

**Revised Niagara Escarpment Plan – Comparison to City of Hamilton Comments from Report PED15078**

Issue Identified	Discussion Paper Options/Change Required	City of Hamilton Preferred Option	Response from Province
Cultural Heritage and Archaeology Terminology Issues	Cultural Heritage Feature (or heritage features)	Replace with cultural heritage resource	Changed to cultural heritage resource in revised NEP.  Staff support this change.
	Cultural landscape	Delete	Cultural landscape term has been removed from revised NEP.  Staff support this change.
	Preservation	Delete (with reference to cultural heritage)	Preservation term has been removed from revised NEP.  Staff support this change.
	Local Heritage Value or Interest	Protected heritage property definition from PPS?	Replaced with PPS 2014 definition of Protected Heritage Property.  Staff support this change.
	Historic features or areas	Replace term with cultural heritage resource	Replaced with PPS 2014 definition of Cultural Heritage Landscape.  Staff support this change.
	Structures of architectural significance	Replace term with cultural heritage resource	Replaced with PPS 2014 definition of Cultural Heritage Landscape.  Staff support this change.
	Heritage Area	Replace with cultural heritage landscape	Replaced with PPS 2014 definition of Cultural Heritage

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			<p>Landscape.</p> <p>Staff support this change.</p>
	Archaeological Resources	Add PPS 2014 Definition to NEP	<p>Added PPS 2014 definition of Archaeological Resources to revised NEP.</p> <p>Staff support this change.</p>
	Areas of Archaeological Potential	Add PPS 2014 Definition to NEP	<p>Added PPS 2014 definition of Areas of Archaeological Potential to revised NEP.</p> <p>Staff support this change.</p>
	Built Heritage Resource	Add PPS 2014 Definition to NEP	<p>Added PPS 2014 definition of Built Heritage Resource to revised NEP.</p> <p>Staff support this change.</p>
	Conserve	Add PPS 2014 Definition to NEP	<p>Added PPS 2014 definition of Conserve to revised NEP.</p> <p>Staff support this change.</p>
	Cultural Heritage Landscape	Add PPS 2014 Definition to NEP	<p>Added PPS 2014 definition of Cultural Heritage Landscape to revised NEP.</p> <p>Staff support this change.</p>
	Cultural Heritage Resources	Add PPS 2014 Definition to NEP	<p>Definition has not been added to revised NEP.</p> <p>Staff had previously noted PPS</p>

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			2014 Definition of Cultural Heritage Resources should be included but as PPS 2014 does not include this definition, staff have no concern with this definition being excluded from revised NEP.
	Cultural Heritage Value or Interest	Add Ministry of Tourism, Culture and Sport (MTCS) Definition to NEP	Added MTCS definition of Cultural Heritage Value or Interest to revised NEP.  Staff support this change.
	Heritage Attributes	Add PPS 2014 Definition to NEP	Added PPS 2014 definition of Heritage Attributes to revised NEP.  Staff support this change.
	Protected Heritage Property	Add PPS 2014 Definition to NEP	Added PPS 2014 definition of Protected Heritage Property to revised NEP.  Staff support this change.
	Significant (with reference to cultural heritage)	Add PPS 2014 Definition to NEP	Added PPS 2014 definition of Significant as it pertains to cultural heritage to revised NEP.  Staff support this change.
	Provincial or National Heritage Value or Interest	Requires definition (i.e. Provincially designated? National Historic Site?)	No definition included as part of revised NEP.  Staff reiterate that this definition

