

Calgary Metropolitan Region Board
Agenda - Land Use & Servicing Committee Meeting

November 3, 2022, 9:00 AM, Go-To Meeting/Call-In

MEETINGS ARE RECORDED & LIVE-STREAMED

CMRB Admin will utilize the recording function on GoToMeeting as a backup recording in case internet connection is lost and CMRB's YouTube account is unable to record the meeting. When the recording function is enabled, you will hear an audio prompt notifying that the meeting is being recorded.

The purpose of this meeting is to convene, discuss and make decisions regarding recommendations to the Calgary Metropolitan Region Board

- | | | | |
|--|--------------|--------|-----------|
| 1. Call to Order & Land Acknowledgment | | Clark | |
| 2. Opening Remarks | | Clark | |
| 3. Adoption of Agenda | | All | |
| <i>For Decision:</i> Motion to adopt and/or revise the agenda | | | |
| 4. Review and Approve Minutes | (Attachment) | All | 3 |
| <i>For Decision:</i> Motion that the Committee review and approve the Minutes of the September 8, 2022 meeting | | | |
| 5. Draft REF Interpretation Guide | (Attachment) | Tipman | 6 |
| <i>For Decision:</i> Motion that the Committee recommend to the Board for approval the REF Interpretation Guide | | | |
| 6. Board Strategic Initiatives Update | (Attachment) | Graves | 35 |
| <i>For Information:</i> Motion that the Committee receive for information an update on Board initiatives | | | |
| 7. Next Meeting: Thursday December 1, 2022 @ 9:00 AM | | | |
| 8. Adjournment | | Clark | |

Committee Members:

Mayor Peter Brown (Airdrie)
Cllr Gian-Carlo Carra (Calgary)
Mayor Jeff Colvin (Chestermere)
Mayor Jeff Genung (Cochrane)
Reeve Delilah Miller (Foothills)
Cllr Suzanne Oel (Foothills)

Mayor Craig Snodgrass (High River)
Cllr Rachel Swendseid (Okotoks)
Cllr Kevin Hanson (Rocky View) **Vice Chair**
Shawn Ewasiuk, GOA Representative

Upcoming Meetings:

BOARD MEETING	Friday November 18 @ 9:30 AM	TBD
GOVERNANCE COMMITTEE	Friday April 14, 2023 @ 9:00 AM	GoTo Meeting
LAND USE & SERVICING COMMITTEE	Thursday December 1 @ 9:00 AM	GoTo Meeting

The Calgary Metropolitan Region is honored to be in the traditional territory of the Siksika, Kainai, and Piikani Nations of the Blackfoot Confederacy; the Tsuut'ina Nation; the Bearspaw, Chiniki, and Wesley Nations of the Stoney Nakoda; and the home of Métis Nation of Alberta Region 3.

In the spirit of truth and reconciliation the CMRB is actively working to build meaningful and mutually beneficial long-term relationships with Indigenous Nations and communities in and around the Region.

Minutes of the Meeting of the
Land Use and Servicing Committee
of the Calgary Metropolitan Region Board
on Thursday September 8, 2022 by Go-To Meeting

Delegates in Attendance:

Mayor Peter Brown – City of Airdrie
Councillor Tina Petrow – City of Airdrie
Councillor Gian-Carlo Carra – City of Calgary
Mayor Jeff Colvin – City of Chestermere
Mayor Jeff Genung – Town of Cochrane
Reeve Delilah Miller – Foothills County
Councillor Suzanne Oel – Foothills County
Mayor Craig Snodgrass – Town of High River
Councillor Rachel Swendseid – Town of Okotoks
Councillor Kevin Hanson – Rocky View County (Vice Chair)

CMRB Administration:

Greg Clark, Chair
Jordon Copping, Chief Officer
Liisa Tipman, Director of Regional Planning
Jaime Graves, Director of Regional Projects
JP Leclair, GIS and Data Lead
Shelley Armeneau, Office Manager

1. Call to Order

Chair Clark called the meeting to order at 9:00 AM and Councillor Hanson provided a land acknowledgement.

2. Approval of Agenda

Moved by Mayor Brown, **Seconded by** Councillor Swendseid, accepted by Chair.

Motion: That the Committee approve the agenda.

Motion carried unanimously.

3. Review Minutes

Moved by Councillor Swendseid, **Seconded by** Mayor Brown, accepted by Chair.

Motion: That the Committee approve the Minutes of the April 7, 2022 meeting.

Motion carried unanimously.

4. Friends of Calgary Airport-Banff Rail Presentation

The Committee received a presentation from Bruce Graham of Friends of Calgary Airport-Banff Rail, and Adam Waterous of Liricon Capital (project proponent). Discussions and questions centered around effects on wildlife, CP Rail and Alberta government participation/interest, Parks Canada feedback, costs, benefits (economic development, connectivity for the region, workforce

issues and tourism), and next steps. A motion to consider scheduling a presentation to the Board and potentially providing a letter of support was suggested, however most members felt this was premature and should remain at the Committee level. Presentations from other groups in this industry were encouraged.

Moved by Reeve Miller, **Seconded by** Councillor Swendseid, accepted by Chair.

Motion: That the Committee receive for information a presentation regarding the Calgary Airport-Banff Rail (CABR) project.

Motion carried unanimously.

5. Draft REF Interpretation Guide

Liisa Tipman introduced this item. A member requested more time to review the Guide and possibly seek a legal opinion. A request was made to sever the two considerations and the following motions were made:

Motion Arising A:

Moved by Reeve Miller, **Seconded by** Mayor Brown, accepted by Chair.

Motion: That the Committee postpone the review of the Interpretation Guide until the next LUSC meeting.

Motion carried unanimously.

Motion Arising B:

Moved by Reeve Miller, **Seconded by** Councillor Hanson, accepted by Chair.

Motion: That the Committee receive a legal opinion on the Interpretation Guide.

Motion fails.

Councillor Petrow stepped in for Mayor Brown.

6. Board Strategic Initiatives Update

- Regional Economic Development initiative – a request for proposals (RFP) was posted on Alberta Purchasing Connection (ACP) and closes September 14, 2022;
- Environmentally Sensitive Areas Database initiative – a RFP was also posted to APC and closes October 11, 2022;
- Project Charters for the scoping steps for the Regional Transportation and Transit Master Plan (RTTMP) initiative and Water Roadmap Update will come forward to September 16, 2022 Board meeting;
- Indigenous Relations initiative– CMRB Administration retained the services of Forum Consulting as per the Board approved Charter. Outreach has begun to member municipalities on how they would like to participate in the development of the additions to reserve (ATR) framework. CMRB Administration will be sending out a request for participation in the development of Terms of Reference on initiative #4:

Celebrate through partnerships and plan for stories from the land with third parties. CMRB Administration is in dialogue with Councillor Breaker of Siksika Nation about Board members attending an event on September 30, 2022 at the Nation. More details will be forthcoming and circulated once received.

Moved by Councillor Petrow, **Seconded by** Councillor Hanson, accepted by Chair.

Motion: That the Committee receive for information an update on the status of Board initiatives.

Motion carried unanimously.

7. **Next Meeting:** Thursday October 6 @ 9:00 AM.
8. **Adjourned** @ 12:03 PM.

