

Niagara Escarpment Commission Commission de l'escarpement du Niagara

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July 9, 2018

To: All municipalities within the Niagara Escarpment Plan Area
Ontario Ministry of Agriculture, Food and Rural Affairs
Wine Council of Ontario
Ontario Federation of Agriculture
Christian Farmers Federation of Ontario
National Farmers Union of Ontario

From: Russ Powers
Chair, Niagara Escarpment Commission

Re: Niagara Escarpment Plan Agricultural Policies

At its April 19, 2018 meeting, the Niagara Escarpment Commission (NEC) received a staff report that responded to a Commission motion directing staff to investigate how the Niagara Escarpment Plan (NEP) could address several agriculture-related issues including rural density transfer, farm labour housing, farm second dwellings, farm succession planning, agricultural labour shortages, and any other issues that are applicable to NEC involvement with agricultural lands.

The Commission directed staff to share the report with all lower and upper-tier municipalities in the NEP Area, as well as relevant agricultural stakeholder groups and the Ontario Ministry of Agriculture, Food and Rural Affairs.

The report provides context for how agriculture is supported through NEP policies, most notably that compatible farming can support the overall Purpose of the NEP, which is "to provide for the maintenance of the Niagara Escarpment and lands in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment."

In an addendum report, the need for an amendment to the NEP to accommodate the policies of the Agricultural System for the Greater Golden Horseshoe was explored. NEC staff concluded that the policies in the 2017 NEP are supportive of the Agricultural System approach, and that no further amendment to the NEP is necessary at this time. Both the staff report and addendum report were endorsed by the Commission.

Should you require additional information, please contact Kim Peters, Senior Strategic Advisor at the NEC, at kim.peters@ontario.ca, or 905-877-6425.

Sincerely,

R.F. (Russ) Powers
Chair

Encl.

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April 18, 2018

STAFF REPORT

Addendum:

The Niagara Escarpment Plan and Provincial Agricultural Policy

BACKGROUND

In the accompanying policy report, *The Niagara Escarpment Plan and Provincial Agricultural Policy*, staff committed to providing an assessment of the impact of provincial “Agricultural System” policies once the finalized policies and implementation procedures were made available. On February 9th, the finalized [Implementation Procedures for the Agricultural System in Ontario’s Greater Golden Horseshoe](#) document was released, along with Agricultural System mapping and a map-based Internet portal that includes agri-food network information such as crop production densities, transportation infrastructure and drainage, and food processing businesses.

When the Implementation Procedures were still in draft form, the Niagara Escarpment Commission (NEC) provided comments to OMAFRA noting that one of the objectives of the Niagara Escarpment Plan (NEP) is to maintain the open landscape character of the Niagara Escarpment by such means as compatible farming, and that not all agriculture and agriculture-related uses are consistent with this objective. Nevertheless, the 2017 revisions to the NEP included policies that support the agricultural system approach, but the unique Purpose and Objectives of the NEP required that these policies be viewed through the lens of protecting the Escarpment environment and maintaining the Escarpment’s natural scenery and open landscape character.

This report will review the applicability of the Agricultural System in the NEP Area, including an examination of the existing Agricultural System policies in the NEP, the role of the NEC in implementation of the Agricultural System, and an assessment of the need for an NEP amendment to accommodate the agricultural system approach. Based on this review, it is staff’s position that an amendment to the NEP is not required to comply with the new Agricultural System Implementation Procedures. The new NEP contains policies that support an agricultural system approach in the NEP Area, and are consistent with the approach taken in the Greenbelt Plan and Oak Ridges Moraine Conservation Plan. In addition to the NEP, Greenbelt and Oak Ridges Plan policies, the [Growth Plan for the Greater Golden Horseshoe](#) encourages municipalities to implement regional agri-food strategies and other approaches to sustain and enhance the Agricultural System and the long-term economic prosperity and viability of the agri-food sector. When NEP policies are implemented in tandem with Growth Plan policies, there

is a strong policy framework in place to implement the Agricultural System in the NEP Area.

AGRICULTURAL SYSTEM POLICIES

There are three aspects of the Agricultural System that are relevant to the NEP: 1) permitting a variety of uses in prime agricultural areas (agricultural, agriculture-related and on-farm diversified uses); 2) requiring municipalities to designate prime agricultural areas, including specialty crop areas, in accordance with mapping and implementation procedures issued by the province; and 3) requiring agricultural impact assessments as part of the evaluation process when infrastructure or mineral aggregate operations are proposed.

The Growth Plan policies mentioned above, which are reflected in the Implementation Procedures, are not applicable to the NEC's role in the land use planning system. These policies include requiring municipalities to implement strategies to support and enhance the Agricultural System when undertaking growth management planning, and encouraging municipalities to support the long-term economic prosperity and viability of the agri-food sector through incentives and other economic development programs. These functions are outside the scope of the NEP and the *Niagara Escarpment Planning and Development Act* (NEPDA).

1) Agricultural System Permitted Uses

With regard to the first aspect, the NEP now contains policies that permit a variety of uses, in addition to agriculture, in prime agricultural areas. In Escarpment Rural and Protection Areas, agriculture-related uses and on-farm diversified uses provide for a range of uses that are significantly more flexible than the "small-scale" commercial and industrial uses that were permitted in the previous NEP. Although there are size restrictions on agriculture-related uses and on-farm diversified uses, the limits are significantly greater than the small-scale (less than 465 square metres) provisions in the 2005 NEP. Now, buildings for agriculture-related uses can be a maximum of 3200 square metres, and the size of on-farm diversified uses is scaled to lot size. These new allowances for agriculture-related uses are key to implementation of the Agricultural System in the NEP Area (and elsewhere) since agriculture-related uses are essential components of the agri-food network. Agriculture-related uses may include agri-food assets and services (e.g., food and beverage processors, refrigerated warehousing) and agricultural inputs and services (e.g., feed mills, mechanical services, large animal veterinarians). Other elements of the agri-food network, including infrastructure (e.g., roads, broadband internet, utilities) are permitted uses in all land use designations of the NEP, subject to meeting the applicable Development Criteria in Part 2 of the NEP.

The new NEP policies related to on-farm diversified uses also support farmers by enabling them to pursue additional sources of income on their farm properties, which is important when farming alone may not provide sufficient income to support a farming

family. With additional sources of income, the economic viability of farming is enhanced, enabling farmers to retain ownership of farmland, and continue to farm it.

Wineries continue to be a permitted use in Escarpment Protection and Rural Areas as either agriculture-related uses or on-farm diversified uses. Notwithstanding these policies, a winery (or cidery), by definition, must be located on a vineyard, orchard, or fruit farm. As an agriculture-related use, a winery building can be a maximum of 3200 square metres. In the 2005 NEP, wineries were limited to a maximum of 2323 square metres.

2) Agricultural System Mapping

Since the Agricultural System applies within the Greater Golden Horseshoe only, the Agricultural System Mapping does not cover Grey or Bruce Counties, and the Implementation Procedures do not apply in these areas.

The Introduction to the 2017 NEP states that “*prime agricultural areas in the NEP Area should be identified in accordance with the broader Agricultural System once established, recognizing both the agricultural land base and the agri-food network components.*” The Implementation Procedures reiterate this, but also clarify that it is the NEP that prescribes what uses are permitted in the NEP Area and its land use designations, and that these permitted uses may differ from permitted uses for prime agricultural areas in other provincial land use plans.

