Presented To:	Policy Committee
Presented:	Wednesday, Apr 20, 2011
Report Date	Thursday, Apr 07, 2011
Type:	Presentations

Request for Decision

All Terrain Vehicles

Recommendation

WHEREAS City Council received the constellation report;

AND WHEREAS one of the recommendations called for the development of a comprehensive by-law to govern the use of ATV's within the City of Greater Sudbury;

AND WHEREAS Council appointed an All Terrain Vehicle Advisory Panel whose mandate was to identify a road network to allow all terrain vehicles on,

THEREFORE BE IT RESOLVED that Option ___ identified in the attached staff report be approved.

Signed By

Report Prepared By
Mark Simeoni
Manager of Community and Strategic Planning
Digitally Signed Apr 7, 11

Division Review
Paul Baskcomb
Director of Planning Services
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Recommended by the Department
Bill Lautenbach
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Recommended by the C.A.O.
Doug Nadorozny
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Background

In January of 2007, Council received the Constellation City report. One of the 35 recommendations called for the development of a comprehensive by-law to govern the use of All Terrain Vehicles (ATV's) within the City of Greater Sudbury. The Community Solutions Team also set out a number of objectives related to the development of an ATV by-law, they were as follows;

- The by-law should be flexible enough to reflect differences between communities within the city.
- The by-law should respect the principles of community safety and environmental protection.
- The by-law should discourage unauthorized use of private property.
- The by-law should consider and facilitate potential tourism development.

In October of 2007 Council created an All Terrain Vehicle Advisory Panel, for a term ending November 30, 2010. In the Fall of 2008 the Panel held 7 public consultation meetings throughout the Greater City. The meetings attracted approximately 225 people. In addition feedback was provided via the City's website and an additional 120 people provided feedback online. In all of the 272 respondents completing the questionnaire (both in person and online) 84% indicated that they were in support of the use of public roads by ATV's.

What Can the City Regulate?

The City's authority to regulate ATV use on area roadways comes from the Province of Ontario through the provisions of the Highway Traffic Act. Under the Act an ATV is considered a motor vehicle. The Act works in such a way so as to prohibit ATV use on local roads unless there is a by-law in effect that authorizes the roads they are permitted on. The proposed routes are shown as Option 1 & 2 in Appendices 1 & 2

Times of Day/Year

The City may pass a By-law which regulates the time of day and the times of year when an ATV may be used.

Pubic Consultation - Open Houses

The members of the ATV panel finalized their preferred routing map, which is appended hereto as Appendix 1. This map is identified as Option 1. Staff for the City reviewed Option 1 and developed a response to it, known as Option 2, and attached hereto as Appendix 2.

Starting March 8, 2011, 4 public open houses were held to let the public consider the two routing options that have been developed. These open houses were held on:

March 8, 2011, Garson Arena, 4:30 p.m. to 8:00 p.m. (approximately 175 - 200 attendees)

March 10, 2011, Howard Armstrong Centre, 4:30 p.m. to 8:00 p.m. (approximately 200 attendees)
March 21, 2011, Lionel E. Lalonde Centre, 4:30 p.m. to 8:00 p.m. (approximately 175 attendees)

April 4, 2011, Tom Davies Arena, Lively, 4:30 p.m. to 8:00 p.m. (approximately 175 attendees)

In addition to the open houses the events were posted on the City's Facebook page. Advertisements were also placed in the Northern Life and le Voyageur newspapers.

Issues Raised During Public Consultation

During the public process a number of issues emerged that should be considered in the context of approving an ATV by-law, these include but are not limited to:

1. **Increased Maintenance and other Costs.**

Under the Highway Traffic Act, ATV's are required to ride as far to the right as possible within the road right of way. With this in mind they will, for the most part be driven along the gravel shoulder of the road network. Due to the nature of the vehicle it is anticipated that there will be increased unbudgeted maintenance costs associated with the use of the shoulders for ATV travel.

There will also be a need to place signs throughout the City identifying where ATV use is and is not permitted. It has been estimated that the total costs of signs will range between $30,000. and $45,000. This number will be determined once an option is selected. In addition in cases where ATV's cross private driveways, within the road right of way, there will be damage to the driveways. Homeowners are responsible for the maintenance of their driveway. With this in mind there is the potential for private land owners to incur costs keeping their driveways in good repair.

