

# *OFFICIAL PLAN*

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## **The Town of Kearney**

8 Main Street, P.O. BOX 38  
Kearney, ON P0A 1M0

JLR 25137



**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** April 20, 2016

**CASE NO(S):** PL141439

**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	David & Carol Dickson Et Al
Subject:	Proposed Official Plan Amendment No. 49-OP-143872
Municipality:	Town of Kearney
OMB Case No.:	PL141439
OMB File No.:	PL141439
OMB Case Name:	Dickson v. Kearney (Town)

**Heard:** April 13, 2016 by telephone conference call

**APPEARANCES:**

**Parties**

**Counsel\*/Representative**

David and Carol Dickson et al

R. K. Webb\*

Town of Kearney

B. Fraser

Ministry of Municipal Affairs and  
Housing

U. Popadic\*

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. CARTER-WHITNEY ON  
APRIL 13, 2016 AND ORDER OF THE BOARD**

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[1] This hearing concerns an appeal of the new Official Plan ("OP") for the Town of Kearney ("Town"), which was adopted by Town Council by By-law No. 2014-19. On November 14, 2014, the Ministry of Municipal Affairs and Housing ("MMAH") modified

and approved the OP. Modifications No. 7 and 10 were modifications of s. 3.3.4 and 4.2.8 of the OP, which address road frontage and access.

[2] David Dickson, Carol Dickson, Tom Dickson, Errill O'Hara, Andrew Dickson and David Harris ("Appellants") appealed the OP as modified and the modifications of s. 3.3.4 and 4.2.8 to the Ontario Municipal Board ("Board"). The Appellants' appeal relates to the impacts of the modifications on a private road that provides access to lots on Long Lake. The modifications concerned a Schedule to the OP that did not represent all private roads in the Town.

[3] The Appellants and the Town have reached a settlement in this matter. MMAH takes no position with respect to the settlement, and does not object to the proposed resolution of the appeal. Regarding the settlement, the Board received affidavit evidence from Linda Moyer, a planning technician employed by the Town who is responsible for preparing planning reports for Council.

[4] In her affidavit, Ms. Moyer stated that Town Council supported the settlement by removing MMAH's modifications No. 7 and 10 to the OP. This results in the policies in s. 3.3.4 and 4.2.8 being reinstated as adopted by Council initially.

[5] Having considered Ms. Moyer's evidence and the submissions of the parties, the Board finds that s. 3.3.4 and 4.2.8, as set out in Attachment 1 to this Decision, are consistent with the Provincial Policy Statement, 2014 and in the public interest.

## **ORDER**

[6] The Board orders that:

1. The appeal is allowed in part and the Town of Kearney Official Plan is modified in relation to s. 3.3.4 and 4.2.8 of the new Town of Kearney Official Plan, as set out in Attachment 1 to this Order.

2. The new Town of Kearney Official Plan is approved, as further modified in accordance with paragraph 1.
3. The balance of the Appellants' appeal is dismissed.

*"M. Carter-Whitney"*

M. CARTER-WHITNEY  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**

A constituent tribunal of Environment and Land Tribunals Ontario  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

## ATTACHMENT 1

### PART 2: LAND USE POLICIES

to the satisfaction of the proper authority with on-site sewage and water services; and,

- ii) entering into a Site Plan Agreement with the municipality limiting boat docking/launching facilities and making provision for land-based recreational facilities such as tennis courts, or swimming pools. Golf courses shall be located outside of the Shoreline designation.
6. Tourist commercial activities shall be buffered from dwellings on neighbouring properties through a combination of distance and vegetation and shall operate in accordance with standards established in the municipality's Zoning By-law, Property Standards By-Law, and Noise Control By-law.
7. Tourist commercial uses may be subject to site plan approval.
8. The proponent may be required to enter into a Site Plan Agreement with the municipality limiting boat docking/launching facilities and making provision for land based recreational facilities such as tennis courts or swimming pools. Golf courses shall be located outside of the Shoreline designation.
9. No tourist commercial use will be permitted which would result in a waterbody being developed to a point of being over capacity. The approval authority may require the proponent to undertake a study completed to the requirements of the Lakeshore Capacity Assessment Handbook, 2010.

#### 3.3.4 Road Frontage / Access

1. New shoreline lots shall generally front on a road maintained throughout the year by the municipality.
2. Notwithstanding, a private road may be permitted in accordance with the "Private Road" policies of this Plan.
3. Water access lots shall only be permitted on shoreline areas where there is confirmed mainland parking and docking to service the lots and long-term waste disposal arrangements and hauled sewage capacity. Water access lots on islands shall not be permitted.
4. All owners of properties that will be accessed by a private road, an access road over Crown Land or over an unopened road allowance, or extensions to existing roads, shall enter into an agreement with the Town, to be registered on the title of all of these affected properties, to indemnify the Town and all other public bodies of all responsibility for any maintenance of the road and all liability for any use of the road and alleged failure to provide emergency services or any other public services that were not being provided at the time of the creation of the road.
5. MNR shall be consulted on any agreements for access roads over Crown land, to ensure there is no implication that proponents have the right to upgrade the road without an MNR work permit. For newly constructed roads, MNR requires proponents to enter into a Memoranda of Understanding (MOU) for water crossings.

## PART 2: LAND USE POLICIES

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### 4.2.8 Road Frontage and Access

1. All new development will generally front upon and be accessible from a year round maintained, public road which is in a condition appropriate for the use proposed, and can accommodate the additional traffic.
2. Notwithstanding, a private road may be permitted in accordance with the "Private Road" policies of this Plan.
3. Private road access may be permitted for forestry and mineral resource exploration.
4. Private road or other access may be permitted for remote tourist commercial uses, recreational facilities, and fish and hunt camps, provided that:
  - a. public road access is not possible;
  - b. the access is appropriate for the type of use proposed; and
  - c. the Zoning By-law or other agreement indicates that public services will be limited.

### 5.0 MINERAL RESOURCE AREAS

Schedule 'A' identifies the Mineral Mining Area and *Mineral Aggregate Area* as areas where significant mineral deposits and mineral aggregate resources are known to exist, respectively. Notwithstanding the boundaries shown on Schedule 'A', if the majority of a property is included within the *Mineral Mining Area* or *Mineral Aggregate Area* designation, the abutting lands may also be interpreted to be designated as such.

Under present legislation, mining activity is regulated by the *Mining Act* and administered by the Ministry of Northern Development and Mines (MNDM). Various Acts administered by the Ministry of the Environment (MOE) and other Federal and Provincial legislation also apply. As such, Official Plans do not regulate mining exploration or underground mining operations. Notwithstanding, surface operations associated with mines may be subject to the *Planning Act* and therefore would be subject to the MOE's D-Series guidelines respecting incompatible uses.

Pits and quarries are regulated under the *Aggregate Resources Act*. The Town of Kearney has been designated under the *Aggregate Resources Act*. Subsection 34(2) of the *Planning Act* states that "the making, establishment or operation of a pit or quarry shall be deemed to be a use of land for the purpose of paragraph 1 of subsection (1)." Therefore, municipalities have the authority to regulate pits and quarries as a use of land subject to the limitations of Section 66 of the *Aggregate Resources Act*.

The Town will continue to work with the MNDM and MNR in identifying sites containing provincially significant mineral deposits and mineral aggregates to protect these resources for their long-term use.

#### 5.1 Goal and Objectives

**GOAL:** To identify and protect deposits, including minerals and mineral aggregate resources, and guide their extraction in a manner that is sensitive to the natural environment and to

File No.: 49-OP-143872  
Municipality: Town of Kearney  
Subject Lands: Entire Municipality

Date of Decision: November 14, 2014  
Date of Notice: November 14, 2014  
Last Date of Appeal: December 4, 2014

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## NOTICE OF DECISION

With respect to an Official Plan  
Section 17 of the Planning Act

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A decision was made on the date noted above to modify and approve as modified all of the Official Plan of the Town of Kearney as adopted by By-law 2014-19. This new Official Plan replaces the Official Plan for the Town of Kearney which was approved by this Ministry on October 26, 2006.

### Purpose and Effect of the Official Plan

The new Official Plan is consistent with the 2014 Provincial Policy Statement and has regard to provincial interests. The Plan will guide future development to areas where it is most suited and will protect the Town's physical and natural resources.

### When and How to File An Appeal

Any appeal to the Ontario Municipal Board must be filed with the Minister of Municipal Affairs and Housing no later than 20 days from the date of this notice as shown above as the last date of appeal.

The appeal should be sent to the attention of the Area Planner, at the address shown below and it must,

- (1) set out the specific part of the proposed official plan to which the appeal applies,
- (2) set out the reasons for the request for the appeal, and
- (3) be accompanied by the fee prescribed under the Ontario Municipal Board Act in the amount of \$125.00 payable by certified cheque to the Minister of Finance, Province of Ontario.

### Who Can File An Appeal

Only individuals, corporations or public bodies may appeal the decision of the Ministry of Municipal Affairs and Housing to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

No person or public body shall be added as a party to the hearing of the appeal unless, before the plan was adopted, the person or public body made oral submissions at a public meeting or written submissions to the council, or, in the

opinion of the Ontario Municipal Board, there are reasonable grounds to add the person or public body as a party.

### When the Decision is Final

The decision of the Minister of Municipal Affairs and Housing is final if a Notice of Appeal is not received on or before the last date of appeal noted above.

### Other Related Applications: N/A

### Getting Additional Information

Additional information about the application is available for public inspection during regular office hours at the Ministry of Municipal Affairs and Housing at the address noted below or from the Town of Kearney.

### Mailing Address for Filing a Notice of Appeal

Ministry of Municipal Affairs and Housing  
Municipal Services Office North (Sudbury)  
159 Cedar Street, Suite 401,  
Sudbury ON P3E 6A5

Submit notice of appeal to the attention of David Welwood, Planner, Municipal Services Office North

Tele: (705) 564-6855 Fax: (705) 564-6863

## **DECISION**

**with respect to**

### **The Official Plan for the Corporation of the Town of Kearney Subsection 17(34) of the *Planning Act***

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I hereby approve the repeal of the Official Plan for the Town of Kearney and all subsequent amendments thereto, pursuant to By-law 2014-19, insofar as this Official Plan is in effect.

I hereby approve and modify all of the Official Plan for the Corporation of the Town of Kearney, adopted by the Council of the Corporation of the Town of Kearney by By-law 2014-19, as follows:

1. By deleting the page with the heading, "Disclaimer".
2. PAGE 1-2 PART 1: BASIS OF THE OFFICIAL PLAN, Section 1.2 by deleting "March 1, 2005" and replacing it with "April 30, 2014".
3. PAGE 2-1 PART 2: LAND USE POLICIES, Section 2.1(f) by deleting "significant".
4. PAGE 2-2 PART 2: LAND USE POLICIES, Section 2.2:
  - a. in paragraph 6 by inserting, "semi-detached dwelling, row house or accessory building" after "detached dwelling"; and by deleting "Where a secondary dwelling unit is to be located above a detached garage, an amendment to the zoning by-law will be required"; and
  - b. in paragraph 8 by deleting "Group homes of a correctional nature require an Official Plan amendment".
5. PAGE 2-3 PART 2: LAND USE POLICIES, Section 2.3.1, paragraph 1 by deleting "size of 20 metres by 40 metres (66ft x 132 ft) and replacing it with "area of 0.4 hectare (1 acres)", and point (a) by deleting "may", replacing it with "shall" and adding "for proposals under 1 hectare (2.47 acres)" after "required".
6. PAGE 2-8 PART 2: LAND USE POLICIES, Section 3.3.1
  - a. in paragraph 2 by deleting "unless otherwise specified"; deleting "should" and replacing it with "shall"; deleting "0.4" and replacing it with "1.0"; deleting "(1 acre)" and replacing it with "(2.47 acres)" and inserting, "unless supported by a hydrogeological study. In



no event shall a new lot in the Shoreline designation have lot area of less than 0.4 hectares (1 acre)." at the end of the sentence; and

- b. in paragraph 5 by deleting "0.8" and replacing it with "1.0"; deleting "1 acre" and replacing it with "(2.47 acres)" and by adding "unless supported by a hydrogeological study. In no event shall a new lot in the Shoreline designation have lot area of less than 0.8 hectares (2 acres)." following the first sentence.

**7. PAGE 2-10 PART 2: LAND USE POLICIES, Section 3.3.4**

- a. in paragraph 2 by:
  - i. adding "limited infill development on an existing" after the word "Notwithstanding" and by deleting the word "a" before "private road may"; and
  - ii. adding "as shown on Schedule 'A', or a new private road created by plan of condominium" before "may be permitted".
- b. in paragraph 4 by:
  - i. adding "one time minor" before "extensions";
  - ii. adding "private" between "existing" and "roads";
  - iii. adding "as shown on Schedule 'A'" before "shall enter into an agreement with the Town"; and
  - iv. adding "Extensions of private roads not considered "minor" in nature shall only be permitted via a plan of condominium" as a final sentence.

**8. PAGE 2-15 PART 2: LAND USE POLICIES, Section 4.2.2, paragraph 4 by**

- a. deleting "0.8" and replacing it with "1.0";
- b. deleting "1 acre" and replacing it with "(2.47 acres)"; and
- c. adding "unless supported by a hydrogeological study. In no event shall a new rural residential lot have lot area of less than 0.8 hectares (2 acres)." following the first sentence.

**9. PAGE 2-18 PART 2: LAND USE POLICIES, Section 4.2.7(d) by deleting**  
"there are sufficient separation distances from sensitive land uses of" and replacing it with, "Proposals within 1000m of sensitive land uses must demonstrate no adverse effects and shall not be permitted closer than:".

**10. PAGE 2-19 Part 2: LAND USE POLICIES, Section 4.2.8, paragraph 2 by:**

- a. adding "limited infill development on an existing" after "Notwithstanding" and by deleting "a" before "private road"; and
- b. adding "as shown on Schedule 'A', or a new private road created by plan of condominium," before "may be permitted".

**11. PAGE 2-21 PART 2: LAND USE POLICIES, Section 5.2.1, paragraph 5 by**

- a. deleting "500" and replacing it with "1000";
- b. deleting "1,640" and replacing it with "3,280"; and
- c. deleting "under the following conditions" and replacing it with "subject to studies that demonstrate the following".

**12. PAGE 2-23 PART 2: LAND USE POLICIES, Section 5.3.1:**

- a. in paragraph 2 by inserting "'within 1000m of lands" after the word "Lands" in the first sentence;
- b. in paragraph 5 by deleting "the land use pattern in the area has reduced the feasibility of extraction" and replacing it with "resource use would not be feasible";
- c. by deleting paragraph 6 in its entirety; and
- d. by adding a new paragraph 6 which states: "Unless studies demonstrate no adverse effects, no sensitive land uses shall be permitted within 1,000 metres of a mineral aggregate operation as per Section 4.2.7 and Section 7.7 of this Plan. This policy is reciprocal and applies to the establishment of new mineral aggregate operations proposed on adjacent lands to sensitive land uses."

**13. PAGE 3-6 PART 3: PROTECTING THE NATURAL ENVIRONMENT,**

**Section 6.4.1.1, paragraph 2 by:**

- a. Inserting, "Development and site alteration shall not be permitted within provincially significant wetlands" at the beginning of the paragraph; and
- b. deleting "provincially significant or".

**14. PAGE 3-8 PART 3: PROTECTING THE NATURAL ENVIRONMENT,**

**Section 6.4.3.1, paragraph 1 by :**

- a. adding "or site alteration" after the word "development in the first line;
- b. replacing "requiring a planning approval" with "and which has the potential to negatively affect significant wildlife habitat"; and
- c. replacing "may" with "shall"

**15. PAGE 3-11 PART 3, PROTECTING THE NATURAL ENVIRONMENT,**

**Section 6.4.4.1, paragraph 3 by:**

- a. adding "or site alteration" after "Prior to development";
- b. deleting "requiring a planning approval";
- c. replacing "requiring a planning approval" with "which has the potential to negatively affect fish habitat"; and
- d. replacing "may" with "shall".

**16. PAGE 3-17 PART 3: PROTECTING THE NATURAL ENVIRONMENT,**

**Section 6.10:**

- a. in the second paragraph by deleting the paragraph and replacing it with "A preliminary ecological site assessment shall be required in cases where it is not known if a site has the potential to include significant natural heritage features or areas. The preliminary ecological site assessment will determine if further assessment is required."; and
- b. in Section 6.10.1 by:
  - i. deleting "such an assessment" in the second paragraph and replacing it with "a full Ecological Site Assessment"; and by inserting, "In low-risk situations a scoped ESA will be required." to the end of the second paragraph;
  - ii. inserting "scoped" before "ESA" in the third paragraph;
  - iii. deleting the fourth paragraph; and
  - iv. deleting "may need to" in the sixth paragraph and replacing it with "shall".

**17. PAGE 3-18 PART 3: PROTECTING THE NATURAL ENVIRONMENT,**

Section 6.10.2.1, paragraph 1 by

- a. deleting "(i.e. consent for residential purpose)" in point (a); and
- b. deleting "A scoped statement may involve a checklist style form that can be completed by the applicant in consultation with the Town or other approval authority. The Town may require that such form be prepared and/or reviewed by a qualified professional."

**18. PAGE 4-2 PART 4: PROTECTING PUBLIC HEALTH AND SAFETY,**

Section 7.2.1 by:

- a. deleting "flood way or flood fringe" and "generally" in paragraph 1;
- b. deleting "any" in paragraph 2 and by deleting "that is approved in accordance with this section may be" and replacing it with "adjacent to the flood plain or within the flood fringe of a two-zone area is"; and
- c. deleting "may be" in paragraph 4 and replacing it with "are".

**19. PAGE 4-3 PART 4: PROTECTING PUBLIC HEALTH AND SAFETY,**

Section 7.2.2 by:

- a. deleting "should generally" in the first sentence and "should" in the fourth sentence and replacing them with "will";
- b. deleting "floodway" and replacing it with "floodplain" in the second sentence;
- c. deleting the third sentence; and
- d. deleting "also" from the last sentence.

- 20. **PAGE 4-10 PART 4: PROTECTING PUBLIC HEALTH AND SAFETY,** by inserting the following as a new Section 7.4 and renumbering subsequent sections as appropriate:

"Development shall generally be directed to areas outside of lands that are unsafe for development due to the presence of hazardous forest types for wildland fire. Development may be permitted in lands with hazardous forest types for wildland fire where the risk is mitigated in accordance with wildland fire assessment and mitigation standards, as identified by the Ministry of Natural Resources.

Proponents may be required to undertake a site assessment to determine the presence of hazardous forest types for wildland fire, as may be indicated by generalized wildland fire hazard information. If development is proposed where hazardous forest types are present, mitigation measures should be identified by proponents to outline how the risk will be lessened."

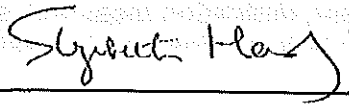
21. PAGE 5-6 PART 5: INFRASTRUCTURE, Section 8.6.1, paragraph 2 by
  - a. deleting "may" and replacing it with "shall";
  - b. adding "on any lot under 1.0 hectare in area" to the end of the first sentence; and
  - c. adding a new second sentence, "The approval authority may require a hydrogeological analysis for lots over 1.0 hectare where there are concerns regarding water quality and quantity."
22. PAGE 5-7 PART 5: INFRASTRUCTURE, Section 8.6.5 by
  - a. deleting "The Provincial Policy Statement, 2005 (PPS) states that" in the first paragraph; and
  - b. deleting "Section 1.6.4.1(e) of the PPS directs that" in the second paragraph.
23. PAGE 6-7 PART 6: DEVELOPMENT REVIEW AND IMPLEMENTATION, Section 11.3.1.2 by:
  - a. deleting "have regard among other matters, to the following" in the first paragraph;
  - b. deleting "The conformity of" and replacing it with "ensure that", and by inserting "conforms" before "with this plan" in point (a).
  - c. deleting "Matters listed" and replacing it with "have regard to matters of provincial interest" in point (b); and
  - d. adding a new point (c): "ensure proposals are consistent with the Provincial Policy Statement and conform with or not conflict with the Growth Plan for Northern Ontario".

**24. PAGE 6-10 PART 6: DEVELOPMENT REVIEW AND**

**IMPLEMENTATION**, Section 11.4.6 by:

- a. inserting "Legal" into the beginning of the section heading, after "existing" in point (a), after "respect to" in point (b) and after "addition to the" in the first sentence of (b)(i); and
- b. deleting "is permitted within the applicable zone in the zoning by-law, but the lot, buildings or structures located on the property do" and replacing it with "does",.

Dated at Greater Sudbury this 14 day of November, 2014



**Elizabeth Harding**  
**Assistant Deputy Minister**  
**Municipal Services Division**  
**Ministry of Municipal Affairs and Housing**

**THE CORPORATION OF THE TOWN OF KEARNEY**

**BY-LAW NO. 2014-19**

**Being a By-law to adopt a new  
OFFICIAL PLAN  
for  
The Corporation of the Town of Kearney**

**WHEREAS** Section 26.(1) of the *Planning Act R.S.O. 1990, Ch. P.13*, as amended, requires the Council of the municipality that adopted an Official Plan to, not less frequently than every five years, after the plan comes into effect, review and revise the Official Plan;

**AND WHEREAS** Section 17(22) of the *Planning Act R.S.O. Ch. P.13*, as amended, enables the Council to pass a By-law to adopt all or part of an Official Plan;

**AND WHEREAS** Council held a Special Meeting, open to the public, on January 20, 2012 in accordance with Section 26(3) of the *Planning Act, R.S.O.* and Section 17(15)(d) to discuss the revisions that may be required;

**AND WHEREAS** Council held an Open House on March 8, 2014 for the purpose of giving the public an opportunity to review and ask questions about the proposed Official Plan;

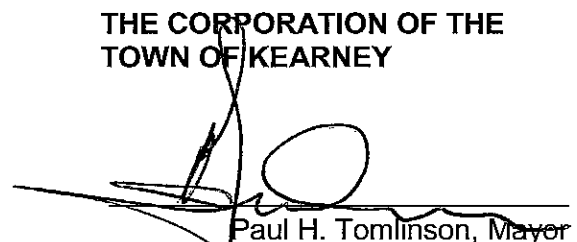
**AND WHEREAS** Council held a Public Meeting on March 15, 2014 for the purpose of giving the public an opportunity to make representations in respect of the current proposed Official Plan;

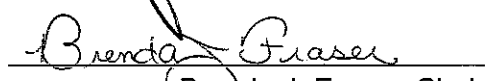
**NOW THEREFORE the Council of the Town of Kearney enacts as follows:**

1. By-law No. 2003-26 and the Official Plan for the Town of Kearney, which it adopted, and amendments thereto, are hereby repealed, however, they will remain in effect until such time as the new Official Plan for the Town comes in full force and effect.
2. The Official Plan of the Town of Kearney, consisting of the attached Text and Schedules, is hereby adopted.
3. The Clerk is authorized and directed to make application to the Ministry of Municipal Affairs and Housing for approval of the aforesaid Official Plan for the Town of Kearney.
4. This By-law shall come into force in accordance with the provisions of the Planning Act.

**READ A FIRST, SECOND AND THIRD TIME**, passed, signed and the Corporate Seal attached hereto, this 4<sup>th</sup> day of April, 2014.

**THE CORPORATION OF THE  
TOWN OF KEARNEY**

  
Paul H. Tomlinson, Mayor

  
Brenda J. Fraser, Clerk



# **OFFICIAL PLAN OF THE TOWN OF KEARNEY**

**ADOPTED BY COUNCIL  
OF THE TOWN OF KEARNEY  
April 4, 2014**

**APPROVED WITH MODIFICATIONS BY  
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING  
November 14, 2014**

**AN APPROVED BY AN ORDRE OF THE  
ONTARIO MUNICIPAL BOARD  
ISSUED ON April 20, 2016  
CASE NO.: PL141439**

**TOWN OF KEARNEY  
8 MAIN STREET, P.O. Box 38  
KEARNEY, ONTARIO  
P0A 1M0**

**PREPARED BY:**

**J.L. RICHARDS & ASSOCIATES LIMITED  
864 LADY ELLEN PLACE  
OTTAWA, ONTARIO  
K1Z 5M2**

**JLR 25137**

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## **PART 1: BASIS OF THE OFFICIAL PLAN**

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### **1.0 INTRODUCTION**

William Kearney and Arthur O'Neil started a store in the north-east corner of Perry Township called "Kearney's Store" in 1879. Kearney's main economy was based on logging with sawmills and lumber camps. The Town of Kearney officially separated from Perry Township and was incorporated as a Town in 1908. In 1979 the Town of Kearney was amalgamated with the geographic Townships of Proudfoot and Bethune, and portions of Butt and McCraney Townships which were not part of Algonquin Park.

The Town of Kearney is 529.5 km<sup>2</sup> and is characterized by a townsite in the western part of the Town, and development around the lakes in Proudfoot and Bethune Townships. In addition, there are three access points from the Town to Algonquin Park. The Town has a number of natural resources including waterbodies, wetlands, forested lands, and mineral deposits including feldspar, graphite, titanium, and uranium. The Kearney Graphite Mine, located in Butt Township, is planned to be in production in 2014.

The Town of Kearney was also home to Ralph Bice, a guide, trapper, outdoorsman, author, and politician who advocated for humane trapping techniques and started the Ontario Trapper's Association. Bice was the Town's mayor for a number of years. He came to represent the "pioneering spirit of the North." Legendary sportswriter Jim Proudfoot also came from Kearney.

Kearney holds a number of annual events for residents and tourists, including the Kearney Regatta in the summer and the Dog Sled Races in February, which includes eastern Canada's only long-distance overnight race.

The Town today is home to about 800 permanent residents, and it is estimated that the population triples in the summer with seasonal residents. In addition, many people pass through the Town to access Algonquin Park.

The first Official Plan for the Town of Kearney came into effect in 1982. A second and third plan was approved in 1991 and 2006, respectively.

#### **1.1 Purpose of the Official Plan**

The purpose of the Official Plan is to establish goals, objectives, and policies to manage and direct physical change and its effects on the social, economic, and natural environment for the 20-year planning period. Because decisions that affect growth and development have long-lasting impacts, it is incumbent on everyone to ensure that those decisions reflect community values and result in a liveable community that is economically and environmentally sustainable. The goal is to formulate policies that are easy to interpret and apply.

The Plan was prepared to assist both the public and private sectors' decision-making in land use matters in the context of known policies. Local boards and municipal departments, together with various levels of government, may use the Plan to identify public undertakings that may be required and assign appropriate budgets, schedules, preferred sites, and priorities. The Council will also be better able to assess proposals brought before it.

## **PART 1: BASIS OF THE OFFICIAL PLAN**

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This Plan will provide a basis for zoning and other issue specific by-laws that Council will enact to regulate the development of land.

This Plan directs those proposing development activity to consult with the approval authority on an early basis to discuss their proposal and confirm required studies prior to the submission of a development application.

### **1.2 Legislative Context**

The Official Plan is a policy document - it is not regulation. However, it is a legal document and the policies in this Plan have a basis in the *Planning Act*. There is, therefore, a need for all decision-making authorities to ensure that any decisions affecting planning matters be consistent with the policies of this Official Plan.

The *Planning Act* requires that the Town of Kearney prepare and adopt an Official Plan that covers the full extent of its territory. The *Planning Act* also identifies matters of provincial interest, which are further defined by the Provincial Policy Statement (PPS). The Town's Official Plan must be consistent with the policies in this Statement. The Official Plan was drafted, reviewed, and adopted in conformity with the requirements of the *Planning Act* and the content of the Plan is consistent with the PPS issued under Section 3 of the *Planning Act*, which came into effect on April 30, 2014. Furthermore, the Official Plan reflects changes to the *Planning Act* enacted through *Bill 51, Planning and Conservation Land Statute Law Amendment Act, 2006*.

In accordance with the requirements of the *Planning Act*, the Official Plan will be reviewed every five (5) years and may be amended by the Town to reflect changing circumstances or new priorities. The main implementation tool, the Zoning By-law, will be updated within three years of each Official Plan update.

The PPS includes definitions of numerous significant terms used in its policies. These definitions will apply to instances in this Plan where the same terms are used, for instance in reference to "development", "adjacent lands", or "sensitive land uses", among others. Where this Plan employs a different meaning for a term defined in the PPS, this will be specifically identified in the text of the Plan.

This Official Plan was prepared by the Town of Kearney in partnership with the residents of the Town, its community organizations, the provincial government, and its agencies. As such, the policies of the Official Plan represent a balance of interests and points of view.

### **1.3 Planning Period**

The Town of Kearney Official Plan is intended to guide land use for a 20-year period, i.e., until the year 2034.

### **1.4 Plan Structure**

This document shall be known as the "Official Plan for the Corporation of the Town of Kearney". It consists of both written policy and schedules. It is organized into six (6) main sections, moving from broad planning principles to more specific land use policies and implementation measures, as follows:

## **PART 1: BASIS OF THE OFFICIAL PLAN**

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### **Part 1: Basis of the Official Plan**

This Section explains the role and structure of the Official Plan and the political and administrative framework within which land use planning is carried out in Ontario. This Section also provides the general foundation for the Official Plan policies presented as a series of principles reflective of the way the Town wants to manage future growth, development, and change.

### **Part 2: Land Use Policies – Building a Strong Community**

This Section contains the goals, objectives and policies for land use designations covering the Townsite Area, Shoreline Areas, Rural Areas, Mineral Aggregate and Mining Areas, and Provincially Significant Wetlands. Policies have been developed to manage and direct physical change and its effects on the social, economic, and natural environment for the 20-year planning period. The goal is to formulate policies that are easy to interpret and more efficient in application. Land use designations are illustrated on Schedules 'A' Land Use and Transportation (Rural Area) and Schedule 'B' Land Use and Transportation (Townsite).

### **Part 3: Protecting the Natural Environment – Wise Use and Management of Resources**

This Section contains policies related to the natural environment, contributing to the sustainability of the Town of Kearney. Natural Features are shown on Schedule 'C' Natural Features and Constraints.

### **Part 4: Protecting Public Health and Safety**

This Section addresses protecting Public Health and Safety from the various naturally occurring and human-made conditions that can result in risks to human health and safety. Constraints are shown on Schedule 'C' Natural Features and Constraints.

### **Part 5: Infrastructure and Public Service Facilities – Building a Strong Community**

This Section contains policies and programs for the efficient use and development of the infrastructure network, including Transportation and Utilities. The Official Plan and related studies provide a rational framework for making strategic investments and decisions.

### **Part 6: Development Review and Implementation**

Drawing from the legislative framework that governs municipalities in Ontario, various planning tools for implementing the policies and programs of this Plan are set out. This Section also addresses the protection of cultural heritage resources.

## **1.5 Basis of the Plan**

In preparing this Plan, a number of studies were undertaken or reviewed, and various government departments, ministries, and First Nations were consulted to discuss their policy objectives. These were reviewed in the context of factors which affect the type, location, and

## **PART 1: BASIS OF THE OFFICIAL PLAN**

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rate of development, as well as land use changes. The studies examined the Town's capability to sustain or accommodate development. These findings were used as a basis for the policies and schedules contained in this Plan and are summarized as follows:

### **1. Environmental Protection**

All development must recognize the need to protect, maintain, and/or improve significant natural heritage features and areas. Natural heritage features and areas includes significant wetlands, fish habitat, significant woodlands, significant habitat of endangered and threatened species, and significant wildlife habitat which are important for their environmental and social values as a legacy of the natural landscape and area. Planning authorities shall also protect, improve or restore the quality and quantity of water including our lakes carrying capacity. As well, new development must recognize the presence of the various types of potential hazards and plan in harmony with them to ensure land use compatibility. Development will generally occur where careful examination of servicing arrangements, which includes water, sewage disposal, waste disposal, and storm drainage, has been demonstrated.

### **2. Importance of Economic Development**

Although economic development can take many forms, plans to strengthen the economy of the Town need to be supported by the community and be based from within the community. To achieve the vision established in the Town's Strategic Economic Development Plan, policies of this Plan have been structured to both protect and reap the benefits of the areas resources.

