

## PLANNING STAFF REPORT

**SUBJECT:** *Kevin MacDonald Subdivision - Plan 2023–1 - Miramichi Bay - Parish of Hardwicke*

Pursuant to Section 6(1) of the New Brunswick Regulation 80-159 under the *Community Planning Act* (c.19), the advice of the Greater Miramichi Regional Service Commission – Planning Review and Adjustment Committee (PRAC) is required in order to approve a 20-metre-wide private access proposed from this subdivision plan.

**MEETING DATE:** March 19<sup>th</sup>, 2024

**AGENDA ITEM:** 2024-2-6

### I. APPLICATION DETAILS

The application of *Kevin MacDonald Subdivision - Plan 2023–1 - Miramichi Bay - Parish of Hardwicke* was submitted by Randy Waye of T.G. Williston Surveys Ltd., representing Kevin James MacDonald, the property owner. The property is located on Route 117 in Miramichi Bay, at the mouth of the Black River.

This subdivision plan proposes to create Lot 2024–1 for recreational purposes<sup>1</sup> and a 20-metre-wide private access. The proposed lot and access are being subdivided from PIDs 40294928, 40247751, 40247843, and 40249443. The subject property currently contains a dwelling and accessory buildings which will remain with the remnant.

No other subdivision applications regarding this property have ever been received previously.

The area where this subdivision is taking place has no land use plan or zoning and no public water or sewer servicing.

### II. PLANNING CONSIDERATIONS

This private access is being requested as per Section 6(1) of the New Brunswick Regulation 80-159 under the *Community Planning Act* (c.19) that states “Every lot, block and other parcel of land in a proposed subdivision shall abut (b) such other access as may be approved by the regional service commission as being advisable for the development of land.”

There is already an existing private driveway located over the proposed private access which provides the dwelling access to Route 117, but the private access is required to permit Lot 2024–1 to connect to Route 117, a provincially owned public road. The private access measures 20 metres throughout its width but

<sup>1</sup> GMRSC PRAC’s Policy for Private Accesses defines Recreational Land as land that is used for a cottage, camp or similar non-permanent type of seasonal dwelling.

has a wider opening on Route 117 to facilitate entry and an 18-metre radius turnaround at the dead-end portion as suggested in Part B Section 1.1(f) of the GMRSC PRAC's *Policy for Private Accesses*. The final plan will need a note mentioning that the Department of Transportation and Infrastructure (DTI) will not upgrade nor maintain this private access and that the property owner is responsible to look after these. As well, the developer shall be advised that the access should be designed to support the expected loads imposed by firefighting equipment, other emergency vehicles, and private services vehicles such as for septic tank maintenance. Therefore, the access should be surfaced with concrete, asphalt or other material designed to permit accessibility under all climatic conditions.

The lot meets the required frontage, depth, and area minimums as per Section 6(4) of the New Brunswick Regulation 80-159 under the *Community Planning Act* (c.19). A subdivision assessment report (soil test) is required for this lot considering that it has less than 8,050 square metres (*New Brunswick Technical Guidelines for On-site Sewage Disposal Systems*, Appendices B and B1). As for the remnant of PIDs 40247751, 40247843, and 40249443, it retains about 8 hectares.

A subdivision inspection report (sight distance) is not necessary since the existing driveway already intersects Route 117. The allowed speed for this section of said route is limited to 80 kilometres per hour which would have required a sight distance of 140 metres.

The properties' land use within one kilometre of the proposed development is mainly a combination of recreational and residential.

Other than the Black River, the hydrographic network webmapping from the Department of Natural Resources and Energy Development (DNRED) identifies no presence of watercourses over Lot 2024-1. The wetland webmapping from the Department of Environment and Local Government (DELG) shows no presence of wetland either. However, any alteration taking place within 30 metres of the river may require a permit under the Watercourse and Wetland Alteration Regulation (Reg 90-80) as per subsection 15(2) of the NB *Clean Water Act*.

