

BOARD ORDER NO. MGB 007/17**FILE: AN13/OKOT/T-01**

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 application by the Town of Okotoks, in the Province of Alberta, to annex certain territory lying immediately adjacent thereto and thereby its separation from the Municipal District of Foothills No. 31.

BEFORE:

Members:

F. Wesseling, Presiding Officer
L. Yakimchuk, Member
L. Bonnett, Member

Secretariat:

R. Duncan, Case Manager
A. Chell, Planning Intern

RECOMMENDATION

After careful examination of the submissions from the Town of Okotoks, affected landowners, and other interested parties, the Municipal Government Board makes the following recommendation for the reasons set out in the MGB report, shown as Schedule 3 of this Board Order.

Recommendation

That the annexation be approved in accordance with the following:

The Lieutenant Governor in Council orders that

- 1 In this Order, “annexed land” means the land described in Schedule 1 and shown on the sketch in Schedule 2.
- 2 Effective July 1, 2017, the land described in Schedule 1 and shown on the sketch in Schedule 2 is separated from the Municipal District of Foothills, No. 31 and annexed to the Town of Okotoks.

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3 Any taxes owing to the Municipal District of Foothills, No. 31 at the end of June 30, 2017 in respect of the annexed land and any assessable improvements to it are transferred to and become payable to the Town of Okotoks together with any lawful penalties and costs levied in respect of those taxes, and the Town of Okotoks upon collecting those taxes, penalties and costs must pay them to the Municipal District of Foothills, No. 31.

4(1) For the purpose of taxation in 2017, the Municipal District of Foothills, No. 31 must assess the annexed land and the assessable improvements to it.

(2) Taxes payable for the 2017 taxation year in respect of the annexed land and any assessable improvements to it are to be paid to the Municipal District of Foothills, No. 31 and upon collecting those taxes the Municipal District of Foothills, No. 31 must remit them to the Town of Okotoks.

5(1) For the purpose of taxation in 2018 and subsequent years, the assessor for the Town of Okotoks must assess the annexed land and the assessable improvements to it.

(2) For the purpose of taxation in 2018 and in each subsequent year up to and including 2046, the annexed land and assessable improvements to it, other than linear property,

- (a) must be assessed by the Town of Okotoks on the same basis as if they had remained in the Municipal District of Foothills, No. 31, and
- (b) must be taxed by the Town of Okotoks in respect of each assessment class that applies to the annexed land and the assessable improvements to it using
 - (i) the tax rate established by the Municipal District of Foothills, No. 31, or
 - (ii) the tax rate established by the Town of Okotoks, whichever is lower, for property of the same assessment class.

6(1) Where in any taxation year up to and including 2046 a portion of the annexed land

- (a) becomes a new parcel of land created
 - (i) as a result of subdivision,
 - (ii) as a result of separation of title by registered plan of subdivision, or
 - (iii) by instrument or any other method that occurs at the request of or on behalf of the landowner,
- (b) is redesignated, at the request of or on behalf of the landowner, under the Town of Okotoks Land Use Bylaw to another designation, or
- (c) is connected, at the request of or on behalf of the landowner, to water or sanitary sewer services provided by the Town of Okotoks,

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section 5 ceases to apply at the end of that taxation year in respect of that portion of the annexed land and the assessable improvements to it.

(2) After section 5(2) ceases to apply to a portion of the annexed land in a taxation year, that portion of the annexed land and the assessable improvements to it must be assessed and taxed for the purposes of property taxes in the same manner as other property of the same assessment class in the Town of Okotoks is assessed and taxed.

- 7 The Town of Okotoks must pay to the Municipal District of Foothills, No. 31
- (a) four hundred thousand dollars (\$400 000) on or before July 31, 2017,
 - (b) two hundred thousand dollars (\$200 000) on or before July 31, 2018,
 - (c) two hundred thousand dollars (\$200 000) on or before July 31, 2019,
 - (d) two hundred thousand dollars (\$200 000) on or before July 31, 2020,
 - (e) two hundred thousand dollars (\$200 000) on or before July 31, 2021,
 - (f) two hundred thousand dollars (\$200 000) on or before July 31, 2022,
 - (g) two hundred thousand dollars (\$200 000) on or before July 31, 2023,
 - (h) two hundred thousand dollars (\$200 000) on or before July 31, 2024, and
 - (i) two hundred thousand dollars (\$200 000) on or before July 31, 2025.

8 Any 2017 assessment complaints in respect of the annexed land received by the Town of Okotoks or the Municipal District of Foothills, No. 31 remain with the Municipal District of Foothills, No. 31 assessment review board.
and makes the Order in Appendix C.

Dated at the City of Edmonton, in the Province of Alberta, 17th day of February 2017.

MUNICIPAL GOVERNMENT BOARD



F. Wesseling, Presiding Officer

BOARD ORDER NO. MGB 007/17**FILE: AN13/OKOT/T-01****Schedule 1****DETAILED DESCRIPTION OF THE LANDS SEPARATED FROM
THE MUNICIPAL DISTRICT OF FOOTHILLS, NO. 31 AND
ANNEXED TO THE TOWN OF OKOTOKS**

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION FOUR (4), TOWNSHIP TWENTY ONE (21), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF OKOTOKS AND INCLUDING ALL THAT LAND ADJACENT TO THE WEST SIDE OF SAID QUARTER SECTION LYING EAST OF THE WEST BOUNDARY OF PLAN 761 0078.

THE EAST HALF OF SECTION FOUR (4), TOWNSHIP TWENTY ONE (21), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN.

SECTION THREE (3), TOWNSHIP TWENTY ONE (21) RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN.

ALL THAT PORTION OF SECTION TWO (2), TOWNSHIP TWENTY ONE (21), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN LYING WEST OF THE WEST BOUNDARY OF PLAN 981 1707 EXCLUDING THAT PORTION OF THE EAST WEST ROAD ALLOWANCE ADJACENT TO THE SOUTH SIDE OF SAID SECTION LYING EAST OF THE PROJECTION SOUTH OF THE MOST EASTERLY POINT OF PLAN 901 0872.

THE NORTHEAST QUARTER OF SECTION THIRTY THREE (33), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN.

THE NORTH HALF OF SECTION THIRTY FOUR (34), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN.

THE WEST HALF OF SECTION THIRTY FIVE (35), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION THIRTY FIVE (35), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN EXCLUDING ALL THAT LAND LYING EAST OF THE WEST BOUNDARY OF BLOCK 2, PLAN 101 1837, AND EXCLUDING PLAN 981 1707.

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THE NORTHWEST QUARTER OF SECTION TWENTY SIX (26), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN.

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION TWENTY TWO (22), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN INCLUDING THAT PORTION OF THE NORTH SOUTH ROAD ALLOWANCE ADJACENT TO THE EAST SIDE OF SAID QUARTER SECTION LYING SOUTH OF THE PROJECTION EAST OF THE MOST SOUTHERLY POINT OF LOT 5ER, PLAN 971 1412 AND EXCLUDING THOSE LANDS LYING NORTH OF THE NORTH BOUNDARY OF PLAN 761 0180 AND EXCLUDING THOSE LANDS LYING NORTH OF THE SOUTHEASTERLY BOUNDARY OF PLAN 971 1412.

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY TWO (22), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF OKOTOKS.

ALL THAT PORTION OF THE NORTH HALF OF SECTION FIFTEEN (15), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF OKOTOKS.

THE NORTH HALF OF SECTION SIXTEEN (16), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN.

ALL THAT PORTION OF THE SOUTH HALF OF SECTION TWENTY ONE (21), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF OKOTOKS.

THE NORTH HALF OF SECTION SEVENTEEN (17), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF OKOTOKS.

ALL THAT PORTION OF SECTION TWENTY (20), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN NOT WITHIN THE TOWN OF OKOTOKS.

THE FRACTIONAL EAST HALF OF SECTION NINETEEN (19), TOWNSHIP TWENTY (20), RANGE TWENTY NINE (29), WEST OF THE FOURTH (4) MERIDIAN LYING NORTH OF THE SOUTH BOUNDARY OF PLAN 871 1358 INCLUDING THAT PORTION OF THE NORTH SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF

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SAID HALF SECTION LYING NORTH OF THE PROJECTION WEST OF THE SOUTH BOUNDARY OF PLAN 871 1358.

THE EAST HALF OF SECTION TWENTY FOUR (24), TOWNSHIP TWENTY (20), RANGE ONE (1), WEST OF THE FIFTH (5) MERIDIAN INCLUDING THOSE LANDS ADJACENT TO THE SOUTH OF SAID HALF SECTION LYING NORTH OF THE SOUTH BOUNDARY OF PLAN 891 2019.

THE SOUTHWEST QUARTER OF SECTION TWENTY FOUR (24), TOWNSHIP TWENTY (20), RANGE ONE (1), WEST OF THE FIFTH (5) MERIDIAN INCLUDING THOSE LANDS ADJACENT TO THE SOUTH OF SAID QUARTER LYING NORTH OF THE SOUTH BOUNDARY OF PLAN 891 2019 AND INCLUDING THE NORTH SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID QUARTER SECTION LYING NORTH OF THE PROJECTION WEST OF THE SOUTH BOUNDARY OF PLAN 891 2019

ALL THAT PORTION OF PLAN 4874BM IN THE SOUTHEAST QUARTER OF SECTION TWENTY THREE (23), TOWNSHIP TWENTY (20), RANGE ONE (1), WEST OF THE FIFTH (5) MERIDIAN PLAN LYING NORTH OF THE NORTH BOUNDARY OF PLAN 871 1148.

ALL THAT PORTION OF THE NORTHWEST QUARTER OF SECTION TWENTY FOUR (24), TOWNSHIP TWENTY (20), RANGE ONE (1), WEST OF THE FIFTH (5) MERIDIAN EXCLUDING THOSE LANDS WHICH LIE TO THE NORTH OF THE SOUTH NINETY NINE (99) FEET THEREOF AND TO THE WEST OF THE EAST SIXTY SIX (66) FEET THEREOF AND INCLUDING ROADWAY 253HZ AND INCLUDING CUTOFF 253HZ AND EXCLUDING THAT PORTION OF THE NORTH SOUTH ROAD ALLOWANCE ADJACENT TO THE WEST SIDE OF SAID QUARTER SECTION LYING NORTH OF THE PROJECTION WEST OF THE NORTH BOUNDARY OF PLAN 4791 BM.

