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Subject: PL190731 – LPAT Decision Issued (Proposed Official Plan Amendment No. OPA 32)
Date: September 11, 2020 4:04:01 PM
Attachments: PL190371-SEP-11-2020.pdf

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Should you require further information/assistance concerning this matter, please **contact the LPAT Case Coordinator, Benjamin Waters:**

- By email: Benjamin.waters@ontario.ca
- By telephone: Toronto: 416 326-7891 Toll Free: 1-866-448-2248
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Thank you.

Joanne Re

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RECEIPT RECOMMENDED _____

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: September 11, 2020

CASE NO(S): PL190371

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Ministry of Municipal Affairs and Housing
Subject:	Proposed Official Plan Amendment No. OPA 32
Municipality:	Regional Municipality of Peel
LPAT Case No.:	PL190371
LPAT File No.:	PL190371
LPAT Case Name:	Ministry of Municipal Affairs and Housing v. Peel (Region)

Heard: September 4, 2020 via video hearing

APPEARANCES:

Parties

Counsel

Ministry of Municipal Affairs and Housing (“MMAH”)

Janice Page and Anna-Lee Beamish

Regional Municipality of Peel (“Peel”)

Leo Longo, David Neligan and Arti Sanichara

City of Brampton (“Brampton”)

Matthew Rea

Town of Halton Hills (“Halton Hills”)

Jeffrey Wilker

Regional Municipality of Halton (“Halton”)

Meredith Baker

North West Brampton Landowners Shelly Kaufman
Groups Inc. (“NWBLG”)

Osmington Inc. (“Osmington”) Mark Flowers

**MEMORANDUM OF ORAL DECISION DELIVERED BY STEVEN COOKE AND
BLAIR S. TAYLOR ON SEPTEMBER 4, 2020 AND ORDER OF THE TRIBUNAL**

[1] The matter before the Local Planning Appeal Tribunal (“Tribunal”) is a settlement hearing regarding Peel Regional Official Plan Amendment 32 (“ROPA 32”) passed by the Council on July 11, 2019 by By-law No. 45-2019.

[2] Under s. 17 (36) of the *Planning Act* (“Act”), the MMAH filed an appeal of the decision of Peel. The basis of the appeal from MMAH was that ROPA 32 was not consistent with matters within the then Provincial Policy Statement 2014 (“PPS 2014”), and did not conform to the 2019 Growth Plan for the Greater Golden Horseshoe (“Growth Plan”). MMAH had concerns that ROPA 32 removed shale resource protection and mapping in the urban area of North West Brampton, excluded policies that protect the Greater Toronto Area West Transportation Corridor Study Area and did not conserve or utilize mineral aggregate resources in advance of development proceeding. Minutes of Settlement between MMAH and Peel have been filed as Exhibit 1.

THE HEARING

[3] Halton and Halton Hills had both been granted party status. Both municipalities are immediate neighbours to the subject lands identified in ROPA 32 and wanted to ensure that their interests in the appeal had been protected. Minutes of Settlement between Halton, Halton Hills, and Peel have been filed as Exhibit 2.

[4] Other Parties that included NWBLG, Brampton, and Osmington appeared before the Tribunal expressing their support of the proposed settlement.

[5] Gail Anderson was qualified by the Tribunal to give expert land use planning evidence and opinion.

[6] It was the opinion of Ms. Anderson, that the proposed settlement is consistent with the policies of the Provincial Policy Statement 2020 (“PPS 2020”), and conforms with the Growth Plan, the Greenbelt Plan 2017 (“GP”), and represents good planning in the great public interest.

[7] In oral evidence in her affidavit provided to the Tribunal, Ms. Anderson identified the following settlement modifications to ROPA 32 as follows:

- a. The Preamble of ROPA 32 is proposed to be amended by inserting a paragraph that explains how corridor protection has been implemented through the ROPA 32 policies and the transportation policies in the Regional Official Plan.
- b. Section 5.3.4.2.2 f) is amended by inserting a new policy directing the City of Brampton or an applicant for development approval to undertake a study to determine the feasibility and economic viability of recovering shale resources prior to, or in conjunction with, block plans, proposed draft plans of subdivision or site plans for major development or redevelopment.
- c. Section 5.3.4.2.2 f) vi), which addresses corridor protection from shale extraction, is amended by updating the terminology in the policy to reflect the wording used in the Provincial Policy Statement, 2020 and the current titles of the transportation and energy transmission corridor protection study areas.
- d. Schedule A to ROPA 32 which amends Region of Peel Official Plan Schedule C “High Potential Mineral Aggregate Resource Areas” is further amended within the Greenbelt Plan Area by adding HPMARA identification to areas that have an overburden thickness of up to 15 meters.

