

**BOARD ORDER:** MGB 019/17

**FILE:** 16/IMD-001

**IN THE MATTER OF THE** *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

**AND IN THE MATTER OF AN INTERMUNICIPAL DISPUTE** lodged by City of Chestermere against Rocky View County Bylaw C-7468-2015 (Conrich Area Structure Plan)

**CITATION:** City of Chestermere v Rocky View County re C-7468-2015 Conrich Area Structure Plan, 2017 ABMGB 19

**BEFORE:**

Members:

D. Thomas, Presiding Officer

T. Golden

B. Horrocks

Case Managers:

C. Miller Reade

R. Duncan

This is a dispute filed with the Municipal Government Board (MGB) after the adoption of Bylaw C-7468-2015 by Rocky View County (Rocky View). The City of Chestermere (Chestermere) has filed a dispute under Section 690 of the *Act* claiming that portions of the Bylaw has or may have a detrimental effect on it. Upon notice being given to the interested parties, a hearing was held in the City of Calgary, in the Province of Alberta, from September 13 to September 23, 2016. Closing summaries were submitted following the hearing, and the hearing was closed April 19, 2017.

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[1] Chestermere filed this appeal because it believed that the Conrich ASP will impact the long term growth and development of the City. Since City of Calgary and Rocky View County reached an agreement after mediation on three areas of detriment that were in common between the appeals, Chestermere argued, that these three areas (transportation, stormwater and the Highway 1 Gateway) should be treated as general detriment.

[2] At the hearing, the bulk of Chestermere's arguments requested that the board find specific detriment in the areas of economic development, planning and social infrastructure. Chestermere argued that the ASP would draw commercial and industrial development into Rocky View and would result in a shortfall in tax revenue for Chestermere. With development choosing to go into Rocky View, there would not be the opportunity for Chestermere to become a sustainable community. Rocky View advised that Conrich ASP is intended to serve as an overall outline for development of the lands uses surrounding the CN Intermodal Terminal, to reduce land use conflicts. The Conrich ASP phases development such that the lands adjacent to Chestermere are designated for Phase 2.

[3] Secondly, Chestermere stated that the social infrastructure needed to support the amount and type of development in the Conrich ASP has not been addressed in the plan. In particular, there are no proper population projections in the Conrich ASP, and the introduction of 5,000 to 10,000 people into the area will place a strain upon a number of services in Chestermere including library, recreation, community services, and emergency services including fire, policing and emergency response services. A social plan is needed to fully understand the impacts of the Conrich ASP. Until a social plan is prepared, or all of the issues relating to social infrastructure are resolved, the ASP is premature. In response, Rocky View noted that there are numerous agreements and plans in place which address all of the issues raised by Chestermere, and these will be amended as needed. As well, much of the residential development in the Conrich ASP will occur in later phases of the plan, allowing for additional population projections to be generated, and plans adjusted with any statutory plans or outline plans adopted in the area conforming to the Conrich ASP.

[4] Finally, Chestermere requested different wording to various provisions of the Conrich ASP, and the application of Growth Management Overlay (GMO) for the Highway 1 Gateway area in place until an IDP, a regional stormwater management system was chosen and constructed, and several plans such as the regional transportation plan be in place. This remedy was requested to resolve Chestermere's concerns about the potential for lack of coordination of plans and for ad hoc development that harms Chestermere and prevents it from becoming a complete community, and moving towards a sustainable assessment split. In response, Rocky View outlined the various plans, reports, consultations and communication about the intention to develop Conrich as a full service hamlet. Despite not having an IDP with Chestermere, Rocky View has intermunicipal



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planning policies in its MDP, policies for coordination in the Conrich ASP, and an intermunicipal committee to discuss matters in Chestermere.

[5] The MGB determined that there is no detriment to Chestermere. The Conrich ASP is consistent with the Rocky View MDP which contains intermunicipal planning policies for Chestermere and Rocky View to work together to address coordination of plans. The MGB observes that there were many instances in the plans and documents presented by both municipalities that they had previously worked together, and, the MGB sees no reason why this practice cannot continue.

### TERMS USED IN THIS ORDER

This order uses various acronyms and terms, which are listed for convenience.

**Act** – The Municipal Government Act, Chapter M-26 of the Revised Statutes of Alberta 2000

**Affected Party** – A party granted limited status in this appeal. Calgary was granted affected party status in this hearing in MGB 004/16

**Conrich ASP** – The statutory plan under appeal. It is Rocky View County Bylaw C-7468-2015.

**Calgary CMA** – As defined by Statistics Canada, the Calgary Census Metropolitan Area includes Calgary, Chestermere, Airdrie, Cochrane, the Tsuu T’ina Nation, Rocky View County, Irricana, Beisiekier and Crossfield.

**CCCASP** – Calgary Chestermere Corridor Area Structure Plan 2004, adopted by Rocky View.

**CN Site** – The CN Intermodal Terminal and associated lands included in the Calgary Logistics Park Conrich Master Site Development Plan.

**CSMI** – Comprehensive Stormwater Management Initiative

**CRCA** – Chestermere Regional Community Association

**FCSS** – Family Community Support Services

**GMO** – Growth Management Overlay This is a remedy proposed by Chestermere for the Highway 1 Gateway Area

**Highway 1 Gateway Area** – Lands located North and South of Highway 1 in Chestermere, Rocky View County and Calgary

**Hamlet of Conrich** – Unincorporated area, adjacent to the CN Railway.

**IDP** – Intermunicipal Development Plan

**Intermunicipal Dispute Procedure Rules or IMD rules** – Procedure rules adopted by the members of the Municipal Government Board under section 523 of the *Act*, January 2013.

**PM peak hour trips** – Estimated traffic generated in defined area for a particular land use between 1600-1800 in the afternoon.

**SRDP** – Shepard Regional Drainage Plan

**SSRP** – South Saskatchewan Regional Plan

**SWMF** – Stormwater Management Facilities

**Waterbridge ASP** – Waterbridge Master Area Structure Plan, adopted by Chestermere in 2013

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**WID – Western Irrigation District**

**PART A: BACKGROUND TO THE INTERMUNICIPAL DISPUTE?**

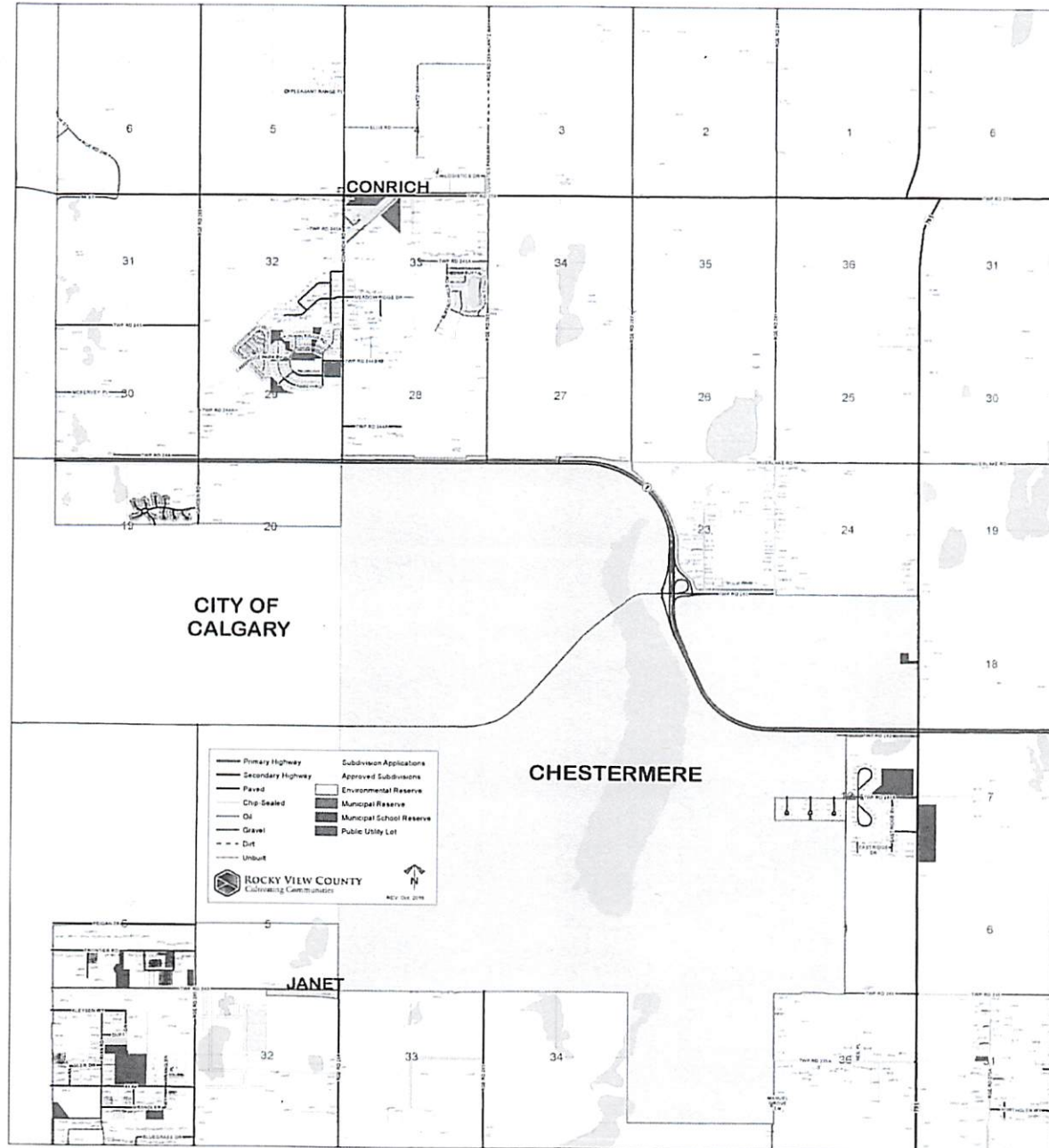
[6] Section 690 of the *Act* states that if a municipality is of the opinion that a statutory plan or land use bylaw or an amendment adopted by an adjacent municipality has or may have a detrimental effect on it, the municipality may file an intermunicipal dispute. In this case, City of Chestermere filed a dispute stating that Rocky View County Bylaw C-7468-2015 (the Conrich ASP) is detrimental in 14 areas relating to planning including land use, the need for intermunicipal development plans, and the coordination of plans.

[7] Conrich is a hamlet in Rocky View east of Calgary and north of Chestermere. It lies south of Township Road 250 (McKnight Blvd within Calgary) and is bisected by the CN railway. Figure 1 below provides an area map showing Conrich in relation to Calgary and Chestermere.

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Figure 1: Chestermere and Conrich Area





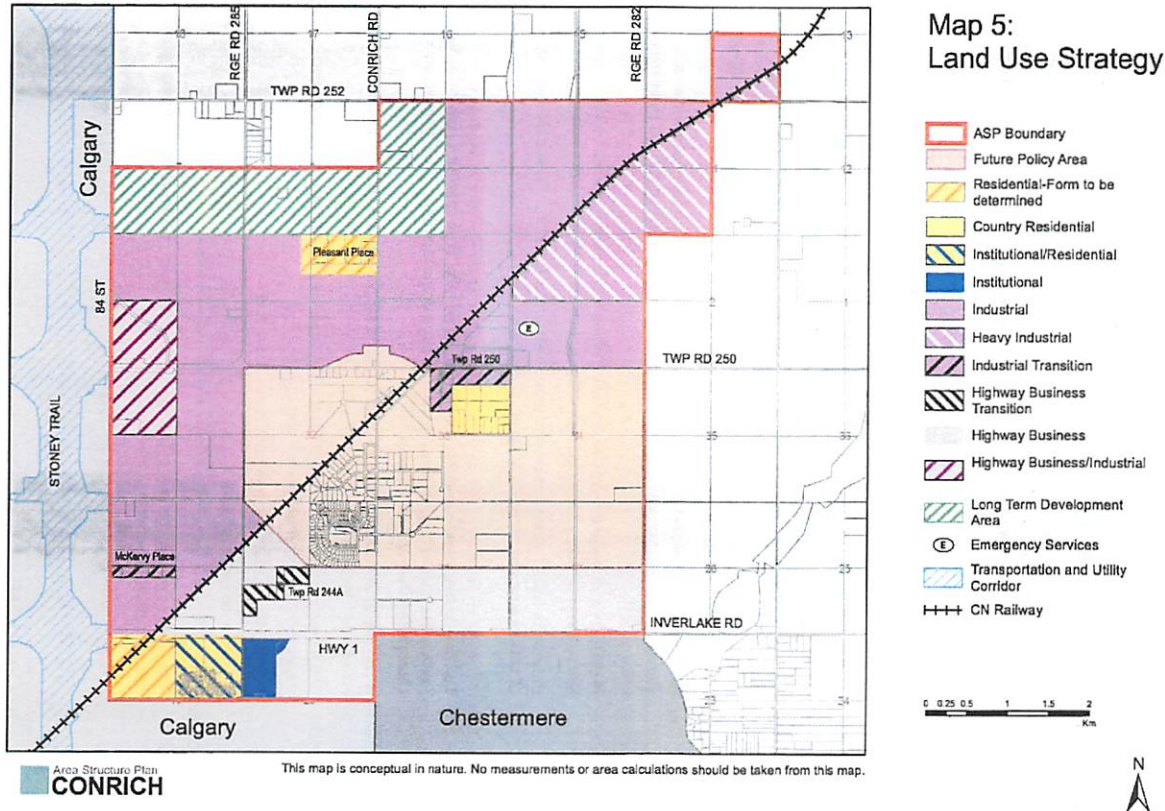
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[8] In 2012, Transport Canada approved the CN Intermodal Terminal for an area of three quarter sections adjacent to the traditional northern boundary of the hamlet of Conrich. This area, also known as the CN Logistics Park, is intended for use as a container storage and transshipment point.

