

LAKEHEAD RURAL PLANNING BOARD

# Preliminary Planning Report: Application ZBLA 01-2016

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An Application by Lempiala Sand & Gravel for Aggregate  
Extraction: LPAT Order for Case PL180754

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This report provides a land use planning analysis for an application to rezone the subject land from Rural to Extractive Industrial.

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## **1.0 INTRODUCTION**

On April 29, 2020, the Local Planning Appeal Tribunal (LPAT) issued an Order for Case No. PL180754. It upheld an appeal by Kevin Matthews & Robin Latimer, the Trout Lake Camper's Association and Leslie Walker Larson against Lempiala Sand & Gravel Ltd. in a case involving the rezoning of a subject property from "Rural" to "Extractive Industrial".

In the decision, the LPAT repealed the zoning by-law amendment, and ordered the Lakehead Rural Planning Board (LRPB) to make a new decision.

Lempiala Sand & Gravel Inc. has resubmitted the application to rezone the property, along with such reports and studies as required by the LPAT decision.

This is a preliminary planning report outlining the land use issues associated with the planning application. The final planning report will analyze the application and supporting documentation and provide a recommendation for consideration by the Lakehead Rural Planning Board.

## 2.0 BACKGROUND

The following are the key points directly from the LPAT decision summarizing the background information associated with this application.

1. The Trout Lake Camper's Association, Leslie Walker Larson and Kevin Matthews & Robin Latimer appealed from the decision of the Lakehead Rural Planning Board (LRPB) to pass Zoning By-law No. 004-2018 pursuant to Section 34 of the Planning Act. The zoning by-law amendment is to facilitate gravel extraction on lands described as Parcel 8755, Section TBF, Park Broken Lot 18, Concession 7, Township of Gorham. Lempiala Sand & Gravel Ltd. Own the subject property. The LRPB is the approval authority per the Planning Act, for the unorganized Townships of Gorham and Ware.
2. A Case Management Conference (CMC) was held by the LPAT on May 28, 2019 in person. At the CMC, the LRPB indicated they did not intend to actively participate in the appeals due to limited financial resources. Applicant requested and was granted party status to the hearing. As directed by the Tribunal, the applicant files with the Tribunal, and served the parties on June 17, 2019.
3. The CMC was continued via telephone conference (TCC) call on August 28, 2019. To permit the parties to have settlement discussions. At the TCC, the Tribunal was advised that a settlement was able to be reached on the appeal. The tribunal directed that the appeal was to be heard by way of a two-day hearing.
4. The Tribunal received submissions from three appellants, Kevin Matthews & Robin Latimer, the Trout Lake Camper's Association and Leslie Walker Larson. Opinion evidence was provided by Leigh White, RPP, Quartek Group Inc., on behalf of the LRPB. Silvio Di Gregorio, of Lempiala Sand & Gravel Ltd. provided evidence regarding Lempiala's activities and proposed operations on the subject land. Stefan Huzan, Northern Planning, provided evidence on behalf of Lempiala Sand & Gravel Ltd. Anthony Usher, RPP, provided opinion evidence on behalf of the Trout Lake Camper's Association. The Tribunal also reviewed evidence from Dr. Karen Peterson, Dr. Robert Foster and lay evidence from Ms. Larson and Ms. Latimer.
5. The one-day hearing was held on February 20, 2020. At the hearing, the Tribunal questioned the three planning witnesses, Leigh White, Stefan Huzan and Anthony Usher.
6. The Tribunal considered the municipal record and all materials filed as well as the submissions of all parties. The Tribunal then ordered that the appeals are allowed and sent the application back to the LRPB for a new decision.
7. Lempiala Sand and Gravel Ltd. has since resubmitted the application to the LRPB for a new decision.

