Wood Buffalo TRIBUNALS
Subdivision and Development Appeal Board

NOTICE OF DECISION

FILE NO.	**SDAB 2025-007**
APPLICATION No.:	**2025-DP-00169**
DEVELOPMENT:	**Liquor Store, Office and Warehouse**
LAND USE DESIGNATION:	**HC – Hamlet Commercial District**
LEGAL DESCRIPTION:	**Lot 3, Block 10, Plan 5642NY**
CIVIC ADDRESS:	**193 Mackenzie Avenue, Fort Chipewyan, Alberta**

IN THE MATTER OF AN APPEAL filed with the Regional Municipality of Wood Buffalo Subdivision and Development Appeal Board ("the Board") pursuant to Sections 685 and 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26, ("MGA") the Appeal Hearing was held via hybrid format on Monday, March 9, 2026 with members of the Board and the parties attending virtually.

BETWEEN:

Mikisew Cree First Nation, Cree-Ations Enterprises; and Mistee Seepee Development Corporation Ltd and 1112958 (collectively "The Appellant") represented by Orlagh O'Kelly, Counsel for the Appellant

-and-

The Regional Municipality of Wood Buffalo ("the Respondent") represented by Janice Agrios, KC, Counsel for the Development Authority

-and-

Daniel Roy (the "Applicant") represented by R. Homersham, Counsel for the Applicant

BEFORE:

A. McKenzie (Chair)
D. Cleaver
T. Salisbury

Administration:
H. Fredeen, Clerk for the Subdivision and Development Appeal Board
G. Stewart-Palmer, KC, Counsel for the Subdivision and Development Appeal Board

[1] This hearing deals with the appeals in relation to Development Permit No. 2025-DP-00169 issued to Mr. Daniel Roy for a Permanent Liquor Store, Office & Warehouse Sales building (with a temporary liquor store operating for up to one year while permanent building is completed) at 193 Mackenzie Avenue, Fort Chipewyan, AB, legally described as Lot 3,

Block, 10, Plan 5642NY (the "Lands"). An appeal was filed by Mikisew Cree First Nation, Cree-Ations Enterprises; and Mistee Seepee Development Corporation Ltd and 1112958 Alberta Ltd. (collectively "The Appellant") against the issuance of the Development Permit.

[2] At the preliminary hearings held on November 12, 2025, and December 15, 2025, and the merit hearing held on March 9, 2026, following the introduction of the Board, the Chair confirmed with the parties in attendance that there were no objections to the constitution of the Board. None of the Board members identified any reason they could not hear the appeals.

PRELIMINARY ISSUES

[3] The Appellant filed their Notice of Appeal on October 17, 2025. Under Section 4 (Reasons for Appeal), the form stated:

> I/We hereby appeal the decision of the Approval Authority for the following reason(s) as the RMWB did not consult with MCFN and did not
>
> SEE APENDIXA (sic)

[4] Appendix A was not enclosed with the Notice of Appeal. The Clerk provided the Notice of Appeal filed on October 17, 2026, to the Applicant on October 27, 2025.

[5] On October 26, 2025, the Appellant resent the Notice of Appeal, and attached Appendix A. The Notice of Appeal with Appendix A was sent to the Applicant on October 27, 2025.

[6] The Board convened a preliminary hearing on November 12, 2025, to confirm jurisdiction and to set hearing and disclosure dates. At that preliminary hearing, the Applicant requested a preliminary hearing to hear the Applicant's application to strike the appeal on the basis that the appeal did not disclose a justiciable reason for the appeal. The Board scheduled a preliminary hearing for December 15, 2025, to hear this issue.

Preliminary hearing to determine whether the Appeal should be dismissed for failing to disclose a Justiciable Reason for Appeal.

Submissions of the Applicant

[7] The Applicant argued that the appeal should be dismissed because as of the deadline to file the appeal, the appeal form contained no justiciable reason for the appeal.

[8] The Applicant argued that the appeal deadline was October 23, 2025, and the Board cannot extend the 21-day filing deadline. On October 26, 2025, the Appellant filed additional reasons outside of 21-day appeal deadline. Those additional reasons are contained in Appendix A of the Notice of the Appeal. Although Appendix A was referred to in the initial notice filed on October 17, 2025, Appendix A was not filed with the Board before the appeal deadline ended. The Notice of Appeal was filed on time and contained a single reason for appeal, namely that the Municipality did not consult with the Appellant.

[9] The Applicant conceded that the Board may consider reasons for appeal not raised in the Notice of Appeal. However, the Applicant's argument was that it would be a breach of procedural fairness and the requirements of s. 686 (1) of the MGA to allow additional reasons to stand when the only reason for the appeal filed in time cannot stand on its own as a reason for appeal. The Appellant's single reason filed on October 17, 2025 discloses no justiciable reason for the appeal. Because the reason is not justiciable, it cannot be a reason on its own and therefore the reasons for appeal were not filed in time. The Applicant argued that the Notice of Appeal was fatally flawed, and the appeal should be dismissed.

[10] The Applicant argued that the facts are indisputable that the Appellant got notice of the proposed development and responded with its concerns. The Applicant referred to page 148 of the Agenda Package noting the letter from Chief Tuccaro of July 16, 2025. That notice was responded to on August 21, 2025 (see page 160 of the Agenda Package).

[11] The Board had previously heard appeals in relation to the Applicant's first application for a development permit (the "first appeal"). In the Board's decision on that appeal, the Board noted that the obligation of the Development Authority under the Land Use Bylaw 99/059 (the "LUB") is only notification and does not require the Development Authority to do any more. (see paragraphs 102 and 112 of the November 2024 decision at pages 141-142 of the Agenda Package). The Applicant asserted that the Appellant did get notice and so could not argue that it did not get notice. If the Appellant argued there was a broader constitutional duty, this should be summarily dismissed. The Applicant argued that the Board considered the same arguments in the first appeal. The Board's November 2024 decision stated that Board does not have jurisdiction to decide constitutional issues (page 142, paragraph 103 of the decision in the first appeal).

[12] If the Development Authority has a broader duty to consult, which the Applicant does not concede, the Board determined that it lacks jurisdiction to hear the argument. The Applicant referred to the BC Court of Appeal decision in *Neskonlith v. Salmon Arm*. In addition, based upon the Constitutional Decision Maker Regulation, (see page 139, paragraph 12 of the Agenda Package), the Board is not listed as a body capable of hearing constitutional arguments.

[13] In its 2024 Decision, the Board interpreted the protocol agreement between the Municipality and the Appellant as not inferring a duty to consult with First Nations for private development on private lands. (see paragraph 110 of the decision in the first appeal).

[14] The matter has already been resolved between the same parties on same issues, and on the same set of facts. The Applicant argued that the purported reason has been adjudicated, and the Appellant is estopped from raising it again. This is for the same reasons about the duty to consult and the broader constitutional questions. If the Appellant cannot rely upon the argument that it raised within the limitation period in the one line found on the notice of appeal form, and is estopped from raising it again, the Appellant cannot rely upon those arguments to leverage additional reasons for appeal after the limitation period and therefore the appeal should be dismissed entirely.

[15] The Board asked the Applicant how the Board should assess the Applicant's arguments about there being the same facts when there has been no submission of merit information at the time of the preliminary hearing. The Board noted that the Board had no facts in front of it at the hearing of this preliminary issue. In response, the Applicant argued that the Board has *de novo* jurisdiction, but the jurisdiction is not unlimited and has to be circumscribed by procedural fairness. Section 686 (1) of the MGA says the appeal must contain reasons. The Applicant asserted that the facts required for the Board to make its determination are before the Board now. The only thing the Board needs to do is to make the decision that the Applicant has put forward. The sole reason for appeal stated in the Notice of Appeal filed in time says that the Development Authority did not consult. The Applicant asserted that relevant facts before the Board are that:

a. notice was given to the Appellant and

b. the Appellant did respond.

These are sufficient facts to draw the conclusions that the Applicant has asserted are required. The Applicant argued that no additional facts are required.

[16] The Applicant also argued that if the Appellant is arguing that the duty to consult means the broader constitutional duty to consult, the Board considered this matter and cleared it on the record. The same two parties are appealing over the same or a similar development permit application for a liquor store at the same location. There is nothing else that would change or broaden the jurisdiction of the Board to consider the appeal. The Applicant asserted that the issue is estopped, and it cannot be redecided.

[17] In response to Board questions, the Applicant stated that if the Appellant had filed a notice of appeal that stood on its own. the Board's *de novo* jurisdiction would allow more reasons to be provided, so long as the Applicant was not blindsided and had time to respond. The Applicant's argument was that one must get past the first date, and the Notice of Appeal must have adequate reasons by the deadline. The Applicant's position is that the Appellant failed to do so and so therefore the question about further reasons does not need to be considered by the Board.

[18] The Applicant indicated that it would provide commentary on the *Albert Snyder* case and the *Wheatland* case in closing arguments.

Submissions of the Appellant

[19] In response, the Appellant provided the following rebuttal arguments to the Applicant's motion:

a. The Appellant's arguments made on appeal are not limited to those in the Notice of Appeal form.

b. The Board's consideration of the duty to consult in its previous decision is not binding. This is a *de novo* process, and the Board's previous decision is at best persuasive to determine the issues.

c. If the Board's previous decision is binding or determinative, then it should be wholly determinative. If it is determinative, then based on issue estoppel, the Board's previous decision that the proposed development was incompatible with surrounding uses should also be subject to issue estoppel. If the Board's decision is binding on one issue, it is determinative on all issues, and the Applicant cannot pick and choose what portions of the Board's decision on the first appeal is binding.

[20] If the Board rejects the Appellant's arguments, then there should be a decision addressing the Appellant's arguments so that the Appellant can pursue an appeal from the Board's ruling.

