

*\* Refers to Item #1  
General Purposes Agenda  
February 21, 2011*

**Mayor and Councillors**

TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

**From:** Barbara Mathias [barbmathias@telus.net]  
**Sent:** February 21, 2011 11:58 AM  
**To:** Mayor and Councillors  
**Subject:** NO to the Metro Van General Urban designation of the GCL

*Re: T. Crowe for  
information*

Mayor and Councillors,

I am appalled to think that the city staff are advising us to circumvent the ALR and all that has gone before this.

Is this true, that there is a plan to ignore the ALR?

In any case, I am strongly against this plan to proceed with a General Urban designation outside of the ALR commission.

There be dragons in that direction.

Sincerely

Barbara

Barbara Mathias  
6280 Doulton Avenue  
Richmond, BC V7C 4Y4  
604-275-5735  
FX 604-275-5773

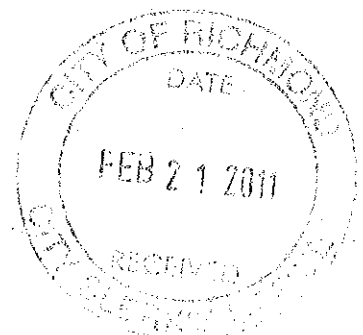
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General Purposes Committee  
Agenda - February 21, 2011

Mayor and Councillors

TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

From: Brandt Lorne [lorne.brandt@gmail.com]  
Sent: February 20, 2011 9:49 PM  
To: Mayor and Councillors  
Subject: Garden City lands

Re: T. Crowe for  
information  
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February 20, 2011

FEB 21 2011

Your worship Mr. Brodie and Councillors,

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We have been reading some disturbing news about the possibility of Richmond agreeing with the wishes of other members of a Metro Vancouver bylaw review that could see some Agricultural Land Reserve parcels of land be looked at as regular urban lands, with all the zoning freedoms that allows. I want to voice my strongest opposition to those opinions for the following reasons:

1. With issues related to transportation and food supply, concerns about the health of food supplies coming from elsewhere where laws are not as strict about how crops are raised, we need to do all we can to keep our ALR lands.
2. Food prices are going up, which is another reason to look at promoting growing more things locally.
3. The city needs more green and park space, especially close to downtown, which is where Garden City Lands is placed. Indeed, I recently wrote in another letter about some of my ideas for the use of this land.

The city appears to have paid for this land. Yet, nothing is happening with it, which is unfair to our citizens who could benefit from its use if this land were developed as park and recreational space as I had mentioned in the previous letter. Is this because we do not want to do anything before we know what is happening with the Musqueam band court situation? I am not sure that I, or the rest of our Richmond citizens, even know where that is at. Has a case actually been mounted? We need to know.

It seems to me that this current council is sitting on developing parkland and sitting on developing needed social and affordable housing. If we do not soon do something in these areas, there will be nobody left to do all the work that is necessary in Richmond because they will not be able to afford to live here. I refer, of course, to the increasingly untenable situation of immigration of wealthy individuals and development coalescing to inflate housing costs beyond what many who have lived in this country and put their sweat and equity into it can afford. This is not fair. Not to mention the pressure of excessive development on green space and agricultural land.

Thank you for your attention to these matters.

Lorne Brandt  
Richmond BC  
lorne.brandt@gmail.com  
This may have been dictated by MacSpeech



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General Purposes Agenda  
February 21, 2011



TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

Re: T. Crowe + J. Erceg for information  
URBAN DEVELOPMENT INSTITUTE - PACIFIC REGION  
#200 - 602 West Hastings Street  
Vancouver, British Columbia V6B 1P2 Canada  
T. 604.669.9585 F. 604.689.8691  
info@udi.org  
www.udi.bc.ca

February 21, 2011

His Worship Mayor Malcolm Brodie and Council  
City of Richmond  
6911 No. 3 Road  
Richmond, BC V6Y 2C1

Dear Mayor and Council:

**Re: Metro Vancouver's Regional Growth Strategy (RGS)**

The Urban Development Institute (UDI) is an association of the development industry and its related professions in British Columbia. Our over 500 corporate members include the leading development, architectural, planning, legal, financial, and construction firms in B.C., as well as government bodies. Our industry is critical to the success of the Province as we annually generate \$25 billion dollars of economic activity and 250,000 jobs for British Columbians.

For over 35 years we have promoted wise and efficient land use practices to achieve well balanced, sustainable and affordable communities. Our members build the visions laid out in municipal and regional plans, so it is critical that these plans work - or the goals we all have for the Lower Mainland, Richmond and its neighbourhoods will not be achieved.

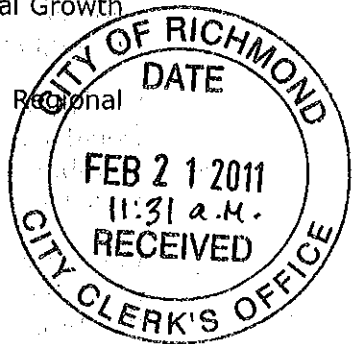
Councils from across the Region are being asked to approve Metro's Regional Growth Strategy.

The legislation establishes a three stage process for the passage of a Regional Growth Strategy, consisting of:

- a Metro stage,
- a municipal stage, and
- If the two yield a different outcome, a dispute resolution stage.

Each Council has another month to decide how to act in the municipal stage. In its response, each Council can accept the Regional Growth Strategy as is, or take issue with certain provisions in it.

Needless to say, the decision that Council makes regarding the Regional Growth Strategy at the municipal stage impacts not just for the present Council, but also has fundamental implications for all future Richmond Councils, by establishing a



We very much appreciate your consideration of this opportunity to be partners in community building with us.

Thank you.

Yours truly,

Original signed by:

Maureen Enser  
Executive Director

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## Effect of RGS if enacted

- Is binding on Metro
- Becomes binding on each municipality, including through a Regional Context Statement ("RCS")
- Each municipality is to prepare its RCS within two years after the adoption of the Regional Growth Strategy
- RCS requires approval by both Metro and the municipality that prepares it

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## What this presentation reviews

- (1) What the Regional Growth Strategy provides
- (2) What various organizations have said regarding the Regional Growth Strategy
- (3) The impact that the RGS will have on municipalities in exercising their land use and development regulation powers
- (4) Issues surrounding the effectiveness of the RGS in achieving its goals, relative to other options
- (5) The enactment process

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## Metro's objectives with RGS

- (1) Focusing urban development along transit
- (2) Protecting the industrial land supply
- (3) Containing urban sprawl

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## B. What the RGS provides

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Regional Land Use Designations that cannot be changed to without a 50% + 1 weighted vote of Metro Board

- Industrial
- Mixed Employment
- General Urban

Municipalities can unilaterally make minor shifts in those categories (up to 2%, subject to other limits)

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### Other process items

- Metro can, but need not, *allow* minor changes by way of Regional Context Statements, without requiring that the RGS be amended, if the changes are "generally consistent" with the RGS
- If there is a disagreement between Metro and a municipality in the drafting of a Regional Context Statement, the parties can refer it to dispute resolution

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Urban Centre and Frequent Transit Development Area boundaries

- Municipalities have some flexibility to set initial boundaries, and make boundary changes
- But must meet the criteria set out in Table 3 of the RGS

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## C. Comments from other Organizations

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Comments from the Agricultural Land Commission

- Urban Containment Boundary encroaches into the ALR in two places, being Garden City and Aldergrove
- There are "Special Study Areas" within the ALR
- Legislation requires planning to be consistent

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Funding issues (alongside but not part of the RGS)

- TransLink proposal to obtain power to impose its own Development Cost Charges
- TransLink proposal to obtain power to impose its own Community Amenity Contributions

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Comments from the Business Council of BC

The Regional Growth Strategy is:

- largely oblivious to the critical importance of the region's gateway economy;
- insensitive to competitiveness, the cost of doing business, and the need for regulatory efficiency; and
- excessively focused on agriculture (a relatively small industry)

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D. Impact of the RGS on Municipalities

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## Legislation: Nature of the regime

Given that structure, a regional growth strategy:

- can, depending on how it is drafted, add significant *hurdles* that can *block* a variety of rezonings, but
- cannot give a Regional District the power to *compel* rezonings (up or down) or to grant development approvals

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Legislation: The implications of an adopted RGS for Metro: Section 865

Section 865 of the *Local Government Act*:

"(1) *All bylaws adopted by a regional district board after the board has adopted a regional growth strategy, and all services undertaken by a regional district after the board has adopted a regional growth strategy, must be consistent with the regional growth strategy*"

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## Legislation: The implications of an adopted RGS for Metro

- Section 5 of the *Local Government Act* defines a "service" as:

*"an activity, work or facility undertaken or provided by or on behalf of the regional district..."*

- Section 851(4) confirms that the RGS is a service
- Would therefore bind Metro in its consideration of RCSs

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## Legislation: Implications of an adopted RGS for municipalities: Part 25

Much of Part 25 of the *Local Government Act*, including Sections 853(3), 857(1), 860(6) and 864, provides for a comprehensive enactment regime under which, before it is adopted, a regional growth strategy must:

- be specifically *accepted* by each member municipality, which is equated to being binding, or
- otherwise become *binding* on it by way of a detailed dispute resolution process that includes various forms of arbitration.

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### The Regional Land Use Designations: green zones, purple zones, orange zones

The Livable Region Strategic Plans teeth were in its "Green Zone" provisions. The Regional Growth Strategy builds on that approach by creating separate "zones" for:

- Industrial (the purple zone),
- Mixed Employment (the orange zone),
- General Urban (the grey zone),
- Agricultural (the green zone),
- Rural (the olive zone), and
- Conservation and Recreation (the forest green zone).

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### Limits on municipal discretion: Particularity

The "zones" are established in parcel-based maps, and per the provisions set out earlier, can only be changed by Metro vote.

The Regional Growth Strategy also sets out:

- a comprehensive statement of the nature of each "zone", at Part D, and
- a detailed set of parameters for the policies that municipalities are to adopt in each such "zone"

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### Regional Land Use Designations: Conclusion

- One can expect those limits to work their way into municipal OCP bylaws, and thereby constrain municipalities' abilities to make zoning changes

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### Urban Centres and FTDA's

- Urban Centres: the squares and the dots
- Frequent Transit Development Areas (FTDA's): locations to be established later, in RCSs
- the areas that are to get elevated density

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## Impact #2: The growing importance of the limits on municipal jurisdiction over time

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### The growing importance of the limits: Predicting the future

It is impossible to predict the complex interplay over time of:

- market forces, and economics
- knowledge growth, and technological change
- political change, both locally and across the world
- environmental change, etc.

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### The growing importance of the limits: Overview

- The Regional Growth Strategy "locks in" to varying degrees a *specific plan* in a *changing world*
- Metro signoff is required for changes to that land use plan

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### Expectations versus events

- What expectations did people have for the following two decades in 1910, as compared to the events that followed
- Same question for 1925, 1937, 1959, 1975, etc.

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### Variable #3: NIMBY pressures

- Developable area is significantly constrained by the ocean, mountains and US border
- Developable area is then significantly further reduced by the ALR
- The remaining area is divided into 21 municipalities, elevating the importance of neighbourhood "not in my back yard" considerations
- Results in reduced building heights and densities along transit lines, to avoid alienating voters by changing existing neighbourhoods "too much"

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502 EAST FIVE THIRDS AVENUE  
SUITE 200  
VANCOUVER, BC V6C 3K8  
TEL: 604.681.1111  
WWW.CLARKWILSON.COM

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### Variable #3: Effects of NIMBY pressures

- Negatively impacts housing affordability
- Labour supply and land costs, and hence business competitiveness
- Social impacts (can my children afford to live here?; homelessness)
- Reduced transit effectiveness
- Later pressures to move the Urban Containment Boundary outwards

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SUITE 200  
VANCOUVER, BC V6C 3K8  
TEL: 604.681.1111  
WWW.CLARKWILSON.COM

### Variable #4: Agriculture

- Current system is largely an export market, dependant on transportation cost structure
- Average age of farmers approaching 60
- Farming and food technologies evolve
- Climate change impacts, including availability of water

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502 EAST FIVE THIRDS AVENUE  
SUITE 200  
VANCOUVER, BC V6C 3K8  
TEL: 604.681.1111  
WWW.CLARKWILSON.COM

### Planning

- Can't simply put lots of planners in a room for an extended period, and thereby know the future
- Invariably a comprehensive plan is prepared, and then there are a series of iterations as the variables noted above evolve, followed by a new plan when it gets too far out of date
- Here, majority and 2/3rds Metro vote requirements constrain the ability of municipalities to make those changes
- Metro's role as the gatekeeper of whether change will be allowed is tied to a specific plan, and therefore will grow over time

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502 EAST FIVE THIRDS AVENUE  
SUITE 200  
VANCOUVER, BC V6C 3K8  
TEL: 604.681.1111  
WWW.CLARKWILSON.COM

## Impact #4: Metro's ability to change land use designations in a municipality against that municipality's wishes

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### Metro's ability to make changes: Example

- Metro can change designations over the objection of a municipality
- Majorities can and do impose their will on minorities
- In the 1990s, Metro assigned sewage treatment cost recovery to municipalities based on growth. Surrey had 30% of growth, but only 17% of the property tax base. It appealed to Cabinet, based on being assigned a double property tax load

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### Metro's ability to force changes: Overview

- A core underpinning of the RGS is agreement on a specific land use plan, which has been negotiated with all member municipalities, in the context of legislation provides that each municipality has a right of sign off or arbitration
- Through the inclusion of section 6.4.1, municipalities are waiving the need for the same process before those designations are changed within its boundaries against its wishes
- The municipality's right to arbitrate would not arise until the RCS stage, well after the RGS was already amended.

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### Metro's ability to make changes: Arbitration

Arbitration might tend to support Metro, given:

- the term allowing change over municipal objections was agreed to in the RGS
- the land use designation in the RGS will already have been amended, well before the arbitration arises at the time of the next RCS
- legislative provisions say RGS is binding at that point

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## Impacts on municipalities: Conclusion

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## Impacts on municipalities: Conclusion

- Metro would have an increased power to block zonings that are at odds with the RGS (now or as amended)
- Metro does not have the ability to compel municipalities to zone as Metro wishes

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## Impacts on municipalities: Conclusion

- Limits commence within two years after the adoption of the RGS, through new RCSSs, and possibly earlier
- Significant ability on Metro's part to constrain municipalities (with some unpredictability over how Metro would exercise those powers)
- Metro role would increase as time passes, and the RGS gets more and more out of date
- Delays in approval times, as Metro reviews issues
- Quite possibly Metro extractions

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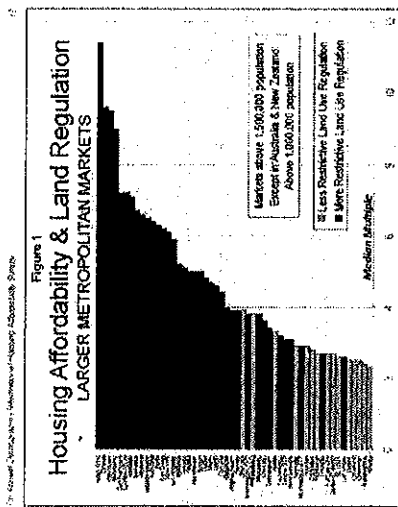
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## E. Issues surrounding the effectiveness of the RGS in achieving its goals

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## Focusing residential and employment density: Effects of the problem



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## Focusing residential and employment density: Effects of the problem

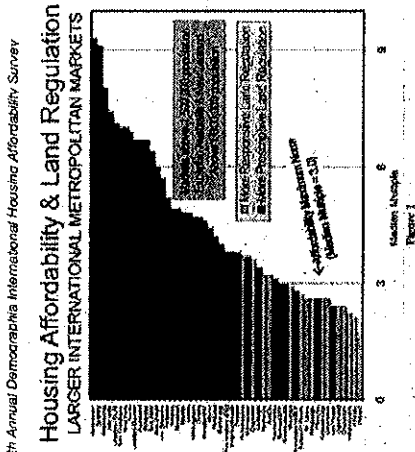
Negatively impacts:

- Housing affordability, and homelessness
- Metro's competitiveness, given land cost and labour supply impacts
- Decreased transit effectiveness, with associated environmental and economic downsides

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## Focusing residential and employment density: Effects of the problem



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## Focusing residential and employment density: Impact of the RGS

- RGS reflects a "regulatory approach" which seeks to ensure that things are optimally achieved in specified locations by *limiting* them *everywhere* else
- The legislation does not allow Metro to compel zoning, so there is no direct impact on NIMBY pressures

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Focusing residential and employment density: An alternative approach: TransLink Municipal Agreements ("TMAs")

- Could instead directly address density by allowing TransLink and municipalities to make deals: transit service for density
- Could apply on a municipal-wide basis, or within a municipality on a transit line specific basis
- Public fully involved, by requiring public input as a prerequisite to the entering into of a TMA

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Focusing residential and employment density:  
TMAs

- Enable density decisions to be made on an area wide basis *in conjunction with* transit decisions, rather than *separately* from them (leaving detailed *site by site* zoning for later)
- Municipalities and TransLink could factor in the density levels that need to be met for transit to work, and the transit service levels that are needed for the density to work
- Parties could build in detailed incentives and penalties that would apply if the density levels were not met subsequently at zoning or build out, or if the proposed transit service was not provided

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Focusing residential and employment density:  
TMAs

Would address the NIMBY factor more directly than the RGS does, because Councillors would be in a position to respond to voters that:

- they had an opportunity to address those issues at the time of the TMA public process, when the interplay between density and transit was being addressed
- the municipality, and hence its citizens, will suffer a contracted downside if Council yields to NIMBY pressures

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Focusing residential and employment density:  
TMAs

- Is a more targeted tool, and would avoid many of the negative side effects of the RGS
- Because the TMA would be an agreement between a municipality and TransLink, it would be easier to amend to reflect changing events than the RGS

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Providing for an appropriate Industrial land supply:  
Information

Metro's studies on (i) the Industrial Land Inventory, and (ii) the potential for Intensification:

- post-date the setting of the Regional Land Use Designations
- are not scheduled for release and public and private sector comment until mid-February 2011

The sufficiency of industrial supply for the gateway economy was cited as a core factor by the Province, the Port and the Business Council

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Providing for an appropriate Industrial land supply:  
Alternative approaches

- There are numerous options for the RGS beyond what has been submitted
- The Livable Region Strategic Plan, adopted by Metro in 1996, took a "regulatory approach" to the Green Zone but more of a "leadership approach" to other issues

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Providing for an appropriate Industrial land supply:  
Alternative approaches

Could do:

- a "regulatory approach" for (i) the Green Zone and (ii) the protection of a base set of industrial land
- an agreement-based approach to density and transit, as outlined above in connection with TransLink Municipal Agreements
- a "leadership approach" on other issues, to avoid the side effects noted at Part D

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Criteria #3: Containing Urban Sprawl

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### Containing Urban Sprawl: Designations outside of the UCB

- These designations have also been established before Metro's Industrial Land Inventory Study, or its Industrial Intensification Study, are released
- They are obviously related to Port distribution economy issues

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DENVER, CO 80202

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### Containing Urban Sprawl: Alternative approaches

There is a very real question whether inadequate urban containment is a problem under the present regime, given the combination of:

- the ALR, and
- the Green Zone in the existing otherwise less interventionist Livable Region Strategic Plan

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### RGS process: legislative requirements: Metro stage

The *Local Government Act* requires:

- the Metro Board to adopt a consultation plan
- in adopting the consultation plan, to consider whether the plan should include the holding of a public hearing, but on the basis that

"a failure to comply with the consultation plan does *not* invalidate the regional growth strategy as long as reasonable consultation has been conducted"

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### F. RGS process

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## Conclusion

The RGS's goals and objectives are unquestionably laudable.

At the same time, in terms of achieving its objectives:

- it may be relatively ineffective in focusing urban development, given the limits in the legislation;
- it is not clear that the provision for industrial land is sufficient for the needs of the Port economy, given that the relevant studies have not yet been released; and
- one can question whether Metro has an urban containment problem, and whether the proposed regime is preferable to the one that is already in place.

The main effect of the RGS would seem to be a shifting of jurisdiction, through the addition of a significant layer of required Metro approvals, the scope of which could be expected to increase over time.

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## H. Questions for discussion

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### Impacts on Municipal decision-making: #1

Given the limits on people's ability to predict the future, is it in the best interests of the region to create a system that:

- is built on a parcel-based set of land use designations for the entire region; and
- imposes heavy hurdles (ie – a two-thirds weighted vote of Metro, following a regional public hearing, etc.) on changes from that plan?

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### Impacts on municipal decision-making: #2

Would the long term effect of the Regional Growth

Strategy be:

- better coordination, and smooth sailing to a better future;
- the need to navigate a substantially increased bureaucracy as a precondition to evolving with the world; or
- to put Metro in a position to receive the substantial extractions, reducing the amount available to the municipalities that would otherwise receive them (ie – Delta in the case of lands around Deltaport, and Surrey in the case of Port Kells) ?

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Effectiveness of the Regional Growth Strategy  
achieving its goals: #3

The Regional Growth Strategy would seem to protect existing industrial land, but make additions to it harder.

Should one expect the RGS to have a positive, or negative, impact on addressing the relatively low employment earning and household income levels that the Business Council notes apply here?

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Effectiveness of the Regional Growth Strategy  
achieving its goals: #5

Is the assumption of "insufficient urban containment" in Metro Vancouver real?

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Effectiveness of the Regional Growth Strategy  
achieving its goals: #4

Would it be preferable, from the perspective of affordability, competitiveness, etc. to:

- take the industrial land that is low value from the perspective of the port economy and that is well served by transit (Lake City, Kent Street, etc.), and take advantage of the transit by converting it to more residential and office use; and
- add a limited amount of compensating land to one or more "Special Study Areas", where that land would substantially improve the competitiveness of the port economy perspective (Deltaport, Port Kells)?

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Effectiveness of the Regional Growth Strategy  
achieving its goals: #6

Does the Regional Growth Strategy propose the most effective use of the Metro Vancouver land base over the 30-year time horizon of the plan?

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Where to from here

The issues are canvassed. Lets hear from the other speakers.

THANK YOU

This paper is not intended as legal advice applicable to any specific circumstances, and is not to be relied upon as such.

Please direct inquiries or comments to:

Peter Kenward  
phk@cwilson.com | 604.891.7710

[www.cwilson.com](http://www.cwilson.com)





is necessarily much uncertainty associated with long-term (multi-decade) planning for the region – meaning that Metro Vancouver must try to strike a balance between providing enough flexibility to respond to shifting circumstances while also having enough tools to shape growth patterns, the development of transportation infrastructure, and so on.

In consultation with our members, one theme that emerged is that the current version of the Regional Growth Strategy seems to be more of a “preservationist” plan than a true growth management plan. With forecasts that the region’s population will rise by more than one million over the planning horizon, it is odd that the draft strategy is so heavily tilted toward preserving the status quo. If the past two decades have taught us anything, it is that steady population growth, high levels of immigration, and a changing global economy are sure to have a major impact on Metro Vancouver in the coming decades – and in ways that cannot be fully anticipated in 2010.

From our perspective, a chief shortcoming of the RGS draft is the very limited treatment of the region’s economy and the failure to recognize that a strong and diverse industrial base is essential to residents’ standard of living and quality of life. Although the context statement in Section A makes reference to “... a long-term commitment to economic prosperity, community well-being and environmental integrity,” it is fair to say that the RGS document as a whole gives scant attention to the region’s existing economic structure, nor does it articulate the steps needed to provide for future prosperity. In the vernacular of the Sustainable Region Initiative, the economic leg of the vaunted “three-legged stool” of sustainable development is short, resulting in what charitably can be described as a lopsided “growth” strategy.

Making sure the RGS is aligned with protecting and advancing the economic well-being of Metro Vancouver’s 2.2 million residents ought to be a primary concern for policy-makers. This is particularly true given Metro Vancouver’s rather weak economic position, as measured by incomes and real wages. Despite having the highest housing costs in the



The RGS as just one of a "suite" of eight plans mandated by Metro Vancouver within its broader SRI framework. The other seven plans address matters such as waste management, water, parks greenways and so on. None of these additional plans relates to regional competitiveness, employment, the Gateway and related transportation issues, or indeed to any other aspect of Metro Vancouver's economy. Moreover, the RGS is intended to shape growth in the region for years to come, and presumably it will influence other plans identified in the SRI framework, such as those for air quality and housing. As noted in our previous submission, we believe the RGS should occupy a more prominent position in Metro Vancouver's hierarchy of policies and plans. When stakeholders in the region – or interested parties elsewhere – look for a "signature" document to help them understand the future direction of Greater Vancouver, they will reach for the RGS – not for the liquid waste plan or the drinking water plan.<sup>1</sup> Therefore, it is important that the RGS be designed to provide a coherent and balanced framework for managing growth in the region. The current draft, in our view, falls short of meeting this test.

### **Supporting the Economic Base is Critical to the Region's Future**

The foundation of the RGS is land use management. As such, the document understandably focuses on issues concerning the land base. But it also touches, albeit briefly, on other dimensions of regional development, including the structure of the region's economy, employment, housing, transportation and other related matters. Land use management and strategy are inextricably linked to the industrial structure and the growth of the regional economy. The economic section of the RGS document devotes disproportionate attention to agriculture and provides little or no discussion of the many other industries that drive the economy and support some 1.25 million jobs in Metro Vancouver. Readers of the draft could easily be left with the mis-impression that agriculture is the biggest or most important industry in Greater Vancouver – which is not the case. In contrast to what is suggested in

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<sup>1</sup> As there is no regional economic strategy or investment attraction document produced by Metro Vancouver, those who wish to promote the region will need to turn to the RGS or to municipal business attraction materials.



should be undertaken through a lens that explicitly considers prosperity, competitiveness, and the needs of employers, with a particular focus on the international connections of local firms and the benefits of expanding employment in industries which produce tradable goods and services. In our experience, Metro Vancouver officials and their political overseers appear to attach a low priority to these fundamental economic considerations.

### Transit and Transportation

In our view, the draft RGS also fails to give enough attention to the movement of goods within and through the region, including the maintenance and expansion of vital transportation corridors. The document recognizes the region's role as an international gateway, but the stated goal to "Support Sustainable Transportation Choices" does not capture the critical importance of Gateway-related activity to the region's economy and employment base.

Port Metro Vancouver is Canada's largest port and the fourth largest tonnage port in North America. With business operations in automobiles, breakbulk, bulk, containers and cruise ships, it is the most diversified port in North America. Studies done for Port Metro Vancouver indicate that the Port supports 129,000 jobs in Metro Vancouver ~ one in twelve jobs in the region, and closer to one in nine private sector jobs. By this measure, the Port counts as the region's most important economic engine. Similarly, the airport is a major economic driver in the region through its direct provision of employment (27,000 jobs), global connections for people and cargo, and related logistics and services. Indeed, a central feature of Greater Vancouver is the role of the port-rail economy and the airport within the region. In our view, any long-term plan needs to 1) recognize the port and related infrastructure, as well as the airport and the hundreds of businesses linked to it, as a fundamental part of what makes the region's economy "tick," and 2) feature a strong commitment to protect and enhance these vital drivers of the region's economy.

The RGS understandably is concerned with creating density around transit corridors and encouraging the use of transit, which we support. To this end the RGS references better





We are also concerned about the implications of section 5.1.3 of the draft RGS, which indicates that Metro Vancouver will be working "with Translink and the municipalities to develop a regional parking supply policy, as part of an overall regional Transportation Demand Management Strategy, to provide further encouragement for an increased share of trips by high-occupancy vehicles, walking, cycling and transit." Parking policy should not be developed at the regional level. It is the responsibility of municipalities, reflecting demand related to local development. We caution against placing undue restrictions on parking supply and using it as a tool to manage congestion. Doing so is likely to further drive up parking costs and undermine competitiveness. The City of Vancouver is already facing challenges on this front, as a growing number of businesses are relocating to lower cost municipalities.

### **Industrial Land**

Within the business community there is broad support for RGS Strategy 2.2 to "Protect the region's supply of industrial land." For some time, the Business Council has expressed concern over the loss of the region's rather limited supply of industrial land to alternative uses, including residential development. Inclusion of this Strategy in the RGS is welcome, as it attests to the diversity of the regional economy and the importance of providing a basis for accommodating future population and employment growth.

However, there are also reservations and concerns. Along with firmer delineations around land use there will invariably be further hardening around land use decisions. While protecting scarce industrial land is a desirable goal, we recognize that doing so could unduly restrict development of land suited to various kinds of business activity. It is not clear, for example, whether multi-use zoning (such as industrial with some commercial space) would be permitted on industrial land. Depending on how zoning rules and by-laws are drafted and interpreted, rigid industrial zoning could even prevent the development multi-story industrial buildings or warehouses – which would be undesirable.



### Living and Working in the Same Municipality

RGS Strategy 2.1 aims to "Promote patterns of development that support a diverse regional economy and employment close to where people live." While encouraging people to live in proximity to where they work is a desirable goal, having too many city centres and business districts may be counter-productive for the economic health of Greater Vancouver. Globally, many city-regions have found that success involves accommodating the development of industrial clusters. From this perspective, there are advantages in having some types of businesses co-locate in specific areas instead of being dispersed throughout a region. And it often will prove necessary to attract talent to such clusters from across the region – not just from near-by communities – to sustain their success. These basic business imperatives should be accommodated within the RGS.

As noted in our previous submission, regional planners need to be realistic about the extent to which policy can influence where people choose to reside in relation to their place of employment or education. Increasingly, households consist of two (and sometimes more) individuals who work outside the home. Employers in Metro Vancouver typically attract workers who live in different municipalities, and they purchase business inputs from suppliers scattered across the region. By the same token, even non-exporting firms often sell their goods/services to customers who live in multiple communities within the wider region. Quite apart from employment patterns, individuals residing in one regional community may shop or commute to college/university in another that is ten, twenty or thirty kilometres away. And residents of suburban communities often travel to the city core for work, entertainment or to access specialized health or business services.

For Greater Vancouver, all of this means that many households are never going to meet the planners' ideal of living close to their place of employment or education. Nor should one overlook the trend for people to have multiple careers over the course of a working life, which itself makes it less likely that they will reside and work in the same local community.



business leaders need to think more systematically about the economy on a region-wide basis. Regional approaches to economic development, investment promotion and sustainability have been adopted in most other North American city-regions, but have been slow to emerge in Greater Vancouver.

We see advantages in doing more work on economic development at a regional level, even if this is done outside the current RGS process (or Metro Vancouver's official administrative structure). A broadly supported regional economic strategy would assist in clarifying the goals in the RGS, particularly on land use and transportation planning. We echo the argument made in the Vancouver Economic Development Commission's 2007 *Business Climate Report*<sup>3</sup>, that a regional economic development strategy must include a coordinated marketing and promotion function. Such efforts are best pursued regionally in order to effectively market the region to outside companies, investors and site selectors. A challenge for Metro Vancouver policy-makers is to recognize the changing global economic environment in which the region now operates and to develop a framework that will help Greater Vancouver become known not just as a desirable place to live, but also as a dynamic urban economy in which to invest, to create wealth, and to build successful businesses.

Two essential elements of regional economic development are the strategy itself and its companion use as a marketing and investment attraction tool. Concerning the first element, to date the sustainability dialogues promoted by Metro Vancouver have been preoccupied with environmental and to a lesser extent social concerns, with little attention given to economic underpinnings of a thriving urban region. Yet as the VEDC's 2007 *Business Climate Report* correctly observed, "... public amenities and services; the social safety net, health care, education, and culture all rely on strength in the economy."<sup>4</sup> The reason for working toward a coherent regional economic vision is not to place it in conflict with the

<sup>3</sup> Vann Struth Consulting Group and Eric Vance & Associates, "Blue Ribbon Council Report for the City of Vancouver Business Climate Strategy," prepared for the Vancouver Economic Development Commission and included as part of its *Vancouver Business Climate Report* (October 2007).

<sup>4</sup> Vann Struth Consulting Group et al, "Blue Ribbon Council Report for the City of Vancouver Business Climate Strategy," (October 2007).p 17.



development and has also established a long-term regional growth plan titled *Vision 2040*. With economic development as part of the organization's mission, the economy and prosperity are important elements of the plan. It appears, however, that the "heavy lifting" on the economic development front is done by an independent coalition of government, business, labour and community organizations called the Prosperity Partnership.

It is also interesting to note that it is necessary to have a comprehensive economic development strategy in place in order to receive funding from the Federal Economic Development Administration. To meet this requirement, the Puget Sound Regional Council adopted the Economic Development Strategy created by the Prosperity Partnership. While we appreciate that it may be difficult for Metro Vancouver to secure funds from higher levels of government (especially in the current fiscal setting), similar funding and requirements would provide an incentive for regional cooperation in the area of economic development.

#### Additional Thoughts

The draft RGS includes targets for greenhouse gas reductions. While greenhouse gas emissions are a global issue, we recognize that change must also take place at the local level. However, the Business Council has expressed concern over the regulatory patchwork and layering of policies and targets pertaining to managing GHG emissions. To the extent that targets are part of GHG policy, we believe they should be at the provincial and even more so at the federal level.

The RGS does not mention the subject of immigration. Even though immigration policy is well outside the bounds of regional and local governments, the RGS should include some discussion of the expected composition of population growth and the importance of relevant policy initiatives such as language training and credential recognition and other programs to assist in integrating newcomers into the local economy and job market.

Metro Vancouver policymakers must be sensitive to how the decisions of local governments affect the cost of doing business, the competitiveness of firms, and the costs facing taxpayers.



the metro area) are not available annually. As far as we know, the only labour force information available at this level comes from the census, which is taken every five years. With respect to measuring total number of "jobs by sector," is this the number of employees or does it include self employment as well?

We believe that a number of other economic performance measures should be included:

- As noted earlier, the value of manufacturing shipments in the region;
- Measures of Gateway activity such as volume of Port throughput and airport cargo;
- Median family incomes and median earnings;
- Employment earnings, average total wages, and average private sector wages.

We note that the RGS does not include any discussion of the tax base and the challenges of financing regional and municipal services. In common with other local governments, the region must grapple with the fact that cities in Canada have a very limited tax base (essentially property tax and development fees). This has contributed to the conversion of commercial properties to residential use and put more pressure on commercial and industrial land. A limited tax base also makes it harder to raise funds to finance regional transit on a sustainable basis. As the RGS is supposed to be a long-term planning document, we believe it should acknowledge the fiscal challenges facing local governments and include some discussion of the need to expand or restructure the revenue sources available to municipalities.

Finally, as the Business Council has documented in numerous publications and presentations, the Greater Vancouver region does not score particularly well on a number of key indicators of economic success. Relative to size of population and GDP, regional exports are lower than elsewhere in the country and clusters of traded industries tend to be weak. Labour productivity and employment income are lower than in most other large Canadian cities. The region also stands out for its very poor record in maintaining – let alone growing

## Port looking beyond Vancouver for future supply of industrial lands

Greater Vancouver's future industrial land needs may not be secure under a new regional planning strategy designed in part to ensure an adequate amount of such land remains available for industry.

**Metro Vancouver's** plan to preserve industrial land in the Lower Mainland is failing to take into account the predicted growth of the primary economic generator in the region, according to **Port Metro Vancouver's** vice-president of real estate, **Tom Corsie**. He labelled the *Regional Growth Strategy (RGS)* document as a "one-dimensional land use plan devoid of economics."

