Recommendation Report: Regulating Cannabis in the Township of Selwyn

DRAFT

November 5, 2019
# Table of Contents

1. **Study Area and Process**  
   - [Study Area and Process](#)  
   - [Planning Context](#)  
   - [2.1. Federal Cannabis Act](#)  
   - [2.2. Provincial Policy Statement](#)  
   - [2.3. County of Peterborough Official Plan](#)  
   - [2.4. Township of Selwyn Zoning By-law](#)  
2. **Regulatory Options for Consideration**  
   - [3.1. Option A – Require Site-Specific Zoning](#)  
   - [3.2. Option B – Require Site-Specific Zoning for Some Areas](#)  
   - [3.3. Option C – Permit As-Of-Right in All Zones](#)  
3. **Recommended Approach to Regulate Cannabis in the Township**  
   - [4.1. Official Plan Recommendations](#)  
   - [4.2. Zoning By-law Recommendations](#)  

Appendix A: Draft County Official Plan Amendment  
Appendix B: Draft Township Zoning By-law Amendment
Introduction

On January 17, 2019, the Council of the Township of Selwyn passed a resolution (2019-002) to:

- Advise the Alcohol and Gaming Commission of Ontario (AGCO) that the Township of Selwyn opts into allowing Cannabis retail stores;
- Adopt the Municipal Cannabis Retail Policy Statement (MCRPS);
- Delegate authority to staff to respond to the AGCO retail sales application notice, in accordance with the MCRPS;
- Direct staff to undertake a study regarding the regulation of cannabis cultivation and processing related land uses in the Township; and,
- Enact an Interim Control By-law (By-law 2019-001) (ICBL) that applies to the entire Township to prohibit cannabis cultivation and processing facilities within the Township until the municipality is able to develop policies/regulations that would ensure that such facilities are appropriately situated and regulated within the Township.

On the basis of the above, Meridian Planning Consultants (MPC) were retained by the Township of Selwyn to undertake a study (Cannabis Study) on the regulation of cannabis cultivation and processing related land uses within the Township. In this regard, this Recommendation Report (Report) is the final deliverable of the Cannabis Study.

This Recommendation Report is divided into the following sections:

Part 1 – Review of the study process;
Part 2 – Overview of the planning context;
Part 3 – Detailed description of the options available to the Township to regulate cannabis; and,
Part 4 – Recommendations to regulate cannabis in the Township of Selwyn.

The draft amendments to the County Official Plan (County OP) and Township Zoning By-law 2009-021 (Township ZBL) are provided in Appendix A and B to this Report.
1. Study Area and Process

The ICBL passed by Council on January 17, 2019, applies to all lands within the Township of Selwyn. In this regard, the study area for the Cannabis Study includes all of the lands within the Township of Selwyn. Given the sensitive nature of cannabis cultivation and processing uses, the focus of the Cannabis Study has been on lands that are designated for agricultural uses and employment uses in the County Official Plan and zoned for such uses in the Township’s Zoning By-law.

The Cannabis Study Process was divided into 5 key deliverables and these included:

1. Initial research and draft Background Report;
2. Report to Council and hold an Open House;
3. Preparation of draft Official Plan Amendment and Zoning By-law Amendment;
4. Report to Council and hold the statutory Public Meeting; and,

The review of background materials and the policy review were compiled into a Background Report called: Considerations for Regulating Cannabis in the Township of Selwyn, dated September 3, 2019. The Background Report was brought forward to Council at its meeting on September 10, 2019. The Background Report included:

- A summary of the Federal Act and Regulation for cannabis and licenses available under the Cannabis Act;
- An overview of potential regulatory considerations for Town policy, including odour concerns associated with production as well as social considerations;
- A detailed policy review of the County Official Plan and Township Zoning By-law;
- A discussion on where the use(s) could be permitted within the Town and regulatory tools that could be applied; and,
- An overview of preliminary options for consideration that included updates to the Official Plan and Zoning By-law for cannabis cultivation and processing.

The Draft Background Report concluded that outdoor cannabis cultivation is an agricultural use and that cannabis processing could be considered as an agriculture-related use.

With respect to the options to regulate cannabis uses in the Township, the Draft Background Report also concluded that the Township could update the County Official Plan and the Township Zoning By-law to:

- Recognize cannabis cultivation and processing uses;
- Provide guidance on where such uses should be located; and,
- Identify the factors and criteria that need to be considered in the planning process.
On the basis of the above, MPC prepared a number of options for the Township to consider for regulating cannabis uses and these are discussed below.

On September 10, 2019, MPC attended the Township Council Meeting and gave a presentation to Council on the Cannabis Study. The purpose of the presentation was to provide background information on the Cannabis Study, present a number of preliminary policy options that were outlined in the Background Report and to solicit input from Council on the options to regulate cannabis cultivation and processing in the Township of Selwyn.

The options focused on regulating indoor cannabis cultivation and processing within the Township. The options ranged from most restrictive (Option A) to least restrictive (Option C). It was noted that outdoor cultivation is considered to be an agricultural use and was not included in the options. It was also noted that each of the options were distinguished by whether cannabis uses are permitted as-of-right or whether a rezoning is required, however each of the options would require site plan approval and compliance with setbacks. Below is a summary of each of the options that were presented to Council.

<table>
<thead>
<tr>
<th>OPTION A</th>
<th>Planning Approvals Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Zoning By-law Amendment</td>
</tr>
<tr>
<td>Agricultural/Rural</td>
<td>X</td>
</tr>
<tr>
<td>Industrial</td>
<td>X</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OPTION B</th>
<th>Planning Approvals Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Zoning By-law Amendment</td>
</tr>
<tr>
<td>Agricultural/Rural</td>
<td>X</td>
</tr>
<tr>
<td>Industrial</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OPTION C</th>
<th>Planning Approvals Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Zoning By-law Amendment</td>
</tr>
<tr>
<td>Agricultural/Rural</td>
<td>X</td>
</tr>
<tr>
<td>Industrial</td>
<td>X</td>
</tr>
</tbody>
</table>

Council asked a number of questions about the cannabis Regulation and how it impacts the growing of cannabis for personal use (up to 4 plants). It was noted that the growing of cannabis for personal use (up to 4 plants) is permitted, however the Cannabis Study is not seeking to regulate this type of cannabis use.
In addition to the above, clarification was also provided on the types of uses that were being reviewed as part of the Cannabis Study, which includes cannabis cultivation and processing. In this regard, MPC indicated that the Cannabis Study would not be reviewing or providing recommendations on:

- The retail use of cannabis (the Township has already determined that this is permitted in accordance with the Local Commercial C2 zone in the Township ZBL); and,
- The personal use and/or growth of cannabis.

Council also questioned the potential odour associated with cannabis operations. MPC responded that odour concerns are not considered to be a significant concern and referred to the sections in the Background Report that addressed odour associated with cannabis operations. Notwithstanding the above, the larger the operation, the greater the potential is for odour impacts.

On September 17, 2019, a public Open House was held at the Township of Selwyn Council Chambers. Notice of the Open House was provided on the Township website, e-newsletter and on their social media platforms. The presentation for the public Open House was the same as the presentation for the Council Meeting of September 10, 2019, with the exception of updating any references from ‘Council’ to the ‘public’. The option slides were also updated to clearly identify the implications of each option and the required amendments to the County OP and the Township ZBL. There were no members of the public in attendance at the public Open House.

In addition to the above, the comment sheet for the public Open House also included a short survey that included questions on where cannabis cultivation and processing uses should be located. The comment sheet and survey were available online following the public open house. A comment deadline of October 18, 2019 was included on the comment sheet and survey, however the Township did not receive any completed comment forms or surveys. As of the date of writing this Report, the Township has not received any questions, calls or correspondence on the Cannabis Study.

A draft County Official Plan Amendment and draft Zoning By-law Amendment were prepared to support the recommendations on the Cannabis Study, which are discussed in later sections of this Report.

The statutory Public Meeting to consider the draft Official Plan Amendment and draft Zoning By-law Amendment is being held on December 10, 2019. This Public Meeting will provide Council and the public with the opportunity to share their comments and/or concerns with the amendments and the approach to regulating cannabis within the Township of Selwyn.

2. Planning Context

The Background Report included a detailed policy review of the policies that were considered for regulating cannabis cultivation and processing in the Township of Selwyn. The detailed policy review provided the basis for the development of options for regulating cannabis uses.