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Identification of Cultural Heritage Landscapes Identified in the NEP	How are Cultural Heritage Landscapes Identified in the NEP? Do new additions to cultural heritage landscapes require an amendment to the NEP?	Make designation criteria for NHLs transparent in the NEP including detailed outline of NHL designation process	<p>may be required.</p> <p>Staff had previously provided example of, 1 Springhill also addressed as 28-30 Highway 8 in Flamborough – and asked if a municipality designated/identified a property located within the NEP as being a CHL, would there be an opportunity to amend/recognize the property in the NEP.</p> <p>Staff note that the revised NEP does not address this issue.</p>
1.6.3 Minor Urban Centre Objectives	To maintain and enhance the cultural heritage features of these settlement areas, municipalities are encouraged to: (a) designate all or parts of them in accordance with the <i>Ontario Heritage Act</i> , and (b) recommend all or parts of them be listed as being of heritage significance in the Niagara Escarpment Plan. In addition the Commission is encouraged to list in the Niagara Escarpment Plan any such areas it feels appropriate.	To maintain and enhance the cultural heritage features of these settlement areas, municipalities are encouraged to: (a) designate all or parts of them in accordance with the <i>Ontario Heritage Act</i> , <b>(b) include all or parts of them in a Municipal Heritage Register in accordance with the Ontario Heritage Act</b> , and (c) recommend all or parts of them be listed as being of heritage significance in the Niagara Escarpment Plan. In addition the Commission is encouraged to list in the Niagara Escarpment Plan any such areas <b>of cultural heritage value or interest(?)</b> it feels appropriate.	<p>Objective changed to: “To <i>conserve the cultural heritage resources</i> in the settlement areas, for which municipalities are encouraged to apply the provisions of the <i>Ontario Heritage Act</i>.”</p> <p>Staff support the change.</p>

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<p>1.7.8 Urban Area Development Objectives</p>	<p>Special attention should be given to the protection and restoration of the former Village of Waterdown now in the City of Hamilton through municipal designation under the <i>Ontario Heritage Act</i>.</p>	<p>Should it be removed from NEP with a formal letter sent to Hamilton to Designate the Village of Waterdown?</p>	<p>Staff had previously noted that this recommendation is oddly specific for a provincial plan and questioned whether it is appropriate place for this recommendation.</p> <p>Objective has been removed from revised NEP and staff support the proposed change.</p>
<p>2.12.4 Heritage</p>	<p>Where new development involves a heritage feature it should express the feature in some way. This may include one or more of the following:</p> <ul style="list-style-type: none"> <li>• Preservation and display of fragments of the former buildings' features and landscaping;</li> <li>• Marking the traces of former locations, shapes and circulation lines;</li> <li>• Displaying graphic verbal descriptions of the former use; or</li> </ul> <p>Reflection of the former architecture and use in the new development.</p>	<p>Consider a more general policy, as there may be interpretation plans that are acceptable, but do not fall into this list.</p>	<p>Objective has been removed from the revised NEP and replaced with a more general objective as follows: “2. Where proposed development is likely to impact <i>cultural heritage resources</i> or areas of archaeological potential, the approval authority will require the proponent to undertake a heritage impact assessment and/or archaeological assessment. The proponent must demonstrate that <i>heritage attributes</i> will be <i>conserved</i> through implementation of proposed mitigative measures and/or alternative development approaches.”</p> <p>Staff support the proposed</p>

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Severance Policy Issue	consider adding policy that would allow for severance of a designated property – given it meets certain criteria (similar to surplus dwelling in Greenbelt)	Allowing severances may prove a more effective way of conserving cultural heritage resources in the NEP	<p>change by the NEC.</p> <p>Staff had previously noted that the concern with allowing for two dwellings on one property is that the older dwelling may be neglected.</p> <p>Staff note that the revised NEP still does not permit the severance of any property subject to a heritage conservation easement agreement.</p>
Mapping			
Mapping Issues (City of Hamilton)	Redesignate 2 sites from Escarpment Rural to Urban – City wide Parks on Jerseyville Road, Ancaster and Olympic Drive Dundas ( <i>Recommendation 26 in the staff report</i> )	n/a	<p>Staff had previously noted that both sites serve the Urban area and are no longer appropriate for inclusion in the rural area.</p> <p>Both properties are currently under consideration for inclusion into the Urban Area by the NEP.</p> <p>No recommendations have been provided yet on the request by the NEP.</p> <p>The properties are identified as with the following Amendment IDs: UA16 for Robert E. Wade Park at 385 Jerseyville Road West and UA18 for 40 and 70</p>

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			Olympic Drive.

