Members Present: D. Alexander, B. Baty, G. Beattie, N. Borodczak, C. T. Cambray, S. Davidson (left at 2:00 pm December 15), J. Downey, A. Elgar, P. Greig (left at 2:00 pm December 15), J. Horner (arrived at 1:50 pm December 14), J. Little, C. Louis, P. McQueen (arrived at 11:15 am December 15), D. Scott, A. VanderBeek.


Regrets: None.

Guests: A. Boyd, Manager, R. Pineo, Niagara Escarpment Program Team Leader, Natural Heritage Land Use Planning Section; E. Kerr, Counsel, Legal Services Branch, MNRF; R. Patrick, President, C.O.N.E.

Meeting called to order: Wednesday, December 14, 2016 at 10:00 a.m.

Chair Don Scott presided.

Conflicts of Interest

None declared.
A

RE: STAFF REPORT
Co-ordinated Land Use Planning Review:
Final Recommendations to the Minister of Natural Resources and Forestry on Policy Revisions to the Niagara Escarpment Plan

BACKGROUND:

The following is a brief chronology of the Ontario government’s process for the Co-ordinated Review of the Growth Plan for the Greater Golden Horseshoe, Greenbelt Plan, Oak Ridges Moraine Conservation Plan and the Niagara Escarpment Plan (Co-ordinated Review):

• **Late 2012:** As the NEP was mandated by the *Niagara Escarpment Planning and Development Act* (NEPDA) to be reviewed in 2015, the Commission gave direction to begin preparation of Discussion Papers with recommended policy and mapping changes to the NEP in key areas.

• **February 2015:** The Co-ordinated Review was launched by the government, with the release of the discussion document “Our Region Our Community Our Home.” Regional town hall meetings were hosted by the government across the Greater Golden Horseshoe and NEP area to facilitate consultation of the discussion document.

• **December 2015:** The Advisory Panel, chaired by David Crombie, presented its recommendations to the government in its report: “Planning for Health, Growth and Prosperity in the Greater Golden Horseshoe: 2015-2041”.

• **May 2016:** The draft NEP was released along with the three other provincial land-use plans.

• **October 2016:** The second round of public consultation concluded.

The involvement of NEC staff in the Co-ordinated Review has included:

• the preparation of 20 Discussion Papers on NEP topics for consideration in the Co-ordinated Review;
• extensive consultation with the Ministry of Natural Resources and Forestry (MNRF) and other government ministries;
• representing the NEC at public meetings and technical briefings;
• hosting NEC-specific open houses; and,
• responding to many inquiries regarding the Co-ordinated Review and the proposed changes to the NEP.
The mandate letter for the Ministry of Municipal Affairs indicates that finalizing the Coordinated Review will be completed by early winter 2017. To align with this timetable, and as the consultation process has concluded and comments have been considered, the Niagara Escarpment Commission (NEC) is making an effort to, as soon as possible, provide final recommendations to the Minister of Natural Resources and Forestry regarding proposed changes to the NEP.

RECOMMENDATION:

That the NEC support the staff recommendations in the attachments to the report and send them to the Minister of Natural Resources and Forestry as the NEC final recommendations on policy changes to the Niagara Escarpment Plan (NEP).

Note: David Ayotte, Director, reviewed the staff report.

P74R1/12-2016

Moved By: Beattie
Seconded By: Horner

“That the Commission accept the staff recommendation.”

At the Request of Commissioner Elgar, the vote was recorded

For the Motion Against the Motion

Alexander
Baty
Beattie
Borodczak
Cambray
Downey
Elgar
Greig
Horner
Little
Louis
McQueen
VanderBeek

Motion Unanimously Carried
SECTION 1

RE: LAND USE DESIGNATION CRITERIA/MAPPING
Escarprment Brow, Wetlands, Mineral Resource Extraction
Outliers, Significant Valleylands and Recreation

The ability to delineate and map areas and apply specific land use designations is a key strength of the NEP. However, the existing NEP land use designation mapping dates to the original 1985 NEP.

The mapping is now out of date and does not accurately reflect the features and areas on the ground today. Proposals for the introduction of new or modified designation criteria and related definitions are being made with the intent to better achieve the objectives of the respective land use designations. Additionally, proposals for the introduction of new or updated designation criteria are being made in order to modernize and align with the other provincial plans and provincial priorities, where appropriate.

Staff provided a summary of the comments that were received regarding the proposed amendments to the land use designation criteria and mapping, including requests for clarification on the methodology and data used, concerns from several municipalities that the changes to the criteria could have financial implications due to the Conservation land tax incentive program, numerous submissions from the aggregate industry stakeholders respecting the ability for new or expanded extraction operations due to the proposed changes to the Escarpment Rural Area, and several site-specific concerns received regarding the land use designations that were proposed in the May 2016 mapping for sites that have been previously subject to site specific amendment approvals. Staff recognized that the mapping would be undergoing further quality control process (in addition to undergoing any further revisions as a result of the Commission’s final recommendations), and that a number of these concerns would be addressed through the quality control process.

ESCARPMENT BROW MAPPING

ISSUE:

What is the appropriate brow to be applied in the mapping of the Escarpment Natural Area Criteria 1 and 2 and Escarpment Protection Area Criteria 1 and 2.

BACKGROUND:

The location of the Escarpment brow (particularly where the brow is buried) has been the subject of debate over the years.

The brow and toe, in turn, define the Escarpment slope which can have a direct bearing on the application of the land use designation criteria for the Escarpment Natural Area and Escarpment Protection Area.
The Escarpment brow that was utilized in the proposed draft land use designation criteria mapping was digitized from mapping produced by the Ministry of Northern Development and Mines (MNDM), and refined using current elevation data as well as other data sources such as Paleozoic geology of Southern Ontario and physiography of Southern Ontario. Comparing the Paleozoic geological formations to the mapped Escarpment brow, the brow aligns in most instances with the Amabel formation.

The 1977 Preliminary Proposals Plan maps included an area defined as “scarp areas”. The Preliminary Proposals stated that the aim was to identify prominent surface slopes and buried portions of the face of the geological Escarpment lands within this area are comprised of either:

1. The most prominent surface slope (from the highest point to the first major break in slope and including, in places, secondary scarps and outliers) related to the Lockport/Amabel, Guelph, Manitoulin or Whirlpool geological formations, or
2. Where the geological formations are buried, weakly defined bedrock-related surface slopes and associated vegetation patterns.

The “scarp areas” as shown on the 1977 Preliminary Proposals maps align, in most instances, with the Escarpment brow (the geological brow), as mapped by the NEC as well as the Amabel formation shown on the Paleozoic geology maps of Southern Ontario. Where the scarp areas differ from the Escarpment brow mapped by the NEC tends to be in the areas where the brow is buried. In those cases the scarp areas tend to follow more closely with Whirlpool, Manitoulin, Cabot Head, Reynales and Fossil Hill geological formations.

**FINAL STAFF RECOMMENDATION:**

To use the “scarp areas” brow as defined in the 1977 Preliminary Proposals mapping in order to map the related land use designation Criteria that rely on the brow and toe.

This brow, in certain locations, was the brow used in the existing land use designation mapping. Note that the “scarp areas” (or “planning brow”) and the geological brow are coincident for the majority of the length of the NEP.

Staff recommends that the NEC work with the Ministry of Natural Resources and Forestry (MNRF) and the MNDM, post Plan Review to explore accurate mapping of the brow for the entire Plan Area.

**DISCUSSION:**

The Commission discussed the CLTIP program and how it needs to be revisited given the concerns of several municipalities.
OUTLIERS

BACKGROUND:

The ability to delineate and map areas and apply specific land use designations is a key strength of the NEP. However, the existing NEP Land Use Designation mapping dates to the original 1985 NEP.

The mapping is now out of date and does not accurately reflect the features and areas on the ground today. Additionally, proposals for the introduction of new or updated Designation Criteria are to modernize and align with the other provincial plans and provincial priorities, where appropriate.

The inclusion of outliers in the interpretation of “Escarpment features” for mapping of land use designations was not consistently applied at the time of the original Plan preparation, for reasons unknown. It should be noted that the Escarpment slopes associated with outliers were generally captured in the Criteria for Escarpment Natural and Protection Areas, but the entire feature and landform was not identified (e.g. the summit or plateau area associated with the outlier).

Using the current NEP definition of “Escarpment related landforms”, as an example, the entire Milton Outlier could have been recognized as an Escarpment related landform. This would mean that it should have either been designated Escarpment Natural Area where the feature was in a relatively natural state or Escarpment Protection Area where the feature has been significantly modified by land use activities. This interpretation was not applied to outliers when the NEP was originally prepared. It may have been because many outliers were not even included within the Niagara Escarpment Planning Area and therefore within the NEP or there was simply inconsistent application of the designation criteria possibly due to data and/or technological limitations.

