



**Date:** November 10, 2017

**To:** District of Muskoka Planning and Economic Development Department

**From:** Lake of Bays Association Executive Committee

**C.C.** Lake of Bays Association Board of Directors  
Township of Lake of Bays Council and Planning Department

**Re:** Comments on District of Muskoka Official Plan Draft 2 – October 5, 2017

The Lake of Bays Association (LOBA) Planning & Development Committee has reviewed the second draft of the Muskoka Official Plan (MOP) dated October 5, 2017 and offer the following comments. Overall, many of the changes in the MOP are positive and reflect current environmental, economic, cultural and development realities. However LOBA is concerned about the devolution of planning authority to the municipalities on policies that address issues confronting Muskoka as a region and where a District-wide planning strategy will conserve Muskoka's greatest asset – the natural environment. In this regard, LOBA supports a stronger District planning authority.

The recent occurrence of blue-green algae blooms in some lakes and several beach swimming advisories in 2016, previously unheard of in Muskoka, are troubling situations that indicate a need for regional management of cumulative impacts on our environment.

Below are LOBA's comments, both in support of and opposed to, specific proposed changes to the MOP. Where specific sections of the MOP are referenced, there are **"quotation marks"** around the referenced section. LOBA's comments are in *red italics*. We appreciate the opportunity to provide input and hope our comments are helpful in the preparation of the next draft of the MOP.

## **PART 2 - PLAN BASICS: Applicability, Purpose and Organization of the OP**

**5. MINIMUM STANDARDS** – "The policies of this Plan represent minimum standards. This Plan does not prevent Council and the approval authority responsible for planning applications from going beyond the minimum standards established by this Plan unless doing so would directly conflict with a policy in this Plan. While the Planning Act addresses conflicts between upper tier and lower tier official plans by providing that the upper tier plan shall prevail over the lower tier plan to the extent of any conflict, this Plan represents minimum standards and nothing shall prevent the Area Municipalities from adopting more restrictive policies or standards than those outlined in this Plan, provided such policies conform to the general intent of this Plan, are

consistent with any Provincial Policy Statement, and do not conflict with any Provincial Plan or Provincial legislation.”

***LOBA COMMENT: Minimum standards do little to define and protect Muskoka’s Natural Heritage Areas or facilitate comprehensive ecological standards in Watershed Planning Initiatives. LOBA supports the Muskoka Watershed Council’s overarching recommendation to develop a Natural Heritage Strategy and Sub-Watershed Plans for Muskoka. The natural heritage that identifies the character of some district lakes (like Lake of Bays) is being fragmented by two municipal jurisdictions having planning policies with differing standards. If Natural Heritage and Watershed Planning were under one comprehensive planning policy with exacting standards (not minimum), the character of such lakes would be preserved in a more effective manner. The MOP needs to be strengthened in this regard.***

### **PART 3 – MUSKOKA OFFICIAL PLAN**

**A2 GUIDING PRINCIPLES** (c) “Growth and settlement patterns in all land use designations will be sustainable by making efficient use of land, energy and infrastructure, minimizing waste and providing for climate change mitigation, adaption and resiliency”.

***LOBA COMMENT: LOBA supports this amendment to the MOP.***

### **B SUSTAINABLE MUSKOKA: Growth management, servicing and healthy communities.**

#### **B1 Objectives**

(d) “Focus permanent residential and employment development in Urban Centres where full services are available and to support the efficient use of land and infrastructure to meet the needs of present and future residents and business;”

(e) “Permit a limited amount of permanent residential development in rural areas;”

(o) “Recognize the District’s waterfront areas as both a significant natural asset and as the location for the majority of the resource-based recreational development in Muskoka and ensure policies appropriately balance economic development and environmental protection;”

***LOBA COMMENT: LOBA supports the above noted policy amendments. LOBA also supports the inclusion of permanent and seasonal population, dwelling and employment projections to 2036 in the MOP (B3 – B9).***

***The MOP’s growth management policies, as they apply to all land use designations, must support the Provincial Policy Statement (PPS) i.e. 1.1.1 Healthy, liveable and safe communities are sustained by: e) promoting cost-effective development patterns and standards to minimize land consumption and servicing costs; and 1.1.2 Sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for a time horizon of up to 20 years.***

### **D6 RESORT DEVELOPMENT**

**D6.4 RESORTS AS A COMMERCIAL ENTERPRISE** a) “In order for a resort to benefit from the enhanced density permissions that are not available to traditional linear shoreline residential development (e.g. increased density), it is a requirement of this Plan that a minimum of 50% of the units in a resort in any land use designation generate a turnover of occupants (i.e.

owners, renters, transient visitors) in all seasons that the resort is open, through mandatory short-term rentals, rental pools/programs, exchanges, timesharing or fractionalized ownership, or some similar means subject to the establishment of enforceable controls in binding agreements between the resort operator and the Area Municipality and/or the District.”