[21] The Appellant noted the appeal form was filed on time and had a reason. The Appellant noted that the Applicant did not dispute that a reason can be provided and new argument offered after the Notice of Appeal is filed. There are new arguments raised in Appendix A, which was unintentionally left out of the document, but intention is not relevant to procedural fairness. The question is whether there is breach of procedural fairness to hear other issues in Appendix A. The Applicant provided no case law to speak to the arguments he raises. The duty of procedural fairness requires the right to be heard and respond; notice of the issues; and to be heard before an impartial decision maker. The Notice of Appeal and the grounds in Appendix A were provided two months ago and there is no factual basis to assert a breach of procedural fairness. The Applicant had plenty of notice and an opportunity to respond. The interpretation of section 686(1) of the MGA which the Applicant offers is not supported by the plain language of that section or on statutory interpretation.

[22] Section 686(1) says that "there must be an appeal filed with reasons". It does not say that the reasons have to be justiciable reasons with merit or reasons that have not already been determined. The section merely references reasons and there is no legal reason to import a more restrictive meaning on what has to be included in a Notice of Appeal.

[23] In specific response to the duty to consult issues, the record has some information in relation to this ground and the Appellant referenced pages 159 and 164 of the Agenda Package.

[24] The Appellant did not provide specific submissions on its consultation argument except to note that there is consultation at a municipal level. If not, then the Board could discharge the duty under *Clyde River*. Alternatively, a party can go to court to have its duty of consultation adjudicated. There is no evidence regarding the HEP liquor store (a liquor store operating in Fort Chipewyan) before the Board. It took several months for that liquor store to be shut down in 2025. These issues are to be addressed on the merits. On the question of procedural fairness for the Appellant, the Applicant stated that he would reply if new arguments were raised in reply, they want a sur-reply.

[25] The Board provided an opportunity for the parties to provide closing comments.

[26] In response to questions from the Board about what prejudice there is by the Notice of Appeal being filed, the Applicant stated that the prejudice is that they have not seen the arguments and they should be able to rely upon the argument of estoppel. This is the second appeal on the same facts. If the Appellant gave another reason it could tack on an Appendix A, but the Appellant has to get over the argument that there is no duty to consult. The Applicant stated that they must have at least minimal reasons in the Notice of Appeal that was filed in time, and they cannot raise the duty to consult because it was asked and answered in full by the same Board.

[27] In response to questions from the Board about whether the MGA specifically contemplates what "reasons" means, the Applicant stated that there is no limitation in the MGA, and it does not specifically contemplate having a "valid reason".

[28] In commenting upon the *Albert Synder* and *Wheatland* cases, the Applicant stated that both of the cases are subdivision appeals where reasons are required for the appeal. In the *Wheatland* case, paragraph 24 stated that the reasons for appeal are elastic and do not contemplate precision. The Applicant argued that the Appellant is permitted grounds that did not appear in the Notice of Appeal, provided that parties are not prejudiced. The Applicant argued the cases are distinguishable because the appeal was filed in time, but the reasons were insufficient. Even though there is some flexibility in providing reasons for appeal, that flexibility cannot override the legal principal that a party is estopped from making the same argument. The facts have not changed, and the facts cannot override what is granted because the Board does not have experts before it.

[29] In the two cases, the Board gave latitude to the appellant. In both cases, the land description was not provided but the lands were identifiable. In those cases, the absence of the legal description did not cause prejudice to the parties about what was put before the Board. The Applicant's argument in this case is different. The Applicant argued that the Appellant cannot make the same argument in the hope of getting through the "door" to make further arguments. That elasticity does not overcome estoppel from arguing the same matter. The Applicant specifically refuted the Appellant's argument that if estoppel applies then it must apply to prevent the Applicant from re-applying for a similar development permit for a liquor store. The Applicant argued that the LUB specifically permits an Applicant to submit the same or similar application, but it must wait 6 months to do so. There is no estoppel argument that can be applied prohibiting the Applicant from reapplying for the same or similar development permit. The Applicant's argument is that issue estoppel does not arise because the prior decision is binding, but that the prior decision is binding on the parties and prevents them from relitigating what has already been decided.

[30] The Appellant addressed the two cases. Both of those cases support the arguments that the parties had notice of the issues but there was no prejudice. In this case, the Applicant does not cite any prejudice but argues that there is estoppel. The estoppel issue depends on the position that you cannot raise other grounds. There is no prejudice asserted. In this case, there is no prejudice.

Submissions of the Development Authority

[31] The Development Authority made no submissions in relation to this issue.

Decision and Reasons

[32] The Board dismissed the Applicant's preliminary application to strike the appeal and set the matter for a merit hearing for the reasons set out below.

[33] There is no disagreement between the parties on the facts (which are set out in this paragraph) and the Board makes the following findings of fact. The Appellant included a reason within the Notice of Appeal which was filed within the appeal window (which ended October 23, 2025). The Notice of Appeal referenced other grounds of appeal to be found in Appendix A. However, due to an oversight, the Appendix A was not sent to the Board within the 21 days. The Appellant sent Appendix A to the Board on October 26, 2025, which was 3 days after the appeal period ended. The Applicant received Appendix A on October 26, 2025.

[34] The Applicant argued that, within the 21-day appeal period, the Appellant had to file a "good and sufficient" reason for appeal. The Applicant did not use this exact wording, but the Board understood the Applicant to argue that within the 21 day appeal window, the ground or grounds included within the Appellant's Notice of Appeal had to be a valid ground of appeal, and that the inclusion of the "duty to consult" ground was insufficient because the Board had previously ruled that the Development Authority did not have a duty to consult, and the Board had no jurisdiction to consider constitutional arguments.

[35] The Board is not persuaded by the Applicant's argument that the Board has the authority, on a preliminary basis and without hearing the appeal on the merits to dismiss the Appellant's appeal.

[36] First, the Board notes that the Applicant provided no law to support such a restrictive reading of section 686(1). The language of section 686(1) states that "a development appeal is commenced by filing a notice of the appeal, containing reasons". The Board notes that the language in section 686(1) is very permissive, noting only that an appeal is commenced by the filing of a notice of appeal containing reasons. There is no mandatory language in section 686(1).

[37] The Board is aware of the cases of *Alberta Snyders Holdings v. Newell (County No. 4) Subdivision and Development Appeal Board*, 2002 ABCA 282 and *Wheatland County v. The Land Development Co*., 2002 ABCA 288. In these cases, the Court of Appeal held that despite the mandatory language of section 678(4) (which states that a notice of appeal *must* contain certain items), the language was directory and not imperative. The Board notes that unlike s. 678(4), language in section 686(1) contains no restrictions. The language of s. 686(1) is more permissive than section 678(4). The Board is not prepared to read into the language of s. 686 a greater restriction than can be born through a purposive interpretation of section 686(1).

[38] The language of section 686(1) does not qualify the nature, scope or quality of the reasons. Nothing in section 686(1) says that the reasons must not have been previously considered by the Board or provides any restrictions on the nature of the reasons. In the *Wheatland* case, the Board noted that the purpose of section 678(4) was for the parties to understand the issues on appeal. Applying that reasoning about subdivision appeals (which is what section 678 applies to) to the context of development appeals (which is what section 686 applies to), the Board concludes that the purpose of the reasons is to permit the parties to understand what the issues on appeal may be.

[39] The Board notes that section 685 sets out what might be appealed – and the list is broad, including the failure or refusal to issue a development permit, the issuance of a development permit subject to conditions, or an order under section 645. The Board is of the view that a restrictive reading of section 686(1) to mean that the notice of appeal has to include a "good and sufficient" reason would be contrary to the broad nature of section 685.

[40] The Board notes that in *Snyders* and *Wheatland,* the Court found that since the intention of the legislation had been met, and since the respondent had not been prejudiced, the failure to strictly comply with section 687(4) was not fatal. This Board therefore considers whether there has been prejudice to the Applicant. The Applicant confirmed it was not asserting that it suffered prejudice through the late submission of Appendix A. Rather, it asserted that the prejudice was, in essence, having to engage in the defence of its development permit at the Board. The Board is not persuaded by this argument. The scheme of this portion of the MGA is that a person who obtains a development permit might be subject to an appeal. The Board does not accept that providing its response to an appeal is prejudicial to an applicant, since that is the very nature of the statutory scheme. The Applicant could not point to any specific prejudice, and the Board finds that the Applicant is not prejudiced by having the one ground in the Notice of Appeal.

[41] Further, the Board is prepared to accept Appendix A even though it was filed after the appeal window closed. The Notice of Appeal was filed within time and contained a reason. The Notice of Appeal included reference to Appendix A. Appendix A was filed within 3 days of the appeal period ending and was provided to the Applicant on the same day. The Applicant had Appendix A for almost 6 weeks before the preliminary hearing and months before the merit hearing.

[42] The Board considered the Applicant's argument that issue estoppel applied to the ground set out in the Notice of Appeal, and since the Board had previously determined that the duty to consult did not apply, the ground was "spent" and therefore the Notice of Appeal was invalid. The Board notes that this argument was raised in December 2025, before any party had filed merit submissions. Although the Applicant argued that the same parties, the same issues and the same evidence were before this Board as the one which heard the first appeal, the Board notes that there was no evidence filed by the parties at the time this argument was made. The Board had no evidence on which to determine whether the same issues and the same evidence were before the Board. Therefore, the Board concludes that the determination of issue estoppel was premature as of the December 2025 hearing.

[43] The Board examined the Appellant's argument that if issue estoppel does apply, it should also bind on the question of whether the proposed development is compatible with neighbouring uses. As noted, at the time this argument was raised, the parties had not filed any evidence on the merits of the appeal. This appeal is on a new development permit application filed by the Applicant. The Board is of the view that it is premature to consider the question of issue estoppel on any merit decision until the Board has evidence before it.

[44] In the result, the Board is not prepared to dismiss the appeal on a preliminary basis before the Board hears submissions on the merits of the appeal. The purpose in filing reasons is for the parties to understand what concerns are being raised with the proposed development. The Appellant filed an appeal which contained a reason. The Board finds it would be contrary to the intention of Part 17 to take a rigid interpretation of section 686(1) when Part 17 permits appeals on development permit decisions and the Board is tasked with considering those appeals.

