

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: February 27, 2023

CASE NO(S): OLT-21-001605
(Formerly PL180416)

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	CRH Canada Group Inc.
Subject:	Request to amend the Official Plan - Failure of Township of Tiny to adopt the requested amendment
Existing Designation:	'Rural', 'Environmental Protection II' and 'Mineral Aggregate Resource II'
Proposed Designated:	'Mineral Aggregate Resources I'
Purpose:	To permit the expansion of the existing gravel pit
Property Address/Description:	2 Darby Road
Municipality:	Township of Tiny
Approval Authority File No.:	'12/D09' (DS #36243)
OLT Case No.:	OLT-21-001605
Legacy Case No.:	PL180416
OLT File No.:	OLT-21-001605
Legacy Lead Case No.:	PL180416
OLT Case Name:	CRH Canada Group Inc. v. Tiny (Township)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	CRH Canada Group Inc.
Subject:	Application to amend Zoning By-law No. 06-001 and 30-77 - Refusal or neglect of Township of Tiny to make a decision
Existing Zoning:	Rural (RU) Zone, Rural (A) Zone and Holding Low Hazard (OS4) Zone
Proposed Zoning:	Mineral Aggregate (MAR) Zone and Extractive Industrial (M5) Zone
Purpose:	To permit the expansion of the existing gravel pit
Property Address/Description:	2 Darby Road
Municipality:	Township of Tiny
Municipality File No.:	'12/D14' (DS#36242)
OLT Case No.:	OLT-21-001605

Legacy Case No.: PL180417
 OLT File No.: OLT-21-001607
 Legacy Lead Case No.: PL180416

PROCEEDING COMMENCED UNDER subsection 11(5) of the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended

Referred by: CRH Canada Group Inc.
 Objector: Blake & Brenda Anderson
 Objector: Peter & Jeanette Anderson
 Objector: Erin Archer
 Objector: Murray Archer; and others
 Applicant: Jessica Ferri
 Subject: Application for a Class A licence for the removal of aggregate
 Property Address/Description : 2 Darby Road
 Municipality: Township of Tiny
 OLT Case No.: OLT-21-001605
 Legacy Case No.: MM210011
 OLT File No.: OLT-21-001616
 Legacy Lead Case No.: PL180416

Heard: January 31, 2023 by video hearing

APPEARANCES:

Parties

Counsel*/Representative

CRH Canada Group Inc.
 ("Applicant/CRH")

Jonathan Kahn*

Township of Tiny

No one appeared

Federation of Tiny Township
 Shoreline Associations
 ("FOTTSA")

Joseph Castrilli*
 Jacqueline Wilson*
 Zoe St. Pierre* (Student-at-law)

Melanie Robitaille
 ("Objector")

Self-represented

MEMORANDUM ORAL DECISION DELIVERED BY T.F. NG ON JANUARY 31, 2023 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] CRH Canada Group Inc. (the “Applicant”/“CRH”) made an application for a Category 3, Class “A” licence (Pit Above Water) for the proposed Teedon Pit Extension to extract aggregate above the water table and to approve Site Plans for that licence under the *Aggregate Resources Act* (“permit application”). The permit application was referred to the Tribunal pursuant to s. 11(5) of the *Aggregate Resources Act* (“ARA”) to determine whether a licence should be issued.

[2] The proposed Teedon Pit Extension (the “subject property”/“Teedon Pit Extension”/“proposed pit”/“extension pit”) is located at 2 Darby Road the North ½ of Lot 80, Concession 1, W.P.R, and Part of the original road allowance between Lots 80 and 81, Concession 1, W.P.R, Township of Tiny (“Township”), County of Simcoe (“County”). The proposed pit is located directly north of the existing Teedon Pit (“Teedon Pit”). The subject property is 42.6 hectares (“ha”), whereas the area proposed to be licensed under the ARA and designated / zoned under the *Planning Act* to permit a mineral aggregate operation is 15.3 ha.

[3] Within the area to be licensed, the proposed extraction area is 13.5 ha and the remaining 1.8 ha will be used for environmental setbacks. The proposed extension area is predominantly forested with some open field. The remaining 27.3 ha of the subject property owned by the Applicant is not part of the proposed mineral aggregate operation. These lands will remain in their existing condition and include forested land and an existing residential dwelling located along the frontage of Darby Road.

[4] Lands within 500 metres (“m”) of the proposed pit include mineral aggregate operations to the south and forested land to the east, west and north. There is one residential dwelling located approximately 500 m to the northeast. The proposed pit includes 9.5 million tonnes of high quality mineral aggregate resource. It is proposed to be operated in conjunction with the existing Teedon Pit (*Aggregate Resources Act* Licence No. 3670) and utilize infrastructure from the Teedon Pit including the existing entrance/exit. The proposed maximum combined tonnage for the two pits is 600,000 tonnes per annum which is the current tonnage limit permitted for the Teedon Pit. As a

result, there will be no increase in permitted truck traffic onto the existing haul route. The extension pit includes one phase and extraction will progress south to north from the Teedon Pit. The proposed pit is proposed to be rehabilitated to a natural heritage end use through reforestation.

