

# *Getting Ontario Connected Act, 2022*

## Legislation Overview

March 2022



# Webinar Overview

- ▶ Questions? Use the “?” feature to ask them
- ▶ Want to provide Feedback?

**Visit:** <https://www.ontariocanada.com/registry/view.do?postingId=41187&language=en>

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**Write:**

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Public Safety and Operations Policy Branch  
56 Wellesley St. West, 6th floor  
Toronto, ON M7A 1C1  
Attention: Sharmila Uruthiranandasivam, Senior Policy Advisor

- ▶ *Note:* This presentation was developed by Ontario One Call, and does not necessarily reflect the views and opinions of our members, excavators, stakeholders or the Government of Ontario

# Topics to Cover

- ▶ Origins of Legislation & *Locate Solutions Working Group*
- ▶ Overview of Legislation
  - ▶ Dedicated Locator
  - ▶ Operational Items
  - ▶ Compliance
  - ▶ ON1Call Governance
- ▶ Beyond the Legislation
  - ▶ Dedicated Locator Working Committee
  - ▶ Implications for Members
  - ▶ Implications for Excavators
  - ▶ Implications for Ontario One Call
- ▶ Next Steps

# Origins of Legislation

- ▶ Continued challenges with late locates
- ▶ Concerns of excavator stakeholders
- ▶ Increase in government-funded infrastructure projects, such as broadband and transit
- ▶ Desire from ON1Call Board of Directors and Operations Committee to deliver both operational improvements alongside compliance improvements

# LSWG Objectives

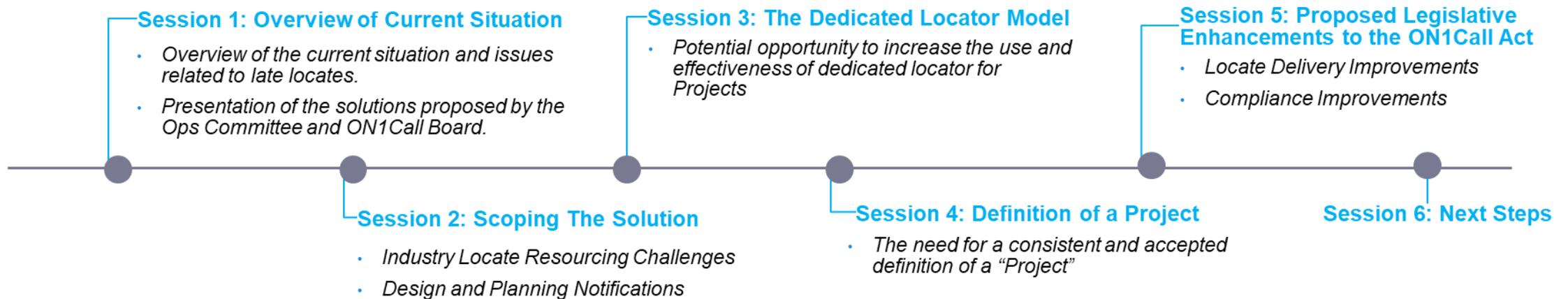
- ▶ The Locate Solutions Working Group (LSWG) was tasked with providing input on endorsed sustainable solutions to improve locate system processes and delivery to meet industry needs for 2022 and beyond
- ▶ The responsibilities of the Working Group included:
  - Confirming current-state issues to be solved
  - Critically assessing preliminary solutions that will deliver timely locates to major projects, excavators and homeowners
  - Recommending improvements and new alternatives Identifying targeted legislative, by-law and policy changes to improve end-to-end utility locate processes
- ▶ Working Group sessions were intended to facilitate alignment between the stakeholder groups. It is understood that stakeholder groups have different needs, however, a collective effort is required to address challenges faced by the industry