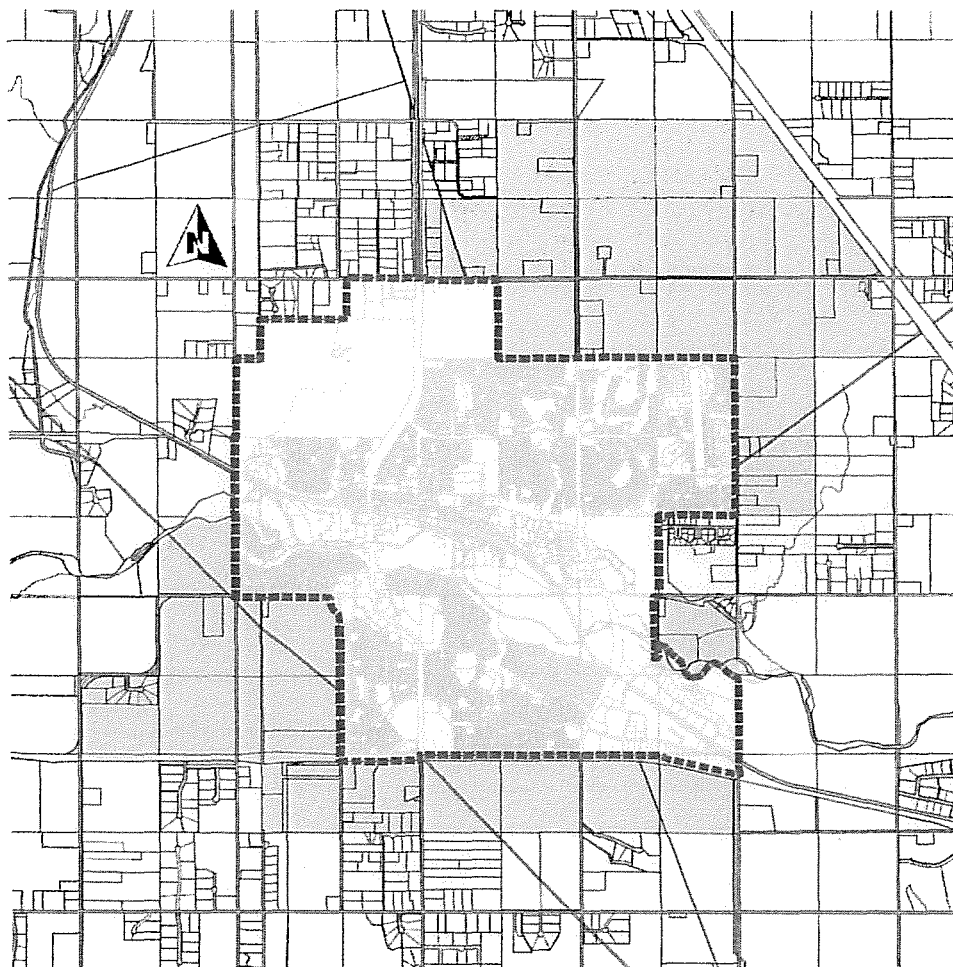
ALL THAT PORTION OF THE EAST HALF OF SECTION TWENTY FIVE (25), TOWNSHIP TWENTY (20), RANGE ONE (1) WEST OF THE FIFTH (5) MERIDIAN LYING SOUTH OF THE RIGHT BANK OF THE SHEEP RIVER.

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Schedule 2

A SKETCH SHOWING THE GENERAL LOCATION OF THE AREAS SEPARATED FROM THE MUNICIPAL DISTRICT OF FOOTHILLS, NO. 31 AND ANNEXED TO THE TOWN OF OKOTOKS



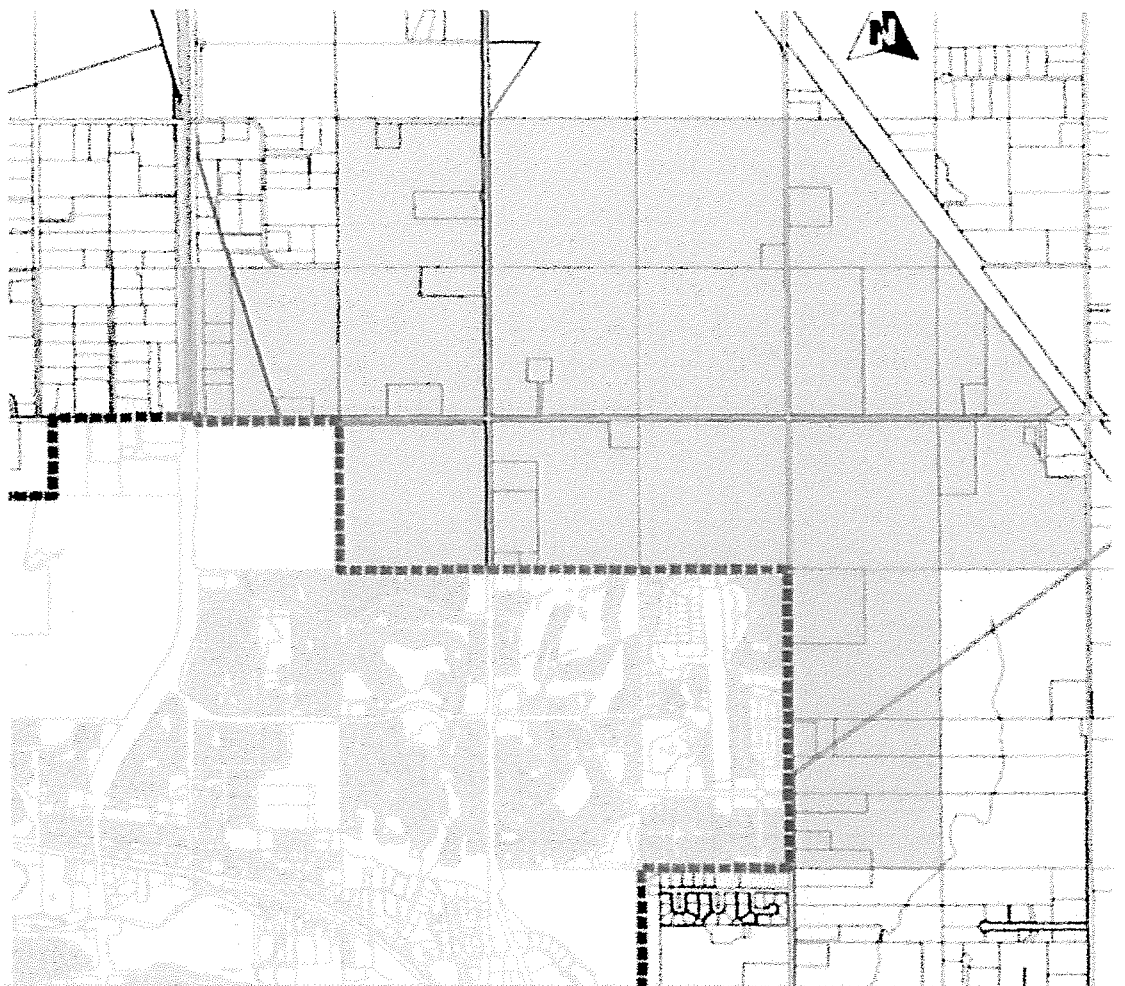
Legend

- Existing Town of Okotoks Boundary
- Annexation Areas

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AREA MAP 1, NORTHEAST ANNEXATION AREA



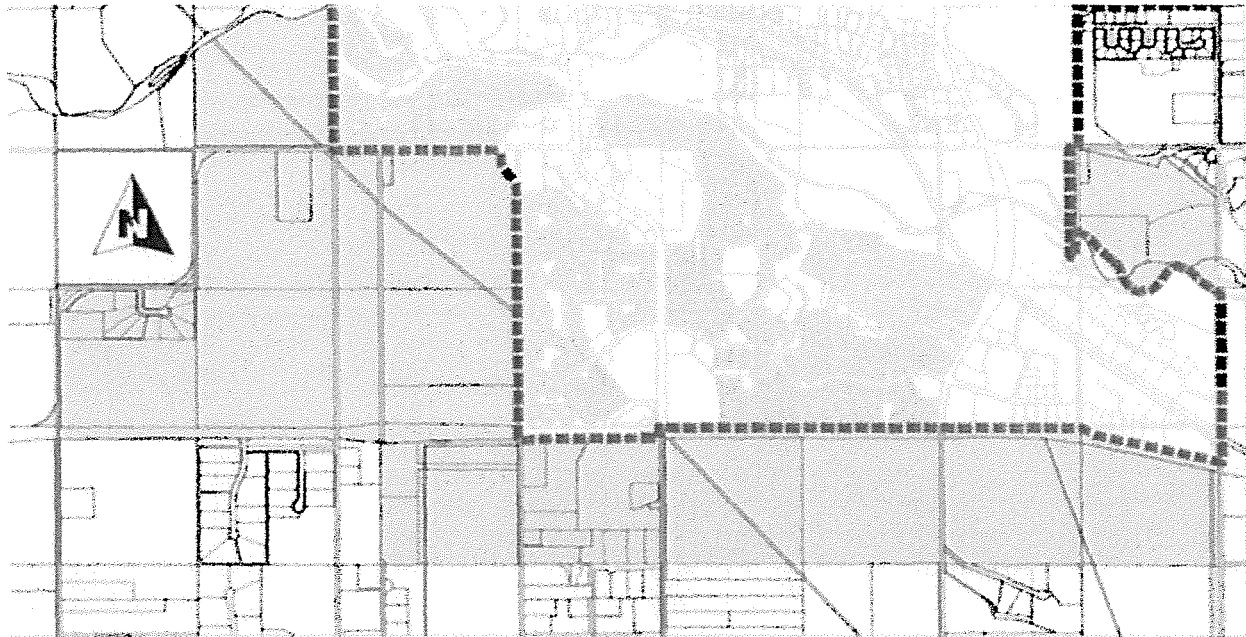
Legend

- Existing Town of Okotoks Boundary
- Annexation Areas

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AREA MAP 2, SOUTH ANNEXATION AREA



Legend

- Existing Town of Okotoks Boundary
- Annexation Areas

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Schedule 3

**MUNICIPAL GOVERNMENT BOARD REPORT TO THE
MINISTER OF MUNICIPAL AFFAIRS
RESPECTING THE TOWN OF OKOTOKS PROPOSED ANNEXATION
OF TERRITORY FROM THE MUNICIPAL DISTRICT OF FOOTHILLS NO. 31**

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Annexation recommendations often include many acronyms and abbreviations, and this one is no exception. For ease of reference, the following table includes all acronyms and abbreviations used multiple times in this recommendation.

Acronym/Abbreviation	Full Description
1998 IDP	Town of Okotoks Municipal Development Plan: The Legacy Plan, September 1998
Act	<i>Municipal Government Act</i>
	Access and Utility Right of Way
Annexation Agreement	Town of Okotoks and Municipal District of Foothills No. 31 Annexation Agreement
ANP	Annexation Negotiating Panel
AT	Alberta Transportation
ASP	Area Structure Plan

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Acronym/Abbreviation	Full Description
CMP	Calgary Metropolitan Plan
CRP	Calgary Regional Partnership
IDP	Intermunicipal Development Plan Between the Town of Okotoks and the Municipal District of Foothills No. 31
LGC	Lieutenant Governor in Council
LUB	Land Use Bylaw
FIA	Financial Impact Analysis of the Annexation Proposed by the Town of Okotoks, September 28, 2016
Growth Study	Town of Okotoks Growth Study and Financial Assessment
MGB	Municipal Government Board
MD	Municipal District of Foothills No. 31
MD MDP	Municipal District of Foothills No. 31 Municipal Development Plan 2010
Minister	Minister of Municipal Affairs
New MDP	Town of Okotoks Municipal Development Plan, 2016
Notice	Notice of Intent to Annex
Town	Town of Okotoks

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[1] On July 19, 2016, the Town of Okotoks (Town) submitted an application to the Municipal Government Board (MGB) to annex approximately 1,877 hectares (4,640 acres) from the Municipal District of Foothills No. 31 (MD). The proposed annexation will provide the Town with a 60 year supply of land for residential, industrial, and commercial uses. While the two municipalities were able to reach an annexation agreement, a number of landowners objected to the boundaries of the proposed annexation area. In accordance with Section 121 of the *Municipal Government Act (Act)*, the MGB conducted a public hearing on October 12, 2016. The following provides a brief overview of the Town's annexation application, a summary of the objections received during the proceedings, and the recommendations of the MGB. This fulfills the MGB's responsibility under Section 123 of the *Act*.