[5] The following land use applications are required to permit the proposed pit:

- Official Plan Amendment (“OPA”) to re-designate 15.3 ha to “Mineral Aggregate Resource One” in order to permit a mineral aggregate operation;
- Zoning By-law Amendment (“ZBA”) for the proposed extension to rezone 15.3 ha to “Mineral Aggregate Extraction Exception (MAR-xx)” zone in order to permit a mineral aggregate operation; and
- ARA licence application to permit a 15.3 ha mineral aggregate operation.

[6] The *Planning Act* applications were submitted to the Township in 2012 to redesignate and rezone 42.6 ha to permit a mineral aggregate operation with an extraction area of 39.0 ha. The original applications were submitted by Cederhurst Quarries and Crushing Limited. In 2017, CRH purchased the property and continued as the Applicant for the proposed *Planning Act* applications.

[7] In 2018, CRH appealed a non-decision of the proposed *Planning Act* applications. Following the appeal, CRH worked with the Township and additional agency and peer reviews were conducted. In 2021, the remaining technical issues were resolved and on December 16, 2021, CRH entered into Minutes of Settlement with the Township. CRH reduced the limits of the proposed mineral aggregate operation to 15.3 ha and the extraction limits to 13.5 ha. As part of the Minutes of Settlement the Township advised that its concerns with the application have been addressed and it does not object to the Official Plan and Zoning By-law Amendment applications. Subsequently, CRH entered into Minutes of Settlement with the Federation of Tiny Township Shoreline Associations (“FOTTSA”) on December 9, 2022 which addressed

all of its remaining concerns with the application.

HEARING

[8] At the Tribunal hearing of the Planning applications appeals and the Aggregate Resources appeal, the only parties appearing were the Applicant and FOTTSA. A participant, Anne Ritchie Nahuis previously granted participant status in the planning appeals attended, while an objector to the aggregate appeal, Melanie Robitaille appeared as the lone attending objector.

[9] Counsel, Joseph Castrilli said that his client FOTTSA is a coalition of 20 organizations within the neighbourhood, the Township and the County. FOTTSA represented 1,825 households numbering some 5,000 people. His client was satisfied that the settlement achieved with the Applicant has addressed all its concerns. It consents to the pit extension and to the appeals being allowed.

[10] Jonathan Kahn, Counsel for the Applicant, informed the Tribunal that the Township was satisfied with the settlement, had all its concerns and issues addressed and as such the Township has no further objections to the planning applications or the aggregate resources application. The Ministry of Natural Resources and Forestry ("MNRF") had on December 19, 2019 withdrawn its initial objections after its concerns have been addressed.

[11] The Tribunal acknowledged that the participant's/objector's concerns generally relate to the apprehended contamination of the groundwater, interference with natural watershed functions and the increase of traffic due to operations to and from the pit extension.

[12] Brian Zeman, the Applicant's expert witness, a Registered Land Use Planner and specialist Aggregate Resources Planner, was qualified by the Tribunal to give expert opinion evidence in land use planning as well as aggregate resources planning matters.

[13] The Tribunal is persuaded by Mr. Zeman's sole uncontested opinion evidence and his comprehensive overview of the policy and legislative framework in support of the applications. His witness statement was marked as Exhibit 1.

[14] The appeals are allowed for the following reasons.

POLICY FRAMEWORK/EVIDENCE

[15] The proposed Teedon Pit Extension is subject to an OPA, a ZBA and an ARA Licence application. Together, the applications are required to: be consistent with the Provincial Policy Statement 2020 ("PPS"); conform to Growth Plan for the Greater Golden Horseshoe 2019 ("Growth Plan/GP"), County of Simcoe Official Plan ("COP"), and Township of Tiny Official Plan ("TOP"); comply with the requirements of the Township of Tiny Zoning By-law ("ZBL"); and have regard to Section 12(1) of the ARA.

Provincial Policy Statement 2020 ("PPS")

[16] Mr. Zeman stated that the PPS recognizes that the Province's natural heritage resources, water, agricultural lands, mineral aggregate resources, cultural heritage and archaeological resources provide important environmental, economic and social benefits. The wise use and management of these resources over the long term is a key provincial interest. The province must ensure that its resources are managed in a sustainable manner.

[17] The subject site is located on rural lands in the Township and the management and use of mineral aggregate resources is a permitted use in the rural area. (PPS s. 1.1.5 – on rural lands located in municipalities, a permitted use is "the management or use of resources").

[18] The proposed Teedon Pit Extension has been designed and buffered to mitigate adverse effects on surrounding sensitive land uses in accordance with provincial guidelines, standards and procedures. (PPS s.1.2.6 – Land use compatibility).

[19] The proposed pit represents an efficient use of existing infrastructure by utilizing an existing aggregate haul route in an area where aggregate extraction is an established use. With the implementation of the proposed improvements to Darby Road this transportation route will also be improved for the Teedon Pit operation. (PPS s.1.6.7.2 – Efficient use shall be made of existing and planned infrastructure).

