

MEMORANDUM OF UNDERSTANDING

Between

THE ATTORNEY GENERAL OF ONTARIO
(hereinafter called the “Minister”)

and

THE CHAIR OF THE ONTARIO LAND TRIBUNAL
(hereinafter called the “Chair”)

The parties to this Memorandum of Understanding agree to the following:

1. PURPOSE OF MEMORANDUM OF UNDERSTANDING

- 1.1 The purpose of this Memorandum of Understanding (MOU) is to set out the accountability relationships between the Minister and the Chair on behalf of the Ontario Land Tribunal. Further, it sets out the expectations for information exchange and working relationships that support the accountability and governance requirements within a framework that recognizes the independence of the Ontario Land Tribunal.
- 1.2 Specifically, this MOU establishes:
 - a. the accountability and governance framework between the Ministry and the Ontario Land Tribunal;
 - b. the roles and responsibilities of the Minister, the Chair, the Deputy Minister and the Executive Director of the Ontario Land Tribunal;
 - c. the expectations for the operational, administrative, financial, auditing and reporting arrangements between the Ontario Land Tribunal and the Ministry.
- 1.3 The Ontario Land Tribunal is responsible for its statutory mandate, for adjudicative decisions, resolution of disputes and case management within its statutory mandate, and for the Ontario Land Tribunal’s ongoing administration. The Minister is accountable to the Legislature for the effective operation of the Ontario Land Tribunal. This MOU sets out mechanisms to ensure that the Minister and the Ontario Land Tribunal each have the information they need to fulfill their responsibilities and that the Ontario Land Tribunal fulfills its assigned mandate in an efficient, effective and responsible manner.
- 1.4 A signed copy of the MOU is to be provided to Treasury Board Secretariat.
- 1.5 The MOU should be read together with the legislation governing the Ontario Land

Tribunal. The MOU does not supersede the provisions of any legislation governing the Ontario Land Tribunal, nor is it intended to interfere with the independence of the Ontario Land Tribunal or of its Appointees in rendering adjudicative decisions or in resolving disputes, consistent with the legislation, common law and principles of natural justice. The MOU does not affect, modify, limit or interfere with any of the responsibilities of the Minister or the Ontario Land Tribunal or its Appointees as established by law. In the event of a conflict between the MOU and any act or regulation, the act or regulation prevails.

2. DEFINITIONS

In this MOU:

- a. **“AAD”** means the Treasury Board/Management Board of Cabinet Agencies & Appointments Directive, as amended from time to time;
- b. **“Accountability and Governance Documents”** mean the documents, frameworks and reports required under the ATAGAA and the AAD;
- c. **“ADAG”** means the Assistant Deputy Attorney General of Policy Division, the division responsible for agencies and tribunals within the Ministry of the Attorney General;
- d. **“Alternate Chair”** means the Vice Chair appointed within the Ontario Land Tribunal as Alternate Chair;
- e. **“Annual Report”** means the annual report described under article 9.2 of this MOU;
- f. **“AODA”** means the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11;
- g. **“Applicable Government Directives”** means the government directives, policies, standards and guidelines that apply to the Ontario Land Tribunal, as may be amended or replaced from time to time, which are listed in Schedule 3 to this MOU;
- h. **“Appointee”** means the Chair or Alternate Chair or Vice-Chair or members of the Ontario Land Tribunal, appointed by the Lieutenant Governor in Council, but does not mean persons employed or appointed by the Ontario Land Tribunal pursuant to Part III of the *Public Service of Ontario Act, 2006*, c. 35, Sch. A;
- i. **“ATAGAA”** means the *Adjudicative Tribunals Accountability Governance and Appointments Act, 2009*, S.O. 2009, c. 13, sch. 5;
- j. **“Auditor General”** means the Auditor appointed under section 2 of the *Auditor General Act*, R.S.O. 1990, c. A.35;
- k. **“Business Plan”** means the business plan referred to in article 9.1 of this MOU;

- l. **“Deputy Minister”** means the Deputy Attorney General or his/her designate (i.e. the ADAG of the division responsible for agencies and tribunals within the Ministry of the Attorney General);
- m. **“Chair”** means the Chair of the Ontario Land Tribunal;
- n. **“Executive Director”** means the Executive Director of the Ontario Land Tribunal;
- o. **“FIPPA”** means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31;
- p. **“Fiscal Year”** means the period from April 1 to March 31 of the following year;
- q. **“Government”** means the Government of Ontario;
- r. **“Management Principles”** mean accepted business and financial standards and procedures, and accepted standards of ethical behaviour, accountability, excellence in management, and quality service, and includes an adherence to the policies, procedures, guidelines and applicable government directives;
- s. **“MBC”** means Management Board of Cabinet;
- t. **“Member”** means an Appointee of the Ontario Land Tribunal by the Lieutenant Governor in Council, who is not a Vice-Chair;
- u. **“Minister”** means the Attorney General of Ontario;
- v. **“Ministry”** means the Ministry of the Attorney General;
- w. **“MOF”** means the Ministry of Finance;
- x. **“MOU”** means this Memorandum of Understanding signed by the Minister and the Chair, including its Schedules and any written amendments;
- y. **“Performance Measures”** means measures established by the Ontario Land Tribunal in order to ensure its accountability in serving tribunal users and fulfilling its mandate;
- z. **“PSOA”** means the *Public Service of Ontario Act, 2006*, S.O. 2006, c. 35, Schedule A;
- aa. **“Schedules”** means the schedules attached to this MOU;
- bb. **“TB”** means Treasury Board;
- cc. **“Vice-Chairs”** means the Vice-Chairs appointed to the Ontario Land Tribunal.

3. THE ONTARIO LAND TRIBUNAL’S LEGISLATIVE AUTHORITY AND MANDATE

- 3.1. The Ontario Land Tribunal is an adjudicative tribunal designated under Ontario Regulation 126/10 under the ATAGAA. It holds hearings and other proceedings to resolve matters referred to it. While the Ontario Land Tribunal reports to the Minister for administrative purposes, the Ontario Land Tribunal is independent in all matters affecting its adjudication and resolution of disputes, in the assessment and management of Appointees, and in its relationships, dealings and communications with tribunal users and persons affected by its services.
- 3.2. The specific constituting legislative authority for the Ontario Land Tribunal is the *Ontario Land Tribunal Act, 2020*. The Ontario Land Tribunal's mandate is derived from approximately 60 statutes. Key functions of the Ontario Land Tribunal include:
- Resolving applications and appeals in relation to a range of land use planning, heritage conservation and municipal governance matters, including official plans, zoning by-laws, subdivision plans, consents and minor variances, development charges, electoral ward boundaries, municipal finances, aggregate resources and other issues assigned by numerous Ontario statutes, including the *Planning Act*.
 - Resolving municipal appeals of conservation authority apportionment of project and capital costs under the *Conservation Authorities Act*. It also resolves appeals of permit decisions made by conservation authorities in relation to proposed development or activities in hazardous lands (e.g. flood plains) and municipal appeals of the amount of a conservation authority municipal administration and maintenance levy under the *Conservation Authorities Act*.
 - Resolving disputes, through mediations and/or hearings, related to the amount of compensation for land expropriations under the *Expropriations Act* and claims for compensation by road authorities under the *Public Service Works on Highways Act*. It also conducts hearings of necessity under the *Expropriations Act* to determine if an intended property expropriation is fair, sound and reasonably necessary in achievement of the objectives of the expropriating authority.
 - Resolving disputes related to the issuance, alteration, revocation, cancellation or closure of orders, approvals, licences, permits, registrations or accounts under numerous environmental statutes, such as the *Environmental Protection Act*, *Ontario Water Resources Act*, *Clean Water Act, 2006* and *Nutrient Management Act, 2002*.
 - Determining, under the *Environmental Bill of Rights, 2003*, whether a person may appeal (i.e., determining whether to grant leave to appeal) certain types of decisions under the *Environmental Protection Act*, *Ontario Water Resources Act*, *Pesticides Act* and *Safe Drinking Water Act, 2002*. It also assesses the merits of undertakings that will have an environmental impact under the *Environmental Assessment Act*, *Environmental Protection Act* and *Ontario Water Resources Act*.

