



People Engaged ★ Places Defined ★ Progress Driven

# Official Plan officiel

Une collectivité qui s'engage ★ Un plan précis ★ La route du progrès

## Waterfront and Rural Background Policy Paper

December 2004

*Developing a single, up-to-date  
Official Plan that fosters sustainable growth,  
economic development and a high quality of life  
to attract people and investment.*

*Élaborer un seul Plan officiel à jour qui favorise  
la croissance durable, le développement économique  
et une qualité de vie élevée afin d'attirer  
des gens et des investissements.*

 **Greater | Grand  
Sudbury**  
[www.city.greatersudbury.on.ca](http://www.city.greatersudbury.on.ca)

## **Executive Summary**

In support of the preparation of the City's new Official Plan, this background report provides a review of the existing policy context for waterfront and rural development in Sudbury and other planning jurisdictions in Ontario.

The current Provincial Policy Statement has a number of policies related to waterfront and rural development. Draft changes to the PPS could see stricter regulations, limiting growth in these areas.

The existing Official Plan and Secondary Plans recognize the conflict between residential development and natural resource/ agricultural uses, as well as with shoreline development. Existing policies generally protect the mineral and agricultural preserves from incompatible uses. Various standards dealing with lot creation in rural and waterfront areas exist in the plans. It is recommended that variations in development standards applying to waterfront areas be allowed, depending on the context and character of existing development.

Private road policies are addressed in this study. Frontage on an open public road is currently required in order to obtain a building permit for a permanent residential use. The adopted criteria for the assumption of private roads by Council places all associated work and costs on those residents who want the City to assume control over their roads.

In terms of lake water quality, both the local Ministry of the Environment office and the City's current planning documents rely and will continue to rely on phosphorus as an indicator of lake water quality.

Shoreline policies from the Counties of Bruce and Peterborough and the District of Muskoka are presented. While they share a similar objective of protecting the shoreline through management of growth and change, each jurisdiction has different means of accomplishing this objective.

The policies of the Sudbury East Planning Board, the City of Timmins and the District of Muskoka dealing with the conversion of seasonal dwellings are reviewed. It is acknowledged that the long-term impacts of allowing full-scale conversions for the City of Greater Sudbury are unknown. If all existing seasonal developments were to convert to permanent uses, there would be a significant shift in settlement patterns and spending priorities of the City would likely be impacted.

Main policy themes that should be taken into account when developing waterfront and rural policy in the Official Plan are identified. The themes and considerations include:

1. Protect the City's natural resource base, especially through minimizing conflicts with resource uses.
2. Plan for and on a watershed basis.
3. Consider a variety of factors and objectives when dealing with lake water quality and development standards/limits on lakes.
4. Enhance economic development through the development of second homes on lakes that have the capacity to sustain additional development.
5. Consider the impact on character of waterfront areas that results through increased development.

# **WATERFRONT AND RURAL BACKGROUND STUDY POLICY PAPER**

## **TABLE OF CONTENTS**

<b>1.0</b>	<b>EXISTING POLICY CONTEXT</b>	<b>1</b>
1.1	Provincial Policy Statement	1
1.2	Draft Changes to the PPS	4
1.3	Official Plan for the Sudbury Planning Area	4
1.4	Council Private Road Policies	7
1.5	Phosphorus and Lake Water Quality	10
<b>2.0</b>	<b>POLICY IN OTHER PLANNING JURISDICTIONS</b>	<b>8</b>
2.1	Rural Policy in Other Planning Jurisdictions	8
2.2	Shoreline Policy in Other Planning Jurisdictions	8
2.3	Conversion Policy in Other Planning Jurisdictions	9
<b>3.0</b>	<b>MAIN POLICY THEMES</b>	<b>12</b>

## **Introduction**

This Policy paper is a companion document to the Rural and Waterfront Background Study. Both documents have been prepared as part of the Official Plan review for the City of Greater Sudbury. The Background Study is an in depth look at the issues pertaining to Rural and Waterfront development across the City of Greater Sudbury. This Policy paper considers the existing policy context from the standpoint of Provincial policy and current Planning Policy. In addition it considers what policy options exist to deal with the various issues that were identified in the Rural and Waterfront Background Study.

When we consider policies in the areas of rural and waterfront development it is also important to define what it is we are talking about. For the most part it is those areas within the City of Greater Sudbury outside of the settlement areas, not within the agricultural reserve, or mineral reserve. It is not lands within the industrial mineral resource extraction area, the flood plain, sensitive areas or areas lying within the path of urban growth. These areas are sensitive to environmental impacts. In addition these lands offer unique lifestyle opportunities for area residents in part due to their location outside of the settlements areas which helps to define their unique character.

### **1.0 EXISTING POLICY CONTEXT**

#### **1.1 Provincial Policy Statements**

The following section details those elements of the Provincial Policy Statement related to waterfront and rural development with which the new Official Plan must be consistent.