2. **Enforcement – Increased Vehicles On Area Roadways**

Police Services have identified an increased need for resources to properly police the use of ATV's on area roadways. It needs to be stated that by permitting ATV's on area roadways, Council is introducing a new class of motor vehicles onto area roads. The roads will have to accommodate ATV's along with cyclists, cars, trucks, construction equipment, and pedestrians, etc.

As a result of more vehicles on the road we anticipate an increase in road issues.
Along with these issues there will be associated costs. These costs may include, but not limited to, such things as education initiatives associated with ATV use, enforcement, potential for new equipment, increased number of complaints and associated responses to these.

3. **Trespassing- Nuisance**

Many members of the public have expressed concerns with respect to the potential to see an increase in trespass issues associated with the increased use of ATV's. We have heard very clearly throughout the public consultation process that some ATV users are currently trespassing across private lands without the permission of the landowner.

The issue of nuisance was also something that many people have raised throughout the public consultation process. We have heard that all over the greater City there are numerous incidents of people driving on roads at high rates of speed, acts of "stunt driving" and generally unsafe driving habits on area roadways and private property. From the perspective of the persons who are experiencing these issues there are related issues of frustration with Police Services. For those who have shared these experiences with us, they are of the view that the Police are either unwilling or unable to resolve these issues.

These issues were conveyed to staff and members of the Panel at every public open house and from every area of the City.

4. **Increased Tourism Potential**

Tourism operators in Sudbury have come out in support of the opportunity to permit ATV's on area roadways. Clearly they see an opportunity for an increase in business and also to further develop Sudbury as a destination for ATV users from all over Ontario and beyond.

With respect to the two options presented to the public, Option 1 was favored from this perspective. This is due to the fact that Option 1 provides routing options that allow travel east/west and north/south across and through the City of Sudbury. This then allows people travelling on ATV's coming from places outside of Sudbury the opportunity to come to Sudbury and spend time and money in the City.

5. **"Love of the Sport"**

Cleary there is a strong core of people in Greater Sudbury who enjoy ATV use and are excited to see the opportunity to develop this pastime. Throughout this process the overwhelming majority of people who interacted with us were very much supporters of permitting ATV use on area roadways.

We heard loud and clear that it is part of the Northern Ontario lifestyle and "it was about time Sudbury caught up to the rest of the North".

6. **Legal Use Reduces Illegal Use**

We have heard that under the current scenario, where ATV use is not permitted on area roadways, some riders will ride quicker on roadways in order to access a trail. Many have shared this view with us throughout the process. In other words the only reason that they choose to ride illegally on area roads at a

high rate of speed is so that they will “not get caught”. The rationale presented is at best confusing.

Although we acknowledge that this point has been raised, we see no reason to rationalize the support for the legalization of an activity based on illegal activity.

7. **No Formalized Trails or Trial Organizations**

Unlike the Sudbury Trail Plan, which is the formalized route for snow machine users within the City, there are no formalized ATV associations or trails developed within the City.

We have heard of the potential of increased tourism and we have also heard of instances of trespassing. It makes sense that any increased access to area roadways will result in an increased desire for access to area trails.

Many of those who have shared their views with us have spoken of the need for an association and a trail network similar to that of the snow machine trail network.

It should be noted however that there is a vocal minority who oppose the notion of having to pay fees, similar to that of snow machines, to access a formalized trail system.

Options

Option 1 (Appendix 1)

The members of the ATV panel finalized their preferred routing map, which is appended hereto as Appendix 1. This map is identified as Option 1. Staff for the City reviewed Option 1 and developed a response to it, known as Option 2, and attached hereto as Appendix 2. Option 1 sees ATV’s allowed on approximately 1367 km of public roads and prohibited on approximately 716 km of public roads.

From the perspective of the Panel, Option 1 provides a continuous travel opportunity across the CGS (north, south, east, west). This travel opportunity is seen as both a tourism advantage as well as one for local residents as they access local trails, while avoiding major thoroughfares.

Option 1 responds to, and reflects the work of the former ATV Panel to date.

The ATV panel advises that a similar approach is used in other jurisdictions.

From the Open Houses we heard loud and clear that the majority of people who have interacted with the process preferred Option 1.

From the perspective of staff, we have heard a number of concerns. Police Services had identified the fact that they have limited resources and that this option would make their job more difficult to perform. They have stated that they are under resourced now and that the additional responsibilities of having to police an ATV By-law would put added pressure on Police Services.

