



# Municipality of Northern Bruce Peninsula Planning Report



**Application: Official Plan 5 year review and New Comprehensive Zoning By-law**

**File: NBP OPA 13, Z-91-16**

**Meeting Date: June 12, 2017**

**From:** Jack Van Dorp, Senior Planner  
County of Bruce Planning and Development

**Subject:** Proposed Implementation of Pilot Project Steering Committee Recommendations

**Recommendation:**

That this report be received for information; and

That Council provide direction as appropriate regarding the various topics.

**Background:**

A Draft of the Official Plan Update and proposed Comprehensive Zoning By-law Text has been released, and the first open house held.

This report contains information about a variety of topics that have been identified and not yet fully addressed or would benefit from Council’s comments and preliminary direction. Subject to this meeting, refined policies or adjustments to the proposed plans may occur.

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## **Topic: Occupancy of Trailers on Vacant and Developed Lots**

This issue was identified in comments received at the start of the process, and referred to in Topic Paper 4 (Housing and Dwellings) and further in the April 10 report to Council.

Positives of allowing trailers primarily relate to enjoyment of private property, perhaps in advance of construction of a dwelling.

Challenges include ensuring that water supply and sewage disposal matters are addressed, covering the costs of services provided to or consumed by the lot, and lower municipal tax revenues over the long term.

The current and proposed zoning by-laws provide an opportunity for a trailer to be located (and occupied) on a lot where a dwelling is under construction. The Municipality's tent and trailer by-law provides more detailed regulations for example regarding deposits related to occupancy of a trailer during construction and also special occasions and conditions for setting up a trailer or tent for a short period of time on lots where there is a primary use (such as a dwelling).

The questions are generally:

Trailer on a vacant lot: YES or NO; if YES – what provisions apply?

Sleep in a trailer on a lot with a house: YES OR NO; if yes, what provisions apply.

Should there be regulations regarding where a trailer may be stored on a (developed) property: YES or NO

**OPTION 1: general prohibition** on occupancy of trailers on any lot, except in trailer parks or lots where a dwelling is under construction in the zoning by-law; amend the tent and trailer by-law to remove provisions for temporary occupancy of trailers / tents in other scenarios. This would be consistent with the approach used in the Town of South Bruce Peninsula.

- This would be regulated through two sections of the new by-law:
  - Section 3.40 of the proposed by-law, based on the current by-law, states:

Prohibited Uses in All Zones

*Unless explicitly stated to the contrary, the following uses are prohibited in all zones:*

- ii) the occupancy of trailers, park model homes, mobile homes, tents, and other*

*such similar transportable accommodation*

- Section 3.1.2 of the proposed by-law deals with trailers as temporary buildings.

## **OPTION 2: Provisions, Licensing, Administration**

Establish zones and provisions (lot area, setbacks, etc) where a trailer may be permitted on a lot, and establish an administrative or licensing fee that covers the municipal services consumed by the trailer (police, fire, ambulance, garbage, etc).

The Municipality of West Grey has a Trailer Licensing By-law with an annual fee of \$1000 for a trailer [http://www.westgrey.com/public\\_docs/bylaws/Bylaw%2073-2016.pdf](http://www.westgrey.com/public_docs/bylaws/Bylaw%2073-2016.pdf)

The zoning by-law addresses this also:

### **6.39 RECREATIONAL TRAILERS**

A maximum of one recreational trailer is permitted for seasonal human occupation for temporary use and on lands zoned 'A1', 'A2' or 'A3' where the lot area is 2 hectares in size or greater and where the lot fronts onto an open and maintained municipal road and contains an approved entrance and posted civic address signage. The recreational trailer shall also be subject to the "Trailer License By-law". The placement of a recreational trailer shall not constitute a principal use for the purposes of allowing an accessory use, building or structure to be erected on the property.

**OPTION 3: Provisions with Restrictions** wherein a tent or trailer may be used subject to a variety of restrictions (weekends only, so many days in a month, etc). This model should have permissive provisions in the zoning by-law together with provisions in the tent and trailer by-law. This model can outline reasonable opportunities for legally camping in one's backyard or at Municipal special events. It may however prove difficult to manage from a by-law enforcement perspective, as enforcement requires proof that the use has exceeded the authorizations provided in the by-law(s), for example more weekends or days in a stated period of time than permitted. Huntsville has taken this approach in its zoning by-law:

*3.27 Tents, Trailers, Recreational Vehicles*

*3.27.1*

*The use of tents, trailers and recreational vehicles for permanent or temporary human habitation shall be prohibited in all zones except;*

...

*b) for the occasional accommodation of guests in any Rural, Residential or Shoreline Residential Zone provided that a detached dwelling exists on the property.*

*c) the use of tents for children's play, picnics, weddings, family reunions, or other similar private functions.*

We were unable to obtain comments from staff at the Town of Huntsville at the time of writing this report.

**Recommendation: Option (A)**

- Options B and C may require additional Municipal resources for administration and enforcement (due to higher burden of proof)
- (b) or (c) may be more appropriately dealt with separately from the Official Plan / Zoning process in progress for 2017.

## **Topic: Minimum Dwelling unit size**

Current By-law (Section 6.6 – Apartment Dwelling Unit Sizes)

- a) Bachelor dwelling unit 40m<sup>2</sup> (430.5ft.<sup>2</sup>)
- (b) Dwelling unit containing one bedroom 60m<sup>2</sup> (645.8ft<sup>2</sup>)
- (c) Dwelling unit containing two bedrooms 70m<sup>2</sup> (753ft<sup>2</sup>)
- (d) Dwelling unit containing three bedrooms 90m<sup>2</sup> (968.7ft<sup>2</sup>)
- (e) Dwelling unit containing more than three 90m<sup>2</sup> (968.7ft<sup>2</sup>) + 10m<sup>2</sup> (107.6ft<sup>2</sup>)  
bedrooms for each bedroom in excess of three

Current By-law: Single Detached Dwelling: Minimum Size is 92.9 square metres (1000 square feet); R1/R2 have a 70 square metre ground floor area requirement whereas RU1 permits a 500 square foot ground floor area.

The Topic Paper on Housing on the January 23<sup>rd</sup> Council Agenda and the April 10 update report provided some comments on dwelling unit size, and identified alternatives including:

- No minimum size (regulated by OBC)
- Reduced Minimum Size, including sizes for apartment units
- Leaving the unit size alone.