#### **Provincial Policy Protects Agriculture, Environment and Resource Uses**

The Provincial Policy Statement (PPS) requires that any planning document or decision must have regard for the potential for land use conflicts in a changing society. As a result Provincial Policy will have a direct impact on the policies of the City's new official Plan. It should be noted that the Province is currently considering changes to the Ontario Planning Act. These changes, among other matters will require municipalities to ensure that when they exercise Planning Powers that these decisions 'are consistent with' matter of Provincial Policy as identified in the Planning Act. Other changes to the Act are contemplated, and once the province has finalized these changes their impact of the Rural and Waterfront Policy will be assessed and policies will be modified accordingly. Current Provincial Policy states;

## *“1.1 Developing Strong Communities*

*1.1.1 Subject to the provisions of policy 1.1.2, cost-effective development patterns will be promoted. Accordingly:*

- a. Urban areas and rural settlement areas (cities towns, villages and hamlets) will be the focus of growth;*
- b. Rural areas will generally be the focus of resource activity, resource-based recreational activity and other rural land uses;*
- c. Urban areas and rural settlement areas will be expanded only where existing designated areas in the municipality do not have sufficient land supply to accommodate the growth projected for the municipality. Land requirements will be determined in accordance with policy 1.1.2. The policies of Section 2: Resources, and Section 3: Public Health and Safety will be applied in the determination of the most appropriate direction for expansions. Expansions into prime agricultural areas are permitted only where:*
  - 1. there are no reasonable alternatives which avoid prime agricultural areas; and*
  - 2. there are no reasonable alternatives with lower priority agricultural lands in the prime agricultural area;*
- d. Development and land use patterns that would hinder the efficient expansion of urban areas or rural settlement areas are not permitted in adjacent areas;”*

*1.1.1.f. Development and land use patterns which may cause environmental or public health and safety concerns will be avoided;”*

*“1.1.3.g. Planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and/or separated from each other to prevent adverse effects from odour, noise and other contaminants.”*

*“1.1.2 Land requirements and land use patterns will be based on:”*

*“b. densities which:*

- efficiently use land, resources, infrastructure and public service facilities;*
- avoid the need for unnecessary and/or uneconomical expansion of infrastructure;”*

### **“1.3 Infrastructure**

#### **1.3.1. SEWAGE AND WATER SYSTEMS**

*1.3.1.1 Planning for sewage and water systems will recognize that:*

- full municipal sewage and water services are the preferred form of servicing for urban areas and rural settlement areas. In areas serviced by full municipal sewage and water services, lot creation will be permitted only if sufficient reserve water and sewage plant capacity will be available to accommodate it;*
- communal services are the preferred means of servicing multiple lots/units in areas where full municipal sewage and water services are not or cannot be provided, where site conditions are suitable over the long term; and*
- lot/unit creation may be serviced by individual on-site systems where the use of communal systems is not feasible and where site conditions are suitable over the long term; but*
- partial services will be discouraged except where necessary to address failed services, or because of physical constraints.*

“2.2            *Mineral Resources: Mineral Aggregates, Minerals, Petroleum Resources*

2.2.1           *Mineral resources (mineral aggregates, mineral and petroleum resources) will be protected for long term use.”*

**“2.2.2    MINERALS AND PETROLEUM RESOURCES**

2.2.2.1       *Mineral mining operations and petroleum resource operations will be protected from activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact.*

2.2.2.2       *In areas adjacent to or in known mineral deposits or known petroleum resources, and in areas of mineral potential, development which would preclude or hinder the establishment of new operations or access to the resources will only be permitted if:*

- a. resource use would not be feasible; or*
- b. the proposed land uses or development serves a greater long-term public interest;”*

The PPS is quite specific about precluding residential development in areas with known mineral deposits.

### **“2.2.3 MINERAL AGGREGATES**

*2.2.3.2 Mineral aggregate operations will be protected from activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact. Existing mineral aggregate operations will be permitted to continue without the need for official plan amendment, rezoning or development permit under the Planning Act.*

*2.2.3.3 In areas adjacent to or in known deposits of mineral aggregates, development which would preclude or hinder the establishment of new operations or access to the resources will only be permitted if:*

- a. resource use would not be feasible; or*
- b. the proposed land uses or development serves a greater long-term public interest; and*
- c. issues of public health, public safety and environmental impact are addressed.”*

*(Province of Ontario Provincial Policy Statements)*

The PPS clearly places a priority on the retention of lands for agricultural or natural resource use and recommends limitations on any uses that may cause land use conflicts or environmental degradation. This policy is very broad and includes areas where the use currently exists, areas adjacent to resource uses that currently exist, or in locations that could feasibly support resource development or agriculture expansion/intensification in the future. The only exception is for proposed land uses which serve a greater long-term public interest.



## **1.2 Draft Changes to the PPS**

The Minister of Municipal Affairs and Housing released a new draft PPS in June of this year. If strictly interpreted the proposed changes to policies affecting rural and waterfront areas may serve to limit growth, and to an even greater extent, focus new development to existing urban settlement areas. Rural areas are defined as lands located outside of “settlement areas” and which are outside “prime agricultural areas”, thus making up the overwhelming majority of land in the new City.

Sudbury’s many lakes and rugged geography combined with an historical pattern of development result in a unique built form. This built form is characterized by a number of settlement areas varying in size, surrounded by rural areas which offer unique residential lifestyle choices. These choices include waterfront living opportunities as well as large lot rural residential opportunities. Although it is recognized that the new PPS may discourage this type of development the fact remains that this development already exists within the Sudbury planning context. In some cases it may be practical to support further intensification in certain clusters so as to more efficiently provide municipal services. In other circumstances it may be practical to discourage new development based on the PPS. The proposed PPS seeks to have municipalities develop in an efficient cost effective manner. A balanced approach is what is most likely required from a policy perspective. Being ‘consistent’ with Provincial policy in the Sudbury planning context will require consideration of Sudbury’s pattern of development and the efficient provision of services based on that pattern of development.

The draft PPS would require that the watershed be used as the ecologically meaningful scale for planning in order to protect and preserve the quality and quantity of water. The final version of the PPS will help to structure the policies affecting rural and waterfront areas.

## **1.3 Current Official Plan**

The City’s current Official Plan and Secondary Plans also recognize the potential conflicts between residential development and natural resource/agricultural land uses, as well as with shoreline development.

