

Niagara Escarpment Commission

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Commission de l'escarpement du Niagara

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Niagara Escarpment Commission
An agency of the Government of Ontario

November 6, 2013

TO: Township of
County of
Ministries
Conservation Authority
Agencies
First Nations
Interested Parties

**RE: NIAGARA ESCARPMENT PLAN AMENDMENT PC 183 10
Wooded Areas & Significant Woodlands**

The Niagara Escarpment Commission at its meeting of September 15, 2010, resolved to circulate the proposed Amendment noted above. Pursuant to Subsection 10 (1), and Section 7 of the *Niagara Escarpment Planning and Development Act* (NEPDA), the Commission invited your comments on this proposed Niagara Escarpment Plan Amendment with a 60 day review period.

Staff has since thoroughly reviewed all of the comments and recommendations received from Escarpment agencies, ministries and stakeholders with an interest in the matter. Modifications to the proposed Amendment have been made in response to the comments received. Additionally, the Provincial Policy Statement (PPS, 2005) review was (and remains) underway, and the draft PPS revisions have been reviewed for any implications to the proposed Amendment.

Although it is not a requirement under the NEPDA to re-circulate this revised proposed Amendment prior to returning to the Commission with a Staff Summary Report and final Recommendations, given that some time has passed since the original circulation the NEC is re-circulating the proposed Amendment, as modified, to those agencies, ministries and stakeholders who have previously submitted comments and/or expressed an interest in the matter, for an **additional review period of 30 days**.

If objections are maintained or additional objections are received regarding this proposed application, which cannot be resolved, the Act provides that the Commission shall appoint a hearing officer for the purpose of conducting a hearing and receiving representations respecting the proposed amendment.

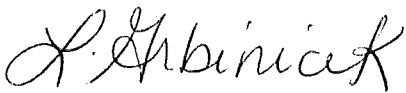
For your reference the original proposed Amendment as circulated in 2010 is attached to the revised proposed 2013 Amendment as "Appendix A".

Please submit your comments on the revised proposed NEPA 183 to the Niagara Escarpment Commission by December 13, 2013. Should comments not be received by that date, the Commission will assume that you have no objections to the application or no further comments.

If you wish to receive further notice of the status of this application, you must submit a written request to the Commission.

For additional information about the proposed amendment, please contact the undersigned at (905) 877-2512 or email at lisa.grbinicek@ontario.ca.

Yours very truly,



Lisa Grbinicek
Senior Strategic Advisor, MCIP, RPP

Enclosure

**PROPOSED AMENDMENT PC 183 10
TO THE NIAGARA ESCARPMENT PLAN**

SIGNIFICANT WOODLANDS

(proposed modifications 2013)

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Part A – The Preamble

Part B – The Amendment

PART A – The Preamble

PURPOSE:

To undertake a general Amendment to the Niagara Escarpment Plan (NEP) to update and provide further clarity to Part 2.7 New Development Within Wooded Areas and to introduce an objective, policies and definitions respecting the identification and protection of Significant Woodlands within the Niagara Escarpment Plan Area.

AREA:

The entire Niagara Escarpment Plan Area (NEPA)

INITIATOR: Niagara Escarpment Commission (NEC)

BASIS:

Under Section 6.1(2) of the *Niagara Escarpment Planning and Development Act* (NEPDA), the NEC may initiate an amendment to the NEP, provided that the NEC is satisfied that the amendment is justified.

The Provincial Policy Statement (PPS) (2005), Greenbelt Plan (GP) and the Oak Ridges Moraine Conservation Plan (ORMCP), all recognize Significant Woodlands as a significant natural heritage feature and include policy provisions for the long-term protection of these features and their ecological functions from negative impacts through development and site alteration.

The Amendment will strengthen and provide clarity to the current policies respecting protection of Escarpment wooded areas in Part 2.7. The Amendment as proposed, builds upon the existing policies of the NEP in a manner that complements the Greenbelt vision, ensuring the NEP is not deficient or outdated. In addition, an amendment to introduce Significant Woodlands policies will ensure that the NEP is consistent with the PPS (2005).

Policies and definitions related to Significant Woodlands introduced in the NEP through the proposed Amendment are consistent with the Purpose and Objectives of the NEPDA and the NEP respecting the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment. The Amendment also supports the objective to protect unique ecologic areas, which includes significant natural areas and features, such as Significant Woodlands, as also recognized by the Province in the natural heritage policies of the PPS (2005).

