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Attention: Mayor Koetsier and Members of Council
Township of Georgian Bay
99 Lone Pine Road
Port Severn, Ontario L0K 1S0

Re: Proposed Amendments to the Township of Georgian Bay Official Plan, Section I.5.1 - Site Plan Control, Development Services Report 2022-96, and matters related to Information Report, Development Services 2022-98 H2 Holding Bylaw

I am writing in respect of the proposed amendments to Section I.5.1 of the Township's Official Plan which is for the stated purpose as follows:

> *"The proposed amendment relates to the list of supporting documentation required for a complete Site Plan application and clarifies that studies may be required at the Site Plan Control stage in addition to drawings and plans.*
>
> *The purpose of the proposed Amendments is to ensure clarity, consistency, and transparency in the planning application process. The Amendments would have the effect providing flexibility to allow Township staff to require studies reasonably necessary to support applications for Site Plan Approval as authorized pursuant so Section 41 (3.4) up the Planning Act."*

I am a planner by education with a career spanning forty plus years of experience managing low rise land development projects involving many types of Planning Act application including Site Plan Applications and have been involved in planning policy discussions as a Member of the Township's Planning Committee since 2013. While I would obviously support the need for supporting studies including environmental studies in assessing the suitability of a parcel of land for development, particularly in our Township where each property is unique and many ecologically sensitive, the Site Plan stage is not the stage at which such studies are undertaken. This proposed amendment is suggesting it is appropriate to use the scope of Section 41 of the Planning Act to do something which is not authorized under this Section of the Act. For reasons below, I would urge Council to not support these Amendments and instead, pass an Interim Control Bylaw to take a pause in order to focus its attention on the amending Zoning Bylaw 2014-75 and sections of the Official Plan as necessary, to ensure there is better clarity on the need for supporting studies in advance of lifting H2 Holds. This submission relates also to Information Report 2022-98 for which staff are seeking direction of Council.

- There is no the authority under Section 41 of the Planning Act even as amended by Bill 109, for the Township to require supporting studies at the Site Plan Control stage, particularly on environmental matters. This opinion is supported by various Decisions issued by the Tribunal, the most recent of which is Moreau vs Township of Georgian Bay, Case OLT 22-002211.

- Bill 23 now in effect, limits the use of Site Plan Control to applications greater than ten units. Since most applications the Township receives which would require the supporting studies contemplated are for individual properties, the proposed OPA would be rendered essentially ineffective for its intended purpose.

- Site Plan Control in some municipalities, is used to implement conditions imposed by Decisions of Council or Committee to ensure that recommendations considered and imposed in decision making (being typically those flowing from supporting reports or others conditions the approving body determines appropriate), are detailed by way of *plans, drawings, information and material* which are included in a Site Plan Agreement registered on title. It is not the stage at which to confirm through supporting studies, after zoning is in place to permit development, that the approval already granted was appropriate. There is no going back to reconsider a decision based on new information.

- Requiring supporting studies at the Site Plan stage is too late in the planning process to prove suitability for development **after** a Hold has been lifted and zoning in place to allow development to proceed. If studies were to be required at the Site Pan stage it is possible (as indicated by the professional planner giving evidence on behalf of the Township in Case PL 180 134 before the OMB), that results of those studies could limit or preclude development altogether. This could leave the Township at risk of litigation when there is an expectation an owner can proceed with zoning in place.

- Councils are mandated by Bill 109, to delegate authority for Site Plan Control to a designated staff person. As such, at the Site Plan stage there is no oversight by Council or the public to ever know whether the supporting studies needed for the particular circumstance are requested, done in accordance with a specified Terms of Reference, and that the recommendations made therein are implemented by way of details and drawings that form part of a Site Plan Agreement.

- Pushing the need for supporting studies to the back end or Site Plan stage, aside from that being principally out of step, would lengthen the overall planning process and is counter to the objectives of Bill 109. It would in fact increase the potential risk of the Township having to refund application fees, since the case of an application to lift an H2 Hold for instance, the clock would start ticking at the time the concurrent applications to lift the H2 Hold and amend the Zoning Bylaw are filed.

