



The Regional Municipality of Durham

COUNCIL INFORMATION PACKAGE

February 3, 2017

Information Reports

There are no Information Reports

Early Release Reports

There are no Early Release Reports

Staff Correspondence

There is no Staff Correspondence

Durham Municipalities Correspondence

There is no Durham Municipalities Correspondence

Other Municipalities Correspondence/Resolutions

1. [County of Prince Edward](#) – Resolution passed at their Council meeting held on January 24, 2017, regarding Request to Minister of Education to rewrite the Pupil Accommodation Review Guideline (PARG)

Miscellaneous Correspondence

1. [Central Lake Ontario Conservation Authority](#) News Release re: Candlelit Snowshoe at Enniskillen Conservation Area on Friday, February 17, 2017 from 7 PM to 9 PM
2. [Ganaraska Region Conservation Authority](#) e-mailing re: Plant Trees through the GRCA & Celebrate Canada's 150th Birthday
3. [Toronto and Region Conservation Authority](#) advising Resolution #A231/16 was approved at their meeting held on January 27, 2017, regarding Provincial Review of the Ontario Municipal Board

Advisory Committee Minutes

There are no Advisory Committee Minutes

Action Items from Council (For Information Only)

[Action Items](#) from Committee of the Whole and Regional Council meetings

Members of Council – Please advise the Regional Clerk at clerks@durham.ca by 9:00 AM on the Monday one week prior to the next regular Committee of the Whole meeting, if you wish to add an item from this CIP to the Committee of the Whole agenda.



From the Office of the Clerk
 The Corporation of the County of Prince Edward
 332 Picton Main Street, Picton, ON K0K 2T0
 T: 613.476.2148 x 1021 | F: 613.476.5727
clerks@pecounty.on.ca | www.thecounty.ca

January 26, 2017

Re: Request to Minister of Education to Rewrite the Pupil Accommodation Review Guideline (PARG)

Please be advised that, at the regular meeting of Council for The Corporation of the County of Prince Edward held January 24, 2017, the following motion was passed:

Motion 2017-31

Moved by Councillor Roberts
 Seconded by Councillor Fox

THAT Council support the resolution adopted by the Counties of Bruce and Grey as it relates to urging the Minister of Education to rewrite the Pupil Accommodation Review Guideline (PARG), to take into consideration community and economic value consideration of rural communities and provide for a more democratic process;

THAT until such time as PARG is rewritten, that the Province place a moratorium on any more rural school closures; and

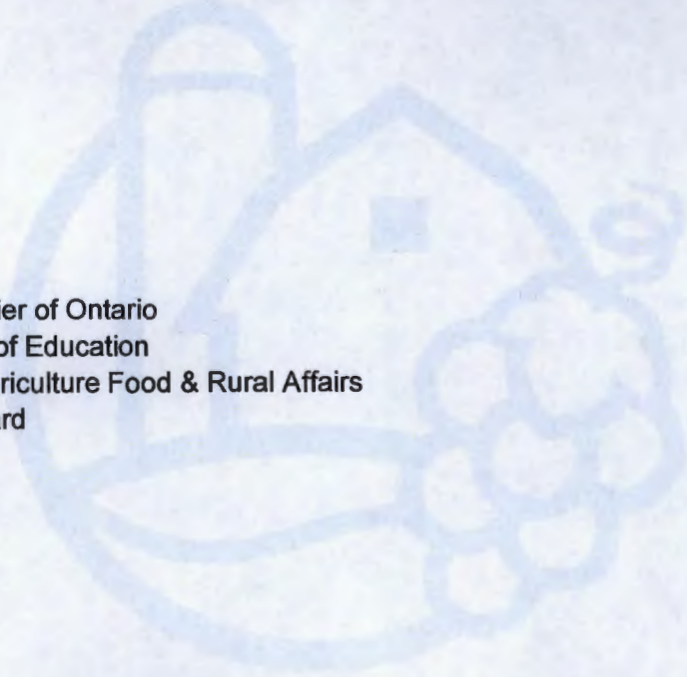
THAT a copy of this support resolution be forwarded to the Premier, Minister of Education, MPP Todd Smith, Jeff Leal, Ontario Ministry of Food and Rural Affairs, Association of Municipalities of Ontario, Eastern Ontario Warden's Caucus and Counties of Bruce and Grey.

CARRIED

Yours truly,

Kim White
 Clerk

Copy: The Honourable Kathleen Wynne, Premier of Ontario
 The Honourable Mitzie Hunter, Minister of Education
 The Honourable Jeff Leal, Minister of Agriculture Food & Rural Affairs
 Todd Smith, MPP Hastings-Prince Edward
 Eastern Ontario Warden's Caucus
 Association of Municipalities of Ontario
 Counties of Bruce and Grey



JAN 27 '17 PM 1:10



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January 26, 2017

Re: Request to Minister of Education to Initiate Immediate Stay of Execution on the Accommodation Review Process

Please be advised that, at the regular meeting of Council for The Corporation of the County of Prince Edward held January 24, 2017, the following motion was passed:

Motion 2017-32

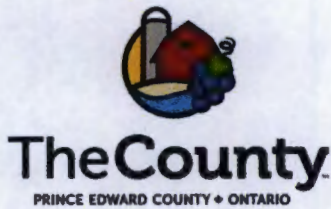
Moved by Councillor Roberts
Seconded by Councillor Gale

WHEREAS the current Accommodation Review Process is not reflective of the reality of rural school and community life;

AND WHEREAS school closures impact single-school small rural communities in all educational, social and economic aspects to a far greater degree than those impacts in multi-school urban communities;

AND WHEREAS the Board of Education has initiated an unachievable timeline for the proposed transition plan and will have a negative impact on the health and safety of the students;

BE IT RESOLVED THAT the Municipality of Prince Edward County requests the Minister of Education initiate an immediate Stay of Execution on the Accommodation Review Process until such time as a review of the above mentioned impacts on small rural communities can be studied, completed and the results and recommendations be considered; and



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THAT this resolution be circulated to Premier Kathleen Wynne, OMAFRA Minister Jeff Leal, MPP Todd Smith, Hastings and Prince Edward School Board, Community School Alliance, and all municipalities in Ontario.

CARRIED

Yours truly,

A handwritten signature in black ink that reads "Kim White". The signature is written in a cursive, flowing style.