[45] As a result, the Board concludes that the appeals were filed in time, in accordance with section 686 of the *Municipal Government Act, RSA 2000, c M-26* (the "MGA"). The Board does not agree to summarily dismiss the appeal and sets the appeal for a merit hearing.

Procedure for Merit Hearing

[46] At the hearing on March 9, 2026, the Board outlined the process that it was going to follow which included that the Board would sit until 9:00 pm on March 9, 2026, and then, if it could not complete the hearing on that date, adjourn to March 10, 2026 to complete the hearing.

[47] The Board advised the parties that it was providing each party (the Appellant, the Applicant and the Development Authority) 30 minutes for their presentations, with 5 minutes per speaker on behalf of those parties, and to allow 10 minutes for those parties for closing. The Board provided affected persons 5 minutes to make their presentations.

[48] The Board identified the following speakers:

a. For the Applicant – Daniel Roy, Councillor Kendrik Cardinal, and Ruby Shirley;

b. For the Appellant - Councillor Paul Tuccaro, Kerri Ceretzke, and Clement Daniel Mercredi.

[49] The Board advised the Board's standard practice is not to allow cross examination, and all questions should be through the Chair.

[50] The Board asked whether the parties had any objections to the process. None of the parties raised any objections to the identified process.

[51] The Chair confirmed that everyone in attendance had the full Agenda Package prepared for the hearing. There were no objections to any of the exhibits. The Board marked the exhibits received as set out at the end of this decision. The Applicant provided two cases before the hearing: Douglas Bell v. Her Majesty the Queen and Mavis Baker v. Minister of Citizenship and Immigration. There was no objection to these being marked as exhibits. They were marked as Exhibits 46 and 47 respectively.

MERIT HEARING

Summary of Hearing

[52] The following is a brief summary of the oral and written evidence and arguments submitted to the Board.

Submissions of the Development Authority

[53] Counsel for the Development Authority made submissions on behalf of the Development Authority. Development Officers Ms. Phyllis Agyemang and Mr. Shailesh Makawana were present at the hearing but did not make submissions on behalf of the Development Authority.

[54] Counsel for the Development Authority summarized the important points from the Development Authority's report.

a. The appeal concerned a permit for a permanent liquor store, office and warehouse sales as well as a one-year temporary store while the permanent store is constructed. The development permit was located on page 849 of the Agenda Package.

b. Plans for the permanent liquor store were contained at pages 856-868 of the Agenda Package. The proposed store would be located on 193 MacKenzie Avenue. A map showing the location of the proposed liquor store was included at page 870 of the Agenda Package.

c. The site of the proposed liquor store was zoned Hamlet Commercial (HC). The proposed use was a discretionary use for HC zoning according to the LUB. The HC Zoning bylaw was included at pages 993-995 of the Agenda Package.

[55] Counsel for the Development Authority summarized the notification process for the application:

a. Initial notice of the application for the liquor store permit was mailed out to all property owners in the hamlet. An example of initial notice was included at page 871 of the Agenda Package. In addition, notice of the application was emailed to the head offices of the Athabasca Chipewyan First Nation ("ACFN"), Mikisew Cree First Nation ("MCFN") and Athabasca Métis Nation. The initial notice sent to MCFN was included at page 875 of the Agenda Package, and the cover email sent to MCFN was included at page 925 of the Agenda Package.

b. In response to the initial notice, the Development Authority received correspondence from MCFN. MCFN's submissions in response to the initial notice was included starting at page 928 of the Agenda Package.

c. The permit for the proposed liquor store was approved on September 26, 2025. Notice of the approval was posted on the development authorities' website. Notice of the approval for the liquor store was again sent to owners within the hamlet as well as sent directly to the ACFN, Métis Nation and MCFN. A sample notice of the approval notification was included at page 876 of the Agenda Package, and the email notice sent to MCFN was included at page 881.

[56] Counsel for the Development Authority then summarized the rationale for approval of the liquor store. The Development Authority's rationale was laid out on pages 844 and 845 of the Agenda Package in paragraphs 19-27:

a. The proposed use (a liquor store) of the application is a discretionary use within the land use zoning bylaws. The application was also aligned with the Municipal Development Plan (MDP) and Fort Chipewyan Area Structure Plan (ASP).

b. Section 6.3.2E(g) and (h) of the MDP highlighted the importance of locating small scale retail uses near the community core and making efficient use of underutilized lands.

c. The site of the proposed liquor store was located in an area designated as the Community Core by the ASP. The Community Core was intended to be a mixed use area with services and businesses serving the community.

d. Vacant industrial lands in the Community Core had been identified to provide opportunities for development that respected nearby Lake Athabasca. The Development Authority noted that the site of the proposed liquor store had been vacant since 2011. Aerial photos showing the vacant lot were included on pages 981 to 991 of the Agenda Package.

e. The ASP supported the development of retail commercial, public service, and residential uses with the Community Core as outlined in Policy 3.2.1. Policy 3.2.1 allows a mix of commercial uses in the Community Core.

[57] Counsel for the Development Authority stated that the Development Authority did review the Truth and Reconciliation Commission ["TRC"] Calls to Action as part of the permit application review. Counsel for the Development Authority noted that nothing in the TRC Calls to Action assigned a specific role to municipalities with regards to use and access of alcohol sales.

[58] Counsel for the Development Authority closed by summarizing that the application complied with all development standards and for those reasons the Development Authority approved the application.

Questions for the Development Authority

[59] The Board had no questions for the Development Authority.

[60] Counsel for the Appellant planned to share one of the Calls to Action on screen to start her questions. The Chair determined this would be putting new evidence to the witness at this time and determined it was not appropriate. Counsel for the Appellant withdrew from that line of questioning.

[61] Counsel for the Appellant asked whether the Development Authority contacted the RCMP or considered any information from the RCMP prior to approving the application. Ms. Agyemang confirmed that while the application for the liquor store was circulated through internal agencies the RCMP was not one of them.

[62] Counsel for the Appellant asked a clarifying question on who notice was mailed to, was it the owner of every home in Fort Chipewyan. In response, Ms. Agyemang said the Development Authority maintained a database of 106 homeowners in the hamlet, and notice was mailed to every owner in that database.

[63] Counsel for the Appellant noted that during the time of the notices being sent out there was a mail strike. Counsel for the Appellant asked the Development Authority if there was any indication that that mail strike affected sending out of notice of the application. Ms. Agyemang stated that the Development Authority hand-delivered notices of the application to the addresses in their database because of the mail strike.

[64] Counsel for the Appellant asked how notices of the application were sent to First Nations like MCFN on the last time there was an application for the liquor store. The Board Chair asked counsel to focus questions on the current application. After rephrasing the question, counsel for the Appellant asked how notice was given to First Nations in the past and whether notices went through mail or email. In response, Ms. Agyemang said the Indigenous Relations team at the Development Authority handles notice to First Nations and may have changed how they chose to give notice depending on how they saw fit at that time.

[65] Counsel for the Appellant asked the Development Authority if they reviewed any of the TRC Calls to Action or if they reviewed an internal document regarding the Calls to Action prior to approving the liquor store. Ms. Agyemang confirmed that there is no internal document regarding the Calls to Action and the Development Authority reviewed the actual TRC Calls to Action as part of the approval process.

[66] Counsel for the Appellant stated that in response to the initial notice of application, MCFN made submissions to the Development Authority opposing the application. Counsel for the Appellant then asked if any other parties made submissions opposing the application prior to the application's approval. Ms. Agyemang confirmed they also received submissions from Mr. Clement Dan Mercredi and Mr. Scott Flett. These submissions were included at pages 926 and 927 of the Agenda Package.

[67] Counsel for the Appellant asked if the Development Authority consulted with MCFN on the proposed liquor store. Counsel for the Development Authority clarified what was meant by consultation. Counsel for the Appellant asked if there was any discussion or engagement other than sending a notice of the application prior to its approval. Ms. Agyemang stated that for private development their only obligation is to send out notices to affected parties.

[68] Counsel for the Appellant asked if the Municipality considered the submissions of MCFN, Mr. Mercredi or Mr. Flett prior to the approval of the liquor store. In response the Development Authority stated that these submissions were considered and reviewed but they raised no planning-based reasons to deny the liquor store permit. Ms. Agyemang noted discretionary use decisions need to be based on planning considerations. Ms. Agyemang stated the comments received from MCFN, Mr. Mercredi, and Mr. Flett did not raise planning reasons not to approve the permit.

[69] Counsel for the Appellant asked if there were any other safety concerns considered prior to approving the liquor store permit. On clarification, counsel stated that safety concerns were anything related to use of alcohol within the community, for example drunk driving, alcohol-related crime or self-harm. Ms. Agyemang stated that they did not review these safety concerns prior to making their decision.

[70] Mr. Mercredi, who was in attendance, was permitted to put questions to the Development Authority.

[71] Mr. Mercredi asked if it would be appropriate to put the matter to a vote within the hamlet. Counsel for the Development Authority objected to the question of whether the matter should be put to a vote. The Chair determined that question was not appropriate for the witness, and the question was not answered

[72] Mr. Mercredi asked if there was any consultation with Nunee Health prior to granting the permit. Ms. Agyemang confirmed that the application was not circulated to Nunee Health.

Submissions of the Appellant

[73] Counsel for the Appellant spoke first on behalf of MCFN.

[74] Counsel for the Appellant directed the Board to their written submissions for two of their arguments:

a. The Question of the Duty to Consult and whether Duty to Consult was an issue the Board could consider and

b. Whether the Development Permit can be revoked, varied, or otherwise set aside.

[75] Counsel for the Appellant turned to the Board's previous decision on this liquor store and whether the principles in that decision can be set aside. Counsel for the Appellant stated that because the use is a discretionary use, the issue is whether the proposed development is compatible with neighbouring developments. Counsel for the Appellant submitted that the Board previously found that a liquor store was not compatible with neighbouring uses, and that previous determination was equally true today. The Board's previous decision was included beginning on page 889 of the Agenda Package.

