

Summary of Discussions by the Planning and Municipal Focus Group, Act 250/NRB
Study, August 17, 2023.

Prepared by Jack Kartez, EMC facilitation team

The group reviewed the questions in the focus group summary of Steering Committee discussions and background brief to date on the governance and location-based jurisdiction topics.

Steering Committee members Chip Sawyer and Peter Gregory added their overview of the sense of the discussions to date in addition to the possible shared goals in the summary report: Consistency in Act 250 decisions a strong concern but no consensus yet on what to do ; Some consensus that NRB needs stronger organization, much discussion of appeals and where should be heard but not consensus. Changes have to work across different communities in VT; Has to complement a strong regional and local planning role. Also, there was some pushback on de novo hearings on appeals as expensive and exclusionary.

Very brief further discussion of Governance topic noted that governance structure needs to depend on clarified definition of what Act 250's purpose should be in the future; that consistency and avoidance of bias needs to be an objective for the District Commission structure.

Rest of discussion then moved to Jurisdiction topic.

The questions on Jurisdiction posed in the summary report and the concept of three tiers as a framework or idea for location-based jurisdiction were all discussed in detail. It was noted that although planning in VT still has limitations, the tier concept has potential as an approach. But improved maps and data resulting from the VAPDA project and action will be needed to support strong regional and local planning.

Noted that regulations only prevent not incentivize development in places where development should be located and noted irony that removing Act 250 jurisdiction from certain areas as an incentive is ironic. Act 250 should not be a disincentive to desirable development. Discussion of ideas for municipal delegation of regulation from Act 250, drawing lesson from recent energy planning provisions with the PUC and Act 174—question of who would oversee delegation decision review with multiple options: a resourced NRB, the RPCs, etc.

Discussion of relaxing/exempting from Act 250 review in certain communities:
Discussion of urban growth areas/boundaries as concept for growth areas; Tier 1 could maybe serve that role; the designated areas/centers program does not encompass all the communities with developing and permanent bylaws and

planning, so this needs to be looked at holistically. The designation program was in part actually a work-around to deal with Act 250.

The following emerged as some objects of developing consensus, noting some differences that exist as well:

1. Strong interest in Act 250 exemption in areas/centers/communities where development is desirable and local jurisdiction/planning adequate. But a tier system may be too complicated for legislation—possibly just changing provisions (criteria, triggers) best. Regional planning has a role in the designation program—could be a basis for exempted/streamlined areas. Undecided.
2. Local planning and Chapter 117 needs strengthening—need that to do any of these changes—too much goes on under Act 250 because of this.
3. Support for tiers idea but needs tailoring to VT. Tiers concept could allow for calibrating to local conditions, where planning/bylaws equivalent. May need to be a Tier 1B for localities working toward that status—areas not fully ready for exemption/streamlining. Already some criteria in the designated centers statutes that address readiness.
4. Act 250 important to protecting natural resources/environment in a Tier 3. Better maps will be a vital part. Act 174 defines some useful constraints as part of giving deference to certain energy projects. Opinions vary on whether/who would make any review like PUC now makes for energy projects.