**Niagara Escarpment Plan Comments Related to NEC Discussion Papers**

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2 Land Use Designation Criteria	Consistency between NEP, PPS and Greenbelt Plan for natural heritage system	n/a	<p>Clarification of "designated" vs "identified" to describe landscapes that have natural heritage features is required. The correct way of describing lands that have natural heritage features on them is to use the word "identified", not "designated" as designated references land uses, not natural features. The Discussion paper proposes the word "designated" instead of "identifies" for natural heritage features.</p> <p>Natural heritage system policies of NEP need to be harmonized with Greenbelt and PPS</p> <p>To implement the intent of the NEP, it is important that updates address the current policy framework (e.g. Endangered Species Act, Significant Woodlands)</p>	<p>Staff had previously indicated being supportive of the updates to the Niagara Escarpment Plan since it continues to protect natural heritage features and their functions.</p> <p>All natural heritage terms should be defined by PPS and implemented in all Ontario planning documents to ensure consistency. The change requested will ensure consistency between PPS, Greenbelt Plan and NEP.</p> <p>Revised NEP has included PPS 2014 definitions for the following terms related to natural heritage: Areas of Natural and Scientific Interest (ANSI), Hydrologic Function, Significant (as it pertains to woodlands, wetlands and ANSI's), Wetlands, Wildlife Habitat and Woodlands.</p> <p>Staff support this change.</p>
4 Urban Uses	Consistency between Growth	n/a	Intensification policies of the growth plan are impacted by view shed protection	Staff had previously noted 467 Charlton property as an example of where the

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and Urban Designations	Plan and NEP		policies of NEP – causes conflict and may continue to cause conflict unless rectified	<p>policies of the NEC were in conflict with the Growth Plan.</p> <p>Revised NEP has now included new development criteria under policy 2.13 Scenic Resources and Landform Conservation. This policy speaks to the requirement for visual impact to be mitigated and does not speak to how this is rectified when intensification policies of Growth Plan also apply.</p> <p>Staff maintain that this conflict needs to be rectified within revised NEP.</p>
	Section 5.1 – the term “traditional cultural character”	The Discussion paper explains what is meant by this term.	Define the term ‘traditional cultural character’ in the NEP	<p>Staff had previously noted that this term should be defined since it is used in the NEP as a criterion to allow boundary revisions that way implementation is consistent throughout the NEP area.</p> <p>With the revised NEP, the term traditional cultural character is not used and as such staff note that a definition is no longer required.</p>
10 Secondary Dwelling Units and Garden Suites	UHOP conformity issue and definition issue	<p>Option 1: status quo (continue with the existing NEP approach)</p> <p>Option 2: undertake an NEP amendment to introduce more permissive policies respecting secondary dwelling units and garden suites in the NEP escarpment</p>	<p>Options proposed do not apply as the City of Hamilton does not agree (nor permit) secondary dwelling units other than dwelling units associated with a farm operation as a farm labour residence.</p> <p>If NEP does consider allowing secondary</p>	<p>Staff note that secondary dwelling units have now been added to the list of permitted uses in the Escarpment Rural Designation within the revised NEP.</p> <p>Staff had previously provided the following comments which remain</p>



