INTERPRETATION OF PROMINENT ESCARPMENT SLOPES IN THE
ESCAPMENT RECREATION AREA OF THE
NIAGARA ESCARPMENT PLAN

BACKGROUND:

The Escarpment Recreation Area designation of the Niagara Escarpment Plan contains the following Development Objective:

1. Except for plans of subdivision which have been draft or final approved, or for development which is permitted in existing secondary plans on the day this plan was approved, development on prominent Escarpment slopes shall be limited to those recreational facilities such as ski runs, ski lifts or slides which require the slopes for the proper functioning of the operation.

A review of the background and preparation of the Niagara Escarpment Plan does not reveal any rational for or intent behind the inclusion of this word in reference to the Escarpment slopes of the Escarpment Recreation Area. The word was inserted, without explanation or definition, in the Proposed Plan for the Niagara Escarpment in 1978.

The term prominent Escarpment slope is not defined in the Niagara Escarpment Plan. However, Escarpment brow, toe and slope are defined and have been used as the meaning of prominent Escarpment slope when considering development proposals that encroach on the Escarpment slope in the Escarpment Recreation Areas.

The definitions in the Plan are as follows:

Escarpment Brow (Edge)

“the uppermost point of the Escarpment slope or face. It may be the top of a rock cliff, or where the bedrock is buried, the most obvious break in slope associated with the underlying bedrock”.

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Escarpment Slope (Face)

“the area between the brow and toe of the Escarpment and usually characterized by a steep gradient. Where the rise occurs in the form of a series of steps, the slope also includes the terraces between the steps”.

Escarpment Toe (Base)

“the lowest point on the Escarpment slope or face determined by the most obvious break in slope associated with the bedrock or landforms overlying the bedrock.

Since approval of the Plan in June 1985 a policy interpretation of the intent of the meaning of "prominent Escarpment slope" has been required in various development proposals at ski centres in the Niagara Escarpment Plan area. To assist in this interpretation, in May 1994, the Commission received, but made no motion on the attached Policy Paper - "Escarpment Recreation Area Interpretation of " Prominent " Escarpment Slopes" (see APPENDIX A).

In further support of this position and while commenting on the Municipality of Grey Highland’s Draft Official Plan (2001), staff provided an outline of the procedure used to determine the extent of the prominent Escarpment slope (see APPENDIX B).

However, in keeping with the purpose and objectives of the Act and the Plan, staff has used the 1994 interpretation as a working policy guideline in numerous site-specific interpretations on the location of the prominent slope. The Commission has endorsed the vast majority of these interpretations (see APPENDIX C).

While there has been general consistency in these interpretations, the fact remains that without a definition, or precise mapping of the prominent Escarpment slopes in the Escarpment Recreation Areas each development proposal on or adjacent to the Escarpment slope has been evaluated on a site by site basis.

However, with the development of new Official Plans for recently amalgamated municipalities, Commission staff have been providing a comprehensive interpretation of the location of the prominent Escarpment slopes to be incorporated into the Official Plans (e.g., Town of the Blue Mountains Official Plan, Grey Highlands Official Plan).

The Town of the Blue Mountains has incorporated the majority of the Commission’s recommendations on the toe and brow of the prominent Escarpment slope (with the exception of the ‘Collins’ property). However, due to
the small scale of the official plan and the pressures for development, staff is in
the process of defining the toe of the Escarpment very precisely for inclusion in
the Official plan, e.g., the Barton and Shiff properties in the Camperdown Area.
The Staff report on OPA #2 Camperdown addresses the location of the
Escarpment toe very precisely through the use of a GPS unit and site visits.
Similarly the Commission has objected to the Town's proposed interpretation of
the Escarpment toe on the Collins property (Commission Resolutions of Sept,
2002 and Dec, 2002).

The Commission has also objected to a proposed Official Plan amendment filed
by Castle Glen Development Corp. on the basis that the proposed amendment
conflicts with the Niagara Escarpment Plan provision of prohibiting development
below the brow of the Escarpment, west of Lake of the Clouds, on the basis that
development in this area would be in conflict with the above cited provisions of
the Niagara Escarpment Plan and the provisions of OPA # 7 (Castle Glen
Secondary Plan).

The Town of the Blue Mountains Official Plan is currently being reviewed by the
County of Grey for approval.