Together with:

- Secondary Suites provisions; and
- Dwellings accessory to commercial units / activities.

### **Elsewhere in Bruce County:**

No Minimum: Saugeen Shores, Huron-Kinloss (minimum accessory apartment is 40m<sup>2</sup>)

60-65 m<sup>2</sup> for total floor area (Kincardine)

70 m<sup>2</sup> ground floor area (more than 1 storey) or 90 m<sup>2</sup> for a single storey (Brockton, Arran-Elderslie)

90-111 m<sup>2</sup>, islands 50 m<sup>2</sup> (South Bruce Peninsula)

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Many other jurisdictions have minimum sizes in the 55 square metre (600square foot) range.

**Proposed Dwelling unit sizes:**

3.8.1 Dwelling – Accessory Apartment

Number of Bedrooms	Minimum 'Dwelling' Floor Area
Dwelling consisting of single room	40 sq. metres (430.5 sq. ft.)
Dwelling containing one bedroom	50 sq. metres (538 sq. ft.)
Dwelling containing two bedrooms	60 sq. metres (646 sq. ft.)
Dwelling containing three bedrooms	70 sq. metres (754 sq. ft.)
Dwelling containing more than three bedrooms	70 sq. metres (754 sq. ft. plus 10 sq. metres (108 sq. ft.) for each bedroom in excess of three.

(single or semi-detached, duplex, triplex): 50 sq. metres (538 square feet)

**Proposed Definition:**

“Floor Area, Net” or “Net Floor Area” means the aggregate of the area of all floors measured from the inside face of exterior walls but excludes any detached accessory buildings, a breezeway, unenclosed sunroom, porch and/or veranda, unfinished attic, cellar, or basement, mezzanine areas, mechanical rooms, common walls, stair wells, garbage and electrical rooms, parking garage/structures and similar service areas accessory to the main use.

Note: This is the area inside the walls, because we are concerned here with the actual living space. Many other definitions are based on outside wall dimensions, which can vary depending on the type of construction.

Although queries and size of dwellings have not been formally tracked in the Municipality, we have observed the following:

- The Chief Building Official reports that very few permits are issued for dwellings at the current minimum square footage.
- Occasional inquiries are received for undersized dwellings, estimated at 3-4 per year.
- Ongoing Building Code changes promote higher standards of dwelling construction, but come at a higher cost (in addition to inflation). Smaller buildings could have a lower total construction cost and provide more affordable housing options.
- Several inquiries are received each year for trailers on vacant lots, typically either as a short-term solution (saving to build a house) or as a longer-term solution (only intended for seasonal use with no timeline or intent to construct a dwelling).
- Dwelling size is a factor in assessment value, municipal taxation, and revenues to provide Municipal services.
- There are a number of existing dwellings in the Municipality that do not meet the minimum square footage.

From these observations we would recommend that:

- A reduced minimum square footage is unlikely to impact building permit activity for larger dwellings;
- A reduced minimum square footage may attract new development, particularly to existing undersized lots that have lower market value;
- Reducing the minimum square footage would provide opportunities for new and more affordable housing stock, and increased flexibility for property owners
- Having no minimum other than the OBC in an area with a large number of recreational (R2) lots could yield very small houses and an increase in the use of trailers for overflow guests.

We have recommended 50 square metres net floor area, which is more than half the current size.

At the time of writing this report we have received several comments in support of a reduced dwelling size requirement, and one comment opposing a reduction and stating that the commenter feels that 1000-1100 square feet would be more appropriate.



## **Topic: Sea Cans / Shipping Containers:**

Shipping containers are becoming a popular and affordable form of secure and durable storage. However there can be concerns with their use including safety (explosion hazards, doors only operable from outside, anchoring/overturning) as well as sinking into the ground as well as aesthetics.

### **Proposed By-law:**

#### *3.6.1 General Provisions, Accessory Buildings, Structures, and Uses - Prohibited Structures*

*Unless otherwise provided in this By-Law, mobile homes, travel trailers, construction trailers, transport trailers, railway cars and buses, with or without wheels or a similar undercarriage shall not be used as accessory buildings or structures.*

*Exception: Construction Trailers and Transport Trailers may be permitted in the Extractive Industrial (EX) zone or in association with a 'Solid Waste Disposal Site'.*

*Unless explicitly stated to the contrary, the following uses are prohibited in all zones:*

- i) a junk yard, salvage yard, automobile wrecking yard, or the collection, storage or sale of junk, salvage, partially or completely dismantled motor vehicles or trailers, or parts thereof,*
- ii) the occupancy of trailers, park model homes, mobile homes, tents, and other such similar transportable accommodation,*
- iii) the construction of hunting cabins.*

*In addition to the uses prohibited under clause (a), all uses of land and the erection or use of any building or structure for a purpose not permitted under the "Permitted Uses" subsection of one or more zones established by this by-law are and shall be deemed to be prohibited in each such zone, except for those uses of land and the erection or use of any building or structure for a purpose expressly permitted under the applicable provisions of this by-law.*

#### *5.5 – General Provisions for Rural Zones - Accessory Buildings and Structures – Non-Farm Lot*

*For the purposes of this Section, mobile homes, travel trailers, construction trailers, transport trailers, railway cars and buses, all of the proceeding with or without attached wheels or a similar undercarriage shall not be used as accessory buildings or structures on a 'Non-Farm Lot'.*

Considerations can include temporary uses for example related to moving, construction or renovation, and events; the length of use should bear in mind the needs of the user and the duration of the visitor season.

The Municipality of Chatham-Kent has recently studied a range of alternatives for shipping containers: (<https://www.chatham-kent.ca/Council/CouncilMeetings/2017/Documents/March/Mar-20-16a.pdf>)

and recommended provisions for temporary uses in residential and non-residential zones. Most of the Municipalities studied have provisions for Shipping Containers in Non-Residential zones. Hamilton regulates shipping containers the same way as any other building, that is: subject to permit requirements and yard setbacks.

The Municipality of West Grey also regulates shipping containers, permitting them in Agricultural, Some Commercial, Municipal (Infrastructure), Industrial, and Institutional Zones, and general rural lots

**Some Options (where / when permitted):**

- a) Define and Prohibit Shipping Containers outright anywhere anytime
- b) Define and Permit as a temporary use during construction / renovation / moving only (all zones)
- c) Define and Permit as a temporary use as above and permanent use in non-residential zones
- d) Define and Permit as a temporary / permanent use in all zones.

