

**Natural Resources Board
Act 250 Necessary Updates
Steering Committee Meeting**

**August 24th 2:00 PM – 5:00 PM
Online Zoom Meeting**

Agenda

- 2:00 Welcome/Summary of Last Meeting
Upcoming plans and meetings
- 2:05 Stakeholder Focus Group Report from Steering Committee members
Attorney Focus Group (Geoff Hand)
Environmental Focus Group (Jon Groveman/Billy Coster)
Housing, Economic Development, EJ (Megan Sullivan/Kathy Beyer, Xusana Davis, Jay Greene)
Consultants (Brent Rakowski/Andy Rowe)
Working Lands Focus Group (Charlie Hancock)
Planners and Municipalities Focus Group (Peter Gregory/Chip Sawyer)
- 2:35 Overview of Location Based Jurisdiction
- 2:50 How should growth areas be determined
How should Act 250 be applied in growth areas
- 3:30 Natural Resources Areas
Overview of possible jurisdictional triggers (Jon Groveman)
- 3:50 Discussion on natural resources to protect (forest blocks, river corridors/riparian areas, high quality waterways, prime ag soil, elevation, wildlife habitat)
How would we define jurisdictional triggers
Are additional criteria needed to protect the resources
- 4:50 Questions/Next steps
- 5:00 Adjourn

A lot has been going on. We posted the meeting notes from last steering committee meetings on EMC and NRB website. Last week we met with stakeholders, 6-interest based focus groups, met earlier in the week with coordinators. Have a lot of new information out. There is a lot going on and a lot to keep track of. Meeting notes from focus groups, goal was to be posted this morning, but didn't make it up. Sent to stakeholders for feedback/comments and just couldn't get posted this morning. Goal will be to have them posted before Steering Committee (SC) meetings so all can see what stakeholder groups are talking about. Planning to have a rep from each focus group give brief report on that discussion and notion is that it can be 1-2minutes, at 5 min will be cut off. Can decide moving forward if having notes is accessible enough or if people want to hear the highlights. In general, goal for this meeting is focus on location-based jurisdiction and if time left at end, we'll have an introduction to Capability & Development plan. We set aside 20-minutes for a presentation about natural resource protections VNCR is seeking because facilitation thought it would be helpful to start developing specific proposals. Probably at next meeting might talk about industrial, commercial, and housing. People should feel free to say "I have a proposal I want to share" please let Matt know.

Stakeholder Focus Group Report from Steering Committee Members

Attorneys – good meeting, wide range of perspectives a lot of folks have decades of experience with Act 250, former Environmental Board member, former counsel; wide ranging conversation; strong consensus around the idea of looking a specific checklist that applicants/parties can use to determine when an application is complete, make that process clearer. Need for board to be more involved in rule making. One area came up, more rulemaking around noise criteria so that applicants/parties have clearer perspective. Should we have more concrete deadlines added in the process? Close to consensus on that deadlines piece, a little concern that they didn't want to hinder commission in issuing hearing recess orders, etc. Maybe an appeal process that skipped over commission, heard more consensus on this from people who represent parties.

Housing/economic development/environmental justice – some discussion about Environmental Court vs NRB approach, mixed reviews on that; concern about consistency among coordinators thought they maybe need more support and consistency for JOs. Experienced housing developer gets pulled into Act 250 frequently, he's very conscientious but has noticed smaller developers don't come in because they are under thresholds, and they might not be doing as good a job of respecting rules that are in place. We are hearing that Vermont is not friendly to businesses and job creation. Multiple back stories of permitting problems they've run into in their attempts to grow the business in VT, first round wasn't Act 250 but wetlands change, led them to begin expansion out of state. New building where it is now with Act 250 in place, it adds cost to expansion and when you are trying to attract companies of that caliber with high quality jobs. Question asked was what's the problem we are trying to solve, what are we doing here? If we are exempting, what should we exempt, is it an acknowledgment that Act 250 is overly burdensome, should it be about exempting or making process work for everyone or is it both? Our group should be thinking about this. Questions or comments around the fees, how much it is, how much it adds to projects in both housing and commercial and if you pay all those fees and then project is denied that's a hard pill to swallow. Can fees be held and returned? How do other states run their programs, is it fee based, or a service provided by general fund dollars. Opportunity for NIMBYism in allowing citizens to have a voice, one person can derail or minimize a project in an area that is needed/wanted.

