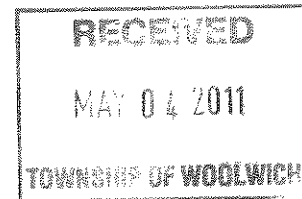


**Peter Pickfield**  
9 Norwich St. W  
Guelph, Ontario N1H 2B8  
Telephone: 519-837-0500  
Fax: 519-763-2204  
Email pickfield@garrodpickfield.ca  
**File No. 11520**

**VIA OVERNIGHT COURIER**

May 3, 2011

Christine Broughton, Clerk  
Township of Woolwich  
24 Church Street West  
P.O. Box 158  
Elmira, ON N3B 2Z6



Attention: Ms. Broughton:

**RE: Notice of Appeal – Proposed Official Plan Amendment – Proposed Hunder Pit**

We act for Hunder Development Ltd. (Hunder) with respect to the above referenced matter. With this letter we are filing, on behalf of Hunder, a Notice of Appeal pursuant to section 22(7) of the *Planning Act*, R.S.O. 1990 c. P. 13, as amended, from the refusal or neglect of the Township of Woolwich to pass the proposed Official Plan amendment for the proposed Hunder Pit. Please find enclosed the following material in support of the appeal:

- Completed Appellant form A1, with attachments including: A) Property Description, B) Reasons for the Appeal, and a proposed Draft Official Plan Amendment;
- Map of the lands under appeal;
- Cheque in the amount of \$125.00 representing the Board's appeal filing fee.

Hunder Developments is requesting that this matter be consolidated with two related matters; an appeal with respect to Zone Change application, and an application under the *Aggregate Resources Act* for a licence to operate the proposed Hunder Pit.

Please contact me if you require any further information on this matter.

Yours truly,

A handwritten signature in black ink, appearing to be "Peter Pickfield", written over a horizontal line.

Peter Pickfield

cc. with enclosures:  
David Sisco  
Bob Hunsberger

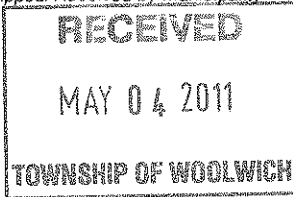


Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5  
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248  
 FAX: (416) 326-5370  
 www.elto.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

**SUBMIT COMPLETED FORM  
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality



Receipt Number (OMB Office Use Only)

**Part 1: Appeal Type (Please check only one box)**

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input checked="" type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

**Part 2: Location Information**

Address and/or Legal Description of property subject to the appeal: See Attachment A for property descriptions

Municipality/Upper tier: Township of Woolwich, Region of Waterloo

**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Hunder Development Ltd. c/o Peter Pickfield  
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

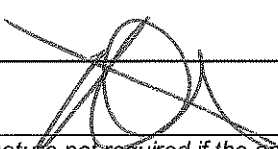
Professional Title (if applicable): Partner, Garrod Pickfield LLP

E-mail Address: pickfield@garrodpickfield.ca  
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 518 837 0500 Alternate Telephone #: \_\_\_\_\_

Fax #: 519 763 2204

Mailing Address: 9 Norwich Street West Guelph  
Street Address Apt/Suite/Unit# City/Town  
Ontario N1H 2G8  
Province Country (if not Canada) Postal Code

Signature of Appellant:  \_\_\_\_\_ Date: April 29, 2011  
(Signature not required if the appeal is submitted by a law office.)

**Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.**

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

**Part 4: Representative Information (if applicable)**

**I hereby authorize the named company and/or individual(s) to represent me:**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Professional Title: \_\_\_\_\_

E-mail Address: \_\_\_\_\_  
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: \_\_\_\_\_ Alternate Telephone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
Street Address Apt/Suite/Unit# City/Town  
\_\_\_\_\_  
Province Country (if not Canada) Postal Code

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

### Part 5: Language and Accessibility

Please choose preferred language:  English  French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

### Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

Official Plan Amendment Application 1/2011, from C.G. Snyder Limited and Ronon Farms Inc. (Hunder Development Ltd.) to amend the designation on a portion of the subject lands (the proposed area to be licensed) to permit the establishment of an aggregate pit. Received and deemed complete October 18, 2010. No decision on application received as of April 19<sup>th</sup>, 2011.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). \*\*If more space is required, please continue in Part 9 or attach a separate page.

