

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: July 21, 2026

CASE NO(S): OLT-26-000137

PROCEEDING COMMENCED UNDER section 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant/Appellant:	PowerBank Corporation
Subject:	Application to amend the Official Plan – Refusal of application
Description:	To permit the development of a battery energy storage system
Reference Number:	OPA-2025-01
Property Address:	219 Peggs Mountain Road
Municipality:	Township of Armour
OLT Case No:	OLT-26-000137
OLT Lead Case No:	OLT-26-000137
OLT Case Name:	PowerBank Corporation v. Armour (Township)

PROCEEDING COMMENCED UNDER section 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant/Appellant:	PowerBank Corporation
Subject:	Application to amend the Zoning By-law – Refusal of application
Description:	To permit the development of a battery energy storage system
Reference Number:	ZBA-2025-01
Property Address:	219 Peggs Mountain Road
Municipality:	Township of Armour
OLT Case No:	OLT-26-000138
OLT Lead Case No:	OLT-26-000137

Heard: July 9, 2026, by Video Hearing

APPEARANCES:**Parties**

PowerBank Corporation (Applicant)

Township of Armour

CounselL. English
P. Morley (in absentia)

E. Veldboom

DECISION DELIVERED BY J. INNIS AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] The matter before the Tribunal is appeals by PowerBank Corporation under sub-s. 22(7) and 34(11) of the *Planning Act*, R. S. O. 1990, c. PO.13, as amended, concerning the refusal by the Township of Armour ("Township") of Applications for an Official Plan Amendment ("OPA") and Zoning By-law Amendment ("ZBA") for the property municipally known as 219 Peggs Mountain Road ("Subject Property"). The Applications facilitate the development of the Subject Property for a battery energy storage system ("BESS").

SUBJECT PROPERTY AND CONTEXT

[2] The Subject Property is located on the south side of Peggs Mountain Road, west of Highway 11 and the Ferguson Road interchange. It comprises a single parcel, approximately 32.37 hectares in area with approximately 68 metres ("m") of frontage on Peggs Mountain Road. The parcel is irregularly shaped, consisting of a generally rectangular rear portion that narrows toward the road frontage, reflecting historic and more recent severances along Peggs Mountain Road.

[3] The Subject Property is currently occupied by a solar energy generation facility and is otherwise vacant of buildings, with dense vegetation located toward the rear of the property. The site slopes gently downward from the rear of the property toward Peggs Mountain Road.

[4] The surrounding area is rural in character. Rural residential uses are located to the east and west, primarily along the south side of Peggs Mountain Road, with one nearby dwelling on the north side of the road. Rural industrial and extractive industrial uses are located to the north, while dense vegetation extends to the south. Agricultural operations are scattered throughout the surrounding area. Three recently approved consent lots on the south side of Peggs Mountain Road are intended for residential development. Highway 11 is located approximately one kilometre east of the Subject Property, and a new fire hall is under construction to the east near Highway 11.

