

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



ISSUE DATE: November 14, 2019

CASE NO(S): PL160282

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

Appellant: 1178460 Ontario Inc
Appellant: 2156713 Ontario Ltd
Appellant: 548186 Ontario Inc
Appellant: Ivy Lea Management Ltd; and others
Subject: Proposed Official Plan Amendment No. 8-
OP-146602
Municipality: United Counties of Leeds and Grenville
OMB Case No.: PL160282
OMB File No.: PL160282
OMB Case Name: Ivy Lea Management Ltd. v. Ontario
(Municipal Affairs and Housing)

Heard: October 31, 2019 by Telephone Conference
Call (“TCC”)

APPEARANCES:

Parties

Counsel

Ministry of Municipal Affairs and
Housing

K. Hare

United Counties of Leeds and
Grenville

T. Fleming

1178460 Ontario Inc.,
548186 Ontario Inc.,
2156713 Ontario Ltd.,
Ivy Lea Management Ltd.,
Ed Huck Marine Ltd. and
Clark's Bus and Marina Ltd.

M. Polowin

**MEMORANDUM OF ORAL DECISION DELIVERED BY R.G.M. MAKUCH ON
OCTOBER 31, 2019 AND ORDER OF THE TRIBUNAL**

[1] The Tribunal was advised that a settlement of this matter has been agreed to between the United Counties of Leeds and Grenville ("United Counties"), 1178460 Ontario Inc., 548186 Ontario Inc., Ivy Lea Management Ltd., 2156713 Ontario Ltd., Ed Huck Marine Ltd. and Clark's Bus and Marina Ltd. (the "Marina Appellants") and the Ministry of Municipal Affairs and Housing (the "Ministry").

[2] The only evidence before the Tribunal is the Affidavit of Cherie Mills, sworn August 13, 2019, which supports the settlement agreement between the parties set out above. Ms. Mills is a land use planner employed by the United Counties. The parties are jointly asking the Tribunal to endorse the settlement to resolve the Coastal Wetland Mapping appeals of the United Counties' Official Plan ("OP").

[3] Ms. Mills's affidavit sets out the background to this matter as follows:

1. On July 23, 2015, the County adopted its first OP, which was modified and approved by the Minister on February 19, 2016.
2. There were eight appeals of the OP grouped into two hearing streams, being the Coastal Wetland Mapping appeals, and the Growth Management Policy appeals.
3. The un-appealed portions of the OP came into effect on March 15, 2016.

4. As a result of settlement discussions, a motion was presented on consent of the parties asking the Tribunal to issue an Order resolving the Growth Management Policy appeals.
5. The Tribunal accepted the settlement, and the Growth Management Policy appeals stream was resolved as set out in the Decision/Order of the Tribunal dated March 15, 2017.
6. The Marina Appellants appealed the mapping of Provincially Significant Wetlands, including Coastal Wetland Areas on Schedules A and C of the OP.
7. Through settlement discussions the United Counties, Marina Appellants and Ministry agreed to resolve the appeals and agreed to ask the Tribunal to modify Schedule A – Community Structure and Land Use and Schedule C – Natural Heritage Features and Areas to include the following:

[4] Ms. Mills expresses the opinion that the Provincially Significant Wetlands designation is not meant to affect the continued use of existing (as of the date of adoption of this OP) marina operations along and on the St. Lawrence River. It is acknowledged that Ontario Regulation 239/13 may permit dredging in Provincially Significant Wetlands, including for the maintenance of safe navigation channels, in a manner that is consistent with the *Public Lands Act*. Nothing in this OP is intended to interfere with dredging in Provincially Significant Wetlands pursuant to the application of provincial legislation, nor is anything intended to interfere with the application of any provincial legislation or the management of Crown lands.