### 3.0 DETAILS OF THE APPLICATION

#### 3.1 Subject Land

The property is legally described as Parcel 8755, Section TBF, Park Broken Lot 18, Concession 7, Township of Gorham. The subject land is approximately 30 hectares in size, and located at the southeast corner of Highway 591 and Trout Lake Road. It is approximately 20 km northwest of Thunder Bay. The property is irregularly shaped, and bounded by Highway 591 to the west, Trout Lake Road to the north, the McIntyre River to the east and vacant land to the south.

The land is presently vacant, with natural vegetation as forest cover. There are several sites that have been disturbed as a result of test pit for aggregate quality and quantity.

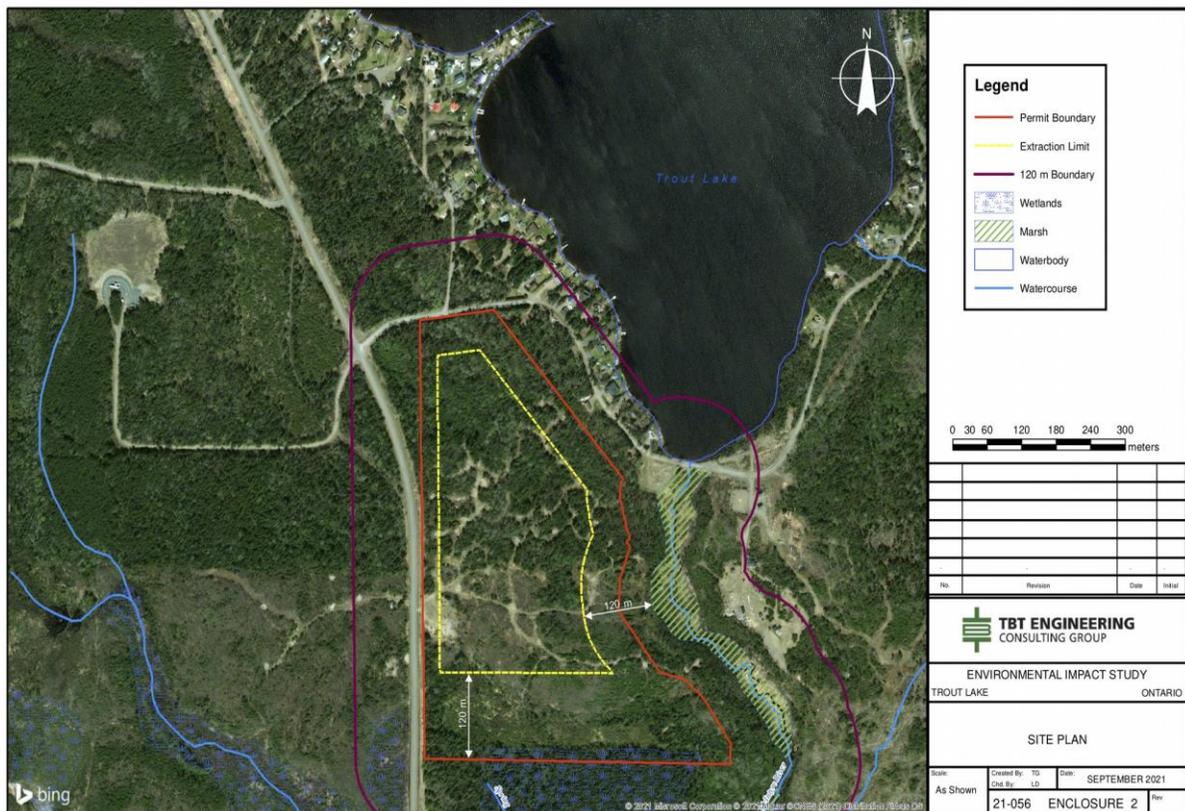


Figure 1: Subject Property

### **3.2 Road Access**

Road access is from Highway 591, which is a Provincially owned and maintained highway.

### **3.3 Services**

The subject property is in an area without municipal incorporation. There are no municipal services available at the subject property.

