

Deputy City Manager's Office Report to
Intergovernmental Affairs Committee
2019 November 14

ISC: UNRESTRICTED
IGA2019-1383

Interim Protocol for City-Initiated Challenges to the Calgary Metropolitan Region Board

EXECUTIVE SUMMARY

The Calgary Metropolitan Region Board (CMRB) (Board) is the provincially legislated and mandated growth management board for the Calgary region. It is comprised of elected officials representing ten municipalities including The City of Calgary. The Board has the authority to approve or reject statutory plans and plan amendments submitted to the Board for approval.

Member municipalities are required to submit their regionally significant statutory plans and certain plan amendments to the Board. Submissions are evaluated based on alignment with the Provincially-approved Calgary Metropolitan Region Interim Growth Plan (IGP) and Interim Regional Evaluation Framework (IREF). The CMRB's application review process provides an opportunity for other member municipalities to either support or challenge the submission. The purpose of this report is to establish The City's interim protocol including roles, responsibilities and decision-making accountability for responding to member municipality's statutory plans and plan amendments that are referred to the Board for approval. Administrative Leadership Team has endorsed the proposed interim protocol in Attachment 2.

ADMINISTRATION RECOMMENDATION:

That Intergovernmental Affairs Committee recommends that Council:

1. Approve the proposed Interim Protocol for The City outlined in this report and Attachment 2; and
2. Direct Administration to report back to Intergovernmental Affairs Committee with an update no later than Q1 2021.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2018 October 15, confidential report IGA2018-0980, Council approved Administration Recommendations contained in the report on Interim Calgary Metropolitan Region Growth Plan and Interim Regional Evaluation Framework Update.

On 2019 September 16, confidential report C2019-0868, Council directed Administration to prepare a revised regional strategy based on feedback from the Strategic Meeting of Council and report back to Intergovernmental Affairs Committee no later than Q1 2020.

BACKGROUND

On 2018 January 01, the Calgary Metropolitan Region Board Regulation came into effect, establishing the CMRB (Board) with the authority to approve or reject a statutory plan, and requiring its members municipalities to submit certain statutory plans and plan amendments to the Board for approval.

On 2018 December 13, the Province approved the Calgary Metropolitan Region Interim Growth Plan (IGP), and the Interim Regional Evaluation Framework (IREF) by Ministerial Order. The IGP and IREF form the current statutory regional planning framework, and enable the Board to evaluate and approve submissions. The final Growth Plan and Regional Evaluation Framework are anticipated to be forwarded to the Minister by Q1 2021.

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The purpose of the IGP and IREF are:

1. The IGP provides planning direction and guidance on certain areas of regional significance. All statutory plans and certain plan amendments submitted by member municipalities will be evaluated against the IGP.
2. The IREF provides the submission criteria to determine which plans are considered regionally significant and therefore should be referred to the Board; and the evaluation criteria to evaluate consistency with the IGP.

The final Growth Plan and Regional Evaluation Framework are being developed, and an appeal or dispute resolution mechanism is expected to be developed. These initiatives may alter our internal processes. Until they are adopted, an interim protocol is needed to clarify decision-making under the current regional framework.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

A key element of the IREF Application Review Process (Attachment 1) is where applications receive a CMRB Administration Recommendation of Approval and no member challenges are initiated during the twenty-eight (28) day Review Period, the IREF application will be deemed approved. This allows certain plans and amendments to proceed without Board review. While this approach is streamlined, vigilance will be necessary by The City to evaluate the plans and CMRB Recommendations of Approval. The City will need to determine whether a challenge is warranted. The City of Calgary both initiated a challenge (together with City of Airdrie and Town of Cochrane) to a member municipality (Rocky View County) and have received a challenge from a member municipality (Rocky View County). This proposed protocol addresses only challenges that The City initiates.

Member challenges to a CMRB Recommendation of Approval are referred to the next Board meeting where the Board will have an opportunity to hear presentations, discuss and decide to approve or reject the application. It is important that The City be prepared to present its rationale for the challenge to influence decisions at the Board.

All decisions of the Board require a double majority vote. The City's support is necessary for a decision of approval to be passed. If The City were not in favour of an approval then support could be withheld at the Board as Calgary's representative can utilize a veto. Currently, there is no appeal process for Board decisions; all Board decisions are final. Members can resubmit after a refusal.

A successful challenge by The City requires both a time-sensitive response to initiate a challenge, and a well-articulated rationale at a Board meeting.

Protocol for Responding to Member Submissions

Administration proposes a protocol to respond to CMRB Administrations Recommendations of Approval for submitted plans as outlined within the attached Protocol for City-Initiated Challenges (Attachment 2), and the following principles, roles, responsibilities, and decision-making accountability.