[5] The Tribunal is satisfied based on this affidavit evidence that the settlement and the proposed amendment to the OP set out in Attachment “1” represents good land use planning. The amendment provides clarity to readers of the OP with respect to existing marina operations and their relationship to Provincially Significant Wetlands. Furthermore, the Tribunal is satisfied that the proposed amendment is consistent with the applicable provisions of the provincially significant wetland or coastal wetland

provisions of the Provincial Policy Statement, 2014 (“PPS”). It also meets the intent of the Provincially Significant Wetlands policies of the United Counties OP. The goal of Section 4.2.3 is that “Provincially Significant Wetlands or significant coastal wetlands in the Counties will be protected and conserved”. As stated in Section 4.2.3 b), protection of the wetlands will ensure in the long term that future “development will not result in negative impacts to the features or their ecological functions”.

[6] The proposed amendment also conforms with the general provisions of the balance of the OP and represent an appropriate method to manage the operation of existing marinas and to recognize the current use of such operations.

[7] The Tribunal finds based on this evidence that the settlement proposed by the parties is appropriate, provides clarity to the OP, is consistent with any applicable provisions of the PPS, and represents good planning.

[8] Accordingly, the Tribunal hereby issues the Order appended hereto as Attachment 1.

“R.G.M. Makuch”

R.G.M. MAKUCH
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

Local Planning Appeal Tribunal
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BEFORE : R. G. M. MAKUCH

VICE CHAIR

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

Appellant:	1178460 Ontario Inc
Appellant:	2156713 Ontario Ltd
Appellant:	548186 Ontario Inc
Appellant:	Ivy Lea Management Ltd; and others
Subject:	Proposed Official Plan Amendment No. 8-OP-146602
Municipality:	United Counties of Leeds and Grenville
OMB Case No.:	PL160282
OMB File No.:	PL160282
OMB Case Name:	Ivy Lea Management Ltd. v. Ontario (Municipal Affairs and Housing)

WHEREAS the United Counties of Leeds and Grenville (the “County”) adopted its first Official Plan (“OP”) on July 23, 2015, which was modified and approved by the Minister of Municipal Affairs and Housing (the “Ministry”) on February 19, 2016;

AND WHEREAS, eight parties appealed portions of the OP to the Ontario Municipal Board now the Local Planning Appeal Tribunal (the “Tribunal”), with those portions of the OP not appealed coming into effect on March 15, 2016;

AND WHEREAS, the appeals were grouped into the Growth Management Policies appeal stream, and the Coastal Wetland Mapping appeal stream;

AND WHEREAS, the Growth Management Policies appeal stream was resolved on consent of the parties as set out in the Decision/Order dated March 15, 2017;

AND WHEREAS, the County, Ministry and Marina Appellants have now resolved the Coastal Wetland Mapping appeal stream and request the Tribunal to issue the Draft Order (reflected herein) included within the Affidavit of Cherie Mills dated August 13, 2019;

AND WHEREAS, the Tribunal has read the materials provided by the parties in support of the resolution of the Coastal Wetland Mapping appeal stream;

NOW THEREFORE THE TRIBUNAL HEREBY ORDERS that the appeals of the Marina Appellants are allowed in part, and Schedule A – Community Structure and Land Use and Schedule C – Natural Heritage Features and Areas of the OP are modified to include the following paragraph in each Schedule:

* The Provincially Significant Wetlands designation is not meant to affect the continued use of existing (as of the date of adoption of this Official Plan) marina operations along and on the St. Lawrence River. It is acknowledged that *Ontario Regulation 239/13* may permit dredging in Provincially Significant Wetlands, including for the maintenance of safe navigation channels, in a manner that is consistent with the *Public Lands Act*. Nothing in this Official Plan is intended to interfere with dredging in Provincially Significant Wetlands pursuant to the application of provincial legislation, nor is anything intended to interfere with the application of any provincial legislation or the management of Crown lands.

The Tribunal confirms that the resolution of the Coastal Wetland Mapping appeals as set out above resolves all outstanding matters in this proceeding.

OCTOBER 31, 2019

R. G. M. MAKUCH

VICE CHAIR