[20] There are no significant wetlands or significant coastal wetlands within the proposed extraction area. Significant woodlands exist within the proposed extraction area and the application includes mitigation measures to demonstrate there will be no negative impact to the significant woodland. (PPS s. 2.1.5)

[21] There is no fish habitat or habitat of endangered or threatened species within the proposed extraction area.

[22] The adjacent lands contain significant woodlands, significant wildlife habitat and habitat of endangered and threatened species. Based on the site design and proposed mitigation measures there will be no negative impacts on these adjacent natural heritage features or their ecological functions. (PPS s. 2.1.8).

[23] The operations of the extension pit will remain 1.5 m above the established water table and will not impact groundwater quality or quantity. There are also no surface water features on or adjacent to the site that will be impacted by the Teedon Pit Extension.

[24] The proposed pit is also not located within an area mapped as a highly vulnerable aquifer, significant groundwater recharge area, wellhead protection area or surface water intake protection zone in the COP. (PPS s. 2.2).

[25] The mineral aggregate resources within the proposed Teedon Pit Extension have been protected for long-term use in the COP and TOP. The proposal makes available as much of the mineral aggregate resource as is realistically possible from a close to market location. (PPS s. 2.5.2.1).

[26] Rehabilitation of the site will be progressive and the site will be reforested which is consistent with surrounding land use and approved land use designations. Overall the rehabilitation plan will result in a 4.3 ha increase to the surrounding significant woodland. (PPS s. 2.5.3.1).

[27] The proposed pit is not located within a prime agricultural area or on prime agricultural land and is not identified as hazard lands in the TOP. The site is located adjacent to existing mineral aggregate operations and aggregate extraction is an appropriate use for the site.

[28] The Tribunal concurs with Mr. Zeman that the proposed Teedon Pit Extension is consistent with the PPS.

Growth Plan

[29] The proposed pit is located within the Growth Plan growth area. Policies under Section 4.2.8 of the Growth Plan address mineral aggregate operations in the Greater Golden Horseshoe.

[30] Policy 4.2.8.7 states “Where an application under the *Aggregate Resources Act* has been received and deemed complete by the Province as of July 1, 2017, any applications under the *Planning Act* to permit the making, establishment or operation of the pit or quarry to which the *Aggregate Resources Act* application relates, if approved, will not be subject to the policies of this Plan”.

[31] The ARA application was submitted on December 19, 2011 and MNRF deemed it complete on April 13, 2012. As a result, the policies of the Growth Plan do not apply to this application. Despite this policy direction, Mr. Zeman has reviewed the policies of the Growth Plan and he opined that the application conforms to the Growth Plan.

County of Simcoe Official Plan (“COP”).

[32] The Teedon Pit Extension is located within the County and is required to conform to the COP. The proposed pit is designated “Rural” and “Greenlands” in the COP. An Official Plan Amendment to the COP is not required.

[33] The proposed extension pit is not located within the Niagara Escarpment Plan area, Oak Ridges Moraine Conservation Plan area or the Greenbelt Plan area.

[34] The Teedon Pit Extension is not located within any of these features except for significant woodlands. For significant woodlands the operation has been designed to demonstrate that there will be no negative impact to the feature or ecological functions and in the long term the overall size of the significant woodlands will be increased.

[35] The proposed pit is identified as a high potential mineral aggregate resource in the COP (COP s. 4.4.2). The existing Teedon Pit is protected for its continued use and potential for expansion. (COP s. 4.4.3). The proposed pit lands are protected from land uses that would preclude or hinder the establishment of a mineral aggregate operation or access to the resource. The mineral aggregate resource on-site is feasible to be extracted based on the technical assessments completed. (COP s. 4.4.4).

[36] Mr. Zeman explained that the extension pit is mapped as a high potential mineral aggregate resource area in the COP. This site is protected to allow as much of the resource as is realistically possible to be made available to supply resource needs. The operation has been designed in a manner which minimizes social and environmental impacts. An Environmental Impact Study (“EIS”) was completed and it satisfied the requirements of the ARA including the applicable policies of the COP.

[37] The proposed pit has been designed to minimize impacts on adjacent or nearby uses based on the noise and dust mitigation measures and will utilize the existing approved haul route. The pit is proposed to operate above the water table and is not located within an area mapped as a highly vulnerable aquifer, significant groundwater recharge area, wellhead protection area or surface water intake protection zone in the COP. (COP s. 4.4.6).

[38] Mr. Zeman stated that rehabilitation of the site will be progressive and the site will be reforested which is consistent with surrounding land use and approved land use designations. Overall, the rehabilitation plan will result in a 4.3 ha increase to the surrounding significant woodland. (COP s. 4.4.7).

[39] The haul route includes roads within the jurisdiction of the TOP and Ministry of Transportation Ontario. No improvements are required to County Roads.

[40] The Tribunal agrees with Mr. Zeman that the Teedon Pit Extension conforms to the COP.

Township of Tiny Official Plan 2001 (“TOP”)

[41] The proposed pit is designated “Rural” in the TOP with an overlay designation of “Mineral Aggregate Resources II” and “Environmental Protection II”.