- Reviewing and providing non-binding recommendations to the Minister of Municipal Affairs and Housing and the Niagara Escarpment Commission on proposed amendments to the Oak Ridges Moraine Conservation Plan, Greenbelt Plan and Niagara Escarpment Plan or zoning by-law amendments under those plans.
- Resolving, under the *Mining Act*, disputes and appeals related to mining and mining lands, including appeals of decisions of Provincial Mining Recorders and the Director of Mine Rehabilitation and applications for vesting orders (which give ownership, control or title to a property) in the event of the death or non-payment of taxes of a recorded title holder.
- Acting in the place of the Assessment Review Board (another MAG tribunal) under the *Assessment Act*, to determine whether land should be classified for assessment purposes as managed forests or conservation land.
- Making non-binding recommendations to the Minister of Natural Resources and Forestry under the *Aggregate Resources Act* and *Lakes and Rivers Improvement Act*, regarding the Minister's refusal, revocation or variation of aggregate permits, refusal to approve dam construction or orders that would incur costs.
- Resolving applications under the *Oil, Gas and Salt Resources Act* for pooling and unitization orders and making non-binding recommendations to the Minister of Natural Resources and Forestry regarding the Minister's refusal to consent to grant or transfer well licences or permits, or regarding the revocation of, or imposition of conditions on, well licences or permits.
- Reviewing, under the *Ontario Heritage Act*, municipal or ministerial decisions related to the designation, amendment or repeal of designation, and alteration of heritage properties and the issuance, renewal and repeal of archaeological licences and making non-binding recommendations for consideration by the municipality or the Minister of Heritage, Sport, Tourism and Culture Industries, who then makes a final decision on the matter. It also makes binding decisions under the *Ontario Heritage Act* related to municipal heritage matters.

4. STATUS AND CLASSIFICATION

- 4.1. The Ontario Land Tribunal is designated as an adjudicative tribunal pursuant to Ontario Regulation 126/10 under the ATAGAA and a non-board governed provincial agency under the AAD.
- 4.2. The Ontario Land Tribunal is prescribed as a "public body" and a "commission public body" in accordance with Ontario Regulation 146/10 under the PSOA. It is not organizationally part of the Ministry but is considered to be within government.
- 4.3. The Ontario Land Tribunal is not a Crown Agency within the meaning of the *Crown Agency Act*, R.S.O. 1990, c. C.48.

5. GUIDING PRINCIPLES

The parties agree that they will adhere to the following principles in their relationship:

- a. The Minister recognizes that the Ontario Land Tribunal exercises powers and performs duties in accordance with its legal mandate. The Ontario Land Tribunal is independent of the Minister and of government in all matters affecting adjudication and the resolution of disputes that come before it, in the assessment and management of adjudicators and in its relationships, dealings and communications with tribunal users and persons affected by its services. The Minister further recognizes the need for the adjudicative decisions of the Ontario Land Tribunal to be made, and be seen by the public to be made, independently and impartially.
- b. The Minister acknowledges that the Ontario Land Tribunal plays an important and meaningful role in the delivery, interpretation and application of government programs and policies, and should be consulted, as the Minister in his or her discretion determines necessary, on the development or proposed amendments to those policies and programs where they may affect the mandate of the Ontario Land Tribunal, as well as with respect to proposed changes to the mandate of the Ontario Land Tribunal.
- c. The Chair acknowledges that he or she is accountable, through the Minister, to the Legislative Assembly in fulfilling the mandate of the Ontario Land Tribunal. The Chair will ensure that the Alternate Chair, Vice-Chairs, Members and the Executive Director are informed of this accountability obligation.
- d. The Ontario Land Tribunal will conduct itself according to the Accountability and Governance Documents developed under the ATAGAA, the AAD and the Management Principles of the Government. These principles include a commitment to ethical behaviour; prudent, effective and lawful use of public resources; fairness; high quality service to the public; openness and transparency to the extent allowed under the law; and embracing diversity, inclusion and anti-racism principles.
- e. The Ontario Land Tribunal and the Ministry agree to avoid duplication of services wherever possible, subject to ensuring the Ontario Land Tribunal's independence.
- f. The Minister and the Chair are committed to strong agencies that are empowered to fulfill their statutory mandates efficiently and effectively. The Ontario Land Tribunal and the Ministry agree to a mutual commitment to shared public service goals and agree to co-operation and co-ordination in achieving those goals and in facilitating the efficient administration of the Ontario Land Tribunal and fulfillment of its statutory responsibilities, provided that the mandate and adjudicative independence of the Ontario Land Tribunal are fully respected.
- g. The Minister and the Chair recognize the importance of providing access to administrative justice for all Ontarians including Francophone Ontarians and to providing French language services in accordance with the *French Language*

Services Act, R.S.O. 1990, c. F.32. The Minister and the Chair are committed to the provision of quality services in French at the Ontario Land Tribunal which meets the needs of the Francophone Ontarians and to ensuring that French language services are easily accessible, publicized and of equivalent quality to services offered in English.

- h. The Ministry agrees to support the Ontario Land Tribunal in achieving its goals of a diverse and inclusive organization and service provider.
- i. The Ontario Land Tribunal and the Ministry will work together in a mutually respectful manner.

6. ACCOUNTABILITY RELATIONSHIPS

6.1 The Minister

The Minister is accountable:

- a. To Cabinet and the Legislative Assembly for Tribunal Ontario's fulfilment of its mandate, its compliance with the AODA, the ATAGAA and government policies and, for these purposes, for reporting and responding to the Legislative Assembly on the affairs of the Ontario Land Tribunal.
- b. For reporting and responding to TB/MBC on the performance of the Ontario Land Tribunal and its compliance with applicable government directives and operational policies.
- c. To Cabinet for the performance of the Ontario Land Tribunal and its compliance with the government's operational policies and broad policy directions.

6.2 The Chair

The Chair is accountable:

- a. To the Minister for the performance of the Ontario Land Tribunal in fulfilling its mandate and for carrying out the roles and responsibilities assigned to the Chair under the constituting statute of the Ontario Land Tribunal, the PSOA, the ATAGAA, this MOU, and applicable TB/MBC, MOF and Applicable Government Directives and delegation documents.
- b. For reporting to the Minister, as requested, on the activities of the Ontario Land Tribunal.
- c. For ensuring timely communications with the Minister or Deputy Minister (or his or her delegate) regarding any issue that affects, or can reasonably be expected to affect, the Minister's responsibilities.

6.3 Deputy Minister

- a. The Deputy Minister is accountable to the Secretary of the Cabinet and the Minister for the performance of the Ministry in providing administrative support to the Ontario Land Tribunal and for carrying out the roles and responsibilities assigned by the Minister, the ATAGAA, the AODA, the PSOA, applicable TB/MBC and Applicable Government Directives and this MOU.
- b. The Deputy Minister is accountable for attesting to TB/MBC on the Ontario Land Tribunal's compliance with Applicable Government Directives.

6.4 Executive Director

- a. The Executive Director is accountable to the Chair to develop and implement policies and make operational decisions that are aligned with the broad strategic directions for the Ontario Land Tribunal and to report regularly on the performance of the Ontario Land Tribunal to the Chair.
- b. The Executive Director is accountable to the Deputy Minister for the management of the Ontario Land Tribunal's operations and the management and supervision of the Ontario Land Tribunal's staff, as delegated to him/her by the Deputy Minister under the Human Resources Management Delegation of Authority Directive pursuant to sections 44(2) and (6) of the PSOA and the relevant collective agreements. The Executive Director reports administratively to the ADAG for the division responsible for agencies and tribunals within the Ministry.
- c. The Ontario Land Tribunal's staff report to, and are accountable to, the Executive Director for their performance.

7. ROLES AND RESPONSIBILITIES

7.1 Role of the Minister

The Minister is responsible for:

- a. Reporting and responding to the Legislative Assembly on the affairs of the Ontario Land Tribunal.
- b. Reporting and responding to the TB/MBC and Cabinet on the performance of the Ontario Land Tribunal and its compliance with the Accountability and Governance Documents, Applicable Government Directives, government's operational policies and broad policy directions.
- c. Recommending to TB/MBC, where required, any change to the mandate, or dissolution of the Ontario Land Tribunal.

- d. Recommending to TB/MBC the powers to be given to, or revoked from, the Ontario Land Tribunal when a change in its mandate is being proposed.
- e. Meeting with the Chair to discuss issues relating to the fulfillment of the Ontario Land Tribunal's mandate and to ensure compliance with the Accountability and Governance Documents and Management Principles.
- f. Working with the Chair to develop appropriate measures and mechanisms related to the performance of the Ontario Land Tribunal.
- g. Reviewing the advice or recommendation of the Chair on candidates for appointment or re-appointment to the Ontario Land Tribunal.
- h. Recommending appointments and reappointments to Cabinet and the Lieutenant Governor in Council pursuant to the process for appointments to adjudicative tribunals established by the ATAGAA, after consultation with, and after receiving the recommendation of the Chair.
- i. Recommending to TB/MBC any provincial funding to be allocated to the Ontario Land Tribunal for its operations and the fulfilment of its mandate.
- j. Reviewing and approving in-year submissions to TB/MBC in relation to expenditure increases, re-allocation of funding, report backs, and other issues, as required.
- k. Directing that a periodic review of the Ontario Land Tribunal be conducted as necessary, and at least every six years in accordance with the ATAGAA and the AAD and making subsequent recommendations to TB/MBC as may be required after such reviews are completed.
- l. When appropriate or necessary, taking action or directing that the Ontario Land Tribunal take corrective action with respect to its administration or operations, provided that the Ontario Land Tribunal's mandate and adjudicative independence are fully respected.
- m. Reviewing and approving the Ontario Land Tribunal's Accountability and Governance Documents, other than its Ethics Plan, and periodically reviewing them.
- n. With respect to the Ontario Land Tribunal's annual report, reviewing and approving the report within 60 calendar days of receiving it; tabling the annual report within 30 calendar days of approving it; and ensuring that the annual report is made available to the public after it is tabled.
- o. Consulting, as the Minister in his or her discretion determines necessary, with the Chair on significant new directions or when the government is considering regulatory or legislative changes that may significantly impact the Ontario Land Tribunal.
- p. Keeping the Chair informed, as the Minister in his or her discretion determines

necessary, of the government's priorities and broad policy directions that may relate to the Ontario Land Tribunal.

