

RESOLUTION # 1 (External)



Submitted to: Ministry of Environment, Conservation and Parks

Submitted by: OHBA Land Development Committee

Date: September 23, 2019

Subject: Modernization of Approvals:
Environmental Assessments & Environmental Compliance Approvals

Whereas: the Ministry of the Environment, Conservation and Parks (MECP) has legislative and regulatory authority over a variety of environmental approvals impacting new housing, land development and critical infrastructure including:

-) Environmental Compliance Approvals (ECAs);
-) The Environmental Assessment process;

Whereas: the MECP released a *Made in Ontario Environment Plan* on November 29, 2018 that states the Ministry will: “Look to modernize Ontario’s environmental assessment process, which dates back to the 1970s, to address duplication, streamline processes, improve service standards to reduce delays, and better recognize other planning processes”; and

Whereas: On April 25th, the MECP released a discussion paper on modernizing Ontario’s Environmental Assessment program (Environmental Registry 013-5101) to which OHBA responded with a submission on May 24, 2019;

Therefore be it resolved that: that the scope of Municipal Class Environmental Assessment (MCEA) process should be adjusted to avoid duplication with the concurrent and more robust *Planning Act* processes. There is significant scope overlap and duplication of work required by the MCEA and *Planning Act* processes. To that end, there should be an exemption from the MCEA process for all development occurring and fully regulated under the *Planning Act*; and

Therefore be it further resolved that: The MECP should establish an expedited process similar to the Transit Project Assessment Process (TPAP) for other types of infrastructure under MECP’s purview; and

Therefore be it further resolved that: The Part II Order process for Municipal Class EA schedules should be streamlined. Specifically, while Bill 108 fully exempts Schedule A and A+ projects from the requirements of the EA Act, OHBA further recommends that the Minister’s authority for responding to Part II Order requests should be delegated to senior Ministry staff (Director level) for both Schedule B and C projects, with appropriate guidelines and decision timeframes (rather than sign-off by the Minister); and

Therefore be it further resolved that: OHBA recommends that MECP introduce “system-wide ECAs” across all municipalities for storm, sanitary and SWM infrastructure:

- o A similar concept is being used successfully for water systems in a number of municipalities today;
- o There is no “value add” as part of the MECP’s review and approval of current storm, sanitary and SWM ECA process going to the Ministry for review and final sign off;
- o The review of SWM ECAs are the most egregious and take the MECP as much as 8-12 months to approve. This is a total duplication of the review by a municipality and CA, and in some cases even MNRF;
- o Under “system-wide ECA” a municipality has the license to take a systems approach and has final sign off (MECP will still monitor for compliance); and



Therefore be it further resolved that: With respect to Low Impact Development (LIDs), OHBA recommends that the MECP should either a) clarify the interpretation of the *Ontario Water Resources Act*, or if necessary, b) re-word regulatory exemptions to include LID measures on private lots from an ECA approval. The MECP's recent practice of requiring an ECA for LIDs adds a host of practical and administrative issues for the developer and future homeowners. It is important for the following:

- There used to be no ECA required for infiltration systems on private lots since the outlet is the ground, but over past two-to-three years MECP has been interpreting the OWRA differently and is now requiring ECAs for infiltration systems on private lots. This discourages developers from implementing infiltration LIDs, obligates future private property owners to complete cumbersome monitoring and reporting. These ECAs (and thus monitoring requirements) get registered on title and transferred to individual private property owners meaning the MECP will literally receive thousands of these ECAs.
- Section 53 (6) (a) of the *Ontario Water Resources Act* can be interpreted to provide an exception to the requirement for an ECA if the works drain to the ground via infiltration since the facility outlet to the ground is not included in the list of outlet options included in this clause.
- Alternatively, an exception clause could be added to Section 3 of O. Reg. 525/98 to include the wording "is an infiltration or filtration Low Impact Development facility located on a private lot".

MOVED: N. Mracic

SECONDED: C. Shindruk

RESOLUTION # 2 (External)



Submitted to: Ministry of Municipal Affairs and Housing
Attorney General

Submitted by: OHBA Land Development Committee

Date: September 23, 2019

Subject: Planning Act – Section 50 – Subdivision Control

Whereas: MPP Doug Downey introduced Private Members Bill 88, *Planning Amendment Act, 2019* on March 25, 2019; and

Whereas: OHBA met directly with MPP Downey and in an April 10, 2019 letter, supported the Private Members Bill, stating: “The Ontario Home Builders’ Association (OHBA) supports your inaugural private members’ legislation, Bill 88, *Planning Amendment Act, 2019*. Currently there are certain provisions of section 50 of the *Planning Act* that create unnecessary delays, conditions, expenses and red tape for Ontario businesses and homeowners. This legislation will provide more clarity and consistency around consents and severances and more specifically, resolves the unintended issues that confront property-owners by the inadvertent mergers, saving Ontario businesses and homeowners time and money;” and

Whereas: The Private Members Bill received Second Reading on May 30, 2019 and was referred to the Standing Committee on Finance and Economic Affairs.

