

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** January 26, 2022

**CASE NO(S).:** OLT-21-001839  
(Formerly) PL210241

**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

**Appellant:** South Bracebridge Environmental Protection Group  
**Subject:** Proposed Official Plan Amendment No. 8  
**Municipality:** Town of Bracebridge  
**OLT Case No.:** OLT-21-001839  
**Legacy Case No.:** PL210241  
**OLT Lead Case No.:** OLT-21-001839  
**Legacy Lead Case No.:** PL210241  
**OLT Case Name:** South Bracebridge Environmental Protection Group v. District Municipality of Muskoka (Municipality)

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

**Appellant:** South Bracebridge Environmental Protection Group  
**Subject:** By-law No. BL 2021-005  
**Municipality:** Town of Bracebridge  
**OLT Case No.:** OLT-22-002072  
**Legacy Case No.:** PL210142  
**OLT Lead Case No.:** OLT-21-001839  
**Legacy Lead Case No.:** PL210241

**Heard:** January 21, 2022 by video hearing

**APPEARANCES:****Parties**

South Bracebridge Environmental  
Protection Group (“Appellant”)

Muskoka Royale Development Inc.  
 (“Applicant”)

Town of Bracebridge (“Town”)

District Municipality of Muskoka  
 (“District”)

**Counsel**

David Donnelly  
Justine Reyes (student-at-law)

Quinto Annibale  
Brendan Ruddick

Carly Emmett (student-at-law)

Jamie Clow

**MEMORANDUM OF ORAL DECISION DELIVERED BY K.R. ANDREWS ON  
JANUARY 21, 2021 AND ORDER OF THE TRIBUNAL**

---

**INTRODUCTION**

[1] This is the second Case Management Conference (“CMC”) respecting an appeal by the Appellant. As stated in the decision of the Tribunal respecting the first CMC, the purpose of the present CMC is:

1. For the District to provide an update on the role, if any, it intends to take at the proceedings;
2. For the Tribunal to consider any additional participant status requests received in advance of the November 1, 2021 deadline established by the Tribunal;
3. For the parties to provide an update on their efforts at mediation; and
4. To confirm a draft Procedural Order (“PO”) in light of the District’s role in the proceedings.

## **ROLE OF THE DISTRICT MUNICIPALITY OF MUSKOKA**

[2] At the outset of the hearing, counsel for the District confirmed that he has instructions from council to not participate or otherwise take any role in the proceedings.

## **REQUESTS FOR STATUS**

[3] At the first CMC, seven persons were granted participant status.

[4] At paragraphs 6 and 8 of the Tribunal's decision respecting status requests at that time, the Tribunal stated as follows:

[6] [...] The Tribunal [directed] that any statement from participants who are also members of the Appellant, limit their statements to issues/concerns that are not duplicative of the arguments and evidence to be led by the Appellant at the hearing. Counsel for the Appellant agreed to work with the participants to ensure adherence to this direction.

[8] [...] Further, in light of the difficulties noted by counsel for the Appellant and on the consent of all parties, the Tribunal will consider any further participant requests filed in advance of November 1, 2021 at the next hearing event.

[5] Since the issuance of the first CMC decision on September 22, 2021, and prior to the November 1, 2021 deadline, the Tribunal received 134 additional participant status requests, most of which were duplicative.

[6] Upon review of these new status requests by the Tribunal, it became obvious that most, but not all, of the statements which accompanied the respective request forms used the same template to produce a Participant Statement opposing the applications. Based on this, the Tribunal found that most, but not all, of the statements were clearly the result of some sort of coordinated effort to bring forward as many statements as possible to oppose the applications.

[7] At the present hearing, the Tribunal canvassed the attendees to speak with the requestors to deal with these status requests. However, not one person out of the 134 new requestors was present at the hearing.

[8] The Tribunal then proposed that the new status requests would not be considered as a result of the requestors' failure to attend the hearing, in accordance with the Notice of Hearing respecting the current matter.

