

**PROPOSED AMENDMENT PC 201 13
TO THE NIAGARA ESCARPMENT PLAN
NIAGARA ESCARPMENT PLAN AND THE *ENDANGERED
SPECIES ACT, 2007*
(July 17, 2014)**

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PART A – The Preamble

PURPOSE:

To undertake a general amendment to the Niagara Escarpment Plan (NEP) to align, where determined to be appropriate and in keeping with the purpose and objectives of the NEP, the policies and definitions with respect to the protection of Species at Risk (SAR) habitat, with those of the *Endangered Species Act, 2007* (ESA, 2007). To also address a number of related housekeeping matters respecting the definitions and terminology related to wildlife habitat and SAR, in order to ensure standardization with other provincial plans and the PPS, as appropriate, and ensure consistency throughout the Plan.

AREA:

The entire Niagara Escarpment Plan Area

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.

This Amendment reflects the need to align the existing SAR habitat protection provisions of the NEP, with the ESA, 2007, where appropriate and continue to maintain the purpose and objectives of the NEPDA and the NEP. The Amendment will strengthen the current policies with respect to habitat protection for SAR, while maintaining the integrity of those existing NEP policies supporting habitat protection for general wildlife that may not be subject to the provisions of the ESA, 2007.

Policies and definitions related to SAR and SAR habitat being amended in the NEP 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, including the objective to protect unique ecologic areas, which in some cases includes the habitat of endangered and threatened species.

In addition to amendments to the policies of the NEP Part 2.8, and definitions in Appendix 2, the Amendment also includes a number of "housekeeping" modifications related to outdated and inconsistent language throughout the NEP that once revised will reflect updated terminology used in the PPS (2014) and other provincial plans therefore standardizing the terminology. This will allow for consistency in interpretation where this terminology is used and applied.

PART B: THE AMENDMENT

Part 2.8 Wildlife Habitat Objective and Policies are amended to read as follows:

2.8 Wildlife Habitat

The objective is to minimize the impact of development on wildlife habitat and protect the habitat of endangered, threatened, special concern, rare and extirpated species.

1. In the habitat of endangered, threatened and extirpated species:
 - a) Development that will damage or destroy the identified habitat of an endangered or threatened species will not be permitted.
 - b) Development that would damage or destroy the habitat of extirpated species for which a regulation protecting the habitat of that species has been made under the *Endangered Species Act, 2007* will not be permitted, except in accordance with the *Endangered Species Act (2007)*.
 - c) Creation of a new lot or lots shall not be permitted where all or part of the new lot includes the habitat of an endangered or threatened species, except in the following circumstances:
 - i) Land acquisition by a public body for park and open space, or pedestrian trail purposes;
 - ii) Land acquisition by an approved conservation organization;
 - iii) For the purpose of enlarging existing lots;
 - iv) For the purpose of correcting a conveyance as defined by this Plan.
2. Notwithstanding Part 2.8.1, development may be permitted in the following circumstances provided the requirements of the *Endangered Species Act (2007)* are met, in addition to all other requirements of this Plan, to the satisfaction of the NEC:
 - a) Development of a single dwelling and accessory or incidental uses on an existing lot of record.
 - b) Development in the habitat of the following species subject to the following exemption regulations under the *Endangered Species Act, 2007*: O. Reg. 242/08 as amended s. 23.5 (Barn Swallow), 23.6 (Bobolink), 23.7 (Butternut) and 23.8 (Chimney Swift).

- c) Development in an Urban Area, Minor Urban Centre, Escarpment Recreation Area or a Mineral Resource Extraction Area designation, which was designated as of July 17, 2014.
 - d) Development within a park or open space area identified within Appendix 1 of this Plan where such development is authorized under a Master or Management Plan approved in accordance with Part 3 of this Plan as of July 17, 2014.
 - e) Development of a transportation or utility facility where such development is determined to be essential under the policies of this Plan.
 - f) Development where the only purpose of the activity is to assist in the protection and recovery of the species.
3. Where development in wildlife habitat may be permitted, including those developments identified under Part 2.8.2, development shall be designed so as to:
- a) Minimize the impacts upon wildlife habitat, in particular the habitats of endangered, threatened, special concern and rare species, as identified by on-site evaluation;
 - b) Maintain wildlife corridors and linkages with adjacent areas; and
 - c) Enhance wildlife habitat wherever possible.
4. All objectives and policies of this Plan respecting fish habitat including, but not limited to, Part 2.6.14 and Part 2.6.15 Fisheries applies, as well as Part 2.8.1 and Part 2.8.2 if the habitat is habitat of a fish species that is endangered, threatened or extirpated, and Part 2.8.3 if the habitat is habitat of a fish species that is special concern or rare.

Part 1.3 Escarpment Natural Area is amended to read as follows:

Escarpment features which are in relatively natural state and associated stream valleys, wetlands and forests which are relatively undisturbed are included within this designation. These contain important wildlife and fish habitats and geological features and cultural heritage features and are the most significant natural and scenic areas of the Escarpment. The policy aims to maintain these natural areas.

Part 1.5 Escarpment Rural Area, Development Policies for Mineral Extraction, subsection 1 a) ii) is amended to read as follows:

1. a) Protection of the natural and cultural environment, namely:
- ii) habitat of endangered, threatened, special concern and rare species;

Part 2.13.8 Recreation is amended to read as follows:

8. Trails will be located and designed to avoid wherever possible steep slopes, wetlands, erosion prone soils, agricultural areas and ecologically sensitive areas such as deer-wintering yards, wildlife and fish habitat and Areas of Natural and Scientific Interest.