Kim White
Clerk

Copy: The Honourable Kathleen Wynne, Premier of Ontario
The Honourable Mitzie Hunter, Minister of Education
The Honourable Jeff Leal, Minister of Agriculture Food & Rural Affairs
Todd Smith, MPP Hastings-Prince Edward
Hastings and Prince Edward District School Board
Community School Alliance
Association of Municipalities of Ontario (AMO)



**Central
Lake Ontario
Conservation**

News Release

100 Whiting Avenue, Oshawa, ON, L1H 3T3
(905) 579-0411, fax (905) 579-0994

Release Date: Immediate

Enjoy A FREE Candlelit Snowshoe At Enniskillen Conservation Area

Friday, February 17th, 2017
7:00pm to 9:00pm

Join us for some fun at Central Lake Ontario Conservation's Candlelit Snowshoe at Enniskillen Conservation Area on Friday, February 17th. The public is invited to sign up for a snowshoe session and enjoy a special candlelit trail. Fun for the whole family, the recommended minimum age is 5 years old for this event.



This event is FREE, however, **registration is required** as the number of snowshoes are limited. **Registration tickets are available online at www.cloca.com**. Participants are asked to **register ensure snowshoe availability**. This self-guided event runs 7:00 pm – 9:00 pm. In the case of poor snow conditions, you can explore the trails without snowshoes. This is a snow or no snow event and parking is FREE.

All participants are asked to dress for the weather with lots of layers and good sturdy footwear. We will have the heat on in the Education Centre so you have a place to warm up after your adventure. Flashlights for the evening session are discouraged as it is disturbing to wildlife and not necessary as your eyes will adjust to the conditions and the candlelit trails. Participants can bring their own snowshoes and or walking poles. **Sorry, no pets allowed.**

For more information please contact Ms. Cathy Grant, at the Conservation office at (905) 579-0411, ext. 108 or email: cgrant@cloca.com.

Directions:

Enniskillen Conservation Area is located at 7274 Holt Road, just outside the village of Enniskillen. A **Google Map** is available at www.cloca.com.

Healthy watersheds for today and tomorrow.



*Central
Lake Ontario
Conservation*

News Release

100 Whiting Avenue, Oshawa, ON, L1H 3T3
(905) 579-0411, fax (905) 579-0994

Release Date: Immediate

Volunteer Opportunities at the 2017 Purple Woods Maple Syrup Festival

***March Break: March 11th to 19th
March 25th / 26th and April 1st / 2nd***

Central Lake Ontario Conservation has many adult and high school volunteer opportunities for individuals looking to assist with the 2017 Maple Syrup Festival at Purple Woods Conservation Area. The festival will run on March 11th to March 19th, March 25th and 26th and April 1st and 2nd.

“We have some great volunteer opportunities for adults and **high school students looking to log some community service volunteer hours**,” says Yvonne Storm, Education Instructor with Central Lake Ontario Conservation. “Volunteers are needed to host children’s activities, interpretive displays, assist with admissions, parking and our food services.”

All selected volunteers will need to arrange their own transportation to and from the conservation area as bus service is not available. Attendance at a mandatory orientation session at the Conservation Area on Saturday March 4th from 1pm to 3pm is required. Purple Woods Conservation Area is located at 38 Coates Road East, located on the southeast corner of Coates Road and Simcoe Street at the Oshawa/Scugog boundary.

Register now, spaces limited!

All interested persons are asked to complete an online volunteer form at www.cloca.com. If you have any questions, please contact Yvonne Storm at the Central Lake Ontario Conservation office (905) 579-0411 ext. 144 or email: ystorm@cloca.com.

Healthy watersheds for today and tomorrow.

From: Ganaraska Region Conservation Authority <info@grca.on.ca>
Sent: January-31-17 9:04 AM
To: Clerks
Subject: Celebrate Canada's 150 with Trees!

C.S. - LEGISLATIVE SERVICES

Original

To: CIP

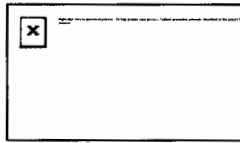
Copy

To: an B. P. HIGGEMAN

Having trouble viewing this email? [Click here](#)

Hi, just a reminder that you're receiving this email because you have expressed interest in Ganaraska Region Conservation Authority. Don't forget to add agriffiths@grca.on.ca to your address book so we'll be sure to land in your inbox!

You may [unsubscribe](#) if you no longer wish to receive our emails.



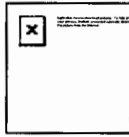
Plant Trees through the GRCA & Celebrate Canada's 150th Birthday



The Ganaraska Region Conservation Authority (GRCA) is now accepting tree and shrub orders for Spring 2017 pick-up and planting. Many different programs are available for you to easily get your tree and shrub seedlings. Celebrate Canada 150 through the act of tree planting with your family and friends. For more information, contact stewardship@grca.on.ca.

GRCA Tree Seedling Program

Thirty native tree and shrub bareroot seedling species are available to order, as are planting supplies. Orders must be a minimum of twenty-five per species and in increments of twenty-five. Prices range from \$0.55 to \$2.25 per seedlings. There is an administrative fee of \$20.00 and HST is applied to the total cost. Please see the [GRCA Tree Seedling Program catalogue](#) for more detail and to place your order. Orders are due March 3, 2017.



Consider celebrating Canada's 150th Birthday with family and friends with the planting of 150 native trees that represents Ontario's Forests and Official Trees. To order your package for \$150.00, please fill out the order form and return to the GRCA by March 3, 2017.

GRCA Tree Planting Program

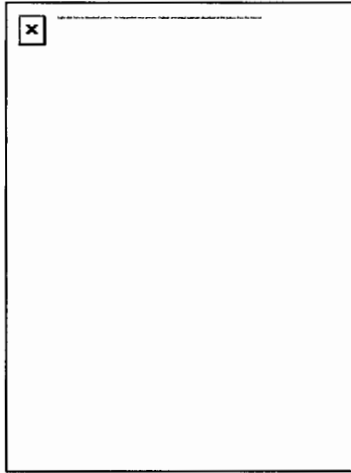
The GRCA is always looking to increase forest cover on the landscape. GRCA staff are able to plan and co-ordinate large scale tree plantings, starting at 1 acre, and within the GRCA jurisdiction. Significant fund is available to offset the cost of tree planting. To talk to a GRCA staff person to find out how you can have tree planted please email stewardship@grca.on.ca.

