

File no. PL180754

LOCAL PLANNING APPEAL TRIBUNAL

BETWEEN:

**KEVIN MATTHEWS & ROBIN LATIMER, TROUT LAKE CAMPERS' ASSOCIATION
AND LESLIE WALKER LARSON**

Appellants

and

LEMPIALA SAND & GRAVEL LIMITED

Respondent

CASE SYNOPSIS OF TROUT LAKE CAMPERS' ASSOCIATION

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OVERVIEW

1. Thirty-six years ago, Lempiala Sand & Gravel Limited's ("Lempiala") application to operate an aggregate pit adjacent to the residential and recreational area at Trout Lake was denied by the Ontario Municipal Board. Although Ontario's planning regime has changed since that time, the environmental and social concerns which underpinned the Ontario Municipal Board's decision to deny the application remain the same. Lempiala's second application to operate a pit at this location should be denied, as well.

2. By-law 004-2018, which allows for an aggregate pit to be developed beside the recreational and residential properties at Trout Lake, should be repealed and sent back to the Lakehead Rural Planning Board

(“LRPB) for a new decision because it is inconsistent with the *Provincial Policy Statement, 2014* (“PPS”) and fails to conform with the *Official Plan for the Townships of Gorham, Ware, and the Dawson Road Lots, Lots 1-20 Concession A and B, East of the Kaministiquia River* (“Official Plan”).

3. Ontario’s *Planning Act*, and the PPS and the Official Plan applicable in the unorganized township of Gorham, stress balance and compatibility between land uses. Contrary to that mandatory direction, the LRPB focused solely on the provisions of the planning documents which support aggregate extraction and did not consider the provisions which support recreational and residential land use, and environmental protection.

4. The LRPB did not have sufficient evidence to determine that the requirements of the planning system had been met. Its decision is inconsistent with the PPS and the Official Plan on that basis, and the Local Planning Appeal Tribunal (“LPAT”) should repeal the By-law and return it to the LRPB for a new decision.

PART I – STATEMENT OF FACTS

A. TROUT LAKE CAMPERS’ ASSOCIATION

5. The Trout Lake Campers’ Association (“TLCA”) is an incorporated non-profit group. Its members have lived and camped on properties at Trout Lake since 1929.¹

6. Members of TLCA are deeply connected to their camps and homes at Trout Lake and the surrounding area. President Robert Macey values the peace and solitude of Trout Lake and enjoys co-existing with wildlife at the

¹ Affidavit of Robert Macey, dated November 15, 2018 (“Macey Affidavit”), para 8, p. 120, in TLCA Appeal Record, Tab 6.

lake.² Vice-president of TLCA, Dr. Karen Peterson, camps at a property at Trout Lake that has been within her family for five generations, and has hosted and attended social celebrations for family and friends at the property since her childhood.³ TLCA is opposed to the proposed aggregate pit because of serious concerns about its potential adverse impacts on the nearby wetlands and lake, and the potential for well water contamination and significant increases in noise, dust and traffic. TLCA members choose to live at Trout Lake for its quality of life and because they want to enjoy the lake, fresh air, beautiful surrounding environment, pure drinking water, and peace and quiet.⁴ Many members of the TLCA wrote letters and made deputations to the LRPB in opposition to the application, which are reproduced in the Enhanced Municipal Record. Approximately 257 people signed a petition in opposition to Lempiala's application.⁵

7. TLCA was opposed to Lempiala's application to rezone the same property for aggregate use in the 1980s for similar reasons.⁶

8. TLCA has standing to appeal By-law 004-2018 pursuant to paragraph 34(19)(2) of the *Planning Act*, RSO 1990, c P13 ("*Planning Act*") because its members made oral and written submissions to the LRPB in opposition to the application.⁷

² Macey Affidavit, paras 4-7, p. 119-120, in TLCA Appeal Record, Tab 6.

³ Affidavit of Karen Peterson, dated November 15, 2018 ("Peterson Affidavit") para 4, pp. 213-214, in TLCA Appeal Record, Tab 7.

⁴ Macey Affidavit, para 17, p. 120, in TLCA Appeal Record, Tab 6.

⁵ Peterson Affidavit, para 16, p. 218, in TLCA Appeal Record, Tab 7; Peterson Affidavit – Exhibit H, *Petition Opposing the Lempiala Application*, March 28, 2018, pp. 246-259, in TLCA Appeal Record, Tab 7H

⁶ *Minister of Housing, Re (Trout Lake Campers' Association)*, [1982] OMBD ["*Minister of Housing (TLCA)*"], in TLCA Book of Authorities, Tab 1.

⁷ *Planning Act*, RSO 1990, c P13 at para 34(19)(2) ["*Planning Act*"]; Macey Affidavit, paras 18-20, p. 122-124, TLCA Appeal Record, Tab 6.; Peterson Affidavit, paras 14, 16, pp. 215-221, TLCA Appeal Record, Tab 7.

B. LEMPIALA SAND & GRAVEL LIMITED'S APPLICATION TO LAKEHEAD RURAL PLANNING BOARD

9. Lempiala applied for a zoning by-law amendment to the LRPB to rezone "Parcel 8755, Section TBF, Part Broken Lot 18, Concession 7, Gorham Township (as in LPA33239, excepting Parts 1, 2 and 3 on Reference Plan of Survey 55R-1816 & Unit 1 Plan D-72) in the District of Thunder Bay" (the "Subject lands") from rural to extractive industrial on December 5, 2016. Lempiala's application was initially only a 9-page fill-in-the-blanks form that included a map of the site.⁸

10. The LRPB is designated as an approval authority pursuant to the *Planning Act* for the unorganized townships of Gorham, Ware, and a portion of the Dawson Road Lots.

11. The LRPB held a public meeting to consider Lempiala's application on March 30, 2017.⁹ Members of the TLCA expressed serious concerns about the application, and made the following submissions to the LRPB:

(a) TLCA President Robert Macey read a letter from a concerned local property owner and submitted TLCA's Statement of Concerns, which discussed the 1982 Ontario Municipal Board decision rejecting Lempiala's application to rezone the same property for aggregate extraction. He also identified possible impacts of the proposed aggregate pit on the McIntyre River, the watershed, fishing reserves and the nearby wells used for drinking water. He expressed concern that the establishment of an aggregate pit would result in an increase in water usage, noise, dust and traffic. Mr. Macey also discussed the negative experiences residents were already having with the nearby Taranis pit, and was concerned about the cumulative effect of an additional pit,

⁸ Lempiala, *Application for a Zoning By-Law Amendment ZBLA01-16*, PDF pp. 2-12, in Enhanced Municipal Record ("EMR"), Tab 2.

⁹ LRPB, *Minutes for the March 30th, 2017 Meeting of the Lakehead Rural Planning Board Public Meeting*, PDF pp. 5-9, in EMR, Tab 10(a).

including that it would cause a decline in property values and impair the aesthetics of the neighborhood.¹⁰

(b) TLCA Vice-President Dr. Peterson submitted that all applicable environmental legislation needed to be considered by the LRPB. She referred to the amount of glacial deposits in the immediate area and the extent of land already zoned for aggregate extraction in the area.¹¹

(c) TLCA members, including Rene Larson, Douglas Shanks, Bryan MacKay, Christopher Hanley, Kevin Matthews, Robin Latimer, Ti King, and others, raised concerns about the impact of the pit on the wetlands, ongoing issues with the Taranis pit, the 1982 Ontario Municipal Board ruling dismissing Lempiala's previous application to rezone this property, carcinogenic properties of silica in aggregate dust, traffic safety concerns, and possible property damage.¹²

12. TLCA members made further submissions in opposition to the application in May 2017, including Dr. Peterson's submission to LRPB on May 19, 2017 which outlined how the Lempiala application was inconsistent with the applicable planning documents.¹³

13. On June 16, 2017, Lempiala deferred its application so it could commission noise and environmental reports.¹⁴

14. Lempiala continued its application on March 27, 2018 and submitted four expert reports to the LRPB: (1) Air Quality Assessment, dated October 10, 2017, (2) Groundwater Summary Statement, dated December 20,

¹⁰ Macey Affidavit, para 18, p. 122, in TLCA Appeal Record, Tab 6; Macey Affidavit - Exhibit C, *TLCA Statement of Concerns*, pp. 151-157, in TLCA Appeal Record, Tab 6C.

¹¹ Peterson Affidavit, para 14, p. 216, in TLCA Appeal Record, Tab 7; Peterson Affidavit - Exhibit A, *Letter to LRPB dated March 30, 2017*, pp. 223-224, in TLCA Appeal Record, Tab 7A.

¹² LRPB, *Minutes for the March 30th, 2017 Meeting of the Lakehead Rural Planning Board Public Meeting*, PDF pp. 5-9, in EMR, Tab 10(a); Peterson Affidavit - Exhibit B, *Personal Notes from the March 30 2017 Public Meeting*, pp. 225-226, in TLCA Appeal Record, Tab 7B.

¹³ Peterson Affidavit, para 14, p. 217, in TLCA Appeal Record, Tab 7; Peterson Affidavit - Exhibit F, *Letter to the LRPB dated May 19, 2017*, pp. 235-237, in TLCA Appeal Record, Tab 7F

¹⁴ Lempiala, *Email to Lakehead Rural Planning Board*, dated June 16, 2017, PDF p. 12, in EMR, Tab 12(a).