[9] While the area around Conrich has traditionally contained agricultural holdings and local commercial uses, the location of the CN Intermodal Terminal introduced new planning challenges. In 2013, Rocky View began a process to develop a new ASP for Conrich. Visioning, community consultation and information sessions were held throughout the development of the plan. An initial draft was produced, and several amendments were made. On December 8, 2015, Rocky View adopted the Conrich ASP, which contemplates a full service hamlet of 5000-10,000 people and would replace the existing ASP for the Chestermere Calgary Highway 1 corridor - the Calgary Chestermere Corridor Area Structure Plan (CCCASP). The land use strategy for the Conrich ASP is shown in Figure 2 below:

Figure 2: Land Use Strategy (taken from Conrich ASP)

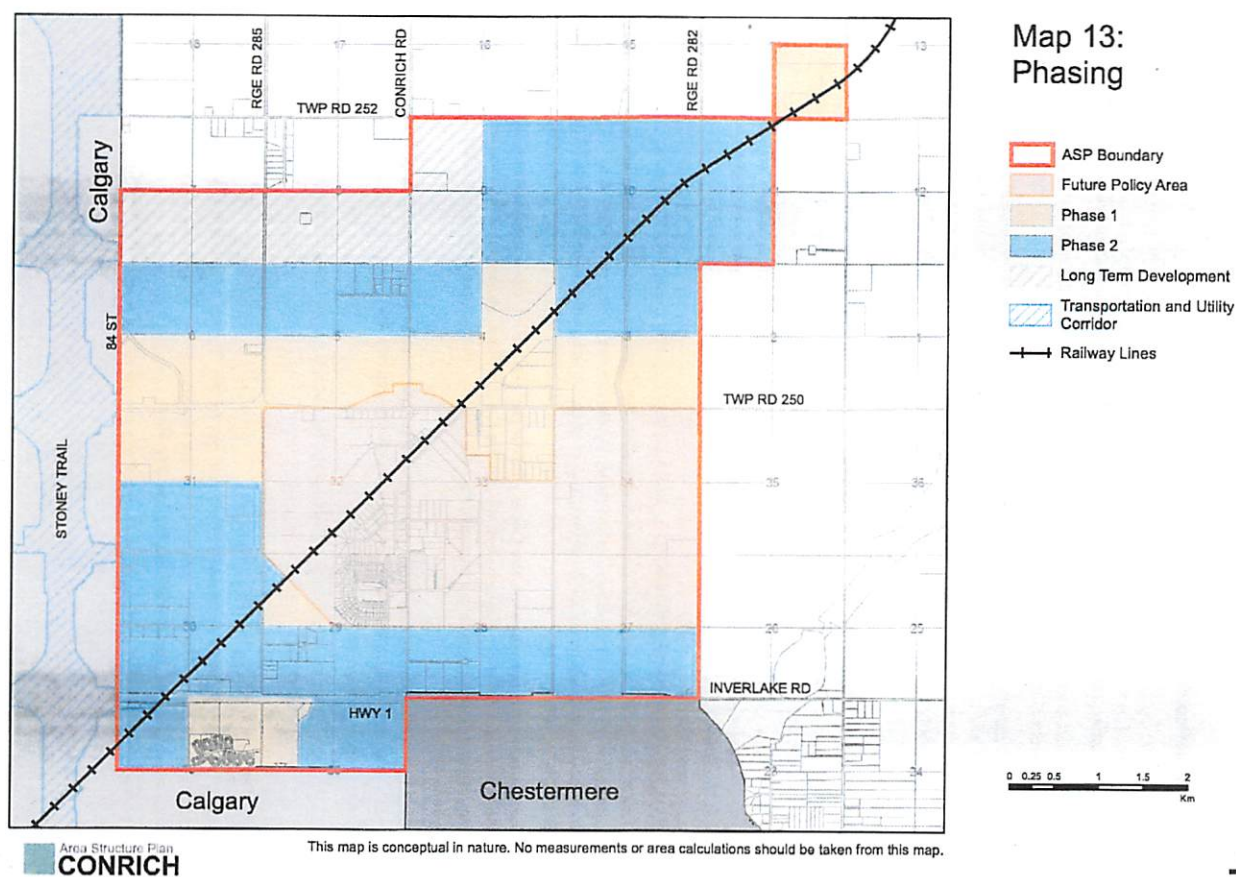


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[10] While the Conrich ASP includes a number of other maps, timing and phasing of development was an intended to provide for a logical and cost effective progression of development for the ASP lands and the region. Figure 3, attached below, is the Phasing Map for the Conrich ASP, which shows the location of each of 4 phases for development of the lands. Phase 1 lands include those areas with existing planning approvals, or are adjacent to transportation or utility infrastructure, or were identified as industrial lands. Phase 2 lands have a longer development timeline, since they cannot proceed without a marketing study and a regional stormwater management scheme. The Future Policy Area, in the southern central part of the plan area and including the hamlet of Conrich, requires further study. The last area, is the Long Term Development Area, identified as commercial and industrial lands not required within the life of the plan, but which require protection from fragmentation or incompatible development.

Figure 3: Phasing Plan (taken from Conrich ASP)





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[11] Calgary and Chestermere both filed appeals of the Conrich ASP. Although both appeals concern the same ASP, all three municipalities requested the appeals be heard separately for reasons described in MGB Decision Letter 018/16. Accordingly, the MGB heard the appeals separately and allowed Calgary and Chestermere to make submissions as affected third parties on the appeal they did not file. At the hearing for Calgary's appeal - which occurred immediately before the current hearing - Calgary and Rocky View suggested jointly to the MGB that it finds detriment and order changes to the Conrich ASP to align the wording with the wording in their IDP.

## **PART B: THE MEANING OF DETRIMENT IN S. 690 APPEALS**

[12] Under Section 690(5), if the MGB receives a notice of appeal and a statutory declaration under subsection (1)(a), it must, subject to any *ALSA* regional plan, decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal. The MGB may dismiss the appeal if it decides that the provision is not detrimental, or order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.

[13] Detriment is not defined in the *Act* or its regulations, but the MGB has previously considered its meaning and the evidential burden that must be met by initiating parties. Although not bound by its previous decisions, the MGB finds it useful, in some circumstances, to use established meanings and thresholds. For section 690 appeals, *The City of Edmonton, the City of St. Albert, and the Town of Morinville v. County of Sturgeon*, MGB 077/98 [*Sturgeon*] contains a thorough discussion of detriment.

[14] The meaning of detriment was discussed in the *Sturgeon* decision as follows:

The dictionary definition is straightforward enough. According to Webster's New World Dictionary, "detriment" means "damage, injury or harm" (or) "anything that causes damage or injury." This basic definition or something very similar to it seems to have been generally accepted by the parties involved in this dispute. Clearly, detriment portends serious results. In the context of land use, detriment may be caused by activities that produce noxious odours, excessive noise, air pollution or groundwater contamination that affects other lands far from the site of the offending use. For example, the smoke plume from a refinery stack may drift many miles on the prevailing winds, producing noxious effects over a wide area. Intensive development near the shore of a lake might affect the waters in a way that results in detriment to a summer village miles away on the far shore. These are examples of detriment caused by physical influences that are both causally direct and tangible, some of which are referred to as "nuisance" factors (page 44/84).



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But detriment may be less tangible and more remote, such as that arising from haphazard development and fragmentation of land on the outskirts of a city or town, making future redevelopment at urban densities both difficult and costly. According to Professor F. Laux, the adverse impact “could also be social or economic, as when a major residential development in one municipality puts undue stress on recreational or other facilities provided by another”. Similarly, the actions of one municipality in planning for its own development may create the potential for interference with the ability of a neighbouring municipality to plan effectively for future growth. In the present dispute before the Board, Edmonton and St. Albert have claimed that mere uncertainty arising from deficiencies in the County’s MDP will result in detriment to them (page 44/84).

[15] The *Sturgeon* decision also noted the invasive nature of the remedy under section 690, which is not to be imposed lightly or in circumstances where detriment cannot be clearly identified or will not have a significant impact:

If the Board is to exercise its power to reach into municipal bylaws and perform what amounts to legislative surgery by amending or repealing parts of them, it must be satisfied that the harm to be forestalled by so invasive a remedy is both reasonably likely to occur, and to have a significant impact on the appellant municipality should it occur (page 48/84; emphasis added).

There is also a functional or evidentiary component to the Board’s ability to direct an effective remedy under section 690. Simply put, the Board must have enough information before it, and of sufficient quality, to establish a reasonable likelihood of detriment. Where the condition complained of appears to raise only a mere possibility rather than a probability of detriment, or if the harm is impossible to identify with a reasonable degree of certainty, or may occur only in some far future, the detriment complained of may be said to be too remote (page 48/84).

[16] Similar points were made in the MGB’s recent decision in *Sunbreaker Cove v. Lacombe County*, MGB 007/11 [*Sunbreaker Cove*], with the MGB observing that there must be:

evidence...of sufficient quantity and quality to convince the MGB that the detriment is both likely to occur and to have a significant impact (at para. 71).

Generally, the onus rests with the initiating party to show a detrimental effect rather than with the respondent to refute the allegation of detriment. In this case, the MGB weighed the evidence and

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submissions of the parties to determine if harm was reasonably likely to occur and if it would have a significant impact on Chestermere. Each of the issues were measured against this test.

## **PART C: ISSUES**

[17] The issues arising from the arguments and material presented to the panel may be framed as follows:

1. Does the agreement between Calgary and Rocky View County demonstrate “general” detriment?
2. Does the ASP cause detriment to Chestermere in the areas of transportation, stormwater management and the Highway 1 corridor? In particular:
  - a. Will there be detriment to Chestermere due to the transportation infrastructure requirements of the Conrich ASP?
  - b. Does the Conrich ASP’s Strategy for Stormwater have a detrimental effect on Chestermere?
  - c. Will the Conrich ASP cause detriment to Chestermere by allowing incompatible or competing development adjacent to Highway 1?
3. Will there be detrimental economic effects to Chestermere as a result of the Conrich ASP?
4. Will the Conrich ASP cause detriment to Chestermere by requiring it to pay for additional resources such as FCSS, libraries, parks and recreation, emergency, fire and police services?
5. Without an intermunicipal plan or a regional plan, will there be a lack of coordination of plans that will be detrimental to Chestermere?

### **ISSUE 1: Does the agreement between Calgary and Rocky View County demonstrate general detriment?**

#### Chestermere’s Position

[18] Counsel for Chestermere referred to argument made previously in the context of the Calgary Appeal, where he noted that *Sturgeon* distinguishes between general and specific detriment. It was Chestermere’s position that the agreement between Calgary and Rocky View demonstrates the Conrich ASP’s failure to adequately address several areas, including proposed development’s effect on regional stormwater management, transportation, and the Highway 1 Gateway Focus Area. Chestermere says this agreement amounts to an admission that the ASP in its current form is neither clear nor comprehensive in these areas, and that this lack of clarity causes detriment. Further, these general areas of detriment affect both Calgary and Chestermere, so if the MGB finds the Conrich ASP is detrimental to Calgary on the basis of the agreement, it must also find detriment to Chestermere.



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Rocky View's Position

[19] Rocky View disagreed with this contention. It noted that the agreement put forward in the context of the Calgary appeal is the product of a completely different process than the current MGB hearing, and was reached following mediation between Rocky View and Calgary. Moreover, Calgary and Rocky View did not discuss the issues under appeal raised by Chestermere, which are unique and different from the issues raised by Calgary in the context of its appeal.

**Findings**

1. The Agreement does not demonstrate “general” detriment to both Calgary and Chestermere.

**Decision and Reasons**

[20] While comments in *Sturgeon* imply there may be cases where an omission or lack of recognition of a regional context in a bylaw are detrimental in a general sense, the detriment addressed by the agreement between Rocky View and Calgary does not fall into this category. Rather, the agreement is largely designed to resolve inconsistencies between the Conrich ASP and 2011 Calgary-Rocky View IDP that raised specific concerns for Calgary about arrangements for stormwater, transportation, and so on. Accordingly, the agreement does not show “general” detriment, and a finding of detriment to Calgary on the basis of the agreement does not imply the ASP must also be detrimental to Chestermere. More detailed examination of each area of detriment alleged by Chestermere in connection with the agreement (i.e transportation, stormwater, and Highway 1 key focus area) supports this conclusion.

**Issue 2(a): Is there detriment to Chestermere due to the transportation infrastructure requirements of the Conrich ASP?**Chestermere's Position:

[21] Chestermere argued that the Conrich ASP is detrimental because it does not show full build-out of all development within the area, including commercial and industrial development. Therefore, transportation impacts are not known, and may adversely affect traffic patterns and road infrastructure in Chestermere.

[22] In support of its position, Chestermere pointed to the evidence of Mr. S. Power, a professional engineer and a registered planner for Parsons Corporation. Mr. Power authored a Technical Memorandum critiquing the 2015 and 2016 traffic studies and models that Rocky View prepared for the Conrich ASP. The 2015 Conrich Area Network Study (2015 Network Study) was



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based on the assumption of full build-out of the ASP and full traffic and included total PM peak hour trip generation. In contrast, the 2016 Conrich Area Network Complementary Analysis (2016 Complementary Analysis) used lower build-out assumptions: 10 to 30 percent residential, 50 to 100 percent hamlet, 10 percent commercial, and 10 to 50 percent industrial. The lower assumptions greatly reduce traffic generation, and do not reflect accurately the amount of traffic or its impact on Chestermere.

[23] Another difficulty with Rocky View's reports is that neither appears to reflect the combined build-out of the Conrich ASP and the Waterbridge ASP within Chestermere. In this regard, Mr. Power noted the Rocky View studies fail to reflect Chestermere's own traffic data and transportation model. In contrast, Calgary's Regional Transportation Model (Regional Model) shows, for example, that 50% of the traffic that originates in Chestermere will remain there.

[24] Yet another difficulty with the Rocky View reports is that they were prepared using information from Chestermere's 2010 Transportation Master Plan (2010 TMP). The 2010 TMP will be superseded by a new TMP prepared by Parsons, which is currently being reviewed by Chestermere Council. While the draft is not yet public, Mr. Power shared that Rainbow Road will be the primary north-south route in Chestermere. Mr. Power explained that as development occurs on the western side of Chestermere, and the area shifts from agricultural operations to an urban neighbourhood, traffic will increase on Rainbow Road. Mr. Power is concerned that introduction of additional traffic onto Range Road 283 (RR283) from the Conrich ASP south to Rainbow Road may overwhelm the roadways as currently designed.

[25] Although Township Road 250 (TR 250) was upgraded for the CN site, with the intention that traffic would go west to Stoney Trail, Highway 1 is closer if traffic were to go south on RR 283. Chestermere is concerned that the increased traffic will require an interchange at Highway 1 and RR 283/Rainbow Road. With no funding in place, and without access to offsite levy funds collected by Rocky View, Chestermere would be required to construct the interchange.

[26] In addition to the evidence of Mr. Power, Chestermere's Director of Development and Infrastructure Services, Mr. John Popoff, explained why the Conrich ASP's transportation infrastructure plans are detrimental to Chestermere. Mr. Popoff began his presentation by explaining that the CN site is important to the region and requires appropriate transportation planning. The Conrich ASP, however, does not account for the increased volume and intrusiveness of industrial traffic generated by the CN site and the surrounding lands. Given the current land uses, there is very little traffic generated by the residents and agricultural operation around Conrich.

[27] Mr. Popoff identified that Chestermere is concerned about the increased truck traffic and additional volume of traffic from the CN site and from future phases of the Conrich ASP. Despite the upgrading of TR 250 to provide access to east Stoney Trail, traffic travelling from the CN site

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to Janet will likely travel south on RR 283 through Chestermere. While the prospect of funding a new interchange at Highway 1 is a concern, heavy vehicles using RR 283 and continuing south on Rainbow Road through Chestermere is also highly problematic. Rainbow Road is the primary north south route in the Waterbridge ASP, and there will be conflicts between local traffic accessing the future residential and commercial uses in the Chestermere and truck traffic travelling to Janet.

