

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** April 03, 2020

**CASE NO(S):** PL180898

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Langmaid’s Island Corporation
Subject:	Request to amend the Official Plan - Failure of the Township of the Lake of Bays to adopt the requested amendment
Existing Designation:	Waterfront (and identified as ‘Muskoka Heritage Area’)
Proposed Designation:	Waterfront (and identified as ‘Muskoka Heritage Area’)
Purpose:	To clarify and refine policy relating to the Langmaid’s Island Muskoka Heritage Area, to establish site specific policy for the development of 36 lots for residential uses and to provide for the protection of conservation blocks
Property Address/Description:	Big Langmaid’s Island & Little Langmaid’s Island
Municipality:	Township of Lake of Bays
Approval Authority File No.:	OPA 01/18 LOB
LPAT Case No.:	PL180898
LPAT File No.:	PL180898
LPAT Case Name:	Langmaid’s Island Corporation v. Lake of Bays (Township)

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Langmaid’s Island Corporation
Subject:	Application to amend Development Permit By-

Existing Zoning: law No. 04-180 - Neglect of the Township of the Lake of Bays to make a decision Waterfront Residential (with 'Heritage Site' overlay)

Proposed Zoning: Waterfront Residential with an Exception (WR-E\_\_), Waterfront Environmental Protection with an Exception (WEP) and Waterfront Environmental Protection (WEP)

Purpose: To establish site specific development provisions for the proposed 36 lots for residential uses and to provide for the protection of conservation blocks

Property Address/Description: Big Langmaid's Island & Little Langmaid's Island

Municipality: Township of Lake of Bays

Municipality File No.: Z 01/18 LOB

LPAT Case No.: PL180898

LPAT File No.: PL180899

**PROCEEDING COMMENCED UNDER** subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Langmaid's Island Corporation

Subject: Proposed Plan of Subdivision - Failure of the District of Muskoka to make a decision

Purpose: To permit a development of 36 lots for residential uses with site specific development provisions and to provide for the protection of conservation blocks

Property Address/Description: Big Langmaid's Island & Little Langmaid's Island

Municipality: Town of Huntsville and Township of Lake of Bays

Municipality File No.: S2018-1

LPAT Case No.: PL180898

LPAT File No.: PL180916

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Langmaid's Island Corporation

Subject: Application to amend Zoning By-law No. 2008-66P - Neglect of the Town of Huntsville to make a decision

Existing Zoning:	Shoreline Commercial One
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit a waterfront landing to access Langmaid Island
Property Address/Description:	4215 South Portage Road
Municipality:	Town of Huntsville
Municipality File No.:	Z/12/2018/HTE
LPAT Case No.:	PL180898
LPAT File No.:	PL180912

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Langmaid's Island Corporation
Subject:	Application to amend Zoning By-law No. 2008-66P - Neglect of the Town of Huntsville to make a decision
Existing Zoning:	Residential (R1) Zone
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit a waterfront landing to access Langmaid Island
Property Address/Description:	3393 South Portage Road
Municipality:	Town of Huntsville
Municipality File No.:	Z/11/2018/HTE
OMB Case No.:	PL180898
OMB File No.:	PL180911

**Heard:** February 27, 2020 by telephone conference call

**APPEARANCES:**

**Parties**

Langmaid's Island Corporation

Township of Lake of Bays and  
Town of Huntsville

District Municipality of Muskoka

**Counsel**

Michael Melling  
Andy Margaritis

John Ewart

Jamie Clow

The Lake of Bays Association and  
The Lake of Bays Heritage Foundation

Harold Elston

Kelly Zytaruk

Self-represented

**MEMORANDUM OF ORAL DECISION DELIVERED BY STEVEN COOKE ON  
FEBRUARY 27, 2020 AND ORDER OF THE TRIBUNAL**

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[1] This was the second Case Management Conference (“CMC”) held by Telephone Conference Call (“TCC”) for the purpose of setting dates and reviewing the Procedural Order (“PO”) on the following appeals by Langmaid’s Island Corporation (“Appellant”), which are related to a current proposal to develop a 32-lot subdivision for single detached dwellings on Langmaid’s Island.

[2] In a previous Order by the Tribunal on November 20, 2019, Member Hodgins consolidated the appeals to be heard in two phases. Phase 1 would consist of a hearing for the appeals with respect to:

- The Township of Lake of Bays’ (“Lake of Bays”) failure to make a decision on an application for an Official Plan Amendment (“OPA”) and application to amend the Development Permit By-law.
- The Town of Huntsville’s (“Huntsville”) failure to make decisions on two applications to amend the zoning by-law to permit landing areas at 3933 and 4215 South Portage Road in the Huntsville to serve the proposed development on the Island.