Infrastructure Services has noted that along with increased access to area roadways comes additional unbudgeted maintenance cost. This figure varies and has been estimated to be in the range of $150,000. - $200,000.

Legal Services has indicated that it would be preferable to install signs across the City indicating on which

roads ATV's can or cannot used. Depending on the option selected the number of signs required is estimated to range between 100 - 150. The cost of these signs has been estimated to be between $30,000. - $45,000. This is an unbudgeted amount. The Legal Services Department recommends the use of signs to provide greater certainty to the ATV user as to where legally they can operate their machines. The signs would also assist in court in terms of prosecuting individuals who operate ATV's on roads where they are not permitted. Without signs it is doubtful that a prosecution would be successful in court.

City staff from Tourism are not opposed to the use of ATV's on area roadways as they feel there is potential to enhance tourism development within the City.

City staff from Risk Management have identified concerns with respect to both options. In their opinion as roads have not been designed specifically to accommodate ATV use, there is an increased risk of municipal liability. This liability could be for an ATV that is involved in an accident due to interaction with an unmaintained roadway or shoulder of a roadway. In addition the municipality may be exposed to liability where a car pulls over onto the shoulder and is involved in an accident due to the deteriorated condition of the shoulder as a result of ATV use.

This liability also extends to third party situations where an ATV is involved in an incident and the City is named in a lawsuit.

Option 1 does not address concerns of area residents of trespassing and nuisance and the potential for increased accidents on area roadways.

Option 2 (Appendix 2)

Option 2 is the option that has been developed by City staff in response to Option 1. Generally speaking, Option 2 contemplates a routing system that sees roads on the periphery of Sudbury open to ATV's and most roads in the core areas restricted. Option 2 sees ATV's allowed on approximately 750 km of public roads and prohibited on approximately 1342 km of public roads.

This option does provide road access in close proximity to the Crown lands that exist within the City, where off road ATV use would be permitted.

Option 2 does not provide a continuous routing system across CGS, making it less attractive from both a tourism and local resident perspective. In this regard many local ATV users would have to trailer from their residences to access Crown lands or trails that they have permission to ride on.

Option 2 does not address concerns of area residents of trespassing and nuisance.

Option 2 would require less signs and maintenance and therefore would be the lesser cost option between Options 1 and 2.

Option 3 - Status Quo

A third option that exists is to "do nothing" and keep the status quo which is to not allow ATV access to area roadways.

This option was supported by a minority of members of the public throughout the public consultation process. This option is opposed by members of the former ATV Panel and the majority of members of the

public who interacted with the public consultation process.

Discussion

Council has to balance the desire to open up area roads and the potential for tourism with the concerns of safety, cost and issues of trespassing and nuisance.

Our experience throughout the public process was that ATV users attended these events in great numbers. We did hear from those opposed however it is acknowledged that this was the minority of those who attended the open houses.

With two distinct and separate views of the same issue, it is difficult to recommend one option over another.

With this in mind, we have put forward the option to consider this on a two year trial basis. This allows Council and the community to revisit this issue based on facts rather than the opinion of what might occur. Should Council select Option 1 or 2 we feel that they should consider doing so on a trial basis.

It is acknowledged that staff from Infrastructure Services are opposed to ATV use on area roadways. They do however not oppose allowing ATV use on gravel roads. Generally speaking these roads are on the periphery of the city. Members of the ATV Panel reject this option as it does not provide a continuous route through the city (north to south and east to west). In their view a continuous route provides access to fuel and restaurants and is better from a tourism perspective. It is also acknowledged that Police Services have concerns regarding their ability to police ATV use on area roadways. Legal Services has also commented on the fact that prosecuting individuals who violate any ATV bylaw will have its challenges.

If ATV trails are to develop in Sudbury and if a tourism potential exists then it is felt that access to area roadways should be considered on a trial basis.

Having regard to all the input we feel that a two year trial period on roads identified in Options 1 and 2 can go forward. In that time frame policing issues can be monitored, as well as any progress towards the development of a trail network and an ATV association. Ultimately we feel that the use of area roadways should be tied into obtaining access to a local/Provincial trail network. Essentially, the road network should become how one gets to an approved ATV trail.

Council can revisit this issue in two years to consider an further changes.