Rocky View's Position:

[28] Rocky View maintained its transportation models are standard in the industry and provide a realistic projection of traffic for this area. The models show that Chestermere's specific concerns about traffic along Rainbow Road and the intersection with Highway 1 are overstated. To support its position, Rocky View referred to the evidence of Mr. A. Guebert, and Ms. E. Hofbauer-Spitzer. Mr. Guebert is a professional engineer specializing in traffic and operations, and Ms. Hofbauer-Spitzer has graduate training in transportation and environment. Both are employees of DA Watt and Associates, which Rocky View retained to prepare its transportation studies.

[29] Mr. Guebert explained the methodology used to develop both studies. The 2015 Network Study was developed after the release of Rocky View County's Growth Study, and was applied to the Conrich ASP. As the industry standard for transportation master plan is 20 years, the area contained within the Conrich ASP will not be fully built out by 2035. It would not be reasonable to attempt to incorporate projections for later phases at this point in the planning process.

[30] Ms. Hofbauer-Spitzer provided further details about the model in the 2016 Complementary Analysis. This model was developed with Calgary's assistance using the Calgary Regional Model, and reflects nodal development in Rocky View. The 2016 Complementary Analysis also corrected for the opening of Stoney Trail, and included traffic data from other municipalities in the region including Calgary, Chestermere, and Cochrane. Mr. Guebert explained that four different data sets were used to develop the model. The first data set was comprised of different traffic zones within Rocky View. The zones were developed based on the land uses within the catchment area, and to the extent the information was available, also included urban municipality data. The second data set was the distribution of traffic under origin and destination studies, which measures where traffic trips begin and end. The third set is modal split, which factors in both the type of traffic and the available infrastructure to determine amounts. The final area is trip assignment, which is the choice of route based on type of trip, the quality of road, and the vehicle.

[31] When Watt prepared its report, it did not have access to Chestermere's most recent transportation plan and models, and therefore used the Bunt TMP projections for Chestermere together with projections published in the Waterbridge ASP. The Bunt TMP projects Chestermere's population exclusive of Waterbridge at 30,000 by 2035, and the Waterbridge ASP projects a further 46,350. However, not all the growth within Waterbridge will occur by 2035, and



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Watt estimates Chestermere's total population will be 38,000 by 2035. Watt's traffic models in the 2016 Complementary Analysis reflect this estimate.

[32] Watt identified truck movement as an issue, but not in the way described by Chestermere. When it constructed its Intermodal Terminal, CN also upgraded and paved TR 250 to provide direct access to Stoney Trail. Since the opening of Stoney Trail, traffic patterns in the region have changed, and the Complementary Analysis shows Chestermere's traffic projections for Rainbow Road are not supported. There are also many options available to manage traffic anticipated within Chestermere – e.g. traffic calming measures and speed limits.

[33] In addition to the evidence of Mr. Guebert and Ms. Hofbauer-Spitzer, Rocky View referred to testimony from its Director of Engineering, Mr. R. Wiljamaa. Mr. Wiljamaa stated Rocky View does not plan to improve RR 283 south of the hamlet of Conrich. RR 283 becomes Rainbow Road within Chestermere. CN's work to upgrade TR 250 should limit the effects of truck traffic on area residents by directing it to Stoney Trail. Rocky View has prepared its detailed transportation plans within the Conrich ASP with support and guidance from Alberta Transportation (AT). In addition, AT's 2012 Access Management Study set a long term strategy for access to Highway 1, including the intersection with Rainbow Road. Once an interchange becomes necessary at Rainbow Road and Highway 1, AT will consult with Chestermere, Rocky View and Calgary before design and construction. Finally, Mr. Wiljamaa noted that when ASPs or other plans are developed within the Conrich ASP, detailed traffic impact assessments (TIA) are required by Rocky View. Rocky View will circulate the TIAs to Chestermere for review and comment.

### **Findings – Issue 2(a)**

2. Rocky View's traffic models are in line with industry standards and are sufficiently detailed to support inter-municipal planning
3. The Conrich ASP will not have a detrimental effect on Chestermere's transportation network.

### **Decision and Reasons – Issue 2(a)**

[34] While it is true that the traffic models prepared in conjunction with the Conrich ASP do not reflect full build-out, this cannot be interpreted as a failure that amounts to detriment for the purposes of the *Act*. Rocky View's 2015 Network Study outlines ultimate rights of way and network requirements for the entire ASP area, including its later phases. The MGB accepts the testimony of Mr. Guebert that Phase 2 development is not anticipated until 2035, and agrees that it is unreasonable to require detailed traffic projections beyond this date. Both municipalities' transportation engineers agreed the 20 year time frame for the transportation master plan is standard in the industry. The 2016 Complementary Analysis addresses traffic movement between



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Conrich and Chestermere and provides a basis for both municipalities to plan for the effects of Phase 1 development.

[35] In reaching this conclusion, the MGB did not overlook Mr. Power's criticism of Rocky View's projections and data. One concern identified was that the population projections used to create the 2016 Complementary Analysis' model are inaccurate and do not include the Waterbridge ASP. However, it is clear from the evidence of Mr. Guebert and Ms. Hofbauer-Spitzer that the population projections for Waterbridge were in fact included. While further data may become available once the Chestermere's TMP is released, detailed information was not made available either to Rocky View or the MGB. A second concern was that Rocky View did not use, or consider data from the Calgary Regional Model, which shows that 50% of vehicle trips in Chestermere remain within its boundaries. However, Ms. Hofbauer-Spitzer clarified that the 2016 Complementary Analysis was in fact developed using the Regional Model.

A second area of alleged detriment related to transportation is the potential effect of development on Rainbow Road and its intersection with Highway 1.

[36] As development in the larger area proceeds, traffic volumes will increase and some vehicles will use Rainbow Road. If upgrades or an interchange are required at Rainbow Road and Highway 1, there will be consultation between AT, area municipalities, and residents. As noted by Rocky View, the interchange at Rainbow Road and Highway 1 will be constructed by AT as part of their capital plan process, or it may be cost shared, or funded separately. The MGB accepts that while the majority of traffic generated by Phase 1 will choose to travel along TR 250, some additional vehicles will most likely find their way onto Rainbow Road. The MGB does not view this possibility as detrimental. As acknowledged by Mr. Wiljamaa, if the Conrich ASP results in requirements for new roadways or other infrastructure, these may be funded or constructed by the developer, or Rocky View's off-site levy fund. Chestermere also has an off-site levy bylaw, which could also help to fund upgrading of Rainbow Road as development proceeds in the Waterbridge ASP. The final conclusion in the Parsons Technical Memorandum stated that impacts on Rainbow Road based on the 2016 Complementary Analysis are mitigatable due to the level of land use projected for Phase 1.

[37] Mr. Power noted that as a result of full build-out of the Conrich ASP and the Waterbridge ASP, traffic volumes on Rainbow Road could exceed 11,000 PM peak hour trips from Chestermere and 3,600 PM peak hour trips from Conrich. This would require upgrading and expansion of Rainbow Road within Chestermere. However, the MGB notes that the timeframe for the full build-out of both ASPs is beyond 2035; in the interim, a number of transportation studies -- TIAs, new transportation master plans, updated traffic models -- will be developed to reflect growth.

[38] The MGB also heard many variables must be considered for transportation planning in this growth area, including the completion of Stoney Trail, the location of the CN Intermodal Terminal,

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and the approval of both the Waterbridge and Conrich ASPs. As identified by Mr. Popoff, these factors raise the level of planning complexity, and in this context the MGB believes a higher level of coordination between the municipalities would be desirable. However, while greater co-operation and data-sharing would facilitate regional transportation planning, the MGB finds no detriment in Rocky View's approach in this case. Rocky View has kept Chestermere apprised of its plans and has made reasonable efforts to obtain relevant information from Chestermere to inform the draft ASP and supporting documents.

**Issue 2(b): Does the Conrich ASP's strategy for stormwater have a detrimental effect on Chestermere?**

Chestermere's Position

[39] Chestermere argued that, without a regional stormwater system, the Conrich ASP will compromise the West Creek watershed and wetlands. Counsel for Chestermere explained there are two potential regional stormwater systems: the Cooperative Stormwater Management Initiative (CSMI) and the Shepard Regional Drainage Plan (SRDP). Rocky View's preference for CSMI is evident from the ASP; however, while Rocky View may prefer CSMI, there are many partners in the program, consultation has not occurred, and no decision has been made. CSMI is problematic, because it may divert water from West Creek, which is an important part of Chestermere's drainage and stormwater management system. Changes in water levels will affect water quality and volume in both West Creek and Chestermere Lake.

[40] Another problem with drainage planning under the Conrich ASP is that private stormwater management facilities (SWMF) systems will be used until a regional stormwater system has been chosen and constructed. Chestermere has at least three concerns with this approach. First, a large number of private SWMF will reduce the amount of water available to flow into the West Creek catchment. Second, there has been a history of failures when landowners maintain private SWMF. For example, failures occurred in the Janet area south west of Chestermere. Chestermere is concerned similar failures will occur in Conrich, and that the resulting runoff will overtax Chestermere's drainage systems. Third, private SWMF require more land.

[41] To support its position, Chestermere introduced Ms. L. Bozic, a professional engineer, who is the Senior Water Resources Engineer with Urban Systems Ltd. Ms. Bozic explained how the choice of CSMI in the Conrich ASP and Conrich Master Drainage Plan will affect West Creek. If CSMI is implemented, all the stormwater collected north of Chestermere will be diverted east to Serviceberry Creek and Weed Lake, and will not flow into West Creek. The analysis prepared by MPE Engineering does not cover the West Creek catchment, so additional studies are necessary to ensure that water continues to flow into West Creek.



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[42] Ms. Bozic noted that the Conrich ASP does not include mapping of the West Creek watershed. West Creek has a watershed of about 3,300 hectares, roughly half of which is located in the north part of the Conrich ASP area. Currently West Creek flows through Chestermere, feeding a wetland, flowing into the Western Irrigation District (WID) Canals on its way to Chestermere Lake. Without the West Creek watershed being mapped into the Master Drainage Plan or included in the Conrich ASP, there is an increased potential that the flow of water will be interrupted, possibly affecting the wetland and the naturalized drainage area.

[43] Ms. Bozic also confirmed that SWMF are often undersized and landowners often neglect maintenance. As a result, these private SWMF fill with sediment, and fail. In the Janet area, such failures have led to illegal discharges from the private SWMF into area ditches, since the emergency catchment is often full. If this occurs in Conrich, overland flows will enter the West Creek basin or spill into ditches and result in water flowing through developed areas of Chestermere. Not only will Chestermere need to manage additional overland flows, these flows will include industrial land runoff, which may require a higher level of treatment to meet WID water quality guidelines. The WID system includes Chestermere Lake and WID's canals.

[44] Finally, Ms. Bozic noted that the wording in Section 27.18 implies that Phase 2 lands can proceed without the construction of the regional system or an identified tie-in point for the Conrich ASP lands. Further, the Conrich ASP appears to allow private SWMF to continue to be used as long as there is an agreement for financing. This is unacceptable to Chestermere, since it may result in long term use of the SWMF and additional development in Phase 2 without the benefit of a regional system.

#### Rocky View's Position:

[45] The Conrich ASP accommodates different types of stormwater management until the regional system is chosen. Rocky View has allowed the use of private SWMF as an interim measure in many areas, as does Chestermere in the Waterbridge ASP. While there have previously been issues with private SWMF, Rocky View has upgraded its design standards for SWMF, resulting in fewer failures. Rocky View's Engineering Standards require stormwater to be managed onsite without any discharges, so there will not be an increased flood risk downstream and in Chestermere.

[46] Rocky View disagreed with Chestermere's characterization that development could proceed at any time on the Phase 2 lands. The intent within the Conrich ASP, as stated in its policies, was that development of Phase 2 would await approval and construction of a regional stormwater management system. This intention is also echoed within the Conrich Master Drainage Plan. While Chestermere may not prefer CSMI, approval for this system rests with Alberta Environment and Parks. Consultation between area municipalities, WID, Ducks Unlimited and AEP must occur before the approval.



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[47] In response to Chestermere's concern that private SWMF will reduce the amount of water in the West Creek catchment, Rocky View argued that Phase 1 will only affect about 10% of the West Creek catchment, and will not reduce downstream flows significantly. While zero-release facilities like private SWMF are not preferable as a long term solution, many CSMI partners have adopted this approach in the interim pending a decision on a regional system.

[48] Rocky View introduced Mr. D. Seeliger and Mr. C. McNab, two professional engineers employed by MPE Engineering to provide evidence about stormwater management. Mr. Seeliger prepared both the Hydrogeological Impact Assessment Report (Hydrogeological Assessment) and a response to Chestermere's submissions. Mr. Seeliger indicated the Hydrogeological Assessment Report's intent was to assess downstream impacts of Phase 1 of the Conrich ASP. Phase 1 will have a negligible impact on West Creek, as it includes very little of the West Creek catchment, and there is a zero release strategy in place. Mr. Seeliger also noted in his analysis that urban areas have an even greater run-off than developed rural areas, such as the Conrich ASP.

[49] Mr. Seeliger understands that a regional drainage strategy will be approved before development of the Phase 2 or later lands. Since no decision has been made, the Conrich Master Drainage Plan accommodates both CSMI and SRDP. However, Mr. Seeliger explained there are several advantages to CSMI: it can be staged, it will divert peak flows away from West Creek and Chestermere and it is easier to maintain, since it is a zero discharge system. Mr. Seeliger also explained that under CSMI, post-development stormwater from the west side of Chestermere will be conveyed over West Creek, allowing West Creek to convey water from north to south into Chestermere Lake.

[50] Mr. Seeliger agreed that additional studies are required before development proceeds on lands within the Conrich ASP. These studies will start with sub-catchment drainage plans and conclude with detailed design drawings. The required studies are listed in Section 700 of the County's Servicing Standards. To complement policies in the Conrich ASP, a portion of the Conrich Master Drainage is devoted to West Creek. Mr. Seeliger noted that the intent of the Conrich Master Drainage Plan is that, regardless of phasing, there would be a lower risk of flooding post-development than pre-development. Finally, due to Alberta Environment and Parks requirements, regional predevelopment flows must be maintained for West Creek.

[51] Mr. C. McNab is the Calgary Region Manager for MPE Engineering and has been involved with the development of the CSMI regional stormwater system. He stated that while initial evaluations of CSMI are complete, there is no agreement yet on a governance structure, funding model, or – if CSMI is chosen – an implementation plan. Ultimately, Alberta Environment and Parks must approve either CSMI or SRDP as the regional system.

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[52] Mr. McNab explained that the WID initiated CSMI to maintain the water quality in its main supply canals, and to divert stormwater from Conrich and south west of Chestermere into another part of the WID system. One area, west of Chestermere near the hamlet of Janet, contains stormwater management systems constructed to an older standard, which have been unable to manage stormwater flows. Currently, excess stormwater in Janet flows into the Western Headwaters Canal, one of WID's main supply canals, impacting water quality.

[53] To address Chestermere's concern that private stormwater management facilities in Conrich are insufficient, Rocky View has updated its engineering standards. In 2013, Rocky View reviewed its engineering standard for stormwater management ponds and incorporated continuous water balance modelling. Continuous water balance modelling, based on 50 years' worth of rainfall and evaporation data, ensures that the systems developed and installed can contain a 1 in 100 year event. This new standard will apply to lands developed in Phase 1 of the Conrich ASP.

