

November 2, 2023
Our File No.: 31162

VIA: E-MAIL Beverley.hillier@northbay.ca

Ms. Beverley Hillier, RPP, MCIP
Manager, Planning and Building Services
City of North Bay
200 McIntyre Street East
North Bay, ON P1B 8H8

Dear Ms. Hillier:

**Re: Trout Lake Watershed Study and Management Plan
JLR Directions Report (Draft) June 29, 2022
Addendum #2 (Draft)**

J.L. Richards & Associates Limited (JLR) and Hutchinson Environmental Sciences Ltd (HESL) completed the Trout Lake Watershed Study and Management Plan in 2022.

As part of this work, JLR prepared three reports:

1. Land Use Background Report (Draft) Trout Lake Study Management Plan dated March 28, 2022;
2. Trout Lake Watershed Study and Management Plan – Issues Opportunities and Constraints Report (Draft) dated June 17, 2022; and,
3. Directions Report (Draft) Trout Lake Watershed Study and Management Plan dated June 29, 2022.

Together, these reports addressed the land use planning components of the Trout Lake Watershed Study and Management Plan. These reports were informed by HESL's reports undertaken for this project.

JLR's Directions Report (Draft) included several recommendations, including a recommendation that a limited amount of new lots be permitted in the Trout Lake Influence Area, subject to Best Management Practices, implemented through Site Plan Control.

Since these reports were released, the Province of Ontario enacted Bill 23, *More Homes Built Faster Act*, 2022. Bill 23 received Royal Assent on November 28, 2022. Bill 23 exempts developments of up to 10 residential units from site plan control. This exemption came into force on November 28, 2022. In response, on March 13, 2023 JLR issued Addenda No. 1 to its Directions Report (Draft). Addenda No. 1 advised the City of North Bay that, in light of these changes, the recommendations in the Directions Report (Draft) were no longer valid and should be updated in conjunction with an update to the Lakeshore Capacity Model (LCM) for Trout Lake that accounted for these changes.

Ms. Beverley Hillier, RPP, MCIP, City of North Bay

Subsequent to the issuance of Addenda No. 1, the Province of Ontario enacted Bill 97, *Helping Homebuyer, Protecting Tenants Act*, 2023. Bill 97 received Royal Assent on June 8, 2023. Bill 97 re-amended the *Planning Act* to clarify that residential development containing no more than 10 residential units are subject to Site Plan Control if the parcel of land includes any land that is in a prescribed area.

Ontario Regulation 254/23 *Prescribed Areas – Section 41 of the Act* partly defines a prescribed area as “*Any area that is within 120 metres of a wetland, the shoreline of the Great Lakes-St. Lawrence River System, an inland lake, or a river or stream valley that has depressional features associated with a river or stream, whether or not it contains a watercourse.*”

From a policy perspective, this 120 metre area aligns with the City of North Bay IPZ-3 boundary established in the North Bay Mattawa Source Protection Area Source Protection Plan (2015). It also aligns with the adjacent lands width recommended for natural heritage features and areas including significant habitat of endangered and threatened species, significant wetlands, significant wildlife habitat and fish habitat.

As a result of these changes, the City of North Bay (North Bay) and Municipality of East Ferris (East Ferris) may continue to use Site Plan Control to implement Best Management Practices on residential development projects on parcels of land within 120 metres of the shoreline of Trout Lake, its islands, major inflowing streams and Four Mile Lake.

JLR’s Direction Report recommended the creation of a new “Trout Lake Influence Area Overlay” in North Bay and East Ferris’ Official Plan. It was recommended that this overlay apply to all lands within 300 metres of the shoreline of Trout Lake, its islands, major inflowing streams and Four Mile Lake. It was further recommended that limited and controlled lot creation be permitted within the overlay, subject to Best Management Practices, implemented through Site Plan Control.

In light of the above-described *Planning Act* changes, the North Bay requested that JLR revisit its earlier land use planning analysis and recommendations to determine if any changes should be made now that Site Plan Control can be used to implement Best Management Practices on residential projects on parcels of land that partly or entirely fall within 120 metres of the shoreline or major inflowing stream.

In response, JLR reviewed Bills 23 and 97, O.Reg 254/23, the *Planning* and HESL’s updated Existing Conditions, Opportunities and Constraints Report. JLR also conducted a Geographic Information System (GIS) analysis of land parcels within the proposed Trout Lake Influence Area Overlay to understand the potential land use planning risks associated with the above-described legislative changes.