Therefore be it resolved that: the Ministry of Municipal Affairs and Housing adopt the proposed amendments to the *Planning Act* contained in the Private Members Bill 88 (*Planning Amendment Act, 2019*) into government legislation as part of the Housing Supply Action Plan.

MOVED: J. Meinen

SECONDED: J. Stuart

RESOLUTION # 3 (External)



Submitted to: Ministry of Municipal Affairs and Housing

Submitted by: OHBA Land Development Committee

Date: September 23, 2019

Subject: Midrise Housing Supply

Whereas: The *Housing Supply Action Plan* released by the Ministry of Municipal Affairs and Housing on May 2, 2019 incorporates a five point plan that proposes a range of solutions to address Ontario's housing crisis. A key component of that plan is "Housing Mix":

"Mix: We'll make it easier to build different types of housing – from detached houses and townhomes to mid-rise rental apartments, second units and family-sized condos. We need a variety."

Whereas: OHBA and the Pembina Institute released a joint report *Make Way for Midrise* in 2015 which articulated our rationale that strongly supports breaking down the barriers to increasing mid-rise housing supply:

"Mid-rise buildings are more human-scaled in terms of size. They fit into the character of neighbourhoods and animate sidewalk culture, in particular by providing street-level retail. They can also offer family-sized units. Mid-rise, mixed-use development is a valuable tool when creating neighbourhoods that support healthy lifestyles and local economies, since it can help increase walkability and put more people close to transit, while also supporting local business."

Whereas: While the *Housing Supply Action Plan*, *A Place to Grow* (Growth Plan, 2019) and the *More Homes, More Choice Act, 2019* (Bill 108) make important and substantive legislative, regulatory and public policy improvements to support mid-rise housing supply; there are additional public policy initiatives that would improve the viability of mid-rise housing.

Therefore be it resolved that: the provincial government through the *Ontario Building Code* and the national government through the *Model Building Code of Canada* consider mid-rise specific amendments including, but not limited to:

-) Amending the *Ontario Building Code* / National Code to permit tall wood frame buildings up to fourteen-stories;
-) Initiating a review of the benefits of implementing a European building and fire code exiting standard consistent with a single stair for small buildings of up to and including 6-storeys; and

Therefore be it further resolved that: The province require pre-zoning for mid-rise height and density within transit corridors and Major Transit Station Areas (MTSA). Should municipalities fail to bring their zoning into conformity with the 2019 Growth Plan and the new PPS (currently being reviewed) within three years, the provincial government should exercise their Ministerial Zoning Order powers to ensure zoning is modernized; and

Therefore be it further resolved that: The province should require municipalities to implement "density transition zones" (sometimes termed "enhancement zones") in areas just outside of transit corridors, MTSA's and UGCs. These transition zones should allow new as-of-right options, to increase housing choice through gentle density as a transition between higher density corridors into neighbourhoods. Transition zones generally consist of a widened laneway and additional parcels of land just beyond the avenue fronting parcels or just beyond an UGC or MTSA. The zones function as buffer areas between the rear of an avenue property and adjacent residential properties. Transition zones grant mid-rise development permission to existing lots that would otherwise be unable to accommodate this type of growth due to the inability to meet setback and other requirements (i.e. angular planes); and

Therefore be it further resolved that: That the province eliminate minimum parking requirements and let the free market decide.

MOVED: C. Hollywood

SECONDED: N. Mracic

RESOLUTION # 4 (External)



Submitted to: Ministry of Municipal Affairs and Housing

Submitted by: OHBA Land Development Committee

Date: September 23, 2019

Subject: Interim Control By-Laws (ICBLs)

Whereas: Interim Control By-Laws (ICBLs) put a temporary freeze on some land uses while the municipality is studying or reviewing its policies (*Planning Act*, Section 38). The freeze can be imposed for only a year, with a maximum extension of another year; and

Whereas: There is no ability to appeal an interim control bylaw when it is first passed, however, an extension to a bylaw may be appealed; and

Whereas: Previously, under subsection 38 (4) of the *Planning Act*, anyone who is given notice of the passing of an ICBL may appeal the by-law within 60 days after the by-law is passed. However, amendments to the *Planning Act* made through Bill 139 in 2017 allow only the Minister to appeal an ICBL when it is first passed. Any person or public body who is given notice of the extension of the by-law can appeal the extension; and

Whereas: The *Planning Act* provides that an ICBL remains in effect past the two-year period if the new zoning bylaw which replaces the interim control bylaw is appealed to the LPAT; and