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		<p>rural area designation</p> <p>Option 3: to amend the NEP to permit secondary dwelling units only (not garden suites) in the escarpment rural area designation</p>	<p>dwelling, NEC should also consider changing to allow second dwelling when property is on register but is not formally protected through an easement or designation, and if the proposed new dwelling does not impact any heritage attributes, such as landscape features.</p> <p>Removing properties from the list in Appendix 3 requires an amendment to the NEP – if we allow for listed properties to be considered appropriate for second dwellings we need to remember that being listed (i.e. non designated property on the heritage register) does not provide protection against demolition.</p> <p>What happens if that secondary dwelling is demolished? Are they allowed to build a new dwelling (within the existing footprint)? Or if the two dwelling allowance is revoked does it have to be removed from Appendix 3 thus requiring an amendment to the NEP? (that might be onerous for listed properties)</p> <p>NEP to provide guidance on this scenario.</p>	<p>applicable:</p> <p>The City of Hamilton’s RHOP conflicts with the proposed policy direction from the NEP, as the RHOP does not permit secondary dwelling units within the rural area unless it is part of a temporary farm labour residence (which is a secondary dwelling attached to house or mobile home) as a secondary dwelling unit. RHOP does not allow secondary dwelling units (i.e. duplex dwellings) due to private servicing constraints as well as the policy framework of the Greenbelt Plan. The property owner would need to apply for a Municipal RHOPA in order to permit a secondary dwelling unit.</p> <p>Additionally, the RHOP permits residential care facilities as of right in the rural area. However, the NEP through their dwelling units proposal is using residential care facilities as part of their justification of permitting two family dwellings as of right.</p> <p>Finally, the definition of secondary dwelling unit as proposed by the NEP does require a secondary dwelling unit to be associated with a farming use or</p>

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				<p>part of the principle/existing dwelling. As such interpretations of the definition could be that two homes on the same property are permitted by the definition.</p> <p>If the NEC permits secondary dwellings, the NEC needs to assess the implications. Does this necessarily ensure long-term protection of the cultural heritage resource? Are the potential environmental impacts too great to allow such a provision? If the building for which the property was on the register is damaged to the extent it requires demolition or demolition is approved, does this allow two dwellings on this property as of right?</p> <p>Example:1 Springhill also addressed as 28-30 Highway 8 in Flamborough (Bullocks corners)</p>
12 Existing uses	4.2.1 Objective of Part 2.3	<p>Option 1: objective to encourage existing uses to be brought into conformity with the NEP or to be replaced by permitted uses</p> <p>Option 2: objective is to accommodate existing uses and provide for changes to such uses where determined to be in conformity with the Purpose and Objectives of the NEP, the Objectives of the applicable designation and the relevant Development Criteria, including</p>	Option 1 preferred	<p>Staff note that the objective of Part 2.3 Existing Uses has been changed to the following in the revised NEP:</p> <p>"The objective is generally not to disrupt <i>existing</i> uses and to provide for changes to such uses in conformity with the Purpose and Objectives of the Plan, the Objectives of the applicable land use designation and the relevant</p>

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		compatibility with the natural environment and the surrounding land uses		Development Criteria, including compatibility with the <i>Escarpment environment</i> and the surrounding land uses.”  Staff do not have any concerns with the proposed change.
	4.2.2 Change of Use / Enlargement	<p>Option 1: existing use may change to a similar use or more compatible use only if it can be sufficiently demonstrated that the Objectives of the applicable designation of the NEP are the relevant Development Criteria are met.</p> <p>Option 2: existing use may change to a similar use, a more compatible use or another use only if it can be sufficiently demonstrated that the Objectives of the applicable designation of the NEP and the relevant Development Criteria are met.</p>	Option 1 is preferred	<p>Staff note that the Option 1 has been included through the following policy in the revised NEP:</p> <p>“An <i>existing use</i> may change to a similar use, or a more compatible use only if it can be sufficiently demonstrated that the objectives of the applicable designation of the Niagara Escarpment Plan and the relevant Development Criteria are met.”</p> <p>Staff support this change.</p>
	Expansions and Replacements	<p>Option 1: existing use, building or structure may expand or be replaced on the property where it is located when it can be sufficiently demonstrated that the Objectives of the applicable designation of the NEP and the relevant Development Criteria are met.</p> <p>Option 2: existing use, building or structure may expand or be replaced on the property where it is located when it</p>	Option 1 is preferred	<p>Staff note that the Option 1 has been included through the following policy in the revised NEP:</p> <p>“An <i>existing use</i>, or a building, structure or facility associated with an existing use, may expand or be replaced on the property where it is located, when it can be sufficiently demonstrated that the Objectives of the applicable designation of the Plan are met and there is no</p>