**Some Options (how permitted):**

- i) Use the same yard / setback requirements as any other building
- ii) Limit the number of containers (total and/or by lot area)
- iii) Establish Additional screening requirements

**Recommendation:**

1. Define Shipping containers specifically in the by-law

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2. Include provisions for shipping containers etc. on a driveway during moving under the Temporary buildings and structures provisions of the by-law (in addition to construction/renovation).
3. Require removal within 30 days of the completion of construction, and not more than 5 day for moving etc.
4. Include setbacks to roadway / curb / sidewalk / for temporary uses.
5. Permit shipping containers as a permanent accessory building to a principal building in non-residential zones, including Rural zones over 2 hectares (5 ac)
6. Apply the same screening / planting requirements for shipping containers as for outdoor storage.

## **Topic: Seasonal Dwellings:**

Islands and properties that do not have access to a year-round road may not be appropriate places for year-round residential use. Principal issues with year-round use in these areas relate to access for emergency services. “Limited Services Agreements” notwithstanding, emergency services personnel and equipment will aim to respond to calls, with potential for harm to human life, increased time and cost of responses; in case of fire, there could be increased risk to adjacent properties. Further issues can relate to other services such as garbage/recycling collection and busing.

The Bruce County Official Plan includes policies related to seasonal vs permanent uses in Section 5.3.6:

### ***5.3.6 Seasonal to Permanent Residential Conversion Policies***

*The conversion of seasonal residences to permanent residences are permitted in the Rural Recreational Area when:...*

- ii) The Municipality has undertaken a comprehensive neighbourhood by neighbourhood review that evaluates the suitability of each neighbourhood for year-round residential uses, and the local municipality has subsequently recognized the area or areas in a year-round residential zone in their comprehensive zoning by-law. Prior to granting recognition to such area in the comprehensive zoning by-law, local council shall be assured that:
  - a) The lands shall front onto an open and maintained road and be serviced with year round road maintenance, school bus service, fire protection, garbage collection and any other service deemed necessary by the local Municipality.*
  - b) If the area is serviced by individual sewer and water services, the local municipality must be assured that the private septic systems are designed and suitably for year-round occupancy, and that they will be suitable maintained over the long term. As a condition of providing zoning recognition of year-round residential uses in the Rural Recreational Area designation, the local municipality shall implement a septic re-inspection programme. This may require a comprehensive inspection programme on an area-wide basis by the appropriate professional or agency.**

**Proposed definition:** “Dwelling, Seasonal” means a dwelling that is located on an Island or road other than a Class 1 Municipal Road and notwithstanding that it may be designed and/or constructed for year round or permanent human habitation is used only for seasonal occupancy.

This definition and inclusion of “Dwelling, Seasonal” as the permitted residential use where indicated would assist in implementing the Bruce County Official Plan. Enforcement of this aspect of the by-law could prove to be a challenge, but may come to the Municipality’s attention through address changes. Attention may be needed for properties that have access to a Class-1 road by way of a (short?) registered easement and lots in plans of subdivisions for which the Municipality has not yet assumed the road.

## **Topic: Hunting Cabins**

A councillor has expressed an interest in provisions for forestry buildings and hunting cabins. Hunting cabins present interesting challenges as they are typically:

- Remote
- Intended for short-term and intermittent human occupancy
- Intended for low-cost construction and use.

Key considerations from a Municipal perspective include emergency access and life safety, regardless of the duration of occupation, and the potential for conversion to longer periods of occupancy.

This topic is also somewhat related to the placement and occupancy of trailers on vacant or developed privately owned properties.

### **Options:**

- Prohibit hunting cabins (current by-law and currently proposed by-law)
- Define and permit hunting cabins in limited zones; some examples:
  - Minden Hills: defined and permitted only on crown lands.
  - Highlands East: defined, including size (65-93 square metres) but only existing hunting camps appear to be permitted.
  - Algonquin Highlands: 1 per lot on rural or crown land, without frontage on a year-round road, 30 metres from any lot line.

Hunt Camp definitions tend to include that it is a building / structure with one or more rooms, at least partially furnished, and may include facilities for food preparation and overnight accommodation, on a temporary basis, for the purpose of accommodating anglers / hunters and may clarify that it is not a dwelling as otherwise defined.

- Use other existing / proposed zoning provisions to permit habitable buildings that could be suitable for hunting purposes, such as:
  - Private Guest Cabins (1 storey, up to 249 square feet, no plumbing or cooking facilities) where a primary dwelling exists on a lot; and
  - Reduced dwelling unit size (50 square metres) seasonal dwelling concept.

**Recommendation:** Use Private Guest Cabin and Reduced Dwelling unit size provisions. To permit hunting cabins.

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## **Topic: Minimum Size for Private Guest Cabins**

Private Guest Cabins are proposed to be permitted in the Rural zones, R1, R2, and R3 zones subject to provisions that include the lot meeting the minimum lot area.

Private Guest cabins are intended to function as a detached bedroom (not a standalone dwelling unit) but can have impacts on the overall sewage load for the property. There are also life safety considerations when a building or structure is used for sleeping. To ensure that these considerations are adequately addressed a building permit should be required prior to establishment of a private guest cabin.

One mechanism of achieving this is to establish a minimum size for a private guest cabin that exceeds the 10m<sup>2</sup> threshold for requiring a building permit under the Ontario Building Code. This has been included in the proposed zoning by-law, Section 3.6.8.

## **Topic: Minimum Distance Separation Guidelines where the Municipality has Flexibility in Application**

The new Minimum Distance Separation Guidelines (for applications submitted after March 1, 2017) outlines 5 areas where the Municipality has Flexibility in Application of the guideline. These are outlined below:

### ***Implementation Guideline #7 — MDS I setbacks for building permits on existing lots:***

*For lots created after March 1, 2017, MDS I setbacks shall be required for building permit applications for dwellings unless otherwise not required by this MDS Document.*

*While municipalities have the option to exempt buildings proposed through building permit applications on lots which exist prior to March 1, 2017, they are strongly discouraged from exempting these applications. If local exemptions are supported for building permits on existing lots, a municipality shall adopt provisions in their comprehensive zoning by-law which clearly state the details for such exemptions. Examples of such provisions may include, but are not limited to, those which only require an MDS I setback for building permit applications:*

- on existing lots that are in a particular land use zone or designation (e.g., rural*

*residential, estate residential);*

- on existing lots that are above or below a certain size threshold (e.g., 4 ha);*