Consultant/Engineers – incomplete letters varied by district and some guidelines in terms of what an incomplete application actual is. A checklist would be helpful for predictability and process; training for coordinators and how JOs are come up with. Suggestion in terms of NRB legal providing oversight in issuing JOs, all JOs would go through legal team; decision paralysis in terms of getting quick through system. Chairs beings full/part-time paid. Support for current model with commission as opposed to another model. Good comment made talking about designation and eliminate jurisdiction (fine detail) what happens to projects already subject to Act 250 in those areas, does it continue, go away? Had pretty good coverage across the state, some concern that while there needs to be uniformity in designated areas and Act 250 apply, also a concern with capacity of town to muster up resources to demonstrate they should be designated center. Also working lands and why they might not fall in those centers shouldn't be in a classification where growth would be inhibited (quarries, industrial parks); Act 250 redundant with ANR permit programs.

Planning/municipalities – consensus there should be areas exempt from Act 250 nearly as strong that areas that could be of potential significance that could be subject to further protections. Desire at municipal level some voices saying they'd like a chance to have an area that is recognized as growth to occur by state, and everyone wants piece of exemption. Need process to verify that local processes are dealing with state concerns that Act 250 deals with, whether RPC or state designate that. Many municipalities might not have capability to apply Act 250, it's not something every town will be able to take advantage of. Shouldn't assume that towns want more regulation of any section of their land. If can have a tier 2 to have some sort of relaxation of 10 criteria that are being done with other state processes that might be helpful. No consensus that all hearings on appeals should be de novo, should try on the record might be possible. Discussion of how folks want to talk about jurisdiction before governance, how you set up process should follow what it is and how it applies.

Environmental – a lot of discussion focused on complex major cases where the image of Act 250 made accessible to Vermonter falls apart, folks felt that parties that were intervening in major cases were overwhelmed as were commissions to handle those cases. Led to conversation of legal support for more complex cases. Taked about de novo v. on the record, some felt de novo was foolish, there's way to develop record in primary case that doesn't overly formalize; more capacity at commission, staff, and party level for the complicated cases. Jurisdiction topics, support exempting areas where we want to see growth, but that process needs to be robust, needs ability to appeal, based on good criteria. Some interest in expanding jurisdiction reducing elevation trigger and forest blocks. Emphasis was contradiction, commission process accessible but also complaints about complicated cases and seeing commission be overwhelmed. Near consensus about starting a hearing at a professional board and that would remedy inability of commission to deal with majors. Emphasize discussion around some sort of public support for citizens to get through the process, it's a complicated process, coordinators do a great job supporting everyone, but we've talked for years about some sort of model "office of public advocate" to help citizens through process.

Agriculture/working lands – wide ranging conversation, had some good ideas no real consensus points. Big takeaways that folks who work on farm/forest see Act 250 as not seeing how they work, and how they fit into rural economy, both physical impact and impact on rural economy. Location based topic, one question was that location based is a good thing but important to think about what's happening in those locations. A lot of consensus that people in both sectors have seen growth deterred by Act 250 process, but on the whole permitting process has been seen as opportunity lost, forest product sector, businesses

moving out of state because of Act 250 roadblock, perceived vs what's actual happening. Within permits and sectors discussion how agriculture and forestry treated differently, no truck load limit on silage but we do it for logs, why are we treating this product different than this one. Impact of facility and impact on ground as far as triggers go; acreage threshold when some of their businesses occur on large tracts of land, physical impact might be less than 1 acre, but property is many acres, convoluted to understand and how it applies to permitting process. Seems like larger projects have easier time to go through process, but smaller projects don't have that capacity. Farmers don't have time 9-5 to call state, they are working after normal business hours, no one to call. Is it Act 250 being the hurdle or the associated things with Act 250 process, how to reduce redundancy. Used to see coordinators issuing more advisory opinions, more preliminary, having businesses want to understand what they are getting into before committing to it. Upfront early supports would be better. Consensus was that all working lands businesses should be exempt from Act 250 but then had question about defining working lands businesses.