The Municipality of Grey Highlands did not adopt the Escarpment toe as defined
by the Commission in their new Official Plan. The County of Grey similarly did not
adopt the Commission’s interpretation of the Escarpment toe in approving the
Grey Highlands Official Plan. The Commission has appealed this part of the
Official Plan to the OMB

In advance of the OMB hearing on the Grey Highlands Official Plan and the
Commission's evidence in support of the Commission's appeal, staff is seeking
the Commission’s confirmation that staff should continue to interpret the
prominent Escarpment slopes in accordance with the intent as set out in the
attached 1994 report and as refined in the attached policy interpretation report

RECOMMENDATION:

That the Niagara Escarpment Commission adopt the interpretation and approach
to defining prominent Escarpment slopes in the Escarpment Recreation Area as
set out in the attached Policy Paper: Interpretation of Prominent Escarpment
Slopes in the Escarpment Recreation Area (March 20, 2003), attached as
Appendix D.

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ATTACHMENTS

| Appendix A | Escarpment Recreation Area Interpretation of "Prominent" Escarpment Slopes |
| Appendix B | Prominent Escarpment Slopes Interpretation Criteria |
| Appendix C | Prominent Escarpment Slope Interpretations |
| Appendix D | Policy Paper - Interpretation of "Prominent" Escarpment Slopes in the Escarpment Recreation Area |
APPENDIX A

May 13, 1994

RE: ESCARPMENT RECREATION AREA INTERPRETATION OF “PROMINENT” ESCARPMENT SLOPES

ISSUE: The Plan states that:

“development on prominent Escarpment slopes shall be limited to those recreational facilities such as ski, runs, ski lifts or slides which require the slope for the proper functioning of the operation.”

In the context of this policy the issue is the interpretation of prominent Escarpment slopes.

DISCUSSION

Escarpment slopes are defined in the Plan as:

“the area between the brow and the toe of the Escarpment and usually characterized by a steep gradient. Where the rise occurs in the form of a series of steps, the slope also includes the terraces between the steps.”

The Escarpment Brow is defined as follows”:

“the upper most point of the Escarpment slope or face. It may be the top of a rock cliff, or where the bedrock is buried, the most obvious break in slope associated with the underlying bedrock”.

The intent of the Plan needs to be interpreted in terms of what was meant by “prominent” Escarpment slopes. There are two possible interpretations.
Option 1. The intent is to prohibit residential development, etc., on all the Escarpment slopes between the brow and the toe. Prominent in this case would mean that it was “readily noticeable” or “conspicuously”\(^1\) part of the Escarpment slope as defined by the Plan.

If this were the interpretation then development below the brow of the Escarpment would not be permitted.

Option 2. The intent is to prohibit development only on the parts of the slope that “stand out as to strike the attention” or distinguished above others\(^2\) then more analysis of the slope would be required to determine which parts of the slope would qualify under these circumstances.

The provisions of the Niagara Escarpment Planning and Development Act and the treatment of the Escarpment slopes in the other designations and through the Development Criteria of the Plan have to be considered before determining the intent of the use of the word “predominant”.

**The Niagara Escarpment Planning and Development Act**

The purpose of the Niagara Escarpment Planning and Development Act is to “provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only development occurs as is compatible with that natural environment.”

Objective 8 (d) states that the objective to be sought in the Plan Area is:

> “to maintain and enhance the open landscape character of the Niagara Escarpment so far as possible, by such means as compatible farming or forestry and by preserving the natural scenery”.

The purpose and objectives of the Act which aim to protect, maintain or enhance the Niagara Escarpment, have been translated into policies of the Plan and addresses how development of the Escarpment slopes is treated in other designations in the Plan.

**Escarpment Recreation Areas**

In the Escarpment Recreation Area associated with lakeshore development new development is not allowed to encroach on the Escarpment Natural Area e.g., the forested Escarpment slopes.

\(^1\) Webster’s New College Dictionary

\(^2\) Shorter Oxford Dictionary
The principle of protecting the forested Escarpment slopes from residential/commercial development is clearly established.

**Escarpe Natural Area**

The Escarpment Natural Area includes the forested Escarpment slopes and forested land that extend 300 m (1000 ft.) above the brow. The Escarpment Natural Area does not permit plans of subdivisions or in fact new lots. The intent of this policy is to maintain the most natural Escarpment features.

