role in resolving problems and conflicts in the urban fringe areas.

- Coordinate/Assist in Regional Studies

The Planning Commission could serve a useful role in the coordination of, or assistance with, regional studies which may be undertaken by the Provincial Government. If the district commissions had been structured as is being recommended (with a technical advisory committee of provincial government representatives and elected representatives of rural areas), they would have been the logical body to act as steering committees or commissions for past efforts such as the Solid Waste Commissions, Watershed Designation Studies, Regional Tourism Plans, Regional Servicing Studies, Incorporation Studies, Regional Economic Studies, etc. In some cases the Commission as a whole could take on the responsibility as a steering committee while in other cases it could organize sub-committees or use the Technical Advisory Committee.

- Liaison Between Province and Non-Incorporated Area Residents/Groups

The planning commission should also serve a valuable role in bridging the gap between the Provincial Government and local residents or groups. This could be facilitated especially through the Interdepartmental Planning and Development Committee and the Provincial Planning Advisory Committee suggested in Section I and the Technical Advisory Committee of the District Planning Commission as recommended previously in this section.

- Role of the Professional Planner and Technical Staff

With this new structure the professional planning director will be able to become much more **proactive** in his or her approach to planning. The planner will have to play a strong **leadership role** in dealing with the whole commission as well as a **coordinating function** for the Technical Advisory Committee. Planners through their education and experience, have a wide variety of skills that could be effectively applied to their roles as directors of the commissions. The planners should be relieved of the day-to-day administration and enforcement of by-laws and permits which would more appropriately be handled by planning technicians. This would require more human resources. If

planning commissions are enhanced and expanded across the Province as recommended, then perhaps those experienced planning technicians presently employed by the Department of Municipalities, Culture and Housing could be transferred or reallocated to the planning commissions. This would have to be negotiated between the Province and the district planning commissions. These decisions would also be influenced by decisions that would have to be made by the Province respecting other issues, such as the eventual approach to building permits and inspections.

The two major elements in the strategy for rural planning described to this point, ie. overall provincial leadership/strategy and enhancement of the District Planning Commission structure, have addressed most of the major objectives identified. The District Planning Commission, restructured as recommended with elected representation and an interdepartmental technical committee, represents a form of regional structure with greater local responsibility and greater local decision making authority. With this regional structure in place supported by an overall provincial strategy and an Interdepartmental Planning and Development Committee, the remaining objectives begin to fall into place. The remaining sections of this Chapter will present a strategy or options with respect to how these remaining objectives for structure and process can be achieved.

3) Integration with the Major Municipalities

A major consideration would involve the determination of how best to introduce these models with Fredericton, Saint John and Bathurst, which have their own planning departments and are not part of a district planning commission. The other three cities Edmundston, Campbellton, Moncton and the Miramichi region already operate within a district planning commission structure and the transition would be less complicated for them.

One option may be for the cities of Fredericton, Saint John and Bathurst to retain their own planning departments on a transitional basis and that the District Planner would deal with all other jurisdictions within the district. The municipal planning directors from each city could sit on the Technical Advisory Committee which would ensure coordination and consistency in the development of policies between the city and the surrounding municipalities and rural communities.

A second option would be to expand each city planning department into the district planning commissions. This would involve negotiations and agreements among the Province, the central cities and the other municipalities and LSDs affected. In addition to discussions regarding administrative, jurisdictional and financial implications for all parties, sensitivity would be required to address the fears of the central cities that their services might become watered down in order to provide service to the other areas and fears from the smaller municipalities and non-incorporated areas affected that they would be swallowed up by the predominance of

the central city and subjected to controls imposed by the central city. The municipal planning departments would also have to add a "rural planner" to their existing staffs to adequately plan for the rural areas of the expanded commission.

Further discussions would also be required with respect to the content and agendas of planning commission meetings. Quite often the Planning Advisory Committees (PAC) of the central cities face long agendas and there is no-way that all other regional issues could be handled at the same meeting unless the agendas were to be modified from that of the current PAC meetings. One solution, for instance, would be to remove all variances and similar minor matters from the agenda and have them dealt with by a separate committee as is done in the Greater Moncton Commission.

The issue of regional provision of services is discussed in the next section on the District Management Commissions as well as in Section 3.4 on Tools for Regional Services Delivery.

vi) **Model No. 2, District Management Commission**

The **District Management Commission** would have the same elected representation on its Board and the same Technical Advisory Committee as that proposed for the District Planning Commission but it would have a **broader mandate** than just land use planning and this would be reflected in its implementation mechanisms. It is proposed that the Commission would have an Executive Director who would oversee a staff that would be comprised of departments that would, in effect, be the existing staff of the various boards and commissions described under Model No 1. However, instead of reporting to the various boards and commissions, they would report through the Executive Director to the new District Management Commission. This would require a transitional period to allow for a phased approach but it would serve to reduce the number of boards and commissions, streamline and coordinate board operations and reduce duplication and inefficiency. It would also forestall the creation of new boards and commissions. If new requirements or issues of a regional nature arose, they could be handled through sub-committees of the District Management Commission. This structure would also enhance the coordination of policy, communication and cooperation among the participating municipalities, rural communities and regional agencies. **The Management Commission would concentrate initially on those services that are more regional and "softer" in nature such as land use planning, economic development, solid waste management, watershed protection and resource management.** If the Commission structure was successful in dealing with these softer services, the structure may evolve so that consideration could eventually be given to providing harder (and more costly) services such as police and fire protection and, possibly, public works such as road construction and maintenance and regional water and sewer services. Such major decisions in the future would have to be made with full consultation and participation of all municipalities and rural communities.

The **staff departments** would thus include: the land use planning and regulation functions under the Planning Director (former district planning director); economic development under the Economic Development Director (former Director of the Regional Economic Development Commission); solid waste under the Manager of the former solid waste commission; possible housing director consolidating regional housing groups; recreation and tourism consolidating existing councils or associations; and, sewage commission consolidating any individual sewage commissions that exist. Those policies affecting the Provincial Government departments, ie. transportation; environment and resources, would be implemented by the departments similar to Model No. 1.

The second model tends to become complicated at this point when one begins to consider how the various municipalities and their individual planning departments might be represented and integrated into this structure and how equitable funding might be achieved. At this point it also begins to overlap with options for local government restructuring and regional service delivery as proposed by the Department of Municipalities, Culture and Housing in the document "Strengthening Municipal Government in New Brunswick's Urban Centres" which is currently being reviewed by the municipalities and for which feasibility studies are proposed to be undertaken.

A review of that document indicates that the approach outlined above for rural areas could be integrated with the two preferred options outlined by the Province. This is discussed in more detail below.

The issue of municipal services (public works, street maintenance, water and sewer services) is particularly difficult to deal with at this time given the existing initiatives and uncertainties with respect to current government studies on local government restructuring and regional service delivery and reviews of current fiscal policy and cost sharing arrangements. It was uncertain as to how far to proceed with the services with respect to non-incorporated areas within the commissions. Three preliminary options were suggested for further discussion.

Servicing Option 1 would be the status quo where services are provided by municipalities within their jurisdiction and the Province provides services to the non-incorporated areas. This could include the expanded urban-centred approach to regional service delivery currently proposed. This approach could be expanded beyond the municipalities, to include the more density built-up portion of non-incorporated areas lying outside the municipal boundaries.

Servicing Option 2 would see greater coordination and administration carried out by the staff of the District Management Commission which would steer requests (as result of a vote at a public meeting similar to the present system) for services emanating from the non-incorporated areas (rural communities) to the Province through the Department of Municipalities, Culture and Housing's Municipal Representative in the region.

Servicing Option 3 would see requests emanating from the non- incorporated (through the rural community) areas to the District Management Commission which would then hold a referendum to determine if the requested service is desired by the majority of residents in the rural community or if the service could be provided to a portion of the district. The approved request would be forwarded to the Province for approval and back to the District Management Commission. In the latter scenario, the Municipal Services Representative could be absorbed into the staff of the District Management Commission. In some cases, the rural community councils may be able to handle requests emanating from within their own community. How this could be best handled with respect to the responsibilities of the Commission and the rural community should be resolved by the Province working with each planning commission and its rural communities since the needs and abilities will vary from commission to commission.

CLURE believes that New Brunswick with 700,000 people is too small to warrant provision of public works and municipal services at the regional level. These services should be provided through two levels in New Brunswick - the municipal level (including urban-centred regional services) and the provincial level. All the above servicing options rely on the Province providing service to the non-incorporated areas initially. **The elected District Planning Commissions or District Management Commissions could be a stepping stone to the eventual provision of services on a district basis.** A decision on this step should be delayed until the Province and the affected municipalities determine their direction towards urban-centred provision of services on a regional basis. If the Province's initiative is successful, then the urban-centred concept could be expanded to take in the more built-up portions of non-incorporated areas on the fringes of the municipalities. If planning on a district basis as proposed in CLURE's document is successful and generates trust and cooperation, it might logically lead to the provision of other services on a district basis. Regional or district servicing is too complicated and too big a step to take all at once. Detailed feasibility studies would have to be undertaken to determine what services would be provided, what areas would be affected, what they would cost and how they would be funded. **A phased approach would likely be more affordable and more acceptable to rural residents.**

If the Province's initiative with respect to regional service delivery was to result in amalgamation of adjacent communities into one large municipal unit, then that unit could be represented on the District Planning or District Management Commission just as other municipalities. If the Province or municipalities opt for the "formalized regionalization" or a regional management board, the integration of that unit with the District Planning or Management Commission becomes more complicated because, in essence, the result would be two boards - one representing the participating municipalities (regional management boards) and second representing all other municipalities and rural communities in the district. In this case there would appear to be **two options.**

- the first would be to set up the District Planning or Management Commission in the same manner as suggested previously so that all the municipalities could be

represented on the Board, much the same as they would have if the regional services proposal had not come along. They could also share services on a regional basis under the same contractual arrangements they would have had under the regional management board scheme.

- the second option would be to operate with the two boards, but with some formalized linkage between them to ensure coordination of planning and development activities between the central dominant group of cities and the remainder of the district.

These options should be given much more detailed scrutiny once the direction that the Province and municipalities decide to take is determined.

These servicing options will also be influenced by the response and actions of government to the recommendations with respect to the issue on regional service delivery. (Section 3.4)

Another possibility for a phased approach might be the establishment of District Management Commissions for the denser or more built up areas of the province while the sparsely settled areas might remain under the Provincial Department of Municipalities, Culture and Housing as at present. These might possibly be set up as pilot projects or test cases involving those existing District Planning Commissions that are at a more advanced stage of development.

III. Other Improvements in Structure and Process

a) *Improved Interdepartmental Cooperation and Coordination*

i) Cabinet and Interdepartmental Committees

Because land use planning overlaps with the mandates of several government departments, it is imperative that there exists a commitment to cooperation and coordination among the various departments. The strategy presented thus far has suggested two major recommendations that would considerably improve relations among the various departments. The first was the assignment of the coordination of the overall provincial strategy to the Policy and Priorities Committee of Cabinet and the Interdepartmental Planning and Development Board of Deputy Ministers to create a top-down approach. With this mechanism in place there will be a better understanding between the various departments at the highest level. This will enhance the appreciation for land use planning and the problems created through lack of cooperation or coordination between departments. With overall policies and directives coming down to the various departments within government as part of the overall provincial strategy,

the ability of the Department of Municipal, Culture and Housing to deal with land use planning should be enhanced. The second recommendation is presented below.

ii) Benefits of Technical Advisory Committee on the District Commission

The second recommendation was the enhancement of the Planning Commission structure which would see representatives of the key government departments related to land use within each region or district being added to the Planning Commission as a Technical Advisory Committee. This situation will not only improve relations between departments but it will also result in faster and more convenient service to the public. This recommendation is also based on the delegation of some authority from the central government in Fredericton to the District Planning or Management Commissions.

The development approval or building permit process will be able to be handled much more efficiently with the Departments of Transportation, Health and Community Services and Environment meeting regularly on planning commission business. This will foster closer working relationships and a greater appreciation for the need for cooperation. Applications should then only have to be made to the planning commission (Development Officer) who will also be meeting regularly with the representatives of the other departments. This will enable better service through "one stop shopping" for the public.

The subdivision approval process will also be streamlined. With the three departments named above being joined on the Technical Advisory Committee by representatives from the Department of Natural Resources and Energy, most of the cases that are now sent to the Provincial Planning Committee can be handled by the Technical Advisory Committee of the district planning or management commission. This will not only result in better communications and cooperation between the various departments but it will also result in decisions being made by local people in the region who are more familiar with the specific subdivision. It will also result in faster decisions, increased credibility and a better image for the whole planning process.

The whole process of preparing District Plans will be improved substantially by having the various government departments working together within the Planning or Management Commission structure. This will result in more comprehensive input into setting goals and objectives and determining policies and proposals. Having the various departments involved in the plan process will also result in more efficient implementation since the plans are often implemented through the enforcement of the acts of other departments.

iii) **Improved Communications in General**

Improved communications could be accomplished through **exchange of information** that is relevant to other departments. For example, when there are new or amended acts and regulations, then other government departments affected or interested could be notified of the changes.

Relationships could also be improved through holding half day or one day **seminars**, inviting people from various departments who have an involvement in specific issues such as building permits, subdivisions, watershed regulations, solid waste planning, or similar topics.

When plans are in place to initiate a District Plan, Municipal Plan, Basic Planning Statement or Area Plan, a **notice could be sent to all government departments** in the region informing them of the project and inviting those departments to participate by providing any pertinent information or identifying any concerns that their departments may have in the particular area under study.

iv) **Between the Province and the Regions**

There are several simple measures which could be undertaken to improve communications between the Department of Municipalities, Culture and Housing in Fredericton and the Planning Commissions or its own employees in the regions.

- 1) **Simple dissemination of information** from Fredericton to the district planning commissions and regional offices would improve the situation. More attention and recognition should be given to the distribution of information on Act and regulation changes as well as other changes in department policy or personnel that impact on those working in the districts. Care must be exercised that this activity does not become or perceived to become a means of imposing directives from Fredericton. The intent is for information flow and exchange.
- 2) **Preparation of manuals** containing information on acts, regulations, directions, and procedures that development officers could follow to ensure they were doing things correctly and also more consistently.
- 3) More face to face **meetings, seminars or workshops** to improve and upgrade skills and improve communications.

b) Improved Public Information and Communications

It was noted in several briefs and during public consultation that, in the rural areas, there is a serious lack of knowledge of what planning is as well as a lack of appreciation of why planning is needed in rural areas. This is compounded by the fact that planning is synonymous with government (since it is administered by the provincial government) and, thus, shares some of the mistrust and scepticism that many rural residents have towards government. It is obviously difficult to deliver planning services when these sorts of attitudes prevail.

Because of the Province's emphasis on land use controls and regulation, the general public's first impression of planning is a negative image of "thou shalt not do this or thou shalt not do that". The average resident is exposed to planning when he or she applies for a building permit or a subdivision plan and runs into a series of delays, detours, government department overlap and various layers of what he or she perceives to be "red tape".

Because there is also a lack of comprehensive development plans in the non-incorporated areas, rural residents are not aware that planning can also be a positive force to encourage compatible development that protects the rural environment, in general, and the resident's investment, in particular.

The Province and the Planning Commissions should undertake measures to address these issues as part of a public education program. Some of the specific components to be addressed are discussed below:

i) Components of a Public Education Program

1) Emphasis on the Positive and Proactive Aspects of Planning

A public education program, therefore, must not only tell people what planning is, it must also show them through examples of proactive and positive planning as opposed to the negative regulatory approach. This means the government itself must recognize and appreciate that planning goes beyond regulations and control. The adoption of an overall Provincial Strategy as well as preparation of district plans, that ensure involvement of the public in setting goals, objectives and policies for future development, would be an excellent illustration of how the public can use plans as a positive tool to help create the kind of community desired by the rural area residents.

2) Information on Regulations That Apply To Rural Areas

Because of a lack of overall public education and communications, the general public in rural areas has very little knowledge of what regulations exist, how they affect the residents or who to see or how to make applications for permits. Rural residents are confused by the inequities and disparities that apply across the Province. Some areas have plans and development may require approvals or amendments to plans and zoning. Other areas have no plans whatsoever. Some rural areas are covered by planning commissions while others fall directly under the Province. Some rural residents have to apply for building permits while their neighbour up the road does not.

Because of these inconsistencies and disparities, it is difficult to inform all rural area residents of what plans, regulations or permit requirements apply to them. It is something that almost has to be done on a district or area basis where some homogeneity or consistency applies.

Some of the previous recommendations should facilitate the creation of greater consistency within the Province. These include:

- o the preparation of an overall Provincial Strategy and Provincial Land Use and Development Policies;
- o the extension of District Planning or Management Commission coverage to the whole Province;
- o the adoption of district plans and accompanying by-laws will play a big part in public education with respect to the need for, and application of, regulations; and
- o more decentralized decision making with respect to overall plans as well as subdivision approvals will also create a better appreciation and knowledge of planning on the part of local area residents.

3) Information on the Costs Associated With Rural Planning and Development

There is also a need to inform rural area residents of the costs associated with planning and development in rural areas. People have to come to appreciate that those living in rural low density areas cannot expect the same level of services that those living in concentrated urban settings have.

Greater appreciation for these costs will come about through the creation of more district planning commissions and the preparation of district plans. The closer contact between urban and rural residents on the commissions should result in a better appreciation for the costs of providing infrastructure and services to urban and rural areas and help residents make more enlightened choices.

The information provided in Section 3.2 of this document, with respect to costs associated with sprawl and ribbon development, should be communicated to all residents of the Province through planning commissions, municipalities and rural communities.

4) Overcome Misconceptions About Land Use

Public information is also needed to clear up misconceptions on the part of the general public with respect to the differences between land use plans, zoning regulations, building permits and subdivisions. Many rural residents have the mistaken impression that, because they have obtained a building permit or have had a subdivision approved, they are protected from incompatible land uses that might locate next to them. They do not understand that they can only get this assurance through the adoption of land use plans as part of basic planning statements or area plans.

5) Overcome Mistrust/Scepticism Toward Government

The overall mistrust of Government and consequently scepticism towards anything positive as a result of CLURE's efforts was expressed very strongly during the public consultation process. Although many specific examples were cited these generally could be grouped into the following:

- failure to implement recommendations of past commissions and task forces;
- the manner in which the watershed designation regulations were implemented was often cited as a good example of "how not to implement regulations already in place;
- the perception of a "double standard" with respect to enforcement, that is, strong pressure on small landowners with respect to regulations while ignoring more serious and blatant violations by large corporations;
- government regulations being violated by its own departments/employees;
- overall secrecy and lack of public information

Better public information and communication can obviously play a strong role in overcoming some of these attitudes. There are many problems and concerns that are being addressed by government but the public is not aware of them. **The government must be more sensitive to the need to inform the public when positive initiatives are underway. It would portray a more positive image for government, especially in rural areas.**

In addition, there is a need for better enforcement of existing regulations. A large part of this problem is the shortage of staff, such as environmental inspectors, to adequately address the problem. This is addressed in the section under human and financial resources. With respect to the **"double standard"** issue, reference to recent fines assessed against large crown and private corporations under the Clean Water Act seem to indicate that this concern is beginning to be addressed. Another aspect with respect to fines that should be addressed is assuring that **the amount of fines assessed bears some relationship to the offence.** This would overcome the concern that the fines are so small that companies that profit from violating regulations just consider the fine as a cost of doing business.

Another way to promote better enforcement would be to have a **toll free number** to which anyone could call to report an infraction of any Provincial regulation. The complaint could then be directed to the proper provincial or regional department or official for enforcement. This would also help solve the concern with enforcement in that many rural residents were reluctant or uncomfortable with confronting their neighbours with respect to infractions. With the toll free number concept, the direct confrontation could be avoided.

With respect to violations by government departments, the Province must appreciate the immense power it has to enhance its credibility and further the cause of good planning through good example. It must not only profess the principles of sound planning but it must be seen to be serious about it by living up to those standards through the activities of its various departments.

Finally, **by emphasizing the more positive aspects of planning** so that the people equate planning with something useful, the general feeling of mistrust of government can be reduced. The mistrust of government that planning shares with the Province, will not be reduced significantly until there are basic changes to facilitate local representation, local accountability and local participation in decision making. Many of the other recommendations contained in this document should assist in improving the credibility of government, in general, and planning, in particular.

ii) Mechanisms For Promotion

In addition to the changes noted above in government policy and directions, there are various means through which the Province and district planning commissions can seek to inform the public with respect to planning. These include:

1) Promotional Literature

The Department of Municipalities, Culture and Housing should take the leadership in preparing **brochures, pamphlets and handouts** explaining various aspects of planning. This literature would include such topics as:

- o What is planning in rural areas and why do we need it?
- o What regulations exist in rural areas and how and where do I apply?
- o What are building permits and subdivision regulations?
- o What is a Basic Planning Statement or Area Plan?

This material could be made available in regional government offices, and planning commissions throughout the Province.

2) Media and Public Meetings

Better use could be made of **newspaper, television and radio** articles and announcements to explain and promote planning concepts. **Public meetings** are also valuable tools to use to further promote planning and educate the public.

3) Public School System

The Province, through the Department of Education, should ensure that the concept of sustainable development is introduced into the core curriculum of our public schools. This will ensure that in the future we have a population that is better able to understand society's problems and to deal with them more effectively or, indeed, to avoid creating new and possibly worse problems.

c) *Human and Financial Resources*

i) Staffing Requirements

Within the Department of Municipalities, Culture and Housing, in general, and within the

Land Use Planning Branch and the Planning District, in particular, there is a shortage of personnel to do the job that needs to be done. This staffing problem is a result of provincial financial constraints as well as the lack of priority that has been given to planning. Because of fiscal constraints on Government, CLURE realizes the significant concerns with any suggestions for staffing increases. However, in many cases, increased personnel is the best, and may be the only, solution to the problems. One of the overall objectives of CLURE is to propose changes that are affordable. There are several measures that are being proposed in other sections of this report that will save money. What CLURE suggests is that this money be reallocated to areas where it is more drastically needed. For instance, if the Government was to stop subsidizing culverts it would save approximately a one million dollars a year. At the current rate it supports district planning commissions, it could support the 3 to 6 more commissions being recommended by CLURE as well as increasing the budgets of existing commissions. If it would stop maintaining private and Class "D" roads, it would save millions of dollars more which could be put to better use in these important staffing requirements.

This staffing shortage is not limited to the Department of Municipalities, Culture and Housing. For instance, staff shortages in the Departments of Health, Environment and within Law Reform (Justice) have a direct impact on the delivery of planning services to the rural areas. The Department of Health directly influences the building permit and subdivision approval process, while Law Reform has a direct impact on the provincial regulations (including basic planning statements and area plans) that are handled by the Department of Municipalities, Culture and Housing. It was pointed out many times throughout the public consultation phase that there are simply not enough inspectors with the Department of Environment to properly inspect and enforce existing regulations. This has created a large credibility problem for the Government, in general, and the Department, in particular.

Shortage of personnel also plagues the planning commissions as well as some regional offices of Municipalities, Culture and Housing. Previous sections have referred to the underutilization of talent by having the professional planning directors involved in the administration of regulations which should be provided by technical staff. Several regions do not have enough building inspectors. This shortage would become more acute if universal building permit or building inspection coverage were introduced for all non-incorporated areas. **In addition to the shortage of personnel, there is also a need for upgrading and continuing education for development officers and building inspectors.** This could be accomplished through more training sessions, seminars and workshops on various planning related topics.

This shortage of personnel within the districts will become more acute as the planning commissions take on additional responsibilities in the future. Previous sections also pointed out that new commissions will require a staff of at least three people including a professional planner, a planning technician and a typist/receptionist. If planning commissions are eventually set up throughout the whole Province, there will be less demand on planners at the Provincial level and perhaps they could be reallocated to the district level.

Another issue affected by the limited staffing in Fredericton as well as the districts is the large number of municipal plans and basic planning statements that will be coming up for (or are overdue for) review as required every five years under existing legislation. The Planning Branch is no longer in the business of preparing these plans nor does it have the budget to hire consultants. These communities are left on their own to update their plans. Unfortunately, many of these communities have difficulty budgeting the funds that are required to adequately update their plans. This situation would be assisted if planning commissions are set up throughout the Province and are given the authority to adopt plans locally.

ii) Revenue Sources

The following are suggestions which should be considered by the Province with respect to how more revenues could be raised to help ease the restricted budget problems.

- 1) **Increase the fees for building permits.** This has other implications such as responsibility for inspections and the training of inspectors as outlined in Section 3.5 on Building and Development Approval.
- 2) **Charge a fee for subdivision applications.**
- 3) **Charge fee for variance and other minor applications.**
- 4) **Charge a higher fee for rezoning applications.** The \$200 maximum fee now set under the Community Planning Act does not even begin to cover the advertising costs for the rezoning. This amounts to the Provincial Government subsidizing the cost for private sector initiatives. Since the cost varies around the province, the amount of the fee should not be specified in the Act. The fee should be related to cost recovery and left to the individual planning commission.
- 5) **Include the cost of preparing plans or providing planning services as an item in the Rural Community or LSD budgets.**

The earlier recommendations outlined in this report will improve the overall image and acceptance of planning in rural areas. It should provide a process to gradually build up support for the human and financial resources required. As the credibility of planning and the Province improves, the public will be better able to appreciate what planning can do for them and are more likely to support it through taxation or special levies. This will help provide the resources to hire professional staff. District commissions would benefit not only the rural areas but would also enable many municipalities, which do not now have professional planning assistance, to have access to that service. Municipal support would also help generate revenues to hire professional staff.

d) Improved Image and Profile of Planning

Several of the recommendations proposed in earlier sections of this report should certainly combine to improve the overall image of planning. In summary, the profile would be enhanced through the following:

- i) **Through the support and commitment of the Province.** This includes a higher priority attached to planning and the Department of Municipalities, Culture and Housing and corresponding support through provision of much needed human and financial resources.
- ii) **Through the election of rural residents to Rural Community Councils** which will provide better local representation and accountability.
- iii) **Through the improvement in credibility** by facilitating local participation in the planning process. This includes more meaningful participation by representatives of various government departments in each region as well as the general public.
- iv) **Through the provision of local decision making** which will bring planning closer to the people and enable faster and more meaningful decisions on planning approvals.
- v) **Through better communication** as to what planning is, why it is needed and how the public can participate.
- vi) **Through the more positive image** which will be created for planning with more emphasis on proactive planning instead of the regulation and control side.

e) Improvements In The Provincial Planning Committee and the Legal Drafting Process

Because the Provincial Planning Committee and the Legal Drafting process came under a great deal of criticism from planning officials throughout this process, recommendations were made earlier in this report which should significantly improve these concerns. These recommendations will be discussed separately below.

i) Provincial Planning Committee

It was recommended that, with the addition of a Technical Advisory Committee to the planning commission structure made up of regional representatives of the various provincial departments, most of the cases that are now sent to the Provincial Planning Committee in Fredericton could then be handled in the region itself. This would avoid the "red tape" and delays experienced with the present process and improve the credibility and accountability for planning decisions on local issues.

Another option that is worthy of consideration is the suggestion that it might ensure more consistency in decisions across the Province if there were a Provincial Co-Chairman who would travel from region to region for each hearing (similar to the manner in which the Chairman of the Provincial Planning Appeal Board travels). With 12 to 15 regions in the Province this might amount to a full time job.

In the meantime, until new District Planning or Management Commissions are set up and until existing commissions can make adjustments in their structure to set up the Technical Advisory Committee, there are several improvements that should still be made with respect to the Provincial Planning Committee. These include:

- 1) **The development officers in the province's regions and District Planning Commissions should be provided with manuals of procedures and guidelines.** This would include a description of the information that should be sent to the Provincial Planning Committee. This would help avoid delays now caused by incomplete submissions from the development officers.
- 2) **This input from the Departments of Environment and Health and Community Services must be given more weight in the approval of subdivisions.** Because of shortcomings in the respective acts, Health and Environment can recommend against a subdivision but it can still be approved. Both departments as well as the Department of Transportation must also articulate standards that can be defended in courts. Recent decisions, such as the court case involving the Loch Lomand Watershed, clearly reveal that standards such as the distance of septic tanks from certain bodies of water must be articulated. Clauses such as "in the opinion" of health officials, the development should not be approved, will not hold up in legal actions. It is understood that amendments to both the Health Act and the Community Planning Act are currently being proposed to correct some of these situations.
- 3) **The services of a professional planner should be provided to the Provincial Planning Committee.** At the present time, cases are heard by representatives of the Departments of Transportation, Natural Resources and Energy, Health and Community Services,

Environment and Municipalities, Culture and Housing. These representatives should have the advice and assistance of a professional planner to help in the decision making process, even if it were in a non-voting capacity.

- 4) **The whole question of recreational subdivisions and the approval of cottage lots on private access roads should be addressed by senior officials from the Department of Municipalities, Culture and Housing and the Department of Transportation.** There has to be a better way of dealing with this issue. The Department of Transportation should review its policy of maintaining private roads if there are three or more permanent residences (or five cottages) located along it. This is a particular problem when uses approved as cottages are converted to permanent residences. Pressure is put on the Minister, the MLAs or the District Highway Engineer and the Department finds itself plowing and maintaining isolated homes on private roads that are often below provincial construction standards. These residents, in turn, then demand other services such as school buses, police and fire protection, etc. This is further compounded by the fact that taxes on cottages are higher than taxes on owner-occupied residences so there is a financial incentive to convert to permanent residences.

As recommended in Section 3.2, the Province should enforce its policy of maintaining only public roads. The Province should not be in the business of plowing and maintaining Class "D" and private roads. When people build on private roads and recreational subdivisions they should do so with the knowledge that it is not a public road and will not be upgraded or maintained by the taxpayers of the Province. If the Province is going to succumb to these demands, then the access roads should be built as public roads in the first place or upgraded to the minimum public road standards at the expense of the residents or developers receiving the benefits.

Another option would be to define "recreational" subdivisions under the Community Planning Act or its Subdivision Regulations. The definitions might include a prohibition against building a house with a foundation and should clearly state that lots are not to be serviced by a public street. Lots approved as recreational could also be "red stamped" similar to the past practice with lots not meeting Department of Health and Community Services approval. This might discourage financial institutions from lending money to build a year round home on a lot approved as "recreational".

The Province should also review its taxing policies with respect to cottages/owner occupied residences. It should also consider withholding approval of building permits for conversions of cottages to year round residences unless the owners are willing to sign a waiver or reach some other agreement that such approvals would not result in requests to extend services and facilities or upgrade the access road at the taxpayers expense. The Province could also address this issue in the context of its overall Provincial Policies as well as in land use designations and policies in plans for the districts or rural communities.

As pointed out in previous sections, this decentralization of decision making does not mean the Provincial Planning Committee should be abandoned. There would still be issues related to overall provincial policies or complicated issues for which the advice of senior officials in Fredericton could still be sought. In addition, with the formation of an Interdepartmental Planning and Development Committee, the Provincial Planning Committee may take on more advisory responsibilities to the Interdepartmental Committee.

ii) Legal Drafting Process

With respect to the problems presented earlier with respect to the Legal Drafting Process, it was recommended that the best solution by far would be to have **District Plans, Area Plans or Basic Planning Statements adopted by Planning Commissions or Rural Community Councils similar to the manner in which municipalities adopt plans.** That is, cease to make them provincial regulations so that the whole legal drafting process can be avoided in the first place. It does not make sense that these rural area plans, that deal mainly with local problems, should have to be provincial regulations. This would require a minor change in current legislation.

Another good reason to take this latter approach is that the present system is headed for major problems. With 291 LSDs, there is no way the Province is going to be able to handle all the new plans that will be adopted, let alone the amendments that will also have to go through the same process.

In the meantime, until the commission structure is in place and the appropriate legislative changes can be made, the following measures are recommended to improve the Legal Drafting Process.

1) Workshop

Several of these problems could be cleared up if the legal drafting group would present a one day workshop or seminar to all the planners in the Province who are preparing rural area plans or regulations. This would not be a large group to handle. They could suggest a model document for Basic Planning Statements emphasizing some of the common errors or problems as well as formats, maps, charting and reporting mechanisms, etc. This could perhaps be modified as result of input from the planners and discussions could lead to a common accepted approach. It would be worth one day of everyone's time to clean up the frustrations on this subject and have everyone working in the same direction. It would also be well worth it if it would speed up the whole process.

2) Liaison Person

It would also help to have one person appointed with the Department of Municipalities, Culture and Housing in Fredericton, to review all documents before they were sent to Law Reform and before going back to the planners. This person could weed out any mistakes, errors or inconsistencies in the documents. He or she could also chart the progress of all the documents. Another role could be to communicate any major changes in both directions.

f) Provincial Planning Appeal Board

The Provincial Planning Appeal Board (PAB) is set up under Section 86 of the Community Planning Act to hear permitted appeals. It consists of a chairman and fourteen other members, two members being appointed from each of the seven planning regions. The chairman and vice-chairman are required to be barristers of at least five years standing at the Bar of the Province.

Appeals are based on allegation of misuse of authority (misapplication of the Act) or an allegation of special hardship. For the purposes of hearing an appeal, the chairman or vice-chairman and the two members from the planning region concerned constitute the Board. If the present seven regions are replaced by 12 to 15 districts, then the Act will have to be amended to permit one member per district. Appeals could still be heard by the two members closest to the cases under consideration.

There are four general types of appeals permitted. These generally result from the following:

- 1) refusal to approve a development, refusal to grant a permit, or objection to the terms and conditions attached to a granted permit;
- 2) approval of another's development or the granting of a permit to such person;
- 3) standards prescribed by a council, or proposed action of a council, with respect to a non-conforming use; or
- 4) refusal by a development officer to approve a tentative or subdivision plan, or to approve for registration or to exempt an instrument.

There were not many concerns expressed with respect to the PAB and many acknowledged the important role it plays in the overall planning process by reducing the rigidity often associated with planing approvals. **The biggest single concern with respect to the PAB was expressed by professional planners and it was PAB decisions with respect to hardship.** Many planners felt that the interpretations of hardship were too broad and the decisions were inconsistent. They suggested there was a need for a tighter definition of the term. This issue warrants further

discussion between the PAB and the professional planners group.

Another concern of the professional planners has been the redress of general planning grievances. Although there are provisions in the Act for the Appeal Board to hear cases involving alleged misapplication of by-laws or regulations, these are often quite technical issues that can be left to the courts. On the other hand, there is little recourse to appeal against the initial enactment of by-laws and regulations or amendments to them. The only recourse is through the courts which are not in a position to decide on the merits of the planning decision, but only if the proper procedures in enacting the by-law or regulation were followed. It may be that the Appeal Board should deal with the more ambiguous planning issues. The Appeal Board could then provide for a better system of checks and balances against arbitrary planning decisions. If, however, it is judged that planning decisions are best left to the political process, then, the role of appointed officials in planning decisions has to be seriously questioned. This relates to the concern with respect to the requirement for appointed Planning Advisory Committees which have statutory responsibilities apart from that assigned by municipal councils. The planners felt that this should be examined and that it might be more appropriate to make the appointment of Planning Advisory Committees optional, just as the appointment of other municipal committees is optional.

g) Improvements and Changes to the Community Planning Act

The current Community Planning Act was proclaimed in 1973 and, despite a major review in 1979, very few substantive changes have been made in the Act since 1973. The professional planners of the Province have requested a complete review of the Act on several occasions. Other professionals using the Act on a regular basis, such as lawyers and surveyors as well as the Province's own development officers, have often suggested changes to the Act.

There is no doubt the Act is in need of a major review. It has been in place for 20 years and it is time to re-examine the philosophy underlying the Act and to address its shortcomings. Community planning affects many aspects of community life including the economy and the environment - both of which the Province has assigned a high priority. Recent efforts of the Premier's Round Table on Environment and Economy and the Regional Economic Conferences are, in effect, planning efforts. It is an opportune time to assess to what extent the Planning Act can hinder or enhance the Province's goals for sustainable development.

In order to enable many of the changes recommended for the structure and process for planning, there would have to be amendments to the Community Planning Act.

It is recommended that once government has reviewed this document, in consultation with its various departments, planning commissions, municipalities and the general public, has considered the options presented and decided on a course of action, that it undertake a complete review of the Community Planning Act. It should incorporate specific changes

required as a result of CLURE's report as well as other general and specific changes that have been suggested in numerous submissions over the years. It would also have to include changes which would result from other current studies, such as those associated with local government restructuring, the regional delivery of services and changes in provincial/municipal transfers and financing. The Act review should include a broad consultation of all groups and organization that use or are affected by the Act on a regular basis.

The section which follows will outline some definite changes to the Act that would be required as a result of recommendations in this section on Structure and Process for Planning. It then outlines some general shortcomings of the Act which should be undertaken as part of the overall Community Planning Act Review.

In order to enable many of the changes recommended for the structure and process for planning, there would have to be amendments to the Community Planning Act. Some of the suggestions could be made without any changes to the Act. No changes, for instance, would be required to adopt Basic Planning Statements for the whole Province or the District Planning Commissions or for the extension of Planning Commission coverage throughout the Province.

Changes in the Act would be required to undertake the following:

- 1) To permit the Lieutenant-Governor in Council to adopt Provincial Land Use and Development Policies.
- 2) To require public notification and a hearing process associated with any amendments to the Provincial Land Use and Development Policies.
- 3) To require that policies of all other plans conform to, or are not to be in variance with, the Provincial Land Use and Development Policies.
- 4) To permit changes in the provincial structure which would permit and describe the functions of the following:
 - the Policy and Priorities Committee
 - the Interdepartmental Planning and Development Committee
 - the Provincial Planning Advisory Committee.
- 5) To replace the seven Planning Regions with 12 to 15 Planning Districts and to replace the description of Regional Plans with that suggested for District Plans.
- 6) To redefine the structure of District Planning Commissions to permit members to be appointed from member municipalities and from Rural Communities. All representatives are to be elected members of their respective Councils.
- 7) To permit the District Planning Commission to adopt plans and by-laws similar to the manner in which municipalities do.
- 8) To permit the formation of a Technical Advisory Committee of the District Planning Commissions and a description of its membership and responsibilities, including powers similar to the Provincial Planning Committee and to facilitate "one stop shopping" for development approvals.
- 9) To permit District Planning Commissions or Rural Community Councils to accept land for public dedication similar to the manner in which municipalities do.

- 10) To permit District, Area and Municipal Plans and Basic Planning Statements to deal with the same matters as presently listed in the contents for Regional Plans. They would then all be in conformance with each other and could also recognize unique circumstances within their areas of jurisdiction.
- 11) To define the new role of the Provincial Planning Committee.
- 12) To revamp the section on fees for planning approvals or permits with respect to development approvals, buildings permits, rezoning applications subdivisions and variance applications as described in this report.
- 13) To permit the formation of District Management Commissions if the Province decides to proceed in that direction.

The more general review of the Planning Act should include consideration of the following aspects.

The 1979 Review of the Community Planning Act by William E. Cooper made seven main recommendations as listed below. These should be reconsidered in the review. The first five have already been addressed to some extent in the specific recommendations made above or elsewhere in this report. Cooper's recommendation include:

1. Regional planning be abolished.
2. Planning by districts be mandatory for all cities and surrounding areas.
3. Development Officers be upgraded in planning skills and become agents for other departments involved in the planning process.
4. The Provincial Act establish provincial priorities and delegate local issues to municipalities, including residual power.
5. In terms of drafting, the Provincial Act should deal with incorporated and non-incorporated areas separately.
6. Statutory Planning Advisory Committees be abolished.
7. Single lot subdivisions be authorized without a plan of survey.

A 1990 submission to the Department of Municipalities, Culture and Housing from the New Brunswick Planners Association identified various concerns and issues which it suggested should be included in a Planning Act Review. Those that have not been mentioned already relate to certain ambiguities in the Act, relationship to, or inconsistencies with, other legislation as well as general improvements.

The current Act is not easy to understand and leaves a number of **ambiguities and unresolved issues**. This has led to uneven application of its provisions across the province. To cite a few examples:

- There are a number of provisions that require the development officer and the planning advisory committee to be of the same opinion, [e.g. sections 42(3) (k) (i) & (ii), & (48) (3)], but give no indication what is to be done when the two disagree.
- Lot sizes may be regulated by both the zoning by-law and the subdivision by-law.

- Section 23(3) requires that the municipal plans include a map showing the zones into which the municipality is to be divided. Does this mean that the zoning by-law is a part of the municipal plan? When the zoning by-law is amended, does it mean that the land use designations of the Municipal Plan are also amended or vice-versa?
- Section 40 does not adequately deal with non-conformity with respect to zone standards as opposed to non-conformity with respect to use.
- The subdivision sections of the Act are not implemented consistently across the Province, probably because they are not easily understood.
- The Province and individuals are required to undertake development that is consistent with plan proposals; and municipalities are, in addition, required to abide by policies. But the Act does not specify what constitutes policies and proposals.
- How is market value of land to be determined with respect to section 42 (3) (g) ?

With respect to other legislation, there are inconsistencies and duplications between the Planning Act and other acts. For instance, lot sizes are regulated by zoning by-laws, subdivision by-laws and by regulations under the Health Act. Policy items that must be included in municipal plans do not correspond with the services that may be provided by municipalities pursuant to the Municipalities Act. Provisions with regard to street closing in the Planning Act are not consistent with the Municipalities Act. The Planning Act requires that municipalities annually submit revised five-year budgets for the implementation of municipal plan proposals, but this requirement is not recognized in the Municipalities Act. A thorough investigation is needed to uncover such duplications and inconsistencies among the acts and remedial action should be taken.

Another concern is that the Community Planning Act deals with both policy setting and policy implementation. The planners' concern is that implementation of plans, other than through regulatory means, is all too often ignored. Many provincial departments are unaware that they are bound by proposals contained in municipal plans. Even though it is required by the Act, municipal plans are being approved without capital budgets for implementation of the proposals and the Minister has not been asking for updated five year budgets. The use of plans in strategic management is being overlooked. This undermines planning efforts. The implementation of plans is dependent on both the private and public sectors. It hardly seems fair to require the private sector to abide by plans and the implementing by-laws, when the municipalities and the Province do not use the plans to govern their own activities.

There are a number of general areas that could be improved in the Act. A few problem areas are cited:

- The Act could be made much easier to use with some reorganization, rewording and a reduction in cross referencing.
- The whole area of contract zoning needs to be examined. At the moment, few areas are rezoned for certain uses as it is not possible to impose conditions on developments except via the re-zoning process. This unduly complicates development approvals. Other means of ensuring that developments meet certain standards need to be explored.

- The various time frames established in the Act need to be reviewed; some are too long and others too short.
- There is little difference among development schemes, urban renewal schemes and the practice of adopting secondary plans as amendments to municipal plans. These could be all consolidated under the municipal plan section of the Act.

More definitions should be added in order to clarify differences in such things as residence, dwelling, building, home occupations, etc.

The process to amend the regulations under the Act is too **complicated and time consuming** and should be reviewed and streamlined.

The delegation of some authority, as was done in the case of the Acadian Peninsula District Planning Commission, may have to be extended in order to recognize district or regional differences. The decentralized decision making powers suggested in this report might negate the need to exempt any commission under the Act.

It is also suggested that something has to be added to the Act or regulations to deal with the **assembly of two more parcels of land into one parcel**. A similar problem is presented if one wishes to incorporate an easement that is no longer needed back into the adjacent parcels of land. There is also a conflict between the Planning Act and the Registry Act regarding the assembly of parcels of land. The intent is to make one parcel and yet the Registry Act recognizes the parcel as two lots, each with their own property identification number. This could probably best be handled through changes to the Registry Act or development of a new Land Titles Act.

3.0 SETTLEMENT ISSUES

3.1 INTRODUCTION

Settlement generally refers to the establishment of urban type uses such as residential, commercial, industrial and institutional. Settlement in municipalities (cities, towns and villages) and rural communities is generally considered as positive when it is contiguous and contributes to the existing community. Settlement, however, is often considered as negative when it occurs in the form of urban sprawl and ribbon development. **Sprawl** refers to that unplanned settlement that occurs on the outskirts of communities while **ribbon development** refers to the unplanned spread of continuous settlement along highways. These forms of development creates conflicts with resource lands and has negative impacts on the environment, on the highway system and on adjacent communities.

The subject of sprawl and ribbon development has been the focus of many past studies in New Brunswick. Although it has been recognized as a problem for many years, the government has taken very little action to address the problem. Sprawl and ribbon development is one of the major issues CLURE has been asked to address. Because sprawl and ribbon development is a phenomenon occurring largely in the non-incorporated areas and because it has been the predominant pattern of development in recent years, many people tend to think that all rural development is negative. The stigma attached to sprawl and ribbon development has unfortunately been associated with almost any form of rural development.

It should be clarified that CLURE's mandate is to address the problems of sprawl and ribbon development, it is not to prevent rural development. On the contrary, one of the major objectives of CLURE is to suggest a structure and process that will provide a framework that will enable rural communities to become involved in proactive planning so that they are better able to take advantage of development opportunities that would result in positive growth and development.

Approximately eight percent of the population of New Brunswick live in rural areas because their livelihood is directly related to the resource sectors ie. as farmers, wood producers, miners or fishermen. Still others are indirectly related to the resource because part of their income may be derived from supplying or servicing the resource sectors.

Regardless of the reasons they may live there, most rural residents in New Brunswick pursue their employment, recreation, culture and entertainment in urban areas. Some live on farms or large lots or in isolated communities or scattered developments which create very little concern for conflicts with each other, with resources or with the environment. There are, however, serious concerns with the denser and more concentrated forms of rural settlement

known as sprawl and ribbon development.

Small rural communities serve a valuable function as service centres for the rural and resource related population and businesses. In New Brunswick some small towns, villages and rural communities have fallen victim to sprawl and ribbon development, just as the larger urban centres have, as people have moved out to take advantage of a more rural lifestyle, lower development costs and fewer regulations and controls. Many submissions to CLURE lament the decline of rural communities. Many recounted the days when their communities had a school, churches, several stores, doctors, service stations, etc. Because of socio-economic changes and government responses to those changes, many communities have lost several of these community uses and are now largely residential communities occupied predominantly by older retired people.

These small towns, villages and rural communities are not only victims of sprawl but they have also been victims of larger economic and social forces. The increasing technology and market competition has changed the face of the resource industries. The number of farms has decreased and labour intensive woodlot operations have become less competitive and less profitable. This has resulted in a reduction of people employed in the primary resource sector and has forced many to seek employment in other sectors, including those located in municipalities. These global economic forces and mounting government deficits have also forced a rationalization of social programs and resulted in a reduction in rural schools and health care facilities.

There has also been an exodus of young people from rural communities. With less work in the traditional resource industries, young people have had to leave the rural communities to pursue employment or seek higher education. If they find employment or after they complete their education, they seldom return because of the lack of employment opportunities. If they do return they often locate outside the community. This leaves the rural communities even worse off because they are losing the younger people who are entering their working and child rearing years. This leaves the community with an older and, often, more dependant population who are less able to provide and maintain the services and facilities they once enjoyed.

Although this trend is lamentable, there is unlikely to be a resurgence in rural communities unless there are employment opportunities created in or near those communities and sprawl and ribbon development is brought under control. It will not be easy to stem or reverse either of these trends. Larger municipalities will continue to be the choice for most employment generators, not only because of the labour force but also, because of the many other supporting services and facilities they are able to offer to families and employees as well as the businesses. In many cases that is also where they should be located to take advantage of the water, sewer and utility support systems that are required. **Sprawl and ribbon development has been tolerated for so long it is almost an accepted way of life and it will take some time for corrective measures to become accepted.**

This does not mean that rural communities should give up on good planning and development to improve the communities. In Chapter 2, CLURE suggests a structure and a process which will permit local people to have a greater voice and become more proactive in the planning and development of their communities. Plans and strategies are suggested through which communities can examine their opportunities and set out policies and actions to go after these opportunities. The section on the location of commercial and industrial activities will set out policies to encourage the development of employment opportunities that are appropriate for rural areas ie. that are related to the resource industries as suppliers or user of products or that are craft or cottage industries or home-based businesses. There are also opportunities for outfitters, guides and tourist operators who are dependent on retaining the natural and sensitive wildlife and waterfowl resources as well as the scenic attributes of our rural areas.

District and local plans and strategies can be developed which contain policies that call for actions from groups like the Department of Economic Development and Tourism, regional economic development commissions and community groups, like Community Futures, to actively seek out employment opportunities and improve the skills and training of local workers. Information can be fed into these plans from the Regional Economic Conferences so its development policies can be coordinated with the findings of the Economic Conferences. The planning commissions and economic development commissions can work together to facilitate development in a proactive and positive manner. Planning itself will be better accepted if it is seen as a positive force in facilitating development instead of being strictly control oriented. How each community can respond to this is the responsibility of businesses, residents and community leaders. **The role of CLURE is to recommend a framework and a process within which this can effectively occur in harmony with resource uses and the environment.**

Goal and Objectives

While a healthy economy is essential to the overall well-being of residents, the goal of CLURE with respect to settlement is to recommend a structure, process and policies to manage our land and water resources and our patterns of settlement in a more efficient, environmentally sound and financially responsible manner.

The objectives to achieve this have to be sensitive to New Brunswick's unique situation and history. Rigid containment policies and outright prohibition of development outside municipalities and rural communities would not be acceptable in New Brunswick. That approach might have worked thirty years ago but not today. The approach CLURE suggests is adopting policies to halt the spread of sprawl and ribbon development by encouraging development in more appropriate areas and by protecting resource lands and environmentally sensitive areas.

The major objectives are:

- To encourage growth in presently built-up areas - cities, towns, villages, and rural communities in order to make efficient use of existing infrastructure and services;
- To discourage development along those portions of the provincial highway network that are intended to move traffic efficiently and safely;
- To minimize public cost associated with sprawl development by transferring the costs to developers and the beneficiaries of such development;
- To limit development in resource lands identified for agriculture, forestry, mineral and aggregate extraction and fisheries as well as our watersheds, groundwater supplies and lands for recreation and tourism development; and
- To limit development in natural and environmentally sensitive areas such as habitats for wildlife, waterfowl and fisheries as well as protecting our coasts and shorelines, flood plains and our air quality.

The remainder of this Chapter presents policies related to sprawl and ribbon development, location of commercial and industrial uses, regional servicing, building and development approval and incentives to encourage or discourage development.

The policies related to the resource objectives are contained in Chapter 4 and those addressing environmental objectives are presented in Chapter 5.

3.2 URBAN SPRAWL AND RIBBON DEVELOPMENT

3.2.1 Background

A. Definition of Sprawl and Ribbon Development

Urban sprawl is the unplanned growth of homes, industries and businesses just beyond city, town and village limits. Urban sprawl is taking place in New Brunswick because more people want a "rural lifestyle". Lots are larger and there are more open spaces. It is less expensive to buy and develop land. Add to that lower taxes and fewer planning regulations and you have an appealing mix where the level of service is high compared to the cost. The perceived benefits of the rural lifestyle have attracted many New Brunswickers to live in the non-incorporated areas (outside our cities, towns and villages). In 1991, Statistics Canada figures indicated that approximately 40 percent (288,190) of all New Brunswickers live in non-incorporated areas. This has increased from 36 percent in 1976 and the trend to increasing non-incorporated population is consistent across every county in the province. These statistics will be presented in greater detail later in this section. It is interesting to note that less than eight percent of the Province's population earn their livelihood directly from the land (farmers, woodcutters, mines, fisherman) and less than two percent live on farms. The vast majority of rural residents commute to urban areas for employment.

Ribbon development is a form of settlement that is often considered a forerunner of urban sprawl. Ribbon development occurs when homes, industries or businesses are built in an unplanned manner alongside highways. Ribbon development is spread out in a linear fashion and, as a result, the environmental problems do not tend to be as severe as those caused by urban sprawl. But it is more expensive to provide or extend services and utilities to these "ribbons".

The following description is attributed to a study conducted twenty-five years ago, in 1968, by the Saint John Planning Commission. This reinforces the fact that sprawl type development has been a concern in New Brunswick for a considerable period of time.

Urban sprawl development includes three basic criteria relating to its form and cause.¹

1. It can be defined as development scattered along roads or in isolated subdivisions away from serviced areas. Sprawl is frequently non-continuous development; it is often unserviced and unplanned.

2. Negative features of sprawl include the fact that it is inconvenient, costly, destroys farms and woodlands, can block future development, and is often haphazard and unattractive in appearance.
3. Sprawl is created by a combination of personal lifestyle choices and geographical/topographical considerations, general market factors and government policies.

For the purpose of this study, the following definition will be used, reflecting a common and accepted definition of sprawl and is applicable to the New Brunswick situation.

Development on the fringe or outside the built up area of a municipality, which is dominated by residential development, which relies upon a larger incorporated urban centre for the provision of employment, educational context, commercial/retail opportunities as well as recreational amenities. The settlement pattern is characterized by single family dwellings located in subdivisions and ribbon development along major or secondary roads. Development is scattered throughout the area with little or no order. Essentially development occurs with little control or regulation, resulting in conflicts between original residents and newcomers. It is an inefficient and costly form of development.²

Urban sprawl, in the New Brunswick context, applies to the residential, commercial and industrial development that is occurring in the non-incorporated areas on the fringes of municipalities, by people who are not involved or tied to the natural resources of the rural area. In most cases, these people are employed in a nearby municipality or are retired individuals whose only tie to the rural area, is as a place of residence.

There are a number of well known examples of urban sprawl in New Brunswick. Perhaps the most "infamous" example is the New Maryland area on the southern boundary of the City of Fredericton. This newly incorporated village is essentially the result of 20 years of unplanned and uncontrolled urban sprawl, which for the most part, relies on the services, facilities and employment opportunities contained within the City of Fredericton. The new village has inherited a host of problems. The village exhibits several characteristics of sprawl including unrelated subdivisions, traffic conflicts and safety problems, pollution of nearby watercourses and problems with the quantity and quality of groundwater. Estimates to adequately address the water and sewer problems alone could reach the 15 to 20 million dollar range. A new by-pass is the only solution to the traffic problems on the main route through the village. The Hanwell Road area, which is on the southwestern boundary of Fredericton, is another example of urban sprawl which contains both residential and commercial/industrial development. This area, like New Maryland, exhibits a dependent relationship on the City of Fredericton.

Other examples of sprawl development in New Brunswick are the Barsa Subdivision located

outside the municipal boundaries of the City of Saint John, Village of Rothesay and the Village of Fairvale. The Lakeside Subdivision development along the Old Shediac Road in Moncton, is just one of many sprawl developments in the Greater Moncton area. There has been considerable sprawl development activity along both the North and South Tetagouche Roads leading out of the City of Bathurst. The Campbellton area has the sprawl development community of Val d'Amour located just outside municipal boundaries. St. Andre Road is an example of sprawl development in the Grand Falls area. The former Village of Caraquet, was once known as the world's longest village. This is an example of excessive ribbon development, which is extremely expensive to service with public water and sewer services.

Sprawl development has occurred adjacent to most municipalities in New Brunswick regardless of size or designation. It can also take the form of incorporated areas such as the six towns and villages that make up the Kennebecasis Valley area to the east of the City of Saint John. Although some, such as the Town of Rothesay, have existed for many years, most of the communities have grown as a result of sprawl and ribbon development emanating from the City of Saint John. The City population has decreased by approximately 15,000 people over the past 20 years. This has had detrimental impacts, not only on its tax base, but also for economic development in general.

Sprawl development involves two distinct settlements. One is the dominate municipality which provides services, facilities, and sources of employment. The other settlement in this relationship, is the dependent one which depends on the dominate municipality for amenities and essential services. This relationship can occur between large cities or the smallest of villages, with either incorporated or non-incorporated sprawl areas.

B. Review of Government Studies

Between 1975 and 1977 the Province of New Brunswick carried out three major studies dealing with rural areas. The mandate of these studies varied and none were commissioned to look at sprawl specifically, however, many of the conclusions and findings relate directly to urban sprawl development.³

The 1976 *Report of the Task Force on Non-Incorporated Areas in New Brunswick*, (The Allen Report). The mandate of this study was to examine the "...effectiveness and efficiency of the municipal structure in the non-incorporated areas of the Province and the desirability and feasibility of other forms of municipal structure..."

This report and the accompanying briefs by government departments and the public, identified a number of rather serious problems that were a result of the lack of planning and control of development in the non-incorporated areas of the Province. **The major conclusions of the Task Force were:**

- Urban sprawl is the result of the desire for a "rural lifestyle" and lower tax rates and property values outside municipalities;
- Fringe area residents use municipal services without participating in the total costs of such services and, as a result, the tax base of the municipalities are being eroded;
- As growth continues, outlying areas are often amalgamated with adjacent municipalities; however, because there is no planning in these areas, development is not orderly and the cost of providing adequate municipal services is prohibitive;
- Ribbon development along highways results in conflicts between local and through traffic, may result in increases in accidents and slows the speed and hinders the flow of traffic. This may result in the construction of a by-pass highway, leaving the old route as an expensive residential street;
- As demand for land on the urban fringe increases for urban uses, rural land values increase resulting in the loss of agricultural land; and
- The potential for future health hazards is apparent because of the lack of effective sewage systems in many rural subdivisions.

The major recommendation of the Allen Report was to repeal all existing legislation pertaining to local service districts and to create 11 new municipalities with the status of "Rural Municipalities" to include all the non-incorporated areas of the Province..., with the same powers and responsibilities as prescribed in the Municipalities Act.

The following year, 1977, *"The Third Report of the Select Committee of the New Brunswick Legislature on Rural Life and Land Use"* (The Fanjoy Report) was released. It looked at a number of issues of concern related to the non-incorporated areas of the Province. Topics such as housing programs, planning and social policy, the best location for mobile homes, and programs aimed at developing the most effective planning for rural areas were included. **Of particular interest to the issue of sprawl, are the following findings:**

- It was found that the major causes of sprawl were the increased mobility of residents of the Province; the high cost of urban housing and services; and fewer building controls in rural areas;
- The amalgamation of non-incorporated areas, which have sprawl development, with existing cities and towns has resulted in costly expansions of services to the new areas and has created a situation in which some municipalities have little option but to refuse to provide service to such areas once they have been annexed, or to refuse outright to annex the non-incorporated areas;

- Sprawl type development can have a negative impact on water resources (both ground and surface); and
- Sprawl development has resulted in a loss of agricultural land and is seen as a threat to the identity of rural communities.

Also in 1977, the *Report of the Agricultural Resources Study* (The Parks Report) was released. This detailed study examined all aspects of agriculture, including finding ways to ensure a reasonable income to farmers and to provide them with some degree of security. It was realized that in order to meet these goals, an adequate and assured supply of agricultural land must be available. Sprawl development was viewed as detrimental to these aims. **Various negative factors associated with sprawl were identified. They included:**

- The interspersing of urban and rural uses breaks up major farm holdings and reduces the scale of rural operations, thereby reducing land use options;
- The upward pressures on prices created by urban related demands act as a barrier to the consolidation of farm holdings and a constraint to new entrants into agriculture; and
- Traditional rural lifestyles and community values are threatened by the intrusive activities of urban-oriented residents.