FINAL STAFF RECOMMENDATION:

Outliers should be recognized as Escarpment related features and included as a Land Use Designation Criteria for the Escarpment Natural Area where the feature is in a relatively natural state, or the Escarpment Protection Area where the feature has been significantly modified by land use activities.

To include outliers in the definition of Escarpment related landforms, as proposed by the Province in the May 2015 draft Plan released for consultation.
For additional clarity and in response to comments received, it is recommended that a definition of outlier be added to Appendix 2, as follows:

**Outliers** – portions or islands of bedrock that lie detached, or out from the main body of the Escarpment, separated by a narrow deep valley, the connecting portion having been removed by erosion. Escarpment outliers may also be attached, in that the valley separating the island (the outlier) and the main body of the Escarpment is not cut down below the basal unit of the Escarpment. Examples of Escarpment outliers include: Milton, Mount Nemo, Caledon, Mono and Star.

**DISCUSSION:**

Staff advised that the outlier definition will be added.

**P74R3/12-2016**

*Moved By:* Elgar  
*Seconded By:* Little

“That the Commission accept the staff recommendation with the additional recommendation to review the methodology used to apply the criterion for detached and attached outliers.”

*Motion Carried*

**WETLANDS**

**BACKGROUND:**

The current language of the Escarpment Natural Area Criterion 4: “most significant Escarpment wetlands” was historically interpreted to mean all wetlands 20 ha in size or greater. Over time, the criterion was also interpreted to mean Provincially Significant Wetlands (psw’s), identified using the criteria recommended by the Province.

The proposed addition of wetlands 5 ha in size or greater to the criterion for Escarpment Natural Area would result in an increase in the Escarpment Natural Area designation.

**FINAL STAFF RECOMMENDATION:**

To include Provincially Significant Wetlands and locally significant wetlands (defined as wetlands 5 ha in size or greater) as a Criterion (4) for the Escarpment Natural Area.

**DISCUSSION:**

Staff answered a few questions regarding the changes to the mapping with regards to wetlands.
**SIGNIFICANT VALLEYLANDS**

**BACKGROUND:**

*Existing Escarpment Natural Area Criterion 4:* The most significant stream valleys and wetlands associated with the Escarpment.

Currently, the “most significant stream valleys” for the purposes of mapping the Escarpment Natural Area criterion 4 are mapped based on the valley having a “significant size”, containing a well-defined valley in the case of streams, and being relatively undisturbed, that is, containing natural vegetation along stream banks or valley, or in wetlands.

Staff reviewed the comments that were received related to the significant valleylands criterion.

Staff reviewed the rationale for the methodology used in mapping significant woodlands, including that the mapping produced by the GIS model is being refined including utilizing current orthophotography.

**FINAL STAFF RECOMMENDATION:**

To support amending Escarpment Natural Area Land Use Designation Criterion 4 as follows:

4. Significant Valleylands and Provincially Significant and locally significant wetlands.

To support adding a definition of Valleylands to Appendix 2, consistent with the PPS (2014) definition.

To map Significant Valleylands using the data sources and methodology described herein.

**DISCUSSION:**

There was discussion about concerns with being in conflict with conservation authorities mapping of Significant Valleylands. Staff addressed the Commissioner’s concerns noting that in most instances the NEC’s draft significant valley lands mapping and the CAs mapping are similar. The municipalities and CAs typically map considerably more valleylands than the NEC has.
ESCARPMENT RURAL AREA

BACKGROUND:

Staff reviewed the rationale for the proposed new Criterion for Escarpment Rural Areas which would be applied going forward (not to current mapping), primarily to former Mineral Resource Extraction Areas as a better fit for the objectives of Escarpment Rural Area when re-designating these rehabilitated sites.

FINAL STAFF RECOMMENDATION:

To include a new Criterion in the Escarpment Rural Area designation as follows:

4. Lands that have significant current or potential for enhanced ecological values through restoration or natural succession processes or due their proximity to other ecologically significant lands (e.g. significant woodlands, wetlands).

ESCARPMENT RECREATION AREA

BACKGROUND:

Escarpment Recreation Areas are areas where substantial recreational development has occurred or been approved, and where further recreational or related development may be concentrated.

The Commission has historically acknowledged that the Escarpment and its associated lakeshore areas are a valuable recreational and economic resource, particularly in the northern section of the Plan Area. When developing the original Criterion for the Recreation Area land use designation, the municipal Official Plans (OPs) were consulted. Where municipal OPs or by-laws establish specific boundaries for these areas, the municipal plan has been used to identify the boundaries.
Proposed NEP Amendment 175 (NEPA 175)- Changes to Recreation Designation and Policies, was initiated in September 2008, with the intent to update and provide clarification of the Escarpment Recreation Area following the preparation of a number of new OPs underlying the designation.

An earlier amendment, NEPA 146, sought to change the Escarpment Recreation Area designation for the Castle Glen secondary planning area in the Town of the Blue Mountains in accordance with the Minutes of Settlement from an Ontario Municipal Board (OMB) hearing.

Proposed NEPA 175 was held in abeyance until the current Plan Review due to several unresolved issues. However, none of the objections received pertain to the proposed amended wording respecting the Designation Criterion.

Additionally, given that the Craigleith Camperdown Secondary Plan no longer exists, the references to the Secondary Plan in the Objectives and Permitted uses of Part 1.8 would have to be deleted and/or replaced as housekeeping items.

**FINAL STAFF RECOMMENDATION:**

That staff further investigate the mapping discrepancies identified in the consultation submissions to ensure consistency with the Ontario Municipal Board decisions.

That "prominent" not be used in conjunction with "Escarpment slope" in Part 1.8.5.6. (Existing NEP makes reference to "prominent" Escarpment slopes.)

**DISCUSSION:**

Land use designations in NEPA 175 and NEPA 146 need to be confirmed through the mapping exercises and ongoing efforts. Staff will reflect the Ontario Municipal Board decisions in the proposed Escarpment Recreation Area designations for the Town of the Blue Mountains.

**P74R7/12-2016**

*Moved By: Louis  
Seconded By: Borodczak*

“That the Commission accept the staff recommendation.”

*Motion Carried*
P74R8/12-2016
Moved By: Little
Seconded By: Elgar

“That the Commission recommend that the CLTIP program be reviewed rather than avoid the updating to the mapping as the existing mapping dates back to the 1985 Plan and no longer represents what is on the ground today. The review of the program would address the concerns of the municipalities with the increase in Escarpment Natural Area.”

Motion Carried

NOTE:
This recommendation arose from the discussion around the additional Escarpment Natural Area based on the updated land use designation criteria and updated data. Municipalities are concerned as this increase in Escarpment Natural Area could have a negative financial impact as a result of the additional lands eligible for the CLTIP. The Commission added this additional recommendation to help address the concerns of the municipalities.

SECTION 3
RECREATIONAL ACTIVITIES IN NEPOSS

BACKGROUND:
There are no policies in the current NEP regarding rock climbing, ropes courses or zip lines in NEPOSS parks, but rock climbing is taking place. Similarly, there are no policies regarding the use of off-road recreational vehicles in NEPOSS.

FINAL STAFF RECOMMENDATION:
Support the proposed policies with respect to rock climbing, ropes courses, zip lines and use of motorized vehicles (off-road/snow vehicles) in NEPOSS with the limitations on types of parks or park zones where these activities may be allowed.

DISCUSSION:
The Commission discussed restrictions on where rock climbing can occur. Staff advised that the park manager has the responsibility for managing the park plan and updating it on a yearly basis. There are parks that do not have a master park plan so ways to encourage the parks that do not have plans were discussed. The benefit to a master park plan is that development permits may not be required once the plan has been approved. This is a strong incentive. Some parks have rock climbing plans but not master plans.
P74R9/12-2016  Moved By:  Louis
Seconded By:  Cambray

“That the Commission accept the staff recommendation.”

Motion Carried

GOLF COURSES

BACKGROUND:

Golf courses and accessory uses are currently permitted in Escarpment Rural Areas (non-prime agriculture or specialty crop areas), Escarpment Recreation Areas and Mineral Resource Extraction Areas. Golf courses in the Escarpment Rural Area may have a small scale restaurant for members and guests. Golf course ponds must be supported by a water budget analysis.

FINAL STAFF RECOMMENDATION:

Delete recreational uses including golf courses in Mineral Resource Extraction Areas since all after uses must be approved through a Plan amendment and through the Plan amendment process, what the appropriate designation for the lands would be determined. If that designation were determined to be Escarpment Rural Area, then a recreational use such as a golf course might be permitted.

No map change is recommended for the golf course that provided comments since it retains its status as an existing use.

Revise the development criteria in Part 2.11 such that recreational uses must take rural services and infrastructure into consideration. Clarify that a golf course may have a restaurant provided that it is not used as a banquet or conference facility.

Support keeping golf courses out of NEPOSS.

DISCUSSION:

A Commissioner asked that the use of pesticides and fertilizers be minimized.