2017, (3) Natural Environment Level 1 Assessment, dated February 1, 2018, and (4) Noise Assessment, dated October 31, 2017.¹⁵

15. Leigh Whyte, a Registered Professional Planner with Quartek Group Inc., prepared a planning report for the LRPB dated March 29, 2018. He found that the relevant planning documents “not only favour, but mandate” the development of local natural resources and that the proposal was consistent with the planning documents.¹⁶

16. Although Quartek relied on Lempiala’s expert reports in its planning report, the LRPB initially refused to provide the expert reports to the public.¹⁷ Subsequently, after members of the public raised concerns about the lack of adequate disclosure, the LRPB released the reports in April 2018.

17. The LRPB held several regular meetings and TLCA members raised concerns about the sufficiency of Lempiala’s reports in showing that there would not be negative impacts from the pit on the surrounding environment and the local properties. TLCA members also submitted that the application remained inconsistent with the planning documents.¹⁸

¹⁵ Lempiala, *Letter to Lakehead Rural Planning Board*, dated March 27, 2018, PDF p. 13, in EMR, Tab 12(a); RWDI, *Draft Report - Air Quality Assessment*, dated October 10, 2017, PDF pp. 1-24, in EMR, Tab 12(h); RWDI, *Report - Air Quality Assessment*, dated October 10, 2017, PDF pp. 1-33, in EMR, Tab 12(i); TBT Engineering Consulting Group, *Natural Environment Level 1 Assessment*, dated February 1, 2018, PDF pp. 1-20, in EMR, Tab 12(j); TBT Engineering Consulting Group, *Groundwater Summary Statement*, dated December 20, 2017, PDF pp. 1-15, in EMR, Tab 12(k).

¹⁶ Quartek, *Planning Report*, dated March 29, 2018, PDF pp. 1-19, in EMR, Tab 11.

¹⁷ Affidavit of Anthony Usher, Dated November 15, 2018 (“Usher Affidavit”), para 10, p. 47, in TLCA Appeal Record, Tab 4; Usher Affidavit - Exhibit C, *Email to the LRPB*, dated March 27, 2018, pp. 64-67, in TLCA Appeal Record, Tab 4C; Anthony Usher - Exhibit D, *Letter to the LRPB*, dated April 4, 2018, pp. 70-72, in TLCA Appeal Record, Tab 4D; Peterson Affidavit, para 16, p. 217, in TLCA Appeal Record, Tab 7; Peterson Affidavit - Exhibit G, *Emails to the LRPB*, dated March 13, 2018, March 26, 2018 and March 27, 2018, pp. 239-243, in TLCA Appeal Record, Tab 7G.

¹⁸ Peterson Affidavit, para 16, pp. 217-221, in TLCA Appeal Record, Tab 7; Macey Affidavit, para 18, pp. 122-124, in TLCA Appeal Record, Tab 6.

18. For instance, Dr. Peterson argued in a May 3, 2018 submission that the *PPS* recognizes that local circumstances vary and that each case must be decided on its own merits. She also highlighted several relevant provisions of the Official Plan, including section 3.3.2 which recognizes that the Lake Residential area should be recognized as “permanent year-round residential areas with opportunities for seasonal residential uses, outdoor recreation uses, and tourism”.¹⁹

19. Another example was a presentation by Christopher Hanley, TLCA member, who raised concerns about the impact of the pit on wells and the local sewage system in a deputation on June 7, 2018.²⁰

20. TLCA also submitted two expert reports to the LRPB.

21. Anthony Usher, a Registered Professional Planner retained by TLCA to provide planning advice with respect to the application, found that approval of this zoning by-law amendment application would set a negative precedent because past zoning in Gorham and Ware has accommodated both aggregate and lake residential uses by distancing them from each other. He raised the key concern that policy 2.5.2.2 of the *PPS* requires the planning authority, not the Ministry of Natural Resources and Forestry (“MNRF”), to consider whether the proposed pit’s impacts can be undertaken in a manner that would minimize social, economic and environmental impacts.²¹ In his opinion, the LRPB required more information to assess whether aggregate

¹⁹ Peterson Affidavit - Exhibit P, *Letter to LRPB*, dated May 31, 2018, pp. 329-332, in TLCA Appeal Record, Tab 7P.

²⁰ LRPB, *Minutes for the June 7, 2018 Meeting of the LRPB*, PDF pp. 26-36, in EMR, Tab 10(b).

²¹ Usher Affidavit, para 36, pp. 53-54, in TLCA Appeal Record, Tab 4; Ministry of Municipal Affairs and Housing, *Provincial Policy Statement, 2014*, (“*PPS*”), policy 2.5.2.2.

extraction could be conducted at this location in a manner compatible with existing land uses.²²

22. Dr. Robert Foster, D. Phil., was retained by TLCA to conduct a peer review of Lempiala's Natural Environment Level 1 assessment report conducted by TBT Engineering ("TBTE"). He found that TBTE's report had serious weaknesses which limited its usefulness for identifying natural environment features. He recommended that TBTE revise its Level 1 report. He also found that TBTE's conclusion that a Level 2 Natural Environment report was unnecessary was unsupported by the evidence.²³

23. In response, Quartek prepared a supplementary letter to the LRPB dated May 31, 2018 which stated that most of the public's comments "pertain to operational aspects" of the proposed pit and that the proposal was consistent with applicable planning policy.²⁴

C. LAKEHEAD RURAL PLANNING BOARD'S DECISION

24. On June 7, 2018, the LRPB passed a resolution to approve the rezoning in principle and directed staff to prepare a zoning by-law amendment ("LRPB Resolution"). It stated that Policy 2.5.2.2 of the *PPS* should be considered by MNR, not the LRPB:

f) The Provincial Policy Statement 2014 also provides, in Section 2.5.2.2, that "extraction shall be undertaken in a manner which minimizes social, economic and environmental impacts". This direction relates to the operation of the extraction process; and not to the locations in which mineral aggregates exist. The regulation of the operation of mineral aggregate facilities is the purview of the MNR under the

²² Usher Affidavit, paras 38-41, pp. 54-55, in TLCA Appeal Record, Tab 4; Anthony Usher - Exhibit E, *Planning Report*, dated May 24, 2018 ("Usher Planning Report"), pp. 79-81, in TLCA Appeal Record, Tab 4E.

²³ Affidavit of Robert Foster, dated November 14, 2018 ("Foster Affidavit"), paras 24-27, p. 93, in TLCA Appeal Record, Tab 5; Foster Affidavit - Exhibit C, *Peer Review of TBTE Natural Environment Level 1 Report*, dated April 24, 2018 ("Foster Peer Review"), p. 116, in TLCA Appeal Record, Tab 5C.

²⁴ Quartek, *Letter to LRPB*, dated May 31, 2018, PDF pp. 26-27, in EMR, Tab 12.

Aggregate Resources Act, R.S.O. 1990, c. A.8, as amended, and not the purview of the LRPB.

...

j) The regulatory framework for mineral aggregate operations outside of the Planning Act is the more appropriate venue to consider the “minimization of social, economic and environmental impacts” of mineral aggregate operations under Section 2.5.2.2 of the Provincial Policy Statement. [emphasis added]

25. The LRPB Resolution also provided for setbacks of 120 metres from the North and East boundaries of the subject lands.²⁵

26. The LRPB passed By-law 004-2018 on July 5, 2018, which amends the Zoning Schedule for Gorham for the subject lands from rural to extractive industrial. The setbacks were decreased to 30 metres from the north boundary, and 60 metres from the northeast and east boundary, however the LRPB failed to provide any justification for its decision.²⁶

27. The Notice of Decision is dated August 9, 2018.

PART II – NATURE OF THE APPEAL AND LIST OF ISSUES

28. By-law 004-2018 is inconsistent with the *PPS*, which requires consideration of the environmental, social and economic impacts of neighbouring land uses. The LRPB improperly focused solely on provisions of the *PPS* which support aggregate development and failed to consider and balance the proposed pit with other relevant provisions in the *PPS*.

²⁵ LRPB, *Resolution as amended at the June 7, 2018 Meeting*, PDF pp. 33-36, in EMR, Tab 10(b).

²⁶ LRPB, *By-law 004-2018*, dated July 5, 2018, PDF pp. 3-11, in EMR, Tab 3.

29. The By-law fails to conform with the Official Plan, which requires the details of the proposed aggregate development, its impact on other competing land uses, and environmental protection to be considered before a zoning by-law amendment can be approved.

PART III – SUBMISSIONS

30. The *PPS* mandates that all relevant policies must be considered by the planning authority.²⁷ The Ontario Municipal Board found in *Ontario (Ministry of Natural Resources), re, 2012 CarswellOnt 10693*, that Part III of the *PPS* makes it “abundantly clear” that a planning authority must consider all relevant interests, and that all policies must be considered and weighed when land use decisions are to be made.²⁸ However, By-law 004-2018, the LRPB Resolution and Quartek’s report fail to consider numerous relevant provisions in the *PPS* and the Official Plan in their entirety.

31. A designation of land for a particular use indicates only that it may be considered for that use, subject to the more detailed criteria of the Official Plan and other legislation: “There is no guarantee that any individual parcel may be used for any permitted use in a particular designation.”²⁹

32. The LRPB Resolution and the Quartek report are inconsistent with the *PPS* and conflict with the Official Plan because they rely solely on provisions which support aggregate extraction, but do not consider, or even cite, provisions supportive of other uses.

²⁷ *PPS*, Part III, policy 4.4.

²⁸ *Ontario (Ministry of Natural Resources), Re, 2012 CarswellOnt 10693*, at para 25 [*Ontario (MNR)*], in TLCA Book of Authorities, Tab 2, applying Part III of the *PPS, 2005*.