*on existing lots which are vacant (e.g., noexisting dwellings or other buildings);*

- on existing lots, but where the MDS I setback cannot be met, then through a planning application, allow a dwelling provided that it be located as far as possible from the existing livestock facility from which the setback cannot be met;*

- on lots which exist prior to a specific date (e.g., March 1, 2017 or the date of adoption*



*of comprehensive zoning by-law); or,*

- *for certain types of buildings (e.g., dwellings).*

**Comments:** Municipal Council, through the committee of adjustment, recently approved a minor variance application to permit a dwelling on an existing lot of record with MDS conflicts on 3 adjacent properties. Given the rationale and the circumstances, Council may wish to permit development on an existing lot of record (from before March 1, 2017). The proposed by-law includes the following provisions in this regard:

*3.33.8 Notwithstanding any other provisions of this By-law to the contrary, MDS shall not be applied to a new dwelling on an existing lot of record created prior to March 1, 2017 if the location of the existing lot provides no opportunity to meet MDS setbacks from an existing 'Livestock Facility' or 'Manure or Material Storage.' The dwelling shall be located to minimize the MDS conflict.*

**Implementation Guideline #9 — MDS I setbacks and lot creation for a residence surplus to a farming operation**

*For a proposed severance of a residence surplus to a farming operation:*

*1. Where the existing dwelling to be severed and the nearby livestock facility or anaerobic digester are located on separate lots prior to the consent, an MDS I setback is not required for the consent application (or associated rezoning) unless otherwise required by a municipal official plan policy. This is because a potential odour conflict may already exist between those surrounding livestock facilities or anaerobic digesters and the existing dwelling.*

*2. An MDS I setback is always required for a proposed lot with an existing dwelling when prior to the consent, that dwelling is located on the same lot as an existing livestock facility or anaerobic digester and after the consent, the dwelling would be on a lot separate from that same existing livestock facility or anaerobic digester. This is because such a proposal could create a potential odour conflict as the dwelling and the livestock facility or anaerobic digester will be on separate conveyable lots if the severance is approved. This is the case regardless of how a municipality chooses to treat existing livestock facility on lots separate from the dwelling prior to the consent.*

3. *Where a new lot is proposed with an existing dwelling AND an existing livestock facility or anaerobic digester on it, an MDS I setback is not required for that livestock facility or anaerobic digester in accordance with Implementation Guideline #14.*

**Comment:** The current routine practice in Situation (1) is to calculate and establish a reduced MDS setback where necessary. We would suggest that Council not establish a specific policy to require MDS setbacks to be calculated from livestock facilities on a separate lot when an existing dwelling is proposed to be severed as surplus to a farm operation.

***Implementation Guideline #35— MDS I and MDS II setbacks for agriculture-related uses and on-farm diversified uses (MDS 1 and 2 text has been consolidated below):***

*Agriculture-related uses: Those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations and provide direct products and/or services to farm operations as a primary activity.*

*On-farm diversified uses: Uses that are secondary to the principal agricultural use of the property and are limited in area. On-farm diversified uses include, but are not limited to: home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products.*

*MDS I setbacks from existing livestock facilities and anaerobic digesters will generally not be needed for land use planning applications which propose agriculture-related uses and onfarm diversified uses.*

*Similarly, MDS II setbacks to existing agriculture-related uses and on-farm diversified uses will generally not be needed for building permit applications for first or altered livestock facilities and anaerobic digesters.*

*However, some proposed agriculture-related uses and on-farm diversified uses may exhibit characteristics that could lead to potential conflicts with surrounding livestock facilities or anaerobic digesters.*

*Therefore, it may be appropriate for municipalities to require an MDS I setback to permit certain types of these uses.*

*Typically, this subset of uses may be characterized by a higher density of human occupancy or activity, or are uses that generate significant visitation by the broader public to an agricultural area. Examples include, but are not limited to: food service, accommodation, agri-tourism uses and retail operations. Surrounding land uses and geographic context can also play a role in determining the suitability of applying MDS II setbacks from existing agriculture-related uses, on-farm diversified uses and agricultural uses. For these reasons, and in keeping with the intent of this MDS Document, municipalities may choose to require an MDS I setback for proposals, including lot creation, to permit certain types of agriculture-related uses or on-farm diversified uses. In these circumstances, agriculture-related uses and on-farm diversified uses shall be considered as Type A land uses. Municipalities shall include specific provisions in their comprehensive zoning by-law to clearly indicate the types of agriculture-related uses and on-farm diversified uses that will be required to meet MDS I setbacks, including provisions related to the measurement of MDS I setbacks from existing livestock facilities and anaerobic digesters. Otherwise, MDS I setbacks will NOT be required for these types of uses.*

*Similarly, Municipalities may choose to require MDS II setbacks for new or altered livestock facilities and anaerobic digesters to certain types of existing agriculture-related uses or on-farm diversified uses. In these circumstances, agriculture-related uses and on-farm diversified uses shall be considered as Type A land uses. Municipalities shall include specific provisions in their comprehensive zoning by-law to clearly indicate the types of agriculture-related uses and on-farm diversified uses that MDS II setbacks are applied to and how they are measured. Otherwise, MDS II setbacks will NOT be required to these types of uses.*

*Municipalities are strongly encouraged to develop policies in their official plans and provisions in their comprehensive zoning by-law to provide consistent direction on this issue.*

**Comment:** The Bruce County Official Plan currently permits Agriculture Related Uses but has not yet contemplated On-farm diversified uses. Based on the definition of Agriculture-Related uses, the default (not applying MDS1) is likely to be appropriate. Recommendations for applying MDS in respect of On-farm diversified uses would benefit from the process of updating the Agricultural Policies of the Bruce County Official Plan at a later date.

***Implementation Guideline #38 — MDS II setbacks for cemeteries***

*For the purposes of MDS II, existing cemeteries are considered Type B land uses, as they are institutional uses. However, certain cemeteries may be treated as Type A land uses at the discretion of the municipality. For example, those cemeteries which*

*are closed, or receive low levels of visitation, or where no place of worship is present, in addition to where noted in Implementation Guideline #37 (horse drawn community institutional uses).*

*NOTE: Cemeteries meeting the above criteria shall be clearly identified in the municipality's planning documents on a comprehensive basis in order to be treated as Type A land uses. Otherwise all cemeteries will continue to be treated as Type B land uses, except where noted in Implementation Guideline #37.*

**Comment:** Identify closed cemeteries and classify them as Type 'A' land uses for the purposes of calculating MDS II setbacks.