The City’s current Official Plan states that residential development should occur primarily within the settlement area with full municipal services. It is a policy of the Plan that residential development should infill existing settlement areas. Some rural residential development is anticipated outside of settlement areas. However, the primary use of lands outside settlement areas should be protected for resource development (Sections 3.4 - 3.11). Residential development outside of settlements is guided by the policies of the Official Plan in Sections 3.12 to 3.17.

The policies of the Official Plan with respect to rural residential development allow rural, waterfront and resort development. The Plan allows this development to take the form of seasonal and/or waterfront dwellings, rural estate development, hobby farms, agricultural, and permanent rural residential uses.

The Plan acknowledges the potential for land use conflict created by approving residential dwellings in an area that has an abundance of natural resources. Policy 3.15 states that scattered rural residential uses (not waterfront or resort) shall not be permitted in areas “restricted by” the agricultural reserve, mineral reserve or mineral resource extraction areas. Where the development is not prohibited, new lots are to be a minimum of two hectares in size with a frontage of 90 metres onto a public road with school bus access. New lots must have the soil conditions suitable for sewage disposal and proven water supply. Once subdivided, the Plan suggests that the Committee of Adjustment should ensure that the lands cannot be subdivided again. The Official Plan gives Council the right to establish severance quotas in the Secondary Plans.

In the case of seasonal/waterfront development, the Official Plan states:

*“A seasonal residential dwelling can be defined as a dwelling used for leisure and recreational uses during different seasons of the year and which is not the sole and primary residence of the owner or occupant. A permanent waterfront dwelling unit is the primary residence of the owner or occupant and is occupied most of the year.”*  
(Section 3.16)

The existing Official Plan for the Sudbury Planning Area (the Regional Official Plan) discusses seasonal and waterfront development in Sections 3.16 and 3.17. At the Regional level, policies are established for development outside or urban or settlement areas. The current policy is to require applications to be located on a public road that is maintained year-round and have a minimum lot frontage of 45 metres and .4 hectares. These standards apply for permanent dwellings. Seasonal dwellings are to be considered similarly if the lot fronts onto a public permanent or seasonally maintained road but, alternatively, may also be a lot abutting a water body which has public access. The lot must also be capable of accommodating approved water supply and waste disposal system and have a minimum frontage of 45 metres and .4 hectares. The Plan indicates that seasonal dwellings are encouraged providing they will not create a demand on the resources of the City. The Regional Plan also permits conversions from seasonal to permanent uses provided that they are not close to urban areas and satisfy Building Code standards.

The Regional Plan also supports the development of resort facilities in Section 3.18 through to 3.20 as a means of expanding the economy and providing additional recreational opportunities.

Water resources are further governed by broad criteria in the Official Plan in Section 8.28 regarding water resources, and Section 9.12-9.15 regarding sensitive areas. The Secondary Plans have policies more specific to lands within those planning boundaries.

There are several Secondary Plans which also deal with specific designations and policies applicable to rural and waterfront areas of the Region. There is a great variation in the nature and detail of policies affecting waterfront areas in the various secondary plans, less so in the policies affecting rural development. While lake capacity issues are discussed and specific policies relate to the identification of cold water lakes with lake trout populations, there is no consistent structure or approach to understanding the impact of additional development on water quality, as the various plans were approved at different times over the past three decades.

Similarly, there is a discussion of retaining vegetation in the littoral zone in two of the secondary plans, but no overall policy. Both of these policy areas should be dealt with on a more general basis and then applied as appropriate to the individual lakes.

The policies in the various Secondary Plans deal primarily with:

- the criteria under which new lots may be allowed to be created;
- the restrictions on use to seasonal vs. permanent dwellings; and
- the conditions under which a dwelling may be converted from seasonal to permanent use.

Typically, the conditions with respect to the creation of new lots require:

- proof of a potable water supply;
- approval for a private sewage system, and
- an indication that the property does not lie within the flood plain.

In most cases there are minimum standards of 45 metres of public road frontage and an area of .4 hectares. There are exemptions for lots for seasonal purposes which may be allowed to have access only by a seasonally maintained road or docking facility.

Some of the policies also require minimum setbacks for replacement field beds from the high water mark as well as setbacks for main or accessory buildings while others do not. The minimum lot sizes do vary, depending upon the Secondary Plan Area, as do the minimum frontages. There is also reference to a “no demand for services agreement” to be registered against title where access is obtained from a seasonally maintained road, presumably addressing the issue of seasonal users requiring additional municipal services than those available at the time the lots were created. The status of these agreements is questionable. As such it may be appropriate to consider the issue of use and its impacts before allowing any development.

The policies with respect to conversion essentially require the same standards for the lots to be converted as they do for the creation of new permanent residential lots. These policies typically require the lot to front on a public road which is maintained year-round, meet minimum size and frontage standards, as well as having the ability to obtain approval for private water and sewer systems. The standards for conversion also require that Building Code standards for permanent dwellings are met.

There are occasional references in the Secondary Plans to the existing trophic levels of the lake with requirements for proof that the conversion or the creation of lots would not have long-term effects on the existing trophic levels.

In the context of rural policy, the primary land use anticipated outside settlement areas is resource development. Two main resource reserves are set aside in the City of Greater Sudbury, one for mineral and the other for agricultural uses. In the case of new mineral developments, one of the criteria any approval has to take into account is the impact of the new development on surrounding land uses (Policies 8.7 and 8.12). The concern is that increased rural residential development will affect the potential for resources uses.