²⁹ Usher Affidavit, para 57, pp. 58-59, in TLCA Appeal Record, Tab 4; Lakehead Rural Planning Board, *Official Plan for the Townships of Gorham, Ware, and the Dawson Road Lots, Lots 1-20 Concession A and B, East of the Kaministiquia River*, August 20, 2013 (“*Official Plan*”), s 1.11.5, 2.1.1.

33. The LRPB erred in four related ways:

- 1- The LRPB did not consider the provisions of the planning documents which stress (1) balance and land use compatibility in the planning system, and (2) provisions which support recreational and residential uses and environmental protection;
- 2- It improperly found that it was MNRF's responsibility to consider section 2.5.2.2 of the *PPS* which requires that aggregate extraction be conducted in a manner which minimizes social, economic and environmental impacts;³⁰
- 3- It did not address the concerns raised by TLCA because it improperly classified them as operational; and
- 4- The LRPB did not have sufficient information to determine whether Lempiala has met its onus of showing that its proposed aggregate pit meets all the requirements of the planning regime in Gorham.

A. LRPB DID NOT CONSIDER ALL RELEVANT PROVISIONS OF THE *PPS* AND OFFICIAL PLAN

(i) Provisions of the *PPS* and Official Plan which support balance and land use compatibility have not been applied

34. By-law 004-2018, the LRPB Resolution, and the Quartek report do not reflect considerations of balance and compatibility in the *PPS* and Official Plan between the proposed pit, the recreational and residential uses of neighbours living at Trout Lake, and the surrounding environment.³¹ Those provisions are mandatory and foundational to Gorham's land use planning regime. The by-law is inconsistent with the *PPS* and fails to conform with the Official Plan because it failed to consider whether a pit at this location was incompatible with existing land uses.

³⁰ *PPS*, s. 2.5.2.2.

³¹ Usher Affidavit, para 17, p. 49, in TLCA Appeal Record, Tab 4.

35. In *Capital Paving Inc v Wellington (County)*, [2010] OMBD No 9 (“*Capital Paving*”), the Ontario Municipal Board held that although aggregate extraction is given a privileged position in the planning documents, it is “fair to say that the PPS speaks to the incompatibility of sensitive residential use with earlier aggregate operations and the reverse is also true that a proposed pit may be incompatible with the prior residential use”.³² [emphasis added]

36. The phrase “as is realistically possible” in section 2.5.2.1 of the *PPS* means that a proposal for aggregate must address competing interests:

The “as is realistically possible” approach means addressing competing interests of many stakeholders, one of which is the aggregate industry. With respect, it would be an oversimplification of the policy and an error of interpretation in my estimation to suggest that “as is realistically possible” only includes the physical existence of the aggregate resource.³³

37. Anthony Usher pointed out that Policy 1.2.6.1 of the *PPS*, which Quartek did not consider, applies when aggregate extraction and recreational residential use would be near each other.³⁴ Quartek also did not cite sections 3.1.2 and 3.2.5 of the Official Plan, which support land use compatibility and minimizing land use conflicts³⁵

38. *PPS* section 1.1.6 is specific to unorganized areas. Policy 1.1.6.1 gives equal recognition to “sustainable management or use of resources” and

³² *Capital Paving Inc v Wellington (County)*, [2010] OMBD No 9, at para 16 [*Capital Paving*], in TLCA Book of Authorities, Tab 3.

³³ *2220243 ONT Inc, Re*, [2015] OMBD No 418, at para 41, in TLCA Book of Authorities, Tab 4

³⁴ Usher Affidavit, para 20, p. 49, in TLCA Appeal Record, Tab 4; *PPS*, s 1.2.6.1

³⁵ Usher Affidavit, para 23, p. 50, in TLCA Appeal Record, Tab 4; Official Plan, s 3.1.2, 3.2.5

to recreational dwellings. Although sustainability is a consideration, there is no guidance in the planning documents on whether aggregate extraction is considered sustainable. Anthony Usher questioned in his report whether the *PPS* intends to promote aggregate extraction on the same level as camping or cottaging in unorganized territory, which was not considered by the LRPB or Quartek.³⁶

39. It was an error of interpretation when Quartek found that in the event of a conflict between lake residential land use and aggregate extraction, “the predominant language in all of the governing planning documents favours extraction.”³⁷ Contrary to Quartek’s assertion, the *PPS* and Official Plan favour a balanced approach. The details of the specific proposal need to be analyzed. It is not good planning, and it is not consistent with section 2.7.1 of the Official Plan, to permit a new aggregate pit in an existing recreational and residential community without first determining whether it is a compatible land use.³⁸

(i) Provisions of the *PPS* and Official Plan which support residential and recreational land use, and environmental protection, have not been applied

40. By-law 004-2018, passed based on the LRPB Resolution and the Quartek report, is also inconsistent with the *PPS* and conflicts with the Official Plan because the LRPB did not apply the provisions which support residential and recreational land use and environmental protection.

³⁶ Usher Affidavit, paras 20-21, pp. 49-50, in TLCA Appeal Record, Tab 4; *PPS*, s 1.1.6.1

³⁷ Quartek, *Planning Report*, dated March 29, 2018, PDF p. 10, in EMR, Tab 11.

³⁸ Usher Affidavit, para 27, p. 51, in TLCA Appeal Record, Tab 4; Official Plan, s 2.7.1

41. The LRPB and Quartek do not address *PPS* sections 2.1 or 2.2. Section 2.1 establishes natural heritage policies, which would apply to the extent that there are any *PPS*-recognized natural features on or near the subject lands. Section 2.2 requires that a proposed development does not impair water features or their hydrologic functions.³⁹

42. The LRPB and Quartek also do not examine the goals in the Official Plan in section 1.2.3(b) to protect and maintain the rural quality of life, and section 1.2.3(d) to secure the health, safety, convenience and welfare of the residents.⁴⁰ The preamble of the Official Plan includes provisions to support the economic potential of resources and recreation, and to ensure that development will maintain “the rural quality of life”, which were also not considered.⁴¹

43. The LRPB and Quartek do not cite section 1.3.3, a mandatory environmental protection policy, or section 1.3.4, recognizing the importance of recreation.⁴²

44. Section 2.1 of the Official Plan establishes natural heritage policies, which would apply to the extent that there are any *PPS*-recognized

³⁹ Usher Affidavit, para 20, p. 49, in TLCA Appeal Record, Tab 4; *PPS*, ss. 2.1, 2.2.

⁴⁰ Usher Affidavit, para 24, p. 50, in TLCA Appeal Record, Tab 4; Official Plan ss 1.2.3(b), (d)

⁴¹ Usher Affidavit, para 24, p. 50, in TLCA Appeal Record, Tab 4; Official Plan, s 1.3.1

⁴² Usher Affidavit, para 24, p. 50, in TLCA Appeal Record, Tab 4; Official Plan, ss 1.3.5, 1.3.6

natural features on or near the subject lands. LRPB and Quartek omit the following relevant Official Plan sections:

- a. Section 2.17.1 – development shall not degrade ecosystem quality and integrity.
- b. Section 2.17.3 – development shall demonstrate no negative impact on provincially significant wetlands or adjacent lands.
- c. Section 2.17.8 – development is discouraged in or near significant wildlife habitat unless no negative impact is demonstrated
- d. Section 2.17.12 and 2.17.14 – Trout Lake and McIntyre River are fish habitat areas, and development shall demonstrate no negative impact on adjacent lands.
- e. Section 2.17.18 – development is not permitted in endangered or threatened species habitat and shall demonstrate no negative impact on adjacent lands.⁴³

45. The LRPB has not considered any of these Official Plan provisions or assessed whether Lempiala has demonstrated “no negative impact” as stipulated in the Official Plan.

B. 2.5.2.2 OF THE *PPS* IS A KEY TEST TO BE APPLIED BY THE PLANNING AUTHORITY

46. LRPB’s decision was inconsistent with the *PPS* because it declined to consider the key requirement that extraction be undertaken in a manner “which minimizes social, economic and environmental impacts.”⁴⁴ It improperly found that section 2.5.2.2 relates only to the operation of the extraction process, not to the principle of establishing aggregate extraction at a specific location. Its proposed interpretation of section 2.5.2.2 is inconsistent

⁴³ Usher Affidavit, para 26, p. 51, in TLCA Appeal Record, Tab 4.

⁴⁴ Usher Affidavit, paras 36-37, pp. 53-54, in TLCA Appeal Record, Tab 4; *PPS*, s 2.5.2.2

with the case law and would effectively allow for the zoning of a proposed aggregate pit in any location in Gorham regardless of the circumstances.

47. Anthony Usher highlighted that section 2.5.2.2 of the *PPS* had to be applied by the LRPB in his letter of April 4, 2018 and his planning report:

Mr. Whyte's report says that 'the MNRF will evaluate the operational details of the proposed facility to ensure that operations of the facility will not result in significant adverse impacts to the environment or adjacent land uses' (p. 1) and that '[the] MNRF's consideration of appropriate restrictions on operations must take into consideration the minimization of social, economic and environmental impacts, on balance with all of the other policies' (p. 7). These are issues that the planning authority and its advisors, not to mention the public, should be addressing when considering the principle of the land use, before MNRF does its licensing job. The second quote specifically refers to Provincial Policy Statement Policy 2.5.2.2, '[extraction] shall be undertaken in a manner which minimizes social, economic and environmental impacts'. It is the responsibility of the planning authority, not MNRF, to determine whether that is the case.⁴⁵

48. In *Capital Paving*, the Ontario Municipal Board highlighted how section 2.5.2. should be interpreted. Aggregate policies should be applied, but the extraction must be "realistic", which means it must be determined whether social and environmental impacts can be minimized. The Board in *Capital Paving* determined that extraction was not realistic given that the possible environmental and social impacts had not been minimized.⁴⁶

49. The same evidence may be, and often is, considered by several authorities as they make related decisions on an application.⁴⁷ MNRF's role in licencing does not displace the LRPB's role in zoning. Subsection 12(1) of the *Aggregate Resources Act*, which requires that a licence application provide

⁴⁵ Usher Affidavit, para 36, pp. 53-54, in TLCA Appeal Record, Tab 4.