PART B- The Amendment

Part 1.5 Escarpment Rural Area, Development Policies for Mineral Extraction, sub-section 1 a) is amended by adding the following text:

ix) Significant Woodlands

Part 2.7 New Development Within Wooded Areas is amended by deleting the existing title and re-naming to the following:

2.7 New Development or Site Alteration within Wooded Areas and Significant Woodlands and their Adjacent Lands

Part 2.7 New Development Within Wooded Areas is amended by adding the following text to the Objective:

The objective is to maintain and enhance the ecological health and integrity of wooded areas, ensuring that new development or site alteration preserves as much as possible of wooded areas and impacts are minimized, and where the wooded area is identified as a Significant Woodland, to ensure no negative impacts on Significant Woodlands or their ecological functions.

Part 2.7 New Development Within Wooded Areas is amended by adding the following sub-section heading above 2.7.1:

Wooded Areas

Part 2.7 New Development Within Wooded Areas is amended by adding the following text to existing policy 1:

1. Disturbance of treed areas should be minimized and proposed developments or site alteration within and adjacent to wooded areas shall have site plan agreements or be subject to terms and conditions containing specific management details regarding the protection of existing trees and understory vegetation.

Part 2.7 New Development Within Wooded Areas is amended by adding the following policy:

4. Fragmentation of woodlands shall be avoided and connectivity between woodlands and other natural features and areas (e.g. wetlands, wildlife habitat) shall be maintained and enhanced, wherever possible.

Part 2.7 New Development within Wooded Areas is amended by adding the following new sub-section 2.7.5 through 2.7.8 which shall read:

Significant Woodlands

5. Development or site alteration shall not be permitted within Significant Woodlands unless an Environmental Impact Study or equivalent study is undertaken which demonstrates, to the satisfaction of the Niagara Escarpment Commission in consultation with the applicable planning authorities, that the development or site alteration will result in no negative impacts on the Significant Woodland or its ecological functions.

6. Development or site alteration proposed on adjacent lands to an identified Significant Woodland requires an Environmental Impact Study or equivalent study to be undertaken to the satisfaction of the Niagara Escarpment Commission in consultation with the applicable planning authorities. The Environmental Impact Study or evaluation must demonstrate that there will be no negative impacts of the development or site alteration on the Significant Woodland or on its ecological functions. If determined to be necessary, the Environmental Impact Study or evaluation shall identify appropriate Vegetation Protection Zone which:
 - a) Shall be of sufficient width to protect the Significant Woodland from negative impacts on the feature or its ecological functions from the development or site alteration, and where possible enhance the Significant Woodland and its ecological functions; and.
 - b) Shall be maintained in a natural self-sustaining vegetated state
7. Notwithstanding the above, the following exceptions to 2.7.5 and 2.7.6 apply:
 - a) Forest, fish and wildlife management, as described by, and subject to, all other applicable policies of this Plan.
 - b) Conservation and flood or erosion control projects which have been demonstrated to be essential.
 - c) Existing Agricultural operations as described by, and subject to, all other applicable policies of this Plan.
 - d) The Bruce Trail, as described by, and subject to the applicable Development Criteria in Part 2.16.
 - e) Mineral resource extraction within the extraction area as shown on the site plan of an existing licence issued pursuant to the *Aggregate Resources Act*.
8. Notwithstanding the completion of an Environmental Impact Study or evaluation required under Part. 2.7.5 or 2.7.6 which demonstrates no negative impacts of the proposed development or site alteration on the Significant Woodland or its ecological functions, all objectives and policies of this Plan respecting wooded areas apply including, but not limited to, Parts 2.6, 2.7, 2.8, 2.9 and 2.14.

Part 2.13 Recreation is amended as follows

2.13.8. Trails will be located and designed to avoid wherever possible steep slopes, wetlands, erosion-prone soils, agricultural areas, ecologically sensitive areas such as deer-wintering yards, Significant Woodlands and significant plant and animal habitats and Areas of Natural and Scientific Interest.

The following Definitions are added to Appendix 2:

Adjacent Lands: those lands contiguous to a specific natural heritage feature or area where it is likely that development or site alteration would have a negative impact on the feature or area.

For the purposes of Part 2.7.6, adjacent lands are those lands within a minimum of 120 metres of a Significant Woodland. Site specific evaluations may demonstrate the need for greater Adjacent Land widths to be evaluated.

Ecological Function: the natural processes, products or services that living and non-living environments provide or perform within or between species, ecosystems and landscapes. These may include biological, physical and socio-economic interactions.

Ecological Integrity: means the condition of ecosystems in which the structure, composition and function of the ecosystems are unimpaired by stresses from human activity, natural ecological processes are intact and self-sustaining, and the ecosystems evolve naturally.

