

NOVA SCOTIA REGULATORY AND APPEALS BOARD

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT

- and -

IN THE MATTER OF AN APPEAL by **DR. SYLVIE AIKMAN-GREEN, LANCE AIKMAN-GREEN, RACHEL TAYLOR and WARREN TAYLOR** from a decision of Council of the Municipality of the County of Annapolis to approve amendments to the map and text of the Municipal Planning Strategy and Land Use By-laws for the Municipality

BEFORE: Julia E. Clark, LL.B. Vice Chair

APPELLANTS: **SYLVIE AIKMAN-GREEN**
LANCE AIKMAN-GREEN
RACHEL TAYLOR
WARREN TAYLOR
Jonathan G. Cuming, Counsel

RESPONDENT: **MUNICIPALITY OF THE COUNTY OF ANNAPOLIS**
Danielle Keating, Counsel

HEARING DATE: January 22, 2026

FINAL SUBMISSIONS: March 9, 2026

DECISION DATE: **May 6, 2026**

DECISION: **The Board does not have jurisdiction to hear the appeal. The appeal is dismissed.**

TABLE OF CONTENTS

1.0	INTRODUCTION	3
2.0	BACKGROUND	4
3.0	ANALYSIS AND FINDINGS	6
3.1	Statutory Framework.....	6
3.2	Issue One: Were the amendments <i>concurrent</i> ?	9
3.3	Issue Two: Were the LUB amendments <i>required</i> to carry out the concurrent amendments to the MPS?	10
3.3.1	MPS Amendments	11
3.3.2	Challenged LUB Amendments	12
3.3.3	“Required”	16
3.4	Chilling Effect.....	18
4.0	SUMMARY OF BOARD FINDINGS	19

1.0 INTRODUCTION

[1] The Council of the Municipality of the County of Annapolis adopted a package of amendments to the Annapolis County Municipal Planning Strategy (MPS) and Land Use By-law (LUB), and published notice to the public that the changes came into effect on December 11, 2025. The amendments expand the type of buildings allowed in the Municipality's Mixed Use (MX) Zone and increase the number of buildings allowed to be developed on a lot without site plan approval. The Appellants appealed Council's decision to amend the LUB to incorporate those changes, relying on s. 250 of the *Municipal Government Act*, RSNS 1998, c 18 (*MGA*).

[2] Generally, when a Council approves a "stand-alone" land use by-law map or text amendment, the route of appeal is to the Nova Scotia Regulatory and Appeals Board (Board). However, the Board only has the authority to consider appeals authorized by the legislation. Section 248 of the *MGA* stipulates that some of Council's planning decisions are not subject to appeal. In particular, s. 248(d) does not permit an appeal of a land use by-law amendment "that is required to carry out a concurrent amendment to a municipal planning strategy." The group of land use by-law amendments passed by Council accompanied MPS amendments made at the same time. The principal issue in this decision is whether all the amendments were required.

[3] The Appellants identified three groups of amendments adopted by the Municipality that they say were not directly required to carry out the concurrent amendments to the MPS. They argue that LUB amendments creating new regulatory standards and development controls that "merely operationalize MPS policy" are not exempt from appeal. The Appellants say, "if a concurrent LUB amendment involves policy determinations that are independent of the related MPS amendment, then the LUB

remains appealable.” The Municipality argued that when LUB amendments are made concurrently and relate to the same subject matter as MPS amendments, they are not subject to appeal.

[4] The Board did not accept the narrow interpretation of s. 248(d) the Appellants assert and was not satisfied that the contested amendments were not required to carry out the amendments to the MPS. A strict, rigid reading of s. 248(d) is not supported under the “modern principle of statutory interpretation” applied by the Board in its review. Under ss. 219-220 of the *MGA*, Council must adopt or amend its land use by-law at the same time it adopts or amends a municipal planning strategy’s land use and development policies. It must include the permitted or prohibited land uses in zones, as well as related provisions, development standards or regulations needed to carry out the municipal planning strategy. This necessarily involves policy choices about those provisions. Nevertheless, the clear legislative intent is that those processes are subject to review by the Provincial Director of Planning, rather than Board appeals. The Board also found that, like other planning matters, Council is entitled to deference in its decisions about what provisions are required to carry out the concurrent amendments.