**Escarpe Protection Area**

Escarpe Protection Areas include the disturbed (cleared) Escarpment slopes. Plans of subdivision and commercial development are not permitted in the Escarpment Protection Area due to the physical and visual disruption on the open landscape character.

To permit development on the Escarpment slopes in the Escarpment Recreation Area would be inconsistent with the application of the purpose and objectives of the Act as applied in the Plan.

**Urban Area**

Forested Escarpment slopes within Urban Areas of the Niagara Escarpment Plan have been designated Escarpment Natural area. The Urban Area Policies of the Plan prevent further encroachment of urban development into the forested Escarpment slopes, even where those slopes are within approved Urban Area boundaries, e.g., City of Hamilton, the City of St. Catharines.

If the intent of the Plan were to protect the Escarpment slope within approved Urban Areas it would be inconsistent to not protect a similar feature in the Escarpment Recreation Area.

**Minor Urban Centres**

The Minor Urban Centres similarly intend to prevent growth and development from extending into Escarpment Natural Areas and Escarpment Protection Areas.
Part 2 Development Criteria

2.12 Recreation

The objective of this criteria is to minimize any adverse impact of recreation development on the Escarpment environment. One of the objectives of the criteria is to ensure that all recreational activities are designed and located ….to be compatible with the natural and cultural character of the Area. Although intensive recreational uses are intended to be concentrated in Escarpment Recreation Areas, the criteria requires that such uses not “exceed the carrying capacity of the site”.

Carrying capacity is defined in the Plan as the capacity of the site to support uses without substantial negative impact on environmental features such as water quality, natural vegetation, soil, wildlife population and visual attractiveness.

These criteria establish that there are further tests to be applied to recreational development that considers the environmental and visual characteristics of the site.

Past Decisions

Since approval of the Niagara Escarpment Plan, the Commission has generally interpreted the Plan to prohibit residential and commercial development on the Escarpment slopes within the Escarpment Recreation designation e.g., Talisman, Blue Mountain. There was one exception. This was the approval of a town house complex on a terrace on the Escarpment slopes in the Devil’s Glen Escarpment Recreation Area. Due to the physical and visual impact on the Escarpment slope, this development serves as a good illustration of the potential negative impacts on the Escarpment landscape. It clearly shows that such development does not reflect the above cited purpose and objective of the Act.

It is staff’s opinion that development should not be permitted on the Escarpment slopes which are defined in the Plan. To attempt to define prominent Escarpment slopes and allow development on the remainder of the Escarpment slopes in the Escarpment Recreation Area would be inconsistent with the way in which the purpose and objectives of the Act have been applied throughout the Plan Area as well as the past interpretation of the provisions of the Escarpment Recreation objectives.

RECOMMENDATION

That the Commission continue to interpret the Escarpment Recreation Development Objective 1 such that the term “prominent” Escarpment slope includes the Escarpment slope from the brow to the toe. This would be consistent with the dictionary definition of “prominent” as “readily noticeable or conspicuously”. (Option 1). To do otherwise would be inconsistent with the purpose and objectives of the Act as implemented throughout the other designations in the Plan.

(It should be noted that the application of the development criteria contained in Part 2 of the Plan applied on a site by site basis may further constrain areas that may be eligible for residential or commercial development.)
APPENDIX B

Prominent Escarpment Slopes Interpretation Criteria

The need for the identification of the prominent Escarpment slope stems from Development Objective 1. of the Escarpment Recreation Area designation of the Niagara Escarpment Plan, which states:

Except for plans of subdivision which have been draft or final approved or for development which is permitted in existing secondary plans on the day this plan was approved, development on prominent Escarpment slopes shall be limited to those recreational facilities such as ski runs, ski lifts, or slides which require the slopes for the proper functioning of the operation.

There is no definition for prominent Escarpment slopes in the Niagara Escarpment Plan. The identification of such slopes is generally undertaken through the Official Plan/Secondary Plan conformity exercise, or through site-specific interpretations. Either way the following procedure is followed:

The following features and conditions are identified:

- Geological brow, slope and toe of the Escarpment.

Definitions:

**Escarpment Brow (edge)** – the uppermost point of the Escarpment slope or face. It may be the top of a rock cliff, or where the bedrock is buried, the most obvious break in slope associated with the underlying bedrock.

**Escarpment Toe (base)** – the lowest point on the Escarpment slope or face determined by the most obvious break in slope associated with the bedrock or landforms overlying the bedrock.