Most of the discussion focused around the exclusion of banquet facilities as this would eliminate wedding receptions which are an integral part of a golf course operation. After much discussion on the issue of wedding receptions being permitted or not permitted and the issues, staff advised that a plan amendment could be initiated by the NEC following the Plan Review relating to recreation with a focus on facilities and trail intensity. The Commission could open the discussion on wedding receptions being a permitted use on golf courses and include provisions in the amendment. The Commission did not have enough time to fully consider the options at this time.
P74R10/12-2016

Moved By: VanderBeek
Seconded By: Downey

“That the Commission accept the staff recommendation with the deletion of the sentence ‘Clarify that a golf course may have a restaurant provided that it is not used as a banquet or conference facility’ from the recommendations.”

Motion Carried

CAMPING

BACKGROUND:

Providing recreational opportunities and public access to the Niagara Escarpment are Objectives of the NEP. Campgrounds and overnight rest areas are defined terms in the NEP. Camping is permitted in the Escarpment Protection Area (un-serviced campsites, day use sites), Escarpment Rural Area (campgrounds), Bruce Trail (overnight rest areas) and in some NEPOSS parks (depending on the park management plan and park classification – campgrounds, tents, cabins).

FINAL STAFF RECOMMENDATION:

The permitted uses in the NEP policies in Part 1 and the recreation development criteria in Part 2.11 and the NEPOSS park classifications in Part 3 should be clarified by adding qualifying language regarding the type of camping activity that might be allowed (serviced/un-serviced, day use/overnight) with appropriate provisions to provide guidance on the intensity of the use. Policies should continue to limit camping opportunities in sensitive natural areas and prohibit them in prime agricultural areas and licensed mineral aggregate operations unless associated with the Bruce Trail.

Specific Permitted Uses:

Escarpment Natural and Protection Areas: un-serviced camping outside prime agricultural areas, overnight rest areas associated with the Bruce Trail;
Escarpment Rural Areas: campground, overnight rest areas associated with the Bruce Trail;
Escarpment Recreation Areas: recreational development, campground, overnight rest areas associated with the Bruce Trail;
Mineral Resource Extraction Areas: overnight rest areas associated with the Bruce Trail.

DISCUSSION:

Staff noted that there needs to be more study of this type of use as there is more interest in different types of camping. Staff advised that in consideration of comments received, that the subject be more fully reviewed following the Plan Review.
It was noted by a Commissioner that the Bruce Trail is at risk for greater intensity of use and staff advised that the Bruce Trail Conservancy would be involved in the review. Another Commissioner felt this needs to be considered a priority by the Commission as parks are stressed. A separate motion was made to make this a priority.

**P74R11/12-2016**

*Moved By: Louis*
*Seconded By: Little*

“That the Commission accept the staff recommendation.”

*Motion Carried*

**P74R12/12-2016**

*Moved By: Downey*
*Seconded By: Greig*

“That the Commission direct staff to undertake policy analysis related to recreational activities on the Niagara Escarpment – on a priority basis within a year of the new Plan – to assess the compatibility of different types of trails.”

*Motion Carried*

**BRUCE TRAIL**

**BACKGROUND:**

Providing recreational opportunities and public access to the Niagara Escarpment are Objectives of the NEP. The Bruce Trail assists to achieve these Objectives. Other types of trails, existing and proposed, are located within the NEP Area and consideration has been given to determining how best to accommodate this type of recreational activity while also achieving the objectives of the NEP to maintain a continuous natural environment. The Bruce Trail corridor, a pedestrian only footpath, trail-related construction, un-serviced overnight rest areas and access points are permitted in every designation in the NEP. Other trails are permitted as follows:

- Escarpment Natural Area: trail activities, non-motorized
- Escarpment Protection, Rural Area: trail uses outside prime ag and specialty crop areas
- Escarpment Recreation Area: snowmobile trails associated with ski centres
- Mineral Resource Extraction Area: trail activities oriented toward the land.

**FINAL STAFF RECOMMENDATION:**

Where a trail is a permitted use, the permitted uses in the NEP policies, should be clarified in each designation as to what type of trail activity would be allowed (pedestrian, bicycle, motorized vehicle, horse, ski) with appropriate development criteria in Part 2.11 and policies in Part 3 to provide guidance on the intensity of the use. Policies should continue to limit trail development and its accessory uses (signs, bridges) in sensitive natural areas.
The development criteria in Part 2.11 relating to trails and the Bruce Trail should set out the relevant policy considerations including environmental impact, trail safety, land use compatibility and amount of infrastructure or site alteration required.

Add cycling as an example of a trail activity in the definition section.

Staff does see a need for further policy analysis with respect to recreational development in the NEP as there was not an opportunity during the Plan Review to address a full range of issues such as intensity of use, servicing, and sustainable recreational development. A further amendment to the NEP could be considered after the Plan Review.

DISCUSSION:

A Commissioner requested that it be clarified that cycling be added but not to the Bruce Trail which is strictly a foot path. The Bruce Trail is important as it links the parks and the Escarpment together. The Commissioner would like it to be clear in the Plan that the Bruce Trail is a “footpath” as this was removed and should remain not only in the definition. The NEPOSS policies should note that the Bruce Trail shall be permitted through the parks and not “may be permitted” as the Bruce Trail is the key feature tying the parks along the Escarpment together. Also, the wording should be changed to reflect that when infrastructure is required, that a suitable alternative “must be” provided. The Commission supported these changes to strengthen the Bruce Trail in the NEP. The Bruce Trail is recognized internationally as being a unique hiking trail and the original plan was developed with the trail featured prominently and therefore the new plan should have wording that acknowledges the importance of the Trail within the NEP Area.

The Commission discussed vehicles being used on trails such as (all-terrain vehicles (ATVs), electric bicycles and snowmobiles. Staff advised that in each designation it should be clear as to the type of activities that would be allowed with more guidance on the activities that would be permitted and the types of uses for different types of trails.

P74R13/12-2016

Moved By: Little
Seconded By: Borodczak

“That the Commission accept the staff recommendation with the following additions to enhance the Bruce Trail in the Niagara Escarpment Plan Area:

1. that Part 2.12 clearly state that the Bruce Trail should be avoided but if it is necessary for infrastructure than a suitable alternative must be provided;
2. that the Bruce Trail be clearly defined as a footpath;
3. that in Part 3.1.5.1.5 the wording be amended from ‘may be identified’ to ‘shall be identified’.”

Motion Carried
Niagara Escarpment Commission Policy Minutes – December 14 and 15, 2016 – P74/12-2016

Broke for Lunch: 1:10 p.m.
Reconvened: 1:50 p.m.

SECTION 2

AGRICULTURE RELATED USES

BACKGROUND:

Agriculture-related use is a new term included in the 2014 PPS. These uses benefit from being on or near farms, and include commercial and industrial uses related to farm operations in the area.

In the existing NEP, similar policies relate to small-scale commercial uses accessory to agriculture (permitted in Escarpment Protection and Rural Areas) and small-scale commercial and industrial development servicing agriculture and the rural community (permitted in Escarpment Rural Areas, in non-prime agricultural areas only).

In the existing NEP, severances may be permitted for small-scale commercial and industrial development servicing agriculture or the rural community in Escarpment Rural Areas (in non-prime agricultural areas only), if the lot creation policies in Part 1 of the NEP are met.

FINAL STAFF RECOMMENDATION:

That agriculture-related uses be permitted in both Escarpment Protection and Rural Areas.

That agriculture-related uses be scaled to lot size, similar to the NEC recommendation for winery policies (i.e., the total area of the agriculture-related use be limited to two percent of the lot, to a maximum of 3200 square metres).

That the minimum lot size for an on-farm agriculture-related use be four hectares, and that a minimum of two hectares be dedicated to the growing of crops or raising of livestock directly associated with the agriculture-related use.

That the maximum floor area for a stand-alone agriculture-related use (i.e., an agriculture-related use that is not located on the same lot as a farming operation) be limited to 500 square metres. The agriculture-related use must be directly related to farming operations in the area.

That outdoor storage associated with the agriculture-related use be limited to 100 square metres.
That abattoirs, stockyards, grain dryers, feed mills, and farm machinery dealerships and repair shops be specifically excluded as permitted agriculture-related uses in Escarpment Protection and Rural Areas.

That farming operations be allowed multiple agriculture-related uses, provided that the lot coverage ratio is not exceeded.

**DISCUSSION:**

The Commission discussed the pros and cons of being specific with the restrictions on the types of agriculture-related uses permitted in the NEP Area. Commissioners noted that scale is an important factor, as are pollutants and noise that some uses produce. Staff suggested adding the phrase “or similar uses” to the list of excluded agriculture-related uses to allow flexibility should new types of agriculture-related uses be proposed that are not appropriate, but are not included in the list of excluded uses.

**P74R14/12-2016**

Moved By: Cambray
Seconded By: Little

“That the Commission accept the staff recommendation including adding the wording ‘and other similar uses’ to the list of excluded agriculture-related uses to allow some flexibility for other uses that have not yet been considered.”