Objections to the Proposed Annexation

[2] The MGB received submissions objecting to the proposed annexation from E. Miller as well as B. Balagan, B. Oslund, and Mr. and Ms. S. Locher.

[3] Mr. Miller requested the annexation boundary be changed to follow the drainage ditch on his property located at that Ptn. NE 35-20-29 W4M that bisects the parcel from the north to the south. He submitted that this would provide his two businesses remaining in the MD with the land they need for future expansion. This also would ensure the road and fire retention pond on Ptn. NE 35-20-29 W4M associated with these two businesses would also remain in the MD. Mr. Miller commented that the Town did not respond to his correspondence of September 9, 2016 regarding this boundary change request. Mr. Miller was also concerned about the loss of the assessment and taxation transition protection should he need to move his businesses to Ptn. NE 35-20-29 W4M.

[4] Mr. Balagan, Ms. Oslund and the Lochers argued their land should be included as part of the annexation area. The landowners emphasized that they had approached the Town on numerous occasions to be included as part of this annexation; however, their request was not granted. They also expressed concerns that not including their land would create land use conflicts, impact their property value as well as create safety and security issues. They stated that when combined, their properties would create an area of 16 acres, which would be large enough to accommodate either commercial or industrial development. In the event the MGB did not grant their request, the landowners asked the MGB to order the MD to rezone their lands as industrial.

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Summary of MGB Recommendations and Reasons

[5] After carefully considering the submissions received during the proceedings, the MGB makes the following recommendations:

- 1. The MGB recommends the annexation area as requested by the Town;**
- 2. The MGB does not recommend the boundary adjustments as requested by the landowners; and**
- 3. The MGB recommends the assessment and taxation transition provisions and compensation amount as agreed to by the two municipalities with an effective date of July 1, 2017.**

[6] Each recommendation is listed below, followed by the MGB’s reasons for making this recommendation.

Recommendation 1: The MGB recommends the annexation area as requested by the Town

[7] In making this recommendation, the MGB considered the annexation process as well as the growth and land requirements.

Process

[8] The MGB accepts the process used by the two municipalities to develop the annexation application and specify the annexation area was inclusive and fair. The Town used a number of communications vehicles to create awareness of the proposed annexation, solicit input from affected landowners and the public, and inform interested parties of the progress of the annexation application. Moreover, the Town and the MD were able to reach an Annexation Agreement.

Growth and Land Requirements

[9] The time horizon for this proposed annexation is longer than normal. However, the 60 year time horizon was agreed to by the two municipalities, substantiate by the Growth Study, supported by the Financial Impact Analysis of the Annexation Proposed by the Town of Okotoks, September 28, 2016 (FIA), and is consistent with the growth corridors of the Intermunicipal Development Plan Between the Town of Okotoks and the Municipal District of Foothills No. 31 (IDP). Moreover, this period is in keeping with the Calgary Metropolitan Plan (CMP), a significant factor for the consideration of this time horizon. As the 60 year time frame

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harmonizes development in and around the Town with the CMP, the MGB concludes the Town's time horizon is reasonable.

[10] The Calgary Regional Partnership (CRP) population estimates considered the Town of Okotoks Municipal Development Plan: The Legacy Plan, September 1998 (1998 MDP), which limited growth and capped the Town's population at between 25,000 to 30,000. However, the Town of Okotoks Municipal Development Plan, 2016 (New MDP), adopted in 2016, removes the development restrictions and allows the Town to grow at 4% rather than the 2% used by the CRP. Therefore, it is reasonable to accept the Town of Okotoks Growth Study and Financial Assessment (Growth Study) projection that the Town will have a population of 82,152 by 2073.

[11] The 1,877 hectares (4,640 acres) of land identified by the Town's Growth Study is logical. The net residential land request of 743 hectares was based on population forecasts. Density levels comply with the CRP and reflect the provisions of the Town's New MDP. The net commercial land request of 73 hectares uses the existing commercial/office floor space to trade area population ratio. The scale up factors used for roads/right of ways, municipal/school reserves and stormwater management are well within the maximum 40% allowed by the *Act*. The Growth Study established the actual annexation area by identifying optimal development areas and considered such thing as lands with locational and servicing advantages as well as undevelopable land resulting from man-made and/or environmental constraints. Moreover, the Town can provide the required municipal infrastructure to service development of the annexation area.

Recommendation 2: The MGB does not recommend the boundary adjustments as requested by the landowners

[12] The MGB considered the requests of Mr. Miller as well the three property owners.

Mr. Miller

[13] The MGB accepts that Mr. Miller attended all five open houses and that at his request his two businesses were removed from the proposed annexation area. A considerable amount of information was also provided by both municipalities to all parties throughout the consultation process. Although Mr. Miller did not receiving any response from the Town to his September 9, 2016 boundary change correspondence, the MGB concludes that the Town made reasonable efforts to keep Mr. Miller informed about the progress of the intermunicipal negotiations and the proposed boundary.

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[14] Mr. Miller requested to alter the annexation boundary so that it would split Ptn. NE 35-20-29 W4M between the Town and the MD. The MGB concludes that maintaining the Ptn NE 35-20-29 W4M entirely within the jurisdiction of the Town will reduce confusion by giving one municipality the authority to deal with any future subdivision and/or land use redesignation.

[15] The MGB notes that the map provided in the presentation made by Mr. Miller shows the road and fire pond on are on an Access and Utility Right of Way (AURW) located in Ptn. NE 35-20-29 W4M. Although the businesses are located in the MD and the Ptn. NE 35-20-29 W4M would be located in the Town, the protection afforded by the AURW should provide the two businesses with the same degree of certainty regarding access to the road as before the annexation. Moreover, the Fire Services Agreement between the two municipalities allows the Town to respond to any fires on any of the three parcels owned by Mr. Miller.

[16] By itself, the issuing of a development permit is not one of the conditions that would result in the loss of the transition protection. Section 135(1)(d) will ensure the zoning for Ptn NE 35-20-29 W4M will remain the same as if the land had stayed in the MD until such time as it is repealed or changed by the Town. The MGB was given no information to establish if or when either business would move. Regardless, the timing of any future expansion or the relocation of a facility would be a corporate decision. The municipal tax implications of any such move would be one of the many factors the businesses would need to consider as part of their decision making process.

Mr. Balagan, Mr. Osland and the Lochers

[17] The MGB accepts Mr. Balagan, Ms. Osland and the Lochers communicated their desire to be included as part of the annexation area to the Town on numerous occasions. In response, the Town commissioned a consultant to consider the inclusion of these lands. Although the landowners dispute the consultant's analysis, this disagreement does not cast doubt on the Town's willingness to contemplate their request. Therefore, the MGB finds the consultation process undertaken by the Town regarding these three properties was reasonable.

[18] The MGB acknowledges that locating industrial or commercial developments adjacent to already subdivided country residential land can have an impact on the existing properties. Given the time horizon for this annexation is 60 years and the three properties are located on the periphery of the annexation area, the MGB accepts the Town's assertion that it may be decades before development reaches this area. Regardless, it is common for municipalities to include buffering requirements, such as minimum setbacks, vegetation screening, fencing and roads in the statutory plans to mitigate noise concerns, increased traffic levels, and fire risks. Additional input may also be afforded to the three landowners at the time an actual development is being planned to further minimize any potential land use conflicts.

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[19] The three landowners expressed concerns about the security of their homes resulting from an increased number of people in the area. As no evidence was provided to establish that there are any impending developments for the land south of the properties owned by the three landowners, it is difficult to determine the impact of any future intensification. The MGB has already accepted it may be decades before any development approaches the area south of the three landowners. Therefore, the MGB concludes it would be more fitting for the Town, the MD, the RCMP, and the three landowners to plan for and address home and property security issues at the appropriate time.

[20] Since there are three different landowners, there is no certainty all three properties would be available for sale at the same time. As a result, the MGB cannot accept the 16 acres are a single unit. It was also identified that the 16 acres contained two homes as well as some amount of wetland. Given the current state of development on the three parcels, the existence of wetland, and the uncertainty about the availability of the entire 16 acres, the MGB also concludes the amount of available developable land within the 16 acres is limited. Accordingly, the MGB was not convinced it would be more beneficial to include these lands as part of this annexation.

[21] The *Act* gives the MD the authority to create and amend statutory planning bylaws and specifies a public consultation component for the redesignation or rezoning of land. As the *Act* already specifies a process, the MGB does not recommend the rezoning request made by the three landowners. If these landowners do wish to proceed with this course of action, they are free to contact the MD and comply with the procedures and pay the fees specified by the applicable MD bylaws and processes.

Recommendation 3: The MGB recommends the assessment and taxation transition provisions and compensation amount as agreed to by the two municipalities with an effective date of July 1, 2017

[22] The MGB accepts the assessment and taxation transition conditions suggested by the two municipalities as part of their Town of Okotoks and Municipal District of Foothills No. 31 Annexation Agreement (Annexation Agreement). Allowing the lands to be assessed as if still in the MD will permit rural properties to maintain the advantages afforded to other properties with the same land uses in the MD for a period of time. Using the lower of either the MD or Town municipal tax rate also affords the affected landowners a tax break while they adjust to their new municipality.

[23] The MGB notes that the amount of compensation to be paid by the Town to the MD is quite substantial. However, the MGB places a great deal of weight on the autonomy of the municipalities and the fact the compensation amount was developed through the negotiation process. Moreover, the MGB accepts the compensation amount suggested considers matters that

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are beyond the typical loss of municipal tax revenue formula. The Financial Impact Analysis of the Annexation Proposed by the Town of Okotoks, September 28, 2016 (FIA) and oral submission provided by the Town during the hearing convinced the MGB that the compensation amount would not cause either viability or sustainability concerns for the Town. Therefore, the MGB accepts the \$2,000,000 compensation amount and the payment schedule suggested by the municipalities.

[24] Although the two municipalities requested an effective date of January 1, 2017, the MGB is recommending the effective date be July 1, 2017. The additional time will allow the Town to complete its negotiations with the City of Calgary regarding the location of the required water line and water storage reservoirs. This will also give the Town and the MD an opportunity to plan for the transition of municipal servicing and administrative matters.

[25] To facilitate the effective date change recommendation, the MGB is recommending that in 2017 the MD assess and tax the lands in the annexation area, and hear any assessment appeals filed with regard to lands in the proposed annexation area. The MGB realizes the effective date change will necessitate some additional expenses for the MD. However, the amount of compensation has not been altered so it should be sufficient to cover any costs incurred by the MD.

Conclusion

[26] After considering the submissions of the Town, the MD, and the affected parties, the MGB finds this annexation application reflects legitimate local needs and concerns as well as complies with the MGB's annexation principles. As such, the MGB is recommending approval of the proposed annexation with an effective date of July 1, 2017.