Coordinators – interest in location-based jurisdiction, see this as moving in good direction, but want to see plans and maps to better understand and define, sensitivity to the words “sensitive natural area” need detail on terminology. Emphasis on addressing rural sprawl and noting that as a practitioner see the need to have both jurisdictional triggers and the criteria; strong interest in looking at changing in elevation trigger and forest blocks/habitat connectivity. No consensus on the model that should be deployed.

Hope to provide something for next stakeholder group meeting, maybe an outline or group of questions to get specific feedback on. We'll see how that develops but that's the general vision. Thank you for your reports from interest based focus groups.

Overview on land based jurisdiction

- General comments on location based jurisdiction and tiers approach. Then turn over to survey. Trying to identify areas of general agreement and then get down into more detailed specifics, you've been asking for this.
- General agreement on designating areas for development in the Act 250 process
- How should they be determined and who should be approving these areas?
- Tiers concept – this came out of next 50 years report and act 182, Maryland has been using tiers (1&2 central sewer or planned central sewer want development there); liaison with smart growth America report said that in general this is the direction that study is going. What we have termed that is Tier 1, how many tier 1s should there be? Growth process, graduation process to be certified, should there be Act 250 exemptions, municipal delegation. On one hand seems to be general agreement development area have relaxed jurisdiction. On other extreme talked about the tier 3 (sensitive natural resource areas) where looking at protecting large forest blocks, ecological areas, high value waters in state. How are we going to map those, identify those, is there a role for Capability & Development plan as part of identifying those tiers. Area still up for grabs is Tier 2.
- VAPDA study identified 7 areas that looking at as kind of tiers approach.
 - o Rural: areas where low-intensity development may occur to support management of working landscapes (such as forestry or farming).

- Conservation: areas where development and human impacts on the land are generally avoided (such as forests or natural areas).
- Hamlet: small historic settlement areas that serve as focal points within rural areas (such as a crossroads with a general store and a few farmhouses). These may be represented as points since the geographies are typically very small.
- Village: somewhat larger and compactly settled historic centers denser than the surrounding countryside which provide a sense of place, community facilities, and some public infrastructure and could be used to support the current village designations.
- Urban: densely developed areas of regional significance that include a wide variety of residential, commercial, and civic spaces supported by public infrastructure. This area should incorporate the regional centers, state designations for growth, and existing settlement areas associated with them.
- Enterprise: areas of concentrated commercial and industrial activity or resource extraction (such as industrial parks and gravel pits).
- Resort/Recreational Economic Development: areas focused on an outdoor recreation that may include supporting residential and commercial uses (primarily ski resorts).”
- For tier 1 there seems to be some emerging comfort of exemption; for tier 3 there might be additional jurisdictional triggers, or lots/unit’s jurisdiction trigger; tier 2 is very much up in the air, issue of sprawl in tier 2.
- Let other processes define these growth areas and then plug into Act 250 jurisdiction.
- Continuing to run with the tier’s idea...
- Tier 1 – support desirable growth vs obstacles to desirable growth; some mechanisms already exist; how might these tier 1 communities be approached?
 - This is the way most folks have thought of this at 10,000ft level; devil is in details; a lot of simultaneous studies, designation study anticipating will lead to act 250 relaxation, HOME act designated areas are not a large portion of the state, might have to expand what could be designated. Pragmatically most folks think key to tier 1 is in designated areas program, not sure where conversation goes about who designated those areas, nexus of Act 250 looking at some sort of collaboration between state agency and RPC where a state law or rule comes up with new requirements of designated area and what benefits are, may/may not include exemption, role for RPC’s to sort of bless these areas, because they have some of the best insights into municipal capability and can provide guidance on that
 - Have a designation program that’s been in place for a while and is trusted Neighborhood Development Area (NDA) trending towards. It would be more than the current list of designated downtowns, growth centers; might get larger and expand over time, important what entity will be authorizing whether it’s approved.
 - Question of exemptions and what exactly we are exempting and how to tease out. Certain areas make sense, can see in NDA served by sewer/water, 25-unit apartment structure make sense rigorous; but if someone wanted to build pellet manufacturing in the same spot, might not be exempt. If someone wants to be 25-unit in rural community should go in Act 250 but pellet in designated area should be exempt. Exempts per the districts versus a blanket exemption.