The policies affecting waterfront uses are relatively limited and focus primarily on the criteria for the creation of new lots. There is no overall policy dealing with potential impacts on lake water quality, nor are there ones that deal with the lakes on a case-by-case basis relating the potential development to potential water quality impacts.

### **In summary**

1. Existing policies generally protect the mineral and agricultural preserves from incompatible uses.
2. The various plans have a variety of standards dealing with lot creation in both rural and waterfront contexts. The rationale for the standards and the actual standards used were developed at different times and for a variety of reasons. It would be more appropriate to set more general objectives and then allow variations in standards, depending on the context (lake) or the form of existing development.
3. Policies permitting development in rural areas should be reviewed for consistency with the proposed PPS and have regard for Sudbury's existing pattern of development.

#### **1.4 Council Private Road Policies**

In considering rural and waterfront development issues it is important to understand the planning context. One important part of this context is very much dependant on the status of the local road. The current rules of Council for a building permit for permanent

residential uses require frontage on an open public road maintained on a yearly basis. Throughout the City there are many areas where the status of the road is questionable. In some cases there are disagreements as to where the public road ends and a private road starts. In other cases there are pockets of permanent dwellings which exist in areas designated for seasonal uses and serviced only by a private road or a seasonally maintained road. The result of all of this is that in the rural and waterfront areas across the City road issues are important to consider when dealing with development in these areas.

In many of the Public Open Houses that were held in support of the Rural and Waterfront Background study, many residents attended to request that the City resolve local road issues on their behalf by simply assuming the roads in questions. In many cases residents indicated that they are paying significant amounts of money for the maintenance of their private roads. In other circumstances residents indicated that the City's current road assumption policy was both onerous and costly. In all cases the preferred solution was for the City to assume the road thereby transferring all costs of assumption and maintenance of the road to the City.

The biggest demand for the assumption of roads seems to occur in areas which are zoned and designated for seasonal residential uses (camps/cottages). Although the law is not clear as to whether or not that City can enforce zoning that restricts people to seasonal occupancy of dwellings, what is clear is that these areas have not been planned to be used on a permanent basis. The actions of a few individuals to occupy seasonally zoned areas on a permanent basis has placed pressure on Council to provide a wider range of services in areas which have not been planned for full urban services.

Council's current road assumption policy provides residents a mechanism to resolve local road issues without an undue cost be transferred to the City. The residents who attended the Open Houses made it known that they would prefer that the City simply assume the roads at no charge. Although this is understandable, there appears to be no planning justification for a change in Council's policy at this time.

There are 335 known kilometres of private roads in the City of Greater Sudbury. There may be more that are yet to be identified. Requests have been made to Council on a number of occasions to assume the roads. In response to these requests City Council in 2001 established the following policies:

## Eligibility Criteria

Using the subdivision process as a guide, Council adopted the following criteria for the assumption of private roads. All associated work and costs would be the responsibility of petitioning residents.

- a registrable survey plan(s) of the road right-of-way is produced, meeting specified minimum widths and geometric design standards;
- property ownership of the right-of-way is acquired and fully transferable to the Municipality at no cost to the Municipality;
- roads are constructed or improved with and/or connects to an existing municipal road or Provincial highway;
- the road must service year round residential properties. Industrial, commercial, or institutional roads will not be considered;
- these eligibility criteria will not apply to new private roads developed after January 1, 2001.

### 1.5 Phosphorus and Lake Water Quality

The Ministry of the Environment in Ontario currently has a Provincial Water Quality Objective (PWQO) for phosphorus in lakes. Lakes are to be maintained below 10 ug/L of phosphorus if possible and 20 ug/L is considered the maximum allowed to avoid the nuisance growth of algae. The local MOE office in Sudbury and Sudbury's current Plans rely on this indicator as a measure of water quality. It is also expected that phosphorus will remain a key indicator of water quality and be carried forward in future planning documents.

#### Measurement of phosphorus

Phosphorus measurements make it possible to detect long-term changes in the water quality of lakes. Phosphorus is measured because it is the element that controls algal growth in the majority of Ontario lakes. More phosphorus in a lake will mean more algal growth. An increase in phosphorus concentrations in a lake is likely a consequence of human activity in the watershed. With several years of good spring turnover phosphorus data, the MOE can accurately assess the nutrient status of a lake, and watch for changes between years that might indicate increasing trends in the nutrient status of the lake.

The Ministry is currently working on a lakeshore capacity handbook that will assist municipalities in determining if development is appropriate on a lake based on water quality



indicators like phosphorus and other mechanisms like new technology. Until the MOE proposes new options for determining water quality, Sudbury will continue to use phosphorus as an indicator of lake water quality.

## **2.0 POLICY IN OTHER PLANNING JURISDICTIONS**

### **2.1 Rural Policy in Other Planning Jurisdictions**

Rural policy in other jurisdictions is of limited relevance to the Northern Ontario/Sudbury context. The mineral reserve is unique, as is the extent of above and below-ground mining operations. In addition, the effect of the new PPS may dramatically limit the amount and form of development that may occur in the rural area.

### **2.2 Shoreline Policy in Other Planning Jurisdictions**

There are a variety of waterfront policies used in other jurisdictions in Ontario. All of them have similar objectives - the protection of the resource through management of growth and change - but there are different means of accomplishing this objective. Some rely entirely on semi-scientific links to measures of water quality, others on objectives related to compatibility.

#### **County of Bruce**

Inland lakes in the County of Bruce are dealt with by the “Inland Lake Development Area” designation. This designation recognizes that all of the inland lakes in the County are environmentally sensitive due to their size, depth, rate of inflow and rate of outflow. The policies state that new development shall not be permitted on these lakes unless it can be proven that the inland lakes can sustain the level of development proposed without suffering undue environmental degradation. All subdivisions around an inland lake require a County Official Plan Amendment.