### **3. Importance of Municipal Leadership**

Council shall take the leadership in planning and implementation of improvements within the Town. It shall undertake a logical, orderly, and economic approach for development to encourage residents and entrepreneurs to expand and/or create new opportunities within the Town.

### **4. Importance of Mineral Resources**

The area is rich in mineral deposits. This untapped resource has the potential for economic development that would extend beyond the Town's boundaries.

### **5. Financial Control**

It shall be Council's responsibility to control municipal expenses by limiting development that would place a financial burden on the Town, and to plan and implement municipal services and facility improvements within the Corporation's financial capabilities and priority ranking.

## **1.6 Principles of the Plan**

The basic intent of this Plan is to develop a strategy to manage both new development and resources of the area for the continued use and enjoyment by both residents and visitors. The Official Plan is one tool in which to implement the strategic directions and key objectives of the



## **PART 1: BASIS OF THE OFFICIAL PLAN**

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*Town of Kearney Strategic Economic Development Plan.* To achieve the vision established in the Town's *Strategic Economic Development Plan*, the Town needs to be recognized as a leader in managing its resources for their continued use and enjoyment while maintaining or enhancing the quality of life for all.

A strategic and proactive Official Plan will help to achieve the Town's goals, and will help the Town in guiding and assessing proposed land use changes. This Plan establishes a framework within which Council can demonstrate their commitment to the logical development of the community and to assess the merits of proposals for development and exercise their powers to pass Zoning By-laws.

Finally, this Plan seeks to optimize the use of existing and new services and facilities, to protect and rehabilitate the natural heritage features and areas including water quality and quantity, to take full advantage of its opportunities for sustainable economic development, to ensure land use compatibility by avoiding and/or mitigating incompatible land uses, and to promote a healthy community, while developing a strong financial position for the Town.

### **1.6.1 Future of Kearney**

The Town will strive to be recognized as a leader in managing its resources for the continued use and enjoyment while maintaining or enhancing the quality of life for all. This Plan is formulated on the premise that Kearney will continue to change and attract new families and businesses that will maintain population and economic growth. Growth is expected to occur in large part by the conversion of seasonal dwellings into permanent residences in the area. The Town will plan to accommodate change through the efficient use of land and services and consideration for lake capacity and environmental sustainability.

The Town will continue to be a vibrant and exciting place to live, work, and visit. It will encourage housing that maintains the character of the area and blends with the natural environment. It is also a place for those persons of retirement age seeking an alternative to urban life.

The Town, as envisaged, will continue to have the social and cultural values that have evolved through time; a community spirit, a sense of belonging, a tradition of self-reliance, social responsibility, sharing, neighbourliness, and an appreciation of heritage and culture. This quality of life will have been preserved through new economic opportunities.

The Town of Kearney is desirous of honouring a Kearney resident and recipient of the Order of Canada in 1985, for his commitment to the Kearney community, not only as Mayor, but his lifelong conservationist philosophy.

It is envisioned, that the Ralph Bice Sustainability Centre and Wilderness Experience (Bice Project) would comprise the "CENTRE" located in Kearney providing a visitor's centre showcasing the life of Ralph Bice and his accomplishments. The "CENTRE" would offer educational facilities, Almaguin Highland tourist information, and community rooms. The "EXPERIENCE" is envisioned as an outdoor classroom located on Crown land.

## **PART 1: BASIS OF THE OFFICIAL PLAN**

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### **1.6.2 Natural Resources**

To ensure a sustainable future, the Town will encourage conserving natural resources through sound stewardship and best management practices.

There are natural resources in the area that play a key role in the economic base of the Town, including waterbodies, watercourses, wetlands, forested lands, and lands with mineral potential. Kearney's future is dependent primarily on its natural resources. The extent and rate of the Town's growth will be a function of the conversion rate of seasonal dwellings to permanent dwellings, the sensitive management of the resources, and the prosperity of its primary industries. The management and preservation of the Town's natural resources will play a prominent role in the evolution of the community. Policies of the Plan will also have consideration for lake capacity and wetland preservation.

Water resources, fisheries, wildlife habitat, and mineral reserves will be managed and protected, since these natural resources are an important part of what makes the Town special and unique.

The policies of the Plan recognize that there are lands within the Town that are prone to periodic flooding and/or are otherwise unsuitable for development. Policies also recognize the potential for unstable slopes where development should be regulated to provide for a safe environment if the area is to be developed. The Plan contains policies to ensure that development within these areas is regulated to avoid potential hazards or any further impact.

### **1.6.3 Growth Forecast**

The forecast and land requirements to accommodate change over the planning period is contained within the 2011 Land Needs Background Study. Over the next 20 years, very modest growth is projected bringing the permanent population to 892 residents. Based on expected growth of seasonal dwellings, the total population is projected to be 3,053. In terms of household growth, the projected number of households is expected to average two (2) new permanent household starts per year and eight (8) seasonal dwellings.

The Town will maintain an adequate supply of land designated and available for settlement growth within its townsite to accommodate its projected residential and employment growth requirements. The Plan is based on the concept that the existing level and pattern of development in the Town will remain substantially the same over the period of the Plan.

Due to the anticipated low level of growth in the long term, the Plan concentrates on policies that support and suggest improvements to the existing townsite, shoreline communities, municipal facilities and services in the shorter term.

Demand for choice and flexibility in housing and employment opportunities will be accommodated in the following ways:

1. Intensification of land use in existing townsite area involving infill, secondary dwelling units, redevelopment and the conversion of existing buildings. Council will promote opportunities for redevelopment and intensification through the provision of adequate infrastructure and community facilities and through the reuse of brownfield sites.

## **PART 1: BASIS OF THE OFFICIAL PLAN**

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2. Development of vacant lands within the Townsite area.
3. Limited rural and shoreline development.

### **1.6.4 Settlement Patterns**

The Townsite Area shown on Schedule 'B' defines one of the historical settlement areas within the Town of Kearney. This historical settlement area includes a built-up area as well as adjacent undeveloped lands for future development.

The townsite will support a mix of housing opportunities, including affordable housing, and will continue to be a centre for residences, commerce, and services. New residential construction in the 20-year planning period is expected to be minimal. The goal is to encourage opportunities for a range of housing types such that choice is available to residents.

The Town will encourage desirable commercial and industrial development in appropriate areas to complement residential development and contribute to the development of a complete community.

Redevelopment activities in the Town may result in the ongoing restoration of the historic building stock and there will be more emphasis on architecturally blending the "new" to reflect the "old" when developing new projects where such is merited. The Town will encourage affordable housing initiatives and redevelopment of brownfield sites. New settlement in the townsite will be planned to avoid environmental impacts or land use conflicts.

Low density housing is expected to continue to account for the majority of housing completions. Medium density housing types, such as row houses and low-rise apartments, are anticipated to become a more common form of residential development within the townsite to accommodate changes in the population profile (aging of population) and demand for affordable housing.

It is the intention of the Town to encourage development to take place primarily within the townsite where access, commerce and services are available. It is expected that development in the rural and shoreline areas will continue to thrive. Development in these areas will need to be compatible with its surrounding, compliment the natural environment, and protect natural heritage features and areas. In certain circumstances, the Town may decide to restrict development in particular areas where it is deemed that the proposal may be premature in the context of the overall development of the Town. In determining whether any development is premature, the Town will take into consideration, among other things, such factors as: the condition of the existing municipal roads, the amount of previous development activity in the immediate area, the number of undeveloped lots, the significance of the area as a possible resource reserve, cultural resources, accessibility, availability and quality of water, impacts to water resources, land use compatibility, and availability of municipal services.

### **1.6.5 Economic Development**

Council shall encourage development which strengthens the municipal economy, promotes the growth of local employment opportunities, and improves the tax base of the Town by encouraging new industry and commerce and the expansion of existing businesses to meet the needs of the Town. Industrial and commercial development requiring minimum services shall be

## **PART 1: BASIS OF THE OFFICIAL PLAN**

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encouraged in appropriate locations, provided that such development is compatible with the environment, nearby land uses, and land capabilities.

Employment opportunities will continue to be provided through a balance of commerce, education, tourism, service and light industry, and health care. This development will be directed to areas best suited for each economic sector. A well-rounded, vibrant community with economic opportunities for people of all ages will be an objective for the Town. Mixed use forms of development will be encouraged predominantly within the townsite where the uses are compatible and provide for opportunities for residents to enjoy the benefits of a range of housing and services.

The Town will foster a climate for innovative economic opportunities with cooperation among members of the community and all levels of government. In addition to encouraging new commerce and industry and new residents, the Town will encourage the retention and expansion of existing businesses as an important generator of local employment, and will support the development of businesses, development, and both redevelopment and reuse that makes use of 'green' technology and the area's resources.

The Town will seek to retain its resident labour force by promoting a diversified economic base. While its economy, like that of all municipalities, is influenced by many factors beyond its control, such as the global economy, interest and exchange rates, fuel costs, federal and provincial taxation, regulation, and trade policies, it does have key areas in which commitment and action may help the Town to remain competitive:

1. Residential Marketing: leverage the Town's natural assets to maintain population and encourage growth through marketing Kearney for residential relocation to and within the District area. Focus on people who are retiring, but still active (55-65 years old), and young families (parents or couples aged 30-45 years old).
2. Retirement Living: The aging population is the largest demographic in the world. More and more people are looking to relocate for retirement. Wait lists exist for retirement homes within the regional market area. There is an opportunity to capitalize on this demographic and develop housing units in Kearney in response to demand.
3. Business Attraction: Kearney has significant natural resources to support an increase in the sector of primary industries.

### **1.6.6 Tourism**

The Town will recognize opportunities to provide for sustainable tourism development, including eco-tourism. Tourism will be promoted, where appropriate, by encouraging private efforts to improve and increase the range of tourist services and facilities, including walking, cycling, golfing, skiing, dog sledding, ATV and snowmobile trails, which will help service the leisure needs of the tourists and residents of the Town.

### **1.6.7 Commerce and Industry**

The townsite will continue to function as the commercial area. Community Improvement Policies have been included to assist in the revitalization of the townsite area, which has the potential to play an important role in attracting tourists and area residents to the Town. The commercial

## **PART 1: BASIS OF THE OFFICIAL PLAN**

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service sector, comprised of community, business, industry, and personal services, will be encouraged to expand and diversify.

### **1.6.8 Social Needs**

The Town will be a healthy community that strives for a high quality of life for all of its citizens. The Town will be an attractive location for all ages of families and individuals, offering a high quality of life for all those who live here. The mental and physical health of the Town's residents will depend upon the effective delivery of:

1. affordable housing (rental and ownership) for people of all ages and levels of independence (single detached homes, multiple residential, home sharing, nursing homes, homes for the aged, etc.);
2. health and community services, including those that rely greatly on the efforts and donations of volunteers from within the community (i.e., meals on wheels, home care, and transportation services, etc.);
3. education that provides skills for healthy living, leadership development, and self-fulfillment, including employment opportunities within the Town;
4. recreational programs and events that encourage physical activity, social interaction, and an appreciation of the Town's cultural resources; and
5. opportunities to experience the natural environment.

### **1.6.9 Linkages**

The transportation, servicing, and communication networks constitute the linkages within which the Town's residents and visitors will live, work, and play. In an effort to reduce our carbon footprint, it will be an ongoing goal to minimize the time, distance, economic, and energy costs of movement for persons, goods, and information.

The natural heritage system consisting of waterbodies, watercourses, wetlands, forest lands, etc. represents an important natural linkage that contributes to a sustainable environment and important natural habitat. The protection of open spaces areas, public lands, and crown land should be encouraged in those appropriate circumstances for such potential uses as recreational, communication, utility, and transportation corridors. Individual, private modes of transportation will continue to be relied upon in the future; however, alternative transportation modes will be supported.

Within built-up areas, emphasis will be placed on designing facilities that encourage walking and cycling. Walking and cycling trails that connect municipal services, employment lands, existing parks, recreational areas, or other important physical or man-made features may be developed wherever feasible.

### **1.6.10 Energy Conservation and Air Quality**

The Town may promote energy conservation and improved air quality by:

## **PART 1: BASIS OF THE OFFICIAL PLAN**

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- a. initiating, participating, and cooperating in energy conservation and air quality improvement programs, including public education and awareness;
- b. encouraging denser, contiguous development, intensification of existing built-up areas, and the efficient use of existing infrastructure within the townsite;
- c. encouraging energy conservation measures into site design, and into the design, construction, and renovation of buildings;
- d. encouraging the use of walking, bicycling, transit, and carpooling as alternatives to private automobile use;
- e. encouraging the planting of native trees and shrubs; and
- f. promoting design and orientation of subdivisions and developments, which maximize the use of alternative or renewable energy systems, such as solar and wind energy, at appropriate locations.

### **1.6.11 Water Conservation**

The Town may promote water conservation by:

- a. initiating, participating, and cooperating in conservation programs, including public education and awareness programs;
- b. encouraging development using the highest building design standards, such as LEED and any related standards;
- c. encouraging the reuse and multiple uses of rain water, including stormwater; and
- d. encouraging the planting of waterfront buffer vegetation consisting of native trees, shrubs, and other ground vegetation for temperature reduction, water quality, and infiltration.

### **1.6.12 Waste Reduction**

The Town may support the reduction, reuse, recycling, and recovery of materials from waste by:

- a. initiating, participating, and cooperating in conservation programs, including public education and awareness programs;
- b. encouraging development proposals to provide adequate waste disposal, recycling, and composting facilities, and supporting innovative waste collection and diversion programs; and
- c. encouraging the reduction of waste from construction debris as a result of demolition of buildings by promoting and encouraging the adaptive reuse of older and existing building stock.

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## PART 2: LAND USE POLICIES

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### 2.0 TOWNSITE

The *Townsite* designated by this Plan is primarily intended for housing and related uses that are compatible within this built-up area. This designation represents a historical settlement area which will continue to allow for variety of housing forms and densities within the Town and will support sustainable intensification and redevelopment. The *Townsite* area will also act as a service centre for the surrounding shoreline and rural areas.

#### 2.1 Goal and Objectives

**Goal:** Provide a land use policy framework that supports diversity, density, and durability of housing and employment that will contribute to a neighbourhood feel in the Town's core and an inclusive, accessible community.

It is the objective of the *Townsite* policies to:

- a. protect the character of existing neighbourhoods;
- b. support Kearney's housing needs, including the special needs of the elderly, handicapped, and low-income individuals and families by encouraging the provision of an adequate supply of affordable ownership, rental, and special needs housing in the *Townsite*;
- c. encourage the development of a mix of residential uses;
- d. ensure that a variety of complementary and compatible land uses are permitted, including community facilities, commercial uses, institutional uses, light industrial uses, and open space areas;
- e. focus residential development in areas that have sufficient infrastructure capacity;
- f. promote good community design that ensures the long-term protection of significant natural heritage features and areas; and
- g. encourage any expansion of development outside of the built-up portion of the *Townsite* to be properly managed from an environmental and servicing standpoint.

#### 2.2 Policies

1. Low density and medium density housing is permitted in the *Townsite* designation.
2. New residential development and redevelopment must be compatible with the existing physical character of established neighbourhoods, with consideration given to the size and configuration of lots, predominant built form, building setbacks, building height, and other provisions applied to nearby properties under the Zoning By-law.

## PART 2: LAND USE POLICIES

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3. Parks, open space, and private home daycares are permitted in the *Townsite* designation.
4. Bed and breakfast establishments, with up to two (2) accessory guest units per single detached dwelling, are permitted in the *Townsite* designation. Bed and breakfast establishments larger than two (2) units will require a rezoning and are subject to criteria described in Policy 2 above, to ensure compatibility with existing neighbourhoods.
5. Home Occupations are permitted in the *Townsite* designation, provided that the occupation is secondary to the main residential use and does not change the residential character of the property or neighbourhood. The implementing by-law may place limits on the size, location, and proportion of the property and building used as a home occupation, among other matters.
6. Where the Zoning By-law permits a detached dwelling, semi-detached dwelling, row house or accessory building, a secondary dwelling unit within these dwellings will also be permitted. Standards may be established in the Zoning By-law to govern compatibility within the main dwelling and surrounding land uses.
7. Council may consider alternative development standards that facilitate affordable housing and compact development.
8. Educational facilities, libraries, places of worship, cemeteries, day nurseries, retirement homes, and other neighbourhood-based institutions form an integral part of community life. Local institutional uses that are compatible with the residential function of neighbourhoods are allowed in the *Townsite* Area designation subject to rezoning. Existing institutional uses will be recognized in the Zoning By-law.
9. Commercial, institutional, and light industrial uses that are intended to serve the convenience needs of local residents are permitted in the *Townsite* Area by rezoning. Zoning applications for commercial, institutional, and light industrial uses will be reviewed on the basis of general conformity with the following policies:
  - a. Access to and traffic generated by the site will not create adverse traffic problems on surrounding roads;
  - b. Lighting and signage will be located so as not to create any adverse visual impact on the surrounding residences;
  - c. The use will provide landscaping and buffering in a manner that is in harmony with adjoining and nearby residential properties;
  - d. The proposed commercial, institutional, or light industrial use must form a 'good fit' with the existing neighbourhood fabric and meet land use compatibility criteria; and,
  - e. The use can be adequately serviced by private water and wastewater service with adequate waste disposal and hauled sewage capacity.



## **PART 2: LAND USE POLICIES**

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### **2.3 Lot Requirements**

Future development in the Townsite should maintain the existing character and pattern of development wherever possible.

All lots will be of sufficient size and dimension and possess terrain suitable to appropriately accommodate the use proposed. Amongst other matters, this will address the following:

- a. protection of natural heritage features and areas and various development constraints;
- b. water and sewage disposal servicing requirements;
- c. provision of access and a safe road entrance; and
- d. provision of a sufficient area of level land to accommodate buildings and structures without substantial alteration of the natural landscape.

#### **2.3.1 Policies**

1. New lots shall have a minimum lot area of 0.4 hectares (1 acre), where:
  - a. adequate potable source is confirmed, and a sewage disposal system which will not have a negative impact on abutting properties, can be located on the property; a hydrogeological analysis to confirm sustainability of the water supply with terrain analysis, and an impact assessment examining the impacts on groundwater or surface water resources shall be required for proposals under 1 hectare (2.47 acres).
2. All new development will front upon and be accessible from a year round maintained, public road, which is in a condition appropriate for the use proposed.

### **2.4 Housing**

**GOAL:** To support a mix of housing types and affordable housing for all residents.

#### **2.4.1 Housing Policies**

To encourage diversity of housing type and tenure, support economic development initiatives, and support accessibility, innovation, and maintenance of the housing stock, it is policy of this Plan to:

1. encourage housing types, forms, and designs (including barrier-free) suitable to meet the housing needs of all current and future residents, including seniors, retirees, and younger cohorts;
2. promote residential development in the *Townsite* as a stimulus to revitalization and small business development;

## PART 2: LAND USE POLICIES

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3. permit alternative development standards where appropriate;
4. encourage innovative forms of multiple housing and converted dwellings in order to achieve cost efficiencies in the provision of housing;
5. encourage innovation in housing tenure and financing;
6. enforce property maintenance standards in all forms of housing throughout the Town;
7. maximize the use of Federal and Provincial improvements, rehabilitation, and housing assistance programs to maintain and upgrade existing housing stock throughout the Town; and
8. support the Parry Sound District Social Services Administration Board on housing affordability and the housing and homelessness plan.

### 2.5 Employment

Employment areas within the *Townsite* encompass lands where people presently work and lands where employment opportunities will be provided in the future. Employment areas may include three broad categories: Commercial, Institutional, and Light Industrial.

Encouraging and enhancing commercial development in Kearney is crucial to the Town's quality of life. Commerce provides employment through the retail sale of goods and services to residents, visitors, and other businesses and helps broaden the Town's tax base, which, in turn, helps the Town maintain required public services.

Commercial uses that serve the general population of the Town will be located within the Commercial Townsite Zone of the implementing Zoning By-law. Other commercial uses related to tourism or highway orientation may be located within the Commercial Townsite or Tourist Commercial Zones.

Institutional and public uses may be intermixed in both the residential and employment areas within the *Townsite* Area.

Industrial uses will generally consist of uses already existing or light industrial uses provided they do not interfere with the quiet enjoyment of residential property owners or create any adverse effects.

**GOAL:** Provide a supportive land use policy framework that reduces constraints for commercial, institutional, and light industrial development, while ensuring that existing and future uses will contribute to Kearney's economy, employment opportunities, and quality of life.

#### 2.5.1 Commercial Policies

1. Commercial uses involve the buying or selling of commodities or the supplying of services, and include uses such as retail sales or service establishments, business or professional offices, automotive or marine sales or service establishments, dining or entertainment, tourist commercial uses, and water-oriented commercial uses.

## PART 2: LAND USE POLICIES

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2. Commercial uses, other than water-oriented commercial uses, should be located within a defined core, commercial, or business area.
3. Retail and service commercial uses will be at a scale which serves the community and its associated service area or the travelling public.
4. Marinas and tourist commercial uses may also be permitted through rezoning.
5. Boat storage facilities associated with marinas will be located back from the shoreline and buffered from abutting residential uses and the roadway.
6. The gross density for a resort commercial use should not exceed 15 commercial units per hectare (6 units per acre) with maximum lot coverage of 15%.
7. Commercial buildings will be designed, and lighting and signage arranged to blend with the surrounding areas and abutting uses.

### 2.5.2 Institutional Policies

1. Institutional uses primarily serve the educational, health, and social needs of the community and include uses such as:
  - a. educational facilities;
  - b. places of worship and retreats;
  - c. facilities for service clubs and non-profit organizations;
  - d. public health care centres, counselling centre, or emergency centres;
  - e. libraries, community centres, assembly halls, and arenas;
  - f. fire, ambulance, and police stations;
  - g. cemeteries;
  - h. municipal, provincial, and federal buildings and facilities; or
  - i. group homes.
2. Institutional facilities should be located on properties which can provide a focus for the community, are easily accessible and have sufficient area for off-street parking and for future expansion.
3. The scale and function of the use should be compatible with the abutting uses and surrounding area.
4. Shared use of community facilities or institutional buildings will be encouraged.

### 2.5.3 Industrial Policies

1. A range of light industrial uses, which are limited in scale, generally low effluent producing, and not noxious, may be permitted within the *Townsite*. Such uses may include light manufacturing and assembly, warehousing, storage, transfer stations, distribution, wholesaling, service and repair, and utilities or communication uses.
2. Natural vegetative buffers or landscaping should be provided adjacent to main transportation routes, and development should be designed in a manner, which ensures

## PART 2: LAND USE POLICIES

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a high quality appearance and promotes a positive community image. The extent of buffering should be determined by the nature of the use.

3. Outdoor storage should be located to the rear of buildings and buffered from view.

### 3.0 SHORELINE

The *Shoreline* designation describes the shoreline areas, which are located around lakes or rivers in the Town. These areas are composed of low-density residential development interspersed with resort commercial uses and marinas that provide recreational opportunities.

The shoreline area and its natural resources, which have attracted settlement, possess physically and environmentally sensitive areas. The natural heritage features and areas must be preserved and protected. Constraints such as flooding impose limitations on development in the shoreline area for safety, or environmental reasons.

#### 3.1 Goal and Objectives

**GOAL:** To protect the integrity of the natural environment, landscape, shorelines, and water quality and quantity for the enjoyment of both private and public users.

It is the objective of the *Shoreline* policies to:

- a. recognize the potential for these areas to develop for sustainable residential, recreational and tourism purposes;
- b. ensure that the quality of the lake and river environment is maintained;
- c. ensure that all development is compatible with and protects the enjoyment of shoreline areas without risk to public health and safety;
- d. ensure that individual private water and wastewater services are sustainable;
- e. preserve the aesthetic qualities and scenic features of shoreline areas; and
- f. ensure that water resources continue to be accessible to both private and public users.

#### 3.2 Design Principles

The following design principles will guide development in the *Shoreline* designation, as is appropriate for the area and the use proposed:

- a. the natural waterfront landscape should prevail with built form blending into landscape and shoreline creating minimal visual encroachment on the lake environment;
- b. natural shorelines will be retained or restored;

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- c. lot sizes will respond to the natural landscape, shoreline interface, and the character of the lake or river;
- d. disturbance on lots should be limited and the maximum amount of vegetation should be retained on a lot;
- e. vegetation should be maintained on skylines, ridge lines, or adjacent to the top of rock cliffs;
- f. native species should be used for buffers or where vegetation is being restored;
- g. rock faces, steep slopes, vistas, and panorama should be preserved;
- h. buildings and structures should be low profile and generally should not exceed the height of the tree canopy, but a prominent building may be considered for resort commercial development;
- i. building mass and coverage should be limited in relation to the site and frontage of the property and the character of the surrounding area;
- j. lot lines should follow existing features and terrain and should be configured so that conflicts between abutting properties will be avoided, particularly at the shoreline;
- k. building envelopes and the associated activity area should be defined, and located in the most appropriate area on the property, with the remainder of the property generally remaining in its natural state;
- l. roads should generally follow contours of the land, fit into the landscape, and wherever possible, not run perpendicular directly to the water; and
- m. disturbance for the construction of roads and other services should be kept to a minimum.

### 3.3 Policies

1. The *Shoreline* designation shown on Schedules 'A' and 'B' is intended to include lands generally within 150 metres (492 feet) from any standing waterbody greater than 8 hectares (20 acres) in area or any substantive river, creek, or other waterbody identified in this Plan, excluding lands that abut on Provincially or Locally Significant Wetlands or Crown Land. Lands which physically or functionally relate to the waterbody, although extending beyond 150 metres (492 feet) from the waterbody, shall be included within the *Shoreline* designation. Lands which do not physically or functionally relate to the waterbody, although within 150 metres (492 feet) of the waterbody shall not be included within the *Shoreline* designation. The designation shall include lands within 300 metres (984 feet) of the waterbody for lakes at capacity for development.
2. The following uses may be permitted within the *Shoreline* designation:
  - a. limited low density residential uses;
  - b. limited tourist commercial uses;

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- c. open space; or
- d. conservation.

### 3.3.1 Lot Requirements

1. All lots will be of sufficient size and dimension and possess terrain suitable to appropriately accommodate the use proposed. Among other matters, this should include consideration of the following:
  - a. natural heritage features and areas;
  - b. natural or human-made hazards;
  - c. provision for water supply and sewage disposal;
  - d. provision for appropriate access and a safe road entrance;
  - e. provision of a sufficient area to accommodate buildings and structures without substantial alteration to the natural landscape; and
  - f. whether or not the lake is at or near capacity.
2. New lots shall be no smaller than 1 hectare (2.47 acres) in area with 60 metres (197 feet) of water frontage, unless supported by a hydrogeological study. In no event shall a new lot in the Shoreline designation have a lot area less than 0.4 hectares (1 acre).
3. Notwithstanding, increased lot sizes may be required where certain conditions are present, e.g. narrow bays and peninsulas, presence of waterbodies or watercourses and steep slopes.
4. Wherever possible, existing, undersized shoreline lots should be merged to create larger parcels. Development of existing undersized lots for residential use may be permitted where it has been demonstrated to the satisfaction of the Town, that the lot is suitable for development and any other applicable policies of this Plan are satisfied.
5. New residential back lots will have a minimum lot area of 1 hectare (2.47 acres) with a minimum of 60 metres (197 feet) of lot frontage on a year round maintained public road, unless supported by a hydrogeological study. In no event shall a new lot in the Shoreline designation have a lot area of less than 0.8 hectares (2 acres).

### 3.3.2 Shoreline Residential

Low-density residential development, with structures setback from the shoreline in order to achieve a natural appearance, is envisioned for the *Shoreline* designation. The traditional form of linear residential development along the shoreline is recognized. Back lot development will be limited through lot size and access requirements.

1. Within the *Shoreline* designation, residential uses will be limited to single detached dwellings in the form of shoreline development and back lot development.

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2. Back lot development consists of single detached dwellings on individual lots, which are physically separated from the shoreline by a legally conveyable parcel of patented land that has development potential. Back lots are usually located in a linear fashion along a road which generally is parallel to the shoreline, but back lots may also be located on a road which runs perpendicular to the shore.

### **3.3.3 Tourist Commercial**

Tourist commercial uses are an important component to shoreline areas. These uses contribute to the character and diversity of the shoreline community and the economic base of the Town. Marinas and waterfront contractors provide an essential service for new and existing shoreline residential uses. These businesses provide employment, commercial assessment, and spin-off benefits in the retail and service sector.

The existence and health of tourist commercial uses relies on the natural environment and character of the shoreline. Therefore, these uses must be developed and maintained in a manner which preserves built heritage and character of the Town as well as the natural water resources and landscape of the shoreline area and overall protection of its natural heritage features and areas.

1. Tourist commercial uses include resort and service commercial uses and marinas, including buildings and structures located on the shoreline which provide docking, mooring, sales, service, repair, and limited storage of boats.
2. New tourist commercial uses will proceed by Zoning By-law amendment. Such amendment should regulate the scale, size, and density of development, and recognize and respond to the characteristics and capacity of the particular site and size of the waterbody as new tourist commercial uses represent more intensive land use than residential. Council may also require an impact study to demonstrate no adverse effects to surrounding owners.
3. Storage, service, maintenance, and parking areas will be buffered from roadways and from the shoreline.
4. Tourist commercial uses, particularly resort commercial type uses, should incorporate substantial active and passive open space areas, and integrated recreational facilities.
5. The Zoning By-law will establish standards for tourist commercial developments on the basis of 8.0 metres (26 feet) frontage on the waterbody per unit and a maximum density based on 5 units per net hectare (2 units/acre) where a unit is defined as:
  - a. a tent site
  - b. a trailer site
  - c. a rental cabin or rental cottage
  - d. a room or suite in a hotel, motel, or lodge.

The Zoning By-law standards will reflect the character of the existing development in the Town. Densities up to a maximum of two metres frontage on the water body per unit and a maximum density that does not exceed ten units per hectare, may be permitted through an amendment to the zoning by-law subject to the developer

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- i) providing to Council's satisfaction through an impact study, that there will be no negative impact on natural heritage features and the environment on or adjacent to the subject property applicable natural heritage features and the environment, the water body capacity, and the property values and quiet enjoyment of surrounding owners and that the development lands can be adequately serviced to the satisfaction of the proper authority with on-site sewage and water services; and,
  - ii) entering into a Site Plan Agreement with the municipality limiting boat docking/launching facilities and making provision for land-based recreational facilities such as tennis courts, or swimming pools. Golf courses shall be located outside of the Shoreline designation.
- 6. Tourist commercial activities shall be buffered from dwellings on neighbouring properties through a combination of distance and vegetation and shall operate in accordance with standards established in the municipality's Zoning By-law, Property Standards By-Law, and Noise Control By-law.
- 7. Tourist commercial uses may be subject to site plan approval.
- 8. The proponent may be required to enter into a Site Plan Agreement with the municipality limiting boat docking/launching facilities and making provision for land based recreational facilities such as tennis courts or swimming pools. Golf courses shall be located outside of the Shoreline designation.
- 9. No tourist commercial use will be permitted which would result in a waterbody being developed to a point of being over capacity. The approval authority may require the proponent to undertake a study completed to the requirements of the Lakeshore Capacity Assessment Handbook, 2010.

### 3.3.4 Road Frontage / Access

- 1. New shoreline lots shall generally front on a road maintained throughout the year by the municipality.
- 2. Notwithstanding, a private road may be permitted in accordance with the "Private Road" policies of this Plan.
- 3. Water access lots shall only be permitted on shoreline areas where there is confirmed mainland parking and docking to service the lots and long-term waste disposal arrangements and hauled sewage capacity. Water access lots on islands shall not be permitted.
- 4. All owners of properties that will be accessed by a private road, an access road over Crown Land or over an unopened road allowance, , or extensions to existing roads, shall enter into an agreement with the Town, to be registered on the title of all of these affected properties, to indemnify the Town and all other public bodies of all responsibility for any maintenance of the road and all liability for any use of the road and alleged



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failure to provide emergency services or any other public services that were not being provided at the time of the creation of the road.

5. MNR shall be consulted on any agreements for access roads over Crown land, to ensure there is no implication that proponents have the right to upgrade the road without an MNR work permit. For newly constructed roads, MNR requires proponents to enter into a Memoranda of Understanding (MOU) for water crossings.