[9] In response, counsel for the Appellant interjected and took the position that the Tribunal should not dismiss the new requests for status and instead accept all of the participant status requests, and their Statements, claiming that the Tribunal indicated at the last CMC that new requestors did not have to show up at the present CMC to be considered, and that it is the general practice of the Tribunal to accept participant status requests without requiring requestors to actually attend a hearing. He further stated that, as a result of participants' limited role in proceedings, individuals should not be required to attend a hearing in order to be granted status.

[10] Counsel for the Applicant took the opposite position and objected to the granting of participant status for any the new requestors who did not attend the hearing. He stated that the Tribunal never promised automatic participant status being granted at the last hearing. He also confirmed that it is prejudicial to his client to grant status without providing him with an opportunity to challenge the appropriateness of the requestors' status.

[11] Counsel for the Town confirmed that it does not object to the requests for status and it encourages public participation in these types of proceedings; however, the Town also confirmed that it supports the principle of resolving matters in the most fair, just, expeditious and cost-effective manner.

[12] For the following reasons, the Tribunal does not grant participant status to any of the 134 individuals who submitted new status requests and failed to attend the present CMC:

1. The initial Notice of Hearing for this matter clearly states “Attendance by the requestor, or their representative, at the CMC is required for all status requests”;
2. Paragraph 8 of the Tribunal’s decision respecting the first CMC states “the Tribunal will consider any further participant requests [...] at the next hearing event”, which clearly communicates that requests will not be granted automatically;
3. Due to their failure to attend, the suitability of the requestors’ status as participants cannot be fairly challenged by any of the parties, and the Tribunal similarly cannot be satisfied regarding same;
4. The sheer volume of the status requests is excessively cumbersome in the present case without some sort of means to streamline or amalgamate the statements and issues, especially in light of the fact that most of the proposed statements are largely identical. Without such efforts, acceptance of all of the statements in their present form would conflict with the Tribunal’s duty to ensure that issues in dispute are disposed of in the most fair, just, expeditious and cost-effective manner. The requestors’ failure to attend the CMC prevented the Tribunal from working out a solution with the requestors to balance this duty with a person’s right to be heard.

[13] Notwithstanding the above decision of the Tribunal, the Tribunal nevertheless finds that some reasonable measures are still feasible to more effectively balance people’s right to be heard in this matter. Upon discussions with counsel for the parties,

and undertakings from counsel for the Appellant and Applicant respectively, the Tribunal finds it appropriate to allow the following:

- Counsel for the Appellant may communicate with those individuals who support the Appellant's position, and who submitted participant status request forms / statements prior to the November 1, 2021 deadline, and help them organize a common Participant Statement or Statements (up to three statements) which may be undersigned by those individuals who wish to adopt the common Participant Statement as their Participant Statement.
- Counsel for the Applicant may likewise communicate with those individuals who support the Applicant's position, and who submitted participant status request forms / statements prior to the November 1, 2021 deadline, and help them organize a common Participant Statement or Statements (up to three statements) which may be undersigned by those individuals who wish to adopt the common Participant Statement as their Participant Statement.
- With respect to each potential Statement described above, acceptance of it by the Tribunal will be considered by the Member presiding at the commencement of the next hearing event. At least one individual who undersigns the respective Participant Statement(s) must attend the event for the statement to be considered. To be clear, these statements will not be accepted automatically, and will only be accepted at the discretion of the presiding Member.
- The above described common Participant Statements shall be served on the parties and filed with the Tribunal **no later than March 15, 2022** to be considered by the Tribunal.

[14] It is noteworthy that, at the first CMC, the Tribunal directed that “any statement from participants who are also members of the Appellant, limit their statements to issues/concerns that are not duplicative of the arguments and evidence to be led by the Appellant at the hearing”, and counsel for the Appellant agreed to work with the prospective participants to ensure adherence to this direction. It is not clear who among the new requestors are also members of the Appellant; however, it is clear that nothing was done to avoid the prospect of duplication recognized by the Tribunal at the first CMC.

