

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** January 21, 2022

**CASE NO(S):** PL200263

**PROCEEDING COMMENCED UNDER** subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

|                |   |
|----------------|---|
| Appellant:     | Metro Towing  |
| Appellant:     | Ottawa Pool & Patio Ltd.                            |
| Appellant:     | R.W. Tomlinson Limited                              |
| Appellant:     | The Poole Creek Management Company Ltd.; and others |
| Subject:       | Proposed Official Plan Amendment No. 240            |
| Municipality:  | City of Ottawa                                      |
| OLT Case No.:  | PL200263  |
| OLT File No.:  | PL200263  |
| OLT Case Name: | Metro Towing v. Ottawa (City)                       |

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

|               |   |
|---------------|---|
| Appellant:    | Metro Towing                            |
| Appellant:    | Ottawa Pool & Patio Ltd.                |
| Appellant:    | R.W. Tomlinson Limited                  |
| Appellant:    | The Poole Creek Management Company Ltd. |
| Subject:      | By-law No. 2020-53                      |
| Municipality: | City of Ottawa                          |
| OLT Case No.: | PL200263                                |
| OLT File No.: | PL200264                                |

**Heard:** November 23 and 24, 2021 by video hearing

**APPEARANCES:**

**Parties**

City of Ottawa

R.W. Tomlinson Limited

**Counsel**

Timothy Marc

Gregory Meeds, Lauren Benoit

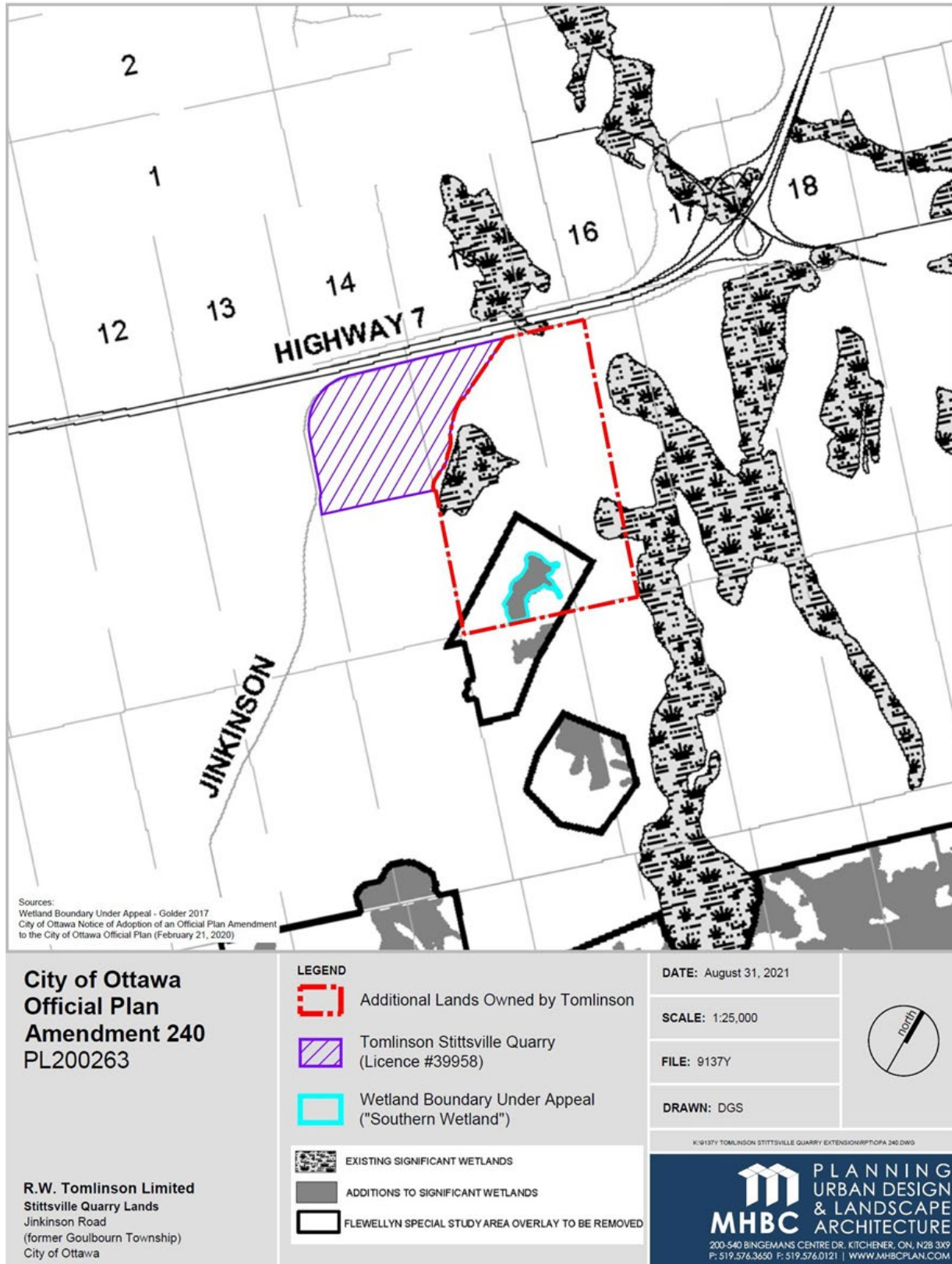
## **DECISION DELIVERED BY JATINDER BHULLAR AND ORDER OF THE TRIBUNAL**

[1] This was a two-day hearing regarding two appeals by R.W. Tomlinson Limited (the “Appellant”). These appeals are against the adoption of the Official Plan Amendment No. 240 (OPA 240) and the Zoning By-law No. 2020-53 (“ZBL”).