Trees for Rural Roads

In order to restore trees along rural roads within the Municipalities of Clarington and Port Hope, the GRCA, in partnership with the Municipality of Clarington, the Municipality of Port Hope Tree Advisory Committee and Maple Leaves Forever, are offering free trees to interested property owners. Eight species are available and must be planted at a set distance along rural roads and on the private property. A maximum of 30 trees per applicant is allowed. Each municipality has their own application process. Have questions? Contact stewardship@grca.on.ca.

The GRCA: Proud to Partner with the Highway of Heroes Tribute

The GRCA manages, conserves and restores local watersheds within it 935 km² jurisdiction. The Highway of Heroes crosses many of these watersheds (Wilmot Creek, Graham Creek, Ganaraska River and Cobourg Creek) and spans approximately 60km of the GRCA. The GRCA is a proud partner with the Highway of Heroes Tribute to support the mission: to honour Canada's fallen by planting 117,000 trees, one for every fallen Canadian Soldier since Confederation, along and near the Highway of Heroes between Trenton and Toronto. To find out how you can become involved and receive your very own Canada 150 tree please visit www.hohtribute.ca.



Ganaraska Region Conservation Authority,
2216 County Road 28, Port Hope, Ontario L1A 3V8 Canada

[SafeUnsubscribe™ clerks@region.durham.on.ca](mailto:SafeUnsubscribe%20clerks@region.durham.on.ca)

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February 1, 2017

Sent via email

SEE DISTRIBUTION LIST

At Authority Meeting #11/16, of Toronto and Region Conservation Authority (TRCA), held on January 27, 2017, Resolution #A231/16 in regard to Provincial Review of the Ontario Municipal Board was approved as follows:

WHEREAS the Ministry of Municipal Affairs (MMA) invited the public to provide comments on their document entitled, "Review of the Ontario Municipal Board Public Consultation Document" through an Environmental Bill of Rights (EBR) Posting #012-7196;

AND WHEREAS Toronto and Region Conservation Authority (TRCA) has roles and responsibilities affecting planning matters that come before the Ontario Municipal Board (OMB), through which TRCA staff regularly participate in OMB hearings and other OMB processes as required;

THEREFORE IT IS RECOMMENDED THAT TRCA's formal response to the Province of Ontario through the Environmental Registry on December 19, 2016, as outlined in Attachment 1, be received.

AND FURTHER THAT TRCA's municipal partners, the Ministry of Natural Resources and Forestry, the Ministry of the Environment and Climate Change, and Conservation Ontario be so advised by the CEO's Office.

Enclosed for your information and any action deemed necessary is the report as received by the Authority. If you have any questions or require additional information, please contact Mary-Ann Burns at 416-661-6600 extension 5763, mburns@trca.on.ca.

Kathy Stranks
Senior Manager, Corporate Secretariat
CEO's Office

cc. Mary-Ann Burns, Senior Planner, Policy, TRCA

/Encl.

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Debi Wilcox, Regional Clerk / Director of Legislative Services, Regional Municipality of Durham

Section III – Items for the Information of the Board

RES.#A231/16 -

PROVINCIAL REVIEW OF THE ONTARIO MUNICIPAL BOARD

Comments to Environmental Bill of Rights Posting #012-7196. To inform the Authority of TRCA's formal submission of comments on December 19, 2016 to the Ministry of Municipal Affairs, in response to their Environmental Bill of Rights Registry posting on Consultation on the Role of the Ontario Municipal Board in Ontario's Land Use Planning System.

Moved by: Michael Di Biase
Seconded by: Linda Pabst

WHEREAS the Ministry of Municipal Affairs (MMA) invited the public to provide comments on their document entitled, "Review of the Ontario Municipal Board Public Consultation Document" through an Environmental Bill of Rights (EBR) Posting #012-7196;

AND WHEREAS Toronto and Region Conservation Authority (TRCA) has roles and responsibilities affecting planning matters that come before the Ontario Municipal Board (OMB), through which TRCA staff regularly participate in OMB hearings and other OMB processes as required;

THEREFORE IT IS RECOMMENDED THAT TRCA's formal response to the Province of Ontario through the Environmental Registry on December 19, 2016, as outlined in Attachment 1, be received.

AND FURTHER THAT TRCA's municipal partners, the Ministry of Natural Resources and Forestry, the Ministry of the Environment and Climate Change, and Conservation Ontario be so advised by the CEO's Office.

CARRIED

BACKGROUND

The Environmental Bill of Rights posting on the Ontario Municipal Board Review explains that since 2004, the government has implemented a series of land use planning reforms to make Ontario's planning system more inclusive and transparent. These reforms have also affected the OMB, limiting the number of matters that can be appealed to the Board, giving municipalities a stronger voice and more independence in local land use decisions, and giving residents more say in land use decisions in their communities. These changes occurred through the *Strong Communities (Planning Amendment) Act, 2004*, the *Planning and Conservation Land Statute Law Amendment Act, 2006* and, most recently, the *Smart Growth for Our Communities Act, 2015*.

The purpose of the most recent EBR notice (#012-7196 posted from October 5, 2016 to December 19, 2016) was to inform the public of the government's consultation on the OMB review. The Province intended the consultation to provide the public with an opportunity to express their views on whether the land use appeal system is responsive to the changing needs of our communities. As part of the first phase of this consultation, initiated on June 23, 2016, the Ministry of Municipal Affairs webpage invited the public to provide feedback on topics regarding the OMB review. Through this review, the government is seeking ways to build on past improvements to ensure the OMB can contribute within the land use planning system to its best effect.

Recent government consultations on related issues, as well as a posting on the MMA website that invites public input on topics regarding the OMB, have helped to inform the priorities for discussion in this review. The OMB review was organized according to the following five themes, with input requested on possible changes the government is considering and questions identified for each theme:

- Theme 1: OMB's jurisdiction and powers
- Theme 2: Citizen participation and local perspective
- Theme 3: Clear and predictable decision-making
- Theme 4: Modern procedures and faster decisions
- Theme 5: Alternative dispute resolution and fewer hearings

A public consultation document was provided that included background information on Ontario's land use planning and appeal system. The OMB Public Consultation Document sets out possible changes being considered to improve the OMB's role within the system, as organized under the five key themes noted above. The document also raises several questions for consideration under each theme.