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		can be sufficiently demonstrated that the Objectives of the applicable designation of the NEP are met		negative impact to the Escarpment environment.”  Staff support this change.
	Mitigation Impact Policy Changes	<p>Option 1: where an existing use has a substantial environmental or visual impact, the property owner shall be encouraged to bring it into closer conformity with the Objectives of the applicable designation of the NEP and with the relevant Development Criteria through appropriate mitigation on the property where it is location</p> <p>Option 2: where an existing use has a substantial environmental or visual impact, the property owner shall be encouraged to bring it into closer conformity with the Objectives of the applicable designation of the NEP (e.g. erect a fence around a wrecking yard or install manure storage facilities).</p>	Option 1 is preferred	<p>Staffs preference as indicated through our previous comments was Option 1. However, staff note that Option 2 has been included through the following policy in the revised NEP:</p> <p>“Where an <i>existing use</i> has a substantial <i>negative impact</i> on the <i>Escarpment environment</i>, the property owner shall be encouraged to bring the use into closer conformity with the objectives of the applicable designation of the Niagara Escarpment Plan (e.g., erect a fence around a wrecking yard or install manure storage facilities).”</p> <p>Staff maintain that Option 1 is preferred as it encourages that both the objectives of the applicable designation and relevant Development Criteria to be met through appropriate mitigation.</p>
	Undefined terms (i.e. intensification and minor) being removed from NEP	Option 1: expansion or enlargement of an existing use shall be considered in proportion to the size and scale of the use, building or structure at the time it became an existing use as defined by the Plan, the land use impact and the relevant	Preferred option is that the NEC prepare a guideline to address how expansions/enlargements of existing uses are to be treated	Staff had previously indicated preference that the NEC prepare a guideline to address how expansions/enlargements of existing uses are to be treated. However, staff note that a variation of Option 2 has

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		<p>Development Criteria in Part 2</p> <p>Option 2: expansion or enlargement shall be minor in proportion to the size and scale of the use, building or structure at the time it became a legally existing use as defined by the Plan and shall not result in an intensification of the use.</p>		<p>been included through the following policy in the revised NEP:</p> <p>“An expansion or enlargement of a building, structure or facility associated with an <i>existing use</i> shall be minor in proportion to the size and scale of the use, building or structure, including its related buildings and structures at the time it became an <i>existing use</i> as defined by the Plan. An expansion or enlargement to a building, structure or facility associated with an <i>existing use</i> will be considered minor where the expansion or enlargement is no more than 25 per cent of the original development footprint, unless it can be demonstrated that a greater expansion or enlargement will have minimal <i>negative impact</i> on the <i>Escarpment environment</i>.”</p> <p>Staff had previously noted that having a formal guideline would avoid the need for NEP Amendment, which is a lengthy process. However, with the wording of the proposed policy above there is flexibility in that expansion or enlargement beyond 25 per cent could occur subject to minimal negative impact on the Escarpment environment</p>

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				being demonstrated.  As such, staff have no concerns with the above change.
	Regulation proposed for size of existing uses	<p>Option 1: where an existing use is the subject of an application for a development permit, expansions or enlargements of the existing use including its related buildings or structures and area occupied on the property by the use may be considered up to a cumulative total of 25%. The resulting development must demonstrate compatibility with surrounding uses and conformity with the relevant Development Criteria in Part 2</p> <p>Option 2: adopt the 25% limit as a formal policy rather than add the 25% as a criterion in Part 2.3</p>	<p>Neither option is preferred.</p> <p>The City of Hamilton would prefer if the NEP had formally adopted guidelines regarding expansions/enlargements.</p> <p>Being explicit and clear is preferred.</p>	<p>See comments above.</p> <p>Staffs previous concerns related to the potential for an NEP amendment being required. However and based on the policy above, staff have no concerns.</p>
	Determining length of time for “existing”	<p>Option 1: where it cannot be sufficiently demonstrated that an existing use has been continuously operating up to and including a date within one year prior to the date the application is made for a Development Permit, no development should be permitted based on the status of the use as an existing use. In the case of a seasonal existing use, two years is required.</p> <p>Option 2: where it cannot be sufficiently</p>	Option 1	<p>Staff note that no changes have been made within the revised NEP pertaining to length of time for an existing use.</p> <p>However, the definition of existing use within the revised NEP has been changed to the following:</p> <p>“Existing use: The legal use of any land, building or structure for a purpose that is not otherwise listed as a permitted use provided under the applicable</p>