[2] The Appellant owns approximately 175 ha of land west of Stittsville along Jinkinson Road in the City of Ottawa. These lands include Tomlinson’s licensed Stittsville Quarry, Stittsville Ready Mix Concrete Plant and Asphalt Plant, and vacant rural lands. The City’s of OPA 240 and the ZBL would have the following affect on part of the unused lands;

|                      | <b>Existing</b>  | <b>Proposed</b>                                |
|----------------------|--|--|
| <b>Official Plan</b> | Bedrock Resource Area (2.6 ha)<br><br>Rural Natural Features Area (2.0 ha) | Significant Wetlands (4.6 ha)                  |
| <b>Zoning By-law</b> | Mineral Extraction (ME[1r]-h)<br><br>(4.6 ha)                              | Environmental Protection (EP3)<br><br>(4.6 ha) |

[3] The specific area under appeal is shown in the figure below and is called as the “Southern Wetland” within the Appellant’s property boundary hereon known as “Subject Land”.



[4] For the reasons that follow, the Tribunal would allow both appeals against the OPA 240 and the ZBL and will find that the Subject Land is not a Provincially Significant Wetland ("PSW").

## **WITNESSES AND EXHIBITS**

[5] The City called one witness, Scott Smithers from the Ministry of Northern Development Natural Resources and Forestry (“MNDNRF”). Mr. Smithers was called under summons authorized by the Tribunal. Mr. Smithers was sworn and qualified by the Tribunal to provide expert opinion evidence in the area of biology, natural resources management and wetlands evaluation. The City filed “will say” statement for Mr. Smithers (Exhibit 5) and his curriculum vitae and acknowledgement of expert’s duty were marked as Exhibits 5A and Exhibit 5B respectively.

[6] Appellant called three witnesses.

- (a) Neal DeRuyter was affirmed and qualified by the Tribunal to provide expert opinion evidence in the area of land use planning and aggregate resources management. Mr. Ruyter’s witness statement forms part of Exhibit 2.
- (b) Fergus Nicoll was affirmed by the Tribunal and qualified to provide expert opinion evidence in the area of ecology, wetlands evaluation and assessment. Mr. Nicoll’s witness statement forms part of Exhibit 3.
- (c) Nick Stow was sworn and qualified to provide expert opinion evidence in the area of ecology and wetland evaluation. Dr. Stow appeared under Tribunal authorized summons. The Appellant filed a “will say” statement for Dr. Stow and it was marked as part of Exhibit 4 which also included his curriculum vitae and his signed acknowledgement of expert’s duty.

[7] A “Book of Documents” was filed by the parties on consent and it was marked as Exhibit 1.

## **EVIDENCE AND ANALYSIS**

[8] This hearing is governed by a Procedural Order previously issued by the Tribunal. There were five issues identified by the Appellant. These will be determined by the Tribunal as part of this decision.

## ISSUES

[9] The pivotal issue in this matter is the PSW designation of the Subject Land and all that ensues thereof. The parties established Issue number 3 with respect to this aspect as follows;

3. Does the subject land constitute a Provincially Significant Wetland pursuant to provincially accepted evaluation criteria and methodology?

[10] As a factual background, Mr. DeRuyter stated that (Exhibit 2, paragraph 4.9 and 4.10);

4.9 In 2009, the City adopted OPA 76 as the comprehensive review of the City's Official Plan. In response to landowner concerns over designating substantially more PSWs for an area with documented drainage issues, the City introduced the "Flewellyn Special Study Area" mapping overlay and policies (the "**FSSA**"). Development would be restricted in this area including the Subject Lands until appropriate local studies were completed. Once that occurred, the FSSA overlay would be removed and the appropriate designation would be confirmed. These policies were appealed and subject to an OMB hearing in 2011.

4.10 In 2011, the OMB approved the FSSA with modifications. The modified policies stated that a cumulative effects study, PSW analysis and mineral aggregate study should be completed prior to any Planning Act process to designate the lands. The OMB determined these studies were needed to inform Council's decision on appropriate land use designations in the area.

[11] Mr. DeRuyter stated that the City considered 2016 Dillon Consulting ("Dillon") report regarding additional PSW designations; but the City did not carry-out studies required under the OMB decision of 2011.

[12] Mr. Smithers and Appellant's experts all agreed that the Subject Land are designated PSW. However, all experts also agreed that PSW designated lands are considered open files for future appropriate updating and evaluation as needed. It is in this context that Mr. DeRuyter, Dr. Stow and Mr. Nicoll carried out and provided their findings and recommendations to show that the Subject Land should not continue to carry PSW designation.

[13] Mr. Smithers testified that he accepted the recommended redesignation of the Subject Land to PSW based on the analysis and recommendations by Dillon as well as the 2005 report by Jacques Whitford. Dr. Stow testified that the City deferred to MNDNRF direction in continuing to treat the Subject Land as PSW and the changes were made in the proposed OPA 240 and the ZBL to that effect.

[14] Mr. Smithers testified and affirmed the May 2021 direction from NDMNRF. He stated that the Subject Land continues to meet the OWES criteria for complexing. He added that the PSW designation as confirmed and recommended by Dillon continues to be appropriate.

[15] Mr. Smithers stated that he neither visited the location nor carried out his own evaluation. . Mr. Smithers also confirmed that the NDMNRF no longer carries out field visits for such determinations as per updated policy directions.

[16] Mr. Smithers stated that his opinion is informed by the review of information that he received at MNDNRF from various parties. These include the Dillon report, earlier material and the reports sent to him by Dr. Stow and Mr. DeRuyter as well as information received by him as part of the record of materials in evidence at this hearing.