### **3.3.5 Shoreline Activity Areas**

A shoreline activity area is the portion of a shoreline frontage of a lot located within the required setback from the shoreline (30 metres) where shoreline structures are located and where there is access to the water for activities such as swimming or boat launching. Access should be provided via a pervious pathway.

Notwithstanding, a shoreline structure shall be permitted within the Shoreline Activity Area in accordance with the following provisions:

- a. Shoreline structures means those accessory structures that are located in the shoreline activity area and includes , gazebos, decks, and similar structures;
- b. No shoreline structure shall be used for habitation or contain habitable room;
- c. The construction of a shoreline structure shall not destroy fish habitat or permanently alter the shoreline below the high water mark;
- d. Addition and/or removal of fill, site alteration, and construction of shoreline structures shall require permits and approvals of the appropriate governmental authorities having jurisdiction before any work proceeds.

In addition to the policies above, to maintain an appropriate balance between a natural shoreline and built form within the Shoreline, structures in shoreline activity areas should be focused within a defined area of the shoreline frontage and be limited in extent. Such activity areas may be developed in more than one location on a property, where appropriate. The extent of shoreline activity areas will be:

- a. 25% of the shoreline frontage or up to 15 metres (49 feet), whichever is the lesser, for linear shoreline residential development, and the total area of all shoreline structures shall not exceed 5% of the shoreline activity area or 22.5 square metres, whichever is the lesser;
- b. 33% of the shoreline frontage for tourist commercial, institutional lots, and waterfront landings; and
- c. 50% of the shoreline frontage for marinas.

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### **3.3.6 Shoreline Buffer**

Notwithstanding the Shoreline Activity Area policies, the remaining shoreline frontage should be retained or restored as an undisturbed shoreline buffer of riparian vegetation and soils mantle. This buffer, consisting of existing native vegetation or revegetated materials, shall extend at least 30 metres (100 feet) back from the shoreline, in order to:

- a. protect the riparian and littoral zones and associated habitat;
- b. prevent erosion, siltation, and nutrient migration;
- c. maintain shoreline character and appearance; and
- d. minimize the visual impact of development.

Where a shoreline buffer is adjacent to a wetland, the buffer is to be measured from the inland extent of the wetland.

### **3.3.7 Waterfront Landings and Access Points**

A waterfront landing is defined as a mainland parking and docking facility for a commercial property or for four (4) or more residential properties. An access point is defined as a mainland parking and docking facility and serving a maximum of three (3) residential water access properties. Waterfront landings and access points will not include facilities normally associated with a commercial marina use, such as vessel or vehicle sales or rental, fuel storage or sale, or extensive storage structures.

Waterfront landings and access points may be permitted or expanded through rezoning provided the following matters are addressed and implemented through the Zoning By-law, site plan control, or other municipal agreements:

- a. the property has adequate area and frontage to accommodate the facility, but should not be smaller than 1,400 square metres (15,070 square feet) in area with 30 metres (98 feet) of water frontage for a waterfront landing, and 700 square metres (5,534 square feet) in area with 15 metres (49 feet) water frontage for an access point;
- b. sufficient docking and parking facilities will be provided to serve the primary residential or resort commercial use;
- c. the property, particularly the shoreline, is suitable for the use;
- d. access to and from the facility by both water and land is suitable;
- e. the facility will not have a negative impact on environmentally sensitive areas, habitat, or cultural heritage resources;
- f. the facility is not located within an area affected by a development constraint;
- g. the facility will be designed in a manner that is compatible with abutting properties;

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- h. parking facilities will be setback at least 30 metres (98 feet) from the normal or controlled high water mark and a natural vegetative buffer will be maintained within the setback area; and
- i. stormwater management and construction mitigation is addressed.

### 4.0 RURAL

Lands designated *Rural* are intended to be maintained as rural in nature. The amount and type of development in the *Rural* area will be consistent with maintaining its rural, natural heritage, and cultural landscape, including maintenance of tree cover and large open space areas.

Rural households, businesses, and farms rely on private water and sewage disposal systems.

The *Rural* area requires well-defined policies to protect existing uses, while recognizing that the focus of future development will be within the townsite, built-up areas, and shoreline communities throughout Kearney. The *Rural* designation supports this overall concept, while also striving to protect its natural features and resource potential.

The intent of the *Rural* designation is to accommodate a variety of land uses that are appropriate for a rural location, especially those that provide rural economic benefits that are balanced with protection of the natural environment and agricultural uses. These areas also provide for outdoor recreation opportunities, such as snowmobiling, cross-country skiing, hiking, and other activities in natural areas. Intensive development of these lands is not desired. Rural areas are shown on Schedules 'A' and 'B'.

#### 4.1 Goal and Objectives

**GOAL:** to permit a limited amount of development and retain the rural character of the area, while ensuring that there are no demands placed on the Town for services that are expensive or difficult to provide.

It is the objective of the *Rural* area policies to:

- a. provide an efficient and orderly pattern of land use in Rural areas, avoiding and/or mitigating land use conflicts and requiring minimal municipal services;
- b. ensure that development does not negatively impact the environment or adjacent owners;
- c. encourage a strong rural economy with a range of rural uses and activities;
- d. recognize the importance of rural land uses to the economy; and
- e. preserve the cultural and historical character of rural areas.

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### 4.2 Policies

1. Lands designated *Rural* are not intended to be the primary focus of residential or commercial development. However, a variety of land uses will be permitted such as limited rural residential, limited commercial, limited industrial, and limited outdoor recreation uses which are sustainable.
2. Not all rural land is appropriate for the above-listed uses. Among other things, site specific conditions, such as flood plains and other natural hazards, bedrock at surface, poor drainage, organic soils, or high water table, may make certain areas undesirable for development. The Town may discourage the use of lands that would require substantial changes and improvements that are incompatible with the rural landscape before development could occur.

The following uses are permitted within the *Rural* designation:

- a. single detached residential dwellings;
- b. agricultural and forestry uses;
- c. conservation, open space, and natural resource management activities;
- d. hunt and fishing camps;
- e. mineral exploration;
- f. aggregate and mineral extraction on Crown Land;
- g. commercial uses / tourist commercial;
- h. industrial; and
- i. public and institutional uses.

#### 4.2.1 Rural Lot Creation

Policies on lot creation in *Rural* areas are required to mitigate the pressures inherent to unserviced development and the environmental impact of private septic systems. For this reason, limits on the location, size, and number of lot severances in Rural areas are established.

1. All lots will be of sufficient size and dimension, and possess terrain suitable to accommodate the use proposed. Amongst other matters, this should include consideration of the following:
  - a. protection of natural heritage features and areas or development constraints;
  - b. provision of water supply and sewage disposal;
  - c. provision of access and a safe road entrance; and

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- d. provision of a sufficient area of level land to accommodate buildings and structures without substantial alteration of the natural landscapes.
- 2. Generally up to three consents may be granted for a land holding in existence prior to November 16, 2006, excluding the retained lot.

### 4.2.2 Rural Residential

- 1. Rural residential development is permitted in the Rural Area to direct growth where municipal services and businesses are located.
- 2. Outdoor storage may be permitted for a home-business on a rural residential lot, provided that it will be buffered from the roadway and there will be no negative impact on abutting properties.
- 3. Rural residential development should be directed to areas where residential development exists or would be compatible, and should not be located in remote, undeveloped areas or in close proximity to:
  - a. mineral aggregate or mining resources;
  - b. incompatible rural commercial / industrial uses;
  - c. farm operations where a land use conflict would result;
  - d. incompatibly public uses or facilities;
  - e. hazards or development constraints; or
  - f. natural heritage features and areas where the policies of the Natural Environment and Area will not be satisfied.
- 4. The minimum requirements for a new rural residential lot and the retained lot will be 1 hectare (2.47 acres) in lot area with 60 metres (197 feet) of road frontage and 60 metres (197 feet) of water frontage, where it exists, unless supported by a hydrogeological study. In no event shall a new rural residential lot have a lot area of less than 0.8 hectares (2 acres).
- 5. A mobile home unit is allowed where a single detached dwelling would be permitted, provided that it is built in accordance with the *Ontario Building Code*. A mobile home park is not permitted.

### 4.2.3 Agriculture, Conservation, and Natural Resource Management

Rural areas can accommodate a number of uses that are compatible with the natural setting and extensive open space areas, as well as existing uses, such as farming. Activities related to outdoor recreation, agriculture, and natural resource management are considered appropriate within a rural setting.

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1. Rural areas may be used for recreational purposes that are primarily outdoor-oriented, such as walking trails, snowmobile trails, riding trails, and similar recreational uses. Forest management, and those activities related to the conservation or management of the natural environment are permitted.
2. Agricultural uses are permitted in Rural areas. Compatible resource activities, such as forestry and small-scale commercial and industrial uses that are directly related to farm or forest management are permitted in this designation.
3. Farm-related commercial and farm-related industrial uses that are small in scale and directly related to the farm operation, such as grain drying, handling, and storage facility; and secondary uses, such as value-added agricultural products, such as custom meat shops, pick-your-own operations, produce market and parking operations, home occupations, home industries, and other similar agri-business, are permitted in the Rural area.
4. The use will comply with the Minimum Distance Separation formulae and MOE Guidelines, as amended.

### 4.2.4 Rural Commercial

Some limited rural commercial uses are permitted in *Rural* areas, particularly those activities that provide rural economic benefits that are balanced with protection of the natural environment and the resource base. As well, there will be tourism commercial development associated with the trails developed specifically for the use, such as ski and snowmobile trails or with other significant recreational facilities.

1. Rural commercial uses that provide for the basic and immediate needs of the rural population and of tourists and the travelling public will be permitted. Rural commercial uses will include, but will not be limited to, resort and recreation commercial uses, tourist facilities, auction barns, farm-related commercial and convenience commercial, flea markets, golf courses, and campgrounds.
2. Small home-based manufacturing operations, such as pottery, repairs, or cabinet-making are permitted subject to appropriate controls in the Zoning By-law to minimize impacts on adjacent uses. Merchandise offered for sale must be manufactured on the property.
3. The following policies also apply to the Rural Commercial uses:
  - a. The use must be appropriate for the proposed location and be compatible with surrounding land uses;
  - b. The use will comply with the Minimum Distance Separation formulae and MOE Guidelines, as amended;
  - c. Access to uses will be carefully controlled in order to avoid creating any traffic hazard. Generally, there should be no more than two accesses per lot;
  - d. The use will be appropriately screened and buffered;

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- e. Adequate off-street parking and loading spaces will be provided;
- f. Advertising signage and outdoor storage of goods and materials will be appropriately controlled;
- g. The use must generate limited amounts of wastewater (less than 4,500 litres per day) and not require the taking of large quantities of water;
- h. The uses will be placed in a separate category in the Zoning By-law; and
- i. Development on the lot may be subject to site plan approval.

### 4.2.5 Tourist Commercial

Tourist commercial uses in rural areas are permitted as a means of expanding the tourism sector and providing increased recreational opportunities.

1. Permitted uses may include resort hotels, lodges, tourist-oriented accommodations and uses, campgrounds, trailer parks, sale and rental of outdoor recreation related equipment, ski, fishing and camping shops, restaurants, outdoor recreational uses, related accessory uses, and existing uses.
2. Any new tourist commercial land use or expansion of an existing use will require an amendment to the Zoning By-law in order to guide the scale, size, and density of the development, and recognize and respond to the characteristics of the particular site. Consideration of a new tourist commercial land use through an amendment to the Zoning By-law will ensure that:
  - a. the site is suitable for the use proposed in terms of density, intensity, and location of buildings and structures, and type of facilities;
  - b. the use is to be serviced by an adequate sewage disposal system;
  - c. access routes can accommodate additional traffic, if required;
  - d. adequate off-street parking and loading spaces will be provided;
  - e. advertising signage and outdoor storage of goods and materials will be appropriately controlled;
  - f. the proposed use is compatible with surrounding properties and will provide adequate buffering.
3. A hydrogeological assessment may be required to assess the impacts of development and ensure adequate supply of potable water and recreational water quality.
4. Development on the lot may be subject to site plan approval.

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### 4.2.6 Rural Industrial

Some limited rural industrial uses are permitted in *Rural* areas, particularly those activities that provide rural economic benefits that are balanced with protection of the natural environment and the resource base.

1. *Rural* areas allow for a range of industrial uses that would generally be considered Class I or Class II industrial uses according to MOE guideline D-6-1 Appendix A. Examples include manufacturing and processing facilities. Any proposed rural industrial area or expansion of these areas will require an amendment to the Zoning By-law.
2. Permitted rural industrial uses may include, but not be limited to, agricultural processing plants, builder supply yards, bulk storage yards, contractor yards, transportation terminals, motor vehicle repair garage, sawmill, warehousing, and other similar industrial uses. Complementary uses, such as administrative offices, which do not detract from, and which are compatible with, the operation of industrial uses are also permitted.
3. Rural industrial uses must have no or minimal environmental impacts. Any use that may impact surrounding areas and cause nuisance will be appropriately separated and/or mitigated in accordance with MOE Guidelines.
4. Only dry industries that generate less than 4,500 litres of wastewater a day may be permitted.
5. Heavy industrial uses will require an amendment to both the Official Plan and Zoning By-law.
6. Rural industrial uses may be subject to site plan control.

### 4.2.7 Pits and Quarries

Pits and quarries are permitted in the *Rural* designation, subject to the following:

- a. The pit or quarry operation removes 20,000 tonnes or less of aggregate annually;
- b. the pit or quarry operation is developed above the water table;
- c. the operation will be subject to a Zoning By-law Amendment, where the considerations under section 5.3.1.3 of this Plan will be considered;
- d. Proposals within 1000m of sensitive land uses must demonstrate no adverse effects and shall not be permitted closer than:
  - i. 150 metres from a pit;
  - ii. 500 metres from a quarry; or
  - iii. Other separation distances may be considered subject to site-specific studies.



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### 4.2.8 Road Frontage and Access

1. All new development will generally front upon and be accessible from a year round maintained, public road which is in a condition appropriate for the use proposed, and can accommodate the additional traffic.
2. Notwithstanding, a private road may be permitted in accordance with the “Private Road” policies of this Plan.
3. Private road access may be permitted for forestry and mineral resource exploration.
4. Private road or other access may be permitted for remote tourist commercial uses, recreational facilities, and fish and hunt camps, provided that:
  - a. public road access is not possible;
  - b. the access is appropriate for the type of use proposed; and
  - c. the Zoning By-law or other agreement indicates that public services will be limited.

## 5.0 MINERAL RESOURCE AREAS

Schedule 'A' identifies the Mineral Mining Area and *Mineral Aggregate Area* as areas where significant mineral deposits and mineral aggregate resources are known to exist, respectively. Notwithstanding the boundaries shown on Schedule 'A', if the majority of a property is included within the *Mineral Mining Area* or *Mineral Aggregate Area* designation, the abutting lands may also be interpreted to be designated as such.

Under present legislation, mining activity is regulated by the *Mining Act* and administered by the Ministry of Northern Development and Mines (MNDM). Various Acts administered by the Ministry of the Environment (MOE) and other Federal and Provincial legislation also apply. As such, Official Plans do not regulate mining exploration or underground mining operations. Notwithstanding, surface operations associated with mines may be subject to the *Planning Act* and therefore would be subject to the MOE's D-Series guidelines respecting incompatible uses.

Pits and quarries are regulated under the *Aggregate Resources Act*. The Town of Kearney has been designated under the *Aggregate Resources Act*. Subsection 34(2) of the *Planning Act* states that “the making, establishment or operation of a pit or quarry shall be deemed to be a use of land for the purpose of paragraph 1 of subsection (1).” Therefore, municipalities have the authority to regulate pits and quarries as a use of land subject to the limitations of Section 66 of the *Aggregate Resources Act*.

The Town will continue to work with the MNDM and MNR in identifying sites containing provincially significant mineral deposits and mineral aggregates to protect these resources for their long-term use.

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### 5.1 Goal and Objectives

**GOAL:** To identify and protect deposits, including minerals and mineral aggregate resources, and guide their extraction in a manner that is sensitive to the natural environment and to surrounding development, and to preserve identified areas of mineral and aggregate potential for future use. It is also a goal of this Plan to provide for the rehabilitation of depleted mineral and aggregate resource sites for the benefit of current and future residents of the Town.

It is the objective of the mineral resources areas to:

- a. protect minerals and mineral aggregate resources for long-term use;
- b. protect mineral mining and mineral aggregate operations from development and activities that would preclude or hinder their expansion or continued use or that would be incompatible for reasons of public health, public safety, or environmental impact;
- c. ensure rehabilitation to accommodate subsequent land uses after extraction and other related activities have ceased; and
- d. carefully review development and activities in areas adjacent to or in known mineral deposits and known deposits of mineral aggregate resources, which could preclude or hinder the establishment of new operations or access to the resources in accordance with provincial direction.

### 5.2 Mineral Mining Area

Lands designated *Mineral Mining Area* are considered to have significant mineral potential, current producing mines, past producing mines, ore processing plants, major tailings areas, and other mineral deposits. In Kearney, known mineral deposits include graphite and uranium.

The Resident Geologist with MNDM has identified areas of mineral resource for graphite and uranium. Current graphite prospects are located within mining patents in Butt Township.

#### 5.2.1 Policies

1. Lands designated *Mineral Mining Area* may be used for a variety of uses related to the extraction of minerals. Permitted uses may include mining and mining-related uses, mineral aggregate uses, smelting and refining uses, pits and quarries and related uses, and accessory uses and structures associated with mining.
2. For land in the *Mineral Mining Area* to be used for a mineral mining operation, an amendment to the Zoning By-law must occur where such lands are not pre-zoned. In considering an amendment to the Zoning By-law to permit a mining or mining-related use or the expansion of an existing use in the *Mineral Mining Area*, Council will consider:
  - a. the impact on the environment, particularly new mining operations, which must be located where there will be little or no impact on natural heritage features and areas;
  - b. indirect impacts on the utilities and services provided by the Town;

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- c. the impact on surrounding land uses;
  - d. the aesthetic appearance of the proposed development; and
  - e. the benefit of the mining or mining-related use to the Town.
3. Other uses, such as forestry and other resource-related compatible uses, recreation, parks and open space, and wildlife management may be permitted provided they do not preclude future extraction. Other industrial uses that will not preclude future mining activities may be permitted subject to zoning permission and may be subject to site plan control.
4. This Plan recognizes the concept of an influence area surrounding the *Mineral Mining Area* designation in order to offer mutual protection from encroachment by incompatible uses for either sensitive land uses or the extraction and processing activities in areas protected for mineral mining operations. As the effect of such an influence area may vary with each situation, each proposal will be considered on its own merits based on information regarding such matters as compatibility, environmental impact assessment, groundwater, noise, dust, vibration, and other appropriate matters, without amendment to this Plan. Until such time as a detailed study recommends otherwise, however, a distance of 1,000 metres (3,280 feet) from the edge of the designation will be considered as an influence area.
5. *Mineral Mining Areas* will be protected from development that would preclude or hinder the establishment of new operations or access to the resource. Development within 1,000 metres (3,280 feet) of a *Mineral Mining Area* designation will only be permitted subject to studies that demonstrate the following:
- a. the resource use would not be feasible; or
  - b. the proposed land use or development serves a greater long-term public interest; and
  - c. issues of public health, public safety, and environmental impact are addressed.
6. New lot creation for residential development is not permitted on lands designated *Mineral Mining Area*.
7. Past producing mining operations or active mining operations are subject to the provisions of the *Mining Act* with respect to rehabilitation and/or closure.

### 5.3 Mineral Aggregate Area

Mineral aggregates such as sand, gravel and other materials are a non-renewable resource. There are no substitute resources that are available in the same quantity or at a reasonable cost. Aggregate resource extraction should be considered an interim land use; if appropriate rehabilitation measures are used, sites of aggregate extraction can be returned to a subsequent productive use compatible with surrounding land uses.

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The Plan provides for the continuation and expansion of existing pits and quarries and the introduction of new pits and quarries. The potential impacts of pits and quarries on other land uses are also taken into account. In addition to the policies of the Plan, pits and quarries in Kearney are also subject to the provisions of the *Aggregate Resources Act*.

*Mineral Aggregate* resources have been identified based on available studies and/or mapping from the Province. In accordance with the *Provincial Policy Statement*, it is the intention of the Municipality to protect, wherever possible, the mineral aggregate resources designated in this Plan for aggregate extraction and to ensure that the resources are utilized in accordance with proper controls.

### 5.3.1 Policies

1. The primary use of lands designated as *Mineral Aggregate Area* will be pit and quarry operations. Other uses that do not preclude the possibility of future expansion and extraction may also be permitted.
2. Lands within 1,000 metres of lands designated *Mineral Aggregate Area* are to be protected from uses and/or activities that may hinder the future expansion and extraction of aggregates. The protection of known aggregate resources will take precedence, wherever possible, over any land use that would prevent their future expansion and extraction.
3. In considering an amendment to the Zoning By-law to permit new mineral aggregate operations or expansions of existing operations, the following information will be reviewed:
  - a. the location, nature, extent, and economic potential of the mineral deposit;
  - b. the nature and location of adjacent land uses and the effect the pit and quarry operation could have on:
    - i. natural heritage features and areas;
    - ii. agricultural resources and activities;
    - iii. the character of the area;
    - iv. the groundwater recharge functions on the site and in the immediate area;
    - v. heritage resources in the area;
    - vi. sensitive lands uses;
    - vii. surface water features in the area; and
    - viii. nearby wells used for drinking water purposes.
  - c. the capability of the existing road network to service the proposed location;

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- d. the effect of the noise, odour, dust, and vibrations generated by the use and the use of haul routes on adjacent land uses; and
  - e. how the impacts of the proposed pit or quarry will be avoided and/or mitigated in order to lessen the impacts.
- 4. Landscaping and buffering will be used to enhance the physical appearance of lands and structures.
- 5. In cases where the economical and/or physical extraction is not feasible, other uses may be permitted in accordance with the applicable land use designation, if it can be shown that:
  - a. resource use would not be feasible; or
  - b. the proposed use would not have a negative impact on the natural heritage features and areas and functions on the site and in the area; or
  - c. the aggregate is low in quality; or
  - d. there is not enough aggregate in the area to justify its economical extraction.
- 6. Unless studies demonstrate no adverse effects, no sensitive land uses shall be permitted within 1,000 metres of a mineral aggregate operation as per Section 4.2.7 and Section 7.7 of this Plan. This policy is reciprocal and applies to the establishment of new mineral aggregate operations proposed on adjacent lands to sensitive land uses.
- 7. The above separation distances may be altered to reflect site-specific conditions related to such matters as land use compatibility, groundwater, noise, dust, vibration, and other appropriate matters without amendment to this Plan. In contemplating the reduction of the minimum separation distance, the appropriate assessment in accordance with the MOE's D-series guidelines, is required to establish an appropriate distance and investigate all of the potential impacts on the pit and quarry operation. Separation distances will be reflected in the Zoning By-law.
- 8. On lands not designated as *Mineral Aggregate Area* but where deposits of aggregate exist, licensed pits and quarries will be recognized in the Zoning By-law.
- 9. Once a pit or quarry has been rehabilitated, sequential land uses that are compatible with the area will be encouraged. In situations where restoration methods vary depending on the sequential uses permitted, subsequent uses will be considered prior to rehabilitation.
- 10. Other uses, such as forestry and other resource-related compatible uses, recreation, parks and open space, and wildlife management may be permitted provided they do not preclude future extraction. Other industrial uses that will not preclude future mineral aggregate activities may be permitted subject to zoning permission and may be subject to site plan control.
- 11. Wayside pits and quarries, portable asphalt plants, and portable concrete plants used on public authority contracts are permitted in all areas without the need for an Official Plan

## PART 2: LAND USE POLICIES

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amendment, rezoning, or development permit approval under the *Planning Act* except those areas of existing development or particular environmental sensitivity that have been determined to be incompatible with extraction and associated activities.

12. Upon the termination of a wayside pit or quarry operation, the lands are to be rehabilitated in a manner that is suited to the adjoining land use designation.
13. New lot creation for residential development is not permitted on lands designated as *Mineral Aggregate Area*.

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## **PART 3: PROTECTING THE NATURAL ENVIRONMENT**

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### **6.0 NATURAL HERITAGE**

Natural heritage features and areas provide numerous economic, environmental, and social benefits. Collectively, they contribute to the conservation of biological diversity (biodiversity) and to the maintenance of the quality of our air, land, and water. The benefits of conserving natural heritage occur at local, regional, and broader scales.

The natural heritage policies reference features and areas that provide ecological functions critical to the survival of all species - including humans. Some of these ecological functions include the provision of habitat, hydrological functions, nutrient and energy cycling and storage, succession and disturbance functions, reproduction and dispersal, and landscape linkages. Locally, these areas help to sustain a way of life that attracts people to live, work, and carry out recreational activities in the Town.

While some provincial natural heritage interests focus on those that are provincially significant, the protection of natural heritage interests important to the Municipality is likely to go beyond the minimum standards established in the PPS. Areas that are not determined to be provincially significant (in the context of the PPS) may still be considered regionally or locally significant and important to the local residents or the tourist industry.

In some areas where there are no known provincially significant values or features, it is important to consider the protection of regionally or locally significant areas in order to conserve biodiversity. Based on input from residents and community groups, the Official Plan contains a series of policies to ensure that the natural heritage features and areas important to local residents and businesses are incorporated into the Official Plan.

In the Town of Kearney, these areas and features include significant habitat of endangered and threatened species, significant wetlands, wetlands, significant wildlife habitat, and fish habitat.

Natural heritage features and areas are characterized by one or more of the following values:

- a high level of natural community or species diversity;
- high-quality vegetative communities;
- provincially significant wetlands;
- endangered and threatened species and their significant habitat;
- significant wildlife; and/or
- important hydrological features.

This Plan recognizes that most changes to the environment occur through small steps, each one having some negative impact on the environment. Over time, these small steps can have significant cumulative impacts that are undesirable.

This Plan contains policies which have the objective to protect these natural heritage features and areas that may be impacted through site-specific development proposals. It also contains policies which recognize that we need to be proactive and better understand our ecosystems, so that we can more effectively assess cumulative impacts and overall ecological health.

The Natural Heritage policies establish the requirements for the identification and protection of the natural heritage features and areas through stewardship, management and rehabilitation,

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ecological buffers, and the preparation of environmental impact studies or environmental assessments.

**GOAL:** 1) To conserve land and landscapes and to value, protect, and restore biodiversity by preventing and reversing habitat deterioration. 2) To sustain water quality and quantity in support of human activity and the ecosystem by using water sources in a sustainable fashion.

### **6.1 Objectives**

It is the objective of the Natural Heritage policies to:

1. support development which is environmentally sustainable, energy efficient, and which conserves the natural features and characteristics of the land, lakes, and rivers;
2. implement an ecosystem approach to planning and development that minimizes the disruption of natural heritage values;
3. require the appropriate assessment to protect natural heritage values;
4. offer locally and provincially significant wetlands the same high level of protection;
5. establish setbacks from the high water mark of water resources which conserve the riparian zone in shoreline areas; and
6. regulate the use of pesticides and herbicides for cosmetic purposes.

### **6.2 Water Quality and Quantity**

Water quality and quantity are addressed from a number of perspectives in this Plan. The Natural Features policies address water quality and quantity through the protection of: natural heritage features and areas such as lakes, rivers, streams and waterway corridors, wetlands and fish habitat. Water quality and quantity are also protected through stormwater, water supply, and sanitary sewerage policies.

1. The Town will seek to protect, improve, and/or restore the quantity and quality of groundwater and surface water through its planning approval processes. The Town will also promote efficient and sustainable use of water resources, including practices for water conservation and sustaining water quality.
2. Development and site alteration will be restricted and mitigative measures or alternative development approaches may be required in or near sensitive surface water features and sensitive groundwater features in order to protect, improve, and/or restore these features and their related hydrologic functions. The Town will participate in the preparation and implementation of source protection plan(s) under the provisions of the *Clean Water Act* and the Official Plan will be amended, as required, to conform to relevant policies set out in an approved source protection plan. The Town will also co-operate with provincial agencies and surrounding municipalities to ensure that water quality and quantity goals and objectives identified in Subwatershed Plans are achieved across municipal boundaries.



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3. Stormwater management and construction mitigation (erosion and sediment control) plans will be required by the Town for commercial, industrial, institutional, active open space or recreational areas or facilities, and comprehensive residential development. The plans will be prepared in accordance with 'best management practices' and to the satisfaction of the Town, and any affected road authority. The recommendations of such plans will be implemented in site plans, subdivisions, or other agreements.
4. The Town is committed to ongoing water quality assessments as recommended in the Gartner Lee Water Quality Study in order to guide sustainable development.

### **6.3 Woodlands and Vegetation Cover**

Woodlands are complex ecosystems of different tree species, shrubs, ground vegetation, and soil complexes that provide habitat for many plants and animals and economic benefit to both the private landowner and the general public. Woodlands is a general term which collectively refers to areas occupied by trees, treed areas, woodlots, forested areas, and naturalizing woodland edges.

1. This Plan recognizes that preserving vegetation along waterways, on sites subject to development, and along roadways contributes to the overall health of the area and helps lessen the environmental impact of development and improve the visual appeal of newly developed areas. Development proposals shall be required to preserve vegetative cover or replace vegetative cover when removal cannot be avoided.
2. This Plan supports the retention or restoration of the natural vegetative buffer adjacent to all waterbodies and watercourses as a mean of protecting water resources and its related ecological function from the negative impacts of development.
3. The Plan also recognizes that woodlands and forests have great ecological significance. Property owners may benefit from the Managed Forest Tax Incentive Program which is a voluntary program that provides lower property taxes to participating landowners who agree to conserve and actively manage their forests. The minimum area of forest for participating in the Managed Forest Tax Incentive Program is 4 hectares of forested land.

Forests are a renewable resource if harvested in a sustainable manner. Forestry management is sustainable when it maintains and enhances the long-term health of forest ecosystems to the benefit of all living things, while providing environmental, economic, social, and cultural opportunities for the benefit of present and future generations. Sustainable forest management refers to management regimes applied to forest lands which maintain the productive and renewal capacities as well as the genetic, species, and ecological diversity of forest ecosystems.

4. Property owners have the right to harvest forest resources on their lands. This Plan encourages forestry management in accordance with best management practices.
5. To avoid and/or mitigate potential impacts due to site alteration and tree cutting, Council may adopt appropriate by-laws under the *Municipal Act*, to prohibit or regulate the placing, dumping, removal, or regrading of topsoil or fill, and the destruction or injuring of trees.

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### **6.3.1 Policies**

1. This Plan shall require the retention and/or establishment of mature tree cover and native shrubs and vegetative cover on lands within 30 metres (100 feet) of a high water mark of a water resource in order to protect the riparian and littoral zones and associated habitat, prevent erosion, reduce phosphorous loading, siltation and nutrient migration, maintain shoreline character and appearance, and minimize the visual impact of development.
2. Notwithstanding the 30 metre (100 feet) vegetative buffer, a water access area is permitted in accordance with Section 3.3.5 and 3.3.6 of this Plan. The natural shoreline must be disturbed as little as possible and the balance of the water front outside of the access area must be maintained in a natural state. Within the natural vegetative buffer, the pruning of trees for viewing purposes or the removal of trees for safety reasons may be permitted provided the intent of the policy is maintained. All other policies and approvals for work near water resources shall apply and may be subject to site plan approval.
3. Where the approval authority requires a Landscaping and/or Enhancement Plan as part of a development approval, such plan shall:
  - a. retain as much natural vegetation as possible, especially along watercourses, on steep slopes, in areas linking green spaces, and along roadways;
  - b. determine which stands of trees or individual trees warrant retention based on a preliminary assessment;
  - c. outline measures for the protection of those trees or stands of trees being retained during construction;
  - d. describe the area and nature of tree loss and compensation measures proposed. Such compensation measures may include off-site plantings;
  - e. indicate tree planting or vegetative cover required to provide protection for stream courses or steep slopes;
  - f. investigate the use of native species in tree planting strategies and shall discourage monoculture;
  - g. provide guidelines for property owners on the importance and care of trees on their property;
  - h. consider the impact on the environment during and after construction, and propose mitigation measures where there is substantial alteration of the existing tree cover on the site; and
  - i. protect and enhance natural features and functions by incorporating them into public open spaces and recreational pathways.