Chair Greg Clark

Agenda Item	5
Submitted to	Land Use & Servicing Committee
Purpose	For Decision
Subject	REF Interpretation Guide
Meeting Date	November 3, 2022
<i>Motion that the Committee recommend to the Board for approval the Regional Evaluation Framework Interpretation Guide</i>	
<p>Summary</p> <ul style="list-style-type: none"> • The Regional Evaluation Framework (REF) Interpretation Guide describes the administrative procedures and processes related to implementation of the REF. • The REF Interpretation Guide is intended to support representatives from member municipalities, developers, consultants, and the public in understanding how applications will be processed by CMRB Administration and then reviewed by the Board. Consistency in how REF requirements are interpreted increases the transparency and predictability of the REF process. • At the September 6 meeting of the Land Use and Servicing Committee, the REF Interpretation Guide came forward for review and recommendation to the Board; however, Foothills County requested additional review time and a motion was passed for the Committee to postpone its review of the Interpretation Guide until the next LUSC meeting. • CMRB Administration met with representatives of Foothills County and amended the REF Interpretation Guide in consideration of the feedback given and concerns raised. The amended Guide was circulated to the Technical Advisory Group for an additional review period. No feedback was received from any municipality during this period. • After meeting with Foothills County administration, the CMRB Chief Officer decided to get a legal opinion on two specific questions raised in the meeting. The legal opinion, containing the questions, is attached. • Amendments to the Guide include: <ul style="list-style-type: none"> ○ consolidating information about how the CMRB will deal with matters of inconsistency related to the Growth Plan and REF into one new section (“Section 7: Matters of Inconsistency with the Growth Plan and REF”), ○ changes around how the Growth Plan’s exceptions policy will be incorporated into REF (“Section 6: Exceptions to Growth Plan Policy”), and ○ Other housekeeping and minor wording edits. 	

Attachments

- DRAFT REF Interpretation Guide
- Legal Opinion

1. Background

As part of implementing the Interim Regional Evaluation Framework (IREF), CMRB Administration developed an IREF Interpretation Guide. The purpose of the guide was to support representatives from member municipalities, developers, consultants, and the public in understanding the purpose and function of the IREF review process and how applications would be processed by CMRB Administration and then reviewed by the Board. The IREF Interpretation Guide was approved by the Board in February 2019.

2. Amended REF Interpretation Guide

A draft REF Interpretation Guide was presented for Land Use and Servicing Committee review at the September 8, 2022 meeting. At the LUSC meeting, the REF Interpretation Guide was referred back to CMRB Administration for further review to respond to concerns presented by Foothills County. CMRB Administration met with representatives of Foothills County to listen to feedback and concerns. CMRB Administration amended the document in response to concerns related to how matters of inconsistency with the Growth Plan and REF were framed in the document, the proposed process for dealing with the concerns of member municipalities related to matters of inconsistency with the Growth Plan and REF, the process of applying Growth Plan exceptions policy 3.1.12.1, and other housekeeping matters. CMRB Administration has updated the REF Interpretation Guide in consideration of the feedback given. The amended Guide was circulated to all Technical Advisory Group members for an opportunity to further review and comment on the Guide.

3. REF Interpretation Guide

The REF Interpretation Guide is intended to increase the transparency and predictability of the REF process by outlining the administrative processes and procedures of the REF. The Interpretation Guide provides an overview of:

- how applications will be received by the CMRB and what the application package should include,
- how applications will be processed by CMRB Administration,
- how recommendations to the Board will be made by CMRB Administration,
- how the Board will review and make decisions on REF applications, and
- how the Board will deal with matters of inconsistency with the Growth Plan or REF.

The REF Interpretation Guide does not form part of the minister-approved REF document and can be amended by the Board. The Guide is intended to be a living document that can be updated in whole or in part, as necessary. In circumstances

where review of a REF application highlights an issue or gap with the information provided in the REF Interpretation Guide, CMRB Administration will issue an Information Bulletin to provide a timely response to the matter. These bulletins will be circulated to TAG, posted on the CMRB website, and incorporated into the REF Interpretation Guide in its next iteration.

4. Recommendation

That the Committee recommend to the Board for approval the Regional Evaluation Framework Interpretation Guide.

REGIONAL EVALUATION FRAMEWORK INTERPRETATION GUIDE

DRAFT Version November 3, 2022

Agenda Item 5i

DRAFT REF Interpretation Guide
LUSC Version: November 3, 2022
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DRAFT

1. INTRODUCTION

1.1. ROLE AND PURPOSE OF REF INTERPRETATION GUIDE

This Regional Evaluation Framework (REF) Interpretation Guide outlines the practices and procedures of the Calgary Metropolitan Region Board (CMRB) for approving statutory plan and plan amendments. As stated in the REF, the REF “provides the Board with the authority to evaluate and approve new Statutory Plans and amendments to existing Statutory Plans to ensure alignment with the goals, objectives, and policies of the Growth Plan” (page 2). The Growth Plan and REF were approved by the Minister of Municipal Affairs on July 11, 2022 and came into effect on August 15, 2022 per Ministerial Order MSD:064/22.

The REF Interpretation Guide is intended to increase the transparency and predictability of the REF process by outlining the administrative processes and procedures of the REF. It does not form part of the REF and can be amended by the Board as necessary. The Interpretation Guide provides an overview of:

- how applications will be received by the CMRB and what the application package should include,
- how applications will be processed by CMRB Administration,
- how recommendations to the Board will be made by CMRB Administration,
- how the Board will review and make decisions on REF applications, and
- how the Board will deal with matters of inconsistency with the Growth Plan or REF.

The REF Interpretation Guide is a companion document to the [CMRB Dispute Resolution and Appeal Bylaw](#) which guides how disputes around REF decisions of the Board, as well as other disputes, will be addressed and resolved.

The REF Interpretation Guide includes four appendices:

- Appendix 1 is a checklist summary of the submission materials necessary to be included as part of a complete REF application submission package. These requirements are found in *Section 5 Submission Requirements* of the REF.
- Appendix 2 is a REF application process chart. It outlines the steps and timeframes for the review of applications by the CMRB. The REF application process was approved by the Board on November 20, 2020.
- Appendix 3 are the expectations for reporting related to Growth Plan policy 3.3.2.1 which requires mapping and reporting related to Environmentally Sensitive Areas.
- Appendix 4 outlines how REF applications should report on placetypes.

1.2. ROLE AND PURPOSE OF GROWTH PLAN AND REF

The purpose of the Growth Plan is to establish a long-term regional vision for growth and development in the CMR in accordance with the Board’s vision and the requirements of the *Calgary Metropolitan Region Board Regulation*.

The purpose of the REF is to enable Board review and approval of statutory plans (Intermunicipal Development Plans, Municipal Development Plans, Area Structure Plans and Area Redevelopment Plans) and statutory plan amendments to ensure they align

with the regional goals, objectives, policies of the Growth Plan. The REF contains two main parts:

- Submission Criteria that identify which plans are considered regionally significant and are subject to the REF review process (Section 4 of the REF), and
- Submission Requirements that form the checklist of materials that need to be submitted as part of a REF application (Section 5 of the REF).

As noted above, the purpose of the REF application review is to determine if a statutory plan or plan amendment is consistent or inconsistent with the goals, objectives, and policies of the Growth Plan. CMRB Administration, with support from a third party reviewer, provides a formal recommendation to the Board on consistency. The role of CMRB Administration is not to review applications in terms of “good planning” or “bad planning” but to review statutory plans and plan amendments for consistency with regional goals, objectives, and policies as expressed through the Growth Plan. The role of the Board is to review the REF application for consistency with regional interests as identified in the Growth Plan.