[5] For these reasons and as further outlined below, the Board does not have jurisdiction to consider this appeal. The appeal is dismissed.

2.0 BACKGROUND

[6] At a special session on September 9, 2025, Council for the Municipality of the County of Annapolis (Council) decided to make concurrent amendments to its MPS and LUB. The relevant amendments relate generally to changes to the Mixed Use

Designation of the MPS, and the associated MX Zone of the LUB, expanding the types of land use and the number of buildings allowed on a lot without a site plan. Following provincial review of the MPS amendments, public notice of Council's decision was published on December 11, 2025, indicating the amendments were effective on that date.

[7] On December 22, 2025, the Appellants filed a Notice of Appeal to the Board under s. 250(1) of the *MGA*, on the grounds that the amendments to the LUB "did not reasonably carry out the intent of the municipal planning strategy." The Board wrote to the Appellants on the same date, noting that the "Notice of Council's Decision" included with the appeal indicated that it "adopted amendments to the Map and Text of the Annapolis County-Wide Municipal Planning Strategy (MPS) and concurrently adopted map and text amendments to the Annapolis County-Wide Land Use By-law (LUB)." The Board offered an initial response, indicating it considered the Board did not have the authority to address the appeal, citing s. 248(d) of the *MGA*. The Board wrote that if the Appellants advised that they "believe that the LUB amendments are not consistent with what is required to carry out the concurrent amendments to the MPS," a preliminary hearing would be scheduled to consider that issue.

[8] The Appellants indicated their position that three of the LUB amendments (ss. 5.2.11, 5.3.1.1 and 5.5.1.3.) are not exempt from appeal because they are not required or go beyond what would be required to carry out the concurrent MPS amendments. As such, the Board convened a preliminary hearing on January 22, 2026, and requested written submissions from the parties addressing the sole issue of the Board's jurisdiction to consider those amendments. At the Board's request, the Municipality filed in evidence the MPS and LUB as drafted prior to the purported

amendments, as well as the text of the relevant amendments to the LUB and the MPS amendments approved by Council.

3.0 ANALYSIS AND FINDINGS

3.1 Statutory Framework

[9] The MGA outlines the legislative authority, powers and responsibilities of municipalities in the province. The powers of a municipality are exercised by its elected council. Section 14A of the *MGA* says that those powers must be “interpreted broadly” in accordance with the purpose of the *Act* and the purposes of the municipality (per s. 9A) to provide good government; provide services, facilities and other things that a council finds are necessary and desirable; and develop and maintain safe and viable communities.

[10] Part VIII of the *MGA* addresses planning and development. Among the primary purposes of that part are:

190 [...] to

...

(b) enable municipalities to assume the primary authority for planning within their respective jurisdictions, consistent with their urban or rural character, through the adoption of municipal planning strategies and land-use by-laws consistent with interests and regulations of the province;

(ba) ensure that every municipality develops and adopts one or more municipal planning strategies to govern planning throughout the municipality and fulfill the minimum planning requirements;

[11] This part establishes a detailed statutory framework for the development, consultation, approval and amendment of municipal planning strategies and land use by-laws, and other planning processes. It outlines the rights and requirements to appeal to

the Board for certain planning decisions, and the Board's authority to hear and decide those appeals.

[12] Generally, under s. 250(1) of the *MGA*, a council's approval or refusal to approve an amendment to a land use by-law may be appealed to the Board by an aggrieved person or applicant on the grounds that the decision does not reasonably carry out the intent of the municipal planning strategy. However, there are exceptions. Section 248 of the *MGA* states:

No Appeal Permitted

248 The following are not subject to an appeal:

(a) an amendment to a land-use by-law to make the by-law consistent with a statement of provincial interest;

(b) an amendment to a land-use by-law or a development agreement to implement a decision of the Board;

(c) a development agreement approved, as ordered by the Board;

(d) an amendment to a land-use by-law that is required to carry out a concurrent amendment to a municipal planning strategy. [Emphasis added]

[13] The Board identified s. 248(d) as a possible bar to this appeal when it became apparent that Council approved the MPS and LUB amendments concurrently. The Municipality summarized the test for whether an amendment to the LUB is exempt from appeal under s. 248(d) as having two components. First, the amendments to the LUB and MPS must be made concurrently. Second, the amendments to the LUB were required to carry out the amendments to the MPS. The Board agrees that these components frame this review and are apparent from a plain reading of the text. However, the parties disagree about what is meant by "required" and how this section applies to the current circumstances necessitating a deeper review of the intent of the *MGA* and the municipal planning documents.