Following in the wake of the Allen and Fanjoy Reports, was a report on the proceedings of a 1978 conference on urban sprawl, which was held by the New Brunswick division of the Community Planning Association of Canada. The report called, *Schizophrenic Sprawl*, contained various papers on this topic, many reflecting the findings of the Fanjoy and Allen reports. One research paper contained the results of an attitudinal survey administered to 700 "exurban residents" dealing with the issue of sprawl. The survey revealed the following about sprawl in New Brunswick: that the housing stock in the areas surveyed (which were just outside four major New Brunswick cities) was predominantly owner-occupied, single family dwellings; and that residents lived in these locations because they liked the lifestyle. Many of the residents had moved to these locations from the cities, few were considering the possibility of moving back and very few complained about the services available.

There have been a number of other Provincial government studies conducted since 1980, which have examined aspects of sprawl development. They included: Controlled Access Highway Study, 1981; Agricultural Land Use Task Force, 1981; report of the Land Use Policy Task Force, 1982 and finally the Land and Water Use Policy Working Paper in 1985. These studies generally share the same findings as the studies conducted previously, with regard to the causes and implications of sprawl development.

None of these studies dealt specifically with sprawl although all referred to it. In 1980, the Province and Canada Mortgage and Housing Corporation commissioned Comay Planning

Consultants to prepare a detailed report on sprawl because of increased concern about the financial costs of the provision of both public and private services to residents in non-incorporated areas of New Brunswick. The costs, were rising rapidly and resulting in a severe strain on the financial capabilities of government and individuals. The increases were attributed in part to settlement trends. It was felt that a modification to the settlement pattern would result in financial savings and would also be socially and environmentally acceptable.

The terms of reference indicated that the purpose of the study was to address the problem of sprawl by: "...identifying whether sprawl is a serious problem." If it was identified as a problem, the study was expected to indicate to whom and where it was a problem, the reasons why it has become a problem and to suggest possible solutions, their costs and method of implementation.⁴

The study concentrated on six areas of the Province (Upper Saint John Valley, Central Saint John Valley, Fredericton Area, Saint John-Moncton Area, Shediac-Buctouche-Richibucto, and Acadian Peninsula) which were experiencing sprawl type development. The study essentially dealt with three forms of sprawl development: urban fringe development adjacent to major cities and some of the smaller municipalities; growth in hamlets and villages; and the scattering of non-farm housing along roads in rural areas (referred to as " ribbon development")

The major conclusion of this study was,

"... our findings ... indicate that sprawl in New Brunswick is not a serious problem. While the dispersed settlement pattern throughout the Province may not be the most tidy or organized form of development, it should be considered a reflection both of historic trends and of the present aspirations of many of the residents of the Province."⁵

This conclusion was refuted by many planners, even in 1980. It is highly unlikely, that the same conclusion would be reached in 1993. Growth statistics over the past 20 years, as well as the examples that are evident throughout the Province, indicate that sprawl is, indeed, a problem that poses serious threats to our resource lands and environment and has negative impacts on our highway systems, municipalities and financial resources. These impacts and recommendations related to them are presented in later sections of this chapter.

Although there has been much debate over the research methods employed and the conclusions of the Comay study, much of the background material is relevant. In fact, so little has been done about sprawl development in the subsequent years, many of the issues identified in the study are still very relevant.

This study focused on settlement, and did not consider (to any extent) the impacts on the rural environment and resources. Many of the environmental and resource concerns

examined by CLURE, are a result of the proliferation of sprawl development into the rural areas of the province.

As a result of the fact that little government action has been taken in the intervening period and that the "rural life-style" is still being pursued by New Brunswickers, the findings and recommendations of this study are relevant and were reviewed in light of the findings of the research and consultative process undertaken by CLURE.

The causes of sprawl development can be categorized into two factors, those being motivating and facilitating. There are a set of factors that motivate non-resource related families and individuals to choose to live in rural or fringe locations rather than urban locations. The facilitating factors are public policies and actions that encourage (or at least do not inhibit) the selection of a non-urban residential location.

I. Motivating Factors

The Comay study suggested that the major motivating factors that cause sprawl development include the following:

- to be free from the restrictions and pressures (tangible and intangible) and the problems of city life (including social problems, pollution etc...);
- to live on large lots, in generous open surroundings, with a healthy atmosphere, or in a scenic location;
- to live in a rural environment or country setting;
- to live in accordance with traditional settlement patterns or in close proximity to relatives; and
- to live in locations with convenient access to seasonal jobs (eg. fishing) or dispersed employment opportunities, or with convenient access to rural opportunities.

Although not listed as a motivating factor in the summary list, interviews conducted with public officials and other parties who were familiar with rural and fringe development indicated that economic factors such as lower taxes and lower priced land were also strong motivating factors. This was also indicated as major factors by rural respondents in the Fredericton and Saint John areas.

The number of people living in the non-incorporated areas has continued to grow annually. It is safe to assume that these people have chose to live in these areas for many of the same

reasons as other New Brunswickers have for the past 20 years. A recent Atlantic Region survey conducted by the Rural and Small Town Research and Studies Programme at Mount Allison University confirmed that the main reasons cited by residents for living in rural areas is a combination of lifestyle preferences and financial considerations with a strong emphasis on the former. It should be noted that this survey was conducted among a cross section of residents in rural areas and not specifically limited to sprawl areas as was the case with the Comay work.

As a result of the interviews and public consultation conducted by CLURE, it can be concluded that the pursuit of the rural life-style coupled with economic factors continue to act as strong sources of motivation. The attraction of lower land and development cost and lower property taxes are considered to be among the dominate factors which motivate non-resource related people to locate in sprawl areas.

It should be emphasized that the issue is not the people who, for whatever reasons, have chosen to live in rural areas, but rather the settlement pattern that results from this uncontrolled development, that is of concern.

II. Facilitating Factors

The study indicated that the main factors that enabled people to satisfy their residential desires in rural and fringe locations, generally include the following:⁶

- the availability of lower priced land;
- lower site development standards;
- fewer development restrictions and less government;
- indirect or "hidden" government subsidies to rural residents, through lower rural property taxes and the provision of free or lower-priced services and facilities;
- government policies which provide rural infrastructure; and
- the availability of easy financing for rural houses.

The study stated, and rightfully so, that the policies, conditions and actions that are seen to encourage and facilitate, or at least not inhibit, rural and fringe development are seldom intentional, in the sense that they are not directed to this end. Rather, these policies and actions reflect a general historical lack of interest, or concern regarding where residents of the Province choose to live or an appreciation of the problems created.

The 1980 study also identified four main government - related factors that directly affect rural and fringe development. These factors have not been addressed in any manner in subsequent years.

These government factors are summarized as follows.

1) The Absence of Local Government

The 292 Local Service Districts in New Brunswick are not incorporated bodies, and do not have elected councils like municipalities. A local Advisory Committee is elected (at a public meeting) to advise the Minister of Municipalities, Culture and Housing on issues related to the administration and provision of services. These Advisory Committees have no real power or responsibility, because they are not a responsible or accountable form of government.

While the existence of local government is not an absolute prerequisite for effective control of land use and development (nor does it ensure such control), the absence of local government implies the need for a fairly sophisticated and extensive Provincial planning machinery and process to ensure the degree of scrutiny and sensitivity to local issues and concerns that would otherwise be provided through local government. Such planning machinery and process does not exist in New Brunswick.

2) The Development Control and Planning Process in Non-incorporated Areas

The Province, primarily through the Land Use Planning Branch of the Department of Municipalities, Culture and Housing was responsible for subdivision and development control planning in the non-incorporated areas of the Province. The provincial development approval and planning process was viewed as being incapable of adequately controlling urban sprawl. In fact, the absence of this process actually enables such sprawl development to occur. This is because approvals such as those for subdivisions are allowed to take place without a reasonable review from an overall planning standpoint and the Province cannot effectively carry out a local planning role.

3) The Provision of Services to Rural and Fringe Areas by the Province

The provision of services by the Province, and to a lesser extent by municipalities, is viewed as a factor which facilitates sprawl development. The Province provides a relatively high level of services and facilities to residents of non-incorporated areas at a relatively low rate of property taxation.

A detailed discussion of the current provision of services by the Province and the property tax implications is provided in Section 3.6 - Incentives to Encourage or Discourage Development.

4) Provincial Subsidization of Services to Residents of Rural and Fringe Areas

It is accurate to suggest that the subsidization of certain services provided by the Province for rural residents does occur and that this practice encourages sprawl development. In addition to those services provided and subsidized by the Province, municipalities also subsidize services to rural areas. Such services as the use of recreational facilities by non-residents are subsidized by the municipal taxpayer.

The issue of Provincial subsidization of services is also examined in detail in Section 3.6. That section of the report cites the absence of government policies in some instances, and the existence of certain policies in other cases, as contributing factors to sprawl and ribbon development. In summary these policies included:

- a) **The absence of overall provincial land use policies** that provide any framework for the development of plans or policies at the local level or any direction for the approval of development such as buildings or subdivisions. There are subdivision and building regulations but these developments can be approved without any reference to their land use impacts or cost implications.
- b) **The variations and inequities in the tax rate** for residential and non-residential properties between the incorporated and non-incorporated areas represents influential financial incentives for rural development.
- c) **The variation between incorporated and non-incorporated areas regarding fee levels charged for services** such as building permits, by-law amendments, subdivision and variance applications presents another incentive for rural development.
- d) **Some policies and practices of the Department of Transportation** inadvertently act as financial incentives for rural development including sprawl and ribbon development. These policies include:
 - i) **The subsidized maintenance** of public roads which, if provided in a municipality would be paid for by the municipal taxpayer. This includes maintenance, such as ditching and culvert maintenance, that takes place beyond the shoulders of the road but within the right-of-way limits.
 - ii) **The summer and winter maintenance of private roads and non-designated roads at the taxpayers expense.** Although the official government policy under the Highway Act states that public money is to be spent only on public or designated highways, in actual practice there is a D.O.T. policy which permits winter maintenance on private roads with three or more inhabited dwellings and summer maintenance on private roads with five or more recreational dwellings (cottages). This becomes complicated when subdivisions originally approved as cottage or recreational lots are converted to year round

residences and residents begin demanding year round maintenance services. These policies not only extend the highway network and increase costs for maintenance services to this sprawl and ribbon development but it also leads to demands for additional services such as school busing and fire, police and ambulance services, again at a high cost to provincial taxpayers.

- iii) Although the subsidy has been reduced from \$700 to \$300, the Province still provides **driveway culverts** for rural residents building homes fronting on provincial highways and private roads in the non-incorporated areas. This is an additional incentive which perpetuates sprawl and ribbon development.
- iv) D.O.T. currently provides and places **chip seal paving** for streets in residential subdivisions and on local roads in the non-incorporated areas. This amounts to subsidy by the taxpayer to the developer and, thus, to the eventual purchasers of the lot.

C. Impacts Of Sprawl And Ribbon Development

The following is a summary of the main impacts of sprawl development, as identified in the Comay Study and updated from the findings of CLURE. Given the lack of change in Provincial Government policies regarding sprawl development issues, the impacts identified by Comay are valid in 1993 and if anything, the impacts have been exacerbated because of the lack of government action.

I. Environmental Impact

According to the 1980 study, the impact of sprawl development on the **aesthetic or visual elements** of the environment was minimal. This was attributable to the almost totally residential nature of the sprawl development in New Brunswick. Since this study, a considerable amount of industrial and commercial development has occurred in the rural areas, particularly in areas adjacent to the larger municipalities. The determination of impact on the visual environment is a subjective exercise. However, there can be no doubt that a drive along many of the main routes leading into our municipalities is anything but pleasing. Many of these routes have become cluttered with signs, fences, storage yards and out buildings associated with truck terminals, junkyards, bulk fuel plants, industrial buildings, warehouses and service stations.

The most significant impact of sprawl development on the rural environment is the impact on water quality. The lack of planning in the rural areas of the Province has lead to haphazard and uncoordinated development, often resulting in dense settlement patterns

which rely on private wells and septic disposal systems. Problems occur when there are too many houses to continue to allow private individual sewage treatment without risking contamination, and too few houses to make it economically feasible to provide common treatment. Concern about water quality is a result of the large number of private wells and septic systems. The Comay Study indicated that this problem was not viewed as widespread and is a concern only in those areas with specific conditions related to soil and the water table. The report did caution that "unless greater attention is paid to these water related concerns, the negative impact of sprawl development could be much more serious in the future."⁷

This concern regarding water quality has become more serious since 1980. Even though the Departments of Health and Environment have tightened-up on approvals of individual and communal **sewage disposal systems**, the problem is worse today. Most of the homes that utilized individual systems in 1980, are likely still using the same systems which are older and probably not functioning as well as they did in 1980. In addition, there has been considerable growth in rural areas, which for the most part, utilize private septic systems and wells. Even though the regulations pertaining to the installation of these septic systems have been improved, there is not an effective monitoring or inspection system to ensure that the systems are operated and maintained properly. These systems require regular maintenance and pumping to extend their operational effectiveness. Tile fields can become saturated after years of use and a new field may be required. This concern is compounded by the fact that two - thirds of the Province is not covered by mandatory building permit coverage. The building permit requirement provides a mechanism to ensure that a proper sewage disposal system is installed. The evidence of malfunctioning septic systems has shown up throughout New Brunswick in individual wells, ditches, streams, clam beds and other coastal areas.

Ribbon development tends to be less dense and more dispersed than sprawl development. As a result, the environmental concerns related to the use of private septic systems and wells, is not as great a concern as with sprawl development. However, the contamination of adjacent private wells is still possible because of malfunctioning septic systems and by road salt entering the water table and rendering a water source undrinkable. In order to solve this problem, communal water and sewer systems are sometimes required at considerable cost to the public.

In addition to the concern for water quality due to septic tanks, there is a much more serious and growing concern with the increasing amount of industrial and commercial sprawl in rural areas. With the increasing number of truck terminals, junk yards, bulk fuel tanks, industrial buildings, warehouses and service stations, there is the increase chances of **chemical spills** into streams and groundwater.

There is also an environmental concern with respect to **air emissions** from the inefficient fuel consumption of vehicular traffic which is compounded by more and more people commuting from outlying areas to employment in the municipalities.

II. Impact on Rural Resource Lands

The Comay study did not determine if there was any conclusive evidence which would suggest that rural and fringe development is having a serious negative effect on the use of rural land in terms of either agriculture or forest resources. However, the study did not totally eliminate the possibility that sprawl development does have a negative impact on agriculture land.

Without a province-wide, site specific survey, it is not possible to quantify how resource lands are being affected by sprawl. However, CLURE travelled extensively throughout New Brunswick and, by simple observation, it became obvious that **good agricultural and forest lands are being lost to sprawl development.** This concern was also strongly expressed in several submissions to CLURE.

As development pressures increase in rural areas, the value of land increases. The increase in the value of the land increases the operational cost for the traditional rural activities, such as agriculture and forestry. The development of urban type uses in the rural areas often results in the fragmentation of the land resource which impedes the efficient management of the natural resource. Urban type uses often present barriers to the normal operation and the expansion of traditional rural land uses. Natural and sensitive areas are often threatened, due to total disregard of their importance. This is caused, in some cases, as a result of a lack of knowledge of where these sensitive areas are located. There is little doubt that good agricultural land and forest land, is being lost to sprawl development in New Brunswick.

There is also increasing evidence that rural settlement patterns are causing environmental and resource concerns along coastlines. A brief submitted by the Premier's Clam Bed Action Committee (interdepartmental committee to halt further deterioration and improve the intertidal habitat for clams in specific locations of Charlotte County) expressed concern with the increasing development along our coastlines and the resulting degradation of the coastal environment. A more specific concern was in relation to clam flat bacterial pollution, where contaminated run-off and effluent discharge from sewage treatment systems were identified as the problem sources. The Committee commented that there are now over 100 shellfish area closures due to bacterial contamination in New Brunswick. Changes in land use patterns and waste management were suggested as key elements in reducing degradation of clam habitat and the coastal environment. A similar concern with respect to sprawl development was expressed by the Department of Fisheries and Aquaculture because of the potential impact on fisheries processing and aquaculture operations.

III. Impact on Adjacent Municipalities

The inability to obtain adequate information on the extent to which sprawl residents use municipal facilities and on the relative costs incurred by their usage, limited the ability of the Comay study to speculate on the impact of this.

The very common assumption that sprawl development reduces the growth rate of municipalities and erodes the municipal tax base could not be substantiated. The Comay study took the following position with regard to this contentious issue. "Since sprawl development in the Province is almost entirely residential and the municipalities are the focus for employment and commercial facilities, rural and fringe development cannot be said to compete with the municipalities for the revenues derived from these facilities but rather contributes to ensuring their viability."⁸

The findings of CLURE tend to counter the findings of the Comay study as they relate to the impacts of sprawl development on municipalities. CLURE acknowledges that it is very difficult to calculate the financial impacts of sprawl development on municipalities. However, a number of impacts can and have been identified as a result of this unplanned and uncontrolled growth on the borders of municipalities. As indicated previously, there is a dependent relationship which exists between a municipality and the adjacent sprawl areas and, it is from, or as a result, of this relationship, that many of the following impacts on municipalities occur.

Many of the negative impacts on municipalities are the result of providing services to residents of urban sprawl areas. Transportation is often cited as one of these services. Low density sprawl development has created both public and private costs related to transportation. The public costs result from the provision of the road network and its maintenance in low density areas. There are also private costs since individuals living in sprawl areas tend to expend more money on transportation to participate in activity in the urban area. The issue that affects the municipality is that the costs of transportation are not limited to the low density areas, meaning that the costs are spread to the municipality.

The example of Regent Street in Fredericton, cited by the City of Fredericton in its submission to CLURE, which connects the City to the Village of New Maryland, illustrates the concern municipalities have with regard to this issue. The maintenance and extensive costs to upgrade Regent Street are being born mainly by the City (property tax), partially by the Province (funds allocated for designated highways) and barely by residents of New Maryland (property tax). In addition to financial costs, the dramatic escalation in traffic, increasingly congested streets, higher noise levels, and higher parking demands, etc. on the citizens of the City are all negatives from a social amenity viewpoint. In other words, City residents are being asked to bear the externalities of suburban development.

Although this example applied to the problems encountered in Fredericton, similar situations exist, to varying degrees, in most municipalities that have adjacent sprawl development.

In a brief from the Cities of New Brunswick Association to the Cabinet of the Province of New Brunswick in 1991, the Association contended that the contemporary trend in cities in New Brunswick, is for the younger, and sometimes more affluent, families to locate/relocate in newer suburban areas removed from the city core. In other words, the younger age strata (potential new taxpayers) are moving out of the municipality. In terms of the existing individual property tax system, they would likely to be the greatest contributors to municipal revenue in future years. In addition these migrating family units are more likely to have dependent children. This increases the level of demand for recreational and community facilities. In effect, these families are the ones with the greatest potential usage of major facilities, yet, living outside the municipality, they make no contribution for their equitable share of these services through the property tax system. On a per capita basis, the costs of continuing to pay the capital and operational costs for existing facilities will increase for each remaining City taxpayer. While the number of tax payers within the City declines, an increasing number of users will be non-residents who make no tax related contribution to the cost of paying for operating such facilities.⁹ Although this trend is identified as applying to cities in New Brunswick, the same concerns have been expressed to CLURE by representatives of municipalities of all sizes. **In addition, references to other community plans, basic planning statements, background studies as well as other briefs to CLURE, support the findings expressed in the Cities Association brief with respect to the movement of the young population and the subsidization of municipal facilities.**

With respect to Comay's contention that the study could not substantiate the assumption that sprawl development reduces the growth rate and tax base of municipalities, a review of statistics in 1991 certainly suggests otherwise. Table 3.1 compares changes in the incorporated and non-incorporated areas of each county in New Brunswick over the 1976 to 1991 period. The table indicates that the overall municipal share of population decreased from 64 percent in 1976 to 60.2 percent in 1991 while the non-incorporated areas of the province have a corresponding increase from 36.0 to 39.8 percent over the same time period. This trend is evident in every county of the Province except for Victoria County, which showed a slight drop in the non-incorporated area percentage between 1986 and 1991. Gloucester County also indicated a decrease from 1986 to 1991, however, there were several annexations which contributed to this decrease. Discussions with development officers and District Planning Commission Directors around the Province indicate that the major portion of this non-incorporated growth has been in the form of urban sprawl. The introductory section of this chapter presented several examples of sprawl around municipalities throughout New Brunswick.

This trend is further substantiated by reference to Table 3.2 which presents the population changes in the major (Class "A" and "B") municipalities in the Province over the same time period from 1976 to 1991. Eight of the eleven municipalities experienced a significant decline in population (an average of 13 percent) over that time period. Only three of the

TABLE 3.1 Incorporated and Non-Incorporated Population by County
1976, 1981, 1986 and 1991

COUNTY	1976				1981				1986				1991			
	Incorporated	%	Non-Incorporated	%												
Albert	16,131	72.8	6,028	27.2	16,953	71.7	6,679	28.3	17,594	70.9	7,238	29.1	18,302	71.4	7,338	28.6
Carteton	9,002	36.7	15,559	63.3	8,399	34.1	16,260	65.9	8,242	32.4	17,187	67.6	8,121	31.2	17,905	68.8
Charlotte	11,442	45.0	13,981	55.0	11,222	42.2	15,349	57.8	10,957	41.3	15,568	58.7	10,925	41.1	15,682	58.9
Gloucester	40,894	50.5	40,131	49.5	41,667	48.4	44,489	51.6	41,548	47.5	45,925	52.5	45,032	51.1	43,069	48.9
Kent	7,757	26.8	21,230	73.2	7,509	24.4	23,290	75.6	7,384	24.2	24,112	76.6	7,162	22.6	24,532	77.4
Kings	26,789	61.5	16,799	38.5	31,082	60.8	20,032	39.2	34,217	64.6	22,381	42.2	37,235	59.9	24,887	40.1
Madawaska	24,744	70.9	10,148	29.1	24,968	68.5	11,464	31.5	24,500	66.8	12,162	33.2	24,422	66.8	12,132	33.2
Northumberland	22,200	41.2	31,694	58.8	21,280	39.3	32,854	60.7	19,352	36.5	33,629	63.5	21,021	39.7	31,962	60.3
Queens	6,774	53.3	5,946	46.7	6,279	50.3	6,206	49.7	6,063	48.6	6,424	51.4	5,852	46.7	6,667	53.3
Restigouche	27,966	69.2	12,654	31.2	27,471	67.7	13,122	32.3	26,419	66.2	13,502	33.8	25,376	65.5	13,384	34.5
Saint John	86,500	96.0	3,603	4.0	81,051	94.1	5,097	5.9	76,816	93.2	5,644	6.8	75,380	92.5	6,082	7.5
Sunbury	11,568	54.6	9,622	45.4	10,411	49.5	10,601	50.5	11,027	48.2	11,867	51.8	10,615	45.0	12,960	55.0
Victoria	10,654	50.9	10,278	49.1	10,549	50.7	10,266	49.3	10,596	49.3	10,908	50.7	10,622	51.1	10,164	48.9
Westmorland	80,911	76.5	24,814	23.5	80,721	75.0	26,919	25.0	82,083	74.0	28,886	26.0	84,560	73.7	30,185	26.3
York	50,362	70.5	21,069	29.5	51,574	69.5	22,639	30.5	49,150	63.7	28,061	36.3	51,095	62.1	31,231	37.9
TOTAL	433,694	64.0	243,556	36.0	431,136	61.9	265,267	38.1	425,951	60.0	283,494	40.0	435,720	60.2	288,190	39.8

SOURCE: Census of Canada, 1976, 1981, 1986 and 1991

TABLE 3.2
POPULATION CHANGES IN CLASS "A" AND "B" MUNICIPALITIES^o
1976 - 1991

Municipality	1976	% Change 1971 - 76	1981	% Change 1976 - 81	1986	% Change 1981 - 86	1991	% Change 1986 - 91	% Change 1976 -1991
Fredericton	45,248	86.6*	43,723	-3.4	44,352	1.4	46,466	4.8	2.7
Moncton	55,934	16.8	54,743	-2.1	55,536"A"	1.4	57,010	2.7	1.9
Saint John	85,956	-3.5	80,521	-6.3	76,381	-5.1	74,969	-1.8	-12.8
Bathurst	16,301	-2.2	15,705	-3.7	14,683	-6.5	14,409	-1.9	-11.6
Campbellton	10,177	-1.5	9,818	-3.5	9,073	-7.6	8,699	-4.1	-14.5
Edmundston	12,710	2.8	12,044	-5.2	11,497	-4.5	10,835	-5.8	-14.8
Chatham	7,601	-2.9	6,779	-10.8	6,500"A"	-4.1	6,544	0.7	-13.9
Dalhousie	5,640	-9.8	4,958	-12.1	5,363	8.2	4,775	-11.0	-15.3
Dieppe	7,460	74.4*	8,511	14.1	9,016"A"	5.9	10,463	16.0	40.3
Newcastle	6,423	-0.6	6,284	-2.2	5,804	-7.6	5,711	-1.6	-11.2
Oromocto	10,276	-10.1	9,064	-11.8	9,656	6.5	9,325	-3.4	-9.3

SOURCE: Census of Canada, 1976, 1981, 1986, 1991

NOTE: "A" refers to an adjustment in the boundaries of the municipality, between 1986 and 1991.

* Population increase resulting from amalgamation.

^o Class A and B municipalities as determined by the Department of Municipalities, Culture and Housing, for the purpose of calculating unconditional grants.

eleven municipalities have experienced a net population growth over this fifteen year period. Fredericton and Moncton have experienced modest population growth over this period. This growth in Moncton, can be partially attributed to adjustments in its municipal boundaries. The Town of Dieppe is the only municipality identified which has experienced a significant net increase in population.

The continued loss of population growth into the adjacent sprawl areas, effects the economic viability of municipalities due to the erosion of the population and tax base. The value of unconditional grants is partially based on the population of a municipality. If the population of a municipality has decreased, it receives less financial assistance from the Province for the provision of services. The problem is aggravated when the municipality is actually providing services to a population greater than that contained within its borders. This expanded population is made up of the residents of the adjacent sprawl area, who rely on and utilize services provided by the municipality. The municipalities contend that they are being asked to provide more services to more people with less financial resources, due to loss of municipal tax base and lower unconditional grants.

Annexations by municipalities in the past of adjacent sprawl areas have resulted in substantial **expenditures to upgrade services.** The Comay study strongly suggested "that such massive extensions of municipal boundaries are unlikely to re-occur, given the large areas of unused land which now exist in most of the large municipalities"¹⁰.

Given the recent initiative of the Provincial Government aimed at strengthening urban centres in which the province is requesting that municipalities examine the possibility of annexations, amalgamation and regionalization of services, it would appear that this assumption made by Comay was not correct.

User fees are sometimes charged by a municipality to outside residents who participate in programs or utilize facilities owned by the municipality. The user fees are applied against the cost of providing the particular program. The application of user fees are commonly associated with recreation activities. The user fee is applied to those non-residents who participate in structured recreational programs, such as hockey, baseball, soccer and figure skating. It is impossible to apply a user fee to non-residents who use municipal facilities such as parks, playgrounds/pools or to those who participate in unstructured programs. Essentially, the residents of municipalities are subsidizing the recreational activities of non-residents.

There is a recognized need for a mechanism that would facilitate the provision of services between a municipality and the urban sprawl development located on its fringe. Also, there is a need to establish some means to integrate the activities of these types of bodies. Certainly, the introduction of a District Planning or District Management Commission (as recommended in Section 2.4), would enable integrated planning to be conducted between municipalities and adjoining sprawl areas. **This integrated approach to planning would help to resolve common issues and concerns related to efficient land use planning, provision of**

services and the general development of the entire area.

Municipalities generally have a relatively sophisticated land use and management system in place. (Municipal Plan and Zoning By-Law) The absence of a similar planning structure in the non-incorporated areas tends to undermine sound planning and community development initiatives within the municipality. This reinforces the need for a mechanism to facilitate integrated planning between these two areas.

The current Provincial Government review of the municipal structure and regional service delivery in the Province, may solve some of these problems through the annexation of urban fringe areas to municipalities or through formalized regionalization of services.

IV. Financial Impacts

The 1980 sprawl study was unable to clearly determine the financial advantages and disadvantages of rural and fringe development to the public and to the residents because of the lack of adequate information on the costs. There was no doubt that this type of development was costly to the public, however, it was determined that some of the cost incurred were incidental (ie. road maintenance) while other costs, such as those associated with school busing, were a result of a Provincial policy.

It was determined that in some instances that considerable costs would be incurred by a municipality if it had to expand or upgrade services, in particular, water and sewer services to a sprawl area. The upgrading of these types of hard services in the past, has resulted in considerable costs to the Province or to the municipality involved. The study went further by stating "...that the question of water and sewer servicing to rural and fringe development requires greater attention - both because it could involve more significant public costs than any other service and because it relates directly to the issue of public health and preservation of the environment."¹¹

The report concludes by acknowledging that this type of development has a financial impact on the public through the various servicing responsibilities of municipalities and the Province. There are definite financial benefits to the residents of sprawl areas, such as the lower land and development costs and lower taxes. However, the Comay study also identified some of the "unperceived" costs that residents of these areas sometimes fail to realize, these being the costs associated with septic tank and well maintenance and their possible replacement and the increased cost of transportation due to longer distance of daily commuting.

Little has been done in New Brunswick, including the Comay study, to identify actual costs associated with sprawl. CLURE researched the cost of sprawl in other jurisdictions and that information was also limited. However, there are some generally accepted principles stemming from the work that has been done on this issue as well as some specific examples

from which reasonable conclusions can be drawn.

Services to land and residences, can be broken down into three types: 1) Fixed network services, which include utilities, water and sewer, street lighting and road construction and maintenance. 2) mobile network service such as police and fire protection, ambulance, snow removal, street cleaning, solid waste collection, public transit and school busing, essentially those services that rely on the road network. 3) Fixed facility services, such as libraries, parks, recreation centers and hospitals, which are at an established location.

The cost of delivering both the fixed network services and the mobile network services is sensitive to the density of development. The cost of fixed facility services are not directly affected by the density of development, since residents must travel to them. Thus, the cost incurred is a private as opposed to a public cost. However, if the population increases in the outside area, there may be demand for these types of facilities closer to the area. This has occurred in sprawl communities, which have requested that a school be built in the community, which may result in the underutilization of existing schools in a nearby municipality.

Comparisons of costs of providing fixed and mobile services to areas of varying density reveal, as would be expected, that it costs considerably more to provide them to less densely developed areas. The ratios identified in Table 3.3, illustrate the variation in relative cost of providing these services. These ratios were extracted from a study conducted by the American Farmland Trust entitled "Density - Related Public Costs".

TABLE 3.3 SERVICING COST COMPARISON

	Rural Cluster	Rural Sprawl	High Density
School operating/ Instruction	N/A	1.35	1
School Transportation	4.6	5.59	1
Road maintenance & Construction	2.1	4.30	1
Water & Sewer Services	N/A	2.95	1
<p>NOTE: Rural Cluster: 1 house / 1 acre Rural Sprawl: 1 house / 5 acres High Density: 4.4 houses / 1 acre (typical urban densities for single family dwellings) N/A: Data not available</p> <p>Source: <u>Density - Related Public Costs</u> American Trust, Washington DC, 1986.</p>			

This comprehensive study, examined the relative cost of delivering fixed and some mobile network service to three different densities of residential development. Rural cluster was defined as one house per acre, which is the same density as the requirement in New Brunswick (since 1976) for unserviced residential development. This is the type of density that would be found in most rural residential subdivisions in the Province. Rural sprawl was defined as one house per five acres. This density resembles the density of development associated with ribbon development along the frontage of highways in New Brunswick. The public cost of providing services to these densities was compared to the cost of providing services to a development of 4.4 houses per acre, which is the typical density for single family dwellings in most municipalities.

The four major categories of public costs were found to vary significantly (and inversely) with the density of residential development. School busing cost 4 to 6 times as much in the lower density areas, while road maintenance cost 2 to 4 times as much, and water and sewer services approximately three times as much. It can be concluded that the provision of services and programs to a low density, dispersed and unplanned settlement pattern, results in very high per capita costs to the Province and utilities (ie. N.B. Power & N.B. Tel). The services provided by the Province include : road maintenance, school busing, police and fire protection, street lighting and ambulance services. These services are partially paid for by property taxes assessed against property in the rural areas and are subsidized to some extent by the Province. The costs of providing fixed network and mobile services are directly proportional to the density of development. This conclusion is consistent with other studies on the cost of providing services to different densities. The widely-cited 1974 study entitled, *The Costs of Sprawl* (Real Estate Research Corporation), Washington D.C., supports this conclusion ... **the public and economic and environmental costs are higher for low-density "sprawl" development than for higher density "cluster" development. Simply stated, low density urban sprawl is not a cost efficient form of development.**

An internal study conducted by the City of Fredericton in 1986, examined the relative cost of providing services to a 100 acre (40.5 ha) parcel of land, if it was developed at urban densities (4 lots per acre) and if it was developed at a rural residential density (1 house per acre). It was determined that the annual cost of snow plowing, road maintenance and park maintenance would be \$218 per household (1986 dollars) in the unserviced subdivision compared to \$65 (1986 dollars) per household in the serviced subdivision. It cost approximately 3.5 times more to provide these services to a subdivision developed at the current provincial requirement of one house per acre, then it does to provide the same service to a subdivision developed to a higher density of 4 houses per acre.

The highway system and land ownership patterns combined with the lack of rural land use planning has resulted in the creation of an ideal atmosphere for the development of rural land along the highways of the Province. Although the Province has subdivision regulations which apply throughout the Province and a requirement for building permits along provincial arterial and collector highways, subdivisions may be approved without any consideration of

the land use impacts or the cost implications of development. There are no provincial land use policies and few plans for rural areas through which this issue can be addressed.

As pointed out previously, the Provincial Department of Transportation has a policy of providing summer and winter maintenance on Class D and some private roads when they have three or more inhabited dwellings or five cottages located along them. This encourages further development along these roads. This ribbon development expands the highway network and increases maintenance costs as well as creates a demand for other government services such as school bussing, police and fire protection. It is estimated that in New Brunswick there are 250 km of private access roads and 1100 km of Class D roads receiving various levels of maintenance from the Department of Transportation. Of these roads, approximately 700 km are used for recreational purposes. The cost of this practice is considerable, although the exact cost cannot be determined because of manner in which records are currently kept.

As discussed in detail in section 3.4 on Tools for Regional Service Delivery and Section 3.6 on Incentives to Encourage or Discourage Development, there is a need in New Brunswick for the Province to change its cost accounting system so that the true costs of providing various services to rural areas can be determined. This will be the only way to identify an equitable manner in which to charge for services that are provided to these areas.

There is a general consensus that the right to choose where to live is an absolute and inalienable right. However, it is felt that **it is the responsibility of the Government to ensure that the person who chooses to live in a particular area does so in a manner which minimizes impacts on neighbours, on resource lands and on the environment and that an equitable share of the associated costs are borne by the person making that choice rather than by the taxpayers of the Province.**

V. Traffic Conflicts Created by Uncontrolled Development

Sprawl type development and the associated ribbon development both cause problems and traffic conflicts on the highways of New Brunswick. Urban sprawl generates increased traffic volumes. It is estimated that a sprawl type development like the recently incorporated Village of New Maryland, south of Fredericton, generates ten vehicle trips per day, per household.¹² This type of traffic volume may result in the change of the function of a road from a local to a collector or from a collector to an arterial. Traffic conflicts result when the roads serve the dual purpose of land access and traffic movement. This type of conflict increases the potential for traffic accidents and is often accompanied by a demand for the upgrading of the road or replacing it with an expensive by-pass.

Ironically, it has been the policies and practices of the Department of Transportation, in combination with other factors, which have inadvertently encouraged sprawl development

to occur. Policies such as the winter and summer maintenance of Class D and private roads, accepting and taking over of substandard roads and the subsidization of private driveway culverts, have helped to facilitate and create the atmosphere which permits urban sprawl development to occur.

An associated issue, is that the current Community Planning Act does not differentiate between lots for residential use and lots for recreational use. Often the buildings constructed on these lots are converted to permanent dwellings. Such a change in use often results in an increased need for services such as, road maintenance, street lighting, telephone service and other services associated with a permanent dwelling.

D. Goal and Objectives

Goal

To mitigate the economic, social and environmental effects of existing sprawl development and to facilitate future settlement in a well managed and financially responsible manner and which also minimizes impacts on the natural environment and resource lands.

Objectives

- 1) To reduce or eliminate threats to the rural environment, including surface and groundwater resources, aesthetics and natural and sensitive areas caused by contamination from run-off and private sewage disposal systems;
- 2) To reduce or eliminate conflicts between encroaching urban type uses (residential, commercial, industrial and recreational) and the traditional rural and resource uses (farming, forestry, mining and fishing). Establish a mechanism to deal with the often conflicting values of traditional rural residents and newcomers;
- 3) To develop effective means to control urban sprawl which will limit the impacts on the Provincial highway network;
- 4) To remove the current subsidies which inadvertently encourage sprawl development to occur;
- 5) To establish a more equitable property taxation system or establish other appropriate means to recover the true cost of providing services to sprawl development; and
- 6) Establish a framework that will result in a mutually beneficial relationship between municipalities and the non-incorporated areas with regard to the provision of services.

E. Recommended Policies and Actions

Although the 1980 sprawl study did make recommendations with respect to the need for overall provincial policies, identification of priority areas, development guidelines and pilot projects, none of these measures have been taken. The causes and the resulting impacts of urban sprawl have continued unabated. The conflicts and problems associated with this unplanned development have intensified. Sprawl and ribbon development have become so widespread and tolerated for so long in New Brunswick that it has become considered as almost a God-given right to develop anywhere one chooses in the non-incorporated areas. These attitudes have become so ingrained, that it will be difficult to reverse this trend and the thinking related to it.

It is very difficult for any level of government to attempt to regulate where individuals can live or to limit the available residential options. The emotional nature of this subject has lead the Province, and to a certain degree the municipalities, away from making some tough decisions related to the causes and impacts of sprawl development. This lack of action, has exacerbated the problems and the resulting impacts of sprawl development have intensified. Any policies, plans or regulations to deal with this problem must be accompanied by public education and information regarding the concerns and costs related to this pattern of settlement. This will help residents develop an appreciation of why this type of development must be better planned and managed in the future.

In the recommendations which follow, some policies are blanket policies which apply to the whole province. Other policies recognize that there are unique and different circumstances throughout the Province. In these cases, general guidelines or policy directions are recommended and the specific details are left to the particular districts or communities which might be affected to incorporate in their own plans.

In the general introduction to settlement, it was pointed out that rigid containment policies or outright prohibition of development outside municipalities and rural communities would not be acceptable in New Brunswick. The approach CLURE has adopted is to develop policies to halt the spread of sprawl and ribbon development by encouraging development in more appropriate areas and by protecting resource lands and environmentally sensitive areas.

The recommendations are grouped under various headings in order to address the impacts identified previously ie. impacts on the environment, resource lands and municipalities as well as financial and highway impacts.

There are also recommended policies in other sections of this report that will indirectly help resolve some of these impacts or problems without specifically targeting sprawl and ribbon

development. For instance, in the section on resources there are policies to protect resource lands which will have the affect of limiting sprawl and ribbon development in those areas. Similarly, in the section on environment, there are policies to protect environmentally sensitive lands which will also serve to limit sprawl and ribbon development in those areas. There are policies in other sections on settlement, such as the section on incentives to encourage or discourage development and the section on tools for regional service delivery, that will also help combat the spread of sprawl and ribbon development. These various policies will be referred to under the appropriate headings.

The whole issue of sprawl and ribbon development could also be significantly affected by the direction the Province and the municipalities decide to take with respect to the Province's proposal for the urban-centred provision of regional services. If this concept were to be extended to cover some of the urban sprawl areas in the non-incorporated areas adjacent to municipalities, it could have a dramatic effect on how various urban and rural communities approach the issue.

I. General Policies for Structure and Process for Planning

The section on structure and process contained several recommended strategies and policies that will enable sprawl and ribbon development to be addressed on a much more comprehensive and integrated basis. These major strategies include the following:

- a) *a District Planning Commission structure, which will cover the whole province and will bring elected representatives of urban and rural communities together to discuss common problems and concerns regarding the urban fringe areas where most of the concerns with sprawl and ribbon development emanate;*
- b) *elected representation for rural communities, which will provide a greater voice for rural residents in sprawl areas and greater accountability for development decisions;*
- c) *a Technical Advisory Committee for each Planning Commission with representatives of various government departments, which will enable a more comprehensive and integrated approach to development approvals on a local basis. This will enable subdivision approvals to be made locally and facilitate "one stop shopping" for development approvals and building permits;*
- d) *District Development Plans encompassing urban and rural areas, which will provide a framework and policies to deal with problems on the urban fringe, including sprawl and ribbon development. These policies will then be used to guide the contents of development plans for municipalities and rural communities and would permit settlement issues to be dealt with at the local level; and*

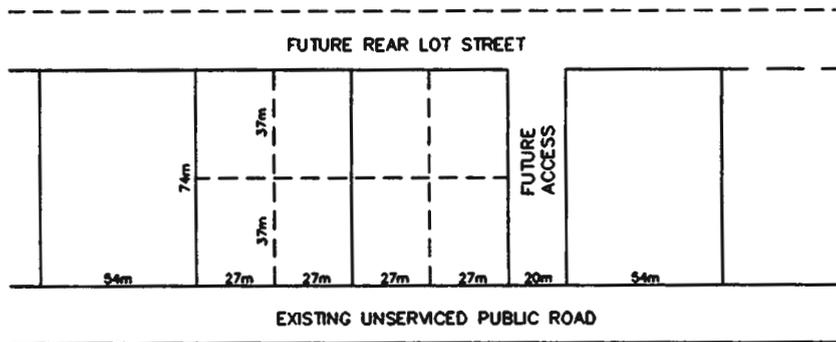
- e) *mechanisms for improved public education and communication so that information on the concerns and costs associated with sprawl can be communicated more effectively to residents.*

II. Environmental Impacts

- a) *Sprawl and ribbon development will be limited by provincial policies on the management and protection of environmentally sensitive areas as outlined in Chapter 5. These policies will limit settlement in natural and environmentally sensitive areas such as habitat for wildlife, waterfowl and fisheries, our coasts and shorelines, flood plains and in areas that are sensitive to certain air emissions.*
- b) *The environmental impacts associated with sprawl and ribbon development will be minimized through policies in Section 5.5 affecting septic disposal systems. This includes policies that require better control of the location, construction and maintenance of individual sewage disposal systems, setbacks from water bodies and coastal areas and consideration of communal forms of treatment, such as "clustering".*
- c) *It is recommended that residential development in urban fringe areas should only be permitted if (1) communal water and sewer systems are available or (2) if lot sizes and house placement are such that resubdivision of the lots could be facilitated in the future. This fringe area should be defined specifically for each municipality (by the municipality, the Province and representatives of the rural areas affected) and not by a blanket policy for the Province which sets a certain fixed distance from the municipal boundary. This distance will vary depending on the type, extent and density of existing development; on the capability of the land to support development; on the existence of designated lands such as agriculture, forestry, natural and sensitive areas which are protected under other Provincial land use policies; and on growth trends in the area. This distance should be based on the area that might logically be annexed to the municipality at some future date. This will help to protect the environment from possible contamination and will also encourage more efficient development adjacent to municipalities. This will reduce the amount of agriculture and resource land lost to residential development and will prove to be less costly to the municipalities and the Province, if annexation is considered in the future.*

The second option is illustrated in Figure 3.1. It would require all lots along an existing highway to be a minimum of 0.4 hectares (1 acre) with a minimum frontage of 54 m (180 ft) and a minimum depth of 74m (242 ft). In addition, the house or building would have to be located on a front quarter of the lot to facilitate resubdivision into smaller lots of 27m by 37m (90 ft by 121 ft), if and when municipal services are extended. This would allow two lots fronting on the main road and two more lots fronting on a rear access road, if subdivision to the rear of the lots was ever

FIGURE 3.1
LOT SIZES - UNSERVICED DEVELOPMENT



contemplated. By placing the house on a front quarter, it will ensure that it would not be placed in the centre or some other location which would jeopardize future subdivision.

- d) *The environmental impacts associated with industrial and commercial uses will be reduced through policies in Section 3.3 which encourage these uses to be steered to designated industrial parks and commercial areas unless they are related to the rural areas or its resources. For those industrial and commercial uses considered appropriate for rural areas, guidelines are suggested pertaining to approval of their location and operation.*

III. Impacts on Resource Lands

- a) *Sprawl and ribbon development will be limited by provincial policies on the management and protection of resource lands as outlined in Chapter 4. These policies will limit settlement on lands identified for agriculture, forestry, mineral or aggregate extraction and in areas that might impact on fisheries, watersheds, and groundwater supplies as well as on parks and recreation/tourism areas.*
- b) *There are also policies in Section 4.1 that recommend that incentives such as the Farm Land Identification Program (FLIP) be expanded and enhanced to make it more of an incentive to retain resource lands. It is also recommended that FLIP be considered for extension to cover other resource lands. It is further recommended that resource related-land also be considered for reduced or variable rates of taxation, if the services provided do not benefit the resource lands ie. charges for solid waste collection should be billed*

against the residential component of a property that also has resource holdings associated with it.

IV. Impacts on Municipalities and Rural Communities

- a) *All of the policies cited above to limit growth on resource lands and environmentally sensitive areas should enhance the opportunities for new growth to occur in municipalities and rural communities.*
- b) *The requirement for higher servicing standards in fringe areas outside municipalities (as described in policy (c) under environmental impacts) should also act as an inducement for more growth within municipalities. It should also ensure that, if annexations were to occur in the future, the areas annexed would have an acceptable level of servicing so that municipalities would not have to divert attention from its current infrastructure in order to bring the outside areas up to a minimum standard.*
- c) *The policies following in Section IV, regarding the elimination of DOT incentives for sprawl and ribbon development will reduce impacts on municipalities as well.*
- d) *The recommendations in Section 3.6, with respect to more equitable taxation policies, would also encourage less sprawl and ribbon development and thus more development within municipalities. This would help stem the loss of population and erosion of the residential tax base. Even more significant with respect to loss of tax base, are the suggestions for more equitable taxation between incorporated and non-incorporated areas with respect to commercial and industrial uses. These should also attract industrial and commercial uses to more suitable areas within municipalities where they would result in fewer land use conflicts and less potential for environmental impacts.*
- e) *It is recommended that, for some services, it may be more appropriate to consider such measures as user charges or impact fees, as opposed to property taxation, to recover costs associated with providing services or facilities for use by non-residents of the municipality. These may be more appropriate where the services or facilities are only used by a certain segment of the non-resident population and it may not be equitable or fair to tax all non-residents for provision of the service. It is these types of issues which should be addressed as part of the feasibility studies associated with the Province's proposal for the urban-centred delivery of regional services.*
- f) *It is recommended that municipalities be encouraged to make themselves more attractive environmentally and aesthetically as well as providing more affordable housing. With respect to the latter, municipalities should consider the relaxation of some standards that are well above minimum standards (with respect to lot sizes, municipal services, underground utility requirements, etc.) in order bring lot prices within reach of a larger*

segment of the population. Municipalities should also be encouraged to experiment with concepts such as "cluster housing" where smaller lots on communal servicing systems are provided, especially in areas where it may be difficult and expensive to extend municipal systems.

V. Impacts on Highways Systems and Traffic

- a) *Several of the policies cited above to limit sprawl and ribbon development will have the side benefit of reducing traffic conflicts and improving traffic movement and highway safety.*
- b) *It is recommended that the current policies and practices of the Department of Transportation, which inadvertently act as incentives for sprawl and ribbon development, be eliminated. These include:*
 - i) *The DOT should discontinue its policy of providing summer and winter maintenance on Class D and private roadways. In theory these roads are not supposed to receive regular maintenance services but many do once three homes or five cottages are developed along them. Quite often these roads are upgraded (at taxpayers expense) before maintenance can be carried out. This practice serves to expand the highway network, increases maintenance costs and creates demands for other government services. Although it is difficult to cut back on the Class D and private roads currently receiving regular maintenance, no new roads or extensions to existing roads should be maintained in the future. Further, the application of Section 6(1)(b) of the Provincial Subdivision Regulation regarding the accepting of "other such access" by the Provincial Planning Committee should be clarified so as to eliminate acceptance of private roads to recreational lots which are often converted to permanent dwellings resulting in the demand for additional services. It is further recommended that DOT adopt a policy of accepting roads only if they meet the minimum DOT standards and if residents living along the road contribute to the cost of maintaining the road either through taxation or other appropriate development or impact fees.*
 - ii) *The DOT should adopt the user-pay principle and eliminate all subsidy for the provision and installation of driveway culverts for developers or individual lot owners.*
 - iii) *The DOT practice of supplying chip seal and street signs at no cost to the developer should cease. This cost should be borne by the developer and eventually the lot purchasers.*
- c) *It is recommended that provisions of the Highway Act pertaining to controlled access be*

enforced as a means of limiting further sprawl and ribbon development.

- d) *It is recommended that no direct lot access be permitted on any future arterial highway. All access should be at interchanges or intersections. It is recognized that this may lead to higher costs because of the need to provide parallel service roads or possible compensation. The best solution would be for DOT to work with affected landowners on possible solutions for dealing with issues such as loss of access and the severing of properties. Similar conditions should apply to all future collector highways except that access could also be permitted from subdivision streets.*
- e) *It is recommended that, with respect to existing arterial and collector highways (Route No. 1 to Route No. 199), the Province (DOT) designate those for which it feels it is absolutely necessary to minimize direct future access from individual driveways. The DOT and the Department of Municipalities, Culture and Housing should form a Committee which would analyze these routes and jointly determine those sections that are built-up to the extent that it is not practical to deny future access. Limits of these areas could be defined, including an area for future development adjacent to the existing uses. This would require that calculations be carried out to determine the density limits above which it becomes feasible to consider a by-pass instead of the purchase of land or payment of compensation to enforce controlled access standards. It would also involve consideration of social costs, physical constraints and environmental considerations.*

For those areas remaining along the designated routes, which would have little or no frontage development and would be considered salvageable, the following options could be considered:

- i) *permit no new individual access along the highway. This would require consideration of costs for construction of service roads or compensation similar to that referred to in (d) above.*
- ii) *permit no new individual access along the highway except for previously approved building lots. This is fair for those who have purchased lots with the intent to built at some future date. Calculations would be required to determine the maximum number of these lots which could be accommodated or, alternatively, purchased (or owners paid compensation) before the cost to construct a by-pass becomes feasible.*
- iii) *permit future development only by means of subdivision streets. ie. all future lots must have frontage on an interior street which could either be a parallel access or service road or a perpendicular access road, either of which must meet DOT standards for a local subdivision street. This permits people to develop but it would increase development costs and thus the sale price of lots. Although this option would reduce the total number of accesses and improve safety, it would not likely reduce the need for an eventual by-pass highway.*

- iv) *permit lots to front along the highway but they must be serviced by means of a common driveway serving a defined number of lots. Once past the highway right-of-way line, the driveway could split and run parallel to the highway to serve one, two or three lots on each side. In this way the common driveway could serve from two to six lots. This would cut the potential number of private accesses from two to six times what it would be by allowing unrestricted development on individual lots with access directly onto the highway. This would be a private driveway which would have to be built and maintained by the owners. It would reduce the number of accesses without the higher costs associated with street construction.*

It is recommended that the joint committee consider these or similar options to attempt to reduce the congestion and safety problems which will continue to occur unless something is done to come to grips with this problem. It is further recommended that the Province involve local residents through their municipalities, district planning commissions, rural communities or LSDs in order to work with them at arriving at acceptable solutions. It is not the intent to create hardships for any residents. Rather, it is an attempt to permit development but in a manner that provides for the movement of residents and visitors along our major highways in an efficient and safe manner.

- f) *It is recommended that, on all other Provincial highways, development be permitted providing all existing provincial regulations are met and all land use and development policies that the Province adopts are respected.*
- g) *Sometimes access to the rear or back lands is almost completely cut off by continuous frontage development along highways. It is recommended that DOT work with the Department of Municipalities, Culture and Housing to develop a policy that would require, as part of the subdivision approval process, that some provision for future access roads be provided within a specified distance along highways. For example, once a reserved access to the rear land is established as part of a subdivision plan, further accesses would then have to be provided within at least 400 m intervals from the first established access.*

VI. Financial Impacts

Many of the policies already recommended would reduce the financial impacts on the Province and municipalities that occur as a result of sprawl and ribbon development. These include: the requirement for higher servicing standards in the fringe areas adjacent to municipalities; the recommendations with respect to equitable taxation policies between incorporated and non-incorporated areas; the use of such measures as user charges or impact fees as opposed to taxation policies for some services; and, the elimination of current policies and practices that inadvertently act as incentives to encourage sprawl and ribbon development.

3.3 LOCATION OF COMMERCIAL AND INDUSTRIAL ACTIVITIES

3.3.1 Background and Concerns

A. *Introduction*

There is a need in the rural areas of New Brunswick to encourage appropriate commercial and industrial operations, while at the same time ensuring that they are properly located so that impacts on neighbours and the environment are minimized.

Resource-based industries, such as agriculture, forestry, mining, aggregate extraction and fisheries, obviously, have to be located near the resource. Often businesses which supply products or services to the primary industries, or utilize their raw materials or products, also require locations adjacent to those industries. Similarly, there are many small-scale commercial and industrial operations, home-based business, cottage or craft industries or others related to fishing or hunting, that are also appropriate for rural areas.

CLURE recognizes that the entrepreneurial spirit should not be stifled in rural areas, but it also recognizes the need for policies and guidelines to ensure these industries do not conflict with adjacent uses, other resources or the environment. At the present time there are very few policies at the Provincial, district or local level that deal with the location or siting of these various uses.

Many of the factors and conditions (ie. lower property taxes, lower land costs, fewer regulations and little land use planning), which have resulted in sprawl and ribbon development outside municipal boundaries, are also the motivating and enabling factors which attract inappropriate industrial and commercial activities to the non-incorporated areas of the province. In addition to these factors, financial assistance through grants, available from the Province to industries in rural areas, has been identified as a concern. The practice of providing financial assistance to these activities is done with little attention to the actual siting of the operation, from either an environmental or land use planning perspective. This practice also undermines the development of industrial parks in municipalities, which have been created at considerable public expense.

The sections that follow will outline these concerns under appropriate headings and then recommendations to address the concerns will be presented.

B. Lack of Provincial, District and Local Policies

The lack of Provincial Land Use Policies has resulted in the uncontrolled development of both commercial and industrial activities in the non-incorporated areas of the province. These activities have been located with little concern for the environment or existing land uses, often resulting in conflicts with the environment and adjacent uses.

Similarly, with no regional plans, only one district level plan, and relatively few basic planning statements in place, there has been little attempt at a regional or local level to plan for industrial or commercial uses. The lack of planning with respect to the location of industrial parks at all levels is a particular problem that is addressed in more detail in Section F following.

The absence of existing siting guidelines, is inadequate from the perspective of both rural residents and industries attempting to locate in rural areas. It would be preferable for all parties to know in advance, where industrial activities are permitted or at least to have guidelines and conditions with respect to their location and operation. These guidelines could be developed for application on a Province-wide basis but would have to be applied and enforced locally, since they would deal specifically with issues such as adjacent land uses, environmental features and highway and traffic conditions.

C. Land Use Conflicts

The absence of Provincial land use policies, plans or guidelines at all levels, allows for the siting of industrial and commercial development in close proximity to residential development. Often this results in conflicts between residential uses and those commercial/industrial uses which generate nuisances (ie. odour, smoke, dust, noise and traffic).

In some instances, residential developments are established near existing commercial and industrial operations which may impact on the ability of the operation to continue to operate effectively. There are no regulations or policies in place that prevent this from occurring.

D. Environmental Concerns

The majority of commercial and industrial developments that are located in the non-incorporated areas are unserved (ie. they operate with private septic systems and wells). There is some concern about the ability of these facilities to effectively handle the types of

effluent that are often generated by some industrial activities. **As a result, there is some justifiable concern regarding the potential for soil and water contamination.** It is often these types of concerns that are at the heart of land use conflicts between residential and industrial uses in rural areas.

The uncontrolled growth of commercial and industrial activities has resulted in several areas where truck terminals, junkyards, bulk fuel storage, industrial buildings, warehouses and service stations have been located with little concern for the rural landscape. **The various chemicals associated with these uses also pose concerns for potential contamination of groundwater and surface water resources, as well as air quality.** Commercial/industrial operations frequently use large amounts of water and this can draw down the supply available to other users in the area.

Most of the industrial parks located in municipalities were designed and developed to accommodate effluent generated by industries. In addition, the actual location of the park was based on minimizing negative impacts on adjacent land uses. Fully serviced, planned industrial parks are much more suitable locations for some industrial activities.

These concerns, with respect to environmental impacts from emissions to air and water, may be related to the ongoing operation of the business as well as potential contamination due to accidental release of hazardous materials that are used in the operation. Site selection is important when determining the impact of emissions; eg. is it adding to an already overloaded airshed or watershed. Site selection is even more critical when determining risk from uncontrolled release of hazardous materials. By its very nature, uncontrolled release will cause environmental contamination above an acceptable level and can result in acute risk to public health. It is important that economic activities, which entail the use of hazardous materials, not be located in particularly sensitive areas or where an uncontrolled release would create public health problems.

Many industrial operations do require an "Approval" from the Department of Environment. The approval will typically place limits on the level of emissions, but is not intended to take into consideration compatibility of the industrial activity with other uses in the area. Major industrial projects may be subject to the Environmental Impact Assessment (EIA) regulation. This is relatively recent legislation and does allow broader consideration of a project. However, it has traditionally been intended to address the more technical issues of environmental impact rather than compatibility with neighbouring uses and the social impacts (changing the character of the community). Because of the lack of controls on siting of industrial activities in other legislation, the public often turns to the EIA process as a technique to block a project which is seen as undesirable in their area. This often reflects the fact that the affected public has not been consulted with respect to the development in question.

E. Inequities in Taxation and Development Cost between Municipalities and the Non-Incorporated Areas

Section 3.6 presents detailed information with respect to incentives and taxation issues. **There is a considerable difference in the property tax rate charged to non-residential property (commercial and industrial) in the non-incorporated areas and that charged in municipalities.** These basic average rates as shown in Table 3.4. Non-residential property, is taxed at a rate one and half times the Provincial rate (\$1.50) or \$2.25 per hundred dollars of assessment, in both municipalities and the non-incorporated areas. In the municipalities (where the average rate is \$1.25 per \$100 of assessment) and in the non-incorporated areas (where the average rate is \$0.12 per \$100 of assessment), the local rate is also calculated at one and half times, resulting in an average rate of \$1.87 for municipalities and \$0.18 for LSDs, respectively. This is then added to the Provincial rate to form the non-residential property tax rate. The average non-residential tax rate in municipalities is \$4.12 compared to \$2.43 in the non-incorporated areas. In the non-incorporated areas, owner-occupied residential property is taxed at a rate of \$0.65 per hundred dollars of assessment, to partially off-set the cost of providing road maintenance, police protection and solid waste disposal services. Non-residential properties, in non-incorporated areas, do not pay toward this package of services even though they benefit from them. In municipalities, non-residential properties pay toward these types of service because they do benefit from them.