[8] The subject lands fall within the North West Brampton Urban Development Area, which is a designated greenfield area within the existing urban boundary. It is the opinion of Ms. Anderson that the agreed upon modification of ROPA 32 conforms with s. 2.2.1 of the Growth Plan by allowing the accommodation of planned residential and employment growth development, excluding the lands designated in the Greenbelt Plan area.

[9] Meridian Planning had been retained to analyze the entirety of the North West Brampton Urban Development Area, their report was used to inform the ROPA 32

policies in regards to the population and employment growth forecast to the year 2041 under s. 5.2.4 of the Growth Plan. The Growth Plan has been amended with revised growth forecasts for Peel to the year 2051.

[10] It was the opinion of Ms. Anderson, that the modified ROPA 32 is consistent with s. 3.2.1 of the Growth Plan. The Growth Plan requires that Peel coordinate infrastructure planning, investment and land use planning. ROPA 32 is also consistent with the Peel Official Plan policy direction for growth management and capital infrastructure plans.

[11] Under s. 2.5.1 of the PPS 2020, “Mineral aggregate resources shall be protected for long-term use and, where provincial information is available, deposits of mineral aggregate resources shall be identified”.

[12] Section 2.5.2.5 of the PPS 2020 states:

In known deposits of mineral aggregate resources and on adjacent lands, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

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

[13] It was Ms. Anderson’s opinion that the modified ROPA 32 appropriately balances planning for the protection and availability of shale resources within Peel with policy direction to accommodate growth within settlement areas and is consistent with s. 2.5.1 and 2.5.2.5 of the PPS 2020.

DECISION

[14] In determining this matter, the Tribunal has heard the uncontroverted expert land use planning evidence of Ms. Anderson and has heard the submissions of counsel in support of the proposed settlement.

[15] The Tribunal accepts the uncontested land use planning evidence and expert

opinion provided Ms. Anderson. The Tribunal is persuaded by the evidence that the proposal has due regard to matters of Provincial interest in s. 2 of the Act, including the conservation and management of natural resources and the mineral resource base, and the appropriate location of growth and development.

[16] The Tribunal finds that the proposal is consistent with the policy direction established by the PPS 2020 and conforms to the relevant directives established by the Growth Plan for the Greater Golden Horseshoe 2019, the Greenbelt Plan 2017, and as implemented in the Peel and Brampton Official Plans.

[17] The Tribunal is further satisfied that the settlement proposal represents good land use planning and is in the public interest as the proposal furthers the goals and objectives of the Provincial planning regime and increases housing and employment opportunities.

[18] Accordingly, the Tribunal will:

- (i) allow the appeal of the Ministry of Municipal Affairs and Housing in part, and;
- (ii) approve ROPA 32, as modified, and as set out in Attachment 1 appended hereto and forming part of this decision.

[19] This is the Order of the Tribunal.

“Steven Cooke”

STEVEN COOKE
MEMBER

“Blair S. Taylor”

BLAIR S. TAYLOR
MEMBER

If there is an attachment referred to in this document,
please visit www.olt.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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

LOCAL PLANNING APPEAL TRIBUNAL

PROCEEDING COMMENCED UNDER subsection 17(36) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: Ministry of Municipal Affairs and Housing
Subject: Proposed Official Plan Amendment No. OPA 32
Municipality: Regional Municipality of Peel
LPAT Case No.: PL190371
LPAT File No.: PL190371
LPAT Case Name: Ministry of Municipal Affairs and Housing v. Peel (Region)

BEFORE:) , THE ___TH DAY
)
) OF _____, 2020
)

MEMBER

ORDER

THIS MATTER having come before the Tribunal on September 4, 2020 by videoconference;

AND THE TRIBUNAL having received the affidavit evidence of Gail Anderson, sworn _____, pertaining to the settlement of the appeals of the Ministry of Municipal Affairs and Housing ("MMAH") of the Region of Peel Official Plan Amendment no. 32 ("ROPA 32");

AND THE TRIBUNAL having heard submissions of counsel for the parties relating to the proposed settlement of the appeal;

THE TRIBUNAL ORDERS:

- 1. The Tribunal allows the appeals of MMAH in part; and
2. The Tribunal approves ROPA 32, as modified, as set out in Attachment 1 to this Order.