### **3.4 Official Plan**

The Official Plan in place for the subject land is the Official Plan for Gorham and Ware, and the Dawson Road Lots 1 – 20 Concession A and B, East of the Kaministiquia River.

The Official Plan land use designation for the property is Rural. The seasonal residences along Trout Lake to the north and northeast are designated Lakeshore Residential.

The Official Plan land use designation for the southern portion of the property is Aggregate Resource Area. There is a strip of land approximately 60 m in width along the west bank of the McIntyre River designated as Use Limitation.

### **3.5 Zoning By-law**

The Gorham and Ware Comprehensive Zoning By-Law designates the subject property as Rural.

The seasonal residential lots on Trout Lake are zoned Lakeshore Residential. The lands abutting the McIntyre River are zoned Environmental Protection/Use Limitation.

### **3.6 Surrounding Land Uses**

The property to the south has a single residence near Highway 591. The area to the north is characterized by a seasonal residential development on Trout Lake.

Existing land use in the broader area consists of aggregate extraction & processing, agriculture, commercial industrial, and forestry.

## **4.0 LAND USE PLANNING APPROVALS FRAMEWORK**

Land use in areas without municipal incorporation are governed by the following several pieces of Provincial legislation, Provincial policy documents, and the local Official Plan and Zoning By-Law.

They are the; (i) Planning Act, (ii) Ontario Provincial Policy Statement (2020), the Northern Growth Plan (2011), the Aggregate Resources Act, Gorham & Ware Official Plan and Gorham & Ware Comprehensive Zoning By-Law. This section of the report shall document the land use planning framework for decision making by the approval authority in evaluating this application.

There is no local municipal government for the subject property. The Lakehead Rural Planning Board (LRPB) is the approval authority for land use in the area. There is an Official Plan, and Zoning By-law to guide decision making.

The remainder of the report shall describe the planning issues as they relate to the application when considering the pertinent legislation and policy.

### **3.1 Ontario Planning Act, R.S.O. 1990 c. P. 13**

Land use in the Province of Ontario is governed by the *Ontario Planning Act, R.S.O. 1990 Chapter P. 13*, whether it be by consent, plan of subdivision, or plan of condominium. The following is an overview of the pertinent sections of the Planning Act as it related to this application.

#### **Section 1.1 Purposes**

The purposes of this Act are,

- (a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- (b) to provide for a land use planning system led by provincial policy;
- (c) to integrate matters of provincial interest in provincial and municipal planning decisions;
- (d) to provide for planning processes that are fair by making them open, accessible, timely and efficient;
- (e) to encourage co-operation and co-ordination among various interests;
- (f) to recognize the decision-making authority and accountability of municipal councils in planning. 1994, c. 23, s. 4.

## Section 2 Provincial Interest

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

- (a) the protection of ecological systems, including natural areas, features and functions;
- (b) the protection of the agricultural resources of the Province;
- (c) the conservation and management of natural resources and the mineral resource base;
- (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- (e) the supply, efficient use and conservation of energy and water;
- (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- (g) the minimization of waste;
- (h) the orderly development of safe and healthy communities;
- (h.1) the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;
- (i) the adequate provision and distribution of educational, health, social, cultural and recreational facilities;
- (j) the adequate provision of a full range of housing, including affordable housing;
- (k) the adequate provision of employment opportunities;
- (l) the protection of the financial and economic well-being of the Province and its municipalities;
- (m) the co-ordination of planning activities of public bodies;
- (n) the resolution of planning conflicts involving public and private interests;
- (o) the protection of public health and safety;
- (p) the appropriate location of growth and development;
- (q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians. 1994, c. 23, s. 5; 1996, c. 4, s. 2; 2001, c. 32, s. 31 (1); 2006, c. 23, s. 3; 2011, c. 6, Sched. 2, s. 1.