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		demonstrated that an existing use has been continuously operating for a period of two years, such use will not be considered to have status as an existing use. In the case of a seasonal existing use, three years is required.		<p>designation in the Niagara Escarpment Plan, and that was:</p> <ul style="list-style-type: none"> <li>a) existing on the day of approval of the Niagara Escarpment Plan, June 12, 1985;</li> <li>b) approved in accordance with the provisions of the Niagara Escarpment Plan since June 12, 1985 but prior to the date of any amendment to the Plan under which the use ceased to be a permitted use; or</li> <li>c) existing, in an area added to the Niagara Escarpment Plan at the date of the approval of the amendment to the Plan that added the lands to the Plan; or</li> <li>d) provided that the existing use has continued legally and without interruption after the effective date as set out under a), b), and c)."</li> </ul> <p>Staff support the revised definition and have no further comments in this regard.</p>
	4.2.3 Natural Causes	Option 1: delete the following: "An existing use, building or structure may be rebuilt in the same location, of the same exterior size and use without a NEDP provided other provincial and municipal	Option 1 is preferred	Staff had previously advised that this policy not required as O. Reg. 828/90 already provides for an exemption for the requirement of a Development Permit when reconstruction due to

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		<p>requirements and the provisions of Ontario Regulation 828/90 as amended, are met and in the case of hazard lands, approval is required from the Conservation Authority.”</p> <p>Option 2: Natural Causes An existing use, building or structure may be rebuilt in the same location, of the same exterior size and use without a Niagara Escarpment Development Permit provided other provincial and municipal requirements and the provisions of Ontario Regulation 828/90 as amended, are met and in the case of hazard lands, approval is required from the Conservation Authority.</p>		<p>natural causes.</p> <p>Staff note that the policy has been deleted from the revised NEP and staff support this change.</p>
	4.2.5 Waste Related Facilities	<p>Option 1: On existing waste disposal sites in the Escarpment Natural, Escarpment Protection, Escarpment Rural Areas and Mineral Resource Extraction Area, the following municipal waste related facilities may be permitted without an amendment to the Niagara Escarpment Plan provided it can be demonstrated that the Objectives and Development Criteria of the Niagara Escarpment Plan are met:</p> <ul style="list-style-type: none"> <li>a. Small scale recycling and/or compost facilities, serving the local community;</li> <li>b. Temporary storage of household wastes (paint, etc.) serving the local</li> </ul>	Option 1 preferred	<p>Staff note that the Option 1 has been included through the following policy in the revised NEP:</p> <p>“Existing Waste Related Facilities</p> <p>6.On existing waste disposal sites in the Escarpment Natural, Escarpment Protection, Escarpment Rural Areas and Mineral Resource Extraction Area designations, the following municipal waste-related facilities may be permitted without an amendment to the Plan provided the impact to the Escarpment</p>



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		<p>community;</p> <p>c. Containers and weight scales; and</p> <p>d. Other incidental uses normally associated with the waste disposal site, serving the local community,</p> <p>But not including:</p> <ul style="list-style-type: none"> <li>• Any expansion or alteration to an existing waste disposal site from what has been approved under the Niagara Escarpment Planning and Development Act; and the Environmental Assessment Act (including any expansion in area or height of a landfill or any change in the type of waste material being disposed of, such as a change from non-hazardous solid industrial waste to municipal waste);</li> <li>• Incineration facilities (including energy from waste facilities); and</li> <li>• Large scale packer and/or recycling plants or similar uses.</li> </ul> <p>Notwithstanding the Criterion above, filling and site alteration on the property of an existing operating waste disposal site or an existed closed waste disposal site may be permitted if it is determined that such filling and site alteration is consistent with the Certificate of approval under the Environmental Protection Act or the Environmental Assessment Act or is</p>		<p>environment is minimal and it can be demonstrated that the objectives and development criteria of the Plan are met:</p> <p>a) recycling and/or compost facilities, serving the local community;</p> <p>b) temporary storage of household wastes (paint, etc.) serving the local community;</p> <p>c) containers and weight scales; and</p> <p>d) other accessory uses normally associated with the waste disposal site, serving the local community.</p> <p>But does not include:</p> <p>e) any expansion or alteration to an existing waste disposal site from what has been approved under the Niagara Escarpment Planning and Development Act and the Environmental Protection Act and/or the Environmental Assessment Act (including any expansion in area or height of a landfill or any change in the type of waste material being disposed of, such as a change from non-hazardous solid industrial waste to municipal waste);</p> <p>f) incineration facilities (including energy from waste facilities); and</p> <p>g) packer and/or recycling plants or similar uses.</p>