[76] Counsel for the Appellant noted that the Board had previously considered RCMP statistics regarding alcohol related occurrences. In MCFN's written materials, MCFN stated that in 2024, as of October 21, 2024, there were 697 occurrences reported to the RCMP detachment in Fort Chipewyan. Of those occurrences 328 of them were alcohol related. RCMP incident statistics for 2025 up to August 21, 2025, indicated there had been 241 incidents reported to RCMP. The 2025 RCMP incident statistics are included in the Agenda Package between pages 468 and 485.

[77] Counsel for the Appellant stated that the Board would hear from one of MCFN's witnesses, Councillor Paul Tuccaro that there had been recent improvements in the crime statistics. Counsel for the Appellant stated that the Municipality has acknowledged they took no steps towards dealing with those safety concerns.

[78] Counsel for the Appellant noted that included in the Applicants materials were support letters from 23 local supporters but stated that MCFN is the elected body for over 600 residents who are members of the MCFN. Counsel for the Appellant put to the Board that the level of support expressed by those letters was not comparable to the level of opposition expressed by MCFN.

[79] Concluding on the compatibility issue, Counsel for the Appellant noted that this liquor store application was effectively the same liquor store that the Board rejected in 2024. That decision went to the Court of Appeal and the Board's decision was upheld. Counsel for the Appellant stated this time, the Municipality had more knowledge of the MCFN's objections to the liquor store but MCFN received less notice than they did previously. Counsel for the Appellant suggested that MCFN had not received "actual" notice until one of MCFN's members, Clement Daniel Mercredi, raised it with MCFN.

[80] Counsel for the Appellant stated the only change between the 2024 decision and now was that the "HEP", an illegal liquor store in Fort Chipewyan was shut down since the prior decision.

[81] Counsel for the Appellant put to the Board that just because a treaty issue is raised, that does not make that issue a constitutional issue that the Board is unable to consider. Counsel for the Appellant stated that the Board was not being asked to make a determination of a right but was being asked to consider whether MCFN should have been consulted prior to issuing the development permit.

[82] Counsel for the Appellant closed their submissions by stating they had not received notice that two of the witnesses speaking in support of the Applicant would be Ms. Ruby Shirley, a former MCFN Councillor and Councillor Kendrick Cardinal, who is a current municipal Councillor. Counsel for the Appellant expressed concern it was potentially impermissible for Councillor Cardinal to be giving evidence in support of this permit application at all.

[83] Three witnesses spoke in support of MCFN's appeal.

Kerri Ceretzke

[84] Ms. Ceretzke is the Director of Education for MCFN and was previously the principal at the Athabasca Delta School. Ms. Ceretzke has been in an education role in the community for 12 years.

[85] Ms. Ceretzke stated she wanted to speak to the Board about what it was like making sure the school grounds were safe when the HEP was operating. Ms. Ceretzke stated when she was the principal, common concerns included picking up empty alcohol bottles on school grounds, ensuring students were not showing up at school events intoxicated, and dealing with alcohol-fueled altercations on the school grounds.

[86] Ms. Ceretzke emphasized that when the HEP was open, part of her routine as principal was walking the school grounds looking for empty alcohol containers. Ms. Ceretzke noted that there was a reduced number of these occurrences (students coming to school events intoxicated and fights) after the HEP closed. Ms. Ceretzke stated that since the HEP had closed, there had only been three incidents of students coming to school events or school grounds while intoxicated. Ms. Ceretzke stated this was a drastic change compared to the previous 12 years.

[87] In closing, Ms. Ceretzke stated that she had received notice of the application but felt she received the notice "very last minute".

Dan Mercredi

[88] The second witness to speak in support of MCFN was MCFN member Clement Daniel Mercredi. Mr. Mercredi opened his submissions by stating he had a Diploma in Legal Studies, qualifications in Risk Management, Human Resources Management, Archeology, and Public Health. He was a Grief Coach and also earned a PhD in Environmental Sciences.

[89] Mr. Mercredi emphasized his total opposition to the liquor store. Mr. Mercredi stated that despite investments in community support the presence of liquor still created health risks, community safety concerns and cultural erosion concerns. Mr. Mercredi stated that he felt the priority should be on developing healthier community environment.

[90] Mr. Mercredi was concerned about increased alcohol dependency and higher consumption if a liquor store was allowed to open. Mr. Mercredi stated his concerns that alcohol contributes to broken families, higher rates of liver disease, and impaired driving. Mr. Mercredi also reemphasized his concerns about cultural erosion, traditional values and community bonds that would be weakened by the presence of increased alcohol consumption in the community.

[91] Mr. Mercredi acknowledged that there were economic benefits to the liquor store, such as jobs in the community and convenience benefits, but felt that these positive benefits were far outweighed by any of the negative health and community impacts.

[92] In closing, Mr. Mercredi noted that while 26 people have shared support for the liquor store, the 600 members of the MCFN should outweigh that smaller group.

Councillor Paul Tuccaro

[93] The final witness speaking in support of MCFN was Councillor Paul Tuccaro. Councillor Tuccaro emphasized that he was not judging anyone for their choice to consume alcohol and was making his comments from the perspective of a leader in the community.

[94] Councillor Tuccaro emphasized that they were a small northern community where impacts of alcohol consumption were much more keenly felt than in a larger population centre. Councillor Tuccaro stated that when alcohol issues arise in the community it affects family and neighbors as opposed to an unknown stranger. He stated that there was a limited ability to respond to any of these issues and even a small increase in incidents puts a strain on the community support systems.

[95] Councillor Tuccaro stated that the community has been better off since the HEP closed. He noted that parents have more money to spend on the family now that they're spending less on liquor. Councillor Tuccaro noted that there were measurable indicators such as calls to the RCMP which had decreased by as much as 5%, which was a large change for a small community. He stated that the liquor store is fundamentally a for-profit business and that profit would come at the expense of the wider community.

[96] With respect to the support letters, Councillor Tuccaro stated that some of them do not come from residents within the community or people who are not involved with the community. Councillor Tuccaro acknowledged that those people can share a perspective and have a right to an opinion, but wanted to ensure the opinions of people in the community were given equal weight.

[97] Councillor Tuccaro stated that he had not observed the increase in hard drug use that the Applicants commented on in their written materials.

[98] Councillor Tuccaro stated that the temporary liquor store would still be a trailer style development and was not sure why that would be any different from the previous store which was rejected. He stated that individuals who have influence on the decision to be made have a responsibility to consider the community's well-being when exercising that influence. He expressed concerns that some of the people who show support for the liquor store had been unfairly coached into sharing that support.

[99] In closing, Councillor Tuccaro noted that the bootlegging concern noted by the Applicant was a concern even when the HEP was operating. Councillor Tuccaro disagreed that bootlegging only recently became a problem after the HEP closed.

Questions for the MCFN (Appellant)

[100] Board Member Trevor Salisbury had two questions for MCFN witnesses.

[101] First, Board Member Salisbury asked if there were any buildings directly adjacent to the proposed liquor store. In response, Counsel for the Appellant shared an aerial photo of the proposed liquor store. Councillor Tuccaro explained that the proposed store is right beside the "Northern" (a retail shop) and across the street from several MCFN houses. Councillor Tuccaro also noted the site is near the fish plant.

[102] In response to clarifications from the Applicant, Councillor Tuccaro also noted that the proposed site was near the post office and that an MCFN elder lives in a house located on the other side of the street.

[103] Board Member Salisbury's second question was a clarification that there is currently no other legally permitted liquor store in Fort Chipewyan. Counsel for the Appellant confirmed there is currently no permitted liquor store in the hamlet.

[104] The Chair asked if there were statistics from the RCMP between when the HEP closed and present day. Counsel for the Appellant confirmed they submitted the most recent RCMP statistics available. Counsel for the Appellant also confirmed these were statistics related to alcohol related incidents in the community.

[105] There were no questions from the Development Authority or from the Applicant for the witnesses of MCFN.

Submissions of the Applicant, Daniel Roy

[106] With permission of the Board, witnesses speaking in support of the Applicant spoke prior to the submissions of Counsel for the Applicant.

Daniel Roy

[107] The first witness to speak in support of the Applicant was the Applicant, Mr. Daniel Roy. Mr. Roy stated that he is a concerned member of the community and believed that the appeal was causing more harm than good by creating divisions within the community. Mr. Roy stated that since March 2025 there were no legal options to purchase alcohol in the hamlet, which encouraged bootleggers. Mr. Roy stated these bootleggers could operate at all hours with no legal oversight and that community members were rushing to them because there were no legal options.

[108] Mr. Roy stated that since the HEP closed, liquor sales had not decreased, but more of the liquor brought into the community was done so illegally. Mr. Roy stated that this meant more of the liquor bought and consumed in the community was hard liquor such as vodka since it was easier to transport and store.

[109] Mr. Roy stated his belief that having a licensed store would be better than unsafe sources of liquor. Mr. Roy stated that approving the development plan was better for all parties involved. Mr. Roy suggested that if there was a legal liquor store, alcohol sales could be regulated and supervised. Mr. Roy suggested that prohibition was ineffective, and that a straightforward solution was to have a legal liquor store in the community.

[110] Mr. Roy stated that he has other plans for a car wash and a freight solutions business. Mr. Roy stated that individually these businesses cannot stand on their own but in conjunction with the liquor store they would support each other and would be feasible businesses. Mr. Roy stated he believed these businesses would make the hamlet a better place.

[111] In his submissions, Mr. Roy questioned some of the statistics submitted by MCFN, noting that these were incidents, not arrests. Mr. Roy stated he did not believe that all the alcohol-related occurrences or incidents reported were truly alcohol-related. Mr. Roy's materials included statistics from the RCMP. These were arrest statistics from January 1, 2022, to January 22, 2026. The statistics showed 155 arrests in that period. Mr. Roy stated he believed these to be accurate arrest numbers, but not all of them were alcohol related. The arrest statistics referenced by Mr. Roy were included in the Agenda Package on pages 810 through 841.

