



**THE REGIONAL MUNICIPALITY OF NIAGARA
PLANNING & ECONOMIC DEVELOPMENT COMMITTEE
FINAL AGENDA**

PEDC 3-2021

Wednesday, March 10, 2021

1:00 p.m.

Meeting will be held by electronic participation only

This electronic meeting can be viewed on Niagara Region's Website at:

<https://www.niagararegion.ca/government/council/>

Due to efforts to contain the spread of COVID-19 and to protect all individuals, the Council Chamber at Regional Headquarters will not be open to the public to attend Committee meetings until further notice. To view live stream meeting proceedings, visit:
[niagararegion.ca/government/council](https://www.niagararegion.ca/government/council)

| | Pages |
|--|--------------|
| 1. <u>CALL TO ORDER</u> | |
| 2. <u>DISCLOSURES OF PECUNIARY INTEREST</u> | |
| 3. <u>STATUTORY PUBLIC MEETING UNDER THE PLANNING ACT</u> | |
| Regional Official Plan Amendment No. 19 (ROPA 19) - 475-635 Canal Bank Street, Welland | |
| 3.1. <u>Presentations</u> | |
| 3.1.1. Overview of the Application Lindsay Earl, Senior Development Planner | 6 - 12 |
| 3.2. <u>Registered Speakers</u> | |
| 3.2.1. Armstrong Planning and Project Management Amanda Kosloski, RPP, VP, Planning & Project Management | 13 - 23 |
| 3.3. <u>Reports and Correspondence (For Information Only)</u> | |
| 3.3.1. PDS 15-2021 Statutory Public Meeting for Regional Official Plan Amendment 19 - 475-635 Canal Bank Street, Welland | 24 - 138 |

3.4. Summary and Next Steps

3.5. Adjournment of the Statutory Public Meeting Under the Planning Act

4. PRESENTATIONS

5. DELEGATIONS

5.1. Local Official Plan Amendment No. 26 - Employment & Institutional Related Policy Amendments - City of St. Catharines (Report PDS 10-2021(Agenda Item 6.1))

5.1.1. Ted Kirkpatrick, Heddle Shipyards, and Steve Martin, Stubbes Cement 139 - 140
The delegation submission is attached to this agenda item as PDS-C 13-2021.

5.1.2. Brad Schlegel, Schlegel Villages Inc. 141 - 142
The delegation submission is attached to this agenda item as PDS-C 14-2021.

5.1.3. *Julia Redfearn and Mary Lou Tanner, IBI Group and NPG Planning Solutions* 143 - 170
The delegation submission is attached to this agenda item as PDS-C 19-2021.

5.1.4. *Tom Richardson, Sullivan Mahoney LLP* 171 - 172
The delegation submission is attached to this agenda item as PDS-C 20-2021.

5.1.5. *Matthew Cory, Malone Given and Parsons* 173 - 174
The delegation submission is attached to this agenda item as PDS-C 21-2021.

5.1.6. *Leonard Pennachetti, Fermo Holdings Limited* 175 - 176
The delegation submission is attached to this agenda item as PDS-C 22-2021.

5.2. Lakewood Beach Development - Municipal Responsibility Agreement for On-Site Water & Wastewater Communal Systems (Report PDS 16-2021 (Agenda Item 7.5))

5.2.1. Thomas Richardson, Sullivan Mahoney LLP on behalf of Lakewood Beach Properties Ltd. 177 - 178
The delegation submission is attached to this agenda item as PDS-C 15-2021.

6. ITEMS FOR CONSIDERATION

- 6.1. PDS 10-2021 179 - 225
Local Official Plan Amendment No. 26 - Employment and Institutional
Related Policy Amendments – City of St. Catharines

A presentation will precede the consideration of this item.
- 6.2. PDS 5-2021 226 - 278
Recommendation Report for Regional Official Plan Amendment 17 –
Glendale District Plan

A presentation will precede the consideration of this item.
- 6.3. PDS-C 23-2021 279 - 359
Referred Niagara River Ramsar Designation Endorsement Motion for
Consideration

7. CONSENT ITEMS FOR INFORMATION

- 7.1. ED 6-2021 360 - 365
COVID-19 Response and Business Continuity in Economic Development
- 7.2. PDS-C 7-2021 366 - 370
COVID-19 Response and Business Continuity in Planning and
Development Services
- 7.3. ED 7-2021 371 - 379
Online Business Directory

A presentation will precede the discussion of this item.
- 7.4. PDS 12-2021 380 - 384
2021 Niagara Employment Inventory Status Update (and **BE
CIRCULATED** to the Local Area Municipalities, Local Economic
Development Offices, Niagara Workforce Planning Board, Brock
University, and the Niagara Chambers of Commerce)
- 7.5. PDS 16-2021 385 - 392
Lakewood Beach Development - Municipal Responsibility Agreement for
On-Site Water & Wastewater Communal Systems (and **BE
CIRCULATED** to the Township of Wainfleet)

| | | |
|-------|---|-----------|
| 7.6. | <u>PDS-C 12-2021</u> A letter to D. Giles, Acting Commissioner, Planning and Development Services, from Cordelia Clarke Julien, Assistant Deputy Minister, Ministry of Municipal Affairs and Housing, dated February 23, 2021, respecting Changes to A Place to Grow: Growth Plan for the Greater Golden Horseshoe | 393 - 394 |
| 7.7. | <u>PDS 18-2021</u> Growing the Greenbelt Environmental Registry of Ontario Posting (and BE CIRCULATED to the Local Area Municipalities) | 395 - 402 |
| 7.8. | <u>PDS-C 16-2021</u> A letter from D. Cyr, Chair of the Board, Niagara Industrial Association, dated March 2, 2021, respecting PDS 10-2021 Local Official Plan Amendment No. 26 - Employment and Institutional Related Policy Amendments – City of St. Catharines | 403 - 404 |
| 7.9. | <u>PDS-C 17-2021</u> A letter from J. Comeau, Chief Operating Officer & Executive Vice President, EllisDon Capital, dated March 3, 2021, respecting City of St. Catharines Amendment No. 26, as modified Fourth Avenue – West of NHS Hospital 1298 Fourth Avenue, 2000 Pathstone Way, and 1956 Third Street Louth | 405 |
| 7.10. | <u>PDS-C 18-2021</u> A letter from S. Smyth, Senior Planner, Quartek Group, dated March 2, 2021, respecting Glendale Niagara District Plan Bill Chohan Subject Lands (Roll No. 262702001802380) Requested Amendment for Mixed Use High Density Designation | 406 - 408 |
| 7.11. | <u>PDS-C 24-2021</u> A letter from Jocelyn Baker, Canadian Co-Chair, and Jajean Rose-Burney, U.S. Co-Chair, Niagara River Ramsar Binational Steering Committee, dated March 4, 2021, respecting Request for Support & Legal Review Follow-up: Niagara River Ramsar Site Designation | 409 |
| 7.12. | <u>PDS-C 25-2021</u> A letter from D. Falletta, Bousfields Inc., dated March 8, 2021, respecting Glendale District Plan Review – ROPA 17 Item 6.2 of the March 10, 2021 Planning & Economic Development Committee. | 410 - 411 |
| 7.13. | <u>PDS-C 26-2021</u> A letter from N. DeRuyter, MHBC, dated March 9, 2021, respecting Kaneff Properties Limited Comments on Regional Official Plan Amendment 17 Glendale District Plan, 590 Glendale Avenue, City of St. Catharines. | 412 - 413 |

An email from S. Bedford, Development Manager, LANDx Developments Ltd., dated March 9, 2021, respecting Glendale District Plan OP Policies.

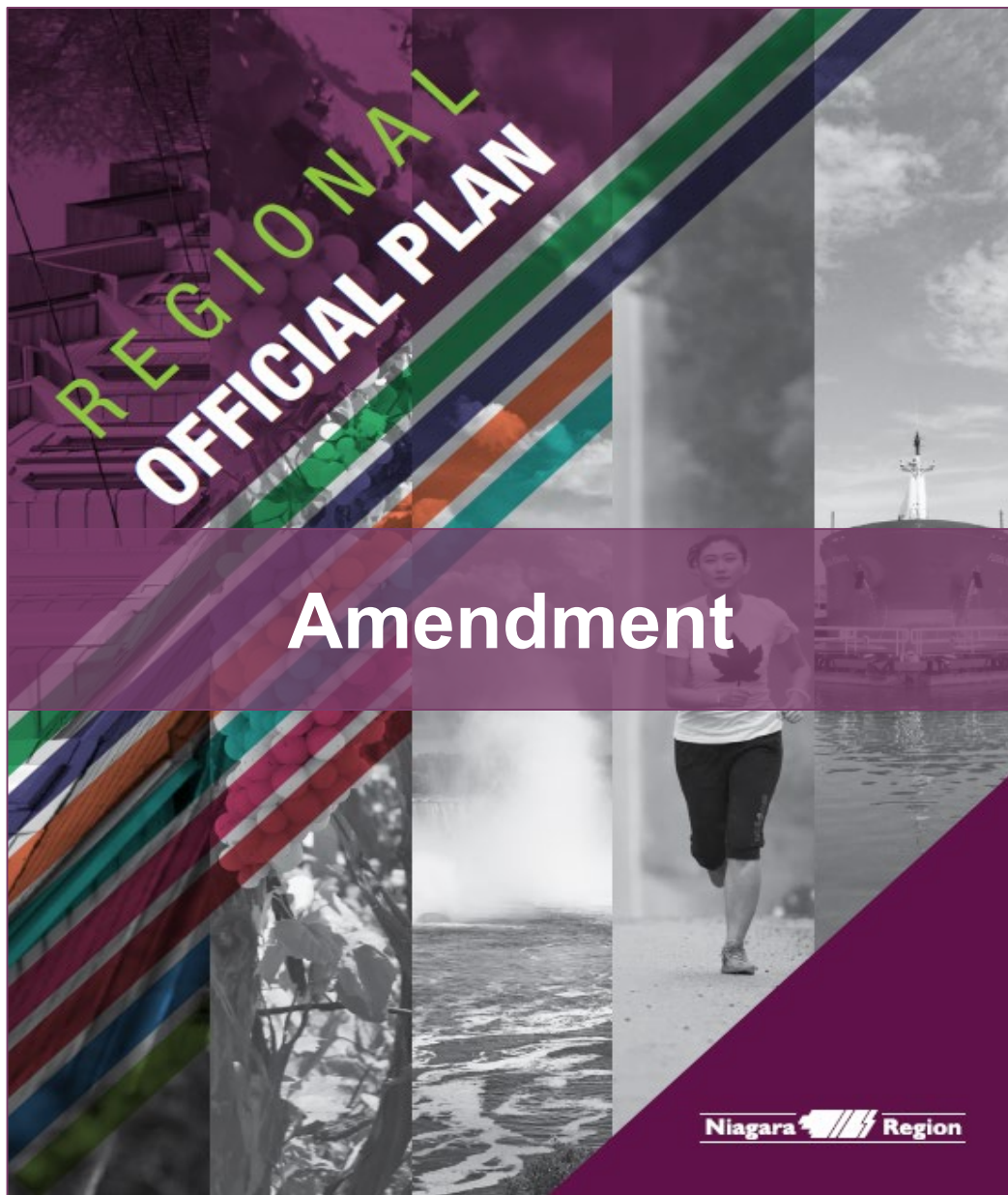
8. OTHER BUSINESS

9. NEXT MEETING

The next meeting will be held on Wednesday, April 14, 2021 at 1:00 p.m.

10. ADJOURNMENT

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisor at 905-980-6000 ext. 3252 (office), 289-929-8376 (cellphone) or accessibility@niagararegion.ca (email).



