Provincial Paramountcy in Planning Decisions

	No Provincial Paramountcy	*Environmental matters under the Water*	*Environmental matters under the Water*	*Environmental matters under the Water*				*Greatest Provincial Paramountcy*	*Greatest Provincial Paramountcy*
MGA Reference	ss. 640(7), 642(5), 687(3)(a.4)	*Act/Environmental Protection and Enhancement Act*	Registration of Gravel Pits (Class I) on private lands (or other prescribed activities), including certain composting of manure)	Approval of Fertilizer Manufacturing Plant (or other prescribed activities, including certain composting of manure)	s. 620	s. 619	s.618(2.1)		ss. 618(1)(b) and (c)
Subject matter	Cannabis Retail	Water Licences			Roadside Development Approvals	NRCB, ERCB, AER, AEUB, and AUC approvals/licences/permits	NRCB Approvals for specified confined feeding operations and manure storage facilities	Development of Land leased or owned by a comprehensive academic and research university	Well, battery, or pipeline approvals
Legislation	*Gaming, Liquor, and Cannabis Act*	*Water Act ss. 49-65*	*Environmental Protection and Enhancement Act ss. 60-86*	*Environmental Protection and Enhancement Act ss. 60-86*	*Highways Development and Protection Act*	*Municipal Government Act*	*Agricultural Operations Practices Act*	*Post-Secondary Learning Act* s. 121(3)	*Municipal Government Act*
Scope or mandate of provincial body	The AGLCC Board may issue a cannabis licence if appropriate, the applicant is eligible, and requirements have been met (generally including issuance of a municipal development permit).[1]	The Director may (subject to a few exceptions) issue or refuse to issue a water license subject to terms and conditions it considered appropriate[2]	The Director may issue or refuse to issue an approval or registration, or issue and approval subject to the terms and conditions it considers appropriate with respect to a pit.[3]	The Director may issue or refuse to issue an approval or registration, or issue and approval subject to the terms and conditions it considers appropriate with respect to a fertilizer manufacturing plant.[4]	The Minister of Transportation may issue a roadside development permit on any terms and conditions or may cancel same. (with respect to controlled highways)[5] A roadside development permit is	The NRCB, ERCB, AER, AEUB, and AUC may issue licences, permits, and approvals etc. (municipalities may wish to participate in the proceedings before these boards. Examples: NRCB: recreational or tourism projects like the Town of Canmore three Sisters Development[7] ERCB: see AER[8] AER: Pipelines, wells, processing plants[9] AEUB: See AUC[10] AUC: power plant[11] (including wind farms or	In considering an application an approval officer must consider whether the application is consistent with the Municipal Development Plan land use provisions, and deny the application if not. [12]	A developer is not required to comply with land use bylaw, statutory plans or other regulations of a like nature under part 17 of the MGA and do not require approval from a municipal or other authority before a use or development	A well, battery, Pipeline, or an installation or structure incidental to the operation of a pipeline may be approved for land within a municipality with no municipal input or authorization.

[1] *Gaming, Liquor and Cannabis Act*, RSA 2000 c. G-1 ss. 90.02(1), 105(2)(a), (4), (5), **[Exhibit _____R Authorities, Tab 12]**
[2] *Water Act*, RSA 2000, c. W-3, s 51(1), (3) , **[Exhibit _____R Authorities, Tab 10]**
[3] *Environmental Protection and Enhancement Act*, RSA 2000 c E-12, ss 68(1)- (2); *Activities Designation Regulation*, Alta Reg 276/2003) s. 5(2).**[Exhibit _____R Authorities, Tab 11]**
[4] *Environmental Protection and Enhancement Act*, RSA 2000 c E-12, ss 68(1)- (2), *Activities Designation Regulation*, Alta Reg 276/2003) s. 5(2). **[Exhibit _____R Authorities, Tab 11]**
[5] *Highways Development and Protection Act*, SA 2004 c H-8.5, s 14. **[Exhibit _____R Authorities, Tab 13]**
[7] *Natural Resources Conservation Board Act*, RSA 2000 c N-3 s 4(b). **[Exhibit _____R Authorities, Tab 14]**

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Subject matter	Cannabis Retail	Water Licences			Roadside Development Approvals	NRCB, ERCB, AER, AEUB, and AUC approvals/licences/permits	NRCB Approvals for specified confined feeding operations and manure storage facilities	Development of Land leased or owned by a comprehensive academic and research university	Well, battery, or pipeline approvals
	Regulations sets minimum standards for cannabis retail in a land use bylaw, but these can be expressly varied in land use bylaw.				required to commence a development or display equipment or cause a development to be commenced within prescribed distances from a provincial highway. [6]	solar facilities) .	However, on a review of a decision the NRCB must only have regard to, but is not bound by the Municipal Development Plan.[13]	is commenced, if the development is meant to advance or support educational, research or ancillary needs. [14]	