See Attachment B for Reasons

### THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: \_\_\_\_\_  
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

- b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:  
\*\*If more space is required, please continue in Part 9 or attach a separate page.

**Part 7: Related Matters (if known)**

Are there other appeals not yet filed with the Municipality? YES  NO

Are there other planning matters related to this appeal? YES  NO   
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

Hunsberger application under the Aggregate Resources Act for a Class A, Category 3 Licence to permit an above groundwater mineral aggregate extraction operation MNR Reference Number: FSD GUE 08/09.

Zone Change Z/C 8/2009 - Hunsberger application to amend Zoning By-law 55-86, as amended of the Township of Woolwich, to rezone a portion of the lands on the subject property (the lands to be licensed under the ARA) from Agriculture (A) to Extractive (E), to permit a Class A, Category 3 mineral aggregate extraction operation.

**Part 8: Scheduling Information**

How many days do you estimate are needed for hearing this appeal?  half day  1 day  2 days  3 days  
 4 days  1 week  More than 1 week – please specify number of days: 30 Days

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?  
8

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):  
Hydrogeology, Land use Planning, Natural Environment, Acoustical Engineering, Traffic Engineer, Dust/Air Quality Specialist, Aggregate Resource Specialist

Do you believe this matter would benefit from mediation? YES  NO   
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES  NO   
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? This application should be consolidated with the ARA application and the zoning application. Pre-hearings will be required to determine the parties and participants, narrow issues and develop a procedural order for the hearing.

**Part 9: Other Applicable Information \*\*Attach a separate page if more space is required.**

Please see attached draft Official Plan Amendment

**Part 10: Required Fee**

Total Fee Submitted: \$ 125.00

Payment Method:  Certified cheque  Money Order  Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

## **PROPERTY DESCRIPTION**

This appeal is brought by Hunder Development Ltd. on behalf of C.G. Snyder Limited and Ronon Farms Inc. with respect to the following properties:

- Lands owned by C.G. Snyder Ltd. comprising approximately 84.5 hectares (208.8 acres) including a proposed licenced area of approximately 32.6 hectares (80.6 acres) and a proposed extraction area of approximately 25 hectares (61.8 acres), which lands are legally described as: Part Lot 5, East of Grand River, Broken Front Concession, Crooks Tract, Woolwich Township, Region of Waterloo.
- Lands owned by Ronon Farms Inc. lands comprising approximately 82.1 hectares (202.8 acres) including a proposed licenced area of approximately 55.7 hectares (137.7 acres) and a proposed extraction area of approximately 37.1 hectares (91.4 acres) which lands are legally described as: Part Lot 6, East of Grand River, Broken Front Concession, Crooks Tract, Woolwich Township, Region of Waterloo.

### **REASONS FOR APPEAL – Application for Official Plan Amendment**

An application for an amendment to the Official Plan designation of the property described in Attachment A (the Hunder Lands) was submitted to Woolwich Township (the Township) on October 1, 2010, and deemed complete on October 18, 2010). The Township failed to render a decision on the application within 180 days, and therefore Hunder Development Ltd. (Hunder) is appealing the matter to the Ontario Municipal Board.

The related applications, the amendment requested and the planning justification in support of this appeal are set out below.

#### **Related Applications**

On April 8, 2009, Hunder submitted a Zone Change application, together with supporting studies, to the Township. The application sought amendments to By-law 55-86, as amended, of the Township of Woolwich, to rezone the Hunder lands from Agriculture (A) to Extractive (E), and to permit associated uses including permissions for the importation of clean material for backfilling, and recycling of imported concrete and asphalt. A concurrent application was submitted to the Ministry of Natural Resources for a Class A Licence, Category 3 (above water), under the *Aggregate Resources Act*.