- To initiate any amendment that addresses the need for "supporting studies" it must be understood what those supporting studies are, in what circumstances they would be required, what the specified Terms of Reference are for those studies, and who reviews them. These important matters have not yet been appropriately addressed.

While not specifically stated in the Notice, it is understood that this Amendment is intended in part, as a tool to require supporting studies for larger projects which would be subject of a Site Plan Application. Typically, however, those larger projects would first require an amendment to the Official Plan or Zoning Bylaw, which is the appropriate stage at which these supporting studies are required in accordance with the Planning Act and the Township's existing Official Plan. Further, if developments that are the subject of an existing Site Plan Agreement may be looking to expand or change a land use

for instance, a rezoning would be required. The Township already has the authority under the Planning Act and Section I.2 of its Official Plan, to ask for any study it considers appropriate to complete its review as part of any rezoning application.

It is also understood that this Amendment to the Official Plan is intended to address a shortfall in the current process by which the Township has been addressing the lifting of H2 Hold Provisions of late. Based on the summary points provided above, and as explained in more detail below and in the Supplementary Information Items 6.1 and 6.2, I believe that the Township's efforts should be directed to amendments to the Zoning Bylaw that would require supporting studies much earlier in the planning process prior to the lifting of the H2 Hold, at a stage in the planning process where there is complete transparency and oversight. In fact, in August of this year, Planning Committee discussed the current inadequacies of the Township's zoning bylaw in this regard, and J L Richards presented two Options for consideration. Option 1 - update the H2 framework in the zoning bylaw, or Option 2 - refer this to a comprehensive review. Amending the Official Plan to require supporting studies at the Site was not discussed or recommended as an option for consideration. In fact, the Staff Report to the Committee stated that *"the only means of addressing the need for environmental study requirements for vacant patent lot islands with development permissions at the zoning stage, is through a review of and amendments to the current zoning for these types of properties."* After careful consideration of the issues, The Planning Committee ultimately adopted a Resolution recommending to Council that it pass an Interim Control Bylaw.

As will be demonstrated in the Supplemental Information Item 5 attached, the Township's process of lifting H2 Hold has been inconsistent, and in my view as a planner, has been flawed for some time. This has been a concern dating back to January 2018 when an application to lift an H2 Hold was approved despite the Township having received fourteen letters of objection indicating why the H2 Hold should not be lifted. That application was appealed to the OMB because of numerous deficiencies in the supporting studies. The appeal was allowed in part, and the zoning bylaw substantially amended by the Tribunal proving the appeal had merit. That appeal brought to the surface a number of issues with the zoning bylaw and the Official dealing with matters that should be addressed in supporting studies, which have been on a priority list of Council's and Planning Committee's for some time. Yet, with few applications to lift H2 Hold Provisions received, there seemed little urgency to address this shortfall until after the OLT Decision on the Moreau Appeal was released.

This year alone, four applications to lift H2 Holds have been approved. Gravely concerning, is that for reason of a different interpretation of the Township's Zoning Bylaw Section 18 than there had been with the H2 Hold applications processed between 2017-2021, all four applications were approved with their H2 Hold Provision lifted and the properties rezoned to permit development **without** the need for supporting studies. Another six applications were received in the last few weeks, and as word is out that the planning framework addressing the need for supporting studies and/or for the lifting of H2 Hold Provisions may change, it is inevitable that more will be received,

Today, the full extent of the lots with an H2 Hold Provision has not yet been fully determined or mapped, something we understand staff have been working on but which is only partially addressed in Report 2022-98. There is also confusion on what vacant lots should or should not have an H2 Hold, and why this was introduced in Zoning Bylaw 2014-75 in the first place which is discussed in the Supplemental Information Item 6.1. We do know that there are approximately 1,200 vacant properties including islands, lots on subdivided island and lots on mainland waterfront, all of which are part of Georgian Bay's sensitive coastal shoreline. Many of those are undersized to today's standards, and

even to standards that were in place when the first zoning bylaw was passed in 1981. Therefore, identifying which of those vacant lots have or should have an H2 Hold and having a proper process to lift an H2 Hold Provision, are matters that urgently need to be addressed. Determining suitability for development of a vacant, but most particularly an undersized vacant lot created without a planning process, deserves careful consideration through supporting studies done in the very early stage of the process of lifting H2 Holds. Matters to be assessed could include;

- Availability of adequate water depth to access a waterfront water-access only lot in all water level condition for the type of vessel needed to construct a cottage and maintain a septic system.