Table 3.4 - New Brunswick Property Tax Structure

TAX CLASS	AVERAGE TAX RATES						
	Municipalities			Local Service Districts			
	Provincial	Local	Total	Provincial	Provincial /Local	Local	Total
Residential Owner-Occupied	\$1.50*	\$1.25	\$1.25	\$1.50*	\$0.65	\$0.12	\$0.77
Residential Non Owner-Occupied	\$1.50	\$1.25	\$2.75	\$1.50	--	\$0.12	\$1.62
Non Residential	\$2.25	\$1.87	\$4.12	\$2.25	--	\$0.18	\$2.43
<p>* Residential owner-occupied properties receive a credit of the total amount of the Provincial tax rate.</p> <p>Source: Servicing and Financing In Local Service Districts. Discussion Paper prepared by the New Brunswick Department of Municipalities, Culture and Housing, Corporate Planning Branch. November, 1992.</p>							

Based on the average figures presented above, a commercial or industrial use would be charged 70 percent more property tax, if it was located in a municipality, than if it was located in a non-incorporated area. The large variation in the non-residential tax rate acts as a strong motivating factor for non-residential properties, in the form of commercial and industrial activities, to locate in the non-incorporated areas, often at the expense of the municipality. It also creates an unfair competitive advantage for those businesses which locate in the non-incorporated areas. This considerable discrepancy in tax rates should be addressed by ensuring that the tax rates for incorporated and non-incorporated areas are calculated on an equitable basis.

Lower development standards, in terms of building construction and lower building permit fees, in the non-incorporated areas compared to municipalities, also act as incentives to locate industrial and commercial operations in the non-incorporated areas of the province.

F. Investment in Industrial Parks

I. Industrial Parks Promote Sustainable Development

Industrial parks can be very effective tools for planning, economic development, and environmental control. An industrial park is a planned or organized industrial district with a comprehensive plan which is designed to ensure compatibility between the industrial operations therein and the activities and character of the community in which the park is located. The total effect should be to integrate economy and function with pleasing aesthetics and controlled environment to the long term benefit of both industry and the community.

This emphasis on efficient and economic development, while at the same time emphasizing compatibility with the character and environment of the community, reinforces the concept of "sustainable development" that is currently espoused by most economic, environmental and planning groups and associations.

a) Industrial Parks as a Planning Tool

Except for a few of the larger cities, industrial parks have not been used as an effective planning tool in New Brunswick. Industrial parks have not been established as the result of comprehensive studies based on recognized location and space requirements. In communities, with or without development plans, industrial sites were often selected because the site was owned by the municipality or the Province, not because it was particularly well

sited or located for industrial development. Other times, sites were selected on the basis of an existing industry or features such as a wharf, rail line or highway. Industrial park locations should be based on recognized site location principles and standards such as labour supply, markets, services, access and physical site constraints.

In areas outside of the boundaries of municipalities, there has not been much integrated planning among the Department of Economic Development and Tourism, the Department of Municipalities, Culture and Housing and the Department of the Environment, regarding industrial park location.

The Province has adopted no regional plans and only one district (area) plan. Generally, regional and area plans are intended to provide policy direction on regional issues such as transportation, resource development, economic development, and environmental constraints or opportunities. Thus, there has been no comprehensive regional analysis undertaken on which to base decisions to support industrial park development. In most cases there has been little coordination between the plans or activities of regional planning commissions and regional economic development commissions. Part of this stems from the lack of an overall strategy or policy direction from the Province with respect to development of non-incorporated areas. There obviously has to be coordination and cooperation between departments as well as leadership and direction from the Provincial Government.

b) Industrial Parks as an Economic Tool

Industrial parks create economic opportunities and enhance the potential for multiplier effects through the concentration of industry in designated areas. Communities or regions that have properly planned and located industrial parks are more likely to attract industrial development. Lack of immediately available industrial land is seen as a real hindrance to economic development. The concentration of industry in one area provides economies of scale in servicing; it also gives an impression of success and tends to build up confidence in prospective investors.

Although the Department of Economic Development and Tourism has attempted to use industrial parks as economic development tools, basic constraints have often prevented these programs from being effective. Often funding has been poured into parks because they were there, or because urgent infrastructure improvements were necessary, or in response to pressures to accommodate a single industry that was hoped would be a catalyst for further development in the area.

Limited budgets have obviously hampered the use of industrial parks as effective economic development tools in all parts of the Province.

With an increasingly competitive economic development climate, the Province and its

municipalities need to have serviced industrial parks available in order to compete with neighbouring provinces and states which have these facilities in place.

Some of the larger and more successful parks in the Province have illustrated, through employment generation, land sales and tax revenues, that industrial parks can, indeed, be effective tools to generate economic benefits to the Province and the municipalities in which they are located. Unfortunately, few parks in the Province have developed to such an extent.

c) Industrial Parks as an Environmental Tool

Industrial development has been one of the major causes of environmental pollution. **Industrial parks offer the potential to minimize undesirable environmental impacts.** Until recent years, however, industrial parks have not been recognized in New Brunswick as a tool for environmental protection. Part of the reason for lack of emphasis on environmental aspects can be related to the fact that no overall comprehensive planning has been associated with the establishment of most the Province's industrial parks.

Non-incorporated areas of the Province are largely unplanned and uncontrolled, in terms of land use development. This presents increasing hazards for the environment. It has been too easy for industries to locate just outside the boundaries of municipalities where they can take advantage of the labour force, markets, services and facilities, available in the adjacent municipality, without any controls on land use or without contributing to the municipal tax base. This not only undermines the tax base of the adjacent municipality but, because most of this development is serviced by individual wells and sewage disposal systems, it poses potential dangers of groundwater depletion as well as contamination of surface and groundwater supplies.

II. Provincial and Federal Investment in Industrial Parks

Currently, there are 51 industrial parks in the Province of New Brunswick, most of which have received funding for infrastructure, promotion and management from the Province and are located within a municipality. The Province, through the Department of Economic Development and Tourism, is currently reviewing options for the rationalization of the industrial parks. Lower land cost, lower property taxes and fewer regulations in the non-incorporated areas, have resulted in some industrial operations locating in these areas at the expense of established industrial parks which have been heavily subsidized by the taxpayers of the Province.

The Province, and agencies such as ACOA, provide financial assistance to industries and

commercial operations regardless of the location of the activity. The Province provides financial assistance to the industrial parks to upgrade infrastructure in order to make the park more attractive for development. At the same time, the Province provides financial grants to industries and commercial operations in less appropriate rural locations. This situation is counter-productive and results in the underutilization of the industrial parks and attracts industrial development into areas that have little planning control and, as a result, threatens the rural environment and generates land use conflicts.

III. Municipal Investment on Industrial Parks

Of the 51 industrial parks in New Brunswick, 28 are owned by municipalities, 10 by the Province, 12 by the Regional Economic Development Commissions, and one is privately owned. Although municipalities have benefited from the federal and provincial funding mentioned previously, they have also invested heavily in the industrial parks located within their boundaries. **In many municipalities, this investment has been adversely affected by uncontrolled industrial and commercial development outside their boundaries.** The availability of lower priced land and lower taxes outside boundaries, combined with this lack of control, is an attractive incentive for industrial development. The commercial and industrial operations on the fringe of municipalities utilize many of the services of the municipality, but do not pay towards their cost. This type of fringe development undermines the tax base of the municipality and places added strain on its services (roads and fire services). Often these types of activities form ribbon development along the main roads leading into the municipality detracting from the visual landscape and causing traffic conflicts. This also places demands on the municipality to upgrade municipal streets used by the industries, as well as increasing the upgrading and maintenance costs to the Province for the provincial portion of those highways.

There are alternate and innovative development patterns for commercial activities which locate along main roads. These alternate approaches may include designating commercial "nodes" in compact, centralized areas located at the intersection of major roads. This would protect the rural landscape between these points and limit potential points of traffic conflicts.

G. Junkyards and Salvage Operations

During the public consultation phase, CLURE was made aware of the concern of rural residents about two particular types of commercial/industrial activities; namely, junkyards and salvage operations. Other industrial activities that are often a source of concern and conflict to rural residents are asphalt plants (both permanent and mobile) and pits and quarries. These issues will be dealt with separately in Section 4.4.

In New Brunswick, junkyards and salvage operations are storage areas for salvaged goods which include: second hand, used, discarded or surplus metals; goods or articles of every description; unserviceable, discarded or junked motor vehicles; bodies, engines or other component parts of motor vehicles; but does not include bottles, furniture or books.

Both of these facilities are licenced under the Salvage Dealers Licencing Act, which applies to all parts of the province. The Solicitor General's Department administers the Act and licences junkyards with the appropriate written approvals from the Department of Transportation (under the Motor Vehicle Act) and the Department of the Environment. The licence covers the operation of the facility, not its location.

Junkyards are necessary activities in a modern economy, and they are becoming more important with an increased emphasis on recycling materials. These operations generate noise and traffic and are often unsightly. The operation must be fenced and screened from neighbouring uses, although this does not ensure that the operation will not detract from an area. However, the greatest concern relates to the potential of these operations to contaminate groundwater resources. Many of the sites store a certain amount of hazardous waste, such as battery acid, gasoline and corroded metals, which can contaminate both soil and groundwater. Conflicts between the residents and the operators, stem from the fears of the residents that these operations will decrease the value of their property because of the potential threat to their wells or concerns with visual appearance.

Salvage operations can be distinguished from junkyards by the length of time material remains on the site. The intent of a salvage operation is to recover or purchase goods, which can be reconditioned and sold or sold on an "as is" basis. If the salvage operations are properly located and well managed, they are certainly worthwhile from both an economic and environmental standpoint. These operations recycle materials that, otherwise, would have to be disposed of and they offer consumers reconditioned materials at lower prices.

One of the concerns expressed about salvage operations, is that they should not be permitted to develop into junkyards (ie. material is simply stored rather than recycled and sold). It would be difficult to regulate the length of time material was stored on a particular site, unless there was consistent enforcement of regulations.

Both of these operations are needed in the New Brunswick economy. If they are well managed and properly located, they can perform a very useful function with minimal negative impacts. However, the problem is that there is very little guidance as to where they should be located. In actual fact, they can locate just about anywhere in the non-incorporated areas of the Province. The lack of appropriate regulations and the lack of consistent enforcement of the existing regulations, has resulted in negative connotations associated with these operations. **There is a need to establish and enforce a set of locational guidelines and operational procedures to reduce the land use conflicts and potential damage to the environment associated with both junkyards and salvage operations.**

3.3.2 Goal and Objectives

Goal

To encourage the development of industrial and commercial uses in the most appropriate locations and with adequate guidelines to ensure a minimum of conflict with other adjacent uses and with minimal impacts on the environment and resource lands.

Objectives

- 1) To create a structure and process through which rural communities can actively pursue and promote appropriate economic development consistent with the objectives of sustainable development;
- 2) To develop provincial policies, including siting guidelines, to manage the location and operation of industrial and commercial activities;
- 3) To minimize land use conflicts between residential uses and commercial/industrial activities;
- 4) To minimize the impacts of industrial and commercial activities on the environment;
- 5) To ensure that property tax rates for commercial and industrial use are determined on an equitable basis for both incorporated and non-incorporated areas;
- 6) To use industrial parks as tools to promote good planning, economic development and environmental protection;
- 7) To protect the financial investments made by all levels of government in the development of industrial parks in the Province; and
- 8) To develop specific guidelines for the location and operation of junkyards and salvage operations.

3.3.3 Recommended Policies and Actions

Many of the recommendations made in other sections of this document will support the goal and objectives affecting the location and operation of commercial and industrial activities in rural areas. Many of the recommendations aimed at controlling urban sprawl and ribbon

development, and removing the financial incentives that encourage these forms of development, also apply to the location of commercial and industrial activities in rural areas.

In Chapter 2, CLURE recommended a structure and process which will permit local people to have a greater voice and become more proactive in the planning and development of their communities. More specific recommendations in this regard are presented among the recommendations which follow.

A. Encouragement of District/Local Economic Development Initiatives

It is recommended that the Provincial Government, through the Department of Economic Development and Tourism, encourage residents in the planning districts and rural communities to examine their development opportunities and set out policies and actions in their district and local plans to proactively pursue those opportunities. Specifically, the government should encourage the development of employment opportunities that are appropriate for rural areas, ie. that are related to the resource industries, as suppliers or users of products, or that are craft or cottage industries or home-based businesses. There are also opportunities for outfitters, guides and tourist operators, who are dependent on retaining the natural and sensitive wildlife and waterfowl resources as well as the scenic attributes of our rural areas.

It is further recommended that district and local plans and strategies be developed which contain policies that call for cooperation from groups like the Department of Economic Development and Tourism, the Regional Economic Development Commissions and community groups, like Community Futures, to actively seek out employment opportunities as well as to improve the skills and training of local workers. Information should be fed into these plans from the Regional Economic Conferences so their policies can be coordinated with the findings of the Economic Conferences. It is also recommended that the Planning Commissions and Economic Development Commissions work together to facilitate development in a proactive and positive manner. Planning itself will be better accepted if it is seen as a positive force in facilitating development instead of being strictly control oriented. How each community can respond to this challenge is the responsibility of businesses, residents and community leaders.

B. Encouragement of Suitable Rural Uses

Unless there is already an established area which is predominantly developed with commercial or industrial uses, it is very difficult to designate areas in advance for commercial or industrial development. It is more reasonable in rural areas to set out some criteria or standards to which a use would have to conform before it would be permitted to locate. It is recommended that the following sequence of approval measures be followed before any new commercial or industrial use would be permitted to develop in the non-incorporated area.

- I) *The proponents of any new commercial or industrial uses would have to apply for a development permit. The application would be reviewed by the District Planning Commission, or by the Development Officer for the Department of Municipalities, Culture and Housing in areas outside a Planning Commission. The applicant would be required to demonstrate why the use requires to be located in the non-incorporated area.*
- a) *If the application was for a resource related use ie. depended on the resource, supplied the resource or utilized the resource or its products, then it would have to meet the Provincial siting criteria (see Recommendation C) and be subject to a public hearing so that residents affected would have an opportunity to speak for or against the application.*
 - b) *If the application was for a home-based business, cottage or craft industry or some other small-scale business, it would have to meet a modified set of siting criteria (see Recommendation C). A public review would only be necessary if it failed to meet the criteria.*
 - c) *If the application was for a junk yard or salvage operation, it would have to meet the Provincial siting criteria for these operations (see Recommendation C) and be subject to a public hearing so residents affected would have an opportunity to speak for or against the application.*
 - d) *If the application was for an activity that was not considered suitable by the Planning Authority (Province or District Planning Commission) because of its impact on adjacent land uses or on the environment, or it did not meet the siting criteria, it would be refused for the rural location but encouraged to apply for location in an industrial park or a more suitable location elsewhere in the rural area which did meet the siting criteria.*
 - e) *It is recommended that any application that is refused, or does not meet the applicable siting criteria, would not be considered by the Province or the Federal Government for funding assistance.*
- II) *A possible variation of this approach, which the Province could consider, would be to have the Provincial or District Policies not permit certain specific uses known to be a source of concern and conflict in rural areas (such as junkyards, gravel pits, asphalt plants, secondary or tertiary processing industries) except by amendment to the plan. Existing legislation (Community Planning Act) requires that a public hearing be held to deal with an amendment to a plan. This does not mean that these uses would not be permitted. What it does mean is that the proponent of the new activity would be required to inform the area residents about the proposed activity. This process would provide the opportunity for those residents potentially affected by the activity, to comment before the application was considered for approval.*

C. Development of Siting Guidelines

It is recommended that the Province develop siting guidelines, for commercial and industrial activities, which will reduce the potential for land use conflicts. Commercial and industrial uses should not result in detrimental impacts on the rural environment or the community in general. The siting guidelines should consider the following:

- *the impact on adjacent uses with respect to noise, dust, traffic, vibration and odour generated by the activity;*
- *the appearance of the operation and the impact on the visual landscape of the rural area;*
- *the need to provide manmade screens (fences, berms) and natural buffers (trees, vegetation) between adjacent properties to minimize potential negative visual impacts;*
- *the provision of adequate information on soils, geology, vegetation, drainage and groundwater information sufficient to determine the extent of any environmental impacts;*
- *commercial and industrial activities should be required to abide by all existing Provincial policies and regulations (such as subdivision and building regulations). It is recommended that the Province develop a standard set of criteria which could be modified or adapted in the district or rural community plans to recognize unique local circumstances or preferences; and*
- *any specific provisions over and above those listed that should be considered with respect to the particular concern with junkyards and salvage operations.*

It is recommended that the Province develop guidelines which direct and encourage cottage and craft industries, which are intrinsic to rural areas, to operate in a manner which prevents conflicts with existing uses. Such guidelines would identify requirements with respect to the following: the size of the operation permitted; storage of materials; parking; employment levels; and signage considerations, similar to those requirements frequently applied to home occupations. It is recommended that the Province develop a standard set of criteria which could be modified or adapted in the plans for the district or rural community to recognize unique local circumstances or preferences.

It is recommended that the Province develop specific siting guidelines and operational procedures for junkyards and salvage operations to minimize conflicts with neighbouring uses and to protect

the environment. These guidelines could be adopted separately or as an adjunct to general siting guidelines described above. These siting guidelines should include the following:

- *these types of operations should be located, near or adjacent to compatible, industrial uses;*
- *these should be properly landscaped and fenced to decrease the visual impact on existing or future neighbouring land uses, and*
- *information should be obtained on the geological characteristics of the site to determine the ability of the sub-surface to protect the groundwater from contamination.*

D. Rationalization and Funding of Industrial Parks

With respect to industrial parks in New Brunswick, it is recommended that the Department of Economic Development and Tourism, in conjunction with the Department of Municipalities, Culture and Housing and the Department of Supply and Services, proceed with the implementation of its rationalization plans for the Province's industrial parks. The elements of that plan that affect non-incorporated areas and should be pursued include:

- *the confirmation of a hierarchy of parks by which future funding priorities would be established. This would include: a top level of regional parks which have the best capability to attract major firms as tenants and which would receive priority for provincial funding; a mid-level of local business parks which would cater largely to local entrepreneurs; and, a third level which are essentially designated industrial lands which have few tenants and are basically inactive;*
- *to qualify for Provincial funding assistance, an industrial park would have to be classified in one of the first two categories. The third level of designated industrial land would be considered only on a project specific basis;*
- *the cooperation and coordination of the following government departments in the planning and development of industrial parks;*
 - *the Department of Municipalities, Culture and Housing, in conjunction with District Planning Commissions, with respect to encouragement and support for the preparation of district and local plans to manage land use and the development of siting criteria as recommended previously in this section;*
 - *the Department of Environment with respect to the consideration of*

"performance standards" which could be used in the development of the siting criteria; and

- *the Department of Economic Development and Tourism, in conjunction with Regional Economic Development Commissions, with respect to the overall management and funding of industrial parks.*
- *Any new industrial parks in the Province should only be located after a comprehensive analysis is undertaken which includes recognized site location principles and standards such as labour supply, markets, access and servicing considerations, physical site constraints as well as socio-economic, community and environmental impacts.*

E. Equitable Taxation Policies

It is recommended that the Province modify the non-residential property tax rate for non-incorporated areas to more accurately reflect the services provided and to make the tax rate more equitable with the tax rates charged by municipalities for the same types of uses. The intent of this should not be misunderstood. It is not intended to make commercial/industrial activities pay more tax in non-incorporated areas than in incorporated areas. It is intended that all rates be calculated on an equitable basis. It is, therefore, recommended that non-residential (commercial and industrial) properties in non-incorporated areas be taxed at one and one-half times the provincial/local rate.

In keeping with the recommendations made under D, it is recommended that the Province examine the current policies and practices which provide funding support for established industrial parks and the policies that provide financial assistance to commercial and industrial activities to locate in the non-incorporated areas. This is detrimental to the growth of the established industrial parks because it encourages unplanned growth to locate in less appropriate rural areas. These policies are viewed as being counterproductive since considerable public monies have been invested in establishing and maintaining the industrial parks throughout the province.

F. Enforcement of Environmental Regulations

It is recommended that the Province ensure there is improved enforcement of environmental regulations with respect to the development and operation of industrial/ commercial uses in non-incorporated areas. Some industries, by their nature, must be located near a natural resource. In this case, considerable effort should be extended to mitigate any damage to the natural environment. It is not practical to suggest that a detailed Environmental Impact Assessment be conducted for small-scale operations. However, the consistent enforcement of existing environmental regulations will help to limit the potential negative impacts on the rural

environment caused by resource related industrial and commercial operations.

G. Highway and Traffic Considerations

When commercial and industrial uses are permitted to locate in the rural areas, it is recommended that, to the extent that it is practical, these activities be restricted to locations near major collector and arterial highways (or at the intersection of them) so as to decrease the cost of upgrading the highway infrastructure; or alternatively, the developer should contribute to the cost of upgrading the highway.

It is further recommended that the Province examine the feasibility of alternate development patterns for commercial activities that locate along main roads such as designating commercial "nodes" and "clusters" in compact, centralized areas located at the intersection of major roads.

H. Treatment of Existing Uses

When new district or local plans and regulations are adopted by the Province or the district commissions, there may be some existing commercial and industrial uses which do not meet or conform with the new criteria set out. With respect to these "non-conforming" uses, it is recommended that the Province and district commissions consider two options. Districts or rural communities should have the final choice of which option they wish to pursue after conferring with their residents during the preparation of the plans or regulations.

- (1) Permit any use existing at the time a new plan or regulation is adopted to continue to exist indefinitely. This recognizes that what is there under the old "rules of the game" should be allowed to continue as long as the owners wish to operate. If there are nuisance factors associated with the existing use which annoy neighbours, they would have to be corrected by appealing to the "good will" of the operator unless other existing provincial regulations were being violated, in which case they could be enforced; or*
- (2) Permit the non-conforming use to continue unless it was destroyed or vacant for a period of time. Any reuse of the property would then have to conform to the plan and/or regulations. Any non-conforming use would not be permitted to expand without an application which would require the expanded operation to conform to any adopted siting or operational criteria. It would also require a public hearing so residents affected could have an opportunity to speak for or against the application.*

3.4 TOOLS FOR REGIONAL SERVICE DELIVERY

3.4.1 Background and Concerns

A. Historical Context

Service delivery as it exists in New Brunswick today was set up as a result of the **Program of Equal Opportunity** introduced in 1967 following the Royal Commission on Finance and Municipal Taxation (Byrne Commission). Prior to this, New Brunswick had a system consisting of cities (7), towns (21), villages (1), township (1), counties (15), Local Improvement Districts (65) and Local Administrative Commissions (15). Because of the disparity and inadequacy of service levels throughout the Province as well as serious fiscal problems, the major reform in 1967 was the abolition of county governments and assumption of their responsibilities by the Provincial Government. The reforms essentially placed "services to people" in the hands of the Province and "services to property" became the responsibility of the municipalities. The Province took over responsibility for health and welfare, education, justice as well as assessment and taxation.

As part of the Equal Opportunity Program, all county governments were abolished, ninety new villages were created and the non-incorporated rural area was divided into Local Service Districts (LSD) which could form Advisory Committees to advise the Minister of Municipal Affairs regarding the provision of services within the LSDs. The Equal Opportunity Program resulted in vast improvements in education, health, welfare and justice in the Province, however, the government never did replace the counties with any form of regional structure. This has presented a definite weakness in terms of the delivery of planning and other services to non-incorporated areas.

The system of provincial-municipal fiscal transfers that came into effect in 1967 provided for a sharing of the real property tax field between the Province and municipalities. The revenue generated from municipal property tax was to be complemented by an Unconditional Grant to be paid to municipalities. A formula was developed to calculate the unconditional grant which is a percentage of the municipalities net budget.

B. Responsibility and Financing of Services

The "First Schedule" contained in the Municipalities Act defines the various services that

may be provided by cities, towns, villages and LSDs in the Province. It makes a brief general statement and lists the services as follows:

Any service deemed by the council to be expedient for the peace, order and good government of the municipality and for promoting the health, safety and welfare of the inhabitants of the municipality including, without restricting the generality of the foregoing, the following:

- | | |
|--|--|
| a) drainage; | j) parks; |
| b) fire protection; | k) community services; |
| c) garbage and refuse collection and disposal; | l) tourist promotion and development; |
| d) sewerage; | m) industrial development and promotion; |
| e) sidewalks; | n) urban development and urban renewal; |
| f) roads and streets; | o) housing; |
| g) regulation of traffic; | p) land assembly; |
| h) street lighting; | q) recreational facilities; |
| i) water; | r) first aid and ambulance services. |

The Act makes no distinction between the types or levels of service that the various types of municipalities can provide. Thus each level is able to provide any of the service which it feels it has the fiscal capacity to provide. In the incorporated areas (cities, towns and villages), the Council has the ultimate responsibility for the provision of services while, in the non-incorporated areas, the Minister of Municipalities, Culture and Housing has been given that responsibility.

In municipalities, most services are provided at the expense of the municipality and financed through property taxation. Some villages contract local street maintenance to the Department of Transportation. The Province is responsible for provincially designated streets in incorporated and non-incorporated areas.

In local service districts, the services are provided by the Province through the Minister of Municipalities, Culture and Housing by means of a number of mechanisms. They may be provided by the Province (street maintenance), by the LSD itself (fire protection, recreation), through contracts with federal agencies (umbrella contract for RCMP services) or with private contractors (garbage pick-up).

Fire protection and ambulance services are considered to be of utmost importance and they are provided to all areas of the province (in a variety of ways). They are financed through property taxes (local LSD budget). Fire protection may be provided by the LSD's own force (usually a volunteer department) or by contract to an adjacent municipality or LSD. Ambulance service used to be provided locally but as of January 1, 1993, that service has

been taken over by the Province.

The Province also provides universal services such as police protection, transportation services and waste disposal. The cost to the Province of providing these local services, is partially offset by the real property tax of \$0.65 per \$100 of assessment levied on residential owner-occupied properties in non-incorporated areas.

Police protection is provided on a Province-wide basis to the LSDs through an "umbrella" contract with the RCMP. The Department of Transportation is responsible for all highways, roads and streets in LSDs. There is no distinction between local and provincial highways in LSDs as there is in municipalities. All road construction and maintenance is done directly by the Province and is financed from the provincial budget. Waste disposal sites have traditionally been provided in rural areas but now regional solid waste sites are beginning to replace these dumps. The solid waste sites will be jointly funded by municipalities and LSDs in the particular region.

Some local services are also provided by the Province to the LSDs at their request and financed through a local property tax in the LSDs. These services include general government, recreation and community services and street lights. These services are normally provided when a local group petitions the Minister for the service and it is accepted by the majority of residents at a public meeting. The cost to provide these services is included in the budget for the LSDs and financed 45 percent by the unconditional grant and 55 percent through the local tax rate.

In 1992, the total expenditures for local services of all 291 LSDs was \$14,081,642. In decreasing order this included: fire protection (\$7,546,694); waste collection and disposal (\$2,345,435); ambulance service (\$1,800,332); street lighting (\$1,045,876); recreation (\$590,922); community services (\$478,778) and general government (\$71,020). The total tax base of all LSDs was 6.2 billion, the total unconditional grant was \$5.9 million, the total tax warrant was \$7.2 million and the average tax rate was \$0.1156 per \$100 of assessment.

There are several inconsistencies between the financing of services for LSDs and that for the municipalities. The 45 percent unconditional grant paid to LSDs has not changed in twenty years and is not calculated through a formula similar to that used to calculate municipal grant support. Likewise, the \$0.65 provincial tax rate has not changed since 1984, and it is also not related to a calculation based on actual expenditures or assessment base as is done in municipalities. There is also a third inconsistency with respect to the manner in which LSDs are treated relative to municipalities. The Province has imposed a cap or ceiling on the pool of money set aside for unconditional grants to municipalities but there is no corresponding limits on the overall pool for LSDs. Once an LSD opts for a service, it has been automatically provided and the supporting grant funding made available. Consequently, one of the reasons for this high demand for the creation of new LSDs and increasing services has been the open-ended nature of the grant system. Although the Department of Municipalities, Culture and Housing is becoming more selective and

restrictive in the provision of new service in LSDs, it has been suggested that the Department consider an overall ceiling on the pool of grant money similar to that in municipalities.

There are also a number of services provided by the Province in LSDs that are not included in the \$0.65 tax rate or the local rate but are paid out of general revenues. These include planning services such as administration of budgets, preparation of basic planning statements, zoning by-laws, processing of applications for subdivisions and building permits as well as hearings related to plan or zoning amendments. Also included are some transportation services such as maintenance and repairs of culverts and ditches, maintenance of private roads and non-designated roads, chip-sealing of subdivision streets and provision of streets signs. **If these services were provided in municipalities, they would be financed through the municipal property tax.**

In addition to services provided to municipalities and LSDs, there are several services that have been provided on a regional or district basis. This includes district planning commissions, regional economic development commissions, regional solid waste committees and commissions, watershed committees, police commissions, ambulance commissions and other more minor services. There has been a **proliferation of special purpose boards and commissions** around the province. There has been no effort at coordination between these various bodies which has resulted in a **fragmented approach** to providing regional services. These problems are compounded by the fact that there is no mechanism or regional structure through which to coordinate these activities.

The Province, through the Department of Municipalities, Culture and Housing, is currently reviewing the possibility of providing regional services through an urban-centred approach. The Department recently released a document entitled "Strengthening Municipal Government in New Brunswick's Urban Centres". After reviewing several options for the regional provision of services, **the Province has recommended that urban-centred regions consider either amalgamation/annexation or the formalized regionalization approach to providing more cost efficient delivery of services on a regional basis.** The Province is seeking input on the concept from municipalities around the province and it plans to undertake feasibility studies to consider matters such as boundaries, which specific services would be provided and how they would be funded.

The Department of Municipalities, Culture and Housing is also currently undertaking a Review of Provincial/Municipal Fiscal Transfers which might affect the whole envelope of fiscal transfers including the unconditional grant formula. It is also reviewing the current structure of municipalities and the differentiation of functions between the cities, town and villages. Both of these reviews could have ramifications on the regional provision of services.

3.4.2 Goal and Objectives

Goal

The overall goal with respect to tools for regional services is to provide for the efficient, equitable and cost effective delivery of services to the residents of rural areas.

Objectives

The objectives to achieve this goal are:

- 1) to provide a regional structure through which services can be coordinated and delivered in a more efficient, equitable and cost effective manner;
- 2) to provide a process where local input can be provided into the decisions affecting regional service delivery; and
- 3) to provide an approach to phase in the structure and process that is affordable and acceptable to rural residents.

C. Recommended Strategy For Regional Service Delivery

I. Recommended Structure

a) Improved Participation, Accountability, Coordination

CLURE believes that the district structure recommended in section 2.4 is the most appropriate structure through which to implement the delivery of planning and other services to rural areas. It included the integration of urban and rural communities into either an enhanced District Planning Commission or District Management Commission structure which would cover the whole Province. Both options would have elected representation on their boards which would provide greater accountability and provide a better voice for rural residents in decisions which directly affect them. Both would incorporate a Technical Advisory Committee (TAC) of government and key non-government agency representatives. This would include not only the provincial departments related to planning approvals but also representatives of the economic development commissions, solid waste commissions and other regional agencies. This would

enable better coordination between various groups now operating in a rather fragmented independent fashion. The Planning Commission option would see these groups working together on the T.A.C. while still reporting to independent boards, whereas the Management Commission option calls for them also to report to a common board structure. The second option would result in a reduction in the number of independent boards and commissions and result in less duplication and greater efficiency.

b) Subdivision Approvals

The Technical Advisory Committee comprising representatives of the various government departments would enable two major changes with respect to regional services. One is that most of the subdivision approvals currently sent to the Provincial Planning Committee in Fredericton could then be handled in the regions. This would avoid the delays and frustration associated with dealing with the body in Fredericton and allow faster service and local decision making which would result in better service to local residents.

c) "One Stop Shopping"

The second benefit with having these government departments meeting regularly on the T.A.C. is that it would facilitate "one stop shopping" for planning approvals and building permits. Applications would be submitted to one person (the development officer) and he or she would be responsible for obtaining the approvals from the Departments of Health and Community Services, Transportation and Environment. This would also result in faster and more efficient service to the applicant who would not have to run around to each of the departments seeking approvals.

d) Adoption of Plans Locally

Having elected representation, similar to a municipality, would also permit the adoption of District Plans and Basic Planning Statements for Rural Communities locally without having to go to Fredericton for legal drafting and translation. This would provide a significant improvement in service since plans and basic planning statements would be able to be adopted within months of completion as opposed to years that it takes now to go thorough the process in Fredericton.

e) Recreation Services

Although the Community Planning Act requires public dedication of land for recreation purposes as part of subdivision approval, this has not been followed very often in non-incorporated areas because there is no body in which to dedicate the land. The proposal for elected Rural Community Councils provides a body to which public land could be dedicated. This would mean that, if multi-lot subdivisions were developed, up to 10 percent of the land could be set aside for recreation (playground, ball fields) and dedicated to the Council. Thus, better recreation facilities and services could be provided through this mechanism.

f) Urban/Rural Cooperation Facilitates Regional Services

Another major benefit of the proposed District Commission Structure would be having elected representatives of both urban and rural communities sitting on the same structure. This will facilitate communication, cooperation and coordination in the preparation of District Plans and in dealing with common issues on the fringes between the urban and rural communities. The structure described above would obviously provide a much improved delivery of planning services on a regional basis, which is the prime objective of CLURE's mandate. This model could also provide a mechanism for better planning, delivery and financing for other regional services such as police, fire and recreation as well as provision of joint water and sewer services, if required. How these services could best be provided depends to a great extent on the decisions which have yet to be made with respect to the Province's proposal for the regional delivery of services through the urban-centred concept. This concept raises a whole series of implications, many of which cannot be addressed until feasibility studies are conducted, with respect to the Province's proposal. However, CLURE has attempted to determine how the Province's concepts might be merged with the district planning structure proposed by CLURE. This approach is addressed in the following sections.

II. Urban-centred Provision of Regional Services

The Provincial government through the Department of Municipalities, Culture and Housing has recently released its report "Strengthening Municipal Government in New Brunswick's Urban Centres". It is currently holding meetings with various municipalities to discuss the proposal and it plans to have studies conducted to determine the feasibility of the concept in various regions of the Province. The major thrust of the concept is to reorganize local government to facilitate more cost efficient delivery of services on the basis of urban-centred regions. **CLURE fully supports the concept of better and more cost effective delivery of**

services and the strengthening of municipal units. CLURE agrees with the fundamental principles outlined in the concept and the basic realities it recognizes. The six fundamental principles as outlined in the document include the following:

1. The physical, demographic, cultural and linguistic characteristics of the population of New Brunswick must be respected.
2. The features of the current structure of local government and provincial-municipal fiscal arrangements which are still effective must be maintained.
3. Municipalities must be recognized as a duly elected level of government that are not only autonomous but accountable to their own taxpayers.
4. The proliferation of ad hoc agencies must not be permitted to undermine the autonomy and accountability of the local government.
5. The purpose of any local government restructuring must be the improvement of services and the quality of community life.
6. Since the characteristics of communities differ, any restructuring must reflect the unique features of the area rather than be imposed uniformly and unilaterally on all communities.

CLURE believes that the government is being realistic in recognizing financial constraints that all Atlantic region governments will have to face in the future. Given the financial situation of the Federal Government and recognizing the tremendous deficits facing the larger traditional "have provinces", New Brunswick and the other Atlantic Provinces can realistically expect smaller federal transfer payments in the future. This can be logically translated into smaller unconditional grants to municipalities and LSDs. In order to provide the same level of services, let alone to meet the ever increasing demand for more and better services, municipalities are going to be faced with increasing fiscal responsibility for the services demanded by its residents. Since the municipalities major source of funding is the tax warrant, the bottom line is that taxpayers are going to bear the brunt of increased demands and increased costs for services. Municipalities must find ways to become more cost efficient in the delivery of services and/or residents are going to have to accept lower levels of service and an overall reduced quality of life. If taxpayers want more they are going to have to pay more.

CLURE recognizes the leadership and direction shown by the government in the choice of methods and the approach while leaving the choice of mechanisms up to the municipalities. It is saying to municipalities - you are going to have to become more cost efficient, here are some options, study them and decide how best to handle it in your area. All the answers are not there yet and they will not be the same all over the Province. But the answers to questions pertaining to reasonable boundaries, which services can be provided and at what

costs can only be determined through the feasibility studies as outlined by the Province. The approach of consultation and feasibility analysis should be supported.

There is no doubt, as the Province points out in its document, that amalgamation is the simplest and most direct alternative to provide a broader base for the provision of regional services with a directly responsible administration clearly accountable for the financing and provision of services.

There is also no doubt, as CLURE heard around the Province, that amalgamation and annexations are very difficult for many people to accept because of perceived fears of increased taxation and loss of autonomy, culture and community identify.

There are also merits in the less contentious option of "formalized regionalization" where contiguous or adjacent municipalities would cooperate in the sharing and integration of services on a regional basis without sacrificing autonomy. The overall economic benefits of this option are less and accrue over a longer term than the amalgamation option but, nevertheless, should result in more cost efficient service delivery.

CLURE also believes that either concept could be applied to other areas of the province where there are concentrations of urban municipalities and not just the seven regions centred on the six cities and the Chatham/Newcastle area.

III. Integration of Urban-Centred Concept With Proposed Rural Structure

The question facing the Province will be how to integrate the urban-centred approach with the structure CLURE is proposing for the non-incorporated areas. There are several options which could be followed depending on the direction taken by the Province and municipalities with respect to the urban-centred approach.

First of all, it must be recognized that there is no overall or blanket approach that is applicable or will work throughout the Province.

a) Approach in Denser Built-up Areas

There are some denser built-up areas just outside municipal boundaries (in some cases with hundreds and thousands of residents) where it may make sense to extend the urban-centred concept beyond the municipal limits. These areas could either be annexed to the municipality or some other formal arrangements made to provide some services to these non-incorporated areas. To be acceptable to the municipality and the rural residents concerned, there would have to be mutual identifiable benefits. The service provided would have to be one requested by the

residents and the full extra cost to extend services to that area would have to be recovered by the municipality. The residents of the municipality should not have to subsidize the extension of services.

The costs would have to be recovered either through the property tax of the non-incorporated area or through some negotiated cost sharing or user charges. If an area was annexed, and not all the urban services were able to be provided, then differential tax rates would have to be considered.

b) Approach in Less Dense and Remote Areas

For more remote or less densely developed rural areas, most urban type services would not be able to be provided by municipalities at a cost the rural residents would be able and willing to pay. It is obvious that less dense rural areas do not require, should not expect and cannot afford the same level of services provided in the more urbanized areas.

CLURE believes that services in the more remote parts of the districts should continue to be provided by the Province. The provision of municipal services under either the District Planning Commission or District Management Commission Structure was discussed in Section 2.4 on structure and process. It described three options for consideration all of which involved provision of services in more remote areas by the Province but with greater coordination and administration at the local level. It also recognized that it might make sense to extend services to some extensively built-up portions of the non-incorporated areas as an extension of the urban-centred concept for regional service delivery.

New Brunswick's population at the present time is too small and too dispersed to have a third level of servicing or a third level of government to support it. In the long term, if New Brunswick's trend to rural living continues and is carried out in a better planned and more responsible manner as suggested in other CLURE recommendations and the urban-centred concept is successful, then regional government or servicing may become more realistic and feasible. Over time, the urban centres may be able to provide more services to rural areas but it has to be cost effective for them - it can not be just a transfer of responsibility from the Province to municipalities because municipalities can not be expected to subsidize services to rural areas as the Province does at the present time.

c) Equitable Service Delivery and Financing

CLURE maintains that people should be able to live where they want as long as they do not cause conflicts with their neighbours, they do not impact negatively on the environment or

resources and they are able to pay the cost (on an equitable basis) associated with the provision of any services they require.

CLURE also believes that service delivery and taxation should be equitable ie. everyone pays on the same basis. Many of the comments from municipalities called for residents of rural areas to cover the full costs associated with the delivery of service to rural areas. However, CLURE maintains that people in rural areas should not have to pay the full cost of services unless residents of municipalities pay the full costs. At the present time no one, not incorporated or non-incorporated residents, pay the full costs. Municipal operating budgets are subsidized through the unconditional grant formula, as are LSDs. The point is there should be equity, extend the concept of equal opportunity and equal responsibility.

In order to have equity, the cost of providing a particular service to a particular area has to be determined. The same formula would then have to be applied to all areas to determine the amount of grant support each area should receive (this assumes the grant formula does not have inequities built into it). The tax rate then has to be calculated using the same basis or formula. A large part of the problem at present is that the actual costs to provide all services to rural areas are not known because the Province's cost accounting system does not enable these costs to be easily determined or to be allocated to particular areas. It is impossible to relate the revenues to the expenditures as is done in municipalities because accurate accounting of expenditures and revenues for some services and for different areas are not kept. Too much goes into or is paid out of general revenues to get a clear handle on costs.

As part of its current Review of Provincial/Municipal Fiscal Transfers, the Department of Municipalities, Culture and Housing, for the first time, attempted to relate the actual cost of services provided to LSDs to the 45 percent unconditional grant they receive and to the \$0.65 tax rate they pay.

They did this by considering the whole of the non-incorporated area as a unit and used the same formula it utilizes for the Class "D" municipalities in terms of the unconditional grant. For 20 years the LSDs have been given a uniform unconditional grant of 45 percent which was not related to any formula. Likewise, the Department calculated the tax rate which should apply if the expenditures in LSDs are related to the tax base as is done in municipalities. The tax rate for LSDs has been arbitrarily set at \$0.65 since 1984.

The results of this exercise showed that on the basis of three services - police protection, street maintenance and solid waste disposal - that the unconditional grant and tax rates resulting (46 percent and \$0.66 respectively) were close to that actually being charged. However, to be equitable, there are other services that are provided by the Province to rural areas that were not included in the calculation and, if those services are provided in municipalities they are paid for by the taxpayers through their property taxes. These extra services include transportation services such as maintenance of ditches and culverts, summer and winter maintenance of Class D and private roads, subsidization of culverts, chip sealing of some subdivision streets, etc. Also included as extra services, but of a more minor nature, are planning services such as budget

administration, building permits where required, preparation of basic planning statements, zoning by laws and rezoning, subdivision approvals and general planning advice. There are also other minor services, such as the LSDs' share of the funding for the Economic Development Commissions that are paid out of general revenues and not through local property taxation.

Although not all the cost data was available, enough was available to conclude that the rate that is charged to non-incorporated area residents on average should be higher, if it is to be equitable with that paid in incorporated areas. It is not possible to determine what the rate actually would be until costs can be itemized for the various services identified above. In the past, accounting records have not been kept on a basis which permits these costs to be obtained.

This raises another legitimate concern. The rate was calculated on an average basis for the whole of the non-incorporated area. It is undeniable that this also is not a fair basis of comparison because the level of services provided in non-incorporated areas is not uniform. It is logical then to hear some residents claim that they do not get their \$0.65 worth of service from the province because some of them probably do not. Others also probably pay less than they should for the service they receive. If this situation is to be addressed there has to be a cost accounting system from which it is better able to identify the cost, location and nature of the various services provided by government.

This is not an easy situation to rectify. The local tax rates vary now from one LSD to another depending on the services provided. Some have separate taxing authorities within the LSD itself recognizing a variable level of service and thus a variable rate. This makes it difficult to charge a common rate across a restructured Rural Community. A common rate would certainly be easier from an administration point of view but it would be difficult to justify to residents, which is the same problem the Province is faced with now with the \$ 0.65 provincial rate. In order to justify the rate on a rational basis, so that it is defensible or easily explained, the level of service must be broken down into components and a tax rate calculated accordingly. This would have to be done for the provincially provided services (or those provided from an urban centre) similar to the way it is now with locally provided services.

This situation is also compounded by the fact that many services provided to residents of the non-incorporated areas are subsidized by municipalities. This applies to facilities such as arenas, pools, libraries, parking facilities, etc. that are provided by the municipality and which are utilized by non-incorporated area residents who do not pay towards the capital costs or the on-going operation and maintenance costs for these facilities. These costs are borne by the taxpayers of the municipality and amount to a subsidy for the non-incorporated area residents. In some areas of the Province there have been isolated instances of cost sharing between municipalities and adjacent LSDs but these are rare exceptions. Some municipalities have provincially owned buildings (such as schools) which serve the incorporated and non-incorporated areas. The municipality does receive tax revenue for their facilities by virtue of the fact they are located within the municipality.

The question of equity comes in here not only with respect to incorporated and non-incorporated

areas in general but also with respect to individuals. Many people contend that taxation is not a fair way to deal with the use of municipal facilities by non-incorporated area residents because not all residents make use of those facilities. This same problem plagues negotiated cost sharing between incorporated and non-incorporated areas. The solution that most feel is fair is the user charge, although it is difficult to administer and creates hard feelings between urban and rural residents.

IV. Phased Approach to Regional Services

It is recommended that the province utilize an incremental or phased approach to provision of regional services. This approach was described in detail under the Section 2.4.5, Structure and Process. What it essentially calls for is the initial delivery of "softer services" such as planning and economic development, through either the District Planning Commission or District Management Commission models (It was noted earlier how the District Planning Commission could also be a incremental approach to the District Management Commission). In either case, once that structure was in place and operating for the provision of "softer services", there would begin to be some trust and comfort built up between the urban and rural communities represented on the organizations. Once this rapport was established, the organization might have the confidence and the support to tackle the "harder" and more costly services(eg. fire, police, water and sewer). This would have to be determined at that point to be economically feasible and to have the support of all stakeholders and residents ie., it would have to evolve from within and be recognized as being mutually beneficial. This would also provide time to evaluate the success of the urban-centred concept. In this way true regional servicing may eventually evolve in the form of regional or rural municipalities. CLURE feels that it would be neither affordable nor acceptable to try to bring in rural municipalities initially or too quickly.

Before the move is made from the provision of "softer" services to "harder" services, the importance of feasibility studies and local input must be emphasized. There are several questions which will have to be addressed as part of these feasibility studies. These questions include:

- 1) *What specific services and what level of service is to be provided and to what specific area? Rural residents would have to be involved in the identification of which services and what level is required.*
- 2) *Who is in the best position to provide the specific services on a cost effective basis? Would it be a municipality, an LSD or the Province?*
- 3) *What will it cost to provide that level of service to that specific area?*
- 4) *Who is going to pay for that service?*
- 5) *How will they pay for that service? Will it be through tax rates or user charges and, if tax rates, will it be common or differential rates? If the service is to be financed through tax rates in an equitable manner, then the following would have to be determined:*
 - *What are the total expenditures for the specific area, whether it is an LSD or a new rural community?*

- *What is the applicable assessment or tax base?*
 - *What is the amount of unconditional grant that should apply?*
 - *What would the tax rate be to cover the cost of delivery of those services?*
- 6) *How will this procedure be affected by the delivery of service on a regional basis through the urban-centred concept? Should some parts of the non-incorporated areas be annexed to adjacent municipalities? These last questions will be dependent on the approach various municipalities might eventually decide to pursue.*

As also mentioned in Section 2.4 on Structure and Process, this whole approach would be affected by the eventual structure that evolves from the current proposal for urban-centred services. If the Province's initiative with respect to regional service delivery was to result in amalgamation of adjacent communities into one large municipal unit, then that unit could be represented on the District Planning or District Management Commission just like other municipalities. If the Province or municipalities opt for the formalized regionalization or a regional management board, the integration of that unit with the District Planning or Management Commission becomes more complicated because, in essence, the result would be two boards - one representing the participating municipalities (regional management boards) and second representing all other municipalities and rural communities in the district. In this case there would appear to be two options:

- *the first would be to set up the District Planning or Management Commission in the same manner as suggested previously so that all the municipalities could be represented on the Board much the same as they would have if the regional services proposal had not come along. They could also share services on a regional basis under the same contractual arrangements they would have had under the regional management board scheme.*
- *the second option would be to operate with the two boards but with some formalized linkage between them to ensure coordination of planning and development activities between the central dominant group of cities and the remainder of the district.*

These options should be given much more detailed scrutiny, once the direction that the Province and municipalities decide to take is determined.

Another possibility for a phased approach might be the establishment of District Management Commissions for the denser or more built up areas of the province while the sparsely settled areas might remain under the Provincial Department of Municipalities, Culture and Housing as at present.

Another recommendation related to regional services concerns the provincial highway network. The efficient delivery of many regional services, such as police, fire, ambulance, solid waste collection and economic development, requires an efficient regional highway network. It is recommended, therefore, that this network continue to receive on-going maintenance and improvement.

In addition, a worthwhile recommendation that came to CLURE from several sources was the need to have all highway routes in the Province given a name and all properties assigned a route number or address. This would assist emergency and protective services as well as facilitating delivery vehicles.

3.5 BUILDING AND DEVELOPMENT APPROVAL

3.5.1 General

The whole issue of approvals, permits and inspections with respect to building in New Brunswick can best be described as confusing, inconsistent and frustrating for all those who come in contact with it. It has been the subject of several internal reviews, briefs to government and experimentation but little has been done to resolve the issues and to come to grips with the overall problem.

Within the Provincial Government, most aspects relating to building approvals fall under the responsibility of the Department of Municipalities, Culture and Housing with respect to building permits and under the Department of Advanced Education and Labour for electrical and plumbing permits. After a review was carried out by the Department of Advanced Education and Labour, there was an attempt in 1988 to introduce the "super inspector" concept where inspectors were cross-trained to become multi-disciplinary inspectors to carry out building as well as electrical and mechanical inspections. This resulted in several administrative problems between the two departments because of new and increased demands which made it difficult to provide the same level of service as provided previously and which also created concerns on the part of provincial building and trade related associations. The program was abandoned and the two departments are still wrestling with the same issues they were faced with before the concept was initiated.

There are several aspects to building approvals that are not well understood by the public. There are first of all "codes" which set out minimum standards for building, electrical, plumbing, etc. designed to protect residents and the environment. There are "permits" which are intended to ensure that all codes are complied with. This assurance cannot be obtained without some level of "inspection" during the construction of the building.

There has not been much concern expressed regarding the issuance or inspection of electrical and mechanical permits. Most of the concerns relate to building permits and inspection. Consequently this section will deal mainly with the problem of building and development approvals. In addition the problem is mainly a concern in the non-incorporated areas of the Province including those areas falling under District Planning Commissions which are responsible for administration and enforcement of the Provincial Building Regulations within their areas. The Planning Commissions are also responsible for the municipalities within their jurisdictions. Consequently, this issue affects most municipalities in the Province with the exception of the larger municipalities like Fredericton,

Saint John, Moncton and Bathurst which have their own building inspection departments and have relatively comprehensive and sophisticated systems of building permits and inspections.

The sections which follows will outline the main problems and concerns with respect to this issue including the need to examine development approval as well as the building permit issue.

Another purpose of building permits is to ensure the owner has obtained approval for a septic tank, that the building is located on the right lot and is setback the correct distance from the highway. This is more accurately called **development approval** since it has very little to do with the building itself.

Since building permits are not required in all parts of the Province and, since there are no common guidelines for enforcement, there are inconsistencies in the application process, in permit fees, in inspection services, in training and certification of inspectors, in the question of liability and in dealing with hardship cases. This is confusing and frustrating for residents and officials alike. These issues will be addressed in the sections which follow.

A. Authority To Regulate Building

At present, the authority to issue building permits in non-incorporated areas is drawn from Section 77(1) of the Community Planning Act (CPA) which gives the Lieutenant Governor in Council, on the recommendation of the Minister of Municipalities, Culture and Housing, the authority to make regulations respecting "the building, locating or relocating, demolishing, altering, structurally altering, repairing or replacing, or any combination thereof, of buildings and structures".

Regulation 81-126, the Provincial Building Regulation under the CPA, provides that the Minister may appoint building inspectors who, under the direction of the Director of the Land Use Planning Branch, shall exercise such powers and perform such duties as are provided by the Regulation.

These building inspectors may be employed by a District Planning Commissions or may be development officers employed directly by the Department of Municipalities, Culture and Housing in non-incorporated areas lying outside commission boundaries.

Section 7(1) of the building regulation requires the issuance of a building permit before a person is permitted to undertaken or continue the building, locating or relocating, demolishing, altering or replacing a building or structure.

Section 7(3) of the building regulation states that where an application has been made to the building inspector and the proposed work conforms to the building regulation and any

other applicable Act of the Legislative Assembly or regulation made thereunder, the building inspector shall issue the building permit requested.

B. Building Permit Application Process

The typical process in this province is for the applicant to approach a development officer (may be inside or outside a planning commission) for building permit approval. Before the development officer can approve the permit, he requires the applicant to provide the following basic information:

- a) a copy of the deed to show proof of ownership;
- b) a setback certificate issued by the Department of Transportation confirming the proposed building meets existing setback requirements;
- c) approval from the Department of Health and Community Services regarding the provision of an acceptable on-site sewage disposal system;
- d) approval from the Department of the Environment, if a watercourse is affected;
- e) information on the lot size as well as the building size and location with respect to the lot boundaries; and
- f) such other information as the building inspector may require for purposes of determining compliance with the regulation.

There is no uniform or consistent procedure among the development officers or building inspectors regarding how this information is obtained. In most cases, the individual is required to go around to the various government departments to obtain the necessary approvals and information and bring them back to the development officer while, in a few instances, the development officer may obtain this information for the applicant.

Likewise, there is no consistent procedure on whether or not building floor plans are required or reviewed by the development officers. In most areas, plans are not required or reviewed for new residential construction since there is no follow-up building inspection provided.

When the required information is provided, the development officer or building inspector collects a \$5.00 fee and issues a building permit.

C. Area of Coverage

Section 3(1) the Provincial Building Regulation lists the various parts of the province where the regulation is effective. Although it varies from county to county, the regulation is effective within most District Planning Commissions (excepting Madawaska, Tantramar and Kent Commissions) as well as within one hundred and fifty metres of either side of most arterial and collector highways (Route No. 1 to Route No. 199). The remainder of the Province is not covered except for buildings or structures used for assembly occupancies, institutional occupancies or high hazard industrial occupancies in which cases parts 3, 4, 5 and 6 of the National Building Code (NBC) of Canada apply throughout the Province.

D. Building Permit Fee

The building permit fee is set in section 34(3)(j) of the Community Planning Act. Except for assembly, institutional and high hazard industrial occupancies, for which the fee is \$1.00 for each \$1,000.00 of the value of the building or structure, the fee for a permit under the Building Regulation is \$5.00.

3.5.2 Background and Concerns

A. Universal Coverage

The Department of Municipalities, Culture and Housing has been grappling for many years with the issue of whether or not building regulations should be uniform and required throughout the entire Province. In 1990, as part of a larger review of the structure and process of planning in the Province, a Committee was set up to review this issue. It was decided to ask the various people directly involved in this issue around the Province for their views. Consequently, interviews were held with district planning commission directors and development officers of the Department of Municipalities, Culture and Housing around the Province who deal with this problem on a daily basis.

When those interviewed were asked the question "**Should the requirement for building permits be extended to cover all of the non-incorporated areas of the Province?**" the initial response in almost all cases was "yes". However, this response was followed up by questions and qualifiers such as:

- o What are we trying to achieve?
- o Why should we expand the area of coverage when we can not handle the present area of coverage?
- o Not without higher fees.
- o Not without inspections.
- o Not without training and certification of inspectors.
- o Not without clarification of the liability question.
- o Not without commitment of more human and financial resources.
- o Not without leadership and support from the Department or government in Fredericton.
- o Not unless accompanied by a public education program.
- o Not unless we can find a way to deal with true hardship cases.

Many of those interviewed summed up their comments by saying **"Do the job right or don't do it at all"**.

It quickly became evident that there was, indeed, a consensus among development officers that there should be universal building permit coverage throughout the non-incorporated areas of the Province but it was equally obvious that no attempt should be made to do so until several problems or issues were addressed. This includes inconsistencies and inequities within the present system as well as additional concerns which would arise with increased coverage.

A valid question posed many times is "What is the Province trying to achieve with the building permit system?" If it is trying to ensure that all buildings within the present area of coverage meet minimum structural standards with respect to National Building Code (NBC) requirements, then it is failing miserably. If it is merely to ensure that the building is on the proper lot and has met other provincial regulations such as setbacks from highways and an acceptable sewage disposal system then the system is working fairly well but is still beset with problems.

Although the **National Building Code** is adopted by reference in the Building Regulation, clause 7(2) allows the building inspector to waive the requirement for the applicant to provide copies of specifications and scale drawings of the building or structure. Very few of the development officers interviewed required copies of specifications or floor plans.

Another waiver is included in Section 7(4)(c) of the regulation which states that the work mentioned in the building permit shall be carried out, unless otherwise approved by the building inspector, in compliance with the specifications contained in the application for the building permit. This, in effect, permits the building inspector to waive any requirement for inspection which, in fact, most do in the non-incorporated areas.

There are many reasons why building inspectors do not require specifications and floor plans or carry out subsequent inspections. Most are not adequately trained to review plans or

carry out inspections, many do not have the time because of other demands of their position and others feel the minimal fee required does not warrant review of plans or inspections. This situation will be further discussed under headings on inspection, training and fees.

These clauses, 7(2)(d) and 7(4)(c), and the subsequent interpretation and lack of action by the building inspectors, effectively negate the objective "to prescribe standards for the building" of a building or structure as described in Section 4 under the purpose and scope of the Building Regulation.

What, in effect, the building inspectors are achieving is merely to ensure that the building is properly located on the lot. A side benefit of the Building Regulation is as a check to ensure that a setback certificate and the health permit for sewage disposal have been obtained. Although this is considered a side benefit, it is a compelling reason why universal coverage should be considered. There are many areas of the province without building permit coverage where homes have been constructed without proper sewage disposal facilities. Several of the watershed studies recently completed for the Department of the Environment determined this to be the case. Some of the development officers and health inspectors indicated these violations could have been prevented if there had been a requirement for building permits in those areas.

It is obvious that the question of what the Province hopes to achieve through universal building permit coverage has to be seriously addressed. Given some of the circumstances described above, it appears that it would also be valid to ask what the objectives are with respect to the present building permit system.

B. Inspection and Training

Most of the development officers and building inspectors readily point out that they are not adequately trained to review plans and inspect buildings to ensure that they meet the minimum standards required by the National Building Code.