[42] An OPA is required to re-designate 15.3 ha to “Mineral Aggregate Resource One” in order to permit the proposed extension pit.

[43] At the time of application, the 2001 TOP was in force and remains in force for the subject property as the current 2021 Township Official Plan (“new TOP”) does not apply to the subject property under appeal, through a County resolution when it approved the new TOP while excluding the appealed lands.

[44] Mr. Zeman stated that the OPA proposes to designate the extension pit to “Mineral Aggregate Resources One” and the remainder of the subject property to ‘environmental’ and a small portion ‘rural’ where the existing residential dwelling is located.

[45] The objectives of the “Mineral Aggregate Resources II” Overlay (B.14.1) include:

- To protect known mineral aggregate deposits and areas of potential

mineral aggregate resources for future resource use.

- To ensure that new extractive activities are carried out with minimal environmental and social costs.

[46] The proposed Teedon Pit Extension is an area protected for future resource use and has been designed with minimal environmental and social costs.

[47] Section A3 of the TOP describes the intent of the “Environmental

Protection II” overlay designation:

The Environmental Protection Two overlay designation applies to areas of Regional or local environmental significance including Areas of Natural and Scientific Interest, significant woodlands, stream corridors, significant wildlife habitat areas, habitat protection areas and the Nipissing Ridge. The uses permitted in an overlay designation are those permitted by the underlying land use designation provided the use conforms to the policies of the Environmental Protection Two designation.

[48] On the subject property and adjacent to it, is a significant woodland that is over 350 ha in size. The proposed extraction area includes 9.2 ha of this significant woodland, consisting of 5.8 ha of conifer plantation and 3.4 ha of very young forest stands.

[49] Mr. Zeman’s view was that, due to the cultural origin of these woodlands, their lack of ecological complexity, and their lack of significant features and functions, it is feasible to replace these woodlands through progressive and final rehabilitation of the Teedon Pit Extension without negative impact to the significant woodland. In total, 13.5 ha will be reforested, resulting in an overall net gain of 4.3 ha in the size of the significant woodland.

[50] Section B.14.4.1 of the TOP includes the following development policies for new

mineral aggregate operations or expansions to existing operations:

All new mineral aggregate operations and expansions to existing mineral aggregate operations shall require an amendment to the Official Plan. All applications for re-zoning shall be supported by an Environmental Impact Study.

[51] An Environmental Impact Study (EIS”) was submitted that addressed the applicable policies of the TOP. Mr. Zeman opined that the EIS demonstrated that significant natural heritage features and their related ecological function will not be negatively impacted.

Nearby communities

[52] There are no nearby communities as there is only one sensitive land use located approximately 500 m from the proposed extraction. The operation has been appropriately buffered and designed to protect surrounding land uses.

Agricultural resources

[53] The proposed extension pit is not located within a prime agricultural area and does not include prime agricultural soils. There are no adjacent agricultural operations.

The character of the area

[54] The character of the area includes rural lands including existing mineral aggregate operations and the area is protected for future aggregate use. The subject property is well screened and will not change the character of the area.

The groundwater table

[55] The proposed pit is located above the groundwater table and groundwater resources will be protected.

Surface water features in the area

[56] There are no surface water features on or adjacent to the site.

Nearby wells used for drinking water purposes

[57] The proposed pit extension is not located within a wellhead protection area for municipal drinking water. The proposed pit is located above the water table and there will be no impact to the water quality or quantity of nearby wells for drinking water purposes.

The effect of the increased truck traffic on the environment and the residences in the area

[58] Teedon Pit is permitted to ship a maximum of 600,000 tonnes annually. The pit entrance/exit is located on Darby Road. The existing haul route for the Teedon Pit facilitates truck traffic exiting northwards approximately 450 m on Darby Road to Highway 93. Highway 93 is identified as a “Provincial Highway” in the COP to accommodate truck traffic and larger volumes of traffic to connect areas within and outside of the County.

[59] The extension pit will utilize the existing pit entrance/exit and haul route. The maximum amount that is proposed to be shipped from the extension is 600,000 tonnes per year in combination with the existing licence (ARA Licence no. 3670). As a result, there will be no increase in permitted truck traffic onto the existing haul route.

Suitability of the proposed haul routes

[60] A traffic impact assessment was completed which concluded the haul route for the proposed pit is suitable taking into consideration the following:

- The haul route is currently operating at acceptable levels of service and has

no capacity constraints based on existing and future conditions;

- The available intersection sightlines on Highway 93 at the west approach of Darby Road exceed minimum sight distance requirements for both northbound and southbound movements;
- The observed collision rate at the intersection is low and does not indicate any collision trends that require attention; and
- The widening of Darby Road at the west approach of the intersection is recommended. This would mitigate truck turning maneuverability issues and allow for simultaneous inbound and outbound truck turning movements.

[61] CRH has agreed to implement these recommended improvements and these improvements will improve operations at the existing Teedon Pit.