PART 1 INTRODUCTION

[27] The Town of Okotoks (Town) is located approximately 20 kilometers south of Calgary. With a population of approximately 28,000, the Town has been evolving from a small bedroom community into a regional service center. Many small businesses now operate in the Town's downtown core, with larger-scale businesses and industrial companies locating near the two highways, 2A and 7, of the area.

[28] Recent development in the Town has been shaped by the Town of Okotoks Municipal Development Plan: The Legacy Plan, September 1998 (1998 MDP). This planning document incorporated concepts related to sustainable development, environmental stewardship, economic opportunity, and social capital within the Town as well as the carrying capacity of the Sheep River Watershed. In essence, the 1998 MDP capped the Town's population at between 25,000 to

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30,000 people. Rapid growth in the Calgary region combined with significant country residential subdivisions close to the Town lead Town Council to adopt a continuous growth model in September 2012. To assist planning for the future, the Town commissioned a consultant to conduct the Town of Okotoks Growth Study and Financial Assessment (Growth Study). The Growth Study, updated in 2016, projects that the Town will continue to capture a significant portion of the expected expansion in the Calgary Region and predicts the Town’s population will increase to 82,152 by 2073. The Town views this proposed annexation as necessary in order for it to accommodate its share of the projected population growth in the Calgary region as well as facilitate the Town’s shift from a bedroom community to a more complete and independent municipality.

[29] On July 19, 2016, the Town submitted an application to the Municipal Government Board (MGB) to annex approximately 1,877 hectares (4,640 acres) from the Municipal District of Foothills No. 31 (MD). The proposed annexation is to provide the Town with a 60 year supply of land for residential, industrial, and commercial uses. While the two municipalities were able to reach an annexation agreement, a number of landowners objected to the boundaries of the proposed annexation area. In accordance with Section 121 of the *Municipal Government Act* (*Act*), the MGB conducted a public hearing on October 12, 2016 in Okotoks in order to hear these objections.

[30] The following report fulfills the MGB’s responsibility under Section 123 of the *Act*. It outlines the role of the MGB, provides an overview of the annexation application, and summarizes the submissions received during the October 12, 2016 public hearing. The report concludes with the MGB’s annexation recommendations and the reasons for the recommendations.

PART II ROLE OF THE MGB, THE MINISTER AND THE LIEUTENANT GOVERNOR IN COUNCIL

[31] Part II of this report provides an overview of the mandate of the MGB, its rules in relation to annexation, and the relevant annexation legislation.

[32] The MGB is an independent and impartial quasi-judicial board established under the *Act* to make decisions about land planning and assessment matters. The *Act* gives the MGB the authority to “deal with annexations”. The *Act* also allows the MGB to “establish rules regulating its procedures”. The MGB Annexation Procedure Rules have been adopted to provide information about annexation proceedings, facilitate a fair and open process, and increase the efficiency and timeliness of the proceedings.

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[33] Part 4, Division 6 of the *Act* specifies the annexation process. In brief, a municipality initiates the annexation process by giving written notice to the municipal authority from which the land is to be annexed, the MGB, and any other local authority the initiating municipality considers may be affected. The notice must describe the land proposed for annexation, set out the reasons for the proposed annexation, and include proposals for consulting with the public and meeting with the affected landowners. Once the notice has been filed, the municipalities involved with the proposed annexation must meet and negotiate in good faith. If the municipalities are unable to reach an agreement, they must attempt mediation to resolve any outstanding matters.

[34] At the conclusion of the negotiations/mediations and the consultation process, the initiating municipality must prepare a negotiation report. This report must include a list of issues that have been agreed to by the municipalities and identify any issues the municipalities have not been able to agree upon. If the municipalities were unable to negotiate an annexation agreement, the negotiation report must state what mediation attempts were undertaken or, if there was no mediation, give the reasons why. The negotiation report must also include a description of the public and landowner consultation process as well as provide a summary of the views expressed during this process. The negotiation report is then signed by both municipalities. Should one of the municipalities not wish to sign, it has the option of including the reasons it did not sign.

[35] The negotiation report can then be submitted to the MGB. If the initiating municipality requests the MGB to proceed, pursuant to Section 119 of the *Act*, the negotiation report becomes the annexation application. If the MGB is satisfied that the municipalities, the affected landowners, and the public are generally in agreement, the MGB notifies the parties of its findings and unless objections are filed by a specific date, the MGB makes its recommendation to the Minister without holding a public hearing. If an objection is filed, the MGB must conduct one or more public hearings. If the MGB is required to conduct a hearing, Section 122(1) specifies the MGB must publish a notice of hearing at least once a week for two consecutive weeks in a newspaper or other publication circulating in the affected area, the second notice being not less than six days before the hearing.

[36] The MGB has the authority to investigate, analyze, and make findings of fact about a proposed annexation. If a public hearing is held, the MGB must allow an affected person to appear and make a submission. After hearing the evidence and submissions from the parties, the MGB must submit a written report of its findings and recommendations to the Minister of Municipal Affairs (Minister). The Minister has the authority to accept in whole or in part or completely reject the findings and recommendations made by the MGB. The Minister may bring a recommendation before the Lieutenant Governor in Council (LGC). The LGC may consider the recommendation and order the annexation of land from one municipality to the other.

BOARD ORDER NO. MGB 007/17**FILE: AN13/OKOT/T-01****PART III ANNEXATION APPLICATION**

[37] As stated previously, the Town submitted its negotiation report along with a request for the MGB to proceed with the annexation on July 19, 2016. Part III of this report summarizes the annexation application. The first section outlines the process used by the Town to develop the proposed annexation, while the second section provides an overview of the application.

Negotiation Report Development Process

[38] The documentation submitted by the Town states that the Annexation Application is the result of three years of mediated negotiations between the two municipalities. A description of the intermunicipal negotiations/mediations efforts as well as an overview of the consultation activities undertaken by the two municipalities is provided below.

[39] On September 23, 2013 Town Council passed a resolution to begin the annexation process. In accordance with Section 116 of the *Act*, the Town submitted a Notice of Intent to Annex (Notice) to both the MD and the MGB as well as to the Calgary Health Region, Foothills School Division, Christ the Redeemer School Division, Southern Francophone Education Region No. 4 and Alberta Transportation (AT). In response, AT provided a letter confirming it did not object to the proposed annexation.

[40] The two municipalities used both negotiations and mediation to develop their Annexation Agreement. An Annexation Negotiation Panel (ANP) was established, comprised of three elected officials from each of the municipalities. The ANP met a total of 23 times between January 2014 and March 2016. The Terms of Reference for the ANP were signed by both municipalities in June 2014. In September 2014, the ANP entered into mediation. Intermunicipal cooperation was demonstrated by the two municipalities signing both the May 2, 2016 Memorandum of Understanding and the June 30, 2016 Annexation Agreement.

[41] A number of public consultation and affected landowner update activities were undertaken concurrent with the intermunicipal negotiation/mediation process. A webpage was hosted on the Town's website during the negotiation/mediation process. This webpage included links to: the Growth Study, maps showing the proposed annexation area, copies of news releases, public consultation updates, and an FAQ document. The webpage also provided an opportunity for affected landowners and the public to provide Town officials with feedback. A mailing list was created to communicate via letters with affected residents and stakeholders. Public service announcements were sent to the local newspaper and radio stations to update the public on the status of the proposed annexation.

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[42] The two municipalities held a total of five open houses to keep the affected landowners, and the public informed on the status of negotiations and to provide a forum for all interested parties to present their concerns. The Town and the MD each held a landowner consultation meeting in December 2013 to gather initial input. Joint consultation meetings were hosted by the municipalities on June 2, 2014, October 16, 2014, and April 20, 2016. Attendance at the meetings varied between approximately 80 and 160 people. All the open houses were advertised in the **Western Wheel**, a newspaper circulating in the Okotoks area, and notices were placed on the Town’s website, social media, and LED signage. At the completion of the each of the open houses, the **Western Wheel** Newspaper published articles about the event.

[43] A total of 39 feedback forms were received by the Town and the MD during the consultation process. These forms were summarized and submitted as part of the negotiation report pursuant to Section 118(1)(b). The negotiation report identified the four main themes of public feedback to be:

1. Requests to be included in the annexation area;
2. Requests to be excluded from the annexation area;
3. Future land use in the annexation area; and
4. Future development plans within the annexation area.

[44] With regard to the landowner requests to be included or excluded, the ANP conducted an analysis to determine whether those lands should be added to or removed from the annexation area. The ANP concluded that one quarter section should be added. The rest of the requests did not align with the findings of the Growth Study. With regard to the concerns expressed about future land use and development, the ANP responded that these issues will be dealt with at the appropriate time through the appropriate processes. Any change in land use or development in the future will not occur without significant public consultation.

Annexation Application Overview

[45] The Town’s application requests the annexation of 1,877 hectares (4,640 acres) of land from the MD. The Town contends this will facilitate residential, commercial, and industrial development for the municipality until 2073. Moreover, the Town stressed the application addresses all 15 MGB annexation principles. The remainder of this section will briefly describe the annexation agreement contained in the application, provide an overview of the Growth Study commissioned by the Town, summarize the Fiscal Impact Assessment authorized by the Town, highlight the alignment of planning documents with the proposed annexation, and discuss environmental considerations.

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Annexation Agreement

[46] The annexation agreement signed by the Town and the MD established the amount of land to be annexed by the Town from the MD, the tax and assessment transition provisions to be offered by the Town to the affected landowners, and the amount of compensation to be paid by the Town to the MD.

[47] In terms of the area, the annexation agreement identified lands to the north, west, south and southeast that were to be annexed by the Town as well as the boundary roads to be included as part of the annexation. The Town reported that the annexation area in the agreement corresponds with the Growth Study 60 year annexation area.

[48] In order to reduce the impact on the landowners in the annexation area, the annexation agreement specified that:

- the lands in the annexation area, excluding linear property, will be assessed by the Town on the same basis as if they had remained in the MD for a thirty year period;
- the lands in the annexation area, excluding linear property, will be taxed by the Town using:
 - the municipal tax rate established by the MD or
 - the municipal tax rate established by the town,
- whichever is lower,
- the assessment and taxation transition provisions will be removed if the land is:
 - subdivided at the request of or on behalf of the landowner, except where the subdivision of one parcel of land (with or without a farmstead) is from an un-sub-divided quarter section;
 - redesignated at the request of or on behalf of the landowner, under the Town's Land Use Bylaw to another designation, or
 - is connected, at the request of the landowner, to the Town's water and sewer services.

[49] The two municipalities agreed that the Town compensate the MD for the loss of municipal property taxes for existing development in the annexation area, the cost of any infrastructure improvements already made by the MD within the annexation area, the loss of a portion of the MD's central growth corridor, and for expenses included by the MD in planning for development in portions of the annexation area (Windwalk, Sandstone Springs, and Gold Medal developments). The annexation agreement stipulates the Town will pay the MD \$400,000 on or before July 31 of the same calendar year as the effective date for the annexation and \$200,000 on or before July 31 in each of the eight subsequent years. Compensation is not to exceed \$2,000,000. The two municipalities agreed no revenue sharing was warranted.