**Motion Carried**

**ON FARM DIVERSIFIED USES**

**BACKGROUND:**

On-farm diversified uses is a new term introduced in PPS 2014 to enable on-farm uses that allow farmers to diversify income, to support the economic viability of farming and thereby protect agriculture and agricultural land.

In the existing NEP, some OFDUs might be permitted as “small-scale commercial and industrial development servicing agriculture and the rural community” in Escarpment Rural Area only. However, these uses are only permitted in non-prime agricultural areas.

**FINAL STAFF RECOMMENDATIONS:**

That on-farm diversified uses be permitted uses in Escarpment Rural and Protection Areas.
That sliding scale size limits be included in the NEP: Staff recommends that any buildings or structures associated with an on-farm diversified uses be limited to two percent of the farm parcel, to a maximum of 3,200 square metres.

That outdoor storage associated with the on-farm diversified use be limited to 100 square metres.

That the following uses not be permitted as on-farm diversified uses: large-scale equipment or vehicle dealerships, hotels, landscape businesses, manufacturing plants, trucking yards, large-scale food processing plants, distribution centres, restaurants, banquet halls, large-scale recurring events with permanent structures, institutional uses, and large-scale recreational facilities such as golf courses, soccer fields, ball diamonds, or arenas.

That farming operations be allowed multiple on-farm diversified uses, provided that lot coverage ratios are not exceeded.

DISCUSSION:

A Commissioner noted that the Commission should be careful not to limit farm operations by going beyond what the Guidelines on Permitted Uses in Ontario’s Prime Agriculture Areas would permit or not permit. Another Commissioner spoke about creating job opportunities in rural areas. Another Commissioner spoke about the limits to events. Staff spoke about the issues of compliance with events that become large-scale recurring events.

There was a discussion again around the problems with listing specific exclusions, when other inappropriate uses could arise that are not included in the list of exclusions. For this reason, it was suggested that “and other similar uses” be added to the list of exclusions.

Staff advised that there was no intention of differentiating between prime and non-prime agricultural lands as to provide opportunities for all farmers. The intention of the May 2016 plan is to provide the opportunity for more flexibility for small scale uses including food services. The Commission also requested that provisions for screening of outdoor storage areas be added to the final recommendations for both on-farm diversified uses and agriculture-related uses.

Dealing with situations on a case by case basis will allow for greater flexibility as it will reduce further limitations.

P74R15/12-2016

Moved By: Cambray
Seconded By: Little

“That the Commission accept the staff recommendation with the inclusion once again of the phrase ‘or other similar uses’ to the list of excluded on-farm diversified uses.”

“That a provision requiring the screening of outdoor storage areas be added to policies for both agriculture-related uses and on-farm diversified uses.”

Motion Carried
WINERIES

BACKGROUND:

Winery policies were introduced to the NEP in 2005 after extensive research and consultation. These policies were intended to support local grape growing and wine production in the Niagara region.

Existing NEP policies include minimum cultivation area for grapes on winery properties as well as sliding-scale size limits for winery facilities to a maximum of 25,000 square feet.

Existing policies also allow for winery incidental uses, including retail sales, limited food service, and educational and historical displays within the winery, with size restrictions.

FINAL STAFF RECOMMENDATION:

That wineries continue to be permitted uses in Escarpment Rural and Protection Areas, as agriculture-related uses. (NB: agriculture-related uses can be located on a farm.)

That minimum lot area for a winery be re-introduced to the NEP, at the four hectare requirement as per the existing NEP.

That a minimum of two hectares be dedicated to growing grapes or other fruit used in the winery operation (except in the case of a crop failure).

That the gross floor area of any winery be limited to two percent of the winery parcel, to a maximum of 3,200 square metres. NB: this would not include the portion of the winery that is underground.

That outdoor storage associated with the agriculture-related use be limited to 100 square metres.

That occasional special events be allowed as accessory uses to a winery.

DISCUSSION:

There were a few questions to staff that were answered by staff. The Commission felt the policies surrounding wineries were appropriate.

P74R16/12-2016

Moved By: Borodczak
Seconded By: Louis

“That the Commission accept the staff recommendation.”

Motion Carried
AGRICULTURAL PURPOSES ONLY LOTS

BACKGROUND:

The existing NEP allows for the creation of “Agricultural Purposes Only” (APO) lots where farm consolidations have resulted in surplus dwellings. Permitted uses on APO lots include existing uses and uses that are accessory or incidental to agricultural.

In the existing NEP, APO lots exclude the following uses: wineries, greenhouse operations, equestrian centres, mushroom farms, and commercial, industrial, institutional, warehousing, office, manufacturing and similar uses.

FINAL STAFF RECOMMENDATION:

That uses on APO lots be limited to agricultural uses and uses that existed before the farm consolidation (i.e., new agriculture-related uses and new on-farm diversified uses cannot be established on APO lots following a farm consolidation).

That policies regarding date of construction and duration of occupancy be deleted.

That policies on APO lots in Parts 2.2 and 2.4 be moved to Part 2.8 – Agriculture to ensure all agricultural policies are in the same part of the NEP.

DISCUSSION:

No comments for this item.

P74R17/12-2016 Moved By: Louis
Seconded By: Baty

“That the Commission accept the staff recommendation.”

Motion Carried

DWELLING UNITS ACCESSORY TO AGRICULTURE

BACKGROUND:

In the existing NEP, dwelling units accessory to agriculture must be mobile or portable, and a Development Permit for such is valid for three years only.

FINAL STAFF RECOMMENDATION:

No substantive policy changes.
DISCUSSION:

It was observed that there seems to be a perception that mobile homes are sub-standard housing. This is not always the case.

P74R18/12-2016

Moved By: Borodczak
Seconded By: Cambray

“That the Commission accept the staff recommendation.”

Motion Carried

SECTION 5

PERFORMANCE MONITORING

BACKGROUND:

The need for monitoring of the effectiveness of the NEP policies was originally identified in the Implementation Proposals (Ministry of Municipal Affairs, 1996), which accompanied the release of the NEP in 1985. The proposals identified that a monitoring system should be established to ensure that the policies in the Plan are implemented and that decisions on proposals are consistent with the objectives and policies of the Plan.

An environmental monitoring program was mandated under the 2005 NEP with an objective to determine whether the policies of the Plan are meeting the goals and objectives of the NEPDA. It was intended that monitoring results would contribute to day-to-day planning decisions, inform NEP amendments and policy reviews and the development of State of the Escarpment Reporting.

The NEC has been working on the monitoring of selected indicators for targeted natural heritage theme areas over a number of years. Monitoring is occurring at the site and landscape levels, and relies on various partnerships for implementation of data collection and analysis.

FINAL STAFF RECOMMENDATION:

Greater collaboration and coordination of performance monitoring indicators and reporting amongst the Provincial Plans is supported.

Further clarification should be made to the proposed Performance Monitoring section respecting the roles and responsibilities of the Implementing Authority and the Province in monitoring and reporting on the effectiveness and implementation of the Plan.
An implementation “task force” should be established once the new Plan is in force in order to guide the framework for performance monitoring and reporting amongst the provincial plans.

DISCUSSION:

The Commission asked that the word “environmental” remain when referring to monitoring as the NEP is an environmental plan. The Commission discussed the issue of monitoring the implementation of growth plans in the NEP area. Staff advised that there were many positive comments received on maintaining the monitoring program.

P74R19/12-2016  
Moved By: Cambray  
Seconded By: Alexander

“That the Commission accept the staff recommendation with the addition of the word ‘environmental’ ahead of the words performance monitoring and the words ‘between and’ ahead of “amongst the provincial plans”, as well as adding the words ‘and agencies responsible for them’ after the words “provincial plans” in the last sentence

Motion Carried

SECTION 4

CULTURAL HERITAGE

BACKGROUND:

The existing NEP acknowledges that there are sites on the Escarpment that may be of interest to First Nation communities, but the language is dated (e.g., refers to “native”) and focuses on burial sites.

Within the context of cultural heritage landscapes, the Escarpment has spiritual meaning for First Nation and Métis communities, and their constitutionally protected rights (e.g., hunting, harvesting) continue to apply in the NEP area. The language of the NEP should be updated to reflect First Nation and Métis interests in protecting the Escarpment.

FINAL STAFF RECOMMENDATION:

That the interests of First Nations and Métis in protection of the cultural heritage of the Escarpment be recognized in the Introduction, Part 1, and Part 2.10 of the NEP, as follows:
Introduction:
“In addition, the region’s cultural heritage, including First Nations and Métis and European presence, is visible on the Escarpment landscape. These resources need to be protected over the long-term to ensure that the connection to our shared past is maintained and that quality of life is not diminished as growth takes place.

Escarpment Natural, Protection, and Rural Area Objectives:
“To conserve cultural heritage resources, including features and areas of interest to First Nations and Métis.”