If an application is generally consistent with the Growth Plan, it will receive an administrative recommendation of approval. If an application is generally inconsistent with the Growth Plan, it will receive a recommendation of refusal.

Formal comments and feedback are not provided by the Board in response to an application.

2. APPLICATION SUBMISSION

2.1. DETERMINING REGIONAL SIGNIFICANCE

Member municipalities are responsible for reviewing the REF and determining which of their proposed statutory plans or plan amendments are “regionally significant” and must be submitted to the Board for approval.

Member municipalities must submit regionally significant plans or plan amendments for approval through REF after first reading of the bylaw and any time prior to third reading of the bylaw. Each member municipality will determine at what point in their plan approval process REF applications will be submitted to the CMRB.

If a statutory plan or plan amendment is regionally significant in accordance with the REF, it must be reviewed and approved by the CMRB Board. If a statutory plan or plan amendment is not approved by the Board, the plan cannot be approved by a municipal council and cannot come into effect.

The REF process is a trust-based process and therefore CMRB Administration does not monitor municipal council agendas and report to the Board on statutory plan or plan amendments or developments that may have regional significance but were not submitted for approval through REF. However, there may be an occasion where a member municipality has concerns related to how another member municipality determined regional significance. A process for how these concerns would be brought to the Board for discussion is outlined below in REF Interpretation Guide *Section 7 Matters of Inconsistency with the Growth Plan and REF*.

2.2. REF APPLICANT

Member municipalities act as the applicants in the REF review and approval process. Members of the public, landowners, and developer proponents of a plan do not have standing in the REF process. They cannot speak for or against a plan or provide written comments to the REF process. Interested or concerned stakeholders or public members are encouraged to engage in the municipal planning process and provide feedback to the subject municipality directly.

2.3. OPTIONAL PREAPPLICATION MEETING

A member municipality may contact CMRB Administration to discuss regional significance prior to formally submitting their application. Preapplication meetings are an opportunity for CMRB Administration to review the REF with an applicant and provide any necessary clarifications about the REF process and requirements. Preapplication meetings are optional, non-binding, and do not discuss the potential outcomes of the Board review process.

CMRB Administration will not provide a formal response to a member municipality as part of the preapplication meeting. Ultimately, it is the responsibility of member municipalities to determine which of their proposed statutory plans or plan amendments are regionally significant using the criteria found in Section 4 of the REF.

CMRB Administration does not provide developer proponents, landowners, or the public with preapplication advice about their projects. Member municipalities determine which applications it will send to the CMRB for approval and should be contacted for more information. CMRB Administration does provide developers, landowners, or the public with information about the REF and Growth Plan documents, the REF process, or general questions about the role and purpose of the CMRB.

3. APPLICATION COMPLETE

Once submitted by a member municipality, CMRB Administration will determine if the REF application is complete within five working days of receiving the REF application. When a REF application is complete it means that CMRB Administration has received all the materials necessary to undertake its review of the REF application.

Both CMRB Administration and the third party reviewer check REF applications for completeness. As noted in Section 5.1 f) of the REF, a REF application must include "satisfactory information to ensure the new Statutory Plan or existing Statutory Plan amendment can be evaluated, such as applicable technical studies and other supporting documents." A completeness review will check if all information outlined in REF Interpretation Guide *Appendix 1 REF Application Submission Checklist* is provided within the REF application.

There is no requirement to submit technical studies as part of a REF application unless it is important for CMRB Administration to be aware of their scope and conclusions as part of understanding the statutory plan or plan amendment. Technical studies must be completed by a professional practicing in the subject field of study and will not be reviewed for technical merit as part of the REF application process.

Once it is determined that a REF application is complete, CMRB Administration has a maximum of 20 working days to review the REF application and make a recommendation of refusal or approval to the Board.

4. REF APPLICATION REVIEW PROCESS

Once an application is determined to be complete, CMRB Administration will notify all members that a complete REF application has been received and it will outline the timelines for the REF application review process. This is a notification only and no action by member municipalities is required.

A member municipality may withdraw its REF application at any point in the REF application review process, and for any reason, by submitting written notice to CMRB Administration. An authorized member of municipal administration may submit a letter withdrawing the application on behalf of the municipality. Once a REF application is withdrawn, it will be removed from all CMRB meeting agendas and processes.

There is no waiting period to resubmit a statutory plan or plan amendment as a new REF application. Should the municipality wish to resubmit an application for a statutory plan or plan amendment that has been withdrawn, even if the statutory plan or plan amendment has not been changed in any way, it must be submitted as a new REF application. CMRB Administration will assign the application a new REF application number and review the application for completeness.

4.1. THIRD PARTY REVIEW

The REF application review process includes a third party review of a REF application. The purpose of the third party review is to provide an unbiased and objective assessment of a REF application. A third party review may be completed by a consultant or by a panel of the Land Use Technical Advisory Group (TAG).

The third party reviewer's role is to evaluate if an application is consistent with the policies and requirements of the Growth Plan and provide their assessment in a report submitted to CMRB Administration. Third party reviews do not determine if the proposed statutory plan or plan amendment should be recommended for approval or refusal. CMRB Administration will consider the findings of the third party review as part of making its recommendation. In addition to the third party review report, CMRB Administration will conduct its own review of the application materials and provide a covering report that summarizes its recommendation to the Board for approval or refusal and provide reasons for its recommendation.

4.1.1. Third Party REF Review by TAG or by Consultant

The third party review may be conducted by a consultant engaged by the CMRB to review the document or it may be conducted by members of the TAG. CMRB Administration will identify if the third party review will be conducted by a consultant or by a panel of TAG members. This decision will be made in consideration of the:

- scale, type, and location of the statutory plan and plan amendment,
- complexity of the referral, and
- capacity of TAG members to undertake the review within the timeframes required under the approval process.

If a TAG panel completes the third party review, representatives from three municipalities will be selected by CMRB Administration. TAG representatives must identify any real or perceived conflicts prior to being assigned to a third party review panel. The TAG panel will be consensus-based and each panel member will have one vote, should voting be necessary to reach a decision.

If a third party consultant completes the third party review, CMRB Administration will select a consultant from its list of pre-qualified consultants. Third party consultants must identify any real or perceived conflicts they have prior to being assigned a third party review. Third party consultants will be selected on a rotating basis unless a conflict of interest is identified. The costs associated with a third party consultant REF application review will be borne by the CMRB.

4.1.2. Report of Findings

Third party reviewers are required to submit a report of their findings which will be made public. The report will clearly state if the subject REF application is “generally consistent” or “generally inconsistent” with the policies and requirements of the Growth Plan. The report will also provide reasons for the findings. This report will be included in the recommendation provided by CMRB Administration to the Board, CAOs and TAG.

5. CMRB ADMINISTRATION RECOMMENDATIONS

CMRB Administration will circulate its recommendation by email to Board members, CAOs, and TAG in member municipalities to inform the Board’s decision-making process. The recommendation email will include CMRB Administration’s covering report and the full third party review report. The recommendation and third party report will be made public and posted on the CMRB’s website.

As noted above, CMRB Administration will not evaluate applications on any considerations not included in the Growth Plan. CMRB Administration will not recommend modifications to the REF application.

5.1. CMRB ADMINISTRATION RECOMMENDATIONS OF APPROVAL

When a REF application is recommended for approval, there will be a 21-calendar day review period during which member municipalities will have the opportunity to review the recommendation of approval provided by CMRB Administration.