[3] Depending on the outcome of the hearing of Phase 1, a hearing for Phase 2 might be necessary to hear the appeals for the District Municipality of Muskoka’s (“Muskoka”) failure to make a decision on an application for a draft plan of subdivision.

[4] Counsel submitted a Draft PO for the Tribunals consideration. As an issues list at this time for Phase 2 cannot be determined until Phase 1 has been heard, the Tribunal

directed that the PO be focused on Phase 1 only. Should there be a need to hold a Phase 2 hearing, a CMC will be convened regarding Phase 2 approximately 30 days following the receipt of the Tribunal's Decision on Phase 1. The purpose of this CMC would be to determine the issues list, evidence exchange dates, and length of Phase 2.

[5] Counsel for Muskoka indicated to the Tribunal that their only concerns in the matter was with respect to the potential Phase 2 hearing. As such, it was their request to not have Party status during the Phase 1 hearing. Having heard no objections or concerns from the other Parties, the Tribunal has granted the request.

[6] The Tribunal sets a 25-day hearing on the merits for **Monday, February 1, 2021**, commencing at **10 a.m.**, in:

**Council Chambers  
Township of Lake of Bays  
1012 Dwight Beach Road  
Dwight, Ontario**

The Tribunal will not be sitting on either Monday, February 15, 2021 or Monday, March 1, 2021.

[7] At the time that the CMC was convened, the Tribunal had taken steps to set the date for the hearing of the Appeal. This Decision and Order of the Tribunal now issues following the Emergency Order of the Province Government (O. Reg. 73/20) made under the *Emergency Management and Civic Protection Act* on Friday, March 20, 2020 (retroactive to March 16, 2020). As a result of the Provincial Order, notwithstanding the prior scheduling of the hearing in the month of February 2021, the hearing may be adjourned and rescheduled by the Tribunal. The Parties will receive notice from the Tribunal with respect to any changes to the hearing date at such time as circumstances will permit.

[8] There will be no further notice required.

[9] The Member is not seized of this matter.

[10] This is the Order of the Tribunal.

*“Steven Cooke”*

STEVEN COOKE  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elfto.gov.on.ca](http://www.elfto.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

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**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**PROCEEDING COMMENCED UNDER** Subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

**Appellant:** Langmaid's Island Corporation  
**Subject:** Proposed Official Plan Amendment No. OPA 01/18 LOB  
**Property:** Langmaid's Island  
**Municipality:** Township of Lake of Bays  
**L.P.A.T. Case No.** PL180898  
**L.P.A.T. File No.** PL180898

**AND SEE ATTACHMENT "1"**

**PROCEDURAL ORDER**

1. The Tribunal may vary or add to this Order at any time, either on request of a Party or as it sees fit. It may alter this Order by an oral ruling or by written Order.
2. At the time that the CMC was convened, the Tribunal had taken steps to set the date for the hearing of the Appeal. This Decision and Order of the Tribunal now issues following the Emergency Order of the Province Government (O. Reg. 73/20) made under the *Emergency Management and Civic Protection Act* on Friday, March 20, 2020 (retroactive to March 16, 2020). As a result of the Provincial Order, notwithstanding the prior scheduling of the hearing in the month of February 2021, the hearing may be adjourned and rescheduled by the Tribunal. The Parties will receive notice from the Tribunal with respect to any changes to the hearing date at such time as circumstances will permit.

**Organization of the Hearing**

3. The Hearing will take place in two Phases. The Tribunal's Decision on Phase 1 will determine whether Phase 2 will proceed, and if so, how.
4. Phase 1 will address the appeals in File Nos. PL180898, PL180899, PL180911 and PL180912. It will begin on **February 1, 2021** at the **Township of Lake of Bays Council Chambers**, located at **1012 Dwight Beach Road**, Dwight Ontario, Canada, POA 1H0. The length of Phase 1 will be **approximately 25 days**, but it may be shortened if issues are resolved or settlement is achieved. Note that the Tribunal will not be sitting on either of February 15<sup>th</sup> or March 1<sup>st</sup>.
5. If necessary, Phase 2 will address the appeal in File No. PL180916. A Case Management Conference will be convened regarding Phase 2 approximately **30**

**days following the receipt of the Tribunal's Decision on Phase 1** to determine the issues list, evidence exchange dates, and length of Phase 2.

6. The Parties and Participants identified at the Case Management Conference are listed in **Attachment 2** to this Order. The order of evidence is set out in **Attachment 3**. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the Hearing (only a Party may do so), unless otherwise directed by the Tribunal.
7. The issues for the Hearing are set out in the Issues List attached as **Attachment 4**. Except for the elimination or modification of issues on consent of the Parties, through mediation or pursuant to a settlement between any of the Parties, there will be no changes to the Issues List unless the Tribunal so permits, and a Party who asks for changes may have costs awarded against it.
8. All Parties and Participants (or their representatives) shall provide an email address and telephone number to the Tribunal. Any such person who retains a representative (legal counsel or agent) must advise the other Parties and the Tribunal of the representative's name, email address and telephone number.