[17] Mr. Smithers testified that the use of complexing in confirming the designation of the Subject Land to be part of Goulbourn PSW lands is appropriate. He emphasized that beyond falling within the parameters of being in desired proximity there is functional connection that exists with the PSW lands that the Subject Land is complexed with. Under cross-examination he could not identify what functional connectivity to Goulbourn PSW was determined in the 2005 or in 2016 reports. Mr. Smithers emphasized that the consideration of complexing as carried out in these reports was appropriate and sufficient

[18] Mr. Smithers testified that functional assessments provide an appropriate input for review of lands designated as PSW under the open file consideration for such designations. Mr. Smithers opined that based on his assessment of material and

reports by Mr. DeRuyter, Mr. Nicoll and Dr. Stow; the evidence does support the removal of the Subject Land from a PSW designation. Under cross-examination Mr. Smithers was challenged as to the definition of a threshold to make such decisions to remove possible PSW designation from a land so designated. Mr. Smithers testified that he has not been involved in even a single such decision where the PSW designation was removed. Under further cross-examination, Mr. Smithers was non-committal as to whether any studies are needed to establish zero functional connection for a PSW designation removal, or if other detailed parameters have been publicly established by MNDNRF to inform possible applicants who want to have PSW designation of their lands reviewed.

[19] Mr. DeRuyter testified that the Southern Wetland was identified as potential aggregate resources area in 1995 in a study conducted on behalf of the then Regional Municipality of Ottawa Carleton (Exhibit 1, Tab 11, page 40). The study identified the Subject Land as bedrock base with wetland but not a PSW.

[20] Mr. DeRuyter further testified that MNDNRF also in 2006 (Exhibit 1, Tab 16B, page 5) reviewed the context of haul routes as it applied to these designations. The communication stated;

**Haul Route:**

Half of the price of aggregates is attributed to hauling costs. Close to market aggregates also have the added environmental benefit of reducing greenhouse gas emissions, reducing fossil fuel consumption and reduced truck traffic.

The Goulbourn area bedrock deposit is directly adjacent to Highway 7 which is being twinned to 4 lanes in the very near future. Highway 7 will provide easier access to both west end Ottawa (Kanata and Stittsville) markets and to the Carleton Place market. From a haul route perspective, this makes this aggregate resource provincially significant.

Mr. DeRuyter emphasized that this assessment and deduction by MNDNRF is not only very critical in protecting and managing aggregate resources but is a fundamental consideration in aggregate resources extraction.

[21] Mr. DeRuyter further testified (Exhibit 2, para 4.11) that the “Flewellyn Special Study Area” (“FSSA”) previously established by the City was erroneously used as a constraint to properly consider or identify the aggregate resources and bedrock resource areas. He added that the City staff recommended no changes to designations for aggregate resources on Subject Land. He opined that in spite of this, the City directed a review of aggregates mapping without appropriate foundational considerations.

[22] Mr. DeRuyter testified that it is with this backdrop that a study was conducted by Dillon (Exhibit 1, Tab 14) in 2016 that the Subject Land along with other properties; a total of nearly 460 hectares; be designated as PSW.

[23] Mr. DeRuyter opined that Dillon approach of roadside or aerial work to carry out PSW assessments is allowed per Ontario Wetland Evaluation System (“OWES”). He opined that the field work and analysis that he has carried out; the field work and analysis carried out by Mr. Nicoll and by Dr. Stow for the City of Ottawa; is a more robust and more appropriate when considering PSW open files like for the Subject Land. Mr. DeRuyter stated that Dr. Stow’s analysis as referred to MNDNRF in May 2021 was summarily and ambiguously rejected by MNDNRF.

[24] Mr. DeRuyter also reviewed the planning policy issues that encompass competing as well as separate policy considerations for aggregate resources and in consideration of lands to be designated PSW. He testified and provided opinions in the context of the following issues in the issues list;

1. Are the Significant Wetlands OP designation and the EP3 zone for the subject lands consistent with the *Provincial Policy Statement, 2020*, including the definition of “significance” and policies 2.5.1 and 2.5.2.1?

[25] Mr. DeRuyter assessed policies 5.1 and 5.3 in the Provincial Policy Statement 2020 (the “PPS”). He testified that these policies direct that the Natural Heritage Reference Manual (Exhibit1, Tab4) be used in natural preservation in conjunction with other significant policies including preservation of strategic aggregate resources.

[26] Mr. DeRuyter emphasized that the term “Significance” is aptly used in applying



any evaluating methodologies. He took the Tribunal to the appropriate citation regarding “Significant” in the PPS (Exhibit1, Tab 1, Section 6) as follows;

- a) in regard to *wetlands, coastal wetlands* and *areas of natural and scientific interest*, an area identified as provincially significant by the Ontario Ministry of Natural Resources and Forestry using evaluation procedures established by the Province, as amended from time to time;
- b) in regard to *woodlands*, an area which is ecologically important in terms of features such as species composition, age of trees and stand history; functionally important due to its contribution to the broader landscape because of its location, size or due to the amount of forest cover in the planning area; or economically important due to site quality, species composition, or past management history. These are to be identified using criteria established by the Ontario Ministry of Natural Resources and Forestry;
- c) in regard to other features and areas in policy 2.1, ecologically important in terms of features, functions, representation or amount, and contributing to the quality and diversity of an identifiable geographic area or *natural heritage system*;
- d) in regard to *mineral* potential, an area identified as provincially significant through evaluation procedures developed by the Province, as amended from time to time, such as the Provincially Significant Mineral Potential Index; and ....

Criteria for determining significance for the resources identified in sections (c)-(d) are recommended by the Province, but municipal approaches that achieve or exceed the same objective may also be used.

While some significant resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation.

Mr. DeRuyter opined that the Subject Land does not qualify to be considered significant wetland as compared to having significant mineral potential.

[27] Mr. DeRuyter testified that the Subject Land is identified as an aggregate resource area consistent with policy 2.5.1 of the PPS. He further added that this aggregate resource is close to market which is an important consideration per policy 2.5.2.1 of the PPS. Mr. DeRuyter testified that the existing designations that have prevailed before the proposed changes in the OPA 240 and the ZBL have been consistent with the direction in policies 2.5.2.2, 2.5.2.4 and 2.5.2.5 of the PPS.