## **Topic: Livestock Facilities in 'Rural' Tobermory**

Tobermory has a large settlement area which includes areas that are Rural in their character, designation, and use.

There are a few existing livestock facilities within Tobermory, mainly on Highway 6, McArthur Road, and Warner Bay Road area.

The current Zoning by-law uses a RU2 Restrictive Rural Zone for Rural areas in Tobermory and other sensitive areas of the Municipality which prohibits "intensive" agricultural uses, defined as "the housing of livestock and associated manure facilities for 150 animal units or more, or 1.5 animal units per tillable acre."

The need for this definition has been replaced by the Nutrient Management Act which applies to new or expanding livestock facilities.

Livestock facilities are not generally compatible with urban areas due to the higher density and range of uses that are expected to occur. Impacts of livestock facilities can include both odour-related issues and groundwater impacts from manure, particularly in a fractured bedrock (karst) environment such as Tobermory. While existing facilities are permitted to remain, investment in new livestock facilities should occur outside of urban areas where there is a lower intensity of uses.

The issue has been raised during the Official Plan review process that, given the size of the Tobermory Settlement Area, it may be appropriate for some agricultural activities to occur in rural areas. We have done some research and identified that:

- OMAFRA has published information about Urban Agriculture at <http://www.omafra.gov.on.ca/english/livestock/urbanagricul.html> including Bees, poultry, fish, and rabbits.
- The Municipality of Meaford has established zoning provisions for backyard poultry in many zones and for livestock facilities in rural residential zones which are outside of settlement areas. These are further implemented through a licensing process which addresses the number of birds, space requirements, and biosecurity considerations.
- Municipalities such as Holstein and Stratford have provisions for existing livestock facilities in settlement areas
- Perth County has provisions for a limited number of horses on a lot in a settlement area to serve the transportation needs of the horse-drawn carriage community.

- Due to the density of private groundwater wells in Tobermory, poultry and any other accessory livestock facilities should be limited to Rural zones outside of the Wellhead Protection Area. It may also be possible to permit a limited number of poultry etc. in Lion's Head where lots are serviced by Municipal water.

Example: Meaford Zoning By-law

*BACKYARD POULTRY*

*Means a pullet or hen kept for companionship as a pet or for the purpose of providing food for the personal consumption of occupants of a dwelling on the same lot.*

*4.29 BACKYARD POULTRY*

*Backyard poultry shall be permitted accessory to a residential use on the same lot. A building, shelter or animal enclosure for keeping backyard poultry:*

- a) Shall meet the requirements of Section 4.1.6 (Animal Enclosures); and,*
- b) Notwithstanding any other provision of this by-law to the contrary, shall:*
  - i) not exceed 10m<sup>2</sup> in total floor area, inclusive of outdoor enclosure; and,*
  - ii) not be nearer than 10m from a dwelling on an adjacent lot.*

**Options**

1. Include provisions in By-law
2. Do not include provisions in by-law.

**Recommendation:**

1. Include provisions similar to those used in Meaford, drawing further on OMAFRA Urban Agriculture resources to address backyard poultry, rabbits, fish, and bees in Rural zones in Tobermory, including caps on the number, setbacks to lot lines and adjacent dwellings, and maximum facility size.
2. Give some consideration to Lion's Head.
3. Do not include provisions for other forms of (new) livestock facilities within settlement areas.

## **Topic: Parking Space Requirements for Tour Boat Operations**

Tour boat operations provide a significant draw to the Tobermory settlement area, and particularly to the Little Tub harbour area and “the Gap” from which they generally arrive and depart. The duration of the tour and time on Flowerpot Island means that passengers spend considerable time away from their vehicles.

Other passenger vessels use the harbour as well, including diving and fishing charters, and kayak rentals are based near the harbour area.

The harbour area contains both Municipally-owned slips and privately owned slips.

The two principal tour boat operations have acquired land and constructed large-capacity parking lots within and adjacent to the downtown, and operate shuttle services between these lots and their launch facilities.

Challenges associated with regulating parking associated with boats include:

1. Public benefits of having parking spaces available outside of the specific tour boat visit time– it being better to have people stay around and shop than focusing on moving their vehicle upon their return to Tobermory;
2. Determining parking requirements associated with boats in slips operated by the Municipality versus boats in privately owned slips;
3. Determining a threshold beyond which a boat operator may be required to provide parking;
4. Determining an appropriate parking demand rate, given that tour options include disembarking (seats ferry multiple people to Flowerpot in the course of an hour or two) vs. not disembarking (seat is occupied by one person for the duration of a single trip).
5. Recently introduced occupancy caps at Flowerpot Island, which could change over time.
6. Addressing existing “development” in the context of a new zoning by-law.

### **Recommendation:**

Should the Municipality wish to pursue a parking requirement ratio for Tour Boat Operations we would recommend that it occur through a specific study outside of this process.

## **Topic: Servicing Policies**

Areas serviced by individual onsite sewage disposal systems can be subject to cumulative adverse impacts to groundwater. This risk is greatest in areas with clusters of septic systems and highly vulnerable aquifers, such as Lion's Head. The risk is a product of the quantity of effluent/sewage and can be mitigated to some extent by controlling flows, larger lot areas (dilution) and by improved sewage disposal system technologies which can pre-treat effluent before it is discharged to the tile bed / environment. The ability of rainwater to infiltrate the ground is also a factor.

In late 2012-2013 the Municipality, County, and Grey-Bruce Health Unit commissioned a pilot study for the Lion's Head Area (Appendix 'A') to investigate potential for groundwater impacts, and identify areas where improved sewage disposal system technologies may be recommended to improve treatment.

From reviewing this document it seems that it may be possible to establish a minimum lot area below which an advanced sewage disposal system (such as a Waterloo biofilter system or aquarobic system) should be required for a single-detached residential use.

Advanced sewage disposal systems typically require annual maintenance and have a higher initial cost.

The commercial area of Lions Head also has areas which have multiple uses on a single lot, such as residential and one or more apartments. While this is attractive from an urban fabric and intensity of development perspective, groundwater impacts should be managed.

### **Recommendation:**

1. Establish a zoning provision that requires an advanced sewage disposal system for any new/replacement sewage disposal system on lots which are less than a specific lot area (to be determined, but likely in the 2000 square metre range).
2. Establish a minimum additional lot area requirement for higher-density development.
3. Apply these provisions to Urban zones on septic systems and to the R2 Resort Residential zone.