Statutory Public Meeting

March 10, 2021

ROPA 19: 475-635 Canal Bank Street, Welland

Presented by:

Lindsay Earl, MCIP, RPP
Senior Development Planner
lindsay.earl@niagararegion.ca

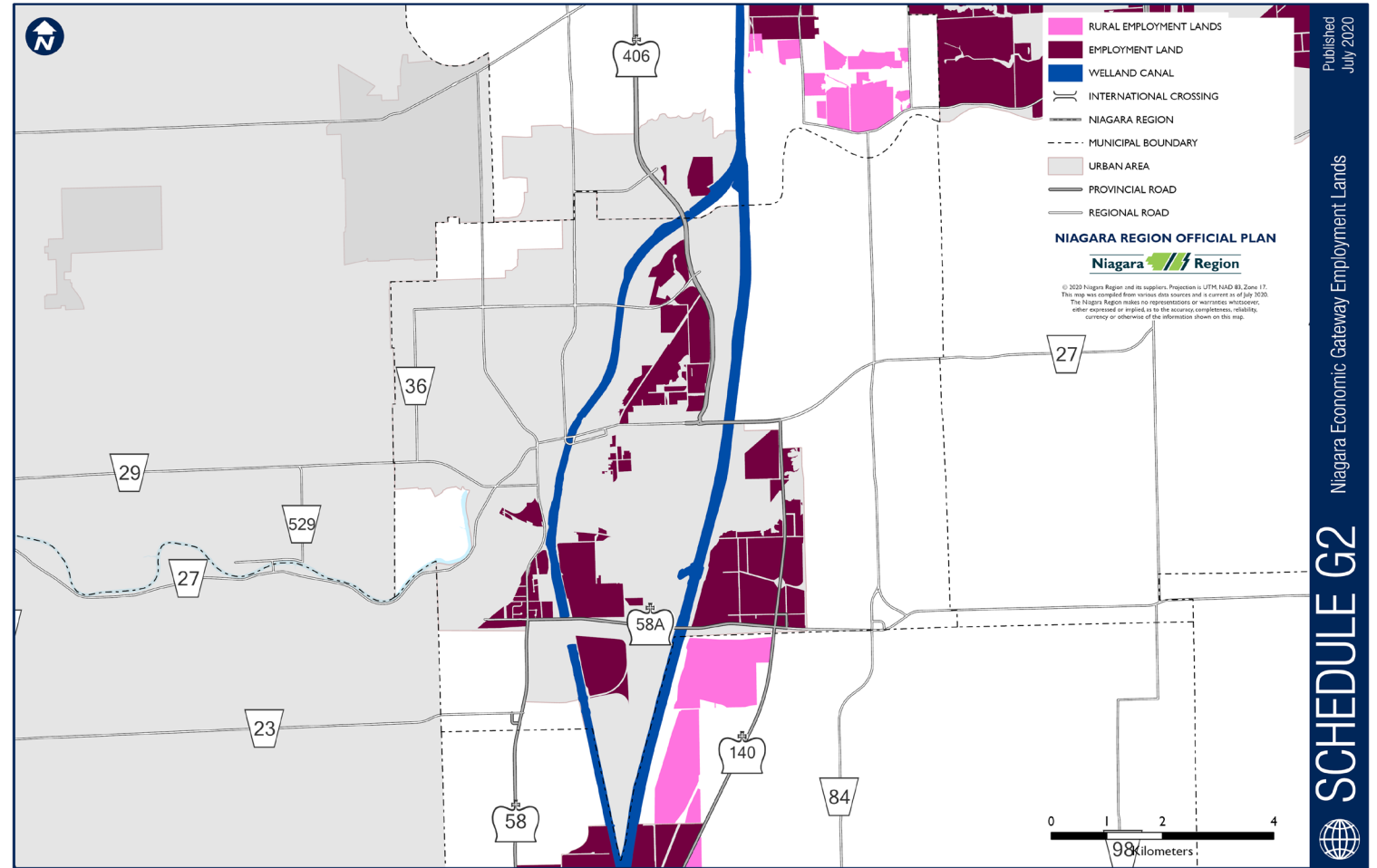
Associated report:
PDS 15-2021

475-635 Canal Bank Street, Welland



Purpose of ROPA 19

- ROPA 19 has been initiated by Armstrong Planning & Project Management on behalf of 555 Canal Bank Developments GP Inc. to remove the subject lands from the Gateway Economic Centre Designation on Schedule G2 in order to facilitate the change in land use from employment to residential



Published
July 2020

Niagara Economic Gateway Employment Lands

SCHEDULE G2

Purpose of ROPA 19 Continued

- The Amendment will also refine/delineate the boundaries of the “Environmental Conservation Area” and add “Environmental Protection Area” to the subject lands on Schedule C based on the Core Natural Heritage studies submitted in support of the application

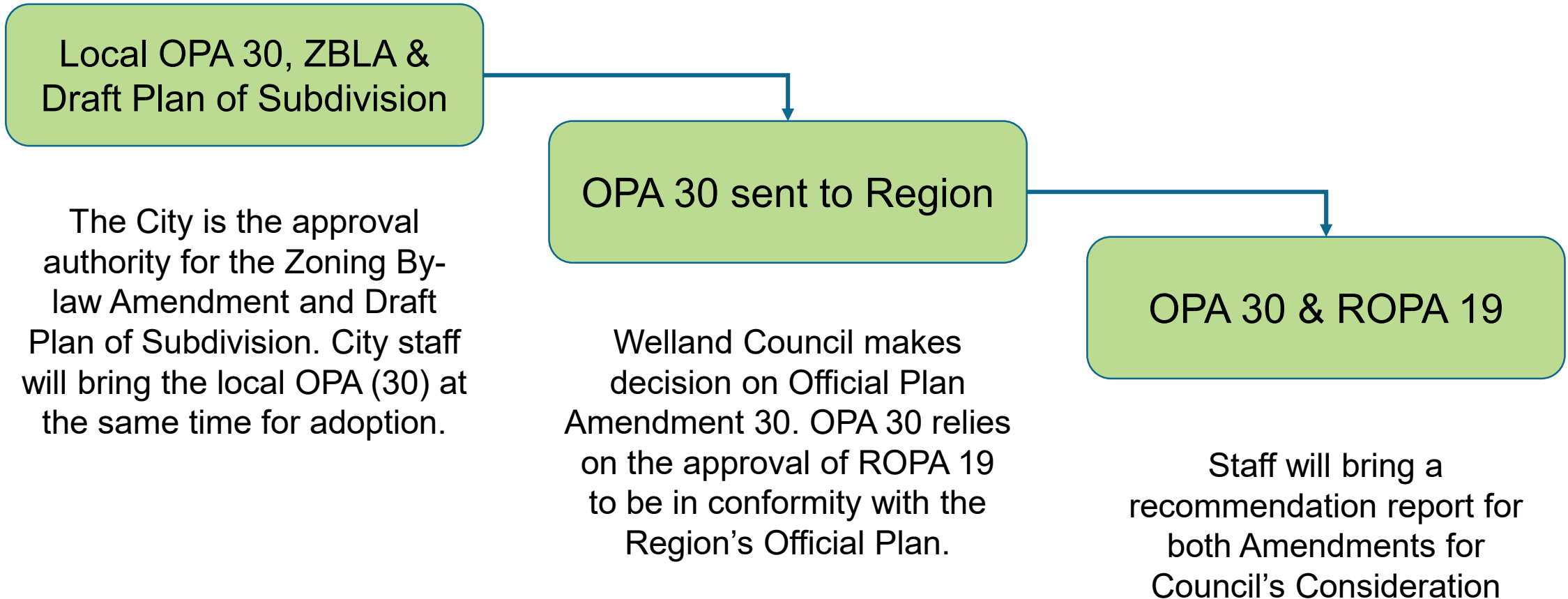


Supporting Information

- Planning Justification
- Land Use Compatibility – Air Quality Assessment
- Environmental Impact Study
- Phase 1 – Environmental Site Assessment
- Phase 2 – Environmental Site Assessment
- Preliminary Functional Servicing Report
- Preliminary Functional Servicing Drawings
- Preliminary City Water and Wastewater Servicing Capacity Assessment
- Geotechnical Investigation Report
- Hydrogeological Investigation
- Employment Land Needs Study Update
- Employment Area Market Review and Land Needs Study
- Mixed-use Block & Dain City Economic Cluster Concept
- Noise and Vibration Feasibility Study
- Stormwater Management Report
- Traffic Impact Study
- Proposed Urban Design & Architectural Control Guidelines
- Pre and Post – Development Site Specific Water Balance

This technical information will be used to evaluate the ROPA application.

Approval Process



Summary of Next Steps

- ✓ Collect comments from agencies and the public
- ✓ Review and address any issues
- ✓ City to consider local applications
- ✓ Prepare a recommendation report for ROPA 19 and local OPA 30 concurrently

475-635 Canal Bank Street

Proposed Regional Official Plan Amendment,
Official Plan Amendment,
Zoning By-law Amendment &
Draft Plan of Subdivision

For: 555 Canal Bank Developments GP Inc.
Agent: Armstrong Planning & Project Management
c/o Amanda Kosloski

475, 555 & 635 Canal Bank St. Dain City, Welland

- +/-74 hectares with frontage on Canal Bank Street
- Former John Deere Manufacturing Plant lands
(plant closed in 2009)



SITE CONTEXT

475-635 Canal Bank Street, Dain City Welland

Source: Google Maps and Armstrong Planning & Project Management

| | |
|--------------------------|------------------|
| Total Area | 74.729ha |
| Residential Lands | 22.67ha |
| 5.5m Townhouse | 202 units |
| 8.0m Through Lot | 60 units |
| 8.0m Detached | 554 units |
| 10.0m Detached | 54 units |
| TOTAL | 870 units |

| | |
|---------------------|----------------|
| Parks | 4.27ha |
| Open Space | 26.52ha |
| School Block | 2.33 ha |
| Commercial | 4.06ha |

LAND USE

SCHOOL

PARKS

SWM POND

RESIDENTIAL

RESIDENTIAL*

COMMERCIAL

*through lot



PROPOSED DRAFT PLAN OF SUBDIVISION

475-635 Canal Bank Street, Dain City Welland

- 23.5% of Subdivision Lands
- 2 New Parks
 - Canal Bank Park
 - Linear Park
- +/- 4.0 km of New Trails
- Elementary School (5.0ac)
(Niagara District School Board)



TRAILS

OPEN SPACE

PARKS

SWM POND



PARKS, TRAILS and OPEN SPACE

475-635 Canal Bank Street, Dain City Welland

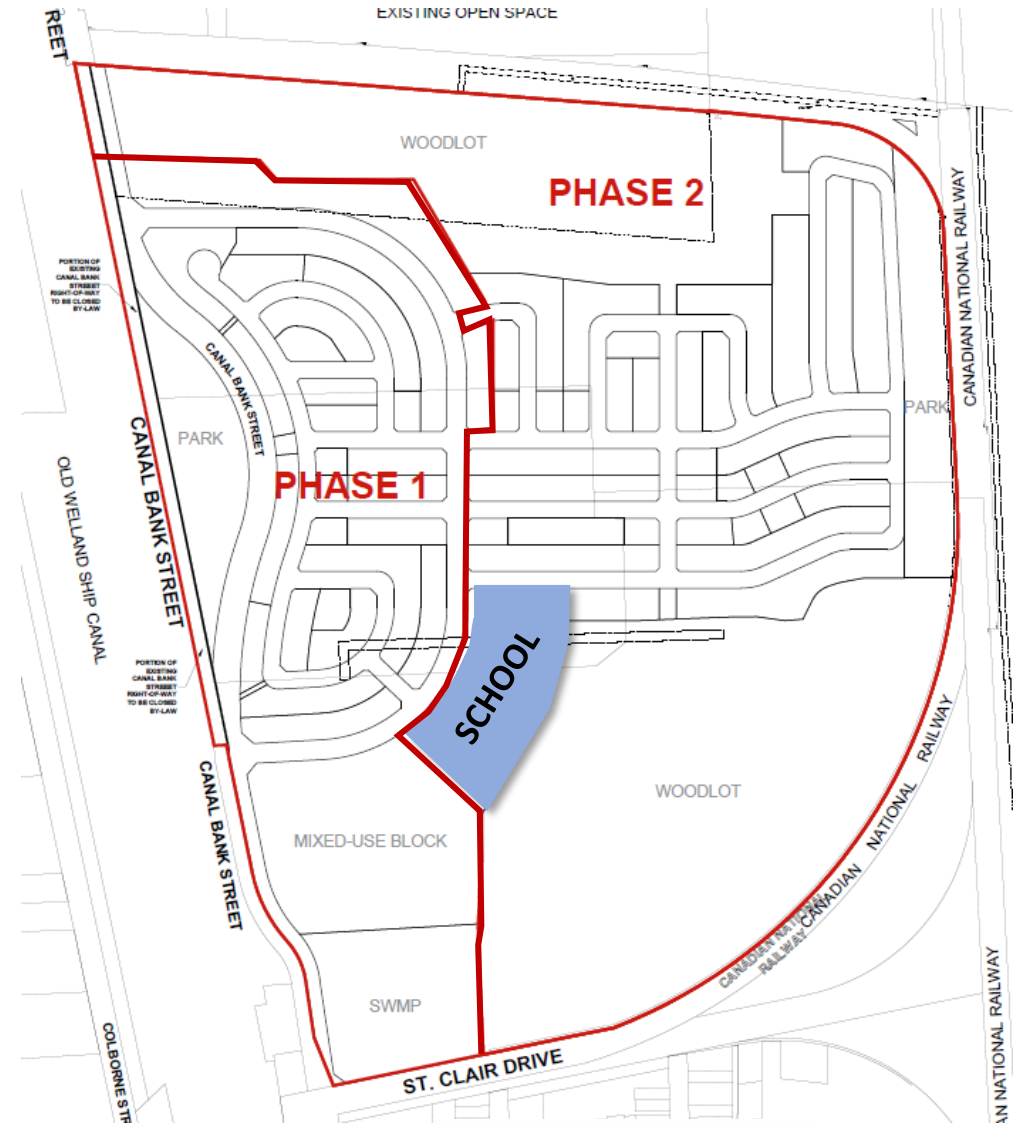
Source: Armstrong Planning & Project Management