The Implementation Procedures direct municipalities, as part of a municipal comprehensive review, to analyze differences between their existing prime agricultural area mapping and the new Agricultural System mapping, and to work with the province to ensure consistent identification, mapping and protection based on the new Agricultural System mapping. Once municipalities have updated their official plans in accordance with the Implementation Procedures, the NEC will rely on municipal identification and mapping of prime agricultural areas for implementation of relevant NEP policies. However, in the meantime, the Implementation Procedures direct that the province’s mapping of the Agricultural System prevails over official plan mapping, and all land use planning decisions in the Greater Golden Horseshoe must reflect the Agricultural System mapping.

Notably, the Implementation Procedures provide the direction that Escarpment Natural Areas do not qualify as prime agricultural area (including specialty crop area) due to their extensive natural cover and topography. This is a departure from existing mapping, in which some prime agricultural areas do overlap with Escarpment Natural Area. For example, in Niagara Region, all Escarpment Natural Area (3,700 hectares) was previously identified as being within the Region’s specialty crop area. With the removal of Escarpment Natural Area, the amount of specialty crop area within the NEP Area in Niagara Region has been reduced from 12,709 to 9,009 hectares, a 29 percent reduction. However, existing agricultural uses in Escarpment Natural Area will continue to be permitted regardless of the prime agricultural area or specialty crop designation.

3) Agricultural Impact Assessments

The Implementation Procedures require that impacts to the entire Agricultural System must be assessed as part of an agricultural impact assessment, and that adverse impacts should be avoided, and where avoidance is not possible, minimized and mitigated as determined through the agricultural impact assessment.

In keeping with this, the 2017 NEP contains policies requiring that agricultural impact assessments be conducted for mineral aggregate resource extraction proposals and infrastructure development. In addition, new development to prime agricultural areas may only be permitted where it can avoid, minimize and mitigate land use conflicts. Aspects of an agricultural impact assessment could potentially be used to address this policy. The [Greenbelt Plan](#) and [Oak Ridges Moraine Conservation Plan](#) contain similar provisions.

ROLE OF THE NEC

The NEC is required to uphold and implement NEP policies, including NEP policies related to the Agricultural System, in accordance with the NEPDA. As noted earlier in this report, it is the NEP that prescribes the uses that are permitted in different land use designations; the Implementation Procedures clearly recognize that the permitted uses may differ between the various provincial land use plans, as the purpose of each plan differs.

As it always has done, NEC staff will continue to consult with municipalities to ensure municipal agricultural policies are considered in NEC decision making. However, as noted above, the provincial mapping of the Agricultural System prevails over existing municipal mapping until municipalities have updated their official plans in accordance with the province's Implementation Procedures.

NECESSITY OF AN NEP AMENDMENT

In the finalized Implementation Procedures, it is noted that the Niagara Escarpment Plan (NEP) "may be updated through a plan amendment, to include Agricultural System policies to better align with other provincial plans." NEC staff has assessed the finalized Implementation Procedures and, based on that assessment and consultation with Ministry of Natural Resources and Forestry staff, is advising the Commission that a NEP amendment is not necessary. As noted earlier in this report, the 2017 NEP contains provisions that meet the intent of the Agricultural System, including allowance for a broader range of uses in prime agricultural areas.

NEP mapping does not need to be amended to account for the new Agricultural System. Historically, NEP mapping has never included prime agricultural areas. The purpose of NEP mapping is to identify the NEP land use designations. Prime agricultural area mapping resides with municipalities since it is municipalities that have

the capacity and expertise to conduct the Land Evaluation/Area Review studies that are used to identify prime agricultural areas.

The NEP aligns with the approach taken in both the Greenbelt Plan and the Oak Ridges Moraine Conservation Plan by allowing for agriculture-related uses and on-farm diversified uses in certain land use designations, and in requiring agricultural impact assessment when certain types of development are proposed. In addition to these plan-specific land use policies, the Growth Plan encourages municipalities to implement regional agri-food strategies and other approaches to sustain and enhance the Agricultural System and the long-term economic prosperity and viability of the agri-food sector. Such municipal economic development initiatives are equally applicable within the NEP Area as they are in the Greenbelt and Oak Ridges Moraine Plan areas. The Growth Plan is clear that responsibility for such programming resides with municipalities.

OTHER CONSIDERATIONS

The Implementation Procedures note that within the Escarpment Protection and Rural Area designations, *“the protection and maintenance of cultural heritage resources and their histories is identified as an objective along with the protection of agricultural land,”* and that the *“recognition of the cultural heritage value of agricultural areas can support the agricultural sector...”* Agriculture and associated uses are part of the Escarpment’s open landscape character. Protecting this character involves protecting agricultural land, ensuring landform conservation, and reviewing built form from a visual and environmental perspective to ensure it is compatible with the Escarpment environment and does not dominate the landscape. The Niagara Escarpment is a defining feature of southern Ontario’s cultural heritage landscape, and NEP policies, including those related to agriculture, natural heritage, scenic resources, and landform conservation are intended to recognize and protect the cultural heritage value of agricultural areas.

CONCLUSION

During the Coordinated Review, the government and the NEC heard the frustration of the farming community regarding the complexity and length of the permitting and approvals process. Understandably, delays in approvals can be costly to farmers, and are therefore a concern from an economic development perspective. But these comments were not necessarily limited to the role of the NEC.

In addition to the broader range of permitted uses in prime agricultural areas, it is important to note that Ontario Regulation 828/90, the NEC’s Development Control exemption regulation, provides the farming community with relief from the NEC’s Development Permit process by exempting normal farm practices and general agricultural development (including the construction of farm buildings in some circumstances) from requiring Development Permits. The NEC is also implementing an operational strategy that will improve customer service, and as part of this strategy, is

working with municipalities to better coordinate the Development Permit application process.

This report has demonstrated how the policies in the new NEP achieve the intent and desired outcomes associated with the province's Agricultural System. More generally, the accompanying staff report on provincial agricultural policy demonstrates that the NEP accurately reflects provincial agricultural and land use planning objectives. The provincial policy framework (including the NEP and the Agricultural System) has introduced new policies that provide additional flexibility within prime agricultural areas. As these new policies are implemented, staff is confident that direction set out in the Implementation Procedures for the Agricultural System will be achieved, and it is not necessary to amend the NEP to do so.

RECOMMENDATION

That an amendment to the Niagara Escarpment Plan is not necessary to accommodate the Implementation Procedures and policies related to the Agricultural System for the Greater Golden Horseshoe.

Prepared by:

Approved by:

Original Signed by:

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April 18, 2018

STAFF REPORT

The Niagara Escarpment Plan and Provincial Agricultural Policy

NOTE: *This staff report was originally scheduled for the February 2018 NEC meeting, and was circulated as part of the agenda for that meeting. However, the report was deferred and not dealt with at that meeting. Since then, the government finalized the Implementation Procedures for the Greater Golden Horseshoe Agricultural System and staff has prepared an addendum report on that topic. As a result, this (April) staff report has been modified slightly from what was originally circulated in February to ensure alignment with the attached addendum.*

INTRODUCTION

At its meeting of November 16, 2017, members of the Niagara Escarpment Commission (NEC) voted to approve a motion directing staff to investigate how the Niagara Escarpment Plan (NEP) can address the following agriculture-related issues: rural density transfer, farm labour housing, secondary dwellings relating to the agricultural industry, farm succession planning, agricultural labour shortages, and any other issues that are applicable to NEC involvement with agricultural lands. NEC staff was also requested to engage with key stakeholder groups and various other provincial ministries to develop the basis for an amendment to the NEP that addresses the aforementioned issues. The exact wording of the motion is contained in Appendix 1.