It is also an additional objective of the County of Bruce Official Plan to increase and improve the amount of public access to waterways. In this regard, the County Plan contains a number of detailed policies requiring that all backlot developers provide some means of access to the water for new residents as one of the conditions of the approval process.

## **County of Peterborough**

The County of Peterborough has a number of lakes. Lands within 150 metres from any of these lakes have been placed in a “Shoreland” designation. However, the “Shoreland” designation does not extend into any settlement area or into any area identified as Agricultural land in the local Official Plans.

It is the objective of the County of Peterborough to maximize public accessibility to waterfront areas, control waterfront development, and limit new residential land commercial uses in “Shoreland” areas. It is also the objective of the County of Peterborough Official Plan to improve water quality on a watershed basis and to preserve and enhance fish and wildlife habitat areas within and along waterbodies. The County Plan contains a minimum lake lot frontage of 30.5 metres.

The Plan also encourages local municipalities to establish open space buffers between new development and the shoreline area. The Official Plan also contains some policies regarding lakes which have reached development capacity, much like the policies in the District of Muskoka Official Plan.

## **District of Muskoka**

The District of Muskoka contains a “Waterfront” designation that is intended to apply to all those lands extending inland 150 metres from any standing waterbody that has an area of 8 hectares or more. The “Waterfront” designation also applies to an area within 150 metres of any substantive river or other waterbody identified in the Muskoka District Plan or any local Official Plan. The waterfront policies may also apply to lands beyond the 150 metre measurement if they are deemed to be functionally related to the health of the lake or waterbody.

The Muskoka Official Plan recognizes that the waterfront is a sensitive area and permitted uses are therefore limited. The District Plan generally relies upon local Official Plans to set lot sizes and development standards in their municipalities, although the District of Muskoka Plan does contain some minimum standards.

The District of Muskoka has over 225 inland lakes. Each lake is rated on its sensitivity to further development and each lake is rated as being not sensitive, sensitive or restricted to further development. The scientific basis for these categories relate to the lakes trophic condition, expressed as chlorophyll A objective. These objectives are intended to be targets against which all existing and future uses and related water quality conditions are measured. On lakes restricted to development, no additional development is permitted. Limited development is permitted on lakes that are sensitive and development is generally permitted on lakes that are not considered to be sensitive to development. The District Official Plan also contains a number of policies about retaining vegetation along the water’s edge in the shoreline areas.



## 2.3 Conversion Policy in Other Planning Jurisdictions

When an individual occupies a property in Sudbury that is zoned 'R7' *Seasonal Residential* on a full time basis, this person is doing so contrary to the provisions of the Zoning By-law.. At that point, the municipality has a number of options available to it. It could enforce the law and pursue the matter in the courts, or it could review its policies and try and establish a regulatory environment that deals with the issue in a different way.

The courts have found that a municipality does not have the authority to regulate the period of time

when someone may occupy a dwelling. In addition, given the number of illegally occupied seasonal dwellings, it may prove to be very difficult in terms of resources to enforce the law. Enforcement does not appear to be a reasonable option in terms of protecting the public interest given that the resources necessary to investigate each and every seasonal property in the City are not available and the outcome of a prosecution is uncertain. Needless to say, this type of approach would most likely be viewed as extremely unpopular with people who were caught in this type of crackdown.

One course of action the municipality could take is to adopt a "do nothing" policy. What this would mean in practical terms is a continuation of zoning for seasonal uses and only deal with problems when and if they arise on a site specific basis.

Another option available is to establish uniform conversion policies through the new Official Plan which specifically deal with the issue of converting seasonal dwellings to permanent dwellings. Essentially, this policy would attempt to ensure that the matters identified as being within the public interest are safeguarded. If this can not be assured, then conversion should not occur.

Planning and Development Committee of the Region requested several years ago that staff check with other Ontario municipalities to see how they deal with this issue. Staff contacted North Bay, Sault Ste. Marie, Timmins, Muskoka and the Sudbury East Planning Board. These areas were selected as they would make good comparisons to the Sudbury situation. A summary of the responses is as follows:

**City of North Bay** - North Bay does not have policies which deal specifically with the conversion of seasonal dwellings to permanent dwellings.

**Sudbury East Planning Board** - The Sudbury East Planning Board was created by the Minister of Municipal Affairs on December 20, 1990. The planning area consists of the municipalities of Ratter and Dunnet, Casimir, Jennings and Appleby and Cosby Mason and Martland. In addition, the Planning Board has jurisdiction over another 25 unincorporated Townships. This area includes places like Alban and much of the French River area. Accordingly, the presence of seasonal dwellings in this area is very much a fact of life. Three Townships formerly in the Planning Board's area are now in the City.

In 1994, of all the dwellings classified as 'Rural' in the Planning Area, 1,701 or 53% were characterized as seasonal with 1,395 or 47% characterized as permanent.