[28] The Tribunal had little to no contradictory policy opinion evidence regarding conformity of the proposed OPA and ZBA as it relates to the Subject Land. Based on

the expert opinion evidence of Mr. DeRuyter, the Tribunal finds that the proposed redesignation and rezoning of the Subject Land to be a PSW is not consistent with the PPS

[29] Mr. DeRuyter reviewed the conformance of the planned changes with respect to the City of Ottawa Official Plan per issue below;

2. Are the Significant Wetlands OP designation and the EP3 zone for the subject lands in conformity with the City of Ottawa Official Plan policies, including 3.2.1, 3.2.5 and 3.7.4?

[30] Mr. DeRuyter opined that the Dillon report is not a substitute or an appropriate response to direction in the OMB direction in 2011 regarding OPA 76 decision for the FSSA. He added that the City has failed to establish the basis for any planning changes to designations and rather has simply deferred to NDMNRF for direction.

[31] Mr. DeRuyter also addressed the question raised in submission by the City that the PSW designation has existed with MNDNRF for nearly 16 years. Mr. DeRuyter testified that the Appellant only needed to act when the planning designations were being changed and has done so within the specified timeline and with the specified requirements as required under the City's Official Plan ("COP"). He opined that the Appellant's activities and submissions conform with the COP policy 3.2.1.1. Mr. DeRuyter referred to COP section 3.2.1.8 and elaborated that the City has ability to appropriately modify any designated land boundaries, albeit for minor modifications. He testified that the more appropriate question that needs to be answered is whether the Subject Land has been properly assessed to be PSW per the OWES. Mr. DeRuyter added that the emphasis on the 2005 Whitford and the Dillon 2016 reports depended upon by the MNDNRF as being something that is static and final and not possible to change itself violates the OWES which states;

the evaluation always remains as an open file, subject to change as more information becomes available or as a consequence of changes to the wetland itself (p. 14, OWES Manual).

[32] Mr. DeRuyter testified that part of the Subject Land has previously existed as Rural Natural Features per the COP policy 3.2.4. He opined that the City has failed to provide due consideration in this regard for change of designation to PSW and the

planned redesignations do not conform with the COP directions in this regard. Mr. DeRuyter added that the City's Mineral Resources Study did not adequately address the bedrock resources as FSSA was incorrectly treated as a prohibition on extraction. Mr. DeRuyter emphasized that the bedrock status for the Subject Land has not been properly considered as directed by COP policies 3.7.4.1 and 3.7.4.5.

[33] Mr. DeRuyter concluded his assessment for issue 2 and opined that the process of redesignation of the Subject Land to PSW does not conform with policies in the COP.

[34] The Tribunal finds based on the analysis and expert opinion evidence of Mr. DeRuyter and having received no opposing evidence, that; the redesignation and rezoning of the Subject Land do not conform with the policies in the COP.

[35] The Tribunal further notes that the City simply adopted a PSW designation established by MNDNRF; which is contested as per the policies in the COP; by itself and in itself does not provide for conformity with the COP.

[36] In regard to the planned rezoning, Mr. DeRuyter provided testimony focussed on issue below;

4. In re-designating and re-zoning, the subject lands, has the City of Ottawa followed the direction in the OPA 76 decision for the Flewellyn Special Study Area?

[37] Mr. DeRuyter opined that the City simply has not carried out the required studies. These studies were to be driven by OMB direction as referred to be by Mr. DeRuyter as follows;

The Aggregate Resource is evaluated with the PSW as follows: The value (quality) of the aggregate resource and its need (close to market) are analyzed. The particular function of the wetland in a complex is studied with the hydrological habitat (flooding) and contribution to biodiversity considered. If it is proposed to remove a wetland what is the cost, and what mitigation or compensation is required in the short term and long term to protect the ecological value of the wetland complex as a whole? (p. 5, PL100206, July 21, 2011).

[38] Mr. DeRuyter concluded that the City did not follow approved direction from the OMB as it relates to the consideration of aggregate resources for the Subject Land and such zoning is not appropriate given that the aggregate resources quantity, quality and

the nearness to market has been well established; as required in assessing such matters.

[39] The Tribunal finds based on the expert opinion evidence of Mr. DeRuyter that the City has failed to fully conform with the OMB direction as set out in decision for case PL100206 and dated July 21, 2011.

[40] Mr. DeRuyter provided overall analysis and conclusions with regards to consideration of the following issue;

5. Do the Official Plan designation and EP3 zone represent good land use planning?

[41] Mr. DeRuyter testified that while MNDNRF is not the approval authority for the appealed OPA 240 and the ZBL, the City has depended upon their recommendation to carry out planning changes to the Subject Land. Mr. DeRuyter, referring to Dr. Stow's testimony, noted that everything simply got anchored on to the MNDNRF assessments based on their decision related to the 2005 and 2016 Dillon. Mr. DeRuyter opined that the City's redesignation and rezoning do not represent good land use planning as these are dependent entirely upon MNDNRF for which the Appellant has already demonstrated that the MNDNRF designation of PSW for the Subject Land is not appropriate.

[42] Mr. DeRuyter concluded that the PSW Wetland designation and Environmental Protection (EP3) zone on the Subject Land are not consistent with the Provincial Policy Statement, and do not conform to the City's Official Plan. The existing Bedrock Resource Area and Rural Natural Features designations and Mineral Extraction (ME) zone should be maintained.