***LOBA COMMENT: As stated in our letter to the District PED dated May 1, 2013, LOBA does not support resort-related residential development in the waterfront designation as described in the current draft MOP. The mixed use policies proposed in the MOP facilitates an opportunity to build residential development at densities that are not consistent with the existing and historical shoreline residential development density standards. This type of development only produces a situation where the commercial resort is in reality a ‘Trojan Horse’ for residential development. If the resort component of a mixed-use resort/residential development fails, the residual residents (or the municipality and the taxpayer) are left with sustaining private infrastructure unsupported by the original commercial development. The control measures for determining the number of residential units available to the travelling public for rental purposes that are permitted in the waterfront resort development are to be subject to the establishment of enforceable controls in binding agreements between the resort operator and the Area Municipality and/or the District. Small townships (like Lake of Bays) do not have the financial or human resources to monitor or enforce these binding agreements and the District does not have the authority for licensing or by-law enforcement. Proof of making units available to the travelling public is problematic and fraught with opportunities for abuse. These mixed use resort developments can become thinly veiled privately owned residential townhouse or condo developments on the waterfront enjoying commercial density permission. If a commercial resort development cannot be shown to have economic viability without a residential component it should not be approved or be otherwise encouraged.***

***Further, the MOP permits resort-related residential units to be part of a single building containing a mix of units that generate a turnover of occupants. However, the size (height and extent) of buildings and the number of buildings in close proximity need to be clearly controlled and limited to protect the natural character of lakes and waterfronts. “Designed to be sympathetic with the character of the surrounding uses area” is too vague. Requiring municipalities to consult with the DOM on developing formulas for calculating the base number of residential units does not ensure a consistent standard for development on lakes that have more than one jurisdiction. For example, having a “no higher than the surrounding trees” policy could be in place in the Township of Lake of Bays but not in Huntsville. The MOP needs to overtly preserve or enhance the natural vegetative aesthetics that define the character of Muskoka.***

**D6.7 CONVERSION OF EXISTING RESORTS (f)** “Should conversion to residential uses be proposed, the form of the residential development shall be compatible with the scale of adjacent shoreline development in the area with respect to frontage of the lot on the water and such uses will generally not be reflective of the density afforded to resort commercial accommodations.”

***LOBA COMMENT: This should read “Should conversion to residential uses be proposed, the form of the residential development shall be compatible with the scale of adjacent residential shoreline development in the area with respect to frontage of the lot on the water and such***

*uses will (generally) not be reflective of the density afforded to resort commercial accommodations.*

#### **D7 OTHER FORMS OF ACCOMMODATION AND TOURISM SUPPORTIVE USES (d)**

“It is recognized that the sharing economy and short-term private cottage rentals also form an important and growing part of the tourism sector. While there are many positive benefits from this form of accommodation, certain negative aspects and an uneven application of regulations have also been identified as concerns by traditional tourism operators. In this regard, Area Municipalities are encouraged to explore regulation options of short-term private cottage rentals for commercial purposes as distinguished from occasional rental of residential cottage properties through licensing, zoning by-laws or other identified tools. To avoid uneven regulations across Area Municipalities, the District may lead a review of options and approaches should a comprehensive approach be desirable. “

*LOBA COMMENT: The recognition of short-term cottage rentals as a commercial operation as being distinct from occasional private cottage rentals is appropriate in this policy. LOBA is concerned that the bureaucracy required to implement and manage the regulation of the shared economy is very expensive for Area Municipalities with limited resources. District leadership is required. Without a Muskoka-wide policy there is potential to fracture the Muskoka economy into 'regulated segments' wherever the policies of regulating the shared economy differ, especially on lakes with shared municipal jurisdictions (Lake of Bays).*

#### **F ECOSYSTEMS OF MUSKOKA: NATURAL HERITAGE AND WATER RESOURCES**

**F1.2.4 SIGNIFICANT AREAS OF NATURAL AND SCIENTIFIC INTEREST (c)** “The protection of locally significant ANSIs is encouraged through Area Municipal Official Plans.”

*LOBA COMMENT: The DOM needs to take a leadership role particularly in the protection of locally significant ANSIs. Instead of the DOM “encouraging” ANSI protection through Area Municipal Official Plans, it should become a requirement that ANSIs will be protected from all development by the MOP.*

**F1.5.3 CONSIDERATION OF CUMULATIVE IMPACTS (a)** “Considering cumulative effects is critical for the District of Muskoka’s environmental health and resiliency. **(b)** Multiple environmental stressors can impact development (i.e. climate change, invasive species, habitat fragmentation, etc.) and are often dynamic and varying. Conversely, seemingly small, cumulative impacts of development can have significant negative consequences for ecosystems and environmental resilience over time. Measuring and assessing cumulative impacts of development on Muskoka’s watersheds, environment, and overall quality of life is challenging. **(c)** The consideration of cumulative impacts will be encouraged through site specific EIUS’s and Area Municipalities through natural heritage evaluations or other means, will be likewise encouraged to estimate cumulative impacts on an area or regional basis. **(d)** The District of Muskoka will avail itself of any tools provided by the Province or other organizations or as developed in-house to measure and consider cumulative environmental impacts of development. This may include a Natural Heritage Strategy.