[14] In reviewing the meaning of the provisions of the *MGA*, the Board is guided by the “modern principle” of statutory interpretation as succinctly summarized in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (*Vavilov*):

[117] A court interpreting a statutory provision does so by applying the “modern principle” of statutory interpretation, that is, that the words of a statute must be read “in their entire context and in their grammatical and ordinary sense harmoniously within the scheme of the Act, the object of the Act, and the intention of parliament”: [...] Parliament and the provincial legislatures have also provided guidance by way of statutory rules that explicitly govern the interpretation of statutes and regulations.

[15] The Supreme Court of Canada went on to elaborate on the interpretative exercise in an administrative context:

[120] But whatever form the interpretive exercise takes, ***the merits of an administrative decision maker’s interpretation of a statutory provision must be consistent with the text, context and purpose of the provision.*** In this sense, the usual principles of statutory interpretation apply equally when an administrative decision maker interprets a provision. Where, for example, the words used are “precise and unequivocal”, their ordinary meaning will usually play a more significant role in the interpretive exercise: *Canada Trustco Mortgage Co. v. Canada*, 2005 SCC 54, [2005] 2 S.C.R. 601, at para. 10. Where the meaning of a statutory provision is disputed in administrative proceedings, the decision maker must demonstrate in its reasons that it was alive to these essential elements. [Emphasis added in original]

[Vavilov, as cited in *Halifax (Regional Municipality) v Hazelview Investments Inc.*, 2026 NSCA 27, para. 17]

[16] The Board also relies on the *Interpretation Act*, RSNS 1989 c 235, including ss. 9(1) and 9(5):

9 (1) The law shall be considered as always speaking and, whenever any matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to each enactment, and every part thereof, according to its spirit, true intent, and meaning.

...

9 (5) Every enactment shall be deemed remedial and interpreted to ensure the attainment of its objects by considering among other matters

(a) the occasion and necessity for the enactment;

(b) the circumstances existing at the time it was passed;

(c) the mischief to be remedied;

(d) the object to be attained;

(e) the former law, including other enactments upon the same or similar subjects;

- (f) the consequences of a particular interpretation; and
- (g) the history of legislation on the subject.

[17] The Board also applies these statutory interpretation principles in its review of the provisions of municipal planning documents.

3.2 Issue One: Were the amendments *concurrent*?

[18] The parties agreed that the LUB and MPS amendments were made concurrently. The challenged LUB amendments were adopted on the same day as a series of MPS amendments, including changes to the Mixed Use Designation allowing additional residential land uses, and other text and map amendments. Public Notice of the MPS and LUB amendments was published indicating the concurrent amendments were effective as of December 11, 2025.

[19] The parties point out that there are few decisions to assist in interpreting how to apply s. 248(d). The Nova Scotia Court of Appeal has not considered the meaning of s. 248 explicitly. However, that Court has addressed the concept of concurrent MPS and LUB adoption. *Tsimiklis v Nova Scotia (Utility and Review Board)*, 2003 NSCA 30 (*Tsimiklis*), is a planning decision of that Court where the term “concurrently” is used interchangeably with “at the same time” in addressing the requirements of s. 219 of the *MGA*. That section requires:

219 (1) Where a council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the council shall, at the same time, adopt a land-use by-law or land-use by-law amendment that shall enable the policies to be carried out.

(2) A council may amend a land-use by-law in accordance with policies contained in the municipal planning strategy on a motion of council or on application.