[15] Furthermore, the Tribunal gave directions to counsel confirming that their involvement in organizing the participants shall be limited to just that, and that it would be inappropriate for them to purport to act as counsel on any of the participants’ behalf, and that they shall not advocate for or otherwise purport act in the interests of any of the participants in relation to the submission(s) of the above described Participant Statement(s) at the next hearing event. It is for this reason that the Tribunal requires at least one undersigned requestor to appear on behalf of the group who produced a common Participant Statement to be filed and considered at the next hearing event.

## **MEDIATION AND SETTLEMENT**

[16] The Tribunal explored the possibility of mediation and settlement with the parties. The parties indicated that they remain open to mediation and settlement, but no steps have been taken so far and nothing is imminent.

## **PROCEDURAL ORDER AND ISSUES LIST**

[17] The Tribunal received and reviewed a draft PO from the parties. The Tribunal finds it acceptable and the proceedings shall be governed by it (see Attachment 1).

**ORDER**

[18] **The Tribunal Orders** that:

1. Additional Participant Statements shall only be considered as follows:
  - a) Counsel for the Appellant may communicate with those individuals who support the Appellant's position, and who submitted participant status request forms / statements prior to the November 1, 2021 deadline, and help them organize a common Participant Statement or Statements (up to three statements) which may be undersigned by those individuals who wish to adopt the common Participant Statement as their Participant Statement.
  - b) Counsel for the Applicant may communicate with those individuals who support the Applicant's position, and who submitted participant status request forms / statements prior to the November 1, 2021 deadline, and help them organize a common Participant Statement or Statements (up to three statements) which may be undersigned by those individuals who wish to adopt the common Participant Statement as their Participant Statement.
  - c) With respect to each potential statement described above, acceptance of it by the Tribunal will be considered by the Member presiding at the commencement of the next hearing event. At least one individual who undersigned each Participant Statement must attend the event for each Statement to be considered.
  - d) The above described common Participant Statements shall be served on the parties and filed with the Tribunal no later than March 15, 2022 to be considered by the Tribunal.



2. The Procedural Order appended as Attachment 1 shall govern the proceedings; and
3. The Member is not seized but may be spoken to through the Case Coordinator if any issues arise.

*“K.R. Andrews”*

K.R. ANDREWS  
MEMBER

**Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

**OLT-22-001839 – Attachment 1**

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	South Bracebridge Environmental Protection Group
Subject:	Proposed Official Plan Amendment No. 8
Municipality:	Town of Bracebridge
OLT Case No.:	OLT-21-001839
Legacy Case No.:	PL210241
OLT Lead Case No.:	OLT-21-001839
Legacy Lead Case No.:	PL210241
OLT Case Name:	South Bracebridge Environmental Protection Group v. District Municipality of Muskoka (Municipality)

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	South Bracebridge Environmental Protection Group
Subject:	By-law No. BL 2021-005
Municipality:	Town of Bracebridge
OLT Case No.:	OLT-22-002072
Legacy Case No.:	PL210142
OLT Lead Case No.:	OLT-21-001839
Legacy Lead Case No.:	PL210241

### **Procedural Order**

1. The Tribunal may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

### Organization of the Hearing

2. The hearing will begin on **Monday, September 19, 2022 at 10 a.m.** by **video hearing**. Parties are directed to the following link to access the video hearing:

**GoTo Meeting:** <https://global.gotomeeting.com/join/709173309>

**Audio-only telephone line: Toll Free 1-888-299-1889 or +1 (647) 497-9373**

**Access Code: 709-173-309**

Parties and Participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections.

3. Should the current COVID-19 public health and safety measures restricting public gatherings be lifted in the future, the Parties may request the hearing be held in-person in the municipality of the Town of Bracebridge. A Party must bring any such request at least **60 days prior to the start of the hearing**.
4. The length of the hearing will be **23** days. The length of the hearing may be shortened as issues are reordered as settlement is achieved.
5. The parties and participants identified at the case management conference are set out in **Attachment 1** (see the sample procedural order for the meaning of these terms).
6. The issues are set out in the Issues List attached as **Attachment 2**. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes may have costs awarded against it.
7. The order of evidence shall be as set out in **Attachment 3** to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on consent or by Order of the Tribunal.
8. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.