[62] Mr. Zeman stressed that all of the technical reports commissioned and completed by the Applicant took into account the added impacts of the proposed pit in the area (B14.4.2 – assessment of added impact). Since the extension pit is proposed to extend the life of the Teedon Pit operation and will not result in an increase to permitted production or shipping levels there will be no added impact of the proposed Teedon Pit Extension. As part of the rehabilitation plan the proposed pit will result in a 4.3 ha increase to the Township's natural heritage system.

[63] The Tribunal is satisfied that the proposed Teedon Pit Extension conforms to the TOP.

Zoning By-law

[64] The proposed pit is currently zoned "Rural" in Zoning By-law No. 06 - 001. A ZBA is required to re-zone 15.3 ha to "Mineral Aggregate Resource Exception" in order to permit the proposed Teedon Pit Extension.

[65] The ZBA proposes to zone the extension pit “Mineral Aggregate Resources Exception” and the remainder of the subject property is zoned environmental and a small portion is zoned rural where the existing residential dwelling is located. The exception zone for the “Mineral Aggregate Resources” is to restrict the permitted uses on-site and minor modifications to the “Mineral Aggregate Resources” Zone provisions.

[66] Mr. Zeman stated that the proposed ZBA conforms to the TOP and complies with the provisions of the ZBL.

[67] It is Mr. Zeman’s opinion that the application has regard to the matters under Section 12(1) of the ARA. The Tribunal determines that the application has regard for the following matters which are:

(a) Effect of the operation on the environment

The operation has been designed in accordance with provincial requirements related to effects on the environment.

(b) Effect of the operation on nearby communities

The operation has been designed in accordance with provincial requirements related to effects of the operation on nearby communities.

(c) Municipal comments in which the site is located

During the review process the Township commissioned technical peer reviews and all of the comments were addressed related to the following disciplines: noise (Exhibit 1 Appendix N), site operations (Appendix M), natural environment (Appendix K), water resources (Appendix L) and traffic (Appendix Q). On December 16, 2021, the Township entered into Minutes of Settlement confirming that concerns with the Aggregate Resources Act application have been resolved and it withdrew its objection.

(d) Suitability of progressive and final rehabilitation plans

The progressive and final rehabilitation of the site is suitable and is consistent with the surrounding land use and approved land use designations. The rehabilitation plan will reforest 13.5 ha, resulting in a 4.3 ha increase to the surrounding significant woodland.

(e) Possible effects on ground and surface water resources

The operation has been designed to protect groundwater and surface water resources and private wells. There are no municipal drinking water sources in the area.

(f) Possible effects on agricultural resources

The site or surrounding area is not considered a prime agricultural area and the site does not contain prime agricultural land.

(g) Planning and land use considerations

Prior to a licence being issued under the ARA, the subject property must be zoned to permit the use. The proposed ZBA is being heard at the same time as the ARA application.

(h) Main haulage routes and proposed truck traffic to and from the site

The proposed Teedon Pit Extension will utilize the existing pit entrance / exit and existing haul route. The maximum amount that is proposed to be shipped from the extension is 600,000 tonnes per year in combination with the existing licence (ARA Licence no. 3670). As a result, there will be no increase in permitted truck traffic onto the existing haul route.

(i) Quality and quantity of aggregates on site

The proposed Teedon Pit Extension is mapped as a “High Potential Mineral Aggregate Resource” on Schedule 5.2.1 of the COP and “Mineral Aggregates Resources II” in the TOP.

The proposed pit contains approximately 9.5 million tonnes of high quality aggregate that is suitable for most road building and construction projects.

(j) Applicant’s past history of compliance

CRH operates several ARA licences in Ontario. These operations have not been suspended or revoked for lack of compliance with the Act, regulations and licence from the MNRF.

(k) Other matters considered appropriate

The parties have resolved all other issues through the proposed settlement.

[68] Mr. Zeman opined that the Teedon Pit Extension application is consistent with the PPS; conforms to the Growth Plan, COP and TOP; has regard to matters laid out in the ARA, and that the proposed licence application, OPA and ZBA should be approved.

FINDINGS

[69] The Tribunal finds that Mr. Zeman has provided supporting evidence for the planning applications and the permit application. The Applicant is operating the existing Teedon Pit and the proposed pit is adjacent and north of the current pit operation. Mr. Zeman testified that, CRH’s existing pit operation, has substantially complied with the requirements of the Teedon pit licence. There will not be any significant increase in the levels of dust, noise or traffic or negative impacts since the expected annual aggregate output is the combined total of the existing Teedon Pit and the extension pit. Pit operations exist to the south of the subject property. The Tribunal is satisfied that the use of the subject property for a proposed pit extension and aggregate extraction is

appropriate.

[70] The Tribunal accepts that the Applicant will progressively rehabilitate the proposed pit back to its significant woodland and natural heritage end use status. The Tribunal is persuaded that, for the proposed pit, the rehabilitation will be undertaken and the re-forestation to significant woodland program will be effective.