⁴⁶ *Capital Paving*, *Supra* note 32 at paras 30, 37.

⁴⁷ Usher Affidavit, para 39, p. 54, in TLCA Appeal Record, Tab 4

information on “any planning and land use considerations”, does not displace a municipality’s role or jurisdiction in determining zoning issues, but instead actually highlights the municipality’s role.⁴⁸

50. In *Ottawa (City) v Sample*, [2001] OJ No 4589 (SCJ), the OMB considered the evidence that supported an environmental assessment, because it was presented in support of an Official Plan amendment.⁴⁹ It would be “unprecedented” to require the OMB to decline its jurisdiction to decide whether an undertaking is good planning simply because the undertaking had already received approval under a different regime.⁵⁰

C. CONCERNS RAISED BY TLCA ARE NOT OPERATIONAL

51. The Quartek Report, upon which the LRPB relied, erred by characterizing TLCA’s concerns as operational. There is no hard and fast dividing line between the planning and operational aspects of a proposed development.⁵¹ The concerns raised by TLCA were relevant to the requirements of the *PPS* and Official Plan. A planning decision made without considering those concerns is inconsistent with the *PPS* and fails to conform with the Official Plan.

52. Anthony Usher highlighted several provisions of the *PPS* and Official Plan which deal with environmental protection and land use compatibility with respect to aggregate extraction in his planning report. The LRPB was required to consider those provisions, and the evidence relevant to those provisions, in making its decision, to be consistent with the totality of the *PPS* and Official Plan land use planning scheme.⁵²

⁴⁸ *Carlyle Development Corp v Baldwin (Township)*, 2017 CarswellOnt 7658 at paras 30, 35, 37 [*Carlyle*], in TLCA Book of Authorities, Tab 5.

⁴⁹ *Ottawa (City) v Sample*, [2001] OJ No 4589 (SCJ) at paras 4, 11, 14 [*Sample*], in TLCA Book of Authorities, Tab 6

⁵⁰ *Sample*, *Supra Note 49*. at paras 15, 16.

⁵¹ Usher Affidavit, para 32, p. 53, in TLCA Appeal Record, Tab 4.

⁵² Usher Affidavit, para 33, p. 53, in TLCA Appeal Record, Tab 4.

53. For instance, TLCA members raised concerns about the hydrologic cycle, well water contamination, impacts on nearby wetlands and the lake, noise, dust and traffic, among other issues. These are common planning issues, as reflected in the case law:

- The Ontario Municipal Board in *Hunder Development Ltd. V Woolwich (Township)*, 2014 CarswellOnt 4843 (OMB) considered unacceptable visual impact of a pit under section 2.5.2.2 of the PPS.⁵³ The Board also examined whether the pit could be separated from the existing community, a sensitive land use.⁵⁴ The introduction of the noise of an aggregate operation into an existing community that is relatively quiet can be jarring, particularly disturbing and rise to the standard of being an adverse effect.⁵⁵
- In *Capital Paving*, the Board considered 100 residents in the area and noise and dust impacts, and ultimately determined those impacts had not been minimized for the purposes of section 2.5.2.2.⁵⁶
- In *Lake of Bays*, the Board focused on the experience of residents of noise from the aggregate operation and the visual impacts of the pit on the surrounding land uses.⁵⁷ The Board found that the applicant could not overcome the constraint of location and could not sufficiently minimize the noise and visual impact on neighbouring land uses.⁵⁸

⁵³ *Hunder Development Ltd. V Woolwich (Township)*, 2014 CarswellOnt 4843 (OMB) at paras 29-30 [*Hunder*], in TLCA Book of Authorities, Tab 7

⁵⁴ *Hunder, Ibid.* at paras 97, 100.

⁵⁵ *Hunder, Ibid.* at paras 101-103.

⁵⁶ *Capital Paving, Supra.* note 32 at para 37.

⁵⁷ *Lake of Bays (Township) Zoning By-law 86-50 (Re)*, [2007] O.M.B.D. No. 134, at 14-18 [*Lake of Bays*], in TLCA Book of Authorities, Tab 8.

⁵⁸ *Lake of Bays, ibid* at p 18

- In *Capital Paving*, the OMB considered water a central issue in the case, considered competing expert evidence, and found that the proponent failed to satisfactorily analyze ground and surface water on site. The Board therefore could not find there would be no harmful impacts to the environment.⁵⁹

D. LEMPIALA HAS NOT MET ITS ONUS OF DEMONSTRATING THAT ALL PLANNING REQUIREMENTS ARE MET

54. Lempiala has not submitted the necessary evidence to meet the requirements of section 2.5.2.2 of the *PPS*, or any of the other environmental protection or land use compatibility provisions.

55. The requirement for cogent and detailed evidence is particularly significant in this case, where the Ontario Municipal Board has already rejected a pit at the same location adjacent to Trout Lake. The Board denied Lempiala's application in the 1980s, in part, because even with a 1,555 foot berm, the noise from the operation would exceed Ministry of the Environment guidelines.⁶⁰ Lempiala has not put forward enough evidence to demonstrate that the concerns raised in the 1980s are no longer valid.

56. Lempiala's studies are too general because no operations plan has been submitted. In *Anderson v Trent Lakes (Municipality)*, 2018 CarswellOnt 6484 applies, the LPAT ruled that a zoning amendment could not be approved because there was insufficient evidence to verify whether the noise mitigation measures would work, and policy compliance required that assurance.⁶¹ Similar to this case, the proponent's evidence was "conceptual" and not in any way anchored to the actual circumstances or demonstrable

⁵⁹ *Capital Paving*, *Supra* note 32 at paras 17, 26.

⁶⁰ *Minister of Housing (TLCA)*, *Supra* Note 6, pp. 2-5

⁶¹ *Anderson v Trent Lakes (Municipality)*, 2018 CarswellOnt 6484 at para 60 [*Anderson*], in TLCA Book of Authorities, Tab 9.

outcomes.⁶² The zoning amendment was therefore deemed to be premature in the absence of “a concrete, feasible noise mitigation solution” for its proposed haul route.⁶³

57. TLCA members have raised concerns about the hydrologic cycle and well water contamination. Trout Lake and McIntyre River are fish habitat areas. The zoning application should not be approved until it can be shown that there will be no negative impact on the nearby water features. The onus is on the proponent of a quarry to demonstrate that in accordance with *PPS* policy 2.2.2 sensitive surface and ground water features and their related hydrologic features will be protected, improved and restored.⁶⁴ As Dr. Peterson points out, Lempiala’s groundwater study had too narrow a scope and the broader effect of the pit on surface water features was not considered.⁶⁵

58. In this case, TLCA’s experts raised significant concerns about the sufficiency of the evidence before the LRPB.

59. Dr. Foster concluded that Lempiala’s Natural Environmental Level 1 report, completed by TBTE, has serious weaknesses which limited its usefulness for identifying natural features. This evidence is essential to determining whether the application meets the requirements of section 2.1 and 2.5.2.2 of the *PPS*, and sections 1.3.3 and 2.17 of the Official Plan. The weaknesses of TBTE’s report include:

- There was no evidence that TBTE consulted with the Thunder Bay District MNR Office or the Lakehead Region Conservation Authority.

⁶² *Anderson, Ibid.* at para 54, 58.

⁶³ *Anderson, Supra* note 61 at para 63.

⁶⁴ *Ontario (MNR), Supra* note 28 at para 116

⁶⁵ Peterson Affidavit - Exhibit S, *Letter to the LRPB*, dated July 3, 2018, pp. 367-369, in TLCA Appeal Record, Tab 7S.

- The on-line search of the Natural Heritage Information Centre database in July of 2016 was dated by the time TBTE wrote its report in February 2018.
- Northern Bioscience completed an evaluation of the Lappe Wetland Complex in 2017 and found it to be provincially significant. This evaluation is in the process of being approved by MNRF.
- Once the wetland is approved as provincially significant, the MNRF's 2010 Forest Management Guide for Conserving Biodiversity at the Stand and Site Scales, table 4.1c specifies a 120 metre "Area of Concern" surrounding provincially significant wetlands, unless an Environmental Impact Study is conducted.
- TBTE's list of species at risk that may be found at the aggregate site is incomplete and out of date. TBTE does not indicate whether there is potentially suitable habitat for those species. There may be suitable habitat for at least some of the species at risk that were identified.
- TBTE does not provide sufficient detail about its methods or the duration of its single field survey on August 2, whose timing was in any event inappropriate for detecting most Endangered or Threatened species.
- TBTE's finding that there is an abundance of similar habitat in the general vicinity was not assessed in any way. This observation seems to contradict the earlier observation by TBTE that there is a high level of impact and human encroachment in the area.
- Without a better understanding of which Endangered or Threatened species are using the aggregate site and adjacent areas, it is difficult to predict impacts or propose mitigation measures
- The Significant Wildlife Habitat Technical Guide and the criteria schedules provide direction on survey techniques for identifying significant wildlife habitat, which does not appear to have been followed. A one-time visit is inadequate. The conclusion that no significant wildlife habitat is present on or near the proposed aggregate site does not appear warranted given an August site visit. For example, there may indeed be no significant amphibian breeding habitat, but that cannot be determined on available evidence.
- TBTE's recommendation to avoid clearing forest habitat during the spring and early summer period is a standard mitigation measure. It may not be adequate to prevent negative impacts on significant wildlife habitat. It is premature to conclude that the pit will have no

negative impacts on significant wildlife habitat or its ecological functions.