**LOBA COMMENT: LOBA strongly supports the inclusion of this section to the MOP!**

## **H PROTECTING MUSKOKA: NATURAL HAZARDS AND OTHER CONSTRAINTS**

**H2.7 WILDLAND FIRES** (a) “Development shall generally be directed to areas outside of lands that are unsafe for development due to the presence of hazardous forest types for wildland fire. (b) Development may be permitted in lands with hazardous forests types for wildland fire where the risk is mitigated in accordance with wildland fire assessment and mitigation standards. (c) The District and/or Area Municipalities may request an assessment undertaken by a qualified professional during the appropriate time of year and using accepted protocols to determine the wildland fire risk and required mitigation measures where development is proposed in areas identified as Extreme, High and Needs Evaluation identified on Appendix\_\_\_\_.”

**LOBA COMMENT: This policy needs clarification (too ambiguous) as to what constitutes a hazardous forest type, and to identify risk mitigation measures required for development in such forest types. As well a leadership role by the DOM is needed to address the responsibilities in undertaking assessments. Smaller townships like Lake of Bays can not afford to undertake such assessments especially when so much of their planned development is to take place on rural and back lots and waterfront areas which are heavily forested.**

## **I MUSKOKA SETTLEMENT PATTERN: LAND USE DESIGNATIONS**

### **I3 RURAL AREAS**

#### **13.5 LOT CREATION**

##### **13.5.1 GROWTH MANAGEMENT CONSIDERATIONS**

(a) “Limited lot creation and small scale development in the Rural Area designation shall be governed by the policies of the Area Municipal Official Plan in addition to the relevant policies of this Plan recognizing that Urban Centres and Community Areas shall be the focus of permanent residential and employment growth.”

(b) “In order implement these policies, Area Municipalities Official Plans shall contain policies that identify what proportion of the projected permanent un-serviced residential development is to occur within the Rural Area in comparison to the amount of development to be directed to Community Areas. The decision made by the Area Municipalities in this regard shall take into account the limited amount of permanent residential development that is to occur outside the Urban centres as per Section B5 of the plan and shall ensure that the percentage allocation recognizes the hierarchy outlined above with an emphasis on direction of growth to Community Areas. “

**LOBA COMMENT: LOBA supports the amendments to these policies (as underlined). In addition, MOP Rural policies should be reviewed to ensure wording supports PPS rural policies and the focus on rural settlement area. Specifically PPS policies 1.1.4.1 (a), (d) and 1.1.4.2, 1.1.5.1 (c) and 1.1.5.5.**

**I3.5.1 (e)** “Estate residential development in the Rural Area is not generally permitted, but may be considered through an Area Municipal Official Plan Amendment to a maximum of 20 lots where it can be demonstrated that the proposed development conforms to the District Growth

Strategy and other applicable policies of this Plan to demonstrate long-term sustainability. A sustainability report in accordance with Section B18.4 (e) of this Plan will be required.”

***LOBA COMMENT: Estate residential development is prohibited in three Area Municipalities, including the Township of Lake of Bays. The wording to describe the limited circumstances where such developments may be considered should be strengthened to specify that estate residential development should be in close proximity to existing settlement areas in order to protect against development that would result in fragmentation of the forest and scattered development patterns. LOBA supports the requirement for a sustainability report in accordance with Section B18.4 (e) of the MOP.***

#### **I4 WATERFRONT AREA (BACK LOTS)**

**I4.4.2 9 (e)** “New residential back lots will have substantially increased lot sizes with respect to frontage and area compared to shoreline lots and shall front on and gain access from a publicly owned and year-round maintained road.”

***LOBA COMMENT: Does the District of Muskoka support directing increased growth (recreational or permanent residential lot creation) in a two-tier (or multi-tier) pattern around lakes in Muskoka? If yes, then a comprehensive study with fulsome public engagement is required to gage support of this policy direction. If not, then the District’s policy on back lot creation needs greater clarity than “will have substantially increased lot sizes with respect to frontage and area compared to shoreline lots...” This policy vaguely directs municipalities to include policies regarding the size and frontage of back lots, but not the fundamental issue of the number of lots, the 20 year supply, the cost of servicing and other infrastructure including soft services and the overarching growth management directives in the MOP and PPS. The wording of this policy needs strengthening in order to proactively describe settlement patterns in the face of increased development pressure over the lifespan of this MOP.***

#### **APPENDIX “IV” FORMER AMENDMENT 45 TO THE MUSKOKA OFFICIAL PLAN (LAKE SYSTEM HEALTH POLICY UPDATE)**

***LOBA COMMENT: As per LOBA’s letter to District Council dated Nov. 8, 2016, we support the proposed amendments to the Lake System Health Policy.***