Part 2.16.5 The Bruce Trail is amended to read as follows:

5. All uses within the Trail corridor shall be located and designed, where possible, to avoid steep slopes, wetlands, erosion prone soils and ecologically sensitive areas such as wildlife habitat and fish habitat and sensitive areas within Areas of Natural and Scientific Interest.

Part 3.1.2 Parks and Open Space System Concept is amended to read as follows:

The System, which is linear in nature, is based on public lands acquired to protect distinctive features and significant areas along the Escarpment. Feature areas are waterfalls, distinctive landforms associated with the Escarpment and significant wildlife habitats. Historical and archaeological sites, often found associated with these feature areas, are also incorporated.

Part 3.1.4.1 Recreation and Commercial Uses in Parks and Open Space is amended to read as follows:

Where permitted by the Park Classification, recreation uses in parks and open space, other than in Recreation Parks, shall be incidental or secondary to the protection of land within the park or open space area for public enjoyment and as wildlife habitat and fish habitat. The introduction of intensive uses like downhill ski slopes, golf courses, golf driving ranges, banquet halls, full service restaurants, lodges, hotels, conference centres, retreats, schools, spas and buildings with provision for fully serviced overnight accommodation, as distinct from camping, shall not be permitted. Small scale retail and visitor service facilities may be permitted, especially if developed in conjunction with interpretative displays and information.

The following definitions in Appendix 2 are added, deleted or amended to read as follows:

Endangered Species – Any species listed or categorized as an endangered species on the Ontario Ministry of Natural Resources and Forestry's official Species at Risk List, as updated and amended from time to time.

Rare Species – Any species of wild animal, plant or other organism that is tracked and identified by the Natural Heritage Information Centre of the Ministry of Natural Resources and Forestry as provincially rare, excluding any endangered, threatened, special concern species as defined in this Plan.

Species at Risk in Ontario List (SARO) – the Species at Risk in Ontario List regulation made under the *Endangered Species Act*, 2007, as amended from time to time.

Special Concern Species - Any species listed on the Species at Risk in Ontario List as special concern.

Threatened Species – a species that is listed or categorized as a “threatened species” on the Ontario Ministry of Natural Resources and Forestry’s official Species at Risk List, as updated and amended from time to time.

Wildlife Habitat – means areas where plants, animals and other organisms live, and find adequate amounts of food, water, shelter and space needed to sustain their populations. Specific wildlife habitats of concern may include areas where species concentrate at a vulnerable point in their annual or life cycle; and areas which are important to migratory or non-migratory species.

July 17, 2014

CIRCULATION AND NOTICE

RE: NIAGARA ESCARPMENT PLAN AMENDMENT PC 201 13

**NIAGARA ESCARPMENT COMMISSION (Niagara Escarpment Plan and the
Endangered Species Act, 2007)**

BACKGROUND:

1. Section 7 and 10 (1) of the *Niagara Escarpment Planning and Development Act (NEPDA)* require that the Niagara Escarpment Commission (NEC) furnish each affected ministry and municipality, within or partially within the Niagara Escarpment Planning Area, with a copy of the proposed Amendment to the Niagara Escarpment Plan (NEP) and invite the ministries and municipalities to make comments on the amendment to the Commission.
2. Section 10 (1) (b) of the *NEPDA* requires that notice of the proposed Amendment be published in such newspapers having general circulation in the Niagara Escarpment Planning Area as the Commission considers appropriate.
3. The NEC is also required to post the Amendment on the Environmental Bill of Rights Registry (EBR) for public notice and comment.
4. Although not legislatively required, the NEC as a matter of practice also circulates other public agencies and stakeholders where the Commission believes there may be an interest (e.g., conservation authority).

The notice period under the *NEPDA* is not more than 60 days; however, the NEC may extend the time if in the Commission's opinion additional time for commenting becomes necessary.

PURPOSE:

The purpose of this Report is for the Commission to approve the recommended circulation and notification list for the NEP Amendment PC 201 13

RECOMMENDATION:

That the NEC instruct staff, pursuant to the *NEPDA* to circulate the proposed Amendment to ministries and Escarpment municipalities, provide notice in newspapers and on the NEC web site and have the Amendment posted on the EBR.

Staff will also circulate agencies, and stakeholders who may have an interest or have indicated and interest in the Amendment, including property owners or their agents.

The specified comment period will be 60 days.

Required circulation and notice follows:

1. Municipalities and Ministries

Circulate to affected ministries and the applicable municipalities.

2. Newspapers

Niagara this Week (Niagara)
St. Catharines Standard (Niagara)
Hamilton Spectator (Hamilton-Wentworth)
Georgetown Independent (Halton)
Milton Canadian Champion (Halton)
Caledon Citizen (Peel)
Orangeville Banner (Dufferin/Simcoe)
Collingwood Enterprise-Bulletin (Grey Bruce)
Owen Sound Sun-Times (Grey/Bruce)
Warton Echo (Bruce)

3. Other Public Agencies and Stakeholders

This would include all Conservation Authorities within the NEP Area as well as the Ontario Stone, Sand & Gravel Association, the Bruce Trail Conservancy, Agricultural Federations, etc.

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