The potential shortage of industrial land for off-dock facilities such as warehousing/distribution centres for the growing container trade is concerning for the port, which is federally mandated to protect and promote trade.

Corsie estimated that 40% to 50% of all industrial land in Metro Vancouver is currently used for distribution and related purposes. If the predicted increases in container traffic continue to manifest, there is concern that insufficient industrial land will be available to handle expansion of the off-dock operations needed. Improved efficiency generated through the port's

container capacity improvement program can only go so far in terms of boosting productivity on existing lands.

Of the 6,000 or so acres of vacant industrial land in Metro Vancouver, only 2,500 acres are useful to the logistics industry, said Corsie, echoing sentiments shared by **Richard Wozny**, principal of **Site Economics Ltd.**, during his presentation on the impact of the RGS on the industrial land supply at a recent **Urban Development Institute (UDI)** event reviewing the proposed land use strategy. **Andrew Grant**, president of the **PCI Group** and **Kevin Layden**, president and CEO of **Wesbild Holdings Ltd.**, expressed reservations during the event about adopting the RGS in its current incarnation.

"There is this disconnect between Metro Vancouver's RGS and the economy," says Corsie. "The economy, we would say, is an economy of trade. You need to plan to make sure that economy is competitive going forward. That should be the fundamental underpinning of your long-term economic regional land supply and use strategy. It's not that at all."

In an effort to preserve as much industrial land as possible, the port has spent



**Port Metro Vancouver** is buying industrial land to preserve for future use

\$127 million to purchase about 340 acres since 2008, including **Canfor's** former 13-acre site in south Vancouver, which remains fully leased to **Oji Paper Co. Ltd.**, along with sites in New Westminster and Richmond. However, he says, it is not feasible for the port to secure all the land necessary for foreseeable future needs.

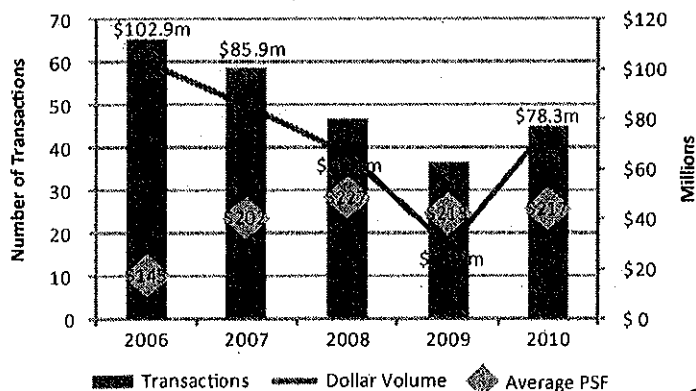
Wozny indicated in his presentation that the congestion of and a shortage of well-located vacant land would hinder the long-term growth of the port and its competitiveness. He added that the most obvious and important locations for additional port-related lands are found in Delta and Richmond, but that the RGS "inhibits these industrial land bases being expanded when needed."

He also suggested that small old

industrial lands such as inner urban locations near transit stations are not of high value due to congestion and could be rezoned.

With virtually no undeveloped industrial land in Vancouver city, the port has focused its attention on the region's "industrial heartland" – stretching along the north and south banks of the Fraser River around Annacis Island – with a "keen" awareness and focus on undeveloped industrial land at the south foot of No. 8 Road in Richmond. Delta, Coquitlam, Richmond, Burnaby and New Westminster all have industrial sites of interest to Port Metro Vancouver. It will also continue lobbying, working with First Nations and considering the acquisition of agricultural land to ensure an adequate supply of industrial land in the years ahead. ■

## Vancouver Industrial Sale Transaction Volumes (2006-2010)



Source: RealNet Canada Inc.

## Notable Vancouver Industrial Lease Deals

Tenant	Address	Square Feet
Gantu Bathrooms & Hardware Ltd.	8351 Ontario Street	40,600
PCI Group	8515 Cambie Street	14,778
Midland Appliance Ltd.	2015 Columbia Street	12,560
Super Suite Digital Studios Ltd.	15 East 4th Avenue	11,866
Newport Stone & Tile Ltd.	970 Malkin Avenue	11,500
Taylor B Canada Ltd.	105-111 West 2nd Avenue	11,147
Unipro Apparel Inc.	1305 Odium Drive	10,800

TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

**Mayor and Councillors**

**From:** Don Pitcairn [sun-assn@hotmail.com]  
**Sent:** February 19, 2011 11:34 AM  
**To:** Don  
**Cc:** Mayor and Councillors; Harold Steves; Gus Melonas  
**Subject:** News Release - Surrey's United Naturists (SUN)

*PC: Cecilia Achian for  
information*  
PHOTOCOPIED

FEB 21 2011

**News Release - Surrey's United Naturists (SUN)**  
**Re: Vancouver Airport Fuel Delivery Project**

44  
& DISTRIBUTED

The Vancouver Airport Fuel Facility Corporation's (VAFFC) Vancouver Airport Fuel Delivery Project (VAFDP) application to the BC Environmental Assessment Office was posted on the BCEAO website this week. It calls for half a million barrel oil tankers loaded with jet fuel to enter the south arm of the Fraser River to an off-loading and 80 million litre storage facility near the George Massey tunnel and a 15 km. pipeline across Richmond to the Vancouver Airport.

The public comment period begins Feb 25, 2010 and continues through April 11, 2011. A public open house has been scheduled for Monday, March 7 in Richmond at the Executive Airport Plaza Hotel on Westminster Hwy. from 4 to 8 p.m. Please review the attached news release from the BC Environmental Assessment Office for more details on this important meeting.

We encourage anyone interested in this project to get involved by attending the Open House and reviewing the information available on the BC Environmental Assessment Office website ([www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)) and the VAFFC project website ([www.vancouverairportfuel.ca](http://www.vancouverairportfuel.ca)). Comments on this environmental assessment should be made to the BC Environmental Office where they will be posted for public and governmental scrutiny.

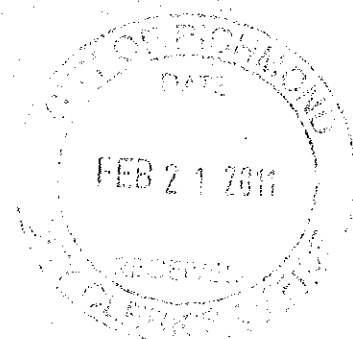
SUN opposes this project which we believe is unnecessary and whose environmental risks far outweigh any fuel cost savings to the airlines using YVR that are the only shareholders of the VAFFC. In particular, the decision by the VAFFC to not consider rail shipments of jet fuel from Cherry Point in Washington State, where a large portion of aviation fuel for YVR is currently delivered from, needs to be seriously questioned since rail deliveries from Alberta refineries tied with the tanker plan as the preferred option.

Choosing only one jet fuel delivery method for the Vancouver International Airport while threatening the estuary of B.C.'s largest river, the wildlife preserves in this region, our wild salmon stocks along with the public safety of residents living near the proposed pipeline means that the tanker plan for the Fraser needs to be scuttled. You can review SUN's detailed examination of the VAFDP and the errors, blatant omissions, questionable data and outright fallacies contained within this project that were previously posted on the BCEAO website on May 26, 2010 at the following location:

[http://a100.gov.bc.ca/appsdata/epic/documents/p346/1275423183785\\_e71376a301f00b1753abff676ef16d8bb985](http://a100.gov.bc.ca/appsdata/epic/documents/p346/1275423183785_e71376a301f00b1753abff676ef16d8bb985)

**Contact:**

Don Pitcairn, president  
Surrey's United Naturists (SUN)  
Email: [sun-assn@hotmail.com](mailto:sun-assn@hotmail.com)  
Website: [www.crescentrockbeach.org](http://www.crescentrockbeach.org)  
Phone: 604-328-7433



**GP - 53**  
**(Special)**



# Garden City Lands Coalition Society

## 花園城市土地聯盟

gardencitylands.wordpress.com ♦ www.gardencitylands.ca

TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

February 20, 2011

Dear Richmond Mayor and Councillors:

This *Metro Vancouver Regional Growth Strategy* Bylaw letter is about:

1. Respecting the law of our province
2. Protecting the future of our city

**First, we ask you to respect and uphold the law of British Columbia.**

The Regional Growth Strategy bylaw definitely violates the *Agricultural Land Commission Act*, which is the law. Metro Vancouver received a warning letter from the executive director of the Agricultural Land Commission but ignored it. Then, well before the Metro board vote on January 14, 2011, commission chair Richard Bullock notified Metro to correct the illegality. Still, when Metro directors voted, the illegality remained—and they had been poorly informed.

To end any doubt, a **legal analysis from lawyer Andrew Gage** of West Coast Environmental Law to our NGO society *has explained the illegality in depth*, with particular reference to the Garden City Lands. The Lands and other specified ALR parcels in Richmond and the Township of Langley are illegally designated "General Urban" in Maps 2 and 3 in the bylaw. That affects major parts of the bylaw (at least Regional Growth Strategy sections 1.1–3.1 inclusive).

**Second, we ask you to protect the future of our city: Richmond and its citizens.**

The problem begins with perception. At the direction of someone from the City of Richmond, the new Metro bylaw designates the Garden City Lands as *General Urban*, "*intended for residential neighbourhoods and centres*." That person has made it look as though the city is trying to enrich itself. On top of that, the city appears to be trying so hard that it is illegally and blatantly defying the authority of the *Agricultural Land Commission Act* and the commission.

When the Musqueam Indian Band was the city's partner in Garden City Lands agreements, the city *did not appear to break the law to enrich its partners*. If the city is now *party to breaking the law to enrich the city at the band's expense*, the lawsuit settlement is likely to be enormous.

Of course, kicking dirt onto the commission's shoes will not win approval of anything, including any future ALR-exclusion application. Unfortunately, that will not stop the band from turning the terrible perception into money in the bank—our citizens' money in their bank.

**To uphold the law and protect our future, please withhold approval of the Metro Vancouver bylaw until the land use designation of all ALR land in Richmond is appropriately Agricultural.**

Sincerely,

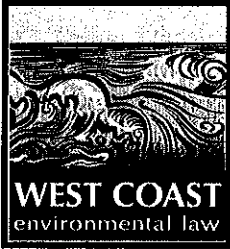
Jim Wright, president, and directors Daniel Leung, Arzeena Hamir, Jennifer Ng, Bruno Vernier, and Carol Day  
Garden City Lands Coalition Society, Richmond

Enclosed—and *not in the agenda package* for General Purposes Committee, February 21

- Legal opinion about bylaw from Andrew Gage, West Coast Environmental Law
- Warning letter about bylaw illegality from Brian Underhill, executive director, ALC
- Letter stating bylaw illegality from Richard Bullock, chair, ALC







200 - 2006 West 10<sup>th</sup> Avenue  
Vancouver, BC V6J 2B3  
[www.wcel.org](http://www.wcel.org)

tel: 604.684.7378  
fax: 604.684.1312  
toll free: 1.800.330.WCEL (In BC)  
email: [admin@wcel.org](mailto:admin@wcel.org)

February 9, 2011

Garden City Lands Coalition Society  
**Attn. Jim Wright, President**

**\*\*\* BY EMAIL AT  
GARDENCITYLANDS@SHAW.CA \*\*\***

Dear Sirs/Mesdames:

**Re: Metro Vancouver Regional Growth Strategy and ALR Lands**

You have asked us to provide an opinion further developing our view of Metro Vancouver's Regional Growth Strategy<sup>1</sup> (the RGS) in relation to the Garden City Lands and other ALR lands designated General Urban or Industrial. This opinion builds on the legal analysis provided in our Environmental Law Alert blog post: Metro Vancouver Growth Strategy on thin legal ice,<sup>2</sup> as well as responding to the response to that post received from Metro Vancouver.<sup>3</sup>

You have also instructed us to provide a copy of this legal opinion to Ms. Jessica Beverley, In-house Counsel to Metro Vancouver. She is cc'd on this opinion.

**The Facts**

The legal facts on which this opinion is based are as follows. A change in the information available could alter our legal conclusions.

For the most part the Regional Growth Strategy is very supportive of agricultural land and the vast majority of ALR lands are designated as being for agricultural use. This designation, according to the RGS, is (in part) "intended primarily for agricultural uses, facilities and supporting services with an emphasis on food production where appropriate."

There are a small number of exceptions. Significant amounts of ALR lands are included in Special Study Areas, which may be reviewed for possible development in the future. Since Special Study Areas do not in and of themselves allow a particular type of development the Agricultural Land Commission (ALC) has suggested, and we agree, that there is no legal inconsistency between this designation and the *Agricultural Land Commission Act* ("the Act").

However, there are also lands located in Richmond and Aldergrove which are ALR lands and which are specifically designated by the RGS for urban residential or (in the case of one area in Aldergrove) industrial use. The affected lands in Richmond include, of course, the Garden City Lands.

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<sup>1</sup> *Regional Growth Strategy*, Bylaw No 1136, 2010.

<sup>2</sup> <http://wcel.org/resources/environmental-law-alert/metro-vancouver-growth-strategy-thin-legal-ice>.

<sup>3</sup> Letter from C. De Marco to Andrew Gage dated January 27, 2011.

I have been advised by Metro Vancouver staff that these designations are based upon the designations found in the previous Regional Growth Strategy (known as the Livable Region Strategic Plan).<sup>4</sup>

I have also been advised by Metro Vancouver staff that they are based upon the designations that appear in the Official Community Plans (OCP) for the respective municipalities, although at least in the case of Richmond this appears not to be the case in at least some cases: the Garden City Lands are identified as Public and Open Space in Richmond's Official Community Plan (a designation in respect of which the Agricultural Land Commission passed an order, confirming it as an appropriate use within the ALR).

I am advised by Metro Vancouver staff that as a result of discussions with the ALC the draft RGS was modified to add a clause which explicitly recognized that nothing in the RGS could be inconsistent with the Agricultural Land Commission Act (s. 6.11.2 – discussed below).

However, this general clause apparently did not fully satisfy the ALC in relation to the Richmond and Aldergrove ALR Lands. In October 2010, after Metro Vancouver referred the RGS to the Agricultural Land Commission, Mr. Brian Underhill, Executive Director of the Commission, wrote to Metro Vancouver. While he expresses appreciation for wording changes in the RGS (presumably including s. 6.11.2), he clearly sets out his concerns about the Richmond and Aldergrove ALR lands designated by the RGS for urban residential or industrial use:

From the Commission's perspective, the most important outstanding issues are the two instances where the Urban Containment Boundary encroaches into the Agricultural Land Reserve. ... These designations are not consistent with the *Agricultural Land Commission Act*, with the ... Regulation or with any existing order of the Commission. Under section 46 of this Act a local government in respect of its bylaws [including a bylaw to adopt a regional growth strategy] must ensure consistency with this Act, the regulations and the orders of the commission. ... If the Regional Board decides to adopt a bylaw enacting a regional growth strategy without any modification, subsection 46(4) of the *Agricultural Land Commission Act* provides that to the extent of the inconsistency, the bylaw is of no force or effect.

When Metro Vancouver went ahead and gave second reading to the RGS without addressing the ALC's concerns, the Chair of the ALC, Mr. Richard Bullock, took the unusual step of writing to the regional district for a second time to further emphasize that the RGS violates the *Agricultural Land Commission Act*.

Reference is ... made to section 46 of the *Agricultural Land Commission Act* (the Act), which requires that a local government must ensure consistency with the Act, the regulations and the orders of the commission. ... This letter identifies lands with respect to which Bylaw 1136 as currently drafted is inconsistent with the Act, [the Regulations] ... or with any existing order of the commission.

When the Metro Vancouver Board considered the RGS, staff summarized Mr. Bullock's letters as part of the public submissions as relating to "mapping inconsistencies" – clearly an inadequate description of the serious legal concerns raised in that letter.

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<sup>4</sup> I know that you have provided a detailed rebuttal of this claim on your Garden City Lands Blog: <http://gardencitylands.wordpress.com/2011/02/02/weak/>, last accessed February 9, 2011. I do not believe that it is necessary to resolve this dispute at this time; as discussed below, Metro Vancouver's claim on this point makes no difference to my conclusion.

## Issues

1. Does the designation of the Richmond and Aldergrove lands in the RGS as General Urban and Industrial comply with the legal requirements of the Act?
2. If the answer to 1 is no, does the general clause in 6.11.2 of the RGS bring the RGS back into compliance with the Act?

## Brief Answers

1. No. Section 46 of the Act clearly prohibits the enactment of bylaws, including bylaws enacting regional growth strategies, that provide for the development of ALR lands, even if further changes to zoning bylaws or Official Community Plans or other government approvals will also be required before ALR lands could in fact be developed.
2. No. The Act identifies very clearly when a bylaw will be considered inconsistent with the Act, or associated regulations and orders. A general condition such as s. 6.11.2, which simply reiterates the legal requirements of section 46, cannot save an otherwise illegal portion of the bylaw.

## Analysis

### Legality of designations of Richmond/Aldergrove Lands

Section 46 of the Agricultural Land Commission Act very clearly states that every local government must make sure that its bylaws (including bylaws enacting Regional Growth Strategies) are “consistent” with the Act and its regulations. Section 46 states, in part:

**46 (2)** A local government in respect of its bylaws and a first nation government in respect of its laws must ensure consistency with this Act, the regulations and the orders of the commission. ...

(4) A local government bylaw or a first nation government law that is inconsistent with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect.<sup>5</sup>

“Bylaws” is explicitly defined as including bylaws adopting a regional growth strategy.<sup>6</sup>

In general “consistency” is not a strong legal requirement. However, section 46(5) explicitly addresses this problem:

(5) Without limiting subsection (4), a local government bylaw or a first nation government law is **deemed to be inconsistent with this Act** if it

(a) **allows a use of land in an agricultural land reserve that is not permitted under this Act**, or

(b) **contemplates a use of land that would impair or impede the intent of this Act**, the regulations or an order of the commission, whether or not that use

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<sup>5</sup> *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 (the “Act”), s. 46 (2) and (4)

<sup>6</sup> Act, *ibid*, s. 46(1).

requires the adoption of any further bylaw or law, the giving of any consent or approval or the making of any order.<sup>7</sup>

This section goes out of its way to clarify that a bylaw that meets that requirement will be inconsistent if it merely “contemplates” non-farm uses of land in the ALR, even if further zoning bylaws or other approvals (including ALC orders) are required before the land can be converted to a non-farm purpose.

The remaining subsections of section 46 confirm the ability of local governments to restrict agricultural use on ALR lands, but do not alter the clear legal requirements of the subsections quoted above to ensure that bylaws, including regional growth strategies, do not allow, or even contemplate, non-farm uses on ALR lands.

On its face the RGS does purport to allow and/or contemplate the use of the Richmond and Aldergrove Lands for residential development and industrial uses: clearly uses of lands not allowed in the ALR under the Act or its regulations without the approval of the ALC.

Metro Vancouver staff have suggested that the fact that the designations in respect of these lands remain the same as in the previous RGS<sup>8</sup> and/or that they may have been (in at least some cases) similarly designated in the Official Community Plans for some years in some way overcomes any problem of consistency.

With respect, it does not. The responsibility of local governments under s. 46(2) to ensure consistency is an ongoing one, and the legality of new bylaws must be considered at the time they are adopted, even if they are merely adopting previous terms.

In relation to the Richmond lands, Metro Vancouver staff have also suggested that the RGS designations of the Garden City Lands as General Urban are consistent with the Richmond Official Community Plan’s designation of those lands as Public and Open Space. They further note that the ALC has approved Richmond’s Public and Open Space designation.

The Garden City Lands are designated “Public and Open Space Use” in Richmond’s Official Community Plan and have been designated as such since the 1990s. We are aware that the status of the Garden City Lands has been the subject of ongoing dialogue within the community and with the Agricultural Land Commission. Richmond provided to us the attached letter from the Agricultural Land Commission in which the Commission consents to Richmond’s designation of the Garden City Lands as “Public and Open Space Use”.

The regional “General Urban” designation can contain a number of municipal designations, including “Public and Open Space Use” as it is reasonable to consider parks within a general urban context.<sup>9</sup>

Again, with respect, this argument is flawed. The Public and Open Space Use designation does not provide for urban development; despite that fact the City of Richmond still sought (and received) specific ALC approval for that designation.<sup>10</sup>

By contrast, the “General Urban” designation, while allowing for the use of land for urban parks, also explicitly allows those lands to be used for residential development (indeed, that is the main

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<sup>7</sup> Act, *ibid*, s. 46(5), emphasis added.

<sup>8</sup> Again, I am aware of your objection to this assertion. Above, note 4.

<sup>9</sup> Above, note 3.

<sup>10</sup> You advise that this request for approval came after a refusal by the ALC to remove the Garden City Lands from the ALR and while a second request was still pending.

purpose of the designation). Unlike the Public and Open Space designation, it explicitly allows or contemplates a non-farm use. And, again unlike Richmond, Metro Vancouver has not sought the consent of the ALC in respect of those uses. Given the very strong wording of section 46, the General Urban designation is inconsistent with both the Act and with the consent given by the ALC to Richmond in respect of the Public and Open Space designation.

In my view the designations of these ALR lands for urban and industrial purposes is on its face inconsistent with the Act, regulations and orders of the ALC. The remaining question is whether this apparent inconsistency is saved by section 6.11.2 of the RGS.

### **The legal effect of s. 6.11.2**

Metro Vancouver staff argue that even if the Richmond and Aldergrove ALR land designations are by themselves inconsistent with the ALC Act, section 6.11.2 of the RGS rectifies these inconsistencies by conceding that the ALC takes precedence. Section 6.11.2 reads:

In accordance with the *Agricultural Land Commission Act*, in the event that there is an inconsistency between the regional land use designations or policies set out in the Regional Growth Strategy and the requirements of the *Agricultural Land Commission Act* or regulations and orders made pursuant thereto, the Agricultural Land Commission requirements will prevail.<sup>11</sup>

Metro Vancouver states its position as follows:

The intent of this section is to make it clear that Metro Vancouver recognises that the Agricultural Land Commission Act takes precedence over the Regional Growth Strategy and to address the Commission's concerns. It is Metro Vancouver's position that the Regional Growth Strategy is not inconsistent with the Agricultural Land Commission Act. However, to the extent there is any inconsistency, the Agricultural Land Commission Act resolves the issue by providing that the Regional Growth Strategy has, to the extent of the inconsistency, no force or effect.<sup>12</sup>

There are several problems with argument that section 6.11.2 makes everything good again.

Purely on a technical level, section 6.11.2 doesn't change the fact that the RGS "contemplates" residential and industrial development on ALR lands.

In addition, the interpretation also undermines what we take to be the intent of the *Agricultural Land Commission Act*. In our view the very strong requirements of section 46 contemplate two levels of protection for ALR lands.

- The ALC has a general mandate to ensure that no non-farm uses occur on ALR lands (or to regulate such use if it views it as appropriate); and
- Local governments are specifically charged (under section 46(2)) with ensuring that their bylaws also protect ALR lands against development for non-farm purposes.

This means that in general approval for the development of land for a non-farm purpose will require at least two levels of approval, from both the ALC and from relevant local governments, creating a high level of legal protection for ALR lands. This is consistent with the purposes of

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<sup>11</sup> Above, note 1.

<sup>12</sup> Above, note 3.

the Act and the high level of protection for agricultural lands provided in other sections of the Act.

Metro Vancouver acknowledges that as a result of the designations in the RGS this level of protection no longer exists for the Richmond and Aldergrove Lands:

The practical effect of the Garden City Lands and the Aldergrove Lands having a regional "General Urban" or "Industrial" designation is that if, at some point in the future, the Agricultural Land Commission determines that these lands may be removed from the Agricultural Land Reserve, Richmond and the Township of Langley, respectively, will not need to apply to the Metro Vancouver Board for a change to the regional designation.<sup>13</sup>

In our view this "practical effect" is precisely what section 46 attempts to prevent.

We also note that the idea that a general acknowledgment of the existence of a legal requirement (and section 6.11.2 essentially just repeats the legal effect of section 46 of the Act) can give a person the ability to violate it at the specific level is a curious one. If correct it would mean that Metro Vancouver could designate all ALR lands for future industrial development, relying on section 6.11.2 to rectify the clear illegality. The concept is analogous to a person prefacing threats to another person with the words: "I know that it's illegal to threaten you, so please disregard everything I'm about to say." These results are clearly absurd.

For the above reasons, we do not believe that a general recognition that the Act has precedence over the RGS, such as that found in section 6.11.2, can save otherwise illegal specific cases of inconsistency between the RGS and the Act.

## **Conclusion**

For the above reasons, we are of the view that the RGS, as currently drafted, is illegal in respect of the designations of the Richmond and Aldergrove lands for future urban and industrial development. We believe that the designation of these Lands in the RGS should be re-evaluated prior to adoption of the RGS.

Sincerely,



Andrew Gage,  
Staff Counsel

cc. Jessica Beverley, Barrister and Solicitor (by email at [Jessica.beverley@metrovancover.org](mailto:Jessica.beverley@metrovancover.org))

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<sup>13</sup> Ibid.

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**From:** Pellett, Tony ALC:EX [Tony.Pellett@gov.bc.ca]  
**Sent:** Tuesday, November 23, 2010 11:58 AM  
**To:** Public Hearing  
**Subject:** Agricultural Land Commission submission to RGS public hearings  
**Attachments:** 36732m4.pdf

On behalf of Provincial Agricultural Land Commission chair Richard Bullock I am asking that you please ensure that the attached document forms part of the record of the public hearing process on Bylaw No. 1136.

<<36732m4.pdf>>

*K.A. Pellett*

Tony Pellett, Registered Planner

Provincial Agricultural Land Commission

133 - 4940 Canada Way

BURNABY BC V5G 4K6

604 660-7019 FAX 660-7033



**Agricultural Land Commission**  
133 – 4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

23 November 2010

Metro Vancouver  
4330 Kingsway  
BURNABY BC V5H 4G8

Attention: Chair Lois Jackson and members of the Regional Board

**Re: Metro Vancouver Regional Growth Strategy — our file #O-36732**

This letter offers a formal response from the Provincial Agricultural Land Commission (the "commission") to the second reading edition of Metro Vancouver Bylaw No. 1136, 2010 *Metro Vancouver 2040—Shaping Our Future*. Prior to second reading, the Commission offered comments in 2009 and earlier in 2010 on previous drafts—which also included a presentation by Commission representatives to the Metro Vancouver Planning Committee.

The following response is made in the context of the Commission's statutory mandate to preserve agricultural land, to encourage farming in collaboration with other communities of interest and to encourage local governments, among others, to enable and accommodate farm use of ALR lands. Reference is also made to section 46 of the *Agricultural Land Commission Act* (the "Act"), which requires that a local government in respect of its bylaws [including a bylaw to adopt a regional growth strategy] must ensure consistency with the Act, the regulations and the orders of the commission. It specifies that a bylaw is deemed to be inconsistent with the Act if it

- (a) allows a use of land in an agricultural land reserve that is not permitted by the Act, the regulations or an order of the commission, or
- (b) contemplates a use of land that would impair or impede the intent of the Act, the regulations or an order of the commission, whether or not that use requires the adoption of any further bylaw or law, the giving of any consent or approval or the making of any order.

This letter identifies lands with respect to which Bylaw 1136 as currently drafted is inconsistent with the Act, with the Agricultural Land Reserve Use, Subdivision and Procedure Regulation or with any existing order of the commission. This letter also discusses "Special Study Areas".

Inconsistencies

1. In the City of Richmond, two parcels of ALR land totaling 112 ha in area have been designated for General Urban development within the Urban Containment Boundary. Neither the regulations nor any order of the commission provides for general urban development of either parcel.
2. Adjacent to the Aldergrove municipal town centre, four discrete areas of ALR land totaling 160 ha and containing 19 parcels have been designated for General Urban development within the Urban Containment Boundary. Neither the regulations nor any order of the commission provides for general urban development of any of these parcels.
3. Immediately to the west of Aldergrove's urban area and to the north of its existing industrial area, five parcels of ALR land totaling 17 ha have been designated for Industrial development within the Urban Containment Boundary. Neither the regulations nor any order of the commission provides for industrial development of any of these parcels.



A regional growth strategy designation of ALR land for general urban or industrial development clearly contemplates uses of land that would impair or impede the intent of the Act. By definition these designations are inconsistent and must be altered to achieve the required consistency.

Special Study Areas

The Commission has noted that most of the Special Study Areas are depicted entirely within the ALR. Given that these depictions do not designate ALR land for a use other than agriculture, and given the wording of RGS section 6.10.2, these Special Study Areas are not inconsistent *per se*. The Commission therefore has no objection to the depiction of Special Study Areas through Bylaw No. 1136, 2010 *Metro Vancouver 2040-Shaping Our Future*.

Rural Areas

The Commission notes that the wording of RGS section 1.3.3 has been changed in response to earlier Commission comments. The Commission thanks the Regional Board for its attention to this and other matters in the formulation of its regional growth strategy.

Summary

The Commission believes that by virtue of the proposed regional growth strategy's focus on maintaining a secure and productive resource base, it will play an important rôle in supporting preservation of the region's scarce farm land base. The Commission looks forward to engaging in future discussion with the region's member municipalities to ensure that regional context statements and official community plans are consistent with the provincial interest to preserve agricultural land.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Richard Bullock,  
Chair

36732m4

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**Agricultural Land Commission**  
133 – 4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
[www.alc.gov.bc.ca](http://www.alc.gov.bc.ca)

20 October 2010

Metro Vancouver Policy and Planning Department  
4330 Kingsway  
BURNABY BC V5H 4G8

Attention: Christina DeMarco, Regional Development Division Manager

**Re: Metro Vancouver Regional Growth Strategy — our file #O-36732**

This letter is in response to the referral of the 03 September 2010 draft of the proposed Regional Growth Strategy *Metro Vancouver 2040—Shaping Our Future*.

The Commission appreciates that many of the modifications from the previous draft reflect a positive response to comments made by the Commission by letters dated 20 and 26 May 2009 and in the 2009 presentation to the Metro Vancouver Planning Committee by representatives of the Commission. The following comments therefore relate to outstanding issues of a broader scale than would normally be dealt with at the level of a municipal regional context statement.

From the Commission's perspective, the most important outstanding issues are the two instances where the Urban Containment Boundary encroaches into the Agricultural Land Reserve. At Aldergrove, the encroachment areas to the north and south of the existing urban area are proposed for a General Urban designation; the encroachment area to the north of the existing industrial area is proposed for an Industrial designation. In Richmond, the encroachment area bounded by Westminster Highway, Garden City Road, Alderbridge Way and Shell Road is proposed for a General Urban designation. These designations are not consistent with the *Agricultural Land Commission Act*, with the Agricultural Land Reserve Use, Subdivision and Procedure Regulation or with any existing order of the Commission. Under section 46 of this Act a local government in respect of its bylaws [including a bylaw to adopt a regional growth strategy] must ensure consistency with this Act, the regulations and the orders of the commission. If the Regional Board wishes to request that the Commission enact an order consenting to all or part of the otherwise inconsistent provisions, that request should reflect an understanding of the associated agricultural implications. If the Regional Board decides to adopt a bylaw enacting a regional growth strategy without any modification, subsection 46(4) of the *Agricultural Land Commission Act* provides that to the extent of the inconsistency, the bylaw is of no force or effect.

The Commission also notes that seven of the Special Study Areas are depicted entirely within the Agricultural Land Reserve. These depictions are not inconsistent *per se*, given that they do not designate agricultural land for a use other than agriculture. Provided the RGS procedures require that the Commission be consulted and offered an opportunity to participate in the special study, and that any regional growth strategy amendment resulting from a special study does not proceed unless the Commission has first consented to that amendment as it affects the ALR, the Commission has no objection to the depiction of these Special Study Areas.

Finally, although the Commission had earlier asked that the Rural designation in the ALR be reduced in area, the Commission accepts that the current draft shows substantially the same the boundary as in the previous draft. An earlier draft spelled out a strategy which specified very low densities and required regional context statements to "identify policies which...support agricultural uses on rural lands". The Commission is concerned that the current draft simply requires that Rural areas be protected from urban development and that regional context statements "identify policies which...support agricultural uses, where appropriate". The Commission would prefer wording which requires that regional context statements identify policies which support agriculture within the ALR and support agricultural uses outside the ALR, where appropriate. The Commission would also prefer that Type 2 amendments from the Rural land use designation be limited to lands which at the time of amendment are not within the ALR or which the Commission has approved or agreed in principle for exclusion from the ALR. In any event, the Commission intends to pay close attention to the wording of any regional context statement pertaining to a Rural area within which there are ALR lands, to ensure that agriculture is supported and protected and that subdivision of ALR land is not encouraged.

We look forward to an opportunity for further dialogue on the matters discussed above.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Brian Underhill,  
Executive Director

36732m3



# Garden City Lands Coalition Society

## 花園城市土地聯盟

gardencitylands.wordpress.com ♦ www.gardencitylands.ca

TO: MAYOR & EACH  
COUNCILLOR  
FEB 21 2011  
CITY CLERK'S OFFICE

February 20, 2011

Dear Richmond Mayor and Councillors:

This *Metro Vancouver Regional Growth Strategy* Bylaw letter is about:

1. Respecting the law of our province
2. Protecting the future of our city

**First, we ask you to respect and uphold the law of British Columbia.**

The Regional Growth Strategy bylaw definitely violates the *Agricultural Land Commission Act*, which is the law. Metro Vancouver received a warning letter from the executive director of the Agricultural Land Commission but ignored it. Then, well before the Metro board vote on January 14, 2011, commission chair Richard Bullock notified Metro to correct the illegality. Still, when Metro directors voted, the illegality remained—and they had been poorly informed.

To end any doubt, a *legal analysis from lawyer Andrew Gage* of West Coast Environmental Law to our NGO society *has explained the illegality in depth*, with particular reference to the Garden City Lands. The Lands and other specified ALR parcels in Richmond and the Township of Langley are illegally designated "General Urban" in Maps 2 and 3 in the bylaw. That affects major parts of the bylaw (at least Regional Growth Strategy sections 1.1–3.1 inclusive).

**Second, we ask you to protect the future of our city: Richmond and its citizens.**

The problem begins with perception. At the direction of someone from the City of Richmond, the new Metro bylaw designates the Garden City Lands as *General Urban*, "*intended for residential neighbourhoods and centres*." That person has made it look as though the city is trying to enrich itself. On top of that, the city appears to be trying so hard that it is illegally and blatantly defying the authority of the *Agricultural Land Commission Act* and the commission.

When the Musqueam Indian Band was the city's partner in Garden City Lands agreements, the city *did not appear to break the law to enrich its partners*. If the city is now *party to breaking the law to enrich the city at the band's expense*, the lawsuit settlement is likely to be enormous.

Of course, kicking dirt onto the commission's shoes will not win approval of anything, including any future ALR-exclusion application. Unfortunately, that will not stop the band from turning the terrible perception into money in the bank—our citizens' money in their bank.