#### **Findings – Issue 2(b)**

4. The Conrich ASP and the Conrich Master Drainage Plan contain policies to manage stormwater, and ensure water continues to flow into West Creek.
5. The Conrich ASP's strategy for stormwater management does not have a detrimental impact on Chestermere.

#### **Reasons – Issue 2(b)**

[54] The MGB acknowledges that further discussions need to occur about the regional stormwater management plan, and encourages the parties to continue the process. However, the fact the municipalities involved have not yet decided on a regional system does not imply no development may proceed until a decision is finalized. To freeze development in the region until a decision is made would be unreasonable and is not reflective of current municipal practice.

[55] Until a decision on a regional system is made, interim stormwater management measures must be used to reduce the potential for flooding, and protect water quality in bodies of water such as West Creek which also feed the canals and other components of WID's system including Chestermere Lake. Rocky View proposes to use onsite stormwater management facilities for Phase 1 development within the Conrich ASP only, which the MGB finds a reasonable approach. Indeed, Chestermere has itself adopted a similar approach under the Waterbridge ASP, which incorporates private SWMF as an interim measure until a regional system is chosen and constructed. Given that the Waterbridge ASP proposes the use of onsite stormwater management facilities capable of being connected to the future regional system, a similar proposal for Phase 1 of the Conrich ASP lands cannot be considered detrimental in itself.



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[56] Chestermere expressed concern about the potential for failure of private SWMF, citing past experience with similar systems south west of Chestermere in Janet. However, as explained by Mr. Seeliger, Rocky View has mitigated such risks by updating its engineering standards after 2013. Further studies will also be undertaken before development proceeds, and issues with the design, operation, and maintenance of any onsite stormwater management facilities may be raised with Alberta Environment and Parks, which is responsible for registration and approval of such facilities.

[57] Chestermere stressed that development should not proceed on Phase 2 or later lands without a regional system in place. It appears that Rocky View agrees with this contention, as the Conrich Master Drainage Plan and the Conrich ASP states that development of the Phase 2 lands, long term development lands and the Future Policy Area cannot proceed until a decision on a regional system is made. The MGB sees no reason to believe Rocky View intends to deviate from this plan. Finally, as the timeframe for development of the Phase 2 land is beyond 2035, the MGB accepts that by that time, one of the regional systems will have been chosen. Finally, where Chestermere expressed concern about the private SWMF facilities using additional lands or that diversions of water from West Creek will occur, these are matters that will be addressed when a decision on a regional stormwater system is made, and designs are finalized.

**ISSUE 2(c): Will the Conrich ASP cause detriment to Chestermere by allowing incompatible or competing development adjacent to Highway 1?**

Chestermere's Position:

[58] The proposed commercial and industrial developments adjacent to Highway 1 in the Conrich ASP are incompatible with the adjacent uses in Chestermere and will draw development away from Chestermere. Chestermere maintained that a gateway area along Highway 1 should be jointly planned and developed to ensure the needs of all three municipalities (Chestermere, Rocky View and Calgary) are addressed.

[59] Chestermere pointed the evidence of Mr. Popoff, who is a registered planner employed by Chestermere as Director of Infrastructure and Development Services. He advised that the Conrich ASP will cause ad hoc and disjointed development resulting in commercial and industrial uses on the north side of Highway 1. These uses will siphon development away from Chestermere's downtown and other commercial and industrial areas. Historically, the Calgary Chestermere Corridor Area Structure Plan (the CCCASP) envisioned compatible uses on either side of Highway 1, but these did not come forward into the Conrich ASP. And while the Calgary and Rocky View IDP contains policies for joint planning adjacent to Highway 1, Chestermere has not been included in these discussions.

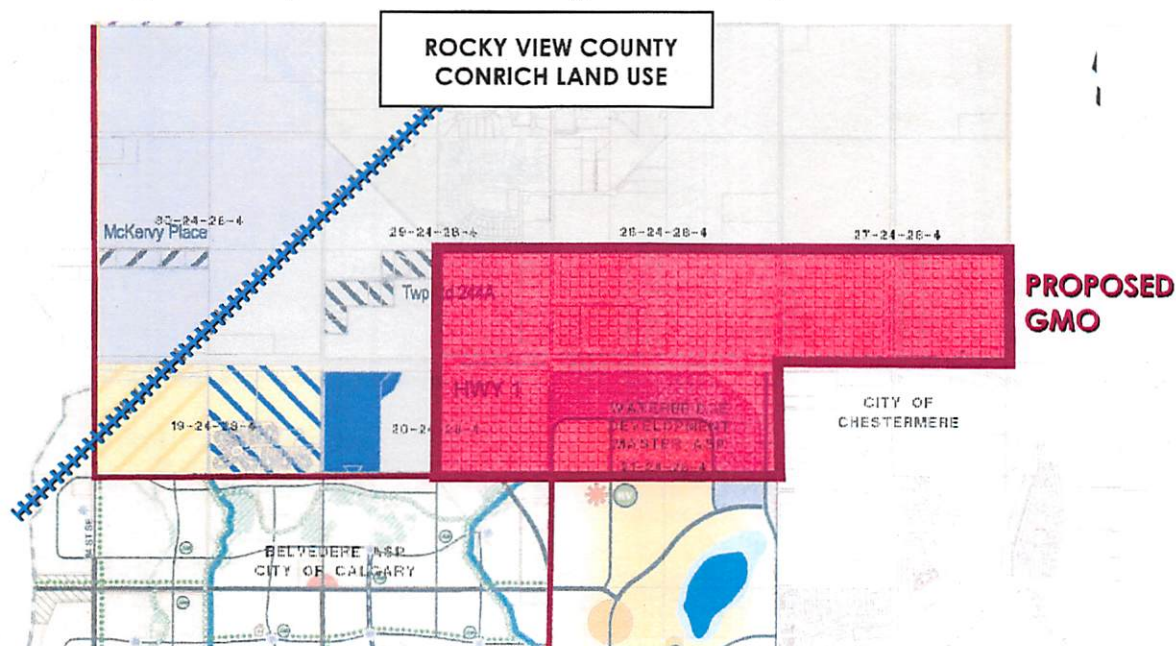
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Remedy Request: Growth Management Overlay

[60] To support collaborative intermunicipal planning for the Highway 1 Gateway Area, Mr. Popoff proposed that the MGB order the placement of a Growth Management Overlay (GMO) to guide development on both sides of the highway in both municipalities. The MGB previously used this approach in Sturgeon when it ordered the completion of an area structure plan, and, in the 1999 dispute between Drayton Valley and Brazeau County about the Brazeau County MDP. The GMO is intended to support both municipalities to diversify their assessment base, while the other plans are developed.

**Figure 4: Proposed Growth Management Overlay**



[61] The GMO would allow 8 quarter sections of land, located both north and south of Highway 1 in Rocky View and Chestermere, to be jointly planned. Mr. Popoff explained this overlay requires Chestermere and Rocky View to jointly plan the Highway 1 corridor, allowing for complementary land uses, design compatibility and transportation interconnectivity. The GMO can be removed once the IDP, Alberta Transportation Study, Calgary Regional Transportation Plan, and a regional stormwater solution have been finalized.

[62] Chestermere conceded its proposed GMO includes an area of land now contained within the Waterbridge ASP, which is not under appeal. However, while the MGB cannot order a change to a plan or bylaw not before it, it could still order the municipalities to meet and develop a GMO or similar policy within a reasonable period (e.g. six months).



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[63] The development patterns adjacent to Highway 1 in the Conrich ASP are consistent with the 2004 CCCASP, and reflect the development pattern contained within Chestermere's Waterbridge ASP. As noted by Chestermere, the CCCASP was formulated in part to guide development adjacent to Highway 1, and Rocky View continues to apply it. As such, Rocky View incorporated the land use pattern established in the CCCASP into the Conrich ASP.

[64] The Conrich ASP is intended to guide the development of detailed area structure plans and concepts for smaller areas of the plan. Ms. A. Zeluski, a registered planner who is employed by Rocky View as the Planning Policy Supervisor, explained that the Conrich ASP is consistent with Rocky View's evolving policies and vision contained in other plans and documents such as the CCCASP, 2009 Growth Management Strategy, and MDP. Ms. Zeluski confirmed that the land use pattern for the Highway 1 area in the Conrich ASP is consistent with the adjacent lands in Chestermere's Waterbridge ASP. Section 14 of the Conrich ASP contains policies to mitigate conflict between residential and non-residential land uses as well as policies to address potential intermunicipal interface concerns in the lands surrounding Highway 1. Finally, Ms. Zeluski explained those lands adjacent to Highway 1 that are not contained within existing approved plans or bylaws are located within the Phase 2, which will be developed after a decision on a regional stormwater system has been made.

[65] In addition, public consultation and input are required, integral components of plan development. Ms. Zeluski explained that the public and adjacent municipalities (such as Airdrie, Chestermere and Calgary) were invited to participate in the development of any statutory plans, bylaws, visioning documents, and growth management strategies. Consistent with the *Act* and policies in its MDP, Rocky View currently circulates area structure plans to both cities for review and comment, and, sees no reason to change this practice. As a matter of practice, Rocky View circulates applications for development or subdivision in ASP to adjacent municipalities. This practice will continue when the Conrich ASP is in place.

[66] Rocky View objects to the GMO because of conditions placed upon its removal. Completion of three plans, of different scales and extended timelines, creates uncertainty. Similarly, the GMO would impact lands within the Conrich ASP and the Waterbridge ASP. The Waterbridge ASP is not under appeal, and therefore the MGB could not impose the GMO as it would amend the Waterbridge ASP.

**Findings – Issue 2(c)**

6. Policies in the Conrich ASP require cooperative planning in the Highway 1 Gateway Area.
7. The Highway 1 Gateway Area in Conrich ASP is consistent with the CCCASP, and the Rocky View MDP.

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8. A GMO is not necessary to plan co-operatively for the Highway 1 Gateway Area

**Decision and Reasons – Issue 2(c)**

[67] The MGB observes that development adjacent to Highway 1 in the Conrich ASP appears consistent with CCCASP. While it was argued that the CCCASP is out of date, Rocky View did not rescind the bylaw, and the municipalities, Calgary, Chestermere and Rocky View, have continued to follow the spirit and intent of the plan. Thus, the commercial uses adjacent to Highway 1 originally proposed in the CCCASP have been carried forward into the Rocky View MDP, the Chestermere MDP, and most recently Chestermere's Waterbridge ASP and Conrich ASP.

[68] Chestermere expressed concern that phasing as proposed in the Conrich ASP may not be followed, resulting in premature development adjacent to Highway 1 that will compete with and prevent development now planned for Waterbridge and other industrial/commercial lands in Chestermere. However, there is very little evidence before the MGB to substantiate this concern. The Conrich ASP states that the lands adjacent to Highway 1 will be developed in Phase 2, and the MGB sees no reason to suspect this phasing will be abandoned. Since the Phase 2 lands are proposed to be developed only after a market demand study and after the establishment of a regional stormwater management system, the industrial and commercial lands in Waterbridge and other portions of Chestermere will be available before the Phase 2 lands.

[69] Chestermere also expressed concern that the Conrich ASP contains no mechanism to resolve disputes about phasing or other planning issues that may arise as development proceeds, and that its policies do not require joint planning. While it is true that the Conrich ASP contains no dispute resolution mechanism, there is such a mechanism under Rocky View's MDP, which is available to Chestermere concerns arise about phasing or incompatible development. Furthermore, the Conrich ASP – together with the Calgary-Rocky View Memorandum of Agreement – does require collaboration and discussion with neighbouring municipalities including Chestermere. In short, the MGB sees no reason to suspect the Conrich ASP will prevent discussion and collaboration between the municipalities, or that Rocky View's approach to planning with Chestermere and Calgary for the Conrich ASP is detrimental.

[70] Given that the Conrich ASP is not detrimental for the reasons described, there is no need to impose the GMO suggested by Chestermere – even if this remedy were possible given the potential impact on the Waterbridge ASP, which is not under appeal. The MGB observes parenthetically that a GMO is innovative, and remains a potential option for cooperative intermunicipal planning that, under agreement between the affected municipalities, could be pursued. As Highway 1 is also included in the Calgary and Rocky View IDP, future discussions and plans would also have to include Calgary.



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[71] Chestermere provided the MGB with additional argument about planning matters beyond those raised during Highway 1 evidence; these will be addressed in Issue 5, Planning, later in this decision.

**ISSUE 3: Will there be detrimental economic effects to Chestermere as a result of the Conrich ASP?**

Chestermere's Position:

[72] Chestermere argues that the industrial and commercial land proposed in the Conrich ASP is excessive and will draw economic development away from Chestermere. Drawing economic activities into Rocky View will prevent Chestermere from increasing the amount of non-residential assessment from 4% to its desired goal of 20% of its total assessment and from reaching its full potential. Chestermere introduced two economists to provide evidence with respect to the Conrich ASP, and their report "Economic Impact of Conrich ASP on the City of Chestermere and Region – Summary Report" (Economic Impact Report). Mr. R. Woodward from RW Consulting spoke to the report, while Mr. S. Johnson from SJ Research Services spoke specifically about long-term industrial land requirements.

[73] Mr. Johnson described briefly how Chestermere's industrial land needs were calculated, and the current supply of industrial and commercial land in Chestermere. In 2038, Chestermere's projected population of 53,000 will need approximately 1770 acres of commercial and industrial land. While the Chestermere MDP has designated approximately 1800 acres of land for commercial and industrial development only a small amount of these lands are currently developed. 176 acres of commercial land are developed and occupied, 100 acres of serviced industrial lands are vacant, and an additional 1100 acres of vacant lands are designated industrial and commercial in various statutory plans.

Impacts on Chestermere's economic development

[74] The Conrich ASP proposes 6,500 acres of commercial and industrial lands to serve a population projected to range between 5,000 to 10,000 people. In comparison, the City of Calgary has about 30 million square feet of development supported by a population of 1.2 million, or approximately 29 acres of developed lands per 1000 population. Using the same metric for Conrich ASP lands, Mr. Woodward stated only 119 acres of developed land are needed to serve Conrich if its population increases to 5000.

[75] Designating such a large amount of land within Conrich for commercial purposes will stifle growth elsewhere in the Calgary Census Metropolitan Area (CMA), including Chestermere. According to the Conference Board of Canada, the projected average absorption rate for commercial and industrial land in the entire Calgary CMA is between 188 to 282 acres per year.

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With the 6,500 acres proposed in the Conrich ASP, absorption rate of these lands alone would add 22 - 32 years of industrial land to the regional amount.

[76] Development contemplated by the Conrich ASP will also impact the regional labour supply and increase wages in the region. The future employment demand in the Conrich ASP was estimated using employment density per acre figures from a 2014 Parkland County study (within an Alberta CMA of equivalent size). At an average density of 7 jobs per acre, the Conrich ASP will require 46,053 employees. Rocky View's projected labour force is estimated between 35,000 to 38,000 employees. The labour shortfall will have to be met from elsewhere within the Calgary CMA, which may result in increased wages and labour shortages in other parts of the region. Therefore, any saving in land costs as a result of a surplus in industrial/commercial land would likely be offset by higher wages.