- Whether a lot has a suitable location for a septic system, taking into consideration topography, depth of overburden, drainage direction and flood elevation, all of which go well beyond simply defining an envelope established by zoning bylaw setbacks as suggested in Staff Report 2022-98.

- Assessing whether there would be any impact on critical fish habitat of habitat for Species At Risk.

All of the above should be completed and peer reviewed **before** an H2 Hold Provision is lifted and a property rezoned to permit development. Furthermore, this process deserves to be done up front with transparency, not at a back end of the process at the Site Plan stage when there is no public oversight.

There is no better time than now for Council to take the appropriate action and next step by passing an Interim Control Bylaw. This would allow time to amend Zoning Bylaw Section 18 *Holding Provisions, specifically Table 18.1,* which is currently lacking the appropriate conditions to lift and H2 Hold, to bring it into alignment with the text of Section 18.1 and the intent of the Official Plan. Contrary to the Township's current interpretation of Section 18 of Bylaw 2014-75, Table 18.1 is **not** a standalone regulation. Section 18.1 does in fact set out the requirements to lift a Hold Provision in the text itself, and, by virtue of it referencing the policies of the Section of Official Plan addressing Holding Bylaws in Section I.3.2. The two planning documents must be read hand in hand for interpretation. Worthey of bringing to Council's attention, is Section 18.1- *Holding Provisions* of the Zoning Bylaw which states: Note underlined and bold emphasis added.

> *"Notwithstanding any other provisions in this Bylaw, where a zone symbol is followed by the letter "H" and a number (for example M2-(H1) or R1-(H2)), no person shall use the land to which the letter (H) applies for any use other than the use which existed on the date this Bylaw was passed, nor construct any new buildings or structures until the* ***(H) is removed in accordance with the policies of the Official Plan*** *and the Planning Act, as amended.*
>
> *Council may pass a bylaw pursuant to Section 36 of the Planning Act to remove the (H) symbol thereby placing the lands in the zone indicated by the zone symbol, when all of the applicable requirements have been met.*

In addition, Official Plan Section I.3.2 Holding *Bylaws* and its subsections state the following:

> "I.3.2.3 "*The Township may consider the development of land* ***premature*** *pending the satisfaction of requirements and or conditions of development which may include but shall not be limited to the following: subsection* c), "P*rovision of a Site Evaluation Report, Impact Assessment or other Technical Report":*

I.3.2.4 – "Prior to the removal of the "H" symbol the following may be required:" Subsection c) *A Site Evaluation, Impact Assessment or Technical Report **will** be completed and implemented to the satisfaction of the Township and any applicable authority."* **Note:** The use of the highlighted word "*will"* in this policy is mandatory, and it is not at the discretion of the Township to delay those supporting studies to the Site Plan stage after an H2 Hold has been lifted.

An interim Control Bylaw would also allow time to establish a much-needed Guidance Manual on what studies are required and when, what zoning or on-site circumstances observed while conducting a site visit, warrant a particular study. While Information Report 2022-95 Complete Application and Pre consultation Bylaw discusses a comprehensive list of potential studies for a broad range of applications, it does not narrow down the scope of which might be required to support the lifting of an H2 Hold Provision. I do note also that there is one significant report missing from the Pre-application Consultation Checklist Form, which would be a report that addresses water depth in low water level conditions to ensure there is appropriate access to permit a site to be developed. As well, time is needed to determine specifications for Terms of Reference for supporting studies which should include consultation with MOEE and MNRF. All of this is needed to make sure that a protocol of practice of lifting H2 Holds is brought in line not only with Section I.3.2 quoted above, but importantly, Section I.2 of the Official Plan which outlines matters to be assessed in Impact Assessments, Site Evaluation Reports and Other Technical Reports, itself which may need some refinements for clarity purposes.