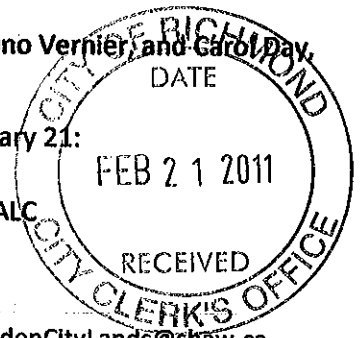
*To uphold the law and protect our future, please withhold approval of the Metro Vancouver bylaw until the land use designation of all ALR land in Richmond is appropriately Agricultural.*

Sincerely,

Jim Wright, president, and directors Daniel Leung, Arzeena Hamir, Jennifer Ng, Bruno Vernier, and Carol Day,  
Garden City Lands Coalition Society, Richmond

Enclosed—and *not in the agenda package* for General Purposes Committee, February 21:

- Legal opinion about bylaw from Andrew Gage, West Coast Environmental Law
- Warning letter about bylaw illegality from Brian Underhill, executive director, ALC
- Letter stating bylaw illegality from Richard Bullock, chair, ALC





200 - 2006 West 10<sup>th</sup> Avenue  
Vancouver, BC V6J 2B3  
www.wcel.org

tel: 604.684.7378  
fax: 604.684.1312  
toll free: 1.800.330.WCEL (In BC)  
email: admin@wcel.org

February 9, 2011

Garden City Lands Coalition Society  
Attn. Jim Wright, President

\*\*\* BY EMAIL AT  
GARDENCITYLANDS@SHAW.CA \*\*\*

Dear Sirs/Mesdames:

**Re: Metro Vancouver Regional Growth Strategy and ALR Lands**

You have asked us to provide an opinion further developing our view of Metro Vancouver's Regional Growth Strategy<sup>1</sup> (the RGS) in relation to the Garden City Lands and other ALR lands designated General Urban or Industrial. This opinion builds on the legal analysis provided in our Environmental Law Alert blog post: Metro Vancouver Growth Strategy on thin legal ice,<sup>2</sup> as well as responding to the response to that post received from Metro Vancouver.<sup>3</sup>

You have also instructed us to provide a copy of this legal opinion to Ms. Jessica Beverley, In-house Counsel to Metro Vancouver. She is cc'd on this opinion.

**The Facts**

The legal facts on which this opinion is based are as follows. A change in the information available could alter our legal conclusions.

For the most part the Regional Growth Strategy is very supportive of agricultural land and the vast majority of ALR lands are designated as being for agricultural use. This designation, according to the RGS, is (in part) "intended primarily for agricultural uses, facilities and supporting services with an emphasis on food production where appropriate."

There are a small number of exceptions. Significant amounts of ALR lands are included in Special Study Areas, which may be reviewed for possible development in the future. Since Special Study Areas do not in and of themselves allow a particular type of development the Agricultural Land Commission (ALC) has suggested, and we agree, that there is no legal inconsistency between this designation and the *Agricultural Land Commission Act* ("the Act").

However, there are also lands located in Richmond and Aldergrove which are ALR lands and which are specifically designated by the RGS for urban residential or (in the case of one area in Aldergrove) industrial use. The affected lands in Richmond include, of course, the Garden City Lands.

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<sup>1</sup> *Regional Growth Strategy*, Bylaw No 1136, 2010.

<sup>2</sup> <http://wcel.org/resources/environmental-law-alert/metro-vancouver-growth-strategy-thin-legal-ice>.

<sup>3</sup> Letter from C. De Marco to Andrew Gage dated January 27, 2011.

I have been advised by Metro Vancouver staff that these designations are based upon the designations found in the previous Regional Growth Strategy (known as the Livable Region Strategic Plan).<sup>4</sup>

I have also been advised by Metro Vancouver staff that they are based upon the designations that appear in the Official Community Plans (OCP) for the respective municipalities, although at least in the case of Richmond this appears not to be the case in at least some cases: the Garden City Lands are identified as Public and Open Space in Richmond's Official Community Plan (a designation in respect of which the Agricultural Land Commission passed an order, confirming it as an appropriate use within the ALR).

I am advised by Metro Vancouver staff that as a result of discussions with the ALC the draft RGS was modified to add a clause which explicitly recognized that nothing in the RGS could be inconsistent with the Agricultural Land Commission Act (s. 6.11.2 – discussed below).

However, this general clause apparently did not fully satisfy the ALC in relation to the Richmond and Aldergrove ALR Lands. In October 2010, after Metro Vancouver referred the RGS to the Agricultural Land Commission, Mr. Brian Underhill, Executive Director of the Commission, wrote to Metro Vancouver. While he expresses appreciation for wording changes in the RGS (presumably including s. 6.11.2), he clearly sets out his concerns about the Richmond and Aldergrove ALR lands designated by the RGS for urban residential or industrial use:

From the Commission's perspective, the most important outstanding issues are the two instances where the Urban Containment Boundary encroaches into the Agricultural Land Reserve. ... These designations are not consistent with the *Agricultural Land Commission Act*, with the ... Regulation or with any existing order of the Commission. Under section 46 of this Act a local government in respect of its bylaws [including a bylaw to adopt a regional growth strategy] must ensure consistency with this Act, the regulations and the orders of the commission. ... If the Regional Board decides to adopt a bylaw enacting a regional growth strategy without any modification, subsection 46(4) of the *Agricultural Land Commission Act* provides that to the extent of the inconsistency, the bylaw is of no force or effect.

When Metro Vancouver went ahead and gave second reading to the RGS without addressing the ALC's concerns, the Chair of the ALC, Mr. Richard Bullock, took the unusual step of writing to the regional district for a second time to further emphasize that the RGS violates the *Agricultural Land Commission Act*.

Reference is ... made to section 46 of the *Agricultural Land Commission Act* (the Act), which requires that a local government must ensure consistency with the Act, the regulations and the orders of the commission. ... This letter identifies lands with respect to which Bylaw 1136 as currently drafted is inconsistent with the Act, [the Regulations] ... or with any existing order of the commission.

When the Metro Vancouver Board considered the RGS, staff summarized Mr. Bullock's letters as part of the public submissions as relating to "mapping inconsistencies" – clearly an inadequate description of the serious legal concerns raised in that letter.

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<sup>4</sup> I know that you have provided a detailed rebuttal of this claim on your Garden City Lands Blog: <http://gardencitylands.wordpress.com/2011/02/02/weak/>, last accessed February 9, 2011. I do not believe that it is necessary to resolve this dispute at this time; as discussed below, Metro Vancouver's claim on this point makes no difference to my conclusion.

## Issues

1. Does the designation of the Richmond and Aldergrove lands in the RGS as General Urban and Industrial comply with the legal requirements of the Act?
2. If the answer to 1 is no, does the general clause in 6.11.2 of the RGS bring the RGS back into compliance with the Act?

## Brief Answers

1. No. Section 46 of the Act clearly prohibits the enactment of bylaws, including bylaws enacting regional growth strategies, that provide for the development of ALR lands, even if further changes to zoning bylaws or Official Community Plans or other government approvals will also be required before ALR lands could in fact be developed.
2. No. The Act identifies very clearly when a bylaw will be considered inconsistent with the Act, or associated regulations and orders. A general condition such as s. 6.11.2, which simply reiterates the legal requirements of section 46, cannot save an otherwise illegal portion of the bylaw.

## Analysis

### Legality of designations of Richmond/Aldergrove Lands

Section 46 of the Agricultural Land Commission Act very clearly states that every local government must make sure that its bylaws (including bylaws enacting Regional Growth Strategies) are “consistent” with the Act and its regulations. Section 46 states, in part:

**46 (2)** A local government in respect of its bylaws and a first nation government in respect of its laws must ensure consistency with this Act, the regulations and the orders of the commission. ...

(4) A local government bylaw or a first nation government law that is inconsistent with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect.<sup>5</sup>

“Bylaws” is explicitly defined as including bylaws adopting a regional growth strategy.<sup>6</sup>

In general “consistency” is not a strong legal requirement. However, section 46(5) explicitly addresses this problem:

(5) Without limiting subsection (4), a local government bylaw or a first nation government law is **deemed to be inconsistent with this Act** if it

(a) **allows a use of land in an agricultural land reserve that is not permitted under this Act**, or

(b) **contemplates a use of land that would impair or impede the intent of this Act**, the regulations or an order of the commission, whether or not that use

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<sup>5</sup> *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 (the “Act”), s. 46 (2) and (4)

<sup>6</sup> Act, *ibid*, s. 46(1).



requires the adoption of any further bylaw or law, the giving of any consent or approval or the making of any order.<sup>7</sup>

This section goes out of its way to clarify that a bylaw that meets that requirement will be inconsistent if it merely “contemplates” non-farm uses of land in the ALR, even if further zoning bylaws or other approvals (including ALC orders) are required before the land can be converted to a non-farm purpose.

The remaining subsections of section 46 confirm the ability of local governments to restrict agricultural use on ALR lands, but do not alter the clear legal requirements of the subsections quoted above to ensure that bylaws, including regional growth strategies, do not allow, or even contemplate, non-farm uses on ALR lands.

On its face the RGS does purport to allow and/or contemplate the use of the Richmond and Aldergrove Lands for residential development and industrial uses: clearly uses of lands not allowed in the ALR under the Act or its regulations without the approval of the ALC.

Metro Vancouver staff have suggested that the fact that the designations in respect of these lands remain the same as in the previous RGS<sup>8</sup> and/or that they may have been (in at least some cases) similarly designated in the Official Community Plans for some years in some way overcomes any problem of consistency.

With respect, it does not. The responsibility of local governments under s. 46(2) to ensure consistency is an ongoing one, and the legality of new bylaws must be considered at the time they are adopted, even if they are merely adopting previous terms.

In relation to the Richmond lands, Metro Vancouver staff have also suggested that the RGS designations of the Garden City Lands as General Urban are consistent with the Richmond Official Community Plan’s designation of those lands as Public and Open Space. They further note that the ALC has approved Richmond’s Public and Open Space designation.

The Garden City Lands are designated “Public and Open Space Use” in Richmond’s Official Community Plan and have been designated as such since the 1990s. We are aware that the status of the Garden City Lands has been the subject of ongoing dialogue within the community and with the Agricultural Land Commission. Richmond provided to us the attached letter from the Agricultural Land Commission in which the Commission consents to Richmond’s designation of the Garden City Lands as “Public and Open Space Use”.

The regional “General Urban” designation can contain a number of municipal designations, including “Public and Open Space Use” as it is reasonable to consider parks within a general urban context.<sup>9</sup>

Again, with respect, this argument is flawed. The Public and Open Space Use designation does not provide for urban development; despite that fact the City of Richmond still sought (and received) specific ALC approval for that designation.<sup>10</sup>

By contrast, the “General Urban” designation, while allowing for the use of land for urban parks, also explicitly allows those lands to be used for residential development (indeed, that is the main

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<sup>7</sup> Act, *ibid*, s. 46(5), emphasis added.

<sup>8</sup> Again, I am aware of your objection to this assertion. Above, note 4.

<sup>9</sup> Above, note 3.

<sup>10</sup> You advise that this request for approval came after a refusal by the ALC to remove the Garden City Lands from the ALR and while a second request was still pending.

purpose of the designation). Unlike the Public and Open Space designation, it explicitly allows or contemplates a non-farm use. And, again unlike Richmond, Metro Vancouver has not sought the consent of the ALC in respect of those uses. Given the very strong wording of section 46, the General Urban designation is inconsistent with both the Act and with the consent given by the ALC to Richmond in respect of the Public and Open Space designation.

In my view the designations of these ALR lands for urban and industrial purposes is on its face inconsistent with the Act, regulations and orders of the ALC. The remaining question is whether this apparent inconsistency is saved by section 6.11.2 of the RGS.

### **The legal effect of s. 6.11.2**

Metro Vancouver staff argue that even if the Richmond and Aldergrove ALR land designations are by themselves inconsistent with the ALC Act, section 6.11.2 of the RGS rectifies these inconsistencies by conceding that the ALC takes precedence. Section 6.11.2 reads:

In accordance with the *Agricultural Land Commission Act*, in the event that there is an inconsistency between the regional land use designations or policies set out in the Regional Growth Strategy and the requirements of the *Agricultural Land Commission Act* or regulations and orders made pursuant thereto, the Agricultural Land Commission requirements will prevail.<sup>11</sup>

Metro Vancouver states its position as follows:

The intent of this section is to make it clear that Metro Vancouver recognises that the Agricultural Land Commission Act takes precedence over the Regional Growth Strategy and to address the Commission's concerns. It is Metro Vancouver's position that the Regional Growth Strategy is not inconsistent with the Agricultural Land Commission Act. However, to the extent there is any inconsistency, the Agricultural Land Commission Act resolves the issue by providing that the Regional Growth Strategy has, to the extent of the inconsistency, no force or effect.<sup>12</sup>

There are several problems with argument that section 6.11.2 makes everything good again.

Purely on a technical level, section 6.11.2 doesn't change the fact that the RGS "contemplates" residential and industrial development on ALR lands.

In addition, the interpretation also undermines what we take to be the intent of the *Agricultural Land Commission Act*. In our view the very strong requirements of section 46 contemplate two levels of protection for ALR lands.

- The ALC has a general mandate to ensure that no non-farm uses occur on ALR lands (or to regulate such use if it views it as appropriate); and
- Local governments are specifically charged (under section 46(2)) with ensuring that their bylaws also protect ALR lands against development for non-farm purposes.

This means that in general approval for the development of land for a non-farm purpose will require at least two levels of approval, from both the ALC and from relevant local governments, creating a high level of legal protection for ALR lands. This is consistent with the purposes of

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<sup>11</sup> Above, note 1.

<sup>12</sup> Above, note 3.

the Act and the high level of protection for agricultural lands provided in other sections of the Act.

Metro Vancouver acknowledges that as a result of the designations in the RGS this level of protection no longer exists for the Richmond and Aldergrove Lands:

The practical effect of the Garden City Lands and the Aldergrove Lands having a regional "General Urban" or "Industrial" designation is that if, at some point in the future, the Agricultural Land Commission determines that these lands may be removed from the Agricultural Land Reserve, Richmond and the Township of Langley, respectively, will not need to apply to the Metro Vancouver Board for a change to the regional designation.<sup>13</sup>

In our view this "practical effect" is precisely what section 46 attempts to prevent.

We also note that the idea that a general acknowledgment of the existence of a legal requirement (and section 6.11.2 essentially just repeats the legal effect of section 46 of the Act) can give a person the ability to violate it at the specific level is a curious one. If correct it would mean that Metro Vancouver could designate all ALR lands for future industrial development, relying on section 6.11.2 to rectify the clear illegality. The concept is analogous to a person prefacing threats to another person with the words: "I know that it's illegal to threaten you, so please disregard everything I'm about to say." These results are clearly absurd.

For the above reasons, we do not believe that a general recognition that the Act has precedence over the RGS, such as that found in section 6.11.2, can save otherwise illegal specific cases of inconsistency between the RGS and the Act.

## **Conclusion**

For the above reasons, we are of the view that the RGS, as currently drafted, is illegal in respect of the designations of the Richmond and Aldergrove lands for future urban and industrial development. We believe that the designation of these Lands in the RGS should be re-evaluated prior to adoption of the RGS.

Sincerely,



Andrew Gage,  
Staff Counsel

cc. Jessica Beverley, Barrister and Solicitor (by email at [Jessica.beverley@metrovancover.org](mailto:Jessica.beverley@metrovancover.org))

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<sup>13</sup> Ibid.

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**From:** Pellett, Tony ALC:EX [Tony.Pellett@gov.bc.ca]  
**Sent:** Tuesday, November 23, 2010 11:58 AM  
**To:** Public Hearing  
**Subject:** Agricultural Land Commission submission to RGS public hearings  
**Attachments:** 36732m4.pdf

On behalf of Provincial Agricultural Land Commission chair Richard Bullock I am asking that you please ensure that the attached document forms part of the record of the public hearing process on Bylaw No. 1136.

<<36732m4.pdf>>

*K.A. Pellett*

**Tony Pellett, Registered Planner**

**Provincial Agricultural Land Commission**

**133 - 4940 Canada Way**

**BURNABY BC V5G 4K6**

**604 660-7019 FAX 660-7033**



**Agricultural Land Commission**

133 – 4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

23 November 2010

Metro Vancouver  
4330 Kingsway  
BURNABY BC V5H 4G8

Attention: Chair Lois Jackson and members of the Regional Board

**Re: Metro Vancouver Regional Growth Strategy — our file #O-36732**

This letter offers a formal response from the Provincial Agricultural Land Commission (the "commission") to the second reading edition of Metro Vancouver Bylaw No. 1136, 2010 *Metro Vancouver 2040—Shaping Our Future*. Prior to second reading, the Commission offered comments in 2009 and earlier in 2010 on previous drafts—which also included a presentation by Commission representatives to the Metro Vancouver Planning Committee.

The following response is made in the context of the Commission's statutory mandate to preserve agricultural land, to encourage farming in collaboration with other communities of interest and to encourage local governments, among others, to enable and accommodate farm use of ALR lands. Reference is also made to section 46 of the *Agricultural Land Commission Act* (the "Act"), which requires that a local government in respect of its bylaws [including a bylaw to adopt a regional growth strategy] must ensure consistency with the Act, the regulations and the orders of the commission. It specifies that a bylaw is deemed to be inconsistent with the Act if it

- (a) allows a use of land in an agricultural land reserve that is not permitted by the Act, the regulations or an order of the commission, or
- (b) contemplates a use of land that would impair or impede the intent of the Act, the regulations or an order of the commission, whether or not that use requires the adoption of any further bylaw or law, the giving of any consent or approval or the making of any order.

This letter identifies lands with respect to which Bylaw 1136 as currently drafted is inconsistent with the Act, with the Agricultural Land Reserve Use, Subdivision and Procedure Regulation or with any existing order of the commission. This letter also discusses "Special Study Areas".

**Inconsistencies**

1. In the City of Richmond, two parcels of ALR land totaling 112 ha in area have been designated for General Urban development within the Urban Containment Boundary. Neither the regulations nor any order of the commission provides for general urban development of either parcel.
2. Adjacent to the Aldergrove municipal town centre, four discrete areas of ALR land totaling 160 ha and containing 19 parcels have been designated for General Urban development within the Urban Containment Boundary. Neither the regulations nor any order of the commission provides for general urban development of any of these parcels.
3. Immediately to the west of Aldergrove's urban area and to the north of its existing industrial area, five parcels of ALR land totaling 17 ha have been designated for Industrial development within the Urban Containment Boundary. Neither the regulations nor any order of the commission provides for industrial development of any of these parcels.

A regional growth strategy designation of ALR land for general urban or industrial development clearly contemplates uses of land that would impair or impede the intent of the Act. By definition these designations are inconsistent and must be altered to achieve the required consistency.

#### Special Study Areas

The Commission has noted that most of the Special Study Areas are depicted entirely within the ALR. Given that these depictions do not designate ALR land for a use other than agriculture, and given the wording of RGS section 6.10.2, these Special Study Areas are not inconsistent *per se*. The Commission therefore has no objection to the depiction of Special Study Areas through Bylaw No. 1136, 2010 *Metro Vancouver 2040—Shaping Our Future*.

#### Rural Areas

The Commission notes that the wording of RGS section 1.3.3 has been changed in response to earlier Commission comments. The Commission thanks the Regional Board for its attention to this and other matters in the formulation of its regional growth strategy.

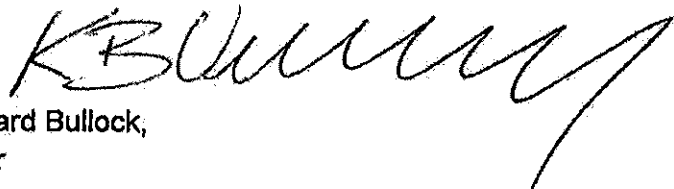
#### Summary

The Commission believes that by virtue of the proposed regional growth strategy's focus on maintaining a secure and productive resource base, it will play an important rôle in supporting preservation of the region's scarce farm land base. The Commission looks forward to engaging in future discussion with the region's member municipalities to ensure that regional context statements and official community plans are consistent with the provincial interest to preserve agricultural land.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:



Richard Bullock,  
Chair

36732m4

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**Agricultural Land Commission**

133 – 4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
[www.alc.gov.bc.ca](http://www.alc.gov.bc.ca)

20 October 2010

Metro Vancouver Policy and Planning Department  
4330 Kingsway  
BURNABY BC V5H 4G8

Attention: Christina DeMarco, Regional Development Division Manager

**Re: Metro Vancouver Regional Growth Strategy — our file #O-36732**

This letter is in response to the referral of the 03 September 2010 draft of the proposed Regional Growth Strategy *Metro Vancouver 2040—Shaping Our Future*.

The Commission appreciates that many of the modifications from the previous draft reflect a positive response to comments made by the Commission by letters dated 20 and 26 May 2009 and in the 2009 presentation to the Metro Vancouver Planning Committee by representatives of the Commission. The following comments therefore relate to outstanding issues of a broader scale than would normally be dealt with at the level of a municipal regional context statement.

From the Commission's perspective, the most important outstanding issues are the two instances where the Urban Containment Boundary encroaches into the Agricultural Land Reserve. At Aldergrove, the encroachment areas to the north and south of the existing urban area are proposed for a General Urban designation; the encroachment area to the north of the existing industrial area is proposed for an Industrial designation. In Richmond, the encroachment area bounded by Westminster Highway, Garden City Road, Alderbridge Way and Shell Road is proposed for a General Urban designation. These designations are not consistent with the *Agricultural Land Commission Act*, with the Agricultural Land Reserve Use, Subdivision and Procedure Regulation or with any existing order of the Commission. Under section 46 of this Act a local government in respect of its bylaws [including a bylaw to adopt a regional growth strategy] must ensure consistency with this Act, the regulations and the orders of the commission. If the Regional Board wishes to request that the Commission enact an order consenting to all or part of the otherwise inconsistent provisions, that request should reflect an understanding of the associated agricultural implications. If the Regional Board decides to adopt a bylaw enacting a regional growth strategy without any modification, subsection 46(4) of the *Agricultural Land Commission Act* provides that to the extent of the inconsistency, the bylaw is of no force or effect.

The Commission also notes that seven of the Special Study Areas are depicted entirely within the Agricultural Land Reserve. These depictions are not inconsistent *per se*, given that they do not designate agricultural land for a use other than agriculture. Provided the RGS procedures require that the Commission be consulted and offered an opportunity to participate in the special study, and that any regional growth strategy amendment resulting from a special study does not proceed unless the Commission has first consented to that amendment as it affects the ALR, the Commission has no objection to the depiction of these Special Study Areas.



Finally, although the Commission had earlier asked that the Rural designation in the ALR be reduced in area, the Commission accepts that the current draft shows substantially the same the boundary as in the previous draft. An earlier draft spelled out a strategy which specified very low densities and required regional context statements to "identify policies which...support agricultural uses on rural lands". The Commission is concerned that the current draft simply requires that Rural areas be protected from urban development and that regional context statements "identify policies which...support agricultural uses, where appropriate". The Commission would prefer wording which requires that regional context statements identify policies which support agriculture within the ALR and support agricultural uses outside the ALR, where appropriate. The Commission would also prefer that Type 2 amendments from the Rural land use designation be limited to lands which at the time of amendment are not within the ALR or which the Commission has approved or agreed in principle for exclusion from the ALR. In any event, the Commission intends to pay close attention to the wording of any regional context statement pertaining to a Rural area within which there are ALR lands, to ensure that agriculture is supported and protected and that subdivision of ALR land is not encouraged.

We look forward to an opportunity for further dialogue on the matters discussed above.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Brian Underhill,  
Executive Director

36732m3

**Mayor and Councillors**

TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

cc: T. Crowe  
D. Long  
for information

**From:** jim wright [jamesw8300@shaw.ca]

**Sent:** February 24, 2011 11:28 AM

**To:** Mayor and Councillors

**Subject:** "retaining old designation" - General Urban for ALR in Metro bylaw

**Categories:** UCRS CODE / FILE NUMBER: 01-0157-20-RGST1

Mayor and councillors,

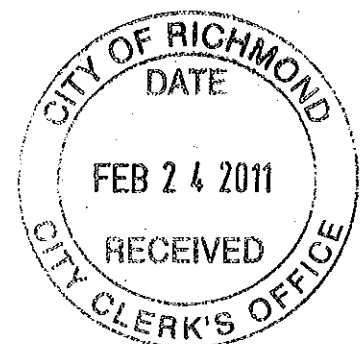
From Monday's General Purposes meeting, it is evident that a lot of emphasis is still being placed on the Garden City Lands and DND Lands supposedly having the same designation in the old bylaw and new bylaw. The contention is totally untrue but very hard to explain briefly. However, I have come up with the following executive summary:

In the new Metro bylaw, the current (illegal) designation of the Garden City Lands and DND Lands is "General Urban." The term "*General Urban*" means "*residential, including supporting uses*." In the old Metro bylaw there are:

- Zero times (none whatsoever) when the term General Urban is used
- Many times where the word "*urban*" is used—with a range of meanings—including several times in "urban region" or "urban area," expressions that mean the whole Metro region/area, including the Green Zone
- One time where the word "*residential*" is used to mean "*residential, including supporting uses*" (page 9, where "residential" is distinguished from "commercial," "industrial," and "vacant land" within "urban uses," which in turn is distinguished from "Green Zone and other non-urban uses")
- Zero times where the word "*urban*" is used to mean "*residential and supporting uses*" (or anything close to that)
- Consequently zero times where the old Metro bylaw uses the word "*urban*"—or any other word or expression except residential—to mean *General Urban*, as used and defined in the new bylaw

For details, including lots of references, please see "Retaining 'existing designation' from old Metro bylaw?" on the Richmond's Garden City Lands blog, <http://gardencitylands.wordpress.com/>. At the moment it is right after the welcome message.

Regards,  
Jim Wright  
Richmond



**GP - 80  
(Special)**

02/24/2011

TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

## Mayor and Councillors

**From:** jim wright [jamesw8300@shaw.ca]  
**Sent:** February 24, 2011 11:48 AM  
**To:** Mayor and Councillors  
**Subject:** Designation to replace "General Urban" when it is changed  
**Categories:** UCRS CODE / FILE NUMBER: 01-0157-20-RGST1

PC: T. Crowe for  
D. Long information

Mayor and Councillors,

There was some discussion at Monday's General Purposes meeting about what new designations to use for the three properties that should have been designated "Agricultural" (all for common-sense reasons, but with two of them also for legal, ethical, and financial reasons):

I suggest that it is extremely important to designate the Garden City Lands as "Agricultural," and it is also important to designate the DND Lands as "Agricultural":

Those two properties are legally Agricultural because they are in the ALR. It is true that Richmond could probably get away with designating them "Conservation and Recreation" or perhaps with non-designating them as a study area. However, first of all, we (Richmond) need to firmly set things right with the Agricultural Land Commission, and the basic way to do that is by being clear with the Agricultural designation.

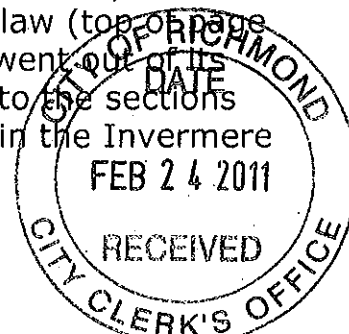
Secondly, we need to try to overcome the already-created impression that we are trying to unjustly enrich ourselves. Using "Agricultural," the normal designation for lands in the Agricultural Land Reserve, is as clear as we can get with our apparent intentions.

Thirdly, the best means for both of those purposes is a resolution that defines the area exactly the way that the ALC defined the area. That was in the 20 October 2010 letter from the ALC executive director, Brian Underhill, who defined it by naming the surrounding roads: the encroachment area bounded by Westminster Highway, Garden City Road, Alderbridge Way, and Shell Road. (By "encroachment," he means illegal encroachment of non-ALR uses on the Agricultural Land Reserve.)

Finally, Agricultural allows far greater latitude. The Metro use of the word "Agricultural" would generally include ALR uses, and the ALR uses listed in the Agricultural Land Commission Act definitely include the uses in the description of "Conservation and Recreation" in the Regional Growth Strategy bylaw (top of page 10). Furthermore, I notice that the Agricultural Land Commission went out of its way in a recent decision to bring the local government's attention to the sections of the ALC Act that allow those uses. (That is at the top of page 4 in the Invermere decision of November 2010,

GP - 81  
(Special)

02/24/2011



[http://www.alc.gov.bc.ca/application\\_status/Docs/51887d1.pdf](http://www.alc.gov.bc.ca/application_status/Docs/51887d1.pdf), where the ALC turned down the application to exclude grazing land from the ALR for housing and public park but specifically pointed out that Invermere could still have a park on the land.)

With regard to the area consisting of Terra Nova Rural Park and Terra Nova Natural Area, I suggest that it all be Agricultural because that is the broader classification. It is more obvious that Agricultural is appropriate for the rural park, though. (By the way, I was a dues-paying member of the Save Richmond Farmland Society, and it will be nice to see the correct designation as another victory for the long-ago struggle. But that's just a little bonus.) I and others brought up the Terra Nova matter, along with the Garden City Lands and DND Lands ones, at the public consultation in Richmond, but I don't think the public input carried much weight, even though the Metro staff there seemed to genuinely intend it to be important.

Regards,  
Jim Wright  
Richmond

**MayorandCouncillors**

TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

**From:** Roland Hoegler [rahoegler@shaw.ca]  
**Sent:** Tuesday, 22 February 2011 3:46 PM  
**To:** MayorandCouncillors  
**Cc:** Crowe, Terry; Erceg, Joe  
**Subject:** Re: the General Purposes Committee Meeting Feb 21, 2011.  
**Follow Up Flag:** Follow up  
**Flag Status:** Green  
**Categories:** UCRS CODE / FILE NUMBER: 01-0157-20-RGST1

pc: Joe Erceg, Terry Crowe  
(via email)

**PHOTOCOPIED**

FEB 23 2011

**& DISTRIBUTED****To:****Richmond Council:****Re: The General Purposes(GP) Committee Meeting Feb 21, 2011.**

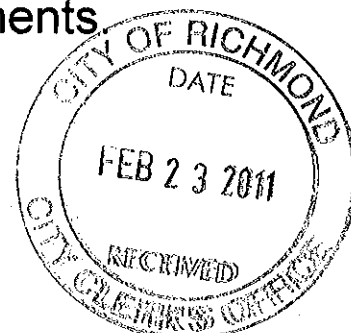
What resonated in this GP meeting (yesterday) reminded me of the death - blow dealt the Garden City Lands deal with the Musqueam (ie MOU and PSA agreements) when the majority of Council effectively had a major epiphany and did a 180-degree turn to DENY an extension to the aforementioned Garden City Lands agreement.

It was clear to many of us in attendance that , at long last, the majority of Council became aware that the GCL deal was bad, wrong and Council ultimately respected the wishes of the majority of the Richmond citizens, in true democratic fashion.

Metro Van Bylaw 1136 has been in my possession for 3 months, and IMHO, *upon review after review after review*, Bylaw 1136 is even worse than the GCL agreements

To have one Councillor say that if the

- (i) GCL ,
- (ii) DND and
- (iii) Terra Nova



**GP - 83  
(Special)**

2011-02-23

are the "only " contentious issues ...then Bylaw 1136 should proceed...!!!???..... simply indicts that same Councillors' understanding of the issue.

Metro Bylaw 1136 will invoke uncertainty, breed hostility, and disrespect in Richmond for decades.

Does the current Council want to be immoratlized , .....or dare I say become" infamous" , .....as " *the Gang that sold out Richmond citizens circa 2011* " ?

Metro Van has **no use**, or need not even exist..... except a "wholesale/cost effective provider " of basic services, specifically providing potable water, sanitary sewers and waste management. PERIOD . Anything beyond that is simply NON cost effective.

Beyond that is an insidious interpretation of the Local Gov't Act, to concentrate power in the hands of **38 Metro Van " appointed Directors"** and render traditional Local Gov'ts as impotent , token and usurping their traditional role as elected and accountable bodies to their own local citizens on LOCAL issues (ie Planning etc.)

However, it was rather refreshing to have personally witnessed at least ( **3** ) **Richmond Councillors** subject the entire matter of Bylaw 1136 to intense scrutiny, and request Staff to provide UNvarnished BS- free answers. However, IMHO, Staff , who I do respect as professionals , did not satisfy me that they had the "Big Picture" answers for the next 30 years,..... hence even more alarm bells went off.

It is 100% clear, via Metro Van Bylaw 1136 paper trail , that 99% of those(from various areas) who made written etc. submissions , from all walks of life and expertise, have very serious concerns about Bylaw 1136.

I see little if any support for Bylaw 1136 ,..... except for a majority of Metro Van's **38 directors** and a handful of Metro Van bureaucrats.

**That simply implies a looming dictatorship**

Bylaw 1136 is very " City of Vancouver -centric".....the rest of Metro Vancouver is thrown " crumbs".

However.....City of Richmond can be a leader in Metro Van and simply say NO, this **Bylaw 1136 is NOT in Richmond's best and better interests, THE END.....**

.....either tear it up or be absolutely sure the citizens of Richmond concerns are specifically addressed and not proceed behind backs of Richmond citizens . ie Full and open transparency and consultation.

This insidious piece of legislation , that effectively turns Metro Van into an unaccountable BUNKERED dictatorship to serve vested interests, who can and will be identified at a future date, given the evidence is already overwhelming once one separates the ethereal propoganda from the real quantifiable agenda.

Feel free to challenge me on the aforementioned points, I am fully prepared to discuss/debate them as we speak.

Roland Hoegler

**Mayor and Councillors**

TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

PC: Staff for info (via email)

**From:** aprilreeves User [info@horsemansu.com]  
**Sent:** February 22, 2011 9:17 AM  
**To:** Mayor and Councillors  
**Subject:** Re: Yesterday's RGS meeting  
**Categories:** UCRS CODE / FILE NUMBER: 01-0157-20-RGST1

**PHOTOCOPIED**

FEB 23 2011

**& DISTRIBUTED**

Dear Mayor Brodie and all Councilors,

I want to thank you all for your request to reconsider the Regional Growth Strategy.

It was painfully obvious that your city staff did not read this heavy document thoroughly. Or they did and did not comprehend it the way so many others have. Or at worse, just want to rush it through and carry on. I trust the latter is not the case.

Since you cannot be reached independently:

**Bill McNulty:** I completely understood what you were trying to say. Thank you, I agree.

**Evelina Halsey-Brandt:** Thank you for your sincerity and interest in the Terra Nova Lands, and for recognizing the hard work and importance those lands represent. Richmond has created a real buzz around the world from the Sharing Farm, and the balance created for your residents just having the land available is beyond what you see. I volunteer my services to them and know the value that's created.

I urge you to move through the RGS document more carefully. The wording needs your fine attention to detail in all areas.

**Harold Steves:** All I can ever say to you is a thousand "thank you's" for having the guts to say no against all odds, and for acting on behalf of the people. And for doing your homework. Yes, the green zones are at high risk. The containment boundary has no strength, and the way that section is written is in favor of mass development. I read this as being able to change status and build on refuges and conservation areas as well.

**Sue Halsey-Brandt:** Thank you for questioning "how to change the urban status" before approving the RGS! These fine points as I read them are where the biggest loopholes reside!

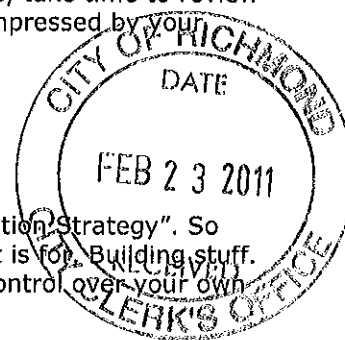
**Derrick Dang:** Thank you for taking the time to reconsider. You are right: there are FAR more issues here than just the ALR. Processes and mechanisms are highly flawed. You as a Councilor will lose much of your ability to choose the right path for this community. Your gut instinct is strong.