WITH SCHOOL

| PRODUCT | PHASE 1 | PHASE 2 | TOTAL |
|------------------|------------|------------|------------|
| 6.1m Townhouse | 51 | 141 | 192 |
| 8.2m Through lot | 45 | 64 | 109 |
| 8.2m Detached | 60 | 0 | 60 |
| 9.1m Detached | 77 | 80 | 157 |
| 10.1m Detached | 35 | 44 | 79 |
| 10.4m Detached | 69 | 72 | 141 |
| 11.0m Detached | 6 | 31 | 37 |
| TOTAL | 343 | 432 | 775 |

WITHOUT SCHOOL

| PRODUCT | PHASE 1 | PHASE 2 | TOTAL |
|------------------|------------|------------|------------|
| 6.1m Townhouse | 51 | 141 | 192 |
| 8.2m Through lot | 48 | 64 | 112 |
| 8.2m Detached | 60 | 0 | 60 |
| 9.1m Detached | 77 | 80 | 157 |
| 10.1m Detached | 45 | 72 | 117 |
| 10.4m Detached | 69 | 72 | 141 |
| 11.0m Detached | 6 | 45 | 51 |
| TOTAL | 356 | 474 | 830 |



PROPOSED PHASING PLAN - LOTTED

475-635 Canal Bank Street, Dain City Welland

**280,000sqft of
Employment Opportunity
in a 4.0ha
MIXEDUSE
BLOCK**

BUILDING C

Bank & Related Uses



BUILDING B

Grab & Go Retail
Restaurants, Professional
Offices



BUILDING A

Destination Retail, Daycare,
Professional Offices



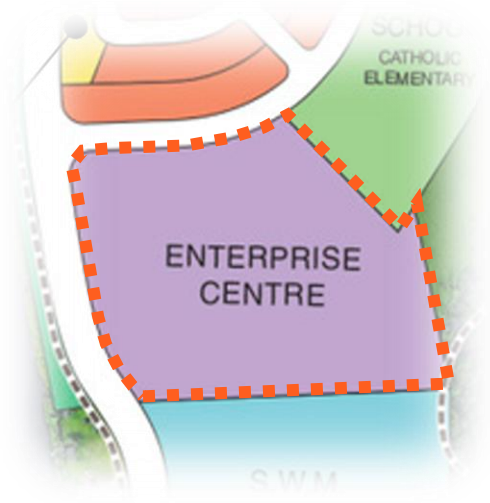
BUILDING D

Medical Offices &
Commercial Schools



BUILDING E

Animal Care, Employment
& Ancillary

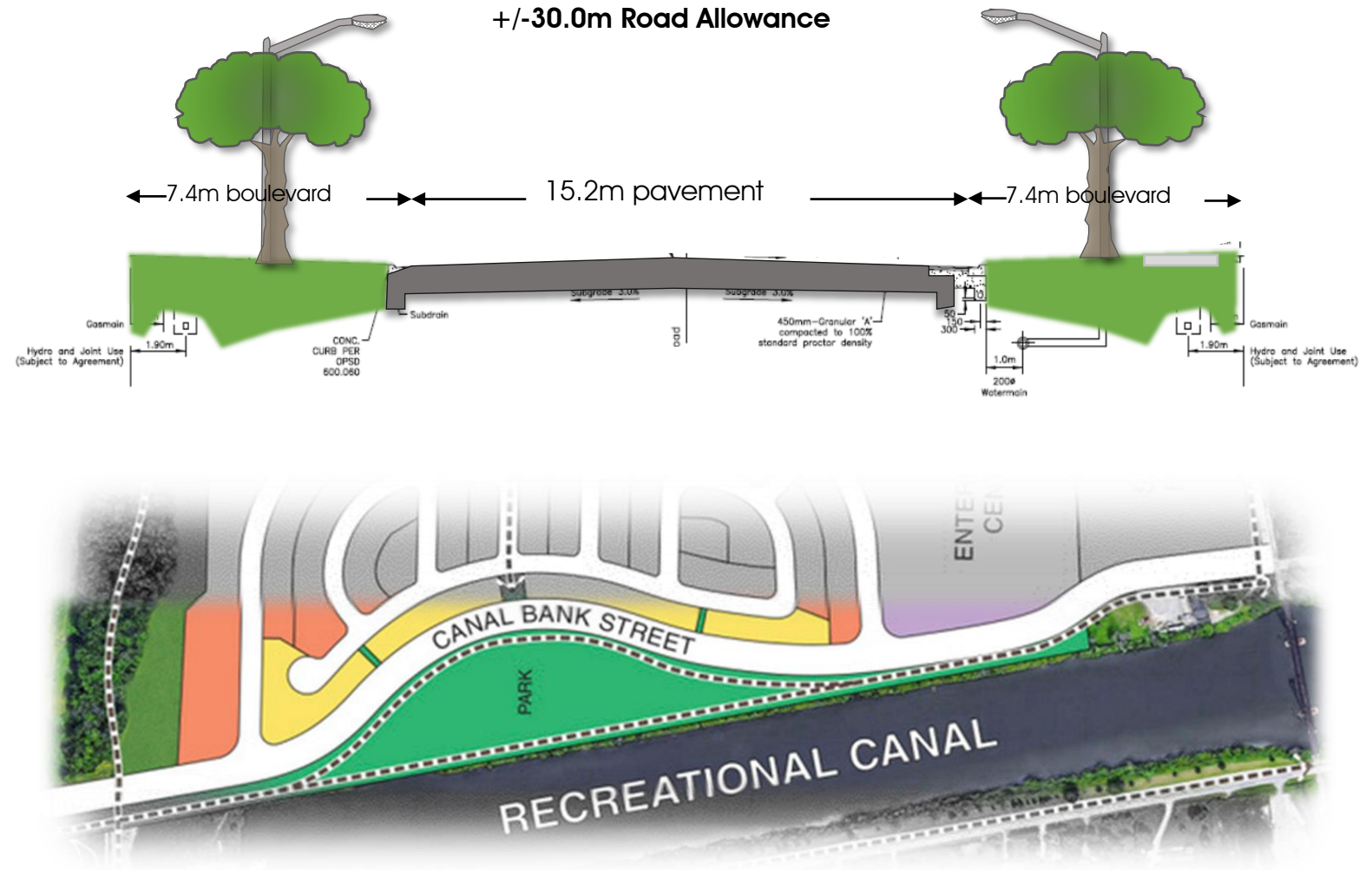


MIXED-USE (COMMERCIAL, RETAIL, SERVICE, JOBS) BLOCK

475-635 Canal Bank Street, Dain City Welland

- Realignment and widening of approximately 1.5km of Canal Bank Street including:

- Add new Curb & gutter;
- Add Sidewalks;
- Replace existing watermain;
- Add new sanitary sewer;
- Add new storm sewer;
- Demolish and remove old road;
- Utility relocation; and
- Add new street lighting.



CANAL BANK STREET REALIGNMENT

475-635 Canal Bank Street, Dain City Welland

- Brownfield **Remediation**;
- New **jobs** and local opportunity for employment;
- New **parks, trails** and **open space**;
 - Contribution to the City's Canal Walkway Plan
 - Including connection to the Flatwater centre and new Sports Park;
- **Local road improvements**:
 - Canal Bank Street realignment and widening
- New **elementary school**;