The Official Plan for this Planning area does contain policies regarding the conversion of seasonal dwellings to permanent dwellings. They are as follows:

*"Conversions of seasonal residential dwellings to permanent residential dwellings may be permitted where applications meet the following criteria:*

*Lots must have frontage and direct access onto a year-round publicly maintained road. This shall mean roads which are under the jurisdiction of local roads Board or a Class 5 provincial highway as determined from time-to-time by the Ministry of Transportation.*

*That new private water and sewage systems shall be subject to the regulations of the Ministry of Environment and Energy or its designate. Where systems already exist, they must be deemed to be acceptable to the Ministry of Environment and Energy or its designate.*

*That school bus service is available in accordance with school bus criteria.*

*That hydro service is available to the lot.*

*That the lot is within an existing fire service area.*

*That the conversion of a seasonal residential lot will not result in a change to the trophic category of an adjacent lake or water body.*

*That the conversion must comply with the zoning order.*

*That waste disposal services are available to the land and are adequate."*

**City of Timmins** - the City of Timmins has policies in its Official Plan which deal specifically with the conversion of seasonal dwellings to permanent dwellings. Section 3.37.3.1 of their Official Plan establishes the following policies for conversion:

*"Conversion of cottages to year round residential uses and new permanent year round residences are permitted in the cottage designation around Kamiscotia Lake subject to the following:*

*The lands abut a road that is maintained year round by the municipality or the Ministry of Transportation of Ontario.*

**The District Municipality of Muskoka** - The District of Muskoka does not have any policies in effect in their Official Plan which guide their Council on the issue of conversions. However, their staff did provide an issue paper summarizing the key issues of concern. Generally speaking from a planning perspective, they are concerned about the following types of issues:

- expansion of services to a year round basis due to conversions will financially impact the municipality;
- will affect the settlement pattern as more people move to rural areas;
- as people age, they require different types of services. An increase in elderly people in the rural areas will lead to a demand for an additional level of service that is not provided today (i.e. ambulance response times); and
- as the intensity of the uses increase, the impacts on the natural environment will also increase.

In considering the policy options, it should be acknowledged that there is an element of uncertainty in forecasting what the long-term impacts of allowing full scale conversion might be. If, for example, all of the existing seasonal dwellings were to convert to permanent uses, then there would be a significant shift in settlement patterns in the City. In the long-term, the provision of full municipal services to this new constituency may affect spending priorities of the municipality.

In a very simple sense, if the policy can ensure that there will be little or no impact on the public interest, then there should be no immediate reason to prevent conversions. However, some of the impacts will not be known for quite some time (i.e. environmental, financial change in pattern of development). Some of these impacts may simply never occur and are only assumed at this time. It is within this context that a policy must emerge. For this reason, a moderately cautious approach should be taken with respect to this issue given the lack of perfect knowledge.

### **3.0 MAIN POLICY THEMES**

The Rural and Waterfront background study provided an opportunity to review and quantify relevant information. This policy paper takes those issues and further considers them within a policy context. A number of themes have emerged from our review to deal with the various issues that have been identified. The Official Plan will develop policy centered on these themes within the context of rural and waterfront development.

#### **1. Protecting Natural Resources for Future Use.**

- \* resource extraction, like sand and gravel , and agriculture are important to Sudbury's economic future. These areas should be preserved for future development of these types of resources. Accordingly new development that interferes with the development of the resource should be prohibited or controlled.

## **2. Planning on Watershed Basis.**

- \* Planning for and on a watershed basis - dealing with water quality/quantity issues and providing a vehicle for a lake-planning process involving all stakeholders. Policies affecting lake development typically deal with a very wide range of land use and environmental issues because of the relationship of the land to the water. Development on the land affects the quality and nature of the lake. It should be the objective of the lake-related policies in the Plan to ensure that the impacts of development are positive, that cumulative impacts can be assessed and that the essential functions of the lake and the shoreline (filter, buffer, wildlife corridor) can continue to be effective.

For this reason lake related policies must establish some relationship between the nature and size of the waterbody and the amount and nature of development on the land.

Approaching the lake water quality issue from a comprehensive perspective considering a variety of factors and objectives. This approach should include a significant initiative to maintain and enhance shorelines.

## **3. Preservation of Non-Urban Character**

- \* There is an intangible quality that exists outside of the settlement areas. Typically these areas are less developed, less urban. They are characterized by the lack of full urban services, a closer affinity to the natural environment, scenic views, and quiet spaces, among other things. Although it is acknowledged that this intangible quality is difficult to define and therefore difficult to regulate it is important to understand that it exists and wherever possible to attempt to preserve it. Policies will be developed with the preservation of this character in mind.

#### **4. Restriction on the Extension and Provision of Municipal Infrastructure and Public Services.**

- \* The continued unplanned expansion of development outside of settlement boundaries can lead to an ever increase cost of providing municipal services. Planning provides an opportunity to anticipate where growth will occur and to control the costs associated with this growth in a managed way. Sudbury's setting within the Canadian shield historically has offered an opportunity for unique lifestyle choices. Policies will be developed which will balance these two interests in the context of rural and waterfront development.

## APPENDIX A SAMPLE POLICIES

In the following text two approaches, at varying levels of detail, are provided that are suitable for the Sudbury context. (MOE information on lake water quality is inaccessible.) For this reason a modified carrying capacity approach is suitable, one that uses the existing data, allows for additional information to be considered, as water quality monitoring occurs, and also considers the recreational boating limits which are particularly important given the large number of relatively small lakes in the City.

### Example

The following text sets out detailed policies that would direct development and change in shoreline areas based on the carrying capacity concept. The policies set out the basic carrying capacity structures, establish a “Shoreline” designation with related policies, deal with lot creation in shoreline areas, establish the requirements for Environmental Impact Statements, and deal with the development of Lake Stewardship Plans or Strategies as a secondary level of planning.

### **Environmental and Water Quality Impact Policies**

It is a priority for Council to make planning decisions that accurately assess potential impacts on environmental features and water quality. As such, in some instances the land use policies of this Plan will require the preparation and submission of technical reports to demonstrate that a development proposal will not adversely impact the environment, including the water quality of a lake or lakes within a watershed. The following policies establish the City’s requirements and expectations with respect to the preparation of information necessary to assess a development proposal.