[43] Mr. Nicoll provided evidence on ecological evaluation of the Subject Land (Exhibit 3). Mr. Nicoll testified that he had made numerous visits to the Subject Land and has been familiar with it as far back as 2008. He added that he visited in in 2017-2018 and carried out follow-up surveys in 2021. Mr. Nicoll stated that additionally his testimony derives from the Golder reports initiated in 2017. Mr. Nicoll described that his additional activities and studies include desktop review of published natural heritage data, multi-season field surveys which included targeted surveys for plant

communities, turtles, visual encounters and searches for the presence of birds, mammals and other wildlife.

[44] Mr. Nicoll provided specific focussed additional testimony to that of Mr. DeRuyter and Dr. Stow regarding issue 3 on the issues list;

3. Does the subject land constitute a Provincially Significant Wetland pursuant to provincially accepted evaluation criteria and methodology?

[45] Mr. Nicoll opines while concurring with the testimony of Mr. DeRuyter and Dr. Stow that an important direction elaborated in OWES states that not all wetlands within 750 metres should be considered complex and that complexing should depend on the functional circumstances, location in relation to other wetlands and other characteristics of the wetlands. Mr. Nicoll testified that the consideration of functional circumstances is critical.

[46] Mr. Nicoll testified that his submissions which provided detailed analysis of functional circumstances was rejected by MNDNRF by alluding to the fact that the Subject Land was determined to be PSW by a previous assessment in 2005 by Jacques Whitford; the well reputed author of the OWES manual.

[47] Mr. Nicoll testified that there was little to be gained from either Mr. Whitford's material or the Dillon report regarding functional circumstances assessed in their reports. He added that as such it is not possible to determine what functional aspects these reports considered. He opined that absent this information, it is difficult to determine how MNDNRF intends to assess and establish the level of functional factors continuation, degradation or improvement.

[48] Mr. Nicoll testified that his studies have shown that no species at risk for grasses, shrubs or trees exist on the Subject Land.

[49] Mr. Nicoll testified that there were no observations of mammals or possible transitory or migratory presence at the Subject Land.

[50] Mr. Nicoll testified that there were some birds observed in the trees with limited

nesting. He concluded that such presence did not establish a positive functional connection between the Subject Land and the Goulbourn PSW. He opined that it was more a parasitic presence which does not contribute positively towards organic preservation or management of such birds.

[51] Mr. Nicoll opined strongly regarding MNDNRF's responses and communication regarding his submissions. He testified that these appears to be ambiguous and other commentary that one would never be able to take direction from, or provide appropriate submissions, that could ever satisfy MNDNRF.

[52] Mr. Nicoll further testified that he is unaware of any such considerations being even accounted for in the reports that the MNDNRF has depended upon in first designating the Subject Land as PSW in 2005, and then accepting the Dillon report to continue the designation, and to add other properties under PSW designation for the overall Goulbourn PSW complex. Mr. Nicoll added that the methodology that he could ascertain from these reports appears to be simple complexing assessment and some aerial or like imagery without any functional assessment or the level of field work that he and Dr. Stow has carried out. He asserted that Jacques Whitford work in 2005 and the Dillon work in 2016 appears to be simple boundary expansion or inclusion exercises.

[53] Mr. Nicoll concluded that when functional association and linkages between the Subject Land and the Goulbourn PSW complex are considered appropriately, the Subject Land is not complex with Goulbourn PSW and as such it is not appropriate to maintain its designation as a PSW.

[54] Dr. Stow having also conducted field visits together with Mr. Nicoll, opined that there was little functional connection of the Subject Land with the nearby Goulbourn PSW lands. Dr. Stow testified that he was not impressed with the Subject Land's wetland quality. He added that from consideration of possible bird habitat, the Subject Land appears to have some limited transitory nesting population of birds which is considered non supportive or positively contributing towards such birds' possible habitat in the Goulbourn PSW complex.

[55] Dr. Stow testified that there is no water inflow connection but there is outflow of water when there are rain events and a ditch carries the outflow temporarily away from the Subject Land. Dr. Stow opined that the functional association for complexing is not tested on the basis of “any functional connection” but “a functional connection that is significant”. Dr. Stow opined that complexing fails as there is no functional connection between the Subject Land and the nearby Goulbourn PSW lands. Dr. Stow opined that the Subject Land did not add to the ecological function of the Goulbourn PSW complex.

[56] Dr. Stow concluded that on a balance of consideration for conflicting interests between possible strategic aggregates extraction versus poor quality wetland to be designated PSW, he recommends that the PSW should be revoked in favor of possible uses for aggregates extraction as and when so necessitated or determined by the property owner.

[57] The Tribunal has considered the evidence and testimony of Mr. Smithers, Mr. DeRuyter, Mr. Nicoll and Dr. Stow. The Tribunal finds that the evidence presented by Mr. Nicoll and Dr. Stow was detailed, comprehensive and unchallenged on a factual basis. Whereas Mr. Smithers challenged their conclusions he used their data to make apprehensive remarks as to how the habitat in the Subject Land could or may or possibly also support continuous quality connection with the Goulbourn PSW complex and habitat. Mr. Smithers raised apprehensions about possible details regarding insect studies. The Tribunal notes that Mr. Smithers brought forward no primary functional analysis or characterization information for the consideration of the Tribunal. It is recognized that Mr. Smithers appeared under summons, but since he was the only witness brought forth by the City, the Tribunal finds that the evidence presented by Mr. Nicoll and Dr. Stow remains untarnished in its accuracy and veracity.

[58] The Tribunal noted with interest Mr. Smithers' testimony that he has not processed a single request that would lead to the removal of a PSW designation from a property. Having received the information provided by Mr. Nicoll and Dr. Stow in their testimony with specific regard to their dialog with MNDNRF, the Tribunal accepts their conclusions that what they carried out and submitted to MNDNRF was treated as not good enough without identifying specific deficiencies and providing direction to correct

any error and deficiencies. This is troubling to the Tribunal when it considers and accepts the testimony of Mr. DeRuyter, Mr. Nicoll and Dr. Stow to the fact that the original basis for PSW designation in 2005 and the subsequent confirmation of PSW status in 2016 hardly considered or carried out any functional assessments that have been brought forward at this hearing. The Tribunal concludes based on the overall testimony of the Appellant's witnesses and the response by Mr. Smithers that there is "*one way in*" for classifying PSW and the "*way out is undefined*", fraught with unequitable rules, directions or lack thereof.