### Requirements Before the Hearing

9. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal, the other parties and to the municipal clerk a list of the witnesses and the order in which they will be called. This list must be delivered on or before **Tuesday, June 21, 2022**. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified. Any challenge by a party to the area of expertise in which a witness is proposed to be qualified and provide expert evidence must be brought no later than **Tuesday, June 28, 2022** by way of a Motion in accordance with the Tribunal's Rules.
10. Expert witnesses in the same field shall have a meeting on or before **Thursday, July 21, 2022** to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing and provide this list to all of the parties and the municipal Clerk on or before **Monday, August 1, 2022**.
11. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 13. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony.
12. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence as in section 13. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in section 13.
13. On or before **Friday, August 5, 2022**, the parties shall provide copies of their witness and expert witness statements to the other parties and to the municipal Clerk of the Town of Bracebridge.
14. On or before **Friday, August 5, 2022**, a participant shall provide copies of their written participant statement to the other parties. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.

15. On or before **Monday, September 5, 2022**, the parties shall provide copies of their visual evidence to all of the other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
16. Parties may provide to all other parties and file with the Clerk a written response to any written evidence no later than **Monday, August 22, 2022**.
17. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal in accordance with the Tribunal's Rules.
18. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days before the hearing that the written evidence is not part of their record.
19. The parties shall cooperate to prepare Joint Document Books. All parties shall provide their initial index of documents and copies of all documents to be included in the Joint Document Books on or before **Monday, August 22, 2022** with a final index to be prepared no later than **Tuesday, August 30, 2022**. A final copy of the Joint Document Books shall be shared with the OLT case Coordinator on or before **Friday, September 9, 2022** in digital PDF format and hard copy. All parties are entitled to receive digital and/or hard copies of the Joint Document Books according to their preference, and in such quantities of paper copies as they may request. Costs for producing the Joint Document Books shall be shared amongst the parties, however each party shall bear their own printing costs for any hard copies they request.
20. The parties shall prepare and file a [hearing plan](#) with the Tribunal on or before **Monday, August 22, 2022** with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.
21. Documents may be delivered by personal delivery, registered or certified mail or email, or otherwise as the Tribunal may direct. The delivery of documents by email shall be governed by the Tribunal's Rules (Rule 7) on this subject. Material

delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

22. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

**This Member is not seized.**

**So orders the Tribunal.**

## ATTACHMENT 1

## LIST OF PARTIES AND PARTICIPANTS

## A. PARTIES

PARTIES		COUNSEL
1.	<b>Town of Bracebridge</b>	<p><b>Elston Watt Barristers &amp; Solicitors</b> 391 First Street, Suite 303 Collingwood, ON L9Y 1B3</p> <p><b>Harold Elston</b> Email: <a href="mailto:counsel@haroldelston.com">counsel@haroldelston.com</a> Tel: (705) 443-8183</p>
2.	<b>Muskoka Royale Development Inc.</b>	<p><b>Loopstra Nixon LLP</b> 135 Queens Plate Drive, Suite 600 Toronto, ON M9W 6V7</p> <p><b>Quinto Annibale</b> Email: <a href="mailto:gannibale@loonix.com">gannibale@loonix.com</a> Tel: (416) 748-4757</p> <p><b>Brendan Ruddick</b> Email: <a href="mailto:bruddick@loonix.com">bruddick@loonix.com</a> Tel: (416) 748-5126</p> <p><b>Alexandra Whyte</b> Email: <a href="mailto:awhyte@loonix.com">awhyte@loonix.com</a> Tel: (416) 748-4777</p>
3.	<b>South Bracebridge Environmental Protection Group Inc.</b>	<p><b>Donnelly Law Barristers &amp; Solicitors</b> 276 Carlaw Avenue, Suite 203 Toronto, ON M4M 3L1</p> <p><b>David Donnelly</b> Email: <a href="mailto:david@donnellylaw.ca">david@donnellylaw.ca</a> Tel: (416) 572-0464</p> <p><b>Justine Reyes</b> Email: <a href="mailto:justine@donnellylaw.ca">justine@donnellylaw.ca</a> Tel: (416) 572-0464</p>