[71] The Tribunal acknowledges that the site plan design is to ensure that no sensitive natural heritage features or habitats of species at risk on adjacent lands are impacted negatively. There are no surface water features on the subject property that might be adversely impacted by the aggregate removal. The pit operation is at 1.5 m above the ground water table. The Site Plan will provide for the recommended mitigation measures. The Tribunal finds that there are no negative impacts to species as there are no species at risk, no fish or species habitats within the proposed pit extension area,

[72] Mr. Zeman's planning opinion based upon the technical reports and findings, shows clearly that the site as described in the Site Plan is appropriate; conforms to the requirements of the COP and will not result in adverse impact on natural features or ecological function at the subject property or adjacent lands, and therefore, constitute good planning.

[73] The Tribunal accepts the uncontradicted evidence of Mr. Zeman that the proposed pit extension operation will not create adverse impacts or issues. The Tribunal finds that s. 12 of the ARA matters have been fully addressed for the subject property and aggregate operation at the proposed pit.

[74] The Tribunal also accepts that no water well or groundwater will be affected by the extractions on the pit extension site. The proposed extension is located outside of areas identified as highly vulnerable aquifers, significant groundwater recharge areas, wellhead protection areas and surface water intake protection zones. The proposed pit is mapped as high-quality aggregate area. With the proposed settlement, adequate

measures are put in place at the proposed pit.

[75] The Site Plan in Exhibit 1 Appendix C is agreed to by the parties and is acceptable for inclusion as an attachment in the decision.

[76] The Tribunal finds that the applications for OPA, ZBA and the licence/permit:

- consistent with the Provincial Policy Statement 2020;
- have regard to matters of provincial interest;
- have addressed the matters set out in s. 12 of the Aggregate Resources Act;
- conform to the Growth Plan, the COP and TOP;
- maintain the general intent and purpose of the ZBL, and
- represent good planning and in the public interest.

[77] The Tribunal further finds that the licence/permit application should be approved in accordance with the Site Plan filed.

ORDER

[78] The Tribunal orders that the appeals are allowed.

1. The Official Plan for the Township of Tiny is amended as set out in Attachment 1 to this Order.
2. By-law No. 06-001 is hereby amended in the manner set out in Attachment 2 to this Order. The Tribunal authorizes the municipal clerk to assign a number to the By-law for record keeping purposes.
3. The Tribunal directs the Minister of Natural Resources and Forestry to issue a licence under the *Aggregate Resources Act* for a Category 3 Class A licence (Pit above water) in accordance with the Site Plan (Exhibit 1 Appendix C) and

Site Plan notes as set out in Attachment 3 to the Order.

“T.F. Ng”

T.F. NG
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

Appendix **E**

AMENDMENT NO. XX
OF THE
OFFICIAL PLAN
FOR THE
TOWNSHIP OF TINY (2001)

**AMENDMENT NO. XX TO THE OFFICIAL PLAN
FOR THE TOWNSHIP OF TINY (2001)**

TABLE OF CONTENTS

THE CONSTITUTIONAL STATEMENT	3
PART A – THE PREAMBLE	4
PURPOSE	4
LOCATION	4
BASIS	4
PART B – THE AMENDMENT	5
INTRODUCTION	5
DETAILS OF THE AMENDMENT	5
PART C – THE APPENDICES	6

THE CONSTITUTIONAL STATEMENT

The following Amendment to the Official Plan for the Township of Tiny consists of three parts.

PART A – THE PREAMBLE consists of the purpose, location and basis for the Amendment and does not constitute part of the actual Amendment.

PART B – THE AMENDMENT sets out the actual Amendment to be added to the Township of Tiny Official Plan.

PART C – THE APPENDICES consist of information pertinent to this Amendment in the form of background information. This section does not constitute part of the actual Amendment.

PART A – THE PREAMBLE

PURPOSE

The purpose of this amendment is to change the land use designations shown on Schedule “A” attached, from “Rural” with a “Mineral Aggregate Resources 2 and Environmental Protection 2” overlay to “Mineral Aggregate Resources 1” and “Rural with an Environmental Protection 2” overlay to permit a mineral aggregate operation.

LOCATION

The Amendment is specific to the lands located in Part of Lot 80, Concession 1, West of the Penetanguishene Road, Township of Tiny, known as 2 Darby Road.

BASIS

The Official Plan of the Township of Tiny currently designates the subject land as “Rural” with a “Mineral Aggregate Resources 2 and Environmental Protection 2” overlay. The applicant has made an application to amend the Official Plan to permit the licencing of the subject land as an extension to the neighbouring pit under the *Aggregate Resources Act*. There is a companion amendment to the Township of Tiny Zoning By-law 06-001. Only those lands that are proposed to be licensed are designated as “Mineral Aggregate Resource 1”. The remaining area of the lands will be designated as “Rural with an Environmental Protection 2” overlay with the exception of a small portion at the front of the lot that is to be designated “Rural”.

PART B – THE AMENDMENT

INTRODUCTION

All of this part of the Amendment, entitled Part B – The Amendment, consisting of the following text and schedule constitutes Amendment No. XX to the Official Plan for the Township of Tiny.