Neighbouring property owners were not notified by letter of this application since no variances are involved (Planning Review and Adjustment Committee By-law, Appendix A, Responsibility).

### III. STAFF RECOMMENDATION

As per Section 6(1) of the New Brunswick Regulation 80-159 under *Community Planning Act* (c.19), it is recommended that the Planning Review and Adjustment Committee (PRAC) of the Greater Miramichi Regional Service Commission approves *Kevin MacDonald Subdivision - Plan 2023-1 - Miramichi Bay - Parish of Hardwicke* subject to:

1. the submission of a subdivision assessment report for Lot 2024-1;
2. the consolidation of PIDs 40247751, 40247843, and 40249443;

and provided that the following notes be inserted on the final plan:

“The private access shown on this plan is not suitable for a public street. The Department of Transportation and Infrastructure will not upgrade or maintain this private access and all maintenance services and improvements to the private access are the responsibility of the property owner”; and

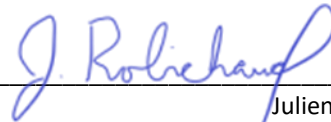
“The Planning Review and Adjustment Committee (PRAC) does not carry on-site inspections of the private access shown on this plan. Construction of a private access on this parcel of land in accordance with all relevant regulations, if any, is the strict and sole responsibility of the property owner or developer. The PRAC expressly makes neither representations nor warranties of any nature whatsoever that the condition and construction of the access is suitable for safe movement of vehicle traffic. The PRAC only approves the location of the access shown on this plan and not its condition and makes no representation nor warranties whatsoever with respect to the condition of the access.”

#### IV. ATTACHMENTS

1. Property Location Map
2. Tentative Subdivision Plan
3. GMRSC PRAC's *Policy for Private Accesses*, Part B Section 1.1
4. New Brunswick Regulation 80-159 Section 6(4)

Report Prepared On: Thursday, 14 March, 2024

Report Prepared by:



Julien Robichaud  
*Development Officer*

Report Reviewed by:



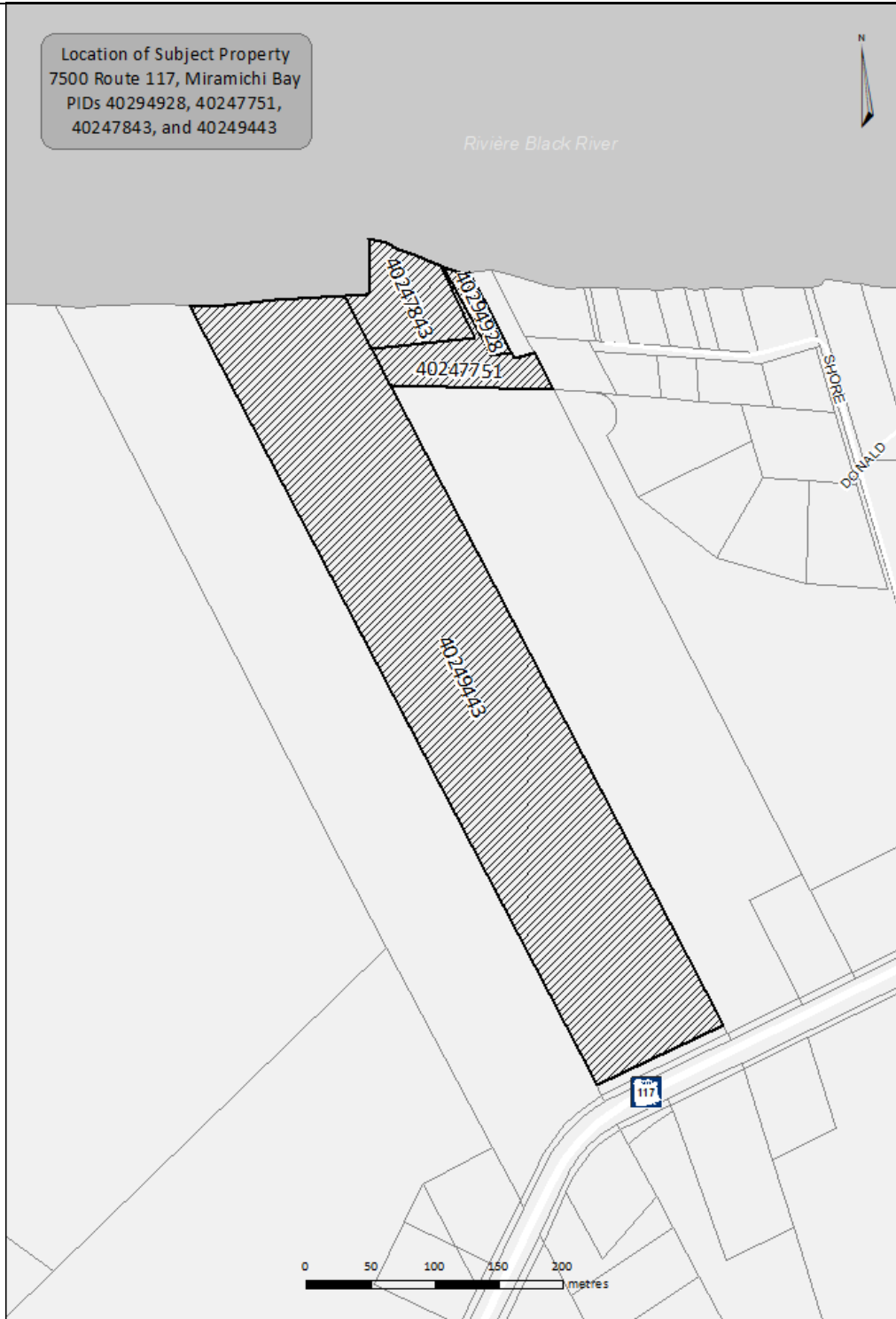
Nicholas O'Dette, RPP, MCIP  
*Planning Services Manager*

Report Reviewed and Approved by:



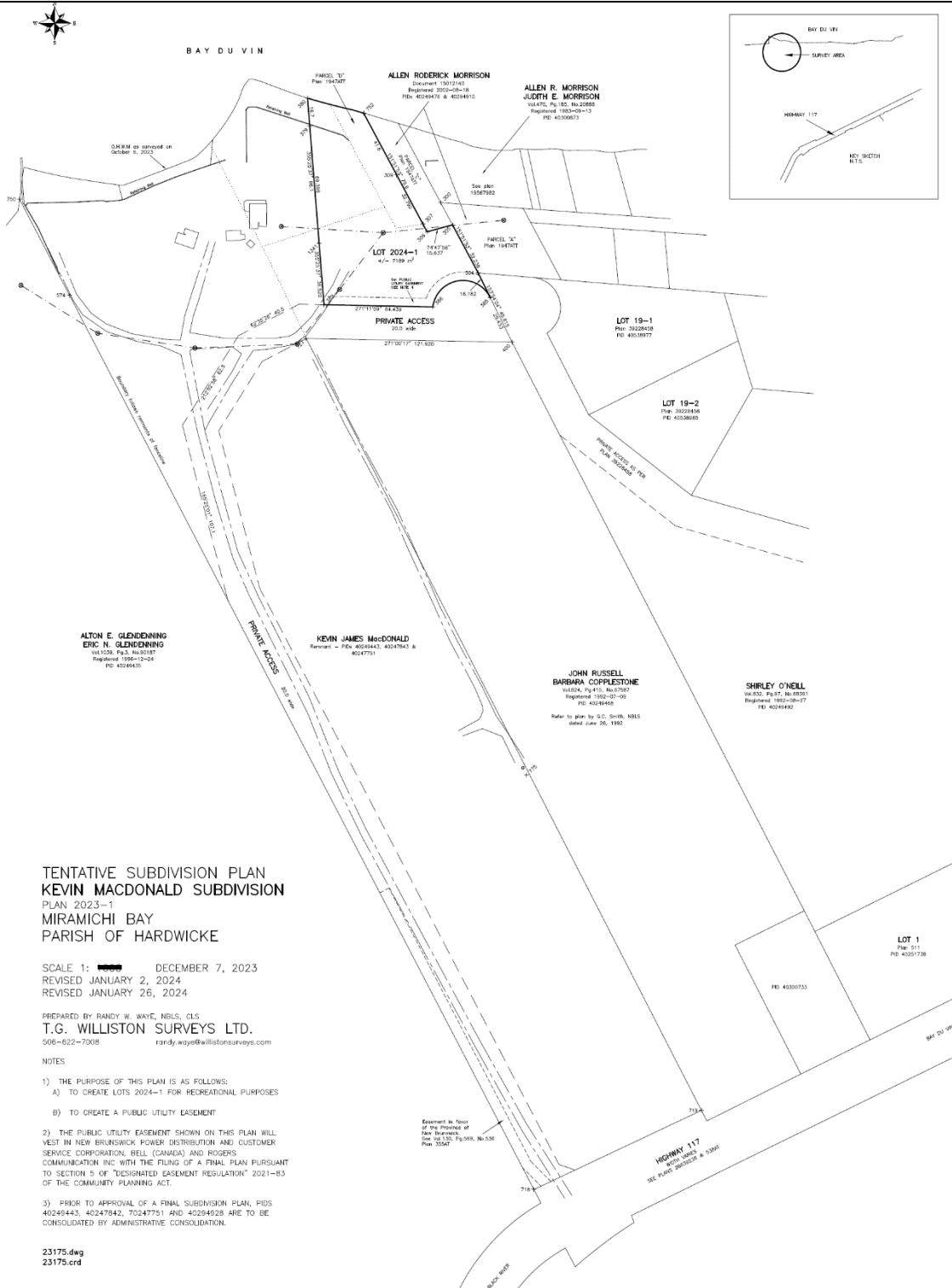
Wilson W. Bell, RPP, MCIP  
*Planning Director*

# ATTACHMENT 1 - PROPERTY LOCATION MAP



Sources: Greater Miramichi Regional Service Commission | Commission de services régionaux du Grand Miramichi, Service New Brunswick | Service Nouveau Brunswick  
Drawn by | tracé par Julien Robichaud 2024-03-13

# ATTACHMENT 2 - TENTATIVE SUBDIVISION PLAN



**TENTATIVE SUBDIVISION PLAN  
KEVIN MACDONALD SUBDIVISION  
PLAN 2023-1  
MIRAMICHI BAY  
PARISH OF HARDWICKE**

SCALE 1: [redacted] DECEMBER 7, 2023  
REVISED JANUARY 2, 2024  
REVISED JANUARY 26, 2024

PREPARED BY RANDY W. WATKINS, NELS, CLS  
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- NOTES
- 1) THE PURPOSE OF THIS PLAN IS AS FOLLOWS:
    - A) TO CREATE LOTS 2024-1 FOR RECREATIONAL PURPOSES
    - B) TO CREATE A PUBLIC UTILITY EASEMENT
  - 2) THE PUBLIC UTILITY EASEMENT SHOWN ON THIS PLAN WILL VEST IN NEW BRUNSWICK POWER DISTRIBUTION AND CUSTOMER SERVICE CORPORATION, BELL (CANADA) AND ROGERS COMMUNICATION INC WITH THE FILING OF A FINAL PLAN PURSUANT TO SECTION 5 OF "DESIGNATED EASEMENT REGULATION" 2021-83 OF THE COMMUNITY PLANNING ACT.
  - 3) PRIOR TO APPROVAL OF A FINAL SUBDIVISION PLAN, PIDS 40249443, 40247942, 70247751 AND 40294928 ARE TO BE CONSOLIDATED BY ADMINISTRATIVE CONSOLIDATION.