# LSWG Participants

<b>One Call Centre</b>	Ben Hamilton (OOC)		Dereck Oikawa (Aecon)		Tony DiPede (North Rock Group)	
<b>Government</b>	Husseim Lalani (MGCS)	Samantha Pinto (MGCS)	Sharmila Uruthiranandasivam (MGCS)		Gord Reynolds (IO)	
<b>Local Service Providers</b>	Jason Meyer (Gtel)		Scott Stewart (Promark)		Josie Trapani (Promark)	
<b>Excavators</b>	Kathryn Sutherland (NCHCA)	Patrick McManus (OSWCA)	Paul DeBerardis (RESCON)		Nadia Todorova (RCCAO)	Peter Smith (RCCAO)
<b>One Call Members</b>	Bav Mistry (Hydro One)	Mike McGivery (Enbridge Gas)	Eric Boere (Region of Halton)	Nectar Tampacopoulos (Region of Peel)	Dave Martins (Toronto Hydro)	Mel Geronimo (Toronto Water)
	Gary Irwin (City of London)	Gord McGuire (City of Hamilton)	Mike Field (City of Hamilton)	Sherie Eastbury (City of Hamilton)	Jamie MacLeod (Hydro Ottawa)	Daniel Cole (Town of Collingwood)
<b>Stakeholder</b>	Doug Lapp (ORCGA)		<b>Technical</b>		Jamie Bradburn (T2 Utility Engineers)	

# LSWG Sessions

- ▶ Six sessions were held over November-December 2021



# LSWG Recommendations

- ▶ There are 27 recommendations which emerged from the sessions
- ▶ Many of these are included in Bill 93
- ▶ Others will be worked on by the ON1Call Operations Committee and ON1Call. Some have short-term horizons, others are longer-term initiatives

# Recommendations for Legislative Track

#	Recommendation
6	Project Locates must be completed by certified locator
7	Mandate Dedicated Locator to participate in 360 Feedback
8	ON1Call to issue monetary penalties against non-compliant members
9	Define projects eligible for Dedicated Locator
10	Define <i>Standard Locates/Priority Locates/Emergency Locates</i>
11	Eliminate Re-Locates for Specific Projects (e.g., Condominium Foundations)
13	Recognize Excavators in the Act
14	Excavators must report damages to members
18	ON1Call compliance staff to issue fines directly to members
19	ON1Call to develop Compliance & Enforcement Policies
20	ON1Call to publicize convictions on website
21	ON1Call to publish each member's locate performance on website

# Recommendations for Legislative Track (con't)

#	Recommendation
22	Project proponents may seek damages from members through OLT
23	Financial penalties for non-use of 360 Feedback for Dedicated Locator
24	Three business days for members to provide positive notification
26	Obligations for members to share information with Dedicated Locators
27	Digital mapping standards, including abandoned infrastructure

# Recommendations for Ops Committee

#	Recommendation
1	Establish minimum set of criteria for an actionable locate request
2	ON1Call to only notify members of requests meeting those criteria
3	Excavators to provide locate documentation to member on site
4	Mandatory virtual site meet for Designated Locator projects
5	PLA to include timelines, drawings and other pertinent information
12	Allow excavators to request remarks more than 5 days in advance
15	Add schedule to outline requirements and obligations of excavators
16	Create Code of Conduct applicable to all parties
17	Focus compliance on non-PLAC certified tickets and other poor tickets
25	Promote sharing of locates among excavators

# New Terms in Bill 93

- ▶ Project Owner
- ▶ Dedicated Locator
- ▶ Assessor
- ▶ Ontario Land Tribunal
- ▶ Appeals Body

# Dedicated Locator

- ▶ Who can use Dedicated Locator? s. 7 (1)
  - ▶ Designated Broadband Projects
  - ▶ Any projects designated by the Minister
  - ▶ Any excavation or dig project which the project owner chooses to use a dedicated locator
- ▶ Who pays for Dedicated Locator? s. 7 (12)
  - ▶ The Project Owners pays for dedicated locator
- ▶ Project Owners must provide 90 days notice with rolling quarterly updates in the format required by ON1Call s. 7 (3)

# Dedicated Locator (con't)

- ▶ Selection of Dedicated Locator *s. 7 (7)*
  - ▶ Within 10 days of notice, affected members and project owners shall agree in writing on dedicated locator. Members shall provide their mapping information and any other information the dedicated locator needs
- ▶ Obligations of Dedicated Locator *s. 7 (10)*
  - ▶ Locates to be completed within 10 business days
  - ▶ Otherwise, all normal requirements for locate requests remain unchanged

# Operational Items

- ▶ Locate validity period will now be a minimum of 60 days s. 8
- ▶ Locate sharing is explicitly allowed s. 11
- ▶ Ticket dumping is prohibited s. 12(1)
- ▶ Standard and Emergency Locates are included s. 6 (2)
- ▶ Renegotiations must be in writing s. 6 (4)(a)

# ON1Call's Compliance Process

- ▶ ON1Call will appoint assessor (e.g. ON1Call Compliance staff) who may, by order, impose an administrative penalty against a member or excavator that has contravened the Act or its regulations *s. 16 (2)*
- ▶ The imposition of the penalty will not require a hearing *s. 16 (10)*
- ▶ A member or excavator may appeal a penalty to the appeal body *s. 16 (3)*
- ▶ There is no Compliance Committee or Appeals Committee. Those concepts are abolished
- ▶ Both members and excavators can be penalized for violations
  - ▶ For members, this would include offences such as late locates, not providing information to ON1Call and not meeting timelines to establish dedicated locator agreements, etc.
  - ▶ For excavators, this would include entering tickets for work starting beyond 30 days, not calling for locates, not using dedicated locator as per the legislation, etc.