**B. PARTICIPANTS**

1.	<b>Katherine Ristic</b> email: <a href="mailto:Kathy.ristic@gmail.com">Kathy.ristic@gmail.com</a>
2.	<b>Laura Morton</b> email: <a href="mailto:ldmorton@earthlink.net">ldmorton@earthlink.net</a>
3.	<b>Michael Appleby</b> email: <a href="mailto:mappleby@bracebridgewetlands.ca">mappleby@bracebridgewetlands.ca</a>
4.	<b>Martyn Burke</b> email: <a href="mailto:martynb@earthlink.net">martynb@earthlink.net</a>
5.	<b>Michael Hart</b> <b>Stephens Bay Road Association</b> email: <a href="mailto:Michael.hart@meritoutsourcing.com">Michael.hart@meritoutsourcing.com</a>
6.	<b>Chantel Haigh</b> email: <a href="mailto:chantel.haigh21@hotmail.com">chantel.haigh21@hotmail.com</a>
7.	<b>Janet Griffin</b> email: <a href="mailto:janet.gas@icloud.com">janet.gas@icloud.com</a>



## ATTACHMENT 2

### ISSUES LIST

**NOTE: The identification of an issue on the Issues List does not constitute an acknowledgement by the Tribunal or any party that the issue is either relevant or appropriate. The identification of an issue on this list by a party indicates that party's intent to lead evidence or argue that the issue is relevant to the proceeding, for the purpose of fairly identifying to the other parties the case they need to meet. Accordingly, no party shall advance an issue not identified on the Issues List without leave of the Tribunal.**

#### South Bracebridge Environmental Protection Group Inc.

1. Are BL 2021-005 and OPA No. 8 to the Town of Bracebridge Official Plan compliant with Section 3 of the Planning Act which requires that all decisions be consistent with the Provincial Policy Statement?
2. Are BL 2021-005 and OPA No.8 to the Town of Bracebridge Official Plan compliant with the Endangered Species Act?
3. Are BL 2021-005 and OPA No.8 to the Town of Bracebridge Official Plan consistent with the Provincial Policy Statement 2020, namely Sections 1.1, 1.1.1, 1.5.1, 2.1, 2.1.1, 2.1.2, 2.1.7, 2.1.8, 2.2, 2.2.12.2.2, and 3.1.8.
4. Does BL 2021-005 conform to the Town of Bracebridge Official Plan namely Sections A6.5, A6.5.1, A7.4, A7.4.1, A7.4.2, A7.4.2.1, A7.4.2.2, A7.4.2.3, A7.4.2.5, A7.4.2.7, A7.8, A7.8.1, A&8.1.1, A7.8.2.8, B7.2, B10.1, B10.1.1, B10.2.1, B10.2.6, B10.2.7, B10.2.8, B10.3, B10.3.1, B10.3.2, B10.3.3, B10.7.1, B10.7.2, B10.7.3, B10.7.5, B10.7.6, B10.7.7, B15.0, B15.1, B15.2, B.25.0, B25.1, B25.1.1, B25.1.2, B25.1.3, B25.2, B25.2.1, B25.2.2, C21.0, C.21.1, C21.2, G1.0, G1.1, G1.1.1, G.1.2, G.1.2.1, G1.3, G.1.3.1, G.1.3.2, G.1.3.3, G.1.3.4, G.1.3.5, G.1.4, G.1.4.1, G.5.0, G.1.5.1, G.1.5.2, G.1.5.3, I1.2.7, I2.2.2, I2.2.4, I3.2.2, I5.1, I5.1.1, I5.1.2, I5.1.3, I5.1.4, I5.1.5, J17.0, J17.2, J20.0, J20.1, J20.2, J20.3, J.20.4, J20.5.
5. Do BL 2021-005 and OPA No. 8 to the Town of Bracebridge Official Plan conform to the District of Muskoka Official Plan namely, Sections A6.6, B.2, C1, C1.1, C1.3.1, C1.3.2, C1.4.6, C1.5, C1.5.1, C1.5.2, C1.6.3, C4, C5, D1, D14, D14.1, D14.2, D20, D20.1, F3, K4.2, K4.3.2, K7, L2, M11.3, M11.4, M11.5, M11.6.
6. Do BL 2021- 005 and OPA No. 8 to the Town of Bracebridge Official Plan sufficiently have consideration for the Muskoka Official Plan Review Background