Not all REF applications will be presented, discussed, and decided at meetings of the Board. Applications will be “deemed approved” when the review period closes after 21 calendar days and there have been no challenges made by member municipalities to CMRB Administration’s recommendation of approval.

5.1.1. Expediting REF Approvals

The REF application process can be expedited if all member municipalities communicate their support or non-objection to an application prior to the end of the review period. This may be done by:

- submitting a letter to CMRB Administration at their earliest convenience stating they do not wish to challenge CMRB Administration’s recommendation of approval, or

- another avenue, such as a vote of the Board, that is determined to be acceptable by the Board Chair.

If CMRB Administration receives communication as noted above from all member municipalities prior to the close of the review period, then an application will be approved.

5.1.2. Member Challenge to a Recommendation of Approval

If a member municipality challenges CMRB Administration's recommendation of approval, the member municipality must provide its reasons in writing and circulate it to all members prior to the close of business on the day the REF Board review period closes (16:30 Mountain Time). It is recommended that member municipalities contemplating a challenge to CMRB Administration's recommendation contact the Chief Officer to discuss the matter as early in the Board review period as possible.

Once a member municipality has challenged a recommendation, the REF application is referred to the next Board agenda for review by Board members. The REF application will be presented and discussed at the next Board meeting.

5.2. CMRB ADMINISTRATION RECOMMENDATIONS OF REFUSAL

When a REF application is recommended for refusal, CMRB Administration will advise all members that the REF application will be added to the next Board meeting agenda for discussion by member municipalities. The REF application will be presented and discussed at the next Board meeting.

5.3. BOARD MEETING PROTOCOLS FOR REVIEW OF A REF APPLICATION

When a REF application recommendation of approval has been challenged by a member municipality, when CMRB Administration has recommended refusal, or when a municipality requests that a REF application be reviewed under the Growth Plan exceptions (Policy 3.1.12.1) and CMRB Administration has issued their report, the REF application will be reviewed and discussed at the next meeting of the Board. The following provides an overview of the Board meeting presentation process and requirements.

- Eligibility:* Only the member municipality who submitted the application, the member municipality/municipalities who filed a written challenge to CMRB Administration's recommendation of approval (if applicable), and CMRB Administration are eligible to make a presentation.
- Content:* The content for the presentation by the member municipality who submitted the application shall be limited to the content of their application. If the presentation relates to a challenge, a responding municipality may include information is necessary to respond to the specific concerns raised in the challenge letter. The content of the presentations for member municipalities who filed challenges shall be limited to the topics raised in the challenge letter. The content for the presentation by CMRB Administration shall be limited to the content of the recommendation.

- c. *Length*: Presentations will be no longer than 15 minutes followed by a question and answer period. There is no time limit on the question and answer period. In the event there are multiple challengers to a REF application, the Board Chair, at their discretion, may extend the presentation time of the member municipality who submitted the REF application.
- d. *Presenters*: Each member municipality will be limited to two presenters. The presentation may be delivered by elected officials, members of municipal administration, technical experts, or other speakers as selected by the member municipality.
- e. *Other Documentation*: If a member municipality would like to submit other documentation for presentation to the Board (PowerPoint, maps, etc.) this must be submitted no later than 8 days before the Board meeting at which the application will be discussed. Please note, any additional documentation must adhere to the content guidelines above.
- f. *Board Voting*: The Board will have the opportunity to discuss the matter and, if it so chooses, vote on the REF application by following the Board's regular voting procedures. Agenda items related to REF will be discussed in open session unless the Board votes to discuss the matter in closed session. All votes of the Board occur in open session.

5.4. BOARD REFUSAL OF A REF APPLICATION

If a REF application is refused by the Board, a member municipality may resubmit its statutory plan or plan amendment at any time as a new REF application.

If a REF application is refused by the Board, the REF applicant may access the Dispute Resolution and Appeal Mechanism (see Section 8 of this Interpretation Guide).

5.5. RESUBMISSION OF A REF APPLICATION

If a REF application is withdrawn by a member municipality, or it is refused by the Board, the statutory plan or plan amendment that was the subject of the withdrawn or refused REF application may be resubmitted to the REF application process as a new REF application at any time. In cases where only minor changes were made to the subject statutory plan or plan amendment, the REF application process will generally be an expedited process.

As part of the submission package, the member municipality will identify all amendments made to the statutory plan or plan amendment after the withdrawal of the original REF application. Submission of a redline version of the plan or plan amendment is preferred. The REF application package will also include verification that the proposed amendments have been endorsed by the council of the member municipality. This verification may be provided in the form of council minutes or equivalent.

If, in its discretion, CMRB Administration determines that a third party review of the new REF application is necessary, it will circulate the application to the third party reviewer of the original application.

6. EXCEPTIONS TO THE GROWTH PLAN POLICY

Policy 3.1.12.1 of the Growth Plan states: *Notwithstanding the policies in the Growth Plan, the Board, at its discretion, may approve a statutory plan that does not comply with the policies of the Growth Plan if the vision, objectives and policies of the Growth Plan are not significantly compromised by the approval of an exception to the policy.*

If a member municipality wishes to invoke Policy 3.1.12.1 then the following process will apply:

1. Member municipalities seeking an exemption to the policies of the Growth Plan are encouraged to present the proposed development to the Board prior to submitting a REF application. The Chief Officer should be contacted for placement on a Board agenda.
2. If submitting a REF application for a development where a member municipality is of the opinion that Policy 3.1.12.1 applies, the member municipality must state why the development is inconsistent with the Growth Plan in its REF application and further explain why the Board should use Policy 3.1.12.1 to approve the statutory plan or amendment.
3. CMRB will conduct a standard REF review of the application. As part of its review, CMRB Administration will identify that the applicant municipality requests the application be considered under Growth Plan Policy 3.1.12.1.
4. The REF application will be placed on the agenda of the next meeting of the Board. Board will discuss the application in accordance with REF Interpretation Guide *Section 5.3 Board Meeting Protocols For Review of a REF Application*. CMRB Administration and the REF applicant will be given opportunities to present to the Board.
5. The Board will have the opportunity to discuss the matter and, if it so chooses, vote on the REF application by following the Board's regular voting procedures.

7. MATTERS OF INCONSISTENCY WITH THE GROWTH PLAN AND REF

Policy 2.1 of the REF states that "the policies of the Growth Plan apply to all developments, but only regionally significant developments shall be referred to the Board for review through the Regional Evaluation Framework." In addition to challenges and disputes related to individual REF applications, there may also be occasions when one member municipality is of the opinion that another member municipality:

- has approved, or is in the process of approving, a plan or plan amendment that is inconsistent with the policies of the Growth Plan, or
- did not submit a plan or plan amendment to the Board for review through the REF process that has regional significance.

As noted above, member municipalities must approve developments that are consistent with the Growth Plan and must also determine which of their statutory plans or plan amendments have regional significance using the requirements of the REF. The REF process is a trust-based process and therefore CMRB Administration does not monitor municipal council agendas and report to the Board on matters of consistency with the Growth Plan and REF. This approach, however, may lead to a situation where one

member municipality may be of the opinion that another member municipality has approved, or is in the process of approving, a development that is inconsistent with the Growth Plan or REF. In these situations, the following process will be used:

7.1.1. Intermunicipal Discussion

If a member municipality is of the opinion that a development is inconsistent with the policies of the Growth Plan or REF, the concerned member municipality or municipalities shall discuss the issue directly with the other municipality as a first step. This creates an opportunity for common understanding amongst the parties and may resolve concerns.