The purpose of this report is to provide information and context related to the Commission's motion, specifically in relation to Ontario's land use planning policy framework, the recently completed provincial Co-ordinated Provincial Land Use Planning Review, the Niagara Escarpment Planning and Development Act (NEPDA) and NEP, and the Niagara Escarpment's status as a World Biosphere Reserve. By providing this information, NEC staff hopes to bring greater clarity to provincial-scale agriculture policies and their applicability to the Purpose and Objectives of the NEP.

The report will begin by presenting the foundations of Ontario's land use planning system: the *Planning Act*, the Provincial Policy Statement (PPS), and the four provincial land use plans for southern Ontario. The NEP will then be discussed, including the concepts that are fundamental to the successful implementation of the NEP: compatibility, cumulative impact, Permitted Uses, and lot creation. The next part of this paper addresses provincial agricultural policy, including how the Co-ordinated Land Use

Planning Review responded to calls for greater flexibility in land uses in Ontario's agricultural areas. The GGH Agricultural System, and the Guidelines for Permitted Uses in Ontario's Prime Agricultural Areas are also addressed in this context.

And finally, the importance to the NEP planning framework to the Niagara Escarpment's status as a World Biosphere Reserve is discussed, as is the need for and feasibility of further amending the NEP to more closely align with provincial agricultural policies.

1. ONTARIO'S LAND USE PLANNING FRAMEWORK

The Planning Act

Within the Province of Ontario, the framework for land use planning—including agricultural land uses—is found in the Planning Act. The purpose of the Planning Act is:

- a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- b) to provide for a land use planning system led by provincial policy;
- c) to integrate matters of provincial interest in provincial and municipal planning decisions;
- d) to provide for planning processes that are fair by making them open, accessible, timely and efficient;
- e) to encourage co-operation and co-ordination among various interests;
- f) to recognize the decision-making authority and accountability of municipal councils in planning.

The “matters of provincial interest” referred to in (c) are specifically listed in the Act, and include, among others, the protection of ecological systems, including natural areas, features and functions; the protection of the agricultural resources of the province; and, the appropriate location of growth and development in the province. There is no implied order of importance in how provincial interests are listed.

Section 3 of the *Planning Act* notes that the government may issue policy statements on matters relating to planning that are of provincial interest. The only such policy statement currently in use is the Provincial Policy Statement (PPS), which was last updated in 2014.

Provincial Policy Statement, 2014

Similar to the matters of provincial interest listed in the *Planning Act*, there is no implied order of importance or weighting of the policies contained in the PPS. The applicability

will vary from one jurisdiction or situation to the next. The PPS does not provide direction on the balancing or prioritization of policies when there appears to be contradictions. When this is the case, it is up to local land use planning authorities to consider all relevant information and make a decision that best respects all provincial interests in question.

However, care must be taken in reviewing the language utilized by various sections of the PPS, specifically with regard to the usage of directives and enabling language. Directives, both positive and limiting, generally utilize the term “shall” while enabling language incorporates terms such as “should”, “promote”, and “encourage”. Directives leave little room for interpretation by land use planning authorities while enabling policies provide authorities much more discretion when making decisions and implementing policy.

Part V of the PPS contains the policies that are applied to the land use planning system of the Province of Ontario as a whole. Part V is subdivided into four main policy sections: (1.0) Building Strong Healthy Communities, (2.0) Wise Use and Management of Resources, (3.0) Protecting Public Health and Safety, and (4.0) Implementation and Interpretation. The balance of the following review will focus on Sections 1.0 and 2.0.

Section 1.0 of the PPS focuses primarily on how communities should grow in order to ensure healthy communities result from development decisions and to ensure that growth is efficient and economically supportable. In that context Section 1.1.3.1 states:

Settlement areas shall be the focus of growth and development, and their vitality and regeneration shall be promoted.

Local authorities are further directed to establish minimum targets for intensification and redevelopment within built up areas that contribute to a development form that is compact and incorporates a range and mix of housing types. Redeveloping and intensifying existing settlement areas has been the focus of provincial planning policy for some time; this direction permeates through all four provincial plans (i.e., the Growth Plan, the Greenbelt Plan, the Oak Ridges Moraine Conservation Plan, and the NEP). Development that is approved in conflict with this direction has the potential to negatively impact the realization of redevelopment targets applied to a specific area and would be inconsistent with provincial policy.

The majority of the lands within the NEP area are most aptly described as rural in nature. The PPS speaks to both ‘rural areas’ and ‘rural lands’ within municipalities under Sections 1.1.4 and 1.1.5 respectively. Rural area policies relate to a system of lands and may include rural settlement areas, prime agricultural areas, etc., while rural land policies relate specifically to lands that are located outside settlement areas and outside prime agricultural areas. As the municipalities within the NEP area all have delineated settlement areas and a rural land base that is protected at a provincial level, a review of Section 1.1.4 is of most relevance to the NEP.

Section 1.1.4.1 provides a number of criteria to support healthy, integrated and viable rural areas. The following criteria are most relevant to lands within the NEP area:

- c) accommodating an appropriate range and mix of housing in rural settlement areas;
- d) encouraging the conservation and redevelopment of existing rural housing stock on rural lands;
- h) conserving biodiversity and considering the ecological benefits provided by nature;
- i) providing opportunities for economic activities in prime agricultural areas, in accordance with policy 2.3.

Section 1.1.4.2 reinforces the criteria by providing the following directive:

In rural areas, rural settlement areas shall be the focus of growth and development and their vitality and regeneration shall be promoted.

The rural areas section of the PPS is clear in its objective to direct development and growth to settlement areas where there is available infrastructure and community services. This objective becomes much more relevant in the context of the NEP given the globally-recognized significance of the Niagara Escarpment's natural heritage system, and the specialty crops and other agricultural production within the NEP area. Section 1.1.4.1 (c) supports the conservation and redevelopment of the existing rural housing stock but stops short of recommending new residential development on rural lands.

Section 2.0 of the PPS provides direction to land use planning authorities regarding the wise use and management of a variety of resources deemed to be of Provincial interest. The preamble to Section 2.0 states the following:

Ontario's long-term prosperity, environmental health, and social well-being depend on conserving biodiversity, protecting the health of the Great Lakes, and protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.

Section 2.3 of the PPS (2014) speaks directly to how agricultural lands should be planned for throughout the Province. Section 2.3.1 states:

Prime agricultural areas shall be protected for long-term use for agriculture.

Section 2.3.3.1 permits agricultural uses, agriculture-related uses and on-farm diversified uses in prime agricultural areas; however this section further clarifies that

agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Additional development is only permitted if compatibility with agricultural operations can be demonstrated. Thus, the PPS requires that impacts on the broader agricultural system be considered when analyzing the appropriateness of a site-specific use.