**Escarpment Slope (face)** – the area between the brow and toe of the Escarpment and usually characterized by a steep gradient. Where the rise occurs in the form of a series of steps, the slope also includes the terraces between the steps.

- Geomorphological influences.

- Physical characteristics such as steps / terraces, breaks in slope, degree of slopes.

- Human factors such as existing residential land use, recreational land use (ski trails).

- Visual resource factors such as landscape evaluation, viewshed analysis, scenic qualities.

- Natural resource factors such as how lands contribute to the purpose of the Niagara Escarpment Planning & Development Act:

  To provide for the maintenance of the Niagara Escarpment substantially as a continuous natural environment and to ensure that only such development occurs as is compatible with that natural environment.
1. **North of Talisman Hotel / Amik / Old Smokey Area:**

The toe of the prominent Escarpment slope in this area is the 250 metre contour.

The top of the prominent Escarpment slope is the 405 and 410 metre contour.

References:

- Interpretation regarding a proposed plan of Condominium (G/R/95-96/75)
- Interpretation for Euphrasia Township Official Plan Amendment # 1
- Interpretation for Talisman regarding possible golf course expansion
- Interpretation for development of Old Smokey property

2. **Talisman Resort / Tubing Park Area:**

The toe of the prominent Escarpment slope in this area is the 260 metre contour.

The top of the prominent Escarpment slope is the 405 and 410 metre contour.

References:

- Existing locations of hotel, day lodge, kids club
- Interpretation for horse barn (G/C,L/93-94/125, G/L/96-97/43)

**Talisman Hotel** is located between the 250 & 255 metre contour

**Day Lodge** (G/L/86-87/89) is located between the 250 & 255 metre contour

**Kids Klub** building & parking area (G/L/90-91/407) are located between the 251 & 257 metre contour

**Talisman’s horse barn** and paddock were refused on the slope of the Escarpment at the 268 metre contour. This was considered prominent slope and the horse barn was not a use that required the prominent slope for it’s functioning. The Horse Barn was eventually approved (but never built) at a location south of the main property below the 250 meter contour.

**Talisman’s tubing park:** A Development Permit was issued for tubing runs on the prominent Escarpment slope (G/L/96-97/57) in conformity with Development Objective 1 for the Escarpment Recreation Area.

**A base lodge** (trailer) and parking lot for the Tubing Park was approved for a location below the 260 metre contour (G/L/96-97/61). This interpretation
was based on the Commission’s decision on the Desjardin property (see below).

3. **Desjardin Property**

The toe of the prominent Escarpment slope runs through the Desjardin property at the **260 metre** contour.

Reference:

- *Prominent slope interpretation for Development Permit application G/C/96-97/96.*

The Commission approved the construction of a one storey, 8 unit new building for guest rooms at a location **at or below the 260 metre** contour (G/C/96-97/96).

4. **Iesalniek Property**

The toe of the prominent Escarpment slope is at the **265 metre** contour.

Reference:

- *Development Permit Application (G/R/99-00/197).*

Development of this property was approved by the Commission, below the **265 metre** contour, consistent with the interpretation of the toe of the prominent slope for the Beaver Valley Official Plan, and the location of the base lodge at the Beaver Valley Ski Club.

5. **Beaver Valley Ski Club**

The toe of the prominent Escarpment slope varies across the base of the Beaver Valley Ski Club (BVSC) area. The toe is the **265 metre** contour at the north end of BVSC lands and is maintained south to the base lodge. South of the base lodge, the slope has been interpreted, for mapping purposes, up and around the rear of the existing residential lots to the Euphrasia/Artemesia Townline to acknowledge the existing development on the prominent slope.

References:

- *Existing locations of the base lodge, and residential road*
- *Staff interpretation in response to proposed townhouse development (deferred by BVSC)*

The existing base lodge is at the **265 metre** contour.

The staff recommendation for the toe of the prominent slope for the proposed townhouse location was the **265 metre** contour. (Note: The Staff Report refers to the 270 metre contour, based on maps submitted by the proponent.)
However, these maps are wrong - the OBM maps (attached) show the interpreted toe, and the existing base lodge, at the 265 m contour. The top of the Escarpment slope at the north end of this area is interpreted to follow the rear of the existing residential lots along Windy Lane Drive in Lot 2, Concession 6 at the approximate 405 metre contour. From the most southerly of these residential lots, the top of the prominent Escarpment slope follows the approximate 410 metre contour through the new “ski lift mound” recently constructed to the northerly intersection of Brooke Glade Drive above “Avalanche” ski trail.

