



## Planning Advisory Committee Report

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<b>Report Number:</b>	<b>PLAN2021-007</b>
<b>Meeting Date:</b>	March 10, 2021
<b>Title:</b>	<b>Official Plan (2012) and General Amendment 13 Appeals – Urban Settlement Boundaries</b>
<b>Description:</b>	The purpose of the report is to provide information regarding proposed modified urban settlement boundaries in order to obtain public input as directed by the Local Planning Appeal Tribunal through its decision issued on February 9, 2021 in relation to Case Nos. PL120217 and PL171407
<b>Type of Report:</b>	<b>Special Public Meeting</b> (non-statutory)
<b>Author and Title:</b>	Leah Barrie, Policy Planning Supervisor

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### Recommendation:

**That** Report PLAN2021-007, **Official Plan (2012) and General Amendment 13 Appeals – Urban Settlement Boundaries**, be received for information.

**Department Head:** \_\_\_\_\_

**Legal/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

**Background:**

The Official Plan for the City of Kawartha Lakes Planning Area, 2012 ('2012 Official Plan') which guides the use of land in the municipality, was adopted by Council on September 21, 2010. On January 11, 2012 the Ministry of Municipal Affairs and Housing approved the Official Plan with modifications; however, the Ministry's decision was appealed. Several of those appeals have been resolved, dismissed or withdrawn. The remaining appeals are presently before the Local Planning Appeal Tribunal ('LPAT'). Until such time as the appeals are resolved and the 2012 Official Plan is fully in force and effect, parts of the Victoria County Official Plan continue to govern within the City.

Between 2015 and 2017 Council approved a series of Official Plan Amendments ('OPA') as Secondary Plans for the five settlement areas of Bobcaygeon (OPA 14), Fenelon Falls (OPA 15), Lindsay (OPA 16), Omemee (OPA 17), and Woodville (OPA 18), and a related General Amendment (OPA 13). OPA 13 was prepared to refine urban settlement boundaries, to update and introduce new land use designations within the urban settlement areas, and, to meet a number of key Provincial and local policies. These Amendments were all appealed, and are also presently before the LPAT under separate file numbers.

There have been a number of hearing events before the Ontario Municipal Board ('OMB') and subsequently the LPAT since 2012 relating to the appeals of the 2012 Official Plan and the above noted Official Plan Amendments. On January 11, 2021 the LPAT commenced the Phase 1 Hearing, which forms part of a multi-phased hearing plan that has been agreed to by the parties to the proceedings and ordered by the LPAT.

The Phase 1 Hearing deals specifically with the outstanding 2012 Official Plan Appeals and certain parts of OPA 13, including the location of the urban settlement boundaries of each of the five settlement areas. The exact location of those boundaries is to be determined by the LPAT as part of this hearing phase.

The LPAT sat for 5 days. During that time, the LPAT heard a motion which sought to bring into effect two draft Orders that would have resolved the majority of the issues for the Phase 1 hearing. In support of this resolution, the LPAT was presented with land use planning evidence, including witness statements, affidavits, and two agreed statements of fact that were signed by all of the expert planning witnesses in the Phase 1 proceedings. One of the two draft Orders sought the LPAT's approval of modified settlement boundaries for the 2012 Official Plan, as further described below. Further

adjustments were being proposed to the modified boundary by various parties in the proceeding pursuant to a new Growth Plan<sup>1</sup> policy, which are also detailed below.

The LPAT directed that the City provide notice to the public, by means acceptable to the City, that the LPAT is being asked to consider modified urban settlement boundaries and realignment proposals, that would result in the removal of certain lands from the settlement areas. The LPAT further directed that the City provide to the Tribunal any comments that are received by the City from members of the public with respect to the proposed modifications and/or the Candidate Sites described below. The LPAT adjourned the Phase 1 Hearing to effect its Order, and will reconvene with a Case Management Conference (CMC) on April 6, 2021 to hear from members of the public, as the LPAT may permit, with respect to the proposed modifications. The LPAT's Decision, which sets out the above directions, is attached as **Appendix A**.

Notice of the March 10, 2021 PAC meeting and upcoming CMC meeting has been given by regular mail dated February 16, 2021 to all impacted landowners. A Jump-In website has been developed to supplement the Notice, and to provide information to the broader community. The purpose of the March 10, 2021 meeting is to receive any comments that members of the public may wish to make. Staff intend to provide Council with a summary of any comments that are received from members of the public for Council's consideration and any further direction that Council may wish to provide at the next Council meeting, scheduled for March 23, 2021.

The matters described in Report PLAN2021-007 are presently before the LPAT. Staff have prepared Report PLAN2021-007 to be received for information; there are no further recommendations before the PAC in regards to these matters.

## **Rationale:**

The expert land use planners involved in the Phase 1 Hearing have worked through numerous contentious issues and developed a methodology to resolve the disputed settlement boundaries.

## **Modified Boundaries Proposed for LPAT Approval**

Schedules A-2, A-3, A-4, and A-5 of the Official Plan attached as **Appendix B** are under appeal. The LPAT is being asked to modify these Schedules to reflect the location of the boundaries for the five settlement areas that existed prior to the Ministry's approval, based on the planning evidence that was presented during the Phase 1 Hearing. This planning evidence involved complex analysis of the applicable Provincial planning policies,

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<sup>1</sup> A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Policy 2.2.8.4)

the Victoria County Official Plan, and a series of other considerations that form part of a Decision Tree that was developed by all of the planners in the proceedings.

Should the LPAT approve the proposed modified boundaries attached at **Appendix C**, that are supported by Council, the appellant parties to the proceedings under LPAT File No. PL120217, and the planning evidence, certain lands that were originally shown as being located within the Urban Settlement Boundary in the Minister-approved Official Plan, would no longer be located within the Urban Settlement Boundary of the LPAT-approved Official Plan.