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[50] The two municipalities have agreed to use all reasonable efforts to cooperate to ensure the terms of the agreement are fulfilled and have also identified a dispute resolution process should conflicts arise between the two municipalities. The requested annexation effective date is January 1, 2017. Both municipalities agree that they shall make reasonable efforts to encourage the LGC to issue an annexation order which incorporates the intent of the provisions of the annexation agreement. In the event the LGC affects, alters, or amends the terms of the Annexation Agreement, the parties will renew negotiations to the extent it is impacted by the order of the LGC.

Growth Study

[51] The Growth Study commissioned by the Town considers two time horizons of 30 years and 60 years. Given the annexation area identified in the annexation agreement and the fact the Town is requesting the annexation large enough for it to accommodate growth to 2073, the review of the Growth Study will focus of the longer term period. The annexation area criteria and servicing requirements are provided below.

[52] The Town's Growth Study projected the Town will grow from 27,057 in 2013 to 82,152 in 2073. The Calgary region experienced an almost 29% increase in the number of residents over the 10 year period from 2001 to 2011. This represented an average annual growth rate for the region of approximately 2.5%. The Town experienced a 110% increase in the number of its residents during this same period, or about 4.4% of the region's total growth. The Calgary Regional Partnership (CRP) estimated in its population growth scenario that the Town's share of the regional population will shrink from approximately 4% now to 2.3% in 2043 to 2.0% in 2073. Using the CRP growth model, the Town's population is projected to be 56,987 by 2073. However, the Growth Study expects the Town's 4% regional growth share to continue, as the CRP estimate was seen as understating the growth possibilities by assuming that the Town's capacity would constrain future residential development. Further, it is likely that the Town will continue to attract development diverted from floodplains around the region. The Growth Study is based on the assumption that similar growth will continue into the future as the Town remains an economically competitive community that is attractive to immigration.

[53] It was determined that the current land supply cannot meet the demand for residential, commercial or industrial land requirements that will come with population increase expected by the Growth Study. The Town's existing land supply allows for an estimated 3,771 housing units, 36.1 hectares of commercial land, and 85.1 hectares of industrial land. This could only accommodate approximately 10% of the 2073 growth estimates.

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[54] Residential land requirements were based on a housing demand forecast by unit type (single-detached, attached, and apartment), population forecasts, and the likely density of future development. The Growth Study suggests that single-detached units are expected to remain the primary housing type for the Town, although the share of new residential development are expected to decline gradually from the existing 70% to 62.5% over the long term. Attached units currently account for 10% of the current housing demand, but will increase to 12.5% over the long term. Demand for apartment units will increase from 20% to 25% over time. In order to calculate the net amount of land required, the Growth Study used a density level of 25 units per hectare for single detached units, 42 units per hectare for attached units, and 87 per hectare for apartment. Based on these factors, it is projected that the Town will need a total of 743 hectares of net developable land by 2073. This consists of 621 hectares for single detached units, 62 hectares for attached units, and 60 hectares for apartments. The density levels of new net residential development was determined based on a review of the Town's Land Use Bylaw, the size of existing residential lots, and urban density targets established by the Calgary Metropolitan Plan.

[55] The Town has become a regional retail and service center. The Town's trading area was estimated to be 73,000 in 2013 and included the Towns of Black Diamond, Turner Valley, High River, and Nanton, as well as the MD and Vulcan County. The Growth Study estimates that there is currently 23 square feet of commercial floor space per trade area resident, and it projects the commercial space requirement based on this proportion. Based on this ratio, the current supply of 1.7 million square feet will need to be expanded to 4.4 million square feet to meet 2073 demand. Current land capacity could accommodate approximately 1.5 million square feet of commercial space. The Town is projected to need 73 hectares of net commercial land.

[56] The Growth Study estimates that the Town will need 112 net hectares of industrial land by 2073. The existing amount of industrial floor space in 2013 was approximately 845,000 square feet. Based on average growth trends over the previous ten years, the Growth Study estimates industrial development to continue at about 60,000 square feet per year. However, the Growth Study suggests a lack of available serviced land might have constrained the amount of industrial growth in the Town. Currently, there is enough industrial land to accommodate approximately 2.4 million square feet of floor space. Gross land required to be annexed was calculated to be about 34 hectares.

[57] The net figures calculated for the new development identified above need to be scaled up to accommodate roadways, servicing, municipal reserves, school reserves, and stormwater management. Based on an evaluation of the existing areas within Town subdivisions, the Growth Study used the following gross-up factors were used: residential (35%), commercial (35%), and industrial (20%). The total gross land requirement for full build-out of all projected needs is estimated to be 1,163 hectares. This calculation assumes that intensification within the Town

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itself could accommodate 10% the land requirements and estimates that the existing developable land supply within the Town is 243 hectares. Future public and community space was also factored into the estimates for each 30-year period.

[58] After having identified the gross land requirements for the annexation, an analysis was conducted determine the lands around the Town that would be suitable for residential, industrial and commercial use. Growth options were considered using environmental vulnerability and development priority as key selection factors. Based on this information, the Growth Study suggested a proposed annexation area of 1,877 hectares.

[59] The lands to be annexed are consistent with the boundaries of the Annexation Agreement as well as the growth corridors identified in the Town of Okotoks/Municipal District of Foothills No. 31 Intermunicipal Development Plan (IDP). These growth corridors facilitate the logical expansion of Town development and interfere minimally with development that already exists in the in the MD. The annexation proposal includes special consideration of Gateway Areas, which are the main transportation routes between the Town and the MD. There are three Gateway Areas: Highway 2A north of the Town; Highway 2 northeast of the Town; particularly, at the intersection of 338 avenue (Township Road 210); and Highway 7 southeast of the Town. The two municipalities will deal with these areas collaboratively as they directly affect movement between the two jurisdictions.

[60] The provision of water and wastewater services are a major concern in southern Alberta. The Town's population cap was instituted based on the finite supply of water from the Sheep River. With the continuous growth model adopted by the Town as part of the new IDP, the demand for water will increase beyond the capacity of the Sheep River, so additional supply will need to come from somewhere else. The Growth Study proposed the construction of a treated water pipeline from Calgary via the Highway 2 right-of-way to a location within the 60 year annexation area to service the Town. The lands in the Town lying north of the Sheep River could be serviced by this waterline, while the area south of the Sheep River could continue to be serviced by the existing infrastructure. The Growth Study estimates that the Town's population in south Okotoks will outgrow the current Sheep River supply within the 30-year time horizon, so eventually treated water from the Calgary pipeline will be needed to supplement these lands as well. The Growth Study also noted that wastewater infrastructure to support the growth areas would require the construction of new forcemains, lift stations, and a river crossing. most of the new wastewater infrastructure investment would be necessary. The Town would also be required to upgrade its current wastewater treatment plant. The Growth Study states that most of this infrastructure investment would be necessary for the lands within the 30 year planning horizon, with a smaller capital outlay needed for the 2043-2073 period.

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[61] The Growth Study identified a number of infrastructure upgrades that will be required to accommodate future growth in the Town. Highways 2, 2A and 7 will require lane expansions and upgrades to intersections and off-ramps to allow for the expected greater demand. Other roads within the Town would need to be upgraded and enlarged. A new major intersection at 338 Avenue E and Highway 2 is proposed, as well as a new bridge crossing linking Highway 7 to Highway 549. The current 32 Street bridge will also need to be widened to 4 lanes. Upgraded signalization strategies will need to be implemented throughout the 30 and 60-year time horizons in order to regulate increasing traffic demand.

[62] The Growth Study calculates that the Town can expect to require approximately \$81,993.00 per acre in off-site levies for the 30-year time horizon to pay for the upgrades to transportation, water, and wastewater infrastructure, as well as public facilities. This figure is comparable to other municipalities in the region. Major infrastructure costs are contained in the following table:

	Total Cost	Estimated Provincial Coverage
Potable Water	\$44.6 million	\$35.7 million
Wastewater	\$56.3 million	\$8 million
Transportation	\$193 million	\$82.4 million

Financial Assessment and Fiscal Impact Assessment

[63] The Financial Impact Analysis of the Annexation Proposed by the Town of Okotoks, September 28, 2016 (FIA) authored by Applications Management Consulting Ltd. was received by the MGB on October 8, 2016. The FIA was commissioned by the Town to evaluate the long term fiscal impacts of the proposed annexation on the ratepayer in both the Town and the MD. developed in order to determine the financial implications of annexation so that the negative impact may be minimized. Its approach estimates future trends comparing a situation with annexation to a situation without annexation.

[64] The FIA based its financial estimates on its analysis of metrics of change to each municipality as a result of annexation, such as population, number of dwelling units, land area, roads, and assessment base. The following table summarizes the changes to each municipality identified in the FIA:

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	Increase to the Town	Decrease to the MD
Population	0.71%	0.8%
Dwelling units	0.81%	0.91%
Area (ha)	95.81%	0.53%
Kilometers of road	12.35%	0.86%
Assessment base	1.11%	0.73%

[65] The FIA’s estimates are based on the 2015 operating budgets of each municipality. The analysis was done in 2015 dollars, and estimates up to the year 2073. The total assessment value of the annexation area to be transferred from the MD to the Town is \$52.76 million. A total of \$2 million in compensation payments will be paid by the Town to the MD, starting with \$400,000 in 2017, and \$200,000 in each of the following 8 years to a total of \$2 million. The FIA determines that the impact on MD taxpayers will be around 0.1%. The impact will be most significant in 2017, as the compensation payments would result in a 1.1% reduction in taxes, with an approximate 0.5% reduction in the following 8 years.

[66] The impact on the Town’s taxpayers is more significant. The FIA estimates a 6.5% increase in real municipal tax rates on average. This increase is a result of infrastructure improvements necessary to accommodate expected growth. The FIA also provided an alternate scenario assuming the coming into force of *Act* amendments introduced by the *Modernized Municipal Government Act*, which would allow offsite levies to be collected for soft services such as libraries, fire stations, and recreation facilities. The additional funding collected from offsite levies could reduce the increase to an average of 3.7 percent.

[67] The FIA took a status quo approach to debt servicing, assuming that the Town will cover approximately 25% of its expenditures through provincial grants. If the annexation proceeds, the Town’s debt limit stabilizes after 2040 at approximately 44%, and its debt servicing limit stabilizes at approximately 25%. This is well within the Town’s limit set by the Debt Limit Regulation under the Act.

Alignment with Planning Documents

[68] The Town submits the proposed annexation aligns the applicable planning documents. This includes the Calgary Metropolitan Plan, the Town of Okotoks and Municipal District of Foothills No. 31 Intermunicipal Development Plan, the Town of Okotoks Municipal Development Plan, 2016, and the relevant Area Structure Plans already existing in the MD.

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[69] The Calgary Regional Partnership (CRP) is a voluntary regional organization of 14 municipalities which works to facilitate long term sustainable growth and development at the regional level. The Calgary Metropolitan Plan (CMP) is the CRP's main planning document. The May 2014 CMP addresses the expected in-migration of nearly 1.6 million people to the region by 2070, and outlines priority growth areas for each municipality. The CRP is not another level of local government, but the participating municipalities align their statutory plans with the provincial legislation and the CMP to facilitate planning coordination amongst the member municipalities. This annexation proposal closely follows the priority growth areas set out in the CMP. Although the Town is a member of the CRP, the MD is not. This means that intermunicipal cooperation in the area around the Town will occur outside the context of the broader CRP's mandate. The MD's non-membership in the CRP did not affect negotiations regarding this annexation.