[112] Mr. Roy stated he received 31 letters of support for the liquor store. He noted that two of the municipal Councillors for the area expressed support for a legal liquor store. Mr. Roy also noted that he had received letters of support from the ACFN. Mr. Roy stated that one of the letters from Councillor Greg Marcel stated residents were in favour of legal liquor sales, including the sale of beer, not just hard liquor such as vodka.

[113] In closing, Mr. Roy shared his belief that some of the opposition to the proposed liquor store started when his original proposal was for a second liquor store in the hamlet. Since the first application, the HEP closed and his proposed liquor store would be the only one in the hamlet.

Councillor Kendrick Cardinal

[114] The second witness to speak in support of the Applicant was Regional Municipality of Wood Buffalo Councillor Kendrick Cardinal.

[115] Councillor Cardinal stated that he was a lifelong resident of Fort Chipewyan and believes that Mr. Roy has a right to apply for the liquor store. Councillor Cardinal noted that the proposed store is in a commercial area. He stated that area has always been a commercial area.

[116] Councillor Cardinal also stated that TRC Call for Action 91 calls for economic prosperity for Aboriginal people. He noted that Mr. Roy's wife was a First Nations person.

[117] Councillor Cardinal expressed concerns that according to the RCMP bootlegging had skyrocketed in the community. Councillor Cardinal also noted that people dealing with alcohol addiction cannot quit abruptly and that cutting off any legal liquor supply is unfair to those people.

[118] Councillor Cardinal noted that there used to be a pool hall which was co-owned by MCFN and ACFN. Councillor Cardinal stated the Nations could have opposed that bar but chose not to. Councillor Cardinal stated he believes that the Applicant was trying to build the local economy and support the community.

[119] Councillor Cardinal closed his submissions by stating we can't legislate a healthy lifestyle and it's up to individual choice to deal with alcohol misuse. He stated he felt regulating the safe sale of alcohol was the best path forward.

Ruby Shirley

[120] The third witness to speak in support of the Applicant was Ms. Ruby Shirley. Ms. Shirley opened her submissions by stating that she was an MCFN elder, had a PhD in Education and was a registered therapist. She also stated she was an owner of the local convenience store.

[121] Ms. Shirley stated she was in support of the liquor store and had learned a lot from working with people over the years. Ms. Shirley noted that for much of the last 100 years alcohol was actually prohibited for First Nations people, but they found a way to get it anyway. Ms. Shirley stated she had seen the consequences of illegal alcohol.

[122] Ms. Shirley stated she was raised by parents who bought bootleg liquor. Ms. Shirley noted that when liquor sales are forced underground that's when people become dishonest and learn to fear the law.

[123] Ms. Shirley felt that the emphasis should be on educating young people on responsible drinking and addressing core issues such as the trauma that leads to alcohol abuse. Ms. Shirley likened the opposition to the liquor store to the prohibition of marijuana.

[124] Ms. Shirley emphasized that the illegal liquor bootlegging caused people to "sneak around" which was not good for their health. Ms. Shirley commented that people were not taught to drink per se but learned drinking styles by watching adults. Ms. Shirley felt that her own past unhealthy drinking habits were a result of observing unhealthy drinking habits from the adults in her life. Ms. Shirley stated she no longer drank alcohol herself.

[125] In closing, Ms. Shirley said she understood where MCFN was coming from but disagreed with the opposition from MCFN. Ms. Shirley stated she felt it was time for a change in the community.

Submission of the Applicant

[126] Counsel for the Applicant made submissions on behalf of the Applicant.

[127] Counsel for the Applicant argued that Counsel for the Appellant was attempting to relitigate the Duty to Consult issue which was decided in the 2024 decision. Counsel for the Applicant contended that the Board was estopped from deciding that issue because the application involved the same parties and same proposed development. With respect to the Duty to Consult, counsel noted that it was settled law in Alberta that a board needs to have a delegated ability to consider constitutional issues including the Duty to Consult. As the Board is not listed in the regulations to have this ability, it cannot consider the Duty to Consult issue. Counsel for the Applicant referred the Board to their previous decision where they determined they did not have the ability to consider Duty to Consult questions.

[128] Counsel for the Applicant stated that the Appellants were contesting the reasonableness of the development permit decision. He noted that Development Authority is not required to give reasons why a permit was approved, however, rationale for the approval was provided in the written materials of the Development Authority. He reiterated that the permit conformed with the MDP, and that the Development Authority considered objections to the application but found none centered around regulating the use of the land.

[129] Counsel for the Applicant stated that attempts to regulate the liquor store were regulating the user as opposed to valid planning considerations. Counsel for the Applicant stated concerns about who might be patronizing a liquor store that was not planning considerations. Counsel for the Applicant cited *Bell v. R.*[1] for the premise that zoning is a consideration of land use, not land users.

[130] Counsel for the Applicant suggested the Board should not find the Development Authority's decision was unreasonable. Counsel for the Applicant stated the Development Authority followed the ASP and MDP. He also stated that the Development Authority had considered MCFN's objections but that those objections did not contain valid land use considerations.

[1] *Bell v. R.*, 1979 CanLII 36 (SCC), [1979] 2 SCR 212

[131] Counsel for the Applicant emphasized that there were other avenues for dealing with harms of a liquor store and liquor consumption, citing education as an example. He stated he was sympathetic to concerns MCFN had with alcohol consumption in the community but that the appropriate means of dealing with it was not through the development permit process.

[132] Counsel for the Applicant stated it would be unfair to deny the entire community a liquor store given that municipal council decided to permit a liquor store in hamlet commercial areas. Counsel for the Applicant restated that a liquor store was a discretionary use in the hamlet commercial zone.

[133] Counsel for the Applicant put to the Board that MCFN was arguing they received a lack of procedural fairness. Counsel for the Applicant characterized MCFN's argument as stating MCFN was owed a higher degree of procedural fairness. Counsel for the Applicant cited *Baker v. Canada*[2] [*Baker*] as the leading case on procedural fairness.

[134] With respect to *Baker*, Counsel for the Applicant noted that because the decision of the Development Authority was not final, and there was an internal appeal mechanism (i.e. this Board hearing), MCFN was not owed a higher degree of procedural fairness. Counsel for the Applicant noted that the Development Authority was not obliged to notify parties outside a 100-metre radius of the proposed liquor store but went above and beyond by giving notice to the entire hamlet as well as the neighbouring First Nations.

[135] Counsel for the Applicant stated that the land use bylaws are concerned with regulating land use, not land users. Counsel for the Applicant characterized MCFN's argument as stating a liquor store is not in the greater public interest. He stated that typically the landowner's right to develop land should only be infringed for a greater public interest. He argued MCFN had not proven to the Board that there was a greater public interest that should override that right.

[136] With respect to statistics of liquor incidents submitted by MCFN, Counsel for the Applicant characterized MCFN's argument that if one liquor store caused alcohol related incidents, two liquor stores would cause more incidents. Counsel for the Applicant noted the second liquor store is no longer present.

[137] Counsel for the Applicant suggested that if there had been an increase in alcohol related incidents, that increase has been due to a move to more consumption of hard liquor as opposed to less hard liquor such as beer. Counsel for the Applicant also suggested that number of incidents could be attributed to a rise in harmful alcohol substitutes such as hard drugs.

[138] Counsel for the Applicant stated that the crime statistics submitted by the Applicant came directly from the RCMP detachment. Counsel for the Applicant noted the total number of arrests was significantly smaller than the number of incidents in the statistics submitted by the appellants.

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[2] *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817

[139] Counsel for the Applicant stated that there were 155 arrests in the hamlet between January 1, 2026, and January 22, 2026. He noted the discrepancy between the arrest data the Applicant had received from the RCMP, and the data submitted by MCFN. Specifically, Counsel for the Applicant noted that the data submitted by MCFN was "incidents" as opposed to actual crimes or arrests.

[140] Counsel for the Applicant referred to the support letters given in support of the proposed liquor store. He noted that two were from elected Councillors who were concerned about the lack of legal liquor sales and expressed concern that law abiding citizens faced a financial burden if they wanted to legally access alcohol. He also noted both these Councillors were from Fort Chipewyan.

[141] In closing, Counsel for the Applicant asked the Board to deny the appeal and uphold the approval of the permitted liquor store.

Questions for the Applicant

[142] There were no questions from the Board or from the Development Authority for the Applicant.

[143] Counsel for the Appellant asked questions of the witnesses speaking in support of the Applicant.

[144] Counsel for the Appellant asked Mr. Roy if he could explain his arrest statistics. Mr. Roy stated that it was a list of actual arrests. Counsel for the MCFN asked if the arrests identified whether the arrests were alcohol use related. Mr. Roy stated that arrests clearly identified as alcohol related tended to be incidents of driving under the influence. Mr. Roy acknowledged that there was no way to determine if arrests for offenses such as assault were alcohol related or not.

[145] Counsel for the Applicant added to Mr. Roy's response by stating that while the RCMP didn't have a breakdown of incidents that were related to alcohol, less than half a dozen were Liquor Act offences.

[146] Counsel for the Appellant asked Mr. Roy about the letter of support from ACFN, and why it was not signed by Chief Mike Mercredi. Mr. Roy stated that the letter came from Michelle at ACFN and wasn't sure why it wasn't signed by other members of ACFN.

[147] Counsel for the Appellant asked two questions of Ms. Ruby Shirley. Counsel for the Appellant asked whether Ms. Shirley was speaking on her own behalf or as an elder of MCFN. In response, Ms. Shirley stated that she was an elder of MCFN and had the right to speak as an elder. Ms. Shirley stated that her grandfather was a treaty signatory. Counsel for the Appellant then asked Ms. Shirley if she knew what portion of residents in Fort Chipewyan were "dry" or did not drink alcohol. In response Ms. Shirley stated that she had not done any formal study and would not be able to say.

[148] Counsel for the Appellant then asked questions of Councillor Cardinal. First, Counsel for the Appellant asked if Councillor Cardinal was appearing on his own behalf or on behalf of the municipal council. In response, Councillor Cardinal stated that he was speaking as a resident of Fort Chipewyan and that he was an elected member of council no matter where he went, therefore he was always speaking as a Councillor. Upon clarification from Counsel for the Appellant, Councillor Cardinal confirmed that he was here on his own behalf and not speaking on behalf of the Municipality or municipal council.