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### **6.4 Components of the Natural Heritage System**

This Plan identifies certain natural heritage features and areas by means of land use designations (i.e., provincial significant wetlands). Other features and areas are identified by means of symbols or overlays, such as the significant wildlife habitat associated with deer wintering area. Others, such as fish habitat, are addressed through policy and available mapping from the MNR. Significant habitat of endangered or threatened species is dealt with through policy only. Note, many habitat areas are of small-scale and cannot be comprehensively identified. It is the intent of this Plan, that Ecological Site Assessments be used as a tool, where required, to identify significant natural features and areas.

1. Development and site alteration shall not be permitted in natural heritage features and areas except:
  - (a) Existing development and uses, and expansions to existing uses provided that it can be demonstrated to the satisfaction of the Town that there will be no negative impacts on the natural heritage features and areas or their ecological functions ;
  - (b) Recreational uses associated with the passive enjoyment of natural features, including pathways and trails, provided that such trail uses are designed, constructed and managed to minimize their impact on the natural heritage area;
  - (c) The harvesting of trees in accordance with responsible forestry management practices; and
  - (d) Conservation, mitigation, and rehabilitation works.

#### **6.4.1 Provincially and Locally Significant Wetlands**

Wetlands are lands where the presence of water has caused the formation of hydric soils and hydrophytic or water-tolerant plants to predominate. The four major types of wetlands are swamps, marshes, bogs, and fens.

Wetlands provide important habitat for plants, fish, and other wildlife that are fully dependent on the presence of a wetland, and for wildlife that need wetlands to complete some lifecycle requirements. Wetlands provide important staging and breeding areas for waterfowl. They also influence the quality, temperature, and flow of water and provide storage capacity to offset peak flows associated with storm events. They are important source water protection areas and have groundwater recharge and discharge functions. Some types of wetlands have deep organic soils. Wetlands are also important for their social values, including such activities as hunting, recreation, education and research, and cultural heritage.

Wetlands are evaluated based on a provincial wetland evaluation system which examines, amongst other factors, their wetland functions and features and classifies them according to their significance. The PPS sets out minimum policies which municipalities are required to adopt for wetland protection. This Plan goes beyond the minimum provincial standard by having provincially significant wetlands and locally significant wetlands governed by many of the same policies. Barre Lake Wetland is recognized as a Provincially Significant Wetland (PSW).

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### **6.4.1.1 Policies**

1. The boundaries of provincially significant wetlands shall be derived from mapping provided by MNR. Where the actual location of the boundary line on the ground is uncertain, the Town shall consult the MNR in making such a determination.
2. Development and site alteration shall not be permitted within provincially significant wetlands. No development or site alteration shall be permitted within locally significant wetlands, with the exception of sustainable forestry, conservation, wildlife management, passive outdoor recreation and educational activities, excluding buildings and structures. This Plan encourages the owners of identified wetlands to retain these lands in their natural state. Provincially Significant Wetlands will be placed in a non-development zoning category.
3. Development within 120 metres (400 feet) of provincially significant wetlands or 60 metres (200 feet) of a locally significant wetland may take place in accordance with the land use designation shown on land use Schedules to this Plan only when it has been demonstrated in accordance with the EIS Section of the Plan, that there shall be no negative impacts on the natural features, hydrology, or ecological functions of these wetlands. This is not a setback requirement, but rather a requirement for a review of development proposals within the relevant adjacent lands. The approval authority may require that a review of an EIS be carried out by a qualified professional retained by the Town at the proponent's expense.
4. Development within 120 metres (400 feet) of provincially significant wetlands or 60 metres (200 feet) of a locally significant wetland may be subject to site plan control. The Site Plan may include performance criteria that would relate to maintaining a minimum 30 metres (100 feet) setback from the wetland, identification of a building envelope, sedimentation control, stormwater management, maintaining an adequate natural vegetative buffer, and tree retention between the development and the wetland.
5. If a proposal for development is made in an area where a wetland has not been evaluated as provincially or locally significant, Council may require the evaluation of the wetland and/or an EIS to demonstrate that there shall be no negative impacts on the natural features or ecological functions of these wetlands. Such evaluation or study shall be undertaken by a qualified wetland specialist at the proponent's expense.
6. Notwithstanding the above policies, established agricultural uses, existing at the date of the adoption of this Plan, are permitted to continue within and adjacent to provincially and locally significant wetlands. New or expanded agricultural structures or the clearing or draining of lands within the limits of wetlands are prohibited.
7. As additional Provincially or Locally Significant Wetlands are identified, Council shall incorporate the new wetlands into this Plan through an Official Plan Amendment.
8. The Town endorses and encourages the principles of sustainable land stewardship of wetlands. Tax incentives are available through the province when it is demonstrated that proper land stewardship is being carried out on lands that are identified as provincially significant wetlands.
9. The Town will consider adopting a site alteration by-law, under Section 142 of the

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*Municipal Act*, particularly to protect provincially and locally significant wetlands.

### **6.4.2 Endangered and Threatened Species**

The Ontario Ministry of Natural Resources designates species at risk in categories of Endangered-Regulated, Endangered-Not Regulated, Threatened, and Special Concern (formerly vulnerable). The Ministry administers the *Endangered Species Act* to protect and conserve the species listed by regulation as well as their habitat. MNR approves the delineation of significant habitat for species identified on the Species at Risk in Ontario list.

Threatened species that are known, or expected to occur, in Kearney are: Barn Swallow, Bobolink, Chimney Swift, Eastern Hog-nosed Snake, Meadowlark and Eastern Whip-poor-will (Species at Risk in Ontario list is updated periodically). There has been no comprehensive mapping of the significant habitats of the threatened species that are known or expected to exist within the Town.

#### **6.4.2.1 Policies**

1. Prior to development requiring a planning approval, in areas susceptible of containing endangered and/or threatened species (Refer to Appendix A for description of areas containing natural vegetation and/or landscape features on or near the property that have potential to contain significant habitat of threatened and endangered species), the proponent of development may be required to retain a qualified professional to complete an Ecological Site Assessment, in accordance with the Impact Assessments Section of the Plan, to determine the potential for habitats of endangered and/or threatened species. Where potential habitat is identified, a more detailed site assessment will be required to provide information on habitat conditions and determine if there are significant habitats.
2. New development and site alteration, including buildings, structures and sewage disposal systems, is prohibited in significant habitat of endangered or threatened species.
3. In order to provide the greatest possible protection to this natural heritage feature, Council shall not identify on the Schedules to this Plan any significant habitat of endangered or threatened species which are especially vulnerable to disturbance.
4. Development applications which affect lands within 120 metres of such habitat must demonstrate, in accordance with the Impact Assessment Section of the Plan, that the ecological function of the adjacent lands has been evaluated and that there will be no negative impact on the natural features or on their ecological function.

#### **6.4.3 Significant Wildlife Habitat**

Wildlife habitat are areas where plants, animals, and other organisms live, and find adequate amounts of food, water, shelter, and space needed to sustain their populations. Specific wildlife habitats of concern may include areas where species concentrate at a vulnerable point in their annual or life cycle and areas which are important to migratory or non migratory species. Certain specific wildlife habitats are

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particularly important, and should be considered significant. These are habitats that support important wildlife species or that is particularly susceptible to impacts.

There have been no comprehensive wildlife habitat assessments conducted in the Town except for winter deer habitat and moose aquatic feeding areas.

#### **6.4.3.1 Policies**

1. Prior to development or site alteration and which has the potential to negatively affect significant wildlife habitat, in areas with potential of containing Significant Wildlife Habitat (that is areas containing natural vegetation and/or landscape features on or near the property), the proponent of development shall be required to retain a qualified specialist to conduct an EIS carried out in accordance with the EIS Section of this Plan. Where potential habitat is identified, a more detailed site assessment may be required to provide information on habitat conditions and determine if there are significant habitats.
2. Development within 120 metres (400 feet) of significant wildlife habitat, shall only be permitted where an EIS, carried out in accordance with the EIS Section of this Plan, has demonstrated that there shall be no negative impact on the natural features or their ecological function, and in the case of adjacent lands, the ecological function of the adjacent lands must be evaluated.
3. The MNR's Significant Wildlife Habitat Technical Guide provides information on the identification, description, and prioritization of significant wildlife habitats. An EIS to determine the significance of wildlife habitat will be based on the following considerations:
  - a. It is an area of habitat where particularly important wildlife species are concentrated or are particularly susceptible to impacts for a specific period of their lifecycle. These areas include, but are not limited to: seasonal concentration areas; rare vegetation communities or specialized habitat for wildlife; habitats for species of conservation concern; and animal movement corridors.
  - b. It is an area of habitat having a high diversity of species that are of value for research, conservation, education, and passive recreation opportunities.

#### ***Deer Yarding Areas***

4. Development and site alteration shall not be permitted in deer yarding areas or winter concentration areas (yards) unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. The yard is composed of two areas referred to as Stratum I and Stratum II. Currently, no Stratum I areas have been identified within the municipality. Stratum II covers the entire winter yard area and have been identified on Schedule 'C' Natural Features and Constraints. Generally, development or site alteration shall not be permitted in Stratum I covers, since they would typically result in negative impacts on the dense conifer thermal cover and critical food supply that deer require to conserve energy during the severe winter periods. Development and site alteration in Stratum II yards must conserve valuable conifer stands, feeding areas, and movement corridors.

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5. New lot creation in deer yarding areas will be restricted to single family residential uses, whereby each new lot would have a general minimum lot size of 90 metres (300 feet) width by 90 metres depth; for shoreline lots this would include a minimum 90 metre shoreline width. Where the deer yarding area is restricted to a narrow fringe along the lakeshore, a minimum of 120 metres (400 feet) of shoreline width is required for new shoreline lots. In both cases, conifer thermal cover must be protected by non-development zoning and vegetation controls; these controls must also be applied to deciduous browse within 30 to 50 metres (100 to 165 feet) of the conifer cover. Habitat assessment will be used to appropriately locate new development and site alterations (buildings, driveways, sewage disposal systems, etc.) to ensure that no negative impacts occur. Alternate lot sizes may be appropriate only if the habitat assessment has indicated that winter deer habitat does not exist.
6. Access roads and driveways in deer yarding areas will not be permitted in conifer thermal cover areas or in areas of deciduous browse within 30 to 50 metres of the conifer area.
7. Intensive types of development or site alteration, such as golf courses, aggregate pits, commercial and/or industrial developments will not be permitted in either Stratum I or Stratum II winter deer habitat.

#### *Moose Aquatic Habitats*

8. Development and site alteration shall not be permitted in moose aquatic habitats as identified by the Ministry of Natural Resources or within 120 metres (400 feet) of the habitat, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

#### *Nest Sites*

9. Where the Environmental Impact Statement has identified nest sites for the Great Blue Heron, Osprey, Red-Shouldered Hawk, Goshawk, Cooper's Hawks and other birds dependant on existing stick nests, no development or site alteration will be permitted within 150 metres (500 feet) of the nest tree or colony (not within 50 metres (165 feet) of a goshawk nest). Furthermore, within 300 metres (1,000 feet) of a nest tree or colony for all species, 70 percent crown closure of trees on that portion of each lot shall be retained and maintained. No construction activity is to occur between March 1 and July 31.

#### *Site Plan Control*

10. Site plan control or subdivision/condominium agreements may be required in significant wildlife habitat such as winter deer habitat, moose aquatic feeding areas, or nest sites, to minimize and control the removal of vegetation for buildings, driveways, septic systems, and other types of site alteration, as well as accessory activities such as landscaping. These planning tools could also be used to impose mitigation measures recommended by the EIS. In addition, site-specific zoning may be used to impose greater setbacks and place sensitive areas in a zone that will prohibit development.

#### **6.4.4 Fish Habitat**

"Fish habitat" is defined as spawning grounds and nursery, rearing, food supply, migration and any other areas on which fish depend directly or indirectly in order to carry out their life process.

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Healthy aquatic communities are generally a good indicator of environmental health. Lakes, rivers, streams, ponds and many wetlands provide important habitat for some fish species at certain times of the year; however, these fish habitats are vulnerable to degradation from factors such as channelization, loss of stream bank vegetation, removal of vegetation and woody material or rock, untreated development runoff, and increased storm water flows and sedimentation and changes in the timing and amount of storm water entering the watercourse. The harmful alteration, disruption or destruction of fish habitat is prohibited under the *Fisheries Act*. It is the Town's intention to encourage improvement of productive capacity of this habitat.

The extent and significance of fish habitat was determined based on best available information from the MNR at the time of the adoption of this Plan and is identified on Schedule 'C'. Development and site alteration shall not be permitted in areas of fish habitat, except in accordance with relevant provincial and federal requirements.

Most shoreline development and site alteration applications are adjacent to fish habitat. MNR's 2010 Natural Heritage Reference Manual recommends that adjacent lands should generally be considered those areas within 120 metres (400 feet) of fish habitat with the exception of inland lake trout lakes that are at capacity, where the adjacent lands are considered to be 300 metres (1,000 feet). These adjacent lands distances are recommended because they encompass an area which, if developed without adequate controls, is reasonably expected to result in impacts on adjacent fish habitat.

Adjacent lands should generally be measured from the normal high water mark. In some areas, such as northern pike habitat where the fish spawn in areas flooded only in the spring, it is important to measure adjacent lands from the landward extent of the habitat.

MNR carried out broad brush fish habitat classification mapping. The fish habitat classification mapping provides the location of four types of fish habitat:

Critical Habitats (Type 1) are those, which have high productive capacity, are rare, highly sensitive to development, or have a critical role in sustaining fisheries (e.g. spawning and nursery areas for some species, and ground water discharge areas). These habitats require the highest level of protection because of their specific sensitivity and importance to local fish populations.

Important Habitats (Type 2) are moderately sensitive to development and although important to fish populations, are not considered critical (e.g. feeding areas and open water habitats of lakes).

Marginal Areas (Type 3) have low productive capability or are highly degraded, and do not currently contribute directly to fish productivity, such as a channelized stream that has been highly altered.

"Unknown" habitat refers to areas where no information currently exists. Until specific information is generated, these areas should be treated in the same manner as Critical Habitats (Type 1). Because there has been limited evaluation or mapping of fish habitats in Kearney, most fish habitats are of "unknown" significance.



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### **6.4.4.1 Policies**

1. Town Council supports the management and protection of fisheries resources.
2. No person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat contravening the *Fisheries Act*. Development and site alteration shall not result in a net loss of fish habitat, result in harmful alteration, disruption, degradation, or destruction of fish habitat or negatively impact fish passage. If harmful alteration of fish habitat is proposed, then the applicant must receive the necessary approvals from the federal Department of Fisheries and Oceans.
3. Prior to development requiring a planning approval, an EIS in accordance with the EIS Section of this Plan may be required, at the proponent's expense, to investigate the potential negative impacts of new development or site alteration when it is proposed in or adjacent to Type 1 and/or "unknown" fish habitat. Adjacent lands are identified as those being, at a minimum, within 120 metres (400 feet) of Type 1 or "unknown" fish habitat.
4. New shoreline lots will not generally be permitted where they would be fronted entirely by areas mapped as Type 1 or "unknown" fish habitat, unless a fish habitat assessment (completed as part of the EIS) has determined that there are adequate areas that are not Type 1 habitat where docking and other shoreline facilities can be located.
5. Development and site alteration shall be set back a minimum of 30 metres (100 feet) from a waterbody or watercourse. Decreases to the 30 metre setback shall only take place where it has been demonstrated through a fish habitat assessment that there will be no negative impacts to the fish and its habitat. In this a fish habitat biologist shall be required to provide a detailed impact analysis exploring options in design and location of the undertaking for the purpose of clearly demonstrating avoidance of any predicted harmful impacts. Decreases shall only be considered when there is no other practical alternative for development of the land.
6. Near-shore or in-water development, such as docks, water access points, and swimming areas will not require a fish and fish habitat assessment however they shall be carefully assessed to meet the intent of the Official Plan through the appropriate review process.

### **6.4.5 Lakeshore Capacity Assessment**

MNR has a role in lakeshore capacity assessment only for lakes which are managed for lake trout. The following lakes in the Town are recognized as coldwater lakes supporting lake trout populations: Duck, Emsdale, Grass (Sweny), Long (Oliphant), Loon (Pevensy), North, Proudfoot (Island), and Sand Lake.

Since the mid 1970's, the Ministry of the Environment (MOE) has used a water quality assessment model to set development capacities on lakes throughout Ontario. The model, called the Lakeshore Capacity Assessment Model, is based on predicting the inputs of one key pollutant: phosphorous. The Lakeshore Capacity Assessment Model is a planning tool that helps to achieve a consistent approach to protecting water quality across the province.

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Lake trout have two basic water quality requirements: low water temperatures and high levels of dissolved oxygen. When phosphorous is added to a lake, it tends to promote growth of plants and algae. High levels of phosphorous in lakes promote excessive plant and algae growth. When the plants and algae die off naturally, they settle at the bottom of a lake and decompose using up available dissolved oxygen.

The habitat requirements of lake trout are measured by the Mean Volume Weighted Hypolimnetic Dissolved Oxygen (MVWHDO) concentration. A lake trout lake is considered at capacity when the MVWHDO concentration is at or below 7.0 mg/L, or where the future development of existing lots with development rights would reduce the MVWHDO to 7.0 mg/L or less. This criterion was formally adopted as MNR policy in 2006, following posting on the province's Environmental Registry.

Emsdale, Grass (Sweny), Loon (Pevensey), North, and Proudfoot (Island), are considered to be lakes at capacity for new development in order to safeguard the ability of these lakes to support lake trout. Where a lake trout lake has been determined to be at capacity, the impact on the water quality of these lakes from development on up-stream lakes must also be determined. Duck Lake has been determined to be at capacity for new planning approvals, based on the impacts expected on downstream Grass Lake. Furthermore, Long (Oliphant) Lake is likely to be approaching, or at capacity. A Lakeshore Capacity Assessment will be required prior to any new lot creation and other planning approvals to a more intensive use.

New lot creation and other planning approvals to a more intensive use should only be allowed within 300 metres of the shoreline of these at-capacity lake trout lakes under the following special circumstances, which would not result in decreased water quality:

- all new residential, commercial, or industrial development is connected to a municipal sewage treatment facility;
- all new tile fields are set back at least 300 metres (1,000 feet) from the shoreline of the lake, or such that drainage from the tile fields would flow at least 300 metres to the lake;
- all new tile fields are located such that they would drain into the drainage basin of another waterbody that is not at capacity; or
- to separate existing habitable dwellings, each of which is on a lot capable of supporting a Class 4 sewage system, provided that the land use would not change.

Under such exceptional circumstances, the following conditions will be imposed:

- restrict the removal of natural vegetation within 30 metres (100 feet) of the lake, except to accommodate a limited number of paths, water lines, docking facilities, and removal of trees posing a hazard;
- require a minimum 30 metre setback for all buildings and structures (except docking facilities and a pervious pathway); and
- prohibit use of fertilizers on lawns and gardens within 300 metres of the lake.

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The above criteria are identified in the Province's newly approved Lakeshore Capacity Assessment Handbook, May 2010.

There are no other conditions under which lot creation or planning approvals should occur within 300 metres (1,000 feet) of a lake trout lake that is at capacity. The province has an interest in the development of septic systems that retain nutrients like phosphorous, along with a mechanism to ensure that such septic systems are built and maintained to standard; however, to date there are no such systems which have been accepted by the MOE for use on at-capacity lakes. If such a septic system is approved in the future, together with appropriate implementation tools and standards, the Town will require phosphorous abatement systems on lakes where water quality constraints currently limit new lot creation.

#### **6.4.5.1 Policies**

1. New development will not be granted within 300 metres (1,000 feet) of Duck Lake, Emsdale Lake, Grass (Sweny) Lake, Loon (Pevensy) Lake, North Lake, and Proudfoot (Island) Lake, except under the extenuating circumstances identified above. Where one of those criteria is met, new development shall only proceed on the basis of the conditions listed above. For the purposes of this section, Long (Oliphant) Lake will be treated as a lake at capacity and Section 6.4.5.1 shall apply for new development unless a Lakeshore Capacity Assessment has demonstrated otherwise.
2. Development of an existing lot on a waterbody that has reached its development capacity may proceed, provided that the lot is suitable and of sufficient size to accommodate the development proposed. The Town will not support new municipal land use planning approvals for new or more intense residential, commercial, or industrial development on existing lots. Furthermore, to ensure that development of an existing lot has the least impact possible, the following will be addressed and implemented through either minor variance, rezoning, or site plan control:
  - a. Appropriate location of buildings, structures and sewage disposal system a minimum of 30 metres (100 feet) from the normal or controlled high water mark;
  - b. Retention or restoration of a natural vegetative buffer of at least 30 metres (100 feet) from the normal or controlled high water mark;
  - c. Maintenance and establishment of tree cover and vegetation on the lot wherever possible;
  - d. Proper location and construction of road and pathways, including use of permeable materials; and
  - e. Implementation of storm water management and construction mitigation techniques, including proper re-contouring, discharge of roof leaders, use of soak-away pits, and other measures to promote infiltration.
3. Development that would bring a lake at or near capacity will not be permitted.

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### **6.4.6 Other Natural Heritage Features and Areas**

1. Nothing within this Section would preclude lands that have been deemed by the Provincial Government and/or the Town to have significant ecological functions or features that have or have not been designated or identified as a constraint on the Schedules from being recognized in the implementing Zoning By-law. These lands may include significant portions of the habitat of endangered and threatened species, significant wildlife habitat, fish habitat, and wetlands.
2. Natural heritage features and areas shall be placed in the appropriate zoning classification in the implementing Zoning By-law.

### **6.5 Public Ownership / Acquisition**

1. It is not intended that all natural heritage features and areas shall be purchased or otherwise brought into public ownership, nor that all such lands shall be open and accessible for public use. It may be determined, however, that certain areas should be in public ownership or accessible for recreational uses, where appropriate. In such cases, the Town or other agencies shall explore options for purchasing, or otherwise acquiring, managing, or providing access to these lands.
  - a. The Town may develop a program for the long term acquisition of natural heritage features and areas. Acquisition may occur as properties become available, primarily through the following methods: purchase, dedication, and donation.
  - b. Council may accept gifts of ecologically sensitive lands in accordance with the provisions of the Ecological Gifts Program administered by Environment Canada, or any other similar program administered by the Provincial or Federal Governments.

### **6.6 Stewardship**

1. Where natural heritage features and areas are privately owned, the Town will encourage individual property owners to provide for their protection and conservation. In this regard, the Town may use the following techniques:
  - a. Stewardship agreements;
  - b. Conservation easements;
  - c. Education programs to inform landowners of maintenance and stewardship options available to protect or rehabilitate natural features and areas and ecological functions;
  - d. Encouraging the establishment of land trusts and the utilization of existing land trusts, as well as other mechanisms to purchase land and to rehabilitate, create, or conserve natural heritage features and areas;

### **PART 3: PROTECTING THE NATURAL ENVIRONMENT**

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- e. Modification of property tax assessment and/or facilitation of the Provincial Conservation Land Tax Incentive Program or the Managed Forest Tax Incentive Program; and
  - f. Any other suitable techniques.
2. Where natural heritage features and areas are owned by the Town, the Town will encourage community groups and individuals to take an active role in their protection, rehabilitation and enhancement. The Town may develop programs to facilitate community involvement in the protection and rehabilitation of these areas.

#### **6.7 Ecological Buffers**

- 1. Ecological buffers serve to protect the ecological function and integrity of the natural heritage system. Ecological buffers will be required around, or adjacent to components of the natural heritage system, based upon the recommendations of an approved EIS.
- 2. The location, width, composition and use of ecological buffers necessary to protect natural heritage features and areas from the impacts of development on adjacent lands will be specified through an EIS.
- 3. In addition to buffer lands, additional techniques may be required to assist in minimizing the impact of development on the natural heritage system, including but not limited to:
  - a. The use of site planning to orient the development away from natural heritage features and areas;
  - b. The acceptance of lands immediately adjacent to natural heritage features and areas as part of the required parkland dedication for the proposed development;
  - c. The use of a setback from the boundary of natural heritage features and areas for construction purposes;
  - d. Restriction of public access by providing a limited number of access points to natural heritage features and areas; and
  - e. Other measures, such as fencing.

#### **6.8 Management and Rehabilitation Priorities**

- 1. The Town encourages rehabilitation and enhancement measures that protect the ecological function and integrity of the Natural Heritage Features and Areas. Watershed and Sub-watershed Plans can provide guidance for the types of measures that may be identified through an EIS, the Environmental Assessment process, or other environmental studies or programs. Rehabilitation and enhancement measures may be implemented through conservation master plans or woodland management plans on publicly-owned land and through stewardship and conservation programs for privately-owned lands.

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2. The Town's highest priority for rehabilitating and enhancing the natural heritage system shall be those areas linking or adjacent to natural heritage features and areas that are subject to flood or erosion hazard constraints.
  - a. With respect to specific components of the Natural Heritage Features and Areas, the Town's management and rehabilitation priorities are:
    - i. Wetlands - to protect the natural features and ecological functions of all Provincially and Locally Significant wetlands.
    - ii. Woodlands - to protect existing ecosystem features and functions, to increase the amount of interior forest habitat, and to retain or restore linkages between isolated natural areas.
    - iii. River, Stream, and Ravine Corridors - to protect existing ecosystem features and functions, maintain water resource functions, and to rehabilitate eroded banks and channels.
    - iv. Upland Corridors - to retain or create linkages between isolated natural areas.
    - v. Wildlife Habitat - to protect wildlife habitat.
    - vi. Fish and Riparian Habitat - to protect, rehabilitate, and/or create fish and riparian habitat, and to encourage a net gain of productive capacity of fish habitat, where possible.
    - vii. Potential Naturalization Areas - to restore or replace connections between and within vegetation patches, riparian corridors, and wildlife habitat.
    - viii. Groundwater Recharge Areas, Headwaters, and Aquifers – to protect hydrological functions and source water.

#### **6.9 Setback of Sewage Systems**

1. Strict setbacks for septic systems are meant to preserve and protect the adjacent waterbodies. Leaching beds, or other similar devices for distributing effluent, will be setback a minimum of 30 metres (100 feet) from the normal or controlled high water mark of a waterbody or watercourse. Greater setbacks may be required to address terrain constraints, recreational water quality, land prone to flooding, or specific habitat features.
2. Where it is not physically possible (due to terrain features, lot depth, or design features) to locate the leaching bed and mantle at such a distance, a lesser setback may be permitted based on the recommendations of a Site Evaluation Report and in accordance with current legislated minimum setback requirements. Advanced septic system technology may be required in this instance.
3. Notwithstanding, tile fields for development on lakes that are at capacity shall be set back at least 300 metres (1,000 feet) from the shoreline of the lake, or such that drainage from the tile fields would flow at least 300 metres to the lake.
4. Owners of existing properties are encouraged to upgrade their existing sewage systems to current standards if inspection suggests that those systems are not performing up to the levels achievable with new installed systems.

## **PART 3: PROTECTING THE NATURAL ENVIRONMENT**

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### **6.10 Impact Assessments**

A development proponent must first establish whether its planning application will trigger the need to address the matter of negative impacts from development and site alteration on natural heritage features and areas before determining the appropriate level of assessment required as part of an Impact Assessment. In some areas, information on natural heritage features and areas may be sufficient to determine whether an assessment is required. In other areas, however, a site inspection (i.e., ecological site assessment) may be needed to identify potentially significant natural heritage features and areas that may require further evaluation. For example, this may be an area of contiguous forests, large expanses of wetland and numerous lakes.

A preliminary ecological site assessment shall be required in cases where it is not known if a site has the potential to include significant natural heritage features or areas. The preliminary ecological site assessment will determine if further assessment is required.

#### **6.10.1 Ecological Site Assessment**

An Ecological Site Assessment (ESA) will identify any potential significant natural heritage features and areas.

As part of the early consultation the planning authority may deem that a full Ecological Site Assessment is not necessary for proposals that present low risk to the feature (e.g. conversion of an existing building to a similar use, construction of small accessory buildings or a minor addition to an existing building). In low-risk situations a scoped ESA will be required.

A scoped ESA may involve a checklist style form that can be completed by the applicant in consultation with the Town or other approval authority. The Town may require that such form be prepared and/or reviewed by a qualified professional.

If the scoped ESA has not identified any significant natural heritage features or areas, then an EIS would not be triggered. When the ESA has identified potential significant natural heritage features and areas, the proponent will be required to complete an Environmental Impact Study (EIS), as detailed below.

When required, an ESA will be considered as required information for a “complete” planning application and shall be completed by a qualified specialist with expert knowledge of the requirements of the feature.

#### **6.10.2 Environmental Impact Study**

An Environmental Impact Study (EIS) will evaluate the ecological function of the natural heritage features and areas and adjacent lands and demonstrate that a proposed development will not have a negative impact on significant features and functions of the natural heritage features and areas or adjacent lands.

First Nations may be consulted on any Environmental Impact Studies, where proposed development may impact a Natural Heritage Area.

The EIS must be completed by a qualified specialist. The Town may choose to have the EIS

### **PART 3: PROTECTING THE NATURAL ENVIRONMENT**

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peer reviewed at the proponent's expense.

When required, an EIS will be considered as required information for a "complete" planning application.

#### **6.10.2.1      Scoped EIS**

1. Notwithstanding, the Town may consider reducing an EIS to a scoped study if the proposal is:
  - a. minor in nature; and
  - b. located in an area where previous studies are sufficient to provide the necessary technical information to assess a proposal.

If the scoped study indicates that there may be some potential impacts to a natural heritage feature or area that warrants a more complete review, a full EIS shall be prepared.

#### **6.10.2.2      Full EIS**

1. Where a full EIS is required, the study must be prepared by a qualified professional with expertise in environmental science (biology, ecology, etc). The EIS will:
  - a. define the nature and the boundaries of any significant features and ecological functions on or adjacent to the site;
  - b. describe the location, extent, and nature of development;
  - c. describe the relationship of adjacent lands to any significant features or ecological functions;
  - d. describe the relationship of these features and functions to the proposed development and adjacent lands;
  - e. demonstrate how and where development can proceed without negative impact on the natural values which make the area significant; and
  - f. describe any mitigation or compensation proposals designed to alleviate or eliminate impacts.



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## **PART 4: PROTECTING PUBLIC HEALTH AND SAFETY**

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### **7.0 PROTECTING PUBLIC HEALTH AND SAFETY**

Various naturally occurring and human-made conditions can result in hazards to human health and safety and damage or loss of value to property. The natural hazards identified by this Plan are flood-prone areas and areas susceptible to erosion. Hazards that are the result of human activity are mine hazards, including abandoned pits and quarries (AMIS sites), contaminated sites, and waste disposal areas. Lands impacted by these conditions or constraints are identified on Schedules 'B' and 'C', where they have been mapped. The Schedules will be amended as additional information on hazard lands becomes available.

It is the intent of this Plan to monitor and manage development in areas that are susceptible to these hazards. New development will only be permitted on such lands if the Town is satisfied that there will not be any risk to public health and safety. The policies in this section are intended to eliminate the potential risks such lands may pose to human life and property, thus facilitating the safe development of land.

#### **7.1 Objectives**

It is the objective of these policies to:

- a. identify existing and potential hazards that are constraints to development and threats to life or property;
- b. protect residents from natural and human-made hazards;
- c. ensure that development and site alteration do not occur on or near natural and human-made hazards, except in situations where the potential adverse effects of those hazards can be mitigated on-site, and there are no significant off-site impacts; and
- d. outline the Town's requirements for site assessment and cleanup prior to the granting of planning approvals.

#### **7.2 Flooding Hazards**

Increasing development in close proximity to water and/or unstable slopes has resulted in extensive and increasing property damage, risks to public health and safety, detrimental impacts to local ecosystems, and immeasurable social disruption. For municipalities and governments, it has also meant increasing public liability, escalating public costs related to the installation, maintenance, replacement, or upgrade of protection works required to protect vulnerable developments, and mounting public expense to address hazardous situations.