Part 2.10:
“The objective is to conserve the Escarpment’s cultural heritage resources, including significant built heritage resources, cultural heritage landscapes, and archaeological resources. The interests of First Nation and Métis communities should be considered in conserving cultural heritage resources.”

DISCUSSION:
The Commission had no comments.

P74R20/12-2016
Moved By: Louis
Seconded By: VanderBeek

“That the Commission accept the staff recommendation.”

Motion Carried

Time of Adjournment: Wednesday, December 14, 2016 at 4:10 p.m.
Reconvened: Thursday, December 15, 2016 at 9:30 a.m.

SECTION 7

AGGREGATES (Haul Routes, Perpetual Water Management, Comprehensive Rehabilitation and Definition of Mineral Aggregate Operation)

BACKGROUND:
Mineral resource extraction of more than 20,000 tonnes per year may be permitted in the NEP Area if a plan amendment is approved to change the designation of land for a proposed pit or quarry from Escarpment Rural Area to Mineral Resource Extraction Area (MREA). Specific policy requirements apply to such plan amendments. Specific
development criteria apply to mineral resource extraction in addition to other applicable
development criteria. Once the property is no longer licensed and the licence has been
surrendered, a further plan amendment is required to permit after uses and to re-designate
the property in accordance with the designation criteria and the environmental condition of
the property once rehabilitation is completed. Asphalt, concrete and brick making plants
(or similar manufacturing uses) are not permitted uses in the NEP. Mineral aggregate
operations of less than 20,000 tonnes per year are designated Escarpment Rural Area
(ERA) in the current NEP.

FINAL STAFF RECOMMENDATION:

Development criteria: need to maintain the policy test in Part 2.9.3 such that it applies to
mineral aggregate operations and haul routes as staff would evaluate haul routes only with
respect to the applicable development criteria in the Plan. Need to ensure that the policy in
Part 2.9.3 sets out the requirements for both key natural heritage and key hydrologic
features and other features in the evaluation of mineral aggregate operations.

That the land use designation criterion for Mineral Resource Extraction areas be revised to
be "licenced pits and quarries producing more than 20,000 tonnes annually" An additional
option for greater transparency and clarity would be to put an additional notation on the
mapping for those operations less than 20,000 tonnes that are still designated Escarpment
Rural Area.

Include policy in Part 2.9 for and definition of comprehensive rehabilitation as proposed in

Maintain a distinct definition for mineral aggregate operation since manufacturing after
uses are not permitted in the NEP and using the PPS definition could result in incorrect
policy interpretation and litigation as follows:

“The extraction of mineral aggregate resources from lands under licence or permit, other
than for wayside pits and quarries, issued in accordance with the Aggregate Resources
Act comprising the removal and stockpiling of overburden, the construction of berms and
other site preparation, and the blasting, excavation, crushing, washing, stockpiling and
hauling of mineral aggregate resources from the licensed area, including recycling and
reprocessing of materials originally produced from aggregate on a licensed site while
extraction of aggregate is occurring on the site and the rehabilitation of the licensed area
prior to the surrender of the licence, but not including asphalt plants, concrete plants, brick
manufacturing plants and other similar manufacturing uses."

Clarify policy relating to perpetual water management in Part 2.9.11(j) such that “public
water management needs” is defined or examples are given as to the circumstances
under which this would be allowed (e.g. supporting natural heritage systems, key
hydrologic features, municipal water supplies or private wells).
Revise Part 1.9.5, After Uses to read: “Once a site is no longer licensed pursuant to the Aggregate Resources Act due to licence surrender or revocation or has been abandoned, an amendment to the Niagara Escarpment Plan is required before any after use can be undertaken. The amendment will change the land use designation of the lot from Mineral Resource Extraction Area to a land use designation in consideration of the development criteria, surrounding land uses and environmental characteristics of the lot in accordance with the Plan amendment process in Part 1.2.1”.

Revise Part 1.9.6 to include policy regarding maximum disturbed area as recommended in Discussion Paper 6 as follows:

“The Niagara Escarpment Commission in consultation with the Ministry of Natural Resources and Forestry will determine the maximum allowable disturbed area of each existing mineral aggregate operation.”

DISCUSSION:

The Commission discussed making the smaller operations more visible on the NEP maps. It was recommended that a cross-hatch overlay be used for operations under 20,000 tonnes.

The definition of a mineral aggregate operation should include the exclusions as well to provide clarity and avoid possible negative situations from arising.

Staff agreed that the policies contain a higher level of rehabilitation than previous NEP policies and that the amount of disturbed area will be minimized. A Commissioner noted that rehabilitation could be considered more of an outcome of the licence application process rather than through the policy process.

P74R21/12-2016

Moved By: Louis
Seconded By: VanderBeek

“That the Commission accept the staff recommendation with the inclusion of a cross hatch overlay on the NEP mapping for aggregate operations under 20,000 tonnes.”

Motion Carried

NATURAL HERITAGE

BACKGROUND:

Since the NEP pre-dates the provincial policy direction on provincially significant features (e.g. Significant Woodlands, Significant Wildlife Habitat), the NEP currently has no explicit policy direction with respect to these features, which are defined in the Provincial Policy Statement (PPS, 2014) and recognized as “key” natural heritage features in the Greenbelt Plan and Oak Ridges Moraine Conservation Plan.
The current NEP may be considered deficient since it does not include provisions for the protection of these provincially significant features.

Previous NEP Reviews have not dealt with the matter of significant woodlands as the topic was never made part of the Terms of Reference for the Review.

The current NEP protects natural heritage features beyond that which the province deems “significant”, including policies addressing all wetlands, all wooded areas and all general wildlife habitat, (in addition to species at risk habitat including special concern species and endangered and threatened species habitat).

The NEP (Part 2.8.1) currently has a prohibition of development in the identified habitat of endangered species.

The NEP also currently includes Development Criteria for Forest Management and Development associated with Areas of Natural and Scientific Interest (Life Science and Earth Science).

**FINAL STAFF RECOMMENDATION:**

That the overall Objective for natural heritage should be to protect and where possible enhance natural heritage features and functions in order to maintain the diversity and connectivity of the continuous natural environment. The no negative impact test should be applied specifically in the policies, not in the overall Objective for Natural Heritage.

To support the prohibition of development in key natural heritage features with limited exceptions including:

- single dwelling and accessory facilities (outside wetlands), provided that no negative impacts are demonstrated;
- forest, fisheries and wildlife management;
- conservation and flood or erosion control projects (after all alternatives have been considered);
- Bruce Trail and other hiking trails, boardwalks and docks on lands that are part of the NEPOSS system;
- Essential infrastructure.

To not support an exception for mineral aggregate extraction in key natural heritage features as proposed in policy 2.7.3f).

To support the requirement for a study, where potential for negative impact when development is proposed 120 metres from a key natural heritage feature, and requirement for the study to demonstrate no negative impacts to the feature and its functions, appropriate vpz, and demonstrates that the connectivity between key natural heritage features and key hydrologic features will be maintained, and where possible enhanced for the movement of native plants and animals across the landscape.
To maintain policy provisions for the protection of all “other” (non-key) natural heritage features, requiring that development in other natural features not identified as key natural heritage features should be avoided. Such features should be incorporated into the planning and design of the proposed use, wherever possible, and the impact of the development on the features be minimized.

Complete deferral to the policies of the ESA as the primary test for proposed Part 2.7.6 b), is not supported by staff. Section 24 (3) of the Act requires that an NEP Development Permit be obtained prior to any other permits. The other applicable Development Criteria objectives and policies respecting protection of natural features should be required rather than deferral to the ESA, which is not a land use plan. The ESA requirements would also need to be met, however the land use in these designations should be assessed primarily through the NEP policies first and foremost.

To maintain a policy respecting forest management activities in Life Science ANSIs that are in public ownership or owned by approved conservation organizations, where necessary is only permitted if demonstrated that the activities are being undertaken in order to maintain the values for which the area was acquired, emergency access or to implement uses permitted in approved NEPOSS Master/Mgmt Plans.

To include general Development Criteria respecting cutting of vegetation (in addition to trees).

To include definitions in Appendix 2 for Significant Woodlands, Provincially Significant Wetlands (consistent with the PPS, 2014) and negative impact, with respect to key natural heritage features.

To revise the exception provided in proposed Part 2.7.3 d) hiking trails or boardwalks on parks and open space lands that are in an approved Park and Open Space System Master/Management Plan to: the Bruce trail, and other trails, boardwalks and docks on parks and open space lands that are part of the Parks and Open Space System.

DISCUSSION:

A Commissioner is encouraged that the provincial plans are applying a system based approach. There was a strong recommendation to remove the exception to development in key natural heritage features in proposed Part 2.7 for mineral resource operations.

The Commission inquired about including a definition for development in the NEP. Staff identified that the definition of development is in the NEPDA and that the Act can still be referenced for the definition.

**P74R22/12-2016**

Moved By: Louis
Seconded By: Little

“That the Commission accept the staff recommendations.”