## **Topic: Decks, Docks, Boathouses**

The Municipality has the authority to regulate decks, docks, and boathouses within a lot and extending into a lake.

Considerations in these areas include:

- Harsh coastal environments on Lake Huron / Georgian Bay
- Lake bed and shore road allowances which are subject to land claim by First Nations
- Other coastal regulations by MNRF and Department of Fisheries and Oceans
- Potential impact on abutting properties from larger shoreline structures.
- Variable coastal conditions such that dock length could be difficult to regulate
- Provincially significant and Coastal wetlands that are sensitive to human activity.

The current zoning by-law Environmental Hazard zone permits a boathouse with a zero metre setback to the lake lot line, but limits its size to 8 square metres (86 square feet) and 10 metres from any lot line (side lot line) which greatly limits their usefulness.

### **Currently Proposed By-law:**

#### **3.6.7 Boathouses**

*A 'Boathouse' may be permitted only on a 'Waterfront Lot – Inland Lake' or 'Waterfront Lot – Lake Huron/Georgian Bay' as an accessory use - detached structure to be used exclusively for the storage of boats, boating equipment and related boating accessories subject to the following provisions:*

- May be erected 0 metres (0 ft.) from the Lot line that abuts the water body;*
- Shall not be located on lands zoned EH-PSW;*
- Shall be no closer than 5.0 metres (16 ft.) to an abutting 'Lot';*
- The Maximum Building Height measured from the side of the structure that abuts the water body shall be 5.0 metres (16 ft.);*
- The Maximum 'Floor Area, Gross' shall be 37 m<sup>2</sup> (400 ft<sup>2</sup>);*
- All other provisions of Section 3.6 shall apply.*

*Note: Approvals/permits from the local Conservation Authority and/or Ontario Ministry of Natural Resources may also be required for a Boathouse. Boathouses shall not be erected within the lake or on the municipally owned Shore Road Allowance.*

-Section 24.5 Special Provisions: The EH-PSW zone does not include Boat Launching and Docking as a permitted use.

-Special provisions proposed for Greenough Harbour relate to decks (based on MNR's comment in the subdivision agreement that one 12' x 20' deck per lot could be permitted on the shoreline:

- **EH-2002-43 [R2-t]** Greenough Harbour Lane BL#2002-43 (Map 9)

- i) All site alteration, buildings, and structures shall be prohibited with the exception of one (1) 'deck' per Lot located at least 30 metres from the inland limit of the EH-2002-43 zone;
- ii) For the purposes of clause (i) above, a 'deck' is defined as a structure: no larger than 22.3 square metres (240 ft<sup>2</sup>) in size including any stairs/access ramps/platforms etc; constructed no higher than 61 cm. (24 in.) above the ground surface measured to the highest point of any part of the structure; with no permanent or semi-permanent roof or upper story/structure; with no railing, glass panels, or similar type of enclosure; and erected no closer than 5.0 metres to a side lot Line.

### **Other Options / Opportunities**

- Limit dock width at the shore
- Establish Setbacks for docks from side lot lines
- Define docks on residential lots as seasonal structures (vs permanent installations)
- Establish maximum area and/or setbacks for lakeside decks from side lot lines similar to those for Greenough Harbour

### **Topic: Zoning for Natural Heritage Features, such as Significant Areas of Natural and Scientific Interest**

The Official Plan Update and new zoning by-law have distinguished between Natural or Environmental Hazards to Buildings and Structures and Natural Heritage Features. Based on the criteria for Hazards identified by the Pilot Project Steering Committee we have developed new mapping and are working with stakeholders to ensure its accuracy.

As regards Natural Heritage Features, The Provincial Policy Statement directs that Municipalities identify a natural heritage system and to provide specific protections for natural heritage features. For example:

*2.1.4 Development and site alteration shall not be permitted in:*

- a) significant wetlands *in Ecoregions 5E, 6E and 7E1; and*
- b) significant coastal wetlands.

**Comment:** These are addressed through the proposed EH-PSW Zone which prohibits development and site alteration.

*Another class of Natural Heritage features is subject to a lower threshold: development and site alteration shall not be permitted in these areas (below) “unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.”*

- b) significant woodlands *in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River);*

**Comment:** We do not have mapping for significant woodlands. The Municipality of Northern Bruce Peninsula has high forest cover; generally development which involves the clearing of less than 4047 square metres of forest is not considered to have an impact on the significant woodland. An Environmental Impact Study is required for development proposals requiring *Planning Act* approval that would result in more than 4047 square metres being cleared.

The County also has a forest conservation by-law which affords some protection to woodlands. This by-law does not apply to development for which a *Planning Act* approval is in place or a building permit has been issued.

One comment from the open house expressed concern about the apparent lack of restrictions on tree removal from building lots, as clear-cutting a lot impact the appearance of the area and the integrity of the environment. The Municipality could consider a development permit system or its own site alteration / tree conservation by-law to provide additional protection in this regard.

- c) significant valleylands *in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River);*

**Comment:** Significant Valleylands have not been identified in Northern Bruce Peninsula

- d) significant wildlife habitat;

**Comment:** Significant wildlife habitat tends to be identified through site inspections during pre-submission consultations for zoning by-law amendments, consents/subdivisions, minor variances, etc. Many areas that are significant wildlife habitat are also significant wetlands, but other areas, such as vernal pools or areas where specific plants are found, can also be significant. The Natural Heritage

Reference Manual encourages Municipalities to identify significant wildlife habitat on a comprehensive basis.

e) significant areas of natural and scientific interest; *and*

**Comment:** These areas are mapped by the province and have traditionally been placed in a Restricted Rural zone (similar to urban areas) which prohibits intensive livestock activities.

f) coastal wetlands *in Ecoregions 5E, 6E and 7E1 that are not subject to policy 2.1.4(b)*

**Comment:** These areas are zoned EH Environmental Hazard which prohibits development (buildings and structures), however site alteration could occur in these areas.

*2.1.6 Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.*

**Comment:** Fish habitat is generally zoned EH Environmental Hazard which prohibits development (buildings and structures), however site alteration could occur in these areas.

We have also reviewed Federal Aquatic Species at Risk Critical Habitats (<http://www.dfo-mpo.gc.ca/species-especes/fpp-ppp/index-eng.htm>) which do not identify any critical habitats in the nearshore environment of Northern Bruce Peninsula.