Section 2.3.4.1 discourages the creation of new lots in prime agricultural areas except in a few circumstances. These circumstances are incorporated under Part 2.4.20 of the NEP with limited revision. The only circumstance where a new lot may be created for residential purposes is as part of a farm consolidation severance where a residence has been rendered surplus to an agricultural operation (PPS Section 2.3.4.1 (c)).

While it is recognized that the PPS is a framework document that is meant to provide direction for land use planning authorities on a variety of competing interests, when read as a whole a specific direction emerges. This direction supports general growth and development in recognized settlement areas, while protecting prime agricultural land for agricultural use above all else. Additional uses are permitted on prime agricultural lands but only those that can be directly linked to the primary agricultural use and where the new use can be shown to be compatible with surrounding agricultural operations. Adherence to this direction is paramount in ensuring a planning process that is transparent, equitable, and predictable. When this direction is abandoned it can inhibit the ability of surrounding agricultural operators to plan for the future. An example of this would be the introduction of a new, non-permitted, sensitive land use to a prime agricultural area. A sensitive land use (e.g., a residence) will introduce a new Minimum Distance Separation-related constraint where one previously did not exist and where, under the policies of the PPS and NEP, one was unlikely to be introduced.

Provincial Land Use Plans

The equal weight assigned to matters of provincial interest in the *Planning Act* and PPS is less of a consideration when separate legislation and plans such as the Greenbelt Plan and NEP exist. In these cases, the objectives and policies set out in the legislation and plans are assigned the first order of priority. This is how the NEPDA and NEP must be interpreted, and must be upheld by all planning authorities. The creation of separate legislation is of significant importance, and elevates the objectives of these matters of expressed provincial importance beyond those of other provincial interests that are not enshrined in their own pieces of legislation.

Having said this, the four provincial land use plans are meant to build upon the direction given by the PPS, and it is still necessary that provincial land use plans be read in conjunction with the PPS. However, as stated earlier, to the extent that a conflict may arise between the PPS and a provincial plan, the provincial plan takes precedence. This is stated on page 4 of the NEP, and on page 3 of the PPS. An example of this is that Section 1.1.4.1(f) of the PPS promotes diversification of the economic base and employment opportunities in rural areas. But, if this is proposed at the expense of

achieving the Purpose and Objectives of the NEP (see below), then the NEP policies protecting the Escarpment environment must prevail.

In summary:

- The *Planning Act* and PPS provide the foundation for Ontario's land use planning system. Decisions made by planning authorities must be consistent with the PPS.
- The overall direction of PPS policies is to direct growth and development to settlement areas.
- Where a provincial land use plan is in effect, the policies of the provincial plan are of primary importance, and take precedence over the PPS to the extent of any conflict. Planning decisions must conform or not conflict with provincial plans.

2. THE NIAGARA ESCARPMENT PLAN

As a provincial land use plan, the Purpose of the NEP (and the NEPDA) must be assigned primary importance in making land use planning decisions in the NEP area. The Purpose of the NEP is:

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

It is notable that the Purpose of the NEP allows for "only such development as is compatible with that natural environment." Therefore, the NEP does not prohibit all development, but the impact of any development must be compatible with the Escarpment's natural environment.

There are seven Objectives that further support the Purpose of the NEP, including one Objective that speaks to "maintaining and enhancing the open landscape character of the Niagara Escarpment in so far as possible, by such means as compatible farming..." Farming is therefore seen as a mechanism to achieve an Objective of the NEP, but it is not a stand-alone objective, nor is it central to the "environment-first" Purpose of the NEP. In other words, farming and other forms of compatible development may take place within the NEP area if they support the Purpose and Objectives of the NEP, but cannot be pursued if they compromise the Purpose and Objectives. This is why the NEP simultaneously allows for, and places restrictions on agriculture and agriculture-related uses, and by extension on-farm diversified uses. In areas outside the NEP boundaries, these restrictions may not be necessary or appropriate.

There are several key concepts in the NEP that the NEC has consistently relied upon over the last four decades that are central to achieving the Purpose and Objectives of the NEP. These are: compatibility, Permitted Uses, cumulative impact (i.e., "single,

multiple, and successive development”) and lot creation. Each of these is discussed in turn.

Compatibility

Compatibility of development is a core concept of the NEP. The 2017 NEP defines “compatible” as: where the building, structure, activity or use blends, conforms, or is harmonious with the Escarpment environment. There are many different ways of assessing compatibility with the Escarpment environment, whether it is through direct ecological impacts on water quality and quantity, wildlife, woodlands, wetlands and other natural heritage features, or through degradation of the Escarpment’s scenery. The principles underlying this approach are:

- Compatibility with the Escarpment’s natural environment means that the integrity of the Escarpment’s natural heritage features and functions should not be quantitatively or qualitatively degraded by development within the NEP area, and
- Compatibility with the Escarpment’s scenic resources means that natural scenery and the open landscape character must be maintained and enhanced, and that built form, including buildings and infrastructure, should not dominate the landscape.

Intensity of use is an aspect of compatibility that comes up often in land use planning, and is fundamentally important to the NEP, especially in the context of the population and economic growth of southern Ontario. Intensity can be measured in many ways, and is not only related to the size of development on a specific site. Issues like sewage, air and waste discharges, water taking, parking requirements, traffic, number of employees, and lot area coverage contribute to intensity of use must be considered at both the site level and within the broader community and landscape context. There is also a temporal aspect to this: intensity of use cannot be limited to consideration on a case-by-case basis because the overall intensity of development on a broader landscape level can increase incrementally over time, and can fundamentally alter the landscape as a result. This is why the NEP contains a Development Criterion in Part 2 that requires consideration of the single, multiple or successive impacts of development. Likewise, the Permitted Uses listed in Part 1 of the NEP provide for forms of development that may be compatible with the Escarpment environment.

In summary:

- Compatibility is a key concept in the NEP.
- Compatibility is assessed in a holistic manner for its impacts on the “Escarpment environment.”
- Intensity of use should be considered as a test of compatibility, not only in reference to a specific site, but also within the broader community and landscape context.

Permitted Uses

When the NEC considers a development permit application, the first consideration is whether the development proposal is a “Permitted Use.” If a proposed development is not a Permitted Use, it is automatic grounds for refusal of the application. For development that is a Permitted Use, it may be approved subject to compliance with the development criteria in Part 2 of the NEP. Permitted Uses are included in the NEP as a way of providing predictability and fairness in terms of what development is considered to have the potential to be compatible with the Escarpment environment and can therefore be allowed to proceed where circumstances are appropriate. For development that is generally considered to be inconsequential to the Escarpment environment, Ontario Regulation 828/90 provides exemptions from the NEC development permit process.

The Permitted Uses in the NEP have been subject to review and change since work on the NEP began in the mid-1970s. Ten years of consultation and public hearings preceded the first NEP, which was finalized in 1985. The opportunity to review Permitted Uses was provided during the 1990, 1999, and 2015 reviews of the NEP. During the most recent 2015 Co-ordinated Land Use Planning Review, agriculture-related uses and on-farm diversified uses were added to the NEP to better align with the PPS, and as a reflection of the provincial importance assigned to agricultural viability and farm income diversification.

It is notable that commercial and industrial uses are not Permitted Uses in the Escarpment Rural, Protection and Natural Area designations, except when such uses are associated with a home business, home industry, agriculture-related use, or on-farm diversified use. In such cases, commercial and industrial uses are generally considered to be acceptable uses so long as they are secondary to the principal use on a property, i.e., a residential dwelling and/or an agricultural use. To the extent that such uses overtake the principal use (or cannot meet the other Development Criteria in Part 2), they are not Permitted Uses because commercial and industrial uses are generally not consistent with the Purpose and Objectives of the NEP. Again, fairness and predictability, as well as precaution, are the fundamental principles underlying this approach.