- If we do a good job with expanded designated areas than any development there wouldn't need to go through Act 250, not just housing. If in that designated area you still go through zoning but wouldn't go through Act 250
 - If Walmart in Rutland being proposed right in downtown area, we are ok with that?
 - Yes, in real world did support this.
 - Doesn't matter if Walmart or pellet, did planning up front, designated area went through process of quality of zoning and capability of municipalities, idea is not to duplicate process.
- If we do it right and have a process for exempting, we should do that.
- Planning process where if a community has good zoning adequate board, maybe as part of planning process start looking at Act 250 criteria and start chipping away at them. Building exemption list, different levels of tier 1 to have exemption.
- Are we talking about complete exemptions if in approved designated area?
 - Don't disagree with it but wonder on how to expand exemptions in other areas based on use. In tier 1 areas you hit the mark, everything is exempt. In some of the other areas is it's more nuanced in terms of does use come into play, use of development that would trigger exemption.
 - Coordinators don't support blanket exemption in tier 1. Kind of agree with idea of getting into the weeds with the planning to make sure you don't create gaps and incompatible uses.
 - Specific hesitation on blanket?
 - Looking to ensure that full breath of criteria are considered, see that we have a structure that works and there is a provision of the municipalities to administer a portion of criteria or remain at lower jurisdictional threshold even with DRB, very few municipalities have taken advantage of existing provisions within Act 250 which leads to conclude that municipalities aren't interested in this role; structure is in place and commission can continue to administer. Want to see maps to better understand what talking about in terms of location based jurisdiction. Hard to get behind considering in isolation without more detail of sum total.
 - Interesting point not seeing municipalities availing themselves of existing exemptions. We have municipal education program (ideal VT) and heard from many selectboards and town managers that are at the leadership level that they have trouble with participating in state level initiatives because they are minimally paid volunteers who are in elected positions but have to work second or third job to accomplish both municipal duties and living in society. Would be concerned that maybe there's a reason municipalities might not be able to avail themselves of some of the existing exemptions from lack of capacity. Having trouble getting participation in twice quarter lecture series. Want to point out that concept around equity means supporting people to level playing field, outcomes being equal even if we need to give certain people/groups more support to get equal outcomes. How can we make sure small rural communities not left out of exemption

process and other opportunities for smart growth designation that might be able to access

- NDA criteria -
https://outside.vermont.gov/agency/ACCD/ACCD_Web_Docs/CD/CPR/State-Designation-Programs/CPR-NDA-Application-Guidelines.pdf

How should Act 250 be applied in growth areas

- Tier 1: Areas for Growth Accommodation/Support
 - 1. Full exemption from Act 250 jurisdiction -designated centers
 - 2. Full exemption from Act 250 due to permanent zoning and subdivision bylaws supported by municipal plan and review by RPC
 - 3. Full exemption from Act 250 due to permanent zoning and subdivision bylaws support by municipal plan and review by a state agency
 - 4. Presumption of Local Authority Delegation for permanent zoning and subdivision bylaws except for projects of greater than local impact (act 250 review determines “major project” status under current procedures)
 - 5. Partial Exemption from Act 250 jurisdiction based on triggers: Continue the 25-unit exemption in the designated areas
 - 6. Partial Exemption from Act 250 based on triggers: Extend the 25-unit exemption to more localities based on some additional designation basis
 - 7. Partial Exemption: no prime ag soils criterion/mitigation requirement IF in an area designated for growth
- Might be type of development that still requires act 250, not housing, commercial, but something like a tesla factory or land fill that might still need a regional review.
- Really advocate for full exemption that regardless of how good a process is and how well it’s supported and how well staffed, there is benefit in development community to remove a process from the list in what you have to go through. But if we can provide an exemption by ensuring that the concerns Act 250 addresses are being served by a local process that development have to go through anyway, a lot of benefit to that
 - Old conversation of Act 250, was it really developed because of projects folks thought had a regional impact that couldn’t be adequately addressed by local, is there a type of project regionally that could have impact on the entire county that local zoning couldn’t deal with.
 - Exemption is different from delegation.
 - Don’t support delegation, we need consistent; if Act 250 has jurisdiction that needs to be done with consistent framework like we have with commission and NRB. Combination of exemption but not delegations
 - Points 1-3 (above) support; difference between 2 and 3 review by RPC and state agency, need a little more information on review by state agency, what does that look like, who reviews it, criteria reviewing against, more information on how it plays out. Is the review as specifically to Act 250 criteria and jurisdiction of where state comes back with a bunch of revisions not applicable, what’s the value add
 - “permanent” zoning by laws raises red flag in terms of they are only permanent until voters vote to change them. Permanent v. interim