- q. Determining at any time the need for a review or audit of the Ontario Land Tribunal, directing the Chair to undertake reviews, and recommending to TB/MBC any changes to the governance or administration of the Ontario Land Tribunal resulting from any such review or audit.
- r. Evaluating the Chair's performance in light of the Accountability and Governance Documents, including the approved Business Plan.
- s. Developing the Ontario Land Tribunal's MOU with the Chair, as well as any amendments to it, and signing it into effect after it has been signed by the Chair.

7.2. Role of the Chair

The Chair is responsible for:

- a. Keeping the Minister informed of issues or events, and ensuring that matters relating to the Ontario Land Tribunal which, in the opinion of the Chair or of the Minister, are of importance to the Ministry or can reasonably be expected to concern the Minister in the exercise of his or her responsibilities relating to the Ontario Land Tribunal, are brought to the attention of the Minister and/or the Deputy Minister in a timely fashion.
- b. Providing leadership to the Ontario Land Tribunal and improving the effectiveness and efficiency with which it deals with the matters before it.
- c. Setting the goals, objectives, processes and strategic directions for the Ontario Land Tribunal in light of its mandate.
- d. Directing and monitoring the affairs of the Ontario Land Tribunal within its mandate as defined by its constituting statute as set out at article 3.2 of this MOU, and in accordance with applicable Accountability and Governance Documents including its adjudicative and case management functions, and the development of policies for the management of the Ontario Land Tribunal.
- e. Reviewing and approving claims for per diems and travel expenses for Vice Chairs and members.
- f. Ensuring the implementation of actions that support the goals, objectives and strategic direction of the Ontario Land Tribunal, and otherwise directing the affairs of the Ontario Land Tribunal to fulfill its legislative mandate.
- g. Seeking strategic policy direction for the Ontario Land Tribunal from the Minister, as appropriate.
- h. Consulting with the Minister in advance regarding any activity which may have an

impact on the government and Ministry's policies, directives or procedures, or on the mandate or powers or responsibilities of the Ontario Land Tribunal as set out in the ATAGAA.

- i. Ensuring the development of the required Accountability and Governance Documents, including an effective performance measurement and management system for assessing the Ontario Land Tribunal's performance and for evaluating the performance of Vice-Chairs and Members and conducting such evaluations.
- j. Identifying the required skills, experience and capacity required for Appointees to ensure the Ontario Land Tribunal meets its mandate.
- k. Selecting a Vice Chair to serve as Alternate Chair, and notifying the Minister of the selected candidate, within 90 days of the Chair's appointment.
- l. Notifying the Minister, in a timely fashion, of the need for appointments, reappointments and/or cross appointments of tribunal members, including keeping the Minister apprised of pending term expirations no later than six months prior to expiration of said term(s), as well as informing the Minister at the earliest opportunity of any notices of resignation or retirement submitted by Appointees. The Chair is also responsible for working with the Ministry to oversee the recruitment of Appointees and providing timely recommendations to the Minister on appointments and reappointments, as applicable, pursuant to the process for appointments to adjudicative tribunals established by the ATAGAA and by MBC through the AAD, and that respect and promote the principles of equity, diversity, quality, merit and regional representation.
- m. Developing and implementing standards and processes for peer reviews of adjudicative decisions.
- n. Cooperating with the Ministry on recruitment efforts to enhance and reflect the diversity of Ontario's population amongst Appointees. Diversity involves, but is not limited to, languages spoken, gender, age, geography, racial and cultural groups, ethnic and religious grounds, sexual orientation, persons with disabilities, and Indigenous Peoples. This could include: encouraging a diverse applicant pool by ensuring that individuals from a variety of backgrounds are made aware of current vacancies; utilizing a clear, transparent approach in application assessments and interview processes to promote fairness; and evaluating results by assessing the success of initiatives aimed at promoting diversity in the appointments process.
- o. Reporting to the Minister as requested on the activities of the Ontario Land Tribunal within agreed upon timelines.
- p. Preparing the Ontario Land Tribunal's Annual Report for submission to the Minister within 90 calendar days after the Ontario Land Tribunal's fiscal year-end.
- q. Making decisions consistent with the Business Plan approved for the Ontario Land Tribunal.

- r. Ensuring that public funds are used for the purpose intended and with integrity and honesty, and that the Ontario Land Tribunal complies with the Management Principles and operates within its approved funding allocation in the fulfillment of its mandates.
- s. Working with the Ministry on the development of the Ontario Land Tribunal's MOU with the Minister and signing it on behalf of the Ontario Land Tribunal.
- t. Reviewing and approving the Ontario Land Tribunal's Business Plan, budget, Annual Report and financial reports, and submitting them to the Minister in accordance with the timelines specified in the applicable TB/MBC and MOF directives and this MOU.
- u. Reviewing and approving, on an annual basis, the Ontario Land Tribunal's diversity and inclusion strategy, including reporting obligations.
- v. Providing the Minister, the Minister of Finance and the President of Treasury Board with a copy of every audit report, a copy of the Ontario Land Tribunal's response to each report and any recommendations in the report.
- w. Advising the Minister annually on any outstanding audit recommendations.
- x. Ensuring that Appointees are informed of their responsibilities under the PSOA with regard to the rules of ethical conduct and the political activity rules.
- y. Recording any declared or apparent conflicts of interest for Appointees and advising the Integrity Commissioner as appropriate.
- z. Providing strategic guidance and input to the Executive Director, so that appropriate management systems are in place (financial, information technology, human resources, records management) for the effective administration of the Ontario Land Tribunal.
- aa. Working with the Ministry and the Executive Director, as needed, to provide strategic guidance and input to the Executive Director on the development of business requirements for, and implementation of, any approved new case management system and dispute resolution tools.
- bb. Consulting with the Executive Director early, and as necessary, on recommended approaches to implement the legislative mandate of the Ontario Land Tribunal.
- cc. Working with the Executive Director to ensure that corrective action is taken relating to the Ontario Land Tribunal's operations, if needed.
- dd. Ensuring that an appropriate framework is in place for Appointees to receive adequate orientation and training with respect to the business and operations of the Ontario Land Tribunal and its particular responsibilities, including training on diversity, inclusion and current environmental influences, to better serve the people of Ontario.

- ee. Making sure that Appointees are aware of and comply with applicable TB/MBC and government directives, and all applicable legislation.
- ff. Ensuring that a process for responding to and resolving complaints from the public is in place.
- gg. Carrying out effective public communications and stakeholder relations for the Ontario Land Tribunal as its chief spokesperson.
- hh. Cooperating with any review of the Ontario Land Tribunal directed by the Minister, TB/MBC or the Auditor General.
- ii. Consulting with the Deputy Minister or his or her delegate on the annual performance evaluation of the Executive Director.
- jj. Ensuring that the responsibilities for the institution head are carried out as set out in Regulation 460 for the purposes of the FIPPA.
- kk. Fulfilling the role of ethics executive for Appointees, promoting ethical conduct and ensuring that all Appointees are familiar with the ethical requirements of the PSOA, and the regulations and the directives made under that Act, including in respect of conflict of interest, political activity and the protected disclosure of wrongdoing.

7.3. Role of the Deputy Minister

The Deputy Minister is responsible for:

- a. Advising and assisting the Minister regarding the Minister's responsibility with respect to the Ontario Land Tribunal, including informing the Minister of policy direction, legislation, policies and priorities of relevance to its mandate, and advising the Minister on the requirements of the AAD and other directives that apply to the Ontario Land Tribunal.
- b. Advising the Minister on the operation of the Ontario Land Tribunal or any change to its structure or role.
- c. Recommending to the Minister, as may be necessary, the evaluation or review, including a risk-based review, of the Ontario Land Tribunal or changes to the management framework or operations of the Ontario Land Tribunal.
- d. Monitoring the Ontario Land Tribunal, on behalf of the Minister, while respecting adjudicative independence and authority, identifying needs for corrective action where warranted, and recommending to the Minister ways to resolve any issues that are identified or might arise from time to time.
- e. Facilitating regular briefings and consultations between the Chair and the Minister.