Environmental Impact Study (EIS): a technical study prepared by a qualified professional, according to Terms of Reference approved by and carried out to the satisfaction of the Niagara Escarpment Commission, in consultation with other applicable planning authorities, in order to identify natural features and functions within or adjacent to a proposed development or site alteration, and to determine if and to what extent the proposed development or site alteration may reasonably be expected to change the biological and physical characteristics of the natural feature or area. An EIS must assess and provide recommendations as to whether the proposed development should be permitted and how impacts can be avoided and/or mitigated.

Negative Impact: in regard to significant natural heritage features, degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple or successive development or site alteration activities.

Significant Woodland: an area which is ecologically important in terms of features such as species composition, age of trees and stand history; functionally important due to its contribution to the broader landscape because of its location, size or due to the amount of forest cover in the planning area; or economically important due to site quality, species composition, or past management history. In the Niagara Escarpment Plan Area, Significant Woodlands are identified and/or approved by the Niagara Escarpment Commission using existing municipal criteria and definitions approved within an Official Plan and which meet or exceed provincial standards or by the Niagara Escarpment Commission using the most up to date technical criteria recommended by the Ministry of Natural Resources.

Vegetation Protection Zone: A vegetated buffer area surrounding a natural heritage feature or hydrologic feature. The width of the vegetation protection zone is to be determined when new development or site alteration occurs within adjacent lands to a natural heritage feature or hydrologic feature, and is to be of sufficient size to protect the feature and its functions from the impacts of the proposed change and associated development or site alteration that will occur before, during, and after, construction, and where possible, restore or enhance the feature and its functions.

Woodlands: communities of trees, shrubs and ground vegetation that provide a range of ecosystem functions and economic benefits including erosion prevention, hydrological and nutrient cycling, provision of clean air and the long-term storage of carbon, provision of wildlife habitat, outdoor recreational opportunities, as the

sustainable harvest of a wide range of woodland products. Woodlands include treed areas, wooded areas or forested areas.

APPENDIX A

**PROPOSED AMENDMENT PC 183 10
TO THE NIAGARA ESCARPMENT PLAN**

SIGNIFICANT WOODLANDS

(September 15, 2010)

as modified by Commission Resolution September 15, 2010

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Part A – The Preamble

Part B – The Amendment

PART A – The Preamble

PURPOSE:

To undertake a general Amendment to the Niagara Escarpment Plan (NEP) to introduce an objective, policies and definitions respecting the identification and protection of Significant Woodlands within the Niagara Escarpment Plan Area.

AREA:

The entire Niagara Escarpment Plan Area (NEPA)

INITIATOR: Niagara Escarpment Commission (NEC)

BASIS:

Under Section 6.1(2) of the *Niagara Escarpment Planning and Development Act* (NEPDA), the NEC may initiate an amendment to the NEP, provided that the NEC is satisfied that the amendment is justified.

The Provincial Policy Statement (PPS) (2005), Greenbelt Plan (GP) and the Oak Ridges Moraine Conservation Plan (ORMCP), all recognize Significant Woodlands as natural heritage features and include policy provisions for the long-term protection of these features and their ecological functions from negative impacts through development and site alteration.

The Amendment will strengthen and provide clarity to the current policies respecting protection of Escarpment wooded areas while aligning with the GP. The goal of harmonization is to build upon the existing policies of the NEP in a manner that complements the Greenbelt vision, ensuring the NEP is not deficient or outdated. In addition, harmonization will ensure that the NEP is consistent with the PPS (2005).

Policies and definitions related to Significant Woodlands being introduced in the NEP through the proposed Amendment are consistent with the purpose and objectives of the NEPDA and the NEP respecting the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment. The Amendment also supports the objective to protect unique ecologic areas, which includes significant natural areas, such as Significant Woodlands, as recognized by the Province in the natural heritage policies of the PPS (2005).

The proposed Amendment also respects other Provincial legislation such as the GP and the ORMCP. The Amendment will ensure a consistent and coordinated approach to the protection of Significant Woodlands through the various Provincial Plans and legislation.

PART B- The Amendment

Part 1.5 Escarpment Rural Area, Development Policies for Mineral Extraction, sub-section 1 a) is amended by adding the following text:

ix) Significant Woodlands

Part 2.7 New Development Within Wooded Areas is amended by deleting the existing title and re-naming to the following:

2.7 New Development or Site Alteration Within Wooded Areas and Significant Woodlands

Part 2.7 New Development Within Wooded Areas is amended by adding the following text to the Objective:

The objective is to ensure that new development and site alteration preserve as much as possible of wooded areas and protect and maintain Significant Woodlands.