#### **Requirements Before the Hearing**

9. The Parties shall provide the issues they want included on the Issues List for Phase 1 on or before **December 20, 2019**.
10. A Party who intends to call witnesses in Phase 1, whether by summons or not, shall provide to the Tribunal and the other Parties a list of witnesses and the order in which they will be called, on or before **January 6, 2020**. For expert witnesses, a Party is to include the area of expertise in which the witness is proposed to be qualified.
11. For Phase 1, a Participant must provide to the Tribunal and to the Parties a written Participant Statement on or before **November 18, 2020**. A Participant cannot present oral submissions at the hearing on the content of their written statement, unless permitted by the Tribunal.
12. An expert witness shall prepare an Expert Witness Statement that shall include an Acknowledgement of Expert's Duty Form, the expert's area(s) of expertise, an outline or summary of the expert's opinion and evidence, any reports prepared by the expert, and any other reports or documents to be relied on. For Phase 1, copies of the Expert Witness Statements must be provided to the other Parties on or before **December 3, 2020**.

For clarity, instead of a witness statement, an expert may file his or her entire report if it contains the information required above. If this Section is not complied with, the Tribunal may refuse to hear the expert's testimony.

13. A Party who intends to call witnesses, whether by summons or not, shall provide to the other Parties the written evidence of the witnesses, any reports prepared



by the witnesses, and any other reports or documents to be relied on. For Phase 1, copies of written evidence must be provided to the other Parties on or before **December 3, 2020**.

14. An expert witness under summons and not paid to produce a report does not have to file an Expert Witness Statement, but the Party calling him or her must file a brief outline of the expert's evidence and his or her area of expertise. The outline is due for Phase 1 on or before **December 3, 2020**.
15. On or before **December 18, 2020**, the Parties may provide to the other Parties a written reply to written evidence tendered for Phase 1.
16. On or before **January 18, 2021**, the Parties shall provide copies of the visual evidence upon which they will rely on to all of the other Parties for Phase 1. If a model is to be used the Tribunal must be notified before the Phase at which it will be used. All Parties must have a reasonable opportunity to view it before the relevant Phase.
17. On or before **January 18, 2021**, the Parties shall file a draft Work Plan with the Tribunal outlining the proposed schedule and timelines by which Phase 1 is to proceed.
18. Expert witnesses in the same field shall have at least one meeting before Expert Witness Statements are exchanged for Phase 1 of the Hearing to try to resolve or reduce the issues in that Phase. The experts shall prepare a list of agreed facts and the remaining issues to be addressed at the Phase, and provide this list to all of the Parties and to the Tribunal.
19. A Party wishing to change its Expert Witness Statement(s) must make a motion to the Tribunal (see Rules 7 and 10 of the Tribunal's *Rules of Practice and Procedure*).
20. A Party who provides the written evidence of a witness to the other Parties must have that witness attend Phase 1 of the Hearing to give oral evidence, unless the Tribunal and the other Parties are notified at least seven (7) days before the Phase 1 Hearing that the written evidence is not part of their record.
21. Documents may be delivered by personal delivery, email, courier, facsimile or registered or certified mail, or otherwise as the Tribunal may direct. The delivery of documents by fax and email shall be governed by the Tribunal's Rule 7 on this subject. Material delivered by mail shall be deemed to have been received five (5) business days after the date of registration or certification.
22. No adjournments or delays will be granted before or during Phase 1 except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

**This Member is not seized.**

**So orders the Tribunal.**

### SUMMARY OF DATES FOR PHASE 1

<b>DATE</b>	<b>EVENT</b>
December 20, 2019	Parties to exchange Issues Lists.
January 6, 2020	Parties to exchange lists of witnesses (names, disciplines and order to be called)
November 18, 2020	Participants Statements to be exchanged
December 3, 2020	Witness Statements, expert reports, and the written evidence of witnesses to be exchanged.
December 18, 2020	Reply Witness Statements, reply Participant Statements and the reply to written evidence of witnesses (if any) to be exchanged
January 18, 2021	Parties to exchange copies of visual evidence
January 18, 2021	Parties to file draft Work Plan with the Tribunal.
February 1, 2021	Phase 1 commences

**ATTACHMENT “1”**  
**TITLE OF PROCEEDING**

**PROCEEDING COMMENCED UNDER** Subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

**Appellant:** Langmaid’s Island Corporation  
**Subject:** Proposed Development Permit By-law Amendment No. Z 01/18  
LOB  
**Property:** Langmaid’s Island  
**Municipality:** Township of Lake of Bays  
**L.P.A.T. Case No.:** PL180898  
**L.P.A.T. File No.:** PL180899