With the recent OLT Decisions on the Moreau Appeal and the Request for Review, with Bill 23 in effect, the many other reasons documented, the recommendation to approve the amendment to OP Section I.5.1, should be denied, particularly with most recent and positive shift to a recommendation to update the zoning framework surrounding lifting of H2 Holds discussed in Report 2022-98. However, this will take and involve a public process that could span an number of months. The reasons for passing an Interim Control Bylaw have become increasingly more evident than even in August of this year, when the Township's Planning Committee passed a Resolution making this recommendation to Council. The Interim Control Bylaw as an urgent, appropriate, and much needed next step. No Notice or Hearing is required prior to the passing of an Interim Control as this would in fact defeats its purpose in closing the flood gates before even more applications to lift an H2 Hold are received.

For more detailed information on the above discussion points and an elaboration on other matters that I feel would need attention during a period in which an Interim Control Bylaw would be in place, refer to the Supplemental Information attached to this letter.

Thank you for your consideration,

Beth Halpenny

Attachment - Supplemental Information

1. **Does the Township have the jurisdiction to ask for supporting studies at the Site Plan Stage? -** The Township does not have the authority to require supporting studies under Section 41 of the Planning Act that relate to environmental matters for consideration. This matter has been addressed in a number of appeals before the Tribunal, most recently in the Moreau Appeal. Even as amended by Bill 109, the Township only has the authority to request *plans and drawings*, *material and information* which would typically be intended to implement Conditions of Approval granted by either Council or Committee of Adjustment, if conditions are so imposed.

2. **Implications of Delegated Authority on Site Plan Control to a Designated Person –** Importantly, I note that Development Services Report 2022-97 does not reflect the changes to Site Plan Control that were made through Bill 23 which received Royal Ascent on November 28th 2022, and that a separate report it will be brought forward in 2023 to address Bill 23. Yet, in the face of this significant change to legislation which occurred subsequent to when this OPA was initiated, the recommendation is still to require studies at the site plan stage which could continue to apply to the lifting of H2 Holds until an amending Bylaw is in place, if that is the route Council should choose. All l matters to do with Site Plan Control will remain solely between staff and the applicant with no oversight by Council. Neither Council nor the public would know whether all appropriate supporting studies (environmental or otherwise) are done to assess suitability for development, done in accordance with specified Terms of Reference that are complete and appropriate for the circumstances, and that the recommendations from such studies are implemented. Site Plan Control is intended primarily as an implementation tool. For the Township to propose an OPA that would facilitate approvals outside the public eye and without Council oversight, is not the type of transparent planning process that the wording of the Notice for this proposed OPA conveys, nor which I think Council would support.

3. **Impacts of Bill 23** – This aspect is not mentioned at all in Development Services Report 2022-96, but is extremely relevant new information. Bill 23 removes the ability of the Township to use Site Plan Control on applications less than ten units. This renders the proposed OPA ineffective in achieving what the Township hoped to accomplish for the majority of situations, since applications on individual properties represent the majority of what the Township receives. As well, Site Plan Agreements are no longer available as a tool to implement decisions of Council or Committee of Adjustment

Bill 23 had proposed to remove the right of an individual Third Party to appeal an OP, OPA zoning bylaw or minor variance application, which raised the hair of many in all sectors. While the province pulled back on appeals to OPs, OPAs and zoning bylaws due to public outcry, appeal rights are no longer available to a Third Party on decisions of Committee of Adjustment for severances and minor variances. This means that for the public to provide meaningful input to approving bodies, and for those approving bodies to make well informed decisions, results of supporting studies and their recommendations would need to be made known up front much earlier early on in the pre-consultation process, certainly well in advance of the Site Plan stage. The removal of this right of appeal on any application, combined with a proposal to leave approvals to staff at the Site Plan stage on what are key areas of interest to residents in this municipality, in my view undermines the very aspect of what is to be a democratic and transparent planning process. There is no doubt that Bill 23 has put all municipalities in a state of quandary, as they try to navigate with some degree of uncertainty what impact these changes will have in terms of planning processes going forward.