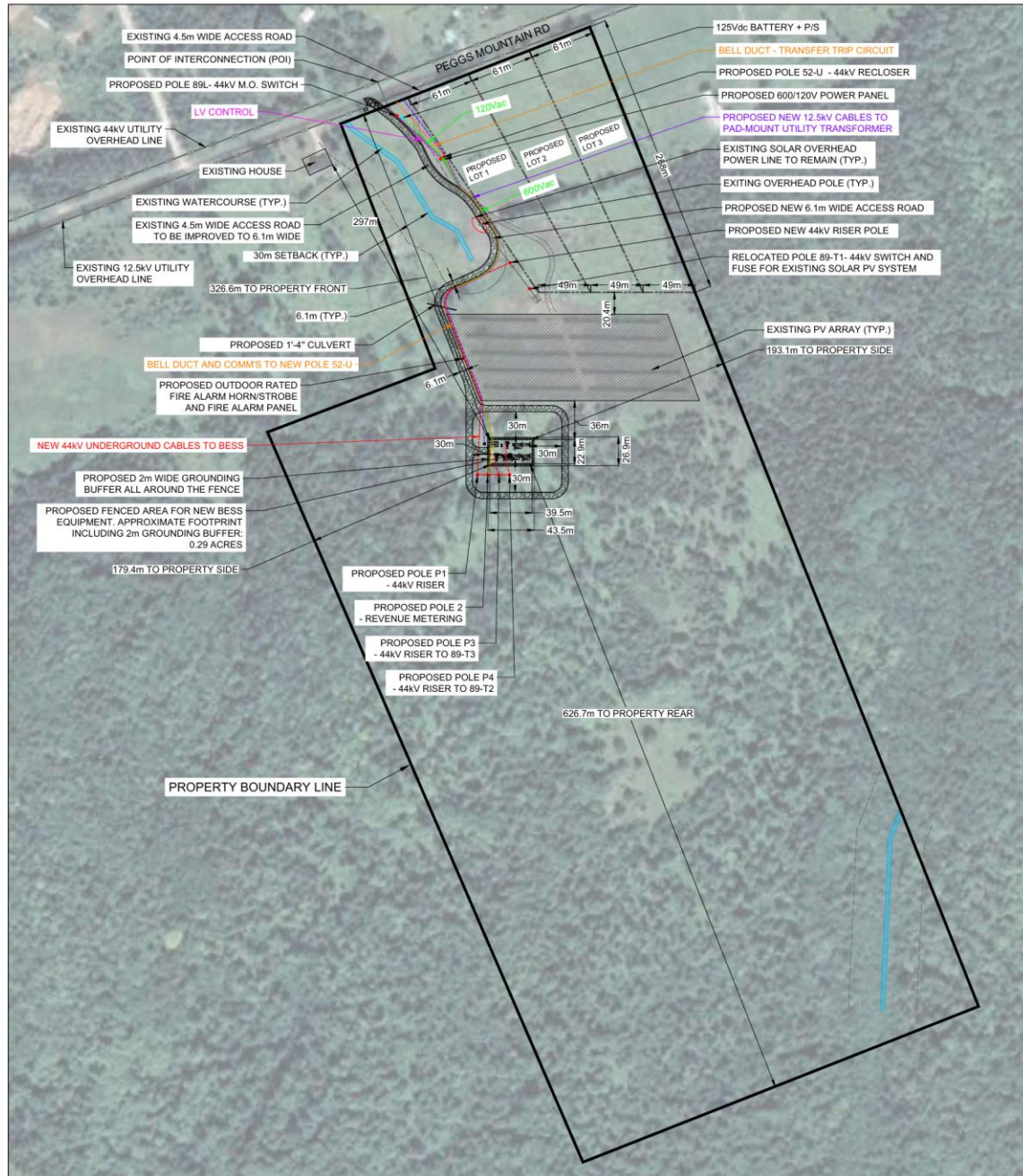
THE DEVELOPMENT PROPOSAL

[5] PowerBank seeks approval of the OPA and ZBA to permit a BESS on the Subject Property. Township Council adopted a Municipal Support Resolution for the proposed BESS on November 8, 2022. Following pre-consultation with Township staff and several application submissions, the Applications were deemed complete in January 2025 and assigned File Nos. OPA-2025-01 and ZBA-2025-01.

[6] The proposed BESS is intended to store excess electricity from the provincial electricity grid during periods of lower demand and discharge it back to the grid during periods of higher demand or electrical outages. The proposed facility has a rated capacity of 4.99 megawatts ("MW") and 19.96 megawatts-hours ("MWh"). It was awarded a contract through an expedited procurement process administered by the Independent Electricity System Operator to secure new electricity capacity by 2027.

[7] The proposed BESS would be located behind the existing solar array and accessed by a new gravel driveway from Peggs Mountain Road. It would consist of nine battery storage containers situated on a concrete pad enclosed by chain-link fencing. A 30 m vegetation management area and surrounding gravel access road would provide an overall 36 m buffer to surrounding vegetation. The proposed facility would be located approximately 297 m from the nearest dwelling.

[8] The overall layout of the proposed development on the Subject Property, including the location of the proposed BESS facility in relation to the existing solar array, access road, and surrounding features, is shown below. The image is reproduced from the site plan prepared by TULLOCH, dated October 15, 2025.