**PROCEEDING COMMENCED UNDER** Subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

**Appellant:** Langmaid’s Island Corporation  
**Subject:** Proposed Zoning By-law Amendment No. Z/11/2018/HTE  
**Property:** 3933 South Portage Road  
**Municipality:** Town of Huntsville  
**L.P.A.T. Case No.:** PL180898  
**L.P.A.T. File No.:** PL180911

**PROCEEDING COMMENCED UNDER** Subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

**Appellant:** Langmaid’s Island Corporation  
**Subject:** Proposed Zoning By-law Amendment No. Z/12/2018/HTE  
**Property:** 4215 South Portage Road  
**Municipality:** Town of Huntsville  
**L.P.A.T. Case No.:** PL180898  
**L.P.A.T. File No.:** PL180912

**PROCEEDING COMMENCED UNDER** Subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

**Appellant:** Langmaid’s Island Corporation  
**Subject:** Plan of Subdivision No. S2018-1  
**Property:** Langmaid’s Island, 3933 and 4215 South Portage Road  
**Municipality:** District of Muskoka  
**L.P.A.T. Case No.:** PL180898  
**L.P.A.T. File No.:** PL180916

**ATTACHMENT “2”**  
**LIST OF PARTIES/PARTICIPANTS**

**PARTIES**

<b>Party</b>	<b>Counsel / Representative</b>
Langmaid’s Island Corporation	Michael Melling and Andy Margaritis Davies Howe LLP 425 Adelaide Street West, 10 <sup>th</sup> Floor Toronto, ON M5V 3C1  <b>Email:</b> michaelm@davieshowe.com andym@davieshowe.com <b>Tel:</b> (416) 263-4500
Township of Lake of Bays and Town of Huntsville	John Ewart Ewart O’Dwyer Barristers & Solicitors 311 George Street North, Suite 103 Peterborough, ON K9J 3H3  <b>Email:</b> Jewart@ewartodwyer.com <b>Tel:</b> (705) 874-0404
District Municipality of Muskoka	Jamie W. Clow and Marnie J. Hudswell District Solicitor and Assistant District Solicitor 70 Pine Street Bracebridge, ON M5J 2T9  <b>Email:</b> jamie.clow@muskoka.on.ca, marnie.hudswell@muskoka.on.ca <b>Tel:</b> (705) 645-2100 ext. 4251 and (705) 645-2100 ext. 4254
The Lake of Bays Association	Harold G. Elston Elston Watt Barristers and Solicitors 391 First Street, Suite 303 Collingwood, ON L9Y 1B3  <b>Email:</b> helston@elstonwatt.ca <b>Tel:</b> (705) 443-8183
The Lake of Bays Heritage Foundation	Harold G. Elston Elston Watt Barristers and Solicitors 391 First Street, Suite 303 Collingwood, ON L9Y 1B3  <b>Email:</b> helston@elstonwatt.ca <b>Tel:</b> (705) 443-8183
Kelly Zytaruk	Kelly Zytaruk 3970 South Portage Road

	Huntsville, ON P1H 2J3 16 Harrison Place Georgetown, ON L7G4S5 <b>Email:</b> kzytaruk@gmail.com <b>Tel:</b> (416) 557-7488
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## PARTICIPANTS

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**ATTACHMENT “3”**  
**ORDER OF EVIDENCE FOR PHASE 1**

1. Langmaid’s Island Corporation
2. Township of Lake of Bays
3. Town of Huntsville
4. The Lake of Bays Association and the Lake of Bays Heritage Foundation
5. Kelly Zytaruk
6. Langmaid’s Island Corporation (Reply)

**ATTACHMENT “4”**  
**ISSUES LIST FOR HEARINGS**

***Phase 1***

**Consolidated List of Township of Lake of Bays, Town of Huntsville, Lake of Bays Association and Lake of Bays Heritage Foundation Issues.**