Whereas: OHBA is concerned that a number of municipal councils have utilized this tool for political purposes rather than as it is intended to be used for planning purposes. In some cases the use of ICBLs has been to deliberately halt growth in areas identified for growth in the Provincial Policy Statement and the Growth Plan; and

Whereas: Sheltering ICBLs from appeal and an independent third party review based on evidence and provincial policy (through Bill 139) opens the possibility for political abuse of intent for a municipality to unilaterally freeze development rights regardless of the rationale, justification or strength of their case to do so;

Therefore be it resolved that: the Ministry of Municipal Affairs and Housing amend the *Planning Act* to allow anyone who is given notice of the passing of an ICBL to appeal the by-law within 60 days after the by-law is passed; and

Therefore be it further resolved that: the Ministry of Municipal Affairs and Housing amend the *Planning Act* to require that all impacted property owners receive a minimum of 30 days notice prior to tabling, debate and passing of an ICBL at a municipal council.

MOVED: N. Carnicelli

SECONDED: S. Harris

RESOLUTION # 5 (External)



Submitted to: Ministry of Environment, Conservation and Parks

Submitted by: OHBA Land Development Committee

Date: September 23, 2019

Subject: Conservation Authority Permitting and Fees Appeals to the LPAT

Whereas: The Provincial Government initiated a review of Conservation Authorities in 2019 through the Environmental Registry postings 013-4992 and 013-5018, to identify opportunities to improve the existing legislative, regulatory and policy framework that currently governs Conservation Authorities and the programs and services they deliver on behalf of the province, municipalities, and others; and

Whereas: Conservation Authorities often establish and adopt policies, standards or guidelines beyond the scope of their legislative authority and lack accountability mechanisms in terms of policy development and the fees collected for services; and

Whereas: OHBA expressed concern in previous submissions to the MECP regarding the transparency and consistency of how planning and permitting review costs are determined. OHBA is supportive of the principles set out in the *Policies and Procedures for Charging Conservation Authority Fees*, specifically:

- Parity with neighbouring CAs to promote consistency;
- Prevention of duplicative fees charged by local municipalities, and other agencies and ministries for related services;
- Consistency in fee schedules with local municipalities, and other agencies and ministries for related services; and
- Fees shall be reflective of the complexity of the application and level of effort required to administer the application; and

Whereas: OHBA is concerned that there is a lack of oversight in the current system that allows some CAs to operate under unreasonably long permitting timelines and without an appropriate appeal mechanism; and

Whereas: Appeals of CA permitting decisions are currently heard by the Mining and Lands Commissioner and not integrated with other *Planning Act* appeals that are heard by the LPAT/OMB, thereby causing disjointed and often competing land use decisions.

Therefore be it resolved that: the province legislate a consistent fee schedule (Sec 21.2) with clearly defined service categories that can be applied by all CAs (individual CA fees would be differentiated, but categories and definitions would be consistent); and

Therefore be it further resolved that: the MECP mandate that CAs establish fair and reasonable rules with respect to development application review fees commensurate to the services provided and that they be appealable to LPAT, similar to that of any *Planning Act* fee; and

Therefore be it further resolved that: the Province enhance accountability through the implementation of an independent third party appeals process to the LPAT for Conservation Authority permitting functions, fees and timelines; and

Therefore be it further resolved that: All appeals of both *Planning Act*, and, *Conservation Authorities Act* matters should be adjudicated by the LPAT. This will create more certainty and resolve disputes more efficiently while also creating more integrated and timely decisions.

MOVED: P. Dufresne

SECONDED: D. Tarry

RESOLUTION # 6 (External)



Submitted to: Ministry of Environment, Conservation and Parks
Submitted by: OHBA Land Development Committee
Date: September 23, 2019
Subject: Conservation Land Banking for Species at Risk

Whereas: OHBA supports the protection of species at risk; and

Whereas: The *Endangered Species Act* has a number of operational and implementation challenges that should be improved while continuing to provide important species at risk protection. OHBA was therefore supportive of Schedule 5 of Bill 108 (More Homes, More Choice Act, 2019) that made several amendments to the *Endangered Species Act, 2007*; and

Whereas: OHBA made a submission in March 2019 (ERO 013-4143) responding to the 10-year review of the *Endangered Species Act, 2007* and a submission in May 2019 (ERO 013-5033) responding to proposed changes to the *Endangered Species Act, 2007*; and

Whereas: OHBA is supportive of the MECP concept for the proposed *Species at Risk Conservation Trust*; and

Whereas: with respect to Conservation Land Banking, the OHBA submission in March 2019 stated:

“In lieu of activity-based requirements the legislation should allow for the use of tools successfully used in other jurisdictions such as “Conservation Land Banking”, to enable addressing requirements for species at risk prior to activities. Such a tool can offset and mitigate adverse effects of development prior to development taking place while providing benefits to species at risk and encourage relationships between project proponents and conservation and commercial organizers / ENGOs.”