[70] The two municipalities spent three years negotiating the terms of the annexation, and their collaborative efforts are in keeping with the spirit of the South Saskatchewan Regional Plan and the IDP between the Town and the MD. Mutual agreement between parties is extremely valuable, and evidence of cooperation is given great weight in determining the merits of an annexation according to the first of the MGB's Annexation Principles.

Intermunicipal Development Plan

[71] In addition to the annexation negotiation process, the Intermunicipal Development Plan Between the Town of Okotoks and the Municipal District of Foothills No. 31 (IDP) was finalized in June 2016. This IDP identifies the Town's future Growth Corridors and guides the collaborative planning of lands on both sides of the boundary between the two jurisdictions. The fundamental purpose of the IDP is to provide guidance on land use decisions within the Plan area, while providing opportunities for collaboration and communications between the two municipalities. The main focuses of the IDP are protection of agricultural land and development of country residential areas, collaborative management of transportation corridors, circulation and referral processes for planning between the communities, and future annexation procedures. The IDP also identifies Gateway Areas between the two municipalities, particularly at Highways 2, 2A, and 7. These areas are of great interest to both municipalities and will require joint planning in order to maximize value for both. The IDP was created in consideration and support of this annexation proposal and confirms the agreed upon annexation area.

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[72] To solidify its commitment to the continuous growth model and support this annexation application, Town Council replaced the 1998 MDP with the Town of Okotoks Municipal Development Plan, 2016 (New MDP). The New MDP exists to manage land use and services sustainably, and to promote the shift of community identity from commuter suburb to complete community. The MD is primarily an agricultural municipality, and so its MDP is focused on agricultural land as a priority. It also considers the development of residential areas, and other forms of economic development, especially commercial and industrial activity along Highway 2A. The two MDPs support the annexation as the proposed annexation area allows both municipalities to continue to be economically viable and complementary.

Area Structure Plans

[73] There are two Area Structure Plans (ASP) currently in the MD which would be brought into the Town under the proposed annexation. The Sandstone Springs ASP (2009) is on the southwest boundary of the Town, consisting of 162 hectares. It will contain 230 residential lots, 70 condominium lots for patio homes, and a lifestyle center. It will house approximately 500 people. The Wind Walk ASP (2010) consists of 55 hectares to the south of the Town, to be built in three phases to include 205 single-detached residential lots, 169 townhouse lots, 84 condominium lots with space for mixed-use, and four civic buildings. It will house approximately 1,200 to 1,500 people. Water provision is a concern for both ASPs.

Environmental Considerations

[74] The Town and the MD have provisions within their planning documents promoting environmental initiatives. The Town's MDP outlines management of urban forest, parks and pathways, floodplain protection, and ecological efficiency in building practices, water conservation and waste management. The MD's MDP include protection of environmentally sensitive areas, riparian setbacks, landscape connectivity and natural terrain, drainage, and vegetation. Undevelopable natural lands have been considered in the calculation of land requirements for the 30 and 60 year growth estimates. The total land required includes roads and rights-of-way, municipal and environmental reserves, stormwater management, and community and open spaces. The Sheep River, which cuts through the middle of the Town, is a major environmental feature of the area.

BOARD ORDER NO. MGB 007/17**FILE: AN13/OKOT/T-01****PART IV PUBLIC HEARING**

[75] Part IV will describe the pre-hearing process and summarize the submissions received during the annexation public hearing.

Pre-Hearing Process

[76] The MGB conducted a public hearing on October 12, 2016 to hear objections regarding the proposed annexation. While the MGB would have preferred an earlier hearing date, this timeframe was necessary to accommodate the schedules of legal counsel and witnesses.

[77] The MGB published hearing notifications in the **Western Wheel** in accordance with Section. 122(1) of the *Act*. The notices advised that anyone wishing to attend the hearing or wanting to make an oral submission to the MGB regarding the proposed annexation were to notify the MGB by 12:00 noon on September 23, 2016. Written submissions from affected landowners or members of the public were to be submitted to the MGB by 12:00 noon on September 23, 2016. Hearing notification letters were also mailed to all known parties on September 10, 2016.

Merit Hearing Submissions

[78] The following people contacted the MGB regarding the hearing notifications: E. Miller, B. Oslund, S. Locher, B. Balagan, L. Bislope, and J. Gateman. A summary of the submissions received during the hearing as well as the responses from the Town and MD is provided below.

Presentation by E. Miller

[79] During his presentation, Mr. Miller requested the annexation area boundary to be changed.

[80] Mr. Miller stated that he owns the two businesses in the northeast corner of NE 35-20-29 W4M. The two parcels of land occupied by the two businesses were originally proposed to be annexed by the Town. However, early in the process he requested the annexation area be adjusted so that his businesses would remain in the MD. On March 8, 2016, Mr. Miller filed a request with the MD to change the land use designation on Ptn. NE 35-20-29 W4M and a subdivision application to adjust the boundary in another area of Ptn. NE 35-20-29 W4M. At a hearing on June 1, 2016, the MD refused the application and the request. The redesignation was refused because of the uncertainty of plans by AT and because the lands were in the annexation area. The subdivision was refused because of the land being subdivided was in the annexation area.

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[81] Mr. Miller and his representative contacted the Town on September 19, 2016 regarding another boundary change request, but received no response. As a result, the MGB was requested to adjust the annexation area so that the lands east of the drainage course that runs from north to south through Ptn. NE 35-20-29 W4M would remain in the MD. Mr. Miller provided a number of reasons for this boundary adjustment request. First, under the proposed boundaries, the fire suppression pond in Ptn. NE 35-20-29 W4M associated with his businesses and the access road to the businesses would be in the Town, while the businesses themselves would remain in the MD. He expressed concern that this jurisdictional separation would make it difficult for the businesses to grow, as they currently occupy the entirety of their existing parcel.

[82] Second, the Growth Study identifies the area surrounding Mr. Miller's lands as a major Gateway Area and recommends the intersection of Highway 2 and Township Road 210 receive major upgrades, including road widening and the construction of an interchange. These upgrades would require Mr. Miller to give up some of his land and he expects he will need to relocate some of his operations. The logical relocation direction for these businesses is on his property to the west in Ptn NE 35-20-29 W4M. He expressed concern that moving his businesses could be problematic as the operations would have to shift jurisdictional boundaries. Further, he argued that he would be unfairly forced out of tax protection. If he needs to relocate his infrastructure to within the Town boundary due to construction of an interchange, he would need to apply for a development permit, which he stated is a trigger for loss of tax protection.

Submissions by B. Balagan, B. Oslund, and Mr. and Ms. S. Locher

[83] Mr. Balagan, Ms. Oslund, and the Lochers own three adjacent parcels totaling approximately 16 acres located north of the proposed north annexation boundary and adjacent to the west side of Highway 2. A brief description of their written correspondence to the MGB is followed by a summary of the oral presentation the group made during the public hearing.

[84] In his letter to the MGB, Mr. Balagan requested that his property be included as part of the annexation area. He explained that not adding his country residential parcel would leave it an isolated pocket up against conflicting land uses (country residential v. industrial/commercial). Moreover, his land would be geographically severed by Highway 2 on the east and 48 Street on the west.

[85] An e-mail from Ms. Oslund confirmed that she also wanted her property to be included as part of this annexation. She reported that she will be environmentally and financially be affected if her land was not included. Ms. Oslund explained that she had lived on her land for over 20 years and had built a lifestyle for her family in an environment free from industrial/commercial contamination. She indicated that her family and farm will be hindered by exclusion from the

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annexation and argued it would be best for her property to be annexed to the Town. She also stated that not including her land would create future land use conflicts.

[86] Similarly, the correspondence from the Lochers expressed concern that their land was not in the proposed annexation. They contend this is significant concern as their Country Residential property would be adjacent to Critical Transportation Corridor areas. They explained that the annexation boundary as it currently is would leave the Lochers and their neighbours adjacent to industrial/commercial land and between two transportation corridors.

[87] The MGB received additional written submissions from Mr. Balagan, Ms. Osland and the Lockers prior to the public hearing. In general, all three landowners stated that it would make good planning sense to include their parcels in this annexation and that not including their land as part of this annexation would have a huge negative financial impact on their ability to resell their property in the future. They submitted the Town and the MD did not listen despite their repeated requests to be included as part of the annexation. Mr. Balagan and Ms. Osland emphasized that the three parcels in this area should share the same land use as the property to the south. Not doing so would be devastating as it would create an island of different land uses with all the conflicts of having Country Residential properties next to Industrial land. Mr. Balagan and Ms. Osland also emphasized that they did not want their homes to be up against industrial land to the south as they expected the value of their property would depreciate substantially since no one would want to purchase a home near Highway Industrial land. The two landowners suggested that not including the three neighbouring properties in the annexation area would create security concerns due to unwanted activities around their existing homes. Moreover, they maintained their country residential lifestyle would be impacted by safety issues resulting from increased noise, additional traffic, dust and chemical pollution, and a heightened fire risk. They also expressed concern about security issues resulting from an increase in the number of industrial workers in the area while their homes were vacant during the day would encourage unwanted activities. The correspondence from the Lockers reported that being in the annexation area would provide them with a choice to either remain on their property or sell as commercial/industrial land. The Lockers also argued that these three properties represent a sizable parcel that would be suitable for annexation and could be attractive to a developer at some point in time. In conclusion, all three landowners requested that if their properties were not included as part of this annexation that the MGB order the MD to redesignate the land as industrial at no cost.

[88] During the public hearing, the landowners made group presentation that expanded upon their written submissions. It was explained that two of the parcels have residences built on them, while the third is undeveloped. The group disputed the Town's claims that up to 50 percent of the land is wetland and unsuitable for development. They argued that the wetland area only covers approximately 10% of the total area. Ms. Oslund remarked that she had lived on her

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parcel for about 20 years and expected to remain on her property. All three landowners stated they intend to stay in the area. They restated that they had attended all or nearly all of the public consultation sessions and provided their comments at numerous opportunities. It was stressed that their lands should be included within the annexation area as the threat of future industrial development will affect their property values. They understood that the areas around them were identified as Gateway Areas that will be slated for industrial uses and were fearful that if they were left out of the annexation area they would not have say in what happens on the lands adjacent to their properties since they would be in different municipal jurisdictions.

[89] At the conclusion of their oral presentation, the landowners requested that if they are not to be included in the annexation area the MGB should direct the MD to redistrict their land to an industrial land use. They stressed that this was needed so they would be able to sell their properties in the future.

Other Objections

[90] Mr. Bislope and Ms. Gateman contacted the MGB to express concerns about the annexation but did not appear at the hearing or provide any written submissions.

Town Presentation

[91] The Town provided a brief summary of the annexation proposal. It confirmed that the negotiations were undertaken in good faith and that the two municipalities maintain an excellent relationship. The Town emphasized that a considerable amount of weight should be placed on the importance of this good relationship as the merits of this annexation proposal are being contemplated. The Town also confirmed that the proposed annexation is based on the extensive Growth Study, and is in keeping with all relevant statutory documents including the IDP, MDPs, and ASPs.