## **Sections 16 and 34: Official Plans and Zoning By-laws**

Section 16 of the Planning Act sets out the framework for approval authorities to adopt an Official Plan which sets out local policies for the regulation of land use. This section states that goals, objectives and policies are to be established to manage and direct physical change on the social, economic, built and natural environment of the municipality, or part of it, or in an area without municipal incorporation.

Section 34 of the Planning Act relates to the enactment of zoning by-laws and related administration. They may be passed by municipal councils and delegated approval authorities.

Generally, zoning by-laws restrict the use of land except for those uses permitted in the by-law. Zoning by-laws also prohibit the erecting, locating or using buildings or structures except for those permitted in the by-law.

### **3.2 Ontario Provincial Policy Statement (2020)**

The Ontario Provincial Policy Statement (PPS), represents the overarching Provincial policies on land use planning in Ontario. The PPS provides for appropriate development while protecting resources of Provincial interest, public health and safety, and quality of the natural environment.

The pertinent sections of the PPS, and subsequent conformity by this application, are:

Section 1.1.1 Healthy, Livable and Safe Communities are Sustained by;

- a.) Promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities in the long run;
- c.) avoiding development and land use patterns which may cause environmental, or public health and safety concerns.

1.1.6 Territory Without Municipal Organization

1.1.6.1 On rural land located in a territory without municipal organization, the focus of development activity shall be related to the sustainable use or management of resources, and resource based recreational resources.

Section 2.1 Natural Heritage

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

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

## Section 2.5 Mineral Aggregate Resources

2.5.2.1 As much of the mineral aggregate resource as possible shall be made available as close to markets as possible.

2.5.2.2 Aggregate extraction shall be conducted in a manner that minimizes social, economic and environmental impact.

2.5.3 Progressive and final rehabilitation shall be required to accommodate subsequent land uses to promote land use compatibility, to recognize the interim nature of the extraction, and mitigate negative impacts to the extent possible, Final rehabilitation shall take into account surrounding land use and approved land use designation into consideration.

## 3.3 Northern Growth Plan

There are no policies in the Northern Growth Plan that directly apply to this application.

## 3.4 Gorham and Ware Official Plan

There are several policies in the Official Plan that relate to this application directly. There are:

1.2.3 The goals of this Official Plan are to:

(a) establish policies which manage and direct physical change and the effects on the social, economic and natural environment, of the planning area, over the next 20 years, including development within the next five-year review, of a new growth management strategy to replace the current policy that is due to terminate in 2017.

(b) protect and maintain the rural quality of life in the planning area;

(c) minimize land consumption and servicing costs, and ensure that services necessary to support development are or will be available;

- (d) secure the health, safety, convenience and welfare of the residents of the planning area, and protect the financial well-being of Ontario and of surrounding municipalities;
- (e) ensure that the planning area's resources are rationally used;
- (f) permit the delegation of approval to the Planning Board with respect to decisions regarding land use planning matters for such matters as consents, zoning amendments and minor variances;
- (g) qualify the Planning Board for various programs funded by senior levels of government;
- (h) inform the residents of the planning area of the policies that affect the development of land;
- (i) provide a guiding framework for implementing by-laws and for decisions of local boards, commissions, committees, and other authorities;
- (j) improve accessibility for persons with disabilities and for the elderly by removing and/or preventing land use barriers which would restrict their full participation in society;
- (k) have regard for Section 2 Provincial Interest in the Planning Act; be consistent with Ontario's 2005 Provincial Policy Statement; and conform to the Northern Growth Plan;
- (m) promote resource based economic development within the planning area as a means of supporting the local population and contributing to the larger area and local economy.

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

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

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

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

2.17.1 No development shall be permitted which results in the degradation of the quality and integrity of an ecosystem including air, water, land, and plant and animal life. Where the quality and

integrity of an ecosystem has been diminished, the Planning Board shall encourage its restoration or remediation to healthy conditions.