***Proposed Township Official Plan Amendment***

1. Does the proposed Official Plan Amendment (“OPA”) have regard to matters of provincial interest in s. 2 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, particularly ss. (a), (c), (d), (f), (h), (l), (m), (n), (o) and (p)? (LOBA/LBHF)
2. Is the proposed OPA consistent with the *Provincial Policy Statement, 2014* (“**PPS**”), particularly Policies 1.1.1, 1.1.4, 1.1.5, 1.2.1, 1.2.6.1, 1.6.6.1, 1.6.6.4, 2.1, 2.2, 2.6, 4.2, 4.4, 4.7 and 4.9? (LOBA/LBHF, Township)
3. Does the proposed OPA conform with the policies of the District of Muskoka Official Plan (“**District OP**”, consolidated October 3, 2014) related to the protection of the Langmaid’s Island Muskoka Heritage Area, particularly Policies C.4, C.7, C.10, F.2, F.4, F.77 and F.96 to F.115? (LOBA/LBHF)
4. Is the current proposed OPA required to conform to the policies of the updated District OP (consolidated June 2019)? If it is required, does it conform with the following sections: C.1.1, C.1.2, C.1.4.2, C.1.4.4, C.1.4.6, C.1.5, C.1.6.3, C.1.6.4, C.2.2, C.3.4, C.3.6.2, C.2.6.4, C.2.6.5, C.2.6.6, G.1, G.2, G.3.1, G.3.2, J.4.2, J.4.3? (LOBA/LBHF)
5. Does the proposed OPA respect and protect the cultural heritage value or interest of Langmaid’s Island, including its character as a rare and unique representative of early Muskoka cottage lifestyle, direct associations with a theme that is significant to Muskoka, importance in maintaining or supporting the character of an area, visual and historical link to its surroundings and as a landmark within the District of Muskoka? (LOBA/LBHF)
6. Does the proposed OPA appropriately require implementation of design principles for the creation of 32 lots? (Township)
7. Does the proposed OPA appropriately ensure that the development of each lot can accommodate an appropriate building envelope, including dwelling and septic? (Township)
8. Does the proposed OPA appropriately ensure that the development of each lot will respect existing development constraints, such as flood-prone lands and

steep slopes? (Township)

9. Does the proposed OPA permit overdevelopment, given the physical and environmental constraints present? (LOBA/LBHF)
10. Does the proposed OPA appropriately control development to respect and reinforce the sensitivities of the environmental features on the Island? (LOBA/LBHF)
11. Does the proposed OPA permit development that will unacceptably impact the visual, natural heritage and hydrological features and functions of Langmaid's Island? (LOBA/LBHF)
12. Does the proposed OPA permit development that will unacceptably impact the visual, natural heritage and hydrological features and functions of the adjacent lake and shoreline properties? (LOBA/LBHF)
13. Does the proposed OPA adequately address how the boat shuttle operations will be monitored and if necessary, enforced? (Township)
14. Does the proposed OPA adequately address how mainland support services will be provided for the proposed 32 residential lots, such as septic pump-out and construction access? (Township)
15. Does the proposed OPA appropriately address the ownership and management arrangements for the blocks identified for conservation (Blocks A, B, C and D) in order to preserve these lands in perpetuity? (LOBA/LBHF)
16. Does the proposed OPA permitting 32 waterfront residential lots within a Natural Heritage Area represent good planning, and is it appropriate for the development of the subject lands? (Township Issues 14 and 15, LOBA/LBHF)

### ***Proposed Township Development Permit By-law Amendment***

17. Does the proposed Development Permit By-Law Amendment ("DPBLA") have regard to matters of provincial interest in s. 2 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, particularly ss. (a), (c), (d), (f), (h), (l), (m), (n), (o) and (p)? (LOBA/LBHF)
18. Is the proposed DPBLA consistent with the *Provincial Policy Statement, 2014* ("PPS"), particularly Policies 1.1.1, 1.1.4, 1.1.5, 1.2.1, 1.2.6.1, 1.6.6.1, 1.6.6.4, 2.1, 2.2, 2.6, 4.2, 4.4, 4.7 and 4.9? (LOBA/LBHF)



19. Does the proposed DPBLA conform with the policies of the District OP related to the protection of the Langmaid's Island Muskoka Heritage Area, particularly Policies C.4, C.7, C.10, F.2, F.4, F.77 and F.96 to F.115? (LOBA/LBHF)
20. Does the proposed DPBLA conform with the policies of the District OP requiring protection of heritage areas and resources in section F.114? (LOBA/LBHF)
21. Does the proposed DPBLA conform with the policies of the Township of Lake of Bays Official Plan, particularly Policies B.1, 2, 3, 10, 12 and 21, C.3, 4, 6, 7, 8, 36, and 37, D.2, 3, 7, 9, 10, 16, 69, 70, 71, 73, 75, 76, 77, 78, 96, 98-102 and 144, E.1-13, E.18-20 and E.26, H.5, 7, 8, 13, 16, 18, 22, 26, 27, 31, 32, 39, 40, 46 and 55, and J.48 and 49. ("**Township OP**")? (Township, LOBA/LBHF)
22. Does the proposed DPBLA conform with the Township OP policies related to the preservation of the environment and scenic values of the Langmaid's Island Muskoka Heritage Area, particularly Policies D.96 and D.98 to D.100? (LOBA/LBHF, Township)
23. Does the proposed DPBLA meet the design principles of the Township OP related to the creation of 32 lots, particularly Policy H.18? (Township)
24. Does the Town of Huntsville Official Plan ("**Town OP**") apply to the proposed DPBLA?
  - a. If yes, does the DPBLA conform with the Town OP, particularly Policies 8.2.10, 8.2.14, 8.3.1, 8.3.2, 8.3.3, 8.3.4, 8.2.8, 8.4.2, 8.4.3, 8.4.5, 8.4.6, 8.4.7, 8.4.8 and 8.4.9? (LOBA/LBHF)
25. Will the proposed DPBLA respect and protect the cultural heritage value or interest of Langmaid's Island, including its character as a rare and unique representative of early Muskoka cottage lifestyle, direct associations with a theme that is significant to Muskoka, importance in maintaining or supporting the character of an area, visual and historical link to its surroundings and as a landmark within the District of Muskoka? (LOBA/LBHF)
26. Does the proposed DPBLA include appropriate building setbacks and buffers? (LOBA/LBHF)
27. Does the proposed DPBLA ensure that the development of each lot can accommodate an appropriate building envelope, including dwelling and septic? (Township)