The NEP and NEPDA do allow for some consideration of development that may not be a Permitted Use in the NEP. The legal mechanism for considering such a proposal is through an Amendment to the NEP. While the Commission has some discretionary decision-making authority when NEP policies require additional interpretation, allowing for development that is not listed as a Permitted Use (or cannot meet the tests contained in the Part 2 Development Criteria) is not consistent with the NEP. The NEPDA does not allow for the Commission to make such an approval.

The fact that an Amendment is required to even consider development that is not a Permitted Use is an indication of the significance of Permitted Uses to the long-term predictability of NEP outcomes. This significance is also indicated by the need for

amendment approval at the highest level: approval or refusal of an amendment requires a decision from the Minister and/or Cabinet.

In summary:

- Permitted Uses provide fairness in the NEP planning process, and are key to the predictability of long-term planning outcomes in the NEP area.
- Proposed development that is not a “Permitted Use” is grounds for refusal of a development permit application. For those uses that are permitted, they must also meet the tests contained in the Development Criteria in Part 2 of the NEP.
- Commercial and industrial uses may be considered only if they are associated with agriculture, or are secondary to the primary residential or agricultural use on a property.
- A NEP Amendment must be pursued if a proposal is not a Permitted Use, or if a Permitted Use cannot meet all of the relevant Development Criteria in Part 2.

Cumulative Impact

Part 2.2.1 of the NEP directs consideration to be given to the single, multiple, or successive impacts of development:

The Escarpment environment shall be protected, restored and where possible enhanced for the long term having regard to single, multiple or successive development that have (sic) occurred or are (sic) likely to occur.

For simplicity, staff will refer to Part 2.2.1 as the “cumulative impact” test.

Both compatibility and Permitted Uses must be considered in the context of cumulative impacts. Even when a proposed development is a Permitted Use, it must be assessed against the potential for cumulative negative impacts on the Escarpment environment, e.g., multiple Permitted Uses on one lot may result in an intensity of use that has negative impacts on the Escarpment environment.

The cumulative impact of lot creation in the NEP area is an important consideration. On large rural lots usually associated with farming or recreational activities, the development of a single dwelling is generally considered compatible with the Escarpment environment and therefore is a Permitted Use in the NEP (subject to meeting the Development Criteria in Part 2). However, the creation of new lots, especially rural plans of subdivision, is not compatible with the Escarpment environment because the cumulative impact of such lot creation could set precedents that eventually lead to built form dominating the Escarpment landscape, and therefore does not meet the NEP Objective of protecting the natural scenery and open landscape character. Over the longer term, development scenarios that create the potential for new lots must also be avoided. This is discussed in more detail in the section below.

While some new lot creation is permitted in the NEP area, it is tightly controlled. It is worth noting that the provisions restricting rural lot creation are not limited to the NEP. The PPS, and by extension, municipal official plans, long ago prohibited the ad hoc creation of new residential lots in rural areas.

In summary:

- The cumulative impact of development must be considered, even for development that is a Permitted Use.
- The cumulative impact of lot creation can result in increased residential density and the proliferation of built form across the Escarpment landscape.
- Scenarios that may lead to future demand for lot creation should also be avoided.

Lot Creation

The NEP speaks to lot creation in two different manners. Under Part 1 each land use designation category makes reference to lot creation and the circumstances under which it may be permitted. In general there is very limited capability to sever lots that fall within the more restrictive land use designations of Escarpment Natural Area, Escarpment Protection Area, and Escarpment Rural Area. The reason for these restrictive policies directly relates to the cumulative impacts of an increasingly fragmented land base, and as such, lot creation is the major threat to achieving the Purpose and Objectives of the NEP. A more fragmented rural area results in a higher intensity of overall development, an increase in land use incompatibilities, a reduced ability to sustain viable agricultural operations, and a natural heritage system that is more difficult to manage and protect.

General lot creation policies are contained under Part 2.4 of the NEP and are applied to all lands in the NEP area. The preamble to this section states: the objective is to direct the formation of new lots to those locations that are least environmentally sensitive. This Part of the NEP is also clear in requiring that new residential lots be created primarily in designated Urban Areas, Minor Urban Centres and Escarpment Recreation Areas subject to the requirements of official plans and/or secondary plans. Although new lots within the identified designations may not require a development permit, Part 2.4.5 of the NEP requires that approvals for new lots be predicated on the maintenance and enhancement of the existing community and/or open landscape character of the Escarpment and the protection of existing natural heritage and hydrologic features and functions.

Of special note within Part 2.4 of the NEP are the policies that make allowance for a severance where there are two existing single dwellings on the same lot. These policies are contained under Part 2.4.15 through 2.4.18. The policies essentially permit a severance where two dwellings have been legally established. But in such cases, as

well as in any of the allowable lot creation scenarios in Part 1, the Development Criteria must also be considered, including the impact of potential lot creation in relation to a community as a whole and not just on a site-specific basis. Further, the criteria should be considered in tandem with directives issued through the PPS that inform where growth and development should be directed.

Given that lot creation is significantly restricted, the NEC deals relatively frequently with applications attempting to justify the need for more than one dwelling on a lot. While some rural lots may be large enough to support an additional dwelling without negative environmental or visual impacts, this can set a precedent for second dwellings on other lots, as well as future severances (i.e., new lot creation) when the additional dwelling unit is no longer needed. At face value, additional single dwellings on a farm lot may seem like a desirable strategy to support multi-generational farming families. However, it is a short-term strategy that sacrifices the long-term stability of rural land uses. When one generation no longer requires the dwelling, there is no guarantee that the subsequent generation will continue on the farm, resulting in a severance request so that the surplus dwelling can be legally conveyed to a new owner. The same arguments used to support farm succession and estate planning by allowing for multiple-dwelling lots can then be used later to justify severances of surplus dwellings. That is why farm succession planning should be dealt with in a manner consistent with dwelling units for farm help – in that they should be temporary and co-located in the farm cluster.

The NEC and other planning authorities frequently deal with the demand for severances on rural properties. Prior to the strong provincial policy framework that was put in place in the 1990s, multi-dwelling lots and severed farm retirement lots were commonly established across rural Ontario. In fact, the 1985 NEP permitted second dwellings for farm help on a farm lot. This policy was changed during the first (1990) NEP review given the impact on the Purpose and Objectives of the NEP, and the pressure for future severance of these dwellings, which is now coming to light. These severances fragment the rural farming landscape, and can result in land use conflicts when rural non-farm residents object to the “nuisances” associated with normal farm practices. It is in this long-term planning context that the principles of precaution and predictability are important not only within the NEP area, but also in rural land use planning in general. It is clearly in the public interest to have long-term predictability of rural land uses, and to avoid the significant investment in public resources required to assess all such requests on a case-by-case basis. For both these reasons, second dwellings and rural lot creation are severely restricted.

