



HOW CAN REGULATIONS CREATE BETTER FINANCIAL INCENTIVES FOR STEWARDSHIP OF ALBERTA'S LAND AND NATURAL RESOURCES?

THE IMPLEMENTATION OF MARKET-BASED CONSERVATION TOOLS UNDER THE *ALBERTA LAND STEWARDSHIP ACT*: A REVIEW

INTRODUCTION

The Alberta Land Institute's report, "The Implementation of Market-Based Conservation Tools Under the Alberta Land Stewardship Act" tracks the progress of implementing market-based instruments (MBIs) for conserving Alberta's land since the adoption of Alberta's Land Use Framework and the 2009 *Alberta Land Stewardship Act* (ALSA). The authors found support for MBIs not only in the scientific literature, but also among stakeholders—such as municipalities, landowners, conservation organizations, and developers—who have taken steps to explore how MBIs could work for them. However, much more must still be done at the provincial level in order to realize the full economic and conservation potential of MBIs.

What are MBIs and why are they important to fair and responsible land stewardship?

Market-based instruments are policies that use financial incentives to nudge landowners and other stakeholders to make environmentally responsible decisions.

MBIs are used successfully in many jurisdictions to encourage sustainable development, protect wetlands and other natural ecosystems, and reduce pollution. MBIs often work in tandem with government regulations and can promote fair outcomes while supporting the economy.

By implementing MBIs, governments can support stakeholders to develop and use land more sustainably without imposing unfair financial burdens.

What does ALSA say about MBIs?

The passage of ALSA gave legal effect to the provincial Land Use Framework (2008) which recommended multiple actions to pursue "smart growth" in the face of increasingly complex pressures around land-use in Alberta.

One of those actions was the development of MBIs. This is further described in part 3 of ALSA where it specifically names three instruments: conservation easements, conservation offsets, and transfer of development credit schemes. However, the regulations necessary to enable MBIs under ALSA have not been promulgated for the most part.

THE APPROACH

The authors of this report reviewed academic and grey literature on conservation easements, conservation offsets, and transfer of developments credit systems both inside and outside of Alberta. They conducted interviews with key players in the development and implementation of the Land Use Framework and ALSA. Additionally, the authors drew from personal experiences in government consultation processes on MBIs.

THE MBI LANDSCAPE

1 Conservation Easements (CEs)

 **VERDICT: Mostly on track**

CEs are legal tools that allow landowners to conserve their lands by ceding certain landowner rights through a negotiated contract to a qualified organization such as a charity or nonprofit. They can be used to advance four specified uses: recreational use, open space use, environmental education, and research and scientific studies of natural ecosystems. Conservation objectives can range from goals such as controlling invasive species to protecting grazing land from building development. The qualified organization essentially "retires" those ceded rights on the land for the present owner and future owners. The value of a CE is calculated by determining the difference between the valuation of land before and after a CE is applied, compensated by charitable tax receipt and/or cash.

Much progress has been made on CEs but they face some maintenance concerns such as preventing potential fraud, managing multiple rights holder situations, and ensuring the sustainability of qualified organizations.

CEs are a well-established and understood tool for land conservation in Alberta. However, they were not designed to provide fair market value that captures the full costs and benefits of conservation. What they can provide are perpetual, stable, and enforceable conservation outcomes and could be used to protect the conservation outcomes of other MBIs such as conservation offsets and transfer of development credit schemes.

2 Conservation Offsets

 **VERDICT: Not on track**

Conservation offsetting is a means of compensating for the environmentally negative impacts of development that cannot be mitigated by all other reasonable means. Offsets exist as a last resort when all other options to avoid, minimize, or restore land impacted by development have been exhausted.

The gold standards of offsetting are "no net loss" or "net gain." No net loss seeks to completely offset an impact while net gain seeks to positively advance conservation goals by requiring greater conservation outcomes than the assessed impacts. A robust offset program would ideally aim for "net gain."

A handful of pilots and initiatives have been launched to explore how offsetting would operate in the Alberta context. One notable example of development in offset policy is the 2013 Alberta Wetland Policy. It requires "wetland replacement" (in effect, offsetting) in cases where development has exhausted all other options for avoiding or minimizing impacts. Unfortunately, the policy does not follow "no net loss" or "net gain" principles. It allows developers to undertake non-restorative replacement activities (i.e. monetary compensation and a physical loss of wetland area). Despite those shortcomings, the Alberta Wetland Policy provides a first step in envisioning how offsetting could work in the province.

Conservation offsets are broadly supported by ALSA but lack clear definitions or goals. This has left the implementation of offsets in limbo as no regulations or policies have been released at the provincial level over the past decade. In order to bring conservation offsets back on track, further guidance is needed from provincial authorities to establish a minimum standard and goals for offsets.

3 Transfer of Development Credits (TDCs)

VERDICT: Some progress made

TDCs reallocate development from areas of greater preservation value to areas of lesser preservation value. It creates a credit system that allows developers to purchase credits for their projects from landowners with land parcels of special conservation interest as determined by the TDC program. When the credits are applied, the developer is allowed to increase their project's built density. TDCs attempts to strike a balance that allows for greater development activity and robust conservation at a relatively fair market price. A number of Albertan municipalities have expressed interest by implementing their own TDC programs through their Municipal Development Plans. Uptake has lagged for a number of reasons.

One significant reason is a lack of provincial support for municipalities. The last attempt at promulgating regulation was abandoned in 2011. Since then no resources have been made available to municipalities and legislative requirement for cabinet approval for TDC programs has stifled interest. This has created a dearth of successful examples for municipalities to follow. A lack of successful TDC programs contributes to a lack of awareness and misconceptions about the complexity and time/resource commitments needed to design and implement municipal TDC programs.

It is important to note that it is not too late to turn the ship around and that the flaws in TDCs are reparable with modest inputs of resources.

NEXT STEPS

There has been inconsistent and patchy progress on MBIs over the past 25 years for a variety of reasons including changing leadership, challenges coordinating across different levels of government, and shifting economic priorities.

Focused attention from the provincial government is key to bringing MBIs back on track. Building support and momentum from the cabinet and the civil service are key to accomplishing this.

While interest has waned in MBIs at the provincial level, other stakeholders—including municipalities, landowners and conservation organizations—are still interested and ready to work on MBIs. Should the provincial government decide to revisit these issues in the future, it has a solid foundation of knowledge and support to work from.

The Implementation of Market-Based Conservation Tools Under the *Alberta Land Stewardship Act*: A Review was completed in 2022.

Backgrounder V.01

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Alberta Land Institute

The Alberta Land Institute (ALI) is an independent research institute based at the University of Alberta. We promote research that supports and enhances land use decision-making in Alberta and beyond. By working with ALI is committed to contributing an objective foundation for thoughtful land use policy by focusing on the changing landscape and the ways that planning and policy design can ensure the long-term sustainability of Alberta's agricultural sector, its water and its natural areas.

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