(3) A council shall not adopt or amend a land-use by-law except to carry out the intent of a municipal planning strategy. [Emphasis added]

Similarly, in *Archibald v Nova Scotia (Utility and Review Board)*, 2010 NSCA 27, Justice Fichaud also used the terms “contemporaneous” and “concurrently” interchangeably with “at the same time” in his analysis of s. 219(1):

[24] ... **(8)** The intent of the MPS is ascertained primarily from the wording of the written strategy. The search for intent may also be assisted by the enabling legislation that defines the municipality’s mandate in the formulation of planning strategy. For instance, s. 219(1) and (3) of the *MGA* direct the municipality to adopt a land use by-law “to carry out the intent of the municipal planning strategy” “at the same time” as the municipality adopts the MPS. The reflexivity between the MPS and a concurrently adopted land use by-law means the contemporaneous land use by-law may assist the Board to deduce the intent of the MPS. [Emphasis added]

[20] While the factual question of whether the amendments were concurrent is not a contested issue in this case, the Board accepts that amendments to the LUB that are adopted by a council at the same time as amendments to the MPS qualify as “concurrent” amendments.

3.3 Issue Two: Were the LUB amendments *required* to carry out the concurrent amendments to the MPS?

[21] In its brief decision in *Eldridge (Re)* 2018 NSUARB 70 (*Eldridge*), the Board appeared to make two assessments when considering whether the exemption under s. 48(d) applies to a concurrent amendment of the LUB. First, that the respective amendments related to the same issues in both the MPS and LUB. Second, based on its review of the *MGA*, that the amendment to the LUB was required, and approved, to carry out the concurrent amendment to the MPS. The Appellants and the Municipality took no issue with this interpretation as the proper assessment to determine whether the second component of the s. 248(d) test is met. However, they have different views on how it should be applied, and the scope of what is meant by “required.”

[22] If a concurrent LUB amendment involves a policy determination that is “independent of the related MPS amendments”, the Appellants say that it “remains

appealable.” In their reply submissions, the Appellants further distilled the key question for the Board’s assessment:

Would the amended MPS still function if the impugned LUB provisions did not exist? If the answer is yes, then those provisions can not be said to be “required” within the meaning of the statute.

[23] The Appellants argue that the LUB amendments went beyond what was required to carry out the changes in the MPS. They say amendments that “operationalize MPS policies” or set standards or regulations not directed, required or mandated by the amended policy are subject to appeal.

[24] The Municipality argues that each addition or amendment to the LUB was required to “give effect” to a related MPS amendment. The Municipality argues that the Appellants’ interpretation is inconsistent with the purpose of a land use by-law, which is “to define standards and regulatory controls, to enable the policy statements in the MPS to be operationalized.” It also referred the Board to Policy 7.3.2 of the MPS that sets out the provisions, regulations and development standards the LUB must contain, which may vary according to the applicable use, zone and location.

3.3.1 MPS Amendments

[25] The relevant changes to the MPS are in Policies 4.2 – Mixed Use Designation and its sub policy 4.2.2., as well as changes to Policy 6.2.1.7 – Multiple Main Buildings on a Lot. These update types of compatible residential development appropriate in the Mixed Use Designation and enable an accessory dwelling unit (or second main building) on a lot without site plan approval. The amended policies are:

SECTION 4.2 MIXED USE DESIGNATION

The purpose of the Mixed Use Designation is to identify on the FLUM those areas within the Planning Area that are presently characterized by mixed use development or are considered appropriate for future mixed-use development. The mixed use term refers to present allotment of land to support a mixing of residential with compatible, ~~low level~~

~~density~~ **residential including single-units, duplexes and townhouses/row houses,** non-obnoxious commercial or light industrial uses.

...

Policy 4.2.2 Accessory Dwelling Units

It is the policy of Council to permit a secondary structure containing no more than one dwelling unit on the same lot as an existing residential use where the added structure can be accommodated on the available property ~~by site plan approval in accordance with the evaluative criteria set out in Policy 7.3.4.1.~~

...

Policy 6.2.1.7 Multiple Main Buildings on a Lot.