28. Does the proposed DPBLA appropriately ensure that the development of each lot will respect existing development constraints, such as flood-prone lands and steep slopes? (Township)
29. Does the proposed DPBLA permit overdevelopment, given the physical and environmental constraints present? (LOBA/LBHF)
30. Does the permission in the DPBLA for development of each lot with one dwelling and three additional sleeping cabins conform with the policies of the Township OP, particularly Policy H.13? (Township)
31. Does the proposed DPBLA appropriately control development to respect and reinforce the sensitivities of the environmental features on the Island? (LOBA/LBHF)
32. Does the proposed DPBLA permit development that will unacceptably impact the visual, natural heritage and hydrological features and functions of Langmaid's Island? (LOBA/LBHF)
33. Does the proposed DPBLA permit development that will unacceptably impact the visual, natural heritage and hydrological features and functions of the adjacent lake and shoreline properties? (LOBA/LBHF)
34. Does the proposed DPBLA appropriately ensure that the blocks identified for conservation (Blocks A, B, C and D) will be preserved in perpetuity? (LOBA/LBHF)
35. Does the proposed DPBLA, in permitting development of 32 waterfront residential lots within a Natural Heritage Area, represent good planning, and is it appropriate for the development of the subject lands? (Township Issues, LOBA/LBHF)

### ***Proposed Town Zoning By-law Amendment Applications***

36. Do the proposed Zoning By-law Amendments ("**ZBLA's**") have regard to matters of provincial interest in s. 2 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, particularly ss. (a), (c), (d), (f), (h), (l), (m), (n), (o) and (p)? (LOBA/LBHF)
37. Are the proposed ZBLA's consistent with the *Provincial Policy Statement, 2014* ("**PPS**"), particularly Policies 1.1.1, 1.1.4, 1.1.5, 1.2.1, 1.2.6.1, 1.6.6.1, 1.6.6.4, 2.1, 2.2, 2.6, 4.2, 4.4, 4.7 and 4.9? (LOBA/LBHF, Town)
38. Do the proposed ZBLA's conform with the policies of the District OP related to the protection of Langmaid's Island Muskoka Heritage Area, particularly the preamble to Section A, B.1, C.4, C.7, C.9, C.10, C.14, C.26, F.2, F.77 and F.96-

115? (Town, LOBA/LBHF)

39. Does the Township OP apply to the waterfront landings located in the Town that are required for the proposed development in the Township? (Township)

a. If yes, do the mainland parking areas and docking facilities permitted in the proposed ZBLA's conform with the Township OP, particularly Policies H.31 and 27? (LOBA/LBHF)

40. Do the two proposed mainland parking areas and docking facilities permitted in the ZBLA's conform with the Town OP, particularly Policies 8.4.4 - 8.4.9? (LOBA/LBHF)

41. Do the proposed ZBLA's conform with the policies of the Town OP, particularly Policies 8.2.10, 8.2.14, 8.2.16, 8.3.1, 8.3.2, 8.3.3, 8.3.4, 8.3.8, 8.4.2 – 8.4.9, 8.9.1 and 8.9.2? (Town)

42. Specifically in regard to character and compatibility, do the proposed ZBLA's conform with the policies of the Town OP, particularly Policies 8.2.14, 8.2.16, 8.3.4, 8.3.8, 8.4.6 and 8.4.8? (Town, LOBA/LBHF)

43. Are the waterfront landings permitted by the proposed ZBLA's compatible with abutting properties? (Township)

44. Do the proposed ZBLA's conform with the Town OP Policies 8.4.4 – 8.4.9 relating to boat traffic and parking? (LOBA/LBHF)