7.1.2. Letter of Concern

If concerns are not resolved through intermunicipal discussions, a member municipality may submit a letter of concern to the Board. This letter will:

- a) Identify the municipality and the development that is of concern,
- b) Contain a brief description of the proposed development,
- c) Provide a rationale for why the development is inconsistent with the Growth Plan or REF, and
- d) Append a copy of the staff report to council related to the development.

7.1.3. CMRB Administration Review & Recommendation

Upon receipt of a letter of concern, CMRB Administration:

- will follow-up with the member municipalities to learn more about the development and related concerns,
- may request documents from both member municipalities, and
- may reach out to external experts as part of its review.

CMRB Administration will make a recommendation to the Board about the most appropriate process for reviewing the concern. This may include a recommendation that the development be submitted to the Board for review through the regular REF process, be reviewed as part of the CMRB Dispute Resolution process, be reviewed as part of a Municipal Government Act Section 690 appeal, or another action determined to be appropriate.

CMRB Administration's review and recommendation will be completed within 25 business days from receipt of the letter of concern. CMRB Administration's review and recommendation will be referred to the next Board agenda for review by Board members. The review and recommendation will be presented and discussed at the next Board meeting.

The Board will have the opportunity to discuss the matter and, if it so chooses, vote on CMRB Administration's recommendation following the Board's regular voting procedures. Agenda items related to REF will be discussed in open session unless the Board votes to discuss the matter in closed session. All votes of the Board occur in open session.

8. DISPUTE RESOLUTION AND APPEAL MECHANISM

The Dispute Resolution and Appeal Bylaw was approved by the Minister on September 22, 2021, per Ministerial Order MSD:071/21. In accordance with the Dispute Resolution and Appeal Bylaw, a member municipality may dispute a REF decision by submitting a Notice of Dispute to the Chief Officer within 28 days from the date of a REF decision, unless an extension is warranted. Please refer to the [approved Dispute Resolution and Appeal Bylaw](#) on the CMRB website for more information.

9. REF APPLICATION CORRESPONDENCE

All official correspondence for REF applications must be signed by a Board member or delegate. A Board member may choose to delegate this authority, in whole or in part, to senior members of municipal administration familiar with the REF application process.

10. INTERPRETATION BULLETINS

Interpretation bulletins may be issued by CMRB Administration from time to time to clarify elements of the REF application process as necessary when an unexpected or unforeseen event occurs within the REF application process. Interpretation bulletins will be posted publicly on the CMRB website and circulated to the TAG. The REF Interpretation Guide will be updated from time to time to incorporate information from interpretation bulletins.

11. TIMEFRAMES FOR REVIEW

11.1. REF APPLICATION REVIEW TIMELINES

The timeframes for the REF application process are identified in Appendix 2 of this REF Interpretation Guide. The timeframes identified in the REF application process are maximum timeframes. CMRB Administration will seek to expedite the REF application process whenever possible.

11.2. MUNICIPAL ELECTIONS

In years when municipal elections are held, REF applications will not be accepted starting 30 days prior to election day and until all CMRB Board members have been identified by their respective municipal councils, typically about two weeks after the election. CMRB Administration will notify the CMRB, CAOs, and TAG of the timeframe when REF applications will not be processed due to municipal elections.

Appendices

Appendix 1: REF Application Submission Checklist

Appendix 2: REF Application Process

Appendix 3: REF Application Requirements for Environmentally Sensitive Areas

Appendix 4: REF Application Requirements for Placetypes

12. APPENDIX 1: REF APPLICATION SUBMISSION CHECKLIST

This application submission checklist outlines the materials to be submitted by a member municipality as part of a Regional Evaluation Framework (REF) application. These materials facilitate the timely review of statutory plan and statutory plan amendment by the Calgary Metropolitan Region Board (CMRB). Once submission materials contained in this checklist have been sent to CMRB Administration, CMRB Administration and the third party reviewer will determine if they have sufficient information to support the REF application review process. If the materials are found sufficient, the application is considered complete by CMRB Administration. REF applications will be considered complete or incomplete within five working days of receiving a REF application. All REF application documents must be submitted in electronic PDF format, either by email or contained on a USB drive.

12.1. APPLICATION SUBMISSION CHECKLIST

As outlined in Section 5 of the REF, the submission package of a new statutory plan or amendment to an existing statutory plan referred by a member municipality (the applicant) to the Board shall include:

- a) A cover letter, including Ministerial Order number MSD:064/22, brief description of the proposed plan or plan amendment, request for approval, list of consultants contracted to develop the plan or plan amendment, and applicant contact information;
- b) The proposed Statutory Plan or amendment bylaw;
- c) A copy of the Statutory Plan without the proposed amendment. A redline version of the existing Statutory Plan that identifies substantive proposed changes is preferred;
- d) The supporting council report;
- e) Sufficient documentation to explain the Statutory Plan or amendment;
- f) Satisfactory information to ensure the new Statutory Plan or existing Statutory Plan amendment can be evaluated, such as applicable technical studies and other supporting documents;
- g) A summary letter that explains alignment with the Growth Plan. This may be presented in a table format;
- h) The corresponding GIS data set including, at minimum, the boundary of the new Statutory Plan, its land use concept and a regional placetype alignment table. The purpose of the alignment table is to identify how the land uses in the proposed land use concept are to be translated into placetypes in GIS; and
- i) Copies of letters provided by member municipalities as part of public hearing submissions.

In addition to the above REF requirements, the following information must be presented within a statutory plan or plan amendment, or within the REF application materials, as it is required to review specific Growth Plan policies:

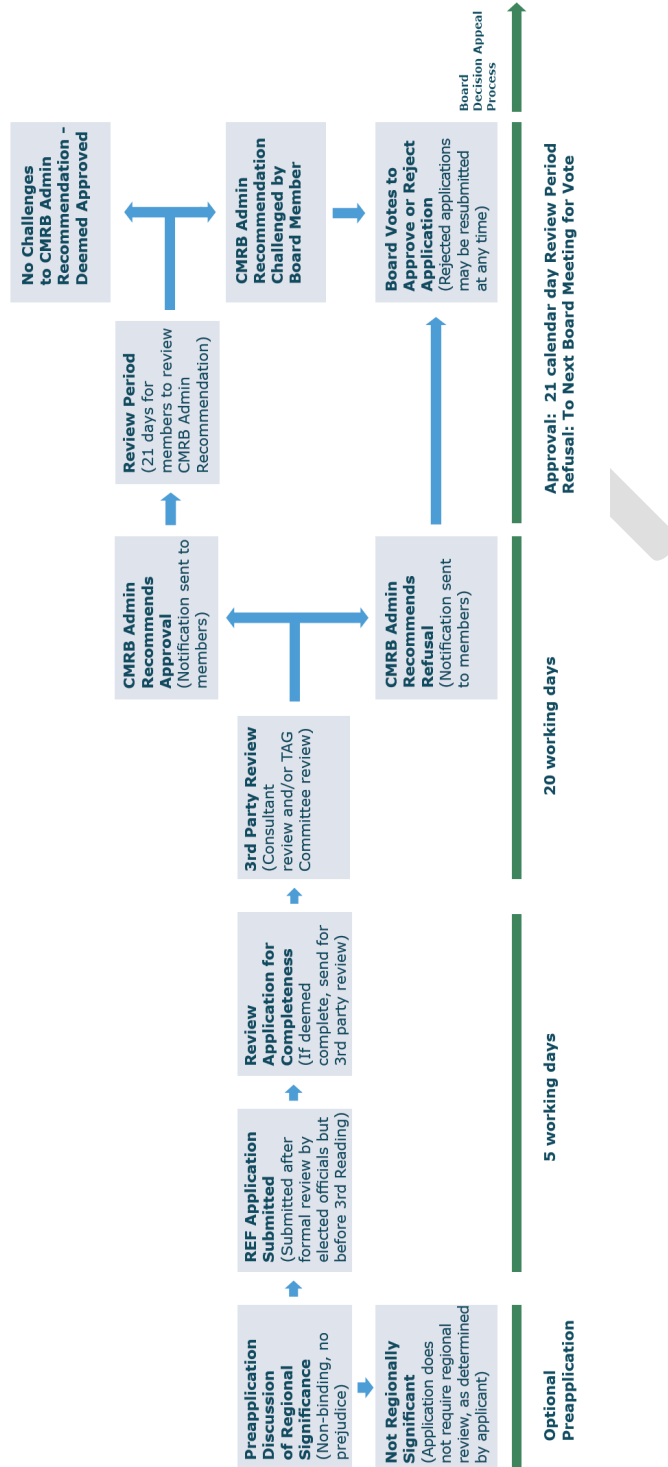
- j) New Area Structure Plans (ASPs) or Area Redevelopment Plans (ARPs) must include all mapping required by the policies of the Growth Plan within the statutory plan document.