[77] If only Chestermere developed, then it is expected that industrial and commercial developments would generate over \$3.0M by 2026 and \$53.0M by 2038 in tax revenue. However, development of a large industrial/commercial complex close to Chestermere would impact the city's ability to diversify its tax base (currently largely residential) by creating a competing growth pole. If the Conrich ASP was developed at the same time as Chestermere's commercial lands, significant amounts of industrial/commercial development would be expected to migrate to Conrich lands. If Chestermere's projected proportional uptakes (18% of industrial lands and 11% of commercial lands) are developed rather than full 100% development, there would be a projected shortfall in tax revenues of -\$6.2M by 2026 and -\$12.2M by 2038. With reduced revenue, Chestermere would be forced to rely on residential taxes to maintain services and a 25% increase in the tax rate would be needed.

[78] Chestermere also argued that from a provincial economic perspective, a major industrial/commercial land project such as that proposed in the Conrich ASP would have a larger positive economic impact if it were located in a larger and economically more self-sufficient community. In support of this position, it pointed to a multiplier analysis within the Economic Impact Report. Multipliers measure the response of the economy to a change in demand or production. The higher the multiplier, the more successful economic development initiatives will be in achieving sustained improvement for a target area. The analysis concludes that the Conrich ASP would have a larger economic impact if located in a larger and economically more self-sufficient community. Mr. Johnson affirmed that the beneficial impacts are diminished, because the hamlet of Conrich doesn't have the necessary population, labour force or service and support industries.

#### Retail Gap Analysis

[79] Chestermere asserts Conrich will attract large scale commercial retail development similar to Cross Iron Mills, rather than the regional or provincial scale warehouse development claimed



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by Rocky View. Area residents will therefore shop in Conrich rather than Chestermere, and Chestermere will have difficulty attracting competing retail commercial development.

[80] To support this assertion, Chestermere submitted an executive summary of a Retail Gap Analysis (Gap Analysis) prepared by Cushing Terrell Architecture. According to this summary, Chestermere has 275,000 square feet of commercial space capturing about 37% of the overall resident spending and generating \$105 million in sales. Since Chestermere has a shortage of commercial space, \$240.5 million in sales occur in surrounding areas (Calgary, Rocky View and Strathmore). To increase overall spending to 50%, the Gap Analysis estimates Chestermere needs 95,000 more square feet of commercial space. This space would incorporate desired retail categories such as full service restaurant, home improvement store, and a sports, automotive and leisure retailer (e.g. Canadian Tire).

[81] The Gap Analysis also identifies Chestermere's primary and secondary trade areas. Both Conrich and Calgary's East Hills development are located in the primary trade area; therefore, Chestermere argued that any commercial development in these areas will reduce retail activity within Chestermere, impacting its ability to attract development. The study concludes that the East Hills development is a threat to Chestermere's commercial and industrial development.

[82] Chestermere introduced its Economic Development Director, Mr. J-M Lacasse, as an expert witness to provide evidence in support of the Gap Analysis Report and to speak to the economic impacts of the Conrich ASP on Chestermere's economic development efforts. Mr. Lacasse explained that two specific areas in Chestermere – the Waterbridge and Chestermere Gateway ASP areas – are identified for commercial and industrial development. While there is also a commercial and industrial area in NE Chestermere, development of these lands has been delayed due to the developer's bankruptcy. Mr. Lacasse confirmed that in his view, the Conrich ASP will draw development and shoppers away from Chestermere and reduce Chestermere's ability to attract competing retail development.

[83] In contrast to Gap Analysis' conclusion, Mr. Lacasse expressed the view that the Calgary's East Hills development will actually enhance and promote commercial development within Chestermere. He explained that East Hills is designed for warehouse retail stores such as Costco and Superstore, drawing shoppers from across the Calgary region. Regional shoppers looking for products or services not available in East Hills will likely continue to Chestermere. Due to its proximity, East Hills may draw smaller retailers to serviced commercial lands within Chestermere.

[84] In response to a question by Rocky View about the Retail Gap Analysis' conclusion stating that East Hills, not the Conrich ASP, is a threat to Chestermere's commercial and industrial development, Mr. Lacasse stated that this conclusion is primarily due to a larger population in the Primary Market Area. Mr. Lacasse explained that the full report contained a reference to Conrich and an analysis of the retail potential of the Conrich ASP. In response to a question posed by the

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panel if the full report analyzes the Conrich ASP and makes a statement about its impact on Chestermere. Mr. Lacasse stated that the report mentions the Conrich ASP as a plan under development, but does not include it among the more detailed analysis.

Rocky View's Position:

[85] Rocky View submitted that urban and rural municipalities are equals, and both can pursue a variety of development. Therefore, an urban municipality cannot successfully argue detriment on the basis of an anticipated loss of non-residential tax base. In support, Rocky View referred the MGB to three of its previous decisions about intermunicipal disputes -- *City of Grande Prairie v County of Grande Prairie* (MGB 096/06), *St Albert, Edmonton, and Morinville v Sturgeon County* (MGB 077/98), and *Town of Okotoks v Municipal District of Foothills* (MGB 003/12) -- which determined that commercial competitiveness is not detriment. Competition between municipalities maximizes "customer welfare" and encourages innovation. Rocky View should not be forced to restrict its economic growth because Chestermere has not properly managed its own growth and development.

[86] Even if competition could be considered detrimental, the land uses planned for the Conrich ASP should not adversely affect Chestermere. The Economic Impact Report prepared by Woodward and Johnson is unreliable for a variety of reasons, and its conclusion that the Conrich ASP will impact Chestermere is not correct. In support of this contention, Rocky View pointed to the Evidence of Mr. Shewchuk, an economist with Nichols Applied Management, to prepare the economic analysis included in the Conrich ASP. Mr. Shewchuk also reviewed the Economic Impact Report and responded to Chestermere's experts, Mr. Johnson and Mr. Woodward.

[87] Mr. Shewchuk outlined several errors within the Environmental Impact Report. The first concerns Chestermere's analysis of the employment forecast in the Conrich ASP. By using Conference Board of Canada data, Chestermere's employment forecast was based on the last five years which is a short period for a forecast, but, more importantly, reflects a time of recession. The result is a forecast that both fails to recognize the cyclical nature of economy and is below historic levels. Based on data from the last 28 years, Mr. Shewchuk demonstrated that the historical average employment growth in the Calgary Region is 2.9%. If this figure were used to forecast growth for the period 2016 to 2026, employment in the region would be 187,300 rather than the figures illustrated by Chestermere which were 101,600 under the low growth scenario and 129,100 under the high growth scenario.

[88] A second error is the context for meaningful fiscal analysis resulting in an overestimate of the hypothetical impact of lost industrial development on Chestermere. The impact on Chestermere's tax revenues is based on the assumption that the Conrich ASP will develop in the same timeframe as Chestermere lands. Chestermere's report discusses tax implications, but fails to consider costs associated with servicing/maintaining industrial lands or net revenues. Thus, the



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claim that Chestermere may require additional 25% tax revenue is incorrect. Mr. Shewchuk observed that Chestermere is not unique or unhealthy fiscally when compared to its peers. It has also historically kept its residential mill rate below similar communities. The study's findings about significant tax increases may be partly due to this historical reluctance to raise rates and not fully attributable to industrial development. Chestermere could align its expenditures and revenues by raising its mill rate and reducing spending.

[89] A third error is that the Economic Impact Report both misunderstands and misapplies metrics used to estimate the relationship between employment and land requirements. This results in an overstatement of labour needs for the industrial lands, because the study applies the figure of 7 jobs per acre on gross area rather than net area of industrial lands. It also results in an overstatement of future available labour because it bases the projected population on 2016 figures and the size of the labour force on 2013 figures when 2013 was during a period of high growth. Mr. Shewchuk observed that the figure of 7 jobs per acre was taken from a 2014 Parkland County study prepared by MDB and Watson & Associates Economists Ltd. In actuality, the study reported that employment in Parkland County fell within a range of 3 jobs per acre for primary-energy sector jobs and 8 jobs per acre for manufacturing jobs. Secondly, the calculation was based on jobs per net acre, not jobs per gross acre. To convert gross acres to net acres, the authors of the Parkland County study assumed that 35% of the lands would either be required for infrastructure or have development constraints, and included a vacancy rate adjustment of 15%. Using that methodology, Mr. Shewchuk reported that the net area of industrial commercial lands in Conrich ASP is 3,635 acres. Using the estimate of 7 jobs per net acre, the resulting employment generated by the Conrich ASP is 25,444 jobs per net acre, not the 46,053 jobs reported in the Economic Impact Report by Chestermere. If phasing of the ASP were included, the Phase 1 lands would yield approximately 7,900 jobs and the balance of approximately 17,500 would occur in Phase 2.

[90] Building on the error in calculating land requirements, another error in Chestermere's Economic Impact Report is that it does not consider labour mobility and the relationship between wages and prevailing prices. Workers will migrate in to fill demand if there is a labour shortage and there will not necessarily be "upward wage pressure". Whether wages are "unduly" high or low requires further analysis and Chestermere's claims of detriment are oversimplified.

[91] Finally, Mr. Shewchuk noted that there is a mischaracterisation of economic multipliers leading to a false impression that it would be more beneficial to the province if the development proposed in the Conrich ASP were to occur in Chestermere. For the benefit of the MGB, Mr. Shewchuk explained that economic multipliers are based on an "input-output" model (IO model) that is better suited to provincial or national economies. When used for smaller economies (i.e. a municipality), a location quotient is used to estimate what proportion of total provincial benefit may accrue to a particular area. The location quotient is calculated based on labour force residing in the area of interest. Mr. Shewchuk explained that Chestermere's study miscalculates locational quotient and misunderstands that IO models estimate total provincial impact regardless of where

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a project is built. If labour force is used as a measure of the size of the local economy, then the work force of the entire Calgary CMA is the appropriate local economy. As such, it is incorrect to suggest that the locational quotient for Conrich would be materially different than that of Chestermere.

[92] Given the numerous errors identified, Rocky View argued the Environmental Impact's Report's conclusions about the Conrich ASP's impact on Chestermere are unreliable and incorrect. Further, an accurate appreciation of phasing and the scale and type of industrial and commercial uses that will locate in Conrich due to the CN site, makes it clear that the Conrich and Chestermere industrial lands are not in competition – nor will there be an oversupply of commercial and industrial lands. In fact, Chestermere is seeking light industrial and commercial development, while Conrich ASP development will be largely heavy industrial uses intended to serve a regional market. Likewise, the preferred locations for industrial land are in areas of low population density, so the population contained within the area of the Conrich ASP should not be a determining factor for industrial land demand. Finally, with respect to phasing, the Phase 1 lands, which comprise about one third of the total area of the Conrich ASP, will proceed in the near term. These lands are either contained within existing plans (Buffalo Hills and Prince of Peace) or are located north of TR 250, adjacent to the CN Intermodal Terminal. Phase 2 of the Conrich ASP is governed by Policy 27.18. Phase 2 lands are identified for long term development, and development will only occur when a regional stormwater management system is chosen or market demand has been demonstrated.

### **Findings – Issue 3**

9. The economic analysis prepared by Chestermere shows that the municipalities are pursuing different markets and Chestermere must act to develop its commercial and industrial lands.
10. Competition between municipalities is not detriment.

### **Decision and Reasons – Issue 3**

[93] The Economic Impact Report and the Gap Analysis Executive Summary were the two main pieces of evidence supporting Chestermere's claim of economic detriment. As explained below, the MGB finds neither of these reports links development of the Conrich ASP to detriment to Chestermere.

[94] First, as the MGB has noted in many previous decisions – including *Sturgeon* and *Okotoks* - economic competition is not generally considered detrimental. This finding holds true for the current appeal. As noted by Rocky View, many of the statistics used in Chestermere's reports were based on the entire Calgary CMA. And while development of additional industrial and commercial lands in Conrich may have some effect on development in Chestermere's, the same observation applies equally to industrial development elsewhere in the Calgary CMA.



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[95] Even if the MGB were to accept that competition could in some cases constitute detriment, the MGB sees nothing detrimental in the circumstances of this case. The MGB finds the Economic Impact Analysis does not show the development proposed in the Conrich ASP will pose significant competition to Chestermere's own development. To begin with, the MGB accepts Mr. Shewchuk's criticisms of the Economic Impact Report prepared by Chestermere's experts, which undermine the reliability of its conclusions. Further, it is clear that Chestermere and Rocky View are pursuing different types of non-residential development, with divergent land requirements. The Conrich ASP is intended ensure that that incompatible development is minimized by establishing an area for the CN Intermodal Terminal with its associated regional and provincial scale industrial and commercial developments, and, by directing residential development away from this facility. This intent is reflected not only in the phasing in the Conrich ASP, but also in the marketing of the lands adjacent to the CN Intermodal terminal. Rocky View's MDP and Growth Management Strategy identify Conrich as a growth node, intended to generate employment for the region and the province.

[96] The Conrich ASP describes Phase 1 as the build-out of existing ASPs (Prince of Peace, Buffalo Hills) and lands adjacent to the CN site for its Intermodal Terminal. Policy 27.18 of the Conrich ASP states that Phase 2 will not be developed until market demand can be demonstrated, and a regional stormwater system is in place, a governance structure determined and, the means to construct or implement the system is in place. The use of the word "and" in Policy 27.18 confirms that timeframe for the development of the Phase 2 lands will not be occurring in the near term and may, given economic fluctuations, take additional time if the build-out of Phase 1 takes longer, or if the regional stormwater system does not proceed. Given these two requirements, the MGB believes that commercial and industrial development in Chestermere will be in place and underway before the Phase 2 lands in the Conrich ASP are developed.

[97] As previously mentioned, the types of development identified for Phase 1, such as the areas adjacent to the CN intermodal terminal, such as warehousing and material laydown areas, are not compatible with dense residential areas. Such developments need large land areas, produce noise throughout the day and night, included lighting is designed for safety and security, and require transportation access for large vehicles which will access the area at all hours. These are not the types of uses that would locate in Waterbridge ASP, and since the Mountain View area is not available, there do not appear to be similar lands within Chestermere.

[98] Chestermere's Waterbridge ASP identified as a "Master Area Structure Plan" contains a concept for a large area and is intended to serve as a blueprint for future area structure plans, neighbourhood plans, or conceptual schemes. A large scale or a master ASP does not mean that the area will be serviced and built immediately; rather, it is intended to sketch out the longer term intent for the area, and assign generic uses. This is a planning approach used in many jurisdictions in Alberta. Similarly, the Conrich ASP is blueprint for Rocky View. As more information becomes

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available, estimates and forecasts will be adjusted, resulting in amendments to the plan, changes to the boundaries of phases, or the development of detailed plans for the Future Policy Area. Based on policies in Rocky View's MDP and the Conrich ASP, Chestermere will be consulted and will have input on any proposed amendments.