45. Will the proposed ZBLA's result in unacceptable boat traffic and parking impacts? (LOBA/LBHF)

46. Do the proposed ZBLA's represent good planning and are they appropriate for the development of the subject lands? (Town, LOBA/LBHF)

## **District of Muskoka**

### ***Phase 1***

1. Nil.

## Kelly Zytaruk

### *Phase 1*

For the purposes of this document the following acronyms and short forms are used

<b>Acronym</b>	<b>Related document</b>
DOP	District of Muskoka Official Plan
HOP	Huntsville Official Plan
LBOP	Township of Lake of Bays Official Plan
MWC	Muskoka Watershed Council – “A Healthy Waterfront” <a href="https://www.muskokawatershed.org/wp-content/uploads/2011/12/1_NaturalWaterfront1.pdf">https://www.muskokawatershed.org/wp-content/uploads/2011/12/1_NaturalWaterfront1.pdf</a>
NHREF	Natural Heritage Reference Manual, Second Edition March 18, 2010
PPS	Provincial Policy Statement, 2014
SP	The Shore Primer – Fisheries and Oceans Canada <a href="http://www.muskokawaterweb.ca/images/dfo/ShorePrimer-English.pdf">http://www.muskokawaterweb.ca/images/dfo/ShorePrimer-English.pdf</a>

- 1) Is the proposed development consistent with the PPS particularly in regards to Parts I, III and IV and Policies 1.1.1, 1.1.3, 1.1.4, 1.1.5, 1.4.3, 1.5.1, 1.6.6.1, 1.6.6.4, 1.6.6.6, 2.1, 2.2.1, 3.1.8, 4.7, and 4.9 and as further elaborated upon in NHREF: sections 2.3.1, 2.4, 2.5, 3.2, 3.3, 3.4.2, 3.4.3, 3.4.6, 4.2, 4.3, 9 and 10.
- 2) Does the proposed development proposal give consideration to section 2.2 of the NHREF.
- 3) Does the development proposal conform to the DOP Policies A3, B1, B2, B3, C1.1, C1.2, C1.3, C1.4, C2.2, C2.3, C2.6.3, C2.6.4, C3, D1, D15.1, D15.5, F1.1, F1.3, F6, F7, H1.3.1, H1.3.2, I2.1, J3.1, J4.2, and J4.3.
- 4) Does the development proposal conform to the LBOP Policies B.2, B3, B8, B.10, B.21, C.3, C.4 C.7, C.37, C.52, C.53, C.81, C.82, D.1, D.2, D.3, D.7, D.9, D.10, D12, D13, D16, D.18, D.67, D.70, D.71, D73, D.75, D.96, D.98, E.3, E.30, E.44, F.37, F.38, H.5, H.15, H.16, H.18, H.21 and H.46.
- 5) Does the development proposal conform to the HOP Policies 8.2, 8.3, 8.4.6, 8.7.1, 8.9.2 and 8.10.

- 6) Will the development proposal protect the shoreline and its values in accordance with the MWC and SP?
- 7) Does the Applicant's supporting documentation contain flaws and/or omissions and is a comprehensive natural heritage evaluation by the Federal and/or Provincial governments required considering the requirements of the following Policies:  
DOP: C1.5, C1.6, C2.5, C2.6.3  
LBOP: C.37, C.53, "Shoreline Protection" (statement found between D.11 and D.12), D.12, D.13, D.73, Schedule C2, J.4-J.15
- 8) Have the recommendations in the Natural Heritage Evaluation Feb 20, 1994 been followed?
- 9) Will the development proposal follow the guidelines in the "FireSmart Manual" published by the Ontario Ministry of Natural Resources recommending clearing and thinning of trees and combustible materials up to a distance of 100m from buildings? If so, will there be unacceptable adverse visual impacts, and/or unacceptable adverse impacts on the environment and/or the Island's natural heritage features and values?
- 10) Does the proposed development appropriately take into consideration public input as supported by the following Policies;  
Planning Act: 3(2), 16(1), 17(15), 17(16), 17(19.2) and 17(34)  
DOP: J4.3  
HOP: 8.2.4  
LBOP: C.4 and C.81  
And in accordance with PPS policies 4.7 and 4.9 as elaborated further in  
NHREF: 2.4 and 4.3
- 11) Has this development proposal appropriately considered the direct and indirect negative impacts that it could have on the surrounding residents including their quality of life and the enjoyment that they receive while at their cottages? If not, is this a test imposed by District and Municipal documents as permitted by PPS Parts I, III and IV as well as PPS policies 4.7 and 4.9 as elaborated further in NHREF: 2.4 and 4.3 ? Are the development and mitigating measures proposed appropriate in relation to the surrounding residents in light of the following policies:  
DOP: J4.3  
LBOP: "Land Use Compatibility" (Statement found between E.22 and E.23)
- 12) Has a noise impact study been performed to determine the effect of generators operating on the Island? If not, is one required to determine the effect on the environment and the community in accordance with LBOP Policy E.30