Below is a brief description of the legislation that was considered as part of the Cannabis Study. It is noted that the Background Report should be referenced for the complete policy review.
2.1. Federal Cannabis Act

The Cannabis Act and Regulation SOR-2018-144 came into effect in October of 2018 to legalize recreational cannabis production. The Act introduced six classes of licenses related to the production of cannabis and related activities. These licenses and their implications on land use are described in detail in the Background Report.

While cannabis production is largely governed at the federal level, municipalities have the ability to define and regulate cannabis cultivation and processing in the same way that they are able to regulate other land uses. The Township received a number of inquiries on cannabis cultivation and processing prior to and following the passing of the Act. In the absence of Official Plan policy or Zoning By-law regulations that deal with regulating cannabis uses, the Township passed the ICBL to undertake the Cannabis Study to determine an appropriate approach to regulating cannabis cultivation and processing.

2.2. Provincial Policy Statement

A review of the Provincial Policy Statement (PPS) was also included in the Background Report. Section 1.2.6.1 of the PPS addresses major facilities and sensitive land uses and it reads as follows:

*Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities.*

It is expected that indoor cultivation and processing of cannabis would occur in an industrial type building which would be considered as a major facility in accordance with the definition in the PPS.

The range of uses that would be considered sensitive as per the definition of ‘sensitive use’ in the PPS is extensive since any building, amenity area or outdoor space is sensitive if routine or normal activities occurring at reasonably expected times would experience adverse effects.

The focus of Section 1.2.6.1 of the PPS is on the adverse effects that may be experienced by a sensitive land use. Based on the definition of ‘sensitive’ in the PPS, any non-industrial use where people reside or gather, such as residential uses, schools and places or worship and other similar uses would be sensitive uses.

In addition to the above, the Ministry of Environment’s (MOE) D-series guidelines were also reviewed in detail. The D-Series guidelines assist decision makers when dealing with sensitive land uses and were designed to inform the preparation of Official Plan policies and the making of Planning Act decisions in cases where a proposed use is potentially incompatible with an existing use.

Section 3.1 of Guideline D-1 of the D-series guidelines establishes the preferred approach to dealing with adverse effects and indicates that various buffers may be used to prevent or minimize adverse effects. However, the following is clearly indicated:
Distance is often the only effective buffer, however, and therefore adequate separation distance, based on a facility’s influence area, is the preferred method of mitigating adverse effects.

In our opinion, this means that the only effective way of ’preventing’ adverse effects between a major facility and a sensitive use, in accordance with Section 1.2.6.1 of the PPS, is through separation.

The following is then indicated in Section 3.2 of Guideline D-1:

The separation distance should be sufficient to permit the functioning of the two incompatible land uses without an adverse effect occurring.

Again, this supports the principle that separation is the only effective way to prevent adverse effects in accordance with Section 1.2.6.1 of the PPS.

Additional sections of the D-series guidelines were reviewed in the Background Report, however the incorporation of buffers for cannabis cultivation and processing were important factors considered in the development of recommendations for regulating cannabis uses in the Township.

The PPS policies that apply to Rural Areas, which include both Prime Agricultural Area and Rural Lands, were also reviewed in detail in the Background Report. In this regard, it is our opinion that cannabis cultivation is considered to be an agricultural use and that cannabis processing could be considered as an agriculture-related use, subject to the criteria in the PPS being met.

Notwithstanding the above, the Cannabis Study has also considered Section 1.3 of the PPS, which requires municipalities to promote economic development and provide for a range of employment uses. In this regard, indoor cannabis cultivation and processing on lands that are designated Industrial (Rural Industrial and Industrial) in the County OP were considered in the Background Report as well.

2.3. County of Peterborough Official Plan

The County OP is the local Official Plan for the Township of Selwyn. Section 6 of the County OP contains detailed land use policies that intend to guide planning and development in the participating lower-tier municipalities such as the Township of Selwyn. The County OP applies one set of policies for the Rural Component (the Rural Areas) of the participating lower municipalities, while existing secondary plans have been retained for the Urban Component (the Urban Areas).

The Rural Component of the County OP includes a number of designations that apply in the Township of Selwyn. The Background Report reviewed the policies that apply to the Prime Agricultural Area, Rural Area and Rural Industrial designations. Each of these designations are briefly discussed below.

Section 6.2.1 of the County OP permits agricultural uses and agriculture-related uses in the Prime Agricultural Area. As noted in the Background Report, it is our opinion that outdoor cannabis cultivation is an agricultural use and that cannabis processing could be considered an agriculture-related use. Section 6.2.1.5 of the County OP establishes policies that apply to farm-related commercial and industrial uses and requires site plan control for such uses. This means that, if identified in the County OP as a permitted use in the Prime Agricultural Area designation, a cannabis processing facility would be required to obtain site plan approval in addition to a building permit.
Section 6.2.2 of the County OP establishes policies for the Rural Area designation. Section 6.2.2 of the County OP indicates that the permitted uses that apply to the Prime Agricultural Area designation also apply to the Rural Area designation. In this regard, our opinion about cannabis uses that apply to the Prime Agricultural Area also applies to the Rural Area designation.

Section 6.2.12 of the County OP establishes the Rural Industrial designation. It is indicated that the use of land within this designation is for dry industries based on private water supply and sewage disposal services.

Section 6.2.12.3 of the County OP indicates that the intent of the Rural Industrial designation is to provide for employment opportunities and to provide for variety of lot sizes to allow for flexibility in attracting new industries. There are also a few policies that address potential land use conflicts with surrounding land uses as well to minimize smoke emissions, noise, odours or other forms of pollution. Section 6.2.12.3 f) indicates that Guideline D6: Compatibility Between Industrial Facilities and Sensitive Land Uses from the Ministry of Environment is the minimum acceptable standard when applied to industrial development within this designation. In addition to the above, development within the Rural Industrial designation is also subject to site plan control.

On the basis of the above, it is our opinion that cannabis processing could be considered as an industrial use and permitted within the Rural Industrial designation, subject to meeting the requirements set out in Section 6.2.12.3 of the County OP and the major facilities policies set out in Section 1.2.6.1 of the PPS.

Section 6.3 of the County OP includes Local Plan Policies that apply to the Urban Component in the Township of Selwyn. The Village of Lakefield is serviced with full municipal water and wastewater systems and there are two areas within the Village that are designated Industrial. Section 6.3.2.5 distinguishes between light industrial uses and general industrial uses within the Industrial designation. As noted in the Background Report, cannabis processing could be considered as a light industrial use in accordance with the description of a light industrial use that is provided in the County OP.

**2.4. Township of Selwyn Zoning By-law**

The Township ZBL applies to all of the lands within the Township. The Agriculture (A) and Rural (RU) zones in the Township ZBL both permit agricultural uses and small scale commercial and industrial uses (as long as the use is directly related to the agricultural operation). As noted in the Background Report, it is our opinion that cannabis cultivation is an agricultural use and that the processing of cannabis could be considered as an agriculture-related use, as long as the criterion established by the Province were met for an agriculture-related use.

In addition to the above the Rural Industrial (M1) zone permits manufacturing, processing and assembling as well as warehouse uses. In this regard, it is our opinion that cannabis processing could be permitted within the Rural Industrial zone.

The General Industrial zone (M2) applies to the lands that are designation Industrial in the Village of Lakefield, however this zone does not currently permit any uses that could be considered to include cannabis uses.
3. Regulatory Options for Consideration

Following the preparation of the Background Report, a number of regulatory options were prepared for consideration that included options to include policies in the County OP and provisions in the Township ZBL to regulate cannabis cultivation and processing.

It is our opinion that the inclusion of policies in the County OP for cannabis cultivation and processing could provide clarity to staff and producers on where such uses are permitted and what factors need to be considered for potential future cannabis operations.

In addition to the above, a number of options were considered to regulate cannabis uses in the Township ZBL.

It is assumed that the outdoor cultivation of cannabis is already permitted as a farm or agricultural use, as defined in the Township’s ZBL, and would be permitted in the Agriculture zone and the Rural zone. In this regard, below is a discussion on the options that were considered for regulating indoor cannabis cultivation and processing.

3.1. Option A – Require Site-Specific Zoning

Option A would permit indoor cannabis cultivation and processing in Prime Agricultural Area and Rural designations in the County OP, subject to certain criteria. Cannabis processing would also be permitted as-of-right in the Industrial and Rural Industrial designations in the County OP, subject to the same criteria. The County OP would need to include a policy to require a site-specific rezoning for each cannabis application and would need to establish the criteria for consideration for cannabis use proposals.