[59] The Tribunal notes that that as agreed to by all experts, the designation of the Subject Land as a PSW is an open file. Based on the analysis and updated information provided by Mr. Ruyter, Mr. Nicoll and Dr. Stow; the Tribunal finds that the Subject Land does not represent a PSW that forms any part of the Goulbourn PSW complex and as such its PSW designation by MNDNRF is not appropriate.

## **OTHER MATTERS**

[60] The City offered to work with the Appellant and submit to the Tribunal possible OPA and ZBL updating instruments should the Tribunal find in favour of the Appellant.

[61] Since the completion of the hearing, the Tribunal has received these documents on consent of both the City and the Appellant.

## **ORDER**

[62] The Tribunal allows the Appeals in part and;

- (a) The Official Plan Amendment to the City of Ottawa Official Plan as amended by Amendment 240 is amended as per Attachment 1 to this decision; and
- (b) The Zoning By-law No. 2020-53 of the City of Ottawa is amended as per Attachment 2 to this decision.



*"Jatinder Bhullar"*

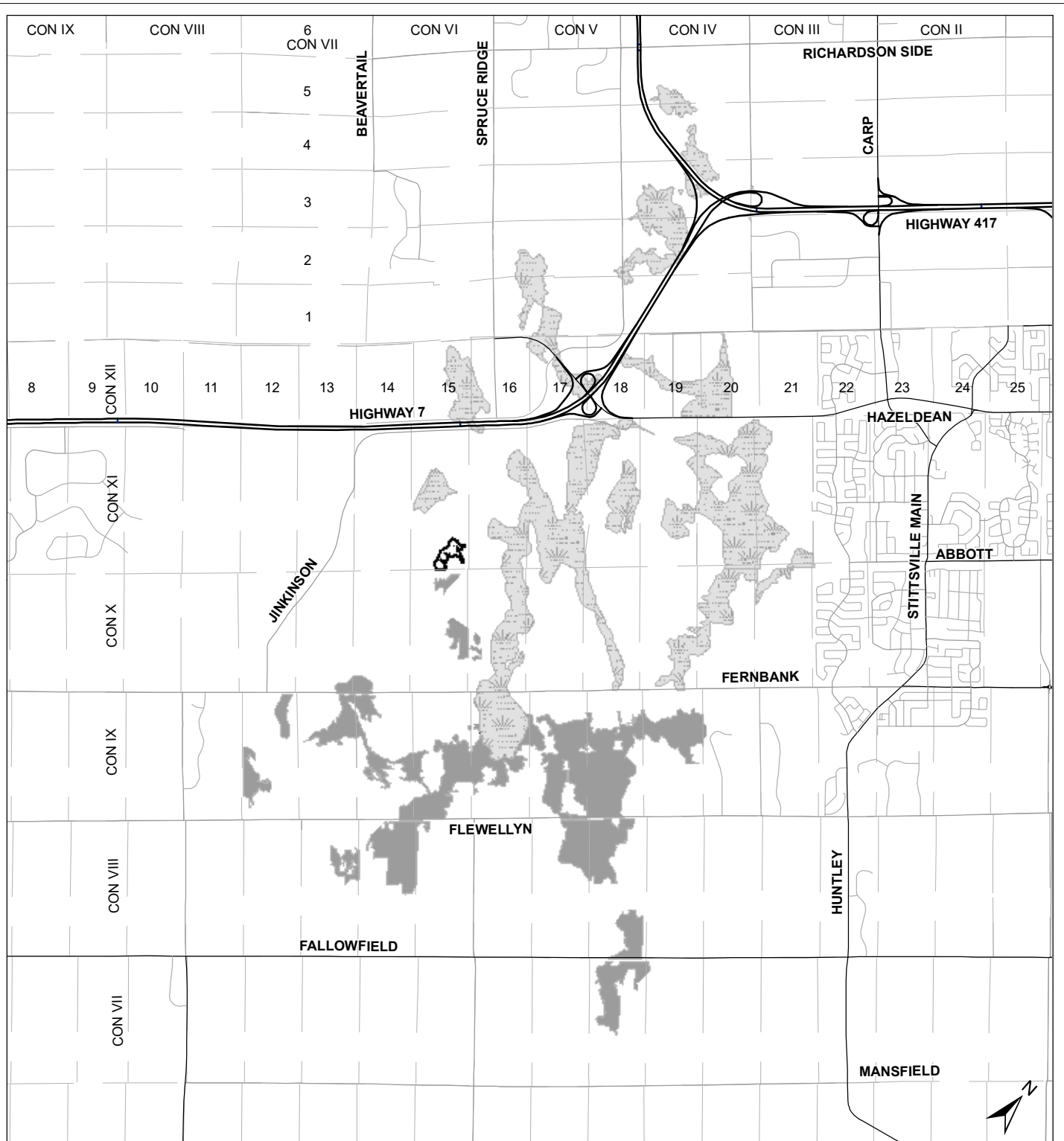
JATINDER BHULLAR  
MEMBER

**Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.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



Planning, Infrastructure and Economic Development Department  
GIS and Data Management

Services de la planification, de l'infrastructure et du  
développement économique, SIG et Gestion des données

D01-01-18-0002

21-1484-A

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Flewellyn SSA New Schedules Revised For LPAT Nov 2021\OPA 240  
Schedule 1A Goulbourn Wetlands LPAT Nov 2021.mxd

25/11/2021

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Scale - N.T.S. / Echelle N.A.E.