[8] *Responsible Energy Development Act*, SA 2012, c R-17.3 ss 1(1)(p), 82. **[Exhibit _____R Authorities, Tab 15]**
[9] *Responsible Energy Development Act*, SA 2012, c R-17.3 s 2(2)(a). **[Exhibit _____R, Authorities, Tab 15]**
[10] *Alberta Utilities Commission Act*, SA 2007 c A-37.2 ss. 80, 83. **[Exhibit _____R, Authorities Tab 16]**
[11] *Alberta Utilities Commission Act*, SA 2007 c A-37.2 ss.9(3)(b), 17(1), 22(1). **[Exhibit _____R, Authorities Tab 16]**
[12] *Agricultural Operation Practices Act*, RSA 2000 c A-7 ss 20(1), 22(2). **[Exhibit _____R, Authorities Tab 8]**
[6] *Highways Development and Protection Regulation*, Alta Reg 326/2009 ss. 4-5. **[Exhibit _____R, Authorities Tab 13]**
[13] *Agricultural Operation Practices Act*, RSA 2000 c A-7 s 25(4)(g). **[Exhibit _____R, Authorities Tab 8]**
[14] *Post-Secondary Learning Act*, SA 2003, c P-18.5 s 121(3); *Land Use Regulation*, Alta Reg 54/2004 s 2. **[Exhibit _____R, Authorities Tab 17]**

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Impact on municipal planning authority	Once a municipal planning authority must has updated its land use bylaw, in accordance with the appropriate regulation to account for cannabis retailors, the municipal planning authority will control where such premises are located.	A municipal planning authority may wait for issuance of a water license by AEP in order to determine sufficiency respecting water, but is not obliged to.[15] If there is a conflict (impossibility of dual compliance) provincial requirement will prevail to extent of conflict.[16]	A municipal planning authority may want to wait for approval by AEP (to not duplicate work) respecting sufficiency but is not obliged to.[17] If there is a conflict (impossibility of dual compliance) provincial requirement will prevail to extent of conflict.[18]	A municipal planning authority may want to wait on approval of AEP, as to not duplicate work respecting environmental planning considerations. However, waiting on AEP approval is not a requirement. If there is a conflict (impossibility of dual compliance) provincial requirement will prevail to extent of conflict.[19]	A developer will still be required to acquire any approval, consent or other authorization that is required by a municipality.[20] However, any condition on a permit issued by the Minister will prevail over any condition of a development permit that conflicts with it (s. 620). If there is a conflict	A municipality planning authority can be forced to alter municipal legislation and issue development permit if application is consistent with provincial tribunal approval.	MGA s. 618(2.1): part 17 of the MGA and the regulations and bylaws thereunder respecting development permits do not apply to confined feeding operations or manure storage facilities within the meaning of the *Agricultural Operation Practices Act*, if subject to approval or	A municipal planning authority has no control over development that takes place on real property owned or leased by a comprehensive academic and research university developed to advance or support educational, research or ancillary needs.	A municipal planning authority has no control over where a well, battery, pipeline, or an installation or structure incidental to the operation of a pipeline may be located.

[15] See: *Patricia Hills Landowners Society v. Parkland (County) Subdivision & Development Appeal Board*, 2010 ABCA 413 at para 20 **[Exhibit _____R, Authorities Tab 22]**
[16] See: *114957 Canada Ltee (Spraytech) v Hudson (Town)*, 2001 SCC 40 at paras 39, 41 [TAB *]; see also: *Source Energy Services Canadian Logistics LP GP Ltd v Wembley (Town)*, 2020 ABCA 128 at para 33 **[Exhibit _____R, Authorities Tab 29]**
[17] See: *Patricia Hills Landowners Society v. Parkland (County) Subdivision & Development Appeal Board*, 2010 ABCA 413 at para 20 **[Exhibit _____R, Authorities Tab 22]**
[18] See: *114957 Canada Ltee (Spraytech) v Hudson (Town)*, 2001 SCC 40 at paras 39, 41 [TAB *]; see also: *Source Energy Services Canadian Logistics LP GP Ltd v Wembley (Town)*, 2020 ABCA 128 at para 33 **[Exhibit _____R, Authorities Tab 29]**
[19] See: *114957 Canada Ltee (Spraytech) v Hudson (Town)*, 2001 SCC 40 at paras 39, 41 [TAB *]; see also: *Source Energy Services Canadian Logistics LP GP Ltd v Wembley (Town)*, 2020 ABCA 128 at para 33 **[Exhibit _____R, Authorities Tab 29]**

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					(impossibility of dual compliance) provincial requirement will prevail to extent of conflict.[21]		registration under Part 2 of that Act. Therefore, no municipal development permits can be required; municipal planning framework is to be considered (see above)		

[20] *Highways Development and Protection Regulation*, Alta Reg 326/2009, s 2. **[Exhibit _____R, Authorities Tab 13]**

[21] See: *114957 Canada Ltee (Sp raytech) v Hudson (Town)*, 2001 SCC 40 at paras 39, 41 **[Exhibit _____R. Authorities Tab 29]**; see also: *Source Energy Services Canadian Logistics LP GP Ltd v Wembley (Town)*, 2020 ABCA 128 at para 33 **[Exhibit _____R, Authorities Tab 32]**