- Everyone has said they support outright exemptions from Act 250 provided designation process is robust and done by the right people; not sure we need to keep hashing this out

Natural Resources Areas

Overview of possible jurisdictional triggers

- H.926 with regard to forest blocks, spent a lot of time coming up with definitions of terms connecting habitat, forest block, fragmentation, habitat. After a lot of debate didn't use "forest block" definition for jurisdiction but use forest block criteria
- Bringing back version of road rule; idea was that because there was concern that the ANR maps of forest blocks that were considered to be significant or important could be up to 70% of land in Vermont and people were reticent to have that large of an area be under Act 250;
- Road rule means can design project to avoid it, have 1,999ft of roads and driveways, not going as far in, keeping development tighter and not going into forested areas, seen as potential having incentive and not having impact in forest blocks.
- Q – fragmentation definition, talk about change of use of building or structure, what does that mean? – idea is that change use of building or structure based on intensity of human use, wildlife won't go near, more related to that than forest ecological impact
- Identify forests and try to preserve them, was this a political compromise as best path forward of what could be accomplished that legislative session; once we are able to identify these forests.
 - o Yes, political compromise
 - o Requires ANR to update and develop resource conservation maps, maps don't automatically appear and accepted as being accurate and people being comfortable using in regulatory effort right way, road rule was interim step; there are impacts occurring right now and didn't want to wait, could be long process before ANR maps are updated and accepted; in mean time could have road rule to bring in more development and have forest criteria. Forest criteria wouldn't go into effect until ANR adopted rule that fully fleshed out to avoid, minimize, and mitigate impacts to forest blocks. NRB rule in h.926 developed in consultation with ANR to flush out rule/policy and would allow for public comment, stakeholder meetings, response to comments, hope was we would end up with rule people are comfortable with and that's when criteria would kick in
 - o Take issue with legislative intent – charge is how location based jurisdiction, that implies to what extent, what degree, what's a practical means to get to some location jurisdiction, proposing ways to get there and consensus. Very few people will agree maps trigger Act 250 statewide; goal is to be successful that's why we are starting here
 - Twostep process? Road rule would be step 1 and step 2 would be something bigger or different.
 - No, it's a location + impact based trigger if resource present and level of impact posed for significant impact to resource then Act 250 can regulate it
 - This is scientists were looking for, no one suggesting Act250 would be triggered with forest block...hard to hear.
 - o Connecting habitat piece, not sure understand triggers and jurisdiction, language/relevance and how that plays in, definition feels very broad, what's intended?