- f. Attesting to TB/MBC on the Ontario Land Tribunal's compliance with the mandatory accountability requirements set out in the AAD and other Applicable Government Directives and policy directions based on the annual letter of compliance from the Chair to the Minister.
- g. Ensuring that the Ministry and the Ontario Land Tribunal have the capacity and systems in place for on-going risk-based management, including appropriate oversight of the Ontario Land Tribunal.
- h. Ensuring that the Ontario Land Tribunal has an appropriate risk management framework and a risk management plan in place for managing risks that the Ontario Land Tribunal may encounter in meeting its program or service delivery objectives.
- i. Undertaking timely risk-based reviews of the Ontario Land Tribunal, its management or operations, as may be directed by the Minister or TB/MBC.
- j. Establishing a framework for reviewing and assessing the Ontario Land Tribunal's Business Plan and other reports provided to the Ministry.
- k. Supporting the Minister in reviewing the performance targets, measures and results of the Ontario Land Tribunal.
- l. Advising the Minister on documents submitted by the Ontario Land Tribunal to the Minister for review or approval, or both.
- m. Submitting to the Minister, as part of the annual planning process, a risk assessment and management plan for each risk category.
- n. Cooperating with any review of the Ontario Land Tribunal as directed by the Minister, TB/MBC or the Ontario Auditor General.
- o. Negotiating a draft MOU with the Chair of the Ontario Land Tribunal, as well as any amendments to the MOU, as directed by the Minister.
- p. Consulting with the Chair, as needed, on matters of mutual importance, including services provided by the Ministry and compliance with Applicable Government Directives and Ministry policies.
- q. Meeting with the Chair as needed or as directed by the Minister, or on the request of the Chair, including to discuss matters of mutual importance to the Ontario Land Tribunal and the Ministry, such as the services provided by the Ministry to the Ontario Land Tribunal and the implementation of central agency and/or Ministry administrative policies.
- r. Informing the Chair and Executive Director, in writing, of new government directives and any exceptions to, or exemptions in whole or in part from Applicable Government Directives, government policies, or Ministry administrative policies.

- s. When required, submitting a report to the Secretary of TB/MBC on the wind-down of the Ontario Land Tribunal, following the disposition of any assets, completion of any outstanding responsibilities by the Ontario Land Tribunal, and the termination of any appointments.
- t. Ensuring that the Ministry provides the Ontario Land Tribunal with administrative, financial and other support as set out in this MOU and its attached Schedules, and in that regard will meet regularly with the Chair to review whether such support is meeting the needs of the Ontario Land Tribunal.
- u. Informing the Ontario Land Tribunal of the financial and administrative, human resources, corporate and other policies of the Ministry and government that apply to the Ontario Land Tribunal, including those in respect of the AODA, French language services, freedom of information, privacy, quality service, workplace harassment and equal opportunities.
- v. Ensuring that the Ontario Land Tribunal incorporates diversity, inclusion and anti-racism principles into its Business Plan to promote an open and accessible adjudicative justice system.
- w. Ensuring that the Executive Director's annual performance management plan reflects his or her reporting obligations to the Chair and to the Deputy Minister, and the standards to be met in carrying out those responsibilities and obligations.
- x. Consulting with the Chair on the Executive Director's annual performance evaluation.

The Deputy Minister may delegate one or more of his or her responsibilities listed above to the ADAG, subject to the government's Delegation of Authority Key Directive and any applicable TB/MBC rules with respect to delegation or sub-delegation.

7.4. Role of the Executive Director

The Executive Director is responsible for:

- a. Supporting the Chair in meeting his or her responsibilities, including compliance with applicable legislation, directives, policies, procedures and guidelines.
- b. Meeting with the Chair, at the request of the Chair, to discuss matters of importance to the Ontario Land Tribunal and the Ministry and ensuring, to the extent possible, that the Ontario Land Tribunal has the administrative, financial, human resources, communications and other support to enable Ontario Land Tribunal to fulfill its mandate under this MOU, its Business Plan and all applicable legislation.
- c. Leading and managing the day-to-day financial, analytical, operational and administrative affairs of the Ontario Land Tribunal in accordance with its mandate, TB/MBC and government directives, accepted business and financial practices, the

Management Principles and this MOU.

- d. Advising the Chair on the requirements of, and the Ontario Land Tribunal's compliance with, the AAD, as well as other Applicable Government Directives and Ontario Land Tribunal policies, including annually attesting to the Chair on the Ontario Land Tribunal's compliance with mandatory requirements.
- e. Working with the Ministry as needed to fulfill the requirements of the annual certificate of assurance, including attesting to the Ontario Land Tribunal's compliance with all applicable legislation, Applicable Government Directives and accounting and financial policies.
- f. Exercising authority delegated by the Deputy Minister under the Delegation of Financial Management Authority and ensuring that public funds are used with integrity and honesty and that the Ontario Land Tribunal complies with the Management Principles and operates within its approved funding allocation in the fulfillment of its mandates.
- g. Exercising authority delegated by the Deputy Minister and the Public Service Commission under the Human Resources Delegation of Authority and providing leadership and management to the Ontario Land Tribunal's staff, including human and financial resources management, in accordance with the approved Business Plan, accepted business and financial practices and standards, the constituting statute of the Ontario Land Tribunal and Applicable Government Directives.
- h. Working with the Chair, as well as the Ministry where appropriate, to ensure that corrective action be taken relating to the Ontario Land Tribunal's operations, if needed.
- i. Recruiting, supervising and assigning work to staff at the Ontario Land Tribunal, and ensuring that an appropriate framework is in place for staff to receive adequate orientation and training with respect to the business and operations of the Ontario Land Tribunal and its particular responsibilities, including training on diversity, inclusion and current environmental influences, to better serve the people of Ontario.
- j. Making sure that the Ontario Land Tribunal's staff are aware of and comply with applicable TB/MBC and government directives, and all applicable legislation.
- k. Preparing the Ontario Land Tribunal's annual Business Plan to be approved by the Chair prior to submission to the Minister.
- l. Assisting in the preparation of the Ontario Land Tribunal's Annual Report as directed by the Chair.
- m. Preparing financial reports for the Ontario Land Tribunal.
- n. Establishing and applying financial management frameworks for the Ontario Land Tribunal in accordance with applicable MOF/Treasury Board controllership

directives, policies and guidelines.

- o. Translating the goals, objectives and strategic directions of the Chair into operational plans and activities in accordance with the Ontario Land Tribunal's approved Business Plan, policies, and operational best practices.
- p. Ensuring that the Ontario Land Tribunal has the oversight capacity and an effective oversight framework in place for monitoring its management and operations.
- q. Consulting with the Chair and/or the Deputy Minister, as needed, on matters of importance to the Ontario Land Tribunal and the Ministry, including support services provided by the Ministry to the Ontario Land Tribunal, and on TB/MBC and government directives and Ministry policies.
- r. Keeping the Chair and the Deputy Minister informed with respect to the operations of the Ontario Land Tribunal.
- s. Consulting with the Chair early and as necessary on recommended approaches to implementing the strategic goals of the organization.
- t. Establishing systems to ensure that the Ontario Land Tribunal operates within its approved Business Plan and budget.
- u. Ensuring that the Ontario Land Tribunal has an appropriate risk management framework and risk management plan in place.
- v. Carrying out in-year monitoring of the Ontario Land Tribunal's performance and reporting on the results to the Chair.
- w. Maintaining effective communications with the Deputy Minister and the senior management of the Ministry, keeping the Ministry and the Chair advised on issues or events that may concern the Minister, the Deputy Minister and the Chair in the exercise of their responsibilities, and seeking, as appropriate, advice and support on administrative or management matters of mutual importance from the Ministry.
- x. Seeking support and advice from the Ministry, as appropriate, on management issues.
- y. Establishing a system for the retention of the Ontario Land Tribunal's documents and for making such documents publicly available when appropriate, and for complying with the FIPPA and the *Archives and Recordkeeping Act*, where applicable.
- z. Undertaking timely risk-based reviews of the Ontario Land Tribunal's management and operations.
- aa. In conjunction with the Chair, consulting with the Deputy Minister on any affairs of the Ontario Land Tribunal that may affect the Ministry's provision of services under this MOU, and on Applicable Government Directives.