[149] Counsel for the Appellant also asked Councillor Cardinal if he used to be president of the Athabasca Métis Association and if he was still involved with the Métis Association. Councillor Cardinal stated that this was his second term as a municipal Councillor and chose not to run in the Métis Association election this year. Counsel for the Appellant asked Councillor Cardinal if he was aware approximately how many of the Métis Nation's members are in Fort Chipewyan. Councillor Cardinal stated he believed it was approximately 140.

[150] Counsel for the Appellant asked Councillor Cardinal if he knew if residents on reserve could vote in the municipal elections for ward 2. Councillor Cardinal confirmed that residents on reserve cannot vote in that election. As a follow up, Counsel for the Appellant asked if Councillor Cardinal was aware how many reserve lands were around Fort Chipewyan. Councillor Cardinal stated that he was not aware of how many reserves were next to Fort Chipewyan.

[151] Counsel for the Appellant asked Mr. Roy how he knew that alcohol consumption in the hamlet had shifted towards hard liquor. Mr. Roy stated that he saw it come in on the plane and saw people picking it up from the plane. Mr. Roy stated that some people can plan ahead and bring in beer. However, Mr. Roy stated he thought most residents buying liquor post on Facebook stating they want to buy liquor and someone who brought alcohol in illegally brings them hard liquor. As a follow up, Counsel for the Appellant asked Mr. Roy if liquor can be brought in lawfully on the plane and how he knows liquor is being brought in illegally. In response, Mr. Roy conceded he had no personal knowledge of liquor being brought in illegally but was anecdotally aware of members of the community finding it by posting on Facebook.

[152] Counsel for the Appellant asked Mr. Roy if there was a winter road that connected Fort Chipewyan to Fort McMurray. Mr. Roy acknowledged there was a winter road.

[153] Counsel for the Appellant asked Mr. Roy about some of the letters of support he submitted to the Board. Counsel for the Appellant asked who Clara Shortman was. Mr. Roy indicated that was his wife. Ms. Shortman's letter of support was found on page 1012 of the Agenda Package. Counsel for the Appellant then asked about the support letter of Leo Williamson. She asked Mr. Roy who Mr. Williamson was and whether he was from Fort Chipewyan. Mr. Roy indicated that Mr. Williamson worked at the airport and that he was a Fort Chipewyan resident. Mr. Williamson's letter of support is found at page 996 of the Agenda Package.

[154] The Chair asked Counsel for the Appellant what the purpose of this line of questioning was. Counsel for the Appellant responded that she was trying to establish how Mr. Roy was confident that liquor being brought into the community was being brought in illegally. The Chair directed that questions should be focused on the permit at issue and not on the issue of illegally bringing liquor into the hamlet. Counsel for the Appellant withdrew from that line of questioning but stated she assumed Mr. Roy's evidence of illegal liquor coming into the hamlet would be given minimal weight.

[155] The Board permitted Mr. Mercredi to ask clarifying questions of the Applicant. Mr. Mercredi stated that he had reason to believe that the lots on Mackenzie Avenue (the proposed location of the liquor store) were contaminated. Mr. Mercredi emphasized that he believes those lots have only been partially cleaned of the contamination and stated his concern for what would happen to the community if buildings were built on those lots.

Closing Submissions

[156] At the close of their questions, Counsel for the Appellant reiterated their objection to not receiving notice that Councillor Cardinal and Ms. Shirley would be participating as witnesses. Counsel for the Appellant stated they would have changed their own witnesses had they received that notice. Counsel for the Appellant stated she had an MCFN elder scheduled to speak but the elder was in the hospital.

[157] Prior to closing submissions, the Board asked the parties if they were in favour of making closing submissions that night or postponing closing submissions to the second day of the hearing. Counsel for the Development Authority and the Applicant favoured making their closing submissions that night. Counsel for the Appellant raised concerns about making closing submissions that night in light of her objections to the Applicant's witnesses but indicated she was willing to make her closing submissions that night.

[158] In closing submissions of the Development Authority, Counsel for the Development Authority reemphasized that notice was provided both in the community and to MCFN. MCFN was able to provide a written response to the notice of the application. That written submission was considered. Development Authority also noted that MCFN had appealed to the Board for a de novo hearing. The Development Authority focused on their planning considerations and felt that the proposed liquor store was compliant with those planning considerations under the Municipal Development Plan.

[159] In closing submissions of the Applicant, Counsel for the Applicant addressed the issue of adequate notice of speakers. Counsel for the applicant stated that Mr. Roy was involved in discussions with the Board Clerk and asked the Clerk about the procedure for bringing in those two speakers. Counsel stated that Mr. Roy had provided names and contact info for those witnesses and was not sure why details were not provided to Counsel for the Appellant. Counsel for the Applicant also noted that notwithstanding that concern, the Board is in charge of its own procedures and that the rules of evidence are not as strict as they might be in a court. With respect to the cases that were provided in support of the Applicant's position, counsel for the Applicant acknowledged that he sent these cases late but felt that they were seminal cases in administrative law and planning law and stood for principles described in their submissions.

[160] In closing submissions for MCFN, counsel first addressed some of the submissions of counsel for the Applicant. Counsel for the Appellant suggested that counsel for the Applicant was relitigating issues that had previously been determined and was estopped. Counsel for the Appellant felt that counsel for the applicant was engaging in a circular argument and that if the Board was estopped from considering the Duty to Consult issue, they should also be estopped from considering the merits of the liquor store that had previously been refused.

[161] With respect to the constitutional issues, Counsel for the Appellant stated that not all issues of Duty to Consult necessarily invoke a treaty right and therefore may not be a constitutional issue. Counsel for the Appellant stated that because this was not a constitutional issue, the Board could still consider it.

[162] Counsel for the Appellant stated that the only evidence before the Development Authority had been the application itself and the letters of opposition. Counsel stated that Councillor Cardinal's evidence with regards to TRC Calls to Action was lip service to actual indigenous issues. Counsel for the Appellant also noted that the Municipality agreed that they did not seek out evidence of alcohol related incidents when considering the permit approval for this liquor store. The only change in the fact pattern between this appeal and the previous appeal was that there was no secondary liquor store. Counsel for the Appellant emphasized there was no direct evidence of bootlegging in the community. Counsel for the Appellant stated that MCFN had presented direct evidence that presented a very different story from the Applicant's evidence.

[163] Counsel for the Appellant stated that the 2024 decision was not binding on the Board, but should be persuasive. In their closing statements, Counsel for the Appellant reiterated their objection to Councillor Cardinal providing evidence in the hearing.

[164] Counsel for the Appellant emphasized that the neighbouring properties to the proposed development are Mikisew Cree First Nation properties. Counsel for the Appellant stated that they were not looking to take away anyone's rights or regulate anyone's rights. Counsel noted that there were ways to get liquor in legally and the legal liquor store should not be a persuasive factor.

[165] Counsel for the Appellant noted that in response to submissions that there were other ways to object, such as through elections, MCFN residents on reserve cannot vote in the municipal election.

[166] In closing, Counsel for the Appellant stated that the decision would elevate the rights of a liquor store owner over the rights of the MCFN population and that the Board needs to give weight to that concern either through the Duty to Consult or through an incompatible use analysis.

Findings Of Fact

[167] In addition to the specific facts set out under the Board's reasons, the Board makes the following findings of fact:

a. The Lands are municipally described as 193 Mackenzie Avenue, Fort Chipewyan, AB and legally described as Lot 3, Block 10, Plan 5642NY.

b. The Lands are located in the HC – Hamlet Commercial District.

c. The proposed development is a Permanent Liquor Store, Office & Warehouse Sales building (with a temporary liquor store operating for up to one year while permanent building is completed).

d. The proposed development is a discretionary use in the Hamlet Commercial District.

Decision

[168] The Subdivision and Development Appeal Board denies the appeal and confirms the development permit as issued by the Development Authority and subject to the same conditions as imposed by the Development Authority as set out at pages 851-852 of the Agenda Package.

Reasons for The Decision

[169] The Board notes that its jurisdiction is found within section 687(3) of the *Municipal Government Act, RSA 2000, c.M-26* (the "MGA"). In making this decision, the Board has examined the provisions of the Municipal Development Plan, the Fort Chipewyan Area Structure Plan and the Land Use Bylaw and has considered the oral and written submissions by and on behalf of the Development Authority, the Appellant, and the Applicant as well as those individuals who spoke in support of the Appellant and the Applicant.

Affected Persons

[170] The first question the Board must determine is whether the Appellant as well as those individuals who appeared before the Board are affected persons. The Board notes that no party raised any objection with any other person's participation but wishes to address this question for completeness.

[171] As the person whose development permit is under appeal, the Applicant is affected by this appeal.

[172] The Appellant is comprised of the Mikisew Cree First Nation acting through 1112958 Alberta Ltd., Cree-Ations Enterprises; and Mistee Seepee Development Corporation Ltd. The corporations own land within Fort Chipewyan. The First Nation has lands within close

proximity to the hamlet, as well as having members living in the hamlet. Based on those facts, the Board finds that The Appellant is affected.

[173] All of those individuals who provided oral submissions to the Board live in Fort Chipewyan. In light of the fact that the individuals are part of a close-knit community, the Board is of the view that they are all affected by the proposed development.

Issues to be Decided

[174] The Appellant raised 8 grounds of appeal:

a. The Decision is unreasonable.

b. The Decision-makers fettered their discretion to the by-law and failed to consider the decision of the previous SDAB revocation, including due to the unabated alcohol related crime in Fort Chipewyan.

c. The Decision was made without consideration for the incompatibility of a liquor store with the surrounding properties in a remote community, predominantly made up of First Nations with Treaty status and where there is a known and documented history of alcohol related crime.

d. The Decision is inconsistent with the public interest function of the MGA.

e. The Decision was procedurally unfair in that no meaningful opportunity to respond was provided to MCFN and that the RMWB failed to fulfill the common law duty to consult owed to MCFN.

f. The Decision-makers failed to comply with the constitutional duty to consult with MCFN based on asserted Treaty Rights and the Promise.

g. The Decision-makers failed to comply with the duty to accommodate MCFN.

h. The Decision was made in an unconscionable and dishonourable manner while RMWB provides no additional funding to the municipality for policing and has repeatedly failed to address the needs of the local predominantly First Nation population, all while receiving millions in federal/provincial funding and royalties.

