
Regrets: M. Miller.


Also Present: R. Pineo, Niagara Escarpment Program Team Lead, Natural Heritage Section, MNRF; R. Patrick, President, C.O.N.E.

Meeting called to order: 10:00 a.m.

Chair Don Scott presided.

Introductions:

Chair Don Scott introduced the Commission to the new City of Hamilton Commissioner, Arlene VanderBeek. The Commission welcomed Commissioner VanderBeek.

Bohdan Wynnycky, Manager, introduced the Commission to Mark Badali and Calvin Dempster who will be assisting the planners in the role of Planning Technicians.

AGENDA ITEM I – P72/04-2015

M760R1/07-2015 Moved By: Louis
Seconded By: Borodczak

“That the Commission accept the Policy Minutes of April 15, 2015 as written.”

Motion Carried
Business Arising from the Previous Minutes

Kim Peters advised the Commission that the reports that Addendum 2 to the Discussion Papers Topic 21 (Cultural Heritage Policies in the NEP) will be included with the housekeeping discussion paper and will not be returning as another Addendum Discussion Paper.

AGENDA ITEM II – Declaration of Conflicts of Interest

None declared.

AGENDA ITEM III – Applications & Planning Reports

Moved By: Beattie
Seconded By: Little

“That the persons representing the Applications listed on the Agenda be invited to address the Commission.”

Motion Carried

Ken Whitbread, Manager, advised the Commission that there will be a Co-ordinated Review Panel Report to come out in the fall of 2015. This will likely be directions type report. He cautioned the Commission about deferring any of the Discussion Papers as there are time constraints in getting the Discussion Papers submitted.

The Commission was also advised that there will be a final Discussion Paper on Topic 1 (Land Use Designation Criteria Mapping) that will be for the entire Plan Area at the August meeting and will reflect the Commission’s input from the previous Topic 1 Papers presented. The Commission will be asked to decide on which Land Use Mapping Option will be submitted for consideration as part of the Plan Review.

PR1

NIAGARA ESCARPMENT PLAN REVIEW 2015
DISCUSSION PAPER
TOPIC 3: Additions to the Niagara Escarpment Plan Area

BACKGROUND

Staff presented an initial Discussion Paper that proposed criteria for adding lands to the Niagara Escarpment Plan Area (NEP) Area at the April 2013 Policy Meeting. A second Paper on NEP Area additions was presented at the May 2013 NEC meeting. The
second Paper included a set of revised criteria, but the Commission was not prepared to endorse these criteria without identifying a process that would ensure municipalities, landowners, and other agencies would be consulted. In March 2014, staff returned to the Commission and requested that the Commission endorse the revised criteria so that staff could proceed with evaluating potential additions to the NEP Area. The Commission endorsed the criteria.

Since that time, the province has set out a process to guide consultations for the 2015 Co-ordinated Review of the four provincial land use plans, including the NEP. The first phase of consultation, which began on February 27th, is structured around a Co-ordinated Review Discussion Document, *Our Region, Our Community, Our Home*. This document contained multiple discussion questions, which were intended to solicit stakeholder and public feedback and focus discussion on the goals of the Co-ordinated Review. One such question was:

*Where are the opportunities to expand the Greenbelt both within urban areas, such as urban river valleys, and in rural areas beyond the Greater Toronto Area?*

Since the NEP Area is also part of the Greenbelt, additions to the NEP Area are within the scope of the 2015 Co-ordinated Review.

With the closing of the first phase of consultation on May 28, 2015, staff will review any comments on proposed Greenbelt additions. Staff is aware that there were multiple submissions from stakeholder groups and the general public that supported growing the Greenbelt. While the review of these comments is ongoing, staff has completed its evaluation of 83,783 hectares of the original Niagara Escarpment Planning Area, using the criteria endorsed at the March 2014 Commission meeting. Of these 83,783 hectares, staff recommended that 44,196 hectares be considered for addition to the NEP.

**RECOMMENDATIONS**

- That the Commission consider the areas proposed in this report for addition to the NEP Area;

- That the Commission direct staff to apply the revised Designation Criteria to the proposed additions that are endorsed by the Commission, once the Commission has identified its preferred land use mapping scenario; and

- That the Commission forward its recommendations to the Minister of Natural Resources and Forestry along with other proposed amendments that the Commission has endorsed.
DISCUSSION

The Commission asked if significant aquifers could be considered as a criterion and were advised that in areas such as Dufferin County it would be too broad a feature to qualify as a criterion on its own.