On a case-by-case basis, in exceptional circumstances, agreements-on-title, restrictive covenants, and sometimes easements may be used to put restrictions on properties to limit the potential for additional incompatible development (e.g., the conversion of an accessory building to use for human habitation). The NEC does occasionally rely on these, but increasingly, NEC staff is finding it difficult to enforce such restrictions, especially with limited compliance resources, both in terms of staff and in terms of the level of severity of the penalties involved. The financial or personal rewards of unauthorized uses can far outweigh the risk and penalties of getting caught. Restrictive

covenants, agreements on title, and easements can also be changed or removed, often without going through a land use planning approvals process that would consider changes in the context of the broader community, and cumulative impact. As such, restrictive covenants and agreements on title are not a replacement for a precautionary, strong provincial planning framework meant to ensure land use predictability and fairness over the long term.

In southern Ontario, where development pressure and land values combine with the bucolic appeal of the Niagara Escarpment, taking a consistent, predictable and policy-based approach to addressing the demand for future severances of rural lands is of paramount importance to achieving the Purpose and Objectives of the NEP over the long term. This is also true in protecting the continuity and productivity of the agricultural land base, especially when the value of rural farm properties continues to rise due to the popularity of establishing estate-size residences on such lots. Although farming can continue to take place on rural estate properties, it is often done by farmers who do not own the land, and are not in a position to make investments in increased agricultural productivity on such land.

In summary:

- The NEP places significant restrictions on the creation of new lots. This is important to the long-term continuity and predictability of rural land uses.
- Severances are permitted when two single dwellings have been legally established on the same lot. The original NEP allowed for this, but was amended to prohibit it when the impacts became apparent.
- Farm succession planning can be used to justify both multiple dwellings, as well as future severances of multiple dwelling lots.
- Site-specific planning tools like restrictive covenants and on-title agreements are not a substitute for a consistent, policy-based approach to land use planning.

This section has attempted to demonstrate how NEP policies on compatibility, Permitted Uses, cumulative impact, and lot creation are necessary to achieving the Purpose and Objectives of the NEP. The short and long-term impacts of any proposed development must be assessed against the NEP policies that support these concepts.

3. PROVINCIAL AGRICULTURAL POLICY

As noted, the Planning Act and PPS provide for the protection of Ontario's agricultural land. There are more than 80 other provincial statutes that deal with normal farm practices, food safety, agricultural commodity marketing and supply, insurance, nutrient management, weed and pest control, agricultural labour, animal welfare, taxation, farm vehicles, and other aspects of the agriculture industry. For reasons other than land use planning, agriculture is a heavily regulated industry. But without a protected agricultural land base, there would not be anything to regulate. Of course, protecting the agricultural land base does not equate to protecting the livelihood of the farmer. This is a dilemma

that is especially difficult to resolve in a global economy where farmers must increasingly compete on the open market.

Land use planning cannot single-handedly address the short-term structural economic issues that can undermine the viability of agriculture in its traditional forms. There are many Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) programs that are intended to assist the farming community in surmounting these challenges, but they are beyond the scope of this paper. Within the realm of land use planning policy, there is now some flexibility emerging for legitimate, ongoing agricultural operations, while preserving the agricultural land base as the basic building block of a viable agricultural sector:

- PPS 2014 and Co-ordinated Land Use Planning Review
- Greater Golden Horseshoe Agricultural System
- Guidelines for Permitted Uses in Prime Agricultural Areas

The Provincial Policy Statement and the Co-ordinated Land Use Planning Review

The changes to the PPS in 2014 introduced a wider variety of permitted uses in Ontario's prime agricultural areas, i.e., agriculture-related uses and on-farm diversified uses. These uses are necessary for a viable agri-food sector because ideally, agriculture must be supported with processing facilities close to farms, and some types of farming may be more viable if they are supplemented with additional sources of income, provided that they do not compromise the predominant agricultural use of the land. These policies are not intended to allow farmers to convert their holdings to industrial or commercial use. In interpreting these policies it is important to look to the long-term impacts on the agricultural land base of the introduction of non-farm uses. These new PPS policies were integrated into the Greenbelt Plan, Oak Ridges Moraine Conservation Plan, and the NEP as a result of the 2015 Co-ordinated Land Use Planning Review.

Within the context of the NEP, the on-farm diversified and agriculture-related uses are accompanied by Development Criteria, including gross floor area criteria, to ensure that such development does not eclipse the primary agricultural use of the land and can meet the Purpose and Objectives of the NEP. The Development Criteria also provide predictability and fairness through the application of consistent policies. The Permitted Uses and Development Criteria for agriculture-related uses and on-farm diversified uses are some of the more significant changes to the NEP. Appendix 2 provides a comparison of the agricultural policies between the 2005 and 2017 NEPs.

The Co-ordinated Review provided an opportunity to explore agricultural land use policies in some detail. With the release of the *Our Region, Our Community, Our Home* Discussion Document in February 2015, the government asked Ontarians for feedback on the following:

- *How can the plans better support the long-term protection of agricultural lands, water, and natural areas?*
- *What new approaches or tools could be used to protect agricultural, water and natural areas?*
- *How can the agricultural protection that the plans provide enhance the impact of agriculture on Ontario's economy?*

Following an initial round of public consultation in 2015, the Advisory Panel on the Co-ordinated Review provided recommendations to the government, including seven key recommendations (and five complementary recommendations) on how agricultural could be better supported. The key recommendations were:

- Providing policy direction and guidance toward the consistent identification, mapping, and protection of an integrated agricultural system across the GGH;
- Consider stronger criteria to limit the conversion and fragmentation of prime agricultural lands;
- Provide policy direction and guidelines to ensure that the impacts of infrastructure, urban boundary expansions, and other major development on agriculture is properly assessed;
- Provide policy direction and guidelines to improve compatibility and reduce conflicts between farms and non-agricultural uses;
- Align agricultural terminology and policies in the four plans with the PPS, except where they are specific to a particular geography or unique to the plan, and provide greater flexibility for on-farm, value-added uses.
- Provide policy direction to promote access to local and healthy food within the region; and
- Ensure that agricultural and natural heritage policies are balanced and consistently implemented.

Significant input from agricultural stakeholder groups, the farming community, and municipalities on agricultural policies was received during the Co-ordinated Review. Many of these submissions provided detailed examples of how provincial agricultural policies could be improved. Notably, the submission from the Ontario Federation of Agriculture (OFA—Ontario's largest general farm organization, representing more than 36,000 family farm businesses) did not raise any of the issues listed in the Commission's November 2017 motion, with the exception of the restriction that farm help housing be temporary. The OFA's May 2015 submission in response to *Our Region, Our Community, Our Home* Discussion Document focused on eliminating the

approvals role of the NEC altogether, rather than assessing the effectiveness of NEP agricultural policies, even though reconsideration of the NEC's legislated role was not within the scope of the Co-ordinated Review. OFA's final submission, in October 2016, did object to some of the proposed policies in the draft NEP. It did seem however, in parts, to misunderstand some of the key agriculture-related policies in the proposed NEP. For example, the OFA submission asserted that the proposed NEP did not allow for the severance of surplus farm dwellings, and that agri-tourism uses were not permitted. Both of these were clearly permitted in the draft 2017 NEP.