- Since the McIntyre River and Trout Lake are fish habitat areas and are clearly within 120 metres of the site, a Natural Environment Level 2 report is required. Page 8 of MNR's Licence Applications Natural Environmental Report Standards A.R. 2.01.07 states:

Unlike all of the other features that must be identified in the Natural Environment report, 'fish habitat' does not have to be significant. The applicant must determine whether or not there is any fish habitat present on-site or within 120 metres of the site, and if so, a Level 2 report must be prepared.

- The buffer for streams with high potential sensitivity, like the McIntyre River, is slope-dependent and ranges from 30-90 metres.
- TBTE does not indicate whether groundwater recharge areas for brook trout habitat were considered.⁶⁶

60. Based on these concerns, Dr. Foster recommended that TBTE conduct further fieldwork and that a revised Level 1 report be created to better assess if significant natural values are present on the proposed site or adjacent lands. He also found that TBTE's conclusion that a Level 2 Natural Environment report was not necessary was unsupported.⁶⁷

61. Anthony Usher also found that the LRPB required more information to decide the application. He outlined that Lempiala's evidence was inadequate for the following reasons:

- (i) No site drawings were submitted. This information is vital to assess the viability of the operation and its impacts on adjacent land uses.
- (ii) No summary statement was submitted, with the exception that the applicant's Groundwater Summary Statement meets one of the requirements for a summary statement under the *Aggregate Resources Act*. The summary statement is important to address

⁶⁶ Foster Affidavit, paras 19-23, pp. 89-92, in TLCA Appeal Record, Tab 5

⁶⁷ Foster Affidavit, paras 24-27, p. 93, in TLCA appeal Record, Tab 5

land use matters such as planning, haul route and traffic considerations.

- (iii) No cultural heritage resource stage 1 report was submitted.
- (iv) The applicant's Noise Assessment cannot be assessed without an operations plan. The authors do not appear to have reviewed an operations plan. The modelling of the topography of the pit was apparently based on Appendix B of the report, which is only a boundary and setback map.
- (v) The applicant's Air Quality Assessment cannot be assessed without an operations plan.⁶⁸

62. Mr. Usher reviewed TLCA's expert review of the Natural Environment Level 1 Assessment by Dr. Robert Foster. He noted that this report raises the possibility of provincially significant wetland, significant wildlife habitat, and Endangered or Threatened species habitat on or near the subject lands. Within his expertise as a planner, he generally shared Dr. Foster's concerns and supported the recommendation for further field work to be done, and for the applicant's report to be revised.⁶⁹

63. Mr. Usher therefore recommended that the LRPB commission peer reviews of the Noise Assessment, the Air Quality Assessment, a revised Natural Environment Level 1 Assessment, and a Natural Environment Level 2 Assessment if produced. A cultural heritage resource report, if produced, should be reviewed by the Ministry of Tourism, Culture and Sport.⁷⁰

64. The LRPB lacked the evidentiary basis to conclude that Lempiala had demonstrated compliance with the relevant provisions of the *PPS* and Official Plan.

⁶⁸ Usher Affidavit, para 40, pp. 54-55, in TLCA Appeal Record, Tab 4

⁶⁹ Usher Affidavit, para 40, p. 55, in TLCA Appeal Record, Tab 4

⁷⁰ Usher Affidavit, para 41, p. 55, in TLCA Appeal Record, Tab 4

PART IV – ORDER SOUGHT

65. TLCA requests that the Local Planning Appeal Tribunal grant its appeal, repeal By-law 004-2018 and return it to the LRPB to consider the environmental, social and economic impacts of the application in accordance with the requirements of the *PPS*, the Growth Plan, and the Official Plan.

66. TLCA requests one hour for oral submissions in the event of an oral hearing.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Toronto this 21st of November, 2018.

Jacqueline Wilson
Counsel for Trout Lake Campers'
Association

LIST OF AUTHORITIES

- 1 *Minister of Housing, Re (Trout Lake Campers' Association)*, [1982] OMBD
- 2 *Ontario (Ministry of Natural Resources), Re*, 2012 CarswellOnt 10693
- 3 *Capital Paving Inc v Wellington (County)*, [2010] OMBD No 9
- 4 *2220243 ONT Inc, Re*, [2015] OMBD No 418
- 5 *Carlyle Development Corp v Baldwin (Township)*, 2017 CarswellOnt 7658
- 6 *Ottawa (City) v Sample*, [2001] OJ No 4589 (SCJ)
- 7 *Hunder Development Ltd. V Woolwich (Township)*, 2014 CarswellOnt 4843 (OMB)
- 8 *Lake of Bays (Township) Zoning By-law 86-50 (Re)*, [2007] O.M.B.D. No. 134 (upheld in 2008)
- 9 *Anderson v Trent Lakes (Municipality)*, 2018 CarswellOnt 6484

RELEVANT STATUTORY AND POLICY PROVISIONS

Planning Act, R.S.O. 1990, c. P.13

Provincial Interest

2 The Minister, the council of a municipality, a local board, a planning board and the Tribunal, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,

- (a) the protection of ecological systems, including natural areas, features and functions;
- (b) the protection of the agricultural resources of the Province;
- (c) the conservation and management of natural resources and the mineral resource base;
- (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- (e) the supply, efficient use and conservation of energy and water;
- (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- (g) the minimization of waste;
- (h) the orderly development of safe and healthy communities;
- (h.1) the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;
- (i) the adequate provision and distribution of educational, health, social, cultural and recreational facilities;
- (j) the adequate provision of a full range of housing, including affordable housing;
- (k) the adequate provision of employment opportunities;
- (l) the protection of the financial and economic well-being of the Province and its municipalities;
- (m) the co-ordination of planning activities of public bodies;
- (n) the resolution of planning conflicts involving public and private interests;
- (o) the protection of public health and safety;
- (p) the appropriate location of growth and development;
- (q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;
- (r) the promotion of built form that,
 - (i) is well-designed,
 - (ii) encourages a sense of place, and
 - (iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;
- (s) the mitigation of greenhouse gas emissions and adaptation to a changing climate.

Policy statements and provincial plans

3 (5) A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Tribunal, in respect of the exercise of any authority that affects a planning matter,

- (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and
- (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be.

Zoning by-laws

34 (1) Zoning by-laws may be passed by the councils of local municipalities:

Restricting use of land

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.

...

Natural features and areas

3.2 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures within any defined area or areas,

- i. that is a significant wildlife habitat, wetland, woodland, ravine, valley or area of natural and scientific interest,
- ii. that is a significant corridor or shoreline of a lake, river or stream, or
- iii. that is a significant natural corridor, feature or area.

Significant archaeological resources

3.3 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures on land that is the site of a significant archaeological resource.

...

Pits and quarries

(2) The making, establishment or operation of a pit or quarry shall be deemed to be a use of land for the purposes of paragraph 1 of subsection (1).

Notice of passing of by-law

(18) If the council passes a by-law under this section, except a by-law passed pursuant to an order of the Tribunal made under subsection (11.0.2) or (26), the council shall ensure that written notice of the passing of the by-law is given in the prescribed manner, no later than 15 days after the day the by-law is passed,

- (a) to the person or public body that made the application, if any;
- (b) to each person and public body that filed a written request to be notified of the decision; and
- (c) to any prescribed person or public body.

Contents

(18.1) The notice under subsection (18) shall contain,

- (a) a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (18.2) had on the decision; and
- (b) any other information that is prescribed.

Written and oral submissions

(18.2) Clause (18.1) (a) applies to,

- (a) any written submissions relating to the by-law that were made to the council before its decision; and
- (b) any oral submissions relating to the by-law that were made at a public meeting

Appeal to L.P.A.T.

34 (19) Not later than 20 days after the day that the giving of notice as required by subsection (18) is completed, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal accompanied by the fee charged under the Local Planning Appeal Tribunal Act, 2017:

1. The applicant.
2. A person or public body who, before the by-law was passed, made oral submissions at a public meeting or written submissions to the council.
3. The Minister.

Basis for appeal

(19.0.1) An appeal under subsection (19) may only be made on the basis that the by-law is inconsistent with a policy statement issued under subsection 3

(1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.

Same — appeal under subs. (19)

(26.2) Unless subsection (26.3), (26.8) or (26.9) applies, if, on an appeal under subsection (19), the Tribunal determines that a part of the by-law to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan,

- (a) the Tribunal shall repeal that part of the by-law; and
- (b) the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to make a new decision in respect of the matter

Ontario Provincial Policy Statement, 2014

Part III: How to Read the Provincial Policy Statement

The provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The Provincial Policy Statement supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

Read the Entire Provincial Policy Statement

The Provincial Policy Statement is more than a set of individual policies. It is to be read in its entirety and the relevant policies are to be applied to each situation. When more than one policy is relevant, a decision-maker should consider all of the relevant policies to understand how they work together. The language of each policy, including the Implementation and Interpretation policies, will assist decision-makers in understanding how the policies are to be implemented.

While specific policies sometimes refer to other policies for ease of use, these cross-references do not take away from the need to read the Provincial Policy Statement as a whole.

There is no implied priority in the order in which the policies appear.

Consider Specific Policy Language

When applying the Provincial Policy Statement it is important to consider the specific language of the policies. Each policy provides direction on how it is to

be implemented, how it is situated within the broader Provincial Policy Statement, and how it relates to other policies.