TRCA'S Response

On December 19, 2016, TRCA submitted a formal response through the EBR consisting of a covering letter overview and a chart of detailed comments organized by the themes and questions provided in the public consultation document. A number of key comments are listed in the overview below and a copy of TRCA's full submission can be found in Attachment 1.

Overview

TRCA policy planning staff within the Planning and Development division coordinated the internal review of the OMB discussion paper. Policy staff garnered input from senior development review staff in Planning and Development, Planning Ecology and Engineering with experience in participating in OMB processes; some TRCA staff attended stakeholder listening sessions hosted by the Province, which also helped inform TRCA comments.

In TRCA's experience, appeals to the OMB are frequently associated with *Planning Act* applications circulated by municipalities in which inadequate information has been provided by the proponent that nevertheless becomes deemed a complete application. This starts the review period clock ticking, during which an informed municipal decision cannot be made in time, so the proponent appeals. It is this type of appeal scenario that comprises the bulk of OMB cases in which TRCA is involved. TRCA's municipal partners frequently rely on TRCA technical expertise and planning advice to resolve the increasingly high volume of OMB appeals related to the natural environment, including natural heritage, water resources and associated natural hazards.

In recent years, TRCA has provided recommendations to the Province as part of its ongoing review to improve the scope and effectiveness of the OMB. While some of TRCA's comments through past consultations have since been addressed through amendments to the *Planning Act* and the land use planning and appeal system, others have not. Most recently, the introduction of the *Smart Growth for Our Communities Act, 2015* has spurred positive changes to the OMB. In turn, the amendments made to the *Planning Act* affected the decisions that can be made by the OMB and outlined which matters cannot be appealed. However, the full effect of these changes has not yet come to fruition, considering their implementation within Ontario's land use planning framework is still fairly new. A number of hearings now in process were initiated prior to the "new rules" being in effect and so stakeholders are not yet able to see the anticipated benefits of the new legislation. TRCA is expecting that the recent changes to the OMB will yield positive results

by enhancing the role of third-party comment and technical review for OMB appeals and strengthening decision making to protect provincial interests.

TRCA staff have a number of years of experience participating in OMB processes with the interests of the Province, TRCA and our municipal partners in mind, and anticipate that TRCA's comments will assist the Province in improving the role of the OMB in the land use planning system. Some of the key comments that TRCA included in its submission to the Province are:

- Appeals based on failure to make a decision are often tied to applications that may have been deemed "complete" by the municipality, yet in reality lack the required supporting environmental information required for agencies to make an adequate assessment of the application.
- Appeal rights should be restricted for decisions that protect provincial issues and prohibit development related to natural heritage, source water and natural hazards in the Provincial Policy Statement (PPS).
- Further to the above, given the unique provincial Ministerial approval process, appeal rights should be restricted for official plan or official plan amendments associated with flood vulnerable Special Policy Areas under Section 3.1.4 (a) of the PPS.
- The technical criteria developed to provide guidance on provincial interests at OMB hearings, specifically those related to the natural heritage and natural hazard policies of the PPS, should be given more weight and status at the OMB.
- When new technical work in support of an application is introduced during a hearing, the hearing should be adjourned and the application should continue to be processed to a decision in the municipal planning realm.

NEXT STEPS

The Ministry of Municipal Affairs will review and analyze the feedback received in response to the EBR posting. The Ministry expects to move forward on possible changes in spring 2017. TRCA staff will keep the Authority informed of any further notices from the Province in this regard.

Report prepared by: Mary-Ann Burns, extension 5763

Emails: mburns@trca.on.ca

For Information contact: Carolyn Woodland, extension 5214

Emails: cwoodland@trca.on.ca

Date: January 27, 2017

Attachments: 1

December 19, 2016

By email only

Ken Petersen, Manager
Ministry of Municipal Affairs
Local Government and Planning Policy Division
Provincial Planning Policy Branch
777 Bay Street, 13th Floor
Toronto, Ontario, M5G 2E5

Dear Mr. Petersen:

Re: TRCA Comments in Response to “Consultation on role of Ontario Municipal Board in Ontario's land use planning system” (EBR # 012-7196)

Thank you for the opportunity to provide comments on the role of the Ontario Municipal Board in Ontario's land use planning system. The Toronto and Region Conservation Authority (TRCA) has a strong interest in the role of the Ontario Municipal Board (OMB), given our role as a public commenting body under the *Planning Act* and as a body with delegated responsibility to represent the provincial interest for natural hazards encompassed by Section 3.1 of the Provincial Policy Statement 2014. In recent years, TRCA has provided recommendations to the Province as part of its ongoing review to improve the scope and effectiveness of the OMB. While some of TRCA's comments through past consultations have since been addressed through amendments to the *Planning Act* and the land use planning and appeal system, others have not. Accordingly, we will reiterate some of our comments from previous correspondence as part of this current consultation process.

General Comments

As a conservation authority, TRCA is not only a commenting body but also administers a regulation affecting planning matters within the regulated areas of our jurisdiction, pursuant to the *Conservation Authorities Act*. TRCA's watersheds encompass the most heavily urbanized and densely populated lands in Ontario. For TRCA planners supporting 18 municipalities and administering our regulation, a significant amount of development, redevelopment, and intensification review and approvals work is required in TRCA watersheds. Presently, the majority of redevelopment and intensification is being planned within growth centres that also happen to be associated with Special Policy Areas, flood vulnerable areas, and/or within environmentally sensitive landscapes. When planning for growth in these areas, it is often a contentious process in finding the balance between the need for growth and the management of natural hazards and natural heritage systems; accordingly, there is a high volume of OMB appeals related to TRCA interests. This has led to a significant amount of “planning done at the Board” for lands that contain some of the Greater Golden Horseshoe's most precious resources vital to the health of the growing and intensifying urban population. The amount of time spent at the OMB, means TRCA planners and supporting technical staff have less time to spend in the

review and approval of applications that are respecting environmental protection policies and leading the development industry with innovative and sustainable approaches to urban planning and design.