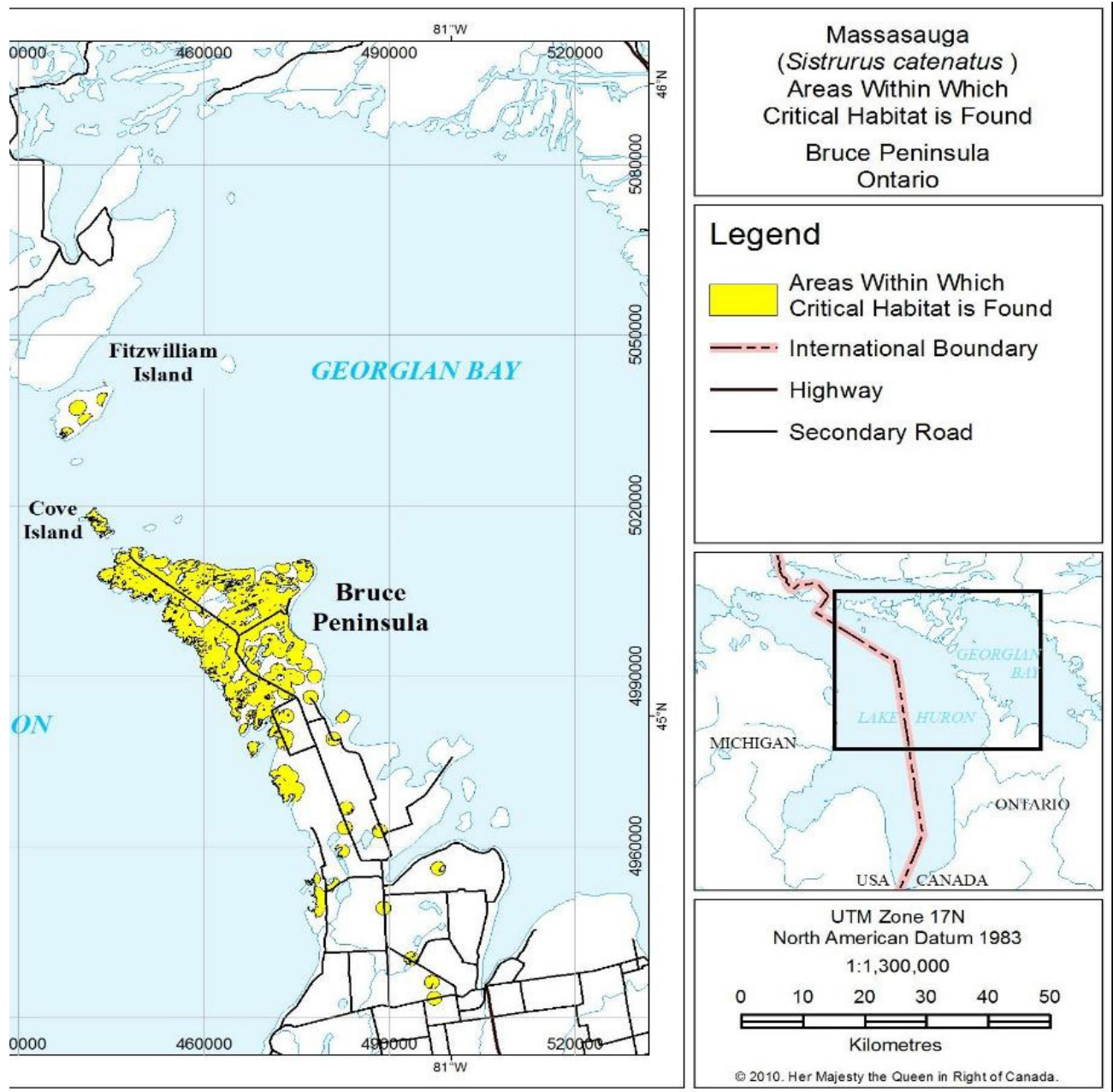
*2.1.7 Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.*

**Comment:** Although there are many endangered and threatened species that are found on the Bruce Peninsula, The most commonly threatened species is the Eastern Massasauga Rattlesnake. A recovery strategy (online at <https://www.ontario.ca/page/recovery-strategy-massasauga>) has identified areas where critical habitat for this species is found, based on the mapping areas around locations where individual snakes have been observed. However it notes that not all of these areas are habitat, and further:

*In the Bruce Peninsula and Georgian Bay regions, where large amounts of natural habitat remain, some activities conducted in isolation are unlikely to destroy critical habitat. Low intensity development (e.g. single residence, hiking trail) results in minimal loss and/or fragmentation of natural habitat, which may be balanced by an increased prey availability in these areas (Eastern Massasauga Recovery Team 2005). The federal government will work with provincial*

regulatory authorities and land users to develop a better understanding of cumulative effects, thresholds of activities leading to destruction, and mitigation guidelines (such as restrictions on activities in certain areas and over certain time periods), with a view to supporting the development of a best management practices guidance document for the Massasauga, for use by planners and others.

This makes the concept of precautionary mapping somewhat difficult for this species. In general, new development proposals that require *Planning Act* approvals are subject to Environmental Study requirements; for development permitted by the zoning by-law it is the responsibility of the permit applicant to comply with all applicable law.



2.1.8 Development *and* site alteration *shall not be permitted on* adjacent lands *to the* natural heritage features and areas *identified in* policies 2.1.4, 2.1.5, and 2.1.6 *unless the* ecological function of the adjacent lands *has been evaluated and it has been demonstrated that* there will be no negative impacts on the natural features or on their ecological functions.

2.1.9 Nothing in policy 2.1 is intended to limit the ability of agricultural uses to continue.

**Comment:** Many bird species at risk found on the Bruce Peninsula use open areas including fields, pastures, and meadows.

### **Summary:**

Of the above information the Municipality currently has adequate mapping for Provincially Significant Wetlands and Areas of Natural and Scientific Interest, and their adjacent lands. PSWs are proposed to be addressed through the EH-PSW zone which prohibits development and site alteration, and a site plan control area which applies to lands within 120 metres of the PSW.

### **Options**

Areas of Natural and Scientific Interest and their adjacent lands could be subject to:

- The same zoning as surrounding areas, if the range of development permitted as-of-right is considered to have no impact on the ANSI.
- A narrower range of permitted uses, noting that the PPS does permit *agricultural uses to continue*
- A Natural Heritage Holding zone provision which requires a evaluation of the development and a site plan agreement prior to development
- An entirely separate zone category which prohibits development and site alteration, and which requires an Environmental Impact Study prior to development / site alteration.

