



Briefing Note

To: MSB/C Steering Committee Members

From: Andrew Henry, Director
Lake Huron & Elgin Area Water Systems

Date: 16 February 2022

Re: **Municipal Services Corporations and
Joint Municipal Services Boards**

The Lake Huron Water Supply Systems and Elgin Area Water Supply Systems were previously owned and operated by the Province of Ontario. Pursuant to the *Municipal Water and Sewage Systems Transfer Act, 1997*, the province created a Board of Management for each of the two regional water systems and transferred ownership in 2000.

- The Transfer Order for each of the water systems implied that the respective Board was a “body-corporate” in law but failed to definitively confirm its legal status and linkage to the *Municipal Act, 2001*.
- The Board(s) appear to meet the definition of a “local board” under the Municipal Act; however, the Boards were not created under the Municipal Act and there is significant uncertainty of the Board(s)’ legal status.
- Each of the benefiting municipalities have an undivided interest in the respective system, as a tenant in common, but there is no division of capacity or allocation of ownership or shareholder interest.
- The Municipal Act provides two opportunities for the municipalities, acting collectively, to address the legal status:
 - Establish the Board(s) as a Joint Municipal Services Board; or,
 - Establish the Board(s) as a Municipal Services Corporation
- Establishing the Board(s) under the Municipal Act, as either a Joint Municipal Services Board or Municipal Services Corporation, affords the municipalities to:
 - Confirm the legal status of the Boards and water systems under Ontario law;
 - Define and limit the scope of the entity’s services and activities;
 - Establish clear reporting requirements and approval authorities;
 - Address and limit liabilities to the municipalities related to the activities of the regional water systems; and,
 - Address legal requirements related to employer/employee liabilities under the Employment Standards Act, Labour Relations Act, and Occupational Health and Safety Act
- The benefiting municipalities must unanimously determine if they wish to create a Joint Municipal Services Board and/or Municipal Services Corporation for each of the regional water system, or one Board/Corporation for both systems