From this point, the top of the prominent Escarpment slope is interpreted to follow the rear of the existing, residential lots along Bowles Bluff south to County Road 30. The rear (east) property boundaries of these lots appear to generally follow the significant break in slope of the Escarpment. The contour elevations varies from approximately 400 metre contour at ‘Avalanche’ south to the 390 contour at County Road 30.

6. **Subdivision (Plan 838)**

This subdivision (Plan 838) was dealt with by the NEC in 1983-84, prior to the approval of the Niagara Escarpment Plan. The lots are located on the prominent Escarpment slope. To recognize and identify the existing development, for mapping purposes, the toe of the prominent Escarpment slope was taken to the westerly limit of the subdivision, excluding the ravine/hazard lands.

Reference:

- **Subdivision 42T-83001 (pre 1985 - date of NEP approval)**

7. **South of Subdivision (Plan 838), Lot 24, Concessions 13 & 14, Artemesia**

The toe of the prominent Escarpment slope is the 270 metre contour south to County Road 30 and south of the road into Concession 13.

8. **‘Vandeleur’ Property**

The toe of the prominent Escarpment slope is the 290 metre contour. The top of the prominent Escarpment slope is the 415 metre contour.

Reference:

- **Mapping provided by Vandeleur Ski Club consultants in Development Permit application G/C,L/77/61**
- **Staff air photo analysis**

Development Permit application G/C,L,/77/61 submitted in 1977 by Vandeleur Ski Club, conditionally approved by NEC. Mapping submitted with the
application, prepared by Snow Systems Engineering Corporation, showed the toe and brow of the ‘natural Escarpment feature’. The toe was shown at the 290 metre contour.

**Note:**

The general rise in the elevation of the toe of the prominent slope, from the 250 m contour at the north end of the valley, to the 290 m contour at the south end, is due to the general rise in overall elevation of the valley floor. It is not due to any change in the interpretation of the toe of the prominent Escarpment slope, and it does not rise up the Escarpment feature itself.

9. **Town of The Blue Mountains**

The location of the prominent Escarpment slope has been interpreted/established for various development proposals in the Escarpment Recreation Area in the Town of The Blue Mountains, e.g., Todd Brooker Lodge, Schiff property/Alta subdivision, Castle Glen. Further work has/is being done in conjunction with the Town of the Blue Mountains Official Plan. (See the Staff Report dated March 20, 2003 - OPA # 2 Camperdown on OMB Mediation - Town of The Blue Mountains.)
APPENDIX D

March 20, 2003

POLICY PAPER

RE: INTERPRETATION OF “PROMINENT” ESCARPMENT SLOPES IN THE ESCARPMENT RECREATION AREA

PURPOSE: The purpose of this report is to have the Commission confirm its approach to the identification of "prominent" Escarpment slopes in the Escarpment Recreation Area.

NIAGARA ESCARPMENT PLAN

The Plan states that:

1. "Except for plans of subdivision which have been draft or final approved or for development which is permitted in existing secondary plans on the day this plan was approved, development on prominent Escarpment slopes shall be limited to those recreational facilities such as ski runs, ski lifts or slides which require the slopes for the proper functioning of the operation." (Part 1.8 Development Objectives – Escarpment Recreation Area)

ISSUE

The intent of the Niagara Escarpment Plan's use of the word "prominent" in referring to Escarpment slopes in the Escarpment Recreation Areas.

DISCUSSION

The word 'prominent' is not defined by the Plan.

Escarpment slope is defined in the Plan as:

"the area between the brow and the toe of the Escarpment and usually characterized by a steep gradient. Where the rise occurs in the form of a series of steps, the slope also includes the terraces between the steps."
The Escarpment brow is defined as:

“the upper most point of the Escarpment slope or face. It may be the top of a rock cliff, or where the bedrock is buried, the most obvious break in slope associated with the underlying bedrock.”

The Escarpment toe is defined as:

"the lowest point on the Escarpment slope or face determined by the most obvious break in slope associated with the bedrock or landforms overlying the bedrock."