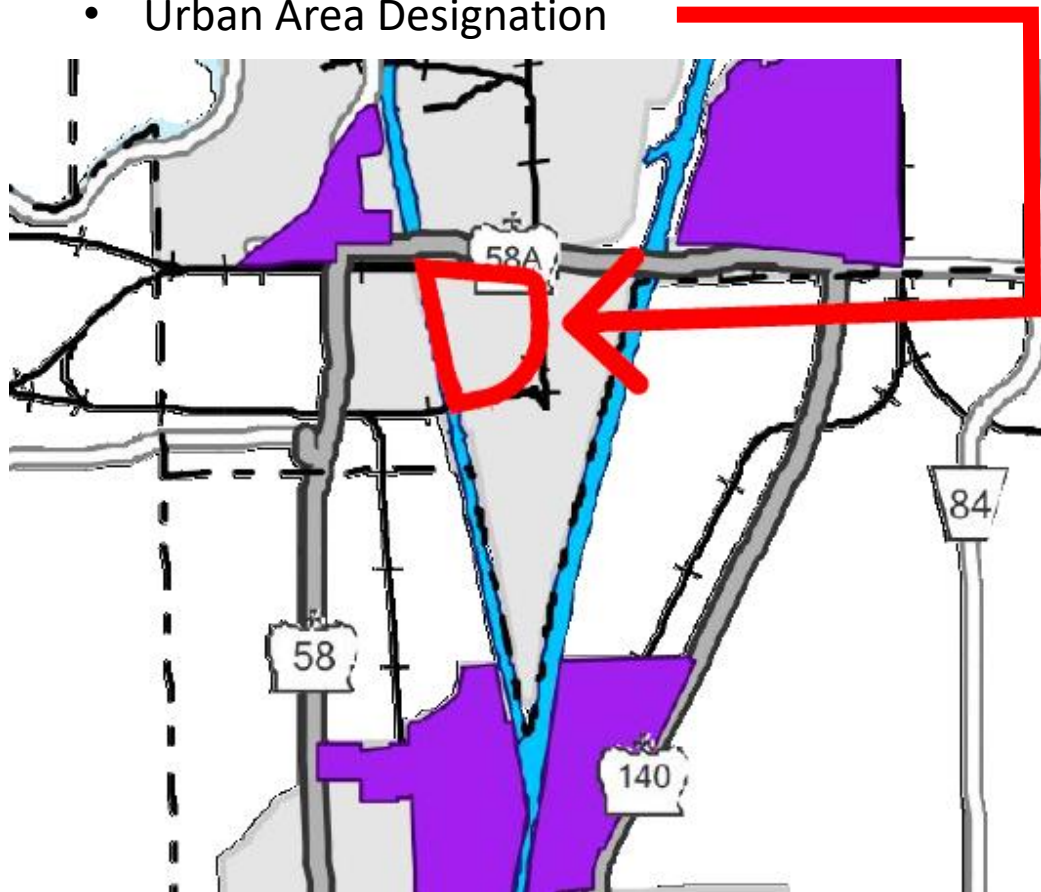


BENEFITS TO THE COMMUNITY

475-635 Canal Bank Street, Dain City Welland

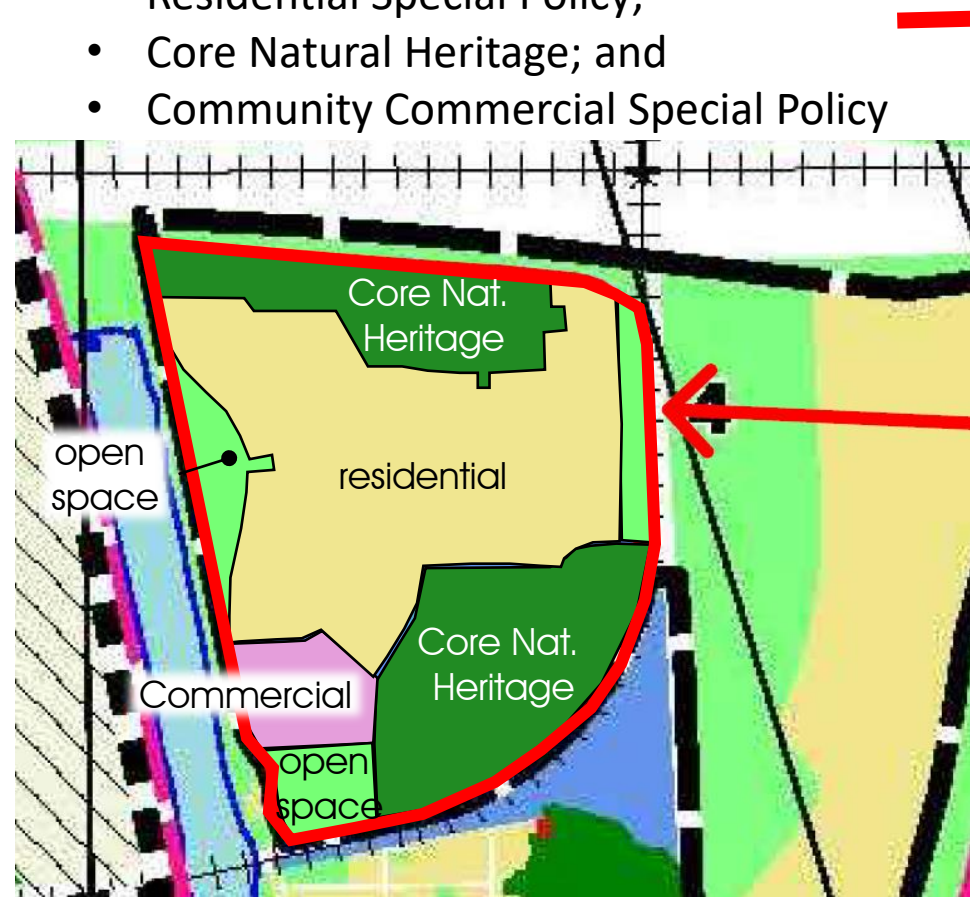
PROPOSED REGIONAL OFFICIAL PLAN LAND USE DESIGNATION MAP

- Remove Employment Designation
- ADD:
 - Urban Area Designation



PROPOSED OFFICIAL PLAN LAND USE DESIGNATION MAP

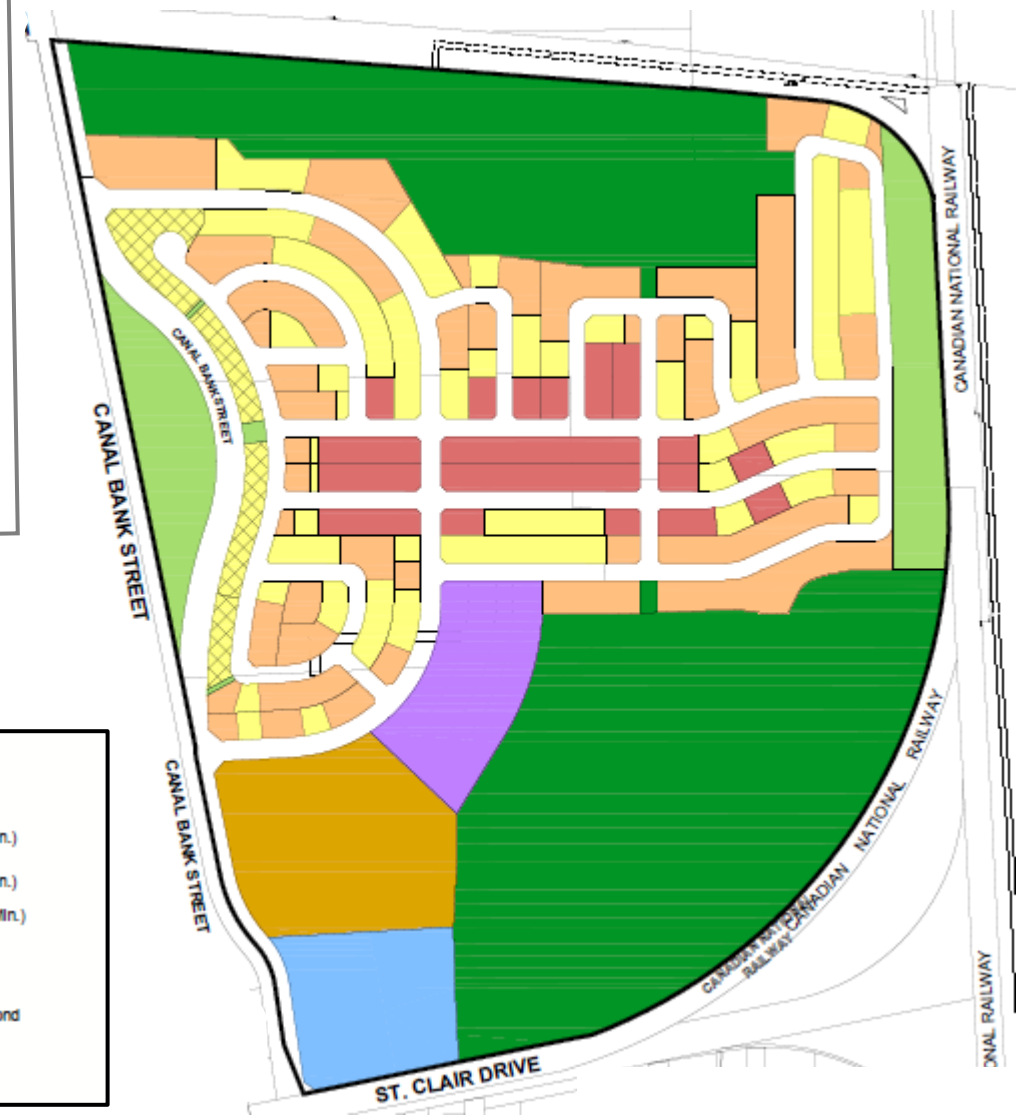
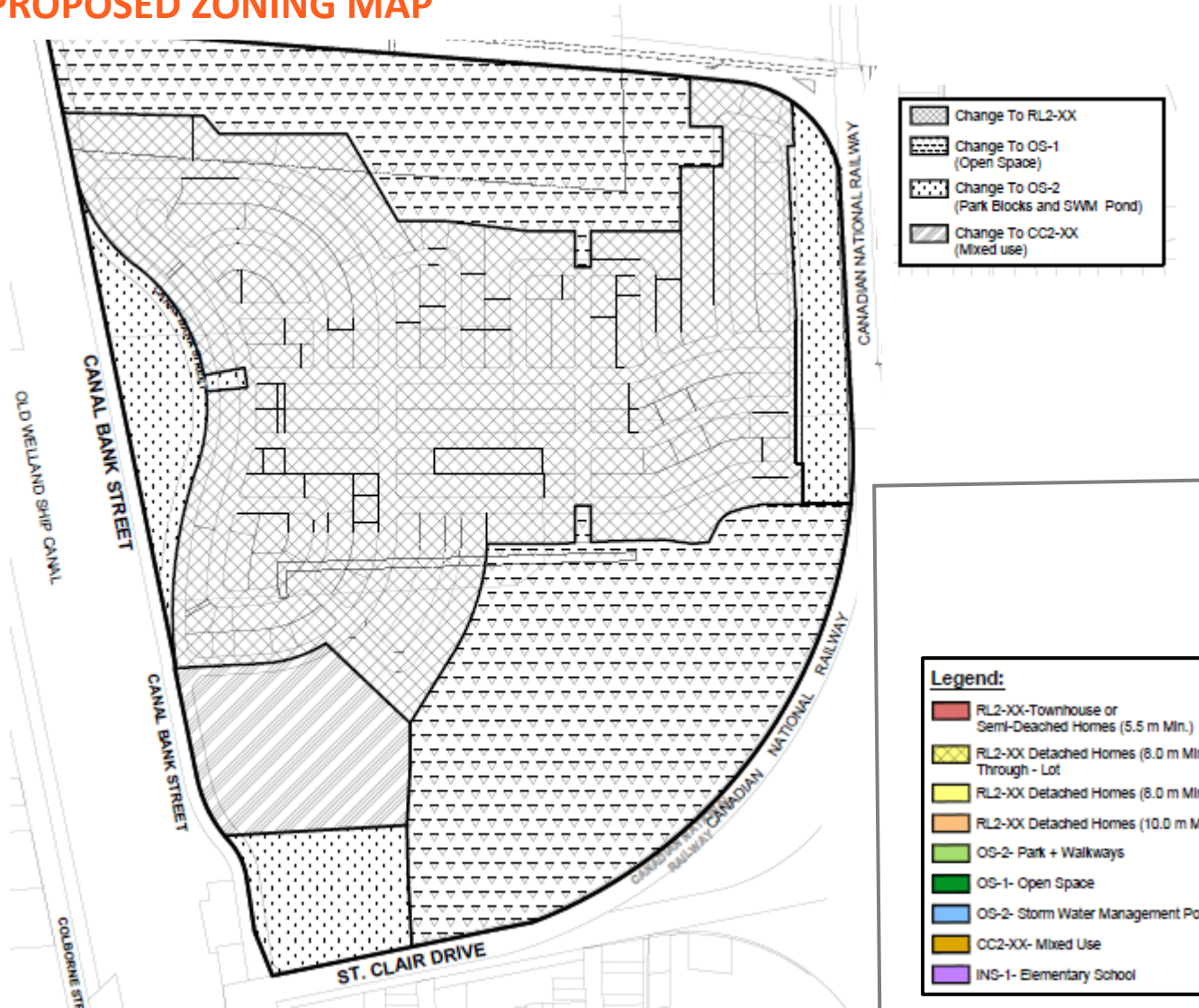
- REMOVE: General Industrial Designation
- ADD:
 - Residential Special Policy;
 - Core Natural Heritage; and
 - Community Commercial Special Policy



PROPOSED AMENDMENTS – Official Plan (Regional + Municipal)

475-635 Canal Bank Street, Dain City Welland

PROPOSED ZONING MAP



PROPOSED AMENDMENTS - ZONING

475-635 Canal Bank Street, Dain City Welland

THANK YOU

475-635 Canal Bank Street, Welland ON

Proposed Regional Official Plan Amendment,
Official Plan Amendment,
Zoning By-law Amendment &
Draft Plan of Subdivision

Subject: Statutory Public Meeting for Regional Official Plan Amendment 19 - 475-635 Canal Bank Street, Welland

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 10, 2021

Recommendations

1. That Report PDS 15-2021 respecting Regional Official Plan Amendment No. 19 (ROPA 19) for the lands located at 475-635 Canal Bank Street, City of Welland **BE RECEIVED** for information; and
2. That Report PDS 15-2021 **BE CIRCULATED** to the City of Welland

Key Facts

- The purpose of this report is to provide information for the Statutory Public Meeting for Regional Official Plan Amendment No. 19 (ROPA 19), which is being held in accordance with the prescribed requirements of Section 17 of the *Planning Act, 1990*, and to collect comments from the public. No recommendations or approvals are sought at this time.
- On behalf of 555 Canal Bank Developments GP Inc., Armstrong Planning & Project Management submitted an application for a Regional Official Plan Amendment (ROPA) for lands located at 475-635 Canal Bank Street in the City of Welland. The ROPA proposes to remove the employment land designation from Schedule G2 to facilitate the redevelopment of the subject lands from vacant industrial (previously John Deere) to a residential and mixed-use subdivision.
- The redevelopment is processed as a land use change from employment lands to residential and mixed-use pursuant to new *Growth Plan* policies. Of importance to Regional staff, the applicant proposes to retain 285,000 square feet of space for non-residential uses.
- Since April 2019, the applicants have regularly consulted with Regional and City staff to scope the study requirements for their proposal and ensure a comprehensive and streamlined process for submission of their planning applications.

- In addition to the ROPA, the applicant has submitted concurrent planning applications to the City of Welland for a Local Official Plan Amendment (OPA 30), Zoning By-law Amendment and Draft Plan of Subdivision in relation to the same matter.
- Regional staff deemed the application complete on December 10, 2020. On January 23, 2021, the Region advertised this Statutory Public Meeting in newspapers that have general circulation surrounding the subject lands. The application was then circulated to prescribed agencies on January 25, 2021.
- The City and Region held a virtual joint Public Open House for both the City and Regional applications on February 11, 2021.

Financial Considerations

There are no direct financial implications arising from this report.

The cost to process ROPA 19 is included in the review fee received for this application.

The Region may incur future costs as a result of the development of these lands in accordance with the Region's Brownfields Incentive Policies. More detailed information in this regard will be provided through a future report.

Analysis

The properties subject to this amendment are located at 475-635 Canal Bank Street in the City of Welland. The site was formerly occupied by John Deere (a farm equipment manufacturing operation from 1911 to 2009). The site has sat vacant for many years and is now considered a brownfield site.