The criteria to evaluate each application would include setbacks from sensitive land uses and requirements for adequate servicing, air quality and odour control measures.

In order to implement this option, the County’s OP would need to be amended to include appropriate policy tests or criteria to evaluate rezoning applications. These criteria would be designed to demonstrate that:

- No negative impact will be caused to neighbouring properties or adjacent agriculture uses;
- Traffic hazards or unacceptable congestion on surrounding roads will not occur;
- The proposed building is complementary to the surrounding areas and that the rural character of the area is maintained;
- Any impacts from noise, odour or dust has on adjacent properties has been mitigated;
- There will be no negative impact to water quality or quantity;
- Adequate parking has been provided;
- Stormwater management needs have been met on the site;
- Adequate water servicing has been provided;
• Signage is designed and located in accordance with the Township’s Sign By-law 2012-092; and/or,
• An appropriate setback from adjacent land uses is provided (minimum setback from lot lines could require a certain setback, unless there is another appropriate setback for the site without the requirement of an amendment).

On the basis of the above, the policy would require that prior to considering a Zoning By-law Amendment that Council be satisfied that all of the above criteria have been addressed.

Site Plan Approval would also be required for each application.

The Township’s ZBL would also need to be updated, however it would only include definitions for the types of cannabis uses and would not permit them in any zones. Since a rezoning would be require to permit the use, this means that a public process with mandatory public consultation would also be required.

The following cannabis uses would need to be defined:

• Cannabis Analytical Testing Facility;
• Cannabis Cultivation – indoor;
• Cannabis Cultivation – outdoor;
• Cannabis Production Facility;
• Cannabis Processing Facility; and,
• Cannabis Research Facility.

In addition to the above, the Township’s ZBL would also need to require a minimum parking requirement for all cannabis uses except for outdoor cannabis cultivation. In this regard, the following parking standard is recommended:

• 1/100 square metres of gross floor area

The Township’s ZBL would also be required to include setbacks, which could be included in the general provisions section of the Township’s ZBL. The recommended setbacks would include:

i) Cannabis cultivation – outdoor shall be set back a minimum of 50 metres from lot lines.
ii) Cannabis cultivation – indoor and Cannabis processing facilities must be located in a single, wholly enclosed building and are required to be set back a minimum of 150 metres from a lot that is the site of:
   a) An arena;
   b) A community centre;
   c) A day nursery;
   d) A dwelling unit;
e) A long term care facility;
f) A park, public;
g) A park, private;
h) A place of worship;
i) A retirement home;
j) A school, public;
k) A school, private; and,
l) A trade and convention centre.

It is noted that this option poses a challenge from an implementation perspective for outdoor cultivation operations that do not propose to use any buildings or structures for the cultivation component. Outdoor cultivation would still be subject to the security requirements under the Act, including physical barriers around the site and visual monitoring at all entry points. These requirements are not typical of a standard agricultural crop operation and consideration for a setback from sensitive land uses may be warranted. For Option A, it is recommended that outdoor cultivation be defined and identified as an agricultural use and subject to a specific setback of 50 metres from lot lines as identified above.

The Regulation also requires that certain activities, such as packaging, labeling, storing and sampling be carried out within a building. In this regard, the building would be considered accessory to the outdoor cannabis cultivation use. The Township’s ZBL would also need to include a provision that requires that the location of the accessory building be subject to the setback applied to the outdoor cannabis cultivation use and could read as follows:

Notwithstanding any other provision in this By-law, an accessory building that is required to support a cannabis cultivation – outdoor use shall be set back a minimum of 50 metres from lot lines.

This above provision applies the same setback from lot lines for the accessory building that applies to the outdoor cannabis cultivation use.

3.2. Option B – Require Site-Specific Zoning for Some Areas

This option would apply the same as-of-right permissions in the County OP as described in Option A.

The differences for implementation would occur within the Township ZBL. Option B would permit cannabis processing in the Industrial zone provided that setbacks from sensitive uses are met. Indoor cannabis cultivation and processing in the Agriculture zone, Rural zone and Rural Industrial zone would require a rezoning application to permit the use, but the Township ZBL would include setbacks that would apply to any rezoning application in these zones.

Site Plan Approval would be required for all proposals for cannabis uses.
3.3. Option C – Permit As-Of-Right in All Zones

This option would apply the same as-of-right permissions in the County OP as described in Option A.

Option C would permit indoor cannabis cultivation and processing as-of-right in the Agriculture and Rural zones and cannabis processing would be permitted as-of-right in the Industrial and Rural Industrial zones. Setbacks from sensitive land uses would still be required and Site Plan Approval would also be required for all proposals.

From an implementation perspective, the County OP would require policies that address setbacks from sensitive land uses as well as the demonstration of adequate servicing. In this regard, the same criteria identified above in Option A for the County OP would also apply to this option. However, the County OP would not require a Zoning By-law Amendment to permit the use.

Since Site Plan Approval would be required for this option, relevant agencies would be circulated with the proposal and conditions could be applied in a Site Plan Agreement.

In order to implement this option, the Township’s ZBL would need to include the same definition updates and parking requirement as identified in Option A.

This option represents the most expedited process for cannabis operations looking to establish themselves in areas where agricultural and industrial uses are already permitted. Public consultation, as a result, would only be required where an application has been made in a designation/zone that does not permit agricultural or industrial uses.

4. Recommended Approach to Regulate Cannabis in the Township

On the basis of the above, it is recommended that the Township implement Option A – Require Site-Specific Zoning to regulate cannabis cultivation and processing in the Agriculture, Rural, Industrial and Rural Industrial zones. By requiring site-specific zoning to permit indoor cannabis cultivation and processing in these zones, public consultation will be required and this option also provides the opportunity for the Town to thoroughly review each proposed operation.

In addition to the above, Option A provides the Township with the ability to assess each proposal against criteria that will be established in the County OP. These criteria are further described below in Section 4.1.

The following sections below outline the amendments that are required to the County Official Plan and Township ZBL to implement the recommended Option A.

4.1. Official Plan Recommendations

It is recommended that the County OP be updated to permit indoor cannabis cultivation and processing in the Prime Agriculture, Rural, Industrial and Rural Industrial designations. The County OP would also need to be updated to require an amendment to the Township’s ZBL and require that all proposals be
subject to Site Plan Approval.

It is also recommended that the County OP include a policy that requires that Council, prior to the approval of a Zoning By-law Amendment, be satisfied that the proposed use has demonstrated that:

- No negative impact will be caused to neighbouring properties or adjacent agriculture uses;
- Traffic hazards or unacceptable congestion on surrounding roads will not occur;
- The proposed building is complementary to the surrounding areas and that the rural character of the area is maintained;
- Any impacts from noise, odour or dust has on adjacent properties has been mitigated;
- There will be no negative impact to water quality or quantity;
- Adequate parking has been provided;
- Stormwater management needs have been met on the site;
- Adequate water servicing has been provided;
- Signage is designed and located in accordance with the Town’s Sign By-law 2017-54; and/or,
- An appropriate setback from adjacent land uses is provided (minimum setback from lot lines could require a certain setback, unless there is another appropriate setback for the site without the requirement of an amendment).

Since outdoor cannabis cultivation is considered to be an agricultural use, the County OP would need to be amended to recognize outdoor cannabis cultivation as an agricultural use and include a policy that requires outdoor cannabis cultivation to be set back a certain distance from adjacent lot lines.

It is also recommended that a policy be included in the County’s OP that clarifies that the processing of cannabis may be permitted as an agriculture-related use operating in conjunction with a cannabis cultivation operation, but would require an amendment to the Township’s ZBL and would be subject to Site Plan approval. This policy should also require that in order to qualify as an agriculture-use, the following criteria must be met (from the PPS):

a) The use is directly related to farm operations in the area;
b) Supports agriculture;
c) Benefits from being in close proximity to farm operations; and,
d) Provides direct products and/or services to farm operations as a primary activity.

Appendix A to this Report includes the draft County Official Plan Amendment that includes the recommendations made above in this section of the Report.

4.2. Zoning By-law Recommendations

There are a number of amendments that would also be required to the Township ZBL to implement Option A and these are discussed below.

Section 2: Definitions of the Township ZBL will need to be amended to include the following definitions:
1. **Cannabis Analytical Testing Facility** means a facility where the alteration of the chemical or physical properties of cannabis by any means is carried out, subject to regulations under the Cannabis Act, as amended.

2. **Cannabis Cultivation - Indoor** means the growing of cannabis within a wholly enclosed building or structure, subject to regulations under the Cannabis Act, as amended.