Policy 3.1 (Natural Heritage) of the PPS requires that generally all new development and site alterations (including the removal or placement of fill) be located outside of hazardous lands which are impacted by flooding hazards and/or erosion hazards and hazardous sites.

The intent of the PPS flood plain policies is to ensure that new development is not subject to flood hazards and to ensure that new development does not result in increased flood-related hazards on other properties.

## **PART 4: PROTECTING PUBLIC HEALTH AND SAFETY**

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In the Town of Kearney, the flooding hazard or regulatory flood plain is defined as being the greater of:

- the “100 year flood”, which is the area that would be flooded, on average, once in 100 years; or
- the “Regional Flood”, which is the area that would be flooded by a storm modeled on a particularly intense storm which occurred in Timmins in 1961, and could occur in this area.

Lands within the regulatory floodline are known as the regulatory flood plain and are placed under a development constraint overlay on Schedule ‘C’.

The elevation of the regulatory flood plain has been determined from information provided by the Ministry of Natural Resources (MNR), where available. These are shown on Schedule ‘C’ by way of reference to a specific policy. Other areas have been identified through aerial imagery interpretation and are identified on Schedule ‘C’ as “Flood plain overlay based on aerial image interpretation”.

Where engineered flood plain mapping has not been completed, proponents may be required to complete such mapping to the satisfaction of the appropriate agency prior to development. Such mapping will be completed at the proponent’s expense.

### **7.2.1 Policies**

1. Where the boundaries of the flood plain are defined by an elevation, the location of these boundaries will be determined on-site by the survey of flood elevations by an Ontario Land Surveyor. This would occur prior to new development, site alteration, and the issuance of building permits where the boundaries have not been previously delineated.
2. Development adjacent to the flood plain or within the flood fringe of a two-zone area is subject to agreements or conditions of approval as permitted in relevant legislation to address flood and/or erosion risk mitigation measures. Council may stipulate the following measures as part of any required agreement or condition of approval:
  - a. upon completion of any foundation and prior to further above grade construction that a certificate from an Ontario Land Surveyor or Professional Engineer be provided verifying that all habitable floor space elevation is located above the regulatory flood level;
  - b. upon completion of a building or structure that a letter of compliance be provided by a Professional Engineer certifying that all flood proofing and geotechnical measures have been implemented as required.
3. Any lands that are zoned to reflect potential susceptibility to flooding and/or erosion hazards are subject to site plan approval to ensure that all facilities, works, or other matters required to mitigate flooding effects are provided and maintained and to ensure that there are no increased flood-related hazards on other properties as well.

## **PART 4: PROTECTING PUBLIC HEALTH AND SAFETY**

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### **7.2.2 “ONE ZONE” APPROACH**

In the Town of Kearney, a “One Zone” approach to flood plain management will be applied. Under this approach, new structural development and site alteration (including removal or filling) are not appropriate anywhere in the floodplain. This approach will be applied in all situations unless detailed engineered study has shown that a “Two Zone” approach is acceptable. Notwithstanding, structures necessary for flood and/or erosion control works or structures which by their nature must be located on the shoreline, such as docks, may be permitted.

#### **7.2.2.1 Development and Site Alteration**

1. Development and site alteration shall not be permitted within:
  - a. the dynamic beach hazard;
  - b. areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards, and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard; and
  - c. a flood plain regardless of whether the area of inundation contains high points of land not subject to flooding.
2. Despite policy 1, development and site alteration may be permitted in certain areas:
  - a. Where the development is limited to uses which by their nature must locate within the flood plain, including flood and/or erosion control works, minor additions, or passive non-structural uses which do not affect flood flows.
3. No new septic systems are permitted within the flood plain. Notwithstanding, there may be situations with existing development where a replacement septic system within the flood plain may be necessary.
4. Where new lots are being created, part of which will be located in the flood plain, there must be a sufficient area of land outside of the flood plain to place the buildings and services in accordance with the policies of this Plan and the provisions of the Zoning By-law, as well as any other applicable regulations.
5. The Town will encourage the retention of natural vegetation and the re-establishment of vegetation cover and buffer areas along the watercourses that are within the flood plain.
6. Where flood plain lands include natural heritage features and areas, the provisions of both this Section and the Natural Features Section of this Plan will apply. In the event of a conflict, the more restrictive development policy shall apply.
7. Where there is an existing lot of record located entirely within the flood plain or where an acceptable building envelope outside of the flood plain does not exist, such lot shall not be developed.
8. Development is prohibited in the flood plain for:

## **PART 4: PROTECTING PUBLIC HEALTH AND SAFETY**

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- a. an institutional use associated with hospitals, nursing homes, pre-school, school nurseries, day cares, and schools, where there is a threat to safe evacuation of the sick, the elderly, persons with disabilities, or the young during an emergency as a result of flooding, failure of flood proofing measures or protection works, or erosion;
  - b. an essential emergency service such as that provided by fire, police, and ambulance stations and electrical substations, which would be impaired during an emergency as a result of flooding, the failure of floodproofing measures and/or protection works, and/or erosion; and
  - c. uses associated with the disposal, manufacture, treatment, or storage of hazardous substances and outdoor industrial storage.
9. This information is based on the best information that is currently available. Should there be any doubt regarding the accuracy of these conservative estimates, the proponent of development will be required to undertake a detailed engineering study, at their cost, to determine the regulatory flood elevation.

### **7.2.2.2 Replacement/Relocations of Buildings and Structures**

1. Any building or structure which is located in the flood plain and has been destroyed for reasons other than flooding may be allowed to be rebuilt, provided the building cannot be relocated to an area outside of the flood plain. All of the following criteria must be met:
  - a. The structure will be built on the existing foundation area and will not exceed the original floor area (ground floor area) of the previous structure;
  - b. All openings in the ground floor of the building are located above the regulatory flood elevation;
  - c. Vehicular and pedestrian ingress/egress is not flooded to a depth greater than 0.3 metres (1 foot) under the regulatory flood event.

### **7.2.2.3 Flood Elevations for Major Lakes**

The "Magnetawan River Basin Regulatory Flood Levels" report was prepared for the MNR in 2002 by engineering consultants. This report identifies the regulatory flood elevation for a number of major lakes on the Magnetawan River system, including Loon and Perry Lakes within the Town of Kearney. Lands below these elevations are subject to the "One Zone Approach" even though they are not mapped on a schedule to this Official Plan. Flexibility in applying these elevations is only appropriate for the wind set-up/wave run-up factor, since the identified factor is based on the maximum distance of open water on the lake that winds would cross and waves could build up; the actual distance would vary throughout the lake. This portion of the flood elevation will be adjusted on the recommendations of a site-specific report by a qualified engineer recommending a lesser factor for wind set-up/wave run-up.

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1. In no case will flood plain management levels be lowered below the stillwater flood elevation.

Lake	Stillwater Flood Elevation (m)	Elevation to Define Boundaries of Flood Plain (m)	Minimum Elev'n for Bldg Openings Outside Flood Plain (m)
Loon & Grass	0.20	0.58	1.08 m above crest of spill wall at Pevensey Dam
Perry	335.76	336.17	336.67 m above Cdn Geodetic Datum

2. MNR has also provided conservative estimates of regulatory flood elevations for Little Beaver, Beaver Lake, and the river between Beaver and Hassard Lakes. This information is based on the best information that is currently available. Should there be any doubt regarding the accuracy of these conservative estimates, the proponent of development will be required to undertake a detailed engineering study, at their cost, to determine the regulatory flood elevation.

Waterbody	Conservative Estimate of Flood Elevation (m)
Little Beaver Lake	339.5 m above Cdn Geodetic Datum
Beaver Lake	339.0 m above Cdn Geodetic Datum
River Between Beaver and Hassard Lakes	338.5 m above Cdn Geodetic Datum

3. Flood plain management for the above lakes and rivers will be subject to the policies of the "One Zone" approach.
4. The identified flood elevations for these major lakes will be reflected in the implementing Zoning By-law.

### **7.2.3 "TWO ZONE" APPROACH**

A "Two Zone" approach to flood plain management is acceptable only where a detailed engineering study has determined that certain portions of the flood plain could be safely developed without significant off-site increases in flood related hazards (that is, without significantly increasing flood elevations or flow velocities on other properties). Under this approach:

The "floodway" would be that part of the flood plain that accommodates the safe passage of flood waters; new structural development, expansion of existing development and/or site alteration should not be permitted in the floodway.

The "flood fringe" would be that part of the flood plain where it has been determined that new structural development could safely occur without resulting in significantly increased flood-related impacts elsewhere. New development could be permitted within the flood fringe provided that it has safe access, all buildings and additions are adequately flood-proofed, and adequate provisions are made for the safe disposal of sewage.

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A “Two Zone” approach should only be applied on a major “reach” basis that is across an entire lake, or for all inter-related portions of a river. Application to individual properties would not take cumulative impacts into account.

### **7.2.3.1 Development within the Floodway**

1. Development in the floodway will be consistent with the policies of the “One Zone” Flood Plain area in Section 7.2.2.

### **7.2.3.2 Development within the Flood Fringe**

1. Development and site alteration may be permitted in the flood fringe, subject to appropriate flood proofing to the flooding hazard elevation.
2. Further to policy 1, and except as prohibited in policies 7.2.2.1.1 and 7.2.2.1.8, development and site alteration may be permitted in those portions of hazardous lands and hazardous sites where the effects and risk to public safety are minor so as to be managed or mitigated in accordance with provincial standards, as determined by the demonstration and achievement of all of the following:
  - a. Development and site alteration is carried out with flood proofing standards, protection works standards, and access standards;
  - b. Vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion, and other emergencies;
  - c. New hazards are not created and existing hazards are not aggravated; and
  - d. No adverse environmental impacts will result.

### **7.2.3.3 Sand Lake – Flood Proofing**

The flood plain of Sand Lake is the only area in the Town of Kearney where a Two Zone approach has been determined to be appropriate, based on a flood plain study in 1988.

1. Sand Lake is subject to the policies of the “Two Zone” approach. The floodway was determined to coincide with the natural high water mark whereas the flood-fringe was determined to be at an elevation of 342.4 metres above Canadian Geodetic Datum (C.G.D.).
2. On lands fronting onto Sand Lake, all new buildings and generally all additions to existing buildings shall be flood proofed to an elevation of at least 342.4 metres above Canadian Geodetic Datum (C.G.D.); the floodway.
3. Buildings and properties may be flood proofed by filling, constructing the building so that openings are higher than the flood level, or designing the building to withstand flooding so that damaged due to flooding are reduced or eliminated.

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4. There is currently no comprehensive mapping of the identified flood elevation. Proponent of development will be required to identify the location of the flood elevations on a site-by-site basis by the survey of flood elevations by an Ontario Land Surveyor.
5. This information is based on the best information that is currently available. Should there be any doubt regarding the accuracy of these conservative estimates, the proponent of development will be required to undertake a detailed engineering study, at their cost, to determine the regulatory flood elevation.

### **7.2.4 Other Areas Subject to Flooding**

There exist other areas across the Town such as rivers, streams, and other watercourses that are subject to flooding but have not been studied. In the absence of detailed engineering studies and/or comprehensive mapping, MNR supports the use of air photo interpretation of potential flood plains to ensure adequate protection.

Air photo interpreted mapping will not identify the extent of the “regulatory flood plain” but will act as a screening tool for development.

1. All lands identified as flood plain areas based on aerial imagery interpretation shall be placed under a development constraint overlay in the Official Plan and identified in the Zoning By-law in a manner that reflects susceptibility to flooding and restricts the range of uses permitted until Council is satisfied that the potential hazard or associated feature has been adequately reviewed.

## **7.3 EROSION HAZARD AND UNSTABLE SOILS**

Erosion hazards mean the loss of land, due to human or natural processes, that pose a threat to life and property. The erosion hazard limit is determined using the one hundred year erosion rate and includes allowances for toe erosion, slope stability, and access during emergencies. The erosion hazard component of river and stream systems is intended to address river and stream bank erosion as well as slope stability issues related to the valleys through which rivers flow.

Unstable soils include organic and peat soils formed by the decomposition of vegetative and organic materials into humus. This rotting process can create methane gas and results in soils that erode easily and compress so much they may not be able to support structures. It is the intent of these policies to permit development only where the effects of erosion hazards and unstable soils can be avoided or, in the case of existing development, successfully mitigated.

### **7.3.1 Identification of Constraints**

1. While areas that are susceptible to erosion hazards and unstable soils have not been mapped, this issue should be considered at the time of development review and site assessment.
2. Erosion hazards should be considered under existing site conditions, under regulatory flood conditions, as well as whether future site alteration occurring on or adjacent to a site would increase the existing erosion hazards. Protection should be ensured from the

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100-year erosion rate (average annual rate of recession extended over a 100 year time span).

3. The 'Erosion Hazard and Unstable Soils' policies will apply where erosion hazard potential or unstable soils are identified during the development review process.

### **7.3.2 Permitted Uses**

1. Land uses that are in conformity with the underlying land use designation may be permitted, subject to satisfying the policies of this Section, except for those uses that are explicitly prohibited.
2. Existing buildings and structures shall be recognized as permitted uses.

### **7.3.3 Prohibited Uses**

1. The following uses are prohibited:
  - a. an institutional use associated with hospitals, nursing homes, pre-school, school nurseries, day cares, and schools, where there is a threat to safe evacuation of the sick, the elderly, persons with disabilities, or the young during an emergency as a result of failure of protection works or erosion;
  - b. an essential emergency service such as that provided by fire, police and ambulance stations and electrical substations, which would be impaired during an emergency as a result of the failure of protection works and/or erosion; and
  - c. uses associated with the disposal, manufacture, treatment, or storage of hazardous substances and outdoor industrial storage.

### **7.3.4 Development Review Criteria**

1. Prior to permitting new development in areas susceptible to potential erosion hazards or unstable soils, Council will be satisfied that potential hazards associated with erosion or unstable soils can be avoided or acceptably mitigated.
2. For erosion hazards, a geotechnical study, completed by a qualified geotechnical engineer, shall be prepared to the satisfaction of Council and/or the appropriate agency. For new development, the geotechnical study shall satisfy that the erosion hazards can be avoided. In the case of existing development undergoing expansion or change of use, such study will determine how the erosion hazard can be mitigated.

The geotechnical report shall contain the following information:

- a. the delineation of the 100 year erosion limit for the subject property;
- b. for new development proposals, a clear indication of that the proposed development or site alteration can avoid the erosion hazard limit; and



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- c. for expansions or change in use to existing development, proposed methods to overcome or mitigate the erosion hazard in a manner consistent with accepted resource management and engineering standards and procedures.

Such report will be prepared by a qualified geotechnical engineer at the proponent's expense and will be consistent with criteria established in MNR's "Understanding Natural Hazards", or other applicable Ministry guidelines.

- 3. For hazards posed by unstable soils, due to the variable and complex nature of organic and peat soils, the proponent will be required to prepare a study to verify the location and extent of the unstable soils and to determine the appropriateness and/or feasibility of placing development within or over top of organic and/or peat soils. Measures to overcome or mitigate the hazards associated with unstable soils will be identified in the study. Such study will be prepared by a qualified individual at the proponent's expense and will be consistent with criteria established in the "Natural Hazards Training Manual" and the "MNR Technical Guide for Hazardous Sites" or other applicable Ministry guideline.

### **7.3.5 Consultation**

- 1. Council may request a peer review of any study prior to development approval to:
  - a. confirm the methodology used by the geotechnical engineer to determine the location of the erosion hazard limit is satisfactory;
  - b. confirm the location of the areas susceptible to erosion hazards;
  - c. advise as to whether the hazard associated with erosion or unstable soils can be safely avoided or addressed in accordance with established policies, standards and procedures;
  - d. indicate whether new hazards will be created or existing hazards aggravated as a result of the proposed development or site alteration;
  - e. confirm that no negative impacts will result from the proposed development or site alteration; and
  - f. confirm that people have a way of safely entering and exiting the subject property during times of flooding, erosion, or other emergencies.
  - g. identify conditions to development approval that will ensure that all facilities, works or other matters stipulated in the study will be provided and maintained.

Should such review result in a fee, the applicant will be required to pay such fee at the time the review is completed and prior to development approval.

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### **7.3.6 Development Approval**

1. Where Council is satisfied that the criteria identified above can be met for the proposed development or site alteration, Council may consider such proposal to be in conformity with this Plan.
2. Where the proposal is considered to be in conformity with this Plan, Council shall consider implementing the recommended mitigation measures, through conditions of subdivision, land severance, site plan control, or other legislated means.

### **7.4 Wildland Fire**

Development shall generally be directed to areas outside of lands that are unsafe for development due to the presence of hazardous forest types for wildland fire. Development may be permitted in lands with hazardous forest types for wildland fire where the risk is mitigated in accordance with wildland fire assessment and mitigation standards, as identified by the Ministry of Natural Resources.

Proponents may be required to undertake a site assessment to determine the presence of hazardous forest types for wildland fires, as may be indicated by generalized wildland fire hazard information. If development is proposed where hazardous forest types are present, mitigation measures should be identified by proponents to outline how the risk will be lessened.

### **7.5 Contaminated Sites**

Contaminated Sites are those lands where the environmental condition of the property has been harmed through past activities. Although, such lands represent a potential hazard due to real or potential environmental contamination, opportunities for brownfield redevelopment may exist. The redevelopment of abandoned or underutilized industrial and commercial sites is consistent with policies encouraging increased intensification in built-up urban areas.

Current mapping showing contaminated sites was not available at the time this Official Plan was drafted.

#### **7.5.1 Policies**

1. In order to ensure that there will be no adverse effects from any proposed development or redevelopment, environmental site assessments and remediation of contaminated sites are required by this Plan prior to any activity or development occurring on the site that is known or suspected to be contaminated. The Town will require the proponent of development on such sites to determine the nature and extent of contamination and the necessary remediation measures in accordance with the policies below.
2. The Town will require all applications for development in areas known or suspected of former land use activities that may lead to soil contamination be supported by a Phase I Environmental Site Assessment (ESA).
3. Where a Phase I ESA reveals that a site may be contaminated, a Phase II ESA will be required. A Phase I or II ESA is an assessment of property conducted in accordance with Part XV.1 of the *Environmental Protection Act* and Ontario Regulation 153/04, or

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their successors by or under the supervision of a qualified person to determine the location and concentration of one or more contaminants on the site proposed for development.

4. Prior to a development being approved on a site where information reveals that the site may be or is contaminated, the applicant will provide a Record of Site Condition in accordance with Part XV.I of the *Environmental Protection Act* and Ontario Regulation 153/04 or their successors. The Record of Site Condition, which details requirements related to site assessment and cleanup, must be acknowledged by the Ministry of the Environment and uploaded to the Brownfields Environmental Site Registry, confirming that the site has been made suitable for the proposed use. The Record of Site Condition and MOE acknowledgment will be provided to the Town. If a Certificate of Property Use (CPU) is required, it will be required to be registered on title.
5. All contaminated lands may be subject to site plan control.

### **7.5.2 Programs**

1. The Town may consider financial and other incentives to promote the redevelopment and reuse of brownfield properties that are subject to environmental constraints.

## **7.6 Other Health and Safety Concerns**

### **7.6.1 Waste Management**

The existing or prior use of the lands for the management of waste may have an effect on future uses of these lands and possibly adjacent lands. In recognition of this, Waste Management Areas identify lands that are within the 500 metre area of influence from the property boundary of an open site or the fill area of a closed site. These areas are regulated in order to protect public health and safety and ensure land use compatibility.

The Landfill Inventory Management Ontario (LIMO) listed three sites, which are identified on Schedule 'C':

1. The open municipal waste disposal site (ECA #A612016) is a joint Perry/Kearney site, located on Part of Lot 30, Conc. 11 and 12, Bethune Township.
2. A transfer site (ECA #A7122201) located at South ½ of Lot 18, Conc. 1, Proudfoot Township, formerly run by the MNR, now operated by the Town.
3. A closed site (#A520101) located on Part Lot 1, Conc. 10, Bethune Township.

This active waste disposal site is approved for the Town's use for domestic and commercial waste disposal purposes, in accordance with the *Environmental Protection Act* (EPA). Solid waste shall not be disposed of by the Town in any other location, unless the site has first been approved by the MOE.

The Town may investigate methods to increase waste reduction and waste diversion efforts, and will encourage programs aimed at achieving such objectives.

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The Town will, as a means of extending the life-expectancy of the existing site, review on a regular basis its Operations Plan. This review will monitor the cost structure and life expectancy of the site.

### **7.6.1.1 Objectives**

1. Council's objectives for the provision of waste management infrastructure services are as follows:
  - a. To ensure waste management uses are environmentally sustainable; and
  - b. To provide appropriate waste management infrastructure that support ongoing development.

### **7.6.1.2 Policies**

1. The establishment of new sites (e.g. landfill) shall be in accordance with MOE Guidelines and Regulations and shall require an amendment to the Official Plan and an *Environmental Impact Assessment*.
2. Waste management sites shall be appropriately zoned in the Zoning By-law.
3. A 30 metre (100 feet) reserve or buffer from the actual fill area of a site has been established for all development where no development, other than that related to the operation of the waste management facility, will be permitted within the reserve or buffer to ensure no environmental problems and/or health concerns arise from the effects of waste material.
4. Development within 500 metres (1,640 feet) from a waste management site will not be permitted unless supported by an appropriate study or studies that confirm there will be no negative impacts on the proposed development related to the adjacent waste management site. In addition, the study(s) will confirm that the proposed development will not impact future expansions of the waste management site in question.
5. Separation distances will normally be measured from the boundary of the fill area (footprint) specified in the Environmental Compliance Approvals (or property line for closed sites where no former Certificate of Approval is available) to the property line of the sensitive land use for a waste management site.
6. In reviewing development proposals adjacent to such disposal sites, the approval authority shall consult the MOE's Guideline D-2 and Guideline D-4.
7. The Zoning By-law will zone adjacent lands appropriately, prohibiting new incompatible uses that cannot be reasonably mitigated. In accordance with the *Environmental Protection Act*, no adverse effect is permitted.
8. In areas subject to these policies, only uses compatible with the identified potential impacts may be permitted by an amendment to the Zoning By-law.

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### **7.6.1.3 Closed Waste Disposal Site Policies**

Human health and safety may be affected within the area of influence of a former landfill site. The most significant contaminant discharges and visual problems occur normally within 500 metres (1,640 feet) of the perimeter of the fill area. The actual area of influence will vary for every former site.

1. No land use may take place within 30 metres (100 feet) of the perimeter of a fill area of a former landfill site.
2. No uses are permitted on the location of a closed waste disposal site within 25 years of their closure without the required approval under s.46 of the *Environmental Protection Act*.
3. Closed Waste Disposal Sites have been identified on Schedules B & C.

### **7.6.2 Mine Hazards and Abandoned Pits and Quarries**

Mine hazards may include any feature of a mine or any related disturbance of the ground that has not been rehabilitated, posing a risk to human safety and property. The Town has identified abandoned mine sites (AMIS) on Schedule 'C'.

Abandoned pits and quarries are an area of land from which aggregate has been removed, leaving it in a form that is derelict, unproductive, or incompatible with the surrounding landscape.

#### **7.6.2.1 Policies**

1. Mine hazards and abandoned pits and quarries will be rehabilitated and safety hazards mitigated prior to the approval of new development.
2. Any development within one kilometre of known mine hazards is required:
  - a. to consult with MNDM or MNR, as appropriate, and
  - b. to conduct an impact assessment to determine whether hazards exist and, if so, whether suitable mitigation can be undertaken to allow development to occur.
3. Any development on, abutting or adjacent to lands affected by abandoned pits or quarries must be supported by a study undertaken by a qualified person that:
  - a. identifies any potential safety hazard;
  - b. demonstrates that the site can be rehabilitated to mitigate the known or suspected hazard;
  - c. establishes procedures for site rehabilitation and mitigation of the safety hazard; or,
  - d. provides evidence that potential hazards do not exist on the site.

## **PART 4: PROTECTING PUBLIC HEALTH AND SAFETY**

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### **7.7 Noise, Vibration, Dust, and Odours**

Generally, potential noise problems are best addressed through land use planning approaches that separate noise-generating uses from housing and other noise-sensitive land uses.

Noise, vibration, dust, and odour impacts shall be addressed for new sensitive land uses adjacent to existing highways, waste management sites, industries, or aggregate extraction operations, or other stationary or line sources where noise and vibration may be generated. Council may require the proponent to undertake noise and/or vibration, and/or dust, and/or odour studies to assess the impact on existing or proposed sensitive land uses within minimum distances identified in MOE's *"Environmental Noise Guideline, Stationary and Transportation Sources – Approval and Planning"*, (Publication NPC-300)", dated August 2013. Noise and/or vibration and/or dust and/or odour attenuation measures will be implemented, as required, to reduce impacts to acceptable levels.

#### **7.7.1 Noise from a Stationary Source**

Based on MOE Guidelines, stationary sources of noise are defined as all sources of sound and vibration, whether fixed or mobile, that exist or operate on a premises, property or facility, the combined sound and vibration levels of which are emitted beyond the property boundary of the premises, property or facility, unless the source(s) is (are) due to construction. Typical individual sources of noise include generators, commercial fans, or commercial air conditioners. Industrial facilities and other facilities that include more than one source of noise are considered as a single source, for the purposes of a noise control study. Other facilities that are considered as stationary sources of noise include snow disposal sites, carwashes, motor and vehicle maintenance and repair facilities, and transportation terminals. Sources of noise excluded from stationary sources, in accordance with MOE Guidelines, include construction activities, gas stations, music and people noise, and retail facilities, such as convenience stores, where goods are delivered infrequently.

The assessment and mitigation of noise impacts from stationary sources is complex because stationary source noise involves a broad range of land uses and activities. For this reason, noise levels will be per the MOE's *"Environmental Noise Guideline, Stationary and Transportation Sources – Approval and Planning"*, (Publication NPC-300)", dated August 2013.

Council may require a noise control study for development applications that propose new noise-sensitive uses in proximity to existing sources of stationary noise, as described in the MOE Guidelines. If existing noise levels exceed the sound level criteria for stationary source noise, then mitigation measures will be required.

Council may require a noise control study for development applications that entail construction of new sources of stationary noise or changes in land use that may introduce new sources of stationary noise that are in proximity to existing noise-sensitive land uses, as described in the MOE Guidelines. If projected noise levels exceed the sound level criteria for stationary source noise, then mitigation measures will be required.

Council will apply the criteria in the MOE Guidelines where the expansion or alteration of an existing stationary source of noise is proposed, or where a change of use of a stationary source is being proposed, which could result in an increase in noise from the new use. Such proposals

## **PART 4: PROTECTING PUBLIC HEALTH AND SAFETY**

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typically are made in the context of a building permit and require a Certificate of Approval from the MOE.

### **7.7.2 Noise from Transportation Sources**

The noise level criteria for roads are based on the criteria in the MOE Guidelines. The maximum noise level criteria for noise from transportation sources (i.e., truck routes) are as follows:

- Leq 16 hour – 55 dBA (day)
- Leq 8 hour – 50 dBA (night)

Council may require a noise control study where new noise-sensitive development is proposed within 100 metres of a major roadway or identified truck route.

### **7.7.3 Noise Barriers**

Noise is more effectively regulated by land use planning than by noise barriers. The extensive use of noise barriers within or adjacent to a community can result in undesirable streetscapes and views. To improve the quality of the streetscape, communities will be designed to the extent possible to provide noise attenuation through planning and design. Approaches include locating noise-sensitive uses away from areas likely to receive unacceptable noise levels, locating commercial and employment uses along busier roads, or using service roads (also referred to as “single-loaded” roads). Other measures include site planning techniques, architectural design, and selection of appropriate building components. Where the use of noise barriers is unavoidable, the visual impact of the barrier will be mitigated through the use of berms and landscaping.

To improve the quality of the streetscape, communities will be designed to the extent possible to provide noise attenuation through land use planning and design. Noise barriers may only be used where other noise attenuation methods are not feasible. The need for a barrier will have to be justified and approved by Council.

### **7.7.4 Warning Clauses**

In some cases, control measures may be required to achieve the sound level criteria established in the MOE Guidelines. In such cases Council may require that appropriate warning clause(s) be included on title to advise purchasers or occupants of expected noise levels and other recommended noise control measures.

### **7.7.5 Incompatible Land Uses**

Every effort will be made to prevent or minimize future land use conflicts that can arise when incompatible land uses develop in close proximity to one another. MOE Guidelines on Land Use Compatibility (Guidelines D-1, D-2, D-4, and D-6 and any other relevant or future MOE Guideline documents) will be applied when preparing and adopting local Zoning By-laws, when considering amendments to this Official Plan and when reviewing land division applications.

## **PART 4: PROTECTING PUBLIC HEALTH AND SAFETY**

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### **7.7.5.1 Policies**

1. Incompatible land uses will be appropriately buffered from each other in order to prevent adverse effects from noise, vibration, and odours. Potential sources may include major roads, railways, and industrial operations.
2. To assist in identifying the necessary mitigation measures, a development proponent may be required to conduct a study in accordance with guidelines established for this purpose.

### **7.8 Land Use Compatibility**

1. In reviewing any development application, the Town shall be satisfied that the proposed use will be, or can be made to be compatible with surrounding uses in accordance with the MOE's Guidelines on Land Use Compatibility (e.g. D-1, D-2, D-4 and D-6 series). Compatibility may be achieved in a variety of ways. It may be a separation distance that is appropriate to the particular uses. It may be buffering features, such as a berm, wall, fence or landscaping, or a combination of these features. It may also consist of an intervening land use that would be compatible with both of the conflicting uses. Where buffering provisions are the means to be used to ensure compatibility, such provisions will be determined through the implementing Zoning By-law and site plan approval process. Buffering may also be achieved by the natural physical features of the land.
2. The concept of an influence area is recognized as a means to provide mutual protection from encroachment by incompatible uses for either sensitive land uses or existing or proposed operations (e.g. agricultural, industrial, aggregate related, etc.). Recommended separation distances found throughout this Plan serve to address public health and safety concerns, environmental impacts, land use impacts, and any other adverse effects.

### **7.9 Minimum Distance Separation Formulae**

1. All farm and non farm development will comply with the Minimum Distance Separation formulae established by the Province in order to minimize odour conflicts between livestock facilities and development, as amended from time to time.
2. The Town will require compliance with the MDS1 requirements for any proposal to expand the Townsite (settlement area) land use designations.
3. The Town will treat cemeteries in compliance with the Minimum Distance Separation Implementation Guidelines.
4. Notwithstanding, the Town does not require compliance with the MDS1 requirements in the following situations:
  - a. proposed non-agricultural uses within the Townsite (settlement area) land use designation;
  - b. where there are four, or more, existing non-farm uses closer to the subject livestock facility and in immediate proximity to the development application.



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5. Within the Townsite (settlement area) land use designation, construction of a livestock facility that is replacing a former livestock facility destroyed by a catastrophe is permitted provided that the new livestock facility does not result in increases for values of Factor A, B or D, compared to what existed at the livestock facility prior to the catastrophe.

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## **PART 5: INFRASTRUCTURE**

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Infrastructure refers to the construction and maintenance of roads, bridges, and structures required for transportation services, the management of stormwater, the collection and disposal of solid waste, the construction and maintenance of energy production and distribution facilities such as hydroelectric structures, wind and solar energy facilities and gas pipelines, and finally, the development of communication facilities such as transmission towers and underground telephone and fibre optic lines. Infrastructure policies also take into consideration the ongoing development of multi-purpose recreational trails by the Town and local municipalities.

The objective of these policies is to ensure that effective infrastructure services will be provided by the appropriate level of government or the private sector in a cost efficient manner that recognizes development priorities and that ensures the protection of our environment.

*The Planning Act* requires that infrastructure expansions conform to the Official Plan.

### **8.0 TRANSPORTATION**

The management of the roadway infrastructure in the Town of Kearney is under the jurisdiction of the Town and private landowners. The transportation system is composed of a Secondary Highway, public roads opened and maintained on a year-round basis, and many private roads.

The transportation network is shown on Schedules “A” and “B”.