**Greg Halsey-Brandt:** Thank you for your many reconsiderations! As I say to the others, take time to review ALL aspects of this in terms of process and mechanisms. Your staff has no idea. I was impressed by your interest and detail.

**For all Councilors and Mayor Brodie:**

1. This document is called the "Regional GROWTH strategy". Not the "Regional Conservation Strategy". So let's call it for what it is. The Regional **Building** Strategy. Because that is exactly what it is for. Building stuff. Adding tax revenue. I can appreciate that. However, when you toss away much of the control over your own back yard to Provincial power, WE lose. You lose.

2. Please think past the boundary of Richmond. This document, once passed by you, will affect all other municipalities. Many do not have the luck of honesty and pride in their communities as Richmond's Council has. We are very lucky here and I know it. Please be a leader for them. I do sit on many other municipal council meetings: I know (just come to Mission with me one day). And I will be speaking to most of the RGS voting meetings as well.





2. The largest interpretation the RGS has for me is in the details of what Municipal governments will be surrendering. I was shocked to hear your staff missing this. No one I know has missed this. My question to you - "Is this the kind of governing you want to see in the future?" Your loss of power will not be understood by the people you serve. It will put all of you in the position of defending everything you pass that your voters do not want. In these ages, dictatorships, in every sense of the word, is grounds for revolt. I'm not being mean; I'm just keeping it real. The RGS will have no power over people that lie down for their causes.

4. While I appreciate the work your city staff does, I think you really need to read it again, and then once more. This is 30 years. Think of what that means in terms of your life. We all live downstream. Please leave this planet a better place than when you arrived.

Thank you, and I appreciate what you do for us,

April Reeves  
604 233 0781  
aprilreeves@shaw.ca  
1051 Wellington Cr. Rmd BC V7B1G6

## MayorandCouncillors

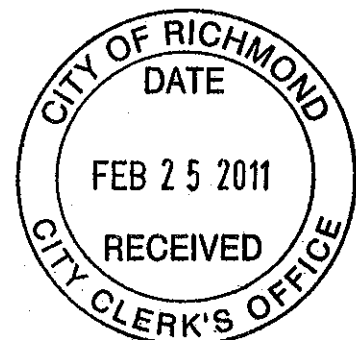
**From:** Azadeh Marzara [Amarzara@udi.org]  
**Sent:** Friday, 25 February 2011 12:11 PM  
**To:** MayorandCouncillors  
**Cc:** Maureen Enser; Jeff Fisher; Peter Kenward  
**Subject:** UDI Letter and Report on the Regional Growth Strategy  
**Attachments:** Richmond February 2011 UDI Letter on RGS.pdf; Metro Vancouver Regional Growth Strategy Paper - Executive Summary.pdf; Metro Vancouver Regional Growth Strategy Paper.pdf

Dear Mayor and Council,

Please see attached a letter from the Urban Development Institute, Executive Summary and Report in response to the Regional Growth Strategy. A hard copy of the attached has also been couriered to you at City Hall.

Thank you,  
Azadeh

**Azadeh Marzara**  
**Urban Development Institute**  
2nd Floor, 602 West Hastings Street  
Vancouver, BC V6B 1P2  
Phone: 604 669-9585  
Fax: 604 689-8691  
email: amarzara@udi.org





URBAN DEVELOPMENT INSTITUTE – PACIFIC REGION  
#200 – 602 West Hastings Street  
Vancouver, British Columbia V6B 1P2 Canada  
T. 604.669.9585 F. 604.689.8691  
[info@udi.org](mailto:info@udi.org)  
[www.udi.bc.ca](http://www.udi.bc.ca)

February 25, 2011

His Worship Mayor Malcolm Brodie and Council  
City of Richmond  
6911 No. 3 Road  
Richmond, BC V6Y 2C1



Dear Mayor and Council:

***Re: Metro Vancouver's Regional Growth Strategy (RGS)***

The Urban Development Institute (UDI) is an association of the development industry and its related professions in British Columbia. Our over 500 corporate members include the leading development, architectural, planning, legal, financial, and construction firms in B.C., as well as government bodies. Our industry is critical to the success of the Province as we annually generate \$25 billion dollars of economic activity and 250,000 jobs for British Columbians.

For over 35 years we have promoted wise and efficient land use practices to achieve well balanced, sustainable and affordable communities. Our members build the visions laid out in municipal and regional plans, so it is critical that these plans work – or the goals we all have for the Lower Mainland, Richmond and its neighbourhoods will not be achieved.

Councils from across the Region are being asked to approve Metro's Regional Growth Strategy.

The legislation establishes a three stage process for the passage of a Regional Growth Strategy, consisting of:

- a Metro stage,
- a municipal stage, and
- if the two yield a different outcome, a dispute resolution stage.

Each Council will soon need to decide how to act in the municipal stage. In its response, each Council can accept the Regional Growth Strategy as is, or take issue with certain of its provisions.

Needless to say, the decision that Council makes regarding the Regional Growth Strategy at the municipal stage does not simply impact the present Council, it also has fundamental implications for all future Councils, by establishing a mechanism

under which a range of decisions could only be made with a discretionary sign off by Metro Vancouver.

UDI has undertaken substantial efforts to review the implications of the document, from the perspective of both impacts on municipal powers, and whether it is likely to achieve its proposed goals.

The review of the impacts on municipal powers has examined:

- the structure of the legislation;
- the various provisions, including but not limited to parcel- based regional land use designations, that would restrain Council action without a Metro approval;
- the additional "jurisdictional" impacts of the passage of time, as time passes and the plan becomes increasingly out of date (as all plans do, owing to changes in market/economic forces, the environment/climate, technology, and politics);
- the prospect of Metro extractions, as a precondition to releasing municipalities from the restraints of the RGS and allowing a project to proceed; and
- Metro's ability to unilaterally adjust the plan's designations over the objections of an impacted local government.

The review suggests that the greatest impact of the Regional Growth Strategy could be the impact on municipal jurisdiction itself, rather than the advancement of its stated goals.

We enclose a paper prepared by Peter Kenward of Clark Wilson LLP, the Co-Chair of the UDI's Metro Vancouver Liaison Committee, which speaks to these issues much more fully. A detailed overview of the paper was given at an Urban Development Institute program held on February 1, 2011. The Executive Summary of the paper is attached to this letter.

UDI fully supports planning on a regional basis, and the goals of the Regional Growth Strategy, and very much respects the efforts of the planners and others who have spent significant time in working on the plan. Notwithstanding those facts, UDI has concluded that it cannot support the proposed bylaw. The increased bureaucracy and negative impacts of the proposed Regional Growth Strategy outweigh the advancements that would be achieved. It is important that system change of this magnitude be done in a way that better reflects the long term interests of the region. Three options for going forward are noted in the paper.

We recommend that you have the attached paper reviewed by your legal counsel. If you are interested, we would also be happy to provide you with an oral presentation of the paper, and our concerns, and answer any questions you might have regarding it. That discussion can include Mr. Kenward and ourselves.

You will note that Appendix 3 of the paper includes a presentation by the Business Council of BC, and a recent publication of comments by the Port in connection with the UDI program, which raise some additional issues for consideration. The Business Council has advised UDI that its presentation continues to reflect its views.

We very much appreciate your consideration of this opportunity to be partners in community building with us.

Yours truly,

Original signed by:

Maureen Enser  
Executive Director

cc: Minister of Community, Sport and Cultural Development  
Metro Vancouver, Attention Johnny Carline

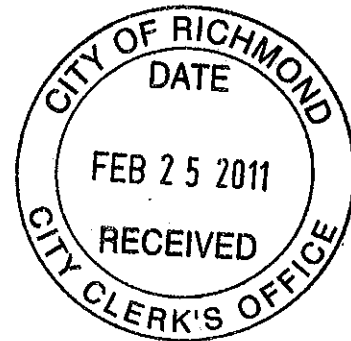
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**PROPOSED METRO VANCOUVER REGIONAL GROWTH  
STRATEGY BYLAW 1136:**

**A PRIVATE SECTOR PERSPECTIVE  
(EXECUTIVE SUMMARY)**

Peter Kenward ©  
Clark Wilson LLP  
800 – 885 West Georgia Street  
Vancouver, BC V6C 3H1  
604-687-5700  
phk@cwilson.com

February 24, 2011



Prepared for the Urban Development Institute (Pacific Region)  
200 - 602 West Hastings Street  
Vancouver BC V6B 1P6  
604-669-9585

This paper is not intended as legal advice applicable to any specific circumstances,  
and is not to be relied upon as such.

**PROPOSED METRO VANCOUVER REGIONAL GROWTH STRATEGY BYLAW 1136:  
A PRIVATE SECTOR PERSPECTIVE**

**EXECUTIVE SUMMARY**

**A. Background**

The present regime of land use and development regulation has resulted in a livable Metro Vancouver, while providing solid protection for agricultural lands.

As with any regime, however, it has strengths and weaknesses. The draft Regional Growth Strategy seeks to address concerns relating to the desirability of better:

- focusing urban development along transit;
- protecting the supply of industrial land; and
- containing urban sprawl.

The *Local Government Act* provides at Part 25 for the creation and updating of a form of regional plan known as a Regional Growth Strategy. The legislation provides that the Regional Growth Strategy:

- is binding on Metro;
- is binding on each member municipality; and
- impacts each municipality through a Regional Context Statement ("RCS") that is to be prepared within two years after the adoption of the Regional Growth Strategy, and that requires approval by both Metro and the municipality that prepares it.

On November 12, 2010, the Metro Vancouver Board gave first and second reading to Metro Vancouver Regional Growth Strategy Bylaw No. 1136, 2010 (the "RGS"). A public hearing was held in late November and early December 2010, and on January 14, 2011 the Board made a number of revisions as proposed by Metro staff, as well as two other revisions, and forwarded the bylaw to its member municipalities for their response.

**B. Outline of paper**

This paper reviews:

- what the Regional Growth Strategy provides, in Part 1;
- the comments that various organizations have made regarding the Regional Growth Strategy, as well as other pertinent *contextual* material, in Part 2;

- the *impact* that the Regional Growth Strategy would have on *municipalities* in exercising their land use and development regulation powers, in Part 3;
- issues surrounding the *effectiveness* of the Regional Growth Strategy in *achieving its goals*, relative to other options, in Part 4;
- the *enactment process* for Regional Growth Strategies, including the remaining steps in the process, in Part 5; and
- *options going forward*, in Part 6.

### C. Analysis

Given the provisions of the *Local Government Act* relating to Regional Growth Strategies and Regional Context Statements, they:

- can, depending on how they are drafted, add significant *hurdles* that can block a variety of rezonings, but
- cannot give a Regional District the power to *compel* rezonings (up or down) or to grant development approvals.

The former point has particular significance to the impact of the Regional Growth Strategy on municipalities in exercising their land use and development regulation powers.

The latter point has particular significance to the prospective effectiveness of the Regional Growth Strategy in achieving its goals.

#### 1. The restraints that the proposed Regional Growth Strategy would impose on municipalities (Part 3)

The provisions of the *Local Government Act* that speak to the *binding* nature of a Regional Growth Strategy appear to put Metro in a strong position, once a Regional Growth Strategy is adopted, to require that Regional Context Statements *restrain* municipal action to the degree provided for in the Regional Growth Strategy.

The paper reviews the implications of that for the proposed Regional Growth Strategy, which takes much more of a “regulatory approach” than the existing Livable Region Strategic Plan (which took more of a “leadership approach”).

The review examines five issues. The statements below need to be considered in the context of the more complete examination set out in the body of the paper.



(a) **Regional restraints on local decision-making**

The proposed Regional Growth Strategy subjects a range of municipal land use issues to Metro oversight.

Purple zones, orange zones, ...

In particular, it builds on the "Green Zone" approach in the existing Regional Growth Strategy by putting all land in the Metro region into one or another of 6 Regional Land Use Designations, on a parcel by parcel basis.

The Regional Growth Strategy sets out a comprehensive statement of the nature of each "zone", and a detailed set of parameters for the policies that municipalities are to adopt in each such "zone". Land can only be changed from one designation to another with Metro approval, subject to certain exceptions noted in the paper.

Given the terms of the legislation, one should expect that those limits will ultimately work their way into municipal Official Community Plan bylaws, and thereby limit municipalities' abilities to make zoning changes.

Urban Centres and FTDA's

The proposed Regional Growth Strategy adds further restraints as regards Urban Centres and the Frequent Transit Development Areas, as outlined in the paper.

Effect

The extent to which these restraints will have practical effect will turn on:

- how much Metro's interpretation of the text of the Regional Growth Strategy differs from that of the municipality, when it comes time to approve a proposed Regional Context Statement (which is difficult to predict, given that the discretion has not yet been conveyed);
- if a municipality disputes Metro's proposed interpretation, how the arbitrator that the regime provides for responds; and
- the ability of a municipality to secure the necessary level of Metro approval for an amendment, where a proposed municipal action requires one.

The third party arbitration reflects a change from what has been one of the hallmarks of the BC system, whereby land use decisions have generally been made by elected officials.

**(b) The growing importance of the restraints over time**

Nature of planning

The Regional Growth Strategy's land use plan reflects assumptions regarding transit, the port distribution economy, the impact of "NIMBY" pressures on zoning decisions, and agriculture, and other matters, that are subject to a complex interplay over time of:

- market forces and economics;
- technological change and knowledge growth;
- political change (both locally and across the world); and
- environmental change.

Planning is a living process, not an exercise that can be done intensively at specific stages on the basis it will apply unchanged for long periods. Like all land use plans, the Regional Growth Strategy's land use plan will become increasingly out of date as time passes.

Effect

A second major impact of the Regional Growth Strategy flows from the fact that:

- the Regional Growth Strategy "locks in" to varying degrees a *specific plan* in a *changing* world; and
- Metro signoff is required for changes to that plan.

As the plan becomes increasingly out of date, the practical scope of the restraints on municipal decision making (and hence Metro's involvement) will increase. There is a concern that land use decision making could then devolve into a system of "horse trading" in which the member municipalities with the most votes have the most power.

**(c) Metro's ability to seek extractions in exchange for releasing municipalities from a restraint**

Where approval is required from two bodies, both of whom have discretionary approval powers, they may not agree, and even if they do, both tend to seek things that advance their interests, as enticements to approval.

The paper references a number of precedents, and a number of examples of situations where a demand for extractions could arise.

By adding a new layer of required Metro approvals, the enactment of the Regional Growth Strategy would at the very least lengthen the approval process for developments that are not anticipated by Regional Context Statements and the Regional Growth Strategy.

Demands by Metro for extractions would also appear to be likely, reducing what would otherwise be available to the municipality.

**(d) Metro's ability to amend Regional Land Use Designations and Urban Containment Boundary in a municipality against that municipality's wishes**

Ability of majorities to change the plan

A core underpinning of the Regional Growth Strategy is agreement on a specific land use plan, which has been negotiated with *all* member municipalities, based on the fact that the legislation provides that each municipality has a right of sign off or arbitration.

The proposed Regional Growth Strategy provides however that any Regional Land Use Designation or the Urban Containment Boundary can be changed within a municipality's boundaries against its wishes, provided the necessary voting threshold is met. This would allow majorities within Metro to impose changes on minorities. A precedent for such an alliance is noted in the paper.

Arbitration

While the minority municipality has a right to arbitrate, that right would not appear to arise until the Regional Context Statement stage, long after the Regional Growth Strategy was amended. Given that the legislation provides for the Regional Growth Strategy to be binding, and given that the Regional Growth Strategy expressly allows such changes, the minority municipality would not appear to have much of an argument to arbitrate at that stage.

**(e) The ability of the public to enforce the restraints**

A member of the public can seek to enforce the Regional Growth Strategy or a Regional Context Statement.

While it would always turn on the specific facts, the scope for challenge would seem to be greater as regards an asserted non-compliance with a Regional Context Statement than it is for an asserted non-compliance with the Regional Growth Strategy.

**2. The Effectiveness of the Proposed Regional Growth Strategy in achieving its goals, relative to other options (Part 4)**

Lower Mainland context

The lands available for development in Metro Vancouver are limited by a number of factors.

First, developable area is significantly constrained by the ocean, mountains and United States border.

The developable area is then significantly further reduced by the Agricultural Land Reserve.

The area that remains is then further impacted by the carving up of jurisdiction over land use and development into 21 separate municipalities. The resulting reduction in the number of voters that can determine who will and will not be on Council elevates the importance of neighbourhood “not in my back yard” (“NIMBY”) considerations.

### Resulting impacts

Those factors have combined to negatively impact housing affordability, homelessness, Metro’s economic competitiveness (given land costs and labour supply impacts), and the environmental and economic interests that support maximizing transit effectiveness and efficiency.

Vancouver is presently one of the least affordable housing markets in the world calculated by way of median house prices divided by gross annual median household income. It combines high housing prices with employment earnings and household income that have fallen below the Canadian average.

The prospective effectiveness of the proposed Regional Growth Strategy in achieving its goals can be reviewed in that context.

## **(a) Focusing urban development along transit**

### Approach taken

Because of the limits in the legislation (which, as above, allow Metro to *block* development, but not *compel* that it occur), the proposed Regional Growth Strategy seeks to ensure that things are optimally and viably achieved in the specified locations by *limiting* them *everywhere* but in the specified locations.

Further, while the Regional Growth Strategy includes “estimated future housing demand” data, it only weakly provides for Regional Context Statements to “include policies or strategies that indicate how municipalities will work towards meeting” those numbers.

### Effect

Councillors who are confronted by voters demanding that density be limited alongside transit will get the benefit of an argument that there may be “downstream risks” if Council does not put high enough densities where the Regional Growth Strategy contemplates high densities (ie – capacities may eventually be reached, preventing further growth). Because Metro has no ability to *compel* municipalities to *zone* for higher densities however, NIMBY voter pressures against doing so remain in full force, and Councillors who ignore them will continue to do so at their own peril.

Accordingly, notwithstanding the substantial *restraints* that the proposed Regional Growth Strategy provides for (as described in Part 3 of this paper), it may nonetheless be relatively

ineffective in focusing urban development along transit. To the extent that affordability is a function of:

- significant limits on developable area;
- a governance structure that amplifies NIMBY factors; and
- the fact Metro is a popular international location,

the Regional Growth Strategy does not impact the first or last of those factors, and its impact on the second is significantly muted.

### Alternatives

An alternative much more *targeted* approach that could advance the achieving of this goal *without* the added bureaucracy that the proposed Regional Growth Strategy provides for is described in the body of the paper.

## **(b) Protecting the industrial land supply**

### Context

A critical element of the Metro Vancouver economy is the port distribution economy. In terms of competitive advantages, we are one of only a handful of major port cities facing onto Asia.

The competitiveness of Port Metro Vancouver, relative to Seattle, Portland, etc, is dependant on Metro Vancouver making adequate land available for distribution facilities, and having that land located in areas that are proximate to Port and intermodal facilities and that do not face excessive congestion.

### Approach taken

There is no question that the proposed Regional Growth Strategy adds a layer of protection to the industrial land supply that is absent in the current regime, by creating a designated industrial land supply, and by providing for substantial limits on changes to land with that designation.

At the same time however, the Regional Growth Strategy also *limits* changes in the industrial land supply relative to the present regime without Metro approval.

### Effect

The Business Council of BC and the Port have both expressed concerns that insufficient lands have been designated to meet the requirements of the region (see Appendix 3).

Given the significance of the Port distribution economy to the region, and indeed Canada, and the time horizon of the proposed Regional Growth Strategy, it is important that the trade offs in

the Regional Growth Strategy's land use plan be based on a proper analysis of the implications of:

- *the amount* of industrial land that the Regional Growth Strategy has designated;
- *the location* of that land; and
- the standard that applies to the designation of *additional* industrial land where it is needed.

While Metro has commissioned such studies, they post-date the setting of the Regional Land Use Designations, and are not scheduled for release and public and private sector comment until mid-February 2011.

**(c) Containing urban sprawl**

Approach taken

The proposed Regional Growth Strategy designates the vast majority of the land outside of the Urban Containment Boundary into one of two Regional Land Use Designations, being Agriculture, and Conservation and Recreation. Generally speaking, land with those designations can only be changed by a two-thirds weighted vote of the Regional Board, following a regional public hearing.

The Regional Growth Strategy therefore proposes as the go-forward test a triple layer of protection (beyond municipal zoning and the Agricultural Land Commission) for land that *is* in the Agricultural Land Reserve, and a double layer of protection for land that is *not* in the Agricultural Land Reserve.

The proposed Regional Growth Strategy further appears to tell the Agricultural Land Commission that, when faced with an exclusion application, it should not release any land that the Regional Growth Strategy designates as Agricultural, unless the Regional Growth Strategy is first amended.

Effect

One can question the degree to which inadequate urban containment is a problem under the present regime, noting the existence of the Agricultural Land Reserve, which has not been ineffective at protecting agricultural land.

## **D. Next steps, and options going forward**

### **1. The next stages of the enactment process (Part 5)**

#### **(a) Three stage process**

The *Local Government Act* establishes a three stage process for the adoption of the proposed Regional Growth Strategy.

The first was the initial Metro stage, which is now completed.

The second is a municipal stage, which is now underway.

The third is a dispute resolution process, to resolve any differences. The dispute resolution stage reflects the balancing the legislation envisions between regional district interests and municipal interests.

#### **(b) Metro Stage**

The Regional Growth Strategy Bylaw was introduced on November 12, 2010. A public hearing was then immediately called, and completed in 3 weeks.

#### **(c) Municipal stage**

Councils have 60 days to review and respond to the plan, and, if they so decide, to take input from their citizens about how they should be responding in light of the effects the RGS would have on their municipality.

Given the nature of the jurisdictional changes that the Regional Growth Strategy would entail for the citizens of their municipality going forward, one might expect each municipality to take care to engage public input on the question of how the Council in that municipality should respond. As set out in Part 3 of this paper, the municipality's response could easily have the greatest long term impact of any decision made by a Council in that municipality for years. Each Council is being asked whether all future Councils should operate under a fundamentally different regime than has been applicable in the municipality to this point.

### **2. Options going forward, and questions for consideration (Part 6)**

#### **(a) The balancing inherent in the RGS**

Metro Vancouver has a limited land base, and the Regional Growth Strategy would not seem to be performing its function unless it gets the balance right, for the period of the plan, between the region's interests relating to:

- agriculture and food security;

- the port distribution economy; and
- a livable, affordable, environmentally responsive community.

The Regional Land Use Designations, and the formulas that the Regional Growth Strategy puts in place for amendments, need to reflect that balance.

The three stated goals of the RGS equate loosely, but obviously not completely, to the balancing of the above three interests, with the first goal relating to the residential, commercial and local industrial concerns, the second to the port distribution economy, and the third to agricultural.

#### **(b) Effectiveness of the RGS in that balancing**

The Business Council has commented that from a business perspective, the Regional Growth Strategy is largely oblivious to the critical importance of the region's gateway economy, and insensitive to competitiveness, the cost of doing business, and the need for regulatory efficiency.

Various aspects of that analysis are echoed in this paper, noting the concerns the paper expresses regarding the substantial restraints that would be placed on municipal action (added bureaucracy), without yielding clear progress towards the achieving of its stated goals.

#### **(c) Options**

Three possible municipal responses to the proposed Regional Growth Strategy are reviewed in Part 6 of the paper. They are:

- a delay in the further consideration of the proposed Regional Growth Strategy, further to section 857(4)(b) of the *Local Government Act*, to enable a proper assessment of the complex issues that the document raises and the appropriate municipal response, given the shortness of the public hearing, the non-provision of the industrial studies, and the significance of the changes the Regional Growth Strategy would entail;
- the inclusion of a sunset clause in the Regional Growth Strategy, such that it would only be binding on municipalities for a specific limited time horizon (i.e. – no more than 8 years); and
- a re-working of the proposed Regional Growth Strategy, so that it is more targeted to achieving its goals, and has significantly fewer extraneous effects.

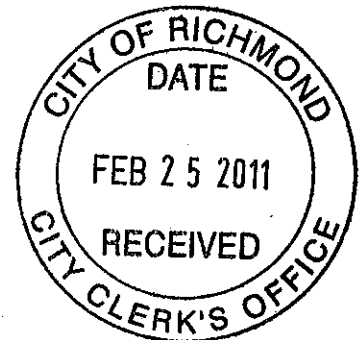


# **PROPOSED METRO VANCOUVER REGIONAL GROWTH STRATEGY BYLAW 1136:**

## **A PRIVATE SECTOR PERSPECTIVE**

Peter Kenward ©  
Clark Wilson LLP  
800 – 885 West Georgia Street  
Vancouver, BC V6C 3H1  
604-687-5700  
phk@cwilson.com

February 24, 2011



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The Regional Growth Strategy's land use plan reflects assumptions regarding transit, the port distribution economy, the impact of "NIMBY" pressures on zoning decisions, and agriculture, and other matters, that are subject to a complex interplay over time of:

- market forces and economics;
- technological change and knowledge growth;
- political change (both locally and across the world); and
- environmental change.

Planning is a living process, not an exercise that can be done intensively at specific stages on the basis it will apply unchanged for long periods. Like all land use plans, the Regional Growth Strategy's land use plan will become increasingly out of date as time passes.

Effect

A second major impact of the Regional Growth Strategy flows from the fact that:

- the Regional Growth Strategy "locks in" to varying degrees a *specific plan* in a *changing* world; and
- Metro signoff is required for changes to that plan.

As the plan becomes increasingly out of date, the practical scope of the restraints on municipal decision making (and hence Metro's involvement) will increase. There is a concern that land use decision making could then devolve into a system of "horse trading" in which the member municipalities with the most votes have the most power.

**(c) Metro's ability to seek extractions in exchange for releasing municipalities from a restraint**

Where approval is required from two bodies, both of whom have discretionary approval powers, they may not agree, and even if they do, both tend to seek things that advance their interests, as enticements to approval.

The paper references a number of precedents, and a number of examples of situations where a demand for extractions could arise.

By adding a new layer of required Metro approvals, the enactment of the Regional Growth Strategy would at the very least lengthen the approval process for developments that are not anticipated by Regional Context Statements and the Regional Growth Strategy.

Demands by Metro for extractions would also appear to be likely, reducing what would otherwise be available to the municipality.

**(d) Metro's ability to amend Regional Land Use Designations and Urban Containment Boundary in a municipality against that municipality's wishes**

Ability of majorities to change the plan

A core underpinning of the Regional Growth Strategy is agreement on a specific land use plan, which has been negotiated with *all* member municipalities, based on the fact that the legislation provides that each municipality has a right of sign off or arbitration.

The proposed Regional Growth Strategy provides however that any Regional Land Use Designation or the Urban Containment Boundary can be changed within a municipality's boundaries against its wishes, provided the necessary voting threshold is met. This would allow majorities within Metro to impose changes on minorities. A precedent for such an alliance is noted in the paper.

Arbitration

While the minority municipality has a right to arbitrate, that right would not appear to arise until the Regional Context Statement stage, long after the Regional Growth Strategy was amended. Given that the legislation provides for the Regional Growth Strategy to be binding, and given that the Regional Growth Strategy expressly allows such changes, the minority municipality would not appear to have much of an argument to arbitrate at that stage.

**(e) The ability of the public to enforce the restraints**

A member of the public can to seek to enforce the Regional Growth Strategy or a Regional Context Statement.

While it would always turn on the specific facts, the scope for challenge would seem to be greater as regards an asserted non-compliance with a Regional Context Statement than it is for an asserted non-compliance with the Regional Growth Strategy.

**2. The Effectiveness of the Proposed Regional Growth Strategy in achieving its goals, relative to other options (Part 4)**

Lower Mainland context

The lands available for development in Metro Vancouver are limited by a number of factors.

First, developable area is significantly constrained by the ocean, mountains and United States border.

The developable area is then significantly further reduced by the Agricultural Land Reserve.

The area that remains is then further impacted by the carving up of jurisdiction over land use and development into 21 separate municipalities. The resulting reduction in the number of voters that can determine who will and will not be on Council elevates the importance of neighbourhood “not in my back yard” (“NIMBY”) considerations.

### Resulting impacts

Those factors have combined to negatively impact housing affordability, homelessness, Metro’s economic competitiveness (given land costs and labour supply impacts), and the environmental and economic interests that support maximizing transit effectiveness and efficiency.

Vancouver is presently one of the least affordable housing markets in the world calculated by way of median house prices divided by gross annual median household income. It combines high housing prices with employment earnings and household income that have fallen below the Canadian average.

The prospective effectiveness of the proposed Regional Growth Strategy in achieving its goals can be reviewed in that context.

#### **(a) Focusing urban development along transit**

##### Approach taken

Because of the limits in the legislation (which, as above, allow Metro to *block* development, but not *compel* that it occur), the proposed Regional Growth Strategy seeks to ensure that things are optimally and viably achieved in the specified locations by *limiting* them *everywhere* but in the specified locations.

Further, while the Regional Growth Strategy includes “estimated future housing demand” data, it only weakly provides for Regional Context Statements to “include policies or strategies that indicate how municipalities will work towards meeting” those numbers.

##### Effect

Councillors who are confronted by voters demanding that density be limited alongside transit will get the benefit of an argument that there may be “downstream risks” if Council does not put high enough densities where the Regional Growth Strategy contemplates high densities (ie – capacities may eventually be reached, preventing further growth). Because Metro has no ability to *compel* municipalities to *zone* for higher densities however, NIMBY voter pressures against doing so remain in full force, and Councillors who ignore them will continue to do so at their own peril.

Accordingly, notwithstanding the substantial *restraints* that the proposed Regional Growth Strategy provides for (as described in Part 3 of this paper), it may nonetheless be relatively

ineffective in focusing urban development along transit. To the extent that affordability is a function of:

- significant limits on developable area;
- a governance structure that amplifies NIMBY factors; and
- the fact Metro is a popular international location,

the Regional Growth Strategy does not impact the first or last of those factors, and its impact on the second is significantly muted.

### Alternatives

An alternative much more *targeted* approach that could advance the achieving of this goal *without* the added bureaucracy that the proposed Regional Growth Strategy provides for is described in the body of the paper.

### **(b) Protecting the industrial land supply**

#### Context

A critical element of the Metro Vancouver economy is the port distribution economy. In terms of competitive advantages, we are one of only a handful of major port cities facing onto Asia.

The competitiveness of Port Metro Vancouver, relative to Seattle, Portland, etc, is dependant on Metro Vancouver making adequate land available for distribution facilities, and having that land located in areas that are proximate to Port and intermodal facilities and that do not face excessive congestion.

#### Approach taken

There is no question that the proposed Regional Growth Strategy adds a layer of protection to the industrial land supply that is absent in the current regime, by creating a designated industrial land supply, and by providing for substantial limits on changes to land with that designation.

At the same time however, the Regional Growth Strategy also *limits* changes in the industrial land supply relative to the present regime without Metro approval.

#### Effect

The Business Council of BC and the Port have both expressed concerns that insufficient lands have been designated to meet the requirements of the region (see Appendix 3).

Given the significance of the Port distribution economy to the region, and indeed Canada, and the time horizon of the proposed Regional Growth Strategy, it is important that the trade offs in

the Regional Growth Strategy's land use plan be based on a proper analysis of the implications of:

- *the amount* of industrial land that the Regional Growth Strategy has designated;
- *the location* of that land; and
- the standard that applies to the designation of *additional* industrial land where it is needed.

While Metro has commissioned such studies, they post-date the setting of the Regional Land Use Designations, and are not scheduled for release and public and private sector comment until mid-February 2011.

(c) **Containing urban sprawl**

Approach taken

The proposed Regional Growth Strategy designates the vast majority of the land outside of the Urban Containment Boundary into one of two Regional Land Use Designations, being Agriculture, and Conservation and Recreation. Generally speaking, land with those designations can only be changed by a two-thirds weighted vote of the Regional Board, following a regional public hearing.

The Regional Growth Strategy therefore proposes as the go-forward test a triple layer of protection (beyond municipal zoning and the Agricultural Land Commission) for land that *is* in the Agricultural Land Reserve, and a double layer of protection for land that is *not* in the Agricultural Land Reserve.

The proposed Regional Growth Strategy further appears to tell the Agricultural Land Commission that, when faced with an exclusion application, it should not release any land that the Regional Growth Strategy designates as Agricultural, unless the Regional Growth Strategy is first amended.

Effect

One can question the degree to which inadequate urban containment is a problem under the present regime, noting the existence of the Agricultural Land Reserve, which has not been ineffective at protecting agricultural land.

## **D. Next steps, and options going forward**

### **1. The next stages of the enactment process (Part 5)**

#### **(a) Three stage process**

The *Local Government Act* establishes a three stage process for the adoption of the proposed Regional Growth Strategy.

The first was the initial Metro stage, which is now completed.

The second is a municipal stage, which is now underway.

The third is a dispute resolution process, to resolve any differences. The dispute resolution stage reflects the balancing the legislation envisions between regional district interests and municipal interests.

#### **(b) Metro Stage**

The Regional Growth Strategy Bylaw was introduced on November 12, 2010. A public hearing was then immediately called, and completed in 3 weeks.

#### **(c) Municipal stage**

Councils have 60 days to review and respond to the plan, and, if they so decide, to take input from their citizens about how they should be responding in light of the effects the RGS would have on their municipality.

Given the nature of the jurisdictional changes that the Regional Growth Strategy would entail for the citizens of their municipality going forward, one might expect each municipality to take care to engage public input on the question of how the Council in that municipality should respond. As set out in Part 3 of this paper, the municipality's response could easily have the greatest long term impact of any decision made by a Council in that municipality for years. Each Council is being asked whether all future Councils should operate under a fundamentally different regime than has been applicable in the municipality to this point.

### **2. Options going forward, and questions for consideration (Part 6)**

#### **(a) The balancing inherent in the RGS**

Metro Vancouver has a limited land base, and the Regional Growth Strategy would not seem to be performing its function unless it gets the balance right, for the period of the plan, between the region's interests relating to:

- agriculture and food security;

- the port distribution economy; and
- a livable, affordable, environmentally responsive community.

The Regional Land Use Designations, and the formulas that the Regional Growth Strategy puts in place for amendments, need to reflect that balance.

The three stated goals of the RGS equate loosely, but obviously not completely, to the balancing of the above three interests, with the first goal relating to the residential, commercial and local industrial concerns, the second to the port distribution economy, and the third to agricultural.

#### **(b) Effectiveness of the RGS in that balancing**

The Business Council has commented that from a business perspective, the Regional Growth Strategy is largely oblivious to the critical importance of the region's gateway economy, and insensitive to competitiveness, the cost of doing business, and the need for regulatory efficiency.

Various aspects of that analysis are echoed in this paper, noting the concerns the paper expresses regarding the substantial restraints that would be placed on municipal action (added bureaucracy), without yielding clear progress towards the achieving of its stated goals.

#### **(c) Options**

Three possible municipal responses to the proposed Regional Growth Strategy are reviewed in Part 6 of the paper. They are:

- a delay in the further consideration of the proposed Regional Growth Strategy, further to section 857(4)(b) of the *Local Government Act*, to enable a proper assessment of the complex issues that the document raises and the appropriate municipal response, given the shortness of the public hearing, the non-provision of the industrial studies, and the significance of the changes the Regional Growth Strategy would entail;
- the inclusion of a sunset clause in the Regional Growth Strategy, such that it would only be binding on municipalities for a specific limited time horizon (i.e. – no more than 8 years); and
- a re-working of the proposed Regional Growth Strategy, so that it is more targeted to achieving its goals, and has significantly fewer extraneous effects.