- bb. Cooperating with any review of the Ontario Land Tribunal directed by the Minister or TB/MBC.
- cc. Recruiting, training and supervising staff in support of the Ontario Land Tribunal's functions.
- dd. Coordinating with the Ministry, preparing and implementing a performance review system for staff.
- ee. Ensuring the Ontario Land Tribunal's staff are aware of and comply with the accountability and governance framework established by the ATAGAA, all approved Accountability and Governance Documents, and Applicable Government Directives.
- ff. Fulfilling the role of ethics executive for Ontario Land Tribunal staff. Promoting ethical conduct and ensuring that Ontario Land Tribunal staff are informed of their responsibilities under the PSOA, including with respect to conflicts of interest, ethical conduct, political activity, and the protected disclosure of wrongdoing.
- gg. Recording any declared or apparent conflicts of interest and advising the Integrity Commissioner, as appropriate.
- hh. Carrying out such responsibilities as may be delegated to him or her by the Deputy Minister or assigned by the Chair under the terms of the Executive Director's performance management plan or as assigned to him or her under any applicable legislation or regulation.
- ii. Reviewing and approving on an annual basis the Ontario Land Tribunal's diversity and inclusion strategy including reporting obligations.
- jj. Identifying the skills, experience and capacity of staff appointed under Part III of the PSOA required for the Ontario Land Tribunal to meet its mandate, and notifying the Chair and the Deputy Minister of such requirements.

8. ETHICAL FRAMEWORK

- a. The Chair is the Ethics Executive for Appointees for the purposes of PSOA and is responsible for ensuring that they are informed of the ethical rules to which they are subject, including the rules on conflict of interest, political activities and protected disclosure of wrongdoing that apply.
- b. The Chair will ensure that an ethics plan is developed for the Ontario Land Tribunal, and that the ethics plan be approved by the Integrity Commissioner.
- c. Members shall not use any information gained as a result of their appointment to or membership on the agency for personal gain or benefit. A member who has reasonable grounds to believe that he or she has a conflict of interest shall disclose

the nature of the conflict to the Chair at the first opportunity and shall refrain from further participation in the consideration of the matter.

- d. The Executive Director is designated as the Ethics Executive for all public servants of the Ontario Land Tribunal who are not Appointees for the purposes of the PSOA and is responsible for ensuring that they are informed of the conflict of interest rules, including the rules on political activities that govern public servants.
- e. The Executive Director is the designated senior position for the Ontario Land Tribunal in accordance with section 14 of Ontario Regulation 381/07 under the PSOA.

9. REPORTING REQUIREMENTS

9.1 Business Plan

- a. The Chair will ensure that the Minister is provided annually with the Ontario Land Tribunal's Business Plan covering a minimum of three years from the upcoming fiscal year, including a financial budget, for review and approval within set a timeline that permits review and comment.
- b. The Chair will ensure that the Ontario Land Tribunal's Business Plan is in accordance with the requirements set out in the Accountability and Governance Documents.
- c. The annual Business Plan is to be submitted to the Ministry no later than three months before the start of the Ontario Land Tribunal's fiscal year.
- d. The Chair will ensure that the Ontario Land Tribunal's Business Plan includes a system of performance measurement and reporting on the achievement of the objectives set out in the Business Plan. The system must include performance goals, how they will be achieved, and targeted results and timeframes.
- e. The Deputy Minister will assist the Ontario Land Tribunal in the development and implementation of its system of performance measurement as needed, including Performance Measures and targets related to the diversity and inclusion strategy.
- f. The Chair will ensure that the Business Plan includes a risk assessment and risk management plan to assist the Ministry in developing its risk assessment and risk management plan in accordance with the requirements of the AAD to assess risks, develop and maintain necessary records, and report to TB/MBC.
- g. The Chair will ensure that any Business Plan to be publicly posted does not disclose: personal information, sensitive employment and labour relations information, solicitor-client privileged information, Cabinet confidential information and information that would otherwise pose a risk to the security of the facilities and/or operations of the Ontario Land Tribunal.

- h. The Minister will review the Ontario Land Tribunal's Business Plan and the Ministry will promptly advise the Chair whether or not the Minister concurs with the directions proposed by the Ontario Land Tribunal. The Ministry may advise the Chair where and in what manner the Ontario Land Tribunal's plan varies from government or Ministry administrative policy or priorities as may be required, and the Chair will revise the Ontario Land Tribunal's Business Plan accordingly unless issues of adjudicative independence are involved.
- i. In addition, TB/MBC may require the Minister to submit the Ontario Land Tribunal's Business Plan to TB/MBC for review at any time.
- j. The Chair, through the Executive Director, will ensure that the Ontario Land Tribunal's Business Plan is made available to the public in an accessible format, in both official languages, on the Ontario Land Tribunal's website within 30 days of Minister's approval of the plan.

9.2 Annual Report

- a. The Chair is responsible for ensuring that the Ontario Land Tribunal's Annual Report is prepared and submitted to the Minister within 90 days after the Ontario Land Tribunal's fiscal year end. The Annual Report shall be in accordance with the requirements set out in the AAD and ATAGAA.
- b. The Chair, through the Executive Director, will ensure that the annual report is prepared in the format specified in the AAD.
- c. The Chair will ensure that the Ontario Land Tribunal's Annual Report to be publicly posted does not disclose: personal information, sensitive employment and labour relations information, solicitor-client privileged information, Cabinet confidential information and information that would otherwise pose a risk to the security of the facilities and/or operations of the Ontario Land Tribunal.
- d. The Minister will receive and review the Ontario Land Tribunal's Annual Report to confirm compliance with AAD requirements and will approve the report within 60 calendar days after the day of receipt.
- e. The Minister will, within 30 calendar days of approval, table the Annual Report in the Legislative Assembly.
- f. The Chair, through the Executive Director, will ensure that the Ontario Land Tribunal's Annual Report is publicly posted in an accessible format, in both official languages, on the Ontario Land Tribunal's website after the report has been tabled in the Legislative Assembly and within 30 calendar days of Minister approval.
- g. When distributing annual reports, digital formats and channels for distribution must be used unless otherwise required (e.g. by directive, legislation).

9.3 Other Reports

The Chair is responsible for:

- a. Ensuring that the reports and documents set out in Schedule 2 to this MOU are submitted for review and approval to the Minister, Deputy Minister or Ministry in accordance with prescribed timelines.
- b. At the request of the Minister or the Deputy Minister, supplying specific data and other information that may be required from time to time for the purpose of Ministry administration, subject to any restrictions which may interfere or conflict with the integrity of the adjudicative, dispute resolution or decision-making or investigative process, or natural justice rights of the parties.

10. PUBLIC POSTING REQUIREMENTS

- a. The Ontario Land Tribunal, through the Chair, will ensure that the following approved governance documents are posted in an accessible format, in both official languages, on the Ontario Land Tribunal's website within the specified timelines:
 - Memorandum of Understanding and any Letter of Affirmation – 30 calendar days of signing by both parties
 - Annual Business Plan – 30 calendar days of Minister's approval
 - Annual Report – 30 calendar days of Minister's approval (the report must first be tabled in the Legislature).
- b. Posted governance documents should not disclose: personal information, sensitive employment and labour relations information, solicitor-client privileged information, Cabinet confidential information, and information that would otherwise pose a risk to the security of the facilities and/or operations of the Ontario Land Tribunal.
- c. The Ontario Land Tribunal, through the Chair, will ensure that the expense information for Appointees and senior management staff are posted on the Ontario Land Tribunal's website, in accordance with the requirements of the *MBC Travel, Meal and Hospitality Expenses Directive*.
- d. The Ontario Land Tribunal, through the Chair, will ensure that any other applicable public posting requirements are met.

11. COMMUNICATIONS AND ISSUES MANAGEMENT

The parties to this MOU recognize that the timely exchange of information on the operations and administration of the Ontario Land Tribunal is essential for the Minister to meet his/her responsibilities for reporting and responding to the Legislative Assembly on the affairs of the

Ontario Land Tribunal. The parties also recognize that it is essential for the Chair and Executive Director to be kept informed of government initiatives and broad policy directions that may affect the mandate and functions of the Ontario Land Tribunal.

The Minister and the Chair, therefore, agree that:

- a. "Communications" shall not include discussion or exchanging of non-public information between Ontario Land Tribunal personnel and the Minister, Deputy Minister or Ministry staff about specific current, past or future cases to be heard by the Ontario Land Tribunal.
- b. Inquiries received by the Ministry or Minister's Office regarding an adjudicative proceeding, policy or rule at the Ontario Land Tribunal will be re-directed to Ontario Land Tribunal without comment, noting that the Ministry or Minister, as the case may be, cannot comment on, or interfere in, the Ontario Land Tribunal's processes or decisions.
- c. The Chair will keep the Minister advised, in a timely manner, of all planned events and issues that concern or can be reasonably expected to concern the Minister in the exercise of his/her responsibilities. The Executive Director will similarly keep the Deputy Minister advised.
- d. The Minister will consult with the Chair in a timely manner, as appropriate, on broad government policy initiatives or legislation being considered by the government that may affect the mandate or functions of the Ontario Land Tribunal, or which otherwise will have a significant impact on the Ontario Land Tribunal.
- e. The Minister and the Chair will consult with each other on public communications strategies and publications. They will, as appropriate, keep each other informed of the results of formal stakeholder and other public consultations.
- f. The Chair will advise the Ministry of all public communications, advertising and media activities and provide copies of the same in advance. Despite the foregoing, the Ontario Land Tribunal has the right to issue materials such as rules, procedural directions, responses to routine media inquiries and other public information without the prior approval of the Ministry.
- g. The Minister and the Chair will meet at least annually, or as requested by either party, to discuss issues relating to the fulfillment of the Ontario Land Tribunal's mandate, management and operations, and to review matters provided for in this MOU.
- h. The Deputy Minister and the Chair will meet at least quarterly to discuss issues relating to the efficient and effective operation of the Ontario Land Tribunal and the provision of services by the Ministry to the Ontario Land Tribunal and to review matters provided for in this MOU. The Deputy Minister and the Chair shall provide timely information and advice to each other concerning significant matters affecting the Ontario Land Tribunal's management or operations.