If, indeed, the objective of the Province is to ensure a minimum standard of building construction across the Province, then that objective cannot be achieved without building inspection conducted by properly trained and certified inspectors. In addition, if it is decided that the Province has to ensure minimum structural standards, it must also decide who or which department is to be responsible for inspection and who is responsible for training and certification of building inspectors. As mentioned in the introduction, the Department of Advanced Education and Labour went through a cross-training program a few years ago to enable its electrical and plumbing inspectors to also carry out building inspections. Electrical and plumbing inspections began to suffer because of the demands for inspections related to housing programs of the New Brunswick Housing Corporation. The program barely got off the ground before it was abandoned.

Many development officers and building inspectors would be just as happy to see their role, or that of the Department of Municipalities, Culture and Housing, as dealing strictly with the land components of the building permit (ie. lot sizes, building placement, setbacks, etc.) and having inspectors under the Department of Labour responsible for the structural building aspects. This might lead to a two tier system where development permits are issued for zoning, lot size, frontage, setback and health requirements and building permits to ensure NBC standards are met. The Department of Labour is presently responsible for issuing plumbing and electrical permits. Many development officers and building inspectors were also quick to point out that they would also be willing to conduct building inspections if they were properly trained. Which group or department should be responsible for building inspection is a matter that is best decided in consultation with the two departments concerned including input from the various inspectors. Such an investigation would have to pick up from where the last proposal for "super inspectors" under the Department of Labour, left off. The Department had proposed a new Building Construction and Inspection Act which would have seen multi-disciplinary inspectors who would have been cross-trained to carry out building as well as plumbing and electrical inspections under the NBC.

There are also implications for the Province with respect to the training and certification of building inspectors. Many development officers noted the lack of provincial leadership and policy in this regard. There are no training courses offered in New Brunswick. Some Planning Commissions have had to send their building inspectors outside the Province (mainly to Nova Scotia) where training programs are available. Many suggested that similar courses could be offered in this Province through the New Brunswick Community College programs. Consideration could also be given to a certification program for New Brunswick. Similar programs exist in most other provinces.

This issue of inspection and training is also related to the discussion of fees, liability, administration and human and financial resources.

C. Building Inspection Fees

Other than for assembly, institutional and high hazard industrial occupancy, the present regulation requires a \$5.00 permit fee. It was agreed across the board that this fee is ridiculously low, even for the minimum level of service provided at the present time.

When asked what a reasonable fee would be, suggestions from the development officers fell in the \$25.00 to \$100.00 range with most in the \$50.00 to \$75.00 area. Most development officers added that they thought the most equitable system would be a sliding scale where the fees would be related to the value of construction. This is the system now applied in most municipalities. A fee of \$1.00 per \$1,000.00 of construction value would fall into the acceptable range identified above. Some municipalities charge much more than this (for

instance, \$5.00 per \$1,000 in Shediac and \$7.50 per \$1,000 in Moncton) and are able to cover their administrative costs.

Many development officers mentioned the inequity in the system as it now exists. Several questioned why within the same district, for instance, that people living outside municipalities should not be entitled to the same level of service, including building inspection, that is enjoyed by residents within municipalities. This inequity in fees may also be a factor which encourages further development in non-incorporated areas as opposed to municipalities.

Several development officers suggested that the permit fee be set to cover the cost of administration and inspection. However, estimates by the Department of Advanced Education and Labour reflecting the true cost of providing an adequate building inspection service (4 or 5 inspections over the course of construction) were closer to the \$300 to \$500 range than the \$50 to \$100 range most development officers were comfortable with.

The matter of fee level, including the cost recovery concept, is another matter for policy decision by the Department of Municipalities, Culture and Housing and the Department of Advanced Education and Labour through consultation with the development officers and building inspectors in the Province.

D. Liability

The whole question of liability with respect to building permits and fees as well as building inspection was a real concern to all development officers interviewed. Many were unsure of their liability, many were critical of the Province's lack of direction and support on the issue of liability and all agreed the matter should be resolved before the development officers, building inspectors or the Province was threatened with a lawsuit. Many felt it was just a matter of time before such a suit occurred.

The Town Planning Commission for the Greater Moncton Planning District has assumed responsibility on several of these issues, including that of liability. The Commission believes it should provide universal building inspection services, that its inspectors have to be properly trained and fully covered against liability. Consequently, the Commission has sent their inspectors to Nova Scotia to be trained and has taken out liability insurance.

These responsible actions were taken after consideration of legal opinions related to the Commission's liability. After a review of the obligations required of the building inspector under the Provincial Building Regulation as well as examination of cases in other provinces and New Brunswick, the law firm retained by the Commission, concluded that *"there is little doubt that if the Planning Commission and its inspectors either failed to act (ie. no inspection is carried out), or acted negligently, they would be named as defendants in any action arising*

out of a deficiency in regard to building activity." This statement could logically be extended to include development officers and building inspectors for the Province.

The opinion was also expressed that *"the court could easily be persuaded that there is a duty upon the building inspector to ensure that all building activity is conducted according to the building regulation and that this would have to be done through a system of regular inspections"*. The law firm also advised that it was their view that *"if a person is employed who is not properly qualified to carry out the functions for which he is engaged, that may well constitute negligence on the part of the employer"*. This reference would obviously apply to the Planning Commissions and the Province.

This decision was also reviewed by the neighbouring Tantramar District Planning Commission and resulted in a written submission to the Department of Municipalities, Culture and Housing requesting that the Department take the initiative which would enable all Planning Commissions to charge a fee for building inspection services in the non-incorporated areas which reflects the true cost of providing that service. It was also requested that the Department prescribe standards for the appointment of building inspectors and institute training programs leading to certification.

E. Administration of Building Permits

Although the individual development officers and building inspectors are trying to do the best job they can in the non-incorporated areas, the administration of the Provincial Building Regulation could best be described as inconsistent, inequitable, confusing and frustrating.

Because of a lack of public understanding, the typical case in the non-incorporated area of New Brunswick is for an applicant to approach the development officer seeking a building permit. Often the house is in various stages of completion and the applicant has heard somewhere along the line that he requires a building permit. The development officer requires that the applicant have his deed, a setback certificate from the Department of Transportation and a permit from the Department of Health and Community Services for his sewage disposal system and a permit from the Department of the Environment, if a watercourse is affected. More often than not, this sends the applicant scrambling to the other two or three provincial offices for these certificates. If he is fortunate he may be able to obtain those permits in the same building or at least in the same community. It is not uncommon for these regional offices to be located in different communities within the commission district. If he is fortunate, the applicant may be dealing with one of the development officers who may offer to obtain the various permits for him. Quite often the development officer's offer is dependent on whether or not he has to run across the hall or across the county for the necessary approvals. It is also dependent on the availability of facsimile machines and the amount of information provided by the applicant.

Regardless of whether the development officer or the applicant approaches the other departments, there is generally a period of waiting lasting from several days to several weeks. This depends on the availability of the Health Inspector or the District Highway Engineer as well as his or her current workload. It is a common experience that the district health inspectors have a back log of projects already on a waiting list because of lack of personnel within the Department of Health and Community Services. Often building permits are not high on their priority list.

Meanwhile, the development officer has an irate customer. This is probably his first exposure to planning, a development officer or the Department of Municipalities, Culture and Housing and he is not developing a real positive impression of any of them. Faced with the situation of trying to carry out his mandate under the regulations, of wanting to serve the public and wishing to preserve some credibility for planning and the Department, the development officer often finds ways to circumvent the system in order to try to keep everyone happy. Some issue the building permit before approval is received from the other departments, if he thinks their responses will be positive. Some issue the permit if the reply from the other department is not received within 2 or 3 weeks. Some issue the permit with a clause that it is subject to approval from the other departments. Some issue a permit without the other approvals because they know the contractor to be reputable and trust that he will do the right thing. In some cases, the development officers succeed because of the personalities of the individuals involved. Some have developed a good rapport and mutual respect with the health inspectors and district highway engineers and have been able to facilitate the process despite inadequacies in the system.

Many development officers favour the "one stop shopping" approach to issuance of permits related to building. They wish to see some mechanism developed in which the public could apply to one source for the building permit. An alternative suggestion would be to incorporate the transportation and health requirements directly into the Building Regulation. For instance, the required setback distances from different classes of highways could be incorporated right in the regulation so that it could be approved directly by the development officer without running to the District Highway Engineer.

Such measures would result in better service to the public, less confusion and frustration on everyones part and hopefully improve the credibility of the planning commissions and the Department of Municipalities, Culture and Housing. Planning as a whole would also be seen in a more positive or favourable light instead of being perceived as a negative mechanism intent on controlling, stalling and generally hindering development.

The existing situation obviously leads to inconsistencies between planning commissions and various areas of the Province. Many of the development officers commented that there needs to be more leadership and support from the Department of Municipalities, Culture and Housing in Fredericton. Others feel the direction has to come from the Cabinet level if the other departments are to respond. Many development officers commented that they would like to have an operations manual with policies, guidelines and procedures that would

help in understanding their roles better as well as assisting in communicating with other departments and with the public.

F. Public Information/Communications

There is a dire need for more and better information dissemination to the public regarding planning in general and building permits in particular. Many people in rural areas do not know that building permits are required, why they are required, how the requirement protects them or how or where to apply for permits.

The general public as well as contractors do not understand why permits and fees are required inside municipalities but the same house built outside the municipality does not.

The public does not understand why John Doe requires a building permit because he is located 145 metres from the main road while Bill Smith does not require a permit because he is located 155 metres from the same road.

The public does not understand why a person needs a building permit for a residence in the non-incorporated area and yet someone can locate a junk yard beside him or across the road without any permit. The public does not understand that a building permit for a residence has nothing to do with land use or zoning and that a permit will not protect them from incompatible uses which might be located next to them.

The vast majority of people in the rural area do not know what is meant by the terms that planners and government officials take for granted. These terms include: non-incorporated area, Planning Advisory Committee, variance, non-conforming use, Provincial Planning Committee, Planning Appeal Board, National Building Code, percolation tests, aquifer, basic planning statement, etc.

The Department of Municipalities, Culture and Housing has a responsibility to improve the knowledge and appreciation on the part of the general public with respect to planning matters. This could be achieved through several mechanisms. This whole issue of public education and communications and various methods of achieving it are presented in Section 2.4.5.

Many development officers expressed interest in having a manual which would contain policies and procedures for administration of building permits, subdivision regulations, etc. They also feel the Department should be supplying them with promotional brochures with which they could explain policies and procedures to contractors, developers and the general public.

G. Human and Financial Resources

Many of the issues discussed with respect to building permits relate to the need for more human and financial resources.

It is obvious that if building permit coverage is increased to cover the entire province then more building inspectors have to be hired, even if their level of responsibility remains as it is at present. If actual building inspection is added, there would have to be even more inspectors retained. This would also require additional funding for operational expenses such as office space, equipment and travel expenses. There would also be initial expenses for training and certification programs as well as on-going expenses for the continuing education of building inspectors.

Because of present staffing shortages, many Planning Directors also carry out building inspectors duties. In fact, these duties, combined with other regulatory functions such as subdivision approvals, planning and zoning amendments and approval of variances, leaves very little time for the Planning Director to devote to the actual development of policies and plans. Most function as technicians as opposed to professional planners which is inefficient and a waste of the Planning Directors talents.

H. Hardship Concerns

Another concern which arose during the interviews was with respect to hardship which might be imposed on some low income earners if building permit coverage was extended to all non-incorporated areas or if building inspections were required and fees were raised. Some development officers felt that the National Building Code as a minimum standard would not be a hardship if applied uniformly. The experience in the Beaubassin Commission, for instance, has been quite positive with respect to universal building permit coverage. Although there was some opposition when it was first instituted, it has come to be accepted as a necessary part of building construction. As a result there are not many instances of substandard development within the district.

Other development officers expressed reservation with respect to dealing with hardship cases. Many felt there were legitimate hardship situations where the lesser of several evils was to permit substandard construction. Some suggested that there might be remote areas identified where such development would be permitted. This would result in encouragement or legitimization of slum or ghetto areas and should not be permitted. Others felt it would be dangerous to allow Building Inspectors to have discretionary powers to permit substandard construction in hardship cases.

Many felt that hardship cases should be treated as a social problem and dealt with through the social services network in order to assist legitimate hardship cases obtain minimum standard housing. They felt that allowing someone to build in substandard conditions creates a safety hazard for the occupants. It often contributes to sprawl and ribbon development since many times these situations occur on isolated back roads requiring extension of services such as snow ploughing, road maintenance, school busing as well as protective services such as fire, police and ambulance at increased cost to the taxpayer. It also does nothing to address the underlying social problems that necessitate the substandard construction in the first place.

It appears that the issue of hardship is another area where further discussion is warranted involving consultations with building inspectors as well as officials of the Department of Health and Community Services.

3.5.3 Goal and Objectives

Goal

To ensure that all buildings in the Province are constructed to an acceptable standard which assures the safety of occupants and minimizes impacts on neighbouring properties and the environment.

Objectives

- 1) To ensure that all buildings are properly located on the right lot and meet all applicable setback requirements from the highway and lot boundaries;
- 2) To ensure that all buildings are properly serviced to meet acceptable standards so as to avoid contamination of surface or ground water resources;
- 3) To ensure acceptable standards of building construction (National Building Code) are met;
- 4) To ensure efficient, equitable and consistent service throughout the Province through the concept of "one stop shopping" and consistently applied regulations;
- 5) To ensure provision of cost recovery in the fee system.; and
- 6) To improve public education and communication so as to increase the appreciation for, and understanding of, the need for building and development controls and standards.

3.5.4 Recommended Policies and Actions

Based on the goal and objectives identified, the following recommendations are made for consideration by the Province. CLURE makes a distinction between "**development approvals**" and "**building permits**" and its recommendations are structured accordingly. CLURE contends that there are some very basic issues related to the placement and servicing of building that should meet a minimum standard on a province-wide basis. There are also some very important and involved decisions that have to be made by government before a building permit and inspection system is adopted throughout the Province.

A. *Development Approvals*

As mentioned previously, the present building regulations only apply to about one third of the Province plus the areas within 150 m of the Provincial highways numbered from Route 1 to 199. The many complications with respect to building permits and inspections have prevented the expansion of this requirement to a universal or province-wide basis. However, there are some very basic requirements, not related to the building construction itself, which are important enough, and much easier to regulate, that should be required on a province-wide basis. Because of their external impact, it is important that the house or building be located on the proper lot and not partially on an adjacent property. It is also important for road maintenance and future improvements or widening that the structure be setback the appropriate distance from the highway. It is also critical for the protection of the health of adjacent neighbours and the protection of surface and groundwater that the sewage disposal system be properly located and constructed on the lot. These are the components which would be included in a "development approval" as opposed to the components related to the actual building structure which are the subject of the National Building Code (NBC).

- *It is recommended that the Province, through the Department of Municipalities, Culture and Housing, introduce the requirement that "development approvals" be obtained on a province-wide basis before any building is permitted in the non-incorporated areas.*

This would mean that approvals would be required, much as they are at present, from the following departments before a "development approval" is issued for any structure in the non-incorporated areas.

- 1) *The Department of Municipalities, Culture and Housing (delegated through development officers or planning commissions) to confirm that:*

- *the applicant owns the lot on which he/she proposes to construct the building;*
- *the lot size, building size and building location with respect to the lot boundaries meets the regulations; and*
- *the proposed building use would be in conformance with any land use designation or zoning regulation which may apply to the property. (This is a new condition which would ensure protection for adjacent owners from potentially incompatible land uses).*

- 2) *The Department of Transportation, with respect to building setback requirements appropriate to the classification of the highway.*
- 3) *The Department of Health and Community Services, with respect to the location and construction of the sewage disposal system.*
- 4) *The Department of the Environment, if there is a watercourse located on the lot, to ensure proper consideration of setbacks or other measures which might be required to prevent contamination of the water.*

- *It is further recommended that there be a clear description of these requirements incorporated in the Building Regulation.*
- *It is also recommended that the concept of "one stop shopping" be introduced with respect to development approval. The applicant should have to make one application and that should be to the development officer. It would then be the development officer's responsibility to obtain the necessary approvals from the other affected departments.*

This process will be facilitated through the addition of the "Technical Advisory Committee" to the District Planning Commission Structure as recommended in Section 2.4.5.

- *With respect to inspection, in addition to the inspections as currently carried out by the Department of Health and Community Services regarding the sewage disposal system, it is recommended that there be two inspections carried out by the development officer or building inspector - one after the basement or foundation forms are in place to confirm building location and conformance to all highway and lot line setbacks or yards requirements, and the second after completion of construction to confirm that the proposed use and number of units does conform to any existing land use plans or zoning regulations.*
- *It is recommended that there be a fee for the development approval which is based on cost recovery and that it be so worded in the regulation.*

- *It is recommended that Section 8 of the Building Regulation be amended to require that no electrical permit will to be issued unless the applicant has received a development approval. This requirement will be expanded to cover the whole Province.*
- *It is recommended that the Department of Municipalities, Culture and Housing prepare an operations manual for all development officers in the Province which would contain policies and procedures relating to approval and administration of development approvals, including the roles to be played by all departments involved. This manual should also include similar information with respect to subdivision regulations, plan amendment or rezoning procedures as well as any provisions for building permits or inspections which result from recommendations in the next section. This recommendation will also be facilitated, and communication and cooperation between departments improved, through the "Technical Advisory Committee" for each Planning Commission as recommended in Section 2.4.5.*
- *It is recommended that the Department of Municipalities, Culture and Housing undertake the various measures suggested in Section 2.4.5 with respect to public education and communications. In addition to improving the appreciation and knowledge for all planning matters, it would specifically help to make rural residents aware that development approval is required, why it is required, how the requirement protects them and how and where to apply for approvals.*
- *It is recommended that the Department of Municipalities, Culture and Housing confer with the various planning commission and development officers to determine how these changes affect staffing requirements. With the expansion to full provincial coverage there may be a need for more or a reallocation of human resources. This reallocation will also be affected by the direction the Province takes with respect to building permits as discussed in the next section.*
- *It is recommended that the necessary changes be made to the appropriate sections of the Provincial Building Regulation (81-126) in order to implement the above recommendations.*

B. Building Permits and Inspections

- *The review by CLURE of the problems and concerns with respect to the issue of building permits and building inspections leads to the conclusion that the issue of universal building permit coverage in non-incorporated areas, although it has merit and support in theory, in actual practice has so many serious, complicated and interrelated problems, that it is beyond the capability of CLURE to resolve within its limited mandate. It is a very sensitive subject that involves the acts, regulations, policies and personnel in two departments. (Municipalities, Culture and Housing and Advanced Education and*

Labour) It has been the subject of several past studies and reviews and has even resulted in a trial experiment with cross-trained multi-disciplinary inspectors. It deals with several legal and financial issues regarding costs, level of service, liability and consistency. Answers or agreements on some of these issues (area of coverage, level of service) must be resolved before others (number and type of inspectors, costs, liability, hardship) can be dealt with. However, it is time that the Province came to grips with this issue.

- *It is recommended that the National Building Code be reconfirmed as the minimum standard, that should apply to all building construction in the Province.*
- *It is recommended that a Committee be struck representing all parties affected by building permits and inspection in order to rationalize and resolve the whole issue of building permits and inspection. The Committee should include representation from the Departments of Municipalities, Culture and Housing and Advanced Education and Labour, as well as development officers and building inspectors representing the municipalities, planning commissions and the regional offices of Municipalities, Culture and Housing.*

Questions to be resolved by the Committee should include, but not be limited to, the following:

- 1) *What is the objective the Province is trying to achieve through the building permit system?*

There is certainly confusion among all concerned at the present time as to what the present objectives of the Building Regulation are. The purpose as currently stated in the regulation, "to prescribe standards for the building" of a building or structure, is effectively negated by clauses which allow the building inspector to waive any requirement for the review of specifications or drawings as well as subsequent inspection of any residential construction. Thus, there is certainly no guarantee that the structure meets any minimum structural standards with respect to the National Building Code requirements.

- 2) *How far should it take the National Building Code requirements?*

The present application of the Building Regulation in non-incorporated areas is having little impact in terms of guaranteeing the minimum standards of the National Building Code are being met. Decent housing is being provided for the most part in rural areas through the knowledge and efforts of the building industry and not because of the Building Regulation. Because of this situation, first priority might be given to the enforcement of NBC requirements with respect to commercial, industrial and institutional buildings where the safety of assembled residents would be of higher concern. Attention could then be turned to the implementation of the NBC requirements for residential construction.

3) *What should be the area of coverage?*

Should it be done on a province wide basis? Should it be done on an audit basis or 100 percent coverage?

4) *How many inspections should be required?*

5) *What human and financial resources would be required?*

Based on the standards to be achieved, the area of coverage and the number of inspections, then the demands for staffing could be determined. Depending on the number, type and location of staff, other financial implications (offices, equipment, etc.) would have to be determined.

6) *What training or licencing would be required?*

Based on the previous decision, what additional training would be required? Is it worthwhile to consider setting up a training course through the Community College system or should they be trained out of Province?

7) *Which department or who would be responsible?*

Would it be the Department of Advanced Education and Labour or Municipalities, Culture and Housing, both, or should the service be privatized?

8) *How will it be financed and what fees should be charged?*

In keeping with other policy directions, should building permit and inspections service not be provided on a cost recovery basis?

9) *How will the Province deal with the liability issue?*

Many development officers and building inspectors are unsure of their liability, many are critical of the Province's lack of direction and support and all agreed the issue should be resolved before the building inspectors, the Planning Commissions or the Province are the subjects of lawsuits.

10) *How will it be phased?*

If concerns with personnel training or costs are significant, could the service be phased starting with major concentrations around larger municipalities or in high growth areas or along the more major highways first?

11) *How should the matter of legitimate hardship cases be handled?*

There are those in rural areas who would be offended by any suggestion that they be handled as part of the social service network. Many are willing to work over a long period of time to complete a home before it might meet NBC standards. Can the Province afford to subsidize those that cannot afford to build a home that meets the NBC standards?

- *Regardless of how the Province proceeds with building permits and inspections, once it has a system in place, many of the recommendations with respect to development approvals should also apply to building permits. This would include:*
 - *incorporating appropriate changes in the Building Regulations and other appropriate Acts, if necessary;*
 - *incorporate the concept of "one stop shopping";*
 - *charging a fee based on the cost recovery principle;*
 - *requiring electrical permits to be contingent on building permits;*
 - *preparing manuals for inspectors; and*
 - *including building permits and inspection information in its public education and communication efforts.*

3.6 INCENTIVES TO ENCOURAGE OR DISCOURAGE DEVELOPMENT

3.6.1 Background and Concerns

A. Introduction

The terms of reference for CLURE requested that the Province's property taxation policies be reviewed to determine if they inadvertently encourage development which has negative impacts. In addition, they suggested that taxation and incentives/disincentives should be examined to see if they could be effective tools for promoting environmentally and economically sound development.

In the course of its review CLURE uncovered many other government policies or practices, in addition to lower taxation, which inadvertently encourage, subsidize or support development in non-incorporated areas which is detrimental to other uses, to resource lands, to the environment, to highway safety, to municipalities and, often, at the expense of the taxpayers of the Province. Besides taxation, some of these incentives include: lack of rural plans and regulations; lack of universal building permit coverage; lack of development approval fees; maintenance of Class D and private roads; subsidized culverts, chip seal and road signs; lower development standards; and assistance to industries in inappropriate locations.

With respect to taxation, it should be emphasized that it is not the intent of CLURE to stifle rural development. CLURE believes that New Brunswickers should be able to live or develop wherever they choose, with respect to urban or rural areas, provided they do not create undue conflicts with their neighbours, do not cause negative impacts on resource lands and the natural environment and that all residents, urban and rural, pay for the services they receive on a fair and equitable basis.

There are definite inequities in the present system but they can only be quantified to a certain degree. More information needs to be obtained through better record keeping and cost accounting in order to accurately determine the allocation of costs for various services to specific areas so that property tax rates are able to be calculated on an equitable basis. There is also support for user charges or fees as an alternative to property taxes for some services.

There were many suggestions for other incentives to foster sustainable development.

Incentive programs, such as the Farm Land Identification Program (FLIP), received a very favourable response from the public and there were several suggestions for enhancement of that program and possible application of similar programs to protect other resource lands and natural and environmentally sensitive areas. Other incentives are recommended in several other sections of this document.

The sections which follows will present the background and concerns as well as goals, objectives and recommendations for the various incentive issues.

B. Government Incentives that Encourage Urban Sprawl and Ribbon Development

The direct or indirect incentives created by government policies and practices which encourage residential, commercial and industrial developments to locate in the non-incorporated areas of this province must be addressed. This development, for the most part, is occurring in an unplanned and unmanaged manner in the form of urban sprawl and ribbon development, and presents conflicts between uses, threats to the rural environment and a significant cost to all the taxpayers of the Province.

This section contains an examination of the variations in taxation, specific policies of the Department of Transportation, discrepancy in approval fees and lack of land use plans and regulations.

I. Variations/Inequities in Taxation

Taxation is a very sensitive issue. During its public consultation process, CLURE heard many rural residents claim that they pay too much property tax for the services they receive while other groups, such as municipalities, claimed that rural taxes were too low and that the \$0.65 provincial tax rate for rural services should be increased. **One of CLURE's first concerns in dealing with the issue of incentives and taxation was to attempt to get answers to the questions of what services are covered by the \$0.65 rural property tax rate, is it adequate to recover the cost of providing these services and is it calculated on an equitable basis when compared with municipalities.**

This was not, and still is not, an easy question to address. There are several reasons for this situation. The main reason is that the tax rates and the unconditional grant (through which the Province pays 45 percent of the LSD's local budget) are not related to expenditures or to any tax base as it is within municipalities. There is no rational basis for the \$0.65 tax rate or the 45 percent unconditional grant; they are basically "pulled out of the air".

The common perception is that the \$0.65 rate is general provincial property taxation.

Initially it represented the residual tax after an \$0.85 credit was applied to the base tax rate for provincial property tax of \$1.50 per \$100 of assessment on owner-occupied residential property. This was changed in 1987 and the Residential Property Tax Act considers the \$0.65 to be actually a tax applied to owner-occupied residential properties in LSDs and not a credit at all. This rate is intended to recover the cost of providing residents of LSDs with services that, if they lived in an incorporated area, would be provided by the municipality and charged to them through their local rate. Since the LSD is not equipped to provide some services that the Province feels are essential to all residents of the Province (such as police protection, solid waste disposal, and transportation services) the Province has assumed the responsibility of providing these services and charging the residents of LSDs for these services through their property taxes. The problem is, however, that the \$0.65 rate is not based on the cost of providing these three services, or any other rational basis. The \$0.65 rate has applied, unchanged, since 1984.

Similarly, the unconditional grant paid to municipalities as a percentage of their net budgets is based on a pre-determined formula involving components such as population, road mileage, fiscal capacity, etc. In non-incorporated areas there is no similar rational basis for calculating the unconditional grant and it has been uniform at 45 percent for the past 20 years. It is also uniform across the whole of the non-incorporated area so that all 291 LSDs receive the same grant percentage regardless of the level of service it receives.

With this kind of dilemma, how does one begin to answer the question of whether the \$0.65 rate covers the cost of service delivery and is it equitable with the rates charged in municipalities for the same service. CLURE began by asking the Department of Municipalities, Culture and Housing if it could, as part of its current study on Review of Provincial/Municipal Fiscal Transfers, provide some basic information with respect to the various services, level of assessments, unconditional grants and tax rates in non-incorporated areas and relate those to similar services and rates in municipalities. An excellent paper entitled, "*Servicing and Financing in Local Service Districts*" was prepared and submitted to CLURE. **This was the first time that an attempt was made by government to identify the breakdown of costs for services, tax rates and unconditional grants for the non-incorporated areas of the Province.** This section will draw heavily on the results of that review and then make some recommendations with respect to the taxation issue.

The Department identified three categories of services available to the non-incorporated areas of the province: Designated Services, Elective Services, and Provincially Provided Universal Services. These terms are not generally well known and are described more fully below.

(1) Designated Services

Fire protection and ambulance services are considered as designated services. These services are seen to be of such importance to the well-being of citizens that, although they are technically classified as optional services, they are made available in all areas of the

Province.

Fire protection is provided to residents of non-incorporated areas in a number of ways. Some Local Service Districts have their own local volunteer fire department, while other less organized LSDs have arrangements with either a nearby municipality or another LSD to provide fire protection services on a contract basis.

Ambulance services have also been provided through a variety of arrangements. Some areas were provided ambulance service directly through the LSD, through a local hospital or by the Saint John Ambulance, while others relied on the service of a private operator. Recent changes relating to health care in the province has resulted in the shift of funding responsibility for ambulance services to the Department of Health and Community Services. This shift effectively removes the involvement of the LSDs in the provision of this service. This shift will also mean that ambulance services will be considered a provincially provided universal service in the future.

(2) Elective Services

Residents of LSDs can request that additional services be provided to their area. This includes services such as general government, recreation and community services and street lighting. These are classified as elective services.

The Minister of Municipalities, Culture and Housing is ultimately responsible for providing these services to residents of non-incorporated areas. The cost associated with providing both the designated and elective services are partially recovered through a local tax rate in the LSDs, which is added to the flat rate of \$.065 per \$100 assessment on owner-occupied residential properties. In 1992, the average local rate in the LSDs was \$0.12 per \$100 of assessment.

(3) Provincially Provided Universal Services

The Province provides police protection, transportation services (road maintenance) and waste disposal to all non-incorporated areas. These are referred to as Provincially Provided Universal Services.

Police services are provided to all non-incorporated areas and 68 smaller municipalities through an "umbrella" contract with the R.C.M.P. This arrangement between the Provincial and Federal Governments also includes broader, provincial policing functions. The municipalities that receive police services through this contract, and the LSDs are charged a uniform per capita rate of \$86.00. (1992)

All highways, roads and streets in the non-incorporated areas are constructed and maintained by the Province directly. This is financed from the provincial budget.

In the past, the Province either operated a rural dump for the rural residents or made arrangements for the rural residents to use a dump operated by a nearby municipality. The Province now has in place a Waste Management Strategy, which will result in the creation of regional solid waste sites throughout the Province. These sites are operated and funded by the municipalities and the Local Service Districts which are part of a cooperative Solid Waste Commission.

The cost to the Province to provide these police protection, transportation and waste disposal services is partially off-set by the real property tax of \$0.65 per \$100 of assessment, levied on owner-occupied residential properties. This rate has not changed since 1984.

Table 3.5 presents a summary of the costs to the Province of providing police protection, transportation and waste disposal services to the non-incorporated areas in 1992. The Department of Municipalities, Culture and Housing undertook a considerable amount of research and analysis in order to come up with these costs.

The cost the Province incurs to provide police protection was relatively easy to determine since the umbrella contract with the R.C.M.P. is based on a current rate of \$86 per capita. This amounted to \$25 million in 1992 based on the non-incorporated population estimated to be 291,506. This is not related to actual costs and all of the non-incorporated area is lumped in with 68 smaller municipalities for purposes of the umbrella contract. There is some question as to whether or not this common per capita fee is equitable given the higher cost incurred to provide police service to the more dispersed settlement pattern in some LSDs compared to that in the municipalities. On the other hand, it could also be agreed that the level of service is lower in the LSDs than it is in the municipalities. This could not be quantified, but the Department of Municipalities, Culture and Housing, after a review in conjunction with the Solicitor General's Office and the R.C.M.P., determined that the \$86 flat fee was appropriate and thus used it in their calculations.

Table 3.5 Provincially Provided Universal Services

Service	1992 Estimated Cost	Per Capita Cost	Method of Delivery
Police Protection	\$25,070,000	\$ 86.00	R.C.M.P. Umbrella Contract
Transportation	\$35,934,600	\$123.00	D.O.T. services all roads
Waste Disposal	\$ 4,124,900	\$ 14.00	D.O.T. dump or other arrangement
Total	\$65,129,500	\$223.00	-

Note: Per Capita rates are based on non-incorporated population of 291,506. (1992)

Source: Servicing and Financing In Local Service Districts. Discussion Paper prepared by the New Brunswick Department of Municipalities, Culture and Housing, Corporate Planning Branch. November, 1992.

The cost accounting for transportation services to the LSDs is not broken down by highway classification as is done in municipalities. In municipalities, the residents of the municipality pay for the cost of road maintenance on local roadways while the Province has responsibility for maintenance on all provincially designated highways. In the LSDs the Department of Transportation provides service on all streets and roads (16,608 kilometres) - there is no distinction between local and provincial highways. The Department of Municipalities, Culture and Housing, therefore, undertook an exercise to estimate the length of roads in LSDs that would likely be designated as Provincial Highways (7,394 kilometres). The remaining 9,214 kilometres were considered to be local streets. At the average estimated cost of \$3,900 per kilometre that the Department of Transportation uses for local highways, the total LSD cost was thus estimated to be \$35,934,600.

The Department of Transportation has the responsibility for the maintenance of all rural dumps which cost approximately \$2.7 million in 1992. DOT also estimated that \$1.4 million was paid to municipalities for the use of their dumps by LSD residents. The total cost of waste disposal in LSDs was thus estimated to be \$4.1 million in 1992.

The major issue to be addressed is whether or not the \$0.65 tax rate adequately covers these expenditures. A brief description of the method of property taxation is required to place this question in perspective.

a) Taxation Rates in Incorporated and Non-Incorporated Areas

Table 3.6 presents an overview of the property tax structure in New Brunswick and the average tax rates in 1992.

The Province and local governments share the same tax field in New Brunswick. In addition to the property tax levy to finance local service, be it in a municipality or LSD, there is an additional levy for provincial property tax. The base tax rate for provincial property tax is \$1.50 per \$100 of assessment. All owner-occupied residential properties, regardless of where they are located, receive a 100 percent credit against provincial property taxes resulting in a net provincial tax rate of \$0.00. Non-owner occupied residential property does not receive the same 100 percent credit and are charged the full \$1.50. Non-residential property, such as commercial and industrial property, is taxed at a rate of one and half times this rate or \$2.25 per hundred. If there is a local tax rate for designated or elective services, this is added to this tax rate.

To partially recover the cost of providing the three universal services (police, road maintenance and waste disposal) to owner-occupied residential properties in LSDs, a tax rate of \$0.65 per \$100 of assessment is charged to these properties. This is the provincial levy that is applied to all owner-occupied residential property. This rate is not applied to non-residential and non-owner occupied residential properties.

In addition to this provincial tax, all the municipalities and Local Service Districts levy a local tax to cover the cost of additional local services. In LSDs this local tax is used to cover the cost of fire service and elective services. The 1992 average local tax rate in the municipalities was \$1.25 per \$100 of assessment, while the average local rate in Local Service Districts was \$0.12 per \$100 of assessment. Non-residential property in the non-incorporated areas is taxed at a rate of 1.5 times the provincial rate and 1.5 times the local rate, as it applies to designated and elective services. Non-residential property does not pay at all towards the provincially provided local services.

Table 3.6 - New Brunswick Property Tax Structure

TAX CLASS	AVERAGE TAX RATES						
	Municipalities			Local Service Districts			
	Provincial	Local	Total	Provincial	Provincial /Local	Local	Total
Residential Owner-Occupied	\$1.50*	\$1.25	\$1.25	\$1.50*	\$0.65	\$0.12	\$0.77
Residential Non Owner-Occupied	\$1.50	\$1.25	\$2.75	\$1.50	--	\$0.12	\$1.62
Non Residential	\$2.25	\$1.87	\$4.12	\$2.25	--	\$0.18	\$2.43
<p>* Residential owner-occupied properties receive a credit of the total amount of the Provincial tax rate.</p> <p>Source: Servicing and Financing In Local Service Districts. Discussion Paper prepared by the New Brunswick Department of Municipalities, Culture and Housing, Corporate Planning Branch. November, 1992.</p>							

It is evident from this table, that the level of property tax for all three types of properties: residential owner-occupied; residential non-owner occupied; and non-residential, is much lower in the local service districts or the non-incorporated areas of the Province, than in the municipalities. The tax rate of all three types of properties in the non-incorporated areas, is roughly 60 percent of the average tax rates in municipalities. This does not mean much, however, without relating it to the cost and level of servicing and whether an equitable basis is used for municipalities and the LSDs. This will be addressed later in this section.

There is, however, one obvious discrepancy shown in the table that should be addressed, that is, the method of calculating the non-residential tax component in the non-incorporated areas. At present, this creates inequities within the LSD itself as well as between the LSDs and municipalities.

Within the LSDs, the provincially provided local services (police, transportation, solid waste disposal) benefits all residences and businesses in the LSDs but these services are subsidized by the residential homeowners. As noted from the table, they are the only taxpayers in the LSDs that are being charged the \$0.65. This inequity should be addressed since the system should be equitable and structured in such a way that all residents receiving benefits from

these services in a community share the cost of those services. This should be corrected by charging the non-residential uses 1.5 times the \$0.65 provincial rate (\$0.97). The total non-residential rate would then become \$3.40 (\$2.43 + \$0.97).

This would also help to address the second discrepancy and that is the large gap in the non-residential property rate between LSDs and municipalities. Under the present system a business located in a municipality would pay an average rate of \$4.12 per \$100 of assessment while the same business located just outside the municipal boundary would pay an average of \$2.43. This would mean, for instance, a business property assessed at \$100,000 would pay an average of \$1,700 less tax if located outside a municipality compared to one located inside. The financial incentive to locate in the non-incorporated area is obvious. It also presents an unfair competitive advantage for the business in the non-incorporated area. The suggestion presented above would see the gap reduced from \$1.69 to \$0.72. The system of taxation in the LSDs should allow the Province to recover a portion of the cost of providing services consistent with the method used in municipalities. The system should not present a strong incentive or disincentive to locate properties by virtue of the tax structure.

After having reviewed the services provided and the taxation system, two questions remain to be addressed - how does the revenue generated by the present tax system relate to the cost of servicing and is it equitable with the system used in municipalities.

b) Cost Recovery of Provincially Provided Local Services

As indicated earlier, there has been much speculation over the years as to whether or not the present system of taxation in non-incorporated areas adequately covers the cost of delivery of the provincially provided local services. The Department of Municipalities, Culture and Housing examined several scenarios to address this question. These are briefly described below before conclusions are drawn on this issue.

1) Full Cost Recovery Under Existing Structure

If the cost for Provincially provided local services in LSDs were fully recovered under the existing tax base (owner-occupied residential only), the tax rate required would be \$1.93. This reflects the recovery of the total cost of \$65,129,500 (Refer to Table 3.5) through the tax base on owner-occupied residential property in the LSDs. The result of the calculations for all four scenarios is presented in Table 3.7.

Table 3.7 - Comparison of Approaches to Recovery of Service Costs

APPROACH	TAX RATE
1. Full Cost Recovery Under Existing Structure	\$1.93
2. Full Costs Recovery on All Properties in L.S.D.'s	\$1.04
3. Cost Recovery With Other Local Services in L.S.D.'s	\$0.57
4. L.S.D.'s as the 119th Municipality	\$0.66

2) Full Cost Recovery on all properties in LSD

If the tax base was expanded to include all properties (ie. including the non-owner occupied residential and the non-residential) in the LSDs, to pay for these services, with non-residential properties continuing to be taxed at one and half times that of residential, the rate required would be \$1.04. This is calculated based on the total cost of these three services (\$65,129,500) divided by the estimated tax base of all the properties located in the LSDs (\$6,243,490,250).

3) Cost Recovery as With Other Local Services in LSD

The first two scenarios considered full cost recovery of the service cost only through taxation. However, it is important to realize that a fundamental aspect of the provincial/local fiscal arrangement is the sharing of the property tax field and a significant supportive **unconditional grant** for both LSDs and municipalities.

The unconditional grant funding to municipalities is applied against the cost of providing local services. The amount of the grant is based on a formula which considers a number of measures of fiscal and expenditure needs. In 1992, the average unconditional grant given to municipalities was about 30 percent of their budgets. Smaller municipalities receive an average of 34 percent of their budgets.

The unconditional grant received by Local Service Districts is 45 percent of their net budget. If the analogy of the Provincially provided services as local services was fully extended, an unconditional grant of 45 percent would be applied against these costs. Based on an estimated cost of \$65,308,275, the remainder to be recovered through taxation would be \$35,821,225. A tax rate of \$0.57 would be required to recover this amount. This rate would

apply to all properties and at a rate of one and half times for non-residential property.

4) The Local Service District as the 119th Municipality

The final scenario developed by the Department, examined the taxation implications if all the LSDs were to be collectively considered as the 119th municipality. This hypothetical municipality would be treated as a Group "D" municipality. Group "D" municipalities are one of four groupings of similar municipalities used for the purpose of calculating the unconditional grant. These are small municipalities in terms of population and they provide a modest range of public and private services. In 1992, the average tax rate for these municipalities was \$0.97 compared to an average of \$1.25 for all municipalities. The composite tax rate for all LSDs was \$0.77, this includes the levy of \$0.65 for provincially provided services and \$0.12 local tax rate. Table 3.8 compares the financial and budget statistics for Group D municipalities and the combined LSDs.

Table 3.8 - Comparison of LSDs with Group "D" Municipalities

	GROUP D	L.S.D.'s
Population	84,843	291,506
Tax base	\$2,280,025,200	\$6,243,490,250
Tax Base Per Capita	\$26,873	\$21,418
Total Budget	\$39,535,477	\$90,229,026
Net Budget Per Capita	\$407.05	\$309.53
Per Capita Cost for Police, Transportation and Waste Disposal	\$217.47	\$223.42
Unconditional Grant	\$12,432,240	\$41,137,616*
Grant Per Capita	\$146.53	\$141.12*
Percentage of Grant Support	36%	46%
Residential Tax Rate	\$0.9687	\$0.7863
* Figures based on grant calculation of LSDs as Group D municipality		
Source: Servicing and Financing In Local Service Districts. Discussion Paper prepared by the New Brunswick Department of Municipalities, Culture and Housing, Corporate Planning Branch. November, 1992.		

A proxy municipal budget was developed for this hypothetical municipality. Allowance for unconditional grant support was made in the same manner that is used for the Group "D" municipalities. The local services which were factored into this budget included those provincially provided local services (police, transportation and waste disposal) which would be consistent with those services which would be provided if the areas were organized as a municipality.

The net expenditure budget was applied to the tax base to determine the rate of taxation. This budget was calculated based on the cost of provincially provided universal services and the total cost for local services. The cost of services was calculated by utilizing the same data that is used to determine the cost to provide service such, as road maintenance and police protection to the smaller villages. (DOT charges municipalities \$5,200 per kilometre per year for winter and summer road maintenance; police protection costs are calculated based on \$86.00 per capita.)

These features incorporated by the Department in these calculations overcame two of the major inconsistencies between the LSDs and the municipalities. The 45 percent unconditional grant paid to LSDs has not changed in 20 years and is not calculated through a formula similar to that used to calculate municipal grant support. Likewise, the \$0.65 provincial tax rate has not changed since 1984 and it is also not related to a calculation based on actual expenditures or assessment base as is done in municipalities. Both these inconsistencies were addressed by preparing a proxy budget and calculating an unconditional grant on the same basis as that for Group D municipalities.

When the formula is calculated for this hypothetical "municipality" utilizing the same parameters as those used to determine the unconditional grant to Group "D" municipalities, the resultant grant is 41.1 million.

When the grant is subtracted from the total budget, the amount which remains to be raised through property taxes is \$49,091,410. The resultant tax rate is \$0.78. When the current local rate of \$0.12 is deducted, a rate of \$0.66 remains.

The Department concluded, based on these four scenarios, that when consistent parameters are applied to the LSDs as with municipalities, the current tax rate of \$0.65 does not appear to be out of line based on the estimated cost of the three services of police protection, transportation and solid waste, which are provided by the Province.

The Department's findings and conclusions were reviewed and meetings were held to discuss the results. It was agreed that the \$0.65 rate currently charged to LSDs was reasonable with respect to the three services reviewed. **However, it was further determined that there are also a number of other services that the Province provides to LSDs that are not included in the \$0.65 tax rate but are paid out of general revenues.**

These include **transportation services** (as discussed in the next section) such as maintenance and repairs of culverts and ditches, maintenance of private roads and Class D roads, chip-sealing of subdivision streets and provision of streets signs. Also included are some **planning services** such as administration of budgets, preparation of basic planning statements, zoning by-laws, processing of applications for subdivisions and building permits as well as hearings related to plan or zoning amendments. There are also other services such as the LSDs' share of funding for the Economic Development Commissions that are provided from general revenues and not through the LSD property tax. **If these various services were provided in municipalities, they would be financed through the municipal property tax. To be equitable, therefore, they should be included in the provincial tax rate calculation.** If these various services were included the tax rate would obviously be higher than the \$0.66 calculated earlier. One of the problems is that the cost information with respect to these other services are not readily available. The Department of Municipalities, Culture and Housing would have to determine the costs of providing the various planning and approval services to the non-incorporated areas while the Department of Transportation would have to do the same with respect to the transportation services. The costs should also be broken down by specific area of LSDs as closely as possible in order to assure equity with respect to calculation of the rate.

The whole question of equity is discussed in the following section.

c) Equitable Service Delivery and Financing

CLURE maintains that people should be able to live where they want as long as they do not cause conflicts with their neighbours, they do not impact negatively on the environment or resources and they are able to pay the cost (on an equitable basis) associated with the provision of any services they require.

CLURE also believes that service delivery and taxation should be equitable ie. everyone pays on the same basis. Many of the comments from municipalities called for residents of rural areas to cover the full costs associated with the delivery of service to rural areas. However, CLURE maintains that people in rural areas should not have to pay the full cost of services unless residents of municipalities pay the full costs. At the present time no one, not incorporated or non-incorporated residents, pay the full costs. Municipal operating budgets are subsidized through the unconditional grant formula, as are LSDs. The point is there should be equity, ie. extend the concept of equal opportunity and equal responsibility.

In order to have equity, the cost of providing a particular service to a particular area has to be determined. The same formula would then have to be applied to all areas to determine the amount of grant support each area should receive (this assumes the grant formula does not have inequities built into it). The tax rate then has to be calculated using the same basis or formula. A large part of the problem at present is that the actual costs to provide all

services to rural areas are not known because the Province's cost accounting system does not enable these costs to be easily determined or to be allocated to particular areas. It is impossible to relate the revenues to the expenditures as is done in municipalities because accurate accounting of expenditures and revenues for some services and for different areas are not kept. Too much goes into or is paid out of general revenues to get a clear handle on costs.

As described previously, the Department of Municipalities, Culture and Housing, for the first time, attempted to relate the actual cost of services provided to LSDs to the 45 percent unconditional grant they receive and to the \$0.65 tax rate they pay.

They did this by considering the whole of the non-incorporated area as a unit and used the same formula it utilizes for the Class "D" municipalities in terms of the unconditional grant. For 20 years the LSDs have been given uniform unconditional grant of 45 percent which was not related to any formula. Likewise, the Department calculated the tax rate which should apply if the expenditures in LSDs are related to the tax base as is done in municipalities. The tax rate for LSDs has been arbitrarily set at \$0.65 since 1984.

The results of this exercise showed that on the basis of three services - police protection, street maintenance and solid waste disposal - that the unconditional grant and tax rates resulting (46 percent and \$0.66 respectively) were close to that actually being charged. However, to be equitable, there are other services that are provided by the Province to rural areas that were not included in the calculation and if those services are provided in municipalities they are paid for by the taxpayers through their property taxes. These extra services include transportation services such as maintenance of ditches and culverts, summer and winter maintenance of private roads and Class D roads, subsidization of culverts, chip sealing of some subdivision streets, etc. Also included as extra services, but of a more minor nature, are planning services such as budget administration, building permits where required, preparation of basic planning statements, zoning by laws and rezoning, subdivision approvals and general planning advice.

Although not all the cost data was available, enough was available to conclude that the rate that is charged to non-incorporated area residents on average should be higher, if it is to be equitable with that charged in incorporated areas. It is not possible to determine what the rate actually would be until costs can be itemized for the various services identified above. In the past, accounting records have not been kept on a basis which permits these costs to be obtained.

This raises another legitimate concern. The rate was calculated on an average basis for the whole of the non-incorporated area. **It is undeniable that this also is not a fair basis of comparison because the level of services provided in non-incorporated areas is not uniform.** It is logical then to hear some residents claim that they do not get their \$0.65 worth of service from the province because some of them probably do not. Others also probably pay less than they should for the service they receive. **If this situation is to be addressed there**

has to be a cost accounting system from which it is better able to identify the cost, location and nature of the various services provided by government.

This is not an easy situation to rectify. The local tax rates vary now from one LSD to another depending on the services provided. Some have separate taxing authorities within the LSD itself recognizing a variable level of service and thus a variable rate. This makes it difficult to charge a common rate across an LSD or a restructured Rural Community. A common rate would certainly be easier from an administration point of view but it would be difficult to justify to residents, which is the same problem the Province is faced with now with the \$ 0.65 provincial rate. In order to justify the rate on a rational basis, so that it is defensible or easily explained, the level of service must be broken down into components and a tax rate calculated accordingly. This would have to be done for the provincially provided services (or those provided from an urban centre) similar to the way it is now with locally provided services.

This situation is also compounded by the fact that many services provided to residents of the non-incorporated areas are subsidized by municipalities. This applies to facilities such as arenas, pools, libraries, parking facilities, etc. that are provided by the municipality and which are utilized by non-incorporated area residents who do not pay towards the capital costs or the on-going operation and maintenance costs for these facilities. These costs are borne by the taxpayers of the municipality and amount to a subsidy for the non-incorporated area residents. In some areas of the Province there have been isolated instances of cost sharing between municipalities and adjacent LSDs but these are rare exceptions. Some municipalities have provincially owned buildings (such as schools) which serve the incorporated and non-incorporated areas. The municipality does receive tax revenue for their facilities by virtue of the fact they are located within the municipality.

The question of equity comes in here not only with respect to incorporated and non-incorporated areas in general but also with respect to individuals. Many people contend that taxation is not a fair way to deal with the use of municipal facilities by non-incorporated area residents because not all residents make use of those facilities. This same problem plagues negotiated cost sharing between incorporated and non-incorporated areas. The solution that most feel is fair is the user charge, although it is difficult to administer and creates hard feelings between urban and rural residents.

II. Policies of the Department of Transportation

Some policies and practices of the Department of Transportation (DOT) inadvertently act as financial incentives that encourage and perpetuate development in the non-incorporated areas, largely in the form of sprawl and ribbon development. These policies and practices are presented under various headings below.

a) Subsidized Maintenance of Public Roads

The Department of Transportation, through the Designated Highways Program, has responsibility for construction and specified winter and summer maintenance activities on Provincially designated highways in the Province, including those in municipalities. The Province's responsibilities essentially extend from curb to curb. The municipalities, are responsible for ditching, culverts, storm sewers, crosswalks, lighting, etc. which they finance through local property taxation. When these same services are provided in the non-incorporated areas, the Province pays the cost for these services at no cost to the rural taxpayers which, in effect, is a form of subsidization.

b) Maintenance of Class "D" and Private Roads

The Department of Transportation provides winter and summer maintenance to private roads and Class D roads at no cost to the residents who live along these roads. The \$ 0.65 flat tax rate, described previously, applies to the Province's maintenance of public roads in the non-incorporated areas.

There are two types of roads that, in theory, are not to receive regular maintenance services from the Department of Transportation, these being Class D local highways and private roads. The purpose of a Class D road is to provide access to properties which might otherwise be isolated. A Class D road, may be owned by the Crown or may be private property. There are approximately 3400 km of Class D roads in the province, 1100 km of which receive various forms of maintenance services. These roads receive this maintenance at no cost to the property owner.

A private road is a road which only a limited group of people have the right to use, as opposed to a public road where the general public have a right to use it. Private roads are frequently created under the Provincial Subdivision Regulation, Section 6 (1) (b), which gives the Provincial Planning Committee power to approve such " other access " as they deem advisable for the development of land.

Class D roads and private roads are mainly used for access to natural resource areas, woodlots, remote lakes and rivers, hunting camps and other recreational areas. Class D roads and private roads are often not constructed to the Department's minimum standards and have to be upgraded by the Department. In theory, these roads are not supposed to receive regular maintenance. In practice, as a result of the Department's winter and summer maintenance policy, they do receive maintenance services.

The Department's winter and summer maintenance policy for these roads can be summarized as follows. The winter maintenance policy states that snow plowing can be carried out on private roads with three or more inhabited dwellings, provided that the plow can do so without damage to equipment or property. The summer maintenance policy states that no work of any kind is to be carried out on roads located on Crown land, Crown land leases, or private land, with the exception of private roads used for access to recreational dwellings where there are five or more such dwellings. The work to be performed is to be of a minor nature only, such as grading, filling holes, repairing washouts and spot ditching.

These policies actively encourage ribbon development along substandard roads with the frequent result that the Department may upgrade the Class D or private road. This form of development expands the highway network and increases maintenance costs. It is unacceptable since the lot purchaser does not pay a share of the costs associated with constructing the public streets required to service the residential use of the land. This development also places additional demands to expand government services for school busing, fire police, ambulance and solid waste collection.

c) Subsidization of Culverts

As a component of the Designated Highways Program, the Department of Transportation has a policy of subsidizing the cost of driveway culverts to members of the public who build homes fronting on provincial highways and along private roads in the non-incorporated areas of the Province.

The former policy of the Department, was that it would absorb the entire cost of providing and installing the culvert at a cost of \$ 700 each. The Department estimated that it installs approximately 3,000 driveway culverts yearly. This represented a cost of 2.1 million dollars a year to the taxpayers of the Province.

In 1992, the Department adopted a new policy aimed at recouping a portion of the cost of providing and installing driveway culverts. There are two options available to a developer in the non-incorporated areas. The Department will supply the culvert and the developer pays a private contractor to install it. The other option, is to have DOT supply and install the culvert at a cost of \$ 400. This effectively represents the Province subsidizing a private developer, by covering 43 per cent of the cost of a driveway culvert. **At the rate of 3,000 culverts a year, the Province is still subsidizing private ventures in the amount of \$ 900,000 a year.**

The Department and the Province should be commended for this initiative to remove a portion of the subsidy to private developers as it applies to driveway culverts. However, if the owner or the developer was assessed the total cost of the culvert, it would help to deter ribbon and sprawl development. This move would make the cost of developing lots in the

non-incorporated areas more comparable with the cost of developing lots in a municipality, where the developer and thus the lot purchaser must pay the total cost for culverts.

d) Subsidization of Subdivisions

The Department of Transportation currently provides and places chip seal paving for streets in residential subdivisions and on local roads in the non-incorporated areas. It also provides and installs residential street signs in the non-incorporated areas at no cost to the developer. In the municipalities, these two development cost are borne by the private developer.

III. Building Permit Fees

A discrepancy currently exists between the building permit fees charged by the municipalities and those charged by the Province for the non-incorporated areas. This discrepancy is regarded as another financial incentive which encourages development to occur in the non-incorporated areas. The Provincial Building Regulation is in effect in approximately one-third of the non-incorporated area of the province. The regulation is in effect in most of the District Planning Commissions, and within one hundred and fifty meters of all arterial and collector highways.

Section 22, of the Provincial Building Regulation, adopted under the Community Planning Act, identifies the level of fees that can be applied.

22(1) Subject to subsection (2), the fee for a permit under this Regulation is five dollars.

22(2) The fee for a permit for a building or structure referred to in subparagraph 5(b)(1) which is a building used for assembly (schools, churches) as well as institutional and high hazard industrial occupancies, is one dollar for each one thousand dollars of value of the building or structure.

The implication of this policy is that the fee for a building permit in the non-incorporated areas is the same, for a dwelling valued at \$ 50,000 as it for a dwelling valued at \$ 250,000. Typically, municipalities have a sliding scale, which is tied to the value of the building. This sliding scale may be as much as \$ 7.50 per thousand dollars of the construction value in some municipalities. Based on this example, the owner of 100,000 dollar home in a municipality, would pay \$750 for a building permit compared to the owner of a home of equal value in the non-incorporated areas who would pay only five dollars.

IV. Absence of Rural Land Use Plans, Policies and Regulations

The absence, for the most part, of any land use plans and regulations in the non-incorporated areas, also act as a motivating factor for people to live in these areas. Many people commented during the public hearings that one of the reasons they moved to rural areas was to get away from zoning and other regulations associated with municipalities. At the same time they want and require measures to protect their investments. Chapter 2 on Structure and Process for Planning contained several suggestions to deal with this concern. These mainly related to creating a structure and process where local people could be better represented and could become involved in a proactive way in decisions which directly affect them and their properties. In this way they would have a better understanding and appreciation for why some form of plan or minimum regulation is necessary in the non-incorporated areas.

C. *Other Incentives/Disincentives for Development*

As a matter of philosophy, CLURE would prefer to encourage the use of incentives to foster sustainable development practices. In some cases, and especially in situations where incentives have not worked or policies not followed, the use of disincentives in the form of fines, fees or penalties must be considered.

The Farm Land Identification Program (F.L.I.P.) is often cited as a positive example of an effective financial incentive for proper land use. F.L.I.P. came into being in 1978 as a means to influence the use of rural land. This program, administered by the Department of Agriculture, offers financial incentives of real property tax deferral, to promote the preservation of agriculture land. The program provides deferment of real property tax on both land and buildings of eligible farms. If they are maintained in agriculture use for ten years, the taxes are written off. If the land and buildings are removed from agricultural use, then the deferred taxes must be paid in full, with an interest penalty. In 1992, through F.L.I.P., the taxes deferred was \$ 1,563,676 on land and \$ 1,383,633 on buildings for a total tax deferral of \$ 2,947,309. Since the program started in 1979, a total of \$14 million in taxes has been deferred.

Section 4.1 on Protection of Agricultural Land offers several suggestions for enhancement and expansion of FLIP with the objective of increasing incentives to register and maintain land in the program. Reference to this section should be made for the various details related to these recommendations.

Other incentives, in addition to FLIP, to protect agricultural land are also recommended in

this section. These include: the purchase of development rights to retain good agricultural land; the use of Crown Land to supplement agricultural operations; and support for programs aimed at soil conservation.

There are several policies in other sections of this report which recommend the **incentive approach** to achieving sustainable development objectives and stewardship of land resources. These include:

- 1) Section 5.1 on Natural and Sensitive Areas recommends provision of incentives to encourage private landowners to practice stewardship. This includes possible tax deferments and stewardship agreements;
- 2) Section 5.2 on Protection of Coasts and Shorelines recommends tax free easements as one method of providing access to coasts and shorelines;
- 3) Section 4.3 on Forestry on Private Lands suggests incentives such as tax determinant (similar to FLIP) and conservation easements;
- 4) Section 4.5 on Watershed Protection recommends consideration be given to compensation where development rights are removed;
- 5) Section 5.5 on Managing Our Solid Waste and Sewage suggests provision of tax incentives for manufacturers using recyclable materials;
- 6) Section 3.2 on Sprawl and Ribbon Development recommends that resource related lands be considered for reduced or variable rates of taxation with respect to provision of some services.

