

### “First come, First Served”

1. The Town has stated that there are a number of regulatory instruments used to address developments and servicing capacity. The current Official Plan includes numerous Council

\*\*approvals on Planning Applications prior to achieving Allocation. Can you clarify what is meant by “First come, First served”?

The ‘First Come, First Served’ phrase is used to describe our current system of allocating water and sewage services to developments that have received reservation through the land-use planning process. Regardless as to the timing in which reservation has been granted, allocation is given in an ad-hoc manner in which the only metric to apply is whether there is sufficient capacity at the time of final engineering review.

2. Can you provide the reasons the Town needs to move away from “first come, first served” (aka the current regulatory instruments)?

The Town is seeking to ensure that the allocation of water and sewage services is undertaken in a strategic manner given current constraints and the volume of developments that have reserved capacity.

### “Greatest Benefit to the Town”

3. Can you provide how categories and sub-categories were created for Schedule B-1 of the proposed by-law? Specifically, can you add a column with the specific Council-approved Strategic Plan & Category? (see town website <https://www.thebluemountains.ca/town-hall/laws-maps-strategies/strategic-plans-documents>)

1. Alternatively, who or what was used to determine these Categories and Sub-Categories as the “Greatest benefit to the Town”?

The Town retained WSP to establish categories and sub-categories based on a review of other municipalities and studies/plans completed by the Town.

2. How would these categories/sub-categories be amended with shifting Council strategic goals?

The by-law and associated policy is intended on being reviewed in 18 months following implementation. Council may choose to amend the categories upon completion of the review.

### “Finite Resource”

4. Does the Town have a Water and Waste Water Capacity issue?

Yes, the capacity issues are addressed in the 2024 Water and Wastewater Year-End Report and the recently completed assessment of the Mill Street Pumping Station. These documents can be accessed through the following webpage:

<https://www.thebluemountains.ca/resident-services/water-sewer-services/water-sewer-capacity>

5. What are the specific “challenges in reconciling the demands of various developments”?

1. a. Why are the current “prudent infrastructure planning and regulatory controls” (i.e., Planning Act/ Development Charge Act) insufficient to address these challenges?

The Town has an ambitious capital program designed in accordance with the Development Charges Background Study to respond to growth pressures. However, the pace of development does not often align with the completion of these projects nor is it easy to determine a timeline from when a development receives reservation through a Planning Act approval, to when it will be ready to be granted allocation given the complexities of engineering review.

6. Is it the intent of this Policy to be applied when there is no risk of the current development applications exceeding water and sewer capacity?

Yes.

7. Will the Town potentially refuse servicing capacity to a development with all Planning Act approvals on the basis that it does not score high enough, if there is capacity in the overall system to service it?

Presently and into the future, staff anticipate that there will be constraints related to both plant and conveyance capacity. In accordance with the proposed Evaluation Framework, the highest scoring developments will receive allocation based on the amount of capacity that can be reasonably provided during the intake period.

8. How will the Town decide how many units of allocation are going to be assigned in any year, especially if there are no current servicing capacity constraints?

The Town will be retaining a third-party to complete an assessment of what can be allocated on an annual basis.

“De-Couple” from Planning Act

9. The Town's current Allocation Policy is in the Town's Official Plan. Is it the Town's intention to "de-couple" this policy from the Planning Act?

If so, why?

If not, will the Town be using this policy to update its Official Plan currently underway?

The Town's Official Plan is not the Town's current Allocation Policy. The Official Plan only speaks to allocation being committed under a development agreement. It is silent on matters of evaluating the provision of allocation. Decisions respecting servicing capacity and allocation affects more than land-use planning and growth in the Town which makes it appropriate to be governed under the auspices of the Municipal Act.

It is not the intention of the Town to update the Official Plan policies with respect to the proposed Policy.

Bill 185 with changes to the Municipal Act passed on June 20, 2024. The Public Meeting for this By-Law was on May 14, 2024. The Town's procedural by-law reads:

The Public Meeting was held before the Statutory Authority (in the Town's opinion) was given to implement this policy. To clarify, the Notice of Public Meeting does not reference Bill 185 or the Municipal Act.