[9] The Applications were supported by a Planning Justification Report, Hazard Mitigation Analysis, Acoustic Assessment Report, Air and Gas Emissions Memo, Vibration Letter, Environmental Impact Study, Vegetation Management Plan, Environmental Site Assessment, Commissioning Plan, and Decommissioning Plan. The Township retained PLC Fire Safety Engineering, BBA Inc., Cambium, and TULLOCH Engineering to peer review the technical materials. Following the revisions to the application materials, the peer review consultants advised that their comments had been satisfactorily addressed.

[10] PowerBank also participated in several public consultation opportunities throughout the application process, including community meetings, a public information session, the statutory public meeting, and Council meetings.

[11] TULLOCH Engineering, acting as the Township's planning consultant, recommended approval of the Applications, subject to revisions to the implementing by-laws and the use of site plan control to secure the recommended mitigation measures.

[12] On January 13, 2026, Township Council refused the OPA and ZBA. PowerBank appealed that Decision to the Tribunal on February 3, 2026.

EVIDENCE

[13] Prior to the Hearing, the Township advised the Tribunal that it would not be participating in the Hearing. At the Hearing, the Township attended and advised that it was available to respond to any questions from the Tribunal. The Township did not call evidence or cross-examine the Applicant's witness.

[14] The Applicant called Robert MacFarlane, who was qualified by the Tribunal to provide expert opinion evidence in the area of land use planning. Mr. MacFarlane is a Registered Professional Planner and a Member of the Canadian Institute of Planners.

He adopted his affidavit and accompanying exhibits as his evidence in chief. As there was no cross-examination, his evidence was uncontested.

[15] Mr. MacFarlane testified that the Applications before the Tribunal seek an OPA and a ZBA to expressly permit a BESS on the Subject Property. He testified that the proposed OPA would add a BESS as a permitted use on the Subject Property.

[16] He further testified that the proposed ZBA would define a BESS and permit the use on the Subject Property through a site-specific exception to the Rural ("RU") Zone. He stated that the proposed exception would restrict the BESS to the identified development area shown on the zoning schedule and limit the facility to a maximum rated power capacity of 4.99 MW and a maximum rated energy storage capacity of 19.96 MWh.

[17] Mr. MacFarlane opined that a BESS is a permitted use, as of right, under the Township's existing planning framework. He testified that although neither the Official Plan ("OP") nor the Zoning By-law ("ZBL") expressly defines or references a BESS, he opined that the proposed use is captured by existing terms, including "public utility," which he testified is a permitted use.

[18] Mr. MacFarlane testified that the Applicant filed the Applications to provide a public planning process through which the Township and its residents could review and comment on the proposed BESS facility and to work cooperatively with the Township. He further testified that the proposed amendments would expressly add a BESS as a permitted use on the Subject Property and provide certainty regarding the location of the facility.

[19] In support of his opinion, Mr. MacFarlane testified that the Subject Property already contains an existing solar energy facility established in 2019, and that the proposed BESS is a similar and related energy use. He further testified that the OP permits facilities essential to the operation of a public utility within the Rural Community

designation, that the proposed BESS would be interconnected with existing Hydro One infrastructure, and that, in his opinion, the proposed BESS falls within the definition of a “public utility” in the Township’s ZBL and is therefore a permitted use as of right.

Planning Act

[20] In Mr. MacFarlane’s opinion, the Applications have regard to the matters of provincial interest set out in s. 2 of the *Planning Act*. He testified that the proposed BESS would contribute to the efficient use and conservation of energy, minimize waste, support the mitigation of greenhouse gas emissions, and respond to climate change by storing surplus electricity for use during periods of peak demand. Also, he stated that the proposed BESS represents a safe and effective means of stabilizing energy supply and demand.

Provincial Planning Statement, 2024

[21] Evidence was provided by Mr. MacFarlane that the Applications are consistent with the Provincial Planning Statement, 2024 (“PPS”). He testified that the PPS supports opportunities for the development of energy storage systems, planning that reduces greenhouse gas emissions and responds to climate change, and the efficient use of existing infrastructure.