Several other sections recommended various kinds of fines or penalties as a **disincentive** to undertake certain types of development or actions. These included:

- 1) Section 4.4 on Pits, Quarries and Mineral Development, recommended a fee be charged as a security that provisions with respect to site rehabilitation will be honoured or that funds levied from the permit be sufficient to cover the costs of rehabilitation.
- 2) Section 5.4 on Air Quality recommended strict enforcement and larger fines with respect to infractions.
- 3) Section 5.5 on Solid Waste recommended enforcement and penalties for indiscriminate dumping.
- 4) Section 5.5 on Sewage Disposal recommended penalties and fines for infractions against the regulations with respect to the disposal of septage.

In addition to these examples from specific sections of the report, there were also some general suggestions coming from the public consultation process related to this issue of fines and fees.

There were several suggestions and examples presented to CLURE with respect to the fact that **relatively low fines for environmental infractions, are not effective deterrents to improper land use practices.** For example, when a developer can generate thousands of dollars in revenue from removing topsoil and the fine he receives for this infraction is only a few hundred dollars, the fine is viewed as one of the costs of doing business. The obvious intention of a fine is to act as an effective deterrent, but when the rewards are so high and the penalty is so low, the effectiveness of the threat of a fine is greatly diminished.

A similar issue relates to securities or bonds required for certain types of development. **The value of bonds required from developers or industries should be commensurate with the expense of the estimated cost of rehabilitation work.** For example, if it is estimated that a particular site, such as quarry operation, would require \$ 500,000 in rehabilitation work upon completion, then the bond required should cover the total cost, not a portion of it. A change in such a policy, would save the Province a considerable amount of money that it currently spends on rehabilitation projects and the increase in the value of the bonds posted by developers and corporations, would surely result in more responsible land use and resource extraction practices.

An option to the posting of bonds, is the collection of a fee (ie. an amount of money assessed against each load of gravel removed). The fee would be returned to the developer if site rehabilitation was carried out or would be forfeited to the responsible government authority which would use these funds to carry out the required remedial work.

D. Public Information With Respect to the Cost of Providing Services

For the most part, the general public is not aware or concerned about the very high cost to the Province of providing the level of services demanded by our dispersed rural population. The demand for higher quality services in the rural areas continues to grow with little appreciation of the cost.

The whole issue of public education is dealt with in detail in Section 2.4.5 of Structure and Process for Planning.

3.6.2 Goal and Objectives

Goal

To encourage the provision of incentives to foster sustainable development practices; the provision of disincentives, where necessary, to prevent poor development practices and to address government policies which inadvertently encourage development which has negative impacts for other uses, for the environment, for resource lands, for highway safety and for municipalities.

Objectives

- 1) To ensure a fair and equitable taxation structure for incorporated and non-incorporated areas as well equity within non-incorporated areas.
- 2) To eliminate or modify policies and practices of the Department of Transportation which inadvertently act as incentives to encourage inefficient forms or patterns of development.
- 3) To eliminate or modify discrepancies in the approval and permit fees between incorporated and non-incorporated areas which provide incentives for inappropriate development.
- 4) To ensure a structure and process is developed to enable the development of appropriate land use plans and regulations that have the support of non-incorporated area residents.
- 5) To develop appropriate incentives to foster sustainable development practices and disincentives, where necessary, to prevent inappropriate development or activities.
- 6) To inform the public with respect to the high costs associated with providing services to low density patterns of settlement.

3.6.3 Recommended Policies and Actions

A. Recommendations With Respect to Taxation

Based on the foregoing analysis it is recommended that the Province pursue the following measures to ensure a fair and equitable taxation structure.

- *It is recommended that the Province revise its cost accounting system so that all services provided to non-incorporated areas of the province are accurately identified in terms of the cost of providing the service and the geographical area benefitting from the service. The geographical area should be defined at the smallest unit possible ie. on an LSD or taxing authority level in the event that it is decided to apply a variable tax rate within a particular area. The additional services should include: transportation services such as maintenance of ditches and culverts; summer and winter maintenance of private roads and Class "D" roads; subsidization of culverts; and, provision of chip seal and street signs. It should also include: planning services such as budget preparation and administration; building approvals or permits; preparation of basic planning statements or plans for districts or rural communities; and, preparation of zoning by-laws, rezoning applications, variances, subdivision approvals and general planning advice. It should also include any other services that are provided to non-incorporated areas, that if they were provided in municipalities, they would be financed by the municipal taxpayer.*
- *It is recommended, that in calculating the unconditional grant, the same or an equitable formula be used for both incorporated and non-incorporated areas.*
- *It is recommended that in calculating the tax rate, the same basis or formula (for expenditures and assessment) be used for both incorporated and non-incorporated areas.*
- *It is recommended that the Province modify the non-residential property tax rate for non-incorporated areas to more accurately reflect the services provided and to make the tax rate more equitable with the tax rates charged by municipalities to the same types of services. It is, therefore, recommended that non-residential (commercial and industrial) properties in non-incorporated areas be taxed at one and one-half times the provincial/local rate.*
- *It is recommended that the Province consider "user charges" as alternative to property taxation for the provision of some services that might not be equitably distributed within the taxing jurisdiction.*

B. Recommendations With Respect to Department of Transportation Policies

- ***It is recommended that the current policies and practices of the Department of Transportation, which inadvertently act as incentives for inappropriate forms of development, be eliminated. These include:***
 - ***Any services such as ditching, culvert repair and maintenance, storm sewers, cross walks, lighting, etc. that are provided beyond the shoulder of designated provincial highways in LSDs, should be charged to the appropriate LSD and financed through property taxation in the same manner that those services would be financed in municipalities.***
 - ***The DOT should discontinue its policy of providing summer and winter maintenance on Class D and private roadways. In theory these roads are not supposed to receive regular maintenance services but many do once three homes or five cottages are developed along them. Quite often these roads are upgraded (at taxpayers expense) before maintenance can be carried out. This practice serves to expand the highway network, increases maintenance costs and creates demands for other government services, Although it is difficult to cut back on the Class D and private roads currently receiving regular maintenance, no new roads or extensions to existing roads should be maintained in the future. Further, the application of Section 6(1)(b) of the Provincial Subdivision Regulation regarding the accepting of "other such access" by the Provincial Planning Committee should be clarified so as to eliminate acceptance of private roads to recreational lots which are often converted to permanent dwellings resulting in the demand for additional services. It is further recommended that DOT adopt a policy of accepting roads only if they meet the minimum DOT standards and that residents living along the road contribute to the cost of maintaining the road either through taxation or other appropriate development or impact fees.***
 - ***The DOT should adopt the user-pay principle and eliminate all subsidy for the provision and installation of driveway culverts for developers or individual lot owners.***
 - ***The DOT practice of supplying chip seal and street signs at no cost to the developer should cease. This cost should be borne by the developer and eventually the lot purchasers.***

C. With Respect to Building Permit Fees

- *The issue of building approvals and permits, including fees, is presented in detail in Section 3.5. It was recommended in that section that development approvals be separated from the building permit itself. However, it was recommended that the fee for both development approvals and building permits be set on a cost recovery basis. Another option for consideration would be to adopt a sliding scale where the fee is related to the value of construction, similar to that used in some municipalities.*

D. With Respect to the Absence of Land Use Plans and Policies

- *This issue is addressed through several recommendations in Chapter 2 on the Structure and Process for Planning. The recommendations cover a broad spectrum of issues related to plans for rural areas as well as structures and processes to implement those plans.*

E. With Respect to Other Incentives/Disincentives for Development

- *It is recommended that all the incentives and disincentives recommended in other sections of this report and summarized previously in Section C of this chapter be considered for approval by the Province.*

F. With Respect to Public Education

- *In addition to the various recommendations regarding public education and communication presented in Section 2.4.5, it is recommended that the Province take advantage of opportunities to inform residents with respect to the high costs associated with providing various services to the low density dispersed development.*

4.0 RESOURCE ISSUES

4.1 PROTECTING OUR AGRICULTURAL LANDS

4.1.1 Background and Concerns

Agriculture plays an important role in the economy of New Brunswick. There are approximately **2,000 commercial farms** in the province with a land base of one million acres (400,000 acres under crop) and **employing some 7,000 people**. **Agriculture generates thousands of jobs in the secondary sector, supports many other farm-related businesses, and provides us with food.** The province imports products that would, if grown in the Province, provide 5,000 more jobs. As an example, only 150,000 acres more land in production would make the province self sufficient in grain. Of the land currently used for agriculture, there are **4,000 hectares (10,000 acres) of horticulture crops, 143,000 hectares (353,000 acres) of field crops and 22,000 (55,000 acres) of potatoes.**

Farming has changed over the years leading to more intensive and efficient use of land. From the turn of the century until the 1970's the number of farms in the province has declined from about 30,000 to just over 3,000. This decline has ceased in the seventies and a slow expansion has taken place in recent years. A significant increase in productivity has, however, compensated for this decrease in farm numbers. In fact, New Brunswick is recognized nationally in many commodities as a leader for the efficiency of its agriculture operations. Potatoes and blueberries are our two main export commodities. Due to advantageous moisture conditions and its abundant sources of water, New Brunswick is in a favorable position to provide a stable and quality food supply for its domestic needs, as well as for international market requirements. Farm land should not be taken for granted. Currently the "Potato Belt" is facing a shortage of agricultural land, limiting its ability to implement sustainable rotation practices. This situation progressively threatens the competitiveness of the industry.

In spite of the prospects for agriculture, the farm community must, however, share the rural landscape with other interests and other functions. Increased productivity and reduced amounts of land devoted to agriculture have resulted in fewer farms, less farm population and less acreage under cultivation. Statistics Canada (1986) reports that only **1.7% of the rural population lives on farms**. But New Brunswick also has the most dispersed population of any province in Canada. More recent statistics reveal that in 1991, **52.3% of all New Brunswickers lived in rural areas**, which represents a spectacular increase of 31.2% over 1971.

Family farms are still very much at the base of the agriculture industry. They have changed however. Today's farm is much larger and is operated with the most modern technology and management methods. Since the 1940's the number of farms has been reduced in excess of two thirds and the average area of a farm operation has more than doubled. In order to make farming feasible, the producer may have to acquire one or several neighbouring properties. This represents a huge investment and, from the point of view of lifestyle, it means that the farm operator is even more isolated from his/her neighbours.

The person or family who has chosen farming as a livelihood faces serious challenges with the business itself. **To supplement farm income or to secure a retirement income, farm owners often need to sell farm land frontage.** The Farm Land Identification Program (FLIP) was established by the provincial government in 1979, to encourage landowners to protect their land base for agriculture. This program defers, and after ten years eliminates, taxes on land that has been kept in agricultural production.

Although many of the challenges facing agriculture are internal to the industry, several other aspects of the current situation relate to features outside the control of the agricultural community. This calls for the need to build a strong partnership between the agricultural industry and other sectors of society.

4.1.2 Challenges of Agriculture to Local, Regional and Provincial Communities

Not only has agriculture changed over the years, but so has the larger rural community. The choice of more and more people to live in rural areas has had definite impacts on the landscape and on the rural community. Being less and less represented in the rural community, and being part of a rural community which, in New Brunswick, hardly has any voice in planning decisions, the farm owner is often unable to express his or her interests effectively. Agriculture is the main source of our food, and an important contributor to the provincial economy. But without an adequate strategy to maintain or increase its land base, agriculture will face even greater threats. **It is considered to be a near tragedy that New Brunswick does not to date have effective means of safeguarding this important economic asset.** The best land for agriculture is also the best land for other uses and, in particular, for settlement related activities. Land market conditions are such that the development value of the land far exceeds its value for agriculture.

The restrictions imposed by neighbours on farm operations may be a contributing factor in the loss of economic opportunity. Several areas have been identified where agriculture activities are affected by urban development. The main one is the restriction on farm activities deemed to be nuisances to non-farm residents. These include manure disposal, odours, slow moving farm vehicles on rural roads, pesticide applications, farm noises and hours of operation, dust, limitations on irrigation, etc. This is where farm operations are considered to be the cause of conflicts with neighbouring residential uses scattered

throughout the rural landscape. There are other features which more directly affect the value of the farm. **Without the benefit of tax exemption programs, the farmer would be faced with taxation for services provided to non-farm dwellers. Fortunately, the FLIP program in New Brunswick curtails this impact.** These tax exemption programs do not apply however, to municipalities where livestock or crop lands are taxed to provide recreational services, lights, sidewalks, etc. from which they receive no benefit. Farm land is most likely to suffer from pollution, damage to crops, harassment of cattle and the acquisition of properties for public purposes. When too many of these conditions are present, the inclination of producers to invest and expand may be considerably affected and they may be looking at other options for their livelihood, including the sale of their land.

With the increase of the population in rural New Brunswick, the agricultural land resource is being fragmented into smaller parcels of divided ownership. Land is being cut up into mixtures of uses without an evaluation of the effects on future costs and returns. The obvious result of this situation is that a two-way impact emerges: the impact of settlement on the agricultural resource interests, but also the impact of agriculture on settlement and on the environment.

Besides the actual fragmentation of the property noted earlier, problems become more serious when land with a good productive capacity is lost to residential and industrial development and when, supported by government programs, neighbouring land is reforested while there is not enough land to do proper crop rotation. **It is not the occasional house or business added to the rural landscape which causes the problem. The problem is settlement in the form of sprawl and ribbon development with no consideration of the needs of the farm operation.** Settlement uses are scattered across the countryside, cutting up road frontages, splintering land ownership, raising costs, increasing the probability of environmental conflicts among incompatible neighbours and detracting from the rural landscape. **Another major concern is that while controls prevail over the removal of surface materials on Crown land and for coastal areas, there is nearly no action taken to curtail the stripping of topsoil from existing or potential agricultural land.**

All too often, as non-farm residences build up in the rural areas, new problems are caused by the impacts of farm operations on the quality of life expected by new rural residents. Quite often the odours, dust and noise that come with farm operations may not be acceptable to other residents. Hog and poultry operations particularly have been considered harmful to the rural lifestyle of non-farm neighbours.

In order to balance farming interests with those of other property owners, the Province adopted, in 1986, the Agricultural Operation Practices Act, better known as the "Right-to-Farm" legislation. **Efforts have been made to prepare regulations under the Clean Environment Act to fulfil the requirements of the Agricultural Operation Practices Act, but failed when no agreement could be reached among the major stakeholders.**

Provisions in Regulation 88-200 under the Health Act require that livestock operations be

built no closer than 90 metres to any inhabited house or occupied dwelling. However, in many cases, this minimum distance is not satisfactory and does not prevent houses from being built within that buffer area. The "right to farm" legislation has put an end to legal battles between farmers and landowners related to odours. However, several presentations to CLURE have requested that efforts be pursued to develop and adopt regulations under the Agricultural Operations Practices Act.

4.1.3 Goal and Objectives

Goal

To foster the development of a viable, dynamic and sustainable agriculture industry in New Brunswick.

Objectives

1. To ensure an adequate supply of suitable land to support the production of food in New Brunswick.
2. To promote harmonious relations between farm operations and other land uses in rural areas.

4.1.4 Recommended Policies and Actions

It is critical that the structure and process for rural planning as outlined in Chapter 2, incorporates a mechanism at the provincial, district and local levels to address the concerns with agricultural land development. It was noted earlier that less than 2% of the rural population make their living directly from agriculture. Another 6% depend on the other primary resources. This population base is definitely not sufficient to guarantee a voice for agriculture interests in any political structure put in place locally to address the interests of the rural community. **There is, therefore, a need for an agricultural policy to be established at the provincial level.** The Province must play a major role in the sustainability of the agricultural land base. In order for this to be achieved, however, programs of the Departments of Agriculture, Natural Resources and Energy, Health and Community Services, Environment, and Municipalities, Culture and Housing will have to be enhanced to allow for better coordination. Organizations devoted to agriculture, together with other resource organizations, must also be recognized as essential tools to represent the interests of the resource community in rural New Brunswick. Even though less than 2% depend directly on the land, a much larger proportion of the population indirectly relies on the primary producers for their employment, in providing services to the agricultural industry and the processing of agricultural products.

The designation of land for agriculture must be a provincial process most appropriately carried out by the Department of Agriculture. The Farm Land Identification Program has provided some protection for agricultural land since its implementation. The addition of farm buildings in 1988 enhanced the incentives for landowners to register their land in the program. However, many factors still limit its efficiency:

- the interpretation of the regulations by the Appeal Committee, allowing the retrieval of lots and limiting the payment of deferred taxes to these lots, without penalty;
- the forgiveness of deferred taxes and interest after ten years;
- the low assessment and tax rate on farm land which is not included in the program.

A strong provincial policy on farm land will be most effective if it is accompanied by **mechanisms to define the implications of provincial policies and implement those policies at the regional and local level.** Rural residents and the agriculture community consulted by CLURE were unanimous: **Landowners, farmers and rural residents must be consulted, and there must be an effective mechanism to represent their interests in the development and implementation of any provincial policies related to agricultural land.** The structure and process suggested in Chapter 2, with elected representation on Rural Community Councils, representation on District Planning Commissions and input from government and private sector groups represented on the Technical Advisory Committee, allows local people to have input into the plans and policies to be adopted at the district level. The structure also requires the plans adopted at the district level to be in conformance with the Provincial land use and development policies.

A. A Strategy for Agriculture

At some point in the future, New Brunswick may be called upon to play an increasing role in the production of food on the world market. Considering our abundant water supply and the prospects for global warming, the Maritimes are expected to benefit from better conditions for food production. This is an opportunity that New Brunswickers must recognize and support. New Brunswick must support its agricultural industry and protect its agricultural land in order to be able to meet the requirements of those who may be dependent on our food industry, be it New Brunswickers, Canadians or the world.

The need for crop rotation is a major factor when determining the amount of land needed for a particular crop. It is essential to realize that in order to preserve the production qualities of the soils, alternate products must be grown on the land. For example, potato production requires that for two years out of three, a crop other than potatoes must be grown on the land. Efforts are needed to ensure that sufficient suitable lands are secured and made available for the sustainable production of food. The preservation and

development of agricultural land must be an integral part of a strategy for rural New Brunswick.

- *It is recommended that the Land Resource Strategy of the Department of Agriculture be accepted as Provincial Policy.*

The aims of this strategy are :

- a) to have agricultural production in New Brunswick occurring on land which is most suitable, properly improved and well managed to allow production at the lowest possible cost to give producers the greatest possible competitive advantage;*
- b) to secure New Brunswick farmers from the vulnerability associated with reliance on the production of a single commodity by having an adequate supply of high quality land and water resources available for diversification and to capture growth opportunities when they occur; and*
- c) to make all agricultural activities in New Brunswick sustainable. That is, to be economically viable while meeting the needs of present and future generations for food without degradation of the environment.¹*

B. Designation and Protection of Agricultural Land

Before agricultural land can be protected it must be identified and then designated or zoned in some manner. In other jurisdictions, zoning has been commonly used to ensure that farm land is protected and that non-compatible uses are prevented from developing on designated land. On "zoned land", there are no buildings permitted for residential, commercial, industrial or institutional use, unless it is a residence or building related to the farm operation. This is a method used not only to protect agricultural land but to help prevent the spread of sprawl and ribbon development. This is essentially the kind of measure which has been used in other provinces. The experience of Québec and British Columbia are examples of this approach.

Concerns have been raised to CLURE by the Department of Agriculture, the Agriculture Federations and individual farmers with respect to traditional zoning practices. The concerns stem from the fact that this zoning has typically been based on Canada Land Inventory capability maps, which are too general, or on detailed soil surveys, which are time consuming and very costly. There were also concerns that traditional zoning methods were too rigid and would not be suitable in New Brunswick, without some form of land banking or compensation. These concerns are discussed in more detail below.

It is accepted that, before good agricultural land can be protected, it must be identified and

designated. There are several ways this can be done. One method, which has been attempted in some areas, is to have experienced professionals go out into the field and examine the soils and make maps of the soil types and evaluate their suitability for agriculture. There are a number of problems with this approach.

The process of identifying agricultural land should not only include the identification of soil of suitable characteristics. This information needs to be combined with the identification of suitable climate and landscape in accessible locations and with ownership patterns conducive to economic development. Only the soil quality is shown on a soil map. The other factors are more difficult to map. Where agricultural activity is being successfully carried on the farmers have proven from experience that the right combination of factors exists.

Any system of identification of agricultural land must be capable of application to all parts of the Province in an accurate and timely fashion. Existing soil data has been collected at many levels of detail over many years with differing systems of classification. It could not provide equal information to all parts of the Province immediately.

As mentioned above much work would have to be done to provide data of equal quality on soil, climate and land use. This would be very costly and require additional staffing. Even the best of existing mapping does not identify all of the small inclusions of differing soils which our glacial history has left on our landscape. It is still necessary, for purposes such as evaluating suitability for septic systems, to visit the site and do appropriate on-site testing.

Because of the time and cost constraints associated with these methods of agricultural land identification and because of the rigidity associated with traditional zoning practices, it was felt that a better mechanism in New Brunswick, would be to use land currently under the Farm Land Identification Program (FLIP) as the basis of identification and designation of agricultural land.

In New Brunswick, there is an opportunity to extend FLIP to become the basis for farm land designation and protection. The enhancement of FLIP would favour an incentive approach rather than a costly and more rigid regulatory strategy. It would also share the costs of farm land protection through society, rather than impose this responsibility solely on the landowners. Information provided by the Department of Agriculture reveals that in 1992 there were 171,859 hectares of cleared land in FLIP. The value of deferred taxes in 1992 was \$1,563,676 on land, and \$1,383,633 on buildings, making a total tax deferral of \$2,947,309. Since the program began in 1979 a total of \$14,080,978 has been deferred. When land use is changed out of agriculture, deferred taxes can only be collected for the previous ten years. As the program is in its 14th year, 4 years of taxes amounting to \$1,080,978 have been foregone by the Province. Up to the end of 1991 the amount collected from land removed from the program was \$158,214. This amounts to slightly over 1% of the total deferred taxes. In other words 99% of the land identified by landowners for preservation for agriculture is still available. Various groups have indicated their support for, and suggested the further enhancement of, the Farm Land Identification Program. The principle at the

base of the program is to exempt farm land and buildings from the tax used to provide services to settlement.

Thus, land designation could be based on the Farm Land Identification Program. An important step to the sustainability of agriculture lies in the active designation of land for that purpose. Many techniques, policy frameworks and methods have been used in other jurisdictions to designate good agricultural land. The actual information on agricultural land use is a more reliable base than soil classification maps to relate land use to its economic benefits. Even though soil information may be useful to identify an area once the economic feasibility has been established, it is not sufficient to determine the quality of land for agricultural potential.

- *It is recommended that Farm Land Identification Program be enhanced and used as the basis for the designation and protection of agricultural land in New Brunswick. This represents an incentive approach as opposed to a more regulatory approach and it would be managed directly at the Provincial level.*

Since the expertise already exists within the Department of Agriculture to manage the program, it would be the most appropriate location to assign the designation of land for agriculture. Most of the land currently used for agricultural production is registered under the Farm Land Identification Program. Changes to FLIP must target two objectives: increase incentives to register land, and develop incentives to maintain this land in the program.

- *It is recommended that the ten year period for the forgiveness of the tax deferral under the Farm Land Identification Program be significantly increased to strengthen the incentive to keep land in agriculture production.*
- *With the exception of land for family members directly involved in the agriculture operation, it is recommended that, in the event that land is removed from the Farm Land Identification Program, the deferred taxes to be reimbursed be based on the entire farm rather than solely on the acreage of land removed from agriculture by the subdivision process.*
- *It is recommended that eligibility for any provincial financial assistance program be conditional on the designation of farm land under the Farm Land Identification Program. It is further recommended that the Provincial Government study the feasibility and undertake any necessary measures to apply the same condition to provincial/federal initiatives.*
- *It is recommended that the Government of New Brunswick implement an income insurance program (eg. the Net Income Stabilization Account) to provide alternatives to the sale of farm frontage during difficult financial years. In order to benefit from the income insurance program, producers would be required to designate their agriculture land under*

the Farm Land Identification Program.

- *It is recommended that agriculture land within municipalities have access to the same benefits through designation in the Farm Land Identification Program, as farm land in the non-incorporated areas.*

C. Purchase of Development Rights

The purchase of development rights can be used as a means of "banking" agricultural land. In this context, "development" can be defined as construction or investment which is not related to the use of the land as a resource base. To purchase or to sell a development right would mean that the property would change hands, but without the right to develop it for a non-resource use. It is possible for government to purchase development rights. This technique of agricultural land preservation has been used in a limited way in the United States. The reason for its limited use is its high cost in areas where land has a high development value. Near cities the difference may be large enough to warrant its use. In rural areas, land normally has a smaller "development value". However, the Provincial Government could, at little or no cost, retain the development rights on land whenever it is being purchased, or sold by the Agricultural Development Board. The ADB could then separate the development rights from the property title and bank them for protection. Another option would be for the development rights to be retained when Crown land is granted. When land in any area designated for resource management purposes, particularly near an "agriculture" designation is granted to a private interest, the development right could also be retained by the Province, and be used as an approach to begin a "resource land bank" at little cost.

CLURE recognizes the possibility that a landowner might decide to exclude actual or potential agriculture land from the Farm Land Identification Program. That land should still be identified as agricultural land on the land use maps that might be prepared at the provincial, district or local level. If the landowner wishes to sell this land for non-agriculture purposes, Government should have the opportunity to evaluate the possibility of purchasing the development rights on that land and keep it in agriculture production.

- *It is recommended that the Government of New Brunswick, through the Department of Agriculture, retain development rights on any land which is transacted through the Agriculture Development Board or Crown Lands Branch of the Department of Natural Resources and Energy.*
- *It is recommended that in the event land (not under FLIP) identified for its agriculture use or potential is to be transferred to a non-agriculture use, the Province, through the Department of Agriculture, assess the feasibility of purchasing the development rights for the property.*

D. Use of Crown Land

Since 1987, the Department of Agriculture and the Department of Natural Resources and Energy have been implementing an agreement which allows for the transfer of land to the Department of Agriculture. This land is then leased to blueberry producers for a period of 10 years. The same program could be considered near potato production areas to supplement needed acreage for sustainable development practices such as crop rotation. The Crown lands of the Province should be considered as a land bank and made available for agriculture when required to support the growth and development of the agricultural industry.

- *It is recommended that Crown land be made available to increase the land base for agriculture, allow the agricultural industry to maintain its level of production, facilitate sustainable agriculture and supply market needs and opportunities.*
- *It is recommended that Crown land with agricultural capability Class II and III of the Canada Land Inventory be designated as "Agricultural Reserve Lands" and that a program be pursued to make this land available to support the agriculture industry when needed.*

E. No Net Loss

The protection of the existing land base, and provisions for a future expansion of this land base, are important factors in the Province's continuing ability to produce food. The concept of "no net loss" is an implied acceptance of this principle. **"No net loss" of agricultural land is particularly critical when that land is taken out of production for public infrastructure development.** Many comments were made to CLURE regarding the loss of farm land for the construction of the Trans Canada Highway and for the loss of farm land within the 75m setback area identified in Designated Watersheds. Any new highway or by-pass should ideally be located to avoid designated farm land. Otherwise, the policy of "no-net-loss" should apply and measures taken to offer alternative land, allowing the farm operation to maintain overall production levels. It is only reasonable that this cost of replacing the lost agricultural land be borne by the party causing the removal of the land from production.

- *It is recommended that the Province adopt a policy of "no-net-loss" to be applied whenever land is removed from an "Agriculture" designation or severely affected by the development of a public project. The purpose of this policy will be to ensure that other land with suitable agricultural capability will be made available to replace the land affected by the project. The land made available to offset the loss could be provided from Crown lands or private lands. Funding should be*

provided for the clearing, preparation or drainage of the land to make it suitable for agricultural production.

F. Top Soil Removal

Measures must be taken against top soil removal, which is destroying farm land. Although there are no figures available, there is a tremendous amount of concern on the part of individual farmers, agricultural federations, the Department of Agriculture and the general public with respect to the increasing trend towards topsoil removal in the Province. It is essential that provincial legislation or policies be developed to control the damage being done to agricultural land through the removal of topsoil.

- *It is recommended that a ban be placed on the removal of topsoil on any land, unless it can be proven by the developer that the land has no potential for agriculture or forestry. Given the degree of the problem in several parts of the province, it is recommended that this measure be implemented immediately.*

G. Soil Conservation

Soil conservation is an essential component in the sustainability of agriculture and should be pursued. There is generally a need for more land, more rotation, careful application of manure, fertilizers, pesticides and more organic matter returned to the soil.

- *It is recommended that programs aimed at improving the quality of agricultural lands, and to protect them against erosion and degradation, should be pursued together with provincial programs aimed at encouraging and supporting farmers in their efforts towards soil conservation to foster the viability and sustainability of agriculture.*
- *It is recommended that the Land Purchase and Lease Program, currently offered through the Department of Agriculture, be recognized as a very significant initiative to increase crop rotation and soil conservation in New Brunswick, and that this program be maintained and enhanced.*

H. Right-to-Farm Legislation

The right-to-farm legislation provides a basis upon which farmers and non-farm residents will be able to come to an agreement on a way to resolve conflicts in connection with agricultural operations and neighbouring residential interests. The assistance of expertise from the

departments of Agriculture, Environment and Health and Community Services will be essential in the development and implementation of right-to-farm policies. This is a good example of a situation where the presence of the District Planning Structure as proposed in Chapter 2 could be very useful. The Agricultural Operations Practices Act should also be amended to protect farmers against restrictions, by any municipality or form of rural government, on the development or operation of an agricultural establishment, providing the farm is in compliance with the regulations of the Act.

- *It is recommended that the regulation proposed under the Clean Environment Act, relating to the Agricultural Operations Practices Act, be enacted so that performance standards for agriculture activities and buffer requirements between agriculture and residential/commercial activities could be applied.*

I. Community Related Strategies and Actions

It is possible for agriculture and settlement to co-exist in harmony in rural areas. In order to achieve this objective, provisions must be made at the district or local level to manage changes in land use and to manage activities so that existing and potential conflicts are not only alleviated, but farm owners and rural residents live in harmony. Even though land will be designated and protected at the provincial level, local communities must be involved by supporting those provincial policies. By adopting policies of their own, in district and local plans which could help strengthen the provincial policies, local communities could pursue the objective of fostering harmonious relations between farm landowners and other landowners in the rural areas.

The recommended District Planning or Management Commission structure, with a Technical Advisory Committee, will have representatives of the Provincial Department of Agriculture and the Agricultural Federations. This should ensure these critical aspects are considered at the local level. The Interdepartmental Planning and Development Committee should also ensure that these same concerns are considered at the Provincial level.

The Planning Act must be modified to better address the management of agricultural land. In 1981, the Agricultural Land Use Task Force proposed a new act governing planning for rural areas. The same suggestion has been made more recently by departmental officials. It would seem, however, from the public consultations conducted by the CLURE, that people wish to see a more complete integration of all the management structures relating to urban and rural land, which would allow for a recognition of the needs of resource management, in addition to settlement and environmental interests. In order to achieve a more comprehensive approach in addressing all the needs of the rural communities, Section 2.4.5 of this document recommended modifications to the Act which should ensure resource management as well as socio-economic considerations in the development of district and local plans and policies.

- *It is recommended that amendments be made to the Community Planning Act to enable and encourage plans at the district and local level to address and enhance the provincial Land Use and Development Policies relating to agriculture.*

4.2 MULTIPLE USE OF CROWN LAND

4.2.1 Background and Concerns

Crown lands represent approximately 46 percent of the land area of New Brunswick (3.2 million hectares). The New Brunswick Department of Natural Resources and Energy (NBDNRE) is responsible for the management of crown lands. For the most part these lands are forested and have historically provided the resource base for New Brunswick's forest products industry. They have also provided an important source of recreation, particularly hunting and fishing. Camp leases on crown land have contributed significantly to the recreation of many New Brunswickers. Trapping is both an economic activity and a recreational activity that has occurred on crown land. In recent years other recreational activities, such as snowmobiling, and those associated with natural history activities, have increasingly been carried out on crown lands.

Prior to 1981, harvesting on crown lands was managed by means of a large number of cutting permits. These were replaced in 1981 with a system of licences. Under the Crown Lands and Forests Act, crown land was divided into 10 crown licences which were allocated to companies with existing primary wood producing facilities with a historic draw from crown land. In 1991/92 the area under licence was 3.1 million hectares.

The licences run for a period of 25 years. Every five years the terms and conditions of the licence are reviewed, and if the performance of the licence is satisfactory, it is extended for a further five year period. An important feature of the licencing arrangement is that the company must submit both a management plan (every five years) and an operating plan (annually) to NBDNRE for approval.

The NBDNRE also issues leases for a number of other economic and recreational activities. These include maple sugaries, campsites and angling waters. Currently, there are approximately 40 maple sugar leases in place. They run for a 10 year period. There are 2,300 campsite leases that are also based on a 10 year lease period. NBDNRE has signed a memorandum of understanding with the Department of Agriculture whereby land suitable for blueberry fields can be transferred to the Department of Agriculture and then leased to a blueberry grower.

We are living in a time of rapid economic and technical change when markets are becoming world wide in scope. This has put pressure on New Brunswick forest product producers, since they must frequently compete with larger more modern plants and, in terms of raw

materials, with areas that have faster growing trees. Another factor having a negative effect on markets is the trend to more and more recycling of paper, particularly newsprint.

The pressure on markets has meant that forest management practices have had to become more cost effective. This has led to mechanization and cost effective harvesting practices such as clearcutting. It has also led to reforestation using single species plantation (monoculture).

The use of intensive forestry practices, if not carefully planned, can produce changes that place limits on multiple use concepts. Since it takes up to 40 years for trees to mature, there is a concern that current forestry practices are committed to a product that may not be viable by the time the trees mature. For this reason, a number of briefs suggested that multi-species reforestation be re-evaluated.

The concept of sustainability of the forests is a principle that has been adopted by the Canadian Council of Forest Ministers². They established four principles as follows.

- 1) The use of forest land must take into account the ability of the forest to sustain various uses, the needs and rights of all users, and the benefits and costs of each use.
- 2) Sustainable forest management recognizes a forests' potential to sustain a range of values and establishes targets for an optimal mix of uses.
- 3) Comprehensive, accurate and up-to-date inventories of all forest values are essential for sustainable forest management.
- 4) Forest land tenure systems must balance rights with responsibilities, encourage sound stewardship, sustain an optimal supply of resources and provide opportunities for a fair return on investment.

These principles should also guide forest management in New Brunswick and foster consideration of multiple use concepts.

4.2.2 Needs

The Terms of Reference of CLURE raised the issue of alternative uses for crown land. From the discussion above, **it is obvious that crown lands accommodate several uses other than its prime use for wood production.** These have included: other resource uses such as blueberries, maple sugar, mining, gravel and peat; wildlife habitat such as deeryards and marshes, and recreational uses such as hunting, fishing, trapping, hiking, snowmobiling, etc. In recent years there have been increasing pressures for more multiple use of crown lands. The issue of multiple use was also raised in briefs from several government departments as

well as by the public. Throughout the public consultations, there was the general feeling expressed that the benefits from crown lands should be more available to rural residents and should contribute more to the development of rural communities. With the modernization and mechanization of forestry, many people expressed concern that economic benefits from crown land did not have an impact on adjacent communities; rather, the benefits accrued to large companies and to distant communities with processing facilities. Many presentations made by the public focused on the problems that small woodlot owners were having with markets for their products.

In keeping with the multiple use theme, many of the public briefs focused on alternative economic uses for crown lands. Representatives from the agricultural community recommended that a way be found to **supplement the existing agricultural land base** with crown land of good agricultural capability. Some recommended such lands be considered as a "land bank" to be tapped in the future if more land is lost to agricultural production due to other developments. In this regard, forestry was considered an acceptable use until the land was required for a higher value use, such as agriculture, provided that future uses were not impaired by forestry practices.

Other economically based concerns related to the need to find uses for forest products other than fibre production, which is currently the predominant use. While many people expressed concerns about the commitment to a single product, particularly when combined with monoculture reforestation programs, few suggestions were made for alternative forest products. Concerns were also expressed that, with monoculture, there was not enough commitment to maintaining biodiversity of our forest ecosystem.

The need to protect ecologically sensitive habitats for our fish and wildlife resources was a frequent theme in the presentations on the multiple use of crown lands. Management practices such as clearcutting, pesticide spraying and reforestation based on monoculture, were seen as particular threats to fish and wildlife habitats. These practices were also seen as diminishing the natural value of the forest for recreation, e.g. hiking, bird watching. Questions of the long term sustainability of the forest ecosystem were also raised. Since the forestry crop rotation is of the order of 40 years, it may take too long for changes due to monoculture to become evident.

Closely linked to the preservation of natural habitats, were concerns that the **recreational potential** of crown lands be developed to a greater degree. Hunting and fishing were recreational pursuits frequently mentioned, however, the need for more facilities for hiking, camping, horseback riding and nature activities was also voiced as a concern.

The needs for multiple use of forests have been recognized in the **Fundy Model Forest Project**³. Although this addresses a large area in Southern New Brunswick which encompasses private as well as crown land and a federal park, its goals and the issues that it addresses are very relevant to a program for the multiple use of crown lands. For example, the strategic goals of the project:

1. To derive the full economic potential from forest resources by implementing an environmentally sustainable management plan.
2. To ensure full multiple use of our forest on a sound environmental basis.
3. To enhance and share our knowledge of forest ecosystems in order to adapt new management tools and evolve our forest ecosystem management techniques to a higher level.

It addresses a number of issues related to the use of the forests, including: timber supply; water resources; wildlife and bio-diversity; ecosystem function and ecosystem integrity; recreation and tourism; naturoscapes and aesthetics; social issues and public participation; regional planning; education; technological advancement and critical area management. These issues should all be addressed in any policy for the multiple use of crown lands.

4.2.3 Goal and Objectives

Goal

That crown lands be managed in a way that its long term uses are sustainable and that the benefits to New Brunswick citizens are maximized.

Objectives

Economic Objectives

1. To ensure crown lands continue to provide resources to support the forest products industry;
2. To ensure that, where local opportunities exist, resources from crown lands be made available to support local wood-based industries;
3. To ensure that, where practical, crown lands be used to support and augment the agricultural land base; and
4. To ensure that, where practical, crown lands be used to support the tourism industry.

Natural Environment Objectives

1. To manage crown lands in a way that ensures the preservation of healthy fish and wildlife populations. In this sense, wildlife means both game and non-game species;
2. To preserve sensitive habitats and those relating to rare and endangered species; and
3. To preserve representative ecosystems.

Recreational Objectives

1. To ensure that crown lands supplement private lands in providing adequate and varied recreational opportunities, both at the district and local levels.

It is recognized that many of these objectives are conflicting. A policy for the management of crown lands on a multiple use basis must address all of these objectives in a way that the overall goal is advanced. To do this, mechanisms must be found for introducing the varied interests into the decision making process.

4.2.4 Recommended Policies and Actions

A. Management of Crown Lands

The system of crown licences has both positive and negative impacts on the development of policies relating to the multiple use of crown lands. On the positive side, the requirement for licencees to submit management plan for approval provides an ongoing mechanism to allow NBDNRE to introduce multiple use concepts into crown land management. However, the fact that nearly all forested crown land is committed to licences with a 25 year term, makes it difficult to introduce other economic uses, for example, to serve an alternative wood producing industry. There are provisions in the licence agreements for the crown to withdraw small amounts of land from the lease (up to 85 hectares in any one withdrawal) but this would likely not be sufficient to support an alternative forest products use. It is also possible for NBDNRE to negotiate the removal of larger tracts of land from crown licences, and in fact, this is what usually takes place in the case of sugaries or transfers of land to the Department of Agriculture. There is a limit (0.5 percent of the licence area per year and 5 percent during the term of the leases) to the amount of crown land that can be removed from a licence in any year.

The NBDNRE has adopted a policy of integrated management of crown lands which has the objective of ensuring that all existing and potential uses are considered to achieve maximum resource benefits. The question remains of how the needs and priorities of rural communities can be interfaced with NBDNRE's policy of integrated resource management.

With respect to the management of crown lands, it is recommended that:

- *Crown land be managed in a way that multiple uses are facilitated and the management system provides for the sustainability of the forest system.*

- *Within the concept of multiple use, the production of wood products continue to be the predominate economic use.*
- *If the maximum of 0.5 percent per year withdrawal for licences limits the implementation of multiple use plans, NBDNRE negotiate higher withdrawal limits with licencees.*
- *Isolated blocks of crown land adjoining private lands that are not economical to harvest by licencees, be made available for harvesting by small woodlot owners provided that the same crown land harvesting standards are maintained*
- *The needs and priorities of rural residents and communities be identified and a mechanism put in place to integrate these into crown land management planning through the district planning commission. (This is addressed in greater detail in Section D following).*

B. Provincial Policies

The need for multiple use of crown lands must be addressed at the provincial level as well as the local and district levels. Those issues requiring province-wide policies include the need for the protection of sensitive areas and representative ecosystems as well as general policies protecting wildlife and fisheries habitat. The details of these policies are dealt with in Section 5.1 on the Protection of Natural and Sensitive Areas.

There is also the need for provincial policies with regard to recreational infrastructure on crown lands. An example is the need for a province-wide trail network to serve hikers, horseback riders, cross country skiers and snowmobilers. As part of the provincial policy framework, a recreational policy related to land use should be developed. The policy should provide for linkages between regions and address overall provincial recreational needs related to land use. Recommendations with respect to this issue are included in Section 4.7 on Protecting Our Parks and Recreation Areas.

With respect to Provincial Policies it is recommended that:

- *Provincial policies be developed to ensure the protection of sensitive natural areas on crown lands.*
- *The need for recreational infrastructure (ie. trails) on crown lands be assessed and policies put in place to ensure their availability.*

C. Use of Crown Land for Agriculture

The use of crown land as a land bank for agriculture requires careful planning and coordination between NBDNRE and the Department of Agriculture. The first need is for the identification of suitable lands and areas where additional agricultural land could be provided as well as where they might be needed. Then the two departments should jointly develop a policy that would determine the conditions under which such lands would become available and develop mechanisms under which a transfer could take place.

- ***It is recommended that the Departments of Agriculture and Natural Resources and Energy formulate a strategy for the transfer of crown lands to the Department of Agriculture, where a need is identified and agreed upon.***

D. District Planning

A serious drawback in pursuing an integrated approach to crown land management at present is the lack of a good mechanism for the integration of local and regional priorities into the planning process. The area included in the planning districts will include both freehold and crown lands. While the district planning process is set up to deal with freehold land, crown lands require special consideration since they are administered directly by NBDNRE. This will require a consultative process whereby the land use needs of the district, eg. for recreation, are communicated to NBDNRE for implementation where crown land is involved. The most basic requirement is for a way to assess the real needs of the rural community. The district planning process and structure as proposed in Chapter 2 of this report should provide the required mechanism. As a district plan is developed, resource requirements could be identified, whether they be related to forestry, agriculture, recreation or others. It is recommended in Chapter 2 that NBDNRE be represented on the district planning commission's technical advisory committee. The local representative would be able to identify potential uses of the crown land resource to the planners and, at the same time, gain first hand knowledge of the requests that may be made of crown land managers. Some of these requests could be acted upon immediately. Others would become part of the review of the management plan when the lease came up for renewal.

- ***It is recommended that the district planning structure and process as proposed by CLURE be used to identify the need for the various uses of crown land. These needs should then be incorporated in crown land management plans.***

NBDNRE is committed to the incorporation of public consultation in the review of management plans. This process should be implemented as soon as possible. It could serve two important goals.

Firstly, it can provide an open yet structured way to incorporate local priorities in the management of crown lands. In this regard, the district planning commission can act as a clearing house for information, since it will contain elected representatives of both incorporated and non-incorporated areas. As well, it will have the benefit of advice from local representatives of government departments.

A second important feature of public consultation on crown land management is that it could provide an excellent mechanism for NBDNRE to explain its crown land policies to people at the local level. As CLURE received public input from around the province, it was clear that there was a general lack of understanding about NBDNRE's crown land management policies. In order to promote public confidence, it is recommended that NBDNRE provide public information directly and not delegate it to the lease holders. Another advantage of direct consultation, is that NBDNRE will receive information on an ongoing basis on public concerns with crown land management.

- *It is recommended that NBDNRE develop a mechanism to include public consultation and integrate public concerns in the establishment of management plans on crown land.*

4.3 FORESTRY ON PRIVATE LAND

4.3.1 Background and Concerns

Private woodlots have been an important feature of the economy of rural areas since the province was first settled. Traditionally, rural residents living on the land have relied on a combination of agricultural operations and a woodlot for their income. While this has changed somewhat with the consolidation of agricultural operations into larger units, many rural New Brunswick residents still rely on their woodlots to supplement their income.

There are over 50,000 private woodlots in New Brunswick, representing approximately 32 percent of all forested land. These figures make it clear that management practices on private woodlots can make a significant impact on the economy, the environment and on wildlife habitat in New Brunswick.

The need to maintain sustainable forests in Canada has been recognized by the Canadian Council of Forestry Ministers⁴ (CCFM). This report presents a number of strategies that provide a comprehensive background for a sustainable forestry policy for New Brunswick. For example, in considering environmental protection, the following principles were set out:

The ecological processes operating within forest ecosystems are essential to maintain life on earth and must be sustained;

The use and management of forests on a sustainable basis must respect their ability and capacity for renewal; and

Forest use and management must maintain a diversity of wildlife and habitats.

While these are general in nature, they do provide guiding principals upon which to build a detailed management strategy for private woodlands in New Brunswick.

The requirement for sustainable management of forests was also considered by the Premier's Round Table on Environment and Economy⁵. The recommendations contained in its report provide a framework for the management of forestry on private land. Some of the key recommendations include the following:

- 1) *The Province should develop a comprehensive policy and code of practice on forestry resource management by 1995;*

- 2) *The Province should design a formal mechanism of public input into the formation of objectives for the forests of New Brunswick;*
- 3) *A program should be developed to establish working demonstration forests that practice sustainable forestry;*
- 4) *A comprehensive woodlot management plan should be established by 1993; and*
- 5) *A reforestation program for rural and urban areas should be developed and supported.*

4.3.2 Needs

Information presented to CLURE emphasized the need to manage private woodlots in an environmentally appropriate manner. In particular, concern was expressed with the way that harvesting practices were carried out. Many concerns were raised about the practice of clearcutting both on private and crown land. Not only does it affect neighbouring properties, but the resulting erosion can result in the loss of topsoil and the destruction of fish habitat. Sometimes the very act of clearcutting removes valuable habitat such as deer wintering areas. After harvesting the wood resource, some woodlot owners have no interest in long term management activities such as reforestation. This often applies to woodlots held for speculation but is less likely to apply to woodlots operated on a sustainable basis; for example, to supplement farm income. Many owners also use their woodlot on a continuing basis for fuel wood. **To support the concept of sustainable woodlot operation, there needs to be a program developed to foster stewardship and to consider the concept of multiple use.** However, regardless of good intentions, it can often be an economic hardship for the small woodlot owner to effect some environmental controls; for example, the maintenance of buffer strips or leaving significant areas in their natural state. For this reason, many of the presentations to CLURE emphasized that, to enable small woodlot owners to practice forestry with appropriate environmental controls, would require either subsidies or market conditions such that an adequate economic return could be obtained.

A number of presentations suggested that private woodlots should be managed in a similar fashion to crown lands. One brief suggested that multiple use could be encouraged if private owners could charge a fee for the use of their property for hunting and for other recreational activities. Other briefs suggested specific environmental measures; e.g., that selective cutting should be practised in deer yards and that clearcutting should not extend to property borders in order to preserve aesthetic views or to act as a buffer area.

The need for new **fiscal incentives** to assist private woodlot owners was recognized in many presentations. These could include tax relief such as the Farm Land Identification Program

(FLIP) or grants tied to good management. It was pointed out in other briefs that, because of the low assessed value assigned to forest land, the incentive of using FLIP would be too small to be effective. A mechanism that could help landowners preserve land in perpetuity is the establishment of conservation easements that would run with the title of the land.

Concerns were expressed with the lack of regulation on cutting contractors. The need to educate and regulate contractors could be accomplished through a system of licencing or through a code of practice that could be enforced, either by DNRE or the marketing boards.

4.3.3 Goal and Objectives

Goal

To ensure that forestry on private woodlots is undertaken in a sustainable way such that environmental impacts are minimized, sensitive natural habitats are protected and the availability of the future wood supply is maintained.

Objectives

- 1) To ensure that private woodlots are managed with the same degree of environmental protection as our crown lands;
- 2) To ensure that some form of economic incentive is developed to encourage environmental protection of private woodlots; and
- 3) To ensure that means are found to incorporate multiple use concepts into the management of private woodlots while protecting the economic interests of the owners.

4.3.4 Recommended Policies and Actions

A. Management of Private Forest Lands

A mechanism already exists through the Crown Lands and Forests Act, to ensure that the management practices required on crown land can be extended to private land held by licencees. This provision is not enforced at present since NBDNRE consider that the requirements are still experimental, in some instances, and should not be applied to private lands until they are proven. The extension of crown land procedures to licencees' private holdings would effect an additional 20 percent of forested land in New Brunswick. This

would represent significant progress in extending crown land practices to private holdings.

- *It is recommended that the Department of Natural Resources and Energy make every effort to implement the provision requiring management practices on crown land to be extended to private lands owned by licensees as soon as they are proven and practical.*

B. Sustainable Use

There is little doubt that woodlot owners are presently experiencing difficulty in receiving an adequate return for their wood products. This makes it very difficult to expect them to undertake environmental measures which add to their costs. While CLURE recognizes that the economic viability of woodlot operations is important to the achievement of environmental objectives, the regulation of markets is beyond its mandate.

- *It is recommended that Government, industry and private woodlot owners continue to explore ways that private woodlots can be operated on a sustainable basis.*
- *It is recommended that the Department of Economic Development and Tourism give more emphasis to the development of a more diversified economic use of the forests.*

In developing a strategy for the sustainable use of private woodlots, three approaches have been identified:

- 1) the use of education and information;
- 2) the provision of financial incentives; and
- 3) the development and enforcement of regulations.

Each of these is discussed in turn.

I. Education and Information

There is a strong feeling of support for environmental protection among the Province's in the population as a whole, including the owners of private woodlots. Many times inappropriate forestry practices occur because of ignorance. A great deal of progress can, therefore, be made in the area of education and the provision of information. Any program of this nature should be targeted at cutting contractors as well as woodlot owners, since it is frequently the contractor who makes decisions concerning cutting practices. The

information should be aimed at imparting a basic understanding of the environmental regulations, such as the watershed designation and the stream alteration regulations. It should also relate forestry operations to the potential for damage to wildlife habitat and other resource uses. In this regard, the development of a code of practice on forestry management would be an important tool.

A code of practice for forestry operations could be developed to assist all operators in developing good harvesting practices. The information contained in the "Forest Management Manual for Crown Lands"⁶ could provide a starting point for the Code of Practice.

II. Financial Incentives

Financial incentives are currently used to encourage good woodlot management. Through the forestry sub-agreement, grants are made available to woodlot owners for woodlot improvement activities. To qualify, the owner must have an approved management plan. The grants are administered by the Forest Products Marketing Boards. Programs such as this provide a good balance between financial assistance and control over management practices. They have been very popular, in fact, a waiting period of one to two years is now required. Other forms of financial incentives have been suggested, particularly the use of property tax deferrals, similar to the Farm Land Identification Program. The difficulty with the application of this program to woodlots is that taxation rates are so low that the incentive to participate would probably be inadequate.

III. Regulations

The achievement of sustainable forestry practices through regulation is seen as a last resort and one that must be put in place only after a good deal of thought and consultation. The imposition of the watershed protection regulations were largely seen by rural landowners in a negative light, even among those who agreed with the need for them. They were seen as being imposed arbitrarily and the reasons for some of the provisions did not have a clear scientific basis and were not well explained. The stream alteration regulations provide another example of regulations that are not completely achieving the desired result. In this case the difficulty in enforcement has been identified to CLURE as a serious problem. Given these experiences and given the difficult economic situation for woodlot owners, it is clear that any regulatory program must be put in place over a sufficient period of time to allow for extensive consultation, so that its objectives and the rationale for measures suggested can be clearly understood. A strong, ongoing information program would also be required since the success of such a program may have to rely as much on good will as on the ability to enforce its regulations.

C. Provincial Policies

The thrust to achieve sustainable forestry practices on private woodlots is seen as one which must come principally from a provincial policy framework. A basic requirement that must precede any program to promote sustainable forestry practices is the establishment of an adequate information base. This may involve data collection as well as a system of classification of forest lands which could be used as the basis on which to establish priorities among the various resource uses. This aspect is discussed more fully in Section 5.1 on the Protection of Natural and Sensitive Areas.

- ***It is recommended that the province develop a set of policies that incorporates the following components:***
 - 1) ***The development of a system to identify and classify forest land suitable for various resource uses.***
 - 2) ***The development of a code of practice on forestry resource management.***
 - 3) ***The development of a comprehensive policy on sustainable management on private woodlots. This policy should place heavy emphasis on education, but also include incentives and, where necessary, regulations.***
 - 4) ***The development of all codes and policies should include a consultative and consensus building process that includes government agencies, industry officials, woodlot owners, interested non-government agencies and the general public.***
 - 5) ***The Fundy Model Forest Project should be monitored to determine its success at integrating the various groups with diverse interests in forestry management. If successful, consideration should be given to extending a similar program to the whole Province as soon as is practical.***
 - 6) ***Consideration should also be given to establishing smaller scale pilot projects on smaller private woodlots to determine if some of the concepts are applicable to smaller woodlots on a practical basis.***
 - 7) ***A means should be found to regulate the activities of cutting contractors. They should be licenced and monitored to ensure that good cutting practices are upheld. This function could be delegated to organizations such as the Forest Products Marketing Boards.***

D. District Plans

In some instances, a district development plan may include the need for multiple use of private woodlots in the area, for example, for recreation. In such cases the district planning

commission may have to meet with woodlot owners, or their representatives, and negotiate a transfer of funds to compensate for the use of woodlots for public use.

Another possible regional or local initiative could arise from an opportunity to diversify the local economy by processing different forest products. The District Planning Commission could work closely with woodlot owners and a potential manufacturer to ensure that a local supply of materials would be made available.

These measures would be facilitated by having a representative of the Woodlot Owners Association on the Technical Advisory Committee to the District Planning Commission as recommended in Section 2.4.5.

- ***It is recommended that, in the preparation of District Development Plans, whenever private property or woodlots might be affected by a proposed land use, consultations be held with the owners affected to determine acceptability of the proposal and possible arrangements for access agreements or compensation.***

4.4 PITS, QUARRIES AND MINERAL DEVELOPMENT

4.4.1 Background and Concerns

Sand, gravel and rock are as essential in road building and paving, as they are in the mortar and bricks that go into the construction industry. Peat moss is another valuable product which is extracted from the land in some parts of the Province.

For the purpose of this section, "**pits**" will be defined as an excavation made for the purpose of removing unconsolidated earth, sand or gravel from the environment. The term "**quarry**" means an excavation, requiring the use of explosives, made for the purpose of removing consolidated **rock** from the environment.⁷ Sand, gravel and rock are therefore the primary elements which are generally extracted from pits and quarry operations. In the Quarriable Substances Act, "**quarriable substance**" means "ordinary stone, building or construction stone, sand, gravel, peat, peat moss, clay and soil". It is useful to note at this point that **peat and peat moss**, which are not a material found in "pits", are mentioned as quarriable substance in the Quarriable Substances Act.

Pits and quarries are an essential source of raw materials, required in order to sustain construction activities and support economic growth. Significant quantities of pit and quarry minerals are used each year in the construction industry. But the industry must struggle with the fact that those products have a low unit value. Because of that low return, it is too costly to transport them over any significant distance. For this reason, the products must be extracted near most of our communities where they are used in road and building construction.

Activities which are essential in the operation of pits and quarries are often a cause of conflict. This is mainly because of the relatively obnoxious nature of this industry. Those conflicts are mainly experienced in relation to residential development. Sometimes the pit operation starts up beside an established house while other times the house is constructed next to an existing pit. Other conflicts are less obvious, but just as real. They have to do with the proximity of pit and quarry operations to other resources, such as agriculture or forestry. There are also times when the quality of the environment itself is affected by pit and quarry operations.

To people living near pit and quarry operations, the noise, dust, vibrations, operating hours and safety factors are serious points of contention. Noise caused by operations themselves, from blasting, and from trucks can be very disturbing to residents living near a quarry. The sound of explosives and machinery, which are necessary for normal quarry operations, can

be very disturbing to surrounding residential areas, but it can also affect sensitive wildlife species for kilometres around the site. Blasting and the resulting vibrations can cause damage to wells and foundations. The **dust** which is normally generated from excavation, blasting, screening and crushing operations can have an impact on the health of humans, plants and animals as well as degrading the surface of dwellings and vehicles. The concerns for **operating hours and public safety** are most prevalent where blasting and heavy equipment are used and with respect to abandoned operations in populated areas. The negative social impacts of such operations next to a residential area can affect property value, community lifestyle, and the general appearance of the neighbourhood.

It is not uncommon to see **asphalt plants** established in conjunction with gravel pits. Asphalt production can generate particularly obnoxious air quality problems and high noise levels, as well as disturbances and hazards associated with their transport. At the present time, all asphalt plants require operating permits under the Air Quality Regulation of the Clean Environment Act.

The **environmental impact** of pits and quarry operations, together with asphalt plants, can affect an entire watershed, downstream from the site. Changes in the quantity and quality of water can, in turn, impact on surrounding surface and groundwater, the fishery, wildlife habitat and vegetation. **Groundwater supplies** are also among the most vulnerable resources that may be affected by extraction activities. Survey maps prepared for the District Planning Commissions show, for instance, that the best quality gravel sites are also first quality groundwater recharge areas. The location of gravel pits, quarries and asphalt plants near water supplies can be a constant threat to the contamination of private and public water supplies.

A major concern expressed by several New Brunswickers is that there is no requirement to reclaim pit and quarry sites. Pits and quarries remain unsightly and dangerous long after the extraction activities have ceased. "Our rural areas look like a devastated war zone" read a brief submitted to CLURE from the Southeast area of the Province. Similar statements have been heard in the Acadian Peninsula, and especially on the Lamèque Island, where CLURE members were able to realize first hand how the problem in that area has reached dramatic proportions. **New Brunswick's record with the reclamation of former pits and quarry sites is not very good.** During excavation, and even after the resource has been depleted and the sites have been abandoned, little or no site reclamation has been done. Aside from the obvious safety concerns, the rehabilitation of the site, and possibly its use for another activity, is essential in meeting our commitment to environmental sustainability. Instead of leaving these sites as wastelands, they could be reclaimed for agriculture, forestry or, possibly, a community or recreational use.

Over the years, several municipalities have exercised a degree of control over private pits, particularly under the Community Planning Act, using provisions of Section 34 to zone areas, and to outline conditions for the extraction of gravel and sand. Some of the provisions found in those zoning by-laws vary with the communities, and some are similar to the

standards used under the Quarriable Substances Act (1983).