Some policies set out positive directives, such as “settlement areas shall be the focus of growth and development.” Other policies set out limitations and prohibitions, such as “development and site alteration shall not be permitted.” Other policies use enabling or supportive language, such as “should,” “promote” and “encourage.”

The choice of language is intended to distinguish between the types of policies and the nature of implementation. There is some discretion when applying a policy with enabling or supportive language in contrast to a policy with a directive, limitation or prohibition.

1.1.1 Healthy, liveable and safe communities are sustained by:

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- b) accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;
- d) avoiding development and land use patterns that would prevent the efficient expansion of *settlement areas* in those areas which are adjacent or close to *settlement areas*;
- e) promoting cost-effective development patterns and standards to minimize land consumption and servicing costs;
- f) improving accessibility for persons with disabilities and older persons by identifying, preventing and removing land use barriers which restrict their full participation in society;
- g) ensuring that necessary *infrastructure*, electricity generation facilities and transmission and distribution systems, and *public service facilities* are or will be available to meet current and projected needs; and
- h) promoting development and land use patterns that conserve biodiversity and consider the impacts of a changing climate.

1.1.4 Rural Areas in Municipalities

Rural areas are important to the economic success of the Province and our quality of life. Rural areas are a system of lands that may include rural settlement areas, rural lands, prime agricultural areas, natural heritage features

and areas, and other resource areas. Rural areas and urban areas are interdependent in terms of markets, resources and amenities. It is important to leverage rural assets and amenities and protect the environment as a foundation for a sustainable economy.

Ontario's rural areas have diverse population levels, natural resources, geographies and physical characteristics, and economies. Across rural Ontario, local circumstances vary by region. For example, northern Ontario's natural environment and vast geography offer different opportunities than the predominately agricultural areas of southern regions of the Province.

1.1.4.1 Healthy, integrated and viable *rural areas* should be supported by:

- a) building upon rural character, and leveraging rural amenities and assets;
- b) promoting regeneration, including the redevelopment of *brownfield sites*;
- c) accommodating an appropriate range and mix of housing in rural *settlement areas*;
- d) encouraging the conservation and *redevelopment* of existing rural housing stock on *rural lands*;
- e) using rural *infrastructure* and *public service facilities* efficiently;
- f) promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources;
- g) providing opportunities for sustainable and diversified tourism, including leveraging historical, cultural, and natural assets;
- h) conserving biodiversity and considering the ecological benefits provided by nature; and
- i) providing opportunities for economic activities in *prime agricultural areas*, in accordance with policy 2.3.

1.1.4.2 In *rural areas*, rural *settlement areas* shall be the focus of growth and development and their vitality and regeneration shall be promoted. **1.1.4.3** When directing development in rural *settlement areas* in accordance with policy 1.1.3, planning authorities shall give consideration to rural characteristics, the scale of development and the provision of appropriate service levels. **1.1.4.4** Growth and development may be directed to *rural lands* in accordance with policy 1.1.5, including where a municipality does not have a *settlement area*.

1.1.4.3 When directing development in rural *settlement areas* in accordance with policy 1.1.3, planning authorities shall give consideration to rural characteristics, the scale of development and the provision of appropriate service levels. **1.1.4.4** Growth and development may be directed to *rural lands* in accordance with policy 1.1.5, including where a municipality does not have a *settlement area*.

1.1.4.4 Growth and development may be directed to *rural lands* in accordance with policy 1.1.5, including where a municipality does not have a *settlement area*.

1.1.5 Rural Lands in Municipalities

1.1.5.1 When directing development on *rural lands*, a planning authority shall apply the relevant policies of Section 1: Building Strong Healthy Communities, as well as the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety. **1.1.5.2** On *rural lands* located in municipalities, permitted uses are:

- a) the management or use of resources;
- b) resource-based recreational uses (including recreational dwellings);
- c) limited residential development;
- d) home occupations and home industries;
- e) cemeteries; and
- f) other rural land uses.

1.1.5.3 Recreational, tourism and other economic opportunities should be promoted. **1.1.5.4** Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. **1.1.5.5** Development shall be appropriate to the *infrastructure* which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this *infrastructure*. **1.1.5.6** Opportunities should be retained to locate new or expanding land uses that require separation from other uses.

1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. **1.1.5.5** Development shall be appropriate to the *infrastructure* which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this *infrastructure*. **1.1.5.6** Opportunities should be retained to locate new or expanding land uses that require separation from other uses.

1.1.5.5 Development shall be appropriate to the *infrastructure* which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this *infrastructure*. **1.1.5.6** Opportunities should be retained to locate new or expanding land uses that require separation from other uses.

1.1.5.6 Opportunities should be retained to locate new or expanding land uses that require separation from other uses.

1.1.5.7 Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and

directing non-related development to areas where it will minimize constraints on these uses.

1.1.5.8 *Agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices* should be promoted and protected in accordance with provincial standards.

1.1.5.9 New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the *minimum distance separation formulae*.

1.1.6 Territory Without Municipal Organization

1.1.6.1 On *rural lands* located in territory without municipal organization, the focus of development activity shall be related to the sustainable management or use of resources and resource-based recreational uses (including recreational dwellings).

1.1.6.2 Development shall be appropriate to the *infrastructure* which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this *infrastructure*.

1.1.6.3 The establishment of new permanent townsites shall not be permitted.

1.1.6.4 In areas adjacent to and surrounding municipalities, only development that is related to the sustainable management or use of resources and resource-based recreational uses (including recreational dwellings) shall be permitted. Other uses may only be permitted if:

- a) the area forms part of a planning area;
- b) the necessary *infrastructure* and *public service facilities* are planned or available to support the development and are financially viable over their life cycle; and
- c) it has been determined, as part of a *comprehensive review*, that the impacts of development will not place an undue strain on the *public service facilities* and *infrastructure* provided by adjacent municipalities, regions and/or the Province.

1.2.6 Land Use Compatibility

1.2.6.1 *Major facilities* and *sensitive land uses* should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of *major facilities*.

2.0 Wise Use and Management of Resources

Ontario's long-term prosperity, environmental health, and social well-being depend on conserving biodiversity, protecting the health of the Great Lakes, and protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.

Accordingly:

2.1 Natural Heritage

2.1.1 Natural features and areas shall be protected for the long term.

2.1.2 The diversity and connectivity of natural features in an area, and the long-term *ecological function* and biodiversity of *natural heritage systems*, should be maintained, restored or, where possible, improved, recognizing linkages between and among *natural heritage features and areas*, *surface water features* and *ground water features*.

2.1.3 *Natural heritage systems* shall be identified in Ecoregions 6E & 7E1, recognizing that *natural heritage systems* will vary in size and form in *settlement areas*, *rural areas*, and *prime agricultural areas*.

2.1.4 *Development* and *site alteration* shall not be permitted in:

- a) *significant wetlands* in Ecoregions 5E, 6E and 7E1; and
- b) *significant coastal wetlands*.

2.1.5 *Development* and *site alteration* shall not be permitted in:

- a) *significant wetlands* in the Canadian Shield north of Ecoregions 5E, 6E and 7E1;
- b) *significant woodlands* in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River)¹;
- c) *significant valleylands* in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River)¹;
- d) *significant wildlife habitat*;
- e) *significant areas of natural and scientific interest*; and
- f) *coastal wetlands* in Ecoregions 5E, 6E and 7E1 that are not subject to policy 2.1.4(b)

unless it has been demonstrated that there will be no *negative impacts* on the natural features or their *ecological functions*.

2.1.6 *Development* and *site alteration* shall not be permitted in *fish habitat* except in accordance with *provincial and federal requirements*.

2.1.7 *Development and site alteration* shall not be permitted in *habitat of endangered species and threatened species*, except in accordance with *provincial and federal requirements*.

2.1.8 *Development and site alteration* shall not be permitted on *adjacent lands* to the *natural heritage features and areas* identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated that there will be no *negative impacts* on the natural features or on their *ecological functions*.

2.1.9 Nothing in policy 2.1 is intended to limit the ability of *agricultural uses* to continue.

2.2 Water

2.2.1 Planning authorities shall protect, improve or restore the *quality and quantity of water* by:

- a) using the *watershed* as the ecologically meaningful scale for integrated and long-term planning, which can be a foundation for considering cumulative impacts of development;
- b) minimizing potential *negative impacts*, including cross-jurisdictional and cross-*watershed* impacts;
- c) identifying water resource systems consisting of *ground water features, hydrologic functions, natural heritage features and areas, and surface water features* including shoreline areas, which are necessary for the ecological and hydrological integrity of the *watershed*;
- d) maintaining linkages and related functions among *ground water features, hydrologic functions, natural heritage features and areas, and surface water features* including shoreline areas;
- e) implementing necessary restrictions on *development and site alteration* to:
 - 1. protect all municipal drinking water supplies and *designated vulnerable areas*; and
 - 2. protect, improve or restore *vulnerable* surface and ground water, *sensitive surface water features* and *sensitive ground water features*, and their *hydrologic functions*;
- f) planning for efficient and sustainable use of water resources, through practices for water conservation and sustaining water quality;
- g) ensuring consideration of environmental lake capacity, where applicable; and
- h) ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces.

2.2.2 *Development and site alteration* shall be restricted in or near *sensitive surface water features* and *sensitive ground water features* such that these features and their related *hydrologic functions* will be protected, improved or restored.

Mitigative measures and/or alternative development approaches may be required in order to protect, improve or restore *sensitive surface water features*, *sensitive ground water features*, and their *hydrologic functions*.

2.5 Mineral Aggregate Resources

2.5.1 *Mineral aggregate resources* shall be protected for long-term use and, where provincial information is available, *deposits of mineral aggregate resources* shall be identified.