Secretary

Attachment 1 – Modified ROPA 32

Amendments to Text and Schedule

1. Chapter 5, Regional Structure, is amended by deleting Policy 5.3.4.1.6 in its entirety and replacing it with the following:

“5.3.4.1.6 To provide for the availability and use of shale resources within the North West Brampton Urban Development Area and provide for the continued protection and use of Shale resources in the Greenbelt Plan Area adjacent to North West Brampton Urban Development Area.”

2. Chapter 5, Regional Structure, is amended by deleting policies 5.3.4.2.2 f) and g) in their entirety and replacing them with the following:

“ 5.3.4.2.2 f) That shale extraction be permitted and that the protection of provincially significant shale resources identified as High Potential Mineral Aggregate Resource Area (HPMARA) on Schedule C of this Plan be continued in accordance with the following:

i) The population, household and employment forecasts that are the basis of the Regional Official Plan require the utilization of all of the North West Brampton Urban Development area to accommodate growth;

ii) Shale resources shall be protected, in accordance with the policies of Section 3.3 within the area identified as HPMARA on Schedule C and located in the Provincial Greenbelt Plan Area;

iii) The extraction of shale shall be permitted to occur on all lands in the North West Brampton Urban Development Area and in the Provincial Greenbelt Plan Area without an amendment to the City of Brampton Official Plan, subject to policies to be included in the City of Brampton Official Plan governing the rezoning of the lands for mineral extraction in the City’s zoning bylaw, and subject to the issuance of a licence under the Aggregate Resources Act;

iv) Notwithstanding the permissions for shale resource extraction, the City of Brampton is permitted to undertake secondary planning for land-uses in the North West Brampton Urban Development Area, subject to studies to determine appropriate separation, buffering and mitigation of land uses adjacent to lands identified as HPMARA in the Provincial Greenbelt Plan Area or adjacent to sites within the North West Brampton Urban Development Area that are subject to an application for a licence, or are licensed, for extraction under the Aggregate Resources Act.

v) Prior to the approval of block plans, site plans for major development or redevelopment, or draft plans of subdivision on mapped deposits of mineral aggregate (shale) resources, the City of Brampton shall undertake or require applicants to undertake a study to determine the feasibility and economic viability of recovering shale resources prior to, or in conjunction with, development of the land. Where such study has determined that shale recovery is

feasible and economically viable, the City shall ensure that appropriate conditions or requirements to implement the recovery of shale resources will be included at the appropriate approval stage, unless the proposed development will serve a greater long-term public interest. For the purposes of implementing the study requirement, the City of Brampton shall identify known deposits of mineral aggregate resources on mapping in the City of Brampton Official Plan.

vi) The City shall ensure that any shale extraction operation will not unduly restrict alternatives for the planning of a potential North-South Higher Order Transportation -Corridor or alternatives for other planned infrastructure and transportation corridors including the GTA West Transportation Corridor Study Area as identified by the Ministry of Transportation and the Northwest GTA Transmission Corridor Identification Study Area as identified by the Ministry of Energy, Northern Development and Mines and the Independent Electricity System Operator.

vii) The establishment of land uses within the North West Brampton Urban Development Area adjacent to HPMARA which could preclude or hinder future shale extraction shall only be permitted in accordance with the policies of Section 3.3 of this Official Plan and the applicable provincial policies.