In its submissions through the Co-ordinated Review, the Wine Council of Ontario (WCO) noted the compatibility of the objectives of the NEP, and those of Ontario's wine industry:

The WCO and its members have consistently shown how to sensitively balance the environmental stewardship objectives of the NEP with its complimentary objectives of encouraging agriculture and tourism. The result is the much celebrated grape and wine tourism sector that has grown exponentially in the Niagara Peninsula... Perhaps what is less clear, is that those same policies have had the effect of assuring continued protection (and public enjoyment) of the NEP area and lands in its vicinity. Prior to those policies being put into effect, considerable pressure existed for activities such as rural residential estate-type development. The much more appropriate alternative that has been realized is that those same lands are now productive vineyards. This in turn has provided the base for rural economic development in the NEP, based on the wine industry footprint – this includes jobs in wine production, in tourism and hospitality and in related research. In short, WCO members are good NEP stewards. This same positive disposition and our experience is key in helping to inform improvements to make WCO members even better stewards, and the NEP more effective.

Although the WCO's comments reflect a positive experience with NEP winery policies, they did recommend some changes to NEP policies to allow greater flexibility for winemakers operating in the NEP area. This included more flexibility in size for winery buildings, and a greater range of Permitted Uses to enhance tourism-related opportunities in the NEP area.

NEC staff considered these recommendations during the Co-ordinated Review. NEC recommendations included allowing for larger ground floor areas for wineries and other agriculture-related uses, as well as fewer restrictions on winery accessory uses. Likewise, "country inns" were suggested as a separate category of development from "bed and breakfasts" to allow for establishments with more than three guest suites. (Ontario Fire Code restrictions generally limit bed and breakfast establishments to three guest suites.) Some of these recommendations were adopted by the government; others were not. In the end, the opportunities to establish wineries and other agriculture-related uses were significantly enhanced by allowing up to 3,200 square metres for the

gross floor area of any one building for an agriculture-related use, with the potential for multiple buildings dedicated to such uses. In addition, policies requiring a minimum vineyard lot size were removed from the NEP.

With regard to a greater diversity of Permitted Uses to accommodate increased tourism opportunities, significant caution is needed in promoting such development. The NEP's Objectives speak to providing opportunities for outdoor recreation, and providing public access to the Escarpment. In response to this Objective, the Niagara Escarpment Parks and Open Space System (NEPOSS) is a significant component of the NEP, whereas commercial tourist facilities are not a Permitted Use in the primary agricultural designations (Escarpment Rural and Protection Areas). Restaurants, private event facilities, hotels and souvenir shops do not fit within the Objectives of these designations, and run counter to the restriction of built form on the Escarpment landscape, as well as the compatibility and cumulative impact principles that are essential NEP policies for the Rural and Protection Areas. The NEP policies for home occupations, winery accessory uses, on-farm diversified uses, and agriculture-related uses provide opportunity for limited tourism (including agri-tourism) uses that are compatible with the Purpose and Objectives of the NEP. Opportunities for more intensive tourism-related development are available within the NEP in the Escarpment Recreation Area, Minor Urban Centres and Urban Area designations, or can be directed to places outside the NEP area.

The discussion in this section was intended to bring forward the input received during the Co-ordinated Review from key agricultural stakeholders, and how and if it was responded to by the government. In summary, the government's response was to allow for a greater range of agriculture-related and on-farm diversified uses, and to allow for greater flexibility for wineries. Although these changes made NEP agricultural policies less restrictive, the Purpose and Objectives remain unchanged, and these policies must still be interpreted within this context. The issues specifically mentioned in the Commission's motion were not really addressed by either agricultural stakeholders or the government, with the exception of permanent housing for farm labour. However, as noted above, the 1985 NEP previously contained provisions for permanent farm labour dwellings, but the policy was revised as a result of the 1990 NEP review when it was realized that such dwellings were resulting in additional lot creation.

The release of the revised provincial land use plans in May 2017 did not end discussions with agricultural stakeholders, and work on this front continues through OMAFRA, in response to the Advisory Panel's complementary recommendation that the province "work with agricultural stakeholders on mechanisms to build greater understanding and awareness about agriculture and rural issues, and support a 'positive planning' approach to better integrate agricultural interests into land use planning" (Complementary Recommendation #37). Following the completion of the Co-ordinated Review, OMAFRA has continued to consult with agricultural stakeholders through the recently completed consultation on the GGH Agricultural System.

In summary:

- The government recently sought feedback from key agricultural stakeholders through the Co-ordinated Land Use Planning Review. This consultation resulted in a greater range of Permitted Uses in rural areas and more flexible winery policies.
- The issues addressed in the Commission's November 2017 motion were not substantively addressed either in stakeholder submissions, or in the government's revised policies, with the exception of permanent dwellings for farm help.
- Discussions with agricultural stakeholders continue through OMAFRA's consultation on the GGH Agricultural System.

The Greater Golden Horseshoe Agricultural System

A separate analysis of the GGH Agricultural System is provided in the accompanying Addendum Staff Report.

Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas

In 2016, OMAFRA released the Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas ("Guidelines"). These Guidelines are intended to support interpretation of PPS agricultural policies by explaining the intent behind the policies. The Guidelines are very clear in stating that the parameters contained in the Guidelines represent best practices and are not to be interpreted as specific standards that must be met. This is a very important distinction. As noted earlier in this paper, provincial plans take precedence over the PPS to the extent of any conflict. The specific regulatory and policy regime in the NEPDA and NEP has a unique purpose that may sometimes supersede broad-based provincial agricultural policies and guidelines. This is by design. In other words, it is the Purpose and Objectives of the NEP and NEPDA that should be referenced in providing direction on NEP policies, and provincial guidelines that are not enshrined in legislation should not be elevated above the NEP's Purpose and Objectives.

With regard to the Commission's November 2017 motion, the only issue raised within the Guidelines is accommodation for farm help, which is permitted by the PPS and is considered to be part of an agricultural use in the Guidelines. As noted above, agricultural stakeholder submissions through the Co-ordinated Review supported allowing permanent second dwellings to accommodate farm help. However, the Guidelines note that a best practice for farm labour accommodation is to consider alternatives to building new, separate, permanent dwellings for farm help because farm labour needs change over time. The Guidelines also note that the severance of land with housing for farm labour is not permitted as land division fragments the agricultural land base and can thereby affect the future viability of agriculture over the long term.

There is nothing in the Guidelines to suggest that the majority of growth and development, including rural residential development, should not continue to be directed to settlement areas where infrastructure and community services are available.

In summary:

- The Guidelines are intended to support interpretation of the PPS, and the policies contained in the Guideline do not supersede the Purpose, Objectives, and policies of the NEP or any other provincial plan.
- The Guidelines draw on best practices, and are not specific standards that must be met.
- The NEP does not support permanent dwellings for farm help. This is consistent with the best practice recommended in the Guidelines.

4. NIAGARA ESCARPMENT BIOSPHERE RESERVE

The NEP area is upheld internationally as a globally significant ecosystem. It was assigned the status of a “World Biosphere Reserve” by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) in 1990. Biosphere Reserves are intended to fulfill three inter-related functions:

- Conservation: protecting cultural diversity and biodiversity, including genetic variation, species, ecosystems and landscapes and securing services provided by such diversity;
- Development: fostering economic and human development that is environmentally and socially sustainable and culturally appropriate;
- Logistic support: facilitating demonstration projects, environmental education and sustainable development education and training, research, and monitoring.

