

**Applicant:** Darcy James  
**File No.:** 60-C-232158  
**Municipality/Twp:** Unincorporated Township of Kirkup, in the District of Kenora  
**Subject Lands:** PIN 42125-0158; Lot 7 of M-582, in the Unincorporated Township of Kirkup, in the District of Kenora

**Date of Decision:** June 14, 2023  
**Date of Notice:** June 14, 2023  
**Last Date of Appeal:** July 4, 2023

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# NOTICE OF DECISION

## On Application for Consent Subsection 53(17) of the Planning Act

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On the above noted date, the Minister of Municipal Affairs and Housing (MMAH) gave a provisional consent to Application No. **60-C-232158** for an easement in respect of the land described as PIN 42125-0158, to provide access to PIN 42125-0911 and the newly created Parcel off said PIN, on Lake of the Woods, in the unincorporated Township of Kirkup, in the District of Kenora. A copy of the decision is attached.

### Who Has Appeal Rights

Other than the applicant, only a “specified person” or “public body”, as defined in s. 1(1) of the *Planning Act*, has the ability to appeal the decision to the Ontario Land Tribunal.

### When and How to File a Notice of Appeal

Notice to appeal the decision to the Ontario Land Tribunal must be filed with the Minister of Municipal Affairs and Housing on or before the last date of appeal as noted above.

The notice of appeal should be sent to the attention of Sylvie Oulton, Senior Planner at the address shown below and it must,  
(1) set out the reasons for the appeal, and  
(2) be accompanied by the fee prescribed under the Ontario Land Tribunal Act in the amount of \$400.00, payable to the Minister of Finance, Province of Ontario.

### What Name Can a Notice of Appeal be Filed in

Only individuals, corporations or public bodies may appeal decisions in respect of applications for consent to the Ontario Land Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group.

### Effect of Written and Oral Submissions

There were no written or oral submissions; and no partner ministry concerns.

### How to Receive Notice of Changed Conditions

The conditions of a provisional consent may be changed at any time before the consent is given.

You will be entitled to receive notice of any changes to the conditions of the provisional consent if you make a written request to be notified of changes to the conditions of approval of the provisional consent.

### Other Related Applications

60-C-232137; 60-C-232864; 60-C-232179

### Getting Additional Information

Additional information about the application is available for public inspection during regular office hours at the address shown below.

### Mail Address for Notice of Appeal

Ministry of Municipal Affairs and Housing  
Municipal Services Office North (Thunder Bay)  
435 James Street South, Suite 223  
Thunder Bay, ON. P7E 6S7  
Attention: Sylvie Oulton, Senior Planner  
Telephone: (807) 630-3486



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Victoria Kosny, Manager  
Community Planning and Development

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The Minister's conditions to the granting of consent for this transaction **which must be fulfilled within two years from the date of this letter** are set out below. These conditions must be fulfilled prior to the granting of consent.

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No. Conditions

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1. That this approval, applies to permit the creation of an easement, approximately 13 metres wide by 79.5 metres long, over PIN 42125-0158, for the purpose of access in favour of PIN 42125-0911 and the newly created property, as applied for in the above-noted location in the Unincorporated Township of Kirkup, in the District of Kenora.
2. That the following documents be provided for the transaction described in Condition 1:
  - a. A copy of the application to transfer documents;
  - b. A schedule to application to transfer on which is set out the entire legal description of the parcel(s) in question. This Schedule must also contain the names of the parties indicated on application to transfer;
  - c. A reference plan of survey, which bears the Land Registry Office registration number and signature as evidence of its deposit therein, illustrating the parcel(s) to which the consent approval relates; and/or a legal description of the lands to be severed (and retained if requested) which is acceptable to the land registrar.
3. That the application to transfer noted in condition 2 shall identify the property and ownership which the easement favours and the purpose of the easement.
4. That the easement be registered and shown on the title for PINs 42125-0158 in favour of PIN 42125-0911 and the newly created parcel over said PIN.
5. This Ministry is to be advised in writing by the transferor that the Offer of Purchase and Sale agreement, or alternatively an acknowledgement by the transferor and transferees if the transaction is between family members, contains the following clause:
  - a. That the Province of Ontario does not guarantee road access to the property and that private owners who rely on the private road for access may need to assume costs and responsibility for upkeep and maintenance of the roadway.
  - b. There are three known abandoned mine sites within 1km of the subject property and the mineral potential in this area is high. Information from the Ministry of Mines has been attached for information purposes.

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The following NOTES are for your information:

NOTES:

1. The required Transfer/Deed of Land form and Schedule page shall contain a complete and accurate legal description. The Minister's certificate of consent will be affixed to the completed Schedule page. For this reason, the names of the parties also must be set out on the Schedule page, so that the consent may be properly related to the intended conveyance.

Inaccuracies or omissions with regard to the legal description in the Transfer/Deed of Land form, the Schedule page or the survey plan will result in the documents being returned without consent.

2. If property owners' intentions in the future, are to have the constructed road voted into the Local Roads Board system, it should meet the Local Roads Board standards.

The Ministry of Transportation consults and advises on road constructions standards and entrances for Local Road Board roads. The property owners of the proposed easement should contact Jeff Rose, Senior Municipal Supervisor, Operational Services, MTO at (807) 468-2763 prior to road construction.

3. If activities subsequent to a severance or other administrative activity (for example, building of a road) that could impact species at risk or their habitat are planned, then the person undertaking those activities will need to determine if an Endangered Species Act (ESA) authorization is required before the activities are undertaken. Please visit "How to avoid authorization" and "Permit types" (<https://www.ontario.ca/page/how-get-endangered-species-act-permit-or-authorization>) for more information.

In the case where there is a potential to impact species at risk or their habitat, determine whether any protected species at risk or their habitat exist, or are likely to exist, within or near your activity location. Then determine whether your activity is likely to contravene the prohibitions in sections 9 or 10 of the ESA. A person carrying out an activity may also wish to consult the Act and seek legal advice to understand its legal obligations. If you think you need a permit you should: complete an Information Gathering Form and submit the form by email to [SAROntario@ontario.ca](mailto:SAROntario@ontario.ca).

4. All buildings including those in unorganized territories have been required to comply with the Ontario Building Code since December 31, 1975.

At this time, in unorganized territory, building permits and the payment of permit fees are not required, except as they relate to the location and construction of septic systems. Inquiries about the Building Code Construction Standards should be made to:

Buildings and Development Branch

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Ministry of Municipal Affairs and Housing  
17<sup>th</sup> Floor, 777 Bay Street  
Toronto, ON M7A 2J3  
Telephone: (416) 585-6666  
[codeinfo@ontario.ca](mailto:codeinfo@ontario.ca)

5. Please notify the Ministry of Citizenship and Multiculturalism (MCM) (at [archaeology@ontario.ca](mailto:archaeology@ontario.ca) or 416-314-7620) if archaeological resources are impacted by any ground disturbing work. All activities impacting archaeological resources must cease immediately, and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

If human remains are encountered, all activities must cease immediately and the local police as well as the Registrar, Burials of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.

6. It is the applicant's and/or agent's responsibility to fulfill the conditions of consent approval within **two years of the date** of this letter pursuant to Section 53 of the *Planning Act*. **We will issue no further notice or warning of the expiration of the two-year period.**

If the conditions to consent approval are not fulfilled within two years of the date of this letter and the applicant is still interested in pursuing the proposal, a new application will be required. All documentation required for final approval should be provided to the Ministry of Municipal Affairs and Housing **a minimum of one month prior to the lapsing date.**