Outside municipalities, where zoning is practically non-existent, there is no control over gravel pit and quarry operations. In 1983, the Province adopted the Quarriable Substances Act to regulate pit and quarry operations. But this legislation only applies to Crown Land and shore areas that may be designated by an Order in Council. The *Quarriable Substances Act* requires any person mining on a designated shore area, regardless of ownership, to obtain a permit from the Department of Natural Resources and Energy. This shore area is designated as 300 metres above and 300 metres below the high water mark of any lake, pond, river or body of water and includes any bed, bank, beach, shore, dune, bar, flat or mud flat lying in that land. The policy of Natural Resources and Energy is to eliminate mining within this 600 metre core along the coastal zone. **Legislation dealing with pits and quarries has a very limited impact on rural areas.**

Peat

When a peat moss site is being mined, wind can blow away as much as 15% of the peat fibres from a site. These fibres are the cause of concern to residents in communities such as those on the Lamèque Island where peat moss deposits are an important generator of economic activity. Those fibres can also be the cause of problems when deposited in streams or on shellfish beds in coastal areas. According to the Report of the Water/Land Sectoral Group, from the Premier's Round Table on the Environment and the Economy, the problem of dust could be eliminated by requiring use of settling basins and vacuum machines (presently available) which retain 100 percent of the fibre mined.

Metallic minerals

Up to this point, we have not touched upon metallic minerals, which are certainly not to be neglected in terms of their impact on the environment, or on the economy of the Province. There have only been a few comments and concerns expressed to CLURE regarding mines. Those concerns focused more on prospecting practices taking place on private land, rather than on the operations themselves, which are located mostly on Crown Land. The public's limited concern with mining operations should, however, not be taken as an indication that there is no need for concern in this area. The extraction and processing of minerals often involves the disturbance of large areas of land. Some mining operations produce wastes requiring on-going treatment to protect the environment. Furthermore, it is difficult, given the current state of technology and geological knowledge, to rule out any region as a potential location for future mineral development. For this reason, and given the fact that freehold property rights in the Province do not include mineral rights, it would not be realistic to consider metallic minerals with the same statutes, regulations and policies as may be contemplated for pit and quarry operations.

All mineral developments are currently subject to fairly strict regulations. **All mineral developments are screened and, in most cases, an Environmental Impact Assessment (EIA)**

is required for a proposed mining operation and there must be a plan for the clean-up and re-use of the site. The mineral industry is a major employer and an important part of the provincial economy. As mentioned in the position paper submitted to CLURE by the Department of Municipalities, Culture and Housing, a high percentage of the lands that have been disturbed by mining operations are reclaimable or have been reclaimed (i.e. since 1968, 440 hectares have been reclaimed by NB Coal and some reused for blueberry fields and pine tree plantations).

Another concern raised to CLURE was the failure of **prospectors** to notify or consult with property owners before entering upon private property. This could be handled informally through the appropriate associations or a clause could be added to the regulations under the Mining Act.

For these reasons, this section will focus on "industrial minerals" which are found in the pits and quarries, and peat which is also considered within the scope of quarriable substances.

4.4.2 Needs and Opportunities

There is a basic dilemma in addressing the issue of pits and quarries: The resource must be recognized and protected, but at the same time, landowners and people living near pits and quarries are demanding protection against the inconveniences and hazards resulting from the normal operations of those sites.

The first part of the dilemma is that the resource must be protected so that it can continue to be available to answer the needs of our construction industries and communities. Mineral deposits must be protected from other developments that might impair present or future extraction. To achieve this, it is necessary first to **locate and map deposits** of significant potential. It may also be necessary to anticipate the potential impact of extraction activities on adjacent properties, groundwater, watersheds or natural areas. In its position paper to CLURE, the Department of Environment concludes that **policies are indeed needed to address** the variety of **aggregate developments anticipated in the near future**, including for example those needed for such projects as the new Trans-Canada Highway.

The other part of the dilemma is that residents must also be protected from the negative effects of mineral developments. This must be in fact be the main thrust of the policies and actions recommended to deal effectively with the location, operation and reclamation of mineral extraction sites.

Measures must also be taken to address the **reclamation of extraction sites**. Other parts of Canada provide examples of what the New Brunswick situation may look like a few years from now. "The rehabilitation of pit and quarry operations has come a long way since the bad old days when many companies mined and ran." states an article describing the Ontario

situation.⁸ Over the last 20 years, in Ontario and elsewhere, governments and local communities have actively pursued programs aimed at the rehabilitation of excavation sites. In Ontario, the legislation requiring the rehabilitation of industrial mineral sites (pits), dates back to 1971. Since 1990, with the introduction of the Aggregate Resources Act, operators must file detailed plans outlining their rehabilitation program during the excavation as a condition for receiving a licence. Several innovative rehabilitation plans have been submitted, including reforestation, parks and even subdivision projects. This overview of the Ontario experience over the last 20 years could well serve as New Brunswick's image for the rehabilitation of our pits and quarry sites over the next twenty years.

4.4.3 Goal and Objectives

Goal

To protect and to promote the sustainable use of the land needed for the extraction of quarriable substances and to minimize the conflicts between extraction operations and adjacent residential uses.

Objectives

Business Objectives

1. To protect the aggregate and mineral resource so that it can continue to be available to answer the needs of New Brunswick's road building and construction industry;
2. To ensure that land uses do not preclude aggregate and quarry mineral exploration and development activities; and
3. To ensure that adjacent land uses will not preclude development of mining operations.

Natural Environment and Resource Objectives

1. To promote environmentally sound exploration, development and production of the Province's valuable aggregate and quarry mineral deposits;
2. To ensure standards for the preservation and protection of environmental quality in connection with pit and quarry operations; and
3. To ensure that standards governing the operation of pits and quarries be designed and applied to reduce negative impacts on resource areas such as agriculture, the coastlines and other sensitive areas.

Community Objectives

1. To minimize the impact of location, development, and operation of pits and quarries

- on neighbouring settlement uses; and
2. To develop and apply standards for the rehabilitation of pits and quarry sites which would enable the reutilisation of the sites for uses compatible with their surroundings.

4.4.4 Recommended Policies and Actions

There are two components to the strategy recommended to address the issues relating to pits and quarries in New Brunswick: a process to identify and designate deposits with significant potential, and a universal system of permits to regulate the operation of pits and quarries throughout the Province. These two components should be an integral part of a provincial policy framework along with a set of performance standards for the siting, operation and reclamation of pits and quarries.

A. Provincial Policy Framework

With respect to an overall provincial policy framework:

- *It is recommended that the Province adopt a provincial strategy aimed at the designation and protection of quarriable substances deposits throughout the province.*
- *It is recommended that the Quarriable Substances Act be expanded to include all lands in the Province. It is further recommended that the Act be modified to provide for the application of a universal system of permits to regulate the extraction of ordinary stone, building or construction stone, sand, gravel, peat, peat moss, clay and soil.*
- *It is recommended that regulations be adopted under the Quarriable Substances Act which would include requirements for permits, management agreements and performance standards for siting, operation and site rehabilitation. It is further recommended that these performance standards include provisions with respect to the following:*
 - *hours of operation;*
 - *siting;*
 - *surface water protection;*
 - *groundwater protection;*
 - *set-back from adjacent properties with the local option of a natural buffer strip;*
 - *wildlife and fisheries protection;*
 - *effluent control;*
 - *erosion and sedimentation control;*
 - *oil and hazardous materials emission;*
 - *dust emission;*

- *blasting;*
- *noise;*
- *rehabilitation;*
- *security;*
- *safety; and*
- *visual and aesthetic impacts.*

One of the main problems in New Brunswick is the confusion with respect to the number and responsibilities of agencies involved with pits and quarries and the apparent lack of inter-agency communication and consultation. Various aspects for pits and quarries are handled by the Department of Natural Resources and Energy, the Department of Justice and the Department of the Environment. One central agency should ultimately be designated to deal with pit and quarry activities. This would logically be the Department of Natural Resources and Energy. All departments and agencies should be required to recognize the need to protect provincially significant sand, gravel and rock deposits and to comply with the provincial policy statement before initiating any undertaking which could be detrimental to these resources. With an Interdepartmental Planning and Development Committee at the provincial level and a Technical Advisory Committee attached to the district planning commission, as recommended in Chapter 2, the necessary coordination among the various government departments, and between those departments and the regions, should certainly be facilitated. Because of the various aspects of this issue which vary from region to region, even the development of a provincial approach will necessitate a comprehensive review of almost every site. Appropriate expertise, supplemented by local knowledge, must be part of this approach. Confronted with a situation similar to New Brunswick, the Province of Nova Scotia adopted provincial land-use policies to deal with sand, gravel and rock deposits. Before adopting the policy, a discussion paper was first circulated for review and comment by individuals, organizations, municipalities and the departments and agencies of the Government. It would also be advisable for New Brunswick to follow Nova Scotia's approach, by developing a policy based on the involvement of all stakeholders as soon as a structure is in place to allow for communication between government agencies, local communities, development agencies and the business community.

The leadership to encourage on-going and future development of the Province's mineral resources lies with the Province. The Province and the industry must develop a strategy including designation of potential sites and guidelines for development practices so as to make optimum use of the resource while avoiding negative environmental impacts and land use conflicts. This should be developed before the local communities are approached for their input and support.

- *It is recommended that the Department of Natural Resources and Energy be assigned the lead responsibility with respect to pits and quarries. This would include coordinating input from other departments as well as involvement of all stakeholders in the development of the provincial policies and regulations.*

B. Designation

Although the designation ultimately remains the prerogative of local communities, it must be the responsibility of the Province to identify the significant and scarce sand, gravel and rock deposits which ultimately will be designated on the local development plans. In order to achieve this, the present information base for aggregate deposits will have to be updated and mapped as thoroughly as possible. Also, because of the potential environmental implications of pit and quarry operations, and because of the importance of the products, it is in the interest of New Brunswick citizens that the designation of potential sites be a matter of provincial policy, undertaken at the provincial level, but with the input of local communities. The Province will first identify and designate potential sites as part of a province-wide policy, but will also allow communities the prerogative of adjusting those provincial designations to local circumstances.

- ***It is recommended that the Province undertake a program to identify, designate and map sites of significant or scarce aggregate resource potential throughout the Province. It is further recommended that the Province give consideration to designating sites and as having "high" or "medium" potential.***

This approach has been used successfully in Manitoba and is described below.⁹ A "High" mineral potential is one which indicates a valuable quarry mineral deposit or area of high discovery potential. This designation would be protected as a dominant use of the land in the area where it is located. The choice of such a designation must take into account the existing use of the land. It is in fact assumed that the area has not been developed for other uses. In those areas designated as a "High" potential where conflicts with existing adjacent uses can be minimized, the extraction should be recognized as the primary land use. When an area falls in this designation, no conflicting land use shall be allowed.

A "Medium" mineral potential is one where a lesser degree of importance has been assigned. This designation would apply where quarry mineral deposits are not of high quality or have not had their full potential proven. With Provincial approval, or upon adoption of a provision in local plans, a potentially conflicting land use may be permitted.

The Province must recognize the need to protect available aggregate resources. But at the same time, it must be ready to take and share with local communities, the responsibility of limiting the impact of pit and quarry operations on the environment, and on adjacent land uses. The key objectives of such a practice are, on one hand to protect an adequate supply of sand, gravel and extractable rock resources at a reasonable cost to the consumers of the Province; and on the other hand, to minimize the negative environmental impacts of pits and quarry operations, and to minimize land use conflicts between pit and quarry operations and other land uses.

- *It is recommended that the Province develop a set of guidelines with respect to site selection for pits and quarries to assist local communities in the designation of pits and quarries within their local plans. These guidelines should require consideration of water table information, distance to existing residential developments and watercourses, access considerations, future land use in the area, and reclamation requirements. Communities with significant sand, gravel and rock deposits within their jurisdiction, which meet the site selection criteria, will be expected to protect these sites within their local land use strategies and by-laws.*
- *It is recommended that the Community Planning Act be amended to allow the Provincial designation to be modified in plans or basic planning statements at the district or local level, if required to meet local siting criteria.*

C. Permit System and Management Agreements

Annual permits should be required on the basis of plans prepared by the owner of the land or user of the site. In addition to information ensuring conformity to regulations, the application should include the necessary plans to describe all phases of pit and quarry operations and provide information on which to base Management Agreements.

- *It is recommended that in addition to a permit, Management Agreements be required between the contractor and the Province, regarding setback and buffer areas, excavation depth and area, and rehabilitation of the site.*
- *It is recommended that the permits for the pits and quarries be administered by the Department of Natural Resources and Energy, in cooperation with district authorities responsible for the provision of applicable plans, zoning by-laws and regulations.*

As noted above, setbacks or buffer strips should be included in the management agreement. Buffer zones around quarries and pits to shield the surrounding area from noise, dust and aesthetic would be required throughout the Province. These could be in the form of set-back areas established by provincial policy and enforced by the permit system. A method of helping to monitor set-back is the placement of markers on property lines which can easily be read by the enforcement officer.¹⁰ In addition to this minimum standard which would apply to the entire Province, individual communities could opt to require a "natural buffer strip" as defined in the following suggestion made by the Department of the Environment¹¹:

An area or belt of land which is covered with trees or other vegetation; runs along the border between a development site and an adjacent piece of land, body of water, or other specified area; and serves to protect the piece of land (also provides wildlife with travel lanes between areas of available habitat) or body of water from adverse effects of the development or preserves some existing quality

or use in the area of the development.

These buffer strips could consist of existing undisturbed land if there was already appropriate vegetation standing, or a requirement that vegetation be planted, if it does not already exist.

D. Performance Security for Rehabilitation

Although it may be technically difficult on private land to levy royalties similar to those on Crown land, once a reclamation plan has been submitted and becomes part of the management agreement, there could be a fee charged, based on the amount of material excavated, as a security for reclamation. Mandatory site restoration will not work unless some form of security is requested to guarantee restoration. Included among these options might be a fee per cubic metre or ton of material removed from the site. Another option suggested in the brief from the New Brunswick Mining Association might be amending tax legislation to allow for current deduction of contributions made for long-term reclamation liabilities.

- *It is recommended that, in addition to the management agreement required before a permit is approved, the Province consider the establishment of a fee to be charged for excavation in pits and quarries, as security for the assurance that provisions of the management agreement regarding site rehabilitation will be fulfilled or that the funds levied from the permit will be sufficient to cover the costs of the rehabilitation.*

Lamèque Island

A major concern expressed by many New Brunswickers is that too many pits and quarries remain a problem long after the extraction activities have ceased. The problem on Lamèque Island has reached proportions that should be addressed immediately. The damage to the landscape should not be permitted to continue, and should not be allowed to occur elsewhere in the Province.

- *It is recommended that the Province establish a program to identify and rehabilitate abandoned pit and quarry sites. This should be done on a priority basis dealing with those that pose the greatest risk to public safety or environmental damage. The program should be carried out in consultation with the affected landowners.*
- *In view of the seriousness of the situation with pits and quarry operations on Lamèque Island, it is recommended that the area be designated as a Pilot Project to test the provisions of this section.*

E. Asphalt Plants

- *It is recommended that guidelines be established for the location and operation of all asphalt plants.*

Those guidelines could be integrated in local plans at the district or community levels. The more common concerns for which standards are required are the noise, dust and especially air emissions. Those guidelines could also deal with health and odour concerns associated with air emissions. Asphalt plants, especially the permanent plants, can also be subject to land use policies applicable to commercial and industrial uses, covered in Section 3.3 of this report.

4.5 MANAGING AND PROTECTING OUR WATERSHEDS

4.5.1 Background and Concerns

The Construction of the Mactaquac Dam in the 1960's is probably the closest the Province of New Brunswick has been to comprehensive planning on a watershed basis. The implications of this major project on the settlements around the proposed head pond, with the displacement of many families and the development of the Nackawic town site, is also the closest we have ever been to regional planning. Other attempts to undertake comprehensive watershed planning include the Saint John River Basin Board Study in the mid-1970's, and the St. Croix International Waterway Commission currently underway. This limited experience with watershed planning is not a reflection of the interest of New Brunswickers for watersheds and the hydrologic system. It is, indeed, recognized as the most important natural system which connects precipitation to our surface and groundwater resources. "Land and water are society's capital. If they are spent, or invested in enterprises that yield sub-optimal returns, the society cannot prosper."¹² **Even though there has not been elaborate comprehensive planning on a watershed basis, New Brunswick is moving in the direction of recognizing the importance of watersheds as a resource base. In recent years, priorities have been to answer the more direct needs of citizens, and the interest for watersheds has focused on domestic water supplies.**

A. Drinking Supply Watersheds

The responsibility to designate and to regulate areas within drinking supply watersheds is carried out by the Minister of the Environment. In 1982, the Water Quality Regulation was amended, allowing the Minister to designate as a "protected area", the source of any public water supply. Within a designated area, the Minister may allocate the use of water, control, prohibit, restrict or limit any activity or thing which might impair the quality of the water. The Minister may also restrict unsuitable uses as well as establish and enforce guidelines and standards for the purpose of protecting the quality of the public water supply. Recognizing the importance of watershed to answer human needs and, in particular, the need for a sufficient supply of good quality domestic water, this authority of the Minister of the Environment has been applied, and a major program has been undertaken to designate and protect public water supplies.

Twenty-five municipalities in New Brunswick depend on rivers, lakes and streams for their drinking water. These watersheds are located both in rural and in urban areas.

Development within these watersheds can, and has caused contamination from uses such as residential, commercial and industrial (septic systems and chemicals) as well as from rural or resource uses such as farming (pesticides, fertilizers, manure), forestry (erosion, siltation, chemicals) and mining (erosion, wastes). In an attempt to manage the quality of water used by public systems, the Province has applied the Clean Water Act to designate the thirty-two watersheds which are used by twenty-five municipalities. It has adopted a 75-metre setback area along all watercourses within these watersheds where uses and activities are strictly controlled. A total of 20,000 hectares (50,000 acres) of freehold and Crown land is within this setback area or buffer zone. The Province intends to conduct more public meetings in the areas affected by watershed designation before bringing in more regulations that would apply in the remainder of the watershed beyond the 75m setback area. This preventative approach is the option preferred by the Province, instead of permitting potentially contaminating development to occur and then having to install expensive treatment systems to remove the contamination.

B. Needs, Concerns and Opportunities

As we progress in the recognition of the importance of the environment to our livelihood and quality of life, and move in the direction of sustainable development, watersheds will no doubt become the focus of much more public attention. Watercourses are an important part of the water cycle from which human settlements derive numerous benefits. They drain excess water from the Earth's surface. They transport soil and rock fragments in the form of sediment to lower-lying. During floods they flow over the adjacent land, or flood plain depositing sediments and enriching soil. Streams nurture wetlands and provide breeding, maturing and feeding areas for many species of fish and other wildlife on which people rely for food and recreation.

Watersheds have a particular significance to those who rely on them for their supply of domestic water. This is the case for the twenty-five New Brunswick communities which rely on watersheds for their public supply. Inappropriate land uses and activities conducted within the watershed can be the cause of water quality problems. Of course, it is easy to see how salt, sand, fuel oil and hazardous goods leaking into the watercourses can be the cause of those problems. It is more difficult, however, for residents to understand that erosion can also be a problem, or how runoff from farms, resource lands and construction sites can carry sediments and chemicals that can also cause contamination problems.

If there are no controls over the activities which may affect the quality or even contaminate water drawn from the watershed, it will be necessary to treat the water before it enters the water distribution systems. It may be technologically possible to treat most contaminated water to make it safe for human consumption, but the required treatment can be very expensive. Most municipal water supply systems in New Brunswick have little or no treatment at present. As already mentioned, the Province has opted for land use and

development control as the method of maintaining water quality in municipal water supply watersheds.

In its position paper to CLURE, the Department of the Environment indicates very clearly that we will be unable to achieve desired levels of water quality if a watershed is managed in sections. This type of management does not fully consider upstream and downstream users or the particular bio-physical characteristics of a given watershed. The Department's conclusion: "Watershed Management must be tackled on a watershed basis". The 75 metre buffer along watercourses is one step on the way to a more comprehensive approach to watershed planning and management.

It is also recognized that the need for enough water, and water of a good quality, is not the only interest present in the watersheds. In its consultation process, CLURE has also been exposed to the point of view of citizens living in the designated watersheds or with major investments made on that land. **People generally agree that standards are needed to protect the quality of the drinking water to supply the large number of municipalities in the Province that depend on surface water sources.** There is a concern, however, over the approach that has been used to introduce restrictions upon landowners in the watershed areas. Several landowners feel that the designation program has left them with undue limitations on activities which are not only legitimate, but sometimes essential to the viability of farm or woodlot operations. Many people are frustrated with the restrictions, especially when these have been introduced with little information to explain the rationale for limitations on certain activities, and without the possibility of negotiating any sort of compensation. Watershed management is essential, but it must be done in a better climate of cooperation with residents and local communities.

It is a concern that restrictions on activities in watersheds result in costs to the rural economy including the resource sector, business, landowners and lost opportunities for rural communities, generally (for instance, loss of land use potential in setback areas). The objective of supplying all water users with an ample supply and quality of water is definitely a challenge for the Province. This should not be achieved at the detriment of the security of landowners and those who live on the land, or who depend on that land for their livelihood.

In some jurisdictions, "Integrated Watershed Planning" is currently at the leading edge of land use strategies for watershed resource management.¹³ The full process includes four generations of plans: first, flood-based planning; second, planning to protect water quality; the third generation takes the process of water quality management further; and the fourth generation watershed plans consider flooding, erosion, water quality, water use, aquatic habitats, associated terrestrial habitats, and environmentally sensitive areas. Integrated watershed planning is really achieved when all four generations of plans are complete. The integrated watershed plans require an assessment of the natural ecosystem, a vision and specific goals for the watershed and broadly based implementation strategies for use, management, protection, conservation and rehabilitation of surface and related groundwater

resources.

In comparison to this model, New Brunswick is, in fact, at the second of these four generations of plans. With the designation of flood-prone areas under its Flood Damage Reduction Program it entered the first generation of watershed based plans. Although mapping of flood plains is almost complete, few plans or regulations have been developed to implement flood plain planning or zoning. The concerns about water quality has taken it to the second generation of plans. Under the Water Quality Regulation, the Province has adopted regulations for that portion of the watersheds within a 75m corridor on either side of the watercourses or lakes within the designated watersheds.

Pushing the model to the third generation of plans, measures to protect the quality of water supplies could be extended to entire watersheds. Watersheds in the Province have, in fact, already been studied, regulations proposed and initial public meetings held with landowners and the public. The Province has made modifications to these proposed regulations and intends to undertake public consultation in the near future. The Department of the Environment already has the expertise and a good information base to consider the preparation of integrated watershed (fourth generation) plans. A good deal of thought and planning has been given to a river classification system for the Province with the goal of protecting, preserving and restoring the chemical, physical and biological integrity of river systems.

4.5.2 Goal and Objectives

Goal

On a watershed basis, to achieve a balanced relationship between settlement, resource and the environment in an integrated land use approach to sustainable development.

Objectives

1. To protect drinking water supplies.
2. To balance the standards needed in watersheds to provide an acceptable quality of drinking water with the interests of property owners who rely on the land in the watershed for settlement and resource activities.
3. To pursue the concept of Integrated Watershed Management as a part of the framework for land use planning as it relates to flooding, erosion, water quality, water use, aquatic habitats, associated terrestrial habitat, and environmentally sensitive areas.

4.5.3 Recommended Policies and Actions

A. Drinking Supply Watersheds

The restriction of activities potentially contributing to the pollution of municipal surface water supplies is a proven method of maintaining an acceptable water quality. While it is recognized that the protection of a potable water supply is of prime importance in these watersheds, restrictions on integrated resource management should be based upon proven relationships between activities and water quality impacts.

The Province is committed to ensuring that safe drinking water is provided to its residents and that the resource is protected from any future degradation. Preventing contamination at the source continues to be the best way of ensuring an on-going supply of potable water for public water systems. By reducing the need for treatment facilities to a minimum, this approach is also the most cost effective.

- *It is recommended that the Province continue and complete the implementation of the Watershed Designation Program under the Clean Water Act for all thirty-two watersheds in the Province.*

B. Partnership With Local Communities and Landowners

Consultation with residents affected by watershed designations must be improved. Many briefs and public comments to CLURE suggested that, in the future, any land use planning and management for watersheds should be based on a continued dialogue among the provincial and local governments and the concerned citizens. Those affected demanded that they be consulted before any new designation or changes in the designations are made. CLURE noted that rural property owners and resource groups are willing to participate in a positive manner in the efforts to protect watersheds.

Despite the need for planning in rural areas to protect environmentally sensitive areas such as municipal watersheds, studies conducted on the opinion of residents reveal that landowners in most rural areas of the Atlantic region, and particularly in New Brunswick, view land use controls as an unnecessary infringement upon their rights as property owners.¹⁴ The need for a balance between protection standards and the acquired rights of people to develop and use land in the watersheds, and the need for a better dialogue with rural residents cannot be over-emphasized. Privately held lands should only be regulated to the

extent necessary to satisfy public objectives. Where this results in regulations which substantively prohibit economic activity, the owner should be compensated.

- *It is recommended that the entire public consultation process in connection with the Watershed Designation Program be reviewed and improved before the Province proceeds with any further implementation of the Watershed Designation Program.*
- *In conjunction with the Watershed Designation Program, it is recommended that the Province introduce public information programs to demonstrate why regulations are necessary and how they can protect individual wells and public water supplies. It is particularly important to emphasize to rural area residents, that by carrying out measures to protect the surface water supply, they are also protecting their own individual wells from potential contamination. A summary of the Clean Water Act and the Watershed Designation program would assist in the public information program.*

In some cases prohibition or restrictions on development within setback areas along watercourses causes legitimate hardship, increased costs and lost opportunities. In some cases, the requirements for specific sewage treatment or manure handling facilities, or the building of bridges, fences, etc. can amount to a substantial cost to the landowner. In other cases, removing farmlands or woodlots from production within setback areas creates financial hardship. In some instances, there are legitimate claims for compensation.

These claims can be dealt with in several ways. One way is to review the regulations to ensure that the level of restriction or prohibition is justified and if there may be other means to lessen the impact. Permitting selective cutting of mature trees within setback areas might be reconsidered, for example, so that the water quality is protected and some revenue can be generated from the harvesting of mature trees.

Another option is to recognize that the protection of water quality is a public good and the cost of protection of that public good should logically be paid or shared by those benefitting from that protection. In many of the watersheds the main beneficiaries of the protective measures are the residents in the community which drink the water, while the costs are completely borne by the landowners in the watershed who derive no direct benefit from the protective measures. This is not an equitable situation. Consideration could be given to spreading the costs among all those taxpayers benefitting from watershed protection in order to carry out required protective measures on property within the watershed.

- *It is recommended that consideration be given to the concept that all those benefitting from protective measures required in drinking water watersheds should share in the costs associated with those protective measures. The costs required to protect the water supply could be added to the municipalities' expenditures and the funds raised through a charge against the tax base of the affected municipalities.*

- *It is further recommended that prohibitive restrictions be reviewed to determine if there are some means through which activities could be carried out which would generate revenues (selective hand cutting within setback areas, for instance) and still provide a satisfactory level of protection for the water quality.*
- *In cases, where prohibition is definitely required and legitimate hardship would occur (for a previously approved building lot which falls within the setback areas for instance) compensation to the landowner should be considered. This might be paid from the tax revenues generated above.*

The Watershed Designation Program provides another opportunity for the Province to take advantage of the structure and process proposed in Chapter 2. The enhanced District Planning Commission structure recommended would be an excellent vehicle to use for further planning and public participation efforts in the watersheds. The District and Rural Community Plans could also support and reinforce the Watershed Designation Regulations through land use plans and associated zoning by-laws.

"Water management in the future will be characterized by cross-jurisdictional partnership."¹⁵ Watershed plans must be prepared and implemented on the basis of a two-way relationship between limitations imposed by regulations under the Clean Water Act and by-laws and regulations passed under the Community Planning Act. Environmental protection requires that urban and rural planning be coordinated. Integration must also occur across departments and other non-government agencies.

Land use control through zoning is limited in that only land uses which can be controlled when the site is being selected for a particular type of development (camping or picnicking site, buildings, farm operations, residential development, power lines, hiking or natural trails, etc.) can be effectively controlled. Zoning and regulations can be passed under the Community Planning Act to control these types of uses. Activities such as the use of recreational vehicles, woodlot management practices or farm activities, which take place on the site after the zoning or the development is in place cannot be controlled through zoning. The authority given to the Minister of the Environment through the Water Quality Regulation includes the control of these activities. This makes watershed designation a much more powerful tool than zoning with which to control activities within watersheds. Enforcement may still be done with the help of local building inspectors or development officers. To achieve this, the Province must seek a better liaison with local communities, interest groups and planning agencies. Agreements could be worked out for the enforcement of watershed regulations and their coordination with district and local land use regulations and by-laws.

- *It is recommended that the enforcement of watershed designations and protection measures be integrated with the administration of various complementary by-laws and regulations at the district and local level.*

- *It is recommended that a systematic effort be carried out to ensure a direct liaison with the citizens, interest groups and communities within the regions.*

District plans, recommended in Chapter 2, will be an effective method to help reconcile conflicting interests related to watershed protection measures, especially when agriculture or forestry are involved. The process of enforcing the regulations may be a sensitive issue in some areas where development pressures are high. Public acceptance of the regulations might be easier if enforcement was carried out by provincial authorities as opposed to local agencies. The rural public's perception of a municipal authority enforcing regulations outside municipal boundaries is likely, to be one of mistrust and resentment. On the other hand, a regional presence from the departments involved would facilitate the adjustment of the administrative provisions to the needs of citizens within the region. Many submissions made to CLURE indicated that nothing can replace eyes and ears in the community itself. One possibility that is worth considering is to have a Committee comprised of local residents to monitor the progress of protective measures and report any infractions or concerns. Perhaps more significantly, there must be cooperation between those who draft and administer provincial regulations, and the local application of those regulations.

- *Although leadership in the administration and enforcement of watershed regulations must come from the Department of the Environment, it is recommended that other government departments become involved in the implementation of watershed regulations. This would include:*
 - *The Department of Municipalities, Culture and Housing with respect to assurance that all future development in watersheds require "development approvals" and "building permits" as recommended in Section 3.5. Universal development approvals would serve as a check to ensure that all developments also received approval for acceptable sewage disposal systems;*
 - *The Department of Health and Community Services with respect to assurance that all future development will be required to have properly located, installed and inspected sewage treatment systems and that they will be inspected and cleaned out regularly as recommended in Section 5.5;*
 - *The Department of Agriculture with respect to assurance that all future farm operations and manure spreading conform to the watershed regulations;*
 - *The Department of Natural Resources and Energy with respect to the monitoring and enforcement of gravel pit and forestry operations including spraying activities as well as enforcement of stream alteration regulations;*
 - *The Department of Transportation with respect to enforcement of highway operation, maintenance and signage provisions; and*

- *The N.B. Power Corporation with respect to ensuring that all power transmission line maintenance within the watershed is carried out by hand cutting and that no pesticides are used within the watersheds.*
- *With respect to enforcement, it is recommended that the Department of The Environment carefully assess the enforcement of Watershed Regulations. Unless local consultation suggests otherwise, it is recommended that the regulations be enforced by provincial authorities rather than municipal officials.*
- *It is further recommended that local residents representing the municipalities, LSDs or rural communities affected by the watershed regulations be included on a monitoring committee which could report on progress of protection measures and any concerns or infractions that may occur.*

C. Watershed Management and River Classification Systems

Several briefs submitted to CLURE recommended that a "River Program" be incorporated in any land use policy for New Brunswick, based on the recognition of features on the rivers such as "wild rivers", "scenic rivers", "recreation rivers". This River Program was originally put forward by the Saint John River Basin Board. It would involve a river classification system with different levels of protection for each class of river. It was pointed out earlier that the Department of the Environment has been planning for a river classification system for New Brunswick with the goal of protecting, preserving and restoring the chemical, physical and biological integrity of our river systems.

Watershed designation aimed at the quality of domestic water is only one aspect of comprehensive watershed management. Because it is early in the process, there are still many actors to be affected by the adoption of a fully integrated watershed management system based on a river classification system. It is, therefore, important to identify implications to the political jurisdictions, regulating agencies and interest groups that are involved in the designation process. It must be noted for example that even in a perspective of sustainable development, it would not be realistic to expect all planning carried out in the Province to be conducted strictly on the basis of watersheds. Settlement, economic, cultural and resource related aspects do not recognize watershed boundaries however, they must also be planned in an integrated manner. As the partnership with local urban and rural communities evolves, the Province could then develop more comprehensive management plans for all designated watersheds. These could be separate secondary plans for the watershed itself or integrated fully into district or local plans. Watersways, water bodies and shorelands having environmental, recreational or other general significance to the public must be protected. In the medium and long term, watershed management should involve a more comprehensive and integrated plan for our watersheds. Such concepts as river classifications could be considered part of that planning.

It is recommended that the Province continue the approach that it has started through the Flood Damage Reduction Program and the Watershed Designation Program towards more comprehensive and integrated watershed management. This would include the implementation of its proposed river classification system as well as the recommendations in other sections of this report which would logically be incorporated as part of an overall watershed management strategy. This would include: the recommendations in Section 5.1 on Protecting Our Natural and Sensitive Areas; in Section 5.2 on Protecting Our Coasts and Shorelines; in Section 5.3 on Protecting Our Flood Plains; in Section 5.5 on Managing Our Sewage Disposal Systems as well as several sections in the Resource Section related to protection of agricultural, forestry and aggregate resources as well as protection of parks and recreation areas. They all have recommendations which could be contained in an overall watershed management strategy.

4.6 PROTECTING OUR GROUNDWATER SUPPLIES

4.6.1 Background and Concerns

Groundwater is a most important resource to New Brunswickers. Two-thirds of our people rely on it for their everyday drinking and household needs. Vast reservoirs of fresh water are stored beneath the surface of the earth, especially where gravel or sand is present, forming an invisible but vital supply of water. Water from underground reservoirs is returned slowly to the earth's surface through wells and springs or by seeping into lakes, rivers, and wetlands. In theory, there is groundwater beneath all land areas, but some aquifers are more productive or accessible than others.

Nearly everyone living outside municipalities depends on a well which is drilled down to the water table. Most are individual wells on each lot but some rural subdivisions have communal wells. In an attempt to safeguard the quantity and quality of groundwater supplies, measures have been instituted for both private and municipal systems. In rural areas, because of concerns with respect to private on-site sewage disposal systems, about 20 years ago the Province adopted a minimum lot size of 0.4 ha (one acre) for any lot serviced by individual disposal systems. Regulations are also in place to control the installation and operation of septic disposal systems. The Department of Health and Community Services has the mandate for assessing the suitability of proposed subdivisions for on-site sewage disposal systems. In addition, there are some conditions where the 0.4 ha minimum lot size may not be large enough and the Department of Health and Community Services may require that larger lot sizes be provided. There is also a concern that not enough attention has been given to the cumulative impact on the environment of allowing large subdivisions on private wells and septic tank systems.

Programs have also been established for the licencing and training for installers of septic tank systems. But there are concerns that there are not enough Department of Health and Community Services inspectors to ensure that individual septic tank systems are properly built and operated.

In addition to rural residents who depend on individual wells, fifty-two municipalities throughout the province draw water from one or several wells on which they depend for their public water supply. In those municipalities, the Department of Environment has begun to undertake studies aimed at the designation and protection of recharge areas. The Town of Shippagan was the first to benefit from the program and studies are currently under way in Fredericton and Sussex.

In addition to its use as drinking water, groundwater can also be used for irrigation purposes as well as for commerce and industry. Underground water accumulations also have the effect of moderating the quantity of the surface water supply by absorbing water from streams and rivers that are swollen from rain and melting snow, and by releasing water to the surface during dry periods. Even the rivers, lakes and streams that are part of the public drinking water supplies are also linked directly to supplies of groundwater.

4.6.2 Needs and Opportunities

Even with the public efforts made to protect groundwater supplies, ensuring an adequate quantity, and particularly an adequate quality of water, will continue to be an on-going concern over the coming years. Although soil has some ability to filter out pollutants, that ability is limited. Groundwater can be polluted by mine wastes, leaking septic tanks and sewage lines, deep-well injection of industrial wastes, and unsealed or poorly located sanitary landfills and garbage dumps that release potential contaminants. Water supplies can also be affected by chemicals we use everyday in our homes. Human activities carried out today can result in contamination and depletion of groundwater detectable only decades later. Because changes in groundwater usually occur very slowly, there is no quick way to correct the damage. Groundwater, therefore, should be treated as a very sensitive resource.

It is difficult to anticipate the consequences that increasing rural population, and especially the concentration of population in some areas, will have on the quality of groundwater. In rural areas, the wells need protection because of potential leakage from individual septic systems. For example, near Atholville, in the rural community of Val d'Amours the fact that public sewers had to be installed illustrates the point that the acre lot may not be enough to guarantee underground water quality when subdivisions become concentrated in a given area. In coastal areas, depletion of underground reservoirs may cause salt water to flow into aquifers and pollute the freshwater, forcing wells to be abandoned until the freshwater supply is replenished. This problem has been pointed out to CLURE at hearings held near the coast in both the Northeast and Southeast parts of the Province.

Problems with underground water supplies are generally caused by activities which take place above ground. Oil spills, leaks in petroleum pipelines, and inadequate storage tanks for chemicals and petroleum products are potential pollution hazards. Settlement and resource activities are the two areas to consider in order to effectively understand the situation.

In the Southeast of the Province, for example, the Beaubassin Planning Commission refers to the industrial use of water, the contamination from oil reservoirs, waste disposal sites and agricultural operations as major causes of problems related to groundwater supplies. But in other areas with concentrations of cottages (Caissie Cape and Grande-Digue were noted by the Kent Planning Commission), the level of pollution in groundwater may be high even

though the area has very few industrial uses. Rural wells (and public supplies which draw their water from the groundwater), therefore, need protection because of the risk of contamination resulting from activities conducted in relation to settlement such as residential, commercial, or industrial uses.

In addition to protection against settlement related uses, wells also need to be protected against contamination resulting from activities conducted in relation to resources, especially those using chemicals (petroleum, nitrates, pesticides, fertilizers). Agricultural activities such as cattle feed-lots and intensive fertilization add nutrients and chemicals to the groundwater. Extensive irrigation causes problems with salt. Dissolved salts are present in varying quantities in all water. In irrigated areas, as water evaporates or is absorbed by plants, the salt content of the remaining water increases, and quantities of salt become concentrated in the soil. In addition, irrigation water bearing salts and chemical fertilizers may percolate into the underground reservoir, making it increasingly contaminated. Eventually the groundwater may become unfit for domestic consumption or for other needs.

Ultimately, the problems related to pollution are compounded when the demands placed on aquifers outstrip the supply of water. This imbalance is a serious problem, especially in arid areas where it took many years for the supply of groundwater to accumulate and little water is being added now to the underground reserve.

Even though the fifty-two municipal water supplies which rely on groundwater are outside CLURE's mandate, they also need protection from land uses or activities which have potential to contaminate the supply of groundwater. **It is useful to recognize also that the technology and methods which will be developed as a result of the protection of municipal groundwater supplies may help in the development of guidelines and practices for rural areas.**

In addition to the transfer of appropriate measures from the Municipal Well Field Protection Program, it is important to recognize that many of the measures and regulations being proposed by Province with respect to protection of surface water supplies in the Watershed Designation Program, would also apply to the protection of groundwater. This program is described in detail in Section 4.5 on the Protection of Our Watersheds. In general the Watershed Designation regulations deal with restrictions with respect to residential development, agricultural operations, forestry operations, aggregate extraction and mining, road construction, pesticide application, power transmission line maintenance, lumber yards and sawmills, aquaculture operations and the storage of petroleum products.

It is important for residents to realize that the various contaminants associated with uses in rural areas, that pose potential threats to the surface water, pose a similar threat to the contamination of their own wells or groundwater supplies. It is equally important to recognize that these measures to protect groundwater are just as important outside designated surface water watersheds as they are within them. Because of the dispersed

development pattern and the large number of wells, the recharge areas for rural groundwater supplies are much more extensive than the recharge areas within designated watersheds.

The Department of the Environment in its submission to CLURE noted four main environmental problems which affect water supply protection. In addition to the potential contamination of water quality from residential, commercial, industrial and resource related sources, the Department expressed concern with the lack of control over the quantity of water used, since unregulated consumption of large quantities of water for both commercial and household uses can adversely affect water supplies. No framework exists for the management of water consumption in the Province. Conflicts have arisen in the past when industries with large water requirements have established in close proximity to residential development. The stress placed on available groundwater quantities has resulted in loss of supply to private homes. The same experience has also occurred when pump tests were conducted to determine if the aquifer in a particular area had the capability to supply a rural subdivision. A third concern was not really a land use related issue but it involved the potential affect on water supplies from the export of water resources. The fourth concern related to the lack of public information on water supply protection. This includes lack of information on the current programs to protect Designated Watershed and Designated Well Fields as well as a general lack of understanding of the effects of non-point sources of pollution on water quality.

4.6.3 Goal and Objectives

Goal

To protect the quantity and quality of the Province's groundwater resources.

Objectives

1. To adapt applicable water supply protection measures being developed by the Province through the Watershed Designation Program and the Well Field Protection Program to the protection of rural groundwater supplies.
2. To develop and implement a public information program to encourage responsible use, storage, transportation and disposal of materials which have the potential to contaminate groundwater supplies.
3. To assist rural communities, residents and property owners in the establishment of local plans that reflect objectives of best management practices to handle the use of land for settlement and for resource related activities.

4. To develop policies related to the quantity of our groundwater supplies through management of consumption and export of water as well as through efforts to encourage conservation.

4.6.4 Recommended Policies and Actions

The province is in the midst of implementing the Watershed Designation Program and just beginning the Well Field Protection Program. These programs were both developed to protect municipal drinking water supplies. However, there is important information as well as valuable strategies and regulations being developed as part of those programs that could be transferred to the protection of groundwater supplies in rural areas. This would apply particularly to communal systems, however, some lessons could also be applied to rural development in general.

It is envisaged that this knowledge could be transferred to rural areas in a much more informal manner than in municipalities and with a much greater reliance on public education. It is also recognized that it will take some time as the municipal aquifer protection programs are developed before appropriate measures may be able to be transferred. There are also policies recommended in other sections of this report, especially in Section 5.5 on Managing Our Solid Waste and Sewage, Section 3.5 on Building and Development Approval, Section 3.2 on Urban Sprawl and Ribbon Development as well as components of Chapter 4 on the Protection of Resource Lands and other sections of Chapter 5 on Protection of the Environment, that will also help achieve better groundwater protection.

A. Rural Groundwater Protection Programs

I. Communal Systems

It is recommended that the Province utilize the results of the Watershed Designation Program and the Well Field Protection Program to initiate a Groundwater Protection Program for Rural Areas.

The most critical rural areas to focus on first, would be the larger subdivisions or heavily built-up areas that rely on communal well supplies. There are some subdivisions in rural areas that have hundred of homes relying on communal wells.

A modified program for these communal systems might include the following measures:

- 1) *Identification of the recharge area of the well field supplying the subdivision or development. It is not expected that a detailed hydrogeological assessment would be conducted, however, hydrogeologists could estimate the likely extent of the recharge area based on preliminary information on soils, hydrology, drainage and topography.*
- 2) *Investigate the hydrogeological conditions within the recharge area. This would also be performed by hydrogeologists based on existing information from well drillers or previous excavations in the area.*
- 3) *Based on a list of potentially contaminating chemicals, compounds, uses or activities emanating from the Watershed Designation Studies and the Well Field Protection Studies, existing uses could be identified that might have potential to contaminate the aquifer, should a spill occur. In rural subdivisions this would mainly be limited to residential uses where the major concerns would be with respect to petroleum products from home heating and motor vehicles.*
- 4) *Suggest appropriate policies or measures to deal with existing uses of concern as well as to prohibit or limit development of future uses which would pose potential hazards.*
- 5) *Institute an on-going management and monitoring program.*
- 6) *It is suggested that heavy reliance be placed on public education as opposed to a regulatory approach. This should consist of a public consultation program involving active participation by affected residents. A simple approach could consist of making the residents aware, through public meetings and written materials, of why their water supply should be protected; what products, chemicals or uses pose dangers; and how they can protect their water through the safe use, storage, transportation and disposal of these products of concern. It is expected that residents would adhere to these practices in order to protect their drinking water and thus the investment in their homes. It is also expected that they would police or encourage each other to act in a responsible manner with respect to protection of the well field.*

II. Program For Individual Wells

Using information from the Watershed and Well Field Protection Programs, it is recommended that a more general approach be taken in developing a program for the protection of individual wells. This would involve consideration of residential, commercial, industrial, institutional as well as resource-related uses. Although all these uses may have individual wells, they do not have individual well fields or recharge areas. Each property is a recharge area for its own well and probably for the wells on neighbouring properties. Thus the approach need not identify recharge areas and hydrogeological conditions as suggested for communal systems, although known risk areas such as those with shallow bedrock or high water tables could be identified and monitored

closely.

The approach recommended is again based largely on public education and appealing to the public's sense of stewardship to safeguard their individual and common water needs. The public education program could consist of an approach similar to that described for communal systems in that public meetings and information dissemination could get the same information to the public. It is suggested that specific information packages could be prepared for those involved in various uses such as residential, commercial, industrial and institutional. The resource industries could be approached separately or as a group, since there is some overlap in the products (fertilizers, pesticides, etc.) that each might use. In addition to the suggestions which emanate from the studies in municipalities, the rural residents, business people and landowners may have valuable suggestions to make regarding safeguards that should be taken. The intent would not be to create hardships for any resident or business, but to seek their cooperation and support in the mutual protection of such a critical resource.

It is expected that the structure proposed in Chapter 2 with respect to District Planning Commissions and Rural Communities would provide excellent vehicles through which to conduct the public participation initiatives. This would be another example of how local residents could participate in a proactive and meaningful manner in planning and decision making which directly affects them. Community groups could also participate in a number of active ways. This could include:

- *helping to identifying former sites which should be investigated or monitored including former gasoline or oil dispensing uses such as service stations, bulk fuel storage, public works sites or former dumps and landfill sites;*
- *groups such as volunteer fire departments could attend workshops dealing with emergency response situations in the event that a major spill occurred in the area;*
- *participating in the conservation of water resources especially during dry seasons or areas where water resources are known to be scarce; and*
- *service stations owners could help by setting up collection sites for waste oil or other chemicals that residents or businesses might deliver for safe storage and disposal.*

B. Other Protective Measures

It is recommended that the Province consider recommendations made in other sections of this report to protect groundwater. This includes:

- 1) *Section 3.1, on Structure and Process for Rural Planning, which provides for district and local plans which would integrate and support the provincial policies with respect to the*

protection of groundwater and enable meaningful local participation in the development and implementation of these policies;

- 2) *Section 3.2 on Urban Sprawl and Ribbon Development, regarding stricter controls on development in fringe areas and in environmentally sensitive areas;*
- 3) *Section 3.3 on Location of Commercial and Industrial Activities, which sets out siting criteria designed to protect sensitive areas including watersheds and recharge areas;*
- 4) *Section 3.6 on Building and Development Approval, which requires better controls on building and septic tank approvals throughout the Province;*
- 5) *Section 3.6 on Incentives to Encourage or Discourage Development, which sets out various policies to encourage more appropriate development practices and elimination of incentives which encourage development patterns which create threats to the environment including water resources;*
- 6) *Chapter 4 on Protection of Resources in general, which recommends several measures to sustain agriculture, forestry and fishing activities and which would also contribute to better protection of our water resources;*
- 7) *Section 4.4 on Gravel Pits, Quarries and Mineral Development, which recommends guidelines which would protect surface and groundwater resources;*
- 8) *Section 5.5 on Managing Our Solid Waste and Sewage, which presents several policies on managing solid waste which will protect our groundwater and an extensive section on sewage disposal which will ensure better location, construction and maintenance of individual sewage treatment systems, better control of septage disposal and encouragement of innovate systems, such as "clustering", all of which will contribute to improved protection for groundwater.*

C. Conservation Practices

In addition to protection of our groundwater resources, it is also recommended that the Province encourage conservation of water through public education programs and other public outreach methods that would ensure sustainability of our water resources.

It is expected that pressures will increase in New Brunswick in the future, as it has already in other parts of Canada, for the export of water to the United States and other countries. Although this goes well beyond the issue of land use, it is an important environmental issue with respect to both our surface water and groundwater resources. It is recommended that the Province develop a policy on the issue of water export.

4.7 PROTECTING OUR PARKS AND RECREATION AREAS

4.7.1 Background and Concerns

The growth of rural New Brunswick has created an increasing demand for recreation activities and services. These may be **organized activities** such as hockey, golf, softball and curling, or **more casual activities** such as hiking, snowmobiling, fishing, birdwatching, etc. The way land itself is used for recreation can also vary considerably, ranging from very structured buildings and facilities, to **remote trails** or even **wilderness areas** where nature is left totally undisturbed. This demand in rural areas is most often felt in the denser or more built-up areas such as subdivisions.

As a result of new economic realities and financial constraints which face society, many people are reviewing their life styles and opting for more economical recreational activities such as biking and hiking.

In rural New Brunswick, the population growth of recent years has resulted in increasing demand for recreational activities and services. At public hearings and discussion group meetings, CLURE has been told that there are deficiencies in the delivery of recreational facilities and services to rural residents. People involved in the Community Futures Program have demonstrated to CLURE how even the social fabric of rural communities has been affected by the absence of proper leisure and recreation facilities. The lack of a local authority capable of developing and managing land for parks and recreation, has meant that recreational opportunities in rural areas have been neglected. Quite often, the absence of adequate parkland in rural areas is felt by the tourism industry as well.

Under the Community Planning Act, up to ten percent of the land in new subdivisions (exclusive of streets) can be dedicated for public purposes or recreational use. This is not being done in the non-incorporated areas because there is no representative public body willing and able to accept the land and develop it for recreation as is done in municipalities. In rural areas, land dedicated for public purposes can be acquired directly by the Province, represented by the Minister of Municipalities, Culture and Housing. **However, without adequate structures and programs to handle the development and maintenance of those parks in rural communities, public dedications have been neglected, or waived altogether.**

To date in rural areas, the development of land for parks and recreation has been done to a large extent by volunteer groups, and indirectly, by the Provincial government. There are several organizations that have been successful in promoting cross-country skiing, snowmobile trails, and hiking trails. The Province itself plays an important role with an

impressive Provincial Parks system and the Historic and Heritage sites. The two National parks, Fundy and Kouchibouguac, must also be counted within the park network. All these are assets upon which a strategy for the protection of parks and recreation can be based.

4.7.2 Needs and Opportunities

There are five factors which can be used to support the development of a land strategy for parks and recreation in rural New Brunswick:

- the existing network of Provincial Parks and Heritage Sites owned by the Province;
- the classification system recommended by the Provincial Parks and Heritage Sites Master Plan;¹⁶
- the integration of all land elements which may be used for recreational opportunities, and which are identified in this and other sections of this report;
- the development of a trail system using abandoned rail rights-of-way; and
- the opportunity for rural communities to acquire and develop land for public purposes.

In 1990, a Master Plan was prepared by the Department of Tourism, Recreation and Heritage. The report indicates that there are forty-eight Provincial Parks, together with the two main Historic Villages and numerous heritage sites in the system of parks already owned by the provincial government. Since that time, all land formerly managed by the Department of Tourism, Recreation and Heritage has been turned over to the Department of Natural Resources and Energy (DNR&E). This has resulted in the consolidation, within a single department, of all the management for parks and heritage sites, including the sites already under the management of DNR&E and devoted to recreation such as rustic campgrounds, campsite leases, etc. **This entire recreational land base owned by the Province can be a tremendous asset on which to base a province-wide strategy for parks and recreation areas.**

Secondly, the approach taken by the Department of Natural Resources and Energy to handle the development of provincial parks offers a valuable insight into the land features, and their capability to sustain recreational activities. **They provide guidelines which could be used as a foundation in the selection of land for the development of all future parks and recreation areas throughout the Province.** At the same time, however, the guidelines are a warning that rural land should not be put aside and developed for parks and recreation without first recognizing the fragile nature of some of the land base. Not all land has the

same characteristics in terms of being able to support those activities without damage. Thus, it is essential that any process leading to the identification of land for recreation, should recognize the natural conditions of the land.

The third opportunity of strengthening our parks and recreation areas is outlined in two other sections of this report. The need to improve on our ways of dealing with recreation in rural areas can also be linked with the multiple use of Crown Land, addressed in section 4.2. Furthermore, on the East Coast and the Fundy Coast, there is an opportunity to integrate the recommendations made in section 5.1 relating to access Coasts and Shorelines.

The fourth opportunity focuses on the potential development of a trail system utilizing the rail rights-of-way as they become available through the abandonment process currently being pursued by both the Canadian National and Canadian Pacific railways. The disposition of abandoned rail corridors generated a great deal of discussion during the public consultation process. CLURE heard from many groups and organizations that favoured the retention of the corridors in some form of public ownership in order to safeguard their future use as potential transportation or utility corridors as well as utilizing them for trails and other recreational purposes. CLURE was also sensitive to the views expressed by adjacent landowners who were concerned about public use of the corridors, and especially about trespassing on private property, that might result in negative impacts on agriculture or other resource lands and activities. Some favoured transferring ownership of the corridor to adjacent landowners when the lines became abandoned.

During the past decade, CN and CP have been going through a process of abandoning unproductive lines. The rails and ties are removed and the railway companies then wish to dispose of the lands.

The abandoned rights-of-way are mainly 30 metres (100 feet) wide and represent corridors of land that would be extremely difficult and expensive to assemble today. The CN has abandoned about 350 miles of lines and the CP about 123 miles in New Brunswick and more abandonments are in various stages of planning.

There are many competing uses for these abandoned lines. NB Tel is interested in them for installation of the fibre optics network. The Department of Transportation has interests in portions for highway construction, the Department of Natural Resources and Energy has interests in adding portions adjacent to Crown Lands and in possible future pipeline installations, and the Department of Municipalities, Culture and Housing has interests in portions of the lines for recreational purposes. Snowmobile clubs have been very active in corresponding with the railways and the Province, pressing for permission to use these lines. Municipalities are interested in the portions of lines within their boundaries. Individual landowners are interested in acquiring the lines adjacent to their properties in order to ensure their privacy. Some businesses are interested in acquiring portions of the lines to provide them with access to their properties.

CN's stated policy for disposal of abandoned lines is to offer them for sale in the following order:

1. Federal and Provincial Governments;
2. Utilities;
3. Municipalities;
4. Adjacent Landowners; and
5. General Public.

CP's policy is to give the Province first opportunity to purchase its their abandoned lines. The Province has decided to relinquish any rights it may have for exercising first refusal to abandoned rail rights-of-way to NB Tel, subject to NB Tel entering into an agreement to sell any or all of these lands to the Province with NB Tel retaining an easement. The Department of Supply and Services has been given the responsibility for managing the process of acquiring abandoned rail rights-of-way that the Province wishes to own. **There are no regulations concerning the use of abandoned rail rights-of-way, and there have been no overall provincial policies developed.**

NB Tel officials have advised both the Province and CN that they are prepared to acquire all of CN's abandoned rights-of-way, that their primary interest in acquiring these lines is to secure an easement for their fibre optics cable. They have no interest in retaining ownership to these lines, other than to protect their easement requirements, and they would be prepared to give the Province first rights to acquire those portions in which the Province is interested.

In 1986, NB Tel acquired the Oromocto subdivision from CN. This line runs from Oromocto to Westfield. NB Tel entered into an agreement with the Province to sell back a portion of the line to the Province and to provide a pipeline easement and a recreational easement on the balance of the line. NB Tel offered portions of the line which the Province did not acquire, to the adjacent landowners. The adjacent landowners were apparently very unhappy with the use of the line by snowmobilers and all terrain vehicle operators, and local petitions were circulated against their using the lines. This example is evidence of conflicts that exist in the ultimate disposition and use of the abandoned lines.

Further evidence of this sensitivity was displayed at a recent meeting Department of Supply and Services officials held in Kedgwick with snowmobilers, municipal officials, local businesses, adjacent landowners and farmers, relative to the snowmobilers using the abandoned St. Quentin subdivision line. While it appears that compromises with snowmobilers can be worked out, there was unanimous concern over use of the line by operators of all terrain vehicles.

There is no doubt that rail corridors would be a tremendous addition to the recreational infrastructure in the Province, as they have been elsewhere. Hiking and biking have long been popular recreational activities in Europe. In North America, the trend is also setting

in as healthful leisure activities have become more important and the economic recession of recent years has forced more people to pursue less costly forms of recreation. In other areas of Canada and the United States, including our immediate neighbours in Quebec and Maine, the use of abandoned rail lines for recreational trails has proven to be an excellent source of healthy recreational enjoyment for both residents and tourists in all seasons of the year.

Experience elsewhere also indicates that recreational trails can be successfully integrated across, or adjacent to, private properties through conscientious use by user groups and clubs. With proper regulations for use worked out by user groups and adjacent residents, the users are responsible for enforcement of regulations and, often, for the care and maintenance of the trail system. It is obvious that, based on examples in other jurisdictions as well as the experience in New Brunswick to date, any plans for reuse of rail corridors must be developed in conjunction with all stakeholders affected, including the Province, municipalities, rural communities, user groups and adjacent residents.

Finally, the opportunity of allowing rural communities to acquire and develop lands for public purposes would help complete the recreational land inventory. The Community Planning Act does allow for the dedication of land for public purposes in rural areas as it does in municipalities. The lack of structures and programs in rural areas to develop and manage public lands has led to the situation where rural areas do not take full advantage of those provisions. **Local communities are willing to take their responsibility in providing their own recreational needs.** Many are, in fact, already doing it on a voluntary basis. Allowing them to administer lands for public purposes is an opportunity that should be recognized by the Province.

In summary, the use of Provincial parks and heritage sites, a standard classification system for the designation of parks and recreation land, better access to our coasts and shorelines, the recreational use of Crown Land, a trail system based on the former rail rights-of-way, together with provisions that would allow rural communities to participate in the development of a park and recreation network, can be the base of a very effective park and recreation areas network throughout the Province.

4.7.3 Goal and Objectives

Goal

To provide an integrated parks and recreation network to serve the residents and the tourism industry of New Brunswick.

Objectives

1. To develop a consolidated strategy for the use and development of parks and recreation areas in the Province.
2. To coordinate the designation and development of parks and recreation areas with the protection of our natural and sensitive areas.
3. To encourage the integration of provincial, regional and local strategies aimed at providing the public with recreational activities and services.
4. To develop a policy for the disposition and use of abandoned rail corridors in the Province.
5. To provide a mechanism for non-incorporated areas to obtain recreation land through the public dedication clause of the subdivision regulations.