Part 2.7 New Development Within Wooded Areas is amended by adding the following sub-section heading above 2.7.1:

Wooded Areas

Part 2.7 New Development in Wooded Areas is amended by adding the following policy:

4. Fragmentation of wooded areas shall be avoided.

Part 2.7 New Development Within Wooded Areas is amended by adding the following new sub-section 2.7.4 through 2.7.7 which shall read:

Significant Woodlands

4. Development or site alteration shall not be permitted within a Significant Woodland as identified and/or approved by the Niagara Escarpment Commission using the most up to date technical criteria recommended by the Ministry of Natural Resources, in consultation with the municipality, and/or other applicable implementing authorities including the Ministry of Natural Resources and Conservation Authority, unless an Environmental Impact Study is undertaken to assess and recommend whether a development or site alteration should be approved, and under what conditions. Development within a Significant Woodland must not result in negative impacts on the feature or its ecological functions.

Notwithstanding the above, the following exemptions to 2.7.4 apply:

- a) Forest, fish and wildlife management, as described by, and subject to all other appropriate policies and provisions of this Plan.
- b) Conservation and flood or erosion control projects which have been demonstrated to be necessary in the public interest and after all alternatives have been considered.
- c) Expansions to existing agricultural buildings and structures, subject to all other appropriate policies and provisions of this Plan.
- d) A single dwelling and related accessory uses, on an existing lot of record where there is no other reasonable alternative to locate the single dwelling and or accessory use outside the Significant Woodland, subject to an Environmental

Impact Study and all other policies and provisions of this Plan. The Environmental Impact Study must recommend the best possible design and siting of the dwelling and/or accessory use to minimize negative impacts to the extent possible.

- e) The Bruce Trail, as described by, and subject to the appropriate Development Criteria in Part 2.16.
 - f) Transportation and utilities, as described by, and subject to all other appropriate policies and provisions of this Plan.
 - g) Mineral resource extraction within the extraction area as shown on the site plans of an existing licence issued pursuant to the *Aggregate Resources Act*.
- 5) Notwithstanding the completion of an Environmental Impact Study which demonstrates no negative impacts of the proposed development or site alteration on the significant woodland features or ecological functions, all objectives and policies of this Plan respecting wooded areas apply including, but not limited to Parts 2.7, 2.8 and 2.14.
- 6) Development or site alteration proposed within 120 metres of an identified Significant Woodland requires an Environmental Impact Study to be undertaken to the satisfaction of the Niagara Escarpment Commission in consultation with the applicable implementing authorities. The Environmental Impact Study must demonstrate that there will be no negative impacts of the development or site alteration on the Significant Woodland or on its ecological functions, and to identify an appropriate Vegetation Protection Zone which:
- a) Shall be of sufficient width to protect the Significant Woodland from negative impacts on the feature or on its ecological functions during and after the development or site alteration.
 - b) Notwithstanding the exceptions set-out in sub-section 2.7.4, shall be maintained in a natural state.

Part 2.14 Areas of Natural and Scientific Interest (ANSIs) is amended by adding the following text to Section 1:

1. Development shall be directed to locate outside of Provincially Significant and Regionally Significant Life Science ANSIs. Minor encroachments will be considered subject to the Development Criteria in Part 2.7 and in relation to:

The following Definitions are added to Appendix 2:

Adjacent Lands: those lands contiguous to a specific natural area where it is likely that development or site alteration would have a negative impact on the feature or area. For the purposes of Policy 2.7.4, adjacent lands are those lands within a minimum of 120 metres of a Significant Woodland. Site specific evaluations may demonstrate the need for greater Adjacent Lands widths to be evaluated.

Ecological Function: the natural processes, products or services that living and non-living environments provide or perform within or between species, ecosystems and landscapes. These may include biological, physical and socio-economic interactions.

Environmental Impact Study (EIS): a technical study undertaken according to Terms of Reference approved by and carried out to the satisfaction of the Niagara Escarpment Commission, in consultation with other applicable implementing authorities in order to identify natural features and functions within or adjacent to a proposed development or site alteration. An EIS must assess and provide recommendations as to whether the proposed development should be permitted, including assessment of the application in meeting the NEP Development Criteria, potential positive and negative environmental impacts, opportunities for enhancement and impact avoidance, and mitigation measures.

Significant: means in regard to woodlands, an area which is ecologically important in terms of features such as species composition, age of trees and stand history; functionally important due to its contribution to the broader landscape because of its location, size or due to the amount of forest cover in the Niagara Escarpment Plan Area; or economically important due to site quality, species composition, or past management history.

Vegetation Protective Zone: A natural vegetated buffer area surrounding identified significant natural features within which only those land uses permitted within the feature itself are permitted.