10. Does the Public Meeting held on May 14, 2024, meet the requirements of TOBM Procedural By Law 2022-76?

Yes.

11. Prior to the changes to the Municipal Act Section 86.1(1) under Bill 185 passed on June 20, 2024, what was the Statutory Authority the Town was relying upon to enact this policy?

The Town was considering enabling the Policy through a number of different provisions under the Municipal Act including Section 11 and subsection 86(2).

The Planning Act Ontario Section 24 states:

“Public works and by-laws to conform with plan 24 (1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith. R.S.O. 1990, c.

P.13, s. 24 (1); 1999, c. 12, Sched. M, s. 24.”

In the meeting minutes with the development industry, the Director States:

“It is not intended that the Policy and Evaluation Criteria go beyond the Official Plan and/or the Planning Act. This Policy is intended to amplify policies and directions prescribed by the Official Plan. This Policy is not intended to evaluate the merits of a development or application, as that is conducted pursuant to the Planning Act. This Policy may facilitate enhancements to an approved development at the time of Evaluation Criteria review. The allocation decision rests with administration.”

The Staff Report States:

“While the Policy is not regulated by the Planning Act, its application will be throughout the planning and development process. This includes being incorporated into the conditions of approval and identified during the course of pre-consultation on relevant applications to ensure developments are aligned with the evaluation criteria at the conceptual stage.”

The Planning Act and Development Charges Act do not entitle the Town to require developers to:

- Implement energy conservation measures or green building techniques in development
- Provide affordable housing, absent inclusionary zoning
- Control the tenure of development (requiring rental buildings)
- Upgrade roads that are not a local service and required for the purposes of the development
- Upgrade transit stations
- Provide facilities such as parks, recreational amenities, active transit systems, Hospitals, LTC Facilities

Based on the above, the Town will use this Policy at the very earliest Planning Application to measure the merits of approval up to and including Draft Plan Conditions. As stated, the Policy seeks “enhancements” (increases) to Official Plan Policies. However, The Planning Act and Development Act specifically exclude the Town from requiring specific increases.

12. Can the Town please remove the specific excluded enhancements/increases from the Proposed By-Law Appendix B-1?

Town staff do not believe any of the categories listed are misaligned with provisions under the Planning Act or Development Charges Act. Further, the categories identified are supportive of the principles underpinning the Town's Official Plan.

Section 86.1.3 of the Municipal Act States:

“Determination to be made by officer, etc. (3) If a municipality has passed a by-law described in subsection (1), the administration of the policy must be assigned to an officer, employee or agent of the municipality, and any decision made by that person under the policy must be final. 2024, c. 16, Sched. 9, s. 1.”

In meetings with the GTDI and at the Committee of the Whole, staff proposed that the decisions would be made by a committee. It has also been suggested that a consultant would also be retained to make these decisions.

13. For clarity, can you please confirm that the Director of Planning Services is the assigned decision maker?

Confirmed.

14. Please confirm that the decisions made by the Director of Planning Services is unappealable, including by Council, who may not agree to the decision made?

Confirmed. While Section 86.1.3 requires it to be an officer of the municipality, Council has discretion to reassign this authority.

Despite the earlier statement that the Policy will not be used to evaluate planning applications, the Staff Report States:

“While the Policy is not regulated by the Planning Act, its application will be throughout the planning and development process. This includes being incorporated into the conditions of approval and identified during the course of pre-consultation on relevant applications to ensure developments are aligned with the evaluation criteria at the conceptual stage.”

This seems to conflict with the prescribed process in the By-law which states:

“Request for Development Agreement Form is sent to the proponent based on the decision by Engineering Reviewer as to whether the project is eligible for AFC stamp.”

15. Can the Town clarify if the application of this policy starts at Pre-Consult or upon completion of the AFC Drawings?

While the Evaluation Framework is not required to be completed at the time of pre-consultation, it will be encouraged to assist with the review of the allocation request when the development is positioned to do so.

The proposed Policy By-Law Section 8 States:

“Existing Approvals All lands subject to existing Draft Approved Plans of Subdivision, Consents, Site Plans or Vacant Land Condominium, but have not been subject to a development agreement confirming allocation prior to the implementation of this policy, will be subject to the requirements in this policy.”