The Planning Act (as amended by Bill 97) and O.Reg 254/23

Section 41(1.2) of the *Planning Act* states “... the definition of “development” in subsection (1) does not include the construction, erection or placing of a building or structure for residential purposes on a parcel of land if that parcel of land will contain no more than 10 residential units, unless the parcel of land includes any land in a prescribed area.”

Ms. Beverley Hillier, RPP, MCIP, City of North Bay

Section 41(1) of the *Planning Act* defines development as “... *the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the usability thereof* ...”.

Section 46 defines a parcel of land as “... *a lot or block within a registered plan of subdivision or any land that may be legally conveyed under the exemption provided in clause 50 (3)(b) or (d.1) or clause 50 (5)(a) or (c.1).*”

O.Reg 254/23 defines a “prescribed area” for the purposes of Section 41(1.2) of the *Planning Act*. Section 1.(1) of O.Reg 254/23 states “*The following areas are prescribed for the purposes of subsection 41(1.2) of the Act Any area that is within 120 metres of a wetland, ..., an inland lake, or a river or stream valley that has a depressional features associated with a river of stream, whether or not it contains a watercourse.*”

In our opinion, these authorities give North Bay and East Ferris the ability to apply Site Plan Control to residential development projects on parcels of land that are partly or entirely within 120 metres of the shoreline of Trout Lake, its islands, major inflowing streams and Four Mile Lake.

HESL Updated Existing Conditions, Opportunities and Constrains Report (October 2023)

HESL’s updated report provides additional context to their earlier analysis and maintains their earlier conclusions. A key difference between the two report is the inclusion of JLR’s earlier recommendation to permit limited and controlled new lot creation within Four Mile Bay and the Main Basin (e.g. permit up to 20 new permanent lots in Four Mile Bay and up to 83 new permanent lots in the Main Basin). The updated model results indicate the earlier recommended development can be accommodated while maintaining Municipal Water Quality Objectives (MWQO) and Provincial Water Quality Objectives (PWQO) for Total Phosphorous (TP), and Mean Volume Weighted Hypolimnetic Dissolved Oxygen (MVWHDO).

GIS Analysis

Parcels and lots within the proposed Trout Lake Influence Area Overlay were examined using GIS to understand the implications associated with the legislative changes associated with Site Plan Control, as described above.

Parcels and lots were selected based on their distance from the shoreline of Trout Lake, its islands, major inflowing streams and Four Mile Lake. Two categories were used: 0-120 metres and 121-300 metres. Any parcel or lot that fell partly within the 0-120 metre category was included in that category. The results of this analysis suggest that approximately 90 percent of parcels and lots in the proposed Trout Lake Influence Area Overlay would still be subject to Site Plan Control.

Ms. Beverley Hillier, RPP, MCIP, City of North Bay

JLR Directions Report (Draft) Recommended Changes

Based on the above, we recommend the following with respect to our earlier Directions Report (Draft):

Section 3.1 Vision, Goals and Objectives:

1. No further changes recommended.

Section 3.2 Municipal Water Quality Objectives:

1. No further changes to the MWQO for TP recommended.
2. For clarity, it is recommended that the existing MWQO for MVWDO be maintained.

Section 3.3 New Lot Creation:

1. Trout Lake Influence Area Overlay: We recommend that the proposed Trout Lake Influence Area Overlay be maintained. This includes all lands within 300 metres of the shoreline of Trout Lake, its islands, major inflowing streams and Four Mile Lake. These lands are generally regarded as the most sensitive lands in terms of water quality protection.
2. Existing Minimal Impact Lot Policies: No further changes recommended.
3. Limited, Control Lot Creation: We recommend that the Trout Lake Influence Area Overlay continue to be used to limit, control and monitor the number of new lots created. No further changes are recommended to the number of lots that should be permitted in the Main Basin and Four Mile Bay.

Section 3.4 Existing, Vacant Legal Lots of Record:

1. No further changes recommended.

Section 3.5 Expansion, Enlargement or Redevelopment of Legal Non-Complying/Non-Conforming Uses

1. No further changes recommended.

Ms. Beverley Hillier, RPP, MCIP, City of North Bay

Section 3.6 Site Plan

1. No further changes recommended.

Section 3.7 Additional Residential Units, Sleeping Cabins

1. No further changes recommended.

Yours very truly,

J.L. RICHARDS & ASSOCIATES LIMITED

Prepared by:



Soumaya Ben Miled, M, Arch, M, PI
Planner

Reviewed by:



Jason Ferrigan, RPP, MCIP, MSc.PI
Principal Associate; Chief Planner

SBM; jf

Mr. Greg Kirton, Municipality of East Ferris
Ms. Paula Scott, North Bay Mattawa Conservation Authority
Mr. Brent Parsons, HESL