It is the policy of Council to permit no more than ~~one~~**two** main buildings on a lot except by site plan approval in accordance with the evaluative criteria set out in Policy 7.3.4.1 where development on the lot shall comply with the land use, yard, height, setback, and coverage requirements of the applicable zone and where provisions for separation of all additional structures are sufficient to accommodate convenient pedestrian and vehicle access, provide for onsite water and wastewater servicing where applicable, and ensure the safety of occupants and the public. [Emphasis in original]

3.3.2 Challenged LUB Amendments

[26] In their written submissions, the Appellants refined their challenge to three categories of LUB amendments, which they described as: Townhouse and Rowhouse Standards (5.5.1.3), Land Use Zones and Uses (5.2.1.1); and Lot area, Frontage and Services (5.3.1.1). The Municipality also adopted these categories and this order of discussion.

A. Townhouse and Rowhouse Standards

[27] Section 5.5.1.3 is an addition to the LUB:

5.5.1.3. MX Townhouse/Rowhouse Dwellings

The development of townhouse dwellings or rowhouse dwellings in the Mixed Use (MX) zone shall:

1. Be permitted within municipal serviced areas.
2. Be limited to six (6) dwelling units.

3. Be permitted by site-plan approval in accordance with the evaluative criteria set out in MPS Policy 7.3.4.1 of the Annapolis County Municipal Planning Strategy if the lot contains more than two (2) main dwellings.
4. At a minimum, provide for a landscaped screen or decorative fence, or a combination of both, as approved by the Development Officer, of not less than 2m (6.56 ft) in height on all property lines adjoining adjacent single-family dwelling uses.

[28] Both parties point to the amendment to Policy 4.2 as the enabling policy for these changes because it provides new permission for townhouse and rowhouse forms of development within the Mixed Use Designation. The Appellants say, rightly, that Policy 4.2 does not mandate that townhouse/rowhouses must be permitted, and that none of the specific requirements set out in the LUB are “directed or required by the MPS amendment”. Rather, they say “each represents a policy choice relating to the intensity of development, necessary infrastructure and approval processes.”

[29] Townhouse and rowhouse land uses were not enabled in the Mixed Use Designation before the amendment of Policy 4.2. As such, the LUB did not include townhouses and rowhouses as a permitted use, nor did it include any standards for townhouse and rowhouse land use in the MX Zone. The Municipality’s submissions note that s. 220 of the *MGA* requires an LUB to list permitted or prohibited uses for each zone:

- 220** (1) A land-use by-law shall include maps that divide the area into zones.
- (2) A land-use by-law shall
- (a) list permitted or prohibited uses for each zone; and
 - (b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy. [Emphasis added]

Policy 4.2.3 of the MPS titled “Mixed Use Development Standards” (which was not amended) explicitly requires any new land uses added to the MX Zone to be regulated within corresponding LUB sections:

Policy 4.2.3 Mixed Used Development Standards

It is the policy of Council to require new land uses developed in the Mixed Use (MX) Zone to satisfy the standards set out for the land use in question in the Annapolis County LUB. Standards to regulate lot size, yard requirements, building height, the dimensions and permitted locations of accessory buildings, and such other standards as may be deemed appropriate to ensure the quality and compatibility of residential structures for each land use category shall apply. [Emphasis added]

Further, Policy 7.3.2 says that the LUB must contain provisions, regulations and development standards that may vary by use, zone and location, accompanied by an enumerated list of enabled permissions and requirements. The Municipality explained that ss. 5.5.1.3(1), 5.5.1.3(2) and 5.3.1.3(4) are linked with the amendments to Policy 4.2, the requirements of s. 220 of the *MGA*, and the MPS requirements for provisions, regulations and development standards contemplated in Policies 4.3.2 and 7.3.2. The Municipality links the requirement for site plan approval in s. 5.5.1.3(3) with the amendment to MPS Policy 6.2.1.7 requiring site plan approval where a lot contains more than two buildings.

B. Lot area, Frontage and Services

[30] The amendments to s. 5.3.1.1 of the LUB add a minimum lot area (465m²) and frontage requirements (36.5m) for lots with municipal water and wastewater service in the MX Zone. The previous chart of LUB requirements contemplated only unserviced lot status in that zone and required a minimum lot area of 2,700m² and lot frontage of 36.6m for unserviced lots. The Appellants say that the amendments “significantly reduce” minimum lot area and frontage and alter density standards across multiple zones not mentioned in any amended MPS policy. They say these changes are not required to implement any policy change, so they are “independent discretionary planning decisions.”