Recent Improvements

Most recently, the introduction of the *Smart Growth for Our Communities Act, 2015* has spurred positive changes to the Ontario Municipal Board. In turn, the provisions made to the *Planning Act* affected the decisions that can be made by the OMB and outlined which matters cannot be appealed to the OMB. However, the full effect of these changes has not yet come to fruition, considering their implementation within Ontario's land use planning framework is still fairly new. Indeed, a number of hearings now in process were initiated prior to the "new rules" being in effect and so stakeholders are not yet able to see the anticipated benefits of the new legislation. TRCA is expecting that the recent changes to the OMB will yield positive results by enhancing the role of third-party comment and technical review for OMB appeals and strengthening decision making to protect provincial interests. The feedback solicited as a part of the current consultation on the role of the OMB within Ontario's land use planning system is anticipated to help achieve further improvements.

TRCA Comments and Key Recommendations

TRCA's detailed comments are provided in the attached chart, which is formatted to correspond to the questions in the consultation document related to the following themes: OMB's Jurisdiction and Powers, Citizen Participation and Local Perspective, Clear and Predictable Decision-Making, Modern Procedures and Faster Decisions, and Alternative Dispute Resolution and Fewer Hearings. However, we wish to highlight the following **key recommendations** that are of particular importance from our jurisdictional perspective and experience at the OMB:

- Appeals based on failure to make a decision are often tied to applications that may have been deemed "complete", yet in reality lack the required supporting information required for agencies to make an adequate assessment of the application.
- Appeal rights should be restricted for certain land use matters that protect provincial issues and prohibit development related to natural heritage, source water and natural hazards in the Provincial Policy Statement (PPS).
- Further to the above, given the unique provincial Ministerial approval process, appeal rights should be restricted for official plan or official plan amendments associated with Special Policy Areas under Section 3.1.4 (a) of the PPS.
- The technical criteria developed to provide guidance on provincial interests at OMB hearings, specifically those related to the natural heritage and natural hazard policies of the PPS, should be given more weight and status at the OMB.

- Updated provincial planning rules should apply at the time of decision for applications submitted before 2007, if not earlier.
- Clarification is needed as to what constitutes information as “significant” when new “significant information” is introduced at an OMB hearing and sent back to council for reconsideration.
- In the interest of scoping appeals, limiting the number of appeals, and shortening appeal timelines, broad appeals unsubstantiated by a sound planning rationale should be required to provide this rationale prior to proceeding.
- When new technical work in support of an application is introduced during a hearing, the hearing should be adjourned and the application should continue to be processed to a decision in the municipal planning realm.
- Multi-member panels would increase the consistency of decision-making by increasing breadth of experience and providing a more holistic and balanced perspective of the various public interests relevant during appeals, particularly for complex cases.
- Where applicable, OMB members may benefit from professional development/training on emerging or complex issues such as environmental management and/or issues related to the *Conservation Authorities Act*.

Thank you once again for the opportunity to provide comments on this important initiative. The OMB plays a vital role in balancing the position of councils, ratepayer groups, developers and agencies, while having regard to municipal decisions. TRCA supports efforts to improve and modernize the OMB process to resolve appeals effectively and efficiently while maintaining a decision making process that is fair, well-informed, and respects the objective test of “good planning”. Should you have any questions, require clarification, or would like to meet to discuss any of the comments, please contact the undersigned.

Sincerely,

Carolyn Woodland, OALA, FCSLA, MCIP, RPP
 Senior Director, Planning, Greenspace and Communications
 Toronto and Region Conservation Authority

Enclosure: OMB Response Chart

**TRCA Comments on the Review of the Ontario Municipal Board: Public Consultation Document
December 2016**

Background/Context for Toronto and Region Conservation Authority's (TRCA's) Comments	
<p>TRCA's perspective on the changes being considered to the OMB is based on our roles as: a public commenting body under both the <i>Planning Act</i> and the environmental assessment process with delegated responsibility for the provincial interest in natural hazards, a resource management agency operating on a watershed basis, a landowner, and as the administrator of a development regulation that affects land use planning matters. TRCA works with its member municipalities in support of their implementation of the Provincial Policy Statement (PPS) and Provincial Plans through regional and local municipal planning documents. In many cases, TRCA has memorandums of understanding with municipal partners that describe TRCA's technical support roles to the municipality in their land use planning processes.</p> <p>The introduction of the OMB Public Consultation Document opines that appeals often occur because "people don't always agree" with approved plans. Conversely, in TRCA's experience, appeals are frequently associated with scenarios in which inadequate information has been provided that passes as a "complete application", starts the clock ticking and an informed decision cannot be made in time, so the proponent appeals. It is this type of appeal scenario that comprises the bulk of OMB cases in which TRCA is involved. Our municipal partners frequently rely on our technical expertise and planning advice to resolve the increasingly high volume of OMB appeals related to the natural environment, including natural heritage, water resources and associated natural hazards.</p>	
Structure of Current Provincial Review	
<p>The Public Consultation Document discusses how the government has heard a range of viewpoints on the role of the OMB and that this input was used to formulate the questions as outlined in this chart for public feedback. TRCA commented in a letter dated January 10, 2014 to the Ministry of Municipal Affairs MMA (MMA) in response to EBR posting 012-0241 on the Land Use Planning and Appeal System Consultation. TRCA also commented in writing on June 3, 2015 to MMA in response to Bill 73 (amendments to the <i>Planning Act</i>) through EBR posting 012-3651. While some of TRCA's comments through these consultations have since been addressed through amendments to the <i>Planning Act</i> and the land use planning and appeal system, others have not. In addition, the benefits of the new legislation and procedures have not yet been realized as many of the appeals in process right now began before the changes came into effect. Accordingly, we will reiterate some of our comments from previous correspondence as part of the current consultation process.</p>	
Discussion Questions	Comment
Theme 1. OMB's Jurisdiction and Powers	
<p>1. What is your perspective on the changes being considered to limit appeals on matters of public interest?</p>	<ul style="list-style-type: none"> • TRCA supports the changes being considered to limit appeals on matters of public interest. In particular, we recommend restricting appeal rights for certain land use matters that protect provincial issues and prohibit development, such as the policies related to natural heritage, source water and natural hazards in the Provincial Policy Statement (PPS): <ul style="list-style-type: none"> - Significant Wetlands (PPS, section 2.1.4); - Significant Woodlands, Valleylands, Wildlife Habitat and Areas of Natural and Scientific Interest (PPS, section 2.1.5); - Municipal drinking water supplies and designated vulnerable areas, vulnerable surface and ground water,