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

2.18.2 In Gorham and Ware Townships, the potential mineral resource areas are limited to the southern portions of the Townships. 2.18.3

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

2.18.4 Lands with active mineral or aggregate resource operations shall be zoned accordingly and non-resource operations should be restricted. Development on lands adjacent to mineral resource operations or adjacent to areas of deposits will be permitted if: (a) the development would not preclude or hinder the continuation of existing operations; (b) the development would not preclude the development of the resource; and (c) issues of public health, public safety and environmental impact are addressed.

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

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

(a) commercial and industrial uses which serve the local market primarily, or tourism or resource related markets, are encouraged. Other commercial and industrial uses should be encouraged to locate in municipal areas;

(b) small scale commercial and industrial uses or recreational commercial uses are located on provincial highways or on open roads maintained year round by the local Roads Board;

(c) buffering shall be provided where a commercial or industrial use is located adjacent to a residential or recreational use;

(d) there is no adverse impact on the amenity and character of the rural environment;

(e) adequate parking is provided;

(f) an amendment to the zoning by-law is obtained:

(g) despite clause (b) of this subsection, small scale processing of forest products, such as portable sawmill operations, are considered an industrial use and are permitted in the Rural area provided that equipment or machinery is located: i) within 120 metres of a

residential lot or a lot used for recreational, institutional, or commercial uses; and ii) within 30 metres of any road or road allowance; (h) aggregate processing operations, such as crushing, screening, and washing of aggregate products, are considered an accessory use to an aggregate extraction operation and are permitted in the Rural area provided setbacks for buildings, machinery, and equipment from lot lines is determined on a site specific basis in consultation with the Lakehead Rural Planning Board.

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

(a) the operation is compatible with surrounding land uses;

(b) adequate buffering is provided;

(c) the Ministry of the Environment and Energy is satisfied with respect to the disposal of liquid wastes, pumping operations, and the control of air and noise pollution, among other matters;

(d) no excavation, building, equipment, machinery, or stockpiling of material is allowed: i) within 30 metres of a lot line of an adjacent lot used for residential, recreational, institutional, or commercial purposes within 30 metres of an area designated Lake Residential on Schedule "A"; iii) within 30 metres of any road or road allowance; and iv) a quarry with blasting operations is to be setback a minimum of 450 metres from a residential building; and

(e) excavation or stockpiling of material is allowed up to the lot line when that line abuts a property that permits aggregate extraction.

### **3.5 Gorham and Ware Zoning By-Law**

The subject property is located in the **Rural Zone** of the zoning by-law. The provisions of the Rural Zone are;

Every use of land and every use, erection, or location of buildings and/or structures is prohibited in the Rural Zone except;

- Agricultural uses
- Areas of Natural Scientific Interest
- Conservation, water management
- Day nursery

- Greenhouse or nursery
- Forestry harvesting
- Kennel or dog training facility
- Public park, playgrounds, activity areas, conservation areas
- Single detached residential dwelling which may include a hobby farm
- Single detached residential dwelling used in association with and accessory to an agricultural use, day nursery, greenhouse or nursery, kennel or dog training facility, or a group home
- A home occupation, home industry, or bed and breakfast establishment, used in conjunction with a single detached residential dwelling. In addition a bait shop may be a permitted accessory use
- A second residential unit in an existing dwelling or accessory garage to such dwelling, provided that the Health Unit confirms that the individual septic sewage system is capable of supporting two dwelling units. The second residential unit shall not be permitted as an independent, free standing second building.

The applicant wishes to rezone the property to **Extractive Zone**. The permitted uses, and set back requirements are as follows:

1. Every use of land and every use, erection, or location of buildings and/or structures is prohibited in the Extractive Zone except;

- Pits and/or quarries which may include storage of aggregate materials transported to the property
- Aggregate processing facility
- Accessory buildings;
- outdoor storage of aggregate in raw or processed form

2) Lot, building and yard requirements for main buildings; Min. lot area 2 hectares

3) No pit or quarry extraction or storage shall be established or used within 30 metres of a lot line.