#### **8.1 Objectives**

It is the objective of the transportation network policies to:

- a. ensure that the existing transportation network is maintained in a state of good repair;
- b. ensure that the transportation network provides safe, convenient, and efficient movement for all people and goods in Kearney;
- c. encourage the expansion of the transportation network as demand justifies and ensure that improvements occur in a safe, efficient, environmentally sound, and aesthetically pleasing manner;
- d. promote all travel modes, including walking and cycling;
- e. consider the needs of the physically challenged in the planning and design of all aspects of the transportation network; and
- f. support programs that aim to reduce the environmental impacts of certain modes of transportation.

## PART 5: INFRASTRUCTURE

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### 8.2 Roads

#### 8.2.1 Secondary Highways

Secondary Highway No. 518 is under the Town's jurisdiction within municipal boundaries.

Highway No. 518 is under Ministry of Transportation (MTO) jurisdiction within the neighbouring municipality of Perry. As such, properties located in the Town of Kearney may fall within setback distances from the Provincial Highway, and will be subject to the MTO's policies and regulations under the *Public Transportation and Highway Improvement Act*. MTO's permit control areas are summarized below:

An MTO Permit is Required If You Want To	Within A Distance of...
Place a building, structure, entrance or any road	45 m of the limit of any highway 180 m of the centre point of any intersection (on King's highways) 395 m of the centre point of any intersection or interchange (on controlled-access highways)
Place a sign	400 m of the limit of the highway
Change the use of land in a way that will generate large amounts of traffic. All roads are considered to be large traffic generators.	800 m of limit of the highway

Direct access will be discouraged and often prohibited. Furthermore, the location of buildings, signs, and encroachments within the MTO's permit control area of a Provincial Highway shall be subject to the approval of MTO.

For major development proposals for large traffic generators within the permit control area of a Provincial Highway, the MTO will require an applicant to prepare a transportation impact assessment in accordance with its "General Guidelines for the Preparation of Traffic Impact Studies." The main purpose of a Traffic Impact Study is to demonstrate how the transportation impacts of a proposed development or redevelopment can be mitigated and addressed in a manner that is consistent with the objectives of the MTO. The Traffic Impact Study also serves as the basis for the identification and evaluation of transportation related improvements or measures to be included as a condition of access approval, including funding, for the development or redevelopment.

#### 8.2.2 Municipal Roads

The Municipal roads are under Municipal jurisdiction and are maintained year-round and seasonally. Direct access to these roads will only be permitted in locations that can accommodate traffic in a safe manner. Where sight deficiencies exist because of curves or grades, no new access will be permitted unless the deficiency is corrected in a manner acceptable to the Town, at the proponent's expense.

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Where the Town determines that a culvert is necessary, it may be installed by the Town at the owner's expense or by the owner under the supervision of the road superintendent to the satisfaction of the Town.

Local roads are usually two lanes in rights-of-way of up to 20 metres wide. In addition to the lanes, sidewalks, grassed boulevards, street signs, and utilities occupy the rights-of-way. For local roads with rights-of-way of less than 20 metres, widenings may be necessary to allow for the provision of municipal services.

Access from driveways on individual properties to local roads is acceptable.

### **8.2.3 Scenic or Heritage Roads**

Various roads within the Town have the potential to be considered as a scenic or heritage road. These roads have scenic or historic value or provide access to areas of scenic or historic value.

1. The Town, with the assistance of a Heritage Committee, may undertake a program for the identification and classification of scenic or heritage roads. Specific design standards may be established for scenic and heritage roads that reflect and enhance their values.
2. In reviewing development proposals adjacent to scenic or heritage roads, consideration will be given to whether the proposal is compatible with the values and function of the road. Where the effects of non-compatible development on scenic or heritage roads cannot be mitigated, the development may be refused.
3. The Town may require a Heritage Impact Study to be submitted for any development that is proposed adjacent to a scenic or heritage road.

### **8.2.4 Private Roads**

A private road is defined as a road under private ownership that serves two or more legally conveyable lots and may include a right-of-way registered on title. A driveway provides access to only one property or legally conveyable lot, despite the length of the access. Council may consider the assumption of a private road if the road is built to a standard acceptable to the municipality.

1. There is no legal obligation on the part of the Town to maintain or repair private roads or otherwise provide services to any development located on a private road, nor is there any responsibility acknowledged for the provision of school bussing.
2. Where permitted, new private roads shall be developed under agreement with the Town and will be required to meet a minimum standard of construction and maintenance to ensure that access can be gained for emergency vehicles in accordance with the Ontario Building Code.
3. The Town may, at its sole discretion, register notice on title or require that an owner enter into an agreement acknowledging that the Town will not be responsible for the repair or maintenance of private roads or the provision of services to any development located on a private road, and further, that the Town may not be able to provide

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emergency services to development located on a private road if users fail to maintain it to the Town's standards.

4. Where permitted, the design and construction of a private road will be undertaken by a professional engineer or other persons competent in road construction, as approved by the Town.
5. In circumstances where a private road is not being maintained to an acceptable standard, the Town may make improvements to bring the road to an appropriate standard and assess any costs relating to the work to the relevant parties. This action shall not be interpreted as the Town assuming responsibility for the private road.
6. Private roads may be permitted to cross unopened road allowances with the permission of the Town.
7. The Town may develop guidelines for the construction of new private roads.

### **8.2.5 Unopened Road Allowances**

An unopened road allowance shall mean a road, street, lane or highway which has not been established as a public use by the Corporation.

Members of the public do not require consent of the Town to travel over an unopened road allowance. It does, however, require consent of the Town if they are making improvements such as building a road to exercise their rights of access. On receipt of an application to improve an unopened road allowance the Town should address the following concerns:

1. It should be the responsibility of the applicant to determine the location of the road allowance on the ground, by Legal Plan of Survey.
2. The Town does not want to get itself into a position where it is deemed to have assumed a proposed road for public use and thereby incur the obligation of repair.
3. The Town wants to make it clear to the public that the road is not an opened public highway maintained by the Town.
4. The Town should know and control the extent of the work or improvement.
5. The applicant should agree to indemnify the Town in respect to any claims.
6. Where permitted, access over an unopened road allowance shall be developed under agreement with the Town and will be required to meet a minimum standard of construction and maintenance to ensure that access can be gained for emergency vehicles in accordance with the Ontario Building Code.
7. Registration of the agreement against the title to the lands to be served by the road would serve as notice to anyone purchasing or mortgaging the land that the access road is not a Town maintained road.

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### **8.3 Rights-of-Way Widening**

The Town may require land to be conveyed to the appropriate road authority at no cost for the purpose of widening the existing road right-of-way as a condition of severance, subdivision or site plan control approval. The required lands for road widening will be in accordance with the functional classification of the road outlined above.

Land for widening of the road right-of-way shall generally be sought equally from both sides of the right-of-way. In certain situations, exemptions or modifications to the requirements may be necessary to reflect site constraints such as: significant natural heritage values, existing physical development or encroachments, placement of buildings, heritage structures, scale of proposed development, and pedestrian safety.

### **8.4 Recreational Trails and Pathways**

Recreational Trails and Pathways provide opportunities to enjoy the natural landscape.

#### **8.4.1 Policies**

1. The Town will encourage the maintenance and expansion of recreational trails and pathways.
2. All development applications, including, but not limited to, plans of subdivision, severances, plans of condominium, and site plans will be reviewed to ensure that consideration is given to adequate pedestrian access and consideration for recreational trails and pathway facilities.

### **8.5 Accessibility**

Accessibility is a key consideration in the planning and development of our Communities, encompassing our streets, parks, libraries, social housing, and other functions of daily living. It is policy of this Plan to support the continued development of integrated, accessible services, programs, and facilities that fully respect the dignity and rights of persons with disabilities.

### **8.6 Private Water and Wastewater Systems**

Currently, all development within the Town of Kearney will occur primarily on the basis of private individual systems. Private individual services will mean a privately-owned and maintained water supply and a privately-owned and privately-maintained wastewater disposal system that services the development on the lot upon which they are located and which will remain under one ownership.

#### **8.6.1 Policies**

1. Anywhere development is proposed on the basis of private individual services and requires an application for Official Plan or Zoning By-law amendment or involves a plan of subdivision, plan of condominium, severance or site plan approval, the applicant is required to submit sufficient information with the application in order for the reviewing and/or approving authority to assess the likelihood that:

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- a. Where water is to be provided by a well, evidence that sufficient quantity of groundwater exists on site to service the development;
  - b. Where water is to be provided by a well, evidence that a well can be constructed on the proposed lot(s) that will not be impacted by identified potential sources of groundwater contamination in the area;
  - c. The quality of the groundwater or other source of water meets or exceeds the Ontario Drinking Water Standards, Objectives and Guidelines;
  - d. The operation of the on-site wastewater system on the new lot(s) will not have any environmental impacts or adversely impact on a well to be constructed on the proposed lot(s) and on the wells of neighbouring properties.
2. The reviewing and/or approving authority shall require that a hydrogeological analysis to confirm sustainability of the water supply with terrain analysis, and an impact assessment examining the impacts on groundwater or surface water resources be prepared by a qualified professional, at the proponent's expense, on any lot under 1.0 hectare in area. The approval authority may require a hydrogeological analysis for lots over 1.0 hectare where there are concerns regarding water quality and quantity.

### **8.6.2 Communal Systems**

Communal systems are another form of water and/or wastewater management. Communal systems are “shared” water and/or septic systems where water from each house is piped from and to a larger central unit.

#### **8.6.2.1 Policies**

1. Connection to communal water and wastewater systems is prohibited without permission of the Town.
2. Any new development on a new or existing communal system may require an Official Plan amendment.
3. The Town does not intend to assume control of existing or proposed communal systems.
4. The creation or expansion of communal systems may be permitted only where financial tools are in place to ensure any possible future problems with the system would be addressed to the satisfaction of the Town

### **8.6.3 Large Subsurface Sewage Disposal Works**

Large subsurface sewage disposal works require Environmental Compliance Approvals under the Environmental Protection Act and include:

- Sewage works that discharge sewage effluent into the ground surface with design flows in excess of 10,000 litres per day;
- More than one sewage works located on a lot or parcel of land having in total design flows in excess of 10,000 litres per day;

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- Sewage works not located wholly within the boundaries of the lot or parcel of land as the building or buildings they are intended to serve.

The Ontario Building Code should be used to estimate design flows in identifying the applicable regulating authority.

### **8.6.4 Substandard System Improvements**

The Council will actively encourage the participation of residents in any programs designed to upgrade or replace existing substandard, individual water supply and/or sewage disposal systems. The Council will promote a proactive review of all private systems through the North Bay – Mattawa Conservation Authority.

### **8.6.5 Septage Treatment Capacity**

Planning for sewage services must protect human health and the environment while integrating servicing and land use considerations in a coordinated, efficient, and cost-effective manner.

A new lot can be created *only if there is confirmation of sufficient reserve sewage system capacity* to treat septage, regardless of whether the lot is created by a Plan of Subdivision or an Application for Consent.

Sufficient reserve sewage system capacity to treat septage includes the treatment of hauled sewage at a facility or site that has received statutory approval from the applicable approval authority to receive hauled sewage, and where site conditions are suitable for the long term.

#### **8.6.5.1 Policies**

1. Prior to approving a lot by plan of subdivision or consent on the basis of private sewage systems, the Town will request a letter from the sewage hauling company stating that there is sufficient reserve sewage system capacity at a site approved under the EPA or the OWRA. Where they have an agreement in place.
2. The Town will consider the preparation of a municipal septage plan to assist in determining total septage generated currently, future treatment capacity needs, and how those needs will be met based on septage treatment facilities available and septage management solutions.

## **8.7 Utilities, Energy and Communication**

There are a number of public and private sector entities that are responsible for the delivery, regulation, and maintenance of energy and communication services, including hydroelectric power supply, oil and gas lines, and communications systems. All organizations comply with a regulatory framework established by government.

### **8.7.1 Policies**

1. Utility lines and plants will be installed in an efficient and economical manner with minimal disruption to existing development and the natural environment.



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2. Where economically feasible, utility and transmission lines are to be installed underground in the townsite so as to minimize their adverse visual impact on the environment.
3. The Town may participate with the responsible authorities in planning for the future expansion and location of power supply services and communication systems servicing the Town. The proponents of such expansions will satisfy the Town that there will be no major impacts from the development as related to environmental, economic, social, transportation, and other concerns as determined by the Town.

### **8.8 Energy Efficiency Programs**

Reducing energy use, providing consumers with access to green energy sources and transportation, and developing energy efficient subdivision, street, and building designs are encouraged by this Plan. Attracting new businesses in the energy and environmental services sector to locate in Kearney is another strategy towards promoting energy efficiency.

The Town may explore opportunities for energy retrofits in municipally-owned facilities, as well as additional improvements in energy conserving design. Alternative methods of heating, cooling, and constructing buildings may be promoted as the Town works towards reducing greenhouse gas emissions and meeting established environmental targets.

#### **8.8.1 Programs**

1. This Plan supports the continued development of programs to conserve energy and improve energy efficiency across all sectors.
2. Kearney supports the development of alternative energy systems in order to produce clean energy for the Town.
3. This Plan encourages building and landscape design practices that conserve energy and reduce waste, including:
  - a. utilizing techniques and materials that increase energy efficiency;
  - b. siting buildings so as to best exploit the area's passive solar energy potential, and utilizing existing natural shade canopies to reduce summer energy use;
  - c. designing buildings that meet LEED (Leadership in Energy and Environmental Design) or equivalent standards.

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There are many different ways of defining 'Quality of Place'. This Plan defines 'Quality of Place' as the physical characteristics of a community – the way it is planned, designed, developed, and maintained – that affect the quality of life of people living and working in it, and those visiting it, both now and into the future.

### **Quality of place and quality of life**

The places where people live have a profound effect on their quality of life and life chances. Places can play a key role in a range of ways – through, for instance, crime levels, pollution levels, employment opportunities, social ties, opportunities for community engagement, and the range and quality of local services, transport links, and green space. Quality of place with a focus on urban design and heritage preservation can affect people's quality of life and life chances through the way the environment is planned, designed, developed, and maintained.

Council will endeavour to ensure the conservation, preservation, and enhancement of the rural character of the municipality as a cultural resource and ensure viability of the agricultural industry.

## **9.0 CULTURAL HERITAGE AND ARCHAEOLOGICAL RESOURCES**

Cultural heritage resources include, but are not restricted to, built heritage, cultural heritage landscapes, archaeological sites (land and marine), cemeteries and burials, buildings and structural remains of cultural heritage value or interest.

### **9.1 Objectives**

The Town recognizes the importance of cultural heritage resources within the Town. Therefore, the Town will encourage the identification, conservation, protection, restoration, maintenance, and enhancement of cultural heritage resources.

### **9.2 Policies**

1. All new development permitted by the policies of this Plan shall conserve cultural heritage resources and will make every attempt to incorporate these resources into any new development plans. In addition, all new development will be planned in a manner that preserves and enhances the context in which cultural heritage resources are situated.
2. In accordance with Section 27 of the *Ontario Heritage Act*, the municipal clerk shall maintain a register of all property designated under Part IV and Part V of the *Ontario Heritage Act*. This register may also contain properties that have heritage conservation easements placed upon them and properties that are not designated, but which are considered by Council to be of cultural heritage value or interest.
3. Council may explore the creation of a Municipal Heritage Committee (MHC) pursuant to Section 28 of the *Ontario Heritage Act* to advise and assist the Town on matters related to Parts IV, V, and VI of the Act. In addition, the Town may wish to expand the role of the

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heritage advisory committee to advise and assist the Town on other matters of cultural heritage conservation.

4. Pursuant to the *Ontario Heritage Act*, and in consultation with the MHC, the Town may, by by-law:
  - a. designate properties to be of cultural heritage value or interest;
  - b. define the Town, or any area or areas within the Town as an area to be examined for designation as a heritage conservation district; and
  - c. designate the Town, or any area or areas within the Town, as a heritage conservation district.
5. In all designations, the Town will ensure that appropriate care is taken to preserve mature trees and other vegetation of cultural heritage value or interest. Existing landmark trees and tree and hedge lines should be an essential consideration in the design of any development. The preservation of trees along streets and roads will be encouraged by the Town, except where removal is necessary because of disease damage, or to ensure public health and safety.
6. The Town recognizes that there may be archaeological remains of prehistoric and historic habitation, or areas containing archaeological potential within the boundaries of the Town (land and marine). The Town may require archaeological assessments conducted by archaeologists licensed under the *Ontario Heritage Act*, as a condition of any development proposal affecting areas containing a known archaeological site or considered to have archaeological potential. Archaeological assessment reports conducted by licensed archaeologists are to be in compliance with guidelines set out by the Ministry of Tourism, Culture and Sport (MTC), as well as licensing requirements developed under the *Ontario Heritage Act*.

Areas of archaeological potential include when the lands in question contain or are located within at least one of the following:

- 300 metres of a known archaeological site;
  - 300 metres of a primary water source, such as a lakeshore, river or large creek;
  - 300 metres of an ancient water source identified by a beach ridge, riverbed;
  - 300 metres of a secondary water source, such as a wetland, marsh, small creek, spring;
  - 10 metres of a cemetery dating prior to 1945 (WWII);
  - elevated topography (knolls, drumlins, eskers, plateaus, etc.);
  - pockets of sandy soil in a clay or rocky area;
  - unusual land formations (mounds, caverns, waterfalls etc.);
  - an extractive area (for food or scarce resources);
  - non-aboriginal settlement features (monuments, cemeteries);
  - historic transportation features (road, rail, portage);
  - designated property (refer to Municipal Heritage Committee); or
  - local knowledge associated to property with historic events, activities, or occupations.
7. Council shall ensure adequate archaeological assessment and consult with appropriate government agencies, including the Ministry of Tourism, Culture and Sport and the

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Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services, when an identified and marked or unmarked cemetery is affected by land use development. The provisions under the *Ontario Heritage Act* and the *Cemeteries Act* shall apply.

8. Aboriginal consultation will be undertaken for all development proposals where a Stage 2 Archaeological Assessment has shown the potential for aboriginal artefacts to be encountered.
9. Council may conserve the integrity of archaeological resources by adopting Zoning By-laws under Section 34(1) 3.3. of the *Planning Act* R.S.O. 1996, to prohibit any land use activities, and the erection of buildings and structures on sites with significant archaeological resource(s).

### **9.3 Alteration, Removal, or Demolition**

Where heritage resource buildings are designated under the *Ontario Heritage Act*, no alteration, removal or demolition shall be undertaken that would adversely affect the reason(s) for designation except in accordance with the *Ontario Heritage Act*.

1. To ensure a greater degree of protection to designated heritage resources properties, Council may enter into agreements with property owners, or may attempt to secure conservation easements, in order to protect those features of a building or structure deemed to have particular heritage value.
2. The architectural, and/or historical, and/or contextual significance of a building will be considered at the time of application for demolition.
3. Council will conserve significant cultural heritage resources when undertaking public works.
4. Council will require a heritage impact assessment conducted by a qualified professional whenever a development has the potential to affect a protected heritage property or cultural heritage resource.
5. Council views archaeological preservation in situ as the preferred method of ensuring that the integrity of the resource is maintained. However, Council also recognizes there may be a need for rescue excavation of significant archaeological resources as a result of development proposals and will consider this only when it is demonstrated that in situ preservation is not possible.

### **9.4 Alteration or Demolition on Adjacent Lands**

Where a real property is protected under Parts IV, V, or VI of the *Ontario Heritage Act*, development, site alteration, or demolition of structures may be permitted on adjacent lands where it has been evaluated through a Heritage Impact Statement, and demonstrated to the satisfaction of Council that the heritage values, attributes, and integrity of the protected heritage property are retained. For the purposes of this Section, adjacent lands shall include lands that are contiguous, and lands that are directly opposite a protected heritage property, separated only by a laneway or municipal road. A holding provision may be applied on the zoning of lands

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adjacent to protected heritage properties to ensure that, prior to development or site alteration, a Heritage Impact Statement is required to demonstrate how the heritage values, attributes, and integrity of the protected heritage property are to be conserved and how any impacts may be mitigated.

### **10.0 COMMUNITY IMPROVEMENT**

The Community Improvement provisions of the *Planning Act* provide the opportunity to plan for, and co-ordinate, comprehensive physical improvements to older areas of the Town.

"Community Improvement Policies" are intended to give municipalities a planning mechanism and access to a variety of provincial cost-sharing programs, to address deficiencies within designated areas in a co-ordinated and comprehensive fashion, and to encourage private investment activity in these areas.

Under the *Planning Act*, municipalities may designate "Community Improvement Project Areas" within which the Town may acquire lands, prepare improvement plans, and undertake various community improvement projects and works to implement these plans. The policies of this Section of the Plan provide a framework for the selection and designation of "Community Improvement Project Areas" and for the preparation and implementation of community improvement plans.

It is the Town's intention to encourage improvements to the quality of existing development, community facilities, and public services, particularly within the urban area to provide those additional community facilities as circumstances and finances permit.

#### **10.1 Community Improvement Objectives**

It is intended that the application of the Community Improvement Policies will be directed towards the following objectives:

- a. Provide for the designation of "Community Improvement Project Areas" in areas of the Town that exhibit problems of instability, building deterioration, inadequate municipal services and facilities, or inappropriate arrangement of land uses.
- b. Promote the long term stability and viability of designated "Community Improvement Project Areas."
- c. Encourage the co-ordination of municipal expenditures and planning and development activity within designated "Community Improvement Project Areas."
- d. Encourage residential intensification opportunities, such as mixed use and infill developments, accessory apartments, and residential conversion of upper floors of commercial buildings.
- e. Stimulate private property maintenance and reinvestment activity.
- f. Facilitate the cleanup and redevelopment of brownfield properties.

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- g. Enhance the visual quality of designated "Community Improvement Project Areas" through the recognition and protection of heritage buildings.
- h. Reduce the detrimental effects of incompatible land uses in designated "Community Improvement Project Areas."
- i. Upgrade physical services and social and recreational facilities in designated "Community Improvement Project Areas."
- j. Promote the improvement of energy efficiency standards for residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses within the designated "Community Improvement Project Areas."
- k. Support the creation of Affordable Housing by considering any municipally-owned, undeclared surplus land for Affordable Housing before any other use is considered.
- l. Support the implementation of measures that will assist in achieving sustainable development and sustainable living.
- m. Support the retention, protection and conservation of heritage properties or areas.
- n. Foster the improvement of businesses and public spaces to remove barriers that may restrict their accessibility.

### **11.0 IMPLEMENTATION**

In Ontario, the administrative framework for planning decisions is largely prescribed by the *Planning Act*. Consideration of other federal and provincial statutes may also be required depending on the nature of the application. Various planning tools for implementing the policies and programs of this Plan are set out in the following chapter on Implementation.

The goals, objectives, and policies of this Plan provide guidance in making decisions affecting land use, and economic and social development, and are consistent with directives established under the *Provincial Policy Statement*. The following section contains policies pertaining to the administration and implementation of the Plan using the appropriate legal and financial tools.

The policies of this Plan are consistent with the *Provincial Policy Statement* in every respect.

In addition to the policies of this Plan, there are other plans, policies, programs, regulations, and guidelines established by various Provincial Ministries that must be considered when applications for new development are proposed. All applications will be reviewed against the policies of this Plan.

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### **11.1 Objectives**

It is the objective of Council to:

- a. develop an administrative framework which coordinates the various components of the Official Plan and facilitate the implementation of its objectives, policies, and programs; and
- b. co-ordinate the activities of all public and private agencies, including private developers, and federal and provincial ministries in order to ensure the implementation of this Plan.

### **11.2 Policies**

1. Council will implement the objectives, policies, and programs contained in this Plan by using:
  - a. public means of implementation such as land acquisition, public works, finance, and other government programs;
  - b. regulation of private development, such as subdivision control, zoning, building regulations, and other by-laws;
  - c. incentives encouraging proper development, such as Tax Increment Financing, Community Improvement Plans, and
  - d. the preparation of more detailed plans.
2. Council will use all legislative powers vested in the Town through provincial statutes having effect in the Town in implementing the Plan.

### **11.3 Subdivision of Land**

The subdivision of land is achieved either by Plan of Subdivision, application for a consent to convey land for the purpose of development, or through approval for a Condominium Development proposal pursuant to the *Condominium Act*. In the Town of Kearney, the approval authority for Subdivision, Condominium, and Consent is the South East Parry Sound District Planning Board. Policies pertaining to a Plan of Subdivision will also be considered in the review of a Plan of Condominium.

#### **11.3.1 Policies**

1. Require that all proposals that have the effect of creating more than three new lots to be processed as applications for a Plan of Subdivision unless, in Council's opinion, a Plan of Subdivision is not necessary for the proper development of the area.

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### **11.3.1.1 Draft Plan Approval**

All conditions of draft plan approval for subdivision must be met within the established timeframe (minimum three (3) years) after which the draft approval lapses and one (year) for consents.

The Planning Board will not extend or recommend the extension of a draft plan approval, beyond the statutory limitation of three years, unless the proponent has demonstrated to the satisfaction of the Planning Board that they are making a reasonable effort to proceed in meeting the conditions of draft approval. At the time of extension, the Planning Board will review draft plan conditions and may make appropriate modifications.

### **11.3.1.2 Consideration For Subdivision Approval**

When approving Plans of Subdivision, the Planning Board will:

- a. Ensure that the proposed Plan of Subdivision conforms with this Plan;
- b. Have regard to matters of provincial interest; and
- c. Ensure proposals are consistent with the Provincial Policy Statement and conform with or not conflict with the Growth Plan for Northern Ontario.

### **11.3.1.3 Deeming Subdivisions Not To Be Registered**

The municipality may deem registered Plans of Subdivision or significant portions thereof not to be registered in situations where the conditions of the subdivision agreement have not been met within eight years of registration.

### **11.3.1.4 Subdivision Standards**

Council may adopt standards for the development, design, servicing, roads, financing, and other conditions under the subdivision agreement.

## **11.4 Zoning**

Zoning is the regulation of land use and structures intended to promote the public health, safety, comfort, convenience, and general welfare of the residents.

### **11.4.1 Rezoning Applications**

It will be the policy of Council to ensure that the Zoning By-law and amendments thereto conform to this Plan. To this end, it is the intent of Council to evaluate each rezoning application according to all applicable policies – simple conformity with land use designation does not automatically guarantee a rezoning to the proposed use.



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### **11.4.2 Status Zoning**

Land or lots which are unable to meet the minimum standards set out in this Plan which existed legally at the date of adoption of this document may be deemed to conform, unless otherwise restricted by the policies of the Plan. Such uses may be zoned in a special category or within the general zoning category conforming with the Plan, and in accordance with their present use and performance standards, provided that:

- a. The zoning will not permit any significant change of use or zone provisions that will aggravate any situation detrimental to adjacent complying uses;
- b. The uses to be recognized are zoned in such a way that any significant enlargement or expansion of the use must be by amendment to the Zoning By-law;
- c. They do not constitute a danger to surrounding uses and persons because of their hazardous nature or the traffic they generate;
- d. They do not pollute air and/or water to the extent of interfering with the ordinary quality of property;
- e. They do not interfere with the desirable growth or enjoyment of the adjacent area; and
- f. They do not result in negative impacts to the natural heritage features.

### **11.4.3 Temporary Use By-laws**

Notwithstanding any other policy of the Plan, Council may pass by-laws under the *Planning Act* to permit temporary use of land, buildings, or structures, in defined areas and for prescribed periods of time, for any purpose set out therein that is otherwise prohibited by the Zoning By-law. Conformity with the land use policies of this Plan is not required for the passing of such a by-law. Notwithstanding, temporary uses would not be permitted in areas subject to flood plain, wetlands or other areas containing significant natural features.

### **11.4.4 Holding Symbol**

The Town may pass Zoning By-laws containing 'holding' provisions to specify the use to which lands, buildings, or structures may be put at some time in the future, providing:

- a. the holding symbol (H) is used only in the following instances:
  - i. when certain details of development have not yet been determined, or where certain conditions of development have not yet been met, such as, but not limited to, development or servicing agreements with the Town;
  - ii. when the level of community services and/or infrastructure is not yet adequate to support the proposed use;
  - iii. where environmental conditions or constraints temporarily preclude development or redevelopment; and

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- iv. where required studies have not yet been approved by the Town.
- b. the Zoning By-law containing the holding provisions specifies the interim land uses to be permitted, the conditions for removal of the holding provision, and any regulations or restrictions applying to the lands during the time the holding provision is in place; and,
- c. a by-law to remove the holding symbol may be adopted when all the conditions set out in the holding provision have been satisfied.

### **11.4.5 Non-Conforming**

A “non-conforming use” within the context of a Zoning By-law is an existing use which was legally established but is not permitted in the zone within which it is located. Under the provisions of the *Planning Act*, the Town may approve extensions and enlargements to such non-conforming uses.

As such, the following shall be the policies of the Town with respect to non-conforming uses:

- a. Where there is a reasonable degree of harmony with neighbouring conforming uses in the opinion of the Town, unless a policy of the relevant land use designation is to the contrary, a non-conforming use may be expanded by a Zoning By-law amendment or minor variance, without an amendment to this Plan, subject to the following:
  - i. The Town shall first determine that unnecessary hardship would result if the application was not approved;
  - ii. In the case of a minor variance, the applicant shall demonstrate that the variance is desirable for the appropriate development or use of the land, building or structure, the change is minor, and provided that in the opinion of the approval authority, the general intent and purpose of the By-law and this Official Plan are being maintained.
- b. Prior to making any decision on the application, the Town shall investigate such application on the various aspects of the matter. The Town, before passing such a By-law, shall be satisfied that each of the following requirements which are relevant to the specific application for the extension or enlargement of the use are, or shall be, fulfilled in order to safeguard the wider interests of the general public:
  - i. That the proposed extension or enlargement of the established use shall not unduly aggravate the situation created by the existence of the use, especially in regard to the policies of the Official Plan and the requirements of the implementing Zoning By-law applying to the area.
  - ii. That the proposed extension or enlargement shall be minor in nature;
  - iii. That an application which would affect the boundary areas of different land use designations of this Plan shall only be processed under these policies, if it can be considered as a ‘minor adjustment’ without the need for an amendment to this Plan;

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- iv. The characteristics of the existing use and the proposed extension or enlargement shall be examined with regard to noise, vibration, fumes, smoke, dust, odours, lighting, traffic-generating capacity and compatibility with existing abutting or adjoining land uses. No amendment to the implementing By-law shall be made if one or more of such nuisance factors shall be created or increased and add to the incompatibility of the use with the surrounding area. If there is any doubt in this regard, the Town shall consult with the Ontario Ministry of Environment prior to making a decision on the compatibility of any proposed extension or enlargement of an industrial use;
  - v. That the neighbouring uses shall be protected, where necessary, by the provision of areas for landscaping, buffering or screening, appropriate setbacks for buildings and structures, devices and measures to reduce nuisances, and where necessary, by regulations for alleviating adverse effects caused by outside storage, lighting, advertising signs, etc. Such provisions and regulations shall be applied to the proposed extension or enlargement and, wherever feasible, be extended to the established use in order to improve its compatibility with the surrounding area;
  - vi. That traffic and parking conditions in the vicinity shall not be adversely affected by the application, and existing traffic hazards shall not be exacerbated;
  - vii. That adequate provisions have been, or shall be, made for off-street parking and loading facilities; and
  - viii. that adequate services such as water, sewage, roads, etc. are adequate or can be made adequate.
- c. The land area occupied by a non-conforming use shall not be permitted to expand.

### **11.4.6 Legal Non-Complying**

- a. Where an existing legal use of land does not meet one or more of the provisions or regulations of the applicable zone, the use shall be considered to be legal non-complying.
- b. As such, the following shall be the policies of the Town with respect to legal non-complying uses:
  - i. Applications for the expansion, alteration or addition of the legal non-complying use shall be permitted where the expansion, alteration or addition would meet the zone provisions. In other instances, applications for expansion, alteration or addition may be considered by way of Zoning By-law amendment or minor variance, depending on the nature of the proposal and provided that the proposal can demonstrate that the expansion will have a minimal impact on surrounding land uses.