[99] The MGB recognizes that Chestermere introduced an Economic Impact Analysis and the executive summary of the Retail Gap Analysis to highlight the need to attract additional non-residential assessment to Chestermere, and to determine how much additional retail space is required to serve the existing and future population and the types of uses desired by residents. Both documents speak to Chestermere's need for additional commercial and industrial land within Chestermere to serve the population. The Retail Gap Analysis establishes that Chestermere requires additional commercial developments to serve its residents, and discusses the types of retail uses that Chestermere should pursue. Contrary to the opinion of Mr. Lacasse, the Retail Gap Analysis clearly identifies the East Hills development in Calgary as Chestermere's competition. While the executive summary states that Chestermere needs to increase the amount and types of commercial development, it does not state that the Conrich ASP would impact this need and does not provide the MGB with any evidence of detriment.

**Issue 4: Will the Conrich ASP cause detriment to Chestermere by requiring it to pay for additional resources such as FCSS, libraries, parks and recreation, emergency police and fire services?**

Chestermere's Position:

[100] Chestermere argued the placement of 5,000 to 10,000 people in Conrich would put undue strain on Chestermere's services. The Conrich ASP does not contain a population projection, a requirement under section 633 of the *Act*, and it is unclear how much population would be generated by each phase of the ASP. While Rocky View said much of the residential development would occur in the Future Planning Area, there is no indication if these lands will be included in Phase 1 or Phase 2. A population projection or projected density is required, to ensure that Rocky View has the appropriate infrastructure and services for Conrich residents.

[101] Chestermere introduced testimony from Ms. L. Brankovich, a registered social worker and social planning consultant who prepared Chestermere's Social Plan. For this hearing, Ms. Brankovich interviewed members of Chestermere administration and stakeholders and prepared a report entitled "*Social Infrastructure Impacts on the City of Chestermere As a Result of the Conrich Area Structure Plan*" (Social Infrastructure Report) to demonstrate that the Conrich ASP will be detrimental to Chestermere. Ms. Brankovich's opinion is that the Conrich ASP is premature for four reasons and should be delayed until plans or agreements are in place between Chestermere and Rocky View to accommodate growth.



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[102] Firstly, the Conrich ASP is premature because Chestermere and Rocky View do not have an IDP in place. The IDP is necessary to ensure that the municipalities have a process for collaborative planning, dispute resolution and to discuss costs and revenues. As part of the 2009 Annexation Agreement, Rocky View and Chestermere agreed to prepare and adopt an IDP. There is no IDP in place, and therefore, Rocky View is breaching the agreement by proceeding with the Conrich ASP. Since the proposed *Modernized Municipal Government Act* will make an IDP mandatory for all municipalities the Conrich ASP should be set aside until the IDP is complete.

[103] Secondly, before proceeding with the Conrich ASP, Ms. Brankovich stated that Rocky View must prepare master plans for recreation, family and community services (FCSS), fire, policing, disaster response and recovery to deal with the influx of population in the plan area. In addition, Rocky View should be required to negotiate and enter into regional agreements for fire, policing, family and community services and recreation. Based on the interviews undertaken by Ms. Brankovich and her personal knowledge, if Rocky View has plans or agreements, they are either out of date or very general, and do not contain sufficient detail to accommodate an additional 10,000 residents. If development occurs in Conrich, additional fire and policing services will be required for the industrial development due to the increased population and traffic. Library services, which are at capacity in Chestermere, will be oversubscribed without additional funding or expanded space.

[104] Thirdly, Ms. Brankovich explained that if development and construction in the Conrich ASP were to proceed today, Rocky View residents will access Chestermere's services, since policing, fire and disaster services, recreation, library and FCSS programs are readily available in Chestermere. While growth in Chestermere has increased the demand for these services, the additional demand by Rocky View residents will stretch resources, increase lifecycle and maintenance costs, and increase Chestermere's expenses. Ms. Brankovich noted that while demand by Rocky View County residents has increased for facilities and services in Chestermere, Chestermere has received no additional funding to cover the associated expenses.

[105] In the Social Infrastructure Report, Chestermere noted that there was precedent for their concerns as population growth in Langdon, south of Chestermere, occurred without the IDP in place. Langdon grew 87% to just under 5000 residents in a short time frame. Langdon residents rely on Chestermere's Community Services Department, attend Chestermere's high school, recreation facilities and library. While Langdon is served by a volunteer fire department and its policing needs are met by the Strathmore RCMP, all other services are available in Chestermere and used by Langdon residents.

[106] Ms. Brankovich highlighted FCSS programming and funding and the Chestermere Regional Recreation Centre as two areas of detriment occurring currently which would be complicated by additional population in the Conrich ASP. While FCSS programs in Chestermere serve a growing population, the funding for providing and staffing these programs has not

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increased. In 2013, Chestermere introduced a new program delivered by a non-profit society; this innovation led to a reduction in funding a result of the old FCSS funding criteria. While funding was restored the following year, total funding to Chestermere remained the same despite the new program. In contrast, other programs have been established and funded in South East Rocky View.

[107] Additional population in Conrich will also increase use of the Chestermere Regional Recreation Centre (Recreation Centre) without any cost recovery mechanism in place. The Chestermere Regional Community Association (CRCA) operates the Recreation Centre and the surrounding 28 acres of land under a lease arrangement with Rocky View. There is an ongoing dispute between the CRCA and Rocky View over the terms of the lease. As a result, Rocky View withdrew its operating funds and is not allowing major maintenance or upgrades to the Recreation Centre until a new lease is signed. Rocky View also reclassified the Recreation Centre in 2015 from a “Regional” to a “District” facility, further reducing the amount of funding for facilities and programs at the Recreation Centre. Without an IDP to establish a dispute resolution process, Chestermere and Rocky View cannot easily resolve this dispute.

[108] Lastly, Ms. Brankovich expressed disappointment that the Conrich ASP does not contain a social planning component or population projections, arguing that the plan is premature and should be set aside until details are known or agreements are in place. Without the social planning component and population projections, the Conrich ASP does not adequately consider social infrastructure, as required by the SSRP. Given all of these deficiencies, the MGB should set aside the ASP.

[109] In response to questions by Rocky View, Ms. Brankovich explained she generated her findings and conclusions in the Social Infrastructure Report by reviewing various planning documents, agreements and other bylaws and compiling the results of interviews with Chestermere administration and stakeholders, including the acting Fire Chief and RCMP detachment commander. Ms. Brankovich explained that in producing her report, she did not interview anyone from Rocky View, nor did she request or review any copies of Rocky View’s current plans and agreements for the above mentioned areas.

#### Rocky View’s Position:

[110] Rocky View advised the MGB that, contrary to the evidence provided by Chestermere, there are agreements and master plans in place for social infrastructure programs and services that will serve current and future residents in the Conrich ASP and in Chestermere. As the lands within the Conrich ASP develop and the population increases, funding and other resources will be adjusted to serve the area and the increased demand.

[111] In response to Chestermere’s evidence and the contents of the Social Infrastructure Report, three members of Rocky View’s staff were introduced as witnesses. Mr. R. Ell, FCSS Coordinator



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for Rocky View, explained that social infrastructure is a direct or conscious action to provide supports to people and build social capital. The FCSS programs are administered locally with provincial funds. Provincial FCSS funding is based on budget allocated in the previous year, which means that programs funded in 2016 are based on a budget finalized in 2015. Funding is allocated based on projects submitted and requests.

[112] Mr. Ell explained that the FCSS board determines and allocates funding based on a Community Needs Assessment and the FCSS Strategy Road Map. The funding given to Chestermere has been in the amount requested. Mr. Ell agreed a funding decrease in 2013 occurred due to the establishment of the Synergy Program, a non-profit organization. The reason the FCSS Board did not fund Synergy is that their approach did not meet the criteria under the FCSS Strategy Road Map. Funding was restored in 2014 once Synergy was operating.

[113] Rocky View also introduced testimony from Ms. S. Baers, a registered planner and Manager of Planning for Rocky View to explain the open space and recreation policies in the Conrich ASP and describe the differences between recreation facilities in Rocky View. The Conrich ASP already includes provisions for parks and open spaces. As more detailed plans for the Future Planning Area are developed, population projections will be adjusted and additional documents such as the Rocky View's Recreation and Cultural Master Plan will be completed.

[114] Ms. Baers explained that the reclassification of the Chestermere Recreation Centre by Rocky View Council occurred because there was no agreement on cost sharing with CRCA. Rocky View has set aside money that would have been paid to CRCA if the operating lease were in place, and will pay it once an agreement is reached. There are currently legal proceedings between the CRCA and Rocky View concerning this matter, but these proceedings have no bearing on the adoption of Conrich ASP.

[115] Rocky View's final witness was Chief R.E. Smith, who is Rocky View's Fire Chief and Director of Emergency Management. Chief Smith provided evidence about fire, emergency management and disaster services as well as police services. Chief Smith reviewed the Chestermere's Social Infrastructure Report and provided content for Rocky View's submissions for this hearing. He explained that Rocky View Fire Services operates as a regional fire service with 7 stations, 74 full time fire fighters, 120 part time fire fighters and approximately 100 volunteer positions. Fire Services also coordinates with a number of other agencies and has mutual aid agreements with municipalities in the region. City of Calgary is a partner, providing dispatch services for 911 calls.

[116] There is a mutual aid agreement between Chestermere and Rocky View. Developed by both municipalities, the mutual aid agreement is structured so that if there is an emergency call in one municipality, the partner responds and, if available, the responding partner sends the requested equipment and firefighters. Mutual aid agreements allow firefighters and equipment to be deployed

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from different areas. Chief Smith noted that the Rocky View and Chestermere fire services work together regularly and have a good working relationship. The agreement, structured around the type and volume of calls, is currently set for 80 calls a year at a flat rate. The number of calls can be increased in a time of need. In 2015, there were more than 80 mutual aid calls to Rocky View; many of these calls were due to flooding in Chestermere, and Rocky View Fire Service assisted in evacuations and pumped out flooded basements. In 2015, there were 30 calls due to motor vehicle accidents on Highway 1, for which Chestermere had requested inclusion of its fire service.

[117] In response to questions posed by Chestermere, Chief Smith agreed that if increased industrial development occurs in Conrich, additional services will be required. Currently, stations in Balzac and Langdon provide service to Conrich and assist Chestermere; if a fire station is needed to serve the additional population or provide additional services, it can be built.

[118] Chief Smith is also Rocky View's Director of Emergency Management. Rocky View has an Emergency Management Plan and an Emergency Management Committee that can respond to emergencies and disasters. There is a separate Emergency Social Services Plan, which is used when there is a large scale emergency or disaster, and a reception centre or other services are needed. Although these plans are available, Chief Smith does not believe Chestermere has requested copies of either document. While Chestermere might have similar documents, these have not been circulated to Rocky View, nor has a copy been provided.

[119] Chief Smith affirmed that the Strathmore RCMP detachment is responsible for providing policing services to Conrich, but if necessary can call upon the Calgary Police Service, CN Police, Alberta Sheriffs, and the County's Peace Officers for assistance. Recently, Rocky View has funded an additional position at the Strathmore detachment to assist in policing duties in the eastern part of Rocky View. As development proceeds in the Conrich ASP and the population increases, additional services will be added consistent with the Provincial Police Services Agreement.

[120] In response to Chestermere's assertion that social infrastructure or funding must be in place prior to Rocky View proceeding with the approval and development of the Conrich ASP, Rocky View reminded the MGB that section 633 does not require social plans as a precursor to an ASP. Section 3(b) of the *Act* states that the purpose of a municipality is "to provide services, facilities or other things that in the opinion of council, are necessary or desirable for all or a part of the municipality." In this case, Rocky View Council has not requested a social plan, nor has it required its preparation to guide social programs in within Rocky View. Counsel for Rocky View advised that there are no Alberta counties who have a social plan. Further, Chestermere's Waterbridge ASP does not include a reference to the Social Plan, nor does it mention social infrastructure. After a quick review of Calgary's planning documents and the Rocky View and Calgary IDP, Rocky View observes that there are no references to Calgary's Social Plan. Chestermere also recently prepared a recreation master plan, funded by Rocky View, for which there was little consultation.



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[121] While the SSRP includes references to social infrastructure, the provision cited by Chestermere is located in the Strategic Plan, not the Regulatory Details Plan. Rocky View reminded the MGB that the three portions of the SSRP (strategic plan, implementation plan and regulatory details plan) are intended to be read together; to focus on the provision cited does not give a true sense of the intent of the SSRP. There is a great deal of cooperation between Rocky View and area municipalities and continuing efforts to plan for social infrastructure.

[122] The Rocky View MDP identified Conrich as a growth node with a range in population of 5000 to 10000 residents. The Conrich ASP is designed as a framework, and more detailed policies for population growth and social infrastructure will be added when other ASPs or conceptual schemes adopted under the Conrich ASP. Any future statutory plans or land use bylaw amendments will be circulated and discussed with Chestermere. Other than previously approved ASPs and Conceptual Schemes, there will be no residential development in Phase 1. While there may be residential development in Phase 2, the time frame in which these lands would be further planned and developed will not put a stress on social infrastructure, and programming can be adjusted. Residential growth (with a large increase in population) will not occur until services area in place, and a plan developed for the Future Planning Area.

[123] The issue of social infrastructure raised by Chestermere in this appeal was not identified or discussed with Rocky View during the development of the Conrich ASP, nor in its written notice to Rocky View prior to second reading of the Conrich ASP bylaw. There are agreements for many of the services that Chestermere raised as concerns (fire, disaster, FCSS, library and recreation). These are not part of the ASP, but do support it. Counsel for Rocky View argued the findings of the Social Infrastructure Report are incomplete and incorrect, since Ms. Brankovich interviewed only Chestermere staff or residents and summarized the results. Without access to copies of the interviews, the statements in the report cannot be confirmed.

#### **Findings – Issue 4**

11. Social infrastructure is optional content in an Area Structure Plan, but is not generally part of an Area Structure Plan.
12. Rocky View and Chestermere have master plans and agreements in place to address social infrastructure.
13. The ASP does not cause detriment to Chestermere related to social infrastructure funding or service provision

#### **Decision and Reasons – Issue 4**

[124] Chestermere is concerned about providing services to a growing population, including a potential 10,000 new residents in Conrich. Further it is concerned that funding for services

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provided to Conrich residents will be at Chestermere's expense. The MGB accepts that it is important to plan ahead for future residents, and that residents from Conrich will likely use services in Chestermere; however, it not unusual for residents of neighbouring municipalities to use services in municipalities where they do not reside, and detriment cannot be inferred from such circumstances. Rather, detriment would require an unreasonable failure to cooperate with a neighbouring municipality to facilitate service provision, mitigate risks, and share costs: for example, a refusal to provide appropriate services or to enter into joint planning arrangements, mutual aid agreements, and cost sharing agreements as appropriate.

[125] In this case, the evidence does not establish any such failure. On the contrary, the MGB heard that there are many agreements in place between Chestermere and Rocky View that address the concerns identified in Chestermere's Social Infrastructure Report. While these agreements are not contained within the Conrich ASP, it does not mean that the contents of the agreements will be overlooked when planning for social infrastructure generated by the different phases of the Conrich ASP.