	<p>sensitive surface water features, and sensitive ground water features (PPS, sections 2.2.1 e] and 2.2.2); and,</p> <ul style="list-style-type: none"> - Natural Hazards (PPS, sections 3.1.2 and 3.1.5). <ul style="list-style-type: none"> • Recent amendments to the <i>Planning Act</i> did not address the role of the OMB with respect to appeals of Official Plans or Official Plan Amendments associated with Special Policy Areas (SPAs). In accordance with Section 3.1.4 (a) of the PPS, the designation of an SPA and any changes or modifications to official plan policies, land use designations or boundaries applying to SPA lands, must be approved by both the Ministers of Municipal Affairs and Natural Resources and Forestry. Furthermore, the application for a new SPA or a comprehensive review and update to an existing SPA can only be initiated by a municipality, in accordance with provincial SPA guidelines. Given this unique provincial approval process, the <i>Planning Act</i> should be amended to restrict appeals related to SPAs. • More weight needs to be given to the technical criteria developed to provide guidance on provincial interests at OMB hearings, specifically those related to the natural heritage and hazard policies of the PPS. Documents such as the <i>Natural Heritage Reference Manual</i> and the <i>Technical Guide for River and Stream Systems</i>, were prepared by the Province to help planning boards deal with such circumstances. However, in our experience, they are often overlooked at the OMB in favour of subjective expert testimony. This can lead to contested debates on matters such as determining the “significance” and extent of natural features and hazards (further comment on this in Q.24).
<p>2. What is your perspective on the changes being considered to restrict appeals of development that supports the use of transit?</p>	<p>As a commenting agency under the <i>Environmental Assessment Act</i> as well as the <i>Planning Act</i> and, and a regulatory agency under the <i>Conservation Authorities Act</i>, TRCA is involved in integrated planning and approvals processes related to transit-oriented development and related infrastructure. With this experience in mind, we provide the following recommendations:</p> <ul style="list-style-type: none"> • Although TRCA supports transit-oriented development, advancing it should not come at the expense of forgoing other provincial interests that are also in the public’s interest, such as public safety from managing natural hazards and resilient communities from protecting natural heritage systems. • If decisions that support the use of transit cannot be appealed, agencies like TRCA would have little recourse to prevent transit-oriented development that could negatively impact natural heritage systems and/or increase risk from natural hazards, other than our regulatory authority, as prescribed under the

	<p><i>Conservation Authorities Act.</i></p> <ul style="list-style-type: none"> • Further to the above, pursuant to the <i>Places to Grow Act, 2005</i>, Section 1.0 of the Growth Plan indicates that the only exception to the Growth Plan prevailing over the PPS, where there is a conflict between them, is when the conflict is between policies relating to the natural environment or human health. In that case, the direction that provides more protection to the natural environment or human health prevails.
<p>3. What is your perspective on the changes being considered to give communities a stronger voice?</p>	<p>TRCA supports the proposed changes in the public consultation document but suggests the Province consider the following:</p> <ul style="list-style-type: none"> • The OMB should provide training for community members on the board's process and hire professionals (i.e. planners), or provide funding to professional associations (e.g. Ontario Professional Planners Institute [OPPI]) to implement this training. Alternatively, the OMB could hire a third party on retainer that could provide planning advice to or on behalf of community advocates. • Circulation to the public is very limited regarding OMB hearings. As such, the public may not fully understand what is transpiring. Local government and the OMB need to be as transparent as possible and provide adequate notice. Because of the option of “in camera” sessions, other public review agencies and the public are not always privy to the final position of a municipality on an application before going into a hearing. Transparency would increase if in-camera sessions were further restricted. • There are a lot of obstacles the general public needs to overcome just to participate in hearings, let alone understand decisions. For instance, hearings often occur during the middle of the day and, consequently, not everyone is able to attend. Other options should be offered to increase access such as videos, webcasts and transcripts. • Clarification is needed as to what constitutes information as “significant” when new “significant information” is introduced at an OMB hearing and sent back to municipal council for reconsideration. If important new technical information, or even a new concept/modified proposal, is introduced during the hearing process, it should benefit from a detailed analysis without a hurried evaluation to meet arbitrary and unrealistic timelines at the hearing.
<p>4. What is your view on whether the OMB should continue to</p>	<ul style="list-style-type: none"> • The OMB plays a vital role in balancing the position of municipal councils, ratepayers groups, developers and agencies by

<p>conduct de novo hearings?</p>	<p>applying a test of “good planning” while having regard to municipal decisions.</p> <ul style="list-style-type: none"> • TRCA recognizes the benefits of de novo hearings, such as providing the hearing officer with a full context of information, or lack thereof, including incomplete technical information, that transpired in the decision making process. • Municipal councils are not always familiar with the roles and policies of conservation authorities (CAs) and how they apply to development applications, including related permissions under the <i>Conservation Authorities Act</i>. A de novo hearing would allow CA staff to explain those policies and how they apply. An appeal that focuses on the previous decision only may not allow for this. • TRCA recognizes longer hearings are a drawback of de novo hearings; however the process could be streamlined for efficiencies and cost effectiveness.
<p>5. If the OMB were to move away from de novo hearings, what do you believe is the most appropriate approach and why?</p>	<ul style="list-style-type: none"> • The key to any approach/process is that it enables a decision to be produced that is fair, sound and respects the objective test of good planning.
<p>6. From your perspective, should the government be looking at changes related to transition and the use of new planning rules? If so:</p> <ul style="list-style-type: none"> • What is your perspective on basing planning decisions on municipal policies in place at the time the decision is made? • What is your perspective on having updated provincial planning rules apply at the time of decision for applications before 2007? 	<ul style="list-style-type: none"> • OMB panels should have access to previous municipal policies in place at the time of decisions to provide as much information as possible to inform current decisions but should not overemphasize why a previous decision was made. It doesn't make sense to assess the merits of a new application based on legislation and policies that were revised and updated for a reason and are now out of date. • We agree strongly that updated provincial planning rules should apply at the time of decision for applications before 2007, if not earlier. If projects have not been built since 2007 (e.g. an unbuilt draft approved subdivision) then there is no need to perpetuate what could now be considered "bad planning" based on outdated policies.
<p>Theme 2. Citizen Participation and Local Perspective</p>	
<p>7. If you have had experience with the Citizen Liaison Office, describe what it was like – did it meet your expectations?</p>	<p>No comment.</p>
<p>8. Was there information you needed, but were unable to</p>	<p>No comment.</p>