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A. City Principles

1. Administrative evaluation and recommendation of member municipality submissions will be based on alignment to the Growth Plan.
2. Where administration from Intergovernmental and Corporate Strategy (ICS) have documented no concern with an IREF Application, this will be reported to the General Manager (GM) that ICS reports to and a verbal update will be provided to IGA.
3. ICS will bring all recommendations for a City-initiated IREF challenge to the Intergovernmental Affairs Committee for decision.
4. Where calendars are not aligned to solicit a decision from IGA, a challenge will be initiated at the discretion of the GM and the Board representative.
5. Should IGA/GM decide to initiate a challenge, ICS will coordinate the challenge with a cross-corporate approach.

B. Roles, Responsibilities & Decision-Making Accountability

Intergovernmental Affairs Committee (IGA)

IGA's mandate is well-suited to provide a decision with regards to recommendations for IREF challenges as described in within the Procedural Bylaw 35M2017:

- "Section B.7 Intergovernmental Affairs Committee has the following mandate:*
- (a) preparing representations on the impact of other governments' policies on The City;*
 - (b) co-ordinating long term growth and development plans between The City and other municipalities; and*
 - (c) developing strategies to address the needs for affordable housing in Calgary."*

Board Representative

The Board representative is the voice of The City at Board meetings. Where timelines are not conducive to securing IGA Committee endorsement, then the Board representative will be consulted and support for challenge confirmed.

General Manager (GM) that ICS reports to

GM provides sponsor-level support for ICS activities.

- The protocol provides authority for the GM to sign-off on challenges where IGA calendars are not aligned to allow sign-off.

Intergovernmental and Corporate Strategy (ICS)

This protocol confirms ICS's role to coordinate IREF reviews and initiate challenges including:

- reviewing member IREF submissions for alignment to the IGP and IREF
- determining whether to respond to supportable IREF submissions with either a courtesy letter of support or non-challenge, or to stay silent where warranted
- coordinating Departmental technical inputs into the development of challenge rationale and presentation at the Board
- liaising with the GM and Board representative.

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This role is well-aligned to ICS' current work:

- supporting Calgary's elected officials representing at the CMRB and Committees, and The City's relationships in the region
- coordinating Calgary's technical input into the development of the 2021 Growth Plan, Servicing Plan and Regional Evaluation Framework.

Stakeholder Engagement, Research and Communication

The proposed interim protocol has been presented to and endorsed by the Administrative Leadership Team. ICS will communicate the interim protocol to the corporation if IGA committee approval is given.

Strategic Alignment

Objective 5.2.1 in the Municipal Development Plan states "*maintain strong relationships with municipal neighbours, regional partners and key stakeholders within Calgary, to ensure that growth and change decisions reflect provincial and regional policies and the direction of the MDP and CTP.*"

The Triple Bottom Line Policy Framework (October 2011) under the heading of Smart Growth Framework states that "*The City works with its regional partners to ensure that growth is managed effectively to achieve the goal of long-term urban sustainability.*"

The Interim Growth Plan's urban intensification and expansion of settlement areas policies (which relates to Calgary's new planning efforts), have strong alignment to Calgary's Municipal Development Plan policy framework.

Social, Environmental, Economic (External)

The proposed interim protocol provides role clarity and more process certainty with regards to City-initiated challenges, which aligns with the Council priority to create a well-run City.

Financial Capacity

Current and Future Operating Budget: Administrative resources from several departments would likely be required to adequately prepare for a challenge at a Board meeting. At present there is no fee charged by the CMRB to file a Challenge to a member plan/amendment.

Current and Future Capital Budget: There are no anticipated current or future implications to the Capital Budget.

Risk Assessment

Without a protocol in place, there is a risk The City could miss the opportunity to initiate a challenge where it is considered warranted. Once a submission receives a deemed approval, there is no appeal process within the CMRB's review system. Further recourse would rely on Section 690 appeals under the Municipal Government Act to resolve bilateral concerns. With a protocol in place, The City will be better prepared to mitigate these risks.

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A challenge to the CMRB Recommendation of Approval will require a vote of the Calgary Metropolitan Region Board. For any Board decision to move forward, it must include the support of both The City of Calgary and six other member municipalities. An approval at the Board can be halted by either The City or by a coalition of four member municipalities.

Where a representative is not present for a vote of the Board, the representative is deemed to have voted in the affirmative. (Section 5(2) & (3) of the Calgary Metropolitan Region Board Regulation). This is mitigated by the appointment of several Calgary elected representatives to the Calgary Metropolitan Region Board and Committees.

REASON(S) FOR RECOMMENDATION(S):

Administration identified a need to clarify roles and decision-making accountability when initiating challenges to applications at the Board. The interim protocol reflects current regional process, which is likely to change once the Board adopts a dispute resolution mechanism and develops the final Regional Evaluation Framework. The interim protocol is considered important because a governance protocol is needed at this stage. Administration will monitor changing events to determine when the interim protocol should be updated.

ATTACHMENT(S)

1. CMRB's IREF Application Review Process
2. Calgary's Protocol for City-Initiated Challenges