[22] Mr. MacFarlane testified that a BESS is an energy storage system, as defined by the PPS, and opined that the proposed facility would support these policy objectives by storing excess electricity for use during periods of peak demand, improving the efficient use of the existing electricity supply system and reducing energy waste.

[23] Mr. MacFarlane provided evidence that the proposed BESS is compatible with surrounding land uses and is supported by technical studies addressing matters including noise, vibration, natural heritage, and wildfire risk. He testified that an Environmental Impact Study concluded that the proposal is environmentally feasible

and that the proposed facility incorporates buffers and mitigation measures that exceed applicable provincial wildland fire guidance.

Growth Plan for Northern Ontario

[24] Mr. MacFarlane opined that the Applications conform with the Growth Plan for Northern Ontario (“Growth Plan”). He testified that the Growth Plan supports renewable energy, investment in energy infrastructure, and the efficient use of energy. He opined that the proposed BESS advances these objectives by improving the efficiency of the existing electricity supply system and supporting long-term energy infrastructure.

Township of Armour Official Plan

[25] As the Subject Property is designated ‘Rural Community’ in the Township’s OP, he testified that the proposal meets the objectives of the designation, including promoting sustainable employment opportunities, ensuring compatibility between land uses, and encouraging alternative and renewable energy systems. He opined that OP permits facilities essential to the operation of a public utility within the Rural Community designation where they are compatible with surrounding land uses. He stated that, although the proposed BESS would be privately owned and operated, it would function as part of the provincial electricity system and is an important component of the public utility network.

[26] Mr. MacFarlane further testified that the Official Plan encourages energy conservation and planning that responds to climate change. He opined that the proposed BESS supports these objectives by storing excess electricity for use during periods of peak demand, making more efficient use of the existing electricity system, reducing energy waste, and reducing the need for additional electricity generation.

[27] With respect to land use compatibility, Mr. MacFarlane testified that the proposed BESS is supported by technical studies, including assessments addressing acoustics,

air and gas emissions, vibration, and hazard mitigation, which concluded that no adverse impacts on surrounding land uses are anticipated. He further testified that the proposed facility is separated from nearby sensitive land uses, is located behind the existing solar facility, and incorporates buffering through setbacks, vegetation management, and the proposed site-specific zoning provisions.

[28] Mr. MacFarlane also testified that the Applications are supported by an Environmental Impact Study, which concluded that the proposed development is environmentally feasible and would not adversely affect natural heritage features. He further testified that the proposal includes wildfire mitigation measures, including a 30-metre managed vegetation buffer and a surrounding 6-metre gravel road, which, in his opinion, exceed applicable provincial guidance and provide defensible space around the proposed facility.

[29] Based on these considerations, Mr. MacFarlane opined that the proposed BESS conforms with the Township's OP.

Township of Armour Zoning By-Law

[30] Evidence was provided by Mr. MacFarlane that the Subject Property is zoned RU under the Township's ZBL. He testified that, while a BESS is not expressly defined in the ZBL, the by-law provides that its provisions do not apply to buildings or structures used for public services. Mr. MacFarlane reiterated his opinion that the proposed BESS constitutes a public utility use and is therefore permitted under the existing planning framework.

[31] Mr. MacFarlane further testified that the proposed ZBA would expressly define a BESS and permit the use on the Subject Property through a site-specific exception. He testified that the applicable zoning provisions for the RU Zone regulate matters such as lot frontage, lot area, yard setbacks, building height, and lot coverage, and that the proposed BESS complies with those provisions. In his opinion, the proposed

amendment would expressly recognize BESS as a permitted use on the Subject Property.

[32] In summary, Mr. MacFarlane testified that, in his opinion, the Applications have regard for the matters of provincial interest under the *Planning Act*, are consistent with the PPS, conform with the Growth Plan, conform with the Township's OP and ZBL, and represent good planning.

Participant Statement Response

[33] Mr. MacFarlane testified that he reviewed the Participant Statement submitted by No Lithium Way Citizens United Inc. and, in his opinion, the concerns raised had been addressed through the technical studies filed in support of the Applications and in his planning evidence.