- 13) How will the proposed development address waste disposal, and is this acceptable in light of HOP Policy 8.9.2.3
- 14) Is the proposed Official Plan Amendment (OPA) a fundamental change from LBOP Policy D.98. Is LBOP Policy D.98 supported by PPS Parts III and IV and PPS: 4.7 and 4.9 as elaborated on in NHREF: 2.4 and 4.3.
- 15) Is it feasible to preserve the whole island in its natural state? If not, have all of the important areas and features been identified through an impact assessment as required by the following policies: LBOP Policy D.100 and supported by PPS: Part III, Part IV and Policies 4.7 and 4.9 as elaborated on in NHREF: 2.4 and 4.3
- 16) Has the OPA to the LBOP been written using vague language leaving it open to subjective interpretation and reducing any form of effective enforcement?
- 17) Has a lake ice study report been done to determine the extent of property and personal safety damage including boating hazards that could be caused by ice damage to man made shoreline structures as per PPS Policy 1.1.1 and LBOP Policy D.18
- 18) Is it feasible and appropriate to build, service and maintain the proposed septic systems to support the development in light of the following policies:  
PPS: 1.1.1, 1.6.6.1, 1.6.6.4  
DOP: C2.6.4, D15.1, D15.5  
LBOP: C.52
- 19) Do the proposed septic systems pose any health and safety risks, given the requirements of the following policies:  
PPS: Part I, PPS: 1.1.1, 1.6.6.1  
DOP: D15.1, D15.5
- 20) What are the short-term / long-term septic maintenance requirements and what happens if septic services to the Island are no longer available, given the requirements of the following policies:  
PPS: 1.6.6.1, 1.6.6.4, 1.6.6.6  
DOP: D15.5  
LBOP: C.52, C.53, H.46
- 21) If this development proposal is accepted by the Tribunal and individual lots are found later to be not suitable for development, how will this change the development plan? If natural or environmental damages occur over time that are more than planned or expected for either in the short term or long term how will

the damages be mitigated? What are the implications of the following policies on any potential future changes in the development plan:

PPS: Part IV

NHREF: 2.2, 3.4.6.1

- 22) How is the proposed self-governing body (board of directors comprised of Island residents) going to protect the Island's environment and the interests of the residents surrounding the proposed waterfront properties?

## **Purpose of the Procedural Order and Meaning of Terms**

The Tribunal recommends that the Parties **meet to discuss this sample Order before the Case Management Conference** to try to identify the issues and the process that they want the Tribunal to order following the Conference. The Tribunal will hear the Parties' comments about the contents of the Order at the Conference.

Case Management Conferences usually take place only where the Hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Local Planning Appeal Tribunal, and the Tribunal's Rules, from the Tribunal Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-327-6800, or from the Tribunal website.

### **Meaning of terms used in the Procedural Order:**

**Party** is an individual or corporation permitted by the Tribunal to participate fully in the Hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other Parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a Party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a Party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the Party.

**NOTE** that a person who wishes to become a Party before or at the Hearing, and who did not request this at the Case Management conference, must ask the Tribunal to permit this.

A **participant** is an individual, group or corporation, whether represented by a lawyer or not, who may make a written submission to the Tribunal. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the hearing (only a party may do so). Subsection 33.2 of the Local Planning Appeal Tribunal Act states that a person who is not a party to a proceeding may only make a submission to the Tribunal in writing. The Tribunal may direct a participant to attend a hearing to answer questions from the Tribunal on the content of their written submission, should that be found necessary by the Tribunal. A participant may also be asked questions by the parties should the Tribunal direct a participant to attend a hearing to answer questions on the content of their written submission.

**Written and Visual Evidence:** **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a Party or Participant intends to present as evidence at the Hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a Party or Participant intends to present as evidence at the Hearing.

**Witness Statements:** A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the Hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the Hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which



*the participant wishes to address and the submission of the participant on those issues; and a list of reports, if any, which the participant wishes to refer to in their statement.*

### **Additional Information**

**Summons:** *A Party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons. This request must be made before the time that the list of witnesses is provided to the Tribunal and the Parties. (See Rule 13 on the summons procedure.) If the Tribunal requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the Hearing. If the Tribunal is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.*

**The order of examination of witnesses:** *is usually direct examination, cross-examination and re-direct examination in the following way:*

- *direct examination by the Party presenting the witness;*
- *direct examination by any Party of similar interest, in the manner determined by the Tribunal;*
- *cross-examination by Parties of opposite interest;*
- *re-direct examination by the Party presenting the witness; or*
- *another order of examination mutually agreed among the Parties or directed by the Tribunal.*