ROPA 19 has been initiated by Armstrong Planning & Project Management on behalf of 555 Canal Bank Developments GP Inc. to remove the subject lands from the Employment Land designation on Schedule G2 – Niagara Economic Gateway Employment Lands. The proposed amendment is being requested to facilitate the redevelopment of the subject lands for residential and mixed use.

The proposed development consists of a mixed-use subdivision that would allow for a maximum development of 870 residential dwelling units consisting of a mix of detached, semi-detached and townhouse dwellings, a 4.0 hectare mixed-use employment block

containing 285,000 square feet of space, a stormwater management pond, an elementary school, parks and open space on approximately 74 hectares of land.

The location of the subject lands is shown in **Appendix 1**.

Background

The Region has been working on its Employment Strategy for several years. *A Place to Grow, Growth Plan for the Greater Golden Horseshoe* (“*Growth Plan*”) requires the Region, in consultation with local partners, to identify Employment Areas for long term protection of clusters of employment lands and uses.

An Employment Area is defined in the *Growth Plan* as those areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.

The term “employment lands” is used for parcels designated for employment uses within a local municipal official plan and/or zoning by-law. Employment lands may be located within or outside of an Employment Area. Employment lands located outside of Employment Areas typically have or are designated for employment uses that can be more easily integrated with other land uses.

Through the Region’s Employment Strategy work, City and Regional staff determined that the subject lands are not an Employment Area. Therefore, the ROPA application is not considered a conversion of employment area; rather, it is being processed as a land use change of employment land. Policy 2.2.5.14 of the *Growth Plan* is applicable:

“Outside of Employment Areas, development criteria should be established to ensure that the redevelopment of any employment lands will retain space for a similar number of jobs to remain accommodated on site.”

The above policy is critical in how the Region reviews and considers the proposed amendment. In this case, the Applicant proposes to retain 285,000 square feet of space to be accommodated on site.

After the initial local pre-consultation meeting on April 18, 2019, a working group comprised of Staff from the City and the Region along with the applicant and their consultants was formed to aid in the comprehensive master planning of this large-scale redevelopment. Regional staff actively participated in establishing the Terms of Reference (TOR) for the submission of required studies for the local and Regional

Official Plan Amendments, as well as the TOR for the Employment Area Market Review and Land Needs Study required to determine conformity with Provincial and Regional policy.

The ROPA application was deemed complete on December 10, 2020. Concurrent Local Official Plan and Zoning By-law Amendment and Draft Plan of Subdivision Applications have also been submitted to the City of Welland for this development.

The following documents and reports were submitted in support of the planning applications:

- Planning Justification
- Land Use Compatibility – Air Quality Assessment
- Environmental Impact Study
- Phase 1 – Environmental Site Assessment
- Phase 2 – Environmental Site Assessment
- Preliminary Functional Servicing Report
- Preliminary Functional Servicing Drawings
- Preliminary City Water and Wastewater Servicing Capacity Assessment
- Geotechnical Investigation Report
- Hydrogeological Investigation
- Employment Land Needs Study Update
- Employment Area Market Review and Land Needs Study
- Mixed-use Block & Dain City Economic Cluster Concept
- Noise and Vibration Feasibility Study
- Stormwater Management Report
- Traffic Impact Study
- Proposed Urban Design & Architectural Control Guidelines
- Pre and Post – Development Site Specific Water Balance

Copies of the supporting documents are available via the City's website under Planning Division at <https://www.welland.ca/reportsstudies.asp>. Information has been circulated to prescribed agencies and Regional staff for review. This technical information will be used to evaluate the ROPA application.

ROPA 19 consists of a mapping change to remove the lands from the Employment Land designation on Schedule G2 – Niagara Economic Gateway Employment Lands. It was also determined through staff's review of the technical studies that an additional amendment is required to refine/delineate the boundaries of the existing "Environmental

Conservation Area” and add “Environmental Protection Area” to the subject lands on Schedule C. These refinements are still under review and have not been shown on the draft ROPA schedule at this time. No text changes are proposed.

As noted above in *Growth Plan* policy 2.2.5.14, the proposed land use change must retain space for a similar number of jobs. A mixed use employment block is proposed to address this policy; as noted, the Applicant proposes to retain 285,000 square feet of space to be accommodated on site. The mixed use employment block will be designated as such in the local Official Plan and will include the space requirement within the amendment.

A copy of draft ROPA 19 is included as **Appendix 2**.

Next Steps

The Region participated in a joint Open House held by the City of Welland on February 11, 2021. The Open House included a presentation to provide information on the proposal and an opportunity to collect initial input. Four registered participants attended and provided their comments.

The Region is collecting comments from the public, prescribed agencies and other stakeholders. Comments received prior to the authoring of this report are included in **Appendix 3**. Additional comments will be reviewed and addressed prior to the future recommendation on this application.

The local Official Plan Amendment (OPA 30) relies on the approval of ROPA 19 in order to demonstrate conformity with Regional and Provincial policy. Therefore, the Region has retained approval authority for OPA 30. The local and Regional Official Plan Amendments will be processed concurrently and both amendments will be brought forward for Council's consideration at the same time following Welland Council's decision on OPA 30.

Alternatives Reviewed

The *Planning Act, 1990* requires that public consultation be conducted as part of all amendments to municipal Official Plans. Notice has been provided for this Statutory Public Meeting as required by legislation.

Relationship to Council Strategic Priorities

This proposal has the potential to support the following Council strategic priorities:

- Supporting Businesses and Economic Growth
- Healthy and Vibrant Community
- Responsible Growth and Infrastructure Planning

Prepared by:

Lindsay Earl, MCIP, RPP
Senior Development Planner
Planning and Development Services

Recommended by:

Doug Giles, BES, MUP
Acting Commissioner
Planning and Development Services

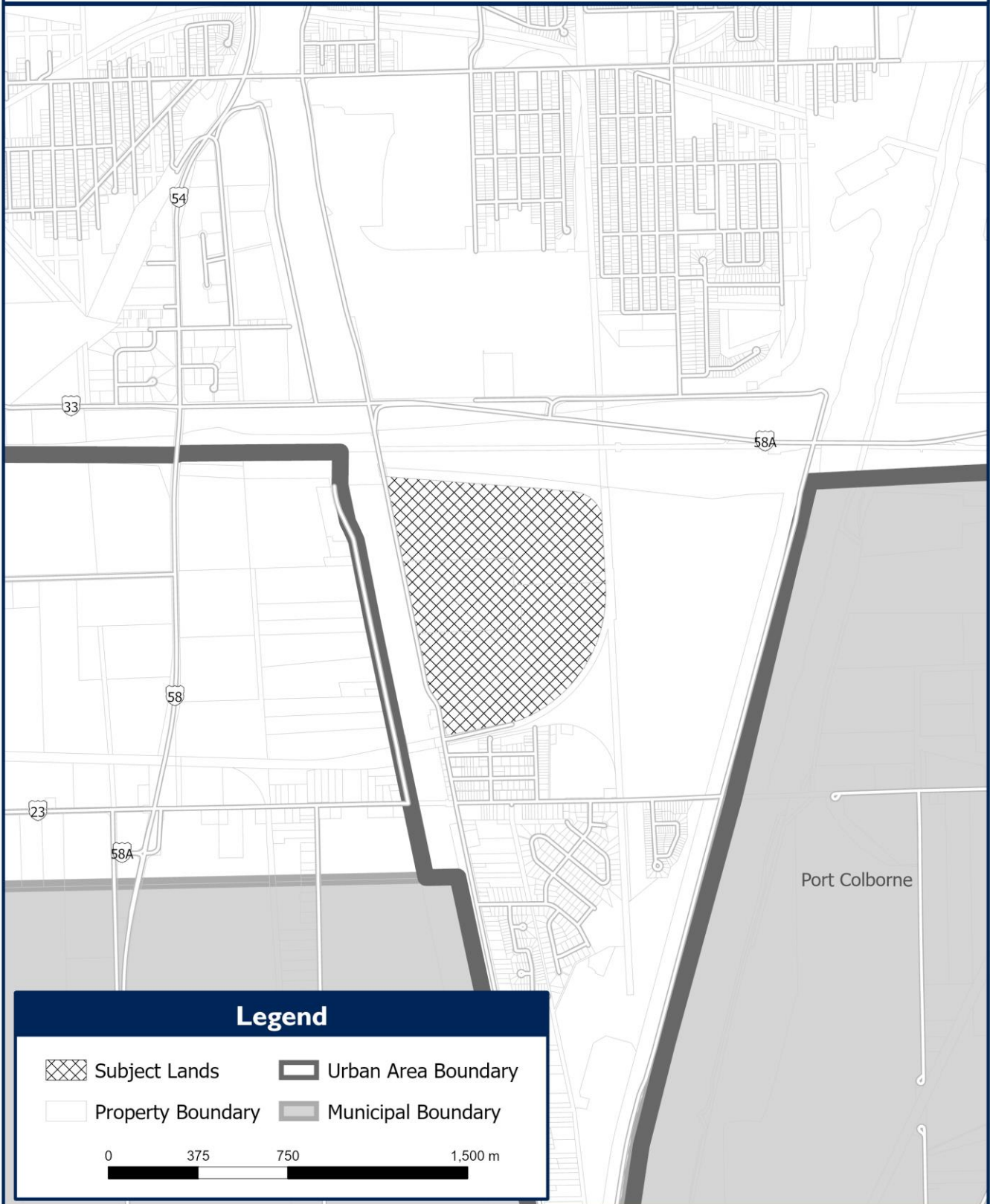
Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Lola Emberson, MCIP, RPP, Acting Manager, Development Planning and reviewed by Pat Busnello, MCIP, RPP, Acting Director Development Approvals

Appendices

| | |
|------------|----------------------------|
| Appendix 1 | Location Map |
| Appendix 2 | Draft ROPA 19 |
| Appendix 3 | Public and Agency Comments |



DRAFT

REGIONAL OFFICIAL PLAN AMENDMENT 19

TO THE NIAGARA REGION

OFFICIAL PLAN

PART “A” – THE PREAMBLE

The preamble provides an explanation of the Amendment including the purpose, location, background, and basis of the policies and implementation, but does not form part of this Amendment.

- Title and Components
- Purpose of the Amendment
- Location of the Amendment
- Background
- Basis for the Amendment
- Implementation

PART “B” – THE AMENDMENT

The Amendment describes the additions and/or modifications to the Niagara Region Official Plan, constitutes as Official Plan Amendment No. 19.

- Map Changes

PART “C” – THE APPENDICES

The Appendices provide information, public participation and agency comments relevant to the Amendment, but do not form part of this Amendment.

PART “A” – THE PREAMBLE

TITLE AND COMPONENTS:

This document, when approved in accordance with Section 17 of the Planning Act, 1990, shall be known as Regional Official Plan Amendment 19 (ROPA 19) to the Niagara Region Official Plan. Part “A” – The Preamble, contains background information and does not constitute part of this Amendment. Part “B” – The Amendment, consisting of map changes, constitutes Amendment 19 to the Niagara Region Official Plan. Part “C” – The Appendices, does not constitute part of the Amendment. These Appendices contain information related to public involvement and agency comments associated with the Amendment.

PURPOSE OF THE AMENDMENT:

The purpose of this amendment is to update mapping to the Regional Official Plan to remove the subject lands from “Employment Land” designation and to further delineate/refine the boundary limits of the “Environmental Conservation Area” and add “Environmental Protection Area” designation on the subject lands.

LOCATION OF THE AMENDMENT:

This amendment applies to the lands known municipally as 475-635 Canal Bank Street in Dain City, Welland Ontario.

BACKGROUND:

This is a privately initiated Regional Official Plan Amendment (ROPA) to accommodate the redevelopment of the subject lands from vacant industrial to a residential and mixed-use community that includes Commercial, Residential, Parks and Open Space, Environmental Conservation Areas and Environmental Protection Areas.

The amendment consists of mapping changes to remove the lands from the Employment Land designation on Schedule G2 – Niagara Economic Gateway Employment Lands, which will result in an urban designation in the Region’s Official Plan. The Amendment will also refine/delineate the boundaries of the “Environmental Conservation Area” and add “Environmental Protection Area” to the subject lands on Schedule C based upon review of the technical studies submitted in support of the application to allow for additional protections.

As a requirement of this land use change, the lands must retain space for a similar number of jobs. A mixed use employment block is proposed to accommodate a minimum of 280,000 sq ft of space for employment and jobs. The mixed use employment block will be designated as such in the local Official Plan.