- k) ASP or ARP amendments must include all mapping required by the policies of the Growth Plan within the REF application materials.
- l) New ASPs and ARPs must include information about Environmentally Sensitive Areas as required by Section 3.3.2 of the Growth Plan (see Appendix 3 of this Interpretation Guide for additional information).
- m) REF applications must provide information about alignment with placetype policies and requirements (see Appendix 4 of this REF Interpretation Guide for additional information).

DRAFT

13. APPENDIX 2: REF APPLICATION PROCESS & TIMELINE CHART

REF Application Review Process



14. APPENDIX 3 REF APPLICATION REQUIREMENTS FOR ENVIRONMENTALLY SENSITIVE AREAS

14.1. INTRODUCTION

The purpose of Appendix 3 is to outline consistent reporting practices for REF applications around Environmentally Sensitive Areas (ESAs). The purpose of these templates is to establish a common and straightforward approach to addressing ESA policies and therefore facilitate timely REF reviews and increase the transparency of the review process.

The intention of the ESA policies is to identify and mitigate the effects of development on larger patterns of ecosystem functions and services (i.e. regionally significant natural area components). It is not intended to create a significant burden of analysis for applicants. Existing ESA studies or reports completed by a qualified environmental professional as part of the development process, or as part of another municipal process, can be used to inform either Environmental Screening or Environmental Study reports. The qualified environmental professional may be an external consultant or an internal staff member. As with other technical supporting studies completed by professionals, the reports will not be reviewed by CMRB Administration for their technical merit.

14.2. DEFINITION OF ENVIRONMENTALLY SENSITIVE AREAS

ESAs are defined within the Growth Plan as “key natural area components of the regional landscape, providing essential ecosystem functions and services. These functions and services include flood mitigation, drinking water supply, maintenance of regional biodiversity, preservation and connectivity of unique habitats and landscapes, and provision of culturally and economically valued resources and opportunities.” The ESA definition found in the Growth Plan glossary also notes that these areas:

- Maintain the provision of water quality and quantity and provide protection against drought and flood events. Includes water courses, water bodies, and riparian areas;
- Provide habitat for identified local species of interest, designated species of conservation concern (SCC), or identified focal species groups;
- Provide rare, unique or biologically diverse ecosystems or unique landforms;
- Contribute to other important Ecosystems Services or functions at the local scale; and
- Include provincial Environmentally Significant Areas.

This definition should form the basis of conclusions related to regional ESAs in Environmental Screenings or Environmental Studies.

14.3. REF APPLICATION REQUIREMENTS FOR ESAs

As part of reviewing the completeness of a REF application, CMRB Administration and the third party reviewer will confirm that an application includes either an Environmental Screening or an Environmental Study overview that identifies consistency with the policies of the Growth Plan. Specifically, Growth Plan policy 3.3.2.1

requires that "Area Structure Plans and Area Redevelopment Plans shall address Environmentally Sensitive Areas by

- a. Undertaking a desktop-based Environmental Screening to identify Environmentally Sensitive Areas on site and within 100m of the plan boundary, which may include but not be limited the areas shown on Schedule 2 – Natural Systems
- b. Preparing an Environmental Screening report that includes a map of all identified Environmentally Sensitive Areas
- c. Conducting an Environmental Study if an Environmentally Sensitive Area is located on or within 100m of the plan; and
- d. Identifying through an Environmental Study the potential impacts of the proposed development on the identified Environmentally Sensitive Area(s) and recommending mitigation measures to protect it."

14.3.1. Environmental Screening

Environmental Screening is required for new Area Structure Plan and Area Redevelopment Plan REF applications as described in Growth Plan Policy 3.3.2.1. This requirement does not apply to REF applications for Area Structure Plan or Area Redevelopment Plan amendments if the proposed amendment does not impact regional natural systems.

An Environmental Screening must be completed by a qualified environmental professional and should follow the checklist/report outline provided below. If a qualified environmental professional has previously completed an applicable environmental report or study for another purpose, it can be used to fulfill the requirement for an Environmental Screening provided it is consistent with the Growth Plan and considers a regional perspective using the CMR's definition of ESAs. If the previously completed report meets the Growth Plan's requirements, a representative of a member municipal who is not a qualified environmental professional may provide the Board with an overview of the report findings using the report/checklist outline provided below in REF Interpretation Guide Section 12.3.2.

As required by the Growth Plan, the subject area of the report includes the statutory plan's plan area and within 100m of the plan area boundary. The report findings are intended to focus on key natural area components of the regional landscape and larger patterns of ecosystem functions and services.

The [Environmentally Sensitive Areas Background Report](#), approved by the CMRB Board in 2019, provides suggestions about the assessment methods and data sources that could be used to inform an Environmental Screening. This is intended as a desktop review using readily available information.

14.3.2. Environmental Screening Reporting Requirements for REF Applications

The following outline should be used to fulfill the requirement for an Environmental Screening. It must be submitted as part of REF Applications for all new Area Structure Plans and Area Redevelopment Plans, or for Area Structure Plan amendments or Area Redevelopment Plan amendments if the proposed development affects regional natural systems.