[31] The Municipality explains that s. 5.3.1.1 outlines general lot sizes that apply in the listed zones for lots with and without access to municipal water and wastewater services. This LUB amendment was required to add minimum lot size requirements for

municipal serviced areas in the MX Zone. There is essentially a cascading effect: because additional land uses are permitted in MX Zones under the changes to Policy 4.2, changes to the LUB were needed to establish standards for those uses in that zone. Those selected standards (in s. 5.5.1.3(1)) include a provision that townhouse or rowhouse dwellings in the MX Zone shall be “permitted within municipal serviced (sewer and/or water) areas.” The LUB did not previously contemplate municipal water and wastewater status for lots in the MX Zone. The amendments add minimum lot area and frontage requirements for “Municipal Water and Wastewater status” that match the requirements in other zones, rather than decreasing existing standards as the Appellants submitted.

C. Land Use Zones and Uses

[32] Section 5.2.1.1 includes amendments to a table of allowed zones and uses, adding the MX Zone as a zone where townhouse/rowhouse use is permitted under s. 5.5.1.3. The Appellants acknowledge that the purpose of the concurrent amendment MPS Policy 4.2 was to enable the addition of those very uses to the MX Zone. However, they say that because the approval of those uses is tied to the impugned amendments in 5.5.1.3, the amendment to the table could not stand on its own, as drafted. The Municipality says that because the LUB amendment simply adds townhouses/rowhouses as a permitted use in the MX Zone, it is clearly required to carry out that amendment and therefore not subject to appeal.

[33] As explained further in the next section, the Board does not wholly agree with the Appellants’ interpretation that “if a concurrent LUB amendment involves policy determinations that are independent of the related MPS amendment, then the LUB remains appealable.” (Appellants’ Submissions, para. 10, Emphasis added). In order to

carry out its MPS policies, Council must make and incorporate other policy choices in the LUB, as the legislation and MPS obliges. The Municipality's submissions illustrate the connections to the MPS amendments and why the changes to the LUB were required to carry out the concurrent amendments to the MPS. The Board accepts the Municipality's explanation and analysis of the relationship between the contested LUB and MPS amendments. The LUB amendments were not independent, considering the MPS amendments in the context of statutory and existing MPS requirements.

3.3.3 "Required"

[34] As the Court of Appeal noted in *Hazelview*, "It is notoriously difficult to determine [an] MPS intent, because an MPS may have disparate objectives." Further, citing the Court's prior decisions set out in *Archibald*, para 7, and *Cornwallis Farms, Limited v Nova Scotia (Attorney General)*, 2025 NSCA 9, paras 49-50, Justice Bryson highlighted that "Interpreting the MPS is typically the role of the democratically elected council."

[35] The Nova Scotia Court of Appeal has directed the Board to defer to decisions of council where it involves consideration of policy choices. The Board finds guidance in those decisions is applicable in this case. When new policies are added or existing policies are changed in a municipal planning strategy, they must be operationalized and regulated within the land use by-law, in accordance with s. 219-220 of the *MGA*. This authority, and obligation, is delegated to municipal councils. Deciding what standards and regulations are required to carry out a municipal planning strategy involves interpreting policies and making choices about how they should be operationalized. This is important context for the interpretation of s. 248(d), which limits appeals of the decisions municipal councils make when they adopt or amend their

municipal planning strategy and land use by-laws together, as a whole planning framework.

[36] Aligned with the *MGA* requirements, MPS Policy 7.3.2 requires this LUB to include provisions, regulations and development standards that address a broad list of subjects including permitted or prohibited uses in a zone, regulations on the location of buildings and structures, building height, regulation of main buildings and accessory buildings, and others. The provisions of s. 5.5.1.3 and 5.3.1.1 include provisions on those subjects. Furthermore, Policy 4.2.3 specifically requires any new land uses added to the MX Zone to be regulated in the LUB. The amendments to s. 5.5.1.3 and 5.2.1.1 accomplish this. The Board finds it unreasonable to suggest that Council should consider MPS amendments in a vacuum, ignoring other policies and requirements that govern what is necessary to include in an LUB. The amended MPS policies do not, by themselves, strictly limit what changes to the LUB are required. To “carry out” amendments to the MPS, Council must follow its existing policies and the statutory direction regarding how and what issues are addressed in the LUB.