3. **Cannabis Cultivation - Outdoor** means the growing of cannabis in an open air setting, subject to regulations under the Cannabis Act, as amended.

4. **Cannabis Drug Production Facility** means a facility where the production or manufacturing of a drug containing cannabis is carried out, subject to regulations made under the Cannabis Act, as amended; and the Food and Drugs Act, as amended.

5. **Cannabis Processing Facility** means a facility where the extraction of cannabis oil for the purpose of producing or manufacturing cannabis oils, gels or other edibles is carried out, subject to regulations under the Cannabis Act, as amended.

6. **Cannabis Research Facility** means a facility used for activities in accordance with a Licence.

The cannabis terms above mirror the terminology of the Federal Regulation. It is our opinion that there is no need to establish definitions for the various subclasses (micro-cultivation/standard cultivation, nursery, micro-processing, standard processing).

Section 3.29: Off-Street Parking Requirements of the Township’s ZBL will also need to be amended to require the following minimum off-street parking requirements:

<table>
<thead>
<tr>
<th>Type or Nature of Use</th>
<th>Minimum Off-Street Parking Requirements (per square metre (sm)) of Gross Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cannabis Analytical Testing Facility, Cannabis Cultivation – Indoor, Cannabis Production Facility, Cannabis Processing Facility and Cannabis Research Facility</td>
<td>1/100 sm</td>
</tr>
</tbody>
</table>

In addition to the above, Section 3.24 of the Township ZBL would also need to be amended to include a new subsection to include a provision for loading spaces.

With respect to outdoor cannabis cultivation, Section 4.7.1.2: Non-Residential Uses (of the Agriculture zone) and Section 4.8.1.2: Non-residential Uses (of the Rural zone) of the Township’s ZBL will need to be amended to permit cannabis cultivation – outdoor. Sections 4.7.4.2 and Section 4.8.4.2 of the Township ZBL would also need to be amended to include the following provisions that apply to outdoor cannabis cultivation:

- **Cannabis cultivation – outdoor shall be set back a minimum of 50 metres from lot lines.**
- **Notwithstanding any other provision in this By-law, an accessory building that is required to support a cannabis cultivation – outdoor use shall be set back a minimum of 50 metres from lot lines.**

With respect to all other cannabis uses, Section 3.0: General Provisions of the Township’s ZBL will need
to be amended to add a new subsection 3.49: Regulations for Cannabis Cultivation – Indoor and Processing Facilities to read as follows:

*Cannabis cultivation – indoor and Cannabis processing facilities must be located in a single, wholly enclosed building and are required to be set back a minimum of 150 metres from a lot that is the site of:*

a) An arena;
b) A community centre;
c) A day nursery;
d) A dwelling unit;
e) A long term care facility;
f) A park, public;
g) A park, private;
h) A place of worship;
i) A retirement home;
j) A school, public;
k) A school, private; and,
l) A trade and convention centre.

Appendix B to this Report includes the draft Zoning By-law Amendment that includes the recommendations made above in this section of the Report.
Appendix A:
Draft County Official Plan Amendment No. 58
Amendment No. 58

to the

Official Plan of the

County of Peterborough

Township of Selwyn
Township-wide Amendment
Official Plan Amendment No. 58

Part “A” - The Preamble does not constitute part of this Amendment.

Part “B” - The Amendment consisting of the following text and schedules constitutes Amendment No. 58 to the Official Plan for the County of Peterborough.

Also attached is Part “C” - The Appendices which does not form part of this amendment. The appendices contain copies of correspondence that have been received relating to the amendment and also a copy of the Minutes of the public meeting associated with the amendment.
Part A - The Preamble

Purpose
The purpose of the Official Plan Amendment is to establish policies in the County of Peterborough Official Plan that apply in the Township of Selwyn to control the location of cannabis cultivation and processing uses.

The amendment applies to the Prime Agricultural Area, Rural Area and Rural Industrial designations as identified on Schedule A-1: Township of Selwyn Land Use Plan (Rural Component) and the Industrial designation as identified on Schedule A1-1: Village of Lakefield Land Use Plan.

Basis
The County of Peterborough has received application from the Township of Selwyn to amend the Official Plan for the County of Peterborough.

On April 13, 2017, the Government of Canada introduced Bill C-45 (the Cannabis Act) in the House of Commons. Based in large part on the advice provided by the Task Force on Cannabis Legalization and Regulation, the Cannabis Act created the foundation for a comprehensive national framework to provide restricted access to regulated cannabis, and to control its production, distribution, sale, importation, exportation, and possession. Following parliamentary review, the Cannabis Act received royal assent on June 21, 2018 and it became law on October 17, 2018.

The Federal Cannabis Regulation SOR-2018-144 ('the Regulation') was published in the Canada Gazette, Part II, on July 11 2018 and it also came into effect on October 17, 2018. This Regulation is one of a series of regulations that are intended to implement the Cannabis Act. The Regulation established a series of classes of licences that authorize activities that are related to cannabis and these are as follows:

a) A licence for cultivation;
b) A licence for processing;
c) A licence for analytical testing;
d) A licence for sale (medical purposes);
e) A licence for research; and,
f) A cannabis drug licence.
A series of subclasses of a licence for cultivation have also been established and they are:

a) A licence for micro-cultivation;

b) A licence for standard cultivation; and,

c) A licence for a nursery.

In addition, the following subclasses have been established as a licence for processing:

a) A licence for micro-processing; and

b) A licence for standard processing.

The outdoor cultivation of cannabis is considered to be an agricultural use and is currently permitted wherever agricultural uses are permitted. The processing of cannabis may be considered an agriculture-related use. However for a use to be considered as agriculture-related, it must be a farm related commercial use and/or a farm related industrial use that satisfies all of the criteria below:

a) Is directly related to farm operations in the area;

b) Supports agriculture;

c) Benefits from being in close proximity to farm operations; and

d) Provides direct products and/or services to farm operations as a primary activity.

In addition to satisfying the above criteria, there is a need to consider a number of other potential impacts, such as odour, traffic and impacts of the required water and wastewater servicing. In some cases, setbacks will be required and in this regard, this Amendment indicates that a minimum setback of 150 metres from lot lines is desired, but can be reviewed through the zoning by-law amendment process.

In addition, the scale of the proposed facility is a consideration and should reflect the character of the surrounding agricultural area. For the above reasons, this Amendment recognizes that the cultivation of cannabis and the processing of cannabis within buildings is a permitted use, subject to the consideration of a site-specific zoning by-law amendment application. In addition, this Amendment makes it clear that indoor cultivation and cannabis processing uses are subject to site plan control, which will assist in ensuring that the site is designed appropriately.
and that any off-site impacts are mitigated. In addition to the above, and in recognition of the security requirements associated with outdoor cultivation, this Amendment also establishes the requirement for a 50-metre setback from lot lines for outdoor cultivation.

The Amendment also requires that these uses be set back a minimum of 150 metres from sensitive lands uses which includes buildings, amenity spaces or open spaces where normal activities occurring at reasonable expected times would experience one or multiple adverse effects from contaminant discharges, fumes, odours, vibrations, noise or air pollutants generated from a nearby facility. Examples of sensitive land uses include, but are not limited to a place of residence, daycare centre, educational and health facility, community gathering places, parks and playgrounds. Site plan approval would also be required if the proposed use meets the 150 metre setback requirement.

**Existing and Surrounding Uses**

The Official Plan Amendment applies to the Prime Agricultural Area, Rural and Secondary Agricultural Area and Rural Industrial designations as identified on Schedule A-1: Township of Selwyn Land Use Plan (Rural Component) and the Industrial designation as identified on Schedule A1-1: Village of Lakefield Land Use Plan.

**Provincial Policy Statement (PPS)**

**Cultivation**

The PPS classifies rural areas into three categories – Settlement Area, Prime Agricultural Area and Rural Lands. The Township of Selwyn has lands that are considered Prime Agricultural Area as well as Rural Lands (those outside of settlement areas and outside of Prime Agricultural Areas). Below are the PPS policies that apply to Prime Agricultural Area and Rural Lands.

The PPS recognizes rural areas as important to the economic success of the Province and to quality of life. Section 1.1.4.1 encourages rural areas to be supported by building rural character and amenities, promoting redevelopment, accommodating a range of housing, encouraging the conservation of the housing stock, promoting diversification, providing opportunities for tourism, conserving biodiversity and providing opportunities for economic activities in prime agricultural areas. Section 1.1.4.1 i) specifically addresses prime agricultural areas in the rural area and states:

*Healthy, integrated and viable rural areas should be supported by:*
i. Providing opportunities for economic activities in prime agricultural areas, in accordance with policy 2.3.