[34] In regard to the concerns respecting wildfire, environmental impacts and archaeology, Mr. McFarlane opined that these had been addressed through the technical studies supporting the Applications. He noted that the Environmental Impact Study was peer reviewed by TULLOCH and that the Ministry of the Environment, Conservation and Parks confirmed the study's methodology.

[35] Mr. MacFarlane testified that concerns respecting employment generation, property values, property taxes, and insurance costs were not determinative planning considerations.

[36] Lastly, Mr. MacFarlane acknowledged that an Emergency Response Plan, Firefighter Training Program, and Stormwater Management Plan remained outstanding, but testified that these matters related to the implementation and operation of the proposed BESS and did not affect his planning opinion. He maintained his opinion that the Applications represent good planning and are in the public interest.

ANALYSIS AND FINDINGS

[37] In determining whether the proposed OPA and ZBA should be approved, the Tribunal must consider the applicable legislative framework. This includes whether the Applications have regard to the matters of provincial interest set out in s. 2 of the *Planning Act*, are consistent with the PPS, conform with the Growth Plan, conform with the Township's OP and ZBL, and represent good planning in the public interest.

[38] The Tribunal has considered the affidavit and oral testimony of Mr. MacFarlane together with the documentary evidence filed in support of the Applications. Mr. MacFarlane was qualified to provide expert opinion evidence in the area of land use planning, and his planning opinion was uncontested.

[39] The Tribunal is satisfied that the proposed development has been supported by appropriate technical studies addressing environmental impacts, land use compatibility, acoustics, vibration, and wildfire mitigation.

[40] The Tribunal accepts Mr. MacFarlane's evidence that the Environmental Impact Study concluded that the proposed development is environmentally feasible. The Tribunal also notes that the study was peer reviewed by TULLOCH and that the Ministry of the Environment, Conservation and Parks confirmed the study's methodology. The Tribunal is satisfied that the technical evidence supports the suitability of the Subject Property for the proposed development.

[41] The evidence established that the proposed BESS is intended to improve the efficiency of the existing electricity system by storing surplus electricity for use during periods of peak demand. The Tribunal accepts Mr. MacFarlane's opinion that the proposal supports the efficient use and conservation of energy, contributes to reducing energy waste, and advances provincial objectives relating to climate change and energy infrastructure.

[42] As the Subject Property is designated 'Rural Community' in the OP, the Tribunal accepts Mr. MacFarlane's evidence that the proposal supports the OP's objectives respecting energy conservation, climate change and renewable energy systems, and that the proposed use is compatible with the surrounding rural area. The Tribunal further concurs that the proposed ZBA will expressly recognize and regulate the proposed BESS through a site-specific exception that identifies both the permitted location and the maximum facility size.

[43] Lastly, the Tribunal has also considered the Participant Statement. The concerns raised were addressed through the technical studies filed in support of the Applications and through Mr. MacFarlane's evidence. The Tribunal accepts Mr. MacFarlane's evidence that the remaining matters, including the Emergency Response Plan, Firefighter Training Program, and Stormwater Management Plan, relate to the implementation and operation of the proposed facility and do not affect the planning merits of the Applications currently before the Tribunal.

[44] In conclusion and having considered the evidence before it, the Tribunal finds that the proposed OPA and ZBA have regard to the matters of provincial interest set out in the *Planning Act*, are consistent with the PPS, conform with the Growth Plan, conform with the Township's OP, and represent good planning in the public interest. Accordingly, the Tribunal approves the Applications.

ORDER

[45] **THE TRIBUNAL ORDERS** the appeal is allowed and the Official Plan for the Township of Armour is amended, as set out in Attachment 1 to this Order.

[46] **AND THE TRIBUNAL ORDERS THAT** the appeal is allowed and By-law No. 27-95, as amended, is hereby amended, as set out in Attachment 2 to this Order. The Tribunal authorizes the municipal clerk of Township of Armour to assign a number to this by-law for record keeping purposes.

[47] The Tribunal may be spoken to in the event that any issues arise in the implementation of this Order.