get?	
9. Would the above changes support greater citizen participation at the OMB?	<ul style="list-style-type: none"> • An enhanced Citizen Liaison Office would make sense for stakeholder groups with valid concerns and finite resources to have access to the appeal process.
10. Given that it would be inappropriate for the OMB to provide legal advice to any party or participant, what type of information about the OMB's processes would help citizens to participate in mediations and hearings?	<ul style="list-style-type: none"> • In our experience, citizens often seem to be excluded from participating in the OMB process because they aren't able to gain party status or obtain the necessary planning or legal advice to inform them of how to do so. A provincially funded program distinct from the OMB could administer or have a role in selecting a pool of qualified independent professionals to provide a gratuitous service to the public.
11. Are there funding tools the province could explore to enable citizens to retain their own planning experts and lawyers?	<ul style="list-style-type: none"> • The current filing fee (\$125.00) to appeal a decision to the OMB should be commensurate with the scope and complexity of the project associated with the appeal. Additional consideration should also be given to streamline the appeal process once it is sent and received by the OMB (pre-hearing, hearing, mediation, or motion) as well as the anticipated length of time and/or number of board members needed to come to a decision. For example, the current fee may be appropriate for an appeal from a local resident for a minor variance case, especially given the additional costs required if lawyers or planners are needed. However, this fee would be too low if, for example, a developer were to appeal a policy in an Official Plan, or a decision on a Draft Plan of Subdivision. • Appropriately scaling the cost of an appeal with the scope of the associated project could provide additional revenue which could cover the cost of additional board members, advanced training for board members, enhancing the Citizen Liaison Office and improving public education/outreach regarding OMB processes.
12. What kind of financial or other eligibility criteria need to be considered when increasing access to subject matter experts like planners and lawyers?	<ul style="list-style-type: none"> • The Province could establish and fund a program that creates a pool of qualified independent professionals (lawyers and planners, etc.) which could be selected to assist the public with advice on OMB appeals. Partial funding for this could be provided by revenue captured by appropriately scaling the cost of an appeal with the scope of the project associated with the appeal. Citizens should not have to hire a team of planners, lawyers, and other environmental experts at their own expense when dealing with matters that are in the public's interest.
Theme 3. Clear and Predictable Decision-Making	
13. Qualifications for adjudicators are identified in the job description posted on the OMB website. What additional qualifications and experiences	<ul style="list-style-type: none"> • If a former/retired board member who has joined the private practice used to sit on the board with the board member who is currently presiding over a hearing, a conflict of interest should be declared, as is required by section V of the Code of Conduct for Ontario Municipal Board Mediators. To avoid the

<p>are important for an OMB member?</p>	<p>perception of preferential treatment, perhaps there should also be a code of conduct for former/retired board members that may enter into practice.</p> <ul style="list-style-type: none"> • Where applicable, OMB members may benefit from professional development/training on emerging or complex issues such as environmental management and/or issues related to the <i>Conservation Authorities Act</i>.
<p>14. Do you believe that multi-member panels would increase consistency of decision-making? What should be the make-up of these panels?</p>	<ul style="list-style-type: none"> • Multi-member panels would increase the consistency of decision-making by increasing breadth of experience and providing a more holistic and balanced perspective of the various public interests relevant during appeals, particularly for complex cases. • When choosing Board members (either individuals or for panels), should be chosen based on their expertise relevant to the issues of the case. Having multi-member panels would help diversify this experience.
<p>15. Are there any types of cases that would need a multi-member panel?</p>	<ul style="list-style-type: none"> • Complex cases, such as those involving appeals of Official Plans and Zoning By-Law Amendments, Subdivisions, etc. should not have a single board member. Perhaps creating a scaled fee and charging for appeals based on the nature of the project would help cover this cost.
<p>16. How can OMB decisions be made easier to understand and be better relayed to the public?</p>	<ul style="list-style-type: none"> • The OMB's website could be improved with a more efficient search function. • Electronic attachments are not always posted with each case decision on the OMB website. • There seems to be no mechanism to review and have access to reference exhibits on the OMB website. • There is no common structure for how decisions are written. The decisions read as essays based on each board member's personal writing style. Decisions should be written more comprehensively by justifying the planning rationale that informed their conclusions and not just restate the preferred witnesses' evidence. Accordingly, the decision should be written to explain how this evidence was viewed as representing "good planning." • Case transcripts to be made more publicly available. Perhaps stenographers should be required in certain circumstances involving complex cases. • More detailed notice of decisions to the public is needed. Once a decision is made, the OMB should provide notice of the

	<p>decision as per the <i>Planning Act</i> requirement for notice of an application (i.e., residents within 120 m of the subject property).</p>
<p>Theme 4. Modern Procedures and Faster Decisions</p>	
<p>17. Are the timelines in the chart above appropriate, given the nature of appeals to the OMB? What would be appropriate timelines?</p>	<ul style="list-style-type: none"> • A particular issue that TRCA continues to face is when OMB cases are scheduled within a certain amount of time based on the receipt of a “complete application” that does not include the necessary technical information to make informed decisions. Technical documents are an integral part of many “complete applications” and there needs to be enough time to gather appropriate studies and adequately review them. • Before beginning a hearing, appellants should provide a complete set of information, prior to the appeal being deemed “complete”. Otherwise the decisions of board members and opinions of experts will not be properly informed.
<p>18. Would the above measures help to modernize OMB hearing procedures and practices? Would they help encourage timely processes and decisions?</p>	<p>TRCA welcomes the proposed measures to modernize and streamline OMB hearings and recommends the following additional changes:</p> <ul style="list-style-type: none"> • TRCA appreciates that evaluating the diverse array of issues heard before the OMB involves balancing a number of interests. However, appeals do not always appear to be substantiated by a comprehensive planning rationale and demonstration of an iterative, communicative process to justify the appeal. In the interest of scoping and limiting the number of appeals and shortening appeal timelines, broad appeals unsubstantiated by a sound planning rationale and documenting of how the proposal was vetted through the review process should be required to provide this rationale and documentation prior to proceeding. • For example, in our experience, appellants often argue that a proposal complies with a single section of the PPS or Provincial Plan (i.e. intensification) without regard for other sections (i.e. section 3.1 of the PPS, re: flood hazards). Appeals should derive from a defensible planning perspective considered from a balanced and comprehensive assessment of the Province’s policy framework and implementing municipal documents and expressed using proper policy language. Therefore, appeals could be limited by having requirements for a conformity report to be submitted in order to substantiate an appeal. • Hearings should allow for video evidence, especially for issues related to the protection of natural features (e.g. drone videos of natural features);