# Absolute Liability

- ▶ The phrase “all reasonable attempts” to provide locates within five business days is deleted from the current Act
- ▶ Instead, Bill 93 specifically excludes that type of defence s. 16 (7)

*16 (7) An order ... imposing an administrative penalty against a member or excavator applies even if,*

- (a) The member or excavator took all reasonable steps to prevent the contravention on which the order is based; or*
- (b) At the time of the contravention, the member or excavator had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.*

# Compliance Outside of ON1Call

- ▶ In addition to ON1Call's compliance process, excavators may pursue compensation for a loss or expenses from members for: *s. 16 (1)*
  - ▶ Failure to accurately provide a locate
  - ▶ Incorrect clearance
  - ▶ Late locates
- ▶ If compensation cannot be agreed between a member and the excavator, the excavator may make a claim to the Ontario Land Tribunal *s. 16 (4)*

# ON1Call Governance

- ▶ The Minister may make additional appointments to the Board and change the makeup of the Board, as long as they do not appoint a majority of the Board s. 1 (4)
- ▶ The currently voluntary Memorandum of Understanding between ON1Call and the government becomes mandatory and will be revised to reflect the new legislation s. 2 (1)
- ▶ The Objects of ON1Call are expanded to include
  - ▶ *Compliance and enforcement*
  - ▶ *Activities which support timely responses to locate requests*
  - ▶ *Activities in accordance with the Memorandum of Understanding*

# Dedicated Locator Working Committee

- ▶ A Dedicated Locator Working Committee has been formed to deal with the implementation, policies and procedures required to make dedicated locator happen, as envisioned by Bill 93
- ▶ Their first two tasks will be:
  - ▶ Determine what information and level of detail must be provided by Project Owners for the 90 day notice period
  - ▶ Establish a standard certification standard that ON1Call members can easily adapt in order to quickly approve dedicated locators

# Beyond The Legislation: Implications for Members

- ▶ Members also have the opportunity to work with Project Owners and excavators to expand the supply and diversity of locating resources in Ontario
- ▶ There are significant changes to the risk profile of late locates, and members must understand these changes
- ▶ Members are Project Owners too. They have a new role to play in submitting plans and securing resources if they are included in dedicated locator
- ▶ There is the opportunity to shift expenses from O&M budgets while assuming new costs on capital budgets

# Beyond The Legislation: Implications for Excavators

- ▶ Excavators have greater tools to take control of their locates destiny
- ▶ The door is open to develop new locating resources, both internal and external
- ▶ Excavators have new tools to recover economic losses due to a member's non-compliance
- ▶ However, excavators have greater accountability under the law and could be subject to penalties from ON1Call

# Beyond The Legislation: Implications for Ontario One Call

- ▶ Bill 93 imposes significant new duties on ON1Call
  - ▶ Responsibilities to operate our portion of dedicated locator
  - ▶ Significant new compliance responsibilities
  - ▶ Additional reporting responsibilities
  - ▶ A mandatory MOU, which includes new and significant administrative requirements
- ▶ These come with significant staffing and cost requirements which will ultimately be borne by members. This will be discussed with members as part of any future changes to the fee schedule. At the same time, the benefits of these changes will ultimately be a better functioning and more balanced locates system for Ontario
- ▶ There will need to be changes to ON1Call's by-laws to reflect the legislation. This may happen as soon as the June 2022 AGM

# Next Steps

## Bill 93

- ▶ Bill 93 is currently going through Second Reading debate in the Ontario Legislature
- ▶ Time is of the essence - Please submit your feedback as soon as possible

## Longer Term

- ▶ The Dedicated Locator Working Committee will meet starting next week. A new department within ON1Call has been formed to support this process
- ▶ There are still several items from the LSWG that need to be addressed
- ▶ The ON1Call Board of Directors is currently developing the compliance policies that will form the basis of the new compliance regime

Questions?