4) No pit or quarry and no open storage shall be established or used within 120 metres of an abutting lot used for residential, recreational, commercial or institutional purposes.

Given the proximity to wetland areas and other sensitive land uses, the **Environmental Protection/Limited Use Zone** is also to be regarded as part of the review of this application. It is as follows:

1) Every use of land and every use, erection, or location of buildings and/or structures is prohibited in the Environmental Protection/Use Limitation Zone except;

- Conservation use
- Parks,
- Agricultural uses,
- Protection and/or management of flooding,
- Management of wetlands or lands having high water table,
- Areas of Natural Scientific Interest,
- Accessory buildings

2) Lot, building and yard requirements for main buildings; .

- none

3) Buildings and/or structures necessary for the purposes of conservation or water management shall be permitted.

4) Buildings may be permitted on portions of land in this zone where the Lakehead Region Conservation Authority has determined that the elevation of the land at that particular location is above flood elevation or is not otherwise contained in wetlands or high water table, or in the accompanying immediate wetlands ecosystem.

### **3.6 Aggregate Resources Act**

Section 12 of the Aggregate Resource Act (ARA) sets out the parameters for the issuance of a license to extract aggregate for the subject land. They are as follows:

12 (1) In considering whether a license should be issued or refused, the Minister or the Tribunal shall have regard to:

- (a) the effect of the operation of the pit or quarry on the environment;
- (b) the effect of the operation of the pit or quarry on nearby communities;
- (c) any comments provided by a municipality in which the site is located;

- (d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site;
- (e) any possible effects on ground and surface water resources including on drinking water sources;
- (f) any possible effects of the operation of the pit or quarry on agricultural resources;
- (g) any planning and land use considerations;
- (h) the main haulage routes and proposed truck traffic to and from the site;
- (i) the quality and quantity of the aggregate on the site;
- (j) the applicant's history of compliance with this Act and the regulations, if a licence or permit has previously been issued to the applicant under this Act or a predecessor of this Act; and
- (k) such other matters as are considered appropriate. R.S.O. 1990, c. A.8, s. 12; 1996, c. 30, s. 9 (1, 2); 2002, c. 17, Sched. F, Table; 2017, c. 6, Sched. 1, s. 11 (1); 2017, c. 23, Sched. 5, s. 2; 2021, c. 4, Sched. 6, s. 30 (1).

## **5.0 LAND USE PLANNING ISSUES**

This section of the report will describe the land use planning issues that exist based on all of the relevant legislation and regulatory requirements that apply to these applications. Only those provisions of the legislation, and land use policies, with direct relevance to this application have been included for analysis.

***The focus of this review will be the potential social, environmental and economic impacts of the proposed development.***

Reference material in the form of reports and studies that were used in the preparation of this section of the planning report can be found in the appendices, and are listed in the table of contents.

### **5.1 Location & Access**

The site of the proposed aggregate pit by Lempiala Sand and Gravel Ltd. is to the east of Highway 591, and south of Trout Lake Road. To the north of Trout Lake Road is a seasonal residential development on Trout Lake. There are approximately 100 cottage lots located on Trout Lake.

To the east of the proposed aggregate pit is the McIntyre River and wetland complex. There are potential natural resource values associated with this system that will require protection.

Access to the proposed aggregate pit will be from Highway 591, which is a Provincial Highway. An Entrance Permit from the Ministry of Transportation (MTO) is required for access to the site. There will be access from Trout Lake Road, avoiding potential traffic impacts with seasonal residents on Trout Lake.

### **5.2 Subject Property Size and Frontage**

The subject property is approximately 30 hectares in size, and is an irregular shape. Most of the frontage is located the west side of the property, on Highway 591. There is also frontage on Trout Lake Road to the north and east.

The subject property is of an adequate size to allow for a significant buffer of mature forest vegetation between potential future aggregate extraction operations and surrounding sensitive land uses.