[175] In addition, the Appellant included the following ground at page 37 of the Agenda Package:

> Through the SDAB or the RWMB, discharging or recognizing the duty to consult and accommodate are not a “question of constitutional law” under section 10 of the *Administrative Procedures and Jurisdiction Act*, RSA 2000, c A-3, s 10. To hold otherwise, would be to allow the provincial Crown to evade its duties by subdelegating all regulatory processes to municipalities and immunizing any review of such processes from review.

[176] The ultimate question facing the Board is under s. 687(3)(c): whether the Board should "confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own". However, in order to make that determination, the Board and must determine the following issues:

a. Does the Board have the jurisdiction to determine whether the Development Authority met what is alleged to be their duty to consult? And if so, has the Development Authority met that duty?

b. What is the nature of the proposed development and is the use authorized under the LUB as a permitted or discretionary use?

c. Given the nature of the proposed development under the LUB, is the proposed development compatible with neighbouring uses?

d. Is there a need to vary any of the conditions?

e. Does the proposed development comply with the statutory plans?

The Board will address the other grounds of appeal at the end of its decision.

a. Does the Board have the jurisdiction to determine whether the Development Authority met what is alleged to be their duty to consult? And if so, has the Development Authority met that duty?

[177] The Appellant provided written submissions in relation to this issue and in oral argument referred the Board to those written submissions.[3] The Appellant's argument was that the Development Authority owed a duty to consult and accommodate and obligations pursuant to the Honour of the Crown, and failed in that duty, which is a constitutional duty. In addition, the Appellant argued that the Board's or the Development Authority's duties to consult and accommodate are not a "question of constitutional law" under section 10 of the *Administrative Procedures and Jurisdiction Act*, RSA 2000, c A-3, s 10, so that the Board can consider these questions. The Appellant asserted that if the Board is not empowered to examine these issues, then they are immunized from review. (see pages 34-37 and 521-529 of the Agenda Package). The Appellant resubmitted its written argument on these issues from the first appeal (see pages 514-529).

[178] The Applicant argued that the Board had already addressed this issue in its decision on the first appeal, and that the Board has no jurisdiction on this issue.

[179] The Development Authority provided no submissions on this issue.

[3] Grounds of appeal e, f, g, h.

[180] In examining the issue of whether the Board has jurisdiction to hear constitutional questions, the Board notes that the arguments advanced by the Appellant are the same arguments as advanced in the first appeal. The Appellant did not provide any arguments or cases in addition to what was considered by the Board in the first appeal. The Board has also considered the reasons of the Board on this issue in the first appeal (see pages 669-675 of the Agenda Package). The Board is aware of the *Kappo v. Subdivision and Development Appeal Board (MD of Greenview No. 16),* 2003 ABCA 146 and the *Paul First Nation v. Parkland (County),* 2006 ABCA 128 cases. These cases provide specific direction that subdivision and development appeal boards do not have the jurisdiction to determine constitutional issues. The *Paul* case also confirms that the Board itself does not have a duty to consult.

[181] In the absence of any different evidence or law, the Board adopts the reasons of the Board in the first appeal on this issue.

[182] The Board has also considered the Appellant's argument that the question of the Board or the Municipality discharging or recognizing the duty to consult and accommodate is not a question of constitutional law, and therefore the Board has the authority to consider this question. The Board was unclear on what basis it would be able to treat the duty to consult as not being a constitutional matter since the Appellant has asserted that its Treaty rights include the right to protection from intoxicants (see page 34 of the Agenda Package, paras 6-7). The Board is unclear how the question of duty to consult and accommodate is not a constitutional question. Further, the Board's jurisdiction in relation to development appeals is to confirm, revoke or vary the development permit (section 687(3)(c)). The Board does not have the jurisdiction to make rulings on broad questions of law, but must make determinations on the specific development permit which is the subject of the appeal.

[183] To the extent that the Appellant is suggesting that the Municipality had to consult with the Appellant as part of the process to issue the development permit, the Board adopts the reasoning in paragraph 112 of its decision on the first appeal (page 675 of the Agenda Package). The Development Authority notified the residents in the hamlet, which met and exceeded any obligation for notice.

b. What is the nature of the proposed development and is the use authorized under the LUB as a permitted or discretionary use?

[184] The Board must determine what is the nature of the proposed development.

[185] The Applicant applied for a Permanent Liquor Store, Office & Warehouse Sales building (with a temporary liquor store operating for up to one year while permanent building is completed). There was no dispute among the parties that the proposed development fell within the definitions for these uses, and as a result of that consensus, the Board finds as a fact that the uses are Permanent Liquor Store, Office & Warehouse Sales building (with a temporary liquor store operating for up to one year while permanent building is completed).

[186] There was also no dispute amongst the parties that the Lands are located within the Hamlet Commercial District and that these uses are discretionary in the Hamlet Commercial District. Based on that uncontradicted evidence, the Board finds so as a fact.

c. Given the nature of the proposed development under the LUB, is the proposed development compatible with neighbouring uses?

[187] Since the proposed development is discretionary, the Board must consider the compatibility of the proposed development with neighbouring uses. The object and purpose of a discretionary use is to allow the development authority to assess the particular type and character of the use involved, including its intensity and its compatibility with adjacent uses.[4]

[188] The Appellant has specifically raised the question of compatibility in its ground (c): namely that the decision was made without consideration for the incompatibility of a liquor store with the surrounding properties in a remote community, predominantly made up of First Nations with Treaty status and where there is a known and documented history of alcohol related crime.

[189] In its decision in the first appeal, the Board determined that the "neighbourhood" was the entire hamlet (see paragraph 120 at page 676 of the Agenda Package"). There were no additional submissions in relation to the scope of "neighbourhood". The Board notes the Development Authority provided notice to the entire hamlet. The Board adopts the reasoning in paragraph 120 of its decision in the first appeal and will consider the compatibility of the proposed development with the "neighbourhood" of the hamlet.

[190] The Development Authority's position was that there were no planning reasons to deny the development permit.

[191] The Appellant's position was that the proposed development was incompatible due to the impact of liquor sales in the community. The Appellant stated that there was no direct evidence of the sale of bootlegged alcohol being sold in the community. The Appellant acknowledges that there are liquor sales occurring in the hamlet, but disputes whether the sales are bootlegged. The Appellant notes that there can be liquor lawfully brought into the community. Having a liquor store increasing alcohol sales in the community will make the impacts from the sale of alcohol worse. The situation in the community has been better following the closure of the HEP liquor store. The Appellant referenced the evidence of crime statistics from the first appeal and outlined to the Board that the safety considerations had improved without a liquor store, noting the evidence of Ms. Ceretzke that fewer students were intoxicated at school events and fewer empty alcohol containers were found on school grounds after the closure of the HEP liquor store. In addition, the Appellant's evidence was that calls to the RMCP dropped 5% since the closure of the HEP liquor store.

[4] Rossdale Community League (1974) v. Edmonton (Subdivision and Development Appeal Board), 2009 ABCA 261.

[192] The Applicant's evidence in this appeal was that there was bootlegged alcohol being sold in the community and that the safety concerns would be ameliorated by authorized sales of alcohol because there would be beer and wine sold and not just hard liquors. The Applicant's position was that there is bootlegged alcohol being sold in the community and as a result, having a liquor store would not be incompatible with the neighbourhood. In addition, bootlegging resulted in the consumption of more hard alcohol, while an authorized liquor store would permit the sale of more beer and wine, which would have a less detrimental effect. In addition, the sales would be "regulated" by compliance with AGLC rules. The Applicant's position was that the crime statistics did not support the Appellant's arguments, noting that the statistics did not directly mention the cause of the crime (i.e., only a few of the incidents specifically mention if they were alcohol-related incidents).

[193] In the decision on the first appeal, the Board considered safety considerations to be a valid planning consideration when making a determination of compatibility. In this appeal, the Board affirms its conclusion that safety considerations are a valid planning consideration when making a determination of compatibility.

[194] In the decision on the first appeal, the Board considered the crime statistics in determining whether the proposed development in that case was compatible with the neighbouring uses. The evidence in that hearing (which was also submitted in this hearing) was that there was one liquor store operating in the hamlet (HEP). The Board on the first appeal had before it crime statistics which evidenced incidents of crime or reported crime related to the consumption of alcohol. The Board concluded that there was a level of crime related to the consumption of alcohol associated with the presence of one liquor store. Therefore, if the Board approved a second liquor store, there would be an increased level of crime associated with alcohol consumption.

[195] In the first appeal, the evidence before the Board was from a single "point in time". The statistics related only to a time when HEP was operating in the hamlet. In this appeal, the Board has that evidence as well as statistics related to a time no liquor store was operating in the hamlet. The Board also notes that the evidence provided in the current appeal is ambiguous. The evidence is not clear as to the extent of the correlation between the sale and consumption of alcohol and the incidents reported.

[196] The Board's conclusion is based on the evidence presented in this appeal. This Board has the advantage of seeing the evidence reflecting the impact of alcohol sales when there was one liquor store operating, and seeing in this appeal, the evidence reflecting the impact of alcohol sales where the liquor store was not operating.

[197] In considering whether the proposed development in this appeal is compatible with neighbouring uses, the evidence in this appeal was that:

a. despite the closure of HEP, there are still liquor sales in the community, whether those sales are bootlegged or lawful and

b. there are still alcohol related crimes in the hamlet.

[198] It is not relevant to the determination of compatibility whether the sales are bootlegged or lawful. The issue is the impact of those sales on the safety of the community. Liquor is still being sold in the community, whether lawfully or not.