## REVISED SCHEDULE 1A to AMENDMENT NO. 240

to the OFFICIAL PLAN  
for the CITY OF OTTAWA

### Amending Schedule A

Rural Policy Plan



EXISTING SIGNIFICANT WETLANDS / LES TERRES HUMIDES D'IMPORTANCE EXISTANTE



ADDITIONS TO SIGNIFICANT WETLANDS / AJOUTER À LES TERRES HUMIDES D'IMPORTANCE



DELETIONS TO SIGNIFICANT WETLANDS / SUPPRESSIONS DE LES TERRES HUMIDES D'IMPORTANCE



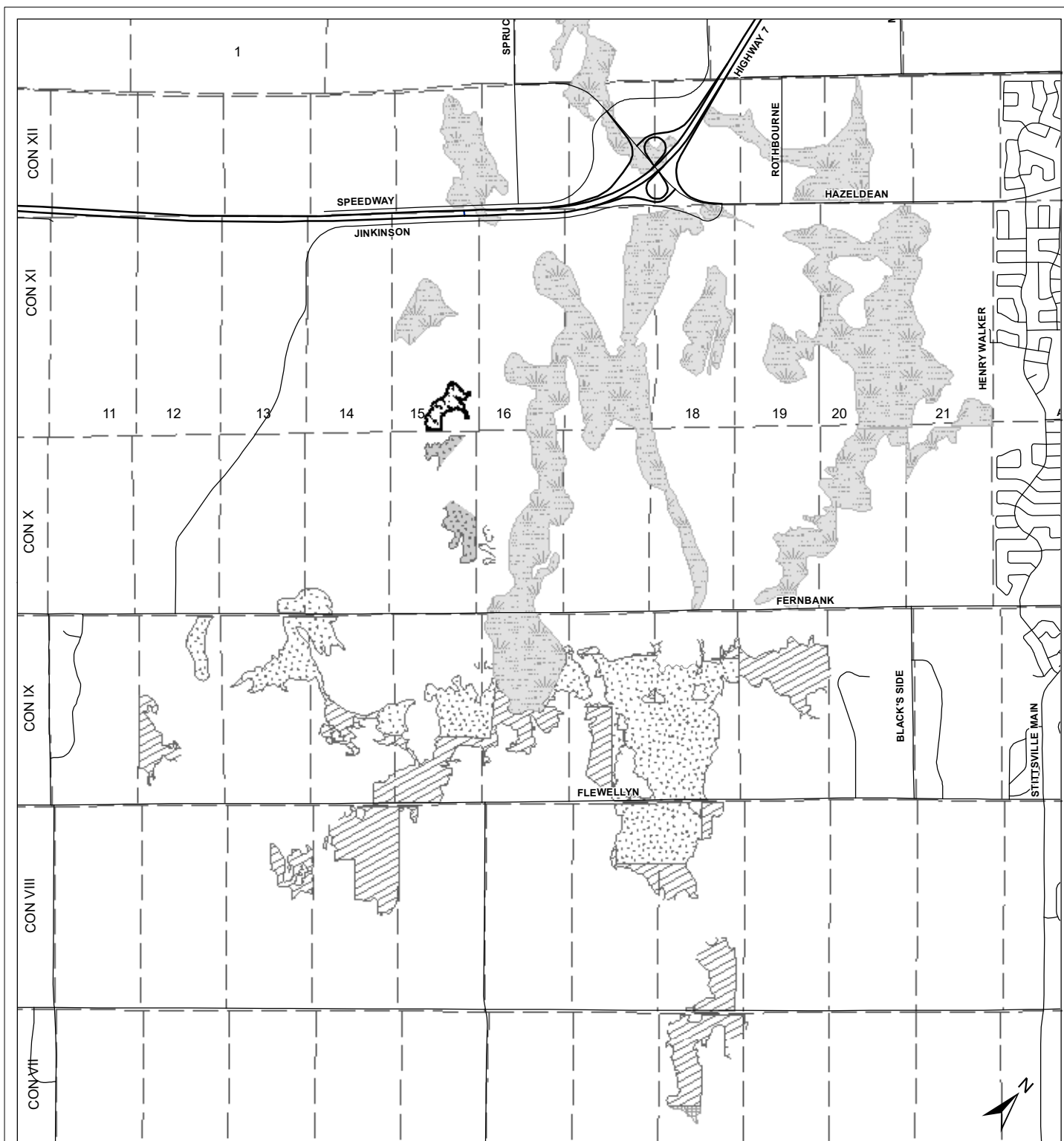
LANDS TO BE DELETED FROM OPA 240 / TERRAINS À SUPPRIMER DE LA MPO 240

## ANNEXE 1A RÉVISÉE de L' AMENDEMENT No. 240

au PLAN OFFICIEL  
de la VILLE D'OTTAWA

### Modifiant l'Annexe A

Plan des politiques en milieu rural



Planning, Infrastructure and Economic Development Department  
GIS and Data Management

Services de la planification, de l'infrastructure et du  
développement économique, SIG et Gestion des données

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FlewellynSSA\NewScheduleRevisedForLPATNov2021\OPA 240  
Schedule 1A GoulbournWeILPATNov2021.mxd