BASIS FOR THE AMENDMENT:

1. This Amendment establishes a new land use designation for the subject site.

2. Rationale (to be added following formal review and collection of comments)
3. The Amendment was the subject of a Public Meeting held under the *Planning Act* on March 10, 2021. Public and agency comments were addressed as part of the preparation of this Amendment.
4. Based on the Region's review of the *Planning Act 1990*, the Provincial Policy Statement, the Provincial Plans, the Regional Official Plan, public consultation, and agency consultation, Regional staff is of the opinion that the Amendment is XXXXX.

IMPLEMENTATION:

Section 14, Implementation of the Niagara Region Official Plan, shall apply where applicable.

DRAFT

PART “B” – THE AMENDMENT

Amendment 19

To the Niagara Region

Official Plan

The Official Plan for the Niagara Planning Area is amended as follows:

Map Change:

1. The following Regional Official Plan Schedules are amended for the lands within the City of Welland shown on Schedule A, as follows:

- a) Schedule C, Core Natural Heritage, is amended by further refining/delineating the limit of the “Environmental Conservation Area” and adding “Environmental Protection Area” designations on the subject lands.
- b) Schedule G2, Niagara Economic Gateway Employment Lands, is amended by removing the subject lands from the “Employment Land” designation.

Text Change:

Not Applicable to this Amendment.

PART “C” – THE APPENDICES

Add schedules

DRAFT

Earl, Lindsay

From: Eastern Region Crossing <est.reg.crossing@enbridge.com>
Sent: Tuesday, February 09, 2021 12:21 PM
To: Earl, Lindsay
Subject: RE: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

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Enbridge Pipelines Inc. (crude oil division) is not affected by the proposed construction.

From: Earl, Lindsay
Sent: Monday, January 25, 2021 1:52 PM
Subject: [External] Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

EXTERNAL: PLEASE PROCEED WITH CAUTION.

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Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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Earl, Lindsay

From: Municipal Planning <MunicipalPlanning@enbridge.com>
Sent: Friday, February 05, 2021 9:26 AM
To: Earl, Lindsay
Subject: FW: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland
Attachments: Agency Request for comments- ROPA 19.pdf; Public Meeting Notice-ROPA 19.pdf

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Thank you for your circulation.

Enbridge Gas Inc. does not object to the proposed application however, we reserve the right to amend our development conditions.

Please continue to forward all municipal circulations and clearance letter requests electronically to MunicipalPlanning@Enbridge.com.

Regards,

Alice Coleman
Municipal Planning Analyst
Long Range Distribution Planning

—

ENBRIDGE
TEL: 416-495-5386 | MunicipalPlanning@Enbridge.com
500 Consumers Road, North York, Ontario M2J 1P8

enbridge.com

Safety. Integrity. Respect.

From: Robert D'Onofrio
Sent: Monday, January 25, 2021 3:12 PM
To: Municipal Planning
Subject: FW: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

FYI, thanks
Rob

Rob D'Onofrio, C.Tech
Supervisor Construction Project Management
GTA West / Niagara Operations

ENBRIDGE GAS INC.

Tel: 905 641-4876 | Fax: 905 704-3683
3401 Schmon Parkway, Thorold ON L2V 4Y6

enbridgegas.com

Integrity. Safety. Respect.

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From: Rhonda Nicholson <Rhonda.Nicholson@enbridge.com>

Sent: Monday, January 25, 2021 3:10 PM

To: Robert D'Onofrio <robert.donofrio@enbridge.com>

Subject: FW: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Hi Rob, I cannot see the distribution list on the email below. Hoping you also got a copy.

Rhonda Nicholson

Manager Regional Execution
GTA West / Niagara Operations
—

ENBRIDGE GAS INC.

TEL: 905-641-4815
3401 Schmon Pkwy
Thorold, Ontario, L2V 4Y6

enbridgegas.com

Safety. Integrity. Respect.

From: Earl, Lindsay <lindsay.earl@niagararegion.ca>

Sent: Monday, January 25, 2021 1:52 PM

Subject: [External] Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

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Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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Earl, Lindsay

From: Megan DeVries <Megan.DeVries@mncfn.ca>
Sent: Monday, February 01, 2021 9:29 AM
To: Earl, Lindsay
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

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Hi Lindsay,

Thank you for the information about the redevelopment. I have no further concerns.

Kind regards,
Megan.

Megan DeVries, M.A. (she/her)
Archaeological Operations Supervisor



Department of Consultation and Accommodation (DOCA)
Mississaugas of the Credit First Nation (MCFN)

4065 Highway 6 North, Hagersville, ON N0A 1H0

P: 905-768-4260 | M: 289-527-2763

<http://www.mncfn.ca>

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From: Earl, Lindsay
Sent: Friday, January 29, 2021 2:17 PM
To: Megan DeVries
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Hi Megan,

With respect to the above noted file, I wanted to let you know that given this project is a redevelopment of an existing industrial property, an archaeological assessment was not requested by the Region in accordance with Ministry criteria.

If you would like to discuss this further or have any questions please feel free to email me, or call 289-969-1400 between 1-3pm on Monday.

March 10, 2021

Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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From: Megan DeVries <Megan.DeVries@mncfn.ca>

Sent: Friday, January 29, 2021 8:43 AM

To: Earl, Lindsay <lindsay.earl@niagararegion.ca>

Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19
475635 Canal Bank Street, Welland

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Hi Lindsay,

Thank you for reaching out. Unfortunately, I was out of the office yesterday and I have back-to-back meetings today. Can we schedule a short call to touch base about this on Monday (anytime) or Tuesday (afternoon)?

Please let me know!
Megan.

Megan DeVries, M.A. (she/her)
Archaeological Operations Supervisor



Department of Consultation and Accommodation (DOCA)
Mississaugas of the Credit First Nation (MCFN)

4065 Highway 6 North, Hagersville, ON N0A 1H0
P: 905-768-4260 | M: 289-527-2763
<http://www.mncfn.ca>

Appendix 3
Public and Agency Comments
PDS 15-2021
March 10, 2021

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From: Earl, Lindsay <lindsay.earl@niagararegion.ca>
Sent: Wednesday, January 27, 2021 3:27 PM
To: Megan DeVries <Megan.DeVries@mncfn.ca>
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19
475635 Canal Bank Street, Welland

Hi Megan,

I just called your office and left a message. I was hoping to have a chat with you regarding your email sent yesterday. I'm working remotely and I'm available at 289-969-1400 today or tomorrow anytime between 10-3. Please give me a call.

Thanks!

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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From: Megan DeVries <Megan.DeVries@mncfn.ca>
Sent: Tuesday, January 26, 2021 10:56 AM
To: Fawn Sault <Fawn.Sault@mncfn.ca>; Earl, Lindsay <lindsay.earl@niagararegion.ca>
Cc: Mark LaForme <Mark.LaForme@mncfn.ca>
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19
475635 Canal Bank Street, Welland

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

PDS 15-2021
March 10, 2021

Good morning,

Please find attached a letter from the Mississaugas of the Credit First Nation ("MCFN") regarding the upcoming assessment for Canal Bank Street, as identified below.

Please note that, in order to continue maintaining DOCA capacity for fulsome project participation, DOCA charges for technical review of project information. In the exercise of its stewardship responsibility, DOCA seeks to work together with project proponents and their archaeological consultants to ensure that archaeological work is done properly and respectfully. DOCA has retained technical advisers with expertise in the field of archaeology. These experts will review the technical aspects and cultural appropriateness of the archaeological assessments and strategies associated with your project. Upon completion of these reviews, MCFN will identify, if necessary, mitigation measures to address any project impacts upon MCFN rights. For cultural materials and human remains, DOCA may advise that this includes ceremonies required by Anishinaabe law, as well as request adjustments to the proposed fieldwork strategy.

The proponent is expected to pay the costs for MCFN to engage in a technical review of the project. DOCA anticipates at this time that all archaeological review will be undertaken by in-house technical experts, but will advise the proponent if an outside peer-review is required. Please find attached the agreement that covers MCFN's inhouse technical review of the archaeological assessments and strategies associated with your project(s). If you could please fill in the additional required information, highlighted in yellow, and return to us a signed copy, that would be greatly appreciated. After we have received it, we can execute the contract on our end and return the completed contract to you. Afterwards, I can arrange scheduling and other related matters directly with the consultant if you prefer.

Sincerely,
Megan.

Megan DeVries, M.A. (she/her)
Archaeological Operations Supervisor



Department of Consultation and Accommodation (DOCA)
Mississaugas of the Credit First Nation (MCFN)
4065 Highway 6 North, Hagersville, ON N0A 1H0
P: 905-768-4260 | M: 289-527-2763
<http://www.mncfn.ca>

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From: Fawn Sault
Sent: Thursday, January 21, 2021 10:56 AM
To: lindsay.earl@niagararegion.ca

Cc: Mark LaForme <Mark.LaForme@mncfn.ca>; Megan DeVries <Megan.DeVries@mncfn.ca>

Subject: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635
Canal Bank Street, Welland

Dear Lindsay,

Please see the attached letter as our response to your project Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland.

Miigwech,

Fawn Sault
Consultation Coordinator
Mississaugas of the Credit First Nation
4065 Hwy. 6, Hagersville, N0A 1H0
Website: <http://mncfn.ca/>
Ph: 905-768-4260
Cell: 289-527-6580

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Earl, Lindsay

From: Fawn Sault <Fawn.Sault@mncfn.ca>
Sent: Friday, January 29, 2021 2:55 PM
To: Earl, Lindsay
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland
Attachments: 2021-0024 MCFN Response to Niagara Region Notice of Complete Application Regional Official Plan Amendment Canal Bank Street Welland.pdf

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Hi Lindsay,

Let me know if this one works for you.

Miigwech,

Fawn

From: Earl, Lindsay
Sent: Friday, January 29, 2021 2:19 PM
To: Fawn Sault
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Hi Fawn,

I've been trying to get our IT department to forward your original attachment to this email, but they've blocked it. It could be due to the file name?
Can you please maybe rename then try to resend?

Thank you!

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you!

March 10, 2021

From: Fawn Sault <Fawn.Sault@mncfn.ca>

Sent: Thursday, January 21, 2021 10:56 AM

To: Earl, Lindsay <lindsay.earl@niagararegion.ca>

Cc: Mark LaForme <Mark.LaForme@mncfn.ca>; Megan DeVries <Megan.DeVries@mncfn.ca>

Subject: {Filename?} 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

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Dear Lindsay,

Please see the attached letter as our response to your project Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland.

Miigwech,

Fawn Sault
 Consultation Coordinator
 Mississaugas of the Credit First Nation
 4065 Hwy. 6, Hagersville, NOA 1H0
 Website: <http://mncfn.ca/>
 Ph: 905-768-4260
 Cell: 289-527-6580

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DEPARTMENT OF
CONSULTATION AND ACCOMMODATION

January 21, 2021

VIA EMAIL

Lindsay Earl, Senior Development Planner
Niagara Region, Planning and Development Service
lindsay.earl@niagararegion.ca

Dear Lindsay,

RE: MCFN Response to Notice of Complete Application Regional Official Plan
Amendment No. 19 475635 Canal Bank Street, Welland

Confirmation of Receipt

I am writing on behalf of the Mississaugas of the Credit First Nation ("MCFN") to acknowledge that we have received your above named communication, dated December 21, 2020.

Outline of MCFN Rights and Territory

In 1792, the Crown and MCFN entered into Between the Lakes, No. 3 (1792) regarding the lands in which your project is situated.

The Mississaugas of the Credit First Nation are the descendants of the "River Credit" Mississaugas. The undisputed Territory of the MCFN is defined as a Territory commencing at Long Point on Lake Erie thence eastward along the shore of the Lake to the Niagara River. Then down the River to Lake Ontario, northward along the shore of the Lake to the River Rouge east of Toronto then up that river to the dividing ridges to the head waters of the River Thames then southward to Long Point, the place of the beginning. Our Territory encompasses the lands and waters that were used and occupied by our Ancestors. Territories are usually large tracts of land that reflect the breadth required for seasonal activities and habitation and changes in those movement patterns through time. Through Treaties with the Crown, MCFN agreed to share our Territory with newcomers. However, not all of MCFN's Territory has been dealt with through a Treaty.



DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



With the exception of a small part of the Credit River, our Treaties with the Crown did not deal with the water parts of our Territory. We have not agreed to share any part of our waters with settlers. We formally gave notice to the Crown of this claim in 2016. We note that any lands that have been artificially created on our waters have also not been dealt with by any Treaty.