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### **11.4.7 Interim Control By-law**

The Town may pass Interim Control By-laws to control the use of land, buildings or structures within designated areas of the Town and in accordance with the provisions of Section 38 of the *Planning Act* in order to prevent or limit development until detailed planning studies for the subject lands are completed and approved by the Town. Any Interim Control By-law approved by the Town will initially be in effect for a period of up to one year from the date of passing of the By-law but may extend for a maximum of one additional year.

### **11.4.8 Increased Density Provisions**

1. The Town may pass Zoning By-laws in accordance with Section 37 of the *Planning Act* to permit an increase in the density of a development, in exchange for the provision of such facilities, services or matters as are set out in the By-law.
2. The owners of the subject lands will address one or more of the following requirements to the satisfaction of the Town in order to be eligible for increases in the density of development beyond that otherwise permitted:
  - a. the provision of affordable housing, assisted housing, or housing for those with special needs;
  - b. the preservation of any and all resources that are of cultural heritage value or interest;
  - c. the preservation of architectural, historic, archaeological, and scenic features;
  - d. the dedication or provision of open space, recreation facilities, or open space trails over and above the parkland and/or cash-in-lieu of parkland requirements of Section 37 & 51.1 of the *Planning Act*;
  - e. the provision of energy conservation and environmental performance measures.
3. The increased density provisions will be implemented through the implementing Zoning By-law. The Zoning By-law will outline the detailed development standards upon which these provisions will be based and identify the areas or zone classifications where such bonus provisions may apply.
4. In all cases, the facilities, services or matters provided in exchange for increased density of a development project will be directly linked to the nature of the development and will be located on the lands that are being developed.
5. The transfer of increased density provisions from one site to another site or from one project to another project will not be permitted.
6. In all cases, development resulting from the application of increased density provisions will meet all other applicable Zoning By-law provisions and regulations.
7. Before passing Zoning By-laws to allow an increase density of a development project, the Town will review the implementation of increased density provisions of the *Planning Act* having regard to the following specific matters:

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- a. the type or types of development to which increased density provisions may apply;
  - b. area or areas of the Town where these provisions may apply;
  - c. the facilities, services or matters that may be provided in exchange for increased density; and
  - d. the extent of the increases in density that may be granted.
8. In all cases, development resulting from the application of increased density provisions will be compatible with adjacent uses and meet the general intent and purpose of this Plan.
9. The facilities, services, and matters that are to be provided will be commensurate with the increased density that may be granted for each development project.
10. As a condition to the application of increased density provisions to a proposed development, the owner of the subject land will be required to enter into an agreement with the Town to be registered against the title to the land. The agreement will deal with the facilities, services, or matters that are to be provided, the timing of their provision, and the increase in density to be given.
11. The increased density will not add units within 300 m of an at-capacity Lake Trout Lake.

### **11.5 Site Plan Control Areas**

1. Council may choose to designate any part of or the entire Plan area as an area for Site Plan Control pursuant to the *Planning Act*, and may specify exceptions in the Site Plan Control By-law:

Council may impose site plan control on exempted properties during the development application review process where warranted.

Site plan control may be applied to the exterior design of new buildings including, without limitation, the character, scale, appearance, building design features, and their sustainable design, where appropriate. Site plan control may also be applied to the sustainable design elements on any public road immediately adjoining a property being developed including, without limitation, trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, and bicycle parking facilities.

### **11.6 Parks and Recreation**

Council will consider the needs of the residents and continue the consolidation of services and facilities within its major recreational park area.

Council should obtain monies to provide for the upgrading and maintenance of the existing park and recreational facilities and proposed recreational facilities.

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Council should give consideration to financial agreements with other public authorities for development of services or facilities deemed appropriate, particularly where they require large financial commitments and are most effectively maintained through shared arrangements for the benefit of the residents.

### **11.6.1 Parkland Conveyance**

The Approval Authority may require as a condition of approval for the division of land under Section 51 or Section 53 of the *Planning Act* that the owner convey 2% of such lands in the case of land proposed for commercial or industrial purposes, and 5% in all other cases, for park or public recreational purposes to the Town, where appropriate.

Lands having environmental or hazardous problems are not acceptable, however, Council may give consideration to the acceptance of such land that protects and preserves sites, or areas considered sensitive in accordance with policies contained herein. Adequate space for access to the lands will be provided for maintenance and operation purposes. Council may also recommend landowners convey land to trusts or other conservation organizations that serve to protect and preserve lands considered sensitive.

### **11.6.2 Cash-In-Lieu of Parkland**

In most cases, the Approval Authority will require the payment of money to the value of the land otherwise required to be conveyed in lieu of such conveyance. The amount of payment for the value of the land shall be determined in accordance with the provisions of Sections 51 and 53 of the *Planning Act*. All such monies collected by the Town shall be used in accordance with Section 42 of the *Act*.

## **11.7 Home Occupations**

Home Occupations are an important means of realizing small business start-ups and stay-at-home self-employment. Home Occupations are permitted subject to the requirements of the Zoning By-law. The Zoning By-law may provide home occupation regulations that:

- a. include a detailed list of permitted home occupations;
- b. generally limit the number of employees, other than residents of the house to two individuals;
- c. provide a maximum percentage of the floor area of the residence that may be used for the home-based business, or the maximum floor area of an accessory structure;
- d. ensure the external appearance of the residence is maintained and regulate outdoor storage and signs;
- e. provide appropriate parking standards for such uses; and
- f. limit traffic impact, ensure safe access, and prohibit uses that are deemed to be significant traffic generators.

Home Occupations may be subject to Site Plan Control.

### 11.8 Maintenance and Occupancy

It is the intent of the Town to encourage the maintenance of the Town as a pleasant environment for living, working, shopping, and recreation. Continued maintenance of property is essential to the welfare of the Town.

The Town will encourage private efforts of property maintenance and to eliminate any existing hazards to building occupants through the introduction of By-laws specifying standards for all properties within the Town for property maintenance and occupancy under the *Building Code Act*.

1. The Town will encourage property maintenance and safe occupancy by:
  - a. utilizing available government programs, where applicable, to provide financial and administrative support to individuals seeking to improve their properties;
  - b. undertaking education and public relations programs as needed to demonstrate the benefits of property maintenance; and
  - c. maintaining municipally-owned buildings, properties, and community facilities, and providing or maintaining municipal services in good repair.
2. The Town may adopt a Maintenance and Occupancy By-law and appoint a Property Standards Officer who will be responsible for administering and enforcing the By-law.
3. The Town may appoint a Property Standards Committee in accordance with the *Building Code Act* for the purpose of hearing appeals against an order of the Property Standards Officer.
4. The Maintenance and Occupancy By-law may prescribe standards for the following matters and any others that may be considered necessary:
  - a. the keeping of yards, vacant lands, parks, waterfront areas, laneways, and passageways, free from debris, rubbish, abandoned or derelict vehicles, trailers, boats, barges, mechanical equipment, or similar material;
  - b. the adequacy of sanitation control, including garbage disposal, sewage, and drainage;
  - c. the maintenance of parking and storage areas;
  - d. the maintenance of all buildings and structures, including structural standards of walls, floors, ceilings, foundations, insulation, electrical systems, plumbing, heating, adequacy of protection from weather, natural lighting and ventilation, condition of chimneys, fire protection standards, and general cleanliness and upkeep;
  - e. the maintenance of fences, swimming pools, accessory buildings, and signs;

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- f. the establishment of occupancy standards, including pest prevention, adequacy of food preparation facilities, access, ventilation, maximum number of persons per dwelling unit, minimum floor spaces, and room heights; and
- g. to prescribe minimum standards for the maintenance of heritage attributes for properties designated under the *Ontario Heritage Act*.

### **11.9 Other By-laws**

By-laws passed by the Town under the authority of the *Municipal Act* or any other Act may implement the policies of this Plan. For instance, By-laws dealing with the regulation of derelict motor vehicles, wrecking yards, pits and quarries, trailers, or signs may be passed by the Town where considered appropriate. Any such By-law shall conform to this Official Plan.

### **11.10 Interpretation**

In interpreting the Plan, the following policies apply:

1. Consider boundary designations on the maps as general guidelines only, except where bounded by such features as existing roads, railways, rivers, waterbodies, and other defined features. Where the boundary is meant to reflect the boundary of a hazardous, environmentally sensitive or natural heritage feature, the edge of the flood plain, hazardous, environmentally sensitive or natural heritage feature is the boundary.
2. Permit minor adjustments to the Plan, without a formal amendment, in its implementation through the passing of by-laws or carrying out of programs, provided the general purpose and intent of the Plan is maintained.
3. In some instances, overlapping resource areas has resulted in properties that are designated for more than one resource use, such as mining, aggregate extraction, and agriculture. In these cases, existing uses should not preclude sequential land uses that are compatible with the area. Subsequent uses should also be considered prior to rehabilitation and integrated into site rehabilitation plans.
4. It is intended that all figures and quantities contained in the Plan be considered in the metric form. Amendments will not be required for any reasonable variation from these figures and quantities, provided such variations meet the intent of this Plan.
5. It is intended that buildings, structures, and uses that are normally incidental, accessory, and essential to a permitted use will also be allowed, even though not specifically stated in the land use policies. Further examples of permitted uses for the designations are intended to indicate the possible range of uses considered appropriate and not to be interpreted as all encompassing unless otherwise stated as such. All permitted uses shall be in conformity with the intent and policies of this Plan.
6. Any significant change from the policies contained herein will require an amendment to the Official Plan and implementing Zoning By-law. If a change is major, particularly if it will cause changes in the way in which an area is developing, then the Official Plan should be reviewed in whole.



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7. Where any Act or portion of an Act, policies and guidelines is referred to in this Plan, such references will be interpreted to include any subsequent legislation that may replace the specified Act or revisions to policies and guidelines.
8. For the purposes of this Plan, it will be interpreted that the word "existing" when used in this Plan will mean existing as of the date of the adoption of this Plan by the Town.
9. For the purposes of this Plan, it will be interpreted that the word "Town" shall mean the Corporation of the Town of Kearney.
10. For the purposes of this Plan, the word "development" is intended to reflect the same definition as the PPS in effect at the time of the application, but does not include activities that create or maintain infrastructure authorized under an environmental assessment process or works subject to the Drainage Act.

### **11.11 Monitoring and Review**

In order to ensure the continued relevancy of this Plan, a comprehensive review of the Plan will take place in five years. The five-year review will take into account the following factors, among other matters:

- a. population growth and development activity;
- b. progress made towards achieving intensification targets;
- c. the impact of changes in the economic, social, and physical circumstances of the Town as they affect this Plan;
- d. changes in Federal and Provincial policies and programs as they affect this Plan;
- e. the extent to which the Plan's goals and objectives have been achieved; and
- f. the impact of the Plan on the development of the Town.

#### **11.11.1 Technical Amendments**

In the case of technical amendments to the Official Plan or Zoning By-law, notification to and consultation with the public will not be required. This approach will be restricted to the following:

- Altering punctuation or language for consistency;
- Correcting grammatical, dimensional, boundary, mathematical, or typographical errors;
- Inserting historical footnotes or similar annotations;
- Changing the number and arrangements of the text, tables, schedules, and maps;
- Deleting redundant provisions; and
- Correcting anomalies.

### 11.12 Pre-Consultation and Complete Applications

#### 11.12.1 Pre-Consultation

The Town of Kearney encourages pre-consultation on all land use planning applications. Council may pass by-laws to require that proponents pre-consult with Staff prior to making an application for an Official Plan Amendment, a Zoning By-law Amendment, Site Plan Approval, draft Plan of Subdivision and Consent, and draft Plan of Condominium. Pre-consultation will be used to determine the additional information and material required to form a complete application for *Planning Act* purposes.

#### 11.12.2 Complete Application

The *Planning Act* gives municipalities and the Planning Board the ability to request, in addition to the minimum prescribed requirements, information, and material for certain types of land use planning applications to make an informed decision, provided that the municipal Official Plan contains provisions relating to the additional information and material. The *Planning Act* also gives the municipalities and the Planning Board the ability to refuse to accept an application if it does not include the minimum prescribed requirements, any additional requirements contained in the Official Plan, and any required fee.

The approval authority may request additional information that it needs when considering development proposals or *Planning Act* applications. Such information may be required as part of a complete application, or may be required prior to a decision on a proposed development. Such information may include but not be limited to any of the following:

- Hydrogeological and terrain analysis report
- Servicing capacity/feasibility/options study
- Water supply assessment
- Well Records
- Groundwater impact assessment
- Surfacewater impact assessment
- Stormwater management report/drainage plan
- Environmental impact study
- Phase 1 and Phase 2 Environmental Site Assessment
- Flood plain assessment
- Slope stability study
- Traffic impact study
- Planning rationale
- Minimum Distance Separation Calculation
- Landscape Plan
- Archaeological Assessment
- Natural heritage evaluation
- Heritage assessment
- Noise/dust/vibration/odour study
- Agricultural soils assessment
- Market study
- Concept plan showing planned land use

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- Land use inventory
- Geotechnical assessment of an abandoned mine
- Confirmation letter from a licensed hauler for sewage
- Lakeshore Capacity Assessment
- Any other study identified in the Official Plan
- Title Information (including adjacent lands)
- Survey and/or Topographical Survey
- Copies of existing registered plan(s).

The additional information and material that may be required depends on the nature and character of the site, surrounding area, the proposal, and the type of approval sought. The additional information and material required as part of a complete application, including any exceptions to the above list of studies, will be determined and confirmed by the Town during the pre-consultation process. The approval authority may refuse to accept an application that is not complete.

1. For studies required to support development proposals or *Planning Act* applications, under the Town's jurisdiction, the Town will review the studies and may do so internally or through the use of peer reviewers, with the cost of such review at the proponent's expense. Where appropriate, the Town may also consult with provincial ministries and agencies.
2. In addition to the information and materials required under the *Planning Act* and Ontario Regulation 543/06, 545/06, 197/96, 544/06 or 200/96, as amended, the following will be provided as part of a complete application where applicable by the applicant at the time of the filing of an application for an amendment to the Official Plan, Zoning By-law, consent, subdivision, or a minor variance:
  - a. description of the applicant's interest in the land (owner, tenant, purchaser);
  - b. identification of the registered landowner, if different from the applicant;
  - c. identification of the agent for the applicant, if any;
  - d. assessment roll number;
  - e. owner's authorization/consent to apply for an amendment if the owner is not the applicant;
  - f. description and/or plan of the existing uses, previous uses and complete description of the subject lands;
  - g. description and/or plan of the existing land uses within 500 metres of the subject land; and
  - h. detailed outline of the reasons for the amendment.
  - i. The Town may also request additional information and material, deemed necessary for a complete review of the proposal.

### 11.13 Definitions

For clarification of certain terms used throughout this Plan and to provide guidance in interpreting the policies of this Plan, reference will be made to the following definitions (in the case of any discrepancies, definitions in the Provincial Policy Statement and other applicable policy or legislation shall supersede the definitions found herein):

#### **Adjacent lands:**

Those lands, contiguous to a specific natural heritage feature or area, where it is possible that development or site alteration may have a negative impact on the feature or area. The extent of the **adjacent lands** may be recommended by the province or based on municipal approaches that achieve the same objectives; and those lands contiguous to a protected heritage property.

#### **Adverse effects:**

As defined in the *Environmental Protection Act*, means one or more of:

- impairment of the quality of the natural environment for any use that can be made of it;
- injury or damage to person, property, or plant and animal life;
- harm or material discomfort to any person;
- impairment of the safety of any person;
- rendering any property or plant or animal life unfit for use by humans;
- loss of enjoyment of normal use of property; and
- interference with normal conduct of business.

#### **Affordable:**

In the case of ownership housing, the least expensive of:

- housing for which the purchase price results in annual accommodation costs that do not exceed 30 percent of gross annual household income for low and moderate income households; or
- housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the regional market area;

In the case of rental housing, the least expensive of:

- a unit for which the rent does not exceed 30 percent of gross annual household income for low and moderate income households; or
- a unit for which the rent is at or below the average market rent of a unit in the regional market area.

#### **Agricultural uses:**

The growing of crops, including nursery and horticultural crops; raising of livestock and other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures.

#### **Areas of archaeological potential:**

Areas with the likelihood to contain archaeological resources. Criteria for determining archaeological potential are established by the Province, but municipal approaches that achieve the same objectives may also be used. Archaeological potential is confirmed through archaeological fieldwork undertaken in accordance with the *Ontario Heritage Act*.

#### **Areas of natural and scientific interest (ANSI):**

Areas of land and water containing natural landscapes or features that have been identified as having life science or earth science values related to protection, scientific study, or education.

### **Back Lot Development:**

Individual lots which are physically separated from the shoreline by a legally conveyable parcel of patented land that has development potential. Back lots are usually located in a linear fashion along a road which generally is parallel to the shoreline, but back lots may also be located on a road which runs perpendicular to the shore.

### **Barrier:**

Includes anything that prevents a person with disability from fully participating in all aspects of society because of his or her disability, including a physical barrier, an architectural barrier, an information or communication barrier, an attitudinal barrier, a technical barrier, a policy, or a practice.

### **Best Management Practices (BMPs):**

Techniques, facilities, and structures designed to protect or improve the natural environment during land development activities and to mitigate the effects of various land uses. BMPs are implemented during the initiation and/or operation of a number of activities, such as agriculture, development servicing, aggregate extraction, woodlot management, retrofitting activities, and water taking.

Examples of BMPs include, but are not limited to, land use restrictions, source controls of pollutants, stormwater management ponds, grassed swales, woodlot management, soil erosion control, crop rotation, tree windbreaks, and natural fencerows.

### **Built heritage:**

One or more buildings, structures, monuments, installations, or remains associated with architectural, cultural, social, political, economic, or military history, and identified as having cultural heritage value or interest to a community.

### **Comprehensive review:**

An Official Plan review that is initiated by the Town, or an Official Plan amendment that is initiated or adopted by the Town that:

- is based on a review of population and growth projections and allocations by upper-tier municipalities and provincial plans, where applicable; considers alternative directions for growth; and determines how best to accommodate this growth while protecting provincial and local interests;
- utilizes opportunities to accommodate projected growth through intensification and redevelopment;
- confirms that the lands to be developed do not comprise specialty crop areas;
- is integrated with planning for infrastructure and public service facilities; and
- considers cross-jurisdictional issues.

### **Cultural heritage landscape:**

A defined geographical area of heritage significance that has been modified by human activities and is valued by a community. It involves a grouping(s) of individual heritage features, such as structures, spaces, archaeological sites, and natural elements, which, together, form a significant type of heritage form, distinctive from that of its constituents, elements or parts. Examples may include, but are not limited to, heritage conservation districts designated under the *Ontario Heritage Act*; and villages, parks, gardens, battlefields, mainstreets and neighbourhoods, cemeteries, trailways, and industrial complexes of cultural heritage value.

### **Cultural Heritage Resources:**

**Built Heritage** - includes buildings, structures, and sites that contribute to our understanding of heritage and are valued for their representation of that heritage.

Examples include buildings, barns, groups of buildings, and bridges.

**Cultural Heritage Landscapes** – includes rural and urban areas that exhibit features on the land, created and left by people and that represent significant historical settings that create an important understanding of our history. Examples include cemeteries, fence lines, streetscapes, and historical gardens.

**Archaeological sites**- includes archaeological sites and areas with high potential for the discovery of archaeological resources. This potential is based on the presence of a wide range of geographic and historical features that influenced past settlement.

### **Development:**

Is a term that means the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the *Planning Act*, but does not include:

- activities that create or maintain infrastructure authorized under an environmental assessment process;
- those works subject to the *Drainage Act*;
- underground or surface mining of minerals or advanced exploration on mining lands in significant areas of mineral potential in Ecoregion 5E, where advanced exploration has the same meaning as under the *Mining Act*.

### **Ecological functions:**

The natural processes, products or services that living and non-living environments provide or perform within or between species, ecosystems, and landscapes. These may include biological, physical, and socio-economic interactions.

### **Endangered species:**

Any native species, as listed in the Regulations under the *Endangered Species Act*, that is at risk of extinction throughout all or a significant portion of its Ontario range, if the limiting factors are not reversed.

### **Erosion hazards:**

The loss of land, due to human or natural processes, that poses a threat to life and property.

The erosion hazard limit is determined using the 100 year erosion rate (the average annual rate of recession extended over a hundred year time span), an allowance for slope stability, and an erosion/erosion access allowance.

### **Fish:**

Fish, shellfish, crustaceans, and marine animals, at all stages of their lifecycles.

### **Fish habitat:**

The spawning grounds and nursery, rearing, food supply, and migration areas on which fish depend directly or indirectly in order to carry out their life processes.

### **Flood fringe:**

The outer portion of the flood plain between the **floodway** and the flooding hazard limit. Depths and velocities of flooding are generally less severe in the flood fringe than those experienced in the **floodway**. The flood fringe is the area within a recognized two-zone, where development and site alteration may be permitted, subject to appropriate floodproofing to the flooding hazard elevation or another approved flooding hazard standard..

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### **Flood plain:**

The area, usually low lands adjoining a watercourse, that has been or may be subject to flooding hazards.

### **Flooding hazards:**

The inundation of areas adjacent to a shoreline or a river or stream system and not ordinarily covered by water: The flooding hazard limit is the **one hundred year flood** limit.

### **Floodway:**

The portion of the flood plain where development (other than uses that, by their nature, must be located within the floodway, flood and/or erosion control works or where appropriate, minor additions or passive, non-structural uses that do not affect flood flows), and site alteration would cause a danger to public health and safety or property damage.

Where the one-zone concept is applied, the floodway is the entire flood plain.

### **Gross Density:**

The density of the residential development in an area, including all local roads and parks.

### **Hazardous:**

**Lands** - property or lands that could be unsafe for development due to naturally occurring processes. Along river and stream systems, this means the land, including that covered by water, to the furthest landward limit of the flooding or erosion hazard limits.

**Sites** - property or lands that could be unsafe for development and site alteration due to naturally occurring hazards. These may include unstable soils (sensitive marine clays [leda], organic soils) or unstable bedrock (karst topography).

**Substances** - substances that, individually or in combination with other substances, are normally considered to pose a danger to public health, safety, and the environment. These substances generally include a wide array of materials that are toxic, ignitable, corrosive, reactive, radioactive, or pathological.

### **High Water Mark:**

The mark made by the action of water under natural conditions on the shore or bank of a body of water, which action has been so common and usual and so long continued that it has created a difference between the character of the vegetation or soil on one side of the mark and the character of the vegetation or soil on the other side of the mark.

### **Influence area:**

The area, at or below grade, surrounding an aggregate resource area in which aggregate resource extraction might have an **adverse effect** on a **sensitive land use**. **Adverse effects** might include, but not be limited to, impacts on human health, loss of normal enjoyment of property, damage to property, or loss of values to property.

### **Infrastructure:**

Physical structures that form the foundation for development. Infrastructure includes: sewage and water works, waste management systems, electric power, communications, transit and transportation corridors and facilities, and oil and gas pipelines and associated facilities.

### **Low and moderate income households:**

In the case of ownership housing, households with income in the lowest 60 percent of the income distribution;

In the case of rental housing, households with income in the lowest 60 percent of the income distribution for renter households.

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### **Mineral aggregate:**

Gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock or other material prescribed under the *Aggregate Resources Act*, suitable for construction, but does not include metallic ores, asbestos, graphite, kyanite, mica, nepheline syenite, salt, talc, wollastonite, mine tailings or other material prescribed under the *Mining Act*.

### **Mineral aggregate operation:**

- Lands under licence or permit, other than for a wayside pit or quarry, issued in accordance with the *Aggregate Resources Act*, or successors thereto;
- Associated facilities used in extraction, transport, beneficiation, processing, or recycling of mineral aggregate and derived products, such as asphalt and concrete, or the production of secondary related products.

### **Mineral Deposits:**

Means areas of identified minerals that have sufficient quantity and quality based on specific geological evidence to warrant present or future extraction.

### **Minimum distance separation formulae:**

Formulae developed by the province to separate uses so as to reduce incompatibility concerns about odour from livestock facilities.

### **Minor:**

In the context of the Committee of Adjustment, minor is a relative term and must be interpreted in the particular circumstances involved. Minor is not a matter of arithmetic. Rather, minor relates to the impact of the variance – its impact on policy, neighbours, water quality, future development, planning practices, zoning regulations to name a few. Minor can only be determined in the context of the specific application before the Committee of Adjustment.

### **Natural heritage features and areas:**

Features and areas, such as significant wetlands, fish habitat, significant woodlands south and east of the Canadian Shield, significant valleylands south and east of the Canadian Shield, significant habitat of endangered or ***threatened species***, significant wildlife habitat, and significant ***areas of natural and scientific interest***, which are important for their environmental and social values as legacy of the natural landscapes of an area.

### **Negative impacts:**

- In regard to fish habitat, the harmful alteration, disruption or destruction of fish habitat, except where it has been authorized under the *Fisheries Act*, using the guiding principle of no net loss of productive capacity.
- In regard to other natural features and areas, degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple or successive development or site alteration activities.
- In regard to degradation to the quality and quantity of water, sensitive surfacewater features and sensitive groundwater features and their related hydrologic functions, due to single, multiple, or successive development of site alteration activities.

### **Net density:**

The density of the residential development on the site proposed for development, not including local roads and parks.



**One hundred year flood (for river and stream systems):**

That flood, based on an analysis of precipitation, snowmelt or a combination thereof, having a return period of 100 years on average or having a 1% chance of occurring or being exceeded in any given year.

**Organic Soils:**

On soils maps, organic soils are often classified as muck, marsh, and peat type soils. Organic and peat soils are formed by humification, the decomposition of vegetative and organic materials into humus. The high percentage of organic matter results in a high moisture retention capacity, making them poorly drained. Organic soils lack structure, erode easily, and compress so much that they usually cannot support structures.

**Prime agricultural area:**

An area where *prime agricultural land* predominates. Prime agricultural areas may also be identified through an alternative agricultural land evaluation system approved by the Province.

**Prime agricultural land:**

Land that includes speciality crop lands and/or Canada Land Inventory Classes 1, 2, and 3 soils.

**Public service facilities:**

Land, buildings, and structures for the provision of public services, but does not include *infrastructure*.

**Public services:**

Programs and services provided or subsidized by a government or other public body. Examples include social assistance, recreation, police and fire protection, health and educational programs, and cultural services.

**Quality and quantity (of water):**

Is measured by indicators, such as minimum base flow, depth to water table, aquifer pressure, oxygen levels, suspended solids, temperature, bacteria, nutrients, hazardous contaminants, and hydrologic regime.

**Residential intensification:**

The creation of new residential units or accommodation in existing buildings or on previously developed, serviced land and includes infill, accessory apartments, and rooming houses.

**River and stream systems:**

All watercourses, rivers, streams, and small inland lakes or waterbodies that have a measurable or predictable response to a single runoff event.

**Rural areas:**

Non-urban lands that are not prime agricultural areas.

**Secondary uses:**

Uses secondary to the principal use of the property, including home-based businesses, home industries, and uses that produce value-added agricultural products from the farm operation on the property.

**Sensitive land uses:**

Buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the

## PART 6: DEVELOPMENT REVIEW AND IMPLEMENTATION

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natural or built environment. Examples include: residences, day care centres, cultural heritage resources, and educational and health facilities.

### **Settlement areas:**

Means urban areas and rural settlement areas within the Town that are:

- Built-up areas where development is concentrated and that have a mix of land uses; and
- Lands that have been designated in the Plan for development over the term of this Plan.

### **Sewage and water systems:**

**Full municipal sewage and water services** - large scale piped sewage and water services that are connected to a centralized water and wastewater treatment facility as per the *Ontario Water Resources Act* and the *Safe Drinking Water Act, 2002*.

**Communal services** - sewage works and sewage systems and water works as per the *Ontario Water Resources Act* and the *Safe Drinking Water Act, 2002* that provide for the distribution, collection, or treatment of sewage or water but which:

- are not connected to full municipal sewage and water services;
- are for the common use of more than five residential units/lots; and
- are owned, operated and managed by the Town; or another public body; or a condominium corporation or single owner that has entered into an agreement with the Town or public body, pursuant to Section 51 of the *Planning Act*, providing for municipal/public body assumption of the communal services in the event of default by the owner.

**Individual on-site systems** - individual autonomous water supply and sewage disposal systems, under the *Building Code Act*, that are owned, operated, and managed by the owner of the property upon which the system is located and that do not serve more than five residential units/lots.

**Partial services** - connection to one communal service or full municipal service where the other connection will be to an individual on-site system.

### **Significant:**

- In regard to wetlands and areas of natural and scientific interest, an area identified as “provincially significant” by the Ministry of Natural Resources using evaluation procedures established by the Province.
- In regard to other features and areas, it relates to the ecological importance in terms of features, functions, representation, or amount and contributing to the quality and diversity of an identifiable geographic area or natural heritage system. Criteria for determining significance may be recommended by the Province, but municipal approaches that achieve the same objective may also be used.
- In regard to other matters, important in terms of amount, content, representation, or effect.
- In regard to mineral potential, means an area identified as provincially significant through comprehensive studies prepared using evaluation procedures established by the Province, as amended from time to time, such as the Provincially Significant Mineral Potential Index. Criteria for determining significance are recommended by the Province, but municipal approaches that achieve or exceed the same objective may also be used.

## **PART 6: DEVELOPMENT REVIEW AND IMPLEMENTATION**

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### **Significant archaeological resources:**

The remains of any building, structure, activity, place, or cultural feature that, because of the passage of time is on or below the surface of the land or water, and that has been identified and evaluated and determined to be significant to the understanding of the history of a people or place. The identification and evaluation of this resource is based upon an archaeological assessment.

### **Site alteration:**

Activities, such as fill, grading, and excavation, that would change the landform and/or natural vegetative characteristics of a site.

### **Sustainable development:**

Development to meet the needs of the present without compromising the ability of future generations to meet their own need.

### **Threatened species:**

Any native species that is at risk of becoming endangered on all or a portion of its Ontario range, if the limiting factors are not reversed.

### **Waste management system:**

Sites and facilities to accommodate solid waste from one or more Town and includes landfill sites, recycling facilities, transfer stations, processing sites, and hazardous waste depots.

### **Watercourse:**

A stream of water that flows along a defined channel, with beds and banks, for a sufficient time to give it substantial existence. This may include streams that dry up periodically.

### **Water Resource:**

Includes a watercourse, wetland, lake, beaver ponds, municipal drains, or other similar waterbody features.

### **Wave uprush:**

The rush of water up onto a shoreline or structure following the breaking of a wave; the limit of wave uprush is the point of furthest landward rush of water onto the shoreline.

### **Wayside pits and quarries:**

A temporary pit or quarry opened and used by or for a public authority solely for the purpose of a particular project or contract of road construction and not located on the road right-of-way.

### **Wetlands:**

Lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case, the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of wetlands are swamps, marshes, bogs, and fens.

Periodically soaked or wet lands being used for agricultural purposes that no longer exhibit wetland characteristics are not considered to be wetlands for the purposes of this definition.

### **Wildlife habitat:**

Areas where plants, animals, and other organisms live and find adequate amounts of food, water, shelter, and space needed to sustain their populations. Specific wildlife habitats of concern may include: areas where species concentrate at a vulnerable point in their annual or lifecycle; and areas which are important to migratory or non-migratory species.

## **PART 6: DEVELOPMENT REVIEW AND IMPLEMENTATION**

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### **Woodlands:**

Treed areas that provide environmental and economic benefits, such as erosion prevention, water retention, provision of habitat, recreation, and the sustainable harvest of woodland products. Woodlands include treed areas, woodlots, or forested areas and vary in their level of significance.

## **APPENDIX 'A'**

February 28, 2011

# ENDANGERED SPECIES ACT (ESA), 2007

## IMPLICATIONS FOR LANDOWNERS

### WHAT IS THE ESA, 2007?

Ontario is home to more than 30,000 plant and animal species. Most have stable populations, but some have declined or disappeared. Currently, more than 180 species are considered “at risk” because of a variety of threats including habitat loss, pollution, competition from invasive species, climate change and over harvesting.

Ontario’s new *Endangered Species Act (ESA), 2007* provides a strong legislative framework for the protection and recovery of Ontario’s native endangered and threatened species and their habitats, while balancing the social and economic well-being of citizens and communities.