25/11/2021

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## REVISED SCHEDULE 1B to AMENDMENT NO. 240

to the OFFICIAL PLAN  
for the CITY OF OTTAWA

Amending Schedule A Rural Policy Plan

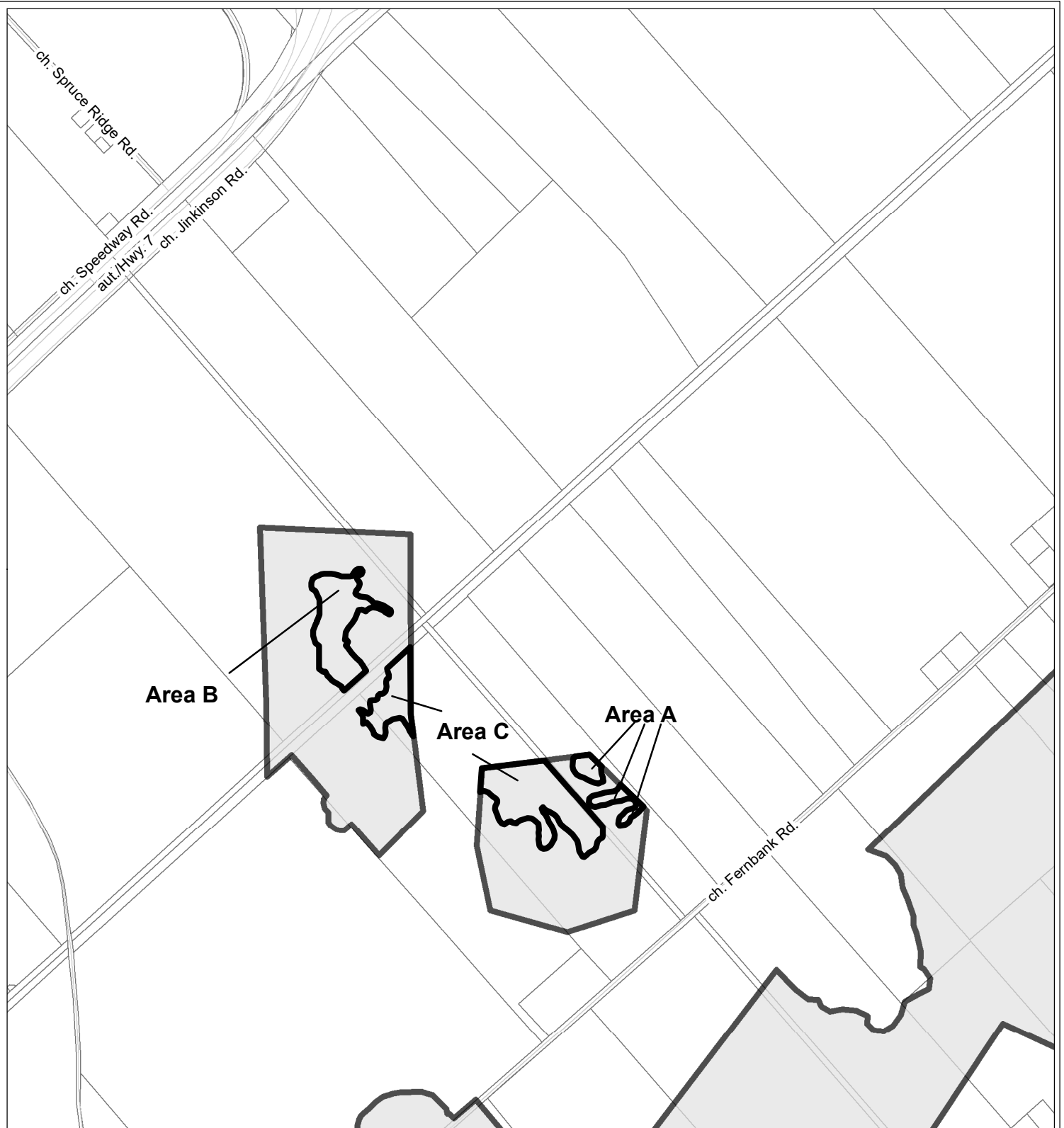
## ANNEXE 1B RÉVISÉE de L' AMENDEMENT No. 240

au PLAN OFFICIEL  
de la VILLE D'OTTAWA

Modifiant l'Annexe A Plan des politiques en milieu rural

- RURAL NATURAL FEATURES AREA REDESIGNATED TO SIGNIFICANT WETLANDS /  
ZONE RURALE CARACTÉRISTIQUES NATURELLES DOIT PASSER DE TERRES HUMIDES D'IMPORTANCE
- GENERAL RURAL AREA REDESIGNATED TO SIGNIFICANT WETLANDS /  
ZONE RURALE GÉNÉRALE DOIT PASSER DE TERRES HUMIDES D'IMPORTANCE
- AGRICULTURAL RESOURCE AREA REDESIGNATED TO SIGNIFICANT WETLANDS /  
ZONE DE RESSOURCES AGRICOLES DOIT PASSER DE TERRES HUMIDES D'IMPORTANCE
- BEDROCK RESOURCE AREA REDESIGNATED TO SIGNIFICANT WETLANDS /  
ZONE DE RESSOURCES EN SUBSTRAT ROCHEUX DOIT PASSER DE TERRES HUMIDES D'IMPORTANCE
- EXISTING SIGNIFICANT WETLANDS / LES TERRES HUMIDES D'IMPORTANCE EXISTANTE
- LANDS TO BE DELETED FROM OPA 240 LEAVING THE EXISTING DESIGNATIONS IN PLACE /  
TERRAINS À SUPPRIMER DE LA MPO 240 EN CONSERVANT LES DÉSIGNATIONS ACTUELLES EN PLACE

# ATTACHMENT 2



D02-02-18-0004

19-1112-D

M:\Zoning\_Bylaw\bylaws\

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LANDS AFFECTED PART OF THE ZONING  
MAP OF BY-LAW NO. 2008-250

This is Attachment 1 to By-law Number 2020-53, passed February 12, 2020

## Lands Affected by By-law

Area A to be rezoned from RU to EP3

Area B to be deleted from Zoning By-law Number 2020-53

Area C to be rezoned from MR[490r] to EP3



Flewellyn Special Study Area / Aire d'étude spéciale de Flewellyn



NOT TO SCALE