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# ATTACHMENT 3 - GMRSC PRAC'S POLICY FOR PRIVATE ACCESSES, PART B SECTION 1.1

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It is possible during the subdivision approval process to consider the width of the right-of-way ("R-O-W"). If an area proposed to be subdivided could accommodate several lots the right-of-way ("R-O-W") could be required to be twenty metres, if the subdivision will result in the creation of the only one lot, then the right-of-way ("R-O-W") could be reduced to six to ten metres. Additionally, the intended purpose of the lots would also dictate the required width of the right-of-way ("R-O-W"). If the area will accommodate cottages, with the potential for year round use, the right-of-way ("R-O-W") should be twenty metres so if in the future a public road were required, there would be sufficient width to create access that would satisfy Department of Transportation. If the access is to be used for a resource use, such as a woodlot, then right-of-way ("R-O-W") could be reduced.

Ensuring that the access portion located within the "R-O-W" is suitable for providing safe access to the buildings constructed on the lots is the difficult aspect of the issue.

## 9.0 Minimum Width of Right-of-Way ("R-O-W")

The intended use of the lots created through the subdivision process can influence and determine the appropriate width of the right-of-way ("R-O-W"). If for example the access will serve one recreational (seasonal camp or cottage, forestry operation) lot, then the right-of-way ("R-O-W") and resulting travelled portion can be relatively narrow (perhaps six metres). However, if the access is intended to serve several recreational lots, which would result in a significant volume of traffic and traffic movements at the intersection with a public road, then the width of the right-of-way ("R-O-W") and travel portion should be sufficiently wide enough to accommodate this type of use.

## PART B: THE POLICY

### 1.0 Policy - Private Access

When considering subdivision plans that contain a private access, the PRAC shall refer to the following policies:

- 1.1 For subdivisions with 1 to 2 lots (proposed or potential) recreational use, the minimum right-of-way ("R-O-W") with shall be a minimum of ten metres. The developer shall be advised that the access should be developed with the following design considerations:
  - a) have clear width of not less than six metres, unless it can be shown that lesser widths are satisfactory;
  - b) have a centerline radius not less than twelve metres;
  - c) have an overhead clearance not less than five metres;

PRAC Guidelines on Private Accesses and Private Roads – Adopted May 21<sup>st</sup>, 2013  
Kevin MacDonald Subdivision

- 
- d) have a change in gradient not more than 1m in 12.5m over a minimum distance of fifteen metres.
  - e) be designed to support the expected loads imposed by firefighting equipment and be surfaced with concrete, asphalt or other material designed to permit accessibility under all climatic conditions.
  - f) have turnaround facilities for any dead-end portion of the access route more than ninety metres long; and
  - g) be connected with a public thoroughfare.

1.2 For subdivisions that will create three or more lots (proposed or potential) for recreational use, the right-of-way ("R-O-W") shall be a minimum of twenty metres. The developer shall be advised that the access should be developed with the following design considerations.

- a) have clear width of not less than six metres, unless it can be shown that lesser widths are satisfactory;
- b) have a centerline radius not less than twelve metres;
- c) have an overhead clearance not less than five metres;
- d) have a change in gradient not more than 1m in 12.5m over a minimum distance of fifteen metres.
- e) be designed to support the expected loads imposed by firefighting equipment and be surfaced with concrete, asphalt or other material designed to permit accessibility under all climatic conditions.
- f) have turnaround facilities for any dead-end portion of the access route more than ninety metres long; and
- g) be connected with a public thoroughfare.

1.3 Notwithstanding policies 11.1 and 11.2 the PRAC may consider accesses that do not conform to these standards for resource based uses, communication towers, active and passive recreational uses, or other similar type uses. However, the minimum right-of-way ("R-O-W") width shall be six metres.