Motion Carried
NATURAL HERITAGE AND AGGREGATE

BACKGROUND:

In evaluating amendment applications to re-designate Escarpment Rural Area to Mineral Resource Extraction Area, the current NEP requires that the protection of the natural environment must be considered, namely, provincially significant wetlands, Provincially significant ANSIs, maintenance and enhancement of the quality and character of natural systems, water supplies (including fish habitat), species at risk and groundwater and surface water systems.

Mineral Resource Extraction operations and associated haul routes must not conflict with the protection of sensitive ecological sites or areas, the protection of surface and groundwater resources, and the preservation of natural landscapes as much as possible.

The current NEP standard for wetlands is a prohibition of development (including aggregate extraction) in all wetlands.

The current NEP standard for the protection of endangered species (Part 2.8.1), is a complete prohibition of development in the identified habitat of endangered species. Currently all development proposed within the identified habitat (which may or may not be the regulated habitat) of an endangered species is prohibited and would require an Amendment to the Plan.

FINAL STAFF RECOMMENDATION:

Do not support proposed Part 2.7.3 f) exception for aggregate extraction from the prohibition of development in key natural heritage features.

Support the prohibition of aggregate extraction in Significant Woodlands (except for those portions that are occupied by young plantation or early successional habitat), and wetlands, at minimum (given most other key natural features are not situated in the Escarpment Rural Area due to the Land Use Designation Criteria).

To add a requirement that aggregate extraction should “avoid” where possible, other natural features (non-key) and be required to demonstrate how all key and not key features and functions will be protected.

DISCUSSION:

Staff noted that it is a positive that there is a policy proposal for no extraction permitted in areas with significant woodlands or wetlands. Staff is confident that most of these have been captured within the appropriate designations with the proposed updated mapping.

The issue of plantations that may grow to be significant woodlands being cut down prior to having the opportunity to develop was discussed. There is a need to maintain the connectivity of features.
Moved By: Horner  
Seconded By: Elgar  

“That the Commission accept the staff recommendations.”  

Motion Carried  

WATER RESOURCES  

BACKGROUND:  

The Act and the Plan currently have an Objective to maintain and enhance the quality and character of natural streams and water supplies including wetlands, groundwater systems, streams and watercourses.  

Current objectives and policies respecting water resources require development to have minimal individual and cumulative effect on water quality and quantity. The NEP currently includes Development Criteria for flood plains, wetland and ponds.  

The NEP Part 2.6 currently provides protection to all wetlands through a prohibition of development in wetlands, regardless of their significance.  

FINAL STAFF RECOMMENDATION:  

The overall Objective for Part 2.6 should be to ensure that hydrologic features and functions including the quality, quantity and character of groundwater and surface water and the local and watershed levels are protected and where possible enhanced.  

Identify key hydrologic features to include permanent and intermittent streams, lakes, seepage areas and springs and wetlands (all wetlands).  

Prohibition on development in key hydrologic features with limited exception provisions including for development of accessory facilities to a single dwelling (outside wetlands) and on existing lot of record, provided disturbance is temporary and minimized, forest, fisheries and wildlife management, conservation and flood and erosion control projects (after all alternatives considered), the Bruce Trail and other trails, boardwalks on lands in the NEPOSS system, essential infrastructure.  

Require that development proposed 120m from a key hydrologic feature that has the potential to result in negative impact must provide a hydrologic evaluation or appropriate study that will be required to demonstrate no negative impacts on the feature or its functions including quality, quantity and character of groundwater and surface water, and the overall water budget for the watershed, and also determine a minimum vegetation protection zone (vpz) required to protect and where possible enhance the feature and its functions (with an exception for new buildings and structures for agricultural uses).
Provision requiring consideration of source protection plans developed under the Clean Water Act.

Prohibition of aggregate extraction in all wetlands (in proposed Part 2.9).

**DISCUSSION**

There were some questions from the Commissioners to staff that were addressed. It was noted that groundwater sources are protected as well as drinking water sources.

**P74R24/12-2016**

*Moved By: Cambray*
*Seconded By: Greig*

“That the Commission accept the staff recommendations.”

*Motion Carried*

**PONDS**

**BACKGROUND:**

Currently farm ponds are permitted as accessory facilities in the Escarpment Natural Area.

In the Escarpment Protection Area both farm and non-farm ponds are permitted as accessory facilities and incidental uses respectively.

Permitted Use 8 in Escarpment Natural Area, and Permitted Use 9 in Escarpment Protection Area are identical, and read as follows:

8/9. Accessory buildings, structures and facilities (e.g., a garage or farm pond), signs, and the site modifications required to accommodate them.

In the Escarpment Protection Area Permitted Use 11 includes ponds as an incidental use, by way of a list of examples as follows:

11. Incidental uses (e.g., swimming pools, tennis courts and ponds) and site modifications required to accommodate them, provided the impact on the environment is minimal.

Permitted Use 9 under Escarpment Natural Area Permitted Uses is similar, but ponds are excluded from the list of examples as follows:

9. Incidental uses (e.g., swimming pools, tennis courts) and site modifications required to accommodate them, provided the impact on the environment is minimal.
Regulation 828/90 Section 10 exempts farm ponds accessory to general agricultural development under certain conditions (e.g. the pond is not located in the Escarpment Natural Area and wetlands and the surface area of the pond cannot be greater than 150 sq. m. etc.). In order for the exemptions to apply, the development must be a Permitted Use by the NEP.

Escarpmnt Rural Area farm ponds are permitted (as accessory facilities), and non-farm ponds are permitted (as incidental uses).

**FINAL STAFF RECOMMENDATION:**

In the Escarpment Natural Area, only Existing farm ponds should be permitted (as existing agricultural uses).

In the Escarpment Protection Area only farm ponds should be permitted (as agriculture-related use).

In the Escarpment Rural Area and Escarpment Recreation Areas: farm ponds (as agricultural uses), should be permitted and non-farm ponds (as accessory uses, not principal uses), should be permitted.

To revise the current policy of Part 2.3.6 Existing Uses which states that the expansion / enlargement of Existing ponds is not permitted unless it is a farm pond and is not located in the Escarpment Natural Area to the following:

*The expansion/enlargement of existing ponds is not permitted in the Escarpment Natural Area.*

This policy would continue to prohibit the enlargement/expansion of Existing ponds in the Escarpment Natural Area.

To maintain the current NEP policies respecting Ponds as a subsection the Water Resource policies including a policy that where permitted, the construction and expansion of ponds shall be designed and located to avoid key natural heritage and key hydrological features.

That the current NEC policy of not permitting stream-fed and on-line ponds and stream-fed bypass ponds is justified but should be strengthened to indicate that ponds shall (rather than should), be designed to be off-line. Consistent with the recommendation to re-instate all pond policies, the current NEP policy respecting the need to maintain or establish natural vegetative buffers should be included.
DISCUSSION:

A Commissioner noted that ponds require specific criteria and has been the case historically and that the current NEP ponds policies have been effective and questioned why they had been removed. Another Commissioner noted that generally non-farm ponds are not essential and pose a threat to ground water seeps and springs and should be avoided in the more sensitive areas. Therefore, the provision requiring construction of ponds off-line should be worded from “should” to “shall”. On-line ponds are too impactful and should not be approved.

**P74R25/12-2016**

Moved By: Louis
Seconded By: Borodczak

“That the Commission accept the staff recommendations.”

Motion Carried

SECTION 6

ESCARPMENT ENVIRONMENT

BACKGROUND:

The existing NEP makes reference to the “Escarpment environment” and defines it as “the physical, natural, visual, and cultural heritage features associated with the Escarpment landscape.”

Its use is intended to ensure that the Escarpment is planned for in a holistic manner by including all of its features in one concept.

FINAL STAFF RECOMMENDATION:

That “Escarpment environment” and “natural environment” be used in a general sense only throughout the Plan, and that the test of no negative impacts on the various components of the Escarpment or natural environment be addressed through policies relating to each component of the Escarpment environment (e.g., physical, natural heritage, scenic and cultural heritage resources).

That “compatibility” should be used when speaking to impacts on the Escarpment environment. Specific features and functions that are part of the Escarpment environment will still be addressed by specific policies, while “compatibility” will still allow for holistic considerations at a landscape level.
P74R26/12-2016
Moved By: Little
Seconded By: Baty

“That the Commission accept the staff recommendations.”

Motion Carried

Broke for Lunch: 12:00 p.m.
Reconvened: 12:30 p.m.

ABBREVIATED MINUTES OF NOVEMBER 17, 2016

The Commission reviewed Minute Item C5 SUB # 9599 regarding the Staff Report on the Review of Bill 39 (*Aggregate Resources and Mining Modernization Act, 2016*) and Minute Item PR1 regarding the Staff Report on the Co-ordinated Land Use Planning Review: Final Recommendations to the Minister of Natural Resources and Forestry on Proposed Additions to the Niagara Escarpment Plan Area.