4.7.4 Recommended Policies and Actions

A. Provincial Strategy for Parks and Recreation Area

The full integration at the Provincial level of our parks and heritage areas, supported by local structures capable of representing the interests of rural communities, provides an opportunity for the Province and its citizens to develop a very effective strategy for the acquisition, development and the use of land for parks and recreation.

The Provincial Parks and Heritage Sites Master Plan, mentioned earlier, suggested that the role of the Province should be to conserve and manage heritage resources (natural and cultural) that are provincially significant and that can be of benefit to the residents of the entire Province. In park and heritage matters this role should help support that of municipalities and the Federal Government. The report suggests that for Parks, the Provincial presence fits nicely into a middle range between the federal role of conserving resources significant on a national scale and the municipal role of providing local recreational opportunities. CLURE is of the opinion that the present conditions in New Brunswick warrant the use of some of the major elements contained in the Provincial Parks and Heritage Sites Master Plan as the basis for an comprehensive policy framework for New Brunswick.

CLURE understands that the Department of Natural Resources and Energy is in the process of modifying and adapting the recommendations of the Provincial Parks and Heritage Sites Master Plan into a new policy for parks and recreation in the Province. It is suggested that some of the following recommendations that support or reinforce recommendations made in the Master Plan be considered for incorporation in the adapted

policies.

- *It is recommended that the role of the Province as outlined in the Provincial Parks and Heritage Sites Master Plan prepared in 1990 for the Department of Tourism, Recreation and Heritage, be adapted and used as a foundation for the provincial policy and strategy of action for parks and recreation.*
- *It is recommended that the following Mission statement for the Parks and Heritage System be adopted as provincial policy to guide provincial, regional and local authorities responsible for the acquisition and development of land for parks and recreation purposes:*
 - *To promote and facilitate a balanced programme for the preservation, development and interpretation of New Brunswick's natural, historical and cultural heritage for the benefit of present and future generations;*
 - *To preserve and protect, for present and future generations, a selection of Provincial Parks and Heritage Sites based upon significant natural, scenic, cultural and historical resources. The System will provide opportunities for public outdoor recreational use, education, quiet enjoyment and appreciation for the greater economic benefit for the Province; and*
 - *To promote and facilitate greater awareness and understanding of the environmental, cultural and historical diversity of New Brunswick and create opportunities for interaction and increased understanding and appreciation of the Province's heritage.*
- *It is recommended that policies contained in other sections of this report pertaining to recreational use of crown land (Section 4.2) and access to coasts and shorelines (Section 5.1) be considered for integration in the new policy for parks and recreation being considered by the Province. This would ensure that features such as trails on crown lands or reserved accesses to coastal recreation areas could be integrated into the overall provincial master plan.*

B. Land Classification for Parks and Recreational Areas

- *It is recommended that one of the first steps which should be taken to assist with Provincial and local planning and development would be the development of a land classification system for parks and recreation areas. This classification would make it possible for those responsible for choosing parkland, to take into account natural and sensitive areas and natural resource management areas, before designating land for recreational purposes.*

An example of a classification based on the carrying capacity of land in relation to recreation is provided in the four land use zones proposed in the Provincial Parks and Heritage Sites Master Plan. These four zones are

- **Unique Resource Zone**, protecting and maintaining naturally or culturally unique land or water areas;
- **Environmental Protection Zone**, protecting and managing sensitive and fragile natural, archaeological and/or cultural resources;
- **Natural Resource Management Zone**, containing land which can sustain dispersed outdoor recreation and other uses; and
- **Developed Lands Zone**, containing areas of intense recreational and cultural development.

It is understood that these zones may be modified or adapted in the new policy being developed by the Department of Natural Resources and Energy. All new lands that are added to the provincial system could then be classified according to the new system.

C. Natural and Sensitive Areas

Section 5.1, outlining a strategy for the protection of natural and sensitive areas, indicates typical criteria which could be used to determine areas that may need to be kept in their natural state. In the classification shown above, they may correspond to "Unique Resource Zones" or "Environmental Protection Zones".

- *It is recommended in Section 5.1 that the Province undertake a program to identify, classify and map natural and sensitive areas of the Province. It is further recommended that this be used as a basis to identify limitations on recreational use in these areas. These limitations may be in the form of standards or guidelines that might be applied to development of recreational use in these natural and sensitive areas. Once identified by the Province, these standards could be incorporated in district and local plans as they are developed throughout the Province, thus resulting in a consistent and integrated approach.*
- *It is recommended that the Department of Environment investigate the feasibility of using the concept of "safe carrying capacity" to determine whether or not it could be applied to waterfront recreational developments in New Brunswick. The Department is currently reviewing models in other jurisdictions with respect to nutrient loading from sewage disposal systems. It could determine if the concept could be extended in order to determine limitations on other forms of development on adjacent lakes, rivers, beaches, bogs, marshlands, etc.*

D. Natural Resources Management Areas

The Provincial Parks and Heritage Sites Master Plan proposed a "Natural Resource Management Zone". This designation should normally not be a concern on private land in rural areas. Aside from private investment in tourism or recreation developments, most of the land developed for park and recreation would first be obtained by the community through purchase or public dedication.

- ***It is recommended that, in areas designated for resource use such as agriculture, forestry, mining, fishing and aquaculture, recreation uses be permitted as long as they do not negatively impact on the primary use for resource development. This would apply to Provincial plans as well as district and local development plans and basic planning statements.***

E. Integration With Local Plans

Normally, local development plans or basic planning statements for the whole district planning commission or for rural communities within the district would identify recreation areas on the basis of existing sites such as parks, sportsfields, lakes or recreation buildings. If information is available, they would also include sites identified as having high recreational capability or potential. These local plans would automatically incorporate any sites (located within its jurisdiction) identified by the Province in its Provincial Master Plan. The local plan could also identify existing or proposed linkages between local recreation facilities and those indicated in the Provincial Master Plan. This would include integration with recreational use of crown land, with access to coasts and shorelines and with the use of abandoned railway corridors. This could be done as long as it did not impact negatively on the provincially designated sites or did not contravene any provincial policies. The local plans could also incorporate sites for recreation or park use that are not identified on the Provincial Master Plan.

- ***It is recommended that the Province encourage local planners, when preparing district or local development plans or basic planning statements, to consult with officials of the Department of the Environment or Natural Resources and Energy when it proposes to designate a recreational use in an area which is not provincially designated but which is suspected of having sensitive features. The Provincial officials would investigate to determine if specific limitations (standards or guidelines), similar to those incorporated for the provincially designated areas mentioned earlier, should apply.***

Another aspect, with respect to integration with local plans, which was raised to CLURE was

the need for a mechanism to protect parks or heritage sites from development on adjacent lands which might be detrimental to the facility. For instance, the heritage atmosphere of Kings Landing Historical Settlement would be ruined if the lands on the opposite side of the river were to be cleared and developed for industrial, commercial or even intensive residential development. Similar impacts could potentially occur around other recreational and tourist attractions such as the Acadian Village, Mactaquac Provincial Park, Sugarloaf Provincial Park, Mount Carleton, Grand Lake, etc. Large public investments have been made in these facilities and yet little protection is available to ensure that they would not be impacted negatively, and even ruined, by inappropriate adjacent development.

- *It is recommended that the Province identify areas around its parks and heritage sites for which it is critical that some controls on the type and extent of development be imposed. These areas would probably require the preparation of an area plan or a basic planning statement. The Province should work with the district planning commissions, municipalities, or local service districts affected to develop a plan that would assure protection of the facility and would be acceptable to local residents. Site specific measures such as buffers, view planes, screens, and property acquisition might be incorporated along with general land use and zoning provisions.*

F. Use of Abandoned Rail Rights-Of-Way

Because of the uncertainty of the world economy and its effects on Canada and its transportation systems, it could well be the case that rail transportation may one day be revived as a viable means of transportation of passengers and goods on a provincial, regional or national basis. Should this eventually become a reality, the importance of maintaining public ownership of existing rail rights-of-way cannot be over emphasized. Acquiring new rights-of-way would result in staggering costs and disruptions. **For these reasons, it must be CLURE's position that it is in the best public interest to retain abandoned rail rights-of-way in public ownership and that their use be limited to non-intensive activities.**

Public ownership would mean that the corridors would be acquired by the Province or by municipalities and that they could be leased to other groups, organizations, or associations with appropriate conditions on the use of the corridors.

Public ownership and the requirement for non-intensive activities would lend itself well to the concept of recreational trails and utility corridors. The rights-of-way could be used for services and utilities such as fibre optics cables, water and sewer services, underground power lines and pipelines. The placement of these services underground would be compatible with the surface use for recreational trails for hiking, biking and horseback riding, in the summer months, and cross country skiing, snowshoeing and snowmobiling, in the winter months. These uses should be incorporated as part of the Provincial Master Plan for Parks and Recreation. The recreational trails could be integrated with other public rights-of-

way (abandoned public roads, publicly owned power line corridors) as well as other recreational sites and facilities throughout the Province. To prevent misuse and potential damage to the environment, resource lands (agriculture, woodlots, etc.) or private properties, it might be necessary for the Province to consider designating portions of the right-of-way on the basis of the use, or the capability for use, of the land adjacent to the corridors, before management agreements or leases are made to local communities or groups wishing to use them.

CLURE also recognizes the concerns raised by adjacent residents over public use of the rail corridors. These concerns relate to incidents of trespass and acts of vandalism and littering that have occurred along some of these corridors in the past. It is unfortunate that the irresponsible actions of a few could threaten the respectful and legitimate use of the corridors by the vast majority of potential users. It was also felt that irresponsible use and vandalism would be much more likely to occur if the ownership of the rights-of-way were left undecided or in dispute by the adjoining landowners.

In recognition of the legitimate concerns of adjacent owners, it is important that the lease or use of the rail rights-of-way to communities or groups be contingent upon the establishment of responsible ground rules or regulations for their use. Local communities or groups should be charged with the responsibility for ensuring the rules are known and enforced and that maintenance activities and litter pick-up are carried out on a regular basis and as required.

In conjunction with any decisions on the use of lines, management agreements, or leases, it is imperative that public consultation involving input from all affected parties be undertaken. This would involve representatives of district planning commissions, municipalities, local service districts, potential user groups and adjacent landowners.

In recognition of the above, CLURE makes the following recommendations:

- *To maintain control over the use of abandoned rail line corridors and in the best interests of the public, it is recommended that the Province ensure that the corridors remain in public ownership;*
- *It is recommended that the Province consider the primary use of the rail corridors for recreational trails and utilities, and further, that it integrate the corridors as a key element in the Provincial Master Plan for Parks and Recreation Areas;*
- *It is recommended that any lease of the corridors to communities or interest groups be based on a management agreement with a provision that the lease could be terminated within reasonable notice in the event that the right-of-way may be required for transportation purposes. The management agreement should also include ground rules for the use and maintenance of the corridor, as well as enforcement provisions to protect the environment and resource lands and private properties.*

- *It is recommended that the Province consider a system of classifying various sections of the corridor on the basis of the use or capability of adjacent lands; and*
- *It is recommended that all reuse, lease or management agreements be subject to a public consultation process with all affected parties, including adjacent landowners, potential user groups and representatives of local service districts, municipalities and district planning commissions.*

G. Public Dedication of Recreation Land

- *It is recommended that the Community Planning Act be revised to give to District Planning Commissions and Rural Community Councils the authority to accept the publicly dedicated land that can be provided as part of the subdivision approval process.*

5.0 ENVIRONMENTAL ISSUES

5.1 PROTECTING OUR NATURAL AND SENSITIVE AREAS

5.1.1 Background and Concerns

New Brunswick's citizens have historically had a close relationship with the natural environment. Many have worked in resource-based industries and even a greater proportion have looked to New Brunswick's natural environment for recreation, whether it be hunting, fishing, camping, hiking or any one of a large number of other outdoor activities. The identification of natural areas and amenities which require protection needs some clarification, because the outdoors means different things to different people. In fact, when we speak of protecting New Brunswick's natural and sensitive areas, we speak of a variety of types of areas that need protection for different reasons. Some of them, such as protection of the biological gene pool or protection of indicator species to monitor biological change, have a scientific basis. Others are related to our societal needs, for example, for educational or heritage purposes.

Wetlands are areas of special concern. It has been estimated that, although they only encompass six percent of the world's surface area, wetlands contribute about 24 percent of its biological productivity. In New Brunswick, wetlands cover an area of 315 000 hectares or four percent of the Province's land area. They consist of three percent salt marsh, seven percent Saint John River floodplain, 41 percent freshwater inland wetlands and 49 percent bogs. It has been estimated that 50 percent of New Brunswick's wetlands and 80 percent of the salt marshes have been converted to other uses, mainly agriculture. Many wetland areas have been left alone because they are difficult to develop, however, some resource extraction activities, such as peat mining, are in direct conflict with wetland protection.

Wetlands are known to fulfil a number of important environmental functions including:

- Control and storage of surface water;
- Recharge and discharge of groundwater;
- Trapping of sediments, contaminants and nutrients; and
- Specialized habitat for a wide variety of plant and animal species.

Wetlands can also serve an important role in education for science and natural history and as a tourist attraction. An example is Daly Point in Bathurst which attracts 10,000 visitors a year. Taylor Island near Saint John attracted 70,000 visitors in 1992. They can also provide valuable resource products, e.g. wild rice, and provide a wide range of recreational

opportunities. **Salt marshes** are a special class of wetlands. Because they occur at the interface between the land and the sea, they supply important ecological functions such as the provision of nursery areas for marine organisms and feeding areas for migrating shorebirds.

Natural areas may require protection because they contain rare or threatened plant or animal species or provide special habitat requirements for other species. Without the protection of habitat some of the important biological resources could be lost to the region. The best known example of special habitat requirements are the deer yards which are necessary if the white-tailed deer population is to remain viable in harsh New Brunswick winters. In addition, there are many other fish and wildlife species that rely on special habitats.

Much of our natural environment has been altered by man, however, there are some areas that remain representative of our natural environment. Many of these have been identified as International Biophysical Program (IBP) sites and have been recommended for preservation.

Part of New Brunswick's **natural heritage** also consists of areas of scenic beauty such as viewscapes and waterfalls. These areas provide recreational value to New Brunswick citizens as well as adding to the provinces attractiveness for tourists.

The need to protect representative areas of all the natural regions of Canada is the goal of the World Wildlife Fund's Endangered Spaces Program. This program has the objective of establishing a network of protected areas representing all of Canada's 340 natural regions. New Brunswick has announced a new Protected Natural Areas Policy and is in the process of developing a map of natural areas. The Province is also in the process of developing a wetlands policy by either modifying existing environmental legislation or bringing out new legislation to protect wetlands.

5.1.2 Needs

Information presented to CLURE emphasized the priority that New Brunswick citizens place on natural areas and the need to protect them. Depending on the interest of the individual group, many approaches were presented, however, all were united in their call for some action in this area. **It was recognized that a basic need to support a policy for natural area protection was a database identifying where the critical habitats were.**

Wetlands, particularly salt marshes, were identified as being in critical need of protection and of a plan to manage them on a sustainable basis. It was pointed out that much of the effort to preserve wetlands has been directed at wildfowl production and that wetland enhancement must take a more holistic approach by taking the whole ecosystem into consideration. This was also reinforced by a call for better regulation of habitat alteration

practices. Salt marshes were identified as particularly vulnerable with the call for the prohibition of activities that would lead to more loss of salt marshes.

The establishment of more ecological reserves was given as a priority in several presentations. There was also concern that a similar system was not in place for private lands. In this regard, several suggestions were made to assist landowners wishing to establish nature reserves, including various tax incentives such as the Farm Land Identification Program and the waiver of capital gains tax for land donated as a nature reserve. Conservation easements were seen as a way to extend protection to adjacent properties.

The need to protect larger areas with representative habitats was also identified. One possible mechanism suggested was the greater use of provincial parks for habitat protection. For all nature areas the need to maintain some control over adjacent lands as a buffer zone was also identified.

5.1.3 Goal and Objectives

Goal

To recognize natural and sensitive areas as an essential component of the quality of life enjoyed by New Brunswick citizens and to protect all significant areas from further degradation and loss.

Objectives

- 1) To identify, classify and map all natural areas of ecological or socio-economic importance;
- 2) To manage wetlands in the Province on a sustainable basis;
- 3) To protect representative areas of all natural regions in the Province as well as areas of high biodiversity;
- 4) To facilitate the protection of natural areas on private lands;
- 5) To integrate the protection of natural areas into the Provincial land use policies and specifically, the Provincial Parks System; and
- 6) To protect forest habitats, particularly those habitats for endangered plants and animals.

5.1.4 Recommended Policies and Actions

A. *Development of a Provincial Policy*

On a provincial level it is important to develop a broad base of understanding of the value of protecting natural areas. This can be best achieved by expanding the activity in natural areas protection to include all resource and development departments. **Recommendations listed in the following sections should form the basis of a Provincial policy framework for the acquisition and management of natural areas.**

- *It is recommended that the Province develop a provincial policy framework for the acquisition and management of natural areas. It should include policies dealing with data collection, protection of wetlands, protection of sensitive areas on public and private land and a mechanism to integrate natural areas protection on a regional basis.*

These policy areas are discussed below:

I. Data Collection

A necessary component of any management plan is the availability of good baseline data. These data should be organized in such a way that areas are not only identified but are classified according to their significance. This is particularly important when choices must be made on where program money is to be spent. In many cases, areas can be protected by avoiding them when plans are made for a development, but there must also be a system in place to facilitate their identification.

Initially, existing maps and classifications developed by federal and provincial agencies could be used. It is important that a long term objective be to complete the listing and classification to a level required for a comprehensive protection policy. The criteria for mapping and classification should include consultation with interested groups to ensure that their needs and priorities are considered. The Province should finalize the identification of natural regions of the province as suggested by the Endangered Spaces Program¹ as an important feature of the database.

A critical component of a long term protection strategy for natural areas is an ongoing **monitoring program**. This would allow the state of the resource and appropriate management programs to be updated on a regular basis.

- *It is recommended that the Province undertake a program to identify, map and classify the natural and sensitive areas of the Province. The program should include consultation with all interested groups in order that the criteria for mapping and classification reflect their concerns. Maps using existing data should be used as an initial step.*

A program should be put in place to allow the state of the Province's natural areas to be monitored and updated on an ongoing basis.

II. Protection of Wetlands

Wetlands receive some protection through the Environmental Assessment Regulations of the Clean Environment Act and through the Watercourse Alteration Regulations of the Clean Water Act. In the Environmental Assessment regulations, any development altering over two hectares of wetland must be screened for the possibility of an EIA. The Watercourse Alteration Regulations require water courses be protected by a buffer area of 30 metres. As high quality wetlands become identified, the EIA procedures can be more effective in preserving them. If class EIA's were made part of the New Brunswick procedures, it would be possible to assess land management practices, such as drainage schemes, that could have a serious impact on wetlands in general. A class EIA is an EIA on a set of policies or procedures rather than being on a specific project.

The protection and enhancement of wetlands receives a great deal of support from Ducks Unlimited. Their programs make an important contribution to wetland preservation. Critics of this program point out that, in the past, the concentration on wildfowl production has been too narrow a focus and has reduced the habitat potential for other species. Recent trends have been to develop and manage these areas to facilitate a much broader range of habitat objectives. There is a need for governments to regulate habitat alteration activities more closely to ensure that this does occur and that broader societal goals, such a preserving biodiversity, are met. One way to accomplish these objectives is to involve a wider range of public interests in decisions on habitat alterations.

- *It is recommended that wetlands be recognized as an important environmental asset and their protection should be reflected in government resource programs and policies. Existing acts such as the Clean Environment Act should be reviewed and, if possible, revised to facilitate regulation of wetland habitat alteration. If necessary, new legislation should be developed.*

- *It is also recommended that the development of wetland policies include consultation with the public.*

III. Protection of Sensitive Areas on Public Lands

Many sensitive areas, such as deer yards and buffer areas near streams, receive protection now under the management requirements for crown licences imposed by New Brunswick Department of Natural Resources and Energy. There are many other areas requiring protection to a varying degree. The need for the level of protection required would be identified by the database which would include a classification system as noted earlier. Several instruments are available for protection of areas on public lands. For those areas requiring complete protection from all disturbances, the **Ecological Reserves Act** could be used.

Other areas may need protection from development but some uses may be permitted. Some of these needs could be met by the creation of provincial parks. Section 4.7.4 on Protection of Parks and Recreation Areas, identified Unique Resource Zones or Environmental Protection Zones in the proposed Provincial Parks Master Plans which were intended to identify and protect natural and sensitive areas. In order to meet the requirements for various levels of protection, still other categories may be required. For example, conservation areas where some controlled development takes place could be used for buffer zones.

- *It is recommended that the Provincial Government develop a policy clearly identifying the level of protection to be required for the various classifications of natural and sensitive areas. In developing this policy, consultation should be undertaken with the scientific, public interest groups interested in conservation and with natural resource industries.*
- *It is also recommended that the Government act to create Ecological Reserves for those areas requiring maximum protection. Other protection instruments such as the proposed provincial parks master plan should be used for areas requiring less than complete protection.*

IV. Protection of Sensitive Areas on Private Lands

The protection of natural areas on private lands is a much more complex issue; since it involves purchasing the lands or providing incentives for landowners to protect them. For the most critical areas, the preferred strategy would be purchase by the province or by an organization, such as the Nature Trust of New Brunswick, dedicated to natural area

preservation. **Buffer areas may also need to be established to ensure that adjacent uses are compatible with the natural area.** Some protection could be handled through the land use planning process but other instruments such as **conservation easements** could also be used. A conservation easement would allow a landowner adjacent to a protected area to agree to manage his/her land in a compatible way.

Since it would be impractical for the province to purchase all the natural areas on private lands that should have some form of protection, it is necessary to consider other mechanisms for the protection of natural areas on private lands. **In general terms there are three approaches that can be taken, they are: education, the use of incentives, or the use of regulations.** Before discussing education and incentives, it is important to consider the impact of regulations on the landowner. Many of the amenities that are being protected are those that society, as a whole, places value on or receives benefits from. Examples are the preservation of biodiversity and the ability of wetlands to regulate surface water flows. It is inherently unfair to expect the individual landowner to bear the full cost of protection in cases where his/her economic use of the land is reduced. Therefore, regulating restrictions on land should be considered only after other avenues, including purchase or achieving protection through education and incentives, have not proven to be successful.

Many landowners are sympathetic to the needs for conservation. Others would be sympathetic if they understood the issues. **Education is, therefore, a tool that should not be underestimated.** The objective of an education program should be to develop a sense of stewardship and of the importance of natural areas.

The use of incentives, combined with an education program would probably be the most cost effective way to protect many types of natural areas. A financial incentive can be considered as a way to reimburse a landowner for protecting natural areas that are valued by society as a whole. In some cases, this can be collected from identified user groups, e.g. hunters could pay increased licence fees to finance measures to protect deer yards. In other cases, the benefits are so general that incentives would logically come from general revenues or the deferment of revenue.

Incentives could include the deferment of property tax, as happens in the case of the Farm Land Identification Program or could entail the purchase of a stewardship easement that requires management of the property in a way that the natural area receives protection. One incentive that could prove very useful in encouraging people to donate their land for nature reserves is to waive any capital gains tax. It is beyond the provincial mandate to regulate capital gains taxes, however, it is an area where discussions could be held with the federal government for mutual benefit in natural areas protection.

- *It is recommended that the Province explore ways to provide incentives for private landowners to practice good stewardship. These could include deferment of property taxes and payment for stewardship agreements.*

- *Where possible the Province should negotiate stewardship agreements with private landowners to ensure the protection of natural and sensitive areas. Where stewardship agreements are not practical, the Province should purchase the most critical natural areas from private landowners. There should be an ongoing public education program on the importance of wetlands.*

V. Development of a Mechanism to Integrate Natural Areas Protection on a Regional Basis

When the district planning process as recommended in Chapter 2 on Structure and Process for Planning, evolves to the point where a development plan or a land use plan is produced, it will be important that values associated with natural and sensitive areas be considered. For each region an analysis should be undertaken to identify these values. Topics to be considered would include:

- The educational value of natural areas to the region;
- The recreational and tourism value to the region; and
- Sustaining wildlife populations of economic value to the region.

There are also many intrinsic values of maintaining natural areas in a region. While it may be difficult to describe these in monetary terms, they should be included, at least qualitatively.

The district planning process can serve as an important tool for the establishment of local priorities for the protection of natural areas. Critical natural areas should be identified in district plans. Some of these areas will have been identified by the Province, as recommended earlier, while some may be identified locally as part of the background research for the preparation of district or local plans. This will give them a profile which should help a protection strategy to be developed. Some areas are especially suited to the district planning approach. The Hampton Marsh is an example of this type of area where there is a large area of wetland of interest as a natural area. There are also other existing and potential uses of the area. The development of a district plan with participation from all interested points of view could provide a mechanism for resolving the conflicting land use interests.

- *It is recommended that during the process of the preparation of a district plan, an analysis be undertaken to assess the value of natural areas to the region. Natural and sensitive areas should be identified in the district planning process and measures taken for their protection.*
- *It is recommended that whenever district or local level plans or Basic Planning Statements includes a proposal that affects the preservation or restricted use of natural or sensitive*

areas on private land that consultation be carried out with the affected owners to determine how that land could be protected ie. through purchase, negotiation, dedication, nature trusts, etc.

5.2 PROTECTING OUR COASTS AND SHORELINES

5.2.1 Background and Concerns

A. General

The Canada Land Inventory estimates that there are 2,065 kilometres (1,283 miles) of coastline in New Brunswick divided between the East Coast and the Fundy Coast. In terms of their potential for beachfront development, 70 percent of the East Coast is classed as marginal while 77 percent of the Fundy Coast is in the poor or very poor categories. Ninety percent of New Brunswick's shoreline is privately owned (estimated 1.77 percent non-Canadian and 2.96 percent non-New Brunswick ownership.) The strip of land lying between the low-tide level and the high-tide mark is publicly owned and most of the land above the high-tide mark is in private hands. **Private ownership is often seen as a barrier to people using public beaches.** On the other hand, as much as 30 percent of this private shoreland is still in parcels of 10 acres or more, which is considered large enough for commercial development. Using these figures, it would appear that at least 510 km of coastline is in parcels which are potentially available for development.² Provincial parks and park reserves make up for about 67 km (42 miles) of coastline, and approximately 51 km (32 miles) are in national parks.

Over the years, the use of land along the coastline has changed from that of the fishing village to municipal, recreation and cottage developments. When people originally chose to settle on the coast, the main purpose was for access to the sea for fishing and ease of transportation. The methods of catching and processing fish near the shoreline have changed considerably with the development of aquaculture and more modern fishing methods. In time, the landscape of several fishing villages has been transformed to one shared with industrial plants, municipalities and extensive cottage areas. The combined results have shifted the interest in our coasts and shorelines, originally devoted almost exclusively to fishing, towards other uses related to recreation and tourism and more recently to aquaculture.

There is definitely a public interest in having access to the shoreline and people feel strongly that access must also be retained for future generations. On the other hand, it is feared that uncontrolled access may result in damage to fragile and sensitive features along the coasts and shorelines. All terrain vehicles, littering, beach fires, noise and trespass over

private properties are the cause of major concerns for property owners living near the coast, and for those who realize the fragile nature of the land involved.

B. Resource conflicts

An overriding characteristic of the coastal area is the diversity of its natural amenities, resources and land uses. The land, the intertidal zone and the sea all contribute special habitats for wildlife as well as providing special attractions for human activities. **It is inevitable that these various land and resource uses will produce conflicts if allowed to develop in an unmanaged way.**

Human activities that can produce conflicts include: settlement, agricultural production, forestry, recreational activities, fisheries, aquaculture, transportation, aggregate mining and industrial plants. There can be conflict among these human activities, however, they also have the potential of interfering with natural systems such as wetlands/marshes, landforms/dunes/beaches and fish habitat. In addition, elements of the natural environment can have an impact on coastal activities and may require protective measures. Examples are coastal erosion, storm surges and currents.

Coastal areas are prime settlement areas, both for permanent housing and cottages. Initially settlement occurred in coastal areas so that people could be close to marine resources and have access to transportation by the sea. In more recent years the recreational and aesthetic values placed on owning "a waterfront property" has greatly increased settlement pressures on coastal areas. **Human settlement, if not planned wisely, can have serious impacts on other resource uses and amenities.**

Human settlements can alter landforms either directly through infilling and drainage schemes, or indirectly, by the use of barriers to limit erosion or breakwaters to limit damage from the sea. Settlement frequently includes the construction of wharves to provide access to the sea. The change in landforms can in turn limit or eliminate many uses and amenities of coastal areas including recreation, wildlife habitat and aesthetics (seascapes). Pets, particularly dogs, can disturb wildlife that must use coastal habitats, including beaches.

If all properties in a local area are privately owned, access to the shore may be denied or limited. Although up to the high water mark is public land and some access rights-of-way are provided, some recreational activities may be severely limited. **Settlement can have a serious impact on recreation both through the conversion of the shoreline itself and through the limitation on access.**

Human settlement patterns along shores are frequently linear in nature and are, therefore, serviced by **individual (septic) systems**. Furthermore, many of New Brunswick's coastal areas, particularly along the Bay of Fundy, are rocky and not suitable for weeping tile fields. The result has been human sewage has contaminated coastal areas and the attendant

shellfish resource. Even when centralized sewage treatment plants are in place, there exists the potential for contamination due to malfunction or inadequate sterilization of the effluent. To protect the public interest, Environment Canada monitors shellfish areas and closes them if there is evidence of contamination. This has had a serious impact on the availability of the shellfish resource, thereby limiting both recreational and commercial harvesting. In Charlotte County, clams had an estimated value of \$500,000 in 1991 compared to an estimated value of \$6 million had there not been closures.

In 1990, the Premier's Clam Bed Action Committee was established to address the issue of the contamination of the **clam resource**. Representatives on this committee include those from the New Brunswick Departments of Municipalities, Culture and Housing; Environment; Fisheries and Aquaculture ; Health and Community Services and; as required, Advanced Education and Labour and Transportation. Federal departments represented are Environment Canada and Fisheries and Oceans Canada. The committee's activities include data collection, the review of legislation and the development of an action plan to control bacterial contamination.

In the past, **agricultural operations** have had serious impacts on natural systems in the coastal zone, particularly at the head of the Bay of Fundy, where extensive diking has converted marshland into agricultural lands. The use of chemicals, fertilizers and manure pose potential risks from runoff if applied improperly. Manure in runoff, either from field application or from intensive animal husbandry, can lead to shellfish closures, as has been the case in the past in the Caraquet area.

Recreation and tourism activities can create conflicts with other uses of the coastal zone. The unrestricted use of all terrain vehicles can disturb residences through noise, damage agricultural lands and lead to erosion and dune destabilization. Another serious impact of all terrain vehicles is the disturbance to wildlife species, particularly birds such as the Piping Plover, that must rely on beaches for critical stages of its life cycle.

Even more passive forms of recreation, such as hiking and picnicking, can interfere with private property owners through vandalism, littering and noise. Unfortunately, it only takes a few careless individuals to cause private property owners to be cautious of opening up their property to these activities.

Tourism facilities, such as motels, have caused pollution problems in the past from inadequate sewage treatment systems. This, in turn, can exacerbate shellfish closure problems.

As with other activities, there are good economic reasons for the location of **industries** in coastal areas, including ease of transport of raw materials and products. It is also easier to disperse effluents into the marine environment, even after treatment. However, the location of industry on or near the coastal zone can lead to many resource conflicts. The presence of industry can lower property values and detract from the value of vacation home sites to

"get away from it all". On the other hand, industry usually provides badly needed employment necessary to maintain the economic viability of coastal communities. The degree to which the impacts are positive or negative often depend on the specific site and the degree of controls placed on the industrial operation. Because industries may have to keep the general public off their property for safety and security reasons, and because wharves and outfalls may be built right up to the shoreline, industry will often contribute to the loss of access to the shoreline.

If there are inadequately treated and dispersed effluents from industry, many coastal activities can be impaired or their choices of location limited. Examples include, recreation, fish and wildlife habitat (including shellfish beds) and aquaculture. Several examples of this presently exist in New Brunswick, the best known of which is the L'Etang estuary.

Aquaculture is a rapidly evolving activity in New Brunswick, particularly in Charlotte County. Because it has evolved so recently, the full range of coastal zone conflicts may not yet have emerged. However, for some people, natural viewscapes have been adversely affected and, in the more highly concentrated areas, access from the marine side may be impaired. There is also a conflict between aquaculture operations and some natural predators of fish, such as seals.

Aggregate mining brings about major changes to beach areas and is now regulated under the Quarriable Substances Act for a distance of 300 m above and below the high water mark. The Department of Natural Resources and Energy has a policy to eliminate aggregate removal within this 600 m corridor along the coastal zone. There are still scars of past practices which may need to be considered for rehabilitation.

A major impediment to management of the coastal zone has been the large number of agencies with jurisdiction over resources. These have been discussed in detail for the Southwestern area in a study carried out for the Gulf of Maine Council on the Marine Environment³. The various federal and provincial acts pertaining to coastal areas are summarized below to give a perspective on the complexity of the jurisdictional question.

Regulation or Program	Resource or Amenity
<u>Federal Legislation</u>	
Fisheries Act	Water Quality Aquatic Habitat Protection
Canada Water Act	Water Quality
Canadian Environmental Protection Act	Release of Toxic Substances Ocean Dumping Release of Nutrients

Regulation or Program	Resource or Amenity
Canada Shipping Act	Ship Source Pollution Oil Spill Damage
Oil & Gas Production and Conservation Act	Off Shore Drilling
Canada Ports Corporation Act	Federal Harbours
Fishing and Recreational Harbours Act	Small Craft Harbours
Transportation of Dangerous Goods Act	Dangerous Goods
Pest Control Products Act	Use of Pesticides
Canadian Environmental Assessment Act	EIA's of Capital Works
National Parks Act	National Parks
<u>Provincial Acts</u>	
Community Planning Act	Regional Planning
Municipalities Act	Sewage Collection/Treatment
Clean Environment Act	Point Source Pollution EIA's of Capital Works Storage of Petroleum Products
Clean Water Act	Watershed Protection
Pesticides Control Act	Application of Pesticides
Oil and Natural Gas Act	Oil & Gas Development
Aquaculture Act	Aquaculture Licencing
Crown Lands & Forests Act Parks Act	Management of Crown Lands Acquire Parks
Tourism Development Act	Purchase Land for Tourism Development
Ecological Reserves Act	Designate Ecological Reserves
Historical Sites Protection Act	Protect Sites of Historical and Anthropological Interest
Endangered Species Act	Protect Endangered Species
Quarriable Substances Act	Regulates Aggregate Mining
Trespass Act	Trespass Including Vehicles
All-Terrain Vehicle Act	Could Control All-Terrain Vehicles
Marshland Reclamation Act	Reclaim Marshland for Agriculture

The need for special planning and management instruments for the coastal zone has been recognized in many countries, including Canada and the United States. As an example, in New Zealand the laws relating to resource management have been integrated into a Resource Management Bill. This allows resource management policies and plans to be developed in a comprehensive manner. Canada has not adopted a coastal zone management plan. Of the provinces, only Prince Edward Island has adopted a plan.

The very term **coastal zone management** creates some confusion, starting with the definition of the coastal zone itself. In theory, one would like to include all activities on the landward side with the potential to affect resources in the sea and on the seaward side all activities with the potential to affect resources on the land. In practice, this is too broad, since activities located far up rivers could have an impact on coastal waters. However, a coastal zone plan must encompass a manageable area.

C. Needs

There was a great deal of momentum toward coastal zone planning and management in the federal and provincial governments in the late 1970's. In 1978 there was a symposium, which produced a number of principles of coastal zone management. These have been reproduced in a recent book reviewing Canada's experience in Coastal Zone Management⁴. **These principles, which are listed below, are still valid and could provide a basis upon which to develop a coastal zone management policy for New Brunswick.**

- 1) There must be a recognition of the importance of coastal areas;
- 2) There must be a cooperative approach to management;
- 3) There must be policy and program coordination;
- 4) There must be a recognition of the role of local governments;
- 5) The contribution and cooperation of industry is necessary;
- 6) The interrelation of coastal zone activities must be taken into account;
- 7) Sensitive, unique and significant areas must be protected;
- 8) The right of public access to shore areas must be ensured;
- 9) Collection, collation and dissemination of information must be coordinated; and
- 10) Public awareness must be fostered and public concerns must be incorporated into the objectives of shore management policies.

Many of these concerns were voiced in presentations made to CLURE by both government agencies and the general public. In the Bay of Fundy area, concern with the contamination of the shellfish resource as well as the impacts of industrial development were frequently heard. Concerns about the Gulf of St. Lawrence coastal area ranged from excessive quarrying to the impacts of peat extraction and other industrial operations. Groups

interested in the preservation of natural areas expressed alarm at the disappearance of habitat, particularly salt marshes.

With the increasing demand for the recreational use of beach areas, people are concerned about the limited public access to those areas. Even though the shoreline itself is public, large portions are not accessible because no provision for access was retained when the land was subdivided and developed. Development continues to occur, and if the public need for access is not met with practical strategies and actions, more developments will be created with no consideration for access to the public shoreline. The 1974 Report of the Select Committee on Rural Life and Land Use came to the conclusion that a big problem in New Brunswick is the withdrawal of waterfront properties from general public recreation use. The report went on to recommend government policy "to forestall further encroachments on water front property and contradictory uses of land that do not serve the general public interest".

Several briefs also expressed concern for the lack of access to inland waters (rivers and lakes). It was pointed out that private interests leasing fishing rights and private ownership sometimes means that local residents may have difficulty accessing salmon waters near their community.

5.2.2 Goal and Objectives

Goal

To manage our coasts and shorelines so that resource and land use conflicts and environmental impacts are minimized, multiple uses are optimized and our resources are managed in a sustainable manner. To ensure access to coasts and shorelines is maintained for current and future generations.

Objectives

- 1) To establish a mechanism for coastal zone planning and management in New Brunswick;
- 2) To facilitate the protection of sensitive coastal areas;
- 3) To allow planning of the coastal area to incorporate local concerns;
- 4) To develop and implement a strategy of acquiring public access, to sites recognized for their recreational potential, along the coasts and shorelines of New Brunswick; and
- 5) To protect private and public properties situated near the land acquired for public use.

5.2.3 Recommended Policies and Actions

A. Government Recognition of Coastal Importance

The first principle which should apply to a coastal management policy is for all levels of government to recognize the importance and complexity of shore areas. This principle was expressed at a Symposium on Shore Management held in Victoria in 1978.⁵ An adaptation of this principle should be part of the policy framework to be used in New Brunswick to deal with access to coasts and shorelines.

- *It is recommended that the Provincial Government recognize, and encourage the recognition by other levels of government and the public, of the critical environmental, economic, and social importance of the coasts and shorelines of New Brunswick, and actively promote the orderly management of sensitive shores and shore resources.*
- *In recognition of this importance, it is recommended that the Province develop policies for coastal zone protection and access in the context of an overall coastal zone management plan.*

B. Coastal Zone Policy Framework

- *It is recommended that the Province develop a set of coastal zone policies. These must address several important issues including the protection of shellfish resources, the protection of salt marshes and other sensitive areas, the management of dikelands, protection of beaches and dunes, regulation of aquaculture sites, the treatment of industrial effluents and the provision of coastal and shoreline access. It would also incorporate provincial policies from other sections of this report which relate to protection of coastal areas.*

Each of these issues is discussed briefly below.

I. Protection of the Shellfish Resources

- *The contamination of shellfish with untreated sewage must be addressed. The policy must recognize that shellfish areas require special considerations to control domestic sewage. These could include setbacks, restrictions on lot sizes or the prohibition of septic tank systems. The Province should ensure that lagoons and other sewage treatment systems do not discharge effluents with high bacterial counts to shellfish areas. Recommendations from other sections of this report regarding Building and Development Approval (Section 3.5) and Managing our Sewage (Section 5.5) should be considered for inclusion under this issue.*

II. Protection of Sensitive Areas

- *Any coastal zone policy must include provision for the protection of salt marshes and other sensitive areas. Recommendations for protection policies are presented in Section 5.1.*

III. Management of Dikelands

- *The use of dikelands should be re-evaluated. In some areas the best use may be as wildlife habitat, however, they may still be among the most productive areas for agriculture. A policy should be developed between agricultural and natural environment interests to allow these uses to be allocated so that conflicts can be resolved and the use of dikeland resources optimized.*

IV. Protecting Beaches and Dunes

- *These areas require special protection and a policy of strict enforcement on the use of motorized vehicles should be put in place. All human access may have to be banned from the most sensitive areas.*

V. Regulation of Aquaculture

- *There is a need to re-examine the regulation of the emerging aquaculture industry. Departments other than Fisheries and Aquaculture should have a more proactive role in the siting of aquaculture facilities, rather than the advisory role as now exists.*

VI. Control of Industrial Effluents

- *Industries sited in coastal areas must be required to treat their effluents to standards so that the availability of other resources is not impaired. The new pulp and paper regulations will go a long way in achieving this for the forest products industry. Other industries must be required to meet similar stringent regulations. In addition, other policies recommended in this report regarding the Location of Commercial and Industrial Activities (Section 3.3) and Pits, Quarries and Mineral Development (Section 4.4) should also be considered under this issue.*

VII. Coastal and Shoreline Access

- *This issue of access to coasts and shorelines must be included in any policy framework. This was a major issue identified separately in the terms of reference. Consequently, the recommendations with respect to access are presented separately at the end of this section (Refer to E, Access to Coastal and Shoreline Areas).*

C. Development of a Coastal Zone Management Plan

- *It is recommended that the Province develop a Coastal Zone Management Plan.*

In addition to the policy framework outlined in B above, there are several other factors that must be considered in the development of a coastal zone planning and management plan. They include:

- *Data needs*
- *Interdepartmental cooperation*
- *Involvement of the federal government*
- *Consistency with provincial policies*

- *Need for local implementation*

Each of these are discussed briefly in the following sections.

I. Data Needs

- *The New Brunswick Department of Natural Resources and Energy commissioned a mapping exercise of New Brunswick's coastal zone in the early 1970's. This provides an excellent starting point but must be updated to include changes in resource availability and new activities (e.g. aquaculture). This information should also be digitized and put in GIS format. The Nova Scotia Government has funded LRIS to undertake some of this work for their coastal zone. A similar initiative should be part of New Brunswick's data collection program. There is also a database for the Bay of Fundy - Gulf of Maine - Georges Bank (called the FMG project). This database integrates a broad range of environmental, resource and socio-economic data and should be integrated into any data base for coastal zone management in New Brunswick.*

II. Interdepartmental Cooperation

- *It is clear that many government departments have an interest in coastal zone resources. Therefore, it is absolutely essential that any coastal zone management plan incorporate a high degree of interdepartmental coordination and cooperation. This should take place at both the central governmental and district levels. The structure and process recommended by CLURE provides for a Technical Advisory Committee (with departmental representatives) at the district level and departmental coordination at the central government level.*

III. Involvement of the Federal Government

- *The Federal Government shares the management and regulation of resources in the coastal zone. Their involvement is, therefore, essential in a coastal zone management plan. A system such as a series of memorandums of understanding could be explored between corresponding federal and provincial departments, with interest in the coastal zone, to promote cooperative management. Federal government representatives should also sit on any technical committees dealing with coastal zone issues.*

IV. Consistency With Provincial Policies

- *Although each coastal area may have different priorities, it is important that there be provincial policies (as recommended in B above) to ensure consistency in some critical issues. The coordination of data collection should be done within a provincial framework. Although data could be collected on a region by region basis, it should fit into a provincially coordinated format.*
- *The protection of critical natural areas should be part of the provincial policy framework. This is dealt with in detail in Section 5.1 on Protection of Natural and Sensitive Areas. Many other areas, such as the regulation of aggregate extraction should be under provincial policies to ensure that one region is not played off against another.*

V. Need for Local Implementation

- *Coastal zone strategies are best implemented at the local level where a mechanism will exist through the district planning process to deal with issues of local importance. Therefore, any coastal zone management plan should be integrated with district plans for those districts which border on the coasts.*

D. Implementation Strategy

While there has been general agreement among land use and resource planners of the need for some sort of integrated planning and management structure in the coastal zone, it has never been possible to implement a policy on coastal zone management in New Brunswick. The development of a structure and process for land use planning in rural areas by CLURE presents an opportunity to resolve this issue and develop a strategy for implementing a coastal zone management plan.

Two needs are apparent: the need to develop the basics of a strategy in the New Brunswick context and the identification of an implementation plan. The strategy must clearly include a strong interdepartmental coordinating mechanism. Therefore, the group given the task of developing a strategy should have representatives of all departments with resource and regulatory interests in the coastal zone. Each member should establish liaison with the corresponding federal department, if one exists with an interest in coastal zone management

problems. It would be desirable for the federal departments to develop a similar committee and have the two committees establish a formal liaison mechanism.

- *It is recommended that the Province establish an ad hoc committee which would report to the Interdepartmental Planning and Development Committee. Upon completion of the strategy it could be desolved. The committee should:*
 - *Identify resource conflicts and indicate those issues for which the solution lies in district planning, those that must be dealt with at the central government policy level, and those that require coordination with the federal government;*
 - *Develop provincial policies (or issues identified in B) relating to all coastal zone areas in New Brunswick;*
 - *Establish a data collection, collation and dissemination program;*
 - *Establish ongoing coordination mechanisms, both at the central government and local levels;*
 - *Develop a mechanism for each department, with an interest in the coastal zone, to review their policies for consistency with the coastal zone plan;*
 - *Develop a public information program on coastal zone management; and*
 - *Establish a formal mechanism for involving the Federal Government in coastal zone management.*

- *Given that some adjustments may arise in the actual implementation of a coastal zone management plan, it is recommended that it be initially implemented on a pilot basis in one or two areas, e.g. one in the Bay of Fundy and one on the Gulf coast. The pilot studies could encompass the coastline in one planning district. A mechanism should be established to set up a planning office for a set period of time (e.g. three years) to assist in integrating coastal zone planning into the district planning process. This would ensure local involvement and allow it to be managed on the long term by the local planning commission. There will likely be an ongoing requirement for a technical committee involving representatives of federal agencies to advise on coastal zone resource issues. The office set up to undertake the pilot plan might be funded through a federal/provincial cooperation agreement.*

E. Access to Coastal and Shoreline Areas

I. As Component of Coastal Zone Policy

The public should have the privilege of using and enjoying our coastlines regardless of the ownership of the land above the high water mark. There is a need to develop an overall strategy to provide and maintain public access in strategic locations along the coasts of New

Brunswick. But the question of accessibility cannot be addressed without also considering the issue of environmental and resource protection. The acquisition and development of access for the public must, therefore, be based on an overall strategy which balances it with stewardship and preservation of the sensitive features located on the coastline.

- *As part of its Coastal Zone Management Plan, it is recommended that the Province develop and adopt a coastal access policy which could be used by provincial, local and private interests in the acquisition of access to the coasts and shorelines, while protecting sensitive areas and adjacent properties.*

II. Destination And Access

There are two main elements to consider in connection with access to the shoreline. First, is the destination points which are the beaches or natural features which attract the public, and secondly, the access itself which is usually a public entrance, a road or walkway.

Destination

Because of the fragile and complex nature of the coastal zones, decisions on the choice of destination points should not be solely in the hands of developers or local authorities, but should also involve those with information and knowledge of the environmental aspects of the coast. Protective measures based on the identification of different types of sites must be part of the provincial policy framework. When sensitive areas have been identified and designated, public access needs could then be identified based on recreational requirements and land capability.

- *It is recommended that the Province, and particularly the Departments of the Environment, Natural Resources and Energy, Fisheries and Aquaculture and Economic Development and Tourism be assigned the responsibility of identifying sites along the coasts and shorelines for which access would be required.*
- *It is further recommended that this be done in consultation with local groups and communities through the District Planning Commission Structure.*

Access

The second element in making beaches and shorelines accessible to the public is the access itself. The beach or foreshore, recognized in local plans within the framework of the provincial policy, is public property and any development of the contiguous private lands must recognize the right of the public to use the beach as well as being entitled to reasonable access to this public property. In those areas where shore access is in short supply, efforts should be made to restore or provide public rights-of-way. From several of

the briefs and submissions made to CLURE, it is quite apparent that people recognize the need for a joint effort between the provincial government and local communities in maintaining or acquiring access to the coastal shoreline.

Existing public access and lands owned along the coast by the Federal and Provincial Governments must be maintained and enhanced. Shoreline access areas currently owned by public agencies (lighthouses, wharves) should remain public. Whenever public funds are made available for the acquisition of freehold lands, some priority should be given to coastal lands designated as requiring access within the framework of the provincial coastal management plan.

- ***It is recommended that the enabling legislation, such as amendments to the Community Planning Act, allow for the provision of access to be included in local plans, in consultation with the Departments of the Environment, Natural Resources and Energy, Fisheries and Aquaculture and Economic Development and Tourism.***

Once the policy of acquisition is in place both at the provincial and local level, the actual acquisition of additional access could occur through outright purchase, negotiation with the owner or through the public dedication clause related to land subdivision. The subdivision process could be a valuable means to provide access to our coasts and shorelines. When subdivisions are approved under the present provisions of section 42.(3)(f)(i) of the Community Planning Act, 10% of the land can be required to be vested in the community as land for public purposes. This method of acquisition could be used in connection with a program to maintain or develop better access to the shoreline.

- ***It is recommended that the public dedication clause under the subdivision provision in the Community Planning Act be used by district planning commissions or rural communities to obtain access to coasts and shorelines in accordance with provincial policies. Other methods such as outright purchase and negotiation with private landowners should also be considered.***

III. Protection of Adjacent Properties

It should be made clear to all potential developers along the coastline that no exclusive rights to the use of the beach can be claimed. Rights-of-way across properties that block access to the beach may need to be obtained through purchase, dedication or negotiated agreement. It would be unfair, however, to tamper with acquired property rights or to expropriate waterfront properties from landowners who do not wish to sell. It would be better to provide incentives, such as tax free easements on the properties. This could apply for example, to usable beach above the high water mark and access roads, paths or trails.

In addition, legislation could be considered to protect properties adjacent to shoreline access or rights-of-way.

- *It is recommended that public acquisition of access to the shorefront be accompanied by programs to discourage activities that could cause damage or be a nuisance to adjacent properties.*

IV. Protection of Sensitive and Natural Areas

Access should always be conditional on measures that would account for the fragility and the ecological character of the site, and be combined with wildlife preservation measures.

- *It is recommended that the provincial policy relating to access be coordinated with the policies developed to handle sensitive and natural areas as recommended in Section 5.1. The strategy of public access should take full account of maps and classifications of natural and sensitive areas, wetland designations and, in particular, any policy developed by the government relating to their protection.*

V. Public Awareness

Existing and potential conflicts between the need for public access and adjacent settlement or environmental interests will only be resolved with better development standards, proper surveillance and public education. For example, the operation of all motorized vehicles on the beach area and sand dunes should not be approved. Of course, provisions of the "Trespass Act" can be used to "police" the situation. But with public awareness programs, some of these problems could be overcome without the need for severe enforcement measures. Properly informed, people will be more likely to avoid areas which are fragile. With public information, it will become easier for access programs to be accompanied by policies regarding littering, garbage, and activities which might damage the beach area.

Guidelines should be prepared and used to assist in regional and local efforts to provide public access. Guidelines should also be developed for beach signage prior to the implementation of access projects and programs. These signs could be used to clearly indicate public accessibility and regulations applicable to the users of any particular site retained for public use. Consultation between the provincial government and the tourism sector would be appropriate to address this concern. Development of siting criteria sensitive to the physical, biological and social characteristics of shores must be included within each policy.⁶ With this goal in mind, it will then be possible to develop policies that will clarify the relationship of access to the shoreline, with neighbouring properties, cottages or even the economic activities which may be permitted, or not permitted to take place.

- *It is recommended that as a part of the strategy of implementing public access to the coastline, the Province undertake programs designed to increase public awareness and appreciation of the dynamic and sensitive nature of shorelines.*
- *It is recommended that guidelines be prepared to assist local communities in the designation and development of access to the coast and shoreline destination points.*
- *It is recommended that a commitment be made to the enforcement of regulations such as those pertaining to trespass.*

VI. Access To Inland Lakes and Watercourses

As mentioned earlier, public access is also a frequent concern with regard to inland lakes and watercourses. This point was mentioned regarding access to major rivers such as the Miramichi, the Restigouche, Madawaska, etc. Many New Brunswickers are asking that the situation whereby rivers are sometimes totally inaccessible to residents, because of private ownership or leases, be changed. Sports fishing should be made accessible to more people. Several briefs suggested that abandoned railway lines (which is discussed in Section 4.7), are one of our best methods of gaining access to our rivers and wooded areas.

- *It is recommended that policies similar to those mentioned in this section also be considered for access to major inland lakes and watercourses of New Brunswick. Access can be obtained through purchase, dedication or negotiated agreement.*

5.3 PROTECTING OUR FLOOD PLAINS

5.3.1 Background and Concerns

Flood plains, or natural areas along rivers, which carry floodwaters are viewed as assets in our rural environment. These areas contain some of the most fertile agricultural land in our province. They also provide unique wildlife and wetland habitat. They are often very scenic and lend themselves to recreational as well as residential development. In many instances, municipal/downtown cores are located within floodplain areas, as are sewage treatment plants, highways and industrial types of operations.

There are a number of issues to be addressed in terms of flood plain protection; some relate to the nature of the flood plain itself while others relate to problems associated with flooding events. In terms of the flood plain itself, there are two outstanding issues; competing land uses and the stripping of topsoil.

With respect to land-use conflicts, the nature of the soil in flood plains makes them most desirable for farming and agricultural production, however, their location and other aesthetic attributes make flood plains very attractive for residential development as well. At the same time, there is also an argument that all development should be prohibited because of the unique eco-system within a flood plain.

The stripping of topsoil, in flood plain areas is also a concern. Not only does this practice deplete a valuable resource, it can cause significant environmental problems in terms of siltation of waterways and alteration of watercourse beds and flow patterns.

As mentioned above, when a flood plain area becomes inundated with flood waters, an additional set of issues and problems are created. Flooding causes tremendous **structural damage** to buildings, bridges, roadways and homes located within flood plain areas. Flooding requires various agencies to provide **emergency response** services and assistance for transporting victims to temporary shelters, clearing highways for traffic, safety and clean-up.

Flooding may also result in the release of **contaminants** from buildings or developed areas within the flood plain and may cause the release of excessive amounts of **silt and sediments**.

In addition to the lost productivity for commercial establishments within the flood plain and, in some tragic cases, the loss of human life, **the cost of repairing roadways, and buildings, providing emergency services, clean-up of flood areas and compensation, amounts to approximately \$6 million dollars annually.** Further, it is arguable that, if the development

had not been permitted in the first place, the burden of compensation, or as large an amount, would not have been created.

At present there are only a few **legislative mechanisms or policies** in place, to effect control of land-use in flood plain areas. Briefly they are as follows:

Flood Damage Reduction Program

This program, which is administered jointly by the Federal and Provincial departments of environment, is aimed primarily at the **identification and mapping of flood plains** within the Province. Under this program, flood risk areas may be designated, and subsequent financing restrictions placed upon them. Restrictions under the Flood Damage Reduction Program means floodway development is prohibited from receiving capital assistance from either the provincial or federal government and is ineligible for compensation for flood damages. In addition, flood proofing measures are required in certain situations. There are, however, no restrictions on developments within a designated floodway, if government funding is not involved.

The flood risk area is comprised of two components, the floodway and the floodway fringe. The floodway includes the watercourse itself as well those areas where water velocities are high, and damage is excessive. The floodway limit typically coincides with a 1 in 20 year return period. The floodway fringe is the area between the floodway and the limits of the flood risk area. The fringe area typically coincides with a 1 in 100 year return period or the limits of the flood of record. It should be noted that there are some designated areas in which only a flood risk area is identified. That is, the floodway is not distinguished from the floodway fringe.

At present, 11 flood risk areas have been mapped and designated in New Brunswick. These areas, along with one final area that is being studied and mapped for designation, represent the major flood areas in the province. Unfortunately, monitoring and revisions to existing maps has not been carried out due to lack of funding. The Damage Reduction Program expires in approximately six years and there are no current plans to replace it.

The first step in the flood risk mapping process is the completion of a flood planning study. It provides data with respect to flood profiles and identification of areas prone to flooding, but does not include mapping. The studies are a valuable planning tool but, unlike the designated maps, are not legally binding. Flood planning studies have been completed for communities along the Saint John River between St. Leonard and Clair. Studies have also been completed for Boiestown, Doaktown, Blackville, Renous and Juniper, along the Miramichi River.

Health Act

There is a provision within the Health Act that gives authority to a Public Health Inspector to refuse to issue an approval for a building lot or subdivision if, in his/her opinion, the on-site sewage handling system could result in the pollution of the groundwater or other water source.

Based on the issues voiced with respect to the management of septage, it is unlikely that the authority is used very often.

Community Planning Act

This Act allows those municipalities, that have flood plains within their boundaries, to control activities and uses within flood plains through the establishment of zoning by-laws or other municipal by-laws. Municipalities have been reluctant to implement controls over these areas. Interestingly, the Act also allows the establishment of similar controls in non-incorporated areas of the province, but none have been enacted.

Draft Policy Statement Proposal for Drafting Flood Plain Legislation

This document sets out a proposed policy for management of flood plain lands on a province-wide basis. It was prepared by the Department of Municipal Affairs (now Municipalities, Culture and Housing) with input from a government committee including the department of Environment and the Emergency Measures Organization. The policy builds on the controls established in the Flood Damage Reduction Program but also has the power to control projects that do not involve provincial or federal funding. Policy objectives, including minimization of economic loss and environmental damage and the prevention of loss of human life, etc., are identified. The types of development activity or undertakings permitted, as well as prohibited, in a designated flood plain, are also described.

In general terms, the policy restricts most new development in the flood risk area to the floodway fringe and requires that this new development incorporates flood proofing measures. Development that is specifically prohibited in the floodway fringe includes buildings used for health care, child care, education and confinement.

Although most permitted development is identified for the fringe area, limited development is permitted in the floodway. It is limited to agricultural, forestry, parks, playgrounds or wildlife preservation.

The policy requires flood proofing measures to be undertaken at certain existing facilities in the flood plain. Those, in particular, to be flood-proofed include, developments that may create a danger of pollution, and buildings used to provide emergency services, communications or power generation. The policy does not, however, specifically require existing homes businesses or commercial establishments to undertake flood proofing.

Steps to implement the policy have not yet been taken.

The Terms of Reference for CLURE raised the issue of flood plain protection. The issue was also identified in government submissions and by the public. While points of opinion on specific issues within government departments differed from those expressed by the public, **it was clear that legislative control over the type of development permitted on flood plains was necessary.** It was identified that the existing legislative mechanisms to address development have been ineffective because they deal with flood plain protection on a piecemeal basis, rather than dealing with the issue holistically.