## PART 1: WHAT THE REGIONAL GROWTH STRATEGY PROVIDES

At the risk of oversimplification, the land use elements of the proposed Regional Growth Strategy Bylaw are as follows.

- (1) The Regional Growth Strategy creates an Urban Containment Boundary ("UCB") and designates all land within the boundaries of Metro Vancouver into one of six Regional Land Use Designations, being:

- General Urban,
- Industrial,
- Mixed Employment,
- Agricultural,
- Conservation and Recreation, and
- Rural.

It further provides for the overlaying, over the Regional Land Use Designations, and within the Urban Containment Boundary, of:

- Urban Centres, and
- Frequent Transit Development Areas ("FTDAs")

which would "supersize" the densities allowed within General Urban and Mixed Employment areas.

- (2) The Urban Containment Boundary, and the Agricultural, Conservation and Recreation, and Rural Regional Land Use Designations, are largely "locked in", in the sense that municipalities generally cannot make changes to them without a weighted two-thirds vote of the Metro Board following a regional public hearing.
- (3) The Industrial, Mixed Employment and General Urban Regional Land Use Designations are largely "locked in", in the sense that municipalities generally cannot make changes to them without a 50% + 1 weighted vote of the Metro Board, but with municipalities having the right to unilaterally make minor shifts in those categories (up to 2%, subject to other limits) within the Urban Containment Boundary.
- (4) The Urban Centre and Frequent Transit Development Area boundaries are more fluid, with municipalities having the flexibility to set the initial boundaries, and to unilaterally make boundary changes, subject, however, to the criteria set out in Table 3 of the Regional Growth Strategy.
- (5) Metro has the ability to *allow* minor changes by way the Regional Context Statement, without requiring that the Regional Growth Strategy itself be amended, provided the changes are "generally consistent" with the Regional Growth Strategy.
- (6) As noted earlier, the Regional Growth Strategy is carried forward to the municipal level by way of a Regional Context Statement that connects the Regional Growth Strategy to



the municipality's Official Community Plan. If there is a disagreement between Metro and a municipality in connection with what their Regional Context Statement is to say, the parties can refer the dispute to a dispute resolution process.

Further details can be found at Appendix #1 and Part 3, point B.1. of this paper.

## **PART 2: COMMENTS BY GOVERNMENT AUTHORITIES, AND RELATED BACKGROUND**

### **A. Municipal comments regarding the Regional Growth Strategy**

The representatives of two municipalities, being Coquitlam and Port Moody, voted against the Regional Growth Strategy when it came to the Metro Board for first and second reading on November 12, 2010. Burnaby sought changes as well. Their reasoning is also outlined below.

The comments made by various other municipalities prior to first reading are outlined at Appendix #2.

The proposed Bylaw came back to the Metro Board on January 14, 2011, following public hearing. Revisions were made at second reading, with the only contrary vote at that time being Harold Steeves of Richmond. Representative Steeves asserted that instead of protecting agricultural land, the Regional Growth Strategy opens the door for its removal from the Agricultural Land Reserve, through the creation of Special Study Areas, and through the inclusion within the Urban Containment Boundary of farmland and parks in Richmond and Langley.

Burnaby Mayor Derek Corrigan was quoted at the time as saying:

“I don’t think its going to be unanimous, but I think the majority of the Councils will see this as being in the best interests of the region.”

#### **1. Coquitlam**

In its October 1, 2010 report, Coquitlam advised that its support was dependent on Metro addressing the following issues:

- details regarding on Metro’s expanded oversight role in local land use planning and development approvals;
- identification of the direct legal, administrative and financial costs for Metro and the municipalities that would arise from this expanded role (noting Metro has not reported regarding the staffing changes that would be required as regards Regional Context Statement reviews, managing amendments, monitoring plan implementation, etc. and related fiscal measures); and
- clarification regarding how land use disputes between a municipality and Metro would be dealt with (including what input processes there would be for application proponents, member municipalities, interest groups and the public).

Coquitlam added that its concern was buttressed by the recent emergence of an issue whereby Metro is seeking a greater role in water, sewer and solid waste decisions.

Metro responded that:

- “regional significance” is reflected in the land use intent statements, creation of overlays, and the implementation process; and
- the dispute resolution process is outlined in the legislation.

## 2. Port Moody

In its October 13, 2010 letter to Metro, Port Moody advised that it did not support the Regional Growth Strategy, due to the lack of a linkage to long term transportation planning and funding.

This issue arose in the context of the 2010 updating of Port Moody’s Official Community Plan Bylaw.

At the Board meeting on December 10, Metro approved the Regional Context Statement contained within Port Moody’s proposed Official Community Plan Bylaw, while requesting that Port Moody submit a revised Regional Context Statement as soon as the Evergreen Line rapid transit commitment and construction schedule is confirmed and after the Murray-Clarke connector issue had been resolved.

The underlying Metro staff report explained the situation, as follows:

“... there is a major inconsistency in relation to Port Moody accepting their share of regional growth within the Growth Concentration Area. The Port Moody RCS states:

‘This Official Community Plan calls for *zero to minimal growth* which is defined as residential redevelopment or infill where no new changes in density or zoning are proposed’.

Port Moody has experienced high growth rates and continues to be one of the fastest growing municipalities in the region. The 2010 population estimates are approximately 33,000 residents, an increase of 32 percent and about 8,000 people since 2001 when the population was 25,308.

*The proposed RCS states that based on the policies contained in the OCP and previously zoned lands, a potential municipal growth capacity of 38,000 has been provided. No indication of timing is provided, nor comment on the number of dwelling units. This compares to the Livable Region Strategic Plan’s population capacity estimate for Port Moody of 46,000 by 2021. This equates*

to a variance of 8,000 residents or 17 per cent. *The variance is even wider compared to Metro Vancouver's current estimates in the Draft Regional Growth Strategy for Port Moody population to increase to 39,000 in 2021, and to 50,000 in 2041.*

The current Regional Context Statement for Port Moody was accepted by the Metro Vancouver Board in 2000 and contains the capacity needed to meet Livable Regional Strategic Plan population targets for 2021....

Metro Vancouver staff is sympathetic with the current transportation problems being experienced in Port Moody. Inlet Centre has been planned as a high density transit-oriented community and has already achieved substantial population growth. *Transportation infrastructure has lagged far behind population growth.*

Land use/transportation integration is a key premise of the LRSP and of the new Regional Growth Strategy. If the population growth patterns had not followed LRSP objectives in Port Moody, it would be difficult to accept their position. However, *they embraced the transit-supportive policies of the LRSP and now find themselves in a position where continued growth without transportation improvements will undermine the livability of Port Moody.*

*This is a graphic example of the current state of the transportation financing/governance situation which is undermining the ability of the region to meet its regional growth objectives...."*

Port Moody's representative voted against first and second reading of the Regional Growth Strategy.

### **3. Burnaby**

In its October 20, 2010 letter to Metro, Burnaby sought amendments to the Regional Growth Strategy to:

- provide for a locational, rather than parcel based, designation for Urban Centres and Frequent Transit Development Areas; and
- provide that Metro cannot make changes to the Regional Growth Strategy without the full support of the affected municipality.

Burnaby's background report dated October 12, 2010 explained Burnaby's reasoning on the first point, as follows:

"For Urban Centres and Frequent Transit Development Areas, the draft RGS also requires a similar parcel-based designation. Staff believe that this level of detail at the regional level is not appropriate and are of the opinion that a locational, rather than a parcel-based guideline, would be more appropriate within the RGS. Changing land assembly, existing land use conditions and public attitudes all contribute to defining the strong local context linkage affecting Urban Centres and FTDA's. Such a change would allow for minor boundary adjustments (as long as the RGS guidelines for Urban Centres and FTDA's are being met) to address changing local conditions without requiring formal amendment, or the required inclusion of the somewhat nebulous "future change" clauses within the RCS."

Metro's response on the two points was that:

"Parcel based designations for Urban Centres and Frequent Transit Development Areas are shown on the Regional Context Statement only, not in the Regional Growth Strategy."; and

"Where a municipality did not support such an amendment, it could decline to make the corresponding change in the RCS, thus initiating a dispute. This reflects the "checks and balance" intent of the legislation."

Burnaby's report added the following comments regarding the implications of the Regional Growth Strategy for the scope of municipal jurisdiction generally:

*While clearly diminishing existing local autonomy in dealing with all City land use and associated regulatory matters, the proposed Metro Vancouver regulatory and implementation role in the draft RGS represents a less intervening regional approach at the local planning level in the balancing of local and regional interests. However, to a large degree that balancing has been achieved by providing greater flexibility in the implementation and amendment process by the introduction of language, such as "generally consistent", "identify relationships", "made consistent over time", "approximate", "guidelines only" and "housekeeping" amendments. As shown in Figure 2 below, this has increased the apparent initial flexibility and discretion in favour of local municipalities, there is no question that the ultimate authority under the RGS framework in determining whether or not a local government's RCS will be an acceptable response to the flexible language is the Metro Vancouver Board. In this regard, there has*

*been a trade-off between introducing greater flexible language in the RGS to protect local interests at the expense of introducing greater uncertainty and greater latitude to the Metro Vancouver Board as the arbiter of that uncertainty.*

*Unlike most strategic plans, the RGS does not have an "exit" window that would occur when a scheduled major revision occurs every five years or so. In the event that the RGS implementation and amendment processes proved to be problematic for member municipalities at some point in the future, there would then need to be a Type 1 Major Amendment to address the issues requiring a two-thirds weighted majority of the Metro Vancouver Board and acceptance by all affected local governments....*

*It is a primary concern to City Staff that any misunderstandings and differences in interpretation are kept to a minimum as once the Metro Vancouver Board adopts the RGS, it becomes the benchmark for all decisions relating to conformity with Regional Context Statements..."*

## **B. Comments from other government authorities**

The relevant Provincial Ministry, TransLink, Port Metro Vancouver, and the Agricultural Land Commission, all made their own comments, which included the following.

### **1. Ministry of Community Development**

The Ministry's submission, while generally supportive, included comments to the effect that:

- work needs to be done to not only *preserve* industrial land but *expand their supply* to meet the goals of the Pacific Gateway Strategy; and
- the intrinsic relationship among urban centres, transit, employment and greenhouse gas reduction needs to be strengthened to achieve greenhouse gas reductions.

Metro's response was that it was investigating ways to intensify industrial development on industrial lands.

### **2. TransLink**

TransLink's September 27, 2010 submission stated that:

- Frequent Transit Development Areas would be identified at the parcel level by municipalities in their Regional Context Statements, and their general location would be identified in the Regional Growth Strategy on a map as the Regional Context Statements are accepted by the Metro Board;

- municipalities would be able to amend the boundaries of the Urban Centres and Frequent Transit Development Areas without having to amend their Regional Context Statements or the Regional Growth Strategy (policies 6.2.6 and 6.2.8). That could have an impact on expectations for transit and regional services;
- the policies of (i) higher densities along transit, and (ii) protecting industrial land supply can come into conflict. Section 6.2.5 allows redesignation of Industrial or Mixed Employment to General Urban, on sites up to 3 hectares on the edge of industrial areas near transit. Limiting this to sites less than 3 hectares within 100 metres of stations subject to a total cap may be too restrictive. There can be minor amendments, but the time required for such processes and the risk Metro may say no needs to be factored in. It would be best to increase the distance limit to 200 metres;
- Metro is identifying transit priorities, which fit its mandate to address regional transportation matters, but conflicts with the direction in the *South Coast British Columbia Transportation Authority Act* to the effect that TransLink has the jurisdiction to plan and implement the regional transportation system. *TransLink's view is that prioritizing rapid transit corridors other than for the northeast sector is premature, given the status of the planning work being undertaken, in that it appears to prejudge the outcome of those studies.* The core issue is how the Regional Growth Strategy deals with the Central Broadway area and the link to UBC, the latter of which is targeted in the draft for "enhanced transit service" until rapid transit extensions to Surrey and Central Broadway are complete. *Rapid transit expansion also requires funding and approvals, and the regime whereby Mayors Council approval is required provides the necessary checks and balances for the region; and*
- the plan envisions one major amendment and two minor amendment processes, with only major amendments (Type 1, at section 6.2.2) requiring the acceptance of the "Affected Local Governments", which includes TransLink. Therefore most foreseeable adjustments will be decided by the Metro Board only, with TransLink and other "Affected Local Governments" providing input through defined consultation and public hearing processes only.

Metro's response was that the distance measure was changed to 150 metres.

TransLink's November 8, 2010 submission stated that TransLink had accepted compromises but the revisions to section 5.1.2 still did not adequately respond and is the one key outstanding issue. The stated priorities are too explicit and presume study outcomes. TransLink added that it could accept text that identifies extension to "at least" the Central Broadway area as a regional priority, without suggesting an interim solution west. *The document also needs to not imply that TransLink will be limited in its authority to only implement the transit priorities outlined in the Regional Growth Strategy.*

The final form of the Regional Growth Strategy described Metro Vancouver's role as being to:

*"pursue the following priorities for expansion of the Frequent Transit Network and other transit services in support of regional land use goals..."*

### 3. Port Metro Vancouver

Port Metro Vancouver's submission dated October 22, 2010 included the following:

*"We have raised in past communication our concern about the focus only on industrial land preservation with no provision for industrial land growth. Policy 2.1.7 continues to restrict industrial uses to existing Industrial and Mixed Employment areas. We continue to believe that this restricts port industrial land expansion opportunities near existing industrial areas that are well served by water, rail and road corridors. Within the waters of PMV's jurisdiction there may be future opportunities for land reclamation for port industrial use purposes. While we certainly welcome innovations in industrial land use that result in intensification of industrial areas as encouraged under policies 2.2.4(b)(iv) and (d)(i), there will be challenges to intensification dependant on the type of industrial operation. For example, storage and efficient movement of heavy break bulk materials (i.e. steel) require a single story floor plate."*

Metro Vancouver's response was that it is possible to amend the land use designations in the Regional Growth Strategy.

### 4. Agricultural Land Commission

The Agricultural Land Commission's letter of October 20, 2010 stated that:

- the Urban Containment Boundary encroaches into the Agricultural Land Reserve in two places, being:
  - (i) Aldergrove in Langley, and
  - (ii) Richmond, in an area bound by Garden City, Westminster Highway, Alderbridge Way and Shell Road.

Under section 46 of the *Agricultural Land Commission Act*, local governments must ensure consistency in respect of its bylaws, including those to adopt a Regional Growth Strategy, and section 46(4) would result in the bylaw being of no force and effect to the extent of the inconsistency; and



- the Special Study Areas are entirely within the Agricultural Land Reserve. The depiction is not inconsistent in that they do not designate agricultural land for a use other than agriculture.

Metro's response was:

- section 6.11.2 acknowledges the requirements of the *Agricultural Land Commission Act*; and
- section 2.3.4 says that the Board will not amend an Agricultural designation if land is still in the Agricultural Land Reserve, and the Regional Growth Strategy says that the Agricultural Land Commission will be given an opportunity to consult for any area amendment of a Special Study Area with an underlying Agricultural designation.

### C. Private sector comments

The Business Council of BC has expressed the view that the Regional Growth Strategy is:

- largely oblivious to the critical importance of the region's gateway economy;
- insensitive to competitiveness, the cost of doing business, and the need for regulatory streamlining and regulatory efficiency; and
- excessively focused on agriculture (a relatively small industry).

The Business Council's more detailed comments (regarding an earlier draft, but which it has advised still stands) includes the following

"...the Regional Growth Strategy seems to be more of a 'preservationist' plan than a true growth management plan. *With forecasts that the region's population will rise by more than one million over the planning horizon, it is odd that the draft strategy is so heavily tilted toward preserving the status quo.* If the past two decades have taught us anything, it is that steady population growth, high levels of immigration, and a changing global economy are sure to have a major impact on Metro Vancouver in the coming decade - and in ways that cannot be fully anticipated in 2010.

From our perspective, a chief shortcoming of the RGS draft is the very limited treatment of the region's economy and the failure to recognize that a strong and diverse industrial base is essential to residents' standard of living and quality of life." (p. 2)

"*Despite having the highest housing costs in the country, Metro Vancouver falls below the Canadian average on both employment earning and household income.* This sobering economic picture

warrants attention by local government decision-makers and needs to be acknowledged as part of the backdrop for the RGS.” (pp. 2-3)

“The economic section of the RGS document devotes disproportionate attention to agriculture and provides little or no discussion of the many other industries that drive the economy and support some 1.25 million jobs in Metro Vancouver. Readers of the draft could easily be left with the mis-impression that agriculture is the biggest or most important industry in Greater Vancouver...”(p. 4)

The Business Council’s submission is attached as Appendix #3 to this paper.

#### **D. Funding issues**

Various of the above parties have also made some recent comments regarding funding, as follows.

##### **1. Metro Vancouver**

A November 29, 2010 report to Metro’s Finance Committee entitled “Building Sustainable Financial Strategies” stated that Metro was generally in good financial shape vis a vis its capital requirements, but that TransLink was not. The report noted that Metro had commissioned a comprehensive paper which revealed that:

“The Region is not in financial crisis. Spending on regional services has increased at a rate barely above inflation over the past decade. Yes, we face challenges, as do all local governments, but we are reasonably well positioned relative to comparable jurisdictions.

The basket of services delivered at a regional level are appropriate, and largely consistent with best practices as to which level of government should deliver those services. ... In other words, an appropriate mix of user fees and property taxes....

While property tax levels are generally no higher than comparable jurisdictions, on a Region-wide basis, there would be benefit to having a more diversified array of revenue sources available to municipalities. This would mitigate the weaknesses inherent in any singular revenue source.”

The report then made various recommendations, including the following:

- “b) That the Board encourage the Mayors’ Council on Regional Transportation, TransLink and the provincial Transportation Ministry to develop and implement a long

term, sustainable financing model for regional transportation, incorporating appropriate transportation related fees, demand side management and pricing mechanisms;

- c) That the Board work with TransLink and the Province to better align the governance structures of Metro Vancouver and TransLink to optimize contribution to Regional goals;
- d) Metro Vancouver and member municipalities should strive to diversify sources of revenue available to them, through legislative amendment if necessary, in order to augment property tax revenues and provide revenue diversification;... “

## 2. TransLink

In September 2010, the Province and the Mayors' Council on Regional Transportation signed a Memorandum of Understanding to create a long-term strategy for the Metro Vancouver transportation network. An element of that Memorandum was that there would be a “dialogue” on six listed transportation funding sources, which included the following:

- “a. Funding sources included in current and future legislative authority....
- c. Potential new and innovative revenue sources that will shape transportation choices in favour of transit, cycling and walking, as well as greenhouse gas emission reductions.
- d. A means of capturing some of the increase in land value created by the provision of rapid transit along the region's strategic corridors.
- e. Other revenue generating activities that take advantage of the market created by transit users....”

On November 16, 2010, TransLink made a presentation to the Urban Development Institute (“UDI”) that noted the following prospects:

- a “Station Area Charge”, with the example given being 120 units per building times 5 buildings per station times 50 stations (including 15 new stations) times \$200 per unit, for a total potential revenue per year of \$6 million over 30 years;
- a “Regional Transportation Development Charge” (“DCC”), which could be calibrated to provide \$500 million or \$1 billion. In the first scenario, the charge would be \$2,500 per

single family unit, \$2.10 per commercial square foot and \$1.25 per industrial square foot, and would yield \$16.7 million/year. In the second, all numbers would double; and

- a "Station Capital Fund Community Amenity Contribution ("CAC"), with the example given being 3000 units per station times an \$8,000 CAC per unit, yielding a \$24 million in CAC revenue per station.

### **3. Municipalities**

Municipal concerns on this issue were noted earlier (per Coquitlam, etc.).

### **PART 3: THE RESTRAINTS THE PROPOSED REGIONAL GROWTH STRATEGY WOULD IMPOSE ON MUNICIPALITIES**

As noted above, Coquitlam and Burnaby's submissions both raised questions regarding the impacts that the Regional Growth Strategy would have on the current system for regulating land use and development. That issue has not received the depth of analysis one might anticipate given its implications for municipal jurisdiction, at least in any reports that have been made public.

#### **A. The *Local Government Act***

##### **1. The hierarchy of plans that impact land use and development**

The *Local Government Act* provides for a hierarchy of plans and regulations. Essentially the system flows through the following components:

- regional growth strategy;
- regional context statement;
- official community plan;
- zoning bylaw; and
- development permit.

At root, what happens at each level is impacted by the next higher layer.

While Metro has no direct role in rezoning or development permit approval, the Regional Growth Strategy regime gives Metro an approval role at two key points in the hierarchy. Metro has jurisdiction over:

- whether or not to approve the *Regional Growth Strategy*, and amendments to it; and
- whether or not to approve the *Regional Context Statement* that the legislation obligates each municipality to prepare within two years after the Regional Growth Strategy is adopted.

The *Local Government Act* further provides:

- at section 866(8), that each municipality must prepare its Regional Context Statement within two years after the adoption of the Regional Growth Strategy;
- at section 866, that the Regional Context Statement cannot be adopted, and cannot be changed, without Metro approval;

- at section 866(3), the municipality's Official Community Plan Bylaw *must be consistent with Regional Context Statement*; and
- at section 884, that zoning changes that are not consistent with the municipality's Official Community Plan can only be made if the Official Community Plan Bylaw also changes.

Given this structure, regional growth strategies and regional context statements:

- can, depending on how they are drafted, add significant *hurdles* that can block a variety of rezonings, but it
- cannot give a Regional District the power to *compel* rezonings (up or down) or to grant development approvals.

The former point has particular significance to the impact of the Regional Growth Strategy on municipalities in exercising their land use and development regulation powers.

The latter point has particular significance to the prospective effectiveness of the Regional Growth Strategy in achieving its goals.

## 2. The implications of an adopted Regional Growth Strategy for a regional district and its member municipalities

There are a number of provisions that are relevant to the question of how a Regional Growth Strategy is carried forward into a Regional Context Statement, which would doubtless be raised in the event of a dispute between a municipality and Metro regarding what a Regional Context Statement should say.

### (a) Section 865

First, section 865 of the *Local Government Act* prohibits Metro Vancouver from undertaking services inconsistent with the Regional Growth Strategy. It provides that:

“(1) *All bylaws adopted* by a regional district board after the board has adopted a regional growth strategy, and *all services undertaken* by a regional district after the board has adopted a regional growth strategy, *must be consistent* with the regional growth strategy”.

A “service” is defined very broadly under section 5 of the *Local Government Act* as:

“*an activity, work or facility undertaken or provided by or on behalf of the regional district...*”

This clearly includes water, sewer, etc. servicing, but on the face of it, would also seem to include regional planning and Metro's approval of Regional Context Statements. Section 851(4) supports that interpretation, because it specifically references a Regional Growth Strategy as being a service.

If a Regional Growth Strategy is a service, then Metro's decisions regarding whether to approve a Regional Context Statement, or to require changes to it, would be part of that service.

If that interpretation is correct, then the Legislature has directed that Metro is bound by the Regional Growth Strategy in the decisions it makes regarding whether to approve a proposed Regional Context Statement.

**(b) Sections 853, 857, 860 and 864**

Second, much of Part 25 of the *Local Government Act*, including sections 853(3), 857(1), 860(6), and 864, provides for a comprehensive enactment regime under which, before it is adopted, a Regional Growth Strategy is either:

- specifically accepted by each member municipality (which is equated to becoming "binding on a jurisdiction"), or
- otherwise becomes

*"binding on the proposing board and all effected local governments, whether or not they participated in the settlement process"*

as a result of a detailed dispute resolution process that includes various forms of arbitration.

The legislation further provides that any municipalities acceptance of the Regional Growth Strategy does not become effective until all municipalities have accepted it.

There is a similar regime for settling Regional Context Statements.

**(c) Section 866(2)**

Third, section 866(2) of the *Local Government Act* provides that Regional Context Statements are to identify the "relationship" between the Official Community Plan and matters referred to in the Regional Growth Strategy; and "*if applicable*, how the official community plan is to be made consistent with the regional growth strategy *over time*".

This wording would suggest that if, and to the extent that, the Regional Growth Strategy allows a municipality to delay consistency, it can be delayed; but otherwise it cannot.

**(d) Conclusion**

Given the above provisions, if the Regional Growth Strategy is adopted, Metro would seem to be in a strong position to require Regional Context Statements to limit municipal action *to the degree provided for* in the Regional Growth Strategy.

## **B. How land use and development regulation would change, given the terms of the Regional Growth Strategy**

The next issue that arises is the nature and scope of the limits provided for in the Regional Growth Strategy, noting that:

- the Regional Growth Strategy takes much more of a “regulatory approach” than the existing Livable Region Strategic Plan, which took more of a “leadership approach”; and
- the fact that the Regional Growth Strategy provides in a number of sections for Regional Context Statements to be “generally consistent” with it.

There are at least five issues that should be considered in examining how the Regional Growth Strategy would expand Metro’s role, and constrain the scope of municipal powers.

### **1. Regional restraints on local decision-making**

#### **(a) The Regional Land Use Designations: Green zones, purple zones, orange zones, ...**

The Livable Region Strategic Plans teeth were in its “Green Zone” provisions.

As noted in Part 1 of this paper, the Regional Growth Strategy puts all land in the Metro region into one or another Regional Land Use Designation, on a parcel by parcel basis. The Regional Growth Strategy thus builds on that “green zone” approach by creating separate “zones” for:

- Industrial (the purple zone),
- Mixed Employment (the orange zone),
- General Urban (the grey zone),
- Agricultural (the green zone),
- Rural (the olive zone), and
- Conservation and Recreation (the forest green zone).

The “zones” are established in parcel-based maps, and per the provisions set out earlier, can generally only be changed with Metro approval.

The Regional Growth Strategy also sets out:

- a comprehensive statement of the nature of each “zone” , at Part D, and
- a detailed set of parameters for the policies that municipalities are to adopt in each such “zone”.



If the Regional Growth Strategy is enacted, one should expect, for the reasons noted in Part A that those limits will ultimately work their way into municipal Official Community Plan bylaws, and thereby limit municipalities' abilities to make zoning changes.

**(b) Urban Centres and Frequent Transit Development Areas**

**(i) Locations, and changes of location**

It is also interesting to look at one of the areas in which municipal discretion is said to be the *least* constrained, being determinations in connection with the Urban Centres and the Frequent Transit Development Areas.

With the Regional Serving Centres and the Municipal Town Centres, specific locations are identified in the Regional Growth Strategy.

The general concept of the Regional Growth Strategy is that:

- Urban Centre *locations* can only be added or deleted with Metro approval, with the required standard being a two-thirds weighted vote following a regional public hearing (RGS, section 6.3.3(e); and
- Frequent Transit Development Area *locations* can only be added or deleted with Metro approval (RGS, section 6.3.4(a)); but
- Urban Centre and Frequent Transit Development Area *boundaries* are determined by municipalities, based on established criteria (RGS, Part D).

Interestingly, the Frequent Transit Development Area locations are not identified, and there is no definition of the difference between a "location" and a "boundary". That is noteworthy, given that:

- the distinction between the two terms is unclear (ie – a boundary simply defines the outer limits of a location); and
- the terminology is the dividing line between the municipality's jurisdiction and Metro's jurisdiction.

Section 6.3.4(i) follows the same theme, requiring a majority weighted vote of the Metro Board for mapping changes to incorporate into the Regional Growth Strategy the maps included in an accepted Regional Context Statement. This applies to the setting of the initial Frequent Transit Development Area locations.

It seems likely that there will be a dispute at some point whereby:

- a municipality asserts that some change regarding a Frequent Transit Development Area is a change of a *boundary*, such that Metro's signoff is not required; while
- Metro asserts that it goes beyond that and is a change of *location*, such that Metro's sign off is required.

This does not, of course, mean that Metro would apply the Regional Growth Strategy in that way. It simply means it could. Whether it would do so, and in what circumstances, would depend on who fills what position in the future.

## (ii) Boundaries, and changes of boundaries

Turning to the "boundaries", the scope of what municipalities can do is further limited by the fact that:

- Urban Centres boundaries have to be identified by municipalities *in their Regional Context Statements*, and the identification has to be "*in a manner generally consistent with the guidelines in Table 3*" (RGS, Part D, and section 1.2.6(b)(i)); and
- Frequent Transit Development Area boundaries have to be identified by municipalities *in their Regional Context Statements*, and the identification has to be "*in a manner generally consistent with the guidelines in Table 3*" and TransLink's Frequent Transit Network (RGS, Part D, and section 1.2.6(c)(i)).

### Identification in Regional Context Statements

First, the fact that boundaries have to be identified in the Regional Context Statement gives Metro leverage, because Metro's sign off is required on Regional Context Statements.

Further, the fact that section 6.6.1 provides that:

"Metro Vancouver will work with TransLink with the objective that the Regional Growth Strategy and TransLink's regional transportation plans are compatible and complementary. *Metro Vancouver will refer to TransLink for written comments Regional Context Statement amendments that would impact the regional transportation system or significantly affect the demand for regional transportation services*",

suggests a level of discretion on Metro's part. In deciding whether to approve what a municipality proposes including in a Regional Context Statement, Metro is to take into account not only Table 3, but also TransLink's input as to what it considers appropriate.

Consistency with Table 3

Second, Table 3 says that, inter alia:

– Regional Serving Centres are:

“Locations identified on the Regional Land Use Designations map (Map 2)”

“*Defined as* appropriate locations generally within 800 metres of one or more rapid transit stations or within 400 metres of an intersection of two or more corridors on TransLink’s Frequent Transit Network”;

– Municipal Town Centres are:

“Locations identified on the Regional Land Use Designations map (Map 2)”

“*Defined as* appropriate locations generally within 800 metres of a rapid transit station or within 400 metres of TransLink’s Frequent Transit Network”; and

– Frequent Transit Development Areas are:

“Locations determined by municipalities, in consultation with TransLink, in accordance with local area plans”

“*Defined as* appropriate locations generally within 800 metres of a rapid transit station or within 400 metres of TransLink’s Frequent Transit Network”.

The inclusion of such specific definitions suggests that the municipality’s task on these issues is largely limited to determining the precise boundaries that reflect a fairly precise formula.

The scope of TransLink’s Frequent Transit Network is, of course, entirely a matter for TransLink.

Limits on municipal flexibility

Third, while sections 6.2.8, 6.2.11 and 6.12.3 give municipalities the flexibility to make subsequent boundary adjustments, that flexibility is subject to the same proviso. Section 6.2.8 states that:

“A municipality may include language in its Regional Context Statement that permits amendments to the municipality’s Official Community Plan *to adjust the boundaries* of the municipality’s Urban Centres and Frequent Transit Development Areas, *provided*

*such boundary adjustments meet the guidelines set out in Table 3 (Guidelines for Urban Centres and Frequent Transit Development Areas) of the Regional Growth Strategy”.*

Sections 6.2.10 and 6.12.3 allow municipalities to include language in their Regional Context Statements that provides that they can make boundary adjustments *without* having to amend their Regional Context Statements, *but* subject to the proviso that they can only do so “as permitted by” and “in accordance with” section 6.2.8.

### (c) Cooperation, leverage, and dispute resolution

#### Cooperation

It may of course be that Metro and its member municipalities will remain on the same wave length after the Regional Growth Strategy is enacted. The following comments apply only where that is not the case.

#### Leverage

The legislation prevents municipalities from changing their zoning bylaws in ways that conflict with an Official Community Plan, and, as the municipality evolves, it is the party that faces the direct pressure to update its Official Community Plan Bylaw and its Zoning Bylaw.

As a result, the leverage vis a vis Regional Context Statements would typically be with Metro, in that Metro would typically have a greater ability to absorb a delay.

#### Arbitration

As noted earlier, the legislation builds in a balancing mechanism, in that if Metro and the municipality disagree on a matter, the matter can be arbitrated.

While it would obviously turn on the specifics of the dispute, it would not be surprising if arbitrators tended to side with Metro in a dispute on the issues outlined above, given:

- the legislative directions noted earlier, including the specific municipal acceptance of the Regional Growth Strategy (or its having otherwise become “binding on ... all affected local governments”);
- the fact the Regional Growth Strategy is written as set out above, with municipalities having agreed to limit their discretion regarding both locations and boundaries in the fashion noted above; and
- the fact that by definition, a majority of municipalities or more will have taken the position that the matter invokes the Region’s interests.

**(d) Conclusion**

The impact of the Regional Growth Strategy during the two years after its enactment is unclear. Section 6.2.11 requests consultation during the period before "the first time the Metro Board accepts a municipality's Regional Context Statement", but is silent as to what would then happen.

Either way, it could have a significant effect following the drafting and settlement of Regional Context Statements. A significant range of matters would be out of municipal hands, and would turn on:

- how aggressively Metro interprets the text of the Regional Growth Strategy, when it comes time to approve a proposed Regional Context Statement (which is difficult to predict, given that the discretion has not yet been conveyed);
- if a municipality disputes Metro's proposed interpretation, how the arbitrator that the regime provides for responds; and
- the ability of a municipality to secure the necessary level of Metro approval for an amendment, where a proposed municipal action requires one.

It is interesting that, for a period at least, important land use issues would likely be decided by a third party unelected official. Up to this point, one of the hallmarks of the BC system has been having land use decisions made by elected officials, rather than Municipal Boards and the like.

**2. The growing importance of the restraints over time**

**(a) The nature of planning**

There is general agreement at this point in time regarding the Regional Land Use Designations in the Regional Growth Strategy, based on the flexibility noted above. At the same time, there is no question that the Regional Growth Strategy's land use plan will, like all plans, become increasingly out of date as time passes.

It is impossible to predict the complex interplay over time of:

- market forces, and economics;
- technological change, and knowledge growth;
- political change, both locally and across the world;
- environmental change, etc.

Those factors will inevitably combine into a future that differs in some important way from present expectations. Contrast the expectations people had in 1910, 1925, 1937, 1959, 1975, etc., with the realities of the following two decades.

While it is straightforward enough to predict the weather tomorrow, and perhaps for up to about a week, beyond that the number and complexity of variables and the impacts of the interplay between them renders prediction highly uncertain. Looking merely at the past decade, the world and North American economy has responded to the massive growth of China's economy, the financial crisis of 2008 with the following global recession, 9/11 and the war between the US and Iraq. It is similarly impossible to predict the future growth of scientific knowledge, because doing so would require having that knowledge.

While one can and should plan, the planning regime needs to have a sufficient level of flexibility to accommodate events, or it becomes a straightjacket. Planning is a *living process*, not an exercise that can be done intensively at specific stages on the basis it will apply unchanged for long periods.

### **(b) Assumptions built into the Regional Growth Strategy**

The Regional Growth Strategy plan is based on assumptions regarding a number of unpredictable matters.

They include, but are by no means limited to, the following four.

#### **(i) Transit**

TransLink was clear in its submissions that it was not committing to the transit lines that form the basis of the Regional Growth Strategy, but rather its decisions will reflect its own studies and how its priorities fit with the funding available.

If municipalities approve densities in the locations that are to be served by transit, but that the anticipated transit service is not put in place, the areas at issue could suffer significant livability impacts. In such situations, municipal Councils would presumably be forced by voters to prepare Official Community Plan Bylaws that provide for significantly reduced growth in those locations, much as recently occurred in Port Moody. The question is then what becomes of those Official Community Plan Bylaws. More on that in a moment.