Similar to the Purpose of the NEP (i.e., to allow for only such development as is compatible with the Escarpment’s natural environment), Biosphere Reserves seek to foster development that is sustainable. Sustainable development is sometimes referred to as balancing competing social, economic, and environment interests. But sustainable development is more accurately described as recognizing that the economy is only sustainable if it respects the limits of ecological and social systems. There should be no balancing or trading off when it comes to protecting ecological systems. In this regard, the NEP is, by design, an “environment first” plan; the NEP concepts described in this paper—compatibility, cumulative impact, limited Permitted Uses, and restricted lot creation—are essential to achieving sustainable development within the context of the World Biosphere Reserve program, as well as to achieving the Purpose and Objectives of the NEP.

CONCLUSIONS

The recently completed Co-ordinated Review provided an opportunity for stakeholders and the government to work together to ensure the provincial land use plans appropriately reflect matters of provincial interest, including agriculture. The NEC carefully reviewed stakeholder input and made recommendations to the government that recognized the new directions in the PPS regarding greater flexibility of permitted uses in the province's prime agricultural areas, but did so in a manner that was mindful of the overall Purpose and Objectives of the NEP. The issues raised in the Commission's November 2017 motion, namely, rural density transfer, secondary dwellings relating to the agricultural industry, farm succession planning, farm labour housing, and agricultural labour shortages were not addressed through the Review. In the case of farm labour housing, the OMAFRA Guidelines reinforced the approach taken in the NEP: farm labour housing should be temporary in nature because farm labour needs change over time.

The GGH Agricultural System, as discussed in the accompanying report, is a key piece of the provincial agricultural policy framework that is intended to enhance the agri-food sector. The new NEP contains policies that protect prime agricultural areas and provide opportunities to enhance agricultural viability, in accordance with the Agricultural System approach. NEP policies, when implemented in tandem with municipal programs, are in accordance with the implementation procedures for the Agricultural System.

It is staff's view that any new policies that open up the potential for increased intensity of residential uses and additional lot creation on the Niagara Escarpment would not be in the long-term interest of achieving the Purpose and Objectives of the NEP, and would not support the fairness and long-term predictability of rural land uses that are vital to protecting the agricultural land base. For this reason, NEC staff does not recommend that the NEP contain additional policies that could lead to the proliferation of permanent second dwellings, additional lot creation, or other pathways to fragmentation of the agricultural land base. Additionally, it is staff's view that policies aimed at promoting additional rural development through the spread of commercial and tourist (other than outdoor/eco-tourism) uses would also not be in keeping with the Purpose and Objectives.

Further, it is the view of staff that additional policies to support and promote farming as viable economic activity should be subject to further research and development by OMAFRA, as the Ministry responsible for agricultural policy in the province. If OMAFRA were to determine that additional policies are needed to support agricultural viability at a provincial scale, land use planning agencies would be directed to take action accordingly, as appropriate to the jurisdictions in which they operate.

Outside of the realm of land use planning, OMAFRA and its agencies provide farmers with numerous farm business support programs, including resources to support farm succession planning. However, only 8.5 percent of Ontario farm operators have a written farm succession plan. It is staff's position that all barriers to farm succession

planning should be investigated and dealt with in a comprehensive manner, rather than by having one provincial agency with a limited mandate address only one aspect in isolation.

RECOMMENDATIONS

1. That an amendment to the NEP to provide additional direction on agricultural policy is not warranted because the NEP already addresses provincial agricultural policy objectives;
2. That a copy of this report be shared with OMAFRA, Niagara Regional Council and staff, the WCO and OFA.

Prepared by:

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Approved by:

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David Ayotte
Director

NEC Motion

November 16, 2017

WHEREAS recent agriculturally based applications have raised questions regarding conflicting and contradictory principles and policies being used to guide the staff and Commission decision making process surrounding land use in the Escarpment Rural Area; and

WHEREAS the Ontario government has made protecting farmland, for both food production and ancillary uses, a priority; and

WHEREAS successive Provincial Policy Statements have made progress in recognizing the agricultural sector as a valued partner in conservation of not only farm land but, natural and heritage features; and

WHEREAS it is recognized that 98 percent of farm operations in Ontario are family owned and operated and, further, criteria has been adopted that recognize the unique model of these operations, including the fact that these farms require lateral transition of intergenerational farming and a modernized approach to accommodate the current environmental and economic pressures thereof; and

WHEREAS the NEC strives for transparency, clarity and a common sense approach to land use planning.

THEREFORE BE IT RESOLVED THAT:

- 1) Development Permit Application P/R2016-2017/442 (Pam Jackson and Josh Phillips) be approved with appropriate conditions to be presented to the Commission at the January 2018 meeting; and
- 2) Time be allocated at a future meeting prior to the April 2018 Policy Meeting for the purpose of engaging NEC staff and Commission in a fulsome policy discussion regarding, but not limited to:
 - Density transfer and farm labour housing
 - The purpose of secondary dwelling relating to the agricultural industry
 - Succession planning as interpreted by the agricultural sector as well as the upcoming labour shortage.
 - Any other issues that are applicable to NEC involvement with agricultural lands.
- 3) That NEC staff and Commission engage with the following Ministries, Stakeholders and relevant others to develop basis for an amendment to the NEP and set of

criteria specific to the above matters and the agricultural sector prior to future meeting required in Sec 2) above:

Ministry of Agriculture
Ministry of Natural Resources and Forestry
Ministry of Municipal Affairs
Ministry of Rural Affairs
Ministry of Labour
Association of Municipalities of Ontario
Rural Ontario Municipalities Association
Ontario Federation of Agriculture
Christian Farmers Federation

Comparison of Agriculture-related Policies: 2005 and 2017 Niagara Escarpment Plans

	Agricultural Uses ¹	Small scale commercial uses accessory to agriculture ²	Small scale commercial and industrial dev. servicing agriculture ³	Wineries and cideries ⁴	Winery incidental facilities	Winery Events	On-farm diversified uses	Agriculture-related Uses
2005 NEP	Permitted No size restrictions	Limited to 465 m ²	Limited to 465 m ²	Limited to a total of 2,323 m ² (above grade) Minimum 4 ha parcel size	Single facility to sell wine with limited food service (light meals) Limited to 50 people Limited to 25% of the above-grade floor area Can only operate when the winery is open for public tours or events	Indoor and outdoor events, subject to approval of an application	n/a	n/a
2017 NEP	Permitted No size restrictions	n/a ⁵	n/a ⁶	Any building limited to 3,200 m ² No minimum parcel size	Retail sales and tasting area within the winery building The sale of gift and promotional products within the retail sales and tasting area, relating to wine and grape industry, or other local agricultural products	Policies addressing winery events were removed.	Limited to 2% of lot area, to a maximum of 10,000 m ² Buildings limited to 20% of the 2%	Any one building limited to 3,200 m ²

¹ Permitted in all 2005 and 2017 NEP land use designations, except in Escarpment Natural Area, where only existing agricultural uses are permitted.

² Only permitted in Escarpment Protection Area and Escarpment Rural Area (2005).

³ Only permitted in Escarpment Rural Area, but only outside of prime agricultural areas and specialty crop areas (2005).

⁴ Wineries/cideries are permitted as both agriculture-related uses and on-farm diversified use, but in both cases must be on a farm (2017).

⁵ In the 2017 NEP, these uses would now be considered agriculture-related uses or on-farm diversified uses.

⁶ In the 2017 NEP, commercial and industrial development servicing agriculture would be considered an agriculture-related uses.