1.4 A notation (in form of a stamp) will be placed on all final subdivision plans which include a private access stating:

**"The Planning Review Adjustment Committee (PRAC) does not carry on-site inspections of the private access shown on this plan. Construction of a private access on this parcel of land in accordance with all relevant regulations, if any, is the strict and sole responsibility of the property owner or developer. The PRAC expressly makes no representations nor warranties of any nature whatsoever that the condition and construction of the access is suitable for safe movement of vehicle traffic. The PRAC only approves the location of the access shown on this plan and not its**



# ATTACHMENT 4 - NB REGULATION 80-159 SECTION 6(4)

80-159

Loi sur l'urbanisme

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6(3) Where a proposed subdivision is to be serviced by a sewer system for public use but not by a water system for public use, every lot or other parcel of land therein shall have and contain

- (a) a width of at least twenty-three metres,
- (b) a depth of at least thirty metres, and
- (c) an area of at least six hundred and ninety square metres.

6(4) Where a proposed subdivision is not to be serviced by a sewer system for public use, every lot or other parcel of land therein shall have and contain

- (a) a width of at least fifty-four metres,
- (b) a depth of at least thirty-eight metres, and
- (c) an area of at least four thousand square metres.

6(5) Subject to subsection (6), a block shall not exceed two hundred and forty metres or be less than one hundred and twenty metres in length and shall have a depth of at least two lots.

6(6) Where a proposed subdivision plan lays out a series of crescents and cul-de-sacs, a block may exceed two hundred and forty metres in length if pedestrian walkways are provided in the number, location and width considered necessary by the regional service commission to provide access or circulation to schools, libraries, playgrounds or similar facilities.

6(7) Where a building used for residential purposes is located on a lot meeting the requirements of subsection (2), the lot may be subdivided along any party wall of the building.

83-135; 99-65; 2001-90; 2012, c.44, s.5

## APPROVAL OF A SUBDIVISION PLAN

7(1) Subject to subsection (2), the development officer may approve a subdivision plan.

7(2) The development officer shall not approve a subdivision plan if, in his opinion and in the opinion of the regional service commission,

6(3) Lorsqu'un lotissement proposé doit être desservi par un réseau public d'égouts mais non par un réseau public de distribution d'eau, chaque lot ou autre parcelle de terrain doit avoir

- a) une largeur minimale de vingt-trois mètres,
- b) une profondeur minimale de trente mètres, et
- c) une superficie minimale de six cent quatre-vingt-dix mètres carrés.

6(4) Lorsqu'un lotissement proposé n'est pas desservi par un réseau public d'égouts, chaque lot ou autre parcelle de terrain doit avoir

- a) une largeur minimale de cinquante-quatre mètres,
- b) une profondeur minimale de trente-huit mètres, et
- c) une superficie minimale de quatre mille mètres carrés.

6(5) Sous réserve du paragraphe (6), un îlot ne peut avoir une longueur de plus de deux cent quarante mètres ou de moins de cent vingt mètres et doit avoir une profondeur minimale de deux lots.

6(6) Dans le cas d'un plan de projet de lotissement comportant une série de rues en arc de cercle et de cul-de-sac, un îlot peut mesurer plus de deux cent quarante mètres de longueur si des passages pour piétons y sont aménagés et si la commission de services régionaux estime que leur nombre, leur emplacement et leur largeur permettent d'y circuler aisément et assurent l'accès aux écoles, bibliothèques, terrains de jeux ou autres installations semblables.

6(7) Lorsqu'un bâtiment servant à des fins résidentielles est situé sur un lot conforme aux prescriptions du paragraphe (2), le terrain peut être loti à partir d'un mur mitoyen du bâtiment.

83-135; 99-65; 2001-90; 2012, ch. 44, art. 5

## APPROBATION DU PLAN DE LOTISSEMENT

7(1) L'agent d'aménagement peut, sous réserve du paragraphe (2), approuver un plan de lotissement.

7(2) L'agent d'aménagement ne peut approuver un plan de lotissement si lui-même et la commission de services régionaux estiment

Kevin MacDonald Subdivision

Plan 2023-1

Miramichi Bay - Parish of Hardwicke