- i. The parties agree to adhere to the Communications Protocol set out in Schedule 1 to this MOU.

12. ADMINISTRATIVE ARRANGEMENTS

12.1 Applicable Government Directives

- a. The Chair, working with the Executive Director, is responsible for ensuring that the Ontario Land Tribunal operates in accordance with all Applicable Government Directives, and Public Service Commission directives under the PSOA, applicable Collective and Memorandum Agreements pertaining to staffing, as well as applicable Ministry financial and administrative policies and procedures. Schedule 3 to this MOU provides a list of Applicable Government Directives.
- b. The Ministry will inform the Ontario Land Tribunal of amendments or additions to directives, policies and guidelines that apply to the Ontario Land Tribunal; however, the Ontario Land Tribunal is responsible for complying with all Applicable Government Directives, policies and guidelines, whether or not they are specifically listed in Schedule 3 to this MOU.

12.2 Administrative and Organizational Support Services

- a. The Deputy Minister is responsible for providing the Ontario Land Tribunal with the administrative support services listed in Schedule 4 of this MOU, and for negotiating with Ontario Shared Services concerning these services.
- b. Schedule 4 may be reviewed at any time at the request of either party.
- c. The Deputy Minister will ensure that the support or services provided to the Ontario Land Tribunal are of the same quality as those provided to the Ministry's own divisions and branches.

12.3 Agreements with Third-Parties

- a. Procurement required to support the programs and services of the Ontario Land Tribunal will be done in a clear manner, consistent with Applicable Government Directives, including but not limited to the MBC Procurement Directive. Where procurements are likely to raise contentious issues, the Executive Director will discuss these issues in advance with the Ministry.

12.4 Legal Services

- a. The Minister is statutorily responsible for the delivery of legal services and advice to ministries and agencies of the Government. For this reason, the Ontario Land Tribunal shall obtain all of its legal services from lawyers employed by the Ministry

as set out below:

- i. Day-to-day legal services shall be provided to the Ontario Land Tribunal by Ministry lawyers employed at the Ontario Land Tribunal (“Tribunal Counsel”).
- ii. The Legal Services Director or manager of the Ontario Land Tribunal may obtain legal services or advice from lawyers employed in the Ministry’s central legal offices (e.g., the Crown Law Office – Civil (“CLOC”), the Constitutional Law Branch (“CLB”) and the Justice Policy Branch (“JPB”)) on behalf of the Ontario Land Tribunal in circumstances where special expertise is required.
- iii. The Ontario Land Tribunal, through the Legal Services Director or manager, may obtain outside legal services from external counsel in extraordinary circumstances where:
 - CLOC counsel or JPB counsel lack sufficient expertise to provide the required services or advice; or
 - The delivery of legal services or advice by Crown counsel could be perceived as compromising the independence or impartiality of the Ontario Land Tribunal.

Any proposed retention of external counsel by the Ontario Land Tribunal shall be subject to the approval of the Deputy Attorney General and shall be undertaken in accordance with the terms of the Ministry’s corporate operating policy on using and retaining outside legal services (“PSR Policy”).

- b. In cases where it obtains legal services or advice from lawyers employed in the Ministry’s central legal offices or from external counsel retained under the PSR Policy, the Ontario Land Tribunal will be responsible for reimbursing the Ministry for all of the costs associated with these services.
- c. Lawyers employed by the Ministry (including external counsel retained under the PSR Policy) stand in a solicitor client relationship with the Government. They do not have a solicitor client relationship with any individual or office operating within the Government. Although the Ontario Land Tribunal operates with a high degree of functional independence, it is legally a part of the executive branch and its relationship with its lawyers is substantially the same as any other office of the Government.
- d. Nevertheless, the Minister recognizes that legal advice provided to the Ontario Land Tribunal should be delivered in a way that is compatible with the independent and impartial performance of its statutory functions. For this reason, Tribunal Counsel (including the Legal Director) shall report to, and take instructions from, the Chair on all matters affecting the adjudication and resolution of disputes by the Ontario Land Tribunal, the assessment and management of adjudicators, and its

relationships, dealings and communications with tribunal users and other persons affected by its services. Tribunal Counsel shall continue to report to the Executive Director in respect of purely administrative matters.

- e. The Minister also recognizes that Tribunal Counsel should treat legal advice provided to the Ontario Land Tribunal related to matters described in paragraph (d) as confidential between Tribunal Counsel and the Ontario Land Tribunal. Maintaining confidentiality in such advice (even from the Ministry) is necessary to safeguard the independence and impartiality of the Ontario Land Tribunal in the performance of its statutory functions.
- f. Similarly, although external counsel retained under the terms of the PSR policy ordinarily report through the Ministry, in cases where the Ontario Land Tribunal has retained external counsel to avoid any perception of institutional bias or government interference, such counsel shall report directly and confidentially to the Chair through the Legal Services Director or manager at the Ontario Land Tribunal.
- g. However, all advice and services provided to the Ontario Land Tribunal by lawyers employed in the Ministry's central legal offices shall be subject to all normal oversight and approval requirements. These lawyers cannot deliver legal services to the Ontario Land Tribunal on the basis that their advice will be kept confidential from the Ministry.

12.5 Freedom of Information and Protection of Privacy

- a. The Chair and the Minister acknowledge that the Ontario Land Tribunal is bound to follow the applicable requirements set out in the FIPPA in relation to the collection, retention, security, use, distribution and disposal of records to which FIPPA applies.
- b. The Chair will be considered the "institution head" of the Ontario Land Tribunal for the purposes of the FIPPA.
- c. The Chair is responsible for ensuring that the Ministry is notified of any significant or contentious information requests under FIPPA.

12.6 Creation, Collection, Maintenance and Disposition of Records

- a. The Chair, working with the Executive Director, is responsible for ensuring that the Ontario Land Tribunal complies with all government legislation and Applicable Government Directives related to information and records management.
- b. The Chair, working with the Executive Director, is responsible for ensuring that a system is in place for the creation, collection, maintenance, and disposal of records.
- c. The Executive Director and the Chair shall protect the legal, fiscal and other interests of the Ontario Land Tribunal by implementing reasonable measures to

ensure the ongoing viability, integrity, preservation and security of all official records created, commissioned or acquired by the Ontario Land Tribunal. This includes, but is not limited to, all electronic records, such as emails, information posted on the agency's website(s), database data sets, and all records stored on personal computers and shared drives.

- d. The Executive Director, working with the Chair, is responsible for ensuring measures are implemented requiring the Ontario Land Tribunal's employees to create full, accurate and reliable records that document and support significant business transactions, decisions, events, policies and programs.
- e. The Executive Director, working with the Chair, is responsible for ensuring that the Ontario Land Tribunal complies with the TB/MBC Management and Use of Information and Information Technology (I&IT) Directive, in conjunction with the Corporate Policy on Recordkeeping, as applicable.

12.7 Service Standards

- a. The Ontario Land Tribunal shall establish customer service and quality standards that are consistent with the appropriate standards of the government, the Ministry and the Ontario Public Service.
- b. The Chair will ensure that the Ontario Land Tribunal delivers its services at a quality standard that reflects the principles and requirements of the OPS Service Directive.
- c. The Ontario Land Tribunal shall have a formal process for responding to complaints about the quality of services received by the public and users that is consistent with the government's service quality standards and the Ontario Land Tribunal's Service Standards Policy required under the ATAGAA.
- d. The Ontario Land Tribunal's processes for responding to complaints about the quality of services are separate from and will not interfere with its adjudicative processes.
- e. The Ontario Land Tribunal's annual Business Plan will include Performance Measures and targets for client service and the Ontario Land Tribunal's responses to complaints.
- f. The Ontario Land Tribunal shall comply with the AODA.

13. FINANCIAL ARRANGEMENTS

13.1 General

- a. All financial procedures for the Ontario Land Tribunal shall be in accordance with Applicable Government Directives and Ministry corporate financial and

administrative policies and procedures.