- Part of the criteria (h.926) undue impact on definition
 - 3 years ago, so details on how we landed are fuzzy, rulemaking would flush it out, valid to say that if we are going to have a bill, we should be more specific, but the idea is that it would be part of review
 - So not a triggering component
 - Would be different standards...hard to hear.
- In order to protect forest block and important habitat connectivity you need both jurisdictional trigger and criteria, so having this added criterion is great for projects that come under Act 250 review and jurisdiction, but current triggers exiting should have review
 - That's where road rule came in, the way written could have 2 lot subdivision with long road going to it, research shows that lots of 2-3 lot subdivisions in the middle of forest blocks that really effect ecological function of block; by discouraging long roads would have less of that impact and if someone wanted to do that they'd have to go into Act 250, even for small subdivision. Debate on floor was about 1 house being reviewed if they fell under jurisdiction.
- Elevational triggers, prime ag soils
- River corridors, riparian areas, wetlands, still don't have state program regulating river corridors and larger tributaries there isn't any state review.
- High quality waters under water quality standards have a different level of ecological integrity, need to be managed to stay at class A. ANR is required by clean water act that any waters that qualify should be designated and managed as such, hasn't happened over the years, have proposals to start designated A1 and B1. In law limit on waste water systems in class A waters, sort of in place for same reason Act 250 in 2500 ft; it's a hard cap of waste water system of 1000gal per day in class A; if we don't have some to review development that cumulative impervious surfaces, high quality waters
- Q – not worried about high quality waters over 2500 because already in Act 250; so then watershed, how broadly is that interpreted, ANR suggested term, would have to map the watershed areas around high quality waters, circle that would go out from them, watershed preferred to adjacent, proximate, watershed is the term that's used by ANR; if going to do this we should map them
- Q – did this bill get killed in senate committee?
 - Yes – It did not pass the senate; not sure how it went down; it did pass the house
- Q – how to define this area where such additional protections would need to apply?
 - Great, would love to see something like this get through after seeing this for 6-8years trying to get it through; any more thought about how would apply to forestry silviculture activities?
 - Issue we've talked about in terms of forestry impact might be through anti-degradation rule that ANR would adopt. In that rule, how to ensure that farming and logging is not degrading waters as the waters get designated; this discussion is about managing all development and what kind of review it gets. Not looking at logging; it's really residential development, not commercial development, in high quality areas
 - We've got AMPs we've got RAPs, if it's separate, great

- Been discussed for a long time and coordinators support getting something in place to protect forest blocks and habitat connectivity. Whatever we can do to get us there; if this is already a bit of a compromise, then we should look at in addition...A phased tier...hard to hear, would support looking at that as well
- Want to bring comment from stakeholder to SC, said when talking about forest blocks need to remember most forest blocks are privately owned lands so considering rights of private land owners needs to be part of conversation; will follow up to see what they think is necessary for this
- Idea that development has to happen in a certain way, go through Act 250, that adds cost and so we are really saying housing that's developed in this area will be more expensive for people. Who can afford it? When look at national history in how land use has been used to exclude others really systematically, if we are going to be saying there will be additional cost and regulatory hurdles, how are we doing it in a way that isn't creating exclusive place for people to own a home; how is the fee structure working?
- Appreciate calling that out; need to be careful about this; housing crisis is related to lack of affordable housing and we really need to be considering how these changes will affect cost of housing; wouldn't it be amazing if we restructured it into a state funded program instead of making developers pay for NRB to exist, seems like we are passing cost of governance on to eventual homeowners;
- Point out the intent is not to exclude, in a housing crisis, want to create housing for people; forest blocks are far away from existing main road and existing settlements, I think that the question is do we want to create housing/affordable dense housing ; saw a ton of mudslides with recent flood, developing in scattered way it has downstream impacts, in tiered system that's the idea, create dense affordable places for people to live and for us to grow, looking at critical resources development can occur, but it's not where we'll have densest development. If went with road rule approach you could avoid Act 250, if you build near road and not miles into forest you would avoid Act 250, then you can have more dense housing near road that would be more affordable
- Good concerns to flag, agree; pushing back on political compromise as something that's bad because it's responsive to a range of perspectives; people need to be able to grow and live in Vermont in areas that don't have sensitive natural resource impacts, no need for Act 250 jurisdiction in forest blocks; it's balancing a range of public policy and...hard to hear
- No one is building affordable housing in these areas; they are people moving here with lots of money and building massive homes; it's not people who live here currently or looking for affordable housing, nature of where building it they are making it unaffordable; road rule would still allow development.
- Q – keep hearing need clear jurisdictional boundaries; don't want to make it impossible for coordinators to determine jurisdiction; wondering about the elevation and how that protects large forest tracts, roughly 3% of state is over 2500ft, 2000ft would add roughly 8%, 1500ft would add 25%; is that a compromise that might be worthy of consideration? Capture large forest tracts for wildlife and forests themselves or is that not the case?