### **Cold Water Lakes at Capacity**

The Ministry of Environment and Energy and the Ministry of Natural Resources will designate highly sensitive cold water lake trout lakes where the amount of habitable development has already reached or exceeded the lake’s capacity: new development within 300 metres of the high water mark of an “at capacity” lake will not be permitted except for development on existing lots of record or where the tile bed or filter bed can be located more than 300 metres from the high water mark of the lake in the direction of natural surface drainage.

Notwithstanding this policy, in some limited cases new development may be permitted, provided an EIS has been prepared in consultation with the Ministry of the Environment, which demonstrates that the proposal will not impact or further degrade the water quality of the lake.

## **Cold Water Lakes Near Capacity**

Same lakes in the City will be identified by the Ministry of Natural Resources and Ministry of the Environment as being near capacity. New lot creation or expanding commercial development will not be permitted on these lakes unless the EIS prepared in accordance with the Plan demonstrates that such development will not compromise MOE water quality objectives.

## **Recreational Carrying Capacity**

In considering major development proposals on a lake such as marinas, plans of subdivision/condominium, multiple consents and resorts, Council shall have regard for the ability of the lake to accommodate additional recreational users. Recreational carrying capacity on lakes with over 40 hectares of surface area shall generally be based on a ration of one residential or commercial unit for each 2.5 hectares of surface area. On lakes having less than 40 hectares of surface area, recreational carrying capacity shall be based on a ration of one unit for each 4.0 hectares of surface area. Density above these guidelines may be permitted subject to the preparation of a Boating Impact Study. In reviewing such a study, Council shall be satisfied that the proposed development will not cause the recreational carrying capacity of the lake to be exceeded in an unreasonable manner.

## **Shoreline Designation Policies**

The objectives of such shoreline policies are:

- to identify shoreline communities which are comprised of seasonal and permanent residents, commercial uses and existing shoreline lands still in their natural state;
- to ensure that the quality of the lake and river environment is maintained or improved;
- to provide for environmentally sound development in shoreline areas;
- to ensure the natural state of the shoreline is maintained to the greatest extent possible.

## **Permitted Uses**

Permitted uses in those areas designated as Shoreline would include parkland and trails, single detached residential dwellings, accessory bed and breakfast establishments, home occupations, marinas and recreational tourist commercial uses which are compatible with surrounding uses.



## **Undeveloped Land**

The Shoreline designation would include lands which are still in their natural state and are primarily undeveloped. The inclusion of these lands in the Shoreline designation does not imply that all of these lands will ultimately be developed for residential or commercial uses. However, it would be a policy of the Plan to ensure that the future use of these lands is consistent with the objectives of the Shoreline designation.

## **Existing Residential Development on Private Roads**

Lands in the Shoreline Designation that do not have frontage and direct access to a public road that is assumed and maintained year-round by the City or other public authority would be placed in a Limited Service Residential Zone in the Zoning By-law in order to clearly indicate Council's policy that no additional municipal services will be provided in the area.

## **Shore Road Allowances**

Council would continue to offer those lands to be purchased which have historically been identified as shoreline road allowances. Council may also establish agreements with prospective purchasers to maintain the natural vegetative state of the shoreline

## **Shoreline Setbacks**

It would be a priority to maintain the shoreline of the City's lakes in their natural vegetative state to the greatest degree possible. New development on the shorelines of the lakes in the City would preserve tree cover and vegetation to the greatest degree possible within 20 metres of the shoreline in order to prevent erosion, siltation and possible nutrient migration. The Zoning By-law would implement the minimum setback for new shoreline development, including private septic systems. This standard may be greater for commercial development on the sensitive lakes listed in the Plan. The Zoning By-law would also establish provisions which maximise the potential for the retention of the majority of natural vegetation on the shoreline.

## **Small Scale Commercial Uses in the Shoreline**

Commercial uses which provide a service to the shoreline community may be permitted in the Shoreline designation. These uses would include convenience stores, personal service shops, artisan studios, and other similar uses. The development of new commercial uses and expansion of existing uses would require a Zoning By-law Amendment and be subject to the criteria such as:

- I) the proposed use is compatible with the character of the surrounding shoreline community;



- ii) the proposed use serves the needs of residents and tourists of the shoreline area;
- iii) adequate parking and loading facilities and landscaping can be provided on site; and
- iv) where a commercial use is proposed on the waterfront it can be demonstrated that the proposed use will generally not result in nutrient loading to the lake greater than a single permanent dwelling unit.

### **Tourist Commercial Uses in the Shoreline**

Tourist related commercial uses, including resorts, inns, timeshare developments, camping and cottage rental establishments, recreation lodges and other similar uses may also be permitted in the Shoreline designation subject to a Zoning By-law Amendment.

The development of any tourist commercial use or expansion of any existing use would be subject to the following:

- i) an Environmental Impact Study and a site specific Lake Impact Assessment prepared in accordance with Lake Impact Assessment criteria;
- ii) the preparation and submission of a Site Plan that illustrates how the use respects and maintains the character of the shoreline community; and
- iii) the owner entering into a Site Plan Agreement and/or Development Agreement with the City to regulate the development and operation of the use and incorporate recommendations from the Management Plan prepared in accordance with the EIS.

### **Guest Cabins**

Guest cabins or bunkies may be permitted in the Shoreline designation as an accessory use to a residential use provided the lot has a minimum area of 0.8 hectares. Guest cabins and bunkies may also be subject to special zone regulations and site plan control. It would not be the intent to permit second dwelling units on lots in the shoreline area.