- b. The financial and administrative framework, including human resources administration, for the Ontario Land Tribunal is set out in the Ministry's Financial Delegation Framework documents.
- c. When ordered to do so by the Minister of Finance and/or the President of the Treasury Board, pursuant to section 16.4 of the *Financial Administration Act*, the Ontario Land Tribunal shall pay into the Consolidated Revenue Fund any money that the Minister of Finance and/or the President of the Treasury Board determines is surplus to its requirements.
- d. The Ontario Land Tribunal's approved operating and capital allocations may be adjusted in a given year if in-year fiscal constraints are ordered by Cabinet or the Minister. The Ontario Land Tribunal will be provided with notice of changes to its allocation as soon as is reasonably possible. Where the Ontario Land Tribunal must reallocate resources as a result of its operating and/or capital allocations being adjusted, the Ontario Land Tribunal shall inform and discuss with the Ministry before making such changes.
- e. The Executive Director shall be responsible for providing the Ministry with the necessary documentation to support the Ontario Land Tribunal's expenditures.

13.2 Funding

- a. The Ontario Land Tribunal is funded by the Government of Ontario, out of the Consolidated Revenue Fund pursuant to an appropriation authorized by the Legislative Assembly, which is subject to adjustments made by the Minister, TB/MBC or the Legislative Assembly. In turn, the Ontario Land Tribunal receives an estimated allocation from the Ministry annually.
- b. The Executive Director will work in consultation with the Chair to prepare a forecast of the Ontario Land Tribunal's expenditures based on the proposed allocation for inclusion in the Ministry's annual budgeting process. The Executive Director will share this forecast with the Corporate Services Management Division of the Ministry in sufficient time to be analyzed and approved by the Minister.
- c. The forecast provided by the Executive Director may, after appropriate consultation with the Chair, be altered as required. The parties acknowledge that TB/MBC has final decision-making authority.
- d. Financial procedures of the Ontario Land Tribunal must be in accordance with Applicable Government Directives.
- e. Recovered costs and other revenues, if any, are paid as received to the Consolidated Revenue Fund, and may not be applied to administrative expenditures of the Ontario Land Tribunal, unless otherwise provided by law.

13.3 Financial Reports

- a. The Ontario Land Tribunal shall keep its accounts and shall provide financial reports or statements on instruction from the Ministry, in accordance with Schedule 2, for consolidation into the public accounts.

13.4 Taxation Status: Harmonized Sales Tax (HST)

- a. With the harmonization of the Goods and Services Tax and the Provincial Sales Tax, some agencies receive a Canada Value Added Tax (CVAT) rebate under the Comprehensive Integrated Tax Coordination Agreement. This is not applicable to the Ontario Land Tribunal.

14. AUDIT AND REVIEW ARRANGEMENTS

14.1 Audits

- a. The Minister may direct that the Ontario Land Tribunal be audited.
- b. The Ontario Internal Audit Division may also carry out an internal audit, if approved to do so by the Ministry's Audit Committee or by the Corporate Audit Committee. Also, the Auditor General of Ontario may, at any time, audit any aspect of the operations of the Ontario Land Tribunal under the *Auditor General Act*.
- c. The Ontario Land Tribunal will promptly provide a copy of every report from an audit to the Minister and the Minister of Finance/President of Treasury Board. The Ontario Land Tribunal will also provide a copy of its response to the audit report and any recommendations therein. The Ontario Land Tribunal will advise the Minister annually on any outstanding audit requirements.
- d. The Chair may, with the Deputy Minister's consent, request an external audit of the financial transactions or management controls of the Ontario Land Tribunal at the Ontario Land Tribunal's expense.

14.2 Other Reviews

- a. The Ontario Land Tribunal is subject to periodic review initiated at the discretion and direction of TB/MBC or the Minister. The review may cover such matters relating to the Ontario Land Tribunal that are determined by TB/MBC or the Minister, and may include the mandate, powers, governance structure and/or operations.
- b. In requiring a periodic review, the Minister or TB/MBC shall determine the timing and responsibility for conducting the review, the roles of the Chair and the Minister, and how any other parties are involved.

- c. A mandate review of the Ontario Land Tribunal will be conducted at least once every seven (7) years in accordance with the AAD.
- d. The Minister will direct a review of the Ontario Land Tribunal at least once every six (6) years in accordance with subsections 21(1) and (2) of the ATAGAA. This review may be structured in such a way that it also fulfills the obligation for a mandate review.
- e. The Minister will consult the Chair as appropriate during any such review.
- f. The Chair and Executive Director will cooperate in any review.
- g. In the event of a review initiated at the direction of the Minister, the Minister shall submit any recommendations for change that are developed from the results of the review to TB/MBC for consideration.

15. STAFFING & APPOINTMENTS

15.1 Delegation of Human Resources Management Authority

- a. Where the Public Service Commission has delegated its powers, duties and functions in relation to human resources management to the Deputy Minister, Executive Director or prescribed individual under Ontario Regulation 148/10, that person is accountable for exercising that authority in compliance with any relevant legislation, directives or policies in accordance with the mandate of the provincial agency, and within the parameters of the delegated authority

15.2 Staffing Requirements.

- a. The Ontario Land Tribunal is staffed by persons employed under Part III of the PSOA. Such persons are eligible for all the rights and benefits accorded under the PSOA and relevant collective agreements.
- b. The Ontario Land Tribunal, in its dealings with staff employed under the PSOA, is subject to MBC human resources directives and Public Service Commission directives under the PSOA.

15.3 Appointments

- a. The Chair is appointed by the Lieutenant Governor in Council on the recommendation of the Minister, pursuant to subsection 16(1) of ATAGAA.
- b. The Chair is responsible for the Ontario Land Tribunal.
- c. Vice-chairs are appointed by the Lieutenant Governor in Council on the recommendation of the Minister pursuant to subsection 16(4) of the ATAGAA.
- d. The Lieutenant Governor in Council may appoint one or more of the Vice Chairs as

Alternate Chairs of the Ontario Land Tribunal, and an Alternate Chair will act in the place of the Chair if the Chair is unable to act or if the position of Chair is vacant.

- e. Members of the Ontario Land Tribunal are appointed by the Lieutenant Governor in Council on the recommendation of the Minister, and have the powers and duties assigned to them by legislation and pursuant to their position description.
- f. Members and Vice-Chairs are selected for appointment through a competitive, merit-based process that assesses candidates based on experience, knowledge or training in the subject matter and legal issues dealt with by the tribunal; aptitude for impartial adjudication; and aptitude for applying alternative adjudicative practices and procedures that may be set out in the tribunal's rules, pursuant to section 14 of the ATAGAA.
- g. Pursuant to subsection 14(4) of ATAGAA, no person shall be appointed or reappointed unless the Chair, after being consulted as to his/her assessment of the person's qualifications under ATAGAA and, in the case of reappointment, of the Member's performance of his/her duties on the tribunal, recommends that the person be appointed or reappointed.

15.4 Remuneration

- a. Remuneration of Appointees is set by the Lieutenant Governor in Council.
- b. The Ontario Land Tribunal's full-time and part-time Appointees will be remunerated pursuant to the rates identified in Schedule B of the AAD.
- c. Travel expenses of Appointees must comply with the MBC Travel, Meal and Hospitality Expenses Directive. Reasonable expenses shall be reimbursed.

16. RISK MANAGEMENT, LIABILITY PROTECTION AND INSURANCE

16.1 Risk Management

- a. The Chair is responsible for ensuring that a risk management strategy is developed for the Ontario Land Tribunal, in accordance with the OPS Risk Management process.
- b. The Ontario Land Tribunal shall ensure that the risks it faces are dealt with in an appropriate manner.

16.2 Liability Protection and Insurance

- a. The operations of the Ontario Land Tribunal are covered for commercial general liability risks under the Government of Ontario's General and Road Liability Protection Program.

17. EFFECTIVE DATE AND DURATION AND PERIODIC REVIEW OF THE MOU

17.1 Effective Date, Duration and Periodic Reviews of the MOU

- a. This MOU takes effect on the date it is signed by the Minister as the last party to execute it. It expires on the earlier of:
 - i. a date five years from its effective date, unless renewed before that day for another five years; and
 - ii. the date a new MOU takes effect replacing it, but may continue in effect temporarily pending approval and signature of a new MOU.
- b. Without affecting the expiry date of this MOU,
 - i. the Minister and Chair may amend this MOU, or any part of it, by written agreement; and
 - ii. either the Minister or the Chair may initiate a review of this MOU by notifying the other by letter.
- c. If a new Minister or Chair takes office during the term of this MOU, the Minister and Chair shall, within six months, either:
 - i. each affirm that this MOU shall continue in force, with or without amendment, for the duration of its term; or
 - ii. agree to review and revise the MOU.
- d. This MOU shall undergo a full review:
 - i. immediately upon any significant change to the Ontario Land Tribunal's mandate, powers or governance structure as a result of amendments to its constituting statute, or any other Act, and
 - ii. at least once before it expires.
- e. This MOU replaces all existing MOUs involving the former tribunals which have been continued as the Ontario Land Tribunal.
- f. The Minister may, at his or her sole discretion, terminate this MOU at any time upon providing the Chair with 30 days' written notice prior to the termination date.
- g. Subject to any further written agreements or updates, the parties agree that this MOU entered into between them will satisfy the requirements of s. 11 of the ATAGAA.
- h. A copy of this signed MOU and any successor MOU or letter of affirmation must be provided to the Secretary, Treasury Board/Management Board of Cabinet.