Further, if transit comes to areas that the Regional Growth Strategy has not planned for (for example a line across the Urban Containment Boundary), the regional land use plan would not reflect that transit, raising the need for changes. More on the implications of that in a moment as well.

#### **(ii) The port distribution economy**

##### The Port

Richard Wozny noted at the UDI program on February 1 that:

- A key element of the Metro Vancouver economy, and indeed the Canadian economy, is the Port. Port Metro Vancouver is the largest port in North America by weight, and the

third largest on the west coast by container volume. Goods handling and other port related business creates the demand for over half of all industrial development in the Region. It has a direct GDP of \$10.5 billion and \$22 billion in total economic output, and generates close to 50,000 jobs in BC and 130,000 across Canada;

- The main container port is Deltaport, which accounts for 70% of all traffic, with the old terminals of Vanterm and Centerm in downtown Vancouver accounting for the other 30%. Deltaport is the largest because it has excellent rail and highway connections and is generally more convenient and lower cost. Given the limited area for growth at Vanterm and Centerm, and congestion issues confronting rail and highway traffic leaving those facilities, the vast majority of future growth is expected to accrue to Deltaport;
- Container activity has its own dynamic. Roughly 66% of all container traffic arriving at the Port is either relayed at the Port into other ships, or goes east in the same international container that it arrived in, typically by being placed on a train at the Port or by being routed through one of two intermodal yards (being the CN facility at Port Kells in Surrey and the CP facility in Port Coquitlam Pitt Meadows). The majority of these are taken long distances; for example to major cities in eastern Canada and the US;
- The other 33% of the containers arriving at the Port are taken by truck to a variety of distribution facilities, where they are opened and sorted in a warehouse or restuffed into larger domestic containers, and then distributed locally by truck or taken inland via train. This traffic is primarily retail goods, but also includes automobiles, heavy equipment, construction materials and the like;
- The proportion of freight traffic that is handled in Metro Vancouver, as compared to other ports or to being shipped east to be handled elsewhere in Canada, is impacted by logistics, labour and land costs. In some instances, the containers shipped east to Calgary or elsewhere are broken down there, and then part of the contents are relayed back to Vancouver; and
- The high cost of land and labour, coupled with congestion along rail and highway traffic routes (which impacts transfer times and costs), makes Metro Vancouver less competitive for breaking down containers.

Changes in distribution economics have critical implications.

#### RGS assumptions

The Regional Growth Strategy is based on a set of assumptions regarding the required industrial land *supply*, as regards both *amount* and *location*. It is not clear what those assumptions are, or how valid they are, because the Metro Vancouver study related to Industrial Land Inventory came after the Regional Land Use Designations were already set. Metro recently advised that those studies would be made public in February 2011.

Questions that arise include:

- whether future demand will reflect the post-2008 levels (which were impacted by the 2008 meltdown in the financial services sector), or whether there will be a greater demand as the interconnections in the world economy continue to expand. (In the middle of the past decade, the demand for industrial land grew significantly as China's economy grew);
- whether a significantly increased intensity of use of industrial sites is possible, given the nature of the port distribution economy. (Metro Vancouver has commissioned a study on this issue, but it is not to be released until February 2011 either); and
- whether the *location* of the regional designated Industrial land, which appear to be significantly based on current (historical) Official Community Plan designations, will be appropriate to the needs of the port economy going forward.

### (iii) The impact of “NIMBY” pressures on zoning decisions

The lands available for development in Metro Vancouver are limited by a variety of factors.

First, developable area is significantly constrained by the ocean, mountains and United States border.

The developable area is then significantly further reduced by the Agricultural Land Reserve.

The area that remains is then further impacted by the carving up of jurisdiction over land use and development into 21 distinct municipalities. The resulting reduction in the number of voters that can determine who will and will not be on Council elevates the importance of neighbourhood “not in my back yard” (“NIMBY”) considerations.

This governance structure has played out on various occasions by reducing potential building heights and densities, including along transit lines, in an effort to avoid alienating voters by changing the nature of existing neighbourhoods “too much”.

The combined effects of the above factors constrain supply, and negatively impact housing affordability. Negative impacts on affordability in turn impact a myriad of other issues including:

- homelessness;
- labour supply and labour costs;
- business competitiveness; and
- social impacts (can my children afford to live here) etc.

If, as a result of the governance structure, the densities provided for in the Regional Growth Strategy cannot be achieved along transit to the degree assumed, pressures increase to:



- spread impacts across all neighbourhoods (lessening transit effectiveness); and
- convert land from outside the Urban Containment Boundary (much as recently occurred in Melbourne, Australia).

#### (iv) Agriculture

There are a number of variables impacting agriculture. For example:

- the current agriculture system is largely an export market (cranberries, blueberries, etc) that is highly dependant on cross-border and trans-national transportation. We also import about half the food we eat. As transportation costs increase, the nature of the agricultural economy can be expected to change with it;
- climate change, and changes in the availability of water (including in Metro Vancouver relative to elsewhere), can also be expected to have impacts;
- farming and food technologies evolve, with both health and productivity impacts; and
- the demographic of active farmers (with an average age approaching 60) suggests that some form of change will inevitably occur to current practices.

#### (c) Conclusion

A second major impact of the Regional Growth Strategy flows from the fact that:

- the Regional Growth Strategy "locks in" to varying degrees a *specific plan* in a *changing* world; and
- Metro signoff is required for changes to that plan.

This means that Metro Vancouver's impact on land use and development will inevitably increase over time.

Simply by way of an example, suppose the future could bring a new line that steps outside of that plan, such as a rapid transit line that extends across the Urban Containment Boundary. In such a case it could well be that none of the affected municipalities would be able to change their bylaws to accommodate development along such a transit line without:

- a change to the Regional Growth Strategy that requires at least a two-thirds weighted vote of the Metro Board following a regional public hearing; and
- an equivalent change to their Regional Context Statement, again requiring a positive Metro vote.

There is a concern that land use decision making could devolve into a system of "horse trading" in which the member municipalities with the most votes have the most power.

### 3. **Metro's ability to seek *extractions* in exchange for releasing municipalities from the restraints**

A third issue arises with the prospect that Metro might seek extractions in exchange for its approval of the Regional Context Statement changes that can be a prerequisite to zoning changes.

#### (a) **Precedents**

Experience has shown that where approval is required from two bodies, both of whom have discretionary approval powers, they:

- may not agree; and
- even if they do, both seek things that advance their interests as enticements to approval.

A couple of precedents come to mind.

#### ALC

Parties who have land in the Agricultural Land Reserve that they wish to utilize for other purposes require approval from two discretionary bodies, being the municipality and the Agricultural Land Commission.

In the ALC's case, their approval conditions commonly include a one for one replacement of agricultural land, and other significant benefits to agriculture.

#### OCP amendments

One could of course argue that the ALC's decisions relate to applications in respect of individual parcels, whereas Regional Context Statement changes would tend to be more broadly based.

It is not clear that that will be the case however. Over time, as the economic, technological, and other factors evolve, etc, proponents will inevitably seek zoning changes that require Regional Context Statement amendments, much as they now seek zoning changes that require Official Community Plan amendments.

While Official Community Plan Bylaw changes are in theory just as broadly based as Regional Context Statement changes, it is fairly common practice for changes to be made to Official Community Plan Bylaws as a result of zoning applications in respect of individual parcels. Iterative change is part of the process through which Official Community Plan Bylaws evolve to keep up with changing times.

**(b) Voting threshold**

Metro has noted that most of these votes may be on a 50% plus one weighted vote standard, being the lowest threshold.

That is not of course an answer. 50% plus one is the standard for all municipal zoning votes, and that fact has done nothing to prevent demands for extractions.

**(c) Example**

One can think of any number of examples.

Suppose, for instance, that, as a result of a new provincial environmental regulation, the development of a significant area of land was rendered uneconomic, such that a municipality concluded it needed to adjust a designation beyond the allowed parameters.

Or suppose Delta or Richmond was persuaded, in the interest of the Port and the municipality, to allow a land use change to industrial in the vicinity of DeltaPort.

Or suppose a key player in the next emerging company wanted to come to Metro Vancouver, but the site that best suited its needs for site size, logistics, etc. was not located alongside a transit line, and hence was blocked by a Regional Context Statement provision that implements the Regional Growth Strategy direction that the development of Mixed Employment lands must be low density if they are not in a Frequent Transit Development Area.

If such changes could only be made with a Regional Context Statement amendment, Metro approval would be required, and there is no obvious reason why Metro would not seek, as a condition of its approval, some contribution to the addressing of some related Metro impact, reducing what the municipality could otherwise extract.

**(d) Conclusion**

It is likely that one impact of the enactment of the Regional Growth Strategy would be a good deal of delay in obtaining approvals for developments that are not anticipated by Regional Context Statements and the Regional Growth Strategy.

It is far from clear that there would not also be extractions.

**4. Metro's ability to amend Regional Land Use Designations and the Urban Containment Boundary in a municipality against that municipality's wishes**

Burnaby and others have noted that Metro Vancouver could, under section 6.4.1 of the Regional Growth Strategy, force changes onto municipalities that were against their wishes. This includes changes to the Regional Land Use Designations and the Urban Containment Boundary.

A core underpinning of the Regional Growth Strategy is agreement on a specific land use plan, which has been negotiated with all member municipalities, based on the fact that the legislation provides that each municipality has a right of sign off or arbitration

Through the inclusion of section 6.4.1, municipalities are waiving the need for the same process to be engaged in before those designations are changed within its boundaries against its wishes. Majorities within Metro would be able to impose changes on minorities.

The municipality's right to arbitrate would not arise until the Regional Context Statement stage, long after the Regional Growth Strategy was already amended.

#### **(a) Analogy**

In the 1990s, Metro voted that the cost of certain sewage treatment improvements be allocated to its member municipalities based on the rate of growth in that municipality. The allocation was very negative for Surrey, given that:

- at the time Surrey had more than 30% of the region's growth, but only roughly 17% of the region's property tax base; and
- Surrey's only real alternative for recovering the allocation was property taxes, meaning its property tax load per property would be roughly twice that which applied in other Metro municipalities.

The balance of the voting power in Metro Vancouver at the time supported this allocation.

The Regional Growth Strategy would open up the same kind of prospect, given that changes that Metro decided to make to the Regional Growth Strategy could be expected to work their way into the Official Community Plan Bylaws of the member municipalities that were not able to attract sufficient support.

#### **(b) Arbitration**

As Metro has noted, a municipality that did not make the changes required by the Regional Growth Strategy could take the matter to arbitration. That would presumably occur when Metro insisted that the municipality's next Regional Context Statement reflect the Regional Growth Strategy amendment.

As noted earlier, however, one might question whether an arbitrator would back a municipality in such a situation given:

- the statutory provisions noted earlier, including the fact that all municipalities (including the municipality in question) signed on to (or otherwise became "bound" by) a Regional Growth Strategy that included section 6.4.1 and reserved nothing more than a right to make submissions; and

- the fact that the Regional Land Use Designation change would already have been incorporated into the Regional Growth Strategy, with the result that it would be binding on the later RCS arbitration.

**(c) The practical limit on Metro's ability to force changes**

As noted earlier, the legislation does not give Metro any mechanism to force a municipality to rezone (up or down) in keeping with the Regional Growth Strategy. A Regional Growth Strategy can limit many things, but it cannot compel.

Therefore, while:

- Metro may be able to get its way vis a vis the Regional Context Statement, and
- the Regional Context Statement and the municipality's Official Community Plan bylaw have to be consistent,

there is nothing that says the provisions of an official community plan have to be positively implemented into a zoning bylaw. A municipality could not zone inconsistently with the new Official Community Plan provision, but there would be nothing to stop a municipality from leaving its zoning as is.

## **5. The ability of the public to enforce the plan's restraints**

A fifth issue relates to the ability of the public to enforce the plan's restraints.

**(a) Statute and bylaw provisions**

The leeway available to Metro is a function of:

- *the level of specificity* in the Regional Growth Strategy, and its maps and tables;
- various sections of the Regional Growth Strategy provide for Regional Context Statement designations to be "generally consistent" with the Regional Growth Strategy designations (including sections 1.1.3(a), 1.2.6(b,c,d)(i), 1.3.3(a), 2.2.4(a), 2.3.6(a) and 3.1.4(a));
- the sections that require Board votes for changes to designations (sections 6.3.3 and 6.3.4);
- the requirement at section 866(3) of the *Local Government Act* that the Regional Context Statement and the municipality's Official Community Plan Bylaw *be consistent*;
- the requirement at section 865 that all services undertaken by Metro be consistent with the Regional Growth Strategy, etc.

**(b) Precedents for Court intervention**

What would happen if a citizen challenged a change that Metro accepted by way of a Regional Context Statement, on the basis that the change was not “generally consistent” with the Regional Growth Strategy, such that it could only be done if the Regional Growth Strategy was itself amended?

The situation is hardly without precedent, in that challenges are fairly commonly made to zoning bylaws on the basis that they are not consistent with Official Community Plan Bylaws.

In *McLean Lake Residents' Assn. v. Whitehorse (City)* (2009 YKCA 11), the Court of Appeal was faced with a challenge to a municipal zoning bylaw by a citizens' group opposing a development that a Council wished to allow. The bylaw zoned the lands at issue for a concrete plant, in an area that the planning bylaw designated for “resource extraction and related activities”. The Court struck down the zoning bylaw on the basis that it was inconsistent with the planning bylaw, because the zoning bylaw did not time limit the concrete plant to the period when resources were being extracted from the area.

The City argued that the Court should apply the test that a zoning bylaw was only invalid if there was an “absolute and direct collision” between the zoning bylaw and the planning bylaw.

The Court accepted that the purpose of the plan was to outline broad objectives, but held that the “absolute and direct collision” test was inappropriate, because it:

“suggests that the line a municipal council cannot cross is higher than it actually is, as it implies that a council is authorized to act in a manner that is incompatible with an OCP, provided what it does is not too incompatible.”

The BC Courts have also twice struck down municipal bylaw provisions on the basis of incompatibility with regional bylaws, being:

- *Western ARP Services Ltd. v. Capital (Regional Dist.)*, (1986, BC Court of Appeal), which related to a municipal bylaw that was inconsistent with a regional bylaw as regards the permitted lot sizes for subdivision; and
- *Re Cal Investments Ltd et al v. Capital Regional District* (1980, BC Supreme Court), where Saanich had rezoned lands to upgrade a shopping centre to a more regional scale, in the face of Regional District bylaw that favoured focusing growth into the western communities (Colwood and Langford).

**(c) Application to the Regional Growth Strategy**

In the present case:

- the use of the modifier “generally consistent” throughout the Regional Growth Strategy; and

- the capacity the Regional Growth Strategy gives to Metro the ability (but apparently not the obligation) to accept Regional Context Statements that “meet or *work towards*” the various municipal obligations in respect of Regional Context Statements

adds significant flexibility.

While it would always turn on the specific facts, the scope for challenges would seem to be greater as regards asserted non-compliance with Regional Context Statements than it is for asserted non-compliances with the Regional Growth Strategy.

### C. Conclusion

The Regional Growth Strategy could be expected to have a number of substantial impacts on the current regime for regulating land use and development.

Those impacts would include:

- an increased role on the part of Metro Vancouver in decisions related to land use and density, starting within two years after the adoption of the Regional Growth Strategy, and possibly earlier (ie – statutory provisions re binding nature; some municipalities may submit their Regional Context Statements earlier);
- an expansion of Metro’s role as the land use plan in the Regional Growth Strategy gets more and more out of date;
- delays in approval times, as Metro reviews the issues pertaining to its decisions; and
- quite possibly Metro extractions.

While Metro cannot *compel* municipalities to *zone* as it wishes, Metro would have substantially increased powers to *block* zonings that are at odds with the Regional Growth Strategy.

As Coquitlam has noted, the direct legal, administrative and financial costs of this role have not been addressed in the materials, and are far from clear.

#### **PART 4: THE EFFECTIVENESS OF THE REGIONAL GROWTH STRATEGY IN ACHIEVING ITS GOALS, RELATIVE TO OTHER OPTIONS**

The fact that the Regional Growth Strategy changes the current regime does not mean that it is a bad thing. The real questions are:

- whether it improves the present situation; and
- whether there are better alternatives.

As noted earlier, the present regime of land use and development regulation has resulted in a liveable Metro area, while providing solid protection for agricultural lands.

At the same time, as has also been noted:

- the limits of developable land in the Metro area (ocean, mountains, border, Agricultural Land Reserve), and
- the 'multiple relatively small municipalities' structure of Metro Vancouver which amplifies the weight of NIMBY pressures,

combine to negatively impact:

- housing affordability;
- homelessness;
- Metro's competitiveness, given land costs and labour supply impacts; and
- the environmental and economic interests that support maximizing transit effectiveness and efficiency.

The main concerns that Metro has expressed regarding the current regime relate to the desirability of better:

- focusing urban development along transit;
- protection of the supply of industrial land; and
- containing urban sprawl.

There is no question that at least the first two of these are significant concerns, as people seek to advance a multiplicity of interests in Metro Vancouver.

The 6th and 7th Annual Demographia International Housing Affordability Surveys (2010 and 2011) show that Vancouver's has, over the past two years, been the least affordable large



international metropolitan market in the world, and the 3rd least affordable. The rating is of municipalities having a population over 1.5 million, and is calculated by way of median house prices divided by gross annual median household income. (See Appendix 4).

At the same time, as noted by the Business Council of BC, per the statistics found at Appendix 3, Vancouver has fallen below the Canadian average on both employment earnings and household income.

That combination of data might be taken to suggest that the region has:

- done a great job of protecting agricultural land and preserving neighbourhoods; but
- not as good a job at providing for housing affordability and for the economy.

Providing for an appropriate industrial land base is important for the reasons noted earlier. Metro Vancouver is Canada's leading port facing Asia, and the port is the most important factor in the regional economy:

There is no doubt that containing urban sprawl is important, although it is debatable whether the current system is flawed in that regard.

This paper will next review the strengths and weaknesses of the Regional Growth Strategy in addressing those issues, with some comments on other options.

## **A. Focusing urban development along transit**

### **1. The approach taken by the RGS and TransLink**

#### **(a) Metro**

##### The regulatory approach

While Metro presumably wants to be more interventionist than the existing regional growth strategy, the *Local Government Act* does not allow Regional Growth Strategies to *compel* things. The most that is allowed for is a "regulatory approach" whereby one seeks to ensure that things are optimally and viably achieved in the specified locations by *limiting* them *everywhere* but in the specified locations.

The Regional Growth Strategy thus proposes addressing the intensification issue by way of a plan that promotes higher density allocations based on specified Urban Centres and Frequent Transit Development Areas that reflect TransLink's Frequent Transit Network. The degree to which Metro would go to *block* development outside of priority areas would turn on:

- how the members of the Metro Board decide in the future to interpret the Regional Growth Strategy (noting point B.1. in Part 3 of this paper); and

- if there is a dispute in connection with Regional Context Statements, whether the arbitrators back the position it takes.

Interestingly, while the Regional Growth Strategy includes “estimated future housing demand” data, it then only weakly provides for Regional Context Statements to “include policies or strategies that indicate how municipalities will work towards meeting” those numbers.

There are, however, at least four reasons to question whether the Regional Growth Strategy is the most efficient way to address this goal.

#### Limits on the regulatory approach

First, as has already been noted, there are limits to what the “regulatory approach” can accomplish. *Precluding* activities elsewhere is not the same as *getting something done* where you want it. A significant amount of Agricultural Land Reserve land, for example, is not farmed.

Furthermore, while Councillors who are confronted by voters demanding density reductions will get the benefit of an argument that there may be “downstream risks” if Council does not put high enough densities where the Regional Growth Strategy provides for high density (ie – capacities may eventually be reached, preventing further growth), Metro has no ability to *compel* municipalities to *zone* for higher densities, and the NIMBY voter pressures against doing so remain in full force. Councillors who ignore them do so at their own peril.

The largest impact of the Regional Growth Strategy may be the “political” weight the plan will have on Councillors, as a result of an established consensus around expanding densities. To the extent the Regional Growth Strategy conveys “political” weight, however, that effect may have already been achieved.

#### Side effects

Second, the “side effects” of the mechanism chosen to achieve the goal could be quite high, per the points noted in Part 3 of this paper.

While the Regional Growth Strategy cannot cut bureaucracy by compelling, it can *add* substantial bureaucracy around the issue of whether change should be allowed to occur. With the Regional Growth Strategy as written, such issues can arise on numerous fronts.

#### Unpredictability

Third, the effect that the Regional Growth Strategy would have in practice is not clear.

The new regime creates a comprehensive set of directives, and then requires Metro Board approval for changes from those directives. While Metro would seem to be bound by the Regional Growth Strategy in its Regional Context Statement decisions, there is a significant scope for interpretation, and, per the Surrey sewer treatment cost allocation example noted earlier, the factors that are going to end up being the most important to the Board’s exercise of that discretion are not clear.

### Land use choices

Fourth, the Regional Growth Strategy provides that full use cannot be made of transit lines in industrial areas that are along those lines, because the “industrial use” limits apply to Industrial designated land in the Frequent Transit Development Areas. More on that in a moment.

### Overall

To the extent that affordability is a function of:

- significant limits on developable area;
- a governance structure that amplifies NIMBY factors; and
- the fact Metro is a popular international location,

the Regional Growth Strategy does not impact the first or last of those factors, and its impact on the second is significantly muted.

### **(b) TransLink**

For its part, TransLink, has made proposals, separate from the Regional Growth Strategy process, that it be given the power to impose Development Cost Charges and Community Amenity Contributions, to allow it to raise the additional funds necessary to build a more complete transit system (thereby increasing its ability to address the Port Moody problem, etc.).

TransLink’s proposed changes would however:

- make more expensive the building out of whatever density a property owner might be able to secure the rights to, and
- do so without addressing the NIMBY factors that restrict densities being achieved where they are most appropriate.

Indeed, TransLink’s funding proposal could well *reduce* the incentives to approve densities, to the extent that there would now be more parties (municipalities, plus Metro, plus TransLink) seeking to share in the same development revenues.

## **2. An alternative approach**

### **(a) The TransLink Municipal Agreement proposal**

The Urban Development Institute has suggested a different approach, being to enact legislation that gives municipalities and TransLink (or the Province) the authority to enter into binding “TransLink Municipal Agreements” (“TMAs”) to specifically provide for densification along transit lines.

TMAAs could apply on a municipal-wide basis, or within a municipality on a transit line specific basis. The legislation would specifically require public input as a prerequisite to the entering into of a TMA. The advantage to proceeding in this way is that the TMAAs would:

- enable density decisions to be made on an *area wide* basis *in conjunction with* transit decisions, rather than separately from them (leaving detailed *site by site* zoning for later);
- allow municipalities and TransLink to factor in the levels of density that need to be met for transit to work, and the transit service levels that are needed for the density to work; and
- allow TransLink and the municipality to put in place detailed incentives and penalties that would apply if the density levels were not met in the subsequent zoning stage or at build out, or if the proposed transit service was not provided.

In contrast to the charging regime proposed by TransLink, TMAAs would:

- give municipalities and TransLink the ability to reach agreements that reflect the actual value of transit to development, and vice versa; and
- encourage municipalities and TransLink to allocate charge revenues, in a way that improves certainty for both, and that accounts for the improved certainty of transit service and certainty of density allocations, while still keeping development affordable and maintaining a relatively streamlined process.

This approach would be much more targeted, and hence less interventionist.

At the same time, it would address the NIMBY factor more directly than the Regional Growth Strategy regime does, because Councillors would be in a position to respond to voters that:

- they had an opportunity to address those issues at the time of the TMA public process, when the interplay between density and transit was being addressed; and
- the municipality, and hence its citizens, will suffer a contracted downside if Council yields to NIMBY pressures.

Because TransLink Municipal Agreements are a more targeted tool, they would avoid some of the negative side effects of the Regional Growth Strategy that were noted at Part 3 of this paper. For example, because the TMA would be between a municipality and TransLink, it would be simpler to amend to reflect changing events than the Regional Growth Strategy.

#### **(b) Metro's response**

Metro responded that TMAAs would assist and “would likely be agreed upon between municipalities and TransLink”, but the Regional Growth Strategy has made no reference to the concept.

## **B. Protecting the industrial land supply**

### **1. The approach taken by the RGS**

There is no question that the Regional Growth Strategy adds a layer of protection to the industrial land supply that is absent in the current regime.

At the same time, as the Port and the Business Council have noted, the Regional Growth Strategy also *limits* changes in the industrial land supply relative to the present regime. Specifically, it:

- caps and adds restraints on the conversion of General Urban, Mixed Employment, Rural and Conservation and Recreation land to Industrial use, without Metro approval (sections 6.2.7(a) and 6.3.3(b) – (d));
- adds restraints regarding the conversion of Agriculturally designated lands that are *not* in the Agricultural Land Reserve (sections 6.3.3(b) and 6.3.4(f)); and
- adds additional restraints regarding of Agricultural Lands that *are* in the Agricultural Land Reserve, but which the Agricultural Land Commission may be prepared to release based on soil quality, etc. (sections 6.3.3(b) and 6.3.4(f)).

Notwithstanding:

- the unpredictability of the world going forward (as noted at point B.2. in Part 3 above), and
- the below average employment earning levels that the Business Council has noted,

the Regional Growth Strategy proceeds on the assumption that Metro has “gotten right” a comprehensive parcel-based set of Regional Land Use Designations. In many cases, the restraints on change, if those assumptions prove incorrect, involve a two-thirds weighted vote of the Metro Board following a regional public hearing.

### **2. Data for evaluating the approach taken**

Given the significance of the Port economy to the Metro area and beyond, it is critical that appropriate research and analysis be undertaken regarding the Regional Growth Strategy's assumptions relating to:

- *the amount* of industrial land that the Regional Growth Strategy has designated;
- *the location* of the industrial land that the Regional Growth Strategy has designated; and
- the appropriate standard to apply to the designation of *additional* industrial land;

and that that analysis be exposed to full multi-party review, including by the private sector.

Oddly, however, as noted earlier, Metro's studies on the Industrial Land Inventory, and the potential for intensification of the designated land:

- post-date the setting of the Regional Land Use Designations; and
- are not scheduled for release and public and private sector comment until mid-February 2011.

### **C. Containing urban sprawl**

#### **1. The approach taken by the RGS**

##### **(a) Urban containment**

There is no question that the Urban Containment Boundary would be effective in containing sprawl.

##### **(b) Land use designations outside of the UCB**

The vast majority of the land outside of the Urban Containment Boundary has been designated into one of two Regional Land Use Designations, being:

- Agriculture; and
- Conservation and Recreation.

Generally speaking, those designations in the Regional Growth Strategy can only be changed by a two-thirds weighted vote of the Regional Board, following a regional public hearing.

The land that is designated for Agriculture includes, *but is not limited to*, land that is in the Agricultural Land Reserve. The Regional Growth Strategy therefore proposes as the go-forward test:

- a third layer of protection (beyond municipal zoning, and the ALC) for land that is *in* the Agricultural Land Reserve; and
- a double layer of protection for land that is *not* in the Agricultural Land Reserve.

##### ALR land

Further, section 2.3.8 of the Regional Growth Strategy provides that:

*"The Agricultural Land Commission consult with Metro Vancouver to ensure consistency between the Regional Growth Strategy and Agricultural Land Commission decisions and policies*

with respect to Agricultural Land Reserve exclusion, inclusion and non-farm use applications.”

The only way to ensure consistency between an ALC decision and an RGS agricultural designation would generally be to refuse an exclusion application. This provision therefore appears to tell the Agricultural Land Commission that, when faced with an exclusion application, it should not release any land that the Regional Growth Strategy designates as Agricultural, unless the Regional Growth Strategy is first amended.

Thus:

- no matter how poor the agricultural quality of the land, and
- no matter how important the land might be from some other perspective (such as the port distribution economy),

the practical prerequisite to removal of that land from the ALC would be approval from:

- the Metro Board (by a two-thirds weighted majority, after a regional public hearing);
- the local municipality; and
- the Agricultural Land Commission.

The rationale for this third layer of protection for Agricultural Land Reserve land is unclear. The Agricultural Land Commission has not been ineffective at protecting agricultural land.

#### Non-ALR Agriculture land

The rationale for the broad policy requirement for approval from across Metro on a two-thirds weighted vote following a regional public hearing for the redesignation of land that is not even in the Agricultural Land Reserve, and irrespective of:

- site circumstances;
- soil quality;
- suitability for other uses, etc.

is also unclear.

#### The existing Green Zone

One could argue that the Regional Growth Strategy carries forward the same standard as applies to the Green Zone at present, given BC Reg 377/2007. That Regulation was clearly, however, a temporary measure related to the Livable Region Strategic Plan that ends with the repeal of that document. It did *not* purport to establish a go-forward standard, and the question of the

appropriate lands to designate for competing uses, and the standard to apply to changes in those designations, in the Regional Growth Strategy going forward was left to Metro Vancouver and its member municipalities.

**(c) Specific designations**

Councillor Steeves has raised an issue regarding the specific land use designation choices made in the Regional Growth Strategy.

It is not clear what the reasoning was in:

- designating land that the Agricultural Land Commission specifically *refused* to remove from the ALR (such as the Garden City lands in Richmond) as "General Urban" and placing it on the Urban side of the Urban Containment Boundary; while
- subjecting *non-ALR* lands to a redesignation standard of a two-thirds weighted vote and a regional public hearing.

Metro's reports also concede that lands were designated Conservation and Recreation on an inconsistent basis as between municipalities.



## **PART 5: THE NEXT STAGES OF THE ENACTMENT PROCESS**

### **1. The process established by the legislation**

#### **(a) Metro stage**

The Regional Growth Strategy process is *not* the same as for a zoning bylaw, and does not include a mandatory public hearing. There was provision for a public hearing prior to 2008, but that requirement was repealed at that time.

What section 855 of the *Local Government Act* now requires is that:

- the proposing board must provide opportunity for consultation with persons, organizations and authorities who the board considers will be affected by the regional growth strategy (section 855(1)(a));
- the board and the affected local governments must make all reasonable efforts to reach agreement on a proposed regional growth strategy (section 855(1)(b));
- *the board must adopt a consultation plan* (section 855(2));
- “in adopting the consultation plan under subsection (2), the Board must consider whether the plan should include the holding of a public hearing” (section 855(2.1); and
- *“a failure to comply with the consultation plan does not invalidate the regional growth strategy as long as reasonable consultation has been conducted”* (section 855(3)).

That process reflects the nature of a regional growth strategy, which:

- raises broad policy issues, including jurisdictional issues, that impact two million people and more, and go well beyond those involved in a rezoning (such that the principle that applies to quasi-judicial matters whereby ‘everyone should be in one room able to hear what everyone else has to say’ is of little relevance); and
- involves a multi-stage and inter-related process under which (i) the Board gives two readings to a regional growth strategy, and (ii) then goes to municipalities for acceptance or non-acceptance (which can include taking issue with some or all of the provisions of the regional growth strategy).

The wording of section 855(3) suggests that the Board can engage in whatever additional consultation it wishes prior to the enactment, or a decision not to enact, a Regional Growth Strategy.

**(b) Municipal stage**

Once a Regional Growth Strategy has received second reading at the Board, it can be sent to the member municipalities for their approval or otherwise.

After receiving a proposed Regional Growth Strategy each affected local government must:

- review it in the context of any matters that affect its jurisdiction, and then
- either accept it or advise that it refuses to accept it.

The local government is also to indicate each provision to which it objects, the reasons for its objection, and whether it is willing the provision on the basis that it will not apply to it.

The legislation does not establish a specific process for public input in connection with this municipal stage.

**(c) The Metro / municipal stage**

The third stage of the Regional Growth Strategy process is the settlement of any differences between:

- what has been proposed by Metro in the Metro stage; and
- the responses from the municipal stage.

Where one or more local governments object to one or more provisions of a Regional Growth Strategy, the Board notifies the Minister, in which case the Minister can direct:

- a non-binding resolution process; or
- that the matter proceed to one or another of various forms of binding arbitration.

The contents of the Regional Growth Strategy can be altered significantly through the acceptance and settlement process.

If the Board does not like the outcome, it can decide to not adopt the Regional Growth Strategy that results. Like any bylaw, it is only law if it receives all of the necessary readings.

In addition, the Minister can, but has no obligation to, order adoption.

**2. The process followed in the present case**

**(a) Metro**

The Regional Growth Strategy Bylaw was introduced on November 12, 2010, and the public hearing regarding it was then immediately called, and completed in 3 weeks.

One could question whether that period of time was adequate for parties to understand the bylaw and make comments, given:

- the complexity of the document; and
- the sweeping nature of the changes the bylaw proposes.

While there were earlier drafts, and a substantial consultation process in respect of them, each draft made very substantial changes relative to prior drafts, resulting in a disinclination by many to engage in the substantial effort required to closely evaluate each round of the document.

#### **(b) Private sector submissions**

The land use choices, and regulatory regime governing changes in those land use choices, that are put in place impact not only Metro and its member municipalities, but also the private sector.

The Urban Development Institute (Pacific Region) met with Metro Vancouver Liaison Committee on various occasions as the document evolved, and, recognizing that the Regional Growth Strategy had important implications for the private sector generally, and those who bring developments about, made clear throughout that it would be holding a program to review the proposed Regional Growth Strategy with UDI members once a version was settled on. Unfortunately, the public hearing process that Metro established had such a short timeframe that a proper review program could not be put together in the time available.

UDI accordingly decided to proceed with its program during the second municipal stage. The program was held on February 2, 2011, and a synopsis of it can be found at Appendix 6.

The Business Council of BC was also unable to update its formal submission, although it has said that the position taken by its earlier analysis continues to apply.

#### **(c) Municipalities**

Given the nature of the jurisdictional changes that the Regional Growth Strategy would entail for the citizens of their municipality going forward, one might expect each municipality to take some care to engage public input on the question of how the Council in that municipality should respond.

Per Part 3 of this paper, the municipality's response could easily have the greatest long term impact of any decision made by a Council in that municipality for years. Each Council is being asked whether all future Councils should operate under a fundamentally different regime than has been applicable in the municipality to this point.

UDI has written to the member municipalities of Metro Vancouver asking for the opportunity to give input, so that each municipality has the benefit of the private sector perspective.

**(d) The Industrial land studies**

The Industrial Land Inventory Study and Industrial Intensification Study that Metro prepared concurrently with the Regional Growth Strategy but after the setting of the Regional Growth Strategy's land use designations, deal with an issue that the Province, the Port and the Business Council have all said is critical in connection with the Regional Growth Strategy. As has been noted, it is difficult to evaluate the balancing act undertaken by the Regional Growth Strategy without the opportunity to review their contents and speak to their implications in terms of:

- both the *amount*, and *location*, of the lands that have been designated for Industrial;
- the voting thresholds that have been established that limit the addition of land to the Industrial land supply; and
- the exclusion of residential and commercial use on Industrially designated lands adjacent to transit.

## **PART 6:     OPTIONS GOING FORWARD, AND QUESTIONS FOR CONSIDERATION**

### **A.     Alternate approaches**

#### **1.     The balancing inherent in the Regional Growth Strategy**

Metro Vancouver has a limited land base, and the Regional Growth Strategy would not seem to be performing its function unless it gets the balance right, for the period of the plan, between the region's interests relating to:

- agriculture and food security;
- the port distribution economy; and
- a livable, affordable, environmentally responsive community.