Like our ancestors before us, we continue to use the lands, waters, and watershed ecosystems within our Territory for a variety of livelihood, harvesting, ceremonial and spiritual purposes. We have always exercised governance functions and stewardship in order to protect our Territory, conserve the fish and wildlife that depend upon it, and ensure its ongoing ability to sustain our people. We assert that our Aboriginal and treaty rights fundamentally entitle us to continue to act as stewards of our Territory, to be involved in decisions that affect it, and to participate in the ongoing, responsible management of the resources it provides.

Duty to Consult and Accommodate

As you will know, the Crown has a constitutional duty to consult and accommodate MCFN in respect of any decisions that might affect its asserted or proven Aboriginal and/or Treaty Rights. We expect that, consistent with the Crown's constitutional duty, no approval should be issued to this project until MCFN has been sufficiently consulted and accommodated. Nothing in this letter shall be construed as to affect our Aboriginal and/or Treaty Rights and hence shall not limit any consultation and accommodation owed to MCFN by the Crown or any proponent, as recognized by section 35 of the Constitution Act, 1982.

MCFN has the right to free and informed consent prior to the approval of any project or any planning decision adversely impacting its Territory and to benefit economically from resource development within its Territory.

MCFN has formed the Department of Consultation and Accommodation ("DOCA") to represent its interests in consultation and accommodation matters. It is DOCA's mandate to ensure that we are directly involved in all planning and development that impacts the integrity of our Territory. In this regard, DOCA will assess and help alleviate impacts on our rights, land claims, and ways of life by building relationships with governments and private sector proponents. We share a mutual interest in ensuring that projects in the Territory are planned, reviewed, and developed in a manner which ensures healthy communities, ecological protection, and sustainable development for present and future generations in the Territory.



DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



MCFN is not opposed to development, but MCFN must to be involved in development decision making. MCFN has a deep connection to its Territory and we have a stewardship responsibility for our land. By engaging with us, a project proponent can learn our perspective on how to care for this land and we can work together to shape the project to mitigate damaging effects to our land and perhaps even work to improve our environment. MCFN is the only party who shall determine whether there are impacts to our Aboriginal and treaty rights.

One of the ways we require proponents to engage with us is in providing transparency during the environmental survey and archaeological assessment process. The best way to accomplish this is by having Field Liaison Representatives (“FLRs”) on location while fieldwork is occurring, who can ensure that the Nation’s special interests and concerns are respected and considered during fieldwork. The cultural and natural resources in question are part of MCFN’s territory and heritage and it is our responsibility to ensure their protection, on behalf of the Nation. MCFN’s stewardship of its territory extends through the life of any development project and beyond.

DOCA Project Registration

DOCA has completed an initial intake review of the project communication you have provided. This file has been assigned DOCA Project 2021-0024 ; please use this number in all future communications.

We respectfully ask you to immediately notify us if there are any changes to the project.

Referral to DOCA Units

Following DOCA’s initial intake review of the project communication, the file has been referred to the following DOCA Units for additional follow-up.

| | Unit Identification | Primary Contact | Email Address |
|---|----------------------------|------------------------|--|
| ✓ | Archaeology | Megan DeVries | megan.devries@mncfn.ca |
| | Cultural/Historical | Darin Wybenga | darin.wybenga@mncfn.ca |
| ✓ | Environment | Fawn Sault (Temp) | fawn.sault@mncfn.ca |
| ✓ | FLR Participation | Megan DeVries | megan.devries@mncfn.ca |
| | Governance | Mark LaForme | mark.laforme@mncfn.ca |
| | Economic Development | Director | SED.Director@mncfn.ca |

If you have not been contacted by the indicated DOCA Units within fourteen days following receipt of this letter, please let me know.



DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



Request for Missing Information

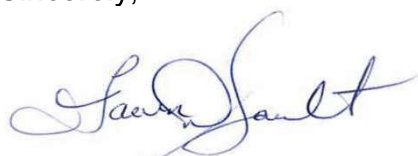
In order to proceed with our follow-up review, we ask you to ensure that all available information relating to the project has been transmitted to us. We have identified the following general information as missing from your initial project communication:

| Outstanding Project Information | |
|---------------------------------|--|
| ✓ | Name of person or body undertaking the action or decision. |
| ✓ | Contact information for the person or body undertaking the action or decision. |
| ✓ | List of documents pertaining to the proposed action/decision that are available for MCFN to review. |
| ✓ | Description of what other information is expected to become available before the proposed action/decision is undertaken. |
| ✓ | Deadlines or filing dates pertaining to the action/decision. |
| ✓ | The Crown or Municipal review/ approval that is required for the project. |
| ✓ | How the proposed action or decision may affect and/or benefit MCFN, its rights and territory. |

Closing

We ask that you respond with the above requested information within fourteen days following receipt of this letter. We thank you in advance for your attention to our requirements and we look forward to working with you further to shape the planning for development in our Territory.

Sincerely,



Fawn Sault
Consultation Coordinator
fawn.sault@mncfn.ca



DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



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Good morning,

Please find attached a letter from the Mississaugas of the Credit First Nation ("MCFN") regarding the upcoming assessment for Canal Bank Street, as identified below.

Please note that, in order to continue maintaining DOCA capacity for fulsome project participation, DOCA charges for technical review of project information. In the exercise of its stewardship responsibility, DOCA seeks to work together with project proponents and their archaeological consultants to ensure that archaeological work is done properly and respectfully. DOCA has retained technical advisers with expertise in the field of archaeology. These experts will review the technical aspects and cultural appropriateness of the archaeological assessments and strategies associated with your project. Upon completion of these reviews, MCFN will identify, if necessary, mitigation measures to address any project impacts upon MCFN rights. For cultural materials and human remains, DOCA may advise that this includes ceremonies required by Anishinaabe law, as well as request adjustments to the proposed fieldwork strategy.

The proponent is expected to pay the costs for MCFN to engage in a technical review of the project. DOCA anticipates at this time that all archaeological review will be undertaken by in-house technical experts, but will advise the proponent if an outside peer-review is required. Please find attached the agreement that covers MCFN's inhouse technical review of the archaeological assessments and strategies associated with your project(s). If you could please fill in the additional required information, highlighted in yellow, and return to us a signed copy, that would be greatly appreciated. After we have received it, we can execute the contract on our end and return the completed contract to you. Afterwards, I can arrange scheduling and other related matters directly with the consultant if you prefer.

Sincerely,
Megan.

Megan DeVries, M.A. (she/her)
Archaeological Operations Supervisor



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From: Fawn Sault

Sent: Thursday, January 21, 2021 10:56 AM

To: lindsay.earl@niagararegion.ca

Cc: Mark LaForme ; Megan DeVries

Subject: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635
Canal Bank Street, Welland

Dear Lindsay,

Please see the attached letter as our response to your project Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland.

Miigwech,

Fawn Sault

Consultation Coordinator

Mississaugas of the Credit First Nation

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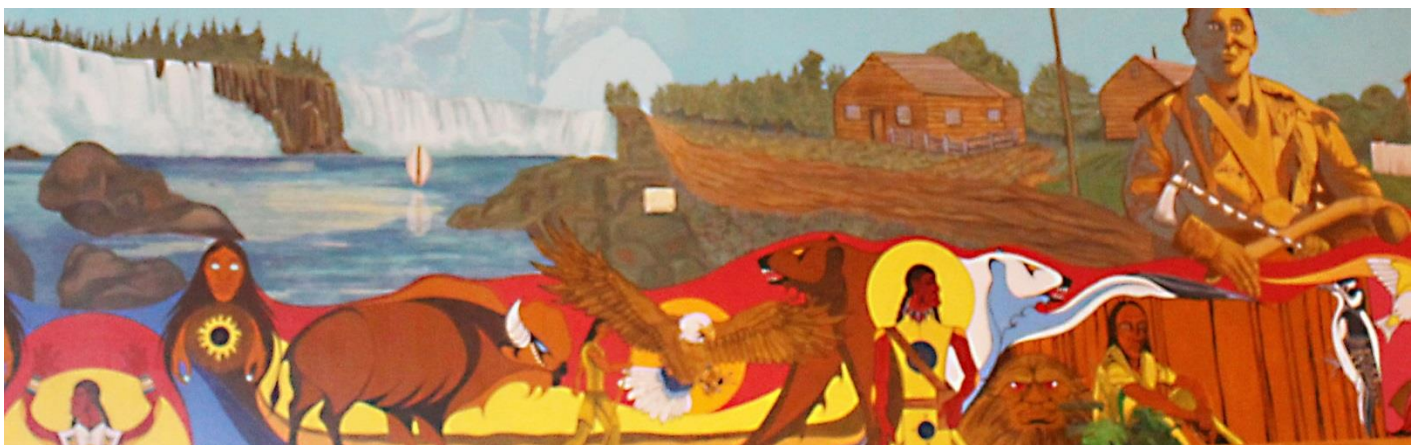
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STANDARDS AND GUIDELINES FOR ARCHAEOLOGY



MISSISSAUGAS OF THE CREDIT FIRST NATION STANDARDS AND GUIDELINES FOR ARCHAEOLOGY

*Direction to archaeologists working on the
Treaty Lands and Traditional Territory of the
Mississaugas of the Credit First Nation.*

Prepared by the

DEPARTMENT OF CONSULTATION AND ACCOMMODATION

MISSISSAUGAS OF THE CREDIT FIRST NATION

2018

Respect for the Treaty relationship must be expressed through engagement in archaeological assessment and collaboration in the responsible stewardship of archaeological resources and cultural heritage values.

Mississaugas of the Credit First Nation (MCFN) are the traditional stewards of the land, waters and resources within the Treaty Lands and Territory. Confirmed under Treaty, this stewardship role extends to cultural and archaeological resources. This Aboriginal and Treaty right must be respected by planners, developers and archaeologists practicing in the Treaty area. Respect for the traditional stewardship role should embrace two precepts:

MCFN have the right to be consulted on archaeological practice that affects our cultural patrimony, including the interpretation of archaeological resources and recommendations for the disposition of archaeological artifacts and sites within the Treaty area, and;

Archaeological practice must include thoughtful and respectful consideration of how archaeological techniques can be used to reveal not only the data traditionally surfaced by archaeologists, but also culturally important data valued by MCFN.

Acting with respect will initiate change within contemporary archaeological assessment practice. However, the direction of this change is already embodied in existing policy direction. Restructuring the relationship between MCFN and archaeology begins with a renewed emphasis on engagement between MCFN and archaeologists, and compliance with the Standards and Guidelines that direct contemporary archaeological practice.

TABLE OF CONTENTS

| | |
|---|-----------|
| 1.0 INTRODUCTION..... | 5 |
| 1.1 MCFN Standards and Guidelines for Archaeology..... | 6 |
| 1.2 Territorial Acknowledgement..... | 7 |
| 1.3 An Archaeological Perspective | 8 |
| 1.4 Policy context..... | 9 |
| 1.4.1 Ontario Heritage Act..... | 10 |
| 1.4.2 Other legislation..... | 11 |
| 2.0 ENGAGEMENT..... | 13 |
| 2.1 Engagement in Archaeological Assessment | 14 |
| 2.1.1 Project concept and planning stage..... | 14 |
| 2.1.2 Project award / Filing a PIF..... | 15 |
| 2.1.3 Stage 1 Background study and evaluation of potential | 15 |
| 2.1.4 Stage 2 Property Assessment..... | 16 |
| 2.1.5 Stage 3 Site-specific assessment | 17 |
| 2.1.6 Stage 4 Mitigation of development impacts..... | 19 |
| 2.1.7 Long Term Protection | 20 |
| 2.1.8 Report submission and review | 20 |
| 3.0 COMPLIANCE..... | 23 |
| 3.1 MHSTCI Standards and Guidelines Stage 1 | 23 |
| 3.1.1 Section 1.1 | 23 |
| 3.1.2 Section 1.2 | 24 |
| 3.1.3 Section 1.3 Analysis and Recommendations: Evaluating archaeological potential | 24 |
| 3.1.4 Section 1.4.1 | 25 |
| 3.1.5 Stage 1 reporting..... | 25 |
| 3.2 MTCS Standards and Guidelines Stage 2..... | 25 |
| 3.2.1 Section 2.1 | 26 |
| 3.2.2 Section 2.2 | 26 |
| 3.2.3 Stage 2 reporting..... | 27 |
| 3.3 MTCS Standards and Guidelines Stage 3..... | 28 |

| | |
|--|-----------|
| <i>3.3.1 Section 3.1 Historical documentation</i> | 29 |
| <i>3.3.2 Section 3.2</i> | 29 |
| <i>3.3.3 Section 3.3</i> | 30 |
| <i>3.3.4 Section 3.4</i> | 31 |
| <i>3.3.5 Section 3.5</i> | 32 |
| <i>3.3.6 Stage 3 reporting</i> | 33 |
| 3.4 MHSTCI Standards and Guidelines Stage 4 | 33 |
| <i>3.4.1 Section 4.1 Avoidance and Protection</i> | 33 |
| <i>3.4.2 Section 4.2 Excavation</i> | 34 |
| <i>3.4.3 Section 4.3</i> | 37 |
| <i>3.4.4 Stage 4 reporting</i> | 38 |
| 3.5 Aboriginal Engagement Reporting (Section 7.6.2) | 38 |
| <i>3.5.1 Supplementary Documentation</i> | 39 |
| 4.0 ADDITIONAL DIRECTION | 41 |
| 4.1 Collections management | 41 |
| <i>4.1.1 Costs</i> | 41 |
| 4.2 Human remains and burials | 43 |
| 5.0 GLOSSARY | 45 |
| 6.0 MAP OF THE TREATY LANDS AND TERRITORY | 47 |