2.5.2 Protection of Long-Term Resource Supply

2.5.2.1 As much of the *mineral aggregate resources* as is realistically possible shall be made available as close to markets as possible.

Demonstration of need for *mineral aggregate resources*, including any type of supply/demand analysis, shall not be required, notwithstanding the availability, designation or licensing for extraction of *mineral aggregate resources* locally or elsewhere.

2.5.2.2 Extraction shall be undertaken in a manner which minimizes social, economic and environmental impacts. **2.5.2.3** *Mineral aggregate resource conservation* shall be undertaken, including through the use of accessory aggregate recycling facilities within operations, wherever feasible.

2.5.2.4 *Mineral aggregate operations* shall be protected from *development* and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact. Existing *mineral aggregate operations* shall be permitted to continue without the need for official plan amendment, rezoning or development permit under the *Planning Act*. When a license for extraction or operation ceases to exist, policy 2.5.2.5 continues to apply.

Growth Plan for Northern Ontario, 2011

1.2 Purpose This Plan has been prepared under the Places to Grow Act, 2005. The Act sets out the following purposes:

- a) to enable decisions about growth to be made in ways that sustain a robust economy, build strong communities and promote a healthy environment and a culture of conservation;
- b) to promote a rational and balanced approach to decisions about growth that builds on community priorities, strengths and opportunities and makes efficient use of infrastructure;
- c) to enable planning for growth in a manner that reflects a broad geographical perspective and is integrated across natural and municipal boundaries;
- d) to ensure that a long-term vision and long-term goals guide decision-making about growth and provide for the co-ordination of growth policies among all levels of government.

This Plan is a strategic framework that will guide decision-making and investment planning in Northern Ontario over the next 25 years. It contains policies to guide decision-making about growth that promote economic prosperity, sound environmental stewardship, and strong, sustainable communities that offer northerners a high quality of life. It also recognizes that a holistic approach is needed to plan for growth in Northern Ontario. A skilled and healthy population, modern and efficient infrastructure, and well-planned communities are critical to achieving long-term global competitiveness.

This Plan reflects a shared vision between northerners and the Government of Ontario that engages and empowers residents, businesses, institutions and communities to work together to build a stronger Northern Ontario. It takes a broad geographic perspective to support co-ordinated decision-making that respects the diverse needs of rural, urban, remote and Aboriginal communities. This Plan recognizes that to achieve these long-term goals, strategic co-ordination, partnerships and collaboration are essential. This Plan is intended to complement other provincial and regional initiatives that also contribute to the long-term sustainability and prosperity of Northern Ontario.

This Plan is structured around six theme areas: economy, people, communities, infrastructure, environment and Aboriginal peoples. Within each theme, this Plan identifies a series of policies to achieve its vision.

2.2 An Economic Action Plan for Northern Ontario

2.2.2 The Province will focus economic development strategies on the following *existing and emerging priority economic sectors* and the distinct competitive advantages that Northern Ontario can offer within these sectors:

- a) advanced manufacturing
- b) agriculture, aquaculture and food processing
- c) arts, culture and creative industries
- d) digital economy

- e) forestry and value-added forestry-related industries
- f) health sciences
- g) minerals sector and mining supply and services
- h) *renewable energy* and services
- i) tourism
- j) transportation, aviation and aerospace
- k) water technologies and services.

2.3.8 Minerals Sector and Mining Supply and Services

1. Efforts by the Province, industry and, where appropriate, other partners, to grow and diversify the minerals and mining supply and services sectors should include:

- a) marketing that showcases Ontario as a global leader in environmentally sustainable mineral development and stewardship
- b) creating new value-added resource sector opportunities through research, development and application of advanced processing and manufacturing technologies
- c) expanding the mining supply and services industry, increasing exports, and supporting particular areas of competitive advantage including deep mining techniques and clean technologies
- d) improving timeliness and clarity in regulatory processes, supported by a one window, co-ordinated process for approvals

4.2 Long-range Planning for all Communities

4.2.1 All municipalities should, either individually, or collaboratively with neighbouring municipalities and Aboriginal communities, prepare long-term community strategies. These strategies should support the goals and objectives of this Plan, identify local opportunities to implement the policies of this Plan, and be designed to achieve the following:

- a) economic, social and environmental sustainability
- b) accommodation of the diverse needs of all residents, now and in the future
- c) optimized use of existing infrastructure
- d) a high quality of place
- e) a vibrant, welcoming and inclusive community identity that builds on unique local features
- f) local implementation of *regional economic plans*, where such plans have been completed.

4.3 Economic and service hubs

4.3.3 Economic and service hubs shall maintain updated official plans and develop other supporting documents which include strategies for:

- a) developing a diverse mix of land uses, an appropriate range of housing types, and high quality public spaces; and providing easy access to stores, services and recreational opportunities
- b) maintaining up to a 20-year supply of lands, or as otherwise provided by a provincial policy statement, for a variety of employment uses in appropriate locations to support economic development objectives
- c) improving access to public services by local residents and by residents of surrounding communities
- d) encouraging a significant portion of future residential and employment development to locate in existing downtown areas, *intensification corridors, brownfield sites, and strategic core areas*
- e) providing for a range of transportation options
- f) enhancing community identity, vibrancy and cultural amenities.

6.2 Sustainable Development of Natural Resources

6.2.1 Provincial policies, programs, and regulations will integrate approaches to natural resource management to support environmental, social and economic health.

6.2.2 Natural resource management and stewardship practices will occur within a framework that recognizes and responds to evolving environmental, economic and social values, and science-based knowledge and information, which allows for the introduction of new practices, technologies and management approaches, traditional knowledge, and locally and regionally responsive approaches.

6.2.3 As part of the Northern Ontario economic action plans and *regional economic plans* in accordance with Policies 2.2.4 and 4.5.2, opportunities should be explored for new, value-added and sustainable uses for Northern Ontario's natural resources, such as carbon storage and trading, eco-tourism, and *renewable energy*.

Official Plan for the Townships of Gorham, Ware, and the Dawson Road Lots, Lots 1-20 Concession A and B, East of the Kaministiquia River

1.1 PREAMBLE

Relevant Definitions

For the purposes of this official plan, the following shall be considered to apply;

a) Rural character shall mean an environment wherein open space and natural features and ecological functions predominate over the built up environment, and where land use is characterized by agricultural activity, forestry harvesting, or other natural resource based activity and/or recreational resource based activity, and may include limited, individual rural residential use on large lots and at low density.

1.2 PURPOSE AND GOALS OF THE PLAN

1.2.3 The goals of this Official Plan are to:

- (a) establish policies which manage and direct physical change and the effects on the social, economic and natural environment, of the planning area, over the next 20 years, including development within the next five year review, of a new growth management strategy to replace the current policy that is due to terminate in 2017.
- (b) protect and maintain the rural quality of life in the planning area;
- (c) minimize land consumption and servicing costs, and ensure that services necessary to support development are or will be available;
- (d) secure the health, safety, convenience and welfare of the residents of the planning area, and protect the financial well-being of Ontario and of surrounding municipalities;
- (e) ensure that the planning area's resources are rationally used;
- (f) permit the delegation of approval to the Planning Board with respect to decisions regarding land use planning matters for such matters as consents, zoning amendments and minor variances;
- (g) qualify the Planning Board for various programs funded by senior levels of government;
- (h) inform the residents of the planning area of the policies that affect the development of land;
- (i) provide a guiding framework for implementing by-laws and for decisions of local boards, commissions, committees, and other authorities;
- (j) improve accessibility for persons with disabilities and for the elderly by removing and/or preventing land use barriers which would restrict their full participation in society;
- (k) have regard for Section 2 Provincial Interest in the Planning Act; be consistent with Ontario's 2005 Provincial Policy Statement; and conform to the Northern Growth Plan;
- (m) promote resource based economic development within the planning area as a means of supporting the local population and contributing to the larger surrounding local area and economy.

1.3 OBJECTIVES

1.3.1 The Planning Board is committed to encouraging, throughout the planning area, development which maintains the rural quality of life and sustains the local economy through a focus on the resource and recreational potential of the area.

Key planning principles will be:

- (a) That residential development will remain low density subject to compliance with all other policies and guidance within this plan;
- (b) Evolution of a settlement area is not anticipated within the time frame of this official plan.
- (c) that development will not negatively impact nearby Municipalities or the Province, or create undue demands on the services and infrastructure normally provided by those Municipalities or the Province; and
- (d) notwithstanding that there are considerable vacant parcels of land in the planning area, it is important to the local population that some severance opportunity continue to exist, allowing transfer of family lands. Participation in the Planning Area is seen as a means of securing continued severance activity.

1.3.3 The Planning Board shall preserve and enhance, where possible, the environmental quality of the area and minimize impacts of land uses on the natural environment and protect the integrity of ecosystems.

1.3.4 The Planning Board shall encourage recreational opportunities that are compatible with the natural environment and are economically feasible.

1.3.5 The Planning Board shall have regard for the importance of natural resources within the planning area with respect to their contribution to the economic and social well-being of the planning area and its residents, as well as the larger surrounding region.

1.3.6 The Planning Board shall have regard for the importance of the aggregate industry in Gorham and Ware Townships. The planning area represents an important source of aggregate, being the prime source of construction aggregate for the City of Thunder Bay, and for public road work throughout the area.

1.11.5 It is the policy of the Lakehead Rural Planning Board that planning decisions will be based on a thorough and knowledgeable planning analysis such as may be provided by qualified staff or consultants, and such technical reports as are considered appropriate to the matter being evaluated.