4. **What would this OPA facilitate if approved? -** As already mentioned, we are aware that one of the reasons that this amendment is being proposed is as a stop gap measure to enable the Township to ask for supporting at the back end or site plan stage for a handful of applications which have been approved. This is because the Township, unfortunately, has recently taken the position that Section 18 of the Zoning Bylaw imposes **only one** qualifying condition to lift an H2 Hold Provision, that being, a survey identifying the lot's frontage and area above the high-water mark. Accordingly, H2 Hold Provisions were lifted on undersized vacant lots of record and properties rezoned to permit development **without** supporting studies being done in advance.

Of note, is that in these cases, the Township did not incorporate provisions in the zoning amendment to require supporting studies at the site plan stage, as the only condition to lifting the H2 Hold was prepare a survey, so the ability to even use the OPA in the way it was intended, is questionable. The need for just a survey though, begs the question of what the purpose of a survey is other than to legalize the undersized frontage and area of a lot, when there is no threshold or benchmark against which the survey results are compared. Without any threshold, this means that any vacant lot no matter how undersized it may be relative to current Zoning Bylaw regulation of minimum lot area and frontage, would have its H2 Hold Provision lifted and rezoned **to allow development to proceed with <u>no prior assessment</u> of its suitability for development**. Something is missing.

Today's interpretation of Bylaw 2014-75 is extremely narrow in its scope, in contract to past interpretations of Table 18.1. It is being viewed as a standalone regulation out of context with other Provisions in Section 18 that address the purpose of a Hold Provision, and the companion policies to which this Section of the Bylaw refers to in the Official Plan, specifically Sections *I.3.2 Holding Bylaws* s discussed in the body of my letter. In Cognashene, that would also include Section *F.5.3..10.8.3 - Standards for Development of Existing Vacant Lots on the Mainland and Subdivided Islands*, which appears not to have been considered or mentioned in staff reports on recent applications within this community. It states:

a) *Existing vacant lots of record created after October 1981 can be developed.*
b) *Existing vacant lots of record on the mainland or subdivided islands created prior tonight November 1981 which have a minimum lot area of 1 hectare and a minimum lot frontage of 120 metres, can be developed.*
c) *Existing vacant lots of record created prior to November 1981 that are below 1 hectare in area or 120 meters in frontage but greater than .4 hectares in area and 60 metres of frontage may be considered for development subject to the processing of a zoning bylaw amendment or minor variance to the established site-specific regulations. A Site Evaluation Report will be required confirming the suitability of the lot for development*

Again, both the Zoning Bylaw and the Official Plan are to be read hand in hand. Notable, is that no other Community Waterfront Policies contains similar policies governing development of existing vacant lots.

5. **Township's process of lifting H2 Hold between 2017-2012 was different -**It is worth bringing to Council's attention that prior to 2022 (between 2017-2021), the Township <u>did in fact</u> require supporting Site Evaluation and Species At Risk Reports as well as Fish Habitat Assessments, in circumstances the existing policy framework where Planning staff on its own or in consultation with MNRF, felt such studies were warranted. Contrary to how these applications have recently been handled, the supporting studies then were required **upfront,** and accompanied the concurrent Applications to lift the H2 Hold Provision and to rezone the property to recognize the undersized lot area and/or frontage

and were reviewed and assessed by staff **before** taking a report to Council. Even though requiring the supporting studies in advance was in-step with what is common sense, and which I fully support, there was widespread concern even then, that the Township had lifted the H2 Holding Provisions prematurely for one or more of the following reasons:

- No site visit was undertaken by staff to assess what supporting studies would be necessary.

- The Site Evaluation Study (SER) study did not address **all** aspects as required by the OP.

- No studies were completed to confirm if the water access only lot was accessible in low water level conditions for a barge of the size necessary to construct a cottage, and to transport a septic pump out truck that would be necessary to maintain a septic system.

- There was no study to determine if the lot had suitable topography, overburden, drainage, and an appropriate location to accommodate a septic system which would ensure all components of a septic system could be sited above the flood elevation and set back a minimum of 30 metres from the high-water mark to protect lake water quality.