16. If the Policy is to start at the time of pre-consultation to “ensure developments are aligned with the evaluation criteria at the conceptual stage” and this criteria is to be “incorporated into Draft Plan Conditions,” how does the Town propose to retroactively impose these conditions on Draft Plan Approved Developments as stated in Section 8 of the Proposed By-Law?

The Policy will be circulated during pre-consultation and listed as a condition for new approvals but that will not preclude its application for existing approvals given allocation decisions are outside of the purview of the Town’s Official Plan.

The Proposed By-Law states:

“7(b) Based on available ERU units set aside for allocation, those development applications that score the highest during the intake period review will receive allocation.”

17. How and who determines what is “set aside for allocation?” For example, if the Town’s Engineering Department determines that there are 1,500 units of water Allocation available, is it the Town’s intention to “set aside” 500 units “available” for allocation? Or are all 1,500 units available?

The determination of available units will be made based on comprehensive assessment of both plant and conveyance capacity. For example, there may be plant capacity for 1,500 units but 500 can only be made available based on limitations in the conveyance systems.

18. In the absence of a minimum scoring number to receive allocation, can the Town confirm it is their intent to create a competition between developments to receive allocation?

The intent is to apply a strategic framework to assigning allocation to developments that have been granted reservation through the Planning Act process. Currently, there isn't any policy informing allocation decisions.

19. Does the Town envision or intend that development with all approvals under the Planning Act may be prevented from proceeding, even where servicing capacity is available in the Town's system, because it would not achieve a high enough score under the policy?

The Town does not intend to prevent developments approved under the Planning Act from proceeding. However, the proposed by-law and policy may impact the timing of allocation if alignment with scoring criteria cannot be met.

20. Can the Town explain why there is an exemption for two units if the policy only applies for 11 or more units?

The intent behind the exemption is to enshrine as of right permissions afforded to Additional Residential Units due to Bill 23.

The Proposed By-Law is silent on what happens when competing developments score the same number of points.

Amended by-law to seek supplemental information in which there are identical scores.

21. Can the Town provide direction? The Proposed By-law States:

7(c) "Should an applicant wish to resubmit an application if not granted allocation, they must do so within two (2) months of being notified by the Town in order to have the application expedited."

22. What does expedited mean? How would this work in practice if a decision on annual allocation has already been made?

Amended wording to reflect upon resubmissions being reviewed in the next intake period.

Schedule B-1

23. Is changing this matrix considered an administrative matter under the Municipal Act? Or, is the Director delegated this authority?

Changing the matrix will require an amendment to the Policy which would be a Council decision.

24. What is the minimum number of points required to receive allocation?

There is no minimum number of points required.

1. In the alternative, is the Town proposing a competition amongst developments?

Staff anticipate that available allocation will fluctuate year to year and that the Town will not be able to provide allocation to all developments seeking it for a given year. The scoring criteria assists in prioritizing those developments that offer the greatest community benefit.

25. What does the Column “Relevance” mean?

Relevance speaks to how a sub-category is to be scored.

1. What does “Compliance Level” mean?

Compliance level speaks to scoring that is assigned on a scale opposed to being a simple yes/no.

26. Is it the intention that Allocation in ERU’s be set aside for Residential or Non-Residential? Or is it the intention to have Residential and Non-Residential compete for the same number of ERU’s?

Both Residential and Non-Residential will compete for the same number of ERUs.

27. Sub-Categories

1. 1.1 what is the definition of settlement area? (Town, County, Province)

Settlement Areas are recognized as urban areas and rural settlement areas within the municipality that are: built up areas where development is concentrated, and which have a mix of land uses; and lands which have been designated for development over the long term.

1. Why is it weighted with 5 points?

It is weighted with 2 points.

2. 1.2 Presumably Developments are within close proximity to service areas as they are seeking allocation. Can you provide an example of a project that would not score these points?

The key term in this sub-category is “existing servicing infrastructure”. Even in the Town’s urban settlement area there are properties that may require servicing extensions, or existing services are deemed to be inadequate.