One component of the *ESA, 2007* is the establishment of the Species at Risk in Ontario (SARO) List. This list identifies species that have been classified as being at risk by the Committee on the Status of Species at Risk in Ontario (COSSARO).

There are two key protection provisions in the *ESA, 2007*:

- Section 9 prohibits killing, harming, harassing, possessing, collecting, buying and selling etc species listed as extirpated, endangered or threatened on the SARO List.
- Section 10 prohibits the damage or destruction of the protected habitat of species listed as extirpated, endangered or threatened on the SARO List.

### DOES THIS AFFECT ME?

The *ESA, 2007* came into force in June 2008 and is binding on everyone including individuals, businesses, municipal governments and the provincial government. This information sheet is designed to assist you in understanding the various responsibilities under the *ESA* when planning or conducting activities that may affect endangered or threatened species and their habitat.

### DEFINITIONS

Species are classified based on five status definitions that include:

**Extinct** – A native species that no longer lives anywhere in the world.

**Extirpated** – A native species that no longer exists in the wild in Ontario but still exists elsewhere.

**Endangered** – A native species facing extinction or extirpation.

**Threatened** – A native species at risk of becoming endangered in Ontario.

**Special Concern**<sup>1</sup> – A native species that is sensitive to human activities or natural events which may cause it to become endangered or threatened.

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<sup>1</sup> Special Concern species are listed on the SARO list but are not protected under the *ESA 2007*. However, new Planning Act decisions should ensure that the significant habitat of special concern species is protected as “significant wildlife habitat” (as per the Provincial Policy Statement).

## ROLES AND RESPONSIBILITIES

### Landowners and Development Proponents:

Landowners and development proponents are responsible for ensuring that they follow all relevant laws in Ontario including the *ESA*. They may need to take specific action to ensure that land uses or activities would not contravene the *ESA*.

Proponents considering new development or land use activities should consult with the municipality and MNR as appropriate, to determine the potential for endangered or threatened species in an area. Proponents should consider conducting an appropriate level of ecological site assessment<sup>2</sup> where there is potential that an endangered or threatened species or its habitat is present on a site. The purpose of such site assessment is to obtain information on endangered and threatened species and their habitat that may exist on or adjacent to a site, and the nature of these values.

Since the *Building Code Act* does not enable a municipality to withhold issuance of a building permit where the *ESA* could be contravened, the onus is on the proponent to ensure that a development or activity under the authority of a building permit is in compliance with the *ESA*.

### Municipalities:

As with other landowners and development proponents, municipalities are responsible for ensuring that their activities don't contravene the *ESA*.

Municipalities must also continue to ensure that their *Planning Act (PA)* decisions are consistent with the habitat protection direction set out in the Provincial Policy Statement (PPS) and ensure they have adequate information about the potential for listed species and their habitats before making a *PA* decision.

MNR recommends that municipalities check existing available information sources to determine the potential endangered and threatened species whose range encompasses a subject property, and then review available information on the habitat requirements of these species. Where there is a potential that an endangered or threatened species or its habitat is present on or adjacent to a site, MNR recommends that municipalities generally require proponents to undertake an appropriate level of ecological site assessment as described in MNR's *Natural Heritage Reference Manual* (2010).

Municipalities may also assist by raising awareness with landowners and proponents about the *ESA*, and endangered and threatened species, and could play a valuable role in knowledge transfer, communication and stewardship.

### Ministry of Natural Resources (MNR):

MNR is available to advise municipalities, landowners or development proponents on how to avoid being in contravention with the *ESA* and when authorizations may be required for activities, where there is a potential impact on an endangered or threatened species or its protected habitat.

To assist municipalities and planning boards, MNR's Parry Sound District provided information in 2009 that identified the species at risk that are either known to occur, or presumed to occur, in each geographic township and municipality. The information provided included descriptions of the key habitats and the timing of key life history events for each species. MNR will provide updates as new information becomes available.

MNR's role under the *PA* and One Window Planning Service (OWPS) **was not changed by the *ESA*, 2007** such that MNR does not have a role in reviewing site-specific development applications that are under municipal approval authority unless the municipality makes a request through MMAH. MNR will continue to provide technical advice and approve what is significant habitat for endangered and threatened species for purposes of the *PA* and the *PPS*.

For more information on the *ESA*, 2007 or to view the Species at Risk in Ontario List, please visit the species at risk website at: [www.ontario.ca/speciesatrisk](http://www.ontario.ca/speciesatrisk) or contact:

Phung Tran, Landscape Planning Biologist  
Telephone: 705-646-5557 E-mail: [phung.tran@ontario.ca](mailto:phung.tran@ontario.ca)

<sup>2</sup> Additional information regarding ecological site assessment may be obtained from MNR's *Natural Heritage Reference Manual*, 2<sup>nd</sup> Edition, 2010 at <http://www.mnr.gov.on.ca/en/Business/LUEPS/Publication/249081.html>

# BETHUNE

SAR Designations



Endangered  
Threatened  
Special Concern

Jump To:

[List of Municipalities](#)

		Key Habitats Used By Species	Timing of Life History Events
<a href="#">Barn Swallow</a>	<b>Known To Occur</b>	Ledges and walls of man-made structures such as buildings, barns, boathouses Cliffs or caves ESA Protection: Species and general habitat protection	Nests: May - July
<a href="#">Bobolink</a>	<b>Presumed to Occur</b>	Large old fields and meadows, tall grasslands, hayfields ESA Protection: Species and general habitat protection	Nests: May - July
<a href="#">Chimney Swift</a>	<b>Presumed to Occur</b>	Man-made structures such as chimneys Hollow trees or cavities in old growth or mature forests ESA Protection: Species and general habitat protection	Nests: May-July
<a href="#">Eastern Hog-nosed Snake</a>	<b>Presumed to Occur</b>	Open areas of sand or fine gravel Rock-barren ESA Protection: Species protection only	Active: May - October Mates: August and early September Nests: late June - mid July Hibernates: October - April
<a href="#">Eastern Meadowlark</a>	<b>Presumed to Occur</b>	Grasslands, pastures, agricultural fields, old fields, meadows; often overgrown with shrubs Can also use golf courses and sand dunes ESA Protection: Species and general habitat protection	Nests: May - July
<a href="#">Snapping Turtle</a>	<b>Known To Occur</b>	Marsh, swamp, fen (poor fens) Shallow waters in lakes or along streams Open areas of sand or gravel ESA Protection: N/A	Active: April - October Nests: June

Jump To:

[List of Municipalities](#)



**BUTT**

SAR Designations



Endangered  
Threatened  
Special Concern

Jump To: [List of Municipalities](#)

		Key Habitats Used By Species (See below for wetland definitions)	Timing of Life History Events
<a href="#">Barn Swallow</a>	<b>Known To Occur</b>	Ledges and walls of man-made structures such as buildings, barns, boathouses Cliffs or caves ESA Protection: Species and general habitat protection	Nests: May - July
<a href="#">Bobolink</a>	<b>Presumed to Occur</b>	Large old fields and meadows, tall grasslands, hayfields ESA Protection: Species and general habitat protection	Nests: May - July
<a href="#">Chimney Swift</a>	<b>Presumed to Occur</b>	Man-made structures such as chimneys Hollow trees or cavities in old growth or mature forests ESA Protection: Species and general habitat protection	Nests: May-July
<a href="#">Snapping Turtle</a>	<b>Known To Occur</b>	Marsh, swamp, fen (poor fens) Shallow waters in lakes or along streams Open areas of sand or gravel ESA Protection: N/A	Active: April - October Nests: June

Jump To: [List of Municipalities](#)

<a href="#">Wetland Definitions</a>	Marsh: wet areas periodically inundated with standing or slowly moving water and/or permanently inundated areas. Characterized by robust emergents such as cattails and anchored floating plants and submergents. Substrate is mineral or organic soils with high mineral content. Open water marshes are marshes with permanent open water, usually less than 2 m deep and with floating, submergent or partially emergent vegetation.
	Swamp: wooded wetlands dominated by trees or tall shrubs. The soils are continuously waterlogged and standing or gently moving water may be present seasonally. There are usually pools and channels, and the understory is usually densely vegetated with trees, tall shrubs, low shrubs, herbs and mosses.
	Bogs: peat-covered wetlands characterized by a high water table and surface carpet of mosses, mainly Sphagnum sp. Trees are not usually present, or if present, are restricted to stunted black spruce, and ericaceous shrubs are usually present. These wetland types are nutrient poor and acidic and are characterized by low species diversity.
	Fens (poor fens): peatlands with a dominant component of sedges and mosses (Sphagnum sp may be present but not necessarily) typical of this wetland type. Shrubs (including non-ericaceous shrubs) and stunted trees (including white cedar and tamarack) may be present, and this wetland type has higher species diversity than bogs.

# MCCRANEY

## SAR Designations



Endangered  
Threatened  
Special Concern

Jump To: [List of Municipalities](#)

		Key Habitats Used By Species (See below for wetland definitions)	Timing of Life History Events
<a href="#">Chimney Swift</a>	<b>Presumed to Occur</b>	Man-made structures such as chimneys Hollow trees or cavities in old growth or mature forests ESA Protection: Species and general habitat protection	Nests: May-July
<a href="#">Snapping Turtle</a>	<b>Known To Occur</b>	Marsh, swamp, fen (poor fens) Shallow waters in lakes or along streams Open areas of sand or gravel ESA Protection: N/A	Active: April - October Nests: June

Jump To: [List of Municipalities](#)

<a href="#">Wetland Definitions</a>	<p>Marsh: wet areas periodically inundated with standing or slowly moving water and/or permanently inundated areas. Characterized by robust emergents such as cattails and anchored floating plants and submergents. Substrate is mineral or organic soils with high mineral content. Open water marshes are marshes with permanent open water, usually less than 2 m deep and with floating, submergent or partially emergent vegetation.</p> <p>Swamp: wooded wetlands dominated by trees or tall shrubs. The soils are continuously waterlogged and standing or gently moving water may be present seasonally. There are usually pools and channels, and the understory is usually densely vegetated with trees, tall shrubs, low shrubs, herbs and mosses.</p> <p>Bogs: peat-covered wetlands characterized by a high water table and surface carpet of mosses, mainly Sphagnum sp. Trees are not usually present, or if present, are restricted to stunted black spruce, and ericaceous shrubs are usually present. These wetland types are nutrient poor and acidic and are characterized by low species diversity.</p> <p>Fens (poor fens): peatlands with a dominant component of sedges and mosses (Sphagnum sp may be present but not necessarily) typical of this wetland type. Shrubs (including non-ericaceous shrubs) and stunted trees (including white cedar and tamarack) may be present, and this wetland type has higher species diversity than bogs.</p>
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**PROUDFOOT**

SAR Designations



Endangered  
Threatened  
Special Concern

Jump To:

[List of Municipalities](#)

		Key Habitats Used By Species	Timing of Life History Events
<a href="#">Barn Swallow</a>	<b>Known To Occur</b>	Ledges and walls of man-made structures such as buildings, barns, boathouses Cliffs or caves ESA Protection: Species and general habitat protection	Nests: May - July
<a href="#">Bobolink</a>	<b>Known To Occur</b>	Large old fields and meadows, tall grasslands, hayfields ESA Protection: Species and general habitat protection	Nests: May - July
<a href="#">Chimney Swift</a>	<b>Presumed to Occur</b>	Man-made structures such as chimneys Hollow trees or cavities in old growth or mature forests ESA Protection: Species and general habitat protection	Nests: May-July
<a href="#">Eastern Hog-nosed Snake</a>	<b>Known To Occur</b>	Open areas of sand or fine gravel Rock-barren ESA Protection: Species protection only	Active: May - October Mates: August and early September Nests: late June - mid July Hibernates: October - April
<a href="#">Eastern Meadowlark</a>	<b>Presumed to Occur</b>	Grasslands, pastures, agricultural fields, old fields, meadows; often overgrown with shrubs Can also use golf courses and sand dunes ESA Protection: Species and general habitat protection	Nests: May - July
<a href="#">Peregrine Falcon</a>	<b>Historically Known To Occur</b>	Cliff ESA Protection: Species and regulated habitat protection	Nests: April
<a href="#">Snapping Turtle</a>	<b>Known To Occur</b>	Marsh, swamp, fen (poor fens) Shallow waters in lakes or along streams Open areas of sand or gravel ESA Protection: N/A	Active: April - October Nests: June

Jump To:

[List of Municipalities](#)

<a href="#">Wetland Definitions</a>	<p>Marsh: wet areas periodically inundated with standing or slowly moving water and/or permanently inundated areas. Characterized by robust emergents such as cattails and anchored floating plants and submergents. Substrate is mineral or organic soils with high mineral content. Open water marshes are marshes with permanent open water, usually less than 2 m deep and with floating, submergent or partially emergent vegetation.</p> <p>Swamp: wooded wetlands dominated by trees or tall shrubs. The soils are continuously waterlogged and standing or gently moving water may be present seasonally. There are usually pools and channels, and the understory is usually densely vegetated with trees, tall shrubs, low shrubs, herbs and mosses.</p> <p>Bogs: peat-covered wetlands characterized by a high water table and surface carpet of mosses, mainly Sphagnum sp. Trees are not usually present, or if present, are restricted to stunted black spruce, and ericaceous shrubs are usually present. These wetland types are nutrient poor and acidic and are characterized by low species diversity.</p> <p>Fens (poor fens): peatlands with a dominant component of sedges and mosses (Sphagnum sp may be present but not necessarily) typical of this wetland type. Shrubs (including non-ericaceous shrubs) and stunted trees (including white cedar and tamarack) may be present, and this wetland type has higher species diversity than bogs.</p>
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## **Municipal Referral Form for MNR Review of ESA Implications**

This form is applicable within MNR's Parry Sound District. The purpose of the form is to provide MNR with preliminary information to review *Planning Act* proposals that may have implications with the *Endangered Species Act*, 2007. MNR will provide the municipality with comments following the review of the information provided but may require additional information to complete the review. Please be advised that the review could take 4-6 weeks.

### **Please send the form to:**

Megan Bonenfant, Landscape Planning Biologist  
Parry Sound District  
Ministry of Natural Resources  
7 Bay Street  
Parry Sound, ON P2A 1S4  
megan.bonenfant@ontario.ca

### **1. Contact Information:**

Municipality: \_\_\_\_\_

Name of Municipal Planner (or main contact): \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

### **2. Site Information:**

Geographic Township: \_\_\_\_\_ Lot(s): \_\_\_\_\_ Concession(s): \_\_\_\_\_

Roll Number: \_\_\_\_\_

UTM Coordinates: \_\_\_\_\_

### **3. Detailed Description of Proposal:**

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#### 4. General Description of Features:

Please check all features that occur on the site or within 120 m of the site:

	On site	Within 120m of Site	Unknown
Deciduous forest			
Coniferous forest			
Mixed forest			
Wetland			
Beaver Pond			
Lake			
Temporary ponds/pools			
Exposed bedrock			
River, stream, creek			
Sandy areas			
Areas of fine gravel			
Meadow/Field			
Hayfield			
Crop			
Pasture			
Valley			
Cliff			
Man-made structure			
Rock piles			
Brush piles			
Slopes (indicate % and aspect, if possible)			
Unknown			

Other, please describe:

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## 5. Data sources used for the assessment above (check all that apply):

Site Visit <i>Name and Qualifications of Assessors:</i>
<i>Date and time of visit:</i>
Aerial Photography/Satellite Imagery <i>Date of photography/imagery:</i>
Anecdotal/public reports/photos <i>Source and date:</i>
MNR mapping or information <i>Date Received:</i>
Environmental Report (Please attach report) <i>Name, Author and date of report:</i>
Other <i>Please specify and provide information(date/author/etc) and attach if possible:</i>

## 6. Threatened and Endangered SAR

Please check all the Threatened or Endangered SAR that are known, presumed or historically known to occur in the geographic township using The MNR Parry Sound SAR Excel Tool or using another source (please specify: \_\_\_\_\_):

<input type="checkbox"/>	Barn Swallow ( <i>Hirondelle rustique</i> )
<input type="checkbox"/>	Blanding's Turtle ( <i>Emydoidea blandingii</i> )
<input type="checkbox"/>	Bobolink ( <i>Dolichonyx oryzivorus</i> )
<input type="checkbox"/>	Branched Bartonian ( <i>Bartonia paniculata</i> )
<input type="checkbox"/>	Butternut Tree ( <i>Juglans cinerea</i> )
<input type="checkbox"/>	Chimney Swift ( <i>Chaetura pelagica</i> )
<input type="checkbox"/>	Eastern Foxsnake ( <i>Pantherophis gloydi</i> )
<input type="checkbox"/>	Eastern Hog-nosed Snake ( <i>Heterodon platirhinos</i> )
<input type="checkbox"/>	Eastern Meadowlark ( <i>Strunella magna</i> )
<input type="checkbox"/>	Eastern Musk Turtle ( <i>Sternotherus odoratus</i> )
<input type="checkbox"/>	Engelmann's Quillwort ( <i>Isoetes engelmannii</i> )
<input type="checkbox"/>	Lake Sturgeon ( <i>Acipensar fulvescens</i> )
<input type="checkbox"/>	Least Bittern ( <i>Ixobrychus exilis</i> )
<input type="checkbox"/>	Massasauga ( <i>Sistrurus catenatus</i> )
<input type="checkbox"/>	Peregrine Falcon ( <i>Falco peregrinus</i> )
<input type="checkbox"/>	Spotted Turtle ( <i>Clemmys guttata</i> )
<input type="checkbox"/>	Spotted Wintergreen ( <i>Chimaphila maculata</i> )
<input type="checkbox"/>	Whip-poor-will ( <i>Caprimulgus vociferus</i> )
<input type="checkbox"/>	Other (not yet reflected in SAR Tool):

## **7. Environmental Impact Study**

If an Environmental Impact Study or detailed site assessment has been undertaken, please attach all relevant documents. Please accurately record the documents below (they may be referenced in MNR response):

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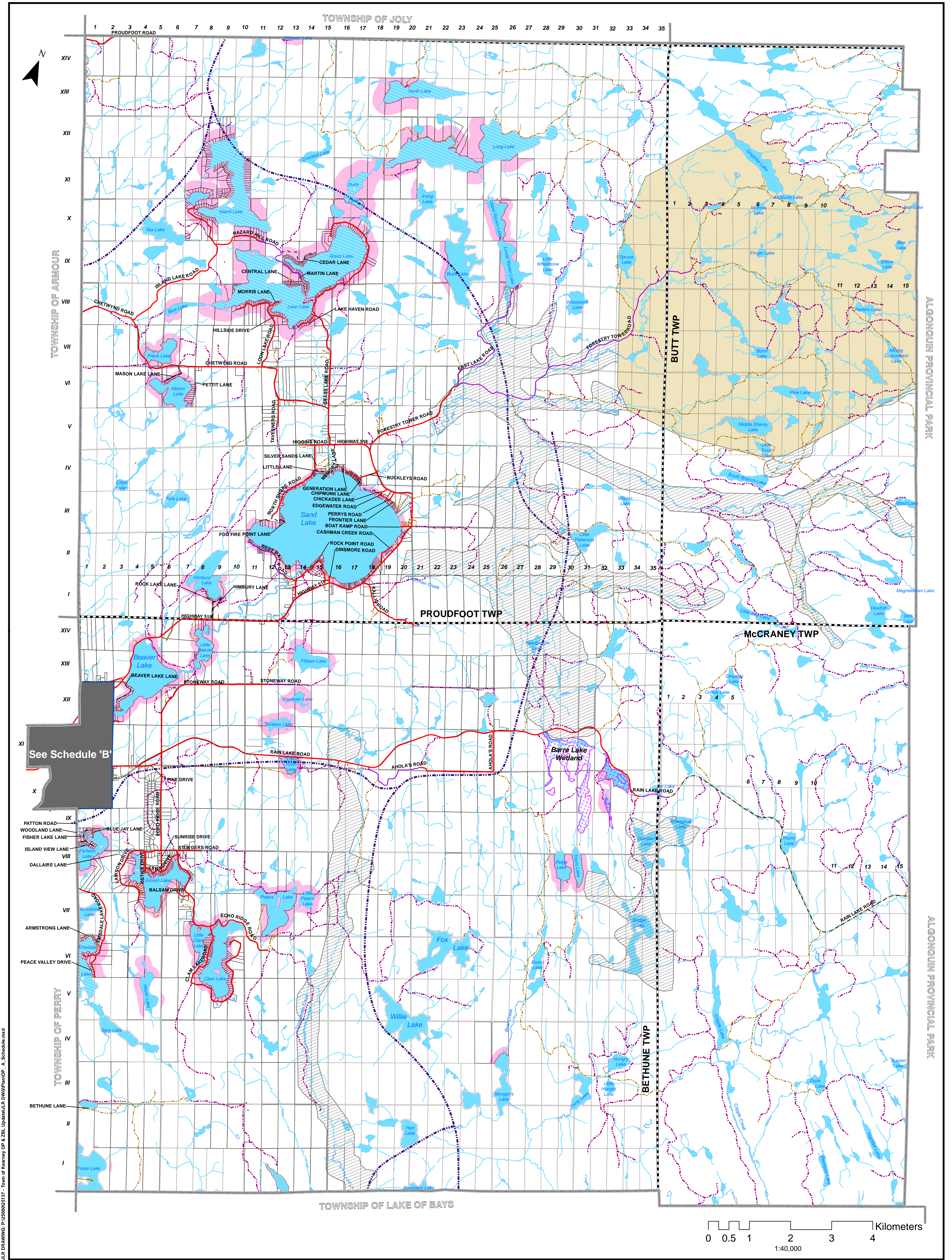
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**8. MNR Comments (to be provided by MNR):**



## **SCHEDULE 'A'**





# Official Plan Schedule 'A' Land Use and Transportation

## Corporation of the Town of Kearney

### Legend

- |                                       |                  |                    |
|---------------------------------------|------------------|--------------------|
| Rural Lands                           | Year Round Road  | Stream             |
| Shoreline                             | Seasonal Road    | Waterbody          |
| Mineral Aggregate Area                | Private Road     | Township Boundary  |
| Mineral Mining Area                   | Snowmobile Trail | Municipal Boundary |
| Provincially Significant Wetland Area | Trail (Portage)  |                    |
|                                       | Accessway        |                    |

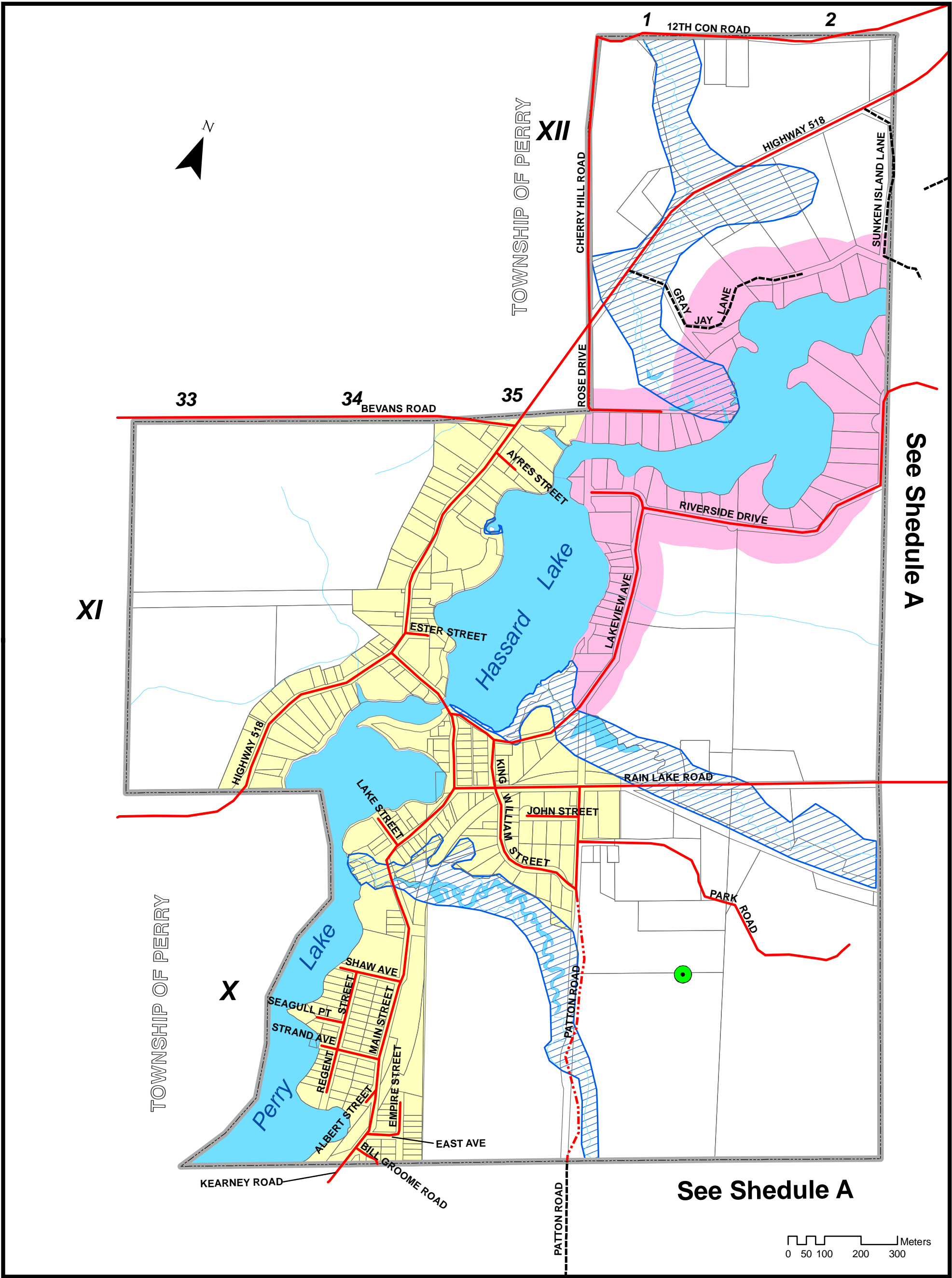
Data Source: Source Data has been provided by the Ministry of Natural Resources, Ministry of Northern Development, Mines and Forestry and the Town of Kearney

J.L. Richards  
16-Jan-2014



## **SCHEDULE 'B'**

Path: P:\25000\25137 - Town of Kearney OP & ZBL Update\JLR DWG\Plan\OP\_B\_Schedule.mxd



**Official Plan  
Schedule 'B'  
Kearney Townsite  
Land Use and Transportation**

**Corporation of the  
Town of Kearney**

**Legend**

- |  |  |  |                     |
|--|--|--|---------------------|
|  | Closed Waste Disposal Site                               |  | Waterbody           |
|  | Townsite   |  | Stream              |
|  | Shoreline  |  | Year Round Road     |
|  | Rural Lands  |  | Seasonal Road       |
|  | Flood Plain Overlay<br>Based on Aerial<br>Interpretation |  | Private Road        |
|  |  |  | Schedule B Boundary |

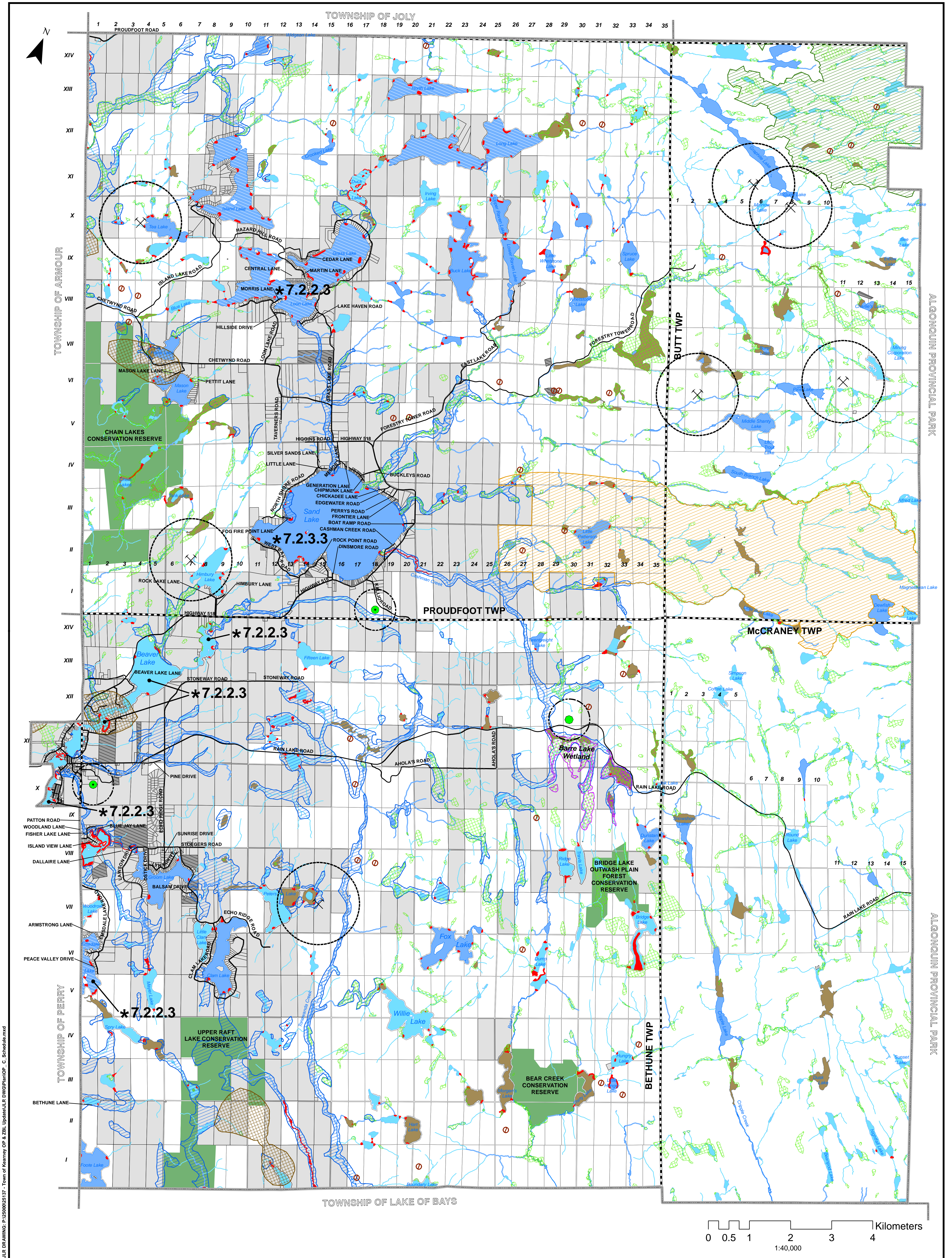


Print Date: 09-Sep-2013

Data Source: Source Data has been provided by the Ministry of Natural Resources and the Town of Kearney

## **SCHEDULE 'C'**





### Official Plan Schedule 'C' Natural Features and Constraints

### Corporation of the Town of Kearney

**Legend**

- Abandoned Mines (AMIS)
- Abandoned Mines (AMIS) 1 Kilometer Buffer
- Closed Waste Disposal Site
- Transfer Station
- Waste Disposal Site
- 500m Waste Disposal Influence Buffer
- Unlicensed Pits and Quarries
- Licensed Pits and Quarries

Type 1 Fish Habitat  
*All shorelines which are not outlined with a polygon have not been evaluated in terms of fish habitat and should be treated as unknown.*

- Deer Yarding Area (Stratum II)
- Moose Aquatic Feeding Area

**Crown Land**

- Crown Land
- Enhanced Management Area (Natural Heritage)
- Enhanced Management Area (Remote Access)
- Conservation Reserve

**Special Flood Plain Policies**

- \*7.2.3.3
- \*7.2.2.3

- Flood Plain Overlay Based on Aerial Interpretation
- Provincially Significant Wetland Area
- Local Wetland
- Lakes at or Near Capacity
- Cold Water Stream
- Cold Water Lake
- Stream
- Waterbody

- Private Land
- Municipal Boundary
- Township Boundary

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Data Source: Source Data has been provided by the Ministry of Natural Resources, Ministry of Northern Development, Mines and Forestry and the Town of Kearney



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