Section 2.3.3 of the PPS establishes the permitted uses in prime agricultural areas. Section 2.3.3.1 states:

*In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses.*

*Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.*

The PPS provides definitions for agricultural use, agriculture-related use and on-farm diversified uses as follows:

**Agricultural Use**: means the growing of crops, including nursery, biomass and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.

**Agriculture-Related Uses**: means 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**: means 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.

The PPS does not make any distinctions between the types of crops that are grown, as long as whatever is produced is harvestable, which means that the cultivation of cannabis would be an agricultural use. All on-farm buildings and structures associated with the growing of a harvestable crop (such as a greenhouse) would also be a permitted use.
Section 1.1.5 of the PPS establishes policies that apply to Rural Lands and these include lands outside of Settlement Areas and outside of Prime Agricultural Area. Section 1.1.5.2 sets out the permitted uses for Rural Lands as follows:

- the management or use of resources;
- resource-based recreational uses (including recreational dwellings);
- limited residential development;
- home occupations and home industries;
- cemeteries; and
- other rural land uses.

Agricultural uses, agriculture-related uses and on-farm diversified uses are not identified in the permitted uses list in Section 1.1.5.2 of the PPS, however Section 1.1.5.7 and 1.1.5.8 indicate that:

- 1.1.5.7 Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses.

- 1.1.5.8 Agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices should be promoted and protected in accordance with provincial standards.

On the basis of the above, agricultural uses, agriculture-related uses and on-farm diversified uses are also permitted on Rural Lands.

**Cannabis Processing – An Agriculture-Related Use?**

Based on existing facilities in other municipalities, the amount of floor area devoted to processing would be significantly smaller than the amount of greenhouse space or outdoor area used for cultivation. In a few cases, the processing component only occupies 10% to 15% of the area.

As a result, the processing of cannabis (along with testing and research) could be considered an agriculture-related use.

For a use to be considered as agriculture-related, it must be a farm related commercial use and/or a farm related industrial use that satisfies all of the criteria below:
• Is directly related to farm operations in the area;
• Supports agriculture;
• Benefits from being in close proximity to farm operations; and,
• Provides direct products and/or services to farm operations as a primary activity.

In 2016, the Ontario Ministry of Agriculture Food and Rural Affairs (OMAFRA) published the Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas (OMAFRA Guidelines). The intent of the OMAFRA guidelines is described as follows:

*The Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas will help municipalities; decision-makers, farmers and others interpret the policies in the Provincial Policy Statement, 2014 (PPS) on the uses that are permitted in prime agricultural areas. It comprises the provincial guidelines referred to in Policy 2.3.3.1 of the PPS.*

Section 1.1 of the OMAFRA Guidelines also states that:

*These guidelines are meant to complement, be consistent with and explain the intent of the PPS policies and definitions. Where specific parameters are proposed, they represent best practices rather than specific standards that must be met in every case.*

Section 2.2 of the OMAFRA Guidelines indicates that agriculture-related uses may be located on farms or on separate agriculture-related commercial or industrial properties. Previously, the PPS 2005 restricted agriculture-related uses to the property it supports or serves.

With respect to farm-related commercial uses, Section 2.2.1.1 of the OMAFRA Guidelines specify the following:

*Farm-related commercial uses may include uses such as retailing of agriculture-related products (e.g. farm supply co-ops, farmers’ markets and retailers of value-added products like wine or cider made from produce grown in the area), livestock assembly yards and farm equipment repair shops if they meet all the criteria for the category of agriculture-related use.*

It is noted that the ‘criteria’ referenced above is from Table 1 of the OMAFRA Guidelines and are similar to the four parts of the definition of agriculture-related use in the PPS.
In addition to the above, the OMAFRA Guidelines provide other examples of agriculture-related uses as well and they are:

- Apple storage and distribution centre serving apple farm operations in the area;
- Agricultural research centre;
- Farmers’ market primarily selling products grown in the area;
- Winery using grapes grown in the area;
- Livestock assembly yard or stock yard serving farm operating in the area;
- Processing of produce grown in the area (e.g., cider-making, cherry pitting, canning, quick-freezing, packing);
- Abattoir processing and selling meat from animals raised in the area;
- Grain dryer farm operations in the area;
- Flour mill for grain grown in the area;
- Farm equipment repair shop;
- Auction for produce grown in the area; and,
- Farm input supplier (e.g., feed, seeds, fertilizer (serving farm operations in the area.

Based on the examples above, cannabis processing could be considered an agriculture-related use subject to the other criteria being satisfied.

In this regard, the first criterion to consider is whether the farm-related commercial and/or farm-related industrial use is directly related to farm operations in the area.

Section 2.2.1.3 of the OMAFRA Guidelines provide some guidance on what this means:

* Agriculture-related uses must be directly related to farms in the area, primarily providing products or services that are associated with, required by or that enhance agricultural operations in the area. Directly related to means that the use should reflect the type of agricultural production in the area.*

Again there are three parts to the above, which means that for a use to be an agriculture-related use in this context and to satisfy this criterion, it must be directly related to farms in the area and primarily provide products or services that are:

- Associated with agricultural operations in the area; or
- Required by agricultural operations in the area; or
- Enhance agricultural operations in the area.
It is then further indicated that the agriculture-related use should reflect the type of agricultural production in the area. The PPS and the OMAFRA Guidelines use the words 'in the area'.

Given the expectation that cannabis cultivation and cannabis processing would occur on one property, it is not clear how 'in the area' would be interpreted in this case.

However, it is noted that a winery is provided as an example and it is possible in some circumstances for all of the grapes to be sourced from the same property. As a consequence, there is no express prohibition in the OMAFRA Guidelines on the processing of cannabis on the same property as the cultivation of cannabis.

Notwithstanding the above, the OMAFRA Guidelines do support agriculture-related uses on separate properties in any event.

The second criterion to consider is whether the farm related commercial use and/or a farm related industrial use supports agriculture. This criterion does not seem to have any qualification according to the OMAFRA Guidelines and since the processing of cannabis would support the growing of cannabis, it could be argued that it supports agriculture.

The third criterion to consider is whether the farm related commercial use and/or a farm related industrial use benefits from being in close proximity to farm operations.

Section 2.2.1.6 of the OMAFRA Guidelines state the following:

To meet this criterion, agriculture-related uses must benefit from or need to be located near the farm operations they serve.

Processing at the cultivation site is a more sustainable practice as going from crop to finished product on the same site limits transportation needs and reduces waste. This practice would also be economically beneficial for the cultivator, who would then sell directly to the dispenser.

The fourth criterion to consider is whether the farm related commercial use and/or a farm related industrial use provides direct products and/or services to farm operations as a primary activity.

Section 2.2.1.5 of the OMAFRA Guidelines indicate the following:
Direct products and/or services refers to uses that serve an agricultural need or create an opportunity for agriculture at any stage of the supply chain (e.g., value-added food and beverage processing and distribution or retail of agricultural commodities grown in the area).

Cannabis processing would add value to the product grown on the same site and would therefore satisfy this criterion.

**Cannabis Processing – an On-Farm Diversified Use?**

The PPS defines on-farm diversified uses as follows:

*Means 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.*

In order for a use to be considered an on-farm diversified use, it would have to be both secondary to the principal use of the property and be limited in area.

Section 2.3.1 of the OMAFRA Guidelines indicate that on-farm diversified uses must be located on a farm property that is actively used.

In the case of a cannabis processing facility that is located on a property where the cannabis is cultivated, such a use would be on the same property and it would clearly be secondary, because of its limited scale in relation to the cultivated area.

This would also apply to the other types of licences, particularly those that deal with testing and research, again provided cannabis was being cultivated on the same property.

**A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019**

Section 2.2.5.1 of the Growth Plan (2019) requires municipalities to promote economic development by making use of existing employment areas and ensuring the availability of land in appropriate locations for a variety of employment uses.

Section 4 of the Growth Plan (2019) also includes policies that address the natural heritage system and agricultural system. Section 4.2.2 includes policies that require new development or site alteration demonstrate no negative impact to the natural heritage system.
Section 4.2.6 applies to the Agricultural System. Section 4.2.6.3 addresses the need to consider land use compatibility between agricultural uses and non-agricultural uses that are outside of settlement areas.