### **Zoning**

Shoreline uses would be zoned in separate zone classifications in the City's Zoning By-law and provisions established to regulate issues such as density and setbacks.

### **Lot Creation Policies**

## **Preferred Means of Land Division**

Land would be divided by Plan of Subdivision/Condominium rather than consent. It would be necessary if:

- I) the extension of an existing public road or the development of a new public road is required to access the proposed lot or units; or,
- ii) the area that is proposed to be developed is not considered to be infilling; or,
- iii) a Plan of Subdivision/Condominium is required to ensure that the entire land holding or area is developed in an orderly manner; or,
- iv) more than three new lots/units are being created.

## **New Residential Plans of Subdivision**

In order to maintain the existing character of the shoreline area and to ensure that new development has direct access to the water, new Plans of Subdivision or Condominium within the Shoreline Designation would only be considered if the majority of the lots within the Plan abut the shoreline and have direct access or frontage on a public road or a road owned and maintained by the Condominium Corporation that has access to a public road.

Prior to the consideration of an application for Plan of Subdivision, the following criteria should be examined:

- I) the proposed Plan of Subdivision is of a scale and density that is compatible with existing development in the shoreline community;
- ii) the Servicing Options Report is completed to the satisfaction of Council and all applicable Provincial agencies;
- iii) the Environmental Impact Study, including a site-specific Lake Impact Assessment, is completed to the satisfaction of Council and all applicable Provincial agencies;
- iv) measures to preserve the integrity of the shoreline and the tree cover on the site are included within the Management Plan and are reflected in the Plan, the Zoning By-law Amendment and/or within a Subdivision Agreement;
- v) parkland areas are sited at appropriate locations to provide access to the shoreline. However, where the dedication of parkland would not reasonably serve the needs of the local community, Council may consider accepting cash-in-lieu to improve existing parks or purchase more appropriate lands for parkland purposes on the lake subject to development.

## **New Residential Lots Created by Consent**

Where a Plan of Subdivision is not required, new residential lots may be created by the consent process. Backlot development would generally be discouraged but may be permitted if the lot to be created has a significantly larger area and frontage, is located

within reasonable proximity to a public access point to the lake and fronts on a maintained public road.

Where sensitive fish and wildlife habitat areas and spawning areas have been identified, consent applications within 120 metres of these areas must be able to demonstrate that these areas will not be adversely impacted by lot creation.

New residential lots shall front on a public road maintained throughout the year by the City. However, Council may consider the creation of a new lot on a private road with a registered right-of-way generally not exceeding 300 metres from the proposed lot to a year-round municipally maintained road.

Where the dedication of parkland would not serve the needs of the local community, Council may consider accepting cash-in-lieu to improve existing parks or purchase more appropriate lands for parkland purposes.

## **Environmental Impact Study Requirements in Shoreline Areas**

### **Role of an Environmental Impact Study (EIS)**

All major development proposals, including Official Plan Amendments and Plans of Subdivision, would require an Environmental Impact Study to be prepared and submitted at the applicant's expense. The City may also conduct a peer review of the applicable study at the applicant's expense.

### **Sample - Contents of an EIS**

Environmental Impact Studies shall employ the most current and acceptable techniques and reflect a watershed approach for the determination of developmental impacts on the lake(s) and surrounding ecosystem and shall include or address the following matters:

- i) provide a description of the proposed undertaking or development objective;
- ii) describe the natural features and ecological functions of the area potentially affected directly and/or indirectly by the undertaking, and their sensitivity to development;
- iii) identify lands that support environmental attributes and/or functions that may qualify the lands for designation within the Environmental Protection designation;
- iv) identify the direct and indirect effects to the ecosystem that might be caused by the undertaking;

- v) identify any environmental hazards (i.e. slope, flooding, contaminants) that need to be addressed or protected;
- vi) identify any monitoring that may be required to ensure that mitigating measures are achieving the intended goals;
- vii) in the case of development within 300 metres of a lake, the EIS shall also provide a Lake Impact Assessment prepared to the satisfaction of the City in consultation with the Ministry of Environment and the Ministry of Natural Resources. The purpose of the Assessment is to demonstrate that the proposed development will not impair the water quality of the lake or compromise MOE water quality objectives.
- viii) prepare a Management Plan (MP) identifying how the adverse effects will be avoided or minimized over the construction period and life of the undertaking and how environmental features and functions will be enhanced where appropriate and describing the net effect of the undertaking after implementation of the MP. The MP shall also establish draining infiltration systems as well as buffers and setbacks adjacent to watercourses, lakes, valleys wetlands and vegetation to protect the natural feature and its attributes and/or function from the effect of development.

### **Lake Stewardship Plans and Strategies**

This Official Plan represents Council's policy to properly managing land use and development in the shoreline areas. However, the Plan would require the preparation of Lake Plans and Strategies to articulate lake-specific principles and goals outlined in this Plan.

Lake Plans and Strategies would assess issues such as recreational carrying capacity, shoreline development, vegetation retention and health, shoreline erosion, cottage conversion and septic system maintenance and inspection and other issues important to lake communities. Such Plans are also encouraged to establish monitoring programs and/or remediation programs to be primarily implemented by local residents and stakeholders such as the City, the Conservation Authority and the Province.

Amendments to the Official Plan or zoning by-law where Lake Stewardship Plans or Strategies reveal new planning issues or refine policy not already addressed by this Plan. Where all or part of a Lake Stewardship Plan or Strategy is proposed to be incorporated by an amendment to this Plan and/or the zoning by-law, it must be consistent with the Vision and Principles of the City of Greater Sudbury Official Plan as well as the Objectives for the Shoreline designation.