The Commission discussed the lands that were not included in the Paper but contain significant Escarpment features which had been left out of the Plan additions recommended because they were covered under either the Greenbelt Plan or the Oak Ridges Moraine Conservation Plan. The Commission discussed adding these lands to the Niagara Escarpment Plan as the NEP would offer the best protection for the lands. Staff noted that this Paper has already recommended an extra 25% for addition to the NEP. Also, the focus was on the lands not already protected in a Provincial Plan.

Some Commissioners held the view that the Escarpment Natural Area should be in proximity to the brow and toe of the Escarpment and not Natural Areas back from the Escarpment feature. Prominence should also be given to those woodlands that are located on the Escarpment.

The matter of consultation with the municipalities was raised and discussed by the Commission. The Commission directed that the municipalities be sent a copy of the Discussion Paper for information purposes only, as formal consultation will take place at a later stage in the process.

Note: Kim Peters, Senior Strategic Advisor, reviewed the Discussion Paper and answered questions.

M760R3/07-2015  Moved By: Baty
Seconded By: Little

“That the Commission accept the staff recommendations and direct staff to circulate the Paper and its recommendation to the municipalities affected.”

Motion Carried

NOTE: The Commission noted that it was an excellent Paper.

PR2
RE: NIAGARA ESCARPMENT PLAN REVIEW 2015
DISCUSSION PAPER – Addendum 3
TOPIC 5: Water Policies – Fisheries

INTRODUCTION

The current NEP Part 2.6 Fisheries defers in part to the Federal Fisheries Act and its associated protocols and policies for the protection of fish habitat, but also includes a
number of additional policies that generally support healthy water resources on the Escarpment. The focus of the current NEP Part 2.6 Fisheries is on “fishery resources”, which by NEP definitions includes any body of water containing or having the potential to contain fish populations.

Amendments to the NEP Part 2.6 New Development Affecting Water Resources were proposed in the October 2013 NEC Plan Review Discussion Paper Topic 6. Revisions to the NEP Part 2.6 Fisheries was not addressed at that time, as it was noted that the federal fisheries policies and associated protocols were still under review following the recent changes made to the Act.

Staff has since undertaken a more comprehensive review of the Fisheries Act amendments, together with proposals made to the NEP Part 2.6 Water Resources objectives and policies (October 2013), as well as other provincial objectives for fish habitat and fishery resources, and further recommendations are now being provided as an Addendum to the Topic 6 Water Resources Discussion Paper.

RECOMMENDATION

That the Commission endorses the attached amendments for the NEP related to the protection of fish habitat as an Addendum to the Water Resources Topic 6, 2015 Discussion Paper, and that these amendments be provided to the Minister of Natural Resources and Forestry as advice on the 2015 Coordinated Plan Review.

DISCUSSION

The Commission spoke of their concerns with the implementation of the Policy given the difference in the Federal legislation. Staff advised that the NEC receives technical support on Development Applications respecting fish habitat from the Ministry of Natural Resources and Forestry in the form of comments and supporting data. Staff is confident that this assistance will continue to be available.

The Commission was concerned that there was not a definition for farm ponds and irrigation ditches used for agriculture and that these features would fall under fish habitat and create hardship for farmers. Staff advised that the driver for the amendments to the Fisheries Act were in part due to these features being identified as fish habitat and creating issues for regular agricultural operations, and the new Fisheries Act, in staff’s interpretation of the legislation, would not include these features as fish habitat. However, for the purposes of the NEP policies, if fish were present, that would make it a fish habitat and therefore the pond or irrigation ditch may be considered a natural heritage feature. However, staff also noted that farm ponds and drainage ditch maintenance is permitted for agriculture purposes in the NEP. Each case would be evaluated on a site specific basis.

The Commission asked for clarity regarding what is substantial versus minimal impact for the various objectives and policies which use these terms. Staff provided that the “substantial impact” language is currently used in the NEP, and it has not been
proposed to be revised through the water policy proposals, however staff did note that
the introduction of the term “no negative impact” where it is used would require greater
consideration to be given to the other language respecting the degree of impact to
features. Staff identified that they could review this matter and possibly provide
amended proposals as part of housekeeping as the language is a bit confusing
considering the no negative impact language now being used in documents like the
PPS. Staff also noted that although the goal of precise language is good, there is an
advantage to having more flexibility.

The Commission raised a concern with being in violation of the Fisheries Act by being
more restrictive. Staff advised that they didn’t perceive the policies as proposed to be in
conflict with the Fisheries Act however this would be a matter of constitutional law and
would require advice from counsel but any final amendments will go through legal
counsel to ensure there is no conflict. The NEP will still refer to the Fisheries Act in
General Development Criteria 2.1.