**County of Peterborough Official Plan**  
The Township of Selwyn falls within the jurisdiction of the County of Peterborough. On October 22, 2008, Official Plan Amendment No. 3 (OPA 3) to the County of Peterborough Official Plan (County OP) received Ministerial consent. This amendment had the effect of recognizing the 4 participating lower-tier municipalities that apply the County OP as their local Official Plan. This means that the County OP functions as the Township of Selwyn Official Plan.

Section 4.3 of the County OP includes policies that apply to the Rural and Cultural Landscape and includes objectives such as, but not limited to:

- To permit an amount and type of development in the rural area consistent with maintaining its rural and cultural landscape;
- To provide for limited rural development and to ensure that such development does not threaten the quality or quantity of ground and surface water;
- To ensure that the agricultural industry remains viable; and,
- To encourage compatible economic diversification including greater flexibility for on-farm activities, home-based businesses and agri-tourism.

Section 4.3.3.2 of the County OP includes Agriculture policies. In this regard, the County OP indicates that:

- Local plans, except those of the Townships of Trent Lakes and North Kawartha, will designate on map schedules prime agricultural areas;
- Local plans may designate on map schedules other agricultural areas; and,
- Local plans will designate on map schedules other rural lands separate from any prime agricultural and other agricultural areas identified.

**County of Peterborough Official Plan – Local Component**

Section 6 of the County OP contains detailed land use policies that intend to guide planning and development in the participating lower-tier municipalities such as the Township of Selwyn. The County OP applies one set of policies for the Rural Component (the Rural Areas) of the participating lower municipalities, while existing secondary plans have been retained for the Urban Component (the Urban Areas).
The Rural Component includes the Prime Agricultural Area and Rural and Secondary Agricultural Areas, among several other areas.

Section 6.2.1.1 of the County OP addresses prime agriculture and provides the following general principle:

*The Prime Agriculture designation applies to areas where Class 1, 2 and 3 lands under the Canada Land Inventory Soil Capability for Agriculture or specialty crop land predominate. These areas shall be protected for agricultural uses from incompatible, non-agricultural development. Small scale farm related commercial/industrial uses shall be permitted provided that they are directly related to the farm operation and are in close proximity to the farm operation.*

Section 6.2 of the County OP establishes the permitted uses in the Prime Agriculture designation and indicates that the predominant use of land within this designation shall be agriculture, farm related activities and forestry. This section also includes the following policy that applies to agricultural and agricultural-related uses:

*Agricultural uses shall include the use of land, buildings and structures for operations conducted on a farm and without limiting the generality of the foregoing, shall include the growing of crops, including nursery and horticultural crops, raising of livestock, raising of other animals for food, fur or fibre, including poultry and fish, aquaculture, apiaries, agro-forestry, and maple syrup production.*

*Agricultural-related uses shall include farm related commercial and farm related industrial uses that are small in scale and directly related to the farm operation and required to be located in close proximity to the farm operation such as a grain drying handling and storage facilities.*

It is noted that the above descriptions for agricultural uses and agriculture-related uses are slightly different than the defined terms in the definitions section of the County OP and those that are within the PPS. However, under the current County OP Prime Agriculture designation, cannabis cultivation could be considered as an agricultural use and permitted within the Prime Agriculture designation. In addition, cannabis processing could be considered an agriculture-related use subject to satisfying the 4 criterion established in the PPS, and could be permitted within the Prime Agriculture designation in the County OP.

Section 6.2.1.3 b) of the County OP establishes minimum distance separation policies that apply to the Prime Agriculture designation, however these only apply to livestock operations.
Section 6.2.1.5 of the County OP establishes policies that apply to farm-related commercial and industrial permitted uses and reads as follows:

a) A limited amount of farm related commercial and industrial development shall be permitted in the Prime Agriculture designation.
b) Permitted farm related commercial and industrial uses shall include such uses that are small in scale and directly related to the farm operation and required to be located in close proximity to the farm operation such as a grain drying, handling and storage facilities.
c) A proposed Zoning By-law Amendment to permit a farm-related commercial or industrial use shall comply with the policies in Section 7.9 of this Plan.
d) Farm related commercial and industrial uses shall be subject to site plan control. In addition, the Township may require a preliminary plan as part of the application for a Zoning By-law amendment.
e) When considered necessary, prior to approving building and site plans, the Township may seek the advice of government agencies or individuals having appropriate specialist knowledge in matters concerning the potential effects of any proposed farm-related commercial or industrial use. The Township may impose building controls in the development or site plan agreement. Issuance of a building permit will depend on submission of a satisfactory site plan.

On the basis of the above, subsection b) refers to agriculture-related uses. As noted previously, it is our opinion that cannabis processing could be considered an agriculture-related use. Subsection d) required such uses to also be subject to site plan control, which means that a cannabis processing facility would be required to obtain site plan approval in addition to a building permit.

Section 6.2.2 of the County OP includes policies that apply to the Rural designation. In addition to residential development, home occupations and home industries, Section 6.2.2.2 establishes the following permitted uses:

The predominant use of land within the Rural designation may include all agricultural uses outlined in Section 6.2.1 of this Plan. Other permitted uses shall include forestry, passive outdoor recreation uses and activities connected with the conservation of soil and wildlife.

Development by consent will be permitted within the Rural designation, although that development shall be limited and will be subject to the following policies. A very limited amount of small-scale commercial uses, or farm-related commercial/industrial uses will also be permitted. Commercial and industrial uses shall be subject to site plan control, and shall require a site specific amendment to the implementing Zoning By-law, as part of the approval process.
Since the permitted uses for the Rural designation are the same as those identified in Section 6.2.1 of the County OP, which applies to the Prime Agriculture designation among some additional uses permitted in the Rural Area, the same conclusion regarding cannabis cultivation and processing applies to lands that are designated Rural in the County OP. Cannabis cultivation and processing, subject to satisfying certain PPS criteria, could be permitted within the Rural designation.

Section 6.2.2.6 includes policies that apply to farm-related commercial and industrial uses within the Rural designation and these are different than those that are established for the Prime Agriculture designation. In this regard, Section 6.2.2.6 reads as follows:

a) A limited amount of farm related commercial and industrial development shall also be allowed in the Rural designation. Permitted commercial and industrial development shall include uses such as greenhouses, sawmills, fertilizer plants, feed and seed dealers, cattle auction and sales barns, tile-drainage operations, farm equipment sales and services if two-thirds (2/3) of their operation is related to the processing of agricultural products or the servicing of farms, and that their need to be located in the Rural designation is justified.

b) An application for a Zoning By-law amendment to permit a farm-related commercial or industrial use shall comply with the policies in Section 7.9 of this Plan.

c) Farm related commercial and industrial uses shall be subject to site plan control. In addition a preliminary plan may be required as part of the application for a Zoning By-law Amendment.

d) Prior to approving building and site plans, the Township may seek the advice of the Province, or other government agencies or individuals having appropriate specialist knowledge in matters concerning the potential effects of any proposed farm-related commercial or industrial use. The Township may impose building controls in the development or site plan agreement. Issuance of a building permit will depend on submission of a satisfactory site plan.

Subsection a) above provides a more specific list of permitted uses that are considered farm-related commercial and industrial development for the Rural designation than for the Prime Agriculture designation. It is noted that a greenhouse is included in the list of permitted uses for farm-related commercial and industrial development. With the above in mind, in order for the processing of cannabis to be permitted in the Rural designation, it would have to take place within a greenhouse and continue to meet the criteria set out in the PPS in accordance with an agriculture-related use in the PPS.

Section 6.3 of the County OP includes Local Plan Policies that apply to the Urban Component. It is indicated in this section that:
Where full municipal services exist new development shall be required to connect to the municipal water and sanitary sewerage systems. In other identified growth centres new development will continue to be serviced by private individual water supply and sanitary sewage disposal systems based on the results of the hierarchy of services analysis submitted in support of development applications.

In the Township of Selwyn, the Village of Lakefield is serviced with full municipal water supply and wastewater systems. The Village of Lakefield functions as a major growth centre in the County and is anticipated to accommodate investment opportunities both within the County and beyond due to its availability of full municipally serviced lands for development. The Village of Lakefield is designated as the primary growth centre for the Township.

Schedule A1-1 of the County OP includes an Industrial designation that is generally concentrated in two areas.

Section 6.3.2.5 of the County OP establishes policies for the Industrial land use designation. It is noted that:

This Plan designates lands as Industrial where industry presently exists, where the development of industry is considered to be in an appropriate location or where it represents a logical extension of existing industrial development and provides for the orderly growth of the Community.