Executed this 1st day of June 2021.



The Honourable Doug Downey, Attorney General of Ontario



Marie Hubbard, Chair, The Ontario Land Tribunal

SCHEDULE 1 COMMUNICATIONS PROTOCOL

I PURPOSE:

1. To establish clear lines of communication between the Ministry (i.e. the Minister's Office, the Deputy Minister's Office or the ADAG, and Ministry staff) and the Ontario Land Tribunal.
2. To establish a process for dealing with requests from Ministry staff for briefing material/issue notes.

II PRINCIPLES:

This supplements the MOU, which defines the specific roles, responsibilities and relationship between the Ministry and the Ontario Land Tribunal.

The Ontario Land Tribunal exercises its adjudicative and related functions independently of the Government, the Ministry and the Minister, subject only to the provisions, limitations and conditions set out in its constituting statute as identified in article 3.2 of this MOU, ATAGAA, and any other legislation governing the Ontario Land Tribunal and this MOU.

The Ontario Land Tribunal is an Adjudicative Tribunal as designated by the Management Board of Cabinet and ATAGAA. The commitment of the Government to independent tribunals capable of efficiently and effectively fulfilling their mandates requires that the Minister, the Ministry and the Ontario Land Tribunal establish communication relationships, which are respectful of:

- The Ontario Land Tribunal's independent legislated mandate; and
- the Minister's accountability to the Legislature for the fulfilment of the Ontario Land Tribunal's mandate.

III LINES OF COMMUNICATION/PROTOCOLS

1. Communication between the Ministry and the Ontario Land Tribunal

The Minister's office shall coordinate communication with the Ontario Land Tribunal through the office of the Chair. The Deputy Minister or the ADAG shall communicate with the Chair or Executive Director.

2. Questions or Complaints about Individual Cases

The parties recognize and accept that it is inappropriate for the Ontario Land Tribunal to discuss or communicate with the Minister or Ministry about non-public information relating to specific cases that are under active consideration by the tribunal.

3. Complaints about the Ontario Land Tribunal's Services, Members or Staff

Telephone or written inquiries from members of the public to the Minister's Office, or Ministry staff about the Ontario Land Tribunal's policies and procedures are to be directed to the Ontario Land Tribunal, either through the Ontario Land Tribunal's public information lines or in writing to the Ontario Land Tribunal's offices. Complaints about the conduct of Members or employees of the Ontario Land Tribunal will be directed to the Chair, or the Executive Director, respectively, in accordance with the Ontario Land Tribunal's Complaints Policy.

4. Media Responses

The Ontario Land Tribunal will immediately notify the Ministry upon receiving a media inquiry relating to a contentious issue. An issue is considered contentious if it is, or may reasonably be expected to be, of concern to the Legislative Assembly or the public, or is likely to result in inquiries being directed to the Minister or government. The Ontario Land Tribunal will provide advance notice to the Ministry of all media responses.

5. Briefing Material/Issue Notes

The Ontario Land Tribunal will prepare briefing or issue notes for the Minister upon the request of the Minister's office or the Ministry, so long as such requests do not deal with cases under active consideration by the Ontario Land Tribunal, or matters which are expected to come before the Ontario Land Tribunal.

The Ontario Land Tribunal will prepare and deliver to the Ministry background information on specific issues, within the timeframe suggested, in accordance with the Ontario Land Tribunal's independent function.

6. Ministry's and the Ontario Land Tribunal's Communication Materials

Whenever practical, the Ministry will give advance notice to the Chair of the general content of documents or messages regarding the Ontario Land Tribunal's operations and mandate and permit the Chair a reasonable period to provide comments and suggestions.

Whenever practical, the Chair will give the Minister advance notice of the general content of documents or messages of a public nature that might reasonably be expected to be of interest to the Minister. The Executive Director will similarly advise the Deputy Minister or the ADAG. The Ontario Land Tribunal's public materials will comply with the government's visual identity guidelines and legal requirements for accessibility.

SCHEDULE 2 REPORTING REQUIREMENTS

The Chair will ensure that the following reports, statements and documents are submitted to the Minister for review and approval:

REPORT	DUE:
1. Government annual budgeting process	As determined by the Ministry.
2. Business Plan	Must be submitted to the Minister no later than three months before the start of the Ontario Land Tribunal's fiscal year.
3. Annual Report	Must be submitted to the Minister within 90 calendar days after the Ontario Land Tribunal's fiscal year-end.
4. Quarterly Performance Measures (i.e., key performance indicator reports)	As determined by the Ministry.
5. FINANCIAL REPORTS as required by Ministry's internal financial reporting requirements or the Tribunals' governing legislation	As determined by the Ministry.
6. Provincial Agency Quarterly Risk Reporting.	As determined by the Ministry
7. Monthly reporting on the status of certain high-profile tribunals and significant issues relating to their operations	As determined by the Ministry
8. Such other reports as may be requested by the Lieutenant Governor in Council.	As determined by the Ministry.
9. Other reports as required for the business planning process i.e. Consultant, Trade Agreements, <i>Ontarians with Disabilities Act, 2001</i> , <i>Accessibility for Ontarians with Disabilities Act, 2005</i> , Risk Reports, etc.	As determined by the Ministry.

SCHEDULE 3
APPLICABLE TB/MBC AND MINISTRY OF FINANCE DIRECTIVES

1. The following TB/MBC and government directives, guidelines and policies apply to the Ontario Land Tribunal:
 - Accountability Directive
 - Agencies & Appointments Directive
 - Applicable Collective Agreements
 - Archives and Recordkeeping Act
 - Business Continuity Planning/Continuity of Operations Planning Operating Policy, Management Board of Cabinet
 - Freedom of Information and Protection of Privacy Act
 - French Language Services Act
 - Procurement Directive
 - Travel, Meal and Hospitality Expenses Directive
 - Visual Identity Directive
 - Disclosure of Wrongdoing Directive
 - Management and Use of Information and Information Technology (I&IT) Directive
 - OPS Respectful Workplace Policy
 - Perquisites Directive
 - Managing, Distributing & Pricing Government Information (Intellectual Property)
 - Realty Directive and Policy
2. The Ontario Land Tribunal is responsible for complying with all directives, policies, guidelines to which it is subject, irrespective of whether it is included on the list above.
3. The Ministry is responsible for informing the Ontario Land Tribunal of amendments or additions to directives, policies, guidelines, and provisions under applicable collective agreements that apply to the Ontario Land Tribunal.

SCHEDULE 4 ADMINISTRATIVE SUPPORT

The Deputy Minister or the ADAG will ensure that the Ministry, authorized outside contractors, Justice Technology Services, or the Ontario Shared Services provide the following operations support services to the Ontario Land Tribunal:

Financial Administration: accounts payable, revenues, purchasing, accounts receivable, including usage of IFIS facilities for process these services where available, technical advice, purchasing, accounts receivable central mail and printing services, records and form advisory services.

Human Resources Services: pay and benefits administration; classification; advice and consultation regarding recruitment procedures and staff relations; job description writing; counselling regarding career planning and staff development; and advice and consultation regarding corporate initiatives such as the Occupational Health and Safety Policy, the Preventing Barriers in Employment Policy, and the Respectful Workplace Policy (Policy to Support a Respectful Workplace and Prevent Workplace Harassment and Discrimination), and other standard human resources services. The Ministry will assist the Executive Director in ensuring that corporate educational opportunities and career planning services are available to the Ontario Land Tribunal's staff, and that these are communicated effectively to staff.

Diversity and Inclusion Services: strategic advice, guidance and expertise on diversity and inclusion challenges; support in the development of a diversity and inclusion strategy and Performance Measures.

Information Technology and Telecommunications Services: services, advice and consultation including independent and external website.

Internal Audit: financial compliance, management, human resources and information systems audits; operational reviews and special investigations as required; consultations and training as required.

Accommodation Planning: facilities planning and relocation services, including AODA compliance and lease renewals.

Freedom of Information and Protection of Privacy Program Services (as required).

French Language Services: advice in meeting obligations under the applicable legislation, translation and interpretation services

Communications Assistance: Communications assistance will be provided in accordance with the protocol established in Schedule 1 of this MOU.

Legal Services: (as required and subject to specific objectives).