The proposed modified boundaries would effectively maintain the status quo until such time as the City completes its 2019 Growth Plan conformity exercise. The exercise, which is underway through the Growth Management Strategy project, requires the City to review its settlement area boundaries and plan for population growth, housing and employment needs, and coordinate with infrastructure investments to the year 2051. The exercise will include a comprehensive public engagement component, where interested parties can participate and provide submissions and requests for the City's consideration. The Ministry has directed that the City complete its 2019 Growth Plan conformity exercise by July 1, 2022.

Development, adoption and approval of the Official Plan in 2012 were subject to the preceding 2006 Growth Plan. Through that policy, settlement area boundary expansion could only occur as part of a municipal comprehensive review, and subject to specific criteria. Since then, the 2019 Growth Plan was released. Based on the Province's transition regulation, the LPAT determined that the Official Plan is subject to the 2006 Growth Plan, while OPA 13 is subject to the 2019 Growth Plan.

Section 2.2.8.2 of the 2019 Growth Plan continues to provide that a settlement area boundary expansion may only occur through a municipal comprehensive review, subject to specific criteria. However, the 2019 Growth Plan now further provides in section 2.2.8.4 that municipalities may adjust settlement area boundaries without having to undertake a municipal comprehensive review, provided:

- a) there would be no net increase in land within settlement areas;
- b) the adjustment would support the municipality's ability to meet the intensification and density targets established pursuant to this Plan;
- c) the location of any lands added to a settlement area will satisfy the applicable requirements of policy 2.2.8.3;

- d) the affected settlement areas are not rural settlements or in the Greenbelt Area; and
- e) the settlement area to which lands would be added is serviced by municipal water and wastewater systems and there is sufficient reserve infrastructure capacity to service the lands.

Once the LPAT has made a determination on the location of the settlement boundaries (pursuant to the 2006 Growth Plan), then the LPAT can adjudicate with respect to proposals that have been made by a number of the parties in the OPA 13 appeal proceeding to further adjust the boundaries (pursuant to the 2019 Growth Plan, and particularly Policy 2.2.8.4).

### **Candidate Sites for Potential Removal from Settlement Areas**

As noted above, certain landowners who are parties to the OPA 13 appeal proceeding have asked the LPAT to consider proposals that would have the effect of re-aligning the existing Official Plan boundaries for the five settlement areas (Bobcaygeon, Fenelon Falls, Lindsay, Omemee, Woodville) to accommodate their lands within the settlement boundary. In order to achieve this result, the LPAT would have to deem it appropriate to remove from those settlement areas certain lands that are currently located within the boundaries. The lands that may be considered by the LPAT for removal have been identified as “Candidate Sites” by all of the professional land use planners who have been identified as expert witnesses in the appeal proceeding, including the City’s land use planning consultant as well as the land use consultants representing parties in the Phase 1 Hearing.

Candidate Sites were evaluated against criteria that considered existing zoning, planned water/wastewater servicing, constraints due to land use compatibility, and the logical shape to the settlement boundary. Candidate Sites attached at **Appendix D** represent land acreage that could be removed from one settlement area to adjust the boundary of that settlement area or another settlement area, provided the 2019 Growth Plan policies are upheld.

It will be incumbent upon every party seeking an adjustment to demonstrate how the applicable Provincial policies have been satisfied, particularly the test set out under 2019 Growth Plan Policy 2.2.8.4. The expert planners have signed an agreed statement of facts in which they indicate that, in their opinion, the Candidate Sites that do not get reassigned

may be considered as excess lands<sup>2</sup> at the municipality's forthcoming municipal comprehensive review. Candidates Sites which are removed from the settlement area through the OPA 13 appeals may be considered to be added back into the settlement area through the 2051 growth management exercise.

### **Other Alternatives Considered:**

None

### **Alignment to Strategic Priorities:**

Resolution of the 2012 Official Plan and OPA 13 Appeals aligns with the priorities for A Vibrant and Growing Economy and for Good Government by increasing efficiency and effectiveness of service delivery.

### **Financial/Operation Impacts:**

None

### **Consultations:**

City Solicitor

Thomson Rogers, External Solicitor

### **Attachments:**

#### **Appendix A – LPAT Decision PL120217-Feb-09-2021**



PL120217-FEB-09-20  
21.pdf

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<sup>2</sup> **Excess lands** are vacant, unbuilt but developable lands within settlement areas but outside of **delineated built-up areas** that have been designated in an Official Plan for development but are in excess of what is needed to accommodate forecasted growth to the horizon of the Growth Plan. Excess lands may be determined based on a land needs assessment. Municipalities will determine which lands will be identified as excess lands, prohibit development on excess lands to the planning horizon of the Growth Plan, and are encouraged to reduce land available for development, where appropriate.

**Delineated built-up areas** are all lands within the **delineated built boundary** – the limits of the developed urban area as defined by the Minister in consultation with affected municipalities for the purpose of measuring the minimum intensification target in the Growth Plan.

## **Appendix B – Official Plan Schedules A-2, A-3, A-4, A-5 (under appeal)**



Schedule A-2.pdf



Schedule A-3.pdf



Schedule A-4.pdf



Schedule A-5.pdf

## **Appendix C – Modified Settlement Boundaries (proposed for LPAT approval)**



Attachment B Maps  
- Modified Boundar

## **Appendix D – Candidate Sites (proposed for land swapping under Policy 2.2.8.4)**



Attachment C Maps  
- Candidate Sites.pd

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**Department Head:** Chris Marshall

**Department File:** D01-01; D01-17; D02