SECTION 2 - GENERAL PROVISIONS

2.1 GENERAL

2.1.2 The designation of land for a particular use in this Plan only indicates that the land so designated may be considered for the designated use, subject to the more detailed criteria of this Plan and other legislation. There is no guarantee that any individual parcel may be used for any permitted use in a particular designation.

2.7 LAND USE COMPATIBILITY

2.7.1 As much as possible land use conflicts should be avoided. The encroachment of sensitive land uses and industrial uses on one another is discouraged. Buffering and separation distances in accordance with the Ministry of the Environment and Energy's guidelines shall be incorporated between sensitive and industrial uses to minimize potential adverse effects, such as noise, odour, vibration, particulate, and other contaminants. The implementing zoning by-law may include a special buffer zone between sensitive and industrial uses.

2.17 ENVIRONMENTAL PROTECTION AND NATURAL HERITAGE

2.17.1 No development shall be permitted which results in the degradation of the quality and integrity of an ecosystem including air, water, land, and plant and animal life. Where the quality and integrity of an ecosystem has been diminished, the Planning Board shall encourage its restoration or remediation to healthy conditions.

WETLANDS

2.17.3 Development may be permitted in provincially significant wetlands and/or on adjacent lands provided it can be demonstrated by an Environmental Impact Study, to the satisfaction of the Ministry of Natural Resources, that the development does not result in the following:

- (a) loss of or detrimental impact to natural features or ecological functions;
- (b) conflicts with existing wetland management practices.

2.17.4 Development and/or site alternation shall not be permitted in fish habitat, except in accordance with provincial and federal requirements.

WILDLIFE

2.17.8 Development is discouraged in or adjacent to significant wildlife habitat unless it has been demonstrated that there will be no negative impact upon associated natural features or their related ecological functions.

FISHERIES

2.17.12 Development and/or site alternation shall not be permitted in fish habitat except in accordance with provincial and federal requirements. Development adjacent to fish habitat may occur where it has been demonstrated that there will be no negative impact or adverse effects.

2.17.14 The following lakes, rivers, streams, and their tributaries are recognized as fish habitat areas:

...

Trout Lake
McIntyre Creek

THREATENED OR ENDANGERED SPECIES

2.17.18 Development and site alternation shall not be permitted in significant habitat of species listed on the Species At Risk In Ontario List as endangered or threatened species, and shall not be permitted on adjacent lands unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the habitat or its ecological functions.

2.18 MINERAL AND AGGREGATE RESOURCE AREAS

2.18.1 As much as possible of the mineral and aggregate resource will be protected for the long run. Mineral and/or aggregate resource operations, deposits, and areas of potential mineral resources will be protected from incompatible land uses that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety, or environmental impact.

2.18.3 Land uses that preclude or hinder future access to, and use, of mineral or aggregate resources shall not be permitted unless it can be demonstrated that the use of the resource is not feasible and the proposed use serves a greater longterm public interest than does the resource.

2.18.4 Lands with active mineral or aggregate resource operations shall be zoned accordingly and non-resource operations should be restricted.

Development on lands adjacent to mineral resource operations or adjacent to areas of deposits will be permitted if:

- (a) the development would not preclude or hinder the continuation of existing operations;
- (b) the development would not preclude the development of the resource; and
- (c) issues of public health, public safety and environmental impact are addressed.

2.18.5 Rehabilitation of mineral resource lands will be required after extraction and other related activities have ceased. Lands may be re-zoned from mineral resource uses following rehabilitation.

2.20 USE LIMITATION LANDS

2.20.1 Lands subject to Use Limitation shall be zoned in the zoning by-law. An amendment to the zoning by-law is required to remove lands from the Use Limitation category provided appropriate site mitigation/rehabilitation has occurred, if necessary, and shall be to the satisfaction of the Ministry of Natural Resources and the Lakehead Rural Planning Board.

SECTION 3 - LAND USE POLICIES

3.1 GENERAL

3.1.2 The intent of this section of the Plan is to promote the optimum land uses function by minimizing land use conflicts and providing an attractive development pattern consistent with the rural setting and economic development opportunities.

3.2 RURAL

3.2.1 It is the intent of this Plan to protect the rural character and environment of Gorham and Ware Townships and the Dawson Road Lots, Lots 1-20, Concessions A and B, east of the Kaministiquia River. The planning area is capable of supporting development that is resource and non-resource based. It is not realistic to attempt to precisely define where these uses may best occur. Rather, a general rural land use designation in which these uses can be accommodated in accordance with the specific policies of this Plan, and through implementation of the zoning amendments, would allow flexibility in determining the appropriate uses of land.

3.2.2 The Rural area is characterized as a low density, multi-purpose area in which a variety of land uses can be accommodated in a compatible manner.

3.2.3 Permitted uses in the Rural area include rural residential dwellings, local or tourist related commercial, resource related industrial, institutional, and small scale recreational uses in accordance with the specific policies of this Plan. Small scale means not needing new road or road upgrade, or not leading to additional surrounding residential or commercial development. It is also the intent of the Rural designation to permit and encourage such rural uses as forestry, aggregate resource extraction, pits and quarries, agriculture, mining and mineral exploration, resource management, and conservation uses. In addition, waste disposal sites are also permitted, subject to rezoning.

3.2.4 It is the intent of the Rural land use designation to:

- (a) maintain the low density rural character of the planning area;
- (b) ensure that development does not prematurely force the need for higher order levels of sewer and/or water servicing
- (c) provide flexibility by permitting a variety of land uses
- (d) allow development of natural resources and economic activities in a manner compatible with the rural character;
- (e) protect existing and future aggregate operations from incompatible land uses and ensure their viability;
- (f) protect existing agricultural operations from incompatible land uses and ensure their long term viability; and
- (g) protect, and where possible enhance cultural heritage resources

3.2.5 While land in the Rural designation may be developed for a variety of uses, regard shall be given to ensure that development is compatible with surrounding land uses and appropriate for the site before development approval is given. Development within the Rural area shall not conflict with existing growing of crops or livestock operations and must comply with the Minimum Distance Separation I criteria, as amended from time to time.

3.2.6 Rural residential uses shall be permitted in the Rural designation on existing lots of record and on lots created through the consent process in accordance with the consent policies of this Plan, provided that:

- (a) one single detached dwelling unit be permitted on one lot;
- (b) new rural residential uses should be a reasonable distance from industrial uses and railway lines to minimize the adverse effects of odour, dust, noise, vibration, and other contaminants;
- (c) new rural residential uses within or immediately adjacent to areas identified as Aggregate Resource Areas, will generally be discouraged until/unless it has been established that extraction of aggregate is not feasible;

- (d) new rural residential uses shall not conflict with existing agricultural operations and must comply with the Minimum Distance Separation I criteria, as amended from time to time; and
- (e) new lots for rural residential uses should be a minimum area necessary for the use permitted and a private water supply and sanitary sewage disposal system, approved by the Thunder Bay District Health Unit, is installed. No new residential lot shall be smaller than 2.0 hectares unless they can safely be serviced in accordance with the policies of this plan and Ministry of Environment's guidelines.

3.2.8 Commercial and industrial uses providing personal, professional, or retail services, or relating to natural resources shall be permitted in the Rural designation provided that:

- ...
- (h) aggregate processing operations, such as crushing, screening, and washing of aggregate products, are considered an accessory use to an aggregate extraction operation and are permitted in the Rural area provided setbacks for buildings, machinery, and equipment from lot lines is determined on a site specific basis in consultation with the Lakehead Rural Planning Board and with the Ministry of the Environment.

3.2.9 As much as possible aggregate resource shall be made available as close as possible to the marketplace, and accordingly, aggregate extraction operations shall be allowed in areas of high and moderate aggregate potential designated as an "Aggregate Resource Area" on Schedule B-1 provided that;

- (a) the operation is compatible with surrounding land uses;
- (b) adequate buffering is provided;
- (c) the Ministry of the Environment and Energy is satisfied with respect to the disposal of liquid wastes, pumping operations, and the control of air and noise pollution, among other matters;
- (d) no excavation, building, equipment, machinery, or stockpiling of material is allowed:
 - i) within 30 metres of a lot line of an adjacent lot used for residential, recreational, institutional, or commercial purposes;
 - ii) within 30 metres of an area designated Lake Residential on Schedule "A";
 - iii) within 30 metres of any road or road allowance; and
 - iv) a quarry with blasting operations is to be setback a minimum of 450 metres from a residential building; and
- (e) excavation or stockpiling of material is allowed up to the lot line when that lot line abuts the lot line of a lot used for aggregate extraction.

3.3 LAKE RESIDENTIAL

3.3.1 The Lake Residential areas include those areas that have experienced residential development around the various inland lakes. Lakeshore Residential designations are shown on Schedule A.

3.3.2 The Lake Residential areas have traditionally developed as cottage and outdoor recreation areas. However, recent years have witnessed the phenomena of cottage conversions to year-round residential uses. It is therefore, more appropriate to recognize these areas for what they are, permanent year-round residential areas with opportunities for seasonal residential uses, outdoor recreational uses, and tourism.

5.7 ZONING BY-LAW - AMENDMENTS AND REVIEW

5.7.1 In general, applications for an amendment to the zoning by-law shall proceed as follows:

- (a) a complete zoning by-law amendment application shall be submitted by the applicant;
- (b) a background report may be prepared by the applicant and will be provided to the Planning Board along with a copy of the complete application for their review;
- (c) advertise a notice of a public meeting;
- (d) a public meeting is held;
- (e) the Planning Board will review the application;
- (f) the applicant will be advised of the Planning Board's decision; and
- (g) an amending by-law will be prepared and enacted by the Planning Board, and given legal notification of passing as required by the Planning Act.

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