[199] In the analysis of the impact to public safety after the closure of the HEP store, the Board would have expected a significant decline in reported incidents or arrests if liquor sales from a liquor store caused or contributed to the reported incidents or arrests. However, the evidence provided does not have sufficient detail to show that the incidents or arrests were, in all cases, linked to the consumption of alcohol. Even if the Board accepts that the entire 5% drop is attributable to the closing of HEP (and for the purposes of this analysis the Board makes the assumption that the entire 5% drop is as a result of the closure of HEP, even though there was no direct evidence on this point), this decrease is not a significant enough change to conclude that the proposed development is incompatible. In addition, the Board accepts the evidence from Ms. Ceretzke that there were fewer incidents of intoxicated students, but the number was not zero. The adverse effects of alcohol in the hamlet will be present whether there is a liquor store or not.

[200] While the Board accepts that safety considerations are a factor in the compatibility analysis, based on the evidence in this case the Board is not satisfied that the safety impact of the proposed development rises to the level that would make the proposed development incompatible with neighbouring uses.

[201] In considering compatibility, the Board also considered the following:

a. The proposed development is a commercial use which is located in the commercial core of the hamlet. It is a retail use near other retail and commercial uses.

b. The Board notes from the plans at page 853 of the Agenda package that there is sufficient parking and there was no evidence of any impact from the potential users of the proposed development on other commercial businesses in the core.

c. The Board considered the presence of residential units along Mackenzie Avenue, but the evidence was that those residences were some distance from the Lands. The Board heard no specific evidence about any disruption to the residences from the location of the proposed development.

[202] Therefore, the Board finds that the proposed development is compatible with neighbouring uses.

d. Is there a need to vary any of the conditions?

[203] The Board notes that condition 3 requires that the 18.3 meter x 3.7 meter temporary building be removed from the site no later than September 12, 2026.

[204] The Development Authority's submissions proposed that the Board uphold the decision of the Development Authority but made no specific comments in relation to the conditions or any variances.

[205] Neither the Applicant nor the Appellant made any submissions to the Board in relation to the conditions imposed by the Development Authority or the need to vary those conditions.

[206] In the absence of any submissions on this point, the Board infers that none of the parties had any concerns with those conditions. Therefore, the Board confirms all conditions as imposed by the Development Authority (see pages 851-852 of the Agenda Package), including condition 3.

e. Does the proposed development comply with the statutory plans?

[207] The Development Authority stated that the proposed development was in alignment with the Municipal Development Plan (2024) and the Fort Chipewyan Area Structure Plan (2018). Section 6.3.2E(g) and (h) of the Municipal Development Plan highlight the importance of locating small-scale retail uses near the community core. These policies emphasize that infill development should be supported to make more efficient use of underutilized lands, both within the community core and surrounding areas. The Fort Chipewyan Area Structure Plan provides that the Lands are located within the designated "Community Core" area (Fort Chipewyan Area Structure Plan Generalized Land Use Concept Map). The Community Core is the heart of the hamlet and a hub for commercial, institutional and residential uses. The Community Core is intended to be a vibrant, compact and mixed-use area with services and businesses that serve the community. Furthermore, existing vacant industrial lands in the Community Core have been identified to provide opportunities for development that respects the nearby Lake Athabasca. The Lands have been vacant from at least 2011. The Fort Chipewyan Area Structure Plan further supports the development of retail commercial, public service, and residential uses within the Community Core, as outlined in Policy 3.2.1. Additionally, Policy 3.3.1 allows a mix of commercial uses including retail uses in the Community Core.

[208] Neither the Appellant, nor the Applicant provided any contrary submissions in relation to compliance with the statutory plans.

[209] The Board notes that the proposed development is an infill development and it is near the community core (see pages 870 and 987 of the Agenda Package), which meets sections 6.3.2Eg and h. Based upon the size of the footprint and the size of the lot (see pages 861 and 989-991 of the Agenda Package), the Board concludes that the proposed development would be small-scale retail and would fit with the surrounding neighbourhood. In relation to the Fort Chipewyan Area Structure Plan, the proposed development is a commercial use and meets the expectation that the core will have mixed uses.

[210] Based on the above, the Board finds that the proposed development is in compliance with the statutory plans.

Other Grounds of Appeal

[211] The Appellant argued that the Development Authority's decision was unreasonable. The Board notes that its determination of whether to approve the proposed development is based on its determination of compatibility, and not reasonability. The Board's reasons in relation to compatibility are addressed under heading (c), above.

[212] The Appellant's concerns about the Development Authority fettering their discretion by failing to consider the decision of the previous SDAB revocation, including due to the unabated alcohol related crime in Fort Chipewyan have been addressed under heading (c), above.

[213] The Appellant raised a ground of appeal that the decision was inconsistent with the public interest function of the MGA. The Board notes that section 617 of the MGA sets out the purpose of Part 17, and it does speak to the public interest. However,

> 617 The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted
>
> (a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and
>
> (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,
>
> without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

[214] The Board notes that it is not a "public interest" tribunal such as the Alberta Utilities Commission, or the Alberta Energy Regulator. Since the proposed development is discretionary, the Board has considered the question of compatibility and is guided by the language of section 617.

Conclusion

[215] As a result of the Board's conclusion that the proposed development is compatible with the neighbouring uses, the Board denies the appeal.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this 27th day of March 2026

CHAIR: ATIA 20(1)
Alex McKenzie

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

Exhibit #	Description	Filing Date
	Subject Area Map	**2025-11-24**
1.	Notice of Appeal (2 pages)	2025-10-20
2.	Development Permit No. 2025-DP-00169 (22 pages)	2025-10-20
3.	Correspondence re Notice of Appeal Appendix (4 pages)	2025-10-26
4.	Notice of Appeal with Appendix (6 pages)	2025-10-26
P5.	Applicant - Correspondence – Scope of the Appeal (4 pages)	2025-10-29
P6.	Preliminary Hearing Decision - November 12, 2025 (6 pages)	2025-11-19
P7.	Municipality – Evidence Disclosure – Preliminary Hearing (92 pages)	2025-11-12
P8.	Applicant – Memorandum of Argument re: jurisdictional matters (75 pages)	2025-12-01
P9.	Appellant – Memorandum of Argument re: jurisdictional matter (223 pages)	2025-12-09
10.	Appellant – Evidence Disclosure (299 pages)	2025-01-15
11.	Development Applicant - Evidence Disclosure (105 pages)	2026-01-22
12.	Municipality – Evidence Disclosure (154 pages)	2026-01-22
13.	Written Submission – Leo Wilamson (1 page)	2025-11-10
14.	Written Submission – Dave Albert (1 page)	2025-11-12
15.	Written Submission – Fredrick Kevin Ellingson (1 page)	2025-11-12
16.	Written Submission – Joey Fraser (1 page)	2025-11-13
17.	Written Submission – Tamera Ellingson (1 page)	2025-12-01
18.	Written Submission – Ora Campbell (1 page)	2025-12-01
19.	Written Submission – Delta Rough Riders 2.0 (1 page)	2025-12-02
20.	Written Submission – Kurtis Girard (1 page)	2025-12-02
21.	Written Submission – Mary Kutschke (1 page)	2025-12-02
22.	Written Submission – David Castor Jr. (1 page)	2025-12-03

23.	Written Submission – Tammy Riel (1 page)	2025-12-03
24.	Written Submission – Terry Whiteknife (1 page)	2025-12-03
25.	Written Submission – Anonymous (1 page)	2025-12-04
26.	Written Submission – Michelle Voyageur (1 page)	2025-12-04
27.	Written Submission – Samuel Wylie (1 page)	2025-12-05
28.	Written Submission – Clara Shortman (1 page)	2025-12-06
29.	Written Submission – Kelly Piche (1 page)	2025-12-06
30.	Written Submission – George Whiteknife (1 page)	2025-12-08
31.	Written Submission – Jennifer Courtoreille (1 page)	2025-12-08
32.	Written Submission – Cheyenne Hall (1 page)	2025-12-09
33.	Written Submission – Daniel Roy (Development Applicant)	2025-12-09
34.	Written Submission – Misty Marten (1 page)	2025-12-11
35.	Written Submission – Tim Flett (1 page)	2025-12-11
36.	Written Submission – Barbara Grandjambe (1 page)	2025-12-22
37.	Letters of Support Submitted by the Development Applicant (128 pages)	2026-01-19
38.	Email from Branon Colford RCMP submitted by the Development Applicant (1 page)	2026-01-19
39.	Written Submission – Lily Marcel (1 page)	2026-01-19
40.	Written Submission – Kendrick Cardinal (1 page)	2026-01-19
41.	Written Submission – Pam Gilbot (1 page)	2026-01-19
42.	Written Submission – Bruce Inglis (1 page)	2026-01-20
43.	Written Submission – Flossie Cyprien (1 page)	2026-01-20
44.	Written Submission – Anonymous (1 page)	2026-01-21
45.	Written Submission – Greg Marcel (1 page)	2026-01-22
46	Douglas Bell v/ Her Majesty the Queen (15 pp)	2026-03-09
47	Baker v. AG Canada (51 pages)	2026-03-09

APPENDIX “B”

REPRESENTATIONS

Person Appearing	Capacity
Janice Agrios, KC	Legal Counsel, Regional Municipality of Wood Buffalo
Phyllis Agyemang	Development Officer, Regional Municipality of Wood Buffalo
Shailesh Makwana	Development Authority Supervisor, Regional Municipality of Wood Buffalo
Robert Homersham	Legal Counsel, The Applicant
Daniel Roy	The Applicant
Kendrick Cardinal	Speaking in favour of The Applicant
Ruby Shirley	Speaking in favour of the Applicant
Orlagh O'Kelly	Legal Counsel, The Appellants
Councillor Paul Taccaro	Mikisew Cree First Nation
CEO Keri Ceretzke	Mikisew Cree First Nation
Clement Daniel Mercredi	Mikisew Cree First Nation