#### **Proposed Official Plan Amendment**

All of the Hunder lands are currently designated Prime Agricultural Resource Areas under the Waterloo Regional Official Policies Plan (ROPP) Map No. 3. According to policy 5.1.1.1 of the ROPP, the primary activities within the Agricultural Resource Areas are farming, mineral aggregate extraction and forestry. Policy 5.1.1.2 of the ROPP limits non-farm activities in Prime Agricultural Areas, subject to designated non-farm uses provided in the applicable Municipal Official Plan for the property.

The Township of Woolwich Official Plan (Woolwich Official Plan) adopts the Mineral Aggregate Resource Area defined by Map No. 5 in the ROPP (policy 11.3.1). Only part of the Hunder lands is identified as a Mineral Aggregate Resource Area on this map. Therefore, pursuant to policy 11.3.4 of the Township's Official Plan, the deemed that an amendment was required before Hunder's application for a Zone Change could be approved.

Hunder's Official Plan Amendment application seeks an amendment to extend the mineral aggregate resource designation within the Township Official Plan (as shown on Map 5 of the ROPP) to coincide with the licenced area for a proposed aggregate extraction operation to be located on the Hunder lands. Attached to these reasons is a proposed Official Plan Amendment (OPA) and map (Schedule A to the proposed OPA) to establish this designation.

## **Planning justification**

Section 5.3.2 of the ROPP states that area municipalities will designate mineral aggregate resource areas as shown on Map 5 to the ROPP, and that “these areas may be refined, and new areas added, within the area municipal official plans and zoning by-laws without amendment to this Plan”.

The Mineral Aggregate Resource Area map appended to the ROPP (Map 5) Map 5 is not based on site-specific testing, and does not accurately outline the gravel resources on the Hunder lands. Furthermore, it is not intended to limit aggregate extraction to the Mineral Aggregate Resource Area (ROPP section 5.31). Specifically, Map 5 includes a portion of the Hunder Lands but does not include some of the lands for which high quality aggregate resources have now been identified based on site-specific study.

Hunder Development Ltd. commissioned a site-specific examination to confirm the depth and areal extent of the resource available on the Hunder lands. This study has concluded that:

- All of the lands within the proposed licensed area contain a substantial quantity of high quality sand/gravel at an appropriate depth for extraction above the water-table;
- the deposit on the proposed licensed area is considered a primary resource; and
- the material is of a high quality that can meet many road building specifications.

Based on this, and the site-specific multidisciplinary study described below, it was determined that the mineral aggregate resource area for the subject lands should be extended as shown on the attached Schedule to the proposed Official Plan Amendment.

The proposed official plan amendment, and associated zoning amendment, is also supported by a multidisciplinary study that demonstrates that the proposal can be undertaken in a manner which minimizes social and environmental impacts and will not cause any adverse impacts on natural heritage resources including surface and groundwater features and functions, meets all applicable provincial standards with respect to traffic, noise and dust, and accordingly will not adversely impact the Township or its residents.

These studies underwent a comprehensive agency review and an independent peer review overseen by the Township of Woolwich.

Arising from the agency review, specific and detailed comments were received from the Ministry of Environment, Ministry of Natural Resources, the Regional Municipality of Waterloo, and the Grand River Conservation Authority (GRCA). The applicant responded with additional information and field work to address all comments received. The GRCA confirmed that they have no objection to the application for Zone Change or OPA, and that all their concerns were addressed.

The Township of Woolwich conducted independent peer reviews in the disciplines of geological assessment, hydrogeological assessment, dust, acoustical impact, traffic impacts, visual impact, and cultural heritage. Comments received were addressed by Hunder Development Ltd.

## Attachment B to Appeal Form - Hunsberger OPA Appeal to OMB

On September 13, 2010 Township staff advised that all technical studies provided to confirm issues related to aggregate quality and quantity, as part of the application were sufficient. The Township also advised, at that time, that a Township Official Plan Amendment was required, which application was submitted on October 1, 2010. As of this date, Hunder is not aware of any outstanding technical/expert issues arising from the Township's peer review.

In summary, the proposed Official Plan Amendment for the Hunsberger Pit and the related proposed zone change conforms to the Waterloo Regional Official Policies Plan and Township of the Woolwich Official Plan, and is consistent with the Provincial Policy Statement and represents sound planning. Both applications have undergone extensive agency and independent peer review.