### **5.3 Operational Issues**

According to the “Summary Statement for Trout Lake Pit Category 3 Aggregate License Application” report prepared by TBT Engineering, the proposed pit will be 166,700 m<sup>2</sup> in area, with a potential 740,000 cubic metres of aggregate available for extraction.

An average of up to four (4) trucks daily will depart the site, travelling to the applicant’s other site for processing on Highway 589. The maximum haul rate is expected to be 1,200 tonne loads, or 133 tonne loads per hour, resulting in 12 truck haul movements an hour as a worst-case scenario.

There will be both progressive and final site rehabilitation for the site.

The proposed aggregate pit will be at least 1.5 metres above the groundwater table.

No blasting, crushing, asphalt plant or concrete plant is proposed as part of the operation.

### **5.3 Groundwater Assessment**

A “Trout Lake Pit Groundwater Summary Statement” (GWSS) has been prepared by TBT Engineering.

It states that both a desktop review and test pits were undertaken as part of the groundwater analysis. The purpose of the GWSS is to mitigate the impacts of pit development on groundwater and surface water resources by identifying extraction limits and offset limits in accordance with the Aggregate Resources Act.

There are also several MOECC wells in relatively close proximity to the site. These were used as references for determining the level of the groundwater table.

Five (5) test holes were excavated on the site. The depth at which groundwater was encountered was logged for each test hole, and contour mapped to calculate the depth of groundwater across the entire site.

Excavation of aggregate must leave a 1.5 metres depth of material between the bottom of the pit and the groundwater table. Using this calculation, it was estimated that 740,00 m<sup>3</sup> of aggregate material can be excavated without impacting the groundwater table.

## 5.4 Natural Environment Values

An “Environmental Impact Statement” and a “Natural Environment Level I Assessment” were prepared by TBT Engineering for the proposed aggregate pit operation.

The studies focused on the site, and an area of 120 metres surrounding the site of the proposed pit operation. The analysis also was expanded to include the McIntyre River and wetland complex associated with the river.

A desktop review and field work was completed by TBT Engineering, with work carried out by qualified biologists. This review included species at risk, a bird and wildlife inventory and fisheries assessment. Particular attention was paid to the bat maternity tree roost survey.

No species at risk, or threatened species, were identified in the assessment, nor bat maternity tree roosting sites. There were no other fishery or wildlife values identified as being in need of protection, and no imminent threats to the wetland ecosystem complex.

The report recommended:

1. Minimizing the project site footprint and retention of topsoil for site rehabilitation.
2. Maintaining a 120 metre buffer between the limits of the pit operation and the McIntyre River/wetland complex.
3. If Bank Swallow nests are located at any point during operation, work should cease immediately, and MNRF contacted for mitigation recommendation for any work can resume.
4. No harvesting of forest cover vegetation should occur during bird breeding season.
5. Any trees with bat roosting cavities should be left in place and no excavation activities occur during the bat breeding season.
6. Cease work immediately if any species at risk are identified on site, and report immediately to the appropriate authority.
7. Develop an Environmental Site Monitoring Plan to document any potential adverse environmental impacts and mitigation measures.

## **5.5 Cultural Heritage and Archaeology**

A Stage I Archaeological Assessment was conducted by WSP, dated March 15, 2021.

No features of archaeological potential were identified in the assessment, and the potential for archaeological resources on the site is low.

## **5.6 Air Quality & Noise Assessments**

Air Quality and Noise Assessments were conducted by RWDI, and are included in two reports dated March 17, 2021.

The reports conclude that the proposed pit operations will be in compliance with air quality standards and noise limitation as set out in Provincial guidelines.

In particular, the Air Quality Assessment recommends the following in the management of pit operations in order to mitigate any air quality issues in the area surrounding the site.

