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## **PRACTICE DIRECTION – GROWTH PLAN HEARINGS**

The Board provides this practice direction on hearings before it concerning Official Plans and Official Plan Amendments to conform to growth plans under the *Places to Grow Act, 2005*. These hearings tend to have multiple parties and issues and frequently engage the Board's powers under s. 17(24), s. 17(36) or s. 17(40) or both of the *Planning Act*. The Official Plan policies may impact lands for which there are pending applications already filed with municipalities for approval of site specific planning instruments.

This Practice Direction is intended to inform the parties and the public of processes that should be used to ensure a fair, cost-effective and efficient process for resolving these matters. Parties should apply the best practices in this Practice Direction to facilitate a timely and fair process. The panel assigned to a pre-hearing or hearing has the authority to vary from the terms of this Practice Direction in proper circumstances, to ensure this objective of a fair, cost-effective and expeditious resolution. This Practice Direction is not intended to limit in any way the panel's discretion to establish the procedures associated with a Growth Plan hearing.

1. Any Board Orders approved prior to and still in effect on the date this Practice Direction comes into force on September 1, 2013 will remain in force and will not be overridden by any conflicts in terms between this Practice Direction and the specific terms of those Orders, unless the parties to those Orders agree to such change or the Board orders change to such prior Order.
2. The municipality whose official plan or official plan amendment is before the Board should convene a meeting of the parties to pursue agreement on a draft procedural order. The meeting should be held no later than the second prehearing conference. The notice of the meeting should be provided to any participants identified at the prehearing conference, if so directed by the Board. The draft procedural order should provide information about the following matters: phasing of the hearing, party or appellant status and any challenges to status, the issues raised by the appellants to be considered at the hearing, opportunities for early resolution of disputes, and the identification of any policies that are not in dispute. The municipality should prepare a consolidated list of issues in chart format, aligning the parties and the issues.

3. A party that appeals on the ground that the plan or the amendment does not conform to either the upper- tier official plan or a growth plan or both shall provide two (2) items at the earliest opportunity in the pre-hearing process:
  - Clear statements describing the non-conformity, and
  - A list of any portions of the plan or amendment the party no longer disputes.
4. Parties should work towards agreement on a compendium of documents that contains the common documents that most parties will be referring to at the hearing (where the hearing is phased, to the specific phase) and that can be filed by the municipality at the outset of the hearing or phase. A copy of the compendium of documents should be filed with the municipal clerk at a date to be determined by the Board that is to be available on line or in hard copy for the public to review and in the hearing room during the course of the hearing. Parties will be required to submit any additional documents in accordance with the Board's procedural order.
5. Consistent with the Board's encouragement of early resolution of disputes, the Board's procedural order may contain directions for a mediation assessment and mediation or one of them, including dates, issues and parties.
6. The Board's procedural order should set a date by which those parties who are opposed to the official plan policies approved by the municipality are required to provide an alternative text for the policies to which they object.
7. The Board may give directions to the parties to facilitate the effective use of the hearing time limit for opening statements for any phase of the hearing. In its opening statement, the party should include a clear statement of the order which it is requesting the Board to make.
8. The parties will provide to the Board and post for the public a work plan of the intended order of witnesses. The work plan should be posted in the venue of the hearing at the start of each hearing day. The parties are expected to work co-operatively on this work plan, but if necessary, the Board will rule on any disputes. The work plan should contain a notice that the times given are estimates only and that the hearing may or may not proceed as is indicated in the work plan. The work plan should identify the party that will be in charge of making changes to the work plan, and it should be updated on a regular basis.
9. Any party who wishes to challenge the qualifications of an expert witness or object to the expert witness providing opinion evidence at the hearing:
  - Shall advise the party calling the witness of the challenge or objection together with the particulars or grounds of the objection within 30 days of receiving the disclosure of the witness's statement or report, and
  - Shall serve a notice of motion returnable at a fixed date, no later than the opening day of the hearing or phase in which the witness is to testify.

If no notice of motion is served, the parties will be deemed to have accepted the witnesses' qualifications to provide expert opinion evidence at the hearing.

10. The parties should anticipate that the Board will limit the hearing time spent on the presentation of evidence of witnesses, and parties of like interest should organize their participation in the pre-hearing and hearing processes to avoid redundancy and repetition, including identifying common witnesses or issues or evidence. The parties should consider and should request leave of the Board to call evidence through witness panels and incorporate directions for panels in the procedural order in appropriate circumstances.
11. The parties should be prepared to provide closing statements by means of written submissions limited to 15 pages or less per party, with oral submissions to be limited at the Board's discretion. The presiding panel will set the dates for delivery of the written submissions and resolve any disputes with respect to order of presentation or length of presentation.

Effective Date: September 1, 2013