[92] The Town reviewed the 15 principles established by the MGB and outlined the ways in which the proposed annexation aligns with those principles. A review of the mediated negotiations between the municipalities was provided to demonstrate the concepts of cooperation, coordination, public consultation, and reliance on inter-jurisdictional policies found in Principles 1, 2, 3, 8, 10, and 12. The Growth Study and FIA were conducted to define logical, efficient growth patterns and cost effective provision of services as outlined in Principles 4, 5, 6, 9, 13, and 14. The consideration of environmentally sensitive areas in the annexation lands satisfies Principle 7, and the careful negotiation of terms and timelines satisfies Principles 11 and 15. Many of the strategies undertaken throughout the process satisfy multiple Principles in different ways. It was explained that the Principles were the guiding framework for the process as a whole.

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[93] The Town also called upon D. Howery, an economist and consultant who conducted the FIA. Mr. Howery provided an overview of the FIA, and responded to questions from the MGB. The FIA identified three general parties: taxpayers in the Town, taxpayers in the MD, and taxpayers within the proposed annexation area as a special case whose situation will change with jurisdictional control. The FIA was conducted as a comparison between the financial impacts that would result from annexation to the financial future if there were no annexation. He specified that the “With Annexation” scenario included consideration of the costs of all services, including the water line which would need to be built from Calgary. He also noted that the *Act* is currently under review, and changes to the rules around offsite levies (specifically whether they can be used to fund soft services such as libraries and recreation facilities) could have a great impact on the financial impact of growth, which has been considered as a possible scenario in the FIA. His conclusion is that the tax burden on the Town’s residence will be reasonable, and that there will be no major financial impacts to either municipality. He also concluded that the Town will be able to manage its debt. He spoke to the importance of a January 1 effective date, noting the benefits of expedient water provision and lower construction costs in the current economic environment.

[94] In response to questions, the Town stated that there is a moratorium on the creation of new water license in the area and the Sheep River can only provide water to accommodate about 35,000 people. If water supply cannot be secured, the expected growth on which the annexation is based cannot be sustained. The Town provided a letter, received November 24, 2014, from the City of Calgary stating that the city is able and prepared to provide treated water to the Town. The cost of this pipeline will be shouldered by the Town, and is estimated to cost \$31.5 million. There is also a \$35 million option which includes infrastructure to allow for additional connections in the future.

Response to Landowners

[95] The Town explained that it had undertaken significant public consultation throughout the process. Five open houses were conducted which allowed members of the public to ask questions and have their voices heard. Feedback was welcome throughout the entire process through the webpage, mail, or phone calls.

[96] With regard to the properties owned by Mr. Balagan, Ms. Oslund, and the Lochers, the Town objected to the inclusion of these lands. The Town stated that the two municipalities had reached an agreement, which defined the annexation area. Including these properties at this stage would effectively be giving landowners the ability to initiate an annexation, something not permitted under the *Act*. The Town suggested the landowner’s concerns about different land uses is unfounded as the annexation process is separate from the regulation of land use. The lands are within the area identified as Gateway Area, but there is nothing in the Growth Study or IDP that

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recommends specific land uses. Moreover, if a change to the land use on the adjacent properties is being contemplated, the *Act* will allow the three landowners ample opportunity to bring forward their specific issues at a public hearing. The Town argued the three landowners presented no evidence to establish their property values would diminish as a direct consequence of a change in the municipal boundaries. Given the annexation is for long term growth, the Town maintained that it may be decades before development may abut the three properties.

[97] In the case of the parcel owned by Mr. Miller, the Town stated that the ANP had granted Mr. Miller’s previous request for his business parcels to be excluded from the annexation area. The annexation boundary was identified based on extensive analysis and the additional boundary amendment requested by Mr. Miller would require further study. The Town explained that Mr. Miller had plenty of opportunity to bring this latest request forward before the annexation agreement was signed. Subsequent to the hearing, the Town provided a copy of the Mutual Aid Agreement Between the Town of Okotoks and the Municipal District of Foothills. Schedule “B” – Map of Current District Service Areas shows that the Town would respond to any fire on Mr. Miller’s property.

MD Presentation

[98] The MD expressed its support for the Town’s adoption of a continuous growth model and agreed with the annexation proposal. The MD noted that mutually acceptable settlement such as this are key to good planning and that such collaboration has been shown great deference by the courts.

[99] The MD clarified some details of the ASP’s to be turned over to the Town, as well as upgrades that will be required for the 64th Street road allowance. It also clarified the details of the compensation amounts. The compensation is meant to address four issues:

1. the loss of property tax revenue for existing development within the annexation boundary;
2. the costs of any and all infrastructure improvements made by the MD within the annexation boundary, excluding the cost of water and wastewater servicing for Holy Trinity High School;
3. for the loss of a portion of the MD’s central growth corridor; and
4. for expenses incurred by the MD in planning for development within the annexation boundary, specifically the Windwalk, Sandstone Springs, and Gold Medal ASP areas.

[100] The MD stated that the total infrastructure cost it had incurred to date was around four million dollars, but that the MD recognized that much of that infrastructure would be used by residents of the MD even after it is within the Town boundary. The compensation amount agreed

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to by the by the Town and the MD is an example of careful negotiation between the two municipalities.

[101] The MD supported the Town's responses to the objections brought by the four landowners. The MD added that the landowner's objections have been heard and considered throughout the process, and that the MGB does not have jurisdiction under the *Act* to adjust the boundaries of an annexation at the request of landowners.

[102] In conclusion, the MD requested the MGB to give a considerable degree of deference to the negotiated and mediated terms of the annexation agreement and that the Board recommend an effective date of January 1, 2017. Further, the MD requested that if the MGB does find an issue with the proposal that it be sent back to the municipalities in order that it be resolved collaboratively.

PART V MGB RECOMMENDATIONS

[103] After carefully considering its role in the annexation process, the Town's application, and the submissions received during the public hearing, the MGB makes the following recommendations:

1. The MGB recommends the annexation area as requested by the Town;
2. The MGB does not recommend the annexation area alterations as requested by the landowners; and
3. The MGB recommends the assessment and taxation transition provisions and compensation amount as agreed to by the two municipalities with an effective date of July 1, 2017.

PART VI REASONS

[104] The reasons for each of the MGB's recommendations are provided below.

Recommendation 1: The MGB recommends the annexation area as requested by the Town

[105] In making this recommendation, the MGB considered the annexation process as well as the growth and land requirements.

Process Considerations

[106] Process considerations included the consultation and intermunicipal negotiation processes.

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[107] The MGB accepts the process used by the two municipalities to develop the Annexation Application and specify the annexation area was inclusive and fair. The Town used public meetings, letters, websites and webpages, newspaper advertisements, and public service announcements to create awareness of the proposed annexation, solicit input from affected landowners and the public, and inform interested parties of the progress of the Annexation Application. These activities provided an opportunity for anyone to voice their opinions and concerns. The fact that the ANP altered the proposed annexation boundary in response to input solicited during the intermunicipal negotiation/mediation process clearly shows a desire by the municipalities to consider other annexation area options.

[108] The ability of the Town and County to negotiate an annexation agreement and an IDP demonstrates intermunicipal cooperation. In addition to identifying the annexation area, the boundary roads, compensation, and assessment and taxation transition provisions for affected landowners, the annexation agreement also identifies a method for the two municipalities to resolve possible conflicts. The IDP provides the Town and the County with guidance for land use decisions in the vicinity of the Town's boundary and also establishes a method for the two municipalities address intermunicipal issues should they arise. The IDP also supports the annexation area agreed to by the two municipalities.

Growth and Land Requirements

[109] Growth and land requirement considerations relevant to this recommendation include the time horizon, population projections and servicing.

[110] The time horizon for this proposed annexation is lengthier than normally considered by the MGB. A longer time horizon makes it difficult to accurately predict things like future population, land requirements, phasing of servicing, and financial implications. Moreover, care must be taken to ensure the newly acquired annexation area does not reduce the sustainability or viability of the initiating municipality. In this case, the 60 year time horizon contemplated for this annexation was agreed to by the two municipalities, substantiated by an in-depth Growth Study, supported by a detailed FIA, and is consistent with the growth corridors of the IDP. Although this evidence is beneficial, it would not have been sufficient to convince the MGB to recommend an extended time horizon. However, the fact that this period is in keeping with the CMP, which is the blueprint for accommodating growth in the Calgary region for the next 60 years, was a significant consideration for the MGB. In essence, using the 60 year time horizon harmonizes development in and around the Town with the CMP. Therefore, the MGB finds the Town's time horizon is reasonable as it will facilitate future planning in the Calgary region.

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[111] The 2014 CRP and the Growth Study provided quite different population estimates. The CRP population estimates considered the Town's 1998 MDP, which limited growth and capped the Town's population at between 25,000 to 30,000. As the 1998 MDP was the statutory plan in place at the time the CRP projection was developed, it is understandable that the CRP would use a limited 2% growth rate and estimate the Town's population to be 56,987 by 2073. However the Town's New MDP, adopted in 2016, removes the development restrictions and allows the Town to grow. The Town is also shifting away from being a bedroom community and positioning itself as a regional hub, which should encourage additional non-residential growth. As a result, the Growth Study uses a 4% growth rate, which is more indicative of the Town's historical share of the population increase in the Calgary region. The Growth Study projects that the Town will be 82,152 by 2073. Although the CRP projection is about 25,000 less than that of the Growth Study, using the 4% for the entire time horizon is acceptable in light of the removal of the growth constraints imposed by the 1998 IDP and the Town repositioning itself as a complete community.

[112] The 1,877 hectares (4,640 acres) of land identified by the Town in its Annexation Application and agreed to by the Town and the MD in their annexation agreement is logical. The net residential land request of 743 hectares was based on population forecasts as well as the residential development trends in the Town and the surrounding urban area. Density levels for single-detached units, attached units, and apartment units comply with the CRP and reflect the provisions of the New MDP. The net commercial land request of 73 hectares uses the existing commercial/office floor space to trade area population ratio and projects this the trade area population forecast for 2073. The scale up factors used for roads/right of ways, municipal/school reserves and stormwater management are well within the maximum 40% allowed by the *Act*. The Growth Study established the actual annexation area by identifying optimal development areas to determine the best location for each land type. The analysis considered such thing as lands with locational and servicing advantages as well as undevelopable land resulting from man-made and/or environmental constraints.

[113] The Town can provide the required municipal infrastructure to service development of the annexation area. Water can be obtained in the short term using the Sheep River. The MGB accepts the Town's assertion that it can obtain additional water from the City of Calgary via a pipeline. The Town will use the existing wastewater treatment plant in the short-term and construct a new wastewater treatment plant as required in the future. Force mains, lift stations and river crossings will be needed for the wastewater system to accommodate future growth. Upgrades to intersections on Highways 2, 2A and 7 as traffic increases. The MGB accepts that these costs can be offset by off-site levies on new development. The MGB also accepts that the *Modernized Municipal Government Act* may also be able to assist the Town with costs associated with such things as recreation facilities, fire stations, and libraries.