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		<p>required for site remediation or decommissioning. The fill must be inert or of a quality and condition deemed suitable for the site by the Ministry of the Environment. Where possible such activities will be consistent with maintaining and enhancing the natural scenery and open landscape of the escarpment.</p> <p>Option 2:                      Policy remains generally unchanged except for the replacement of the words “landfill sites” with “waste disposal sites”. A Criterion should still be added to deal with fill and site alteration related to existing waste disposal sites within the Plan.</p>		<p>Notwithstanding the criteria above, land filling on the property of an existing operating waste disposal site or an existing closed waste disposal site may be permitted if it is determined that such filling is consistent with the Environmental Compliance Approvals under the Environmental Protection Act or is required for site remediation or decommissioning. The fill must be inert or of a quality and condition deemed suitable for the site by the Ministry of the Environment and Climate Change. Where possible, such activities will be consistent with maintaining and enhancing the scenic resources of the Escarpment.”</p> <p>Staff support this change.</p>
	<p>4.3 Definition of Existing Use</p>	<p>Option 1: existing use – the legal use of any land, building or structure for a purposes which is not otherwise listed as a permitted use provided under the applicable designation in the Niagara Escarpment Plan, and which was:</p> <ul style="list-style-type: none"> <li>i) Existing on the day of approval of the Niagara Escarpment Plan, June 12, 1985; or</li> <li>ii) Approved in accordance with the</li> </ul>	<p>Option 1</p>	<p>Staff had previously noted that Option 1 is consistent with the Planning Act approach RE: legal non-conforming uses and is the preferred option.</p> <p>Staff note that the Option 1 has been included through revised existing use definition noted above.</p> <p>Staff support this change.</p>

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		<p>provisions of the Niagara Escarpment Plan since June 12, 1985 but prior to the date of any amendment to the Plan under which the use ceased to be a permitted use; or</p> <p>iii) Existing, in an area added to the Niagara Escarpment Plan at the date of the approval of the amendment to the Plan adding the lands to the Plan; and,</p> <p>iv) Provided that the existing use has continued legally and without interruption after the effective date as set out under i), ii) and iii).</p> <p>Option 2: Existing use – the legal use of any land, building or structure for any purposes which is not otherwise a permitted use under the applicable provisions of the Niagara Escarpment Plan and which was:</p> <p>i) Existing on the day of approval of the Niagara Escarpment Plan, June 12, 1985; or</p> <p>ii) Approved in accordance with the provisions of the Niagara Escarpment Plan since June 12, 1985 but prior to the date of any amendment to the Plan under which</p>		