The Commission discussed the possibility of setting a minimum distance setback of
30 metres from fish habitat that would prompt the necessity for an EIS. Staff advised
that this approach could be used as it is with the other Plans. However, if there is no
mandatory minimum then there is flexibility and the EIS when required could determine
the proper setback as a 30 metre setback could create problems for farmers where
such a large setback for certain developments may not be required.

The Commission suggested changing the wording from 'minimize' to 'prevent' in the
proposed wording of 2.6.3 b). Staff will consider the change.

Note: Lisa Grbinicek, Senior Strategic Advisor, reviewed the Discussion Paper and
answered questions.

M760R4/07-2015  Moved By:  Alexander
Seconded By:  Little

“That the Commission accept the staff recommendation with the minor changes as
noted.”

Motion Carried

NOTE: The Commission noted that this was another excellent Paper.

Ken Whitbread advised the Commission that the Director in consultation with staff would
like Commission authorization to remove the Governance and Streamlining Discussion
Paper from the Review as well as the Net Gain and Environmental Compensation
Paper. Governance is a Topic that should be dealt with at the end of the Review and
Net Gain Environmental Compensation has not been raised by anyone during the initial
consultation phase and therefore is not necessary at this time.
"That the Commission remove these Topics from the list of Discussion Papers for the 2015 Coordinated Review."

Motion Carried

NOTE: Staff also advised the Commission that NEC staff resources are finding it difficult to search all the comments provided to MMAH. Staff is suggesting that the Commission may have to wait for the Review Panel’s Report to be released. The Commission is a stakeholder and is therefore not directly responsible for the review of the comments. However, once the Commission knows which Urban Use Amendments and other modifications are proposed, the relevant comments can be more easily identified.

The Commission was concerned with the risk of not doing a high level review of the comments. The Commission does not want the public to feel that their comments are not being taken seriously and therefore it might be prudent to select a few Escarpment-related comments to look for any patterns that may emerge. Staff indicated that it will continue to work to identify relevant NEP comments.

MNRF advised that the Ministry will be providing a fact based brief synopsis of all the comments submitted.

Broke for Lunch: 12:15 p.m.
Reconvened: 1:00 p.m.

A7

RESTORATION ORDER - CONTRAVENTION FILE C/D/2011-2012/032

Hans Stieger
953029 7th Line East
Part Lot 4, Concession 7, East
Town of Mono, County of Dufferin

CONCLUSION:

To date, NEC staff has not been provided any reasonable evidence that the fill material is inert, free from contamination and meets the current Table 1 standards under the Environmental Protection Act. Therefore, in the absence of the above, staff recommend the NEC take the following action to resolve the issue.
RECOMMENDATION:

That the Niagara Escarpment Commission (NEC) issue of an Order to Restore pursuant to the Niagara Escarpment Planning and Development Act, Chapter N.2 R.S.O.1990 section 24 (6.1).

Note: O. J. MacDonald, Compliance Specialist, reviewed the Staff Report and answered questions.
Mr. Stiegert was contacted but did not attend the meeting.

Moved By: Borodczak
Seconded By: Little

“That the Commission accept the staff recommendation.”

Motion Carried

IN CAMERA SESSION

The Commission went in-camera to discuss legal matters.

Moved By: Baty
Seconded By: Cambray

“That the Commission move in-camera.”

Motion Carried

Moved By: Little
Seconded By: Elgar

“That the Commission move out-of-camera.”

Motion Carried
A5 and B1

DEVELOPMENT PERMIT APPLICATION D/P/2014-2015/178 (As – Built)
Coptic Orthodox Patriarchate of Alexandria,
The Church of the Virgin Mary and St. Athanasius
Part Lots 8 and 9, Concession 7, East
Town of Mono    Dufferin County

PROPOSAL:

To recognize the as-built construction of a 2 storey, ± 1985 sq m (± 21, 358 sq ft) addition to an existing institutional building that will be used for a dormitory and church hall, and an open air pavilion. To also construct a parking lot (150 spaces), outdoor soccer field, volleyball court and tennis court (for private use by the institution). To permit the demolition of six buildings with a total area of 515 sq m (5542.8 sq ft), and to decommission 280 sq m (3017.7 sq ft) of basement being utilized as sleeping quarters, situated in the existing main monastery building.