Subsection b) sets out the permitted uses in the Industrial designation and divides the type of permitted uses by light and general industrial uses activities. As described, light industrial uses are industries that are substantially enclosed in buildings and exhibit reasonably high performance standards. In addition, their operations are not considered offensive because of heat, smoke, noise, dust, odours and truck transport facilities usually associated with general industrial.

It is further noted that light industrial uses include, but not necessarily be limited to, warehousing, light manufacturing and assembly, laboratory and research facilities, communication facilities, printing and publishing establishments, building supply yards or other similar uses.

As mentioned previously in this report, Public Health Ontario released an evidence brief on odours from cannabis production that included a number of conclusions on odour, such as:

In general, cannabis production facilities can implement and maintain appropriate ventilation and filtration systems to satisfy applicable local odour nuisance standards. A formal system for residents to document and report nuisance odours
can facilitate the enforcement of these standards or municipal bylaws. As part of the permitting process, odour control plans can be reviewed to determine whether emissions are adequately treated such that cannabis odours are not perceptible outside the exterior of the building.

It is our understanding that the establishment of odour controls is a requirement of any Federal licence, but it could also be implemented in the Township’s Zoning By-law.

On the basis of the above, the description of light industrial uses includes warehousing, light manufacturing and assembly and laboratory and research facilities. In addition, a light industrial use is required to be substantially enclosed in a building with reasonably high performance standards. In this regard, cannabis processing could be considered a light industrial use in accordance with the County OP.

In addition to the above, General Industrial uses include operations that:

*may be offensive by virtue of heat, smoke, noise, odour, dust and truck transport requirements and shall include large scale operations not enclosed within buildings. Those uses may include, but not necessarily be limited to, the manufacture and processing of primary metal products, wood and paper products, rubber, plastic and adhesive products, chemical products, food processing plants, bulk storage, contractor yards, maintenance yards, vehicle depots, utility functions and public works depots or other similar industrial uses and activities.*

Cannabis cultivation and/or processing would not be considered a general industrial use in accordance with the description above.

While Schedule A1-1 identifies the Industrial land use designation, it does not differentiate between the locations of light industrial versus general industrial uses. This distinction is made in the different zone categories in the Township of Selwyn Zoning By-law.

As previously noted, the lands which are subject to this amendment are currently designated Prime Agriculture Area, Rural and Secondary Agricultural Area, Rural Industrial Area in the Rural Component and Industrial in the Local Component for the Township of Selwyn.

The County OP does not include clear policies that address cannabis uses. As discussed above, under the current policy regime in the County OP, cannabis uses could be considered as permitted in accordance with a number of designations.
The intent of this Amendment is to introduce a new set of policies to the County OP that apply to cannabis uses in order to provide clarity to the County, Township and the public on where these uses are permitted and what criteria are to be considered for new cannabis proposals.

Section 7.9 of the County OP outlines a list of criteria that should be considered when considering an amendment to the local component of the County Official Plan. These are as follows:

(1) **The need for the proposed use.**

The Township of Selwyn passed Interim Control By-law (2019-001) that applies to all lands within the Township for the purpose of undertaking the Cannabis Study to determine an appropriate approach to regulating cannabis uses within the Township. The recommendations for the Cannabis Study to regulate cannabis are to include policies within the County OP to provide clarity to the County, Township and the public on where these uses are permitted and what criteria need to be considered for proposed cannabis uses. A Zoning By-law Amendment to the Township’s Zoning By-law is also being proposed to implement the proposed policies in this Amendment.

(2) **The extent to which the existing designated areas in the proposed categories are developed, and the nature and adequacy of such existing development.**

This Amendment applies to lands designated Prime Agriculture Area, Rural and Secondary Agricultural Area, Rural Industrial Area in the Rural Component and Industrial in the Local Component for the Township of Selwyn.

No new development is being proposed as part of this Amendment.

(3) **The physical suitability of the land for such proposed use, taking into consideration potential for hazard, environmental areas etc.**

No new development is being proposed as part of this Amendment. This Amendment includes a set of criteria for consideration when a cannabis use is proposed. In this regard, Township Council would need to be satisfied that all of the criteria has been satisfied when a new proposal for a zoning by-law amendment to permit cannabis uses is submitted.

(4) **The location of the area under consideration with respect to the existing roads system, vehicular and pedestrian traffic, water supply and sewage disposal, and the protection of the natural environment.**
See above answer to subsection (3).

(5) The compatibility of the proposed use with the uses in adjoining areas.

See above answer to subsection (3).

(6) The effect of the proposed use on the surrounding area regarding possible depreciation of adjacent properties.

See above answer to subsection (3).

(7) The potential effect of the proposed use on the financial position of the Township.

It is not anticipated that the contents of this Amendment will impact the financial position of the Township.

(8) Consideration of the soil capability for agriculture and the potential impacts on surrounding agricultural uses and operations.

Outdoor cannabis cultivation is considered as an agricultural use. It is not anticipated that the contents of this Amendment will impact soil capability for agriculture or have any negative impact on surrounding agricultural uses and operations.

(9) Where the proposal involves taking prime agricultural land out of production, the planning justification requirements of the Provincial Policy Statement shall be addressed.

This subsection does not apply to this Amendment.

(10) The Minimum Distance Separation requirements of the Provincial Policy Statement shall be met for new uses being proposed in proximity to existing livestock facilities.

This subsection does not apply to this Amendment.

(11) Demonstration of how the proposal conforms to the Provincial Growth Plan.

Section 2.2.5.1 of the Growth Plan (2019) requires municipalities to promote economic development by making use of existing employment areas and ensuring the availability of land in appropriate locations for a variety of employment uses. The proposed Amendment permits cannabis uses within the Industrial designation that applies to employment lands within the Village of Lakefield. The Amendment
includes a list of criteria that Township Council would need to be satisfied with prior to the passage of a zoning by-law amendment to permit a cannabis use.

Section 4 of the Growth Plan (2019) also includes policies that address the natural heritage system and agricultural system. Section 4.2.2 includes policies that require new development or site alteration demonstrate no negative impact to the natural heritage system. The policies that apply to the natural heritage system would be assessed as part of a zoning by-law amendment to permit a cannabis use.

Section 4.2.6 applies to the Agricultural System. Section 4.2.6.3 addresses the need to consider land use compatibility between agricultural uses and non-agricultural uses that are outside of settlement areas. Outdoor cannabis cultivation is considered as an agricultural use and is proposed to be permitted as-of-right within the Township Zoning By-law, subject to setbacks of 50 metres from lot lines. For all other cannabis uses, a zoning by-law amendment would be required to permit the use, subject to the criteria in this Amendment and setbacks established in the proposed zoning by-law amendment between cannabis uses and sensitive land uses.

**Zoning By-Law of the Township of Selwyn**
The Township’s Zoning By-law 2009-021 applies to all lands within the Township of Selwyn. The Township’s current Zoning By-law does not include any standards, provisions or definitions to address cannabis.

On the basis of the above, a zoning by-law amendment is required to:

- Introduce a number of new cannabis definitions,
- Apply minimum parking requirements for all cannabis uses except for outdoor cannabis cultivation;
- Permit outdoor cannabis cultivation in the Agriculture and Rural zones;
- Apply a 50 metre setback from lot lines for outdoor cannabis cultivation; and,
- Require that all other cannabis uses be within a single, wholly enclosed building and subject to a 150 metre setback from sensitive land uses.

**CONCLUSION**
The Township of Selwyn has applied to amend the local component of the County Official Plan to establish policies that apply in the Township of Selwyn to control the location of cannabis cultivation and processing uses.
The amendment is deemed to be in general conformity with the County Official Plan, the local component of the County Plan, the Provincial Policy Statement, and the Growth Plan.
Part B - The Amendment
All of this Part of the document entitled Part B - The Amendment consisting of the following text and schedule constitutes Amendment No. “58” to the Official Plan of the County of Peterborough.