P74R27/12-2016
Moved By: Louis
Seconded By: Horner

“That the Commission approve Motion M775R4/11-2016 and Motion M775R14/11-2016 relating consecutively to the items listed above from the Niagara Escarpment Commission Minutes M775/11-2016 held on November 17, 2016 in Georgetown.”

Motion Carried

SECTION 8

DEFINITION OF SMALL SCALE

BACKGROUND:

The existing NEP contains several permitted uses that are characterized as “small scale:”

- Small-scale commercial uses accessory to agriculture;
- Small-scale commercial and industrial development servicing agriculture and the rural community;
- Small-scale institutional uses.

“Small scale” is not defined in the existing NEP, but it has been interpreted to mean less than 465 square metres (5,000 square feet) by NEC planners, and this interpretation has been accepted in several tribunal hearings.
FINAL STAFF RECOMMENDATION:

That “small scale” be retained in reference to institutional uses and commercial uses serving the rural community.

That “small scale” be defined in the NEP as 500 square metres in floor area, or less.

DISCUSSION:

Staff advised that most institutional uses should be directed to Urban Areas or Minor Urban Centres where there are other services to complement institutional uses. However, continued allowance for “small-scale” institutional uses does allow for some flexibility in the NEP Area.

P74R28/12-2016  Moved By:    Beattie
                Seconded By:  Cambray

“That the Commission accept the staff recommendations.”

Motion Carried

SMALL-SCALE COMMERCIAL and INDUSTRIAL DEVELOPMENT
(Servicing Agriculture and the Rural Community)

BACKGROUND:

“Small-scale commercial and industrial development servicing agriculture and the rural community” is permitted in the existing NEP, in Escarpment Rural Areas, but not within prime agricultural areas.

FINAL STAFF RECOMMENDATION:

That “small-scale commercial uses serving the rural community” be added as a permitted use in Escarpment Rural Area, in non-prime agricultural areas only.

DISCUSSION:

The Commission discussed the types of businesses that could take place. Staff agreed to monitor the types of uses that are proposed under this policy (if this policy is approved in the final NEP), and that a future amendment could be proposed if it is found to be problematic.
INSTITUTIONAL USES

BACKGROUND:

Small-scale institutional uses are permitted in the existing NEP in Escarpment Protection and Rural Areas, but not in prime agricultural areas. “Small scale” generally has been interpreted to mean less than 465 square metres (5,000 square feet).

FINAL STAFF RECOMMENDATION:

That only small-scale institutional uses be permitted in Escarpment Rural and Protection Areas, outside of prime agricultural areas.

That “cemetery” be removed from the definition of institutional use.

HOME OCCUPATIONS and HOME INDUSTRIES

BACKGROUND:

Home businesses, including home occupations and cottage industries, are permitted in all land use designations in the existing NEP. Home industries are not permitted in Escarpment Natural Area.

In Part 2 of the existing NEP, there are Development Criteria related to home businesses, including size limits and operational restrictions.

FINAL STAFF RECOMMENDATION:

That it be clarified that home industry and home occupation policies are intended to apply to residential properties, and not farming operations. Only one home occupation or industry per lot should be permitted to reduce intensity of use on residential properties.
The maximum allowable area for a home business should be 100 square metres, in accordance with existing NEP policies.

That smaller property maintenance operations be permitted as home industries, but larger-scale landscaping contractor businesses that require storage for heavy equipment and stockpiling of materials should only be permitted as on-farm diversified uses for nursery operations.

That any outdoor storage of goods, materials or equipment be kept to a minimum, and must be subordinate to the residential use of the lot.

DISCUSSION:

There was some discussion to clarify the difference between home businesses, on-farm diversified uses, and agriculture-related uses. It was clarified that a home business on a farm could be considered either an on-farm diversified use (if it is not agriculture related) or an agriculture-related use (if it is related to agriculture).

The issue of landscaping businesses and the problems around those was also discussed. Staff stated that the new policies are a good solution to past problems regarding outdoor storage etc.

P74R31/12-2016 Moved By: Baty
Seconded By: Louis

“That the Commission accept the staff recommendations.”

Motion Carried

TOURIST ACCOMMODATION
(Bed and Breakfasts and Country Inns)

BACKGROUND:

In the existing NEP, bed and breakfast accommodations are permitted in all land use designations in the NEP Area. By definition, they must be owner-occupied and are limited to three guest rooms, which is consistent with the Ontario Fire Code and most municipal by-laws.

In the case of dwellings receiving protection under the Ontario Heritage Act, a bed and breakfast with more than three rooms may be permitted.

Development criteria for bed and breakfasts are contained in Part 2 of the existing NEP.

FINAL STAFF RECOMMENDATION:

That “country inns” be permitted in keeping with the NEC’s original recommendations.
DISCUSSION:

It was clarified that country inns would have a six-room maximum. A Commissioner had questions as to whether youth hostels would be permitted, and noted that hostels are better located in settlement areas, including Minor Urban Centres. The issue of short-term rentals (“Air BnBs”) was brought up as there are currently no policies in place in the NEP to address these, although staff noted that municipal by-laws (e.g., noise) are evolving to address these.

P74R32/12-2016

Moved By: Beattie
Seconded By: Louis

“That the Commission accept the staff recommendation with the addition of the maximum of 6 rooms permitted for a Country Inn.”

Motion Carried

CEMETERIES

BACKGROUND:

Cemeteries are not specifically addressed in the existing NEP, but they are generally understood to be a use that is normally accessory to a religious institutional use.

FINAL STAFF RECOMMENDATION:

That cemeteries be permitted uses in Escarpment Rural Areas (and Urban Areas, Minor Urban Centres, and Escarpment Recreation Areas).

That “cemetery” be removed from the definition of institutional use.

That Development Criteria for cemeteries be added to Part 2 of the NEP to clarify that they are not permitted in prime agricultural areas, and that any cemetery accessory facilities (e.g., mausoleum) must be small scale. Natural heritage Development Criteria will also ensure that cemeteries are not located in key natural heritage features, that they are not permitted in prime agricultural areas, and that any accessory facilities must be small scale.

P74R33/12-2016

Moved By: Beattie
Seconded By: Louis

“That the Commission accept the staff recommendations.”

Motion Carried
SECONDARY DWELLING UNITS

BACKGROUND:

The NEP currently only permits secondary dwelling units in the Escarpment Urban Area, Minor Urban Centre and Escarpment Recreation Areas (off the prominent Escarpment slope), provided the use is permitted within the underlying local municipal Official Plan and/or by-law.

In light of affordable and assisted housing being identified as a matter of provincial interest, and due to the history of requests for these uses being made to the NEC, a policy analysis was undertaken in order to review whether the existing NEP policy framework is sufficiently addressing this evolving and overarching social policy issue, and whether allowing these types of uses in additional Land use Designations would still be in keeping with the Act and the Plan.

FINAL STAFF RECOMMENDATION:

To allow secondary dwelling units as a Permitted Use in the Escarpment Rural Area (and to continue to permit these uses in the Minor Urban Centre and Recreation Areas, subject to Municipal considerations.

To remove secondary dwelling units as a Permitted Use in the Mineral Resource Extraction Area.

To include a maximum size limit of 40 percent of the single dwelling to a maximum of 90 sq. m. (1,000 sq. ft.)

To remove the proposed policy respecting the need to meet municipal standards / requirements, as this will be covered in a General Development Criteria regarding municipal OP policies and where it applies.

To include a definition of secondary dwelling unit in Appendix 2 of the Plan as follows: 
Secondary dwelling unit - a self-contained residential dwelling unit ancillary and subordinate to a primary single dwelling unit, in which food preparation, eating, living, sleeping and sanitary facilities are provided for the exclusive use of the occupants thereof.

Additional Option presented by staff for discussion: To consider also permitting Secondary Dwelling Units in detached accessory structures as well as within a single dwelling or addition to a single dwelling (in the Escarpment Rural Area), with the same maximum size limit of 90 sq. m. (1,000 sq. ft.).
DISCUSSION:

A Commissioner has concerns with servicing and compatibility with the surrounding area. Another Commissioner commented that two residential units on the same lot should not be permitted. Any second dwelling should be subordinate to the primary use and there should be size constraints. Municipalities are currently seeking ways to bring illegal units into compliance. There is a need for more affordable housing in the rural area. The Commission needs to act cautiously.

P74R34/12-2016

Moved By: Davidson
Seconded By: Downey

“That the Commission accept the staff recommendations with the following additions / modifications:

• To permit secondary dwelling units in a detached accessory structure or within a single dwelling or addition to a single dwelling in the Escarpment Rural Area, with a maximum size limit of 90 sq m (1,000 sq ft).
• To ensure severances are not permitted for a lot which contains a detached secondary dwelling unit.

Motion Carried

SECTION 9

EXISTING USES

BACKGROUND:

The NEP currently includes existing uses in the list of Permitted Uses in each designation. Existing use has a specific meaning in the NEP as set out in the definition (primarily uses that existed when the first NEP came into effect in 1985).