DETAILS OF THE AMENDMENT

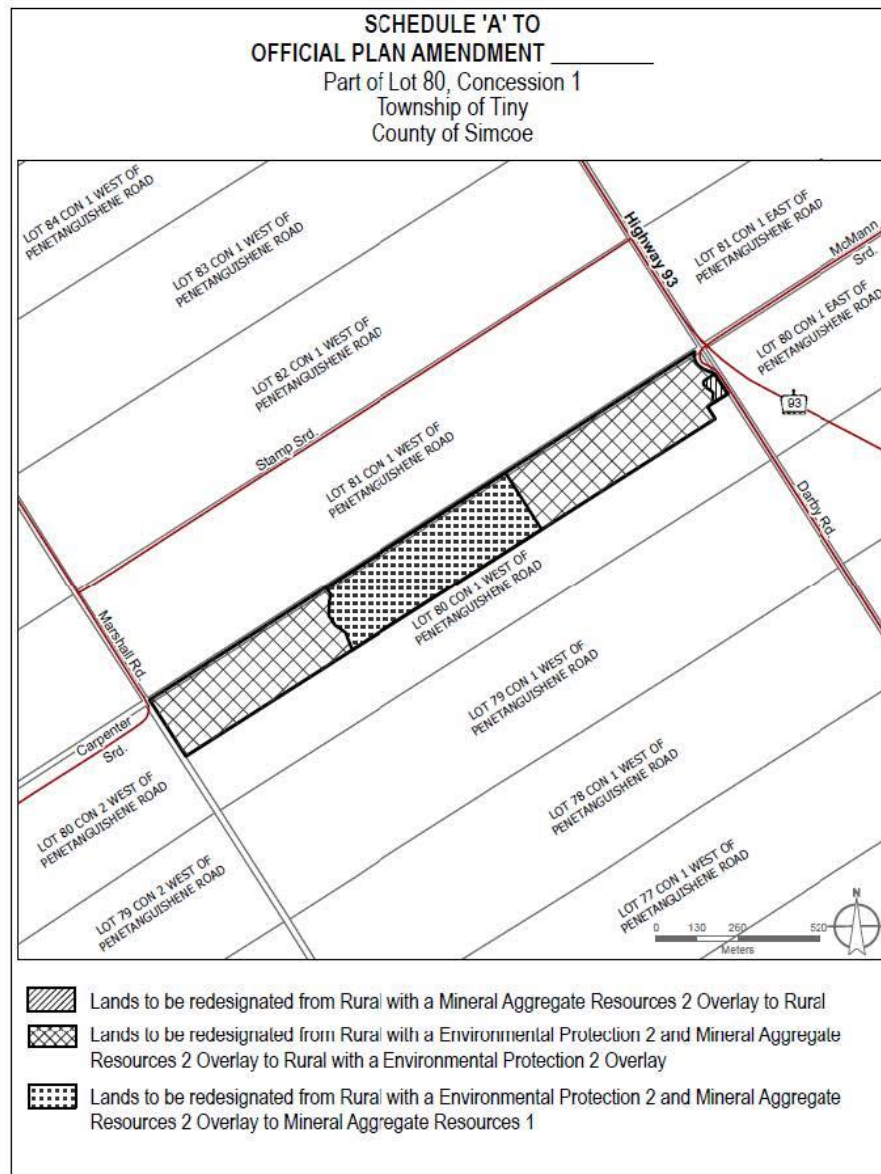
The Official Plan of the Corporation of the Township of Tiny is hereby amended as follows:

1. Schedule "A" entitled Land Use is amended by designating approximately 15.3 hectares (37.8 acres) located in Part of Lot 80, Concession 1, West of the Penetanguishene Road, Township of Tiny as "Mineral Aggregate Resources 1" and the remainder of the of the lands to "Rural with an Environmental Protection 2" overlay and "Rural" as shown on Schedule "A" attached hereto.
2. Amendment No. XX shall be implemented by means of a Zoning Bylaw Amendment enacted pursuant to the provisions of Section 34 of the *Planning Act*.
3. The provisions of the Township of Tiny Official Plan, as amended, shall apply in regard to the interpretation of this Amendment.

PART C – THE APPENDICES

The following appendices do not constitute part of Amendment No. XX, but are included as information supporting the Amendment.

1. Summary Statement Report by MHBC dated January 2019.
2. Natural Environment Level 1 and 2 Technical Report prepared by Goodban Ecological Consulting Inc. dated January 2019.
3. Acoustic Assessment Report prepared by Theakston Environmental dated January 2019.
4. Hydrogeological Assessment prepared by GHD dated January 8, 2019.
5. Stage 1 and 2 Archaeological Assessment Report prepared by The Central Archaeology Group Inc. dated May 2011 and letter from the Ministry of Tourism and Culture dated June 24, 2011.
6. Aggregate Resources Act Site Plans prepared by MHBC dated January 2021.
7. Township of Tiny staff report prepared by Planning Department dated February 28, 2019.
8. Township of Tiny staff report prepared by Planning Department dated October 28, 2019.
9. Township of Tiny staff report prepared by Planning Department dated January 13, 2020.
10. Township of Tiny staff report prepared by Planning Department dated May 26, 2021.
11. Minutes of Settlement between CRH and Township of Tiny dated December 16, 2021.