Two possible interpretations of the intent of the Plan are discussed below. Common dictionary meanings of the word prominent are included.

Option 1   The Prominent Escarpment Slope recognizes the Escarpment slope as a prominent feature as defined by the Plan

This option would rely on the definition in the Plan for Escarpment brow, slope and toe to interpret prominent Escarpment slopes. This interpretation would prohibit residential/commercial development on all Escarpment slopes between the brow and the toe, unless it is an approved/draft approved plan of subdivision, or is permitted by Secondary Plans. Only uses that require the slope to function would be permitted on the Escarpment slope, e.g., ski runs. Under Option 1, prominent slopes would be interpreted to include land that is "widely and popularly known ", "readily noticeable" or "conspicuous"\(^3\) as the Escarpment slope as defined by the Plan.

The Plan's definition for brow and toe inherently address whether the lands are readily noticeable or conspicuously part of the Escarpment slope by the requirement to determine the "most obvious break in slope" associated with either the "uppermost" or "lowest" part of the Escarpment slope. Furthermore, the definition of slope clearly includes the plateaus or terraces on the slope.

Option 2   The Prominent Escarpment Slope is only that part of the Slope that can be seen (e.g., residential, commercial etc.)

This interpretation would permit residential and/or commercial development on all parts of the Escarpment slope that are hidden from view. Those parts of the Escarpment slope that “stand out as to strike the attention” or "are distinguished above others"\(^4\) would not be permitted residential development. This interpretation would suggest that only those parts of the slope that are visually prominent need be protected, maintained or enhanced.

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\(^3\) Webster’s New College Dictionary

\(^4\) Shorter Oxford Dictionary
The following provides an analysis of which option best reflects the purpose and objectives of the Niagara Escarpment Planning and Development Act and the objectives and policies of the Niagara Escarpment Plan (Plan).

ANALYSIS

The following addresses the applicable provisions of the Niagara Escarpment Planning and Development Act and the Plan.

1. The Niagara Escarpment Planning and Development Act (NEPDA)

The purpose of the Niagara Escarpment Planning and Development Act is to:

“provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment.”

The focus of the purpose of the Act is to ensure the continuity of the natural environment of the Niagara Escarpment and to provide for compatible forms of development. The purpose is not visually based.

An interpretation that prominent Escarpment slopes include only those parts of the slope that can be seen would conflict with the above cited purpose of the NEPDA.

2. The Niagara Escarpment Plan

The purpose and objectives of the Act have been translated into the designations and policies of the Plan. In order to apply a consistent interpretation, it is important to consider how the Plan treats the Escarpment slopes in other designations.

Escarpmnt Recreation Areas

The Objective related to ski hills was cited above and only permits development that requires the slope to function on the prominent Escarpment slopes. This recognizes the unique opportunity the Escarpment slopes provide for ski slopes, and the maintenance of this opportunity.

In comparison, in the Escarpment Recreation Area associated with lakeshore cottage areas, new development is not allowed to encroach on the Escarpment Natural Area or Escarpment Protection Areas, a principle supported by the Hearing Officers in the review of the NE Plan (1993).

The Escarpment Natural Area includes the forested Escarpment slope and the Escarpment Protection Area includes the Escarpment slopes that have been cleared of trees, usually for agriculture. Cottage and commercial development are clearly prohibited from encroaching on the designated Escarpment slopes. The distinction for ski areas is intended to acknowledge the unique opportunity
provided by the Escarpment for skiing by allowing such uses to occur on the Escarpment face. The same opportunity is not intended to be extended to the associated residential and commercial uses. These uses are directed to the lands above and below the Escarpment slope. Further, it is not the intent of the Plan to create conflicting policy within the same designation e.g., ski areas and cottage areas.

**Escarpment Natural Area**

The Escarpment Natural Area includes the forested Escarpment slopes and forested land that extend 300 m (1000 ft) back from the brow. The Escarpment Natural Area does not permit plans of subdivisions or in fact new lots. The intent of this policy is to maintain the natural environment on the Escarpment slope and land in its vicinity.

**Escarpment Protection Area**

Escarpment Protection Areas includes disturbed (cleared) Escarpment slopes. Residential plans of subdivision and non-rural commercial development (e.g., golf courses) are not permitted in the Escarpment Protection Area.