The Regional Land Use Designations, and the formulas that the Regional Growth Strategy puts in place for amendments, need to reflect that balance.

#### **2.     Options**

There are options for the Regional Growth Strategy beyond what has been submitted.

##### Option # 1

One option would be to delay consideration of the Regional Growth Strategy pending release of the Metro Industrial Studies, further to section 857(4)(b) of the *Local Government Act*.

This would give municipalities additional time to consider how they wish to respond to the proposed Regional Growth Strategy. As outlined in this paper, the Regional Growth Strategy is a very complex document with substantial implications. Given the shortness of the public hearing period, the sixty day municipal response period appears to be woefully inadequate.

Further, the wisdom of the designations outside of the Urban Containment Boundary, and the standard that applies to changing their status, is related to the issue of the sufficiency of the industrial land supply, both currently and going forward, noting:

- the significant additional constraints that have been created against establishing new Industrial land; and
- the fact that the designations pre-date the studies relating to the industrial land supply that Metro has initiated, and that have not yet been made available to the public or for private sector review.

It may be that this further consideration would result in:

- a sign off on the existing plan, based on proper information;
- settlement on one of the other options noted above;
- provision for some level of additional industrial land at a set future stage, and an allowance for residential and commercial along transit lines in industrial areas where congestion issues meant that those areas have little value from the perspective of the port distribution economy; or
- some other appropriate provision that has not yet been considered.

#### Option # 2

Another option would be to incorporate a sunset clause, as noted by Burnaby, such that the Regional Growth Strategy would cease to be binding at a certain point (i.e. – no later than 8 years).

This approach would:

- accord with the desirability of Metro and all of its member municipalities coming together on a regular, but not too frequent, basis to prepare the Regional Growth Strategy plan afresh;
- give Metro and its member municipalities an incentive to find solutions on interpretation issues, while noting the differences that are more fundamental and that warrant further negotiation in the next round;
- allow advantage to be taken of the planning work that has been done to date, for a period that is appropriate to its assumption, while also allowing other options to be explored that have greater prospects of achieving the desired effects without the significant side effects of the Regional Growth Strategy; and
- de-couple jurisdictional change from a specific plan that is bound to become out of date over time.

If intervening events warranted, it would be a straightforward matter to re-enact the document when the sunset period ends.

#### Option # 3

The Livable Region Strategic Plan, adopted by Metro in 1996, took a “regulatory approach” to the Green Zone but more of a “leadership approach” to other issues. To the extent there was a concern about the protection of Industrial land, the Regional Growth Strategy could take a “regulatory approach” to the Green Zone and the protection of a base set of Industrial land, and a “leadership approach” on other issues, without seeking to “lock in” detailed designations for:

- General Urban;
- Mixed Employment;
- Urban Centre;
- Frequent Transit Development Area;
- Rural;
- Agricultural (over and above the Agricultural Land Reserve); and
- Conservation and Recreation.

There could also be a combination of approaches, such as:

- a "regulatory approach" for the Green Zone and the protection of a base set of Industrial land;
- an agreement-based approach to density and transit, as outlined above in connection with TransLink Municipal Agreements; and
- a leadership approach on other issues, given the potentially substantial negative effects of those approaches noted at Part 3 of this paper.

## **B. Questions for consideration**

### **1. Impacts on municipal decision-making**

- (1) Given the limits on people's ability to predict the future, is it in the best interests of the region to create a system that:
  - is built on a parcel-based set of land use designations for the entire region; and
  - imposes a significant hurdle (ie – a two-thirds weighted vote of Metro, following a regional public hearing, etc.) on changes from that plan?
- (2) Would the long term effect of the Regional Growth Strategy be:
  - better coordination, and smooth sailing to a better future;
  - the need to navigate a substantially increased bureaucracy as a precondition to evolving with the world; or
  - to put Metro in a position to receive the substantial extractions, reducing the amount available to the municipalities that would otherwise receive them (ie – Delta in the case of lands around Deltaport, and Surrey in the case of Port Kells)?
- (3) How should one expect the discretion that the new regime gives Metro to be exercised? Can anyone know given the changing membership of the Metro Board?
- (4) What criteria would prove dominant where the standard for change is:

- a two-thirds weighted vote of the Metro Board (with its 21 member municipalities and one electoral area); or
- a 50% + 1 weighted vote?

(The chart at Appendix 5 indicates the voting possibilities, relative to the 125 total votes.)

## **2. Effectiveness of the Regional Growth Strategy at achieving its goals**

### **(1) Are the affordability, competitiveness, etc. problems in Metro Vancouver a function of:**

- a limited developable land base (because of the ocean, mountains, border and the ALR); and
- a governance structure that over-weights neighbourhood NIMBY interests?

Is it fair to say that the Regional Growth Strategy:

- does little to increase the limited developable land base, and indeed further constrain land use alternatives; and
- does little to offset the NIMBY factor, because it does not *compel* zoning?

### **(2) If so:**

- should one expect a significant impact on affordability, the region's competitiveness, etc.; or
- will its main effect be to impact who needs to be involved in land use decision-making, adding a significant layer of Metro approval bureaucracy?

### **(3) The Regional Growth Strategy would seem to protect existing industrial land, but makes additions to it harder. Should one expect it to have a positive, or negative, impact on addressing the employment earnings and household income levels that the Business Council notes apply here?**

### **(4) Would it be preferable, from the perspective of affordability, competitiveness, etc. to:**

- take the industrial land that is low value from the perspective of the port economy and that is well served by transit (Kent Street, Lake City, etc.), and take advantage of the transit by converting it to more residential and office uses; and
- add a limited amount of compensating land to one or more "Special Study Areas", where that land would substantially improve the competitiveness of the port economy perspective (Deltaport, Port Kells)?

Can one say without reviewing the Industrial Inventory Study or the Industrial Intensification Study?



- (5) Is the assumption of “insufficient urban containment” in Metro Vancouver real?
- (6) Does the Regional Growth Strategy propose the most effective use of the Metro Vancouver land base over the 30-year time horizon of the plan?
- (7) Are the benefits that are likely to flow from the Regional Growth Strategy relative to its goals such as to warrant the changes that the Regional Growth Strategy would make to the land use and development approval system?

### 3. Alternatives

- (1) Would a combination of:
  - TransLink Municipal Agreements (to address the concentrated density issue);
  - a more limited use of the “regulatory approach” (ie – a form of Green Zone, combined with a protected base of industrial lands); and
  - the “leadership approach” otherwise;
 be more effective than the RGS?
- (2) Should a sunset clause be added, whereby the Regional Growth Strategy would cease to be binding at a set point (ie – 8 years after enactment)?
- (3) Given the stakes for the future of Metro Vancouver, should the input process for the Regional Growth Strategy be extended so that:
  - Metro’s public input process is not concluded within three weeks after introduction; and
  - the public and interested stakeholders have the opportunity to comment on studies that are fundamental to the assumptions on which the Regional Growth Strategy is based (ie – the Industrial Inventory Study, and the Industrial Intensification Study)?

This paper is not intended as legal advice applicable to any specific circumstances, and is not to be relied upon as such.

## **APPENDIX 1: SELECTED PROVISIONS OF THE FIRST READING VERSION OF METRO VANCOUVER REGIONAL GROWTH STRATEGY BYLAW NO. 1136, 2010**

### **A. Regional Land Use Designations and Overlays**

The following regional land use designations and overlays are key tools in achieving the five goals of the Regional Growth Strategy. They establish a long term regional land use framework and provide the basis for defining matters of regional significance.

The intent statements for the regional land use designations and overlays are to be read in conjunction with applicable strategies and actions under each goal and are to be interpreted by municipalities in their Regional Context Statements. The boundaries for the regional land use designations are established on a parcel-based map maintained by Metro Vancouver and are depicted on the Regional Land Use Designations map (Map 2).

*The general locations (not the parcel-based boundaries) of Urban Centre and Frequent Transit Development Area overlays, once defined by municipalities will be shown on Maps 2 and 4. The parcel-based boundaries of Urban Centre and Frequent Transit Development Area overlays, as determined by municipalities, will be depicted on a reference map, which will be maintained in association with, but not part of the Regional Growth Strategy.*

### **Urban Centre and Frequent Transit Development Area Overlays**

Within the Urban Containment Boundary, Urban Centres and Frequent Transit Development Areas may be overlaid on any regional land use designation. ...

#### **Urban Centres**

Maps 2 and 4 show the Urban Centres locations. Urban Centres *boundaries* will be identified by municipalities in their Regional Context Statements *in a manner generally consistent with the guidelines in Table 3* (Guidelines for Urban Centres and Frequent Transit Development Areas).

#### **Frequent Transit Development Areas**

*Frequent Transit Development Areas* are intended to be additional priority locations to accommodate concentrated growth in higher density forms of development. They *are located at appropriate locations along TransLink's Frequent Transit Network*. Frequent Transit Development Areas complement the network of Urban Centres, and are characterized by higher density residential, commercial and mixed uses, and may contain community, cultural and institutional uses. ... *Maps 2 and 4 will show the location of Frequent Transit Development Areas, once identified by municipalities in their Regional Context Statements. The Frequent Transit Development Area boundaries will be established by municipalities in their Regional Context Statements in a manner generally consistent with the guidelines in Table 3* (Guidelines for Urban Centres and Frequent Transit Development Areas).

**STRATEGY 1.1: Contain Urban Development within the Urban Containment Boundary**

The role of municipalities is to:

*1.1.3 Adopt Regional Context Statements which:*

- a) *depict the Urban Containment Boundary on a map, generally consistent with the Regional Land Use Designations map (Map 2);*
- b) *provide municipal population, dwelling unit and employment projections, with reference to guidelines contained in Appendix Table A.1, and demonstrate how municipal plans will work towards accommodating the projected growth within the Urban Containment Boundary.*

**STRATEGY 1.2: Focus growth in Urban Centres and Frequent Development Transit Areas**

The role of municipalities is to:

*1.2.6 Adopt Regional Context Statements which: ...*

- b) *include policies for Urban Centres which:*
  - i) *identify the general location, boundaries and types of Urban Centres on a map generally consistent with the guidelines set out in Table 3 (Guidelines for Urban Centres and Frequent Transit Development Areas) and the Regional Land Use Designations map (Map 2);*
  - ii) *focus growth and development in Urban Centres, generally consistent with guidelines set out in Table 3 (Guidelines for Urban Centres and Frequent Transit Development Areas); ...*
- c) *include policies for Frequent Transit Development Areas which:*
  - i) *identify on a map, in consultation with TransLink, the general location and boundaries of Frequent Transit Development Areas that are generally consistent with:*
    - *Table 3 (Guidelines for Urban Centres and Frequent Transit Development Areas);*
    - *TransLink's Frequent Transit Network, which may be updated over time;*
    - *other applicable guidelines and policies of TransLink for the Frequent Transit Network;*

- ii) *focus growth and development in Frequent Transit Development Areas, generally consistent with the guidelines set out in Table 3 (Guidelines for Urban Centres and Frequent Transit Development Areas); ...*
- d) *include policies for General Urban areas which:*
  - i) *identify the General Urban areas and their boundaries on a map generally consistent with the Regional Land Use Designations map (Map 2);*
  - ii) *ensure development in General Urban areas outside of Urban Centres and Frequent Transit Development Areas are generally lower density than development in General Urban areas within Urban Centres and Frequent Transit Development Areas;*
  - iii) *where appropriate, identify small scale local centres in the General Urban areas that provide a mix of housing types, local-serving commercial activities and good access to transit. Local centres are not intended to compete with or compromise the role of Urban Centres and should preferably be located within Frequent Transit Development Areas (see Map 11); ...*
- e) *include policies that, for Urban Centres or Frequent Transit Development Areas that overlay Industrial, Mixed Employment, or Conservation and Recreation areas, the Industrial, Mixed Employment, and Conservation and Recreation intent and policies prevail, except that higher density commercial would be allowed in the Mixed Employment areas contained within the overlay area;*

**Table 3: Metro Vancouver Dwelling Unit and Employment Growth Targets for Urban Centres and Frequent Transit Development Areas [extracts]:**

#### **Regional Serving Centres**

*Nine centres identified, with locations identified on the Regional Land Use Designation Map*

*Defined as appropriate locations generally within 800 metres of one or more rapid transit stations or within 400 metres of an intersection of two or more corridors on TransLink's Frequent Transit Network*

#### **Municipal Town Centres**

*17 centres identified, with locations identified on the Regional Land Use Designation Map*

*Defined as appropriate locations generally within 800 metres of a rapid transit station or within 400 metres of TransLink's Frequent Transit Network*

Local transportation hubs with existing Frequent Transit Network service or potential for Frequent Transit Network service as warranted by ridership demand

### **Frequent Transit Development Areas**

Focal areas for growth and alignment with TransLink's Frequent Transit Network

Locations determined by municipalities, in consultation with TransLink, in accordance with local area plans

*Defined as appropriate locations generally within 800 metres of a rapid transit station or within 400 metres of TransLink's Frequent Transit Network*

### **STRATEGY 1.3: Protect Rural areas from urban development**

The role of municipalities is to:

#### **1.3.3 Adopt Regional Context Statements which:**

- a) *identify the Rural areas and their boundaries on a map generally consistent with the Regional Land Use Designations map (Map 2); ...*

### **STRATEGY 2.1: Promote land development patterns that support a diverse regional economy and employment close to where people live**

#### **Actions Requested of Other Governments and Agencies**

2.1.7 *That Port Metro Vancouver encourage the use of port lands for industrial activities, discourage nonport related commercial development on port lands, and not expand beyond the Industrial and Mixed Employment areas specified on the Regional Land Use Designations map (Map 2).*

### **STRATEGY 2.2: Protect the supply of industrial land**

The role of municipalities is to:

#### **2.2.4 Adopt Regional Context Statements which: ...**

- a) *identify the Industrial areas and their boundaries on a map generally consistent with the Regional Land Use Designations map (Map 2);*
- iii) *exclude uses which are inconsistent with the intent of industrial areas, such as medium and large format retail, residential uses (other than industrial caretaker units where necessary), and stand-alone office uses that are not supportive of industrial activities; ...*

- c) *identify the Mixed Employment areas and their boundaries on a map generally consistent with the Regional Land Use Designations map (Map 2);*

**STRATEGY 2.3: Protect the supply of agricultural land and promote agricultural viability with an emphasis on food production**

The role of municipalities is to:

*2.3.6 Adopt Regional Context Statements which:*

- a) *specify the Agricultural areas and their boundaries on a map generally consistent with the Regional Land Use Designations map (Map 2); ...*

**STRATEGY 3.1: Protect Conservation and Recreation lands**

The role of municipalities is to:

*3.1.4 Adopt Regional Context Statements which:*

- a) *identify Conservation and Recreation areas and their boundaries on a map generally consistent with the Regional Land Use Designations map (Map 2); ...*

**STRATEGY 3.2: Protect and enhance natural features and their connectivity**

The role of municipalities is to:

3.2.4 Adopt Regional Context Statements which include policies and/or maps that indicate how ecologically important areas and natural features will be managed (as conceptually shown on Map 10) (e.g. steep slopes and ravines, intertidal areas and other natural features not addressed in Strategy 3.1).

**STRATEGY 5.2: Coordinate land use and transportation to support the safe and efficient movement of vehicles for passengers, goods and services**

The role of municipalities is to:

*5.2.3 Adopt Regional Context Statements which:*

- a) *identify routes on a map for the safe and efficient movement of goods and service vehicles to, from, and within Urban Centres, Frequent Transit Development Areas, Industrial, Mixed Employment and Agricultural areas, Special Employment Areas, ports, airports, and international border crossings; ...*

## **B. Implementation**

### **Contents of Regional Context Statement**

6.2.2 The Regional Context Statement must identify the relationship between the Official Community Plan and the goals, strategies and actions identified in the Regional Growth Strategy. If applicable, the Regional Context Statement will identify how the Official Community Plan will be made consistent with the Regional Growth Strategy over time. *Regional Context Statements that propose to add or delete Frequent Transit Development Areas must be accompanied by written comments from TransLink.*

### **Consistency with Regional Growth Strategy**

6.2.6 In considering acceptance of Regional Context Statements, the Metro Vancouver Board's expectation is that acceptable Regional Context Statements are generally consistent with the Regional Growth Strategy's goals, strategies, actions and the parcel-based regional land use designations depicted in the Regional Land Use Designations map (Map 2).

### **Providing for Appropriate Municipal Flexibility**

6.2.7 A municipality may include language in its Regional Context Statement that permits amendments to the municipality's Official Community Plan to adjust the boundaries of regional land use designations (or their equivalent Official Community Plan designation) within the Urban Containment Boundary, provided that:

- a) *the municipality may re-designate land from one regional land use designation to another regional land use designation, only if the aggregate area of all proximate sites so re-designated does not exceed one hectare ;...*

6.2.8 *A municipality may include language in its Regional Context Statement that permits amendments to the municipality's Official Community Plan to adjust the boundaries of the municipality's Urban Centres and Frequent Transit Development Areas, provided such boundary adjustments meet the guidelines set out in Table 3 (Guidelines for Urban Centres and Frequent Transit Development Areas) of the Regional Growth Strategy.*

6.2.10 *If a municipality includes language in its Regional Context Statement that permits amendments to the municipality's Official Community Plan to adjust the boundaries of regional land use designations within the Urban Containment Boundary or the boundaries of Urban Centres and Frequent Transit Development Areas, as permitted by sections 6.2.7 and 6.2.8 respectively, the prescribed adjustments do not require an amendment to the municipality's Regional Context Statement. All other adjustments to regional land use designation boundaries will require an amendment to the municipality's Regional Context Statement, which must be submitted to the Metro Vancouver Board for acceptance in accordance with the requirements of the Local Government Act.*

### **STRATEGY 6.3: Categories of Regional Growth Strategy Amendments**

#### **Type 2 - Minor Amendments to the Regional Growth Strategy (two-thirds weighted vote and regional public hearing required)**

6.3.3 The following Type 2 minor amendments require an affirmative two-thirds weighted vote of the Metro Vancouver Board and a regional public hearing: ...

- e) the addition or deletion of an Urban Centre;

#### **Type 3 - Minor Amendments to the Regional Growth Strategy (simple majority weighted vote and no regional public hearing required)**

6.3.4 *The following Type 3 minor amendments require an affirmative 50% + 1 weighted vote of the Metro Vancouver Board and do not require a regional public hearing:*

- a) *the addition or deletion of a Frequent Transit Development Area location;*
- b) for sites within the Urban Containment Boundary, amendments from Industrial, Mixed Employment, Conservation and Recreation lands utilized only for commercial extensive recreation facilities, or General Urban land use designations to any other such regional land use designations; ...
- f) for sites that are contiguous with, or within, the Urban Containment Boundary and are not within the Agricultural Land Reserve, amendment from Agricultural or Rural land use designations to Industrial land use designation, and associated Urban Containment Boundary adjustments; ...
- h) housekeeping amendments to population, dwelling unit and employment projections, housing demand estimates, performance measures, tables, figures, grammar, or numbering that do not alter the intent of the Regional Growth Strategy;
- (i) *amendments to mapping to incorporate maps included in accepted Regional Context Statements;*

### **STRATEGY 6.4: Procedures for Regional Growth Strategy Amendments**

#### **Who Can Apply for an Amendment**

6.4.1 The process to initiate amendments to the Regional Growth Strategy is by resolution of the Metro Vancouver Board. Municipalities may, by resolution, request amendments. *The Metro Vancouver Board will not give first reading to an amendment bylaw which proposes to change a regional land use designation or Urban Containment Boundary unless or until the municipality or municipalities in which the subject site is located have requested that amendment or have been given the opportunity to formally comment on the proposed amendment.*



**STRATEGY 6.6: Coordination with TransLink**

6.6.1 Metro Vancouver will work with TransLink with the objective that the Regional Growth Strategy and TransLink's regional transportation plans are compatible and complementary. *Metro Vancouver will refer to TransLink for written comments Regional Context Statement amendments that would impact the regional transportation system or significantly affect the demand for regional transportation services.*

**STRATEGY 6.12: Regional Growth Strategy Maps**

6.12.2 Where a *regional land use designation boundary* does not align with a legal boundary, the Agricultural Land Reserve boundary, a municipal Official Community Plan or zoning boundary, or a distinct geographic feature, the regional designation boundary is approximate, and *the municipal boundary depicted in the accepted Regional Context Statement prevails.*

6.12.3 *Boundaries for Urban Centres and Frequent Transit Development Areas are to be defined by municipalities in municipal plans (e.g. Official Community Plans, Area Plans) and shown in Regional Context Statements. Where municipalities amend the boundaries of Urban Centres or Frequent Transit Development Areas and, in accordance with section 6.2.8, have not amended their Regional Context Statement, municipalities are requested to forward any change to boundaries of Urban Centres or Frequent Transit Development Areas to Metro Vancouver.*

## **APPENDIX 2: COMMENTS BY OTHER MUNICIPALITIES**

### **1. Vancouver**

The City's October 12, 2010 report asked that additional implementation guidelines be added to the Regional Growth Strategy implementation framework, including:

- Regional Growth Strategy amendment guidelines;
- Regional Context Statement amendment guidelines;
- Regional Context Statement preparation guidelines; and
- Frequent Transit Development Area process and review guidelines.

Metro's summary response to Vancouver in the public hearing materials advised that section 6.15 had been amended to indicate that Metro would prepare guidelines to assist with implementation.

The City's report stated in connection with the Frequent Transit Development Areas that the Regional Growth Strategy should provide a framework for long term growth in the region, while acknowledging that TransLink should determine detailed transit priorities through future transit plans that are in alignment with the Regional Growth Strategy and guided by input from rapid transit studies now underway.

Metro's summary response to Vancouver in the public hearing materials stated that "Boundaries for Urban Centres and Frequent Transit Development Areas will not be included in the Regional Growth Strategy, but within Regional Context Statements, with the ability for municipalities to amend them at any time without any involvement of the Metro Board."

As far as Metro initiated amendments are concerned, the City has commented that it is satisfied that the appropriate balance has been achieved given that the Regional Growth Strategy provides that no amendment that will affect a regional land use designation (i.e. the Industrial or Mixed Employment areas) can be initiated without the affected municipality having had an opportunity to formally comment on the proposal. This will allow the City to undertake its own internal and public/stakeholder process and provide formal comments to the Board, before it considers a proposal for change.

Metro responded to the concern expressed by both Vancouver and Burnaby about Metro's ability to amend by saying that if the municipality did not support the amendment, it could refuse to make the change in its Regional Context Statement, thereby imitating a dispute, and that this reflects the "checks and balances" in the legislation.

## 2. Surrey

The Surrey October 4, 2010 staff report expressed support for the Regional Growth Strategy, on the following basis:

- under the legislation a Regional Context Statement does not need to be consistent with the Regional Growth Strategy, but simply needs to say how it will be over time. *If Metro does not accept the Regional Context Statement, then there is an arbitration. While Metro has leverage, the municipality is not without options;*
- the "land use designation" definitions are now intent statements, and it is up to the local government through the Regional Context Statement it submits to the Regional Board, to articulate how OCPs reflect these intent statements;
- the boundaries of Urban Centres and Frequent Transit Development Areas do not constitute a land use designation, and changes to them do not trigger a vote at the Regional Board since they do not constitute a change to the Regional Growth Strategy;
- for Industrial and Mixed Employment areas, there is now greater local flexibility to define appropriate uses and densities in the Regional Context Statements they submit to the Regional Board for approval;
- the "generally consistent" that was added to describe the relationship between the Regional Growth Strategy and the Regional Context Statement after much discussion ensures that member municipalities will be able to work in concert on issues of regional significance, without being overly regulatory or bureaucratic; and
- there are several key requirements that must be contained in Regional Context Statements. In Surrey's case the boundaries of the Urban Centres are already well delineated, but there will need to be a planning process in conjunction with TransLink regarding the Frequent Transit Development Areas.

## 3. Richmond

Richmond's October 18, 2010 submission to Metro expressed support for the Regional Growth Strategy on the following basis:

"As City staff assisted in preparing the RGS while at the same time preparing the City's 2041 OCP update, this balance, it is suggested, is incorporated into the draft RGS (e.g., in the RGS goals, strategies, policies, designations and guidelines) to enable flexible municipal planning to continue. For example, City staff are satisfied that Richmond has sufficient lands designated RGS Industrial and Mixed Employment to accommodate its industrial, office, and other employment needs (e.g., there is no need to designate more lands RGS Industrial)....

The proposed draft RGS provides more municipal flexibility, as municipalities in their OCP RCS will now need to be (only) “generally consistent” and not strictly “consistent” in implementing the RGS policies. This is an important RGS change, as now municipalities have more flexibility to tailor municipal policies to their needs with less need to request MV Board approval. It is the MV Board who will determine if and how a municipal OCP RCS is “generally consistent” with the RGS. As well, if a municipal OCP RCS requires a RGS amendment, the MV Board and municipalities agree to flexibly consider amending the RGS to accommodate the municipality’s interests....

[A]t the September 24, 2010, MV Board Workshop, the MV Board determined that: (1) Urban Centres and (1) Frequent Transit Development Areas will now not be RGS land use designations, but only conceptual overlays. This means that municipalities will have more flexibility in applying and changing them in their OCP RCS (e.g., when such concepts are applied in the OCP RCS, MV Board approval will initially be required, but afterward, changing them will not require MV Board approval).”

Richmond’s report included a designation of Agricultural Land Reserve land as General Urban and within the Urban Containment Boundary, as noted in the Agricultural Land Commission’s submission.

#### 4. Delta

Delta’s report expressed support on the following basis:

“Many, if not most of the concerns of local governments relate to the way the plan is proposed to be implemented. While the current Livable Region Strategic Plan (LRSP) is largely a policy document, the new RGS will more strongly emphasize land designations using a parcel-based approach. *Once local governments have established these land designations through the initial plan process and subsequent Regional Context Statements, any changes would require amending the RGS through a Metro Board approval process.* Concerns regarding the need for regional plan amendments for matters that currently do not require Metro approval, the potential frequency of plan amendments, and uncertainties regarding the amendment process itself have all been ongoing points of discussion....

The latest draft RGS includes a substantially updated and revised implementation section. Revisions attempt to address the two main concerns of municipalities: a) that the regional plan was unduly restricting local governments’ ability to make land use

decisions by imposing a new layer of approval for virtually any land use changes rather than focusing on regionally-significant changes; and b) that the amendment process was overly complicated and had the potential to cause considerable delays for local governments wanting to amend their own local land use designations in consideration of local planning objectives or land development proposals....

Section 6.2.4: Replacing the requirement for strict consistency in certain cases with a requirement for 'general consistency'. *This provides the Metro Board with the flexibility to accept Regional Context Statements or amendments to Regional Context Statements which are not strictly consistent but are, in the judgment of the Board, generally consistent.* Under the previous version of the plan the Board could not accept a Regional Context Statement which was not strictly consistent with the RGS without first requiring a plan amendment....

In summary, the implementation section of the draft plan, although still lengthy, has been much improved and staff recommend support for these changes. The amendment process has been clarified and the addition of new exemption criteria will eliminate the need for certain amendments altogether. Clarification that the Board can now accept Regional Context Statements that are 'generally consistent' with the RGS means that the Board need not take a strict interpretation of each parcel designation, boundary or policy and may instead consider if, on the whole, municipal Regional Context Statements reflect the overall intent of the regional strategy and its objectives. ...

Staff recommends that a response be provided to Metro indicating general support for the draft plan as amended."

### **APPENDIX 3: BUSINESS COUNCIL SUBMISSION**



Business Council of  
British Columbia

**Submission  
on the  
Metro  
Vancouver  
Regional  
Growth  
Strategy**

February 5, 2010



Business Council of  
British Columbia

## SUBMISSION ON THE METRO VANCOUVER REGIONAL GROWTH STRATEGY

The Business Council of British Columbia welcomes the opportunity to provide comments on the Regional Growth Strategy (RGS) outlined in the draft document, *Metro Vancouver 2040: Shaping Our Future*, published by Metro Vancouver in November 2009. The comments below build on previous Business Council submissions on earlier versions of Metro Vancouver's consultation documents.

By way of background, the Business Council, established in 1966, is an association representing approximately 260 large and medium-sized enterprises engaged in business in British Columbia. Our members are drawn from all major sectors of the provincial economy. Taken together, the corporate members and the associations affiliated with the Business Council are responsible for approximately one-quarter of all jobs in British Columbia. More than three quarters of our members have an active business presence in the Lower Mainland.

### General Comments

At the outset, we offer a number of general comments on the November 2009 draft, *Metro Vancouver 2040: Shaping Our Future*.

The Business Council recognizes the challenges involved in developing a long-term growth management strategy for a region as diverse as Metro Vancouver. Sustained population growth, an array of increasingly complex policy issues, geographic constraints, and a large number of independent municipalities in the region all create an environment in which it can be exceedingly difficult to build consensus and meet everyone's concerns. Further, there





is necessarily much uncertainty associated with long-term (multi-decade) planning for the region – meaning that Metro Vancouver must try to strike a balance between providing enough flexibility to respond to shifting circumstances while also having enough tools to shape growth patterns, the development of transportation infrastructure, and so on.

In consultation with our members, one theme that emerged is that the current version of the Regional Growth Strategy seems to be more of a “preservationist” plan than a true growth management plan. With forecasts that the region’s population will rise by more than one million over the planning horizon, it is odd that the draft strategy is so heavily tilted toward preserving the status quo. If the past two decades have taught us anything, it is that steady population growth, high levels of immigration, and a changing global economy are sure to have a major impact on Metro Vancouver in the coming decades – and in ways that cannot be fully anticipated in 2010.

From our perspective, a chief shortcoming of the RGS draft is the very limited treatment of the region’s economy and the failure to recognize that a strong and diverse industrial base is essential to residents’ standard of living and quality of life. Although the context statement in Section A makes reference to “... a long-term commitment to economic prosperity, community well-being and environmental integrity,” it is fair to say that the RGS document as a whole gives scant attention to the region’s existing economic structure, nor does it articulate the steps needed to provide for future prosperity. In the vernacular of the Sustainable Region Initiative, the economic leg of the vaunted “three-legged stool” of sustainable development is short, resulting in what charitably can be described as a lopsided “growth” strategy.

Making sure the RGS is aligned with protecting and advancing the economic well-being of Metro Vancouver’s 2.2 million residents ought to be a primary concern for policymakers. This is particularly true given Metro Vancouver’s rather weak economic position, as measured by incomes and real wages. Despite having the highest housing costs in the



country, Metro Vancouver falls below the Canadian average on both employment earnings and household income. This sobering economic picture warrants attention by local government decision-makers and needs to be acknowledged as part of the backdrop for the RGS.

By our reckoning, just one of the five RGS goals makes any reference to the economy, and even here the treatment is inadequate.

- The Business Council recommends that the wording of the second RGS goal, "Support a sustainable economy," be changed to "Support a prosperous and sustainable economy".

We further recommend that the second RGS goal include the following specific strategies, in addition to those already identified in the existing RGS draft:

- Support and maintain a diverse industrial base to strengthen the resilience of the region's economy.
- Encourage economic development to sustain and foster the growth of good-paying jobs and household incomes.
- Recognize and support the region's role as a key component of Canada's Pacific Gateway.

Median Total Income of Families, Canadian CMAs	
CMA	2005 income
Canada	60,600
Ottawa-Gatineau	77,000
Oshawa	76,800
Calgary	75,400
Edmonton	72,600
Kitchener	71,100
Windsor	69,700
Hamilton	69,500
Regina	68,500
Thunder Bay	67,200
Victoria	66,900
Kingston	66,400
Greater Sudbury	66,100
London	66,100
Québec	64,900
Halifax	64,700
Saskatoon	63,600
Toronto	61,800
Winnipeg	61,600
St. Catharines-Niagara	60,600
St. John's	59,800
Saguenay	58,900
Vancouver	58,800
Montréal	58,600
Saint John	57,000
Sherbrooke	56,100
Abbotsford	55,700
Trois-Rivières	55,100
Source, Statistics Canada. Data are from income tax returns filed in the spring of 2006. Income is after receipt of government transfers and before the payment of income tax.	

The RGS as just one of a "suite" of eight plans mandated by Metro Vancouver within its broader SRI framework. The other seven plans address matters such as waste management, water, parks greenways and so on. None of these additional plans relates to regional competitiveness, employment, the Gateway and related transportation issues, or indeed to any other aspect of Metro Vancouver's economy. Moreover, the RGS is intended to shape growth in the region for years to come, and presumably it will influence other plans identified in the SRI framework, such as those for air quality and housing. As noted in our previous submission, we believe the RGS should occupy a more prominent position in Metro Vancouver's hierarchy of policies and plans. When stakeholders in the region – or interested parties elsewhere – look for a "signature" document to help them understand the future direction of Greater Vancouver, they will reach for the RGS – not for the liquid waste plan or the drinking water plan.<sup>1</sup> Therefore, it is important that the RGS be designed to provide a coherent and balanced framework for managing growth in the region. The current draft, in our view, falls short of meeting this test.

#### **Supporting the Economic Base is Critical to the Region's Future**

The foundation of the RGS is land use management. As such, the document understandably focuses on issues concerning the land base. But it also touches, albeit briefly, on other dimensions of regional development, including the structure of the region's economy, employment, housing, transportation and other related matters. Land use management and strategy are inextricably linked to the industrial structure and the growth of the regional economy. The economic section of the RGS document devotes disproportionate attention to agriculture and provides little or no discussion of the many other industries that drive the economy and support some 1.25 million jobs in Metro Vancouver. Readers of the draft could easily be left with the mis-impression that agriculture is the biggest or most important industry in Greater Vancouver – which is not the case. In contrast to what is suggested in

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<sup>1</sup> As there is no regional economic strategy or investment attraction document produced by Metro Vancouver, those who wish to promote the region will need to turn to the RGS or to municipal business attraction materials.



the RGS, the defining characteristic of the Metro Vancouver economy is its diverse industrial structure.

Metro Vancouver Employment by Industry, 2008		
Industry	Number Employed (000s)	Share of Total (%)
Total employed, all industries	1,241.6	100.0
Goods-producing sector	234.1	18.9
Agriculture	9.6	0.8
Forestry, fishing, mining, oil and gas	4.4	0.4
Utilities	8	0.6
Construction	105.3	8.5
Manufacturing	106.8	8.6
Services-producing sector	1,007.60	81.2
Trade	186.7	15.0
Transportation and warehousing	72.6	5.8
Finance, insurance, real estate and leasing	99.3	8.0
Professional, scientific and technical services	115.9	9.3
Business, building and other support services	58.7	4.7
Educational services	98.5	7.9
Health care and social assistance	115.1	9.3

Source: Statistics Canada, Labour Force Survey

A principal reason why cities are becoming such powerful economic engines on a global scale is the demonstrated tendency for many kinds of high-value business activity to “cluster” in particular locales. Despite globalization, there is much evidence that the characteristics of local economic environments matter to firm behaviour, employment growth, and the extent and nature of innovation.<sup>2</sup> This underscores the need to pay close attention to the competitiveness of regions, and to the impact that public policies and the quality of infrastructure have on industry structure, business location and investment decisions, and the overall prosperity of major city-regions.