ATTACHMENT 2

Appendix **F**

**THE CORPORATION OF THE TOWNSHIP OF TINY
BY-LAW NO. XX**

Being a By-law to amend By-law 06-001 as amended, being the Zoning By-law for The Corporation of the Township of Tiny with respect to Part of Lot 80, Concession 1, West of Penetanguishene Road, Township of Tiny (2 Darby Road)

WHEREAS the Council of The Corporation of the Township of Tiny is empowered to enact By-laws to regulate the use of land pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended;

AND WHEREAS the owners of Part of Lot 80, Concession 1, West of Penetanguishene Road, Township of Tiny have filed an application with the Township of Tiny to amend Zoning By-law 06- 001, as amended;

AND WHEREAS the Council of The Corporation of the Township of Tiny deems it appropriate to amend By-law 06-001, as amended, as it relates to Part of Lot 19, Concession 16 West;

AND WHEREAS the provisions of the By-law conform to the Township of Tiny Official Plan;

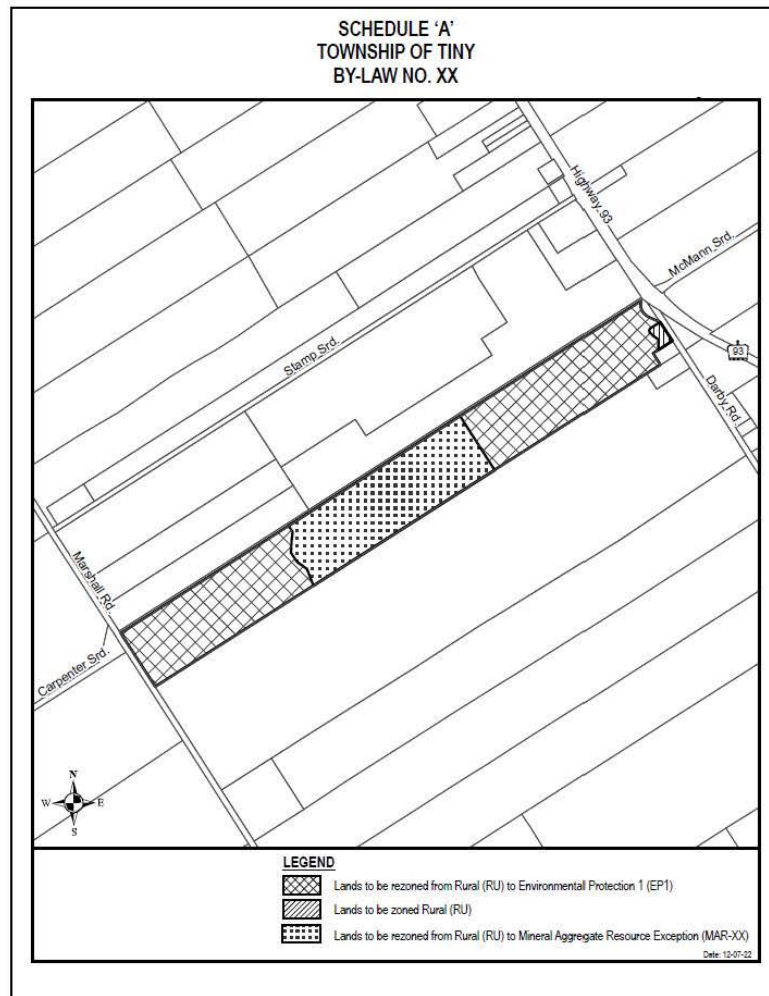
NOW BE IT ENACTED the By-law is enacted as follows:

1. That Schedule "C", Map 'C21' to Zoning By-law 06-001, as amended, are hereby further amended to rezone part of Lot 80, Concession 1, West of Penetanguishene Road from the Rural (RU) Zone to the Mineral Aggregate (MAR-XX), Rural (RU) and Environmental Protection 1 (EP1) zone, as shown on Schedule 'A' attached to and forming part of this By-law.
2. That Section 8 Exceptions is amended by adding the following subsection:

**MINERAL AGGREGATE EXCEPTION XX (MAR-XX) PART OF LOT
80, CONCESSION 1, WEST OF PENENTANGUISHENE ROAD**

Notwithstanding any other provision of this By-law:

- i. Only agricultural uses, forestry uses and mineral aggregate operation which only includes aggregate extraction, transport of aggregate and processing of aggregate (excluding aggregate recycling and washing) is permitted in the MAR-XX zone.
 - ii. Where MAR zones are adjacent to each other, a 0.0 m setback is permitted.
 - iii. The MAR-XX zone size shall be 15.3 hectares.
 - iv. All other relevant provisions of this By-law, unless specifically modified/amended by this Section, continue to apply to the land subject to this Section.
3. This By-law shall come into effect on the date the Ontario Land Tribunal issues its final order for Case No. OLT-21-001605, subject to the provisions of Section 34 of the *Planning Act*, as amended.



ATTACHMENT 3

Appendix C