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Recommendation 2: The MGB does not recommend the boundary adjustments as requested by the landowners

[114] In making this recommendation, the MGB considered the annexation boundary change requests of Mr. Miller as well the three property owners.

Mr. Miller

[115] During the hearing, Mr. Miller reported that he attended all five open houses. The MGB was also informed that early on in the consultation process that a request from Mr. Miller resulted in the ANP removing his two properties located on the north-east corner of NE 35-20-29 W4M from the proposed annexation area. This clearly demonstrates the Town and MD were receptive to Mr. Miller’s annexation area boundary suggestions during the consultation process. The Town stated that Mr. Miller made no other annexation area change requests during the remainder of the consultation process. Given the amount of information provided by both municipalities throughout the consultation process and the variety of communication methods used, it is reasonable to accept Mr. Miller would have been aware of the annexation boundary in relation to the remainder of his property throughout the intermunicipal negotiations and consultation process. Although Mr. Miller did not receiving any response from the Town to his September 9, 2016 boundary change correspondence, the MGB concludes that the public consultation process undertaken by the two municipalities was reasonable.

[116] It is unfortunate Mr. Miller’s requests for the land use redesignation and subdivision of Ptn. NE 35-20-29 W4M were denied by the MD prior to the annexation hearing. However, by asking for the annexation boundary to follow the drainage course through the Ptn. NE 35-20-29 W4M, Mr. Miller is requesting the MGB to split a single parcel between the two municipalities. Dividing the property between the two jurisdictions could unnecessarily increase the complexity and uncertainty of land use planning in the future as one part of the Ptn. NE 35-20-29 W4M would be governed by the bylaws of the MD, while the other would be governed by the bylaws of the Town. Neither municipality was supportive of the boundary change suggested by Mr. Miller. The MGB concludes that maintaining the Ptn NE 35-20-29 W4M entirely within the jurisdiction of the Town will reduce confusion by giving one municipality the authority to deal with any future subdivision and/or land use redesignation in a manner that is necessary for the overall greater public interest as contemplated by Part 17 of the *Act*.

[117] It is also unfortunate Mr. Miller did not bring forward his request to have the fire suppression pond and road in the same jurisdiction as the two businesses earlier in the process. This could have given the two municipalities time to discuss this matter and conduct a detailed analysis. However, the MGB notes that the map provided in the presentation made by Mr. Miller shows the road and fire pond on are on an Access and Utility Right of Way located in Ptn. NE

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35-20-29 W4M. Although the businesses are located in the MD and the Ptn. NE 35-20-29 W4M would be located in the Town, the protection afforded by the Access and Utility Right of Way should provide the two businesses with the same degree of certainty as before the annexation. Furthermore, Mr. Miller owns all three properties, so it would be unlikely he would restrict access to the road or fire pond. Moreover, in accordance with the Fire Services Agreement between the two municipalities, the Town would respond to any fires on any of the three parcels owned by Mr. Miller. As such, there should be no cross jurisdictional issues to hinder the Town Fire Department from taking action on any of the three properties in the event of a fire.

[118] Mr. Miller expressed concern about the loss of the tax protection in the event his businesses needed to relocate to the lands in the Ptn NE 35-20-29 W4M. Given the 60 year time horizon, the MGB finds the 30 year assessment and taxation transition period suggested by the two municipalities to be reasonable. The MGB notes that pursuant to Section 135(1)(d) the zoning for Ptn NE 35-20-29 W4M will stay the same as if it remained in the MD until such time as it is repealed or changed by the Town. The MGB was given no evidence to determine if Ptn. NE 35-20-29 W4M would need to be rezoned or subdivided to accommodate either company. The MGB was also given no information to establish if or when either business would move. Regardless, the timing of any future expansion or the relocation of a facility would be a corporate decision. The cost associated with subdividing, rezoning, or municipal tax implications on all or part of Ptn. NE 35-20-29 W4M would have to be one of the many factors the businesses would need to consider as part of their decision making process.

Mr. Balagan, Ms. Osland, and the Lochers

[119] The MGB accepts Mr. Balagan, Ms. Osland and the Lochers communicated their desire to be included as part of the annexation area on numerous occasions during the Town's development of its application. However, a disagreement with the Town about which lands to include or exclude from a proposed annexation does not constitute a deficient consultation process. The number of open houses combined with the variety of communication methods used by the Town throughout the process shows a sincere attempt by the Town to consider the input from affected landowners and the public. The fact that a consultant was commissioned by the Town to conduct an independent analysis demonstrates a serious attempt to contemplate the inclusion of these lands. Although the landowners dispute the consultant's analysis, this disagreement does not cast doubt on the Town's willingness to consider their request. Therefore, the MGB finds the consultation process undertaken by the Town regarding these three properties was reasonable.

[120] The MGB acknowledges that locating industrial or commercial developments adjacent to already subdivided country residential land can have an impact on the existing properties. Given the time horizon for this annexation is 60 years and the fact that the three properties are located

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on the periphery of the annexation area, the MGB accepts the Town's assertion that it may be decades before development reaches this area. The MGB notes that Section 135(1)(d) of the *Act* identifies that the land use in the proposed annexation area will remain the same until such time as it is changed by the Town. Changing the land use would require the Town to amend the IDP, the MDP, the Land Use Bylaw (LUB), and/or an ASP, the statutory plans that guide development within the Town. The public hearing process required by the *Act* for amending these statutory plans would give the three landowners an opportunity to shape the type of any future development allowed south of their property. Moreover, it is common for LUB's to include buffering requirements, such as minimum setbacks, vegetation screening, fencing and roads in the statutory plans to mitigate noise concerns, increased traffic levels, and fire risks. Additional input may also be afforded to the landowners at the ASP stage or at the time an actual development is being planned to further minimize any potential land use conflicts through the use of development conditions imposed by the Town.

[121] The three landowners expressed concerns about the security of their homes resulting from an increased number of people in the area. The MGB understands that industrial, commercial or residential development will usually increase the number of people, employed, visiting, or residing in a given area. As no evidence was provided to establish that there are any impending developments for the land adjacent to the south of properties owned by the three landowners, it is difficult to determine the possible impact of any future intensification. The MGB has already accepted it may be decades before any development approaches the area south of the three landowners. Therefore, the MGB concludes it would be more appropriate for the Town, the MD, and the RCMP to plan for and address home and property security issues at the appropriate time.

[122] It was reported that the 16 acres were constrained by Highway 2 on the east and a developed road on west. Except for a small area to the south, these existing man made barriers already fragment the three parcels from the surrounding agricultural land. It was also reported that the 16 acres has been subdivided into three parcels owned by three different landowners, and that two of the three properties have houses. Since there are three different landowners, there is no certainty all three properties would be available for sale at the same time. As a result, the MGB cannot accept the 16 acres are a single unit. Although the Town and the landowners disagree on the amount, it was also identified that the 16 acres contain wetland. Given the current state of development on the three parcels, the existence of wetland, and the uncertainty about the availability of the entire 16 acres, the MGB also concludes the amount of available developable land within the 16 acres is limited. Accordingly, the MGB was not convinced it would be more beneficial from a planning perspective for the Town to include these lands as part of this annexation.

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[123] The MGB considered the request of Mr. Balagan, Ms. Osland and the Lochers to order the MD to redesignate their land to Industrial. The *Act* gives the MD the authority to create and amend statutory planning bylaws in order to achieve orderly, economical, and beneficial development at the local level. This includes the redesignating of land uses. The *Act* also specifies a public consultation component for the redesignation of land so that the process is open, transparent, and inclusive. In essence, the request made by the three landowners is asking the MGB to supersede the authority of the MD and bypass the required consultation process. As the Act already specifies a process, the MGB does not grant the rezoning request and suggests the landowners and the MD follow the procedures specified by the applicable MD bylaws and the applicable MD processes.

Recommendation 3: The MGB recommends the assessment and taxation transition provisions and compensation amount as agreed to by the two municipalities with an effective date of July 1, 2017

[124] The MGB accepts the assessment and taxation transition conditions suggested by the Town and MD. Allowing the lands to be assessed as if still in the MD will permit rural properties to maintain the advantages afforded to other properties with the same land uses in the MD for a 25 years. Using the lower of either the MD or Town municipal tax rate also affords the affected landowners a tax break while they adjust to their new municipality. The actions that would cause the early removal of the transition period are reasonable as they are either within the control of the affected landowner or will allow the landowner to take advantage of a benefit not available to similar landowners in the MD, such as access to Town water and sewer, higher density level development, different land uses. The MGB concludes the linear property owners are in agreement with the assessment and taxation transition provisions as they provided no comments to the Town during the consultation process or submissions to the MGB during the hearing process. In light of the annexation time horizon and the fact no objections were filed regarding the assessment and transition provisions, the MGB accepts the 25 year transition timeframe as well as the subject to removal provisions.

[125] The amount of compensation (\$2,000,000) to be paid by the Town to the MD is substantial. However, the MGB places a great deal of weight on the autonomy of the municipalities and the fact the compensation amount was developed through the negotiation process. Moreover, the MGB accepts the compensation amount suggested by the two municipalities considers matters that are beyond the typical loss of municipal tax revenue formula. The FIA and oral submission provided by the Town during the hearing convinced the MGB that the compensation amount would not cause either viability or sustainability concerns for the Town. Therefore, the MGB accepts the compensation amount and the payment schedule suggested by the municipalities.

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[126] Although the two municipalities requested an effective date of January 1, 2017, the MGB is recommending the effective date be July 1, 2017. The proposed annexation represents a large tract of land, a considerable number of people, and a significant amount of money in terms of compensation to be paid by the Town to the MD. The MGB recognizes that the expedient execution of the annexation may be attractive in the short term. However, there are number of issues which must be resolved more fully so that the affected landowners and the two municipalities transition as smoothly as possible. The provision of water is the most important of these, as lack of water could be a real constraint to growth. The additional time will allow the Town to complete its negotiations with the City of Calgary as well give both these municipalities the time needed to establish the location of the water line and water storage reservoirs. The transition of services is another major consideration. The additional time will allow the two municipalities an opportunity to discuss things like snow removal, road maintenance, and solid waste. In addition, the July 1, 2017 effective date will allow the two administrations to transfer documents, discuss relevant bylaws, and recalculate any debentures the Town may be taking over.

[127] To facilitate the effective date change recommendation, the MGB is recommending that in 2017 the MD: assess and tax the lands in the annexation area, and hear any assessment appeals filed with regard to lands in the proposed annexation area. The MGB finds this will assist the transition between the jurisdictions by allowing the landowners to deal with one municipality. In accordance with the compensation agreement between the two municipalities, the MD is to remit the taxes received from the lands in the annexation area for 2017 to the Town. The MGB realizes the effective date change will necessitate some additional expenses for the MD. However, the amount of compensation to be paid by the Town to the MD should be sufficient to cover any costs that the MD may incur for the assessment and collection of the taxes, hearing any assessment appeals, and additional expenses for the annexation lands in the first six months of 2017.

CONCLUSION

[128] After considering the submissions of the Town, the MD, and the affected parties, the MGB finds this annexation application reflects legitimate local needs and concerns as well as complies with the MGB's annexation principles. As such, the MGB is recommending approval of the proposed annexation with an effective date of July 1, 2017.