Therefore be it resolved that: The MECP should create a new landscape agreement that takes a strategic, coordinated and consolidated approach to authorizing clients undertaking multiple activities (potentially impacting multiple species at risk, and which could allow for conservation land banking to achieve positive outcomes for the species; and

Therefore be it further resolved that: The MECP should allow for the use of tools successfully used in other jurisdictions such as Conservation Land Banking. Market based tools such as Conservation Land Banking can offset and mitigate adverse effects of development and provide benefits to species at risk.

MOVED: K. Rovinelli

SECONDED: A. Churchill

RESOLUTION # 7 (External)



Submitted to: Ministry of Municipal Affairs and Housing

Submitted by: OHBA Land Development Committee

Date: September 23, 2019

Subject: Updating Growth Plan Schedule #3 (Distribution of Population & Employment for the GGH)

Whereas: OHBA welcomed the amendments to the Growth Plan in May 2019. OHBA believes that the amendments to the Growth Plan are the right approach to fulfill the government's commitment to increase housing supply, reduce red tape and make it easier to live and do business in Ontario; and

Whereas: The amendments to the Growth Plan did not update the forecasts for Schedule #3 (Distribution of Population & Employment for the GGH); and

Whereas: A Ryerson Centre for Urban Research paper in June 2019 (*CUR's Top 10 Takeaways from Statistics Canada's Latest Population Estimates for the Greater Golden Horseshoe*) documents that population growth accelerated in the GGH with net immigration being the predominant source of population growth and the percentage of temporary residents (e.g., refugees and international students) also growing rapidly; and

Whereas: While the population forecasting work undertaken by Hemson for the Ontario Growth Secretariat proved to be quite accurate in the initial years after it was completed (2012), the dramatic increase in immigration levels in recent years has created a significant gap. OHBA notes that this is not a flaw or criticism of Hemson's work, but rather the gap reflects a dramatic change in Federal policy in 2015 and thereafter; and

Whereas: In the years 2016 to 2018, annual immigration to the GGH averaged 157,000. This is up from the Hemson estimate of an average of 95,552 for that time period. This means that the Growth Plan forecasts have failed to capture 149,344 in population to the GGH in the years 2016 through 2018 with this shortfall being directly attributable to Federal immigration levels. These elevated levels of immigration are expected to continue in the years ahead.

Whereas: Between 2016 and 2021 GGH immigration will likely exceed Growth Plan forecasts by over 450,000 people for whom homes have not been planned.

Therefore be it resolved that: Population forecasts for the Growth Plan must be updated to reflect high actual and forecast immigration levels; and

Therefore be it further resolved that: A mechanism must be established to compensate for the past and current shortfalls in the Growth Plan forecasts. All regional and local official plans were based on forecasts using much lower assumptions; and

Therefore be it further resolved that: the Ontario Growth Secretariat commence work towards updating the Schedule #3 forecasts to 2051 for population and employment; and

Therefore be it further resolved that: the OHBA continues to support its long-standing position that the Built Boundary should be updated and refined to accurately capture greenfield vs intensification; and

Therefore be it further resolved that: MMAH update the Land Needs Assessment Methodology to address the calculation of demand to meet the projected needs of current and future residents and to reflect the new (simplified) calculation of intensification targets and greenfield density targets.

MOVED: C. Shindruk

SECONDED: B. Bunting

RESOLUTION # 8 (Internal)



Submitted to: OHBA Board of Directors
Submitted by: OHBA Executive Committee
Date: September 23, 2019
Subject: OHBA By-Laws Update

Whereas: The OHBA by-laws were last amended by the Board of Directors on October 6, 1998 and confirmed by the members on October 7, 1998; and

Whereas: The OHBA initiated a strategic plan review in 2018. The strategic plan review involved nearly a year of consultation with members including surveys, meetings and discussion at the OHBA Board of Directors. The strategic plan and proposed governance structure evolved throughout the process with a variety of goals and objectives to improve the operations of the OHBA and service to the Local HBAs and members; and

Whereas: As part of the Eight Pillars of the Strategic Enhancements that was confirmed by the OHBA Board of Directors on June 6, 2019 the implementation of the plan requires a modernization of both OHBA's By-Laws and governance structure;

Whereas: As part of the OHBA Board of Directors meeting on September 22, 2019, the OHBA Board of Directors discussed and agreed in principle on a set of governance changes and proposed a new Board of Directors structure to be drafted in a new set of proposed By-Laws;

Therefore be it resolved that: the By-Laws will be re-drafted and circulated prior to a special meeting of members that will be organized for the approval and ratification of the new OHBA By-Laws, and to authorize an election for the new OHBA Board of Directors to follow any such By-Law that is ratified by the members.

MOVED: J. Meinen

SECONDED: D. Tarry