- To what end. Incremental development at edge of 2000acre forest won't have significant impact. So, no matter what sort of location trigger you use it needs to be paired with an impact trigger to be logical
- Elevation is a good context but if we use elevational triggers we'll protect a lot of rock and ice; a lot of ecological protections occur at lower elevations, so it's not a flat elevation trigger
- Clarify when talking about equity and history of inclusion part of conversation that someone who is moving here taking a VP job somewhere, who doesn't have generational wealth because of system racism in our system, they still need somewhere to live; how are we insuring that those costs of developing are equitable so that people can access them, not saying certain people can live up here and everyone else has to live downtown
- Big part of cost is cost of the land itself, if looking at incremental added cost of going through Act 250 its part of a much larger equation of construction and cost of land, see people building big homes with big driveways and it's all the added infrastructure cost that is also expensive; 2015 forest block study ANR
- Q – one participant mentioned not seeking advisory opinions anymore; many years ago attorneys would generate advisory opinions, or possibly more recently, commonly available project review sheet documents, is that maybe what they were referring to? Project review sheet still available, it's a document generated by state of Vermont, but now it's an online portal
 - Used to be a little bit more of an opportunity for back and forth with district advisor of that same content, provided more substantial conversation to understand fully what was going on
 - Availability of permit specialist and including the project review sheet
 - This is back on governance so will circle back to this.
- The roll of the permit specialist and time to advise applicants is an important part of governance. These issues have come up several times and seems important. In the discussion kicked off today with previous legislation, it sounds like performance based policy and has to do with how to judge the impacts of a proposal. Act 250 has had that for more than 50 years. It would be good if done right.

Additional Jurisdiction Triggers

- The straw poll is directed at elements of Tier 3. Doesn't include some provisions in a proposal made by a member today. There are six questions. Some of the discussion we had already may have superseded some of these items.
 - 1. Act 250 Jurisdiction Triggered for projects in some types of un-fragmented forest blocks
 - 2. Act 250 jurisdiction triggered for projects in other mapped resource areas such as high quality waters
 - 3. Change the 2500ft. elevation trigger to a lower altitude (to be debated, like everything else here)

- 4. Change the 5-5-5 rule in some resource areas to trigger for smaller threshold, as discussed by some e.g. 3-5-8, Avoid work-around avoidance in scattered small subdivisions across the landscape
- 5. Reinstate a “road rule” but more effectively prevent forest block fragmentation without avoidance behavior like 799-foot roads

As a result of the straw poll, we can see the following:

- Still interest in jurisdictional trigger for forest blocks.
- Still interest but less concurrence on protection of high quality watercourses.
- Lowering the elevation trigger has some interest and some differences. This bears more discussion.
- Some interest in changing the 5-5-5 rule in some resource areas to trigger for a smaller threshold. Will keep this on the discussion agenda.
- Concurrence on reinstating the road rule.

We’ve had a lot of good feedback today. We want to hear from the committee on what information would be helpful to see so we can move forward with jurisdiction topics, or do feel like you have enough information as-is?

- I’m curious to know where EPA regulations overlap with Act 250 and if there are duplications or redundancies. I’m assuming that ANR regulations are based off EPA regulations. It might be helpful to have a summary of what the EPA regulates and what is ANR already doing to address the sensitive natural resource concerns.
 - Vermont is a EPA delegated state for the Clean Water Act.
- I can quickly do a high-level summary now. As far as air and water quality are concerned Vermont is regulated through the State and EPA regulations. Where there are gaps that Act 250 uniquely covers are wildlife habitat, significant natural communities, flood plain and river corridors. Some municipalities may have their own regulations.
- I see an openness to add jurisdiction or criteria but only if it’s not redundant to existing protections, and to potentially remove some things that are redundant with other protections. We can provide a summary and it might be helpful for some members to help with that summary.
- NRB is a good resource. In the NRB Rule they establish that certain ANR permits provide a presumption of compliance under certain Act 250 Criteria. There is an existing mechanism where some ANR permits are used to satisfy Act 250 criteria.
- If we increase jurisdiction and look at other areas, then we have to ask is there pre-existing protection.
 - I think you may be confusing the criteria with jurisdiction.
- The list of presumptive permits in NRB Rule is not completely current and it doesn’t align with the current ANR permits.
- Under forest block expansion, I’m not sure whether all the criteria should apply. There may be unique and different impacts in those areas. Makes sense in designated areas to do a clean exemption. But it is odd for projects in forest blocks to cover a criteria like traffic but focus more on wildlife and natural resources protections. Interested in other thoughts.