RECOMMENDATIONS:

1. That the application to recognize the as-built construction of the existing addition of a church and dormitory to the existing institutional building, the open air pavilion and demolitions and removals of existing buildings/structures (listed on Figure 4) be approved, as a minor expansion to an Existing Use, in keeping with the Existing Uses Development Criteria of the NEP and subject to Conditions.

2. That 280 sq m (3017.7 sq ft) of existing dormitory space in the basement of the existing main church be decommissioned.

3. That the construction of the paved parking area and sports field be refused, as the proposals do not comply with the Escarpment Protection Area Designation, or satisfy the Existing Uses Development Criteria and General Development Criteria Part 2.2.

4. That no further development approvals be supported unless an Amendment to the Niagara Escarpment Plan is obtained.

   Note: Recommendation 4 is not intended to prevent possible improvements to the existing main parking lot in the Escarpment Rural Area, subject to the assessment and endorsement of a Development Permit.

DISCUSSION:

The Commission noted that they have stuck closely to the 25% minor expansion over the years, and provided examples of where the Commission has determined that as-built structures must be removed if they did not meet the 25%.
If there had been an application submitted prior to development, the 25% would have been applied and determined the size of the addition permitted.

The consultant for the Applicant identified that the as-built addition has 34 beds, existing has 42 beds in basement, historically 140 beds on site, this proposal decreases the number of beds by 16.

Note: Lisa Grbinicek, Senior Strategic Advisor, reviewed the Staff Report and answered questions.
Dale Scott, Consultant, made a presentation and answered questions.
Dr. Nashed Youssef, Church Member, was present and answered questions.

M760R9/07-2015
Moved By: Beattie
Seconded By: Louis

“That the Commission defer this matter for one month (or as necessary), for staff to review and determine what buildings are considered existing uses by NEP definition, and are currently in use in order to calculate the appropriate total 25% floor area available for an expansion of the current use that could be permitted according to the Niagara Escarpment Plan policies. Staff is to prepare a report with options for the Commission to consider respecting the 25% and the consideration of the basement area of the existing institutional use.”

Motion Carried

NOTE: The Commission advised that staff did a good job of handling this very difficult situation.

The Commission noted that development commenced without any Permits or other land use authorizations in place and that the buildings proposed for demolition to achieve a “like for like” trade-off are not currently in use and several are not habitable and therefore should not be considered as a “like for like” trade-off.

AGENDA ITEM IV – Information Reports (Packages G & H)

M760R10/07-2015
Moved By: Beattie
Seconded By: Cambray

“That the Commission receive the ‘G’ and ‘H’ package and the deferred items chart.”

Motion Carried
DISCUSSION

Staff provided clarification on the City of Hamilton Vetco appeal at the request of the Commission.

Staff also advised that the meeting with Brampton Brick was to resolve a site plan concern with the Cheltenham Quarry.

The Commission requested an update on the issue of easements and land securement relating to the Bruce Trail. The Commission is very concerned that the Bruce Trail is not as protected as it could be and therefore requested that the Commission staff work with the Bruce Trail Conservancy to look at options that could strengthen the protection of the Bruce Trail.

The Commission asked about Application H/C/2013-2014/226 (Petrovski) that had been deferred in January to allow the applicant an opportunity to submit a Plan Amendment application during the consultation period of the 2015 Plan Review. Staff advised that the applicant did not submit an application for a Plan Amendment and there has been no new information. The NEC directed that the Application be back before the Commission for the August meeting and the applicant be notified.

The Commissioners requested that the Deferred Items chart include more details in the reason/status section. Staff will follow up for the August meeting.

NEW BUSINESS

The Commission passed the following motion as per their discussion on the Plan Area Additions Discussion Paper (PR1). Following a discussion on the adding those lands currently outside the Plan Area but inside the Greenbelt/Oak Ridges Moraine Areas that contain significant Escarpment features.

The Commission also wanted to make the municipalities aware of the lands being considered for addition to the Niagara Escarpment Plan for information purposes only.

M760R11/07/2015

Moved By: Borodczak
Seconded By: Louis

“That the additions to the NEP also be considered for lands within the Greenbelt (Protected Countryside) and Oak Ridges Moraine Conservation Plan where such areas are in the Niagara Escarpment Planning Area and meet the Criteria for inclusion in the NEP, where the NEP would be determined to be the most appropriate Provincial Plan to administer such lands, based on the Purpose and Objectives of the NEPDA.”

Motion Carried
AGENDA ITEM VI – Adjournment

M760R12/07-2015  Moved By:  Cambray

“That this meeting be adjourned.”

Motion Carried

Time of Adjournment: 3:45 p.m.

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Don Scott
Chair