[37] Under ss. 219-220 of the *MGA*, whenever a council adopts or amends a municipal planning strategy’s land use and development policies, it must also adopt a land use by-law or amendment that enables those policies to be carried out. Deciding what standards and regulations are required to carry out a municipal planning strategy upon its adoption or amendment involves interpreting policies and making choices about how they should be operationalized.

[38] As with other decisions that require weighing policy considerations and value-laden judgments, Council is entitled to deference from the Board in its

determinations about which concurrent LUB amendments are required to carry out its MPS amendments. Even without such deference, the Board would have come to the same conclusion as Council in this case. The land use by-law must include the permitted land uses for each zone, and other provisions (e.g., development standards, limits and regulations) authorized by the *MGA* and required by the existing MPS. Each of the challenged LUB amendments is rationally linked to a concurrent MPS amendment and establishes or modifies provisions in the land use by-law that would be required to carry out the MPS amendments.

3.4 Chilling Effect

[39] The Appellants' reply submissions raise the concern that a Municipality might actively "shield virtually any LUB amendment from appeal by pairing it with a concurrent MPS amendment." This is a function of the legislation, and the Board is not authorized to expand its jurisdiction to address a "chilling effect" or other potential equitable concerns. In *Re Heartland Resources Inc.* 2005 NSUARB 25, one of the only prior reported cases to address this issue, an appeal was filed about an amendment to the land use by-law of the Municipality of the District of Guysborough. Prior to the appeal hearing, the Municipality subsequently amended both its MPS and LUB, which had the effect of superseding the prior, stand-alone amendment to the LUB. The Board considered s. 248(d) of the *MGA* and concluded that the appeal was moot because the later, concurrent amendments were not appealable regardless of the motive for selecting that process of amendment.

[40] The requirements and procedures for a municipal council to amend its municipal planning strategy are established in the *MGA*. These include public engagement requirements, review by the Provincial Director of Planning and potentially

approval by the Minister of Municipal Affairs. While not subject to appeal before this Board, there are other avenues to challenge Council's decisions about such amendments. Furthermore, the Board has jurisdiction to consider appeals of land use by-law amendments that are not required to carry out a concurrent amendment of a municipal planning strategy. Having deference to Council's choices about what concurrent amendments are required would not have foreclosed the possibility of pursuing an appeal if the Board had found the s. 248(d) test was not met.

4.0 SUMMARY OF BOARD FINDINGS

[41] Section 248(d) of the *MGA* does not provide blanket immunity to all land use by-law amendments adopted at the same time as municipal planning strategy amendments. However, under ss. 219-220 of the *MGA*, whenever a council adopts or amends a municipal planning strategy's land use and development policies, it must also adopt a land use by-law or amendment that enables those policies to be carried out. The land use by-law must include the permitted land uses for each zone, and other provisions (e.g. development standards, limits and regulations) authorized by the *Act* that are needed to implement the municipal planning strategy. Council's decisions in those instances are not subject to Board appeals. In determining the scope of what changes were "required", Council is entitled to deference as the principal planning authority.

[42] The Board finds that the amendments to the LUB including sections 5.5.1.3 (Townhouse and Rowhouse Standards), 5.3.1.1 (Lot Area, Frontage and Services), and 5.2.1.1 (Land Use Zones and Uses), were required to carry out the concurrent

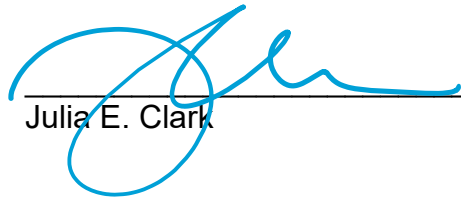
amendments to the MPS (Policies 4.2, 4.2.2 and 6.2.1.7), approved by Council on September 9, 2025, and effective December 11, 2025.

[43] Under s. 248(d) of the *MGA*, the Board finds that there is no right of appeal in this case and the Board has no jurisdiction to hear the merits of the appeal.

[44] The appeal is dismissed.

[45] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 6th day of May 2026.



Julia E. Clark