- As we talked about forest blocks, in a proposal from a few years ago ANR talked about creating a wildlife permit. If you had a forest criteria and triggered Act 250, then you'd go to ANR and get a wildlife permit to address how to avoid, minimize, mitigate in habitat areas. If pulling in small projects then maybe you just need an ANR permit, but if a larger project like a subdivision maybe you would want to go through all the Act 250 criteria. Also, that would give ANR some fees because they are not sufficiently compensated for their review.
 - o It would be great if you would share a paragraph on that proposal, so we can discuss further.

Capability and Development Plan Introduction

- Now let's pivot to the Capability and Development Plan introduction. We sent out a brief before this meeting and we will go through a short overview now. Act 250 was supposed to be 1 of 3 legs. The 2nd leg was supposed to be the Capability and Development Plan which was drafted and was mainly a set of very general maps to identify a range of natural resources and settlement areas. In the 70s the maps were distributed, and citizens were upset and the legislature barred the use of the maps in any Act 250 decision making. As a result, the State Land Use Plan (the 3rd leg) never rolled out. So the Capability and Development Plan has never been used in the Act 250 process.
- The legislative directive for this study asks us to revisit the Capability and Development Plan. Should the Capability and Development Plan be revised given new GIS mapping? How should the Regional Plans, local plans and the Capability and Development Plan interact? Should the Capability and Development Plan be constituted? If so, how and by who?
- How do you envision the Capability and Development Plan be integrated into location-based jurisdiction?
- Could it help to define Tier 1 or Tier 3 areas? ANR has already developed a lot of maps like conservation by design and biofinder. Some of these maps already exist. It's a question of the level of detail, producing and maintain the maps and how they could or should be used.
- The planning community is working on the Planning study and that allows for bottom-up identification and classification of services areas.
- From my experience in working in Vermont, using the regional land use maps [inaudible]. The Statewide map would be marginal.
- Mapping has come a long way since the 70s. The regional and local planning have come a long way. We have incredibly helpful resources, but they can cause a lot of legal confusion. Instead of taking a small bite out of an apple, it feels like we're picking a lot of apples and making a complicated pie. I appreciate the perspective, but this will take a long time and I'm skeptical that it would happen within the confines of this study.
- I partially agree, partially disagree. RPCs are the core of the mapping that will be helpful, especially at identifying Tier 1 areas because RPCs are looking at where they see future for growth. There is value in having mapping pulled into a State land use map. It would be helpful to bring folks from the Planning study to see how their work could be integrated. Then we could debate how to use it.
- Mapping could be done from a regional scale in a consistent manner. The Planning folks seems willing to dig in and they want consistent mapping statewide.

- If looking at regional plans with respect to Tier 3. How would those regional plans align with the conservation by design and biofinder in terms of resources identified. Are they informed by this or mis-aligned. Some of these features are State scale in my mind. I imagine that the mapping from ANR would be helpful.
- Presence of resource that's mapped vs. directs what sort of land use activity that can occur in an area are two different things. We rely on maps that define specific natural resources, but that's different than a map that say only this type of development is allowed in this area – and that's what the Capability and Development Plan does.

Next steps

- This has been helpful and given clear direction in a number of concepts. Before the Focus Group meetings next week, we will send out some reading material. At the next Steering Committee meeting we will focus on jurisdiction in Tier 2 areas (the part of the state that's not in a growth area or natural resource area) and talk more about the Capability and Development Plan. We may invite someone from the Planning folks. Any final questions?
 - o There were some requests for information during this meeting. It would be helpful if those requests could be summarized and sent out by email.
- Thank you all again.