Development Criteria in Part 2.3 allow existing uses to change or enlarge under certain circumstances. Proposed changes to the policy would replace the current administrative policy regarding size increases and address the lack of policy guidance on lapsing of existing use status.

NEC experience has been that there has been uneven implementation of the development criteria such that changes of use and significant enlargements of existing uses have been allowed.
FINAL STAFF RECOMMENDATION:

Need to clarify policy tests within Part 2.3 to a more consistent standard relating to the assessment of impact which is recommended to be a no negative impact test and compatibility with surrounding land uses. Support size limit on enlargements of existing uses. Maintain the limitation on agricultural operations and related uses to existing operations in the Escarpment Natural Area as this designation has the most sensitive lands in the Plan Area. There is no basis for providing a different standard for existing mineral aggregate operations.

Reinstate the restriction on existing ponds as it is not provided in the Water Resources policies. The policy should read:

“The expansion/enlargement of existing farm ponds is not permitted in the Escarpment Natural Area.”

Correct the proposed definition of existing use in the NEP such that the conditions under which a use can be considered an existing use are any one of the following, not all of the following:

a) existing on the day of approval of the Niagara Escarpment Plan, June 12, 1985; or
b) approved in accordance with the provisions of the Niagara Escarpment Plan since June 12, 1985; or

c) existing, in an area added to the Niagara Escarpment Plan at the date of the approval of the amendment to this Plan that added the lands to this Plan;

Provided that the existing use has continued without interruption after the effective date as set out in a), b), and c).

P74R35/12-2016  Moved By:  Little
Seconded By:  Louis

“That the Commission accept the staff recommendations.”

Motion Carried

INFRASTRUCTURE

BACKGROUND:

Transportation and utilities development criteria (Part 2.12) renamed to Infrastructure for consistency with other Provincial Plans. Policies introduced to address climate change by encouraging green and sustainable infrastructure where appropriate. No policy in the current NEP with respect to connections to urban services for rural areas.
FINAL STAFF RECOMMENDATION:

Support policy to minimize negative impact of infrastructure on prime agricultural and specialty crop areas and avoid Escarpment Natural Areas and support requirement for Agricultural Impact Assessment. Support limiting urban services to urban areas except under special circumstances (failure of services or public health concern). Support opportunities to maximize green infrastructure.

Cost effectiveness should not be a relevant consideration in evaluating infrastructure proposals given the Purpose and Objectives of the NEP and the role of the NEC (although it may be a relevant consideration in other provincial plans where the implementing authority is the proponent of the proposed infrastructure).

Definition of infrastructure does capture the components in the PPS definition so no change is necessary to the proposed definition.

DISCUSSION:

A Commissioner was disappointed that this was at the end of the day given its importance. The NEP is a provincial plan and is therefore provincially significant.

A Commissioner noted that the wording should be changed from should to “shall avoid natural and prime agricultural areas unless deemed necessary for health reasons or in the public interest”. Staff advised that a plan amendment would be required if servicing is requested that would not meet the policy exception.

P74R36/12-2016

Moved By: Louis
Seconded By: Cambray

“That the Commission accept the staff recommendations with the additional wording changes as requested in 2.12.2 no negative impact, and 2.12.5 provincial significance, and 2.12.2 the wording amended from “should” to “shall”.”

Motion Carried

SECTION 10

CUMULATIVE EFFECTS

Cumulative effect is currently defined in the NEP as: the effect on the Escarpment environment as a result of the incremental impacts of development when considered in conjunction with other past, present and possible future actions, occurring over a period of time and area.
The current NEP includes objectives and policies for the consideration of cumulative effects of development on various components of the Escarpment environment, including natural heritage features, water resources (including development of ponds), and scenic resources.

Cumulative effects/impacts are also currently a major component of the current environmental monitoring framework, with reference in the environmental monitoring provisions that indicators allow analysis of the cumulative response of all parts of the environment in the Plan Area, including ecosystem and landscape components.

**FINAL STAFF RECOMMENDATION:**

To include General Development Criteria in Part 2.2 which appropriately addresses the need to consider the cumulative effects of development on natural heritage and water resources, both at the site and landscape levels as follows:

2.2 General Development Criteria

“the long-term ecological integrity and biodiversity of the Escarpment environment shall be protected, restored and where possible, enhanced having regard to single, multiple or successive development that have or are likely to occur”

Option to include a definition for ecological integrity, similar to that of the ORMCP as follows: ecological integrity, which includes hydrological integrity, means the condition of ecosystems in which,

(a) the structure, composition and function of the ecosystems are unimpaired by stresses from human activity,
(b) natural ecological processes are intact and self-sustaining, and
(c) the ecosystems evolve naturally.

The issue of cumulative impacts of development on scenic resources should be addressed by including it in the definition of “negative impact,” as it relates to scenic resources, as follows:

“in regard to scenic resources, a degradation to the natural scenery and scenic quality due to single, multiple or successive development.”

The Development Criteria in Part 2.6 Water Resources should continue to include provisions for cumulative impacts of development on water quality and quantity, including the current criterion respecting ponds as identified in the ponds policy recommendations.

**DISCUSSION:**

The Commission strongly supports reintroducing the definition of cumulative impact. Cumulative impact is integral to environmental monitoring. The language in 2.2.1.a needs to be revised.
P74R37/12-2016

Moved By:  Louis
Seconded By:  Baty

“That the Commission accept the staff recommendations and reintroduce the definition for cumulative impact and the word development should be ‘developments’ and consider 2.2.1.A.”

The Commission endorsed the staff recommendations, with the following modifications:

General Development Criteria Part 2.2: “The long-term ecological integrity and biodiversity of the Escarpment environment shall be protected, restored and where possible, enhanced having regard to single, multiple or successive developments that have or are likely to occur.”

Motion Carried

SCENIC RESOURCES

BACKGROUND:

One of the objectives of the NEP is “to maintain and enhance the open landscape character of the Niagara Escarpment in so far as possible… by preserving the natural scenery.” The existing NEP does not contain any detailed Development Criteria that support this policy objective.

FINAL STAFF RECOMMENDATION:

That Part 1 of the NEP include development objectives for Minor Urban Centres, Urban Areas, and Escarpment Recreation Areas that address protection of views to the Escarpment, as follows:

“Growth and development in Minor Urban Centres (and Urban Areas and Escarpment Recreation Areas) shall provide for the protection of views to the scenic resources of the Escarpment.”

That the issue of cumulative impacts of development on scenic resources be addressed by including it in the definition of “negative impact,” as it relates to scenic resources, as follows:

“in regard to scenic resources, a degradation to the natural scenery and scenic quality due to single, multiple or successive development,”

and by including a Development Criterion in Part 2.13, as follows:

“Development shall have minimal individual and cumulative effect on the scenic resources of the Escarpment environment, including views to the Escarpment from the public domain.”
That reference to “applicable provincial guidance” is deleted in Part 1.6.8.4. That a policy be added to Part 2.13 to explicitly state that development should be sited and designed to be visually subordinate to the natural scenery of the Escarpment.

DISCUSSION:

Staff noted that the May 2016 draft NEP did not include policies that protect views to the Escarpment in urbanized areas. In the context of urban intensification, views to the Escarpment are increasingly at risk, and should be protected as part of maintaining sense of place and community character.

P74R38/12-2016

Moved By: Little
Seconded By: Elgar

“That the Commission accept the staff recommendations.”

Motion Carried

LANDFORM CONSERVATION

BACKGROUND:

Commercial fill sites are a growing problem in the NEP area. Landowners have been approached by fill brokers looking to dispose of excess fill that is generated by large construction projects. The acceptance of such fill onto a property can be financially lucrative, but there are few controls in place to ensure that the excess fill is not contaminated, or that it will not negatively impact natural drainage or the scenic resources of the Escarpment.

FINAL STAFF RECOMMENDATION:

That the proposed landform conservation policies be endorsed.

DISCUSSION:

Staff noted that the province is also reviewing its policy framework dealing with “excess soil.” As part of the provincial excess soil review, the province is reviewing options for soil. A Commissioner noted that good quality soil needs to be preserved and used to improve agriculture.

P74R39/12-2016

Moved By: Louis
Seconded By: Beattie

“That the Commission accept the staff recommendation.”

Motion Carried
P74R40/12-2016
Moved By: Cambray
Seconded By: Beattie

“That the Commission request the Chair prepare a cover letter for the Minister which should highlight the key areas of the proposed changes to the Niagara Escarpment Plan and restating the Commission’s purpose and objective.”

Motion Carried

DISCUSSION:

The Commission spoke about the importance of launching the new NEP and the need to educate the public and municipalities on why there is a Niagara Escarpment Commission and the important role the NEP plays in maintaining the Escarpment.

Time of Adjournment: Thursday, December 15, 2016, at 3:20 p.m.

Don Scott
Chair