APPENDIX 1

Option 1 - Proposed ATV Bylaw

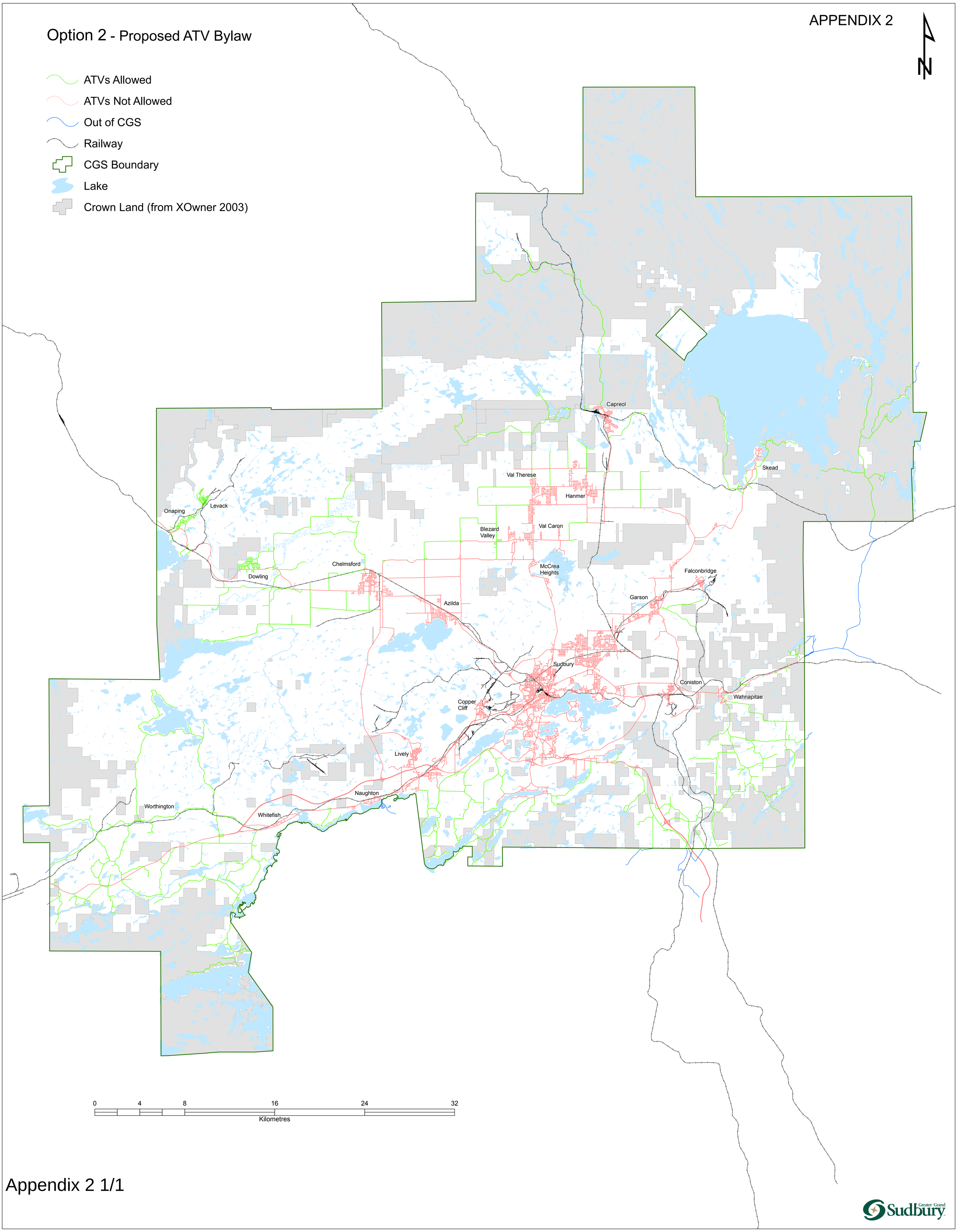
Railway
Lake
CGS Boundary
ATVs Not Allowed
ATVs Allowed

Lake Wanapitei
Capreol
Skead
Val Therese
Hanmer
Onaping
Levack
Blezard Valley
Val Caron
Windy Lake
Dowling
Chelmsford
McCrea Heights
Whitson Lake
Falconbridge
Garson
Azilda
Whitewater Lake
Lake Vermilion
Sudbury
Ramsey Lake
Coniston
Wahnapitae
Copper Cliff
Kelley Lake
Lively
Naughton
Long Lake
Worthington
Whitefish

0 3.5 7 14 21 28
Kilometres

APPENDIX 2

Option 2 - Proposed ATV Bylaw



Appendix 2 1/1