It is recognized that conflicts concerning the optimum use of flood plains may be better handled through legislation created to deal with the protection of agricultural land (as identified in Section 4.1). However, stripping of topsoil, and the significant environmental and economic cost (\$6 million annually) of dealing with problems that are created when flood plain areas become inundated by flood waters, has led to a call for government to control, through legislation, activities and development on flood plains.

Despite the call to limit development on the flood plain, there does not appear to be any consensus from the public as to "how far to go" with restrictive measures. Some suggestions called for "no development" on flood plains and others pointed out the need to preserve representative examples of flood plain ecosystems. Others identified agricultural development and recreational facilities as appropriate. It was suggested that major highways should not be built on flood plains, while another suggested, if they were necessary, adequate culverts and bridges should be provided. Several briefs made suggestions as to how development could be discouraged and some made suggestions as to ways to limit the potential for environmental damage.

5.3.2 Goal and Objectives

Goal:

To manage flood plains in a manner that protects existing and future residents and their properties, and ensures that environmental degradation and remedial costs are minimized.

Objectives:

- (1) To complete the mapping of flood risk areas in the Province;
- (2) To clarify several points in proposed flood plain legislation;
- (3) To provide for public consultation with respect to adoption of the proposed flood plain legislation;
- (4) To enact flood plain legislation that sets out prohibited and permitted uses within flood risk areas; and
- (5) To provide funding for the implementation of some aspects of the flood plain program.

5.3.3 Recommended Policies and Actions

- *Recognizing the time and effort spent to date on the preparation of the Policy Statement Proposal for Drafting of Flood Plain Legislation and because of its broad scope, it is recommended that this document serve as the foundation for flood plain protection legislation.*

The intent of the policy is to discourage or prevent industrial, commercial, intense residential, or large-scale recreational or tourism-based, development within the floodway and to limit it in the floodway fringe. The intent is not to cause any unnecessary or undue hardship on landowners/farm operators currently located on the flood plain.

There were, however, issues raised through CLURE's public consultation process that should be added, as well as certain aspects of the policy that need to be clarified. These are outlined below.

The proposed policy states that any building established before the designation of the flood risk area is exempt from the policy requirements, as long as there is no risk to public health and safety or to the environment. What this means is that some buildings located in the flood risk areas would not be required to employ floodproofing techniques but would still be eligible to apply for compensation if damage occurred as a result of flooding.

The proposed policy includes a list of uses permitted within the entire flood risk area, within the floodway and within the floodway fringe. The uses proposed to be permitted within the flood risk area include: building repairs; resource and recreation related uses; repair and maintenance of park and playground facilities; parking lots; transportation and communication infrastructure;

water and sewage systems for existing development; upgrading and maintenance of existing water and sewage systems; public monuments and flood protection works.

Within the floodway, the proposed policy would permit only the replacement of a building, if it were destroyed by a natural disaster, other than flooding and provided it incorporated floodproofing measures.

The proposed policy states that new development, within the floodway fringe, is permitted providing that there is no risk to public safety and adequate flood proofing measures are incorporated. However, the list identifying permitted activities is unclear as to whether or not the establishment of a home or homes within the floodway fringe is prohibited. The proposed policy includes a list of prohibited uses which, if permitted in the flood risk area, have the potential of causing serious risks to public health and safety, or to the environment. In general, this list prohibits: uses which create serious danger of pollution from contaminant release during flooding; sewage treatment plants, unless built to standards acceptable to the Minister of the Environment; any filling within the floodway; filling within the floodway fringe with any materials which could cause pollution; public buildings for provision of emergency services (fire, police, ambulance); and facilities for emergency communications.

As noted the list does prohibit development that "creates a serious danger of pollution" whereby contaminants could be released during a flood event. This of course raises the question as to what constitutes a serious danger. Does one home with a petroleum storage tank for furnace oil, a septic system and a shed with garden variety pesticides and other chemicals pose a danger? Do 10 such similar homes pose a danger? Does the presence of a hardware store or other like commercial establishment pose a danger?

Based on the assumption regarding the intent of the policy, it is expected that one home would not be prohibited or would be thought to cause a serious danger of pollution. However, it is thought that intense residential development or commercial development does represent a threat.

- *It is recommended that the ambiguity with respect to what type of development is permitted be clarified. Further, it is recommended that the list identifying prohibited activities be expanded to include gas bars, service stations and bulk fuel plants.*
- *Recognizing the acceptance of legislation that controls existing and future land use is difficult at best, it is strongly recommended that meaningful consultation with and input from, those directly affected by the legislation be conducted. Decisions regarding time horizons to upgrade facilities within flood risk areas and types of development permitted in the flood plain will require public consultation.*
- *It is recommended that the policy be expanded to include a provision prohibiting the mining of topsoil from flood plain areas.*

- *It is recommended that highway construction be permitted in flood plain areas as it is anticipated that the impact and significance of flooding will be addressed in routing studies and the associated environmental impact assessment process.*
- *It is recommended that funding be set aside for corrections and revisions to existing flood risk mapping. It is also recommended that funding be provided to complete mapping and designation of flood risk areas along the Saint John and Miramichi Rivers.*
- *Until legislation is enacted by the Province, it is recommended that the Department of Health give particular attention to the location, construction and maintenance of individual sewage disposal systems located in flood plains to ensure all reasonable precautions are undertaken to safeguard human health and minimize environmental degradation. The Department of Environment should do the same with respect to any communal sewage systems that may exist in flood plains.*
- *It is recommended that the Province require all development plans (municipal, district and rural communities) to incorporate policies and by-laws that conform to the Provincial legislation, once it is enacted.*

5.4 PROTECTING OUR AIR QUALITY

5.4.1 Background and Concerns

One of the great attractions of New Brunswick is its abundance of clean air and water. However, there are exceptions and those who must live downwind of a source of air pollution experience an aesthetic problem and potentially experience adverse health effects. Scientists have come to realize that air pollution can have global impacts, for example, the release of oxides of sulphur and nitrogen (acid rain), the release of chlorofluorocarbons (ozone layer depletion) and carbon dioxide and methane (climate modification). New Brunswick has an obligation to control these pollutants to levels considered appropriate through agreements and national and international accords.

Air quality is regulated in New Brunswick under the Clean Environment Act. There is a general air quality regulation as well as specific regulations dealing with asphalt paving plants and pulp and paper manufacturing facilities. Under the Air Quality Regulation, no stationary source that emits an air contaminant can be constructed or operated without a permit from the New Brunswick Department of the Environment (NBDOE). This then allows NBDOE to require controls so that ambient air quality objectives are not exceeded. Emission guidelines have been developed on an industry by industry basis. Some of these have been given a legal basis through regulation. Examples are the Pulp and Paper Industry Regulations and the Asphalt Paving Plant Regulation.

The Federal Government has established a three tiered system of objectives to promote national consistency in air quality management. They are known as the National Ambient Air Quality Objectives. These three levels are set out in the following:

- The **maximum desirable level** (most stringent) is the long-term goal for air quality and establishes a basis for an "antidegradation" policy for pristine or unpolluted areas;
- The **maximum acceptable level** is intended to provide adequate protection against the effects of an air contaminant on soil, water, living organisms, property, visibility, personal comfort and human health; and
- The **maximum tolerable level** denotes the concentration of a contaminant in the ambient air beyond which immediate action is required to protect human health and the environment.

At present there is no implicit airshed management program in New Brunswick. In fact, the definition of an airshed for management purposes is extremely difficult to achieve in practice. What is recognized is that certain areas of the province, for example Saint John, have heavy loadings of contaminants in the atmosphere and require an approach to managing air emissions on a regional basis in an attempt not to exceed the assimilative capacity of the air in the region.

Degraded air quality can be caused by many of man's activities and can manifest itself in a number of ways. **Odour and particulate emissions** are the two parameters most frequently identified with air pollution by the public. Odours are usually caused by the emission of organic compounds. They can be detected and, therefore, cause annoyance at very low levels. Particulates are most often observed as "black smoke" being discharged from a stack. Particulate emissions may also be evidenced as dust from construction, transportation or agricultural operations. Other forms of air pollution are not so readily observable, but can cause chronic health effects or interfere with natural environmental systems. In the following sections the most frequently encountered forms of air pollution are discussed along with the likely sources and the possible association with land use practices.

Air Pollutants

Sulphur Dioxide (SO₂) is a compound that is converted to sulphuric acid in the atmosphere and is the most significant source of acid rain. The main source of SO₂ is the combustion of fossil fuels by industry or for electrical power production. It is a characteristic of acid rain that the emissions causing it can be generated hundreds of kilometres away. This means that acid rain effecting New Brunswick can be generated in the Northeastern United States. The other side of the issue is that SO₂ generated in New Brunswick can cause acid rain hundreds of kilometres downwind. **Although there is some local impact from local sources, the solution to the acid rain problem must be found mainly through national and international agreements and is not a matter that can be solved through land use planning.**

Nitrogen Oxides (NO_x) are contributors to acid rain and must be controlled with a similar strategy to sulphur dioxide. Although they are also produced by fuel combustion from stationary sources such as power plants, the internal combustion engine produces an even greater amount of NO_x.

Particulate Matter is the most commonly observed form of air pollution. It can result from a number of processes including the combustion of fuels and industrial processing. Particulates in the form of dust can result from non-point sources, for example highway traffic on unpaved roads. Particulate matter in sizes less than 10 microns can be injurious to health, however, economic and nuisance impacts can also occur. **Although point sources of particulate matter must be regulated at the source, land use planning can mitigate against non-point source particulate matter problems by providing adequate separation between areas generating the pollution and receptors.**

Odour is mainly a nuisance parameter, although it could also be associated with the release of toxic materials. Some odours, such as those associated with some sulphur compounds, are obnoxious in such small concentrations that they must be regulated to very low levels. **Odours associated with agriculture operations have led to land use conflicts, which can be minimized by land use planning and controls. A similar situation exists with odours from some industrial operations such as fish processing facilities and asphalt plants.**

Ozone (O₃) is a naturally occurring compound in the upper atmosphere where it serves the essential role of blocking out the sun's ultraviolet radiation. At ground level it can be produced in excessive levels by the reaction of nitrogen dioxide with volatile hydrocarbons in the presence of sunlight. Elevated levels of ozone can cause respiratory problems and have been implicated with the development of chronic lung disease. Saint John experiences episodes of elevated ozone levels. **It has been suggested by the Saint John Environmental Consultation Committee that steps be taken to reduce ozone levels by 30 percent.**

Volatile Organic Compounds (VOCs) is the term used for the various organic vapours that typically escape from commercial and industrial operations. They are emitted not only from stacks and must be controlled by in-plant measures rather than pollution control devices added to the stack. Many VOCs such as benzene or CFCs can have serious effects on human health or natural systems. Because small leakages of VOCs from plants can reach nearby residents, buffer zones between industrial plants and residents can reduce local impacts. However, all practical measures should be taken to keep toxic VOCs out of the environment.

Heavy Metals can occur due to industrial emissions or due to transportation. Past practices have caused some areas near the Belldune Smelter to be contaminated. There is also contamination from the transportation of ores along rail lines. Pollution control devices are the most effective way to curb point source emissions. **However, due to residual releases and the possibility of upsets, buffer areas should be established downwind of known sources of heavy metals. Similarly, transportation routes should be planned so that impacts on people adjacent to the routes are minimized.**

5.4.2 Needs

CLURE received recommendations on the need to control air pollutants, in general, and from specific industries, in particular. It was pointed out in one brief received from a government department that the **air pollution regulations are not always enforced** and that, even with best available control technology, residual emissions occur that can cause nuisance or even health problems. Therefore, some form of siting criteria should be considered. Some suggestions made in briefs were for stricter enforcement and larger fines. For those industries not able to pay for additional air pollution equipment, financial assistance was

suggested. One approach also suggested was airshed mapping to allow the assimilative capacity of an airshed to be used in granting approvals for additional sources.

5.4.3 Goal and Objectives

Goal

To ensure that there will be no health effects nor impairment of New Brunswick's environment due to degraded air quality.

Objectives

The Nova Scotia Task Force on Clean Air¹ has identified three goals that could equally well serve as objectives for a New Brunswick air quality program. They are as follows:

- 1) To attain desirable levels of ambient air quality as defined by the National Ambient Air Quality Objectives by:
 - ensuring that the quality of the air is maintained and protected in areas where ambient air is currently in the desirable range;
 - establishing long term goals to achieve desirable levels of air quality in areas currently within the acceptable range; and
 - acting immediately to improve air quality in those areas where levels of air contaminants exceed acceptable levels.
- 2) To work to minimize the release of toxic chemicals to the atmosphere.
- 3) To reduce emissions of air contaminants that have impacts of global or regional significance and to fulfil interjurisdictional commitments.

In addition the following objective related to land use is suggested:

- 4) To minimize odour and nuisance problems by ensuring provision of adequate separation or buffer zones between emission generators and residences and institutional buildings.

5.4.4 Recommended Policies and Actions

Regulation of Air Pollutants

The primary strategy in managing air quality must be the regulation of air emissions, regardless of where the plant is situated. In the case of toxic pollutants and pollutants that cause a nuisance at very low levels, this will mean the application of best available control technology (BACT) as well as in-plant reduction measures. In any event, ambient air quality guidelines must be met. To achieve this, it is frequently necessary to consider plant siting as a parameter. However, it is not as simple as moving an industry into an industrial park, where the impacts due to the concentration of sources could be worse.

The allocation of ambient air quality for each parameter is a form of airshed management. Rather than undertake airshed mapping, it is more practical that air quality management be practised on a regional basis, particularly for those regions with a concentration of industries.

The province is presently in the process of developing a clean air strategy. This consider concepts such as management of air quality in local areas. The results of this strategy should provide direction for regional planners to incorporate siting considerations into the planning process.

- *It is recommended that the province complete its development of a clean air strategy in order to set a direction for the future. This should include best available control technology (BACT) where toxic or environmentally damaging emissions are involved.*
- *It is further recommended that district planning commissions review the recommendations from the Clean Air Strategy and incorporate siting considerations into the district planning process.*
- *In the meantime, there are several recommendations in other sections of this document that deal with land use planning solutions to avoid or minimize air pollution problems associated with the siting of industrial parks and individual industries (Section 3.3), with the siting of asphalt plants (Section 4.4) and with the siting of agricultural operations (Section 4.1). It is recommended that these be considered by the Province in the development of siting criteria as part of its clean air strategy. It is also recommended that the Province and the District Planning Commissions, when they are planning the location of industrial parks or sites, that they include air pollution considerations such as: location with respect to prevailing winds; the ability to provide separation distances and the ability to retain vegetation or provide landscaped buffer areas between the proposed industrial developments and existing or proposed residential uses.*

- *It is further recommended that the Province, the City of Saint John and the Belledune District Planning Commission pay particular attention to the development of any potentially air polluting uses in the Saint John region and in the Belledune region, because of the existing extent of industrial development and the resulting air quality levels. The Province should follow-up on the suggestion of the Saint John Environmental Consultation Committee regarding the reduction of ozone levels.*
- *It is recommended that the Province enforce the provisions of the Air Quality Regulation, especially in areas of the Province regularly experiencing air quality problems.*

5.5 MANAGING OUR SOLID WASTE AND SEWAGE

Two of the biggest environmental concerns in rural areas of New Brunswick are solid waste management and the treatment and disposal of sewage. These concerns have been identified by the Province and confirmed by the public consultation process. Although, the mandate of CLURE is rural in focus, both of these issues are regional in scope and involve urban and rural communities. This section presents the concerns and recommendation for each issue separately dealing first with solid waste management and then with management of sewage.

5.5.1 Solid Waste Management

A. Background and Concerns

I. Introduction

The garbage, or solid waste, generated in rural areas consists primarily of waste from homes, although some commercial and light industrial type waste is often included. This waste is typically taken by the home or business owner or a local waste hauler to a nearby rural disposal site.

At present there is no uniform standard for the collection of waste in rural areas. Collection is provided in some local service districts (LSDs) and not in others. Generally, the cost of providing the service in rural areas is higher than for more urban areas, because of the distance between dwellings. In some cases, the cost paid by homeowners where organized service is not provided, is even higher. This is because they do not benefit from unconditional grant funding and any potential economies of scale are lost when several contractors service a single area.

The disposal needs of rural New Brunswickers are served by approximately 88 sites operated by the Department of Transportation (DOT) and/or the provision of outside user privileges from adjacent municipalities. The Department of Transportation has the responsibility for the maintenance of all rural dumps which cost approximately \$2.7 million in 1992. In areas where no rural dump exists, DOT may provide a container site, or arrange with a nearby municipality for the use of its site for the LSDs rather than maintaining a rural dump

themselves. The municipalities providing this service are reimbursed at a rate of \$8.28 per capita for each outside resident served. DOT estimated that, in 1992 they paid \$1.4 million to municipalities for the use of their dumps. Therefore, the total cost, to DOT of waste disposal in LSDs in 1992 was approximately \$4.1 million. This does not include the cost for waste collection in those LSDs served by the Fredericton, and Nepisiguit Chaleur regional landfills for which the Provinces pays 45 percent through the unconditional grant to LSDs.

The rural facilities operated by DOT are typically uncontrolled, open sites that burn continuously. Some are staffed on a full time basis, but the majority are staffed only during the fire season. These sites are unpleasing aesthetically, they attract bears, rodents, seagulls and other disease carrying organisms. Because they were not sited on the basis of geological suitability, they pose a threat to groundwater and surface water.

Recognizing that this approach to waste management was no longer acceptable and the threat to the environment too great, the Department of the Environment established a **regional solid waste management program**. Under this program, all of the approximately 152 existing DOT and municipal disposal sites, will be closed out and replaced by approximately 12 state-of-the-art sanitary landfills. Organized collection will be provided throughout the waste management regions and waste reduction/recycling programs developed. The Province provides start-up funding for the regional solid waste commissions, funding for the design and construction of landfills and recycling facilities, and for the proper closure of existing dumps.

To date three regional sanitary landfills have been established, one is located at Red Pine Station which serves the Nepisiguit-Chaleur Region, one is in Fredericton which serves the greater Fredericton - Oromocto area and portions of York and Sunbury Counties, and one is located in Moncton which serves all of Westmorland and Albert Counties. Because of difficulties encountered in the siting process, the Restigouche, Acadian Peninsula and Northumberland Regions are currently examining the concept of transferring waste to the nearby Nepisiguit-Chaleur Sanitary Landfill. In addition, the Kent and Kings County Regions are considering the option of transferring waste to the new facility in the Westmorland/Albert Region.

The Charlotte and Fundy Regions are currently in the site selection phase, which is followed by an environmental impact assessment phase. The two remaining regions, Carleton-Victoria and Madawaska-Victoria are in the earlier stage of the waste management planning process, ie. the assessment of waste management alternatives.

Upon completion of the site selection process, each region will be required to carry out an environmental impact assessment (EIA) study. While the siting process includes public input, the EIA is a more formalized process. It examines the impact of a proposed project on the soil, air, water, habitat, residents and communities in a defined geographical area within a fixed time frame, typically from the beginning of construction to this final closure of the facility. Through the EIA, the significance of the impacts are evaluated and measures

to reduce their significance are identified, if necessary. The time between the formation of a regional solid waste committee and completion of the EIA is approximately five years. When fully implemented, the entire province will be served by integrated waste management facilities.

II. Needs

The terms of reference of CLURE identified the importance of proper management of solid waste. Based on a review of the consultation process, **it is clear that the public strongly supports and is in favour of the concept of regionalization of waste management.** Several concerns, relating to the solid waste management program, were identified - siting of landfills, potential for indiscriminate dumping and the commitment to recycling and composting.

III. Siting

While the public is in favour of the regional program, the siting of sanitary landfills continues to be a challenging process for solid waste committees and commissions. In order to assist solid waste committees through the siting process the Department of Environment (NBDOE) has established guidelines for siting sanitary landfills. The guidelines set out minimums and/or desirable characteristics in terms of environmental, socio-economic and geological engineering considerations in the siting process. For example, the guidelines stipulate that a landfill may be no closer than 500 metres from a residence or 300 meters from a stream. The guidelines also suggest landfill sites be a minimum of 40 hectares, that sensitive habitat and flood plain areas be avoided and that access to the site by good all-weather roads is preferred.

The siting in rural areas was the impact on water resources. It was suggested in a number of briefs that landfills not be sited on land that was currently or could potentially be classified as agricultural. It was suggested that the sites be as large as possible to ensure that sufficient capacity was available and to eliminate the need to repeat the siting process in 25 years. There were many requests to site landfills away from rivers and streams. As discussed in the preceding paragraph, site size and proximity to watercourses has been addressed in the siting guidelines. The protection of agricultural land has not been addressed specifically, although, avoidance of floodplains (typically excellent farmlands) is suggested.

The Department of Transportation suggested that sites should be located as close as possible to arterial or collector highways. DOT also suggested that the more conveniently sites were located, the lower the incidence of indiscriminate dumping. This was counter to some

suggestions that the regional commissions were placing too much emphasis on the concept of centralization and that the sites should be in more remote locations.

IV. Indiscriminate Dumping

The issue of indiscriminate dumping was identified on many occasions during the public consultation process. Those not aware of the policy, or perhaps not convinced of its effectiveness, to provide weekly garbage collection in rural areas have expressed concerns that, once the small conveniently located dumps are closed, back roads and wooded areas will become dumping grounds for household waste. There is also concern that larger household items such as old stoves, washing machines, or mattresses, not easily accommodated in a weekly collection program, will be indiscriminately dumped because of the longer distances to the regional facility. There is concern that, in addition to being aesthetically unpleasing, these materials will pose a threat to ground and surface water.

An issue related to indiscriminate dumping which came up many times during the public consultation process is the need to take better care of **garbage disposal at roadside tourist sites and rest areas.** It was indicated that often, local residents will drop their household waste off at these sites rather than taking it themselves, or paying a local hauler to take it, to the nearest disposal site. The improper usage means the rest areas are unsightly and unattractive for tourists, proper and convenient disposal for travellers is difficult, and DOT is required to make extra trips to a site to clean up the mess.

V. Recycling and Composting

The Provincial Governments' commitment to recycling and composting, within the regional solid waste management program, was questioned during the consultation process. The public strongly supports the concept of waste reduction, recycling and composting. They have suggested that more funding be provided, legislation and regulations be enacted to encourage these activities, and that more public information, with respect to participation in and promotion of reduction/recycling, be distributed. Not only would the public like to see recycling programs extended to rural areas, they would also like to see the implementation of government policies that would make recycling financially viable.

Purchasing materials made from recyclables, even at a higher price, avoiding producers not conforming with new packaging protocols, or providing tax incentives for manufacturers using recyclables are examples of policy directives that could stimulate recycling markets. The thrust is that, to make recycling successful, government will have to intervene and assist those in the recycling business by encouraging others to purchase their products. The

encouragement may be by means of conditions of funding, subsidies, lower interest on government loans, or legislation.

VI. Hazardous Waste

Regional solid waste commissions are not responsible for the management of hazardous waste, rather it is the company, business, or individual generating the waste who is responsible for ensuring it is properly stored, transported and disposed of. The quantities of hazardous waste generated are relatively small and there are no facilities within the Province capable of accepting this waste. **Generators are required to have the waste transported, out of the Province, to an approved facility which will destruct, treat, or dispose of the waste in an environmentally appropriate manner. All hazardous waste must be transported according to the Transportation of Dangerous Goods Act.**

Because the volume of hazardous wastes generated in the Province is relatively small, it is unlikely that the cost of constructing a dedicated facility in New Brunswick would be warranted.

B. Goal and Objectives

Goal

To implement comprehensive waste management strategies in all regions of the Province as soon as possible.

Objectives

1. To ensure that management strategies continue to be comprehensive and include all aspects of waste management including collection, reduction, recycling and composting.
2. To ensure the public continues to be involved in the development of waste management strategies and the site selection process.
3. To ensure that the minimization of social, economic and environmental impacts of a regional sanitary landfill are considered in the site selection process.
4. To ensure regional sanitary landfills are not sited on designated agricultural land.

5. To ensure that existing disposal facilities are closed in a manner that does not result in an on-going threat to the environment.

C. Recommended Policies and Actions

- *It is recommended that the Province's solid waste management program should continue and be supported so that all remaining waste management systems, including disposal sites, are in operation as soon as possible.*
- *The regional waste management program has been founded on the concept of public consultation. The committees established around the province have increased the awareness of the general public as to the hazards of the current methods of waste management and the benefits of a regionalized approach. With the momentum the committees have gathered, there is a sense of urgency from the public to "get on" with the selection of new sites and the closure of old ones. However, with increasing pressures on provincial budget dollars, it appears that the priority to provide funding for regional solid waste projects in general and recycling/composting initiatives in particular, has declined dramatically. Therefore, it is recommended that the Department of the Environment reaffirm its commitment to follow through with funding, in a timely fashion, of the regional waste management program.*
- *The Department of the Environment has adopted the target of 50 percent reduction in the quantity of waste going to landfills by the year 2000. Consistent with this goal, it is recommended that the Department to develop and implement policies that support provincial recycling efforts, to fund recycling programs, and extend these programs to rural communities.*

While well intentioned, the waste diversion target of 50 percent was adopted without first clearly identifying means of achieving the goal, or without the funding in place to allow regional committees to implement programs to support diversion activities. The other difficult issue with respect to recycling relates to the provision of programs in rural communities. The cost of providing conventional recycling in municipalities is expensive and in rural areas, the cost is prohibitive.

Operating experience in New Brunswick and other jurisdictions is that 50 percent diversion of waste, by conventional means is, if not possible, difficult at best. Furthermore, it appears that funding to implement non-conventional methods (typically capital intensive) of diversion/recycling is not available. Therefore, it is recommended that the province re-evaluate the adoption of the 50 percent diversion target. As part of establishing a new goal the province should clearly identify the means by which the revised target can be met.

Because of the significance of provincial funding to the success of waste diversion, it is also recommended that the provincial commitment to funding be reevaluated.

- *Selection of sanitary landfill sites will continue to be the most challenging aspect of waste management. The program to date has relied heavily on input from the public in the selection process. It is recommended that the site selection process continue to involve the public in a meaningful manner.*
- *It is recommended that the Department of Environment consider adding designated farmlands, as a constraint within the Site Selection Guidelines.*
- *It is also recommended that social considerations be given earlier and higher priority in the site selection process. Too often valuable time and financial resources have been spent on sites which, because of their location with respect to existing residences, had little hope of ever making it through the site selection process. Social constraints such as homes along potential haul routes, surrounding land use and community impacts, and not just the location of the landfill site itself, has to be given higher and earlier consideration.*
- *With respect to indiscriminate dumping, it is recommended that existing regulations with respect to dumping and littering be enforced and that public information, as to the problems created by such actions and the penalties for doing so, be provided. Experience has shown that education, in conjunction with enforcement, will discourage a large amount of indiscriminate dumping.*
- *The incidence of indiscriminate dumping will be decreased if regional facilities are conveniently located. They will also be decreased if regional collection systems are well planned, well promoted, and provisions are made for special waste collections in the fall and spring of the year for large items not picked up as part of normal collections. It is also suggested that problems with respect to improper uses of roadside rest areas will be addressed when regional collection systems are in place.*
- *In the meantime, it is recommended that the Department of the Environment, DOT and Economic Development and Tourism coordinate a program to educate residents to the need to be more responsible with respect to the use of our tourist sites and roadside garbage disposal areas. This could include establishing signs at rest areas, the distribution of flyers in rural areas without organized collection, or newspaper advertisements. In areas where the problem is persistent, the Province should strongly consider, legal action against those misusing the sites. Finally, DOT should ensure that the garbage deposited there is picked up on a timely and regular basis.*
- *It is recommended that existing disposal sites be properly reclaimed to ensure that long term risks to the environment are minimized. It is anticipated that as part of closure activities covering and periodic monitoring, at least at the outset, will be required. Because*

of the potential impacts of building on a property that may have at one time been a disposal facility and because the Health Regulations prohibits construction on the active portion of a closed disposal facility, it is recommended that the Province establish a system, through land titles/deeds, of identifying properties that were once active sites for the disposal of solid waste.

5.5.2 Individual Sewage Disposal

A. Background and Concerns

I. General

Sewage from individual homes in rural areas is handled by means of septic disposal systems. This includes a buried tank to contain solids and a disposal field to distribute liquid effluent. Current regulations (Health Act) require a 0.4ha (one acre) minimum lot size to accommodate septic disposal systems. The tanks have to be installed by a licenced installer and inspected by a Department of Health inspector. In subdivisions, individual systems are often, but not always, replaced with small centralized facilities such as lagoons or small package plants. When these systems are adequately sized and properly installed, and maintained they provide suitable sewage treatment and allow discharge without adverse effects on the environment.

While the Department of the Environment (DOE), is responsible for regulating waste disposal from industrial and municipal sources, the Department of Health and Community Services is responsible for approving the installation of septic disposal systems for private homes and cottages as well as disposal sites for septage. There are no requirements for inspection or maintenance of septic systems after installation. Because existing regulations are not always enforced and are not comprehensive enough, raw sewage is often discharged into roadside ditches or into surface watercourses. Potable water supplies are threatened as are recreational uses of water and general public health. The improper siting and operation of facilities for the disposal of septage also threatens water supplies, public health and the environment.

II. Septic Disposal Systems

Individual sewage disposal systems work well on suitably sized individual lots if the whole system is properly located, installed and maintained. The discharge of septic wastes from individual septic systems has led to contamination of both surface and ground waters. Problems are often linked to older, poorly maintained septic systems. Prior to 1973 the minimum lot size requirement was only 14,000 square metres (15,000 feet) and it is only in recent years that installers have been required to be licenced.

Every year the Department of the Environment conducts surveys of rivers, lakes and streams to determine the quality of the Province's waters. It has become apparent through years of sampling that many of the Province's waters are contaminated with bacteria released from improperly operated septic systems. Investigation of these instances regularly finds that many private homes release domestic wastes to nearby watercourses with no treatment. These situations have led to closure of areas to public swimming and other recreational uses. These situations also pose a health hazard.

There are several conditions which can lead to potential contamination of surface water and groundwater. These include:

- improper location of septic systems too close to wells or watercourse;
- improper installation of tanks and construction of disposal fields;
- improper soil conditions ie. either too porous or too impervious;
- sites which have a high water table or high slope;
- improper maintenance ie. solids removed from septic tank on a regular basis (every 2 to 3 years); and
- when development becomes too dense and the cumulative affects become more than the soil or water can safely handle.

In addition to the concerns improper location, installation and maintenance of individual systems, there is a concern with the situation in the Province with respect to inspection and monitoring. There has been a concern in the past and often expressed during CLURE's public consultation phase, that there are not enough health inspectors in the Province. This is no doubt true but the situation has been improving in recent years. The Department of Health and Community Services has given this matter some priority and have added nine inspectors over the past two years. The recent requirement for licencing septic tank installers has also made the inspection job easier.

One of the common suggestions during the public consultation was to address the problem of all the existing residences that have no septic disposal systems or older or malfunctioning systems which do not meet current standards. Many suggested that the Province should

develop a program to assist residents in upgrading their septic disposal systems. Department of Health and Community Services officials indicated that this is a very difficult issue to address. If systems were not in place or were not working properly because of unsuitable site conditions, the alternatives would be inconvenient and costly. Mechanical plants at \$15,000 to \$20,000 are too expensive an option and holding tanks, as often suggested, are also inconvenient, expensive and require regular supervision and clean out. The Department of Health and Community Services feels that a province-wide inspection program is not practical and, if an inspection program were to be undertaken, it would have to be on a priority basis concentrating on areas of known or suspected problems.

The Department of Health and Community Services expressed a much larger concern with communal systems that do not operate properly than it did with individuals systems. Many communal systems in rural areas were poorly constructed and maintained. Several submissions expressed concern about poorly operating systems in subdivisions and mobile home parks. Many systems were not taken over by the Province but were left to developers to operate and maintain. In many cases there were problems with systems and the developer was no longer around for various reasons, if he/she was around, they did not address the concerns. Communal systems which collect sewage from several homes, obviously, have a high and more concentrated discharge of effluent and, if the treatment system is not operating properly, poses a more significant risk of contamination. The Department of Health and Community Services has become much more strict in recent years requiring full retention lagoons and the piping of effluent to adequate receiving streams but these former systems still remain a problem.

One of the biggest problems in regard to inspection is the fact that building permits are only required in about one third of the Province and within 150m (500 feet) of arterial and collector highways. Building permits serve as a mechanism to ensure that septic system approval has been obtained. When building permits are not required in the area, it is easy for someone to build without an approved septic tank and go undetected by health inspectors. Suggestions to deal with this problem have included requiring universal building inspection throughout the Province or requiring that electrical permits not be approved until septic tank approval has been obtained. Many people would build without building permits or even septic tanks but few would build without electrical service.

Another problem with respect to approval and inspection is that little attention has been given to the cumulative effects associated with approval of a number of individual systems in a limited area, such as in subdivisions. The present methods of using percolation tests is fine for approval of a limited number of lots but is not sufficient to determine cumulative impacts. Developers often have large subdivisions approved in smaller phases and there is no mechanism in place to assess the larger picture. This problem in the past has only been addressed when problems have reached an acute level i.e. a contamination problem arises with respect to clam beds, for instance, in an area with a concentration of individual septic systems. The Department of Health and Community Services has only recently begun to question the accumulation of septic tank systems in an area. A recent subdivision

application, with potential impacts on nearby lakes and neighbouring wells in the non-incorporated area outside Saint John, was put on hold until the concern could be addressed by the Department of Municipalities, Culture and Housing and the Department of Environment.

There have been efforts made recently to increase the authority of the Department of Health and Community Services with respect to the approval of subdivisions. At the present time, the Provincial Planning Committee can, and has in the past, approved subdivisions that have not been approved by the Department of Health and Community Services. Such subdivisions would be given a "red stamp" indicating there may be problems approving the lots when the individual owner comes to Department of Health and Community Services seeking approval for a septic tank. Amendments to the Health Act and the Community Planning Act are currently being considered which would address this situation. The proposed changes would require that the subdivision not be approved if it did not meet Department of Health and Community Services approval.

Another related matter the proposed amendments will address is the matter of lot size. The Department of Health and Community Services now has the authority under the Health Act to refuse approval of a septic tank system if the inspector feels the 0.41 hectare minimum requirement is not enough because of site conditions. In the proposed amendments this criteria will be spelled out with respect to soil types and porosity, slopes, depth to water table, etc. There are also some other wording changes proposed so that not so much discretion is left with the Minister or health inspector ie. to add more specifics to the Act rather than to permit the denial of an application which "in the opinion of the health official is not acceptable. These would all be positive changes which should result in improvement to the whole approval system.

Another concern that is currently being reviewed by the Province is the requirement for setback of septic disposal systems from wells and watercourses. There are setback distances called for under the present regulations eg. 30m from a dug well, 23m from a drilled well and 15m from watercourses. In designated watersheds the setback is 75m for the septic field and 90m for the septic tank from any watercourse or lake. The Department of Health and Community Services and the Department of the Environment are currently reviewing different models with respect to the determination of the safe carrying capacity of lakes ie. how much development can be accommodated before unacceptable nutrient loadings are added to the lake. Although models have been developed with respect to lakes, this is a very difficult concept to extend to watercourses.

III. Septage Disposal

In addition to the problems encountered through improper installation of septic systems, the disposal of septage represents an on-going problem in rural areas because of the threat

to drinking water, in particular, and to public health and the environment, in general. Septage is the anaerobically decomposed solids and watery sludge-like material which settles at the bottom of a septic tank. It has a very strong and unpleasant odour. As part of good operating practice, the septage component of an individual septic system should be pumped out on a regular basis, which should be no less frequently than every two to three years.

At present there are approximately 60 septage haulers in the Province who service residential and commercial septic systems. In order to operate they secure licences from the Department of Health and Community Services. As part of the licencing procedure, haulers are required to identify where the septage they collect is to be hauled and to have these disposal sites approved. The approval is issued jointly by Department of Health and Community Services and the Department of the Environment. However, the inspection is typically completed by the local environment inspector. Once approved, there are no further site visits unless there is a specific complaint or problem with the site.

Septage disposal sites are typically remote and often situated on Crown Land. They consist of one or more large lagoons in which the septage is dumped. In the lagoons, the liquid component either evaporates or seeps through the bottom of the site and over time the lagoon fills with solids. When full, the site is covered over and a new lagoon is dug.

In addition to lagoons, septage is sometimes disposed of at municipal sewage treatment plants (STP). This disposal option is possible where there is excess capacity at the STP. Furthermore, because of the high organic strength of the septage, relative to the municipal sewage, care must be taken to avoid shock loading when introducing the septage to the STP.

Because there is a limited number of approved septage disposal sites and because these sites are often remote, there is a tendency for haulers to dispose of septage in "more convenient" locations such as rural dumps, streams, or municipal storm sewers. The net result is an unnecessary threat to drinking water supplies, to recreational uses of water and to fish habitat.

The whole issue of septage approval is currently in the process of being transferred from the Department of Health and Community Services to the Department of the Environment. The Department of the Environment is considering amendments to the regulations to address some of these concerns. Although it is early in the process, the Department of the Environment are considering the possibility of establishing Regional Wastewater Management Districts. This would look at the whole issue of regular septage collection and disposal on a regional basis. Feasibility studies and pilot projects are being considered to further define the program.

IV. Sludge Disposal

In addition to problems associated with septage, improper disposal of sludge from STP's is also of concern. Sludge is generated by municipal systems that utilize activated sludge as a method of waste water treatment. Dewatered sludge from a municipal STP may be landfilled or sprayed on land as a soil amendment. In contrast to the more widespread nature of septage disposal problems, sludge handling tends to be localized.

B. Goal and Objectives

Goal

To ensure septic waste is managed in a way that protects human health and the environment.

Objectives

1. To protect potable water supplies, surface water and groundwater.
2. To ensure public health is not be threatened by the improper siting, installation and maintenance of septic systems.
3. Where individual systems are not feasible, small scale or community based septic systems be considered.
4. To ensure there are adequate facilities for the disposal of septage.

C. Recommended Policies and Actions

I. Septic Disposal Systems

- *The approach to septic disposal system approval, control and inspection is inconsistent across the Province, resulting in threats to public health and the environment. Given the current plans to transfer responsibility for septage approvals to the Department of the Environment plus the pending amendments to legislation under the Health Act and*

Community Planning Act, the time is opportune for changes and improvement to the existing system. It is therefore recommended that the Department of the Environment in conjunction with the Department of Health and Community Services pursue the establishment of an overall program for the management of septic disposal systems and septage disposal sites. The recommendations that are made below should be considered as components in the management program.

- *While the first priority will be the development of a septic disposal management program, more immediate issues with respect to surface and drinking water contamination will need to be addressed. Therefore, it is recommended that during the development and implementation of a management program that efforts to enforce existing regulations be accelerated. This should include greater attention to the location, installation, inspection and maintenance of septic disposal systems.*
- *In order to be effective, a septage management program will have to be comprehensive. Within the program, a mechanism to ensure health inspectors are notified of construction or placement of a building, in order to allow them to inspect septic facilities at the time of installation, will be critical to the success of the overall program. It is suggested that many of the existing problems relating to contamination will be reduced if proper construction methods are applied and the soils and area available are approved before installation of the systems.*
- *The matter of notification would be improved significantly if the Province adopted a system of universal "building approvals" as recommended in Section 3.5 on Building Approvals and Permits. Under that recommendation no building would receive an approval anywhere in the Province without prior approval of the Department of Health and Community Services with respect to an acceptable sewage disposal system. As a further check on both building approval and sewage system approval, it was also recommended that Section 8 of the Building Regulation be expanded to make it a requirement province-wide that no electrical permits will be issued until a development approval has been obtained.*
- *It is recommended that, at the time of application for a septic system approval, that the applicant be made aware of importance of proper siting, installation, operation and maintenance of the system, including the frequency which the tank should be cleaned out, and be given a list of the approved septage haulers in the area.*
- *It is recommended that the new regulation being considered by Department of the Environment, and thus the management plan, include a requirement that the septic tank be cleaned out at regulate specified intervals ie. 2 or 3 years, as determined by the Department of the Environment and the Department of Health and Community Services. It is further recommended that the cost of this service be picked up through user charges or through property taxation similar to that for solid waste collection.*

- *It is also recommended that the management plan include minimum setback distances from wells, shorelines and watercourses in accordance with reviews currently being carried out by the Department of Health and Community Services. Similarly, it is recommended that the concept of "safe carrying capacity" be adopted as part of the management strategy based on the results of joint studies being undertaken by the Department of the Environment and the Department of Health and Community Services.*
- *Because of the potential problems that can exist if community systems are not properly installed or operated, it is recommended that, design and construction as well as inspection and monitoring of these systems be reviewed by trained staff of the Department of Health and Community Services.*
- *With respect to the upgrading of existing septic disposal systems, it is recommended that the Department of Health and Community Services become more active in the identification of areas where concentrated septic tank systems are causing concerns. Measures to deal with these situations should be investigated. With the proposed addition of a public health engineer to the department staff, attention could be given to new technologies such as "clustering" to remediate the situation in these problem areas. After known existing problem areas are addressed, attention could be turned to those areas of concentrated development which are potential problem areas.*
- *It is further recommended that the whole issue of the cumulative impact of individual sewage disposal systems be addressed. A joint committee of the Department of Health and Community Services and Department of the Environment personnel, headed by the public health engineer, should be struck to carry out this mandate. It is also recommended that, as part of the installation approvals process, the combined effects of a number of septic systems within a subdivision be considered. If because of the nature of the soils or configuration of an area, only a fixed number individual systems can be assimilated, then the size of the subdivision should be limited.*
- *In terms of operations, it is recommended that where homeowners are found to be polluting ground and/or surface water they be ordered to repair the faulty system.*

II. Septage Disposal

The Province is well positioned to improve the situation with respect to the disposal of septage waste. Because the responsibility is being transferred to the Department of the Environment, it is an opportune time to incorporate changes and improvements. It is recommended that these improvements should be part of an overall wastewater management program. The initiatives currently being considered by the Department of the Environment, with respect to feasibility studies and pilot projects for regional wastewater management districts, should be encouraged

and supported. The recommendations presented below should be considered as components in the overall management program.

- *It is recommended that the Department of the Environment establish a uniform standards for the siting, construction and operation of all new septage disposal facilities in the Province.*
- *It is recommended that licences for septage haulers not be issued until an on-site inspection of the proposed disposal facility is carried out.*
- *It is recommended that the Department of the Environment develop a program of on-going monitoring of septage disposal facilities and, as part of monitoring, a program be established to upgrade existing facilities to conform with the uniform standard.*
- *Many of the problems associated with septage relate to indiscriminate dumping and it is anticipated that this occurs because the disposal sites are relatively remote, and penalties for dumping are not significant or not consistently enforced. Therefore, it is recommended that penalties, fines and regulations regarding the disposal of septage be strictly enforced.*
- *It is also recommended that the Department of the Environment work with the regional waste management commissions to examine the possibility of siting septage disposal facilities at regional sanitary landfills. This is recommended because it would allow better environmental control to be effected over the disposal of septage at a reasonable cost.*
- *Finally, it is also recommended that the Department of the Environment, along with municipal operators, identify existing Sewage Treatment Plants (STP) that could accommodate septage waste. For those facilities that do not have the capacity (with respect to quantity or quality), it is recommended that the Department of the Environment examine the possibility of upgrading STPs to enable them to accept septage on an ongoing basis. The Department should also ensure that in the design of any new STPs that consideration of septage be included. This would allow substandard septage facilities to be closed and by providing more convenient access for haulers, possibly reduce the incidence of indiscriminate dumping.*

III. Sludge Disposal

With respect to the disposal of sludge from municipal STPs, it is recommended that the Department of the Environment examine the feasibility to composting. Because of the significant odour and low solids content, septage composting is not recommended. It is recommended that the Department of the Environment investigate the possibility of combining sludge with peat or soils from lower class (ie. class 5,6,7) agricultural land or compostable garbage in order to create an alternative to removal of topsoil from higher class agricultural lands.

ENDNOTES

CHAPTER 1

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CHAPTER 2

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7. Policy Development Group for the Land and Water Advisory Committee, Interim Report Comprehensive Policy Framework for Land and Water Use Management, September, 1990, Pg. 8.
8. Toward 2000. An Economic Development Strategy for New Brunswick, Pg. 48.
9. A Proposed Sustainable Development Strategy for New Brunswick, Premiers Round Table on Environment and Economy, 1992, Pg. 9.

CHAPTER 3

1. Saint John Planning Commission, "Sprawl or Subdivisions in Outlying Areas", January, 1968.
2. The basic premise of this definition is taken from Lorne Russwurm's "The Surrounding of Our Cities: Problems and Planning Implications of Urban Fringe Landscapes" Community Planning Press. Ottawa, 1977.
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10. Comay, Pg. 133.
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CHAPTER 4

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2. Canadian Council of Forest Ministers, Sustainable Forests - A Canadian Commitment, 1992.
3. J.D. Irving Limited, The Fundy Model Forest Proposal, 1992.
4. Canadian Council of Forest Ministers, Sustainable Forest - A Canadian Commitment, 1992.
5. Premier's Round Table on Environment and Economy, "A Proposed Sustainable Development Strategy for New Brunswick", 1992.
6. New Brunswick Department of Natural Resources and Energy, Forest Management Manual for Crown Lands, June 1992. This manual provides information on acceptable harvesting practices.
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8. Rosalind Cairncoss, New Life for Old quarries, Part II: No more "Mining and Running in Canada", Canadian Consulting Engineer, September-October 1992.
9. This proposed classification is an adaptation of the one recommended to the Government of Manitoba in Provincial Land Use Policies - Draft Revisions, 1992.
10. This method was noted by officials from the City of Saint John where provisions to regulate all mineral extraction activities are a part of the Zoning By-law, 1992.
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12. Saint John River Basin Board, 1975, as quoted in Dykeman, Floyd W., A Response to The Politics of Rural Planning and Development in New Brunswick, Mount Allison University, 1987, Pg. 10.

13. In the Fall of 1991, a conference was organized by the Township of Mono, Ontario, to obtain information about the effects of development activities on the community's water resources. The four generations of plans, and "Integrated Watershed Planning" are concepts presented at the conference, and included in the report compiled by Jeff Solway, and published jointly by the Township of Mono and the Ontario Ministry of Municipal Affairs under the title There's Always Someone Downstream.
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CHAPTER 5

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APPENDIX 1

Profile of Commissioners

PROFILE OF COMMISSIONERS

Henry G. Irwin, Co-Chairperson

Henry Irwin is a native of St. Andrews and currently resides in Fredericton. He is a veteran of the Second World War, former member of the Legislative Assembly, and Minister of Education. He also served as Director of the Emergency Measures Organization, chairman of the Municipal Capital Borrowing Board, Deputy Minister of Municipal Affairs, a private sector consultant, and Chief Electoral Officer for the province.

Lise Ouellette, Co-Chairperson

Lise Ouellette is a resident of Riceville, Madawaska County, and a social scientist with a long list of contributions to the agri-food industry and community service organizations. She is a graduate of l'Université de Moncton and l'Université de Montreal. She is currently Director-General of the Eastern Canada Soil and Water Conservation Centre and was previously Director General of the Fédération des agriculteurs et agricultrices francophones du Nouveau-Brunswick.

Charles Gallagher, Commissioner

Charles Gallagher is a long-time resident of Centreville, with an extensive farming background. He is a graduate of Centreville High School, the Nova Scotia Agricultural College, Macdonald College and McGill University. He was elected to the Legislative Assembly four times, and served in turn as Minister of Education, Minister of Health, and Speaker of the New Brunswick Legislative Assembly.

Suzanne Arseneau Tremblay, Commissioner

Suzanne Arseneau-Tremblay is a resident of Bathurst and a private nursing consultant. She is a graduate of l'Université de Moncton, and has devoted many hours to community service organizations, including the Canadian Association for the Mentally Retarded, the New Brunswick Extra-Mural Hospital and the New Brunswick Hospital Association. She also serves as spokesperson for small and medium business to the Nepisiguit Economic Conference.

Hollis Steeves, Commissioner

Hollis Steeves, a resident of Salisbury, is a self-employed dairy farmer. He graduated from the Ontario Police College and served in the Canadian Armed Forces for twelve years. Mr. Steeves is a former member of the Legislative Assembly for the riding of Petitcodiac, and has also been an active member of the New Brunswick Milk Marketing Board.

APPENDIX 2

*List of Government Departments And Agencies
and Non-Government Agencies and
Associations Submitting Preliminary
Position Papers*

**Requested Briefs from Government Departments
and Agencies and Non-Government Groups and Associations**

Government Departments

Advanced Education and Labour

Agriculture

Finance and Board of Management

Environment

Fisheries and Aquaculture

Health and Community Services

Income Assistance, Minister of State for Literacy

Intergovernmental Affairs, Justice, Attorney General

Municipalities, Culture and Housing

Natural Resources and Energy

New Brunswick Power Corporation

Solicitor General

Supply and Services

Transportation

Agencies and Associations

Cities of New Brunswick Association

Commission D'Amenagement et de Planification de la Peninsule Acadienne

Commission D'Amenagement Beaubassin

Commission D'Urbanisme de Belledune

Commission D'Urbanisme de Kent

Commission D'Urbanisme du Madawaska

Conservation Council of New Brunswick

Federation des agriculteurs et agricultrices francophone du Nouveau-Brunswick

Greater Moncton District Planning Commission

L' Association des municipalites francophones du N.B

Miramichi Planning District Commission

New Brunswick Federation of Agriculture

New Brunswick Geographic Information Corporation

Premier's Clam Bed Action Committee

Regional Development Corporation

Restigouche District Planning Commission

Rural and Small Town Research and Studies Programme, Mount Allison University

Tantramar Planning District Commission

Towns of New Brunswick Association

Villages of New Brunswick Association

Others Unrequested

John Evans - Chief Coronor

Dr. Charles E. Boudreau, P.Eng.

Charles B. Schom - Chamcook Harbour Project

APPENDIX 3

List of Public Consultation Meetings and Open House/Public Hearings

**LIST OF MEETING DATES AND LOCATIONS
DATES ET LIEUX DES RENCONTRES**

Appendix 3

<u>Public Hearings/Audiences publiques</u>		<u>Discussion Group Meetings/Discussion de groupe</u>	
(with simultaneous translation/services de traduction simultanée)		(In French or English as indicated/En français ou anglais selon ce qui est indiqué)	
Monday/lundi 28 sept.	Community Centre/ Centre communautaire (Dalhousie Junction)	31 août	Édifice municipal (Baker Brook) (Français)
Wed./mercredi 30 sept.	Municipal Bldg/ Édifice municipal (Petit Rocher)	2 sept.	Salmon Museum (Doaktown) (English)
Monday/lundi 5 oct.	Village Historique Acadien (Administration Building)/ Village Historique Acadien (Centre d'accueil) (Caraquet)	3 sept.	Grand-Harbour Village Hall (Grand Manan) (English)
Wed./mercredi 7 oct.	Fire Hall/Poste d'incendie (Nelson-Miramichi)	8 sept.	Womens Institute Hall (Flatlands) (English)
Tuesday/mardi 13 oct.	Cocagne Marina/Marina de Cocagne (Cocagne)	8 sept.	Westford Nursing Home (Port Elgin) (English)
Thur./jeudi 15 oct.	Magnetic Hill Lions Club (Moncton)	9 sept.	Salle communautaire (Dundee) (Français)
Monday/lundi 19 oct.	Municipal Hall/ Bureau municipal (Sussex Corner)	9 sept.	Women's Institute Hall (Stoney Creek) (English)
Tuesday/mardi 20 oct.	Recreation Centre (Rough Waters)	10 sept.	Église Sainte-Thérèse (Robertville) (Français)
Wed./mercredi 21 oct.	Firehall/Poste d'incendie (Pennfield)	10 sept.	Kwanis Club (Petitcodiac) (English)
Monday/lundi 26 oct.	Kin Centre (Centreville)	14 sept.	Centre de loisirs de New Bandon (Janeville) (English)
Wed./mercredi 28 oct.	Harvey High School/École secondaire de Harvey (Harvey)	14 sept.	Village Hall (Cambridge Narrows) (English)
Monday/lundi 2 nov.	École de Rivière-Verte (Rivière-Verte)	15 sept.	Centre communautaire de Bons Amis (Couteau Road) (Lameque) (Français)
		15 sept.	Memorial Community Centre (Oak Bay) (English)
		16 sept.	Salle des chevaliers de Colomb (Pont Landry) (Français)
		16 sept.	Community Y - Connell Park (Woodstock) (English)
		17 sept.	Édifice Municipal (Neguac) (Français)
		17 sept.	Perth Elks Club (Perth-Andover) (English)
		21 sept.	Motel Près du Lac (Grand Sault) (Français)
		22 sept.	Centre communautaire (Acadieville) (Français)
		22 sept.	Recreation Centre (Minto) (English)
		23 sept.	Centre de plein air du vieux moulin de Saint-Quentin (Saint Quentin) (Français)
		23 sept.	Recreation Centre (Gondola Point) (English)
		24 sept.	La Marina du Suroit Aldoine de Kent (Richibucto) (English & Français)
		29 sept.	Womens Institute/Institut féminin (Boudreau Office) (Shediac) (Français)
		1er oct.	Institut de Memramcook (Saint Joseph) (Français)
		6 oct.	N.B. Indian Bands (Mactaquac) (English)

APPENDIX 4

List of Public Submission

**LIST OF PUBLIC BRIEFS SUBMITTED TO THE
COMMISSION ON LAND USE AND THE RURAL ENVIRONMENT**

Appendix 4

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|---|---|
| 1 Point La Nim Local Service District Advisory Committee | 26 Eco Action |
| 2 City of Campbellton | 27 Conservation Council of New Brunswick |
| 3 Mrs. Burgess Edwards | 28 New Bandon - Salmon Beach Local Service District Advisory Board |
| 4 DSL de Robertville | 29 P.L. Fraser, P.Eng. |
| 5 EcoChaleur | 30 The Association of the Villages of New Brunswick |
| 6 Village de Petit-Rocher | 31 Sussex Milk Committee |
| 7 City of Bathurst | 32 New Brunswick Chicken Marketing Board |
| 8 Comité responsable du dossier de la porcherie de Trudel | 33 The Horticulture Producers Association of Southern New Brunswick |
| 9 La Protection Environnementale de l'Île Lameque | 34 Fundy Wilderness Coalition |
| 10 D.S.L. Maltempec | 35 J.D. Irving Limited: The Fundy Model Forest |
| 11 Le Club des Naturalistes de la Péninsule Acadienne | 36 The Miramichi Valley Fish & Game Association |
| 12 D.S.L. de Pokemouche | 37 Parish of Musquash L.S.D. |
| 13 Fédération des Agriculteurs-trices du Nord-Est (FANE) | 38 Town of St. Andrews |
| 14 Commission d'aménagement de la Péninsule acadienne | 39 Southern New Brunswick Blueberry Growers Association |
| 15 Paul McAllister | 40 Inka Milewski |
| 16 Village of Doaktown | 41 George Labresque |
| 17 Glen Gerrish | 42 New Brunswick Soil & Crop Improvement Association |
| 18 Miramichi River Environmental Assessment Committee | 43 G. & B. Kretschmar Big-K Ranch Ltd. |
| 19 Farm Area Rural Members (Rexton) | 44 Lawrence McCrea |
| 20 Fédération des Agriculteurs-trices du Sud-Est | 45 Carleton-Victoria Wood Producers Association |
| 21 New Brunswick Wildlife Federation Inc. | 46 New Brunswick Milk Marketing Board |
| 22 Moncton Area Soil & Crop Improvement Association | 47 The Town of Woodstock |
| 23 Tantramar Planning District Commission | 48 Carleton-Victoria Wood Producers Association |
| 24 New Brunswick Federation of Agriculture | 49 Betty Brown |
| 25 Marc Spence | 50 1st Eel Lake Property Taxpayers |

- 51 The St. John River Society Inc.
- 52 Cities of New Brunswick Association
- 53 The Nature Trust of New Brunswick
- 54 The Keswick River Society Inc.
- 55 City of Fredericton
- 56 Keswick Ridge Local Service District Advisory Committee
- 57 Parish of Saint Mary's Local Service District Advisory Committee
- 58 L'Association des Propriétaires de Chalets du Lac Baker
- 59 Comité d'aide au développement des collectivités d'Edmundston, Madawaska-Centre
- 60 Office de Commercialisation du Porc du Nouveau-Brunswick
- 61 Fédération des Agriculteurs-trices du Nord-Ouest (FANO)
- 62 New Brunswick Hog Marketing Board
- 63 Secteur des services locaux, Saint-Joseph de Madawaska
- 64 Project d'Aménagement forestier, Paroisse St. Martin
- 65 New Brunswick Association of Planners
- 66 City of Moncton
- 67 New Brunswick Wildlife Federation Inc.
- 68 Mildred Shannon
- 69 The Association of Professional Engineers of New Brunswick
- 70 Washademoak Environmentalists
- 71 New Brunswick Mining Association
- 72 James A. Smith
- 73 Association of New Brunswick Land Surveyors
- 74 Forest Products Marketing Board
- 75 Brian Hicks
- 76 Fredericton Area Pollution Control Commission
- 77 Classe de Sciences de l'Environnement École Marie-Esther
- 78 Chaleur Regional Development Commission Inc.
- 79 George Peabody
- 80 Donald Bishop
- 81 John Moore
- 82 Community Futures
- 83 Village de Pointe-Verte
- 84 Village de Pacquetville
- 85 E.G.Allen
MLA - Fredericton North
- 86 USWA Local 5385
Brunswick Mining Division
- 87 Mr & Mrs. David Dunphy
- 88 Commission d'Aménagement Beaubasin
- 89 Ville de Tracadie-Sheila
- 90 Ray Doiron
- 91 Louis MacDonald
- 92 Anne-Marie Dupuis
- 93 Marilyn Powell
- 94 Janice Harvey, Director
The Bay of Fundy: A Case for Community Action
- 95 Hampton Area Environment Group
- 96 Ardeth Holmes
- 97 Gary Rayworth
- 98 Kings County Improvement Association
- 99 Paul McAllister
- 100 N.B. Women's Institute

- 101 City of Saint John
- 102 Mr. & Mrs. Allison Elliott
- 103 Provincial Planning Appeal Board
- 104 Mrs. James Ford
"Coppastona" Tree Farm
- 105 CADC - Kent - CFC
- 106 Kings Co. Improvement Association
- 107 New Brunswick Power Corporation
- 108 R.J. Fullerton
- 109 Advisory Committee
Local Service District of New Maryland
- 110 Sylvia Saunders
Windrush Farm
- 111 New Brunswick Department of Agriculture
- 112 Northumberland County Woodlot Owners and
Pulp Producers Association
- 113 N.B. Federation of Woodlot Owners
- 114 Kings Landing Historical Settlement
- 115 N.B. Federation of Agriculture and Woodlot
Owners



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