	<ul style="list-style-type: none"> • Active adjudication would make it easier for environmental matters to be heard by OMB members and would also increase community participation; • Attending the OMB can be expensive and time-consuming. It often requires individuals to take considerable time off or away from their regular work. The OMB should consider allowing parties to not attend portions of the hearing when matters are of no concern to that party are discussed. This would considerably reduce legal, staff and consultant costs. • Hearings that involve a large group of landowners typically require scheduling for in-person meetings/pre-hearing conferences that can cause delay because of the number of people's schedules to be coordinated. Digital options for conferencing should be made available to avoid this type of delay. • Perhaps mediation sessions and OMB cases and decisions should be audited to see if the changes to the OMB process coming out of the recent reformations to the <i>Planning Act</i> are being enacted in hearings; • Up-to-date audio-visual equipment and internet access should be readily available for all hearings to help document evidence clearly (i.e., overlays, maps, etc.). • Appeal packages should require more detailed information to justify the rationale for an appeal so that external agencies and the public can better understand whether their interests are likely to be affected prior to the hearing. This would have the effect of enhancing the efficiency of the process so that agencies such as conservation authorities would be able to scope their involvement with appropriate appeals; • All prescribed agencies (including CAs) should be copied on all notices of appeal that affect their areas of interest, including background materials submitted to the OMB as part of the appeal package.
<p>19. What types of cases/situations would be most appropriate to a written hearing?</p>	<ul style="list-style-type: none"> • No comment.
<p>Theme 5. Alternative Dispute Resolution and Fewer Hearings</p>	
<p>20. Why do you think more OMB cases don't settle at mediation?</p>	<ul style="list-style-type: none"> • Appeals based on a failure to make a decision are premature, and tend to take place before all parties have an effective opportunity to discuss their interests. This typically occurs because the appellant has not properly managed their project,

	<p>has not attempted to engage with the other parties, or may have received poor or inaccurate advice from consultants. Consequently, the parties involved are subject to a longer, more costly hearing that could have been avoided were procedures in place to ensure an application is complete and/or an appeal is well substantiated with a comprehensive planning rationale.</p>
21. What types of cases/situations have a greater change of settling at mediation?	<ul style="list-style-type: none"> • Mediation is effective for hearings that are not highly polarized and/or for resolving certain technical issues (such as engineering) which can reduce the overall length of a hearing.
22. Should mediation be required, even if it has the potential to lengthen the process?	<ul style="list-style-type: none"> • Mediation should not be required but the option to mediate should always be available. This will allow parties that are willing to compromise to do so effectively in a shorter amount of time and at less cost than a full hearing. It will also prevent forced mediation when parties are polarized, which takes less time and reduces overall costs. If both parties are willing to consider mediation, it does, in our opinion, provide an effective forum for scoping and identifying each party's interests. • Allowing parties to discuss matters before mediation can resolve a number of important issues and lets some parties withdraw, thus reducing the length of hearings and costs for all parties involved.
23. What role should OMB staff play in mediation, pre-screening applications and in not scheduling cases that are out of the OMB's scope?	<ul style="list-style-type: none"> • TRCA staff have had almost no interaction with OMB staff, other than the exchange of written correspondence. OMB Planners should be less administrative and more involved in pre-screening applications.
General Question	
24. Do you have other comments or points you want to make about the scope and effectiveness of the OMB with regard to its role in land use planning?	<ul style="list-style-type: none"> • When new technical work in support of an application is introduced during a hearing, the hearing should be adjourned and the application should continue to be processed to a decision in the municipal planning realm. • Further to the above, and to limit the number of appeals, pre-consultation and complete application requirements should be modified to include participation by all public agencies prior to an application being deemed complete by the municipality. • Additional time should be given to municipalities to make decisions before being subject to appeal. The time involved in complex development proposals tends to be much longer than the appeal timeframes. Appeals that occur because of the failure of a municipality to make a decision within the allotted timeframe should only be heard if the municipality is legitimately not responding for political reasons (e.g. deferral without decision). Perhaps there should be a short OMB

	<p>decision making process available to allow for the determination of whether an appeal due to non-decision can go ahead or not, rather than it being automatic. This process should be easily accessible for the appellant and decision made immediately, so the period in which the appellant awaits a decision is shortened.</p>
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Action Items Committee of the Whole and Regional Council

Meeting Date	Request	Assigned Department(s)	Anticipated Response Date
September 7, 2016 Committee of the Whole	Business Case for Projects Managed Directly by the Region – Increasing the number of projects which are managed directly by the Region, whether through employees or contracted staff – referred to the 2017 budget process.	Works	2017 Budget Process
September 7, 2016 Committee of the Whole	Staff was requested to provide information on the possibility of an educational campaign designed to encourage people to sign up for subsidized housing at the next Committee of the Whole meeting. (Region of Durham's Program Delivery and Fiscal Plan for the 2016 Social Infrastructure Fund Program) (2016-COW-19)	Social Services / Economic Development	October 5, 2016
September 7, 2016 Committee of the Whole	Section 7 of Attachment #1 to Report #2016-COW-31, Draft Procedural By-law, as it relates to Appointment of Committees was referred back to staff to review the appointment process.	Legislative Services	First Quarter 2017

Meeting Date	Request	Assigned Department(s)	Anticipated Response Date
October 5, 2016 Committee of the Whole	That Correspondence (CC 65) from the Municipality of Clarington regarding the Durham York Energy Centre Stack Test Results be referred to staff for a report to Committee of the Whole	Works	
December 7, 2016 Committee of the Whole	Staff advised that an update on a policy regarding Public Art would be available by the Spring 2017.	Works	Spring 2017
January 11, 2017 Committee of the Whole	Discussion also ensued with respect to whether implementing a clear bag program will help to increase recycling and green bin program compliance at curbside. Staff was directed to bring an updated report on a clear bag program to an upcoming meeting of the Committee of the Whole.	Works	
January 11, 2017 Committee of the Whole	Inquiry regarding when the road rationalization plan would be considered by Council. Staff advised a report would be brought forward in June.	Works	June 2017