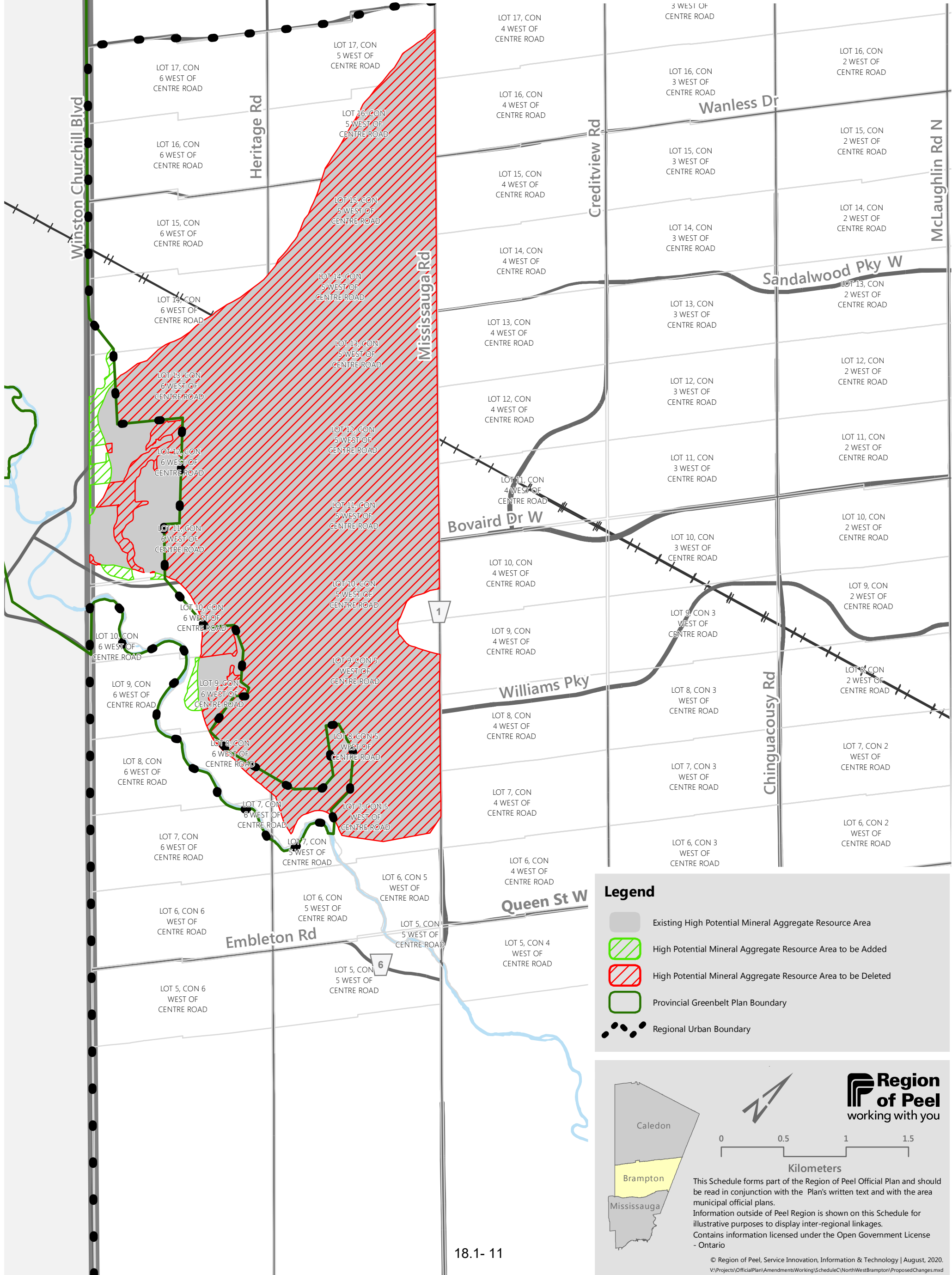
viii) With the exception of policies 3.3.2.2 and 3.3.2.5, the policies of Section 3.3 of the Region of Peel Official Plan shall continue to apply for the purpose of permitting shale extraction without an amendment to the City of Brampton Official Plan;

ix) The City shall reflect and designate the HPMARA as shown on Schedule C, as amended.”

3. Schedule C, High Potential Mineral Aggregate Resource Areas (HPMARA) is amended by deleting the High Potential Mineral Aggregate Resource Areas shown in red hatching on Schedule A, attached hereto, adding in the High Potential Mineral Aggregate Resource Areas shown in green and by making such other housekeeping amendments to Schedule C of the Regional Official Plan to update the format and appearance of the Schedule.

Schedule A to the Regional Official Plan Amendment 32 - Proposed Changes to the High Potential Mineral Aggregate Resources Area Shown on Schedule C to the Region of Peel Official Plan

August, 2020



Legend

- Existing High Potential Mineral Aggregate Resource Area
- High Potential Mineral Aggregate Resource Area to be Added
- High Potential Mineral Aggregate Resource Area to be Deleted
- Provincial Greenbelt Plan Boundary
- Regional Urban Boundary

Region of Peel
working with you

0 0.5 1 1.5
Kilometers

This Schedule forms part of the Region of Peel Official Plan and should be read in conjunction with the Plan's written text and with the area municipal official plans.
Information outside of Peel Region is shown on this Schedule for illustrative purposes to display inter-regional linkages.
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