1. Dust will be mitigated on-site.
2. Water or another provincially approved dust suppressant will be applied to the internal roadways as required to mitigate dust.
3. A speed limit of 20 km/hr. will be posted near the site entrance. All vehicles are to not exceed the speed limit when travelling on the site.
4. An earthen berm will be constructed along the northeastern edge of the property between the Trout Lake Pit and the residences along Trout Lake Road.
5. A 30 metre tree screen will be maintained along the northeastern edge of the property between the Trout Lake Pit and the residences along Trout Lake Road.

## **6.0 LAND USE PLANNING ISSUES IDENTIFIED BY LPAT ORDER PL180754**

This report addresses a number of issues that were raised at the LPAT hearing with respect to this file, and further noted in the LPAT decision dated April 29, 2020. They are:

### **1. Minimizing Land Use Conflicts**

The LPAT accepted the fact that aggregate resources are given a privileged position in the Provincial Policy Statement (PPS). The Tribunal notes that both the PPS and Official Plan anticipate that aggregate use will result in impacts – the test being whether the impact can “*be minimized*”.

### **2. Inadequate Buffer**

The Tribunal found there was insufficient evidence to determine that the buffer proposed by the ZBL to the lakefront residential lands and McIntyre River is sufficient to allow for compatible land uses. The original application fell short of the standard required to the Tribunal to make that decision.

### **3. Balanced Approach to Land Use**

The Planning Act, PPS and Official Plan applicable to the unorganized Township of Gorham, stress balance and compatibility between land uses. The Tribunal asserted that the LRPB focused solely on the provisions of the planning documents which support aggregate extraction and did not consider the provisions which support recreational, residential and environmental protection.

### **4. Not Consistent with the PPS or Official Plan**

The Tribunal stated that the LRPB failed to ensure that the application was consistent with the PPS and conformed to the Official Plan.

### **5. Legislative Requirement**

The Tribunal was required by legislation to either approve the decision of the LRPB or send the matter back to the LRPB for a new decision.

### **6. New Decision**

The Tribunal stated that it found the matter must be sent back to the LRPB for a new decision.

### **7. Order: LPAT Decision – Case No. 180754**

The Tribunal then ordered the LRPB to make a new decision on the application.

## 7.0 AGENCY COMMENTS

This application has been circulated to the following agencies and Ministries for review and comment. They are:

- Lakehead District School Board
- Lakehead District Health Unit
- Lakehead District Catholic School Board
- Enbridge Gas
- Ministry of Natural Resources & Forestry and Northern Development & Mines
- Ministry of Transportation
- Hydro One
- Gorham Local Roads Board
- Ministry of Culture, Tourism & Sport

The application was also received by the Fort William First Nation.

Comments from these public bodies and First Nation will be incorporated into the final report.

## **8.0 COMMENTS FROM THE PUBLIC**

Notice for a public meeting was sent to all property owners within 120 metres of the subject property per the requirements of the Planning Act.

A virtual public meeting is scheduled to be held on February 3<sup>rd</sup>, 2022 @ 5:30 EST.

Comments arising from the public meeting will be recorded, and addressed, as part of the final report.

## **9.0 SUMMARY**

### **Summary**

This is a preliminary planning report for the application by Lempiala Sand and Gravel Ltd., as a result of the LPAT Hearing decision on case No. 180754 dated April 29, 2020.

A full summary of the land use planning issues, and recommendation to the Lakehead Rural Planning Board will be included in the final report.

This planning report will be finalized by; (i) analyzing how the amended application addresses the land use planning issues identified by the LPAT, (ii) addresses the comments from public authorities and the Fort William First Nation and (iii) addresses the comments arising from the public consultation process.

**Respectfully Submitted:**

**Jeffrey Port, M.Sc., MCIP, RPP**

**Appendix "A"**

**LPAT Order PL180754**

**Appendix "B"**

**Groundwater Summary Statement**

**Appendix “C”**

**Natural Environment Level I Assessment**

## **Appendix “D”**

### **Summary Statement – Category 3 Aggregate License Application**

**Appendix “E”**

**Environmental Impact Statement**

**Appendix “F”**

**Air Quality & Noise Assessments**