- The Species At Risk Report (SARR) did not assess for **all** species, or vegetation, and/or was not conducted at a seasonally appropriate time of the year. For example, you cannot assess for potential habitat or presence of Endangered, Threatened or Species At Risk when they are hibernating; or vegetation after die-back has occurred.

- The SARR did not adequately demonstrate there was no risk to habitat Species at Risk; or

- There was no Fish Habitat Assessment even though portions of shoreline were zoned Type-One Critical Fish Habitat.

Putting the question of the Township's authority under Section 41 of the Planning Act and the implications of Bill 23 aside for the moment, what an amendment to the Official Plan Section I.5.1 would facilitate if approved without an amendment to Table 18.1 of the Zoning Bylaw, is a continuance of a past practice which has been to lift an H2 Hold and rezone properties to permit developed **without all of the above tests above having been satisfied up front before the property is rezoned to permit the development.** Lifting the H2 Hold without proving a lot is suitable for development, is simply premature. This position has been upheld in two Decisions of Appeals to the Tribunal involving applications to lift an H2 Hold.

Furthermore, once the properly is rezoned to recognize the undersized frontage and lot area, as long as the proposal to build meets all requirements in the zoning bylaw and there is no condition in the implementing bylaw requiring supporting studies at a later stage to prove a lot can be developed, the Chief Building Official is compelled to issue the permit. There is nothing in the Building Code Act that requires an applicant to apply for Site Plan Approval prior to the issuance of a building permit, which means development can proceed. This position has also been upheld in the two Appeals before the Tribunal.

Worthey of bringing to Council's attention also, is that the Township's Official Plan, Cognashene's Waterfront Policies and the Township's Blasting Bylaw prohibits blasting and dredging for new lot creation. However, these same planning instruments do allow a property owner to seek approval of

Township Council to blast or dredge if access becomes restricted in low water level conditions, **if and only if,** the lot is already developed. Prematurely lifting the H2 Provision without thoroughly assessing whether low water conditions would constrain or altogether cut off access for the types of vessels needed to construct and maintain a cottage and septic system, means that blasting and/or dredging could become a necessity after a property is developed. These activities cause irreparable harm to critical fish habitat or habitat for Species At Risk.

6**. Next Steps:**

6.1 **Focus on amending Zoning Bylaw 2014-75 -** There is an evident need to ensure the Zoning Bylaw Table 18.1 is consistent with the text in Section 18.1 and with the intent of the Official Plan, and to make supporting studies a "condition" to lift an H2 Hold in this Table. As such, I applaud the recommendation in Development Services 2022-98 H2 to update the zoning framework to incorporate a requirement for supporting studies at this stage, and not at the Site Plan stage. However, there is much more needed than just than amendment to that Table itself. Many other matters need clarification, which is why an ICB Bylaw makes sense as well.

There continues to be confusion on the lots that are subject of an H2 Hold Provision. For instance, Table 18.1 says this applies to" *all vacant patent lots on subdivided island not zoned NSI and NSC."* What does a "patent vacant lot" mean versus a "vacant lot," when this is not a term defined in the zoning bylaw?

I was a Member of Planning Committee when the H2 Hold Provision was first introduced by MHBC the Planning Consultant for the Township. MHBC's rationale for the H2 Hold as I recall, was that vacant lots that had been created prior to 1981 when there were no land use regulations or environmental policies in place, would not have gone through a proper Planning Act Application process by way of Plan Subdivision or Consent to determine suitability for development, and therefore should. This thinking at the time, aligned with Cognashene's Policy Section F.5.10.8.3 as mentioned above. I do question whether the use of the term "*patent lot"* was used interchangeably to mean historical lots of record predating 1981, but since this term is not defined, it is unclear. Today, the Township is interpreting that the H2 Provision captures <u>all</u> vacant Shoreline Residential lots on subdivided islands (which could applied to an oversized lot), notwithstanding that a lot may have been created by plan of subdivision or consent and would have been evaluated against the regulatory and policy framework that existed that time. Again,I point out, that Cognashene had very specific policies related to this that were established at the time of preparing its own Community Plan, and which are embodied in Section *F.5.3..10.8.3 - Standards for Development of Existing Vacant Lots on the Mainland and Subdivided Islands* which no other community had addressed. Is there then a conflict between the zoning bylaw and the intent to this OP Policy that needs to be considered as well. Clearly there is confusion that deserves time to work through.