Studies: Urban Centres Natural Heritage Review; and Natural Heritage Review of Urban Centres and Species at Risk?

7. Do BL 2021-005 and OPA No. 8 represent good planning and are they in the public interest?

**ATTACHMENT 3**  
**ORDER OF EVIDENCE**

**NOTE: Where parties of like interest have issues in common, they shall make reasonable efforts to coordinate their examinations-in-chief and cross-examinations so as to minimize any duplication or overlap of evidence.**

**Evidence-in-Chief**

1. Muskoka Royale Development Inc.
2. Town of Bracebridge
3. South Bracebridge Environmental Protection Group Inc.

**Reply Evidence**

1. Muskoka Royale Development Inc.

## ATTACHMENT 4

### Meaning of Terms used in the Procedural Order:

A **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. An **unincorporated group** cannot be a party and 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 (CMC), must ask the Tribunal to permit this.

A **participant** is an individual 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). Section 17 of the Ontario Land 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.

A participant must be identified and be accorded participant status by the Tribunal at the CMC. A participant will not receive notice of conference calls on procedural issues that may be scheduled prior to the hearing, nor receive notice of mediation. A participant cannot ask for costs, or review of a decision, as a participant does not have the rights of a party to make such requests of the Tribunal.

**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.

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 a list of reports or materials 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 supporting their opinions and conclusions and (5) a list of reports or materials that the witness will rely on at the hearing. An expert witness statement must be accompanied by an acknowledgement of expert's duty.

A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a statement of the participant's position on the appeal; a list of the issues which the participant wishes to address and the submissions of the participant on those issues; and a list of reports or materials, if any, which the participant wishes to refer to in their statement.

### **Additional Information**

A **summons** may compel the appearance of a person before the Tribunal who has not agreed to appear as a witness. A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons through a request. (See [Rule 13](#) on the summons procedure.) The request should indicate how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the information provided in the request that the evidence is relevant, necessary or admissible, the party requesting the summons may provide a further request with more detail or bring a motion in accordance with the Rules.

**The order of examination of witnesses** is usually direct examination, cross-examination and re-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-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Tribunal.

**ATTACHMENT 5****KEY DATES**

<b><u>Item</u></b>	<b><u>Deadline</u></b>
Witness List	Tuesday, June 21, 2022
Motions challenging qualifications of Experts	Tuesday, June 28, 2022
Expert's Meetings	Thursday, July 21, 2022
Agreed Statement of Facts and Issues	Monday, August 1, 2022
(Expert) Witness Statements, Participant Statements, Outlines of Evidence	Friday, August 5, 2022
Initial Index of Documents for Inclusion in the Joint Document Book	Monday, August 22, 2022
Final Index of Documents for Inclusion in the Joint Document Book	Tuesday, August 30, 2022
Reply Witness Statements	Monday, August 22, 2022
Hearing Plan	Monday, August 22, 2022
Visual Evidence	Monday, September 5, 2022
Joint Document Books to be provided to all Parties and the Tribunal	Friday, September 9, 2022
Hearing Commences	Monday, September 19, 2022