Details of the Amendment
The Official Plan of the County of Peterborough is hereby amended as follows:

1. That Township of Selwyn Special Policy Sections 6.2.1.8(a) – Prime Agriculture, 6.2.2.11(a) – Rural, 6.2.12.4(a) – Rural Industrial, and 6.3.2.5(d)(i) – Industrial be amended by adding a new subsection which will read as follows:

   Cannabis Cultivation and Processing in the Township of Selwyn

   a) Indoor Cannabis Cultivation and Processing of cannabis may be permitted subject to the passage of an amendment to the implementing zoning by-law and will, if approved through such a process, be subject to Site Plan Control. Prior to considering the approval of a zoning by-law amendment, Council shall be satisfied that:

      i) The use shall not have a negative impact on the enjoyment and privacy of neighbouring properties;

      ii) The proposed use will not have a negative impact on adjacent agricultural uses and is compatible with normal practices as set out in an Agricultural Impact Assessment to the satisfaction of the Township and the County;

      iii) The proposed use will not cause any traffic hazards or an unacceptable level of congestion on surrounding roads;

      iv) The proposed use can be designed and sited to blend in with surrounding land uses such that the rural character of the area is maintained; and where necessary the proposed use can be appropriately buffered from adjacent uses;
v) The impact of the noise, odour and dust generated by the proposed use on adjacent land uses can be appropriately mitigated;

vi) There will be no negative impact on the quality and quantity of groundwater and surface water;

vii) Adequate parking facilities are available on the lot for the proposed use;

viii) The use can be serviced with an appropriate water supply and an appropriate means of sewage disposal;

ix) Stormwater management needs can be met on site;

x) The signage advertising the use is to be designed and located in accordance with the Township’s sign by-law; and

xi) The proposed setback from adjacent land uses is appropriate, and in this regard, the minimum setback from lot lines should be at least 150 metres. However, a setback that is appropriate for the site can be established and if it less than 150 metres, an Amendment to this Plan will not be required.

2. That the following text be included as part of the subsection added above for the Prime Agriculture Special Policy - Section 6.2.1.8(a), and Rural Special Policy - Section 6.2.2.11(a).

b) The processing of cannabis may be permitted as an agriculture-related use, operating in conjunction with a cannabis cultivation operation, subject to the passage of an amendment to the implementing zoning by-law and will, if approved through such a process, be subject to Site Plan Control. Prior to considering the approval of a zoning by-law amendment, Council shall be satisfied that the matters listed above have been satisfied.

In addition, and in order for the use to qualify as an agriculture-related use, it must be demonstrated that the proposed use satisfies all of the criteria below:

i) Is directly related to farm operations in the area;

ii) Supports agriculture;

iii) Benefits from being in close proximity to farm operations; and
iv) Provides direct products and/or services to farm operations as a primary activity.

In considering the above, regard shall be given to the Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas prepared by the Ontario Ministry of Agriculture Food and Rural Affairs in 2016.

c) Outdoor cannabis cultivation is an agricultural use and is required to be set back a minimum of 50 metres from adjacent lot lines.
Part C - The Appendices

The following appendices do not constitute part of Official Plan Amendment No. 58, but are included as information supporting the Amendment.

- Appendix No. 1  Correspondence
- Appendix No. 2  Public Meeting Notices and Minutes
- Appendix No. 3  Public Comments
- Appendix No. 4  Agency Comments
Appendix No. 3 – Public Comments
Appendix B:
Draft Zoning By-law Amendment
The Corporation of the
Township of Selwyn

By-law Number 2019-XXX

Being a By-law passed pursuant to the provisions of
Section 34 of The Planning Act, R.S.O. 1990, as amended to amend the Township of Selwyn
Comprehensive
Zoning By-law No. 2009-021, as otherwise amended.

Whereas the Council of the Corporation of the Township of Selwyn has initiated an application to
amend By-Law No. 2009-021, otherwise known as the Comprehensive Zoning By-Law, insofar as is
necessary to establish provisions that apply to cannabis cultivation and processing within the
Township.

And Whereas the Council of the Corporation of the Township of Selwyn conducted a public hearing in
regard to this application, as required by Section 34(12) of the Planning Act, R.S. O. 1990, Chap. P. 13,
as amended.

And Whereas the Council of the Corporation of the Township of Selwyn deems it advisable to amend
Zoning By-law 2009-021, as otherwise amended, with respect to the above described lands, and under
the provisions of the Planning Act has the authority to do so.

Now therefore the Council of the Corporation of the Township of Selwyn enacts as follows:

1. That Section 2.0 of this By-law No. 2009-21, as amended, is further amended with the addition of
the following definitions, which shall read as follows:

   i) "Cannabis analytical testing facility" means a facility where the alteration of the chemical or
physical properties of cannabis by any means is carried out, subject to regulations under the
Cannabis Act, as amended.

   ii) "Cannabis cultivation - indoor" means the growing of cannabis within a wholly enclosed
building or structure, for medical or recreational purposes, subject to regulations under the
Cannabis Act, as amended.

   iii) "Cannabis cultivation - outdoor" means the growing of cannabis in an open air setting, for
medical or recreational purposes, subject to regulations under the Cannabis Act, as amended.

   iv) "Cannabis drug production facility" means a facility where the production or manufacturing of
a drug containing cannabis is carried out, subject to regulations made under the Cannabis
Act, as amended; and the food and drugs act, as amended.

   v) "Cannabis processing facility" means a facility where the extraction of cannabis oil for the
purpose of producing or manufacturing cannabis oils, gels or other edibles is carried out,
subject to regulations under the Cannabis Act, as amended.

   vi) "Cannabis research facility" means a facility used for activities in accordance with a licence
for research, subject to regulations under the Cannabis Act, as amended.

2. That Section 3.0 of this By-law No. 2009-21, as amended, is further amended to a new
subsection 3.49: Regulations for Cannabis Cultivation – Indoor and Processing Facilities as
follows:

Cannabis cultivation – indoor and cannabis processing facilities are required to be setback a
minimum of 150 metres from a lot that is the site of:

   i) An arena;
   ii) A community centre;
   iii) A day nursery;
   iv) A dwelling unit;
   v) A long term care facility;
   vi) A park, public;
   vii) A park, private;
   viii) A place of worship;
   ix) A retirement home;
   x) A school, public;
   xi) A school, private; and,
   xii) A trade and convention centre.
3. **That** Section 4.7.1.2 of this By-law No. 2009-21, as amended, is further amended to add ‘cannabis cultivation – outdoor’ as a permitted use.

4. **That** Section 4.7.4 of this By-law No. 2009-21, as amended, is further amended to a new subsection 4.7.4.2: Regulations for Cannabis Cultivation – Outdoor as follows:

   a) Cannabis Cultivation – Outdoor shall be set back a minimum of 50 metres from lot lines.
   b) Notwithstanding any other provision in this By-law, an accessory building that is required to support a cannabis cultivation – outdoor use shall be set back a minimum of 50 metres from lot lines.

5. **That** Section 4.8.1.2 of this By-law No. 2009-21, as amended, is further amended to add ‘cannabis cultivation – outdoor’ as a permitted use.

6. **That** Section 4.8.4 of this By-law No. 2009-21, as amended, is further amended to a new subsection 4.8.4.2: Regulations for Cannabis Cultivation – Outdoor as follows:

   a) Cannabis Cultivation – Outdoor shall be set back a minimum of 50 metres from lot lines.
   b) Notwithstanding any other provision in this By-law, an accessory building that is required to support a cannabis cultivation – outdoor use shall be set back a minimum of 50 metres from lot lines.

7. **That** Section 3.24 of this By-law No. 2009-21, as amended, is further amended with the addition of a new subsection g), which shall read as follows:

   Loading spaces for cannabis analytical testing facilities, cannabis cultivation – indoor, cannabis drug production facilities, cannabis processing facilities and cannabis research facilities shall be located entirely within the main building on the lot.

8. **That** Section 3.29 of this By-law No. 2009-21, as amended, is further amended by adding the following row:

<table>
<thead>
<tr>
<th>Use</th>
<th>Required Parking Space (per square metres (sm) of Gross Floor Area, unless otherwise noted)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cannabis Analytical Testing Facility, Cannabis Cultivation – Indoor, Cannabis Drug Production Facility, Cannabis Processing Facility and Cannabis Research Facility</td>
<td>1/00 sm</td>
</tr>
</tbody>
</table>

9. **That** this By-law shall come into effect upon the approval of Official Plan Amendment No. 58.

10. **That** subject to notice of the passing of this By-law in accordance with the provisions of Section 34(18) of the Planning Act, this By-law shall come into force and effect on the date of passing by the Council of the Corporation of the Township of Selwyn where no notice of appeal or objection is received pursuant to the provisions of Section 34(21) of The Planning Act, R.S.O.1990, as amended.

   Read a first, second, and third time and finally passed this XXth day of XX, 20XX.

   ____________________________  
   Andy Mitchell, Mayor

   ____________________________  
   Angela Chittick, Clerk

   Corporate Seal