This same H2 Hold Provision was to apply to waterfront lots on the mainland as well, if they were historical lots of record that are undersized and created prior to 1981. Coastal shoreline mainland lots of record exhibit the same sensitive characteristics and important wetland features if not more so, than the undersized vacant islands and subdivided lots of record on islands throughout Georgian Bay. For clarity and consistency purposes, vacant historical waterfront lots of record should be addressed in the same fashion by way of amendment to Table 18.1.

6.2 **Amend Schedule "A of the Zoning Bylaw -** I believe it should be clear by way of an amending Schedule "A", the lots to which an H2 Hold Provision was meant to apply, Few properties today have

an H2 on this Schedule, however, most do not, and are only known to have an H2 Hold provision based on a description in Table 18.1. This table lacks the clarity today to know whether an H2 Hold exists, and therefore when supporting studies would be required.

In addition, it needs to be determined what defines if an undersized historic lot of record is "*vacant."* For instance, if there is an illegal shed or dock installed without a permit, the lot should be considered vacant as it would otherwise be vacant. Failing to take this latter approach may encourage some owners to install structures illegally in order to argue that the H2 Hold should never have been applied or has been wrongly applied as a way to circumvent the need to undertake the supporting studies. I believe that it would be appropriate to add a definition of "*vacant lot*" as a safeguard against this.

6.3 **Guidance Manual needed on Complete Applications –** While Report 2022-95 goes a long way to establishing a protocol for Pre- consultation and a Compete application which was much needed a helpful, it is evident that much work is still needed to properly address matters by way of an amendment to the Zoning Bylaw Table 18.1, so it is clear to staff going forward, when and what supporting studies would be required to support a request to lift an H2 Hold Provision. What is needed is a proper Guidance Manual to what comprises a Complete Application in what situation the need for a particular type of report is triggered. This is particularly important in terms of Bill 109 and potential financial risks to the Township if applications are not processed within the designated timeframes in the Planning Act. Pushing the need for supporting studies to the Site Plan stage, aside from that being principally out of step, lengthens the overall planning process and is counter to the objectives the province had hoped to achieve with Bill 109.

6.4 **Define Terms of Reference for Supporting Studies -** Decisions issued on appeals before the OMB or OLT have told us that the Official Plan is unclear in some areas as to the nature of information to be assessed in studies such as the *Site Evaluation Report* or SER. For instance, Subsection I.2.3.1 c) speaks to evaluating the *"Ability of a lot to accommodate and sustain development, including access, drainage servicing".* In a water-access-only situation, particularly in Georgian Bay where water levels can fluctuate six feet with extremes expected to worsen, access must be available no matter how low the water level via a navigable waterway. A proper definition is needed for "navigable" and "a navigable waterway" in a context relevant to these fluctuating water levels, and navigable by the type, size and draft of vessels needed to construct a cottage and maintain its on-site servicing system.

Without a definition either in the OPA of zoning bylaw, a Township planner in one appeal before the Tribunal turned to a Transport Canada definition, and provided a professional planning opinion that as long as there was enough water depth to allow a rowboat or kayak to gain access, the water was navigable. This is simply not appropriate for a community when so many properties have water access only. During the period when an Interim Control Bylaw would be in place, details such as these could be addressed appropriately in the zoning bylaw and in a Guidance Manuals for establishing suitable specifications and Terms of Reference for say, studies to confirm availability of access which would include assessing the depth I the lowest of water level conditions.

6.5 **Timing is good for passing an Interim Control Bylaw** .

There is no better time to pass an Interim Control Bylaw, particularly when the season doesn't allow for site visits or the gathering of field verified information on such things shoreline characteristics and water depth, species surveys, slope, drainage direction, depth of any overburden etc., to determine suitability for a septic system, all of which are essential to prove a lot can be developed.

The reason for an Interim Control Bylaw could not be more evident than it is today.

Thank you for your consideration of this submission.