The Township failed to approve the OPA within 180 days, and also failed to approve the Zone Change within 120 days. Therefore Hunder Development Ltd. is appealing these matters to the Ontario Municipal Board.

**AMENDMENT NUMBER \_\_\_\_\_**  
**TO THE OFFICIAL PLAN FOR THE**  
**CORPORATION OF THE TOWNSHIP OF WOOLWICH**

**THE CORPORATION OF THE TOWNSHIP OF WOOLWICH**

**BY-LAW \_\_\_\_\_**

A By-law to adopt Amendment No. \_\_/2011  
to the Official Plan of the Corporation of Woolwich

The Council of the Corporation of the Township of Woolwich, pursuant to the provisions of the Planning Act, R.S.O. 1990, as amended, does hereby enact as follows:

1. That Amendment Number \_\_/2011 to the Official Plan of the Corporation of the Township of Woolwich, consisting of the attached maps and explanatory text, is hereby adopted.
2. THAT this by-law shall come into force and take effect on the day of the final passing thereof.

**READ a FIRST and SECOND** time, this \_\_\_\_ day of \_\_\_\_\_, 2011.

**READ a THIRD** time and **FINALLY PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor, Todd Cowan

\_\_\_\_\_  
Clerk, Christine Broughton

AMENDMENT NUMBER \_\_\_/2011\_  
TO THE CORPORATION OF THE  
TOWNSHIP OF WOOLWICH OFFICIAL PLAN

**INDEX**

**Part A – THE PREAMBLE**

The Preamble provides an explanation of the proposed amendment including the purpose, location and background information, but does not form part of this amendment.

**PART B – THE AMENDMENT**

The Amendment and the attached Schedule A describe the changes and/or modifications to the Woolwich Official Plan, which together constitute Official Plan Amendment Number 1/-2011

**PART C – THE APPENDICIES**

The Appendices, if included herein, provide information related to the Amendment, but do not constitute part of the Amendment.

## **PART A – THE PREAMBLE**

### **PURPOSE**

The purpose of this amendment is to extend the mineral aggregate resource designation within the Township Official Plan (as shown on Map 5 of the ROPP) to coincide with the licenced area for a proposed aggregate extraction operation to be located on the Hunder lands. The applicable Regional Official Plan is the December 1998 Regional Official Policies Plan (ROPP). Map 5 of that document is entitled, "Mineral Aggregate Resource Areas". Map 5 designates only a portion of the subject lands as being within a Mineral Aggregate Resource Area. The Township of Woolwich Official Plan incorporates by reference ROPP Map 5 and requires, under Policy 11.3.4, that rezoning to permit the making or establishment of pits and quarries in areas other than those defined as Mineral Aggregate Resource Areas on Map 5 shall only be considered following amendment to this Plan.

It should be noted that both the June 16, 2009 Adopted Regional Official Plan (ROP) and the January 4, 2011 Minister's Decision of the Regional Official Plan (ROP), now refer to the Mineral Aggregate Resource Area as Map 8, but that the resource areas applicable to the Hunder Development Ltd. lands have not been modified from the mapping shown on Map 5.

Site specific studies have demonstrated that all of the lands within the area shown as "Lands to be Designated Mineral Aggregate Resources" on Schedule "A" to this Amendment contain a substantial quantity of high quality sand/gravel at an appropriate depth for extraction above the water-table. The effect of the amendment is to designate these lands as Mineral Aggregate Resource Area. .

### **LOCATION**

This Amendment applies to the lands described as Parts of Lot 5 and 6, East of Grand River Broken Front Concession, Crooks Tract, Woolwich Township, Region of Waterloo (see Map 1), hereinafter "Subject Lands". A portion of the Subject Lands is designated as Mineral Aggregate Resource Area with an underlying designation Agricultural which applies to the entire Subject Lands.