**Escarpment Rural Area**

Escarpment Rural Areas include land in the vicinity of the Escarpment and minor Escarpment slopes. Similarly, plans of subdivisions are not permitted.

**Urban Area**

Escarpment slopes within Urban Areas of the Niagara Escarpment Plan have been designated Escarpment Natural Area. The Urban Area policies of the Plan prevent further encroachment of urban development onto the Escarpment slopes. The policy states:

2. New development shall not encroach into the Escarpment Natural or Escarpment Protection Areas.
3. New lots shall not be created to include the Escarpment Natural or Escarpment Protection Area.
4. Lots shall not be enlarged to extend into the Escarpment Natural or Protection Area in order to provide more area for development.

(Section 1.7 Development Objectives)

It would be inconsistent if the Plan were interpreted to treat Escarpment slopes in a different manner within the Escarpment Recreation Area.
Minor Urban Centres

The Minor Urban Centres similarly prevent growth and development from extending into Escarpment Natural Areas and Escarpment Protection Areas. The Plan states:

2. To generally direct the growth of villages, hamlets, and settlement areas away from Escarpment Natural Areas and Escarpment Protection Areas into Escarpment Rural Areas in a logical manner with the least possible environmental and agricultural disruption. (Part 1.6 Objectives)

And,

1. Development and growth, including the creation of new lots, shall not extend into the Escarpment Natural Areas.
2. An exception may be made to include the Escarpment Natural Area within the boundary of a Minor Urban Centre where it is not physically logical to exclude an Escarpment Natural Area from a Minor Urban Centre (e.g., river valley through a village). In this instance the Escarpment Natural Area designation and its policies must be incorporated into the official plan/secondary plan or development proposal.
3. Development and growth should generally not extend into Escarpment Protection Areas but be directed to Escarpment Rural Areas in a manner consistent with Escarpment Rural Area objectives.

(Section 1.6 Development and Growth Objectives)

The philosophy throughout the Plan designations is to protect the natural environment of the Escarpment slopes in keeping with the above-cited provisions of the NEPDA.

To permit development on the Escarpment slopes in the Escarpment Recreation Area exclusively within ski centres would be inconsistent with the application of the purpose and objectives of the NEPDA as applied in the Plan and as demonstrated above.

Past Decisions

Since approval of the Niagara Escarpment Plan, the Commission has generally interpreted the Plan to prohibit residential and commercial development on the Escarpment slopes within the Escarpment Recreation designation e.g., Beaver Valley and Talisman, Blue Mountain Recreation Areas.

The Commission has recently supported the position that the proposed Castle Glen Development Concept conflicts with the Niagara Escarpment Plan. This decision was based, in part, on the interpretation that the proposed residential and golf course development on the face of the Escarpment above Lake of the Clouds and below the brow of the Escarpment conflicted with the Niagara Escarpment Plan. (See attached Figure 1)
The Commission has consistently interpreted the prominent Escarpment slope on the basis of Option 1 and in accordance with the definitions in the Plan (brow, slope, toe).

CONCLUSION

An interpretation that the "prominent" Escarpment slope in the Escarpment Recreation Area includes only those slopes that are visually prominent would:

♦ Conflict with the Purpose of the Niagara Escarpment Planning and Development Act.

♦ Conflict with the Niagara Escarpment Plan's protection of the natural environment of the Escarpment slope in other designations, as well as in the Escarpment Recreation where it applies to cottage development.

♦ Conflict with the objective of the Escarpment Recreation Area designation which is to minimize any adverse effects of recreational activities on the Escarpment environment.

♦ Would be inconsistent with the Commission's interpretation of this provision.

RECOMMENDATION

That the Commission continue to interpret the term “prominent” Escarpment slope in Escarpment Recreation Area to mean the Escarpment slope from the brow to the toe as defined in the Niagara Escarpment Plan, for the following reasons:

a) This interpretation is consistent with purpose of the NEPDA, the Plan, and the notion that the Niagara Escarpment is the prominent feature intended to be protected by the legislation and Plan.

b) This interpretation is consistent with the treatment of the Escarpment slope in all other designations of the Plan including the Escarpment Recreation Area where development (residential, commercial, golf courses) is not permitted.

c) This interpretation is consistent with the objective of the Escarpment Recreation Area “to minimize any adverse effects of recreational activities on the Escarpment environment”.

d) It is consistent with the Commission's past interpretation.

Prepared By _________________ _________________

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