[126] It is true that Chestermere has prepared a Social Plan to address requirements for services, whereas Rocky View has no equivalent to date. However, Rocky View's decision not to proceed with a social plan does not establish detriment. There is no legislated requirement for a social plan; furthermore, joint service requirements may be planned and delivered effectively without one. Municipalities cooperate in many ways that are not necessarily reflected in statutory planning documents such as IDPs and ASPs.

[127] In this case, Rocky View has arrangements in place with neighbouring municipalities – including Chestermere – to deal with emergency response requirements, and has demonstrated willingness to discuss changes to cost sharing requirements as circumstances evolve. The evidence from Chief Smith, Mr. Ell, and Ms. Baers shows plans and agreements exist between the two municipalities that can be updated, reopened or replaced as circumstances change and as more information becomes available. While it is unfortunate that litigation is ongoing with respect to the Recreation Centre, this appears to be a dispute over interpretation of a lease agreement rather than a failure to plan jointly or cooperate to provide services. Accordingly, the MGB does not accept Chestermere's assertion Rocky View has failed to participate in providing services or funding.

[128] The MGB observes that the Conrich ASP does include provisions to address the needs of an increasing population. For example, it has provisions for recreational, cultural, and community uses, including provisions for a regional and local network of pathway and trail connections. It also has provisions for schools, open spaces, natural environment, reserves, and emergency services. In the MGB's view, the ASP demonstrates good planning practice in the circumstances and includes as much detail as can be expected for a document of its kind.



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[129] It is important to recognize that the Conrich ASP includes phasing and population projections for Phase 1 to deal with industrial and commercial warehouse development adjacent to the CN site. Development of the balance of the Conrich ASP will not occur until a market study is complete and either CSMI or SRDP is in place. Throughout the hearing and in its written submissions, Rocky View estimated that the development of later phases of the Conrich ASP would occur after 2035. There will be time for the discussion and planning for future population, and a mutual determination of social infrastructure needs and funding.

[130] Nor can the MGB accept that the lack of an IDP between Rocky View and Chestermere is detrimental for the purposes of this appeal. As noted earlier in this order, intermunicipal planning policies exist in the ASP and Rocky View MDP, including a dispute resolution mechanism. While an IDP may become mandatory once amendments to the MGA take effect, this fact does demonstrate detriment in the context of an intermunicipal dispute.

[131] With respect to Chestermere's assertion that the Conrich ASP does not comply with the SSRP, The MGB notes that, at page 33 in the SSRP Strategic Plan, the SSRP states:

Decision-makers in the region will need to deliberately cooperate and coordinate their planning to meet the physical and social infrastructure needs of their communities and to ensure the quality of life for all residents is enhanced in thriving urban and rural communities.

SSRP Implementation Plan, Strategy 8.1 requires partners "to work together to achieve the shared environmental economic and social outcomes". There is evidence that Chestermere and Rocky View have worked together in the past, the MGB sees no reason to believe communication will not continue in the future. As noted by Rocky View, there are three parts to the SSRP, only one of which, the Regulatory Details Plan, is a regulation. The Regulatory Details Plan is silent on the provision of social infrastructure. In any event, as noted in *Canmore v. Bighorn*, MGB 010/17 at paragraph 85, the MGB's role is to determine whether another municipality's bylaw causes detriment rather than to assess consistency with a regional plan.

**Issue 5: Without an Intermunicipal or a Regional Plan, will there be a lack of coordination of plans that will be detrimental to Chestermere?**

Chestermere's Position:

[132] Chestermere raised two specific concerns about detrimental effects it says will result from implementing the Conrich ASP without prior co-ordination of plans. The first is that the CN Intermodal Terminal is a regional asset for Southern Alberta, and the Conrich ASP requires appropriate transportation and land use plans that should be coordinated with area municipalities. The second concern raised is that, in its current form, the Conrich ASP harms the ability of

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Chestermere to develop as a complete and sustainable community. Mr. Popoff contended harm be defined as: “social, economic or environmental damage or injury, an act that causes the other party to be made less sustainable or viable in relation to their identified growth ambitions and mandate as a municipality.”

[133] To support its position on both these concerns, Chestermere introduced evidence from Mr. J. Popoff, who is a registered planner and Chestermere’s Director of Development and Infrastructure Services. Mr. Popoff explained that the CN site is important and necessary to the logistics and warehousing industry. The surrounding region - including Chestermere - benefits economically from the CN site, which generates between 400 and 1100 jobs. In Mr. Popoff’s view, this regional asset requires appropriate regional planning, including an integrated transportation network, and a collaborative planning framework.

[134] The Conrich ASP is a very large area: 10,000 acres of land, of which 4800 acres will be industrial. As demonstrated by the Economic Impact Report, this amount of industrial land would support all of Rocky View’s needs for 70 years. Setting aside such a vast amount of land for industrial development unprecedented and inefficient, and does not align with established planning documents, including the Rocky View MDP, Calgary Metropolitan Plan, the CCCASP and the SSRP.

[135] In contrast to the very large industrial/warehousing Future Policy Area identified within the ASP, the Rocky View MDP identifies a much smaller Regional Business Centre north of the hamlet of Conrich, while the CCCASP defines a compact light industrial area on Highway 1. Contrary to the ASP, the CCCASP and SSRP also discourage premature conversion of agricultural land. More generally, the SSRP also requires efficient use of land and infrastructure, and minimization of land required for the built environment. The ASP undermines all of these objectives by zoning industrial land beyond realistic absorption rates.

[136] A related concern is that Rocky View’s practice of using non-statutory plans such as Local Plans will promote inefficient, incremental planning rather than efficient, regional planning. Non Statutory plans have no requirements for circulation and no avenue of appeal. As a specific example of how the ASP will result inefficiencies through incremental planning, Mr. Popoff compared two planning scenarios – one collaborative and the other independent. The two scenarios show how collaborative design can contribute to efficient use of land, connectivity of development, and effective transportation connections.

[137] Mr. Popoff explained that failure to plan collaboratively will harm Chestermere’s goal to develop into a complete and sustainable Community. In this regard, he echoed testimony from Mr. Woodward and Mr. Johnson that Conrich’s designation of such a large amount of commercial/industrial land affects Chestermere’s ability to attract similar development, reduces the available workforce and contributes to a loss in tax revenue. He also indicated that without an



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IDP in place, the Conrich ASP allows ad hoc and disjointed development. The Highway 1 corridor, in particular, needs to be planned collaboratively and comprehensively. Ad hoc development is detrimental as it increases cost of infrastructure. Where both Chestermere and Rocky View intend to increase their non-residential tax base, comprehensive planning should be occurring.

[138] Mr. Popoff acknowledged there have been other plans approved in the area without an IDP (Example: Janet ASP in Rocky View and Waterbridge ASP in Chestermere); however, he emphasized the Conrich ASP is unique because it straddles Highway 1, which is the most important gateway for Chestermere. A GMO and IDP, when completed, will support the Community Development segment of the SSRP, as these documents will promote planning cooperation, integration and knowledge sharing between communities, and allow collaborative solutions to planning challenges.

[139] In its written summary, Chestermere also suggested the MGB could allow only the portions of the Conrich ASP applicable to the Phase 1 lands, and require certain amendments Policy 27.18 – namely, to ensure Phase 2 only proceeds after (1) completion of a market study in partnership with Chestermere, (2) an agreed terms of reference and consultant, and (3) approval and construction of the regional stormwater system. Should the MGB determine both Phases could proceed, Chestermere requested further amendments to provisions of the Conrich ASP Policies regarding Emergency Services, Transportation, Stormwater and Drainage. These amendments would protect Chestermere from potential effects of development of the Conrich ASP and require consultation with Chestermere.

#### Rocky View's Position:

[140] The Rocky View Municipal Development Plan includes a protocol for intermunicipal planning, used when there is no intermunicipal development plan. As Conrich ASP is required to comply with the MDP, the protocol would apply. Further the Conrich ASP complies with other policies in the MDP and, the pattern of growth is consistent with previous plans such as the CCCASP. As the *Okotoks* decision noted, all municipalities are autonomous and can make planning and development decisions in their own boundaries without interference as long as the decisions don't cause detriment to their neighbours.

[141] Rocky View explained the Conrich area is evolving from an agricultural community to one with increased demand for related intermodal industrial and commercial development. There have been issues with increased truck traffic from the CN site, and impacts on area residents due to increased train movements – for example, noise and additional lighting. While some mitigation has occurred, additional work is needed.

[142] Although an ASP is not strictly required, Rocky View decided to proceed with the Conrich ASP to help manage growth. The Conrich ASP is consistent with Rocky View's evolving policies

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and vision, the 2009 Growth Management Strategy and 2013 MDP, all of which were developed after public consultation. The lands in the Conrich ASP have been identified for business in the CCCASP since 2004. Chestermere raised no concerns when consulted on the CCCASP or the 2013 MDP, nor did it file an intermunicipal dispute. Chestermere's own Waterbridge ASP also includes commercial uses adjacent to Highway 1 identified in the CCCASP.

[143] Ms. Zeluski explained the Rocky View MDP was prepared at the same time as the SSRP, and incorporates the draft principles of the SSRP. MDP Principle 3 is "Support the agricultural sector by focusing growth to existing identified areas and limiting development in agricultural areas", which echoes the Agriculture Strategies in the Community Development section of the SSRP. Designating lands near the CN site for commercial and industrial development will allow other agricultural lands in Rocky View to remain in production.

[144] Ms. Zeluski noted that the Rocky View MDP and Conrich ASP contain extensive policies for intermunicipal collaboration. Where Rocky View does not have an IDP with a municipality, it relies on Section 27 of the MDP, Intergovernmental Affairs, which is the intermunicipal planning section. This section includes Policy 27.12, which requires Rocky View to engage in alternative dispute resolution if there is an intermunicipal dispute. While an invitation to mediate was sent to Chestermere, there was no response, and Chestermere filed an appeal under section 690. After the issuance of DL 004/16, Chestermere and Rocky View entered into mediation, but this did not result in resolution. There is a draft IDP, however, it does not include the various joint planning, economic, cost and revenue sharing, and social infrastructure issues raised by the Chestermere in this appeal. These issues had not been identified prior to the development of the draft IDP.

[145] Rocky View argued that adopting the Conrich ASP prior to an IDP does not cause detriment to Chestermere, and delaying the ASP until the IDP is adopted would increase uncertainty and freeze development. Given Chestermere's recent attempt to annex the Conrich ASP area, it is reasonable to conclude that the Minister is aware of the situation and could mandate an IDP, but none has been mandated. Section 631.1 of the *Act* allows the Minister to make regulations or require two municipalities to establish an IDP. While the MGB had previously been requested to place a moratorium on development, it has declined to do so.

[146] Development in the Conrich ASP will pay its own way and will not increase costs to Chestermere. As noted by Mr. Wiljamaa, Rocky View has an off site levy bylaw and infrastructure charges will be applied at the time of development or subdivision. In addition, the Conrich ASP will be consistent with Rocky View's 2013 County's Servicing Standards and engineering standards. The Conrich ASP requires engineering and servicing plans be circulated with both Chestermere and Calgary. Mr. Wiljamaa stated the Conrich ASP requires a decision be made on the regional stormwater system with a governance system prior to the development of the Phase 2 lands, it does not require that the system be completely constructed. The advantage of the CSMI alternative is that it can be constructed in segments when funding is in place.



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[147] The planned uses on the boundaries of Chestermere and the Conrich ASP area are not incompatible. Development in Phase 1 is either included in existing approved plans, or industrial development is north of Conrich adjacent to TR 250, which is also approximately 3 km north of Chestermere. The Phase 2, Highway Business Area is consistent with development planned on adjacent lands in Chestermere's Waterbridge ASP. Policies contained within Section 14 of the Conrich ASP were drafted to mitigate land use conflict between residential and non-residential uses. Chestermere administration recommended approval of the Conrich ASP.

[148] Finally, Chestermere's requested remedy, that the MGB impose a Growth Management Overlay on lands adjacent to Highway 1 is not acceptable to Rocky View. The MGB cannot impose such a scheme, nor can it order that an IDP be prepared prior to consideration of the Conrich ASP. While Chestermere relied on provisions within the *Modernized Municipal Government Act*, to infer that IDPs will become mandatory and the MGB ought to order the preparation of the Chestermere and Rocky View IDP, this legislation has not been proclaimed, and the MGB cannot order compliance with draft legislation. Policies within Rocky View's MDP and the Conrich ASP target timely and meaningful consultation between Chestermere and Rocky View, but as the MGB determined in the Sturgeon decision. "Consultation...does not mean a veto". Rocky View submits that Chestermere has not proven detriment and is not entitled to any remedy whatsoever.

### Findings – Issue 5

14. There are provisions within the Rocky View MDP for intermunicipal planning to engage in coordinated and cooperative planning.
15. The MGB cannot require or enforce the adoption of an IDP.
16. The ASP does not result in a lack of co-ordination of plans detrimental to Chestermere.

### Decision and Reasons – Issue 5

[149] Underway for several years and the subject of much consultation, the need for the Conrich ASP appears to have been generated by Transport Canada's decision to locate the CN Intermodal Terminal adjacent to the hamlet of Conrich, and Rocky View's need to ensure that incompatible development is minimized. The MGB accepts the evidence of Rocky View that the Conrich ASP is consistent with the Rocky View MDP. The MDP identifies the hamlet of Conrich as a growth area, and gives a target population of 5000-10000 people.

[150] While Chestermere argued that Conrich ASP requires coordinated and appropriate transportation and land use plans with regional municipalities, there was no indication that plans could not be developed and amended. The Conrich ASP sets out a framework on which to base development of the areas surrounding several important regional features: the CN site, the hamlet

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of Conrich, Highway 1, the Cities of Chestermere and Calgary, and Stoney Trail. The ASP sets a vision for development of the area, and includes provisions that identify and protect water resources and features of the natural environment, stormwater management features, utility servicing, transportation routes. Land use bylaws and statutory plans, including area structure plans, are not static documents and can be added to or amended over time. Generally, the identification of phases in statutory plans recognize the need for orderly development and the ability to identify areas which may require study, or require specific servicing to proceed.

[151] The MGB notes that administration of both Rocky View and Chestermere agreed to the content and wording of policies in the Conrich ASP, although Chestermere's council subsequently objected to the plan. The MGB heard Rocky View has made reasonable efforts to communicate with Chestermere to resolve planning issues affecting the region. For example, Rocky View prepared a matrix comparing issues of concern raised by Chestermere Council as a matter of discussion, but Chestermere Council ordered administration to cease all communication with Rocky View. Invitations by Rocky View to mediate were not responded to. Although lack of communication can be a form of detriment in some circumstances, no such circumstances apply here.