## **PART B - THE AMENDMENT**

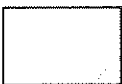
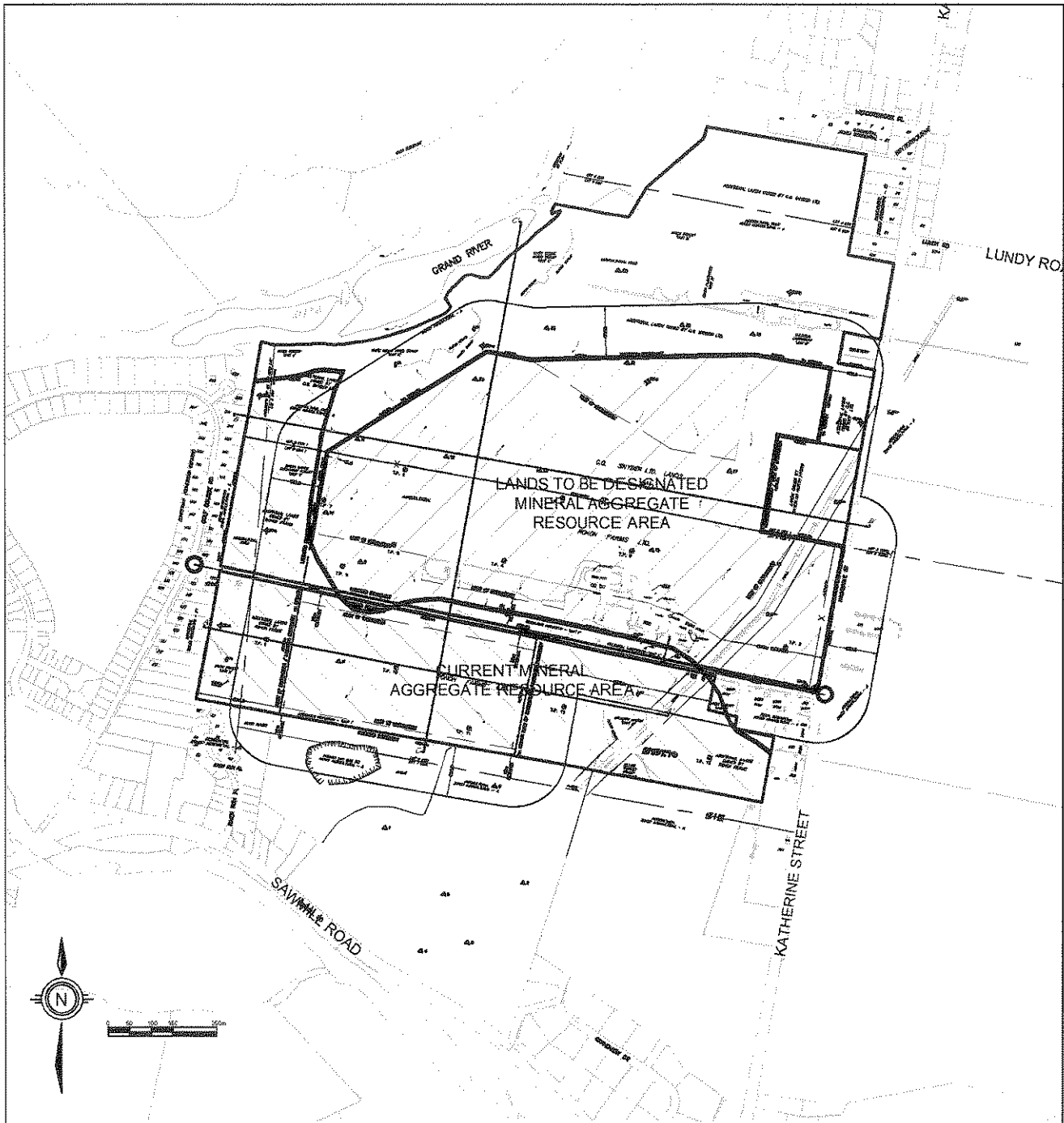
All of this part of the document entitled Part B – The Amendment, consisting of the following text, constitutes Amendment No. \_\_/2011 to the Corporation of Township of Woolwich Official Plan.

### **DETAILS OF THE AMENDMENT**

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

That the entire subject lands which are to be licensed for extraction shall be designated as Mineral Aggregate Resource Area, as shown on Schedule A attached.

Official Plan Amendment  
No. 1 / 2011  
Schedule "A"



Lands to be included within the mineral aggregate resource area

Map 1  
Location Plan