1. Brief overview of Statutory Plan
 - a. Location of plan
 - b. Brief description of proposed development
2. Brief overview of Assessment Methods
 - a. Summary of Information or reports reviewed
 - b. List of data sources
 - c. Field survey methods, if applicable
3. Map of Findings
 - a. Include map of all identified ESAs
4. Summary of Findings – Does the plan area or within 100m of the plan area include any of the following?
 - a. Areas maintaining the provision of water quality and quantity and providing protection against drought and flooding events Yes No
Please briefly describe.
Does this finding require an Environmental Study be conducted?
 Yes No
 - b. Area providing habitat for identified local species of interest, designated species of conservation concerns (SCC), or identified local species group
 Yes No
Please briefly describe.
Does this finding require that an Environmental Study be conducted?
 Yes No
 - c. Area providing rare, unique or biologically diverse ecosystems or unique landforms Yes No
Please briefly describe.
Does this finding require that an Environmental Study be conducted?
 Yes No
 - d. Areas contributing to other important ecosystem functions or services at a regional or local scales. Yes No
Please briefly describe.
Does this finding require that an Environmental Study be conducted?
 Yes No
5. Recommendation
 - a. Is an Environmental Study required for this Area Structure Plan or Area Redevelopment Plan? Yes No
 - b. Provide a brief rationale for the recommendation

14.3.3. Environmental Study

An Environmental Study *may* be required for new Area Structure Plan and Area Redevelopment Plan REF applications if an ESA is found to be located on or within 100m of a plan boundary by an Environmental Screening. This is described in Policy 3.3.2.1. of the Growth Plan. This requirement does not apply to REF applications for Area Structure Plan amendments or Area Redevelopment Plan amendments if the proposed amendment does not impact regional natural systems.

An Environmental Study, as defined in the glossary of the Growth Plan, is “a review of the effects of a proposed development on identified ESAs, that anticipates, interprets and evaluates impacts and identifies mitigation measures to avoid, minimize or compensate for these impacts.” The report findings are intended to focus on the regional landscape and larger patterns of ESAs that provide ecosystem functions and services.

Environmental reports or studies previously completed as part of the development planning process, or as part of another municipal process, can be used to fulfill the requirement for an Environmental Study provided they are consistent with the Growth Plan and consider a regional perspective using the CMR’s definition of ESAs.

Environmental Studies must be completed by a qualified environmental professional. The qualified environmental professional may be an external consultant or an internal staff member. As required by the Growth Plan, the report must include a review of any ESAs found within the statutory plan’s plan area and/or within 100m of the plan area boundary.

It is not a requirement to submit the Environmental Study as part of a REF application as it is a technical study completed by a qualified professional. As noted above, there is no requirement to submit technical studies as part of a REF application unless it is important for CMRB Administration to be aware of their scope and conclusions as part of understanding the application; rather, submission of an overview of study findings is considered appropriate.

The [Environmentally Sensitive Areas Background Report](#), approved by the CMRB Board in 2019, provides suggestions about the assessment methods and data sources to inform Environmental Studies.

14.3.4. Environmental Study Reporting Requirements for REF Applications

The following Environmental Study overview must be submitted as part of REF Applications for new Area Structure Plans and Area Redevelopment Plans, or for Area Structure Plan amendments and Area Redevelopment Plan amendments that impact regional natural systems, to explain the study findings to the Board.

1. Overview of Environmental Study
 - a. Consultant/Expert who conducted the Environmental Study
 - b. Date of Study
 - c. Brief overview of study area/subject site
 - d. Assessment methods, such as research, data sources, field survey methods used for Environmental Study
 - e. Any other information relevant to the REF review process

2. Overview of Environmental Study Findings

As required by Growth Plan Policy 3.3.2.1, the following table (or similar) should be included in the REF application submission to outline the findings of an Environmental Study. As per the policies of the Growth Plan, this should focus on identifying the potential impacts of a proposed development on an identified ESA and providing recommended mitigation measures.

Name/Description of Identified ESA	Potential Impacts of Proposed Development	Recommended Mitigation Measures (if not applicable, state reasons)	Identify Mitigation Measures (can include reference to policies in statutory plans, municipal plans or bylaws, or in project design adaptations, or in identifying future work/study to be completed, etc)

3. Study Conclusions

- a. Briefly identify how the proposed Area Structure Plan or Area Redevelopment Plan, or Area Structure Plan amendment or Area Redevelopment Plan amendment if applicable, aligns with the relevant goals, objectives and policies of the Growth Plan around ESAs, including policy 3.3.2.1.

15. APPENDIX 4 REF APPLICATION REQUIREMENTS FOR PLACETYPES

15.1. INTRODUCTION

The purpose of Appendix 4 of this REF Interpretation Guide is to outline the REF application requirements for reporting on placetypes. As per the Growth Plan (see Sections 3.1.2 to 3.1.8 of the Growth Plan):

- Municipalities must achieve a minimum proportion of Preferred Placetypes for new planned residential development in Preferred Growth Areas;
- Placetypes can be mixed and located as appropriate within each municipality in its Municipal Development Plan;
- There are density requirements for most placetypes; and
- Most placetypes have locational criteria.

15.1.1. Placetypes and Municipal Development Plans

REF applications for new Municipal Development Plans (MDPs) must include the following within the MDP document to be considered complete REF Applications, as per Policy 3.1.11.2:

- an alignment table between regional placetypes and land use typologies in the MDP, and
- an overlay map showing the locations of Preferred Placetypes and Employment Areas.

15.1.2. Preferred Placetypes and Area Structure Plans

The Growth Plan requires that Preferred Growth Areas achieve a minimum proportion of Preferred Placetypes for new planned residential development calculated across the Preferred Growth Area. Although the required proportion of placetypes varies by Preferred Growth Area, the majority of new planned residential development in all Preferred Growth Areas must be in Preferred Placetypes.

As part of REF submissions for new planned residential development in Preferred Growth Areas, applicants must identify how the proposed development aligns with requirement to achieve minimum proportions of Preferred Placetypes. This includes providing a summary of how the application supports achieving minimum densities and other requirements such as those listed in Growth Plan Policy 3.1.2.1.

If an Area Structure Plan for new planned residential development in a Preferred Growth Area does not propose only Preferred Placetypes, the applicant must provide a rationale to explain how they propose to meet the minimum proportions of Preferred Placetypes across the Preferred Growth Area.

MEMORANDUM

To: Jordon Copping
Chief Officer
Calgary Metropolitan Region Board
("CMRB") via email

From: Janice A. Agrios, KC
Kennedy Agrios Oshry Law
780.969.6911

Date: October 13, 2022

Subject: **REF Interpretation Guide**

File: 76186-2

A. INTRODUCTION

1. The Regional Evaluation Framework was approved by the Minister pursuant to Ministerial Order No. MSD:064/22, effective as of August 15, 2022 (the "REF"). The REF provides the CMRB with the authority to evaluate and approve new statutory plans and amendments to ensure alignment with the Growth Plan
2. The CMRB has prepared a draft REF Interpretation Guide to outline the practices and procedures for seeking approval of statutory plans and plan amendments.
3. You have asked the following questions:
 - (a) How is compliance with the Growth Plan enforced?
 - (b) Does the proposed procedure for seeking an exemption from compliance with the Growth Plan create a bias?

B. SUMMARY OF CONCLUSIONS

4. With respect to the questions posed above:
 - (a) The REF provides the CMRB with broad authority to review and approve plans to ensure alignment with the Growth Plan. The REF further requires that all plans must comply with the Growth Plan. Therefore, even if a plan is not referred or is not required to be referred, the CMRB still has authority to review the plan to determine whether it should be subject to the REF process or whether it complies with the Growth Plan.

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- (b) The proposed procedure for seeking an exemption from compliance does not create a bias. In particular, there is nothing inherently wrong with having an initial review of a plan by the CMRB before applying for an exemption.