[152] The MGB observes that the 2004 CCCASP shows residential, commercial, industrial and corridor development for the lands south of the hamlet of Conrich and extending into lands which are now part of Chestermere. While the CCCASP focused on development adjacent to both Highway 1A and the Highway 1 Corridor, there was a wide range of uses shown for the balance of that Area. Highway 1 in the CCCASP, creates a buffer for land uses, transitioning from agricultural uses south of Highway 1 to commercial, residential, residential infill and commercial north of Highway 1 to surround the hamlet of Conrich. That general concept is continued in the Conrich ASP.

[153] Chestermere argued that the Conrich ASP violates SSRP provisions that encourage community development and the efficient use of land. The MGB observes that these provisions do not occur in the regulatory portion of the SSRP; even so, the evidence of Ms. Zeluski makes clear that Rocky View did consider them when formulating its ASP. Chestermere would evidently prefer a greater level of detailed regional planning before development proceeds; however – as noted earlier in this order - it would be unfair to freeze development in the Conrich Area until the level of certainty Chestermere has requested is achieved. Similar sentiments have been expressed in previous MGB orders. For example, in *Drayton Valley v Brazeau County* (MGB 181/99), the MGB stated

“The Board is unwilling to place a moratorium on development in the intermunicipal fringe until an IDP is complete. Such a moratorium translates into a de facto veto by the Town...It is not the practice of the Board to virtually freeze



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a huge geographical area from any form of development activity pending the adoption of a plan which may or may not be realized.”

[154] As found earlier in this order, the absence of an IDP does not necessarily establish detriment, nor would it be appropriate for the MGB to determine the contents of such a plan. Imposition of an IDP is not a remedy identified by section 690 for the MGB to apply in the context of an intermunicipal dispute. Further, the *Act* now in force clearly contemplates development without the benefit of an IDP, and it has been common practice in Alberta for municipalities to include policies for intermunicipal cooperation within their MDPs. The case now before the MGB conforms to this longstanding practice.

[155] While the CN Intermodal Terminal is a clearly a regional asset for Southern Alberta, the Conrich ASP includes appropriate transportation and land use plans that provide a reasonable basis for coordination with other municipalities in the area to develop services for area residents.

### **Landowner Submissions**

[156] The MGB provided notice to approximately 665 landowners in the Conrich ASP area, and also advertised the merit hearings in the Rocky View Weekly and on the municipality’s websites. To allow landowners and the public to make submissions about Chestermere’s appeal, the MGB convened an evening session on September 19, 2016 to allow the public to make submissions.

[157] A total of 13 submissions were received or heard by the MGB, all in support of the Conrich ASP and opposed to the Chestermere and Calgary claim of detriment. Rocky View’s approach to develop and adopt the Conrich ASP was comprehensive, fair and open, and the adopted version of the plan was an effort to balance all of the interests in the area. While many of the Landowners expressed a preference for the May 2015 version of the Conrich ASP which did not include the Future Policy Area, all encouraged the MGB to dismiss the claims of detriment and allow the Conrich ASP.

[158] The appeal of the Conrich ASP is the most recent in a long series for delays impacting the Landowners’ ability to plan for activities including future development of their lands, to complete real estate transactions, or to continue their agricultural operations. The delays have been as a result of a lack of certainty for planning in the area, and while there have been several strategies by Rocky View to develop a plan for Conrich, including the Growth Management Strategy and the Reeve’s Task Force, these studies have further delayed their plans. There has been no decision made on regional stormwater management which has also delayed planning in Conrich. This has contributed to uncertainty for several Landowners as they understood that their lands would be required for stormwater management facilities.

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**PART D: DECISION**

[159] The MGB finds no detriment on any of the issues raised by Chestermere and dismisses the appeal.

Dated at the City of Edmonton, in the Province of Alberta, this 9<sup>th</sup> day of May, 2017

MUNICIPAL GOVERNMENT BOARD

  
\_\_\_\_\_  
D. Thomas, Presiding Officer



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## APPENDIX "A"

### PERSONS WHO WERE IN ATTENDANCE OR MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING:

NAME	CAPACITY
R. Jones	Legal Counsel, City of Chestermere
M-E Scott	Legal Counsel, City of Chestermere
J. Popoff	Witness, Director of Development and Infrastructure Services, City of Chestermere
S. Power	Witness, Transportation Engineer, Parsons Corporation
J-M Lacasse	Witness, Director of Economic Development, City of Chestermere
R. Woodward	Witness, Economist, RW Consulting
S. Johnson	Witness, Economist, SJ Consulting
L. Bozic	Witness, Water Resources Engineer, Urban Systems Ltd.
L. Brankovich	Witness, Social Planning Consultant, L. Brankovich Consulting
J. Klauer	Legal Counsel, Rocky View County
A. Zeluski	Witness, Senior Policy Planner, Rocky View County
A. Guebert	Witness, Senior Transportation Engineer, Watt Consulting
E. Hofbauer-Spitzer	Witness, Transportation Analyst, Watt Consulting
P. Shewchuk	Witness, Senior Economist, Nichols Applied Research
C. McNab	Witness, Water Resources Engineer, MPE Engineering
P. Seeliger	Witness, Water Resources Engineer, MPE Engineering
R. Ell	Witness, FCSS Coordinator, Rocky View County
S. Baers	Witness, Manager of Planning, Rocky View County
R.E Smith	Witness, Fire Chief, Director of Disaster Services, Rocky View County
R. Wiljamaa	Witness, Director of Engineering, Rocky View County
D. Mercer	Legal Counsel, Affected Party, City of Calgary
M. Senek	Legal Counsel, Affected Party, City of Calgary

### LANDOWNERS WHO MADE SUBMISSIONS AT SEPTEMBER 19, 2016 LANDOWNER SESSION

S. Staddon	Landowner
J. Kuz	Buffalo Hills Developments Ltd
S. Grande	Remax Real Estate
B. Tobler and J. McKervey	Landowner
P. Mosca	Landowner

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## APPENDIX "B"

### DOCUMENTS RECEIVED PRIOR TO THE HEARING:

NO.	ITEM
1A	City of Chestermere Dispute Filing, Declaration of R. Patrick CAO
2R	Map of Area and Landowner list generated from assessment roll
3R	Rocky View County Response, Declaration of K. Greig
4A	City of Chestermere proposed exchange dates
5A	City of Chestermere mediation report
6A	City of Chestermere Legal Brief
7A	City of Chestermere Submissions
8R	Rocky View County Legal
9R	Rocky View County Planning Response
10R	Rocky View County Social Infrastructure Response
11R	Rocky View County Stormwater Response /Rocky View County Economic Assessment Response (binder tab 2)
12R	Rocky View Transportation Response (binder) ***replacement of August 11 letter

### LANDOWNER SUBMISSIONS – Common to both Calgary and Chestermere

13L	Buffalo Hills Developments for Spearpoint Holdings, Kuz
14L	B Tobler for C. Land
15L	C. McKerverey
16L	Amar Developments
17L	Stoney Gateway Business Park (B & A Planning Group - D. MacDonald)
18L	Harriman and Harriman Trust (Urban Systems Ltd.- K. Nelson)
19L	Remax for Landowners Coates, Gehbari, Gill, Jeha, Gill, Longair, Matthews, Mosca, Orban, Mosca, Penikett, Roberts, Sabbah, Sheppard, Soderberg, Staddon, Soderberg, and Vaughan (S. Grande - Remax Complete)
20A	City of Chestermere Reply Submission
21A	City of Chestermere Reply to the Rocky View Memorandum of Legal Argument and Authorities
22R	Rocky View County Memorandum of Legal Argument (Surrebuttal)



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## APPENDIX "C"

### DOCUMENTS RECEIVED AT THE HEARING.

NO.	ITEM
23A	Lacasse CV – Chestermere Economic Development Director
24R	City of Chestermere MDP 2016
25R	City of Chestermere MDP 2009 (excerpt)
26R	City of Chestermere Gateway ASP (excerpt)
27R	City of Chestermere Waterbridge ASP
28R	City of Chestermere Letter of Support for CSMI to Western Irrigation District (WID)
29A	PowerPoint - Summary of City of Chestermere Planning Evidence
30R	City of Chestermere Future Recreation and Leisure Centre Feasibility Study
31R	City of Chestermere Feasibility Study
32R	PowerPoint – Summary of Rocky View County Planning Response
33A	2008 Annexation Agreement between Rocky View County and Town of Chestermere
34A	Canada Transportation Agency Decision 50-R-204 for CN Logistics Park (identifier only)
35A	Calgary Logistics Park Master Site Development Plan (report)
36A	Rocky View County Website excerpts – CN Logistics Park – Economic Development
37A	Rocky View County Council Report – CN Logistics Park
38A	Conrich ASP Phase 1 Engagement Report – Golder and Associates
39A	Conrich ASP Phase 2 Engagement Report – Golder and Associates
40A	Conrich ASP Phase 3 Engagement Report – Golder and Associates
41A	February 12, 2015 Letter to Honourable D. McQueen, Minister of Municipal Affairs (identifier only)
42A	Growth Management Board Submission to Minister of Municipal Affairs
43R	PowerPoint - Transportation Evidence of DA Watt
44R	PowerPoint - Hydrogeological Input Assessment Evidence of MPE Engineering
45A	Map of Cooperative Stormwater Management Initiative (CSMI)
46A	Cooperative Stormwater Management Initiative Report Excerpts
47A	Parkland County Employment and Industrial Land Strategy
48R	PowerPoint - Stormwater and Transportation Operations response

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- 49R January 7, 2015, letter from Alberta Transportation Re: Conrich ASP
- 50A APEGA Practice Standard for Authenticating Professional Documents
- 51A Engineering and Geosciences Profession Regulation Section 49 and 54 AR 150/99
- 52R PowerPoint - Social Infrastructure – (FCSS) Response
- 53R PowerPoint - Social Infrastructure – (Parks) Response
- 54R PowerPoint - Social Infrastructure – (Fire/Police EMS) Response

# **APPENDIX "D"**

## **DOCUMENTS RECEIVED AFTER THE HEARING.**

<b>NO.</b>	<b>ITEM</b>
55-64	Transcripts
65A	Written Summary of City of Chestermere, October 14, 2016
66R	Written Summary of Rocky View County, October 21, 2016
67A	Written Rebuttal of City of Chestermere, October 27, 2016
68A	Written Sur-Rebuttal of Rocky View County, November 2, 2016



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## APPENDIX "E"

### LEGISLATION

The *Act* contains key provisions that apply to the MGB when it has an intermunicipal dispute filed with it under section 690. While the following list may not be exhaustive, some key provisions are reproduced below:

#### *Municipal Government Act*

Part 12, Section 488, sets out the jurisdiction of the MGB.

488(1) *The Board has jurisdiction*

- (a) *to hear complaints about assessments for linear property,*
- (b) *to hear any complaint relating to the amount set by the Minister under Part 9 as the equalized assessment for a municipality,*
- (c) *repealed 2009 c29 s 34,*
- (d) *to decide disputes between a management body and a municipality or between 2 of more management bodies, referred to it by the Minister under the Alberta Housing Act,*
- (e) *to inquire into and make recommendations about any matter referred to it by the Lieutenant Governor in Council or the Minister,*
- (f) *to deal with annexations in accordance with Part 4,*
- (g) *to decide disputes involving regional services commissions under section 602.15,*
- (h) *to hear appeals pursuant to section 619,*
- (i) *to hear appeals from subdivision decisions pursuant to section 678(2)(a), and*
- (j) *to decide intermunicipal disputes pursuant to section 690.*

(2) *The Board must hold a hearing under Division 2 of this Part in respect of the matters set out in subsection (1)(a) and (b).*

(3) *Sections 495 to 498, 501 to 504 and 507 apply when the Board holds a hearing to decide a dispute or hear an appeal referred to in subsection (1)(g) to (j).*

Section 617 is the main guideline from which all other provincial and municipal planning documents are derived. Therefore, in determining an intermunicipal dispute, each decision must comply with the philosophy expressed in 617.

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## Purpose of this Part

617 *The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted*

- (a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and*
- (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,*

*without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.*

Section 690 and 691 govern the process and procedure for intermunicipal disputes. In addition to these sections, the MGB utilizes the *Intermunicipal Dispute Procedure Rules*

## Intermunicipal Disputes

690(1) *If a municipality is of the opinion that a statutory plan or amendment or a land use bylaw or amendment adopted by an adjacent municipality has or may have a detrimental effect on it and if it has given written notice of its concerns to the adjacent municipality prior to second reading of the bylaw, it may, if it is attempting or has attempted to use mediation to resolve the matter, appeal the matter to the Municipal Government Board by*

- (a) filing a notice of appeal and statutory declaration described in subsection (2) with the Board, and*
- (b) giving a copy of the notice of appeal and statutory declaration described in subsection (2) to the adjacent municipality*

*within 30 days after the passing of the bylaw to adopt or amend a statutory plan or land use bylaw.*

(2) *When appealing a matter to the Municipal Government Board, the municipality must state the reasons in the notice of appeal why a provision of the statutory plan or amendment or land use bylaw or amendment has a detrimental effect and provide a statutory declaration stating*

- (a) the reasons why mediation was not possible,*
- (b) that mediation was undertaken and the reasons why it was not successful, or*
- (c) that mediation is ongoing and that the appeal is being filed to preserve the right of appeal.*



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(3) *A municipality, on receipt of a notice of appeal and statutory declaration under subsection (1)(b), must, within 30 days, submit to the Municipal Government Board and the municipality that filed the notice of appeal a statutory declaration stating*

- (a) the reasons why mediation was not possible, or*
- (b) that mediation was undertaken and the reasons why it was not successful.*

(4) *When the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), the provision of the statutory plan or amendment or land use bylaw or amendment that is the subject of the appeal is deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date the Board receives the notice of appeal and statutory declaration under subsection (1)(a) until the date it makes a decision under subsection (5).*

(5) *If the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), it must, subject to any applicable ALSA regional plan, decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal and may*

- (a) dismiss the appeal if it decides that the provision is not detrimental, or*
- (b) order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.*

(6) *A provision with respect to which the Municipal Government Board has made a decision under subsection (5) is,*

- (a) if the Board has decided that the provision is to be amended, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date of the decision until the date on which the plan or bylaw is amended in accordance with the decision, and*
- (b) if the Board has decided that the provision is to be repealed, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from and after the date of the decision.*

(6.1) *Any decision made by the Municipal Government Board under this section in respect of a statutory plan or amendment or a land use bylaw or amendment adopted by a municipality must be consistent with any growth plan approved under Part 17.1 pertaining to that municipality.*

(7) *Section 692 does not apply when a statutory plan or a land use bylaw is amended or repealed according to a decision of the Board under this section.*

(8) *The Municipal Government Board's decision under this section is binding, subject to the rights of either municipality to appeal under section 688.*

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Board hearing

691(1) *The Municipal Government Board, on receiving a notice of appeal and statutory declaration under section 690(1)(a), must*

- (a) commence a hearing within 60 days after receiving the notice of appeal or a later time to which all parties agree, and*
- (b) give a written decision within 30 days after concluding the hearing.*

*(2) The Municipal Government Board is not required to give notice to or hear from any person other than the municipality making the appeal, the municipality against whom the appeal is launched and the owner of the land that is the subject of the appeal.*