### **Recommendation**

Natural Heritage Holding Zone provision which requires evaluation of the proposal and a site plan agreement prior to development.

## **Topic: Zoning of Public and Conservation Organization Lands that are within the Conservation Land Tax Incentive Program or otherwise exempt from Municipal Taxation**

A number of properties within the Municipality are owned by governments and conservation organizations such as but not limited to Parks Canada, MNRF, the Nature Conservancy, Escarpment Biosphere Conservancy, and Bruce Trail Conservancy.

Some, but not all of these lands, are exempt from municipal taxes under the Conservation Land Tax Incentive Program (CLTIP)

(link: <https://www.ontario.ca/page/conservation-land-tax-incentive-program>).

The way that these organizations are structured generally means that these lots cannot be sold on the open market or developed, and they function as conservation lands, some with limited passive recreation activities.

We have reviewed the Municipality's assessment roll to identify properties that are exempt from Municipal Taxes, filtered out Municipal, Government, and Institutional lands that are not held for conservation purposes, and individual private owners who may be part of the CLTIP program.

### **Recommendation:**

Place these lands in an Open Space – Rural zone that reflects their use as conservation lands and removes them from the inventory of vacant lots in the Municipality. We would recommend that this zone be distinct from the Municipal parkland zone.

Including properties that are already exempt from taxation in this zone would avoid the assertion by conservation organizations that zoning precludes development and thus assessment should be reduced or eliminated.

Identifying undevelopable lands may have an ancillary benefit to the Municipality of increasing the desirability and value of adjacent properties.

**Topic: Regulations / licensing / zoning of Short Term Accommodations (B&B, hostel, cottage rental, etc).**

This topic has generated the most interest, with over 20 letters received expressing concern or objection to the concept of regulating short term rentals. Most if not all of these letters are from cottage owners associated with rentcottage.com.

The general theme of the letters has including the following considerations which were provided to the owners by rentcottage.com:

- *The use of a cottage for a weekly rental is no different than an owner of a cottage using it for the same time period, provided proper limits are placed on number of occupants in the cottage.*
- *Cottage rentals have an economic benefit to the community, cottage renters spend a significant amount of money in the community. (boat tours, restaurants, shopping etc).*
- *Cottage rentals provide significant employment in the community, (cleaners, landscapers and trades people, etc).*
- *Cottage rentals provide accommodations that otherwise would not be available (Motels are always full in July and August).*
- *When renting your cottage through a Licensed Agency (Rentcottage.com) guests are thoroughly screened attracting the appropriate renters to the area (families, mature responsible adults).*
- *Cottage Rentals keep property values up.*

The letters typically refer to the personal experience of the cottage owner, the absence of complaints or issues associated with their rental, their having often having discovered the area through renting a cottage, and that cottage rentals are in many cases essential to their ability to affordability their cottage.

Notwithstanding the objection to regulation, several letters refer to ensuring limitations on the number of people that can stay at the cottage, and some refer to enforcement of zoning and occupancy requirements and issues that may arise from other cottage rental individuals or brokerages.

One letter submitted by the former owner (and current employee) of rentcottage.com includes statistics from that operation to demonstrate the economic benefits associated with cottage rentals. A letter by the current president of rentcottage.com also outlines that some issues may not adhere to strategies used to address potential impacts:

*In addition to collecting the usual personal data for each guest (name, address, telephone number, license plate number for each vehicle etc.), we also ensure that our guests have valid Homeowners insurance or Renters Contents insurance (proof of financial responsibility/liability insurance), all of our cottages have restrictions on the maximum number of guests (to minimize potential negative environmental impacts or noise complaints) and restrictions on pets (all pets must be at least 2*



*years old and we do not rent to guests that own what are generally thought to be dangerous breeds).*

Earlier in this process we received a letter from an owner of a property that is rented out expressing concern about occupancy levels and septic system / environmental impacts associated with cottage rentals, use of bunkies within rentals, etcetera, and noting that there are various properties that can be fairly readily identified as having excess occupancy.

A comment from the open house also requested a maximum occupancy per house based on septic systems and enforced on weekends during the tourism season.

Another open house comment observed that “Residential” areas are increasingly transient and dwellings in residential areas being specifically designed for rental or Bed and Breakfast purposes.

In preparing this report a brief google easily identified 4 properties that advertise accommodation potential that exceeds the number of bedrooms, even at dual occupancy which is a major assumption for septic system design under the building code:

# of Bedrooms	Occupancy permitted in advertisement
4	14
2	9
4	10
3	10

Concerns have also been raised by other commercial accommodation operators about the difference in standards and tax assessment for hotels, motels, etc versus individual cottages.

Staff do not dispute that there are economic benefits associated with short term cottage rentals, and note that the typical requirement for a multiple-day minimum stays offers greater opportunities for visitor spending than day-trip or short-stay visitors.

We also note that Rentcottage.com is a brokerage for 180 cottages (Mike Campbell letter), that the majority of the letters expressing concern for cottage regulation are from rentcottage.com owners, who describe the high standards of that company, and that there are 3136 private dwellings in Northern Bruce Peninsula which are not occupied by

usual residents (Statistics Canada 2016 data). We have no current measure for the number of cottages that are rented outside of rentcottage.com. As shown in the table above there may be cases of over occupancy on properties that may impact septic systems and create environmental damage and health risks. Risks for life safety may also be higher for properties that have rotating occupants, with or without host contact during their stay.

**Options:**

1. Do nothing.
2. Use the zoning by-law to define short term accommodations and zones, lot areas, and maximum occupancies.
3. Investigate a licensing by-law that includes, for example, registration, maximum occupancy, and other life safety matters, without regulating where the activity occurs.

**Recommendation:** Investigate licensing by-law for accommodations outside of the zoning process. The investigation should include stakeholder consultation and aim to yield a process that is as efficient and painless as possible and achieves environmental protection and life safety objectives while minimizing the administrative burden on operators and the municipality.

**Other Public Comments / Questions:**

Public comments and questions received by the Planning Department and Municipality through the first Open House and in response to the notice are attached as items of correspondence to this agenda.

Respectfully Submitted,

Jakob Van Dorp,

Senior Planner

Bruce County Planning and Development