C. DISCUSSION

Enforcement

- 5. Section 708.061(2) of the MGA provides that the council of a participating municipality must amend every statutory plan and bylaw to conform with a growth plan. Section 708.061(3) of the MGA provides that if the council of a participating municipality fails to amend a statutory plan or bylaw as required, then the statutory plan or bylaw is **deemed** to be invalid to the extent that it conflicts or is inconsistent with a growth plan.
- 6. The CMRB Regulation directs the CMRB to create the Growth Plan and the REF, both of which have been approved by the Minister.
- 7. Section 1 of the REF states that the REF provides the CMRB with the authority to evaluate and approve new plans and amendments to ensure alignment with the Growth Plan.
- 8. Section 2 of the REF provides that the purpose of the REF is to provide member municipalities with criteria to determine when plan and amendments must be submitted for approval. Section 2 of the REF goes on to expressly recognize that "every development must be consistent with the growth plan". Section 2.1 of the REF then states:

The policies of the Growth Plan apply to all developments, but only regionally significant developments shall be referred to the Board for review through the Regional Evaluation Framework.
- 9. Section 4 of the REF sets out the obligations of member municipalities to refer certain types of plans to the CMRB for review and approval.
- 10. The REF process is self policing in that it is up to the member municipalities to determine whether to refer a plan to the CMRB or, for a plan that does not need to be referred to the CMRB, to determine whether the plan complies with the Growth Plan.
- 11. The REF addresses the obligations of member municipalities to refer plans to CMRB but does not limit or restrict CMRB from reviewing plans that are not referred or not required to be referred. As noted above, Section 1 of the REF provides the CMRB with broad authority to evaluate and approve new plans and amendments to ensure alignment with the Growth Plan. There are no limitations on this authority.

12. In light of the broad authority granted pursuant to Section 1 of the REF and the express recognition in Section 2 of the REF that every development must be consistent with the Growth Plan, in my view, the CMRB has the authority to review a plan to determine whether the plan should be subject to the REF process or to review the plan for consistency with the Growth Plan (even if it is not required to be referred).
13. There is nothing in the CMRB Regulation, the Growth Plan or the REF that requires the CMRB to actively “police” plans that are not referred to it. However, in light of the REF, in my view, it is appropriate for the CMRB to review a plan upon request from a member municipality, which is the process contemplated in the draft Interpretation Guide. Once the review occurs, there is no need for “enforcement” as if the plan is found not to comply with the Growth Plan, the MGA deems that it is invalid.

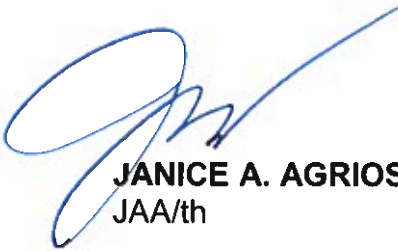
Exemptions

14. Section 3.1.12.1 of the Growth Plan provides that the CMRB can override the Growth Plan.
15. Section 6 of the draft REF Interpretation Guide addresses the procedure for seeking an exemption pursuant to Policy 3.1.12.1 of the Growth Plan. The first step in the suggested process is as follows:

Member municipalities seeking an exemption to the policies of the Growth Plan are encouraged to present the proposed development to Board members prior to submitting a REF application. The Chief Officer should be contacted for placement on a Board agenda.

16. A member municipality has suggested that this process creates a bias. The exact basis for this suggestion is unclear although it appears that the member municipality is suggesting that by presenting a proposal prior to a formal application, the CMRB somehow will have prejudged the application.
17. The CMRB is made up of member municipalities. The preliminary presentation and the final decision will be to the same body. In other words, the process will be fully transparent. If a member municipality has an objection to a request for an exemption, it will be fully informed as to the nature of the proposal and will have the opportunity to vote against the request.
18. In addition, in my opinion, the REF process is closer to a legislative process, than a quasi-judicial process. While the CMRB must adopt a fair process, the degree of procedural fairness is at a lesser standard, which impacts the test for bias. In my view, the reasonable apprehension of bias standard that is applicable to quasi judicial tribunals does not apply to CMRB during the REF process. Instead, in my opinion, the “closed mind” test for bias applies – is the member reasonably capable of persuasion even if the member has formed a pre-existing opinion?

19. In my opinion, the process of having the CMRB review a request for an exemption prior to submission of an application does not create a bias. Although members may form a preliminary opinion, as long as they remain "open to persuasion", there is no issue of bias. Further, the process is fully transparent as all member municipalities are members of the CMRB and therefore will have the same information regarding the request.
20. In order to clarify the process, I suggest a minor wording change to Section 6 of the draft Interpretation Guide. The section encourages members to present the proposed development to "Board members", which could be interpreted as presenting to individual Board members, instead of the Board as a whole. I suggest that "Board members" be replaced with "the Board".



JANICE A. AGRIOS, KC
JAA/th

Agenda Item	6
Submitted to	Land Use & Servicing Committee
Purpose	For Information
Subject	Board Initiatives Progress Update
Meeting Date	November 3, 2022
<i>Motion that the Committee receive for information a progress update on Board initiatives.</i>	
<p>Summary</p> <ul style="list-style-type: none"> • Following the Minister’s approval of the Growth Plan and Regional Evaluation Framework (REF) and the filing of the Servicing Plan by the Minister, CMRB has begun implementation of REF and the Growth and Servicing Plans. • Earlier in 2022, the CMRB confirmed five strategic initiatives for focus over the coming year. They are: <ul style="list-style-type: none"> ○ Phase 2 of Indigenous Relations ○ Regional Economic Development ○ Environmentally Sensitive Areas Database ○ Scoping the Regional Transportation and Transit Master Plan ○ Scoping the Water Roadmap Update • The purpose of this agenda item is to update the Land Use and Servicing Committee on the progress of these 5 initiatives and other pertinent projects. 	
<p>Attachments</p> <ul style="list-style-type: none"> • Table 1: 2022 Board Initiative Update 	

1. Recommendation

That the Committee receive for information a progress update on Board initiatives.

Table 1: 2022 Board Initiatives Update

CMRB Initiative	Phase(s) *	Status	Comments
1. Indigenous Relations	Dialogue	Ongoing.	
	Learning	Potential MNA Region 3 guests at November 18 Board meeting during Métis Week.	
	Co-create	Introductory Working Group meeting complete. Consultant drafting materials for next step.	
	Celebrate Summary Report Overall project status		
2. Regional Economic Development	Procurement	Ongoing. 7 proposals received, contract negotiation ongoing with preferred proponent.	
	Environmental Scan		
	Gap Analysis Vision & Framework Communications		
	Overall project status		
3. Scoping Regional Transportation and Transit Master Plan	Procure SMEs	Ongoing.	
	Environmental Scan	Placeholder meetings with Working Group scheduled for 2022	
	Objectives and Scoping Finalize Scope, Sched and approx. budget		
	Overall project status		
4. Scoping Water Roadmap Update	Procure SME	Ongoing.	
	Environmental Scan	Placeholder meetings with Working Group scheduled for 2022	
	Confirm Areas of Focus Gap Analysis - Role Finalize Roadmap Update		
	Overall project status		

Table 1: 2022 Board Initiatives Update

CMRB Initiative	Phase(s) *	Status	Comments
5. Environmentally Sensitive Areas Database	Procurement	Ongoing. 2 proposals received, contract negotiation ongoing with preferred proponent. Placeholder meetings with Working Group scheduled for 2022	
	Available Datasets		
	Gap Analysis Database Framework Database Reporting		
	Overall project status		
6. DEAL v2	GIS update (internal to CMRB)	Ongoing.	Internal project, no external consultants required at this time
	Municipal Feedback Finalization		
	Overall project status		

* To be confirmed with consultant, once finalized.