In light of this, we advise Metro Vancouver policy-makers to devote more attention to the competitiveness of the local economy, to how the region is connected with external markets, and to the impact that public policies can have on industry structure, employment opportunities, and business location and investment decisions. Long-term regional planning

<sup>2</sup> Ontario Institute for Competitiveness & Prosperity, *A View of Ontario: Ontario's Clusters of Innovation* (April 2002), esp. pp. 18-34.



should be undertaken through a lens that explicitly considers prosperity, competitiveness, and the needs of employers, with a particular focus on the international connections of local firms and the benefits of expanding employment in industries which produce tradable goods and services. In our experience, Metro Vancouver officials and their political overseers appear to attach a low priority to these fundamental economic considerations.

### Transit and Transportation

In our view, the draft RGS also fails to give enough attention to the movement of goods within and through the region, including the maintenance and expansion of vital transportation corridors. The document recognizes the region's role as an international gateway, but the stated goal to "Support Sustainable Transportation Choices" does not capture the critical importance of Gateway-related activity to the region's economy and employment base.

Port Metro Vancouver is Canada's largest port and the fourth largest tonnage port in North America. With business operations in automobiles, breakbulk, bulk, containers and cruise ships, it is the most diversified port in North America. Studies done for Port Metro Vancouver indicate that the Port supports 129,000 jobs in Metro Vancouver ~ one in twelve jobs in the region, and closer to one in nine private sector jobs. By this measure, the Port counts as the region's most important economic engine. Similarly, the airport is a major economic driver in the region through its direct provision of employment (27,000 jobs), global connections for people and cargo, and related logistics and services. Indeed, a central feature of Greater Vancouver is the role of the port-rail economy and the airport within the region. In our view, any long-term plan needs to 1) recognize the port and related infrastructure, as well as the airport and the hundreds of businesses linked to it, as a fundamental part of what makes the region's economy "tick," and 2) feature a strong commitment to protect and enhance these vital drivers of the region's economy.

The RGS understandably is concerned with creating density around transit corridors and encouraging the use of transit, which we support. To this end the RGS references better



"management of demand and capacity of regional roads network." The Business Council supports the broader use of traffic management technology (including road pricing, more turning lanes, highway entrance signals, synchronized lights, bike lanes, HOV lanes, transit lanes and so on) to help keep traffic flowing in and through the region. However, we are concerned that the plan as now articulated does not adequately address the need for an expanded road network and is overly focused on public transit.

In all likelihood, only a modest share of the one million plus people expected to arrive in Metro Vancouver by 2040 will regularly use transit to commute. As Metro Vancouver's population and economy grow, there necessarily will be more trucks distributing food and other consumer items to retail networks across the region. With increasing numbers of people living, working and shopping in the region, some additional road capacity will be necessary. We recognize that the current strategy calls for "...better management of the demand and capacity of the regional roads network." But the follow-up suggestion, that "[b]y optimizing the use of existing and planned road capacity, the region can avoid unnecessary and capital-intensive expansion in the future," is problematic. We see little risk of "unnecessary" road infrastructure being built in the region; by far the greater risk is inadequate road capacity. The history of the region is that road expansions and investments in road improvements occur long after congestion becomes unmanageable. The RGS should include references to regular monitoring of traffic flows and embody a more proactive approach to traffic management, with particular attention to the need to facilitate the movement of goods. And infrastructure expansion and refurbishment should be identified as a requirement, along with improved demand side management.

We find it curious that plan does not mention the Port Mann/Highway One expansion. This major new infrastructure project will see public transit re-established on the route and help to shape future growth and development patterns. It is a prime example of building much needed and long overdue infrastructure, in combination with demand management policies and enhanced transit service.



We are also concerned about the implications of section 5.1.3 of the draft RGS, which indicates that Metro Vancouver will be working "with Translink and the municipalities to develop a regional parking supply policy, as part of an overall regional Transportation Demand Management Strategy, to provide further encouragement for an increased share of trips by high-occupancy vehicles, walking, cycling and transit." Parking policy should not be developed at the regional level. It is the responsibility of municipalities, reflecting demand related to local development. We caution against placing undue restrictions on parking supply and using it as a tool to manage congestion. Doing so is likely to further drive up parking costs and undermine competitiveness. The City of Vancouver is already facing challenges on this front, as a growing number of businesses are relocating to lower cost municipalities.

### **Industrial Land**

Within the business community there is broad support for RGS Strategy 2.2 to "Protect the region's supply of industrial land." For some time, the Business Council has expressed concern over the loss of the region's rather limited supply of industrial land to alternative uses, including residential development. Inclusion of this Strategy in the RGS is welcome, as it attests to the diversity of the regional economy and the importance of providing a basis for accommodating future population and employment growth.

However, there are also reservations and concerns. Along with firmer delineations around land use there will invariably be further hardening around land use decisions. While protecting scarce industrial land is a desirable goal, we recognize that doing so could unduly restrict development of land suited to various kinds of business activity. It is not clear, for example, whether multi-use zoning (such as industrial with some commercial space) would be permitted on industrial land. Depending on how zoning rules and by-laws are drafted and interpreted, rigid industrial zoning could even prevent the development multi-story industrial buildings or warehouses - which would be undesirable.



Simply proscribing "non-industrial" activities on industrial land may not take full account of the needs of many employers and employees, nor reflect the attributes of the goods they produce. The Business Council does believe it is imperative to preserve lands that will be used for Gateway-related activities and goods-transportation more generally - e.g., to support short-sea shipping, intermodal centres, and trucking and distribution centres.

- In this regard, we recommend that long-term plans for Metro Vancouver include establishing a "Gateway land reserve". Such a reserve would protect land deemed important to Gateway activities and future growth. Explicitly protecting this category of land can also provide more scope and flexibility for the use of other industrial land in the region. This makes sense given the difficulty of predicting which specific types of business and industry will grow - and to what extent - in the coming decades. Again, a balanced growth strategy should aim to maintain a mix of industries.

Another, related priority is to identify and protect regional truck routes connecting all of the key nodes in the Lower Mainland. Given the geographic constraints on land in the region, anticipated population and economic growth, and uncertainty about future industrial structure and land requirements, policy-makers need to commit to ongoing monitoring and study of the demand for land by industry, commercial businesses, and local and senior government agencies.

We are encouraged that the draft RGS Monitoring and Performance Measures include a number of metrics for industrial land (vacancy rate of industrial floor space; inventory of market ready industrial land; inventory of medium and long term industrial land; and, annual absorption rate). The value of manufacturing shipments and the volume and or value of port throughput should also be routinely monitored. It is essential to monitor and track the region's manufacturing sector as well as Gateway activities.





### Living and Working in the Same Municipality

RGS Strategy 2.1 aims to "Promote patterns of development that support a diverse regional economy and employment close to where people live." While encouraging people to live in proximity to where they work is a desirable goal, having too many city centres and business districts may be counter-productive for the economic health of Greater Vancouver. Globally, many city-regions have found that success involves accommodating the development of industrial clusters. From this perspective, there are advantages in having some types of businesses co-locate in specific areas instead of being dispersed throughout a region. And it often will prove necessary to attract talent to such clusters from across the region – not just from near-by communities – to sustain their success. These basic business imperatives should be accommodated within the RGS.

As noted in our previous submission, regional planners need to be realistic about the extent to which policy can influence where people choose to reside in relation to their place of employment or education. Increasingly, households consist of two (and sometimes more) individuals who work outside the home. Employers in Metro Vancouver typically attract workers who live in different municipalities, and they purchase business inputs from suppliers scattered across the region. By the same token, even non-exporting firms often sell their goods/services to customers who live in multiple communities within the wider region. Quite apart from employment patterns, individuals residing in one regional community may shop or commute to college/university in another that is ten, twenty or thirty kilometres away. And residents of suburban communities often travel to the city core for work, entertainment or to access specialized health or business services.

For Greater Vancouver, all of this means that many households are never going to meet the planners' ideal of living close to their place of employment or education. Nor should one overlook the trend for people to have multiple careers over the course of a working life, which itself makes it less likely that they will reside and work in the same local community.



That said, we acknowledge the efforts in the RGS to facilitate the movement of people and goods among City Centres and Town Centres throughout the region: strategy 1.2, which seeks to focus growth in urban centres and along transit corridors, the strategies supporting Goal 5, "Supporting Sustainable Transportation Choices," and the province's Transit Plan and Gateway Program.

#### Urban Containment Puts Pressure on Housing Affordability

The principles behind the draft RGS Goal 1 ("Create a Compact Urban Area") to reduce sprawl, congestion and adverse environmental effects while accommodating the expected increase in residents and workers are similar to principles adopted by other city-regions around North America. However, a particular challenge for Greater Vancouver stems from its geographic setting: proximate water and mountains make for an enviable quality of life, but also limit the possibility for growth.

The trade-offs policymakers will have to make as the region's population continues to grow include recognizing that urban containment boundaries and decisions to set aside large areas of land for recreation and agriculture are at odds with policy-makers' professed goal to provide "diverse and affordable housing." Indeed, a primary reason for high housing costs in Greater Vancouver is the constrained supply of land. Metro Vancouver and its constituent municipalities should carefully review the balance among alternate land uses and consider the wider social and economic implications of designating urban, agricultural and rural lands. With most of the region's land base already classified as "green" or agricultural, the Business Council cautions against decisions that would further reduce the supply of land for economic development (residential, commercial, and industrial).

#### Fractured Approach to Economic Development

The absence of a regional approach to economic development continues to handicap Greater Vancouver's efforts to address economic issues and market the region as an attractive location for high-value business activity. Policy-makers and community and



business leaders need to think more systematically about the economy on a region-wide basis. Regional approaches to economic development, investment promotion and sustainability have been adopted in most other North American city-regions, but have been slow to emerge in Greater Vancouver.

We see advantages in doing more work on economic development at a regional level, even if this is done outside the current RGS-process (or Metro Vancouver's official administrative structure). A broadly supported regional economic strategy would assist in clarifying the goals in the RGS, particularly on land use and transportation planning. We echo the argument made in the Vancouver Economic Development Commission's 2007 *Business Climate Report*<sup>1</sup>, that a regional economic development strategy must include a coordinated marketing and promotion function. Such efforts are best pursued regionally in order to effectively market the region to outside companies, investors and site selectors. A challenge for Metro Vancouver policy-makers is to recognize the changing global economic environment in which the region now operates and to develop a framework that will help Greater Vancouver become known not just as a desirable place to live, but also as a dynamic urban economy in which to invest, to create wealth, and to build successful businesses.

Two essential elements of regional economic development are the strategy itself and its companion use as a marketing and investment attraction tool. Concerning the first element, to date the sustainability dialogues promoted by Metro Vancouver have been preoccupied with environmental and to a lesser extent social concerns, with little attention given to economic underpinnings of a thriving urban region. Yet as the VEDC's 2007 *Business Climate Report* correctly observed, "... public amenities and services, the social safety net, health care, education, and culture all rely on strength in the economy."<sup>4</sup> The reason for working toward a coherent regional economic vision is not to place it in conflict with the

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<sup>1</sup> Vann Struth Consulting Group and Eric Vance & Associates, "Blue Ribbon Council Report for the City of Vancouver Business Climate Strategy," prepared for the Vancouver Economic Development Commission and included as part of its *Vancouver Business Climate Report* (October 2007).

<sup>4</sup> Vann Struth Consulting Group et al, "Blue Ribbon Council Report for the City of Vancouver Business Climate Strategy," (October 2007), p 17.



environmental and social pillars of sustainability, or to undermine the powers of municipalities. Instead, it is to advance the prosperity of the region so that the social and environmental dimensions of sustainability are reinforced by a successful and competitive economy. Given the governance structure and political culture of Greater Vancouver, it may be that a regional economic development strategy can only be pursued outside the framework of Metro Vancouver.

Concerning the second element, at present Metro Vancouver invests no resources in promoting and marketing the region to attract investment and high-value business activity, and its component municipalities have allocated only limited budgets to do so. Casual observation suggests that large competitor city-regions in North America maintain more robust economic development and marketing programs. This is one area where Greater Vancouver clearly is falling behind.<sup>5</sup> Our own research indicates that the region's economy rests on a foundation that is less sturdy than many think. While globalization has boosted trade opportunities and created markets for finished goods, commodities and resources – either generated in or flowing through the Greater Vancouver Gateway – it has also served to increase the competitive pressure on local firms and has left the region vulnerable to economic fluctuations in other parts of the world.

Metro Vancouver Commerce is a recently established vehicle to promote regional economic development. It was spearheaded by the Vancouver Economic Development Commission and currently has seven other municipal partners. While we are aware of the political sensitivity around Metro Vancouver taking any sort of lead role in economic development, we encourage all local municipalities to support Metro Vancouver Commerce and to address the regional aspect of economic development in their planning. From our perspective, the structure and activities of the Puget Sound Regional Council in Washington State are of interest. This Council is responsible for regional transportation, land use and economic

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<sup>5</sup> An analysis was conducted several years ago that indicated Seattle, Portland, Calgary and Edmonton invest between two and twenty times the amount per capita that the Lower Mainland does in economic development and promotion. Elvy Del Bianco, "The Regional Competitive Stage: North American Economic Development Organizations," Presented to Economic Leadership Forum, November 15, 2004.



development and has also established a long-term regional growth plan titled *Vision 2040*. With economic development as part of the organization's mission, the economy and prosperity are important elements of the plan. It appears, however, that the "heavy lifting" on the economic development front is done by an independent coalition of government, business, labour and community organizations called the Prosperity Partnership.

It is also interesting to note that it is necessary to have a comprehensive economic development strategy in place in order to receive funding from the Federal Economic Development Administration. To meet this requirement, the Puget Sound Regional Council adopted the Economic Development Strategy created by the Prosperity Partnership. While we appreciate that it may be difficult for Metro Vancouver to secure funds from higher levels of government (especially in the current fiscal setting), similar funding and requirements would provide an incentive for regional cooperation in the area of economic development.

#### Additional Thoughts

The draft RGS includes targets for greenhouse gas reductions. While greenhouse gas emissions are a global issue, we recognize that change must also take place at the local level. However, the Business Council has expressed concern over the regulatory patchwork and layering of policies and targets pertaining to managing GHG emissions. To the extent that targets are part of GHG policy, we believe they should be at the provincial and even more so at the federal level.

The RGS does not mention the subject of immigration. Even though immigration policy is well outside the bounds of regional and local governments, the RGS should include some discussion of the expected composition of population growth and the importance of relevant policy initiatives such as language training and credential recognition and other programs to assist in integrating newcomers into the local economy and job market.

Metro Vancouver policymakers must be sensitive to how the decisions of local governments affect the cost of doing business, the competitiveness of firms, and the costs facing taxpayers.



- In this regard, we recommend that the RGS include a commitment to carefully manage Metro Vancouver's expenditures, including outlays on capital projects, to ensure value for money and safeguard the interests of regional taxpayers.

We also offer a few comments on the proposed monitoring and performance measures. As a general point, many of the suggested metrics are vague. The parameters for monitoring should be as clearly defined as possible. For example, under strategy 4.1, in order to track the "[i]nventory of rental units affordable to households with low income (below 50% of the median income for the region)", it is necessary to determine what "affordable" means. Furthermore, does this inventory include secondary suites, which in some municipalities make up a sizable part of the housing stock but are difficult to measure? Similarly, what is meant by "proximity" in tracking the number of residents "living in proximity to a community or recreation centre, school, or library"? The "percentage of growth occurring in established urban areas" - is this an estimate of the addition to the population residing in urban areas, the value of residential building permits in urban areas, the value of all building permits or some other measure of growth?

In developing a comprehensive set of metrics that will assist in tracking success of the RGS it may be important to more fully consider why some things are being measured and whether it is important to include historical data (where available) to provide context. With respect to industrial land, one of the proposed metrics is vacancy rate of industrial floor space. While this is fundamental indicator used to gauge market conditions, annual changes are more of a reflection of business and investment cycles rather than long-term trends. And in the context of the RGS it is not clear if higher vacancy rates are good or bad. High and rising rates would reflect weakness in industrial activity (which is generally undesirable). On the other hand, low vacancy rates would signal an inadequate supply of industrial space and rising rental costs, which may also be unwelcome.

A number of the performance measures include local employment numbers. However, measures of job and labour force numbers by "subregion" (presumably municipalities within



the metro area) are not available annually. As far as we know, the only labour force information available at this level comes from the census, which is taken every five years. With respect to measuring total number of "jobs by sector," is this the number of employees or does it include self employment as well?

We believe that a number of other economic performance measures should be included:

- As noted earlier, the value of manufacturing shipments in the region;
- Measures of Gateway activity such as volume of Port throughput and airport cargo;
- Median family incomes and median earnings;
- Employment earnings, average total wages, and average private sector wages.

We note that the RGS does not include any discussion of the tax base and the challenges of financing regional and municipal services. In common with other local governments, the region must grapple with the fact that cities in Canada have a very limited tax base (essentially property tax and development fees). This has contributed to the conversion of commercial properties to residential use and put more pressure on commercial and industrial land. A limited tax base also makes it harder to raise funds to finance regional transit on a sustainable basis. As the RGS is supposed to be a long-term planning document, we believe it should acknowledge the fiscal challenges facing local governments and include some discussion of the need to expand or restructure the revenue sources available to municipalities.

Finally, as the Business Council has documented in numerous publications and presentations, the Greater Vancouver region does not score particularly well on a number of key indicators of economic success. Relative to size of population and GDP, regional exports are lower than elsewhere in the country and clusters of traded industries tend to be weak. Labour productivity and employment income are lower than in most other large Canadian cities. The region also stands out for its very poor record in maintaining - let alone growing



- head office employment.<sup>6</sup> While the draft RGS touches on a number of topics that influence the regional economy, it falls short in its treatment of the economic and competitive environment which we believe will do much to define the region's future, particularly from the vantage point of households and residents dependent on generating income from employment.

The Business Council appreciates this opportunity to provide comments on the draft Regional Growth Strategy.

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<sup>6</sup> Jock Finlayson and Karen Graham, "Corporate Headquarters and Head Office Employment in British Columbia: 2006 Update," Business Council of British Columbia (December 2006); Desmond Beckstead and W. Mark Brown, Head Office Employment in Canada, 1999 to 2005, Statistics Canada catalogue No. 11-624-MIE (July 2006).



## Port looking beyond Vancouver for future supply of industrial lands

Greater Vancouver's future industrial land needs may not be secure under a new regional planning strategy designed in part to ensure an adequate amount of such land remains available for industry.

Metro Vancouver's plan to preserve industrial land in the Lower Mainland is failing to take into account the predicted growth of the primary economic generator in the region, according to Port Metro Vancouver's vice-president of real estate, **Tom Corsie**. He labelled the *Regional Growth Strategy* (RGS) document as a "one-dimensional land use plan devoid of economics."

The potential shortage of industrial land for off-dock facilities such as warehousing/distribution centres for the growing container trade is concerning for the port, which is federally mandated to protect and promote trade.

Corsie estimated that 40% to 50% of all industrial land in Metro Vancouver is currently used for distribution and related purposes. If the predicted increases in container traffic continue to manifest, there is concern that insufficient industrial land will be available to handle expansion of the off-dock operations needed. Improved efficiency generated through the port's

container capacity improvement program can only go so far in terms of boosting productivity on existing lands.

Of the 6,000 or so acres of vacant industrial land in Metro Vancouver, only 2,500 acres are useful to the logistics industry, said Corsie, echoing sentiments shared by **Richard Wozny**, principal of **Site Economics Ltd.**, during his presentation on the impact of the RGS on the industrial land supply at a recent **Urban Development Institute (UDI)** event reviewing the proposed land use strategy. **Andrew Grant**, president of the **PCI Group** and **Kevin Layden**, president and CEO of **Wesbild Holdings Ltd.**, expressed reservations during the event about adopting the RGS in its current incarnation.

"There is this disconnect between Metro Vancouver's RGS and the economy," says Corsie. "The economy, we would say, is an economy of trade. You need to plan to make sure that economy is competitive going forward. That should be the fundamental underpinning of your long-term economic regional land supply and use strategy. It's not that at all."

In an effort to preserve as much industrial land as possible, the port has spent



Port Metro Vancouver is buying industrial land to preserve for future use

\$127 million to purchase about 340 acres since 2008, including **Canfor's** former 13-acre site in south Vancouver, which remains fully leased to **Oji Paper Co. Ltd.**, along with sites in New Westminster and Richmond. However, he says, it is not feasible for the port to secure all the land necessary for foreseeable future needs.

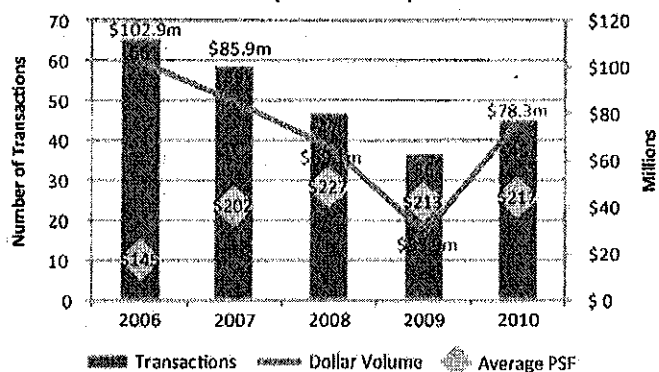
Wozny indicated in his presentation that the congestion of and a shortage of well-located vacant land would hinder the long-term growth of the port and its competitiveness. He added that the most obvious and important locations for additional port-related lands are found in Delta and Richmond, but that the RGS "inhibits these industrial land bases being expanded when needed."

He also suggested that small old

industrial lands such as inner urban locations near transit stations are not of high value due to congestion and could be rezoned.

With virtually no undeveloped industrial land in Vancouver city, the port has focused its attention on the region's "industrial heartland" - stretching along the north and south banks of the Fraser River around Annacis Island - with a "keen" awareness and focus on undeveloped industrial land at the south foot of No. 8 Road in Richmond. Delta, Coquitlam, Richmond, Burnaby and New Westminster all have industrial sites of interest to Port Metro Vancouver. It will also continue lobbying, working with First Nations and considering the acquisition of agricultural land to ensure an adequate supply of industrial land in the years ahead. ■

## Vancouver Industrial Sale Transaction Volumes (2006-2010)



Source: RealNet Canada Inc.

## Notable Vancouver Industrial Lease Deals

Tenant	Address	Square Feet
Cantr Bathrooms & Hardware Ltd.	8351 Ontario Street	40,600
PCI Group	8515 Cambie Street	14,778
Midland Appliance Ltd.	2015 Columbia Street	12,560
Super Suite Digital Studios Ltd.	15 East 4th Avenue	11,866
Newport Stone & Tile Ltd.	970 Malkin Avenue	11,500
Taylor B Canada Ltd.	105-111 West 2nd Avenue	11,147
Unipro Apparel Inc.	1305 Odium Drive	10,800

## APPENDIX 4: HOUSING AFFORDABILITY

8th Annual Demographia International Housing Affordability Survey

12

### Housing Affordability & Land Regulation LARGER INTERNATIONAL METROPOLITAN MARKETS

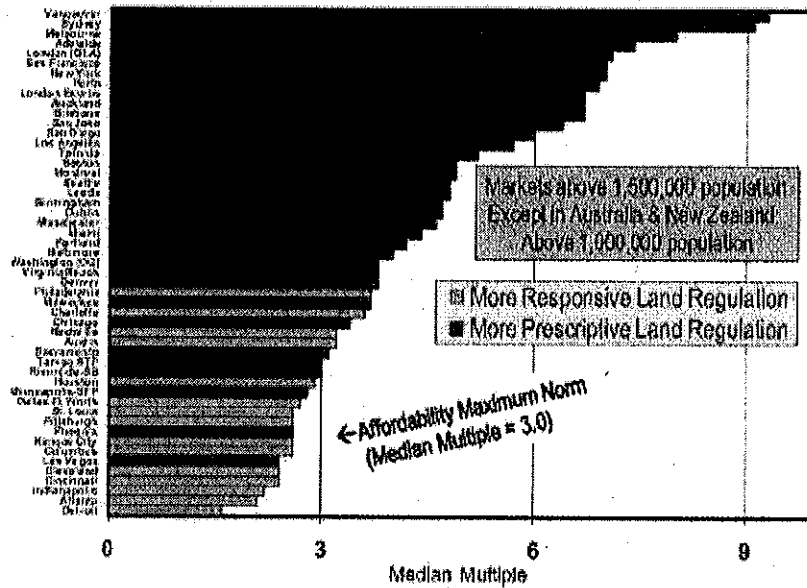
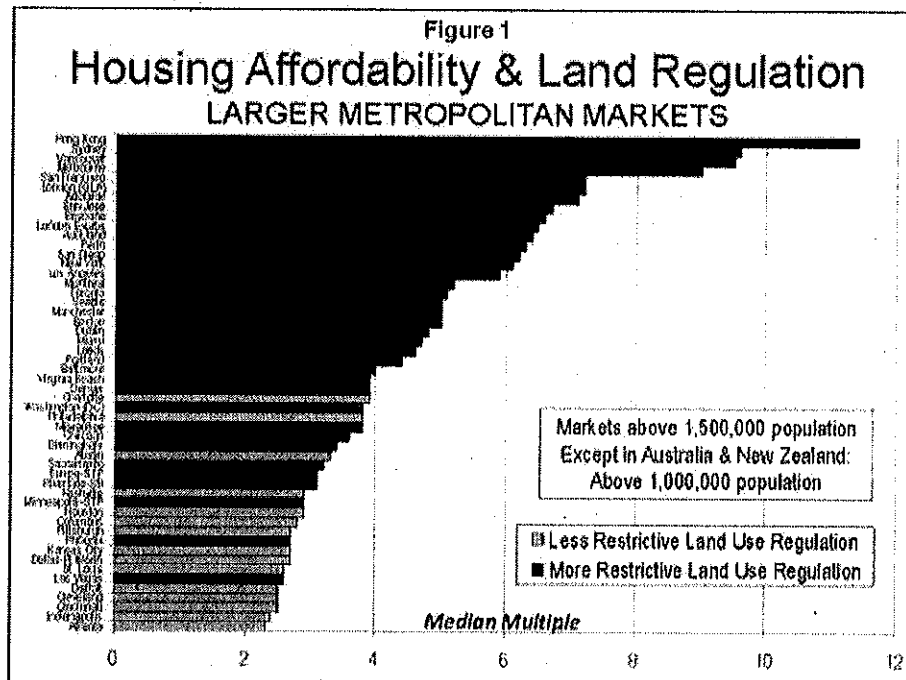


Figure 1

8th Annual Demographia International Housing Affordability Survey

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## APPENDIX 5: METRO BOARD VOTE ALLOCATION

Board Members

Page 1 of 2



### Directors' Contact Information

### Board Members:

The 2009 Board consists of 37 Directors representing 21 Municipalities, one Electoral Area, one treaty First Nation, and one Municipality that is a member of the GVRD for the parks function. These Directors are members of your Municipal or First Nation council who have been appointed to the Board by their respective councils.



Lois Jackson- Board Chair



Richard Walton- Board Vice Chair

The number of directors appointed to the Board depends on the population of the Municipality, Electoral Area, or First Nation. As well, directors are allowed one vote for every 20,000 people in their Municipality, Electoral Area, or First Nation, up to a total of five votes. The votes allocated to each director are noted below for each of the three boards.

RD - Greater Vancouver Regional District  
SD - Greater Vancouver Sewerage and Drainage District  
WD - Greater Vancouver Water District

Abbotsford is a member of the GVRD for the parks function only.  
Director Abbotsford Director

#### Abbotsford:

Mayor George Peary Councilor Lynne Harris 4  
Councilor Moss Gill Councilor Lynne Harris 3

#### Anmore:

Mayor Heather Anderson Councilor Kent Palmer Beak 5 1

#### Belcarra:

Mayor Ralph Drey Councilor Bruce Drake 5 1

#### Bowen Islands:

Councilor Peter Hinton Councilor Alison Rose 1

#### Burnaby:

Mayor Derek Corrigan Councilor Pietro Calendino; Councilor 4 4 4  
Dan Johnston  
Councilor Sav Ohlwald Councilor Pietro Calendino; Councilor 3 3 3  
Dan Johnston  
Councilor Colleen Jordan Councilor Pietro Calendino; Councilor 4 4 4  
Dan Johnston

#### Coquitlam:

Councilor Lou Sekora Councilor Brent Amundson 3 3 3  
Mayor Richard Stewart Councilor Doug Macdonell 3 3 3

#### Delta:

Mayor Lois Jackson Councilor Scott Hamilton 5 5 5

#### Electoral Area A:

Director Maria Harris Councilor Gary Gibson 1 1 1

#### Langley City:

Councilor Gayle Martin Mayor Peter Fassbender 2 2 2

#### Langley Township:

Councilor Charlie Fox Councilor Bob Long 5 5 5

#### Lions Bay:

Mayor Brenda Broughton Councilor Peach Ashholm 1

### Resources

### Fact Facts

### Population

### Sort by:

Municipality 3

Municipality	Population
Abbotsford	124,121
Anmore	1,765
Belcarra	676
Bowen Island	3,362
Burnaby	202,799
Coquitlam	114,589
Delta	97,402
Electoral Area A	11,099
Langley City	23,606
Langley Township	94,252
Lions Bay	1,328
Maple Ridge	68,949
New Westminster	58,549
North Vancouver City	45,731
North Vancouver District	84,407
Pitt Meadows	15,869
Port Coquitlam	62,692
Port Moody	27,512
Richmond	174,461
Surrey	395,065
Tsawwassen	674
Vancouver	579,412
West Vancouver	44,258
White Rock	10,755

<b>Maple Ridge:</b>			
Mayor Ernie Dajkch	Councillor Judy Duck	4	4 4
<b>New Westminster:</b>			
Mayor Wayne Wright	Councillor Bill Harper	3	3 3
<b>North Vancouver City:</b>			
Mayor Daniel Mussello	Councillor R.C. Clark	3	3 3
<b>North Vancouver District:</b>			
Mayor Richard Walton	Councillor Robin Hicks	5	5 5
<b>Pitt Meadows:</b>			
Mayor Don MacLean	Councillor John Becker	1	1 1
<b>Port Coquitlam:</b>			
Mayor Greg Moore	Councillor Michael Wright	3	3 3
<b>Port Moody:</b>			
Mayor Joe Trassolini	Councillor Meghan Lahti	2	2 2
<b>Richmond:</b>			
Mayor Malcolm Brode	Councillor Bill McNulty, Councillor Greg Halsey-Brandt	5	5 5
Councillor Harold Steves	Councillor Linda Barnes, Councillor Greg Halsey-Brandt	4	4 4
<b>Surrey:</b>			
Councillor Linda Hepner	Councillor Bob Bose, Councillor Tom Gill, Councillor Bernhard Rasode, Councillor Mary Martin	5	5 5
Councillor Marvin Hunt	Councillor Tom Gill, Councillor Mary Martin, Councillor Bernhard Rasode, Councillor Bob Bose	5	5 5
Councillor Judy Villeneuve	Councillor Tom Gill, Councillor Mary Martin, Councillor Bernhard Rasode, Councillor Bob Bose	5	5 5
Mayor Dianne Watts	Councillor Barbara Steele	5	5 5
<b>Tsawwassen:</b>			
Chief Kim Baird	Councillor Marvin Joe	1	1 1
<b>Vancouver:</b>			
Councillor Heather Deal	Councillor David Cadman	5	5 5
Councillor Raymond Louie	Councillor Kerry Jong	5	5 5
Councillor Geoff Meggs	Councillor Kerry Jong	5	5 5
Councillor Andrea Palmer	Councillor Ellen Woodward	4	4 4
Mayor Gregor Robertson	Councillor George Chow	5	5 5
Councillor Tim Stevenson	Councillor Suzanne Arton	5	5 5
<b>West Vancouver:</b>			
Mayor Pamela Goldsmith-Jones	Councillor Michael Lewis	3	3 3
<b>White Rock:</b>			
Mayor Catherine Ferguson	Councillor Mary-Wade Anderson	1	1 1

## APPENDIX 6: UDI PROGRAM SYNOPSIS



URBAN DEVELOPMENT INSTITUTE  
Pursuing Progress



Member Login

### CLARK WILSON'S RGS BREAKFAST OVERVIEW

#### CLARK WILSON LLP

With over 60 years

<http://www.clark-wilson.com/rgs-breakfast-overview>

Peter Kervynen (<http://www.clark-wilson.com/rgs-breakfast-overview>)

Chair of Clark Wilson LLP's Municipal

and Environmental Law Groups, and a member of the Board of Directors of the Urban Development Institute (Pacific Region), spoke yesterday to 250 people regarding the proposed Metro Vancouver Regional Growth Strategy. The program, hosted by UDI, was attended by a cross section of Metro Vancouver, including Councilors, developers from every sector, planners, municipal CAOs, and legal and other advisors.

Peter opened by noting that many people feel passionately about one or more aspects of the Regional Growth Strategy, and a number of very good people had put a lot of effort into the document as it has evolved. He added that generally speaking a lot of what you hear about the Regional Growth Strategy relates to issues of principle, such as:

- whether the balance of jurisdiction between municipalities and Metro lie more in Metro's favour than it is at present;
- whether enough density is being established alongside transit;
- whether the Agricultural Land Reserve should take precedence over the regional plan or vice versa;

But it was important to go beyond that and delve into what the effects of the proposed Regional Growth Strategy were likely to be. The analysis had to include:

- the impact the RGS would have on municipalities in exercising their land use and development regulation powers; and
- whether the RGS was likely to be effective in achieving its goals, relative to other options.

Peter, who is the Co-Chair of the UDI / Metro Vancouver / TransLink Liaison Committee, noted that the Committee had been discussing the evolving forms of the document for some time, and, recognizing that the RGS had important implications for the private sector generally, and those who bring developments about, UDI had made clear throughout that it would be holding a program to review the proposed RGS with UDI members, once a version was settled on.

Peter's comprehensive powerpoint presentation can be found [here](http://www.clark-wilson.com/download/peter-kervynen-metro-proposed-regional-growth-strategy.pdf) (<http://www.clark-wilson.com/download/peter-kervynen-metro-proposed-regional-growth-strategy.pdf>).

Peter's conclusions, as far as the three core objectives of the Regional Growth Strategy, were concerned, were that:

- given the limits in the legislation (which essentially allows Metro to block development, but not direct that it occur), the proposed RGS may be relatively ineffective in focusing urban development along transit;
- it is not clear that the provision for industrial land is sufficient for the needs of the Port economy, given that the relevant studies have not yet been released, and
- one can question whether Metro has an urban containment problem, given the ALR and the green zone, and also whether the proposed containment regime is preferable to the one already in place.

He commented that, rather than the advancing of those goals, the main effect of the proposed Regional Growth Strategy would seem to be the addition of a significant layer of required Metro approvals, the scope of which could be expected to increase over time. The RGS could also lead to Metro extractions in exchange for relaxations from those rules. And interestingly, the proposed RGS provided that Metro could change the designation of lands in a municipality over the objections of that municipality.

During the course of his presentation, Peter noted that Vancouver already had one of the least affordable housing markets in the world, relative to average household employment earnings, and that the Regional Growth Strategy did not appear to significantly address the factors that lead to that. The Business Council of BC had commented earlier that the Regional Growth Strategy was largely oblivious to the critical importance of the region's gateway economy, and insensitive to competitiveness, the cost of doing business, and the need for regulatory efficiency.

Posted by amarzara on Thu, 02/03/2011 - 00:00