3. 1.3 If the OP Density Targets change. Specifically. Towns OP Update is proposing such a change. Would these points be retroactively adjusted? As example, there exists OMB ordered developments with required Density Targets that will be inconsistent to the new Town OP. Would these developments be eligible for these points once the new OP is adopted?

The points would not be retroactively adjusted.

1. The OP Density requirement is binary (yes or no). Can the Town explain why three points exist when it ought be 0 or 1?

Scoring criteria is 0 or 1.

4. 1.4 What is the definition of mixed-use? How does a development score Mixed-Use points if the Official Plan for the project doesn't allow it?

Mixed-use contemplates development that include both commercial and residential uses. The low value assigned to the category reflects upon potential challenges in meeting the criteria.

5. 2.1 What water technologies are being referred to? Water, Waste water, Storm? Are these building technologies? How does staff determine the applicability of the technologies and the application of such?

Broadened category to be inclusive of wastewater and stormwater. This principally relates to both on-site and external works and will be reviewed by Town engineering staff to assess whether there will be significant benefits to the municipality ie. Reducing water loss and/or inflow and infiltration.

6. 2.2 What certification is being referred to? How can a score be addressed by a proponent when it is not know what is being scored against?

Examples of certification are listed in the Points Rationale category. However, this is not intended on being an exhaustive list that can be considered.

7. 2.3 Is this not a continuation of 2.2?

Related to the above but more specific to building envelope.

8. 2.4 Surrounding environment conservation -What does this mean? Is there a Town document or OP policy that can provide guidance? This is extremely broad and subjective.

Guidance on the objectives of this category can be found in Section A3.1 Sustainable Development and Section A3.2 Natural Environment of the Town's Official Plan.

9. Category 3 – Economic –

1. Has the Town done an analysis on Category 2 and the impacts on delivering Affordable Housing?

The Town has not completed this analysis.

2. Why is residential being penalized by not being able to achieve any points?

Overall, residential projects have a higher threshold than non-residential in accumulating points.

3. Can the Town please explain the conflict between being an Administrative Procedure under the Municipal Act and the need to go back to Council to determine points under categories 3.2 and 3.3?

Administration does not require Council direction in assigning points under these categories.

10. 4.1 Affordable Housing – What is meant by “Compliance Level”?

Compliance level speaks to scoring that is assigned on a scale opposed to being a simple yes/no. Recognizes that Affordable housing can be provided to varying degrees.

11. 4.2 Rental Housing – Is the Town speaking to purpose built rentals or properties that could be rented out?

Purpose-built rentals.

12. 4.4 Is this based on a Project wide basis or on a phase by phase basis?

Phase by phase basis.

13. 5.1 Why are development being penalized if there is no land use conflicts?

Intent is to encourage broader application of Community Design Guidelines. Minimizing land-use conflicts is a requirement during the planning process.

14. 5.3 Improvements to Infrastructure – Is this the infrastructure that this Policy is limiting access to? If a development enters into a front ending agreement is it exempt from this policy?

The execution of a front-ending agreements would be taken into consideration when scoring this category but does not provide an exemption.

15. 5.5 These items are already included in the Planning Process or specifically prohibited. How are these points determined?

28. Has the Town determined the staff resources needed to administer this policy?

Additional consulting resources have been identified to assist in the assessment of available allocation. Additional staff is not required currently to support implementation.

29. What is the proposed fee schedule for this policy?

There is no fee proposed at this time.

30. As requested by Council, we request a list of Draft Plan Approved Developments that would be subject to this policy including number of residential units.

Noted below and included in the follow-up staff report.

Abbott's Subdivision – 22 units

Blue Meadows (Arthur & Lousia Street) – 191 units

Alta Phase 2 – 57 units

Aquavil East Phase 2 – 198 units

Lora Bay Cottages 6 – 35 units

Georgian Woodlands Phase 4 Stage 3 – 38 units

Lora Bay Phase 4B – 58 units

Lora Greens – 38 units

Matesa – 17 units

Sapphire Ridge – 33 units

The Enclave at Georgian Bay Club – 22 units

Long Point Road Subdivision – 22 units