"J. Innis"

J. INNIS
MEMBER

Ontario Land Tribunal

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

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Attachment 1

BY-LAW NO. _____

A BY-LAW TO AMEND

TOWNSHIP OF ARMOUR OFFICIAL PLAN

Permitting Battery Energy Storage Systems

219 Peggs Mountain Road

OFFICIAL PLAN AMENDMENT NO. 4**Approved by the OLT**

Lands Affected:	This By-law applies only to the lands within the Township of Armour municipally known as 219 Peggs Mountain Road, legally described as Part Lot 3, Concession 6 Armour, save and except Part 1 and 2, Plan 42R22137 and Parts 1, 2 and 3, Plan 42R22689; Township of Armour.
Present Designation:	Under the Township of Armour Official Plan, the lands are designated Rural Community.
Proposed Designation:	The amendment adds a site-specific exception for the lands to clarify that a Battery Energy Storage System ("BESS") is permitted on the lands.
Zoning By-law:	A concurrent Zoning By-law Amendment is being brought into effect to clarify Battery Energy Storage System ("BESS") as a permitted use in the site-specific Rural (Ru) zone for the lands.
By-law Purpose:	The goal of this By-law is to amend the Township of Armour Official Plan to confirm that Battery Energy Storage Systems ("BESS's") are a permitted use in the Rural Community designation on the lands, as per the Provincial Planning Statement, 2024.

BY-LAW NO. _____

Being a by-law to adopt the Armour Township Official Plan Amendment No. 4

NOW THEREFORE in accordance with the provisions of the Planning Act, R.S.O. 1990, c. P.13, as amended, hereby enacts as follows:

1. Amendment No. 4 to the Township of Armour Official Plan, is hereby adopted.
2. That this By-law shall come into effect on the date it is passed, subject to the provisions of the Planning Act, R.S.O. 1990, c. P.13.

AMENDMENT NUMBER 4
TO THE
TOWNSHIP OF ARMOUR OFFICIAL PLAN

AMENDMENT NUMBER 4
TO THE
TOWNSHIP OF ARMOUR OFFICIAL PLAN

INDEX

PART "A" - THE PREAMBLE

The Preamble provides an explanation of the proposed Amendment including the purpose, extent, background information, and basis but does not form part of this Amendment.

PART "B" - THE AMENDMENT

The Amendment describes the changes to the Armour Township Official Plan which constitute Official Plan Amendment Number 4.

PART "A" – THE PREAMBLE**PURPOSE**

The purpose of the amendment is to clarify the Township of Armour Official Plan to confirm that Battery Energy Storage Systems ("BESS's") are a permitted use on certain lands in the Rural Community designation.

LOCATION

This amendment applies to the lands within the Township of Armour municipally known as 219 Peggs Mountain Road, legally described as Part Lot 3, Concession 6 Armour, save and except Part 1 and 2, Plan 42R22137 and Parts 1, 2 and 3, Plan 42R22689; Township of Armour.

BACKGROUND

A privately initiated application to amend the Armour Township Official Plan was received by the Township of Armour and deemed complete on January 21, 2025. The application requests an amendment to the Official Plan to permit a Battery Energy Storage System on the lands subject to this amendment.

BASIS

The applicant proposes to develop a Battery Energy Storage System on the lands located at 219 Peggs Mountain Road.

The subject lands are designated Rural Community in the Township of Armour Official Plan.

IMPLEMENTATION AND INTERPRETATION

This Amendment shall be in accordance with the policies of the Armour Official Plan.

PART "B" – THE AMENDMENT

All of this part of the document entitled "PART "B" - THE AMENDMENT", consisting of the following text, constitute Amendment No. 4 to the Official Plan of the Township of Armour.

DETAILS OF THE AMENDMENT

The Official Plan of the Township of Armour is hereby amended as follows:

1. Section 2.1 (Rural Community) of the Township of Armour Official Plan, is hereby amended to add the following subsection:

2.1.3(h) "A Battery Energy Storage System shall be permitted on lands at 219 Peggs Mountain Road and described as Part Lot 3 Con 6 Armour Township, save and except Part 1 and 2, Plan 42R22137 and Parts 1, 2 and 3, Plan 42R22689. (OPA 4)"
2. A location map will be added to section 2.1.3(h) to reference and locate the new policy above.