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		<p>the use ceased to be a permitted use; or</p> <p>iii) Existing in an area added to the Niagara Escarpment Plan at the date of the approval of the amendment to the Plan adding the lands to the Plan.</p>		
13 Small Scale Uses	small scale institutional, commercial and industrial uses serving the rural area	<p>Option 1: Consider Group Homes to include retirement homes, but continue to treat them as Residential Uses</p> <p>Option 2: Consider Group Homes (including for-profit retirement homes) as institutional uses</p> <p>Option 3: Adopt Option 2, and change existing use policies</p> <p>Option 4: no change in policy (not recommended)</p>	<p>The City of Hamilton prefers that the NEC prepare formal guidelines for small scale institutional, commercial and industrial uses serving the rural area, that way there is flexibility based on use (i.e. certain uses may require larger buildings) and thereby eliminating NEP amendment if larger than maximum of 25% proposed. Staff advise of the following:</p> <p>Option 1 City of Hamilton permits “small scale residential care facilities” as of right in any single detached dwelling in the rural area (RHOP Policy C.3.1.2 c))</p> <p>Option 2 City of Hamilton permits residential care facilities that are larger in scale only in Rural Designation, subject to rezoning and other conditions.</p>	<p>Staff note that the reference to “small scale” as it pertains to institutional uses has been removed from the Escarpment Rural Area designation policies in the revised NEP.</p> <p>As such, staff have no further comments in this regard.</p>
	5.3.2 Bed & Breakfast Establishment	Option 1: based on Ontario Fire Code restrictions and the predominance of the three-room limit among NEP Area	Option 1 is preferred	Staff note that the Option 1 has been maintained within the revised NEP, which is supported by staff.

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		<p>municipalities, no proposed increase in the number of permitted rooms in a bed and breakfast establishment. This recommendation also takes into account the flexibility afforded to heritage homes in allowing for more than three rooms to encourage preservation of these buildings.</p> <p>Option 2: Align NEP policies more closely with NEP municipality policies by specifying that bed and breakfasts may contain as many rooms as permitted in the local official plan. Note that this may not be a very significant change in policy, since only three municipalities allow more than three rooms in a bed and breakfast establishment. However, it does make policy administration somewhat easier for both the NEC and the municipality but would create an inconsistency in the NEP Area since over time rules could be very different across the NEP. If a municipality limits bed and breakfasts to three rooms, the NEC should continue to permit more than three rooms if the dwelling is of heritage value.</p> <p>Option 3: allow for an additional category for country inns with four to six rooms. Staff proposes that these only be</p>		

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		<p>permitted in Escarpment Rural Areas and to put constraints on country inns to minimize disruption to the Escarpment environment and the rural character of the landscape.</p>		
	<p>Landscaping Businesses</p>	<p>Option 1: landscaping businesses be considered as small-scale industrial uses serving the rural community, be subject to the 5000ft<sup>2</sup> standard, as well as the limitation that they locate on non-prime agricultural and non-specialty crop lands in the Escarpment Rural Area. Under this category of permitted uses, landscaping businesses would still be required to prove that they serve the rural community, which can be problematic in terms of on-going monitoring for compliance.</p> <p>Option 2: Landscaping businesses be considered as home businesses and would therefore be subject to the policies of Part 2.2.10 of the NEP. As such, the business would need to remain subordinate to the primary residential or agricultural use of the property. They would not be limited to serving the local rural area. These businesses would be excluded from the agricultural definitions in the Plan.</p> <p>Option 3: exclude new landscaping businesses from the NEP since in many</p>	<p>City of Hamilton staff prefers that a formalized guideline for landscaping business be provided instead of choosing one of the three options put forward for landscaping businesses.</p> <p>The City of Hamilton is proposing to allow landscape contracting establishments in the rural area as secondary use to a nursery operation.</p>	<p>Staff note that it is unclear whether landscaping businesses have been excluded as being permitted in the NEP or are considered small-scale industrial uses or a home business. This should be clarified by the NEC.</p> <p>In addition, if this is a permitted use within the revised NEP, staff maintain the preference that a formalized guideline for landscaping business be prepared.</p> <p>As part of our previous comments staff had indicated that as part of the City of Hamilton’s Rural Zoning By-law (currently under appeal at the OMB), the policies of the RHOP are being implemented. Accordingly, while agricultural is a permitted use, the zoning by-law can allow for some additional secondary uses to agriculture. As such landscape contracting establishments are proposed to be permitted as a secondary to a specific agricultural use, being a nursery</p>

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		respects such uses are industrial in nature and should be operated out of urban commercial or industrial parks.		operation, and the size of the landscape contracting establishment is proposed to be restricted to ensure that the use remains secondary to the primary agricultural use.