Attachment 2

ZONING BY-LAW NO. 5-2026

A BY-LAW TO AMEND

ZONING BY-LAW NO. 27-95 as amended

Permitting Battery Energy Storage Systems

219 Peggs Mountain Road

EXPLANATORY NOTE**To Zoning By-law No. 5-2026****Passed by the ONTARIO LAND TRIBUNAL**

Lands Affected:	This By-law applies only to the lands within the Township of Armour municipally known as 219 Peggs Mountain Road, legally described as Part Lot 3, Concession 6 Armour, save and except Part 1 and 2, Plan 42R22137 and Parts 1, 2 and 3, Plan 42R22689; Township of Armour.
Present Zoning:	Under Armour Township Zoning By-law No. 27-95 (as amended), the lands are zoned Rural (Ru).
Proposed Zoning:	The amendment adds a site-specific exception for the lands to clarify that a Battery Energy Storage System is permitted on the lands municipality known as 219 Peggs Mountain Road, legally described as Part Lot 3, Concession 6 Armour, save and except Part 1 and 2, Plan 42R22137 and Parts 1, 2 and 3, Plan 42R22689; while maintaining the underlying Rural (Ru) zoning.
Official Plan Designation:	A site specific amendment to the Township of Armour Official Plan (OPA 4) clarifies that a Battery Energy Storage System ("BESS") is a permitted use on the lands subject to this By-law.
By-law Purpose:	The goal of this By-law is to update Zoning By-law No. 27-95 (as amended) to confirm that Battery Energy Storage Systems are a permitted use on the lands subject to this By-law.

ZONING BY-LAW NO. 5-2026

Being a By-law under Section 34 of the *Planning Act*, R.S.O. 1990, to amend Zoning By-law No. 27-95, as amended, of the Municipal Corporation of the Township of Armour, with respect to adding permissions for Battery Energy Storage System in the Rural (Ru) zone as it relates to the lands municipally known as 219 Peggs Mountain Road, legally described as Part Lot 3, Concession 6 Armour, save and except Part 1 and 2, Plan 42R22137 and Parts 1, 2 and 3, Plan 42R22689; Township of Armour.

NOW THEREFORE the Ontario Land Tribunal enacts as follows:

1. **THAT** Section 2 (Definitions) of Zoning By-law No. 27-95, as amended, is hereby updated to add the following subsection:

2.23.1 "Battery Energy Storage System" means a battery storage system or facility that captures energy produced at one time for use at a later time to reduce imbalances between energy demand and energy production."

2. **THAT** Section 19 (Exceptions) of Zoning By-law No. 27-95, as amended, is hereby updated to add the following subsections:

RU-112 Schedule A-2

"Notwithstanding any provisions to the contrary, a Battery Energy Storage System is permitted at 219 Peggs Mountain Road, legally described as Part Lot 3 Con 6 Armour, save and except Part 1 and 2, Plan 42R22137 and Parts 1, 2 and 3, Plan 42R22689; Township of Armour;

Notwithstanding any provisions to the contrary, a Battery Energy Storage System facility is only permitted in the location as shown hatched on Schedule B to Zoning By-law No. 5-2026; and

Notwithstanding any provision to the contrary, for a Battery Energy Storage System, the maximum rated power capacity is 4.99 megawatts (MW) and the maximum rated energy storage capacity is 19.96 megawatt-hours (MWh)."

3. **THAT** Schedule A-2 of Zoning By-law No. 27-95, as amended, is hereby amended by changing the zoning classification of the subject lands forming Part Lot 3, Concession 6, save and except Part 1 and 2, Plan 42R22137 and Parts 1, 2 and 3, Plan 42R22689, known municipally as 219 Peggs Mountain Road, from the Rural (Ru) Zone to the Rural Exception No. 112 (Ru-112) Zone in accordance with Schedule "A" attached hereto and by this reference forming part of this By-law; and

4. **THAT** this By-law shall come into effect on the date OPA 4 has been approved, subject to the provisions of the *Planning Act*, R.S.O. 1990, c. P13.