1.0 Introduction

This document seeks to reinforce a number of important objectives in the emerging relationship between archaeologists and Indigenous peoples worldwide. These objectives can be achieved within the Mississaugas of the Credit First Nation (MCFN) Treaty Lands and Territory when there is a commitment by archaeologists to communicate with the First Nation, support MCFN participation in fieldwork and analysis, and to be open to opportunities for mutual education. Communication, participation and education are all rooted in the principle of respect. There must be respect for the Treaties and the rights and duties that flow from them. Respect for the Mississauga people to determine the value of their archaeological and cultural heritage, and the appropriate treatment of this heritage in archaeological assessment. Respect also extends to the existing legislation, policy, and professional standards governing archaeological practice. Respect will support the necessary growth of all Treaty partners toward a future archaeological practice that is more inclusive and expressive of the interests of the Mississauga people.

The MCFN Standards and Guidelines require that there is an ongoing and timely flow of information among everyone participating in archaeological assessment. MCFN expect the Ministry of Heritage, Sport, Tourism, and Culture Industries (MHSTCI), consultant archaeologists, development proponents, and approval authorities to be forthcoming with early notification of new projects, and to maintain open communication as work progresses, becomes stalled or where problems that do or may affect the archaeology arise. As capacity allows, MCFN will provide information, raise or address concerns, and express support for specific practices or recommendations that support our interest in the archaeological site or development property. The Department of Consultation and Accommodation (DOCA) will lead on this engagement, through the work of department staff and Field Liaison Representatives (FLRs).

MCFN must be actively engaged in archaeological assessments within the Treaty Lands and Territory area to the extent we determine is necessary. The requirements for engagement are described in the MHSTCI S&Gs, and expanded in this document to better articulate MCFN's stewardship obligations. FLRs, who are deployed to observe fieldwork, provide cultural advice, and assist with compliance in archaeological assessment, are key partners in engagement. As engagement is a requirement of the S&Gs, DOCA will reserve the option of intervening in report review if consultant archaeologists fail to fully engage MCFN during assessment.

There is a widespread belief expressed by consultant archaeologists that First Nation 'monitors' should not question the professional judgment of project archaeologists or field directors; however, this belief is based in a misunderstanding of the FLR's role. The FLR is present to represent MCFN's stewardship interest in the archaeological resources and cultural heritage values present on a property, and this role cannot be devolved to an archaeologist on the basis of academic qualification. In the field, stewardship of the archaeological resource is expressed in interaction. FLRs should be invited to participate in some aspects of fieldwork and provided with specific information on the project status, fieldwork strategies and objectives through ongoing interaction and exchange. FLRs may monitor adherence to the quantitative standards set out in MTCS direction and advice on the

qualitative assessment of resources to provide meaningful cultural context for analysis and interpretation. On-site exchanges provide valuable opportunities for learning on diverse topics such as sampling and cultural awareness. To be clear, continuous learning is envisioned for both archaeologists and FLRs.

1.1 MCFN Standards and Guidelines for Archaeology

This document sets out the MCFN standards and guidelines for archaeology. The standards provide guidance to consultant archaeologists carrying out archaeological assessments within the MCFN Treaty Lands and Territory. They build on existing direction in the MHSTCI *Standards and Guidelines for Consultant Archaeologists* (S&Gs), clarifying and expanding areas where the existing direction does not direct archaeologists to the levels of care required by MCFN as stewards of the resource. While primarily directed at archaeologists, they also include direction for development proponents, and provincial and municipal government agencies as participants in the archaeological assessment process.

Frequent reference is made to the MHSTCI S&Gs. The S&Gs should be read together with the guidance in this document to gain a more complete understanding of an archaeologist's obligations when practicing on the MCFN Treaty Lands and Territory.

These standards provide clarification where the S&Gs are incomplete on issues that archaeologists may encounter in their work, but are of great concern to MCFN. The principal changes include expanded direction on engagement, and a renewed focus on compliance with professional standards. The standards also discuss human remains, intangible values, and sacred and spiritual sites.

The MCFN S&Gs introduce the following clarifications:

- Human remains – the current MHSTCI S&Gs are silent on treatment of human remains, beyond referring consultants to the *Coroners Act*, and the *Funeral, Burial and Cremation Services Act* protocols. MCFN S&Gs introduce clear expectations for the treatment of all remains, including burials and isolated elements. All human remains, regardless of their nature or association with a visible evidence of a burial site, must be treated with the same high level of care. The presence of human remains on a property indicates a high likelihood of burials on the property, even if the traces of the burial have been obscured. Burials must be treated in the same manner as the legislation requires, but the discovery of any human remains should initiate these actions. FLRs will direct the disposition of remains at each site.
- Intangible values – the current S&Gs are silent on intangible values associated with archaeological sites and how they overlap with cultural heritage places. MCFN S&Gs introduce expectations that archaeological landscapes, site context, and intangible values are considered in analysis, reporting, and making recommendations for archaeological resources. This direction applies to all stages of assessment.
- Sacred and Spiritual sites – the current S&Gs require engagement to identify sacred, secret, and spiritual sites, and provide for their use in evaluating archaeological potential. The S&Gs also provide for the

protection of these values; however, they are largely silent on how to proceed where these values are identified. As this document describes, engagement is the basis for identifying these values, defining the necessary protocols and procedures for analyzing archaeological data to identify sacred or spiritual dimensions to an archaeological site, and for developing appropriate mitigation strategies when sites of cultural importance are identified by FLRs or other band members.

One theme of these guidelines is that consultant archaeologists are asked to *do more*. This is an invitation to move beyond basic compliance to producing value-added outcomes to archaeological assessment work. When the S&Gs are simply viewed as a series of targets to hit in assessment, the potential contribution of any one assessment to increasing our understanding of the archaeology and culture history of the Treaty lands and traditional territory is diminished.

This document is organized in three sections which discuss the policy context of archaeological practice, engagement, and compliance with the S&Gs. The section on engagement discusses when and how MCFN, as stewards of the archaeological resource, should be engaged. Currently, the S&Gs identify engagement as largely optional, even at points in the process where archaeologists, proponents or approval authorities are making decisions that may infringe on Aboriginal or Treaty rights. In the guidance provided here, engagement is required at each assessment stage. Engagement is expressed as an active participation by DOCA and FLRs in property evaluations, fieldwork and analysis, and in developing recommendations on the disposition of archaeological resources.

Compliance with the S&Gs is overseen by MHSTCI through the review of archaeological assessment reports. Reports that address all relevant standards are deemed compliant. The standards – requirements that consultant archaeologists *must* follow, are “the basic technical, process and reporting requirements for conducting archaeological fieldwork”. They are the minimum acceptable levels of effort required to recover data and stabilize archaeological resources as they are lost to development pressures. MCFN’s call for better compliance with the existing standards, and the identification of new standards of practice in fieldwork and engagement, will ensure that archaeological assessment is not simply an exercise in hitting regulatory targets, but actively supports MCFN’s stewardship of the archaeological resource.

MCFN is committed to monitoring the implementation experience with these standards, and they will be updated and revised periodically as required.

1.2 Territorial Acknowledgement

Archaeological assessment reports for fieldwork within the Mississaugas of the Credit First Nation Treaty Lands and Territory should include a territorial acknowledgement, such as:

The archaeological assessment reported here was undertaken on the Treaty Lands and Territory of the Mississaugas of the Credit.¹

Greater detail may be included in the acknowledgement, although the wording may require approval from MCFN. For example, a statement such as the following extends the acknowledgement to underscore the stewardship role of MNFN on our Treaty Lands and Territory:

We acknowledge that the archaeological fieldwork reported here was undertaken within the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. The Mississaugas of the Credit First Nation are the stewards of the lands, waters and resources of their territory, including archaeological resources and cultural heritage values.

Recognition of other descendant groups who show a connection to archaeological resources within the Treaty area may also be presented following the MCFN territorial acknowledgment.

1.3 An Archaeological Perspective

Anishinabek culture resides in the land and water. It resides in people, stories, songs, memories and traditions. It resides in objects, books, reports and records. Places on the landscape hold cultural knowledge. Culture and heritage resides in, and is expressed by, the interaction of people with the land through their traditional practice.

The majority of archaeological sites in Ontario are 'pre-contact', meaning that these resources represent traditional Indigenous culture, land use and occupation exclusively. These resources mark places that are, or can be associated with traditional narratives or cultural practices. The narratives or practices may relate to specific locations, more generally to resource use, traditional work, ceremonies and cultural observance, or simply to the basic business of everyday life. Archaeological sites are places where archaeological resources – the material traces of past occupations – are located. But they are also traditional and cultural places. Archaeological resources cannot be separated from the place where they are deposited without severing the intangible connections between culture and the land. Cultural places root contemporary Mississauga culture in the land. As such, they should be viewed as still being 'in use' or 'occupied'. Working to remove the resources from the land is a significant action and must be undertaken with integrity and attention to the actual costs and consequences of this work.

Archaeological resources are finite. While it is true that new archaeological sites – the sites of the future – are being created through ongoing human use and occupation of the land, this use overwrites earlier occupations, distorting or destroying them. Ongoing use of a landscape does not restore or renew archaeological sites. Ongoing use of the landscape erases cultural and traditional places where Indigenous culture is embedded.

Archaeological practice can also distort or destroy archaeological sites. While the inventory, assessment and excavation of the resource preserve valuable archaeological data for future use and study, it can also be said that

¹ Mississaugas of the Credit Treaty Lands and Territory Recognition Statement and Logo Usage Policy, April, 2017. <http://mcfn.ca/wp-content/uploads/2017/05/treaty-lands-and-territory-statement-December-2017-a.pdf>

archaeological practice creates a new resource that displaces the original cultural and traditional place. Archaeological resources are the raw material from which sites, artifacts and archaeological narratives are manufactured. Archaeological collections, when combined with documentation of engagement, fieldwork and analysis, represent the resource in an archaeological narrative about the site, how it was identified, excavated and interpreted. But the site is gone, and the collections and documentation provide only an incomplete picture of the cultural values that once existed in that place.

Archaeologists must remain aware that the actual resource – archaeological resources *in situ*, is diminishing and growing smaller with each excavation. One more collection means one less site in the ground. Each new site identified must be considered in this context: it is an increasingly rare thing. In the minds of many experienced archaeologists it may seem that new *archaeological* insight will be difficult to achieve from more excavation and collection at sites of a certain type. More broadly, however, new, meaningful and important *cultural* knowledge is available. Cultural knowledge can be obtained by asking new questions of the resource, although it may not be within the archaeologist's existing skill set to ask – or to answer – these questions at present.

Archaeology maintains a tight focus on material remains, and may not venture to address traditional land use or cultural patterns that are not visible in artifacts and features. But cultural and traditional insights are recoverable through alternative techniques and approaches to site investigation. These include community engagement and adopting diverse perspectives on archaeological resources, including seeking understanding of the intangible values of a place, and the consideration of sites in their wider landscape context. These insights cannot be gained by simply tacking Indigenous knowledge and narratives onto archaeological sites after the archaeological work is complete. Indigenous perspectives must be integrated into assessment and research designs from the outset.

Recognizing and holding space for MCFN's stewardship role in archaeological assessment is a critical first step in the work of reconciling the archaeologist's and the Anishinaabe perspectives on archaeology.

1.4 Policy context

The protection and conservation of archaeological resources is enacted through a range of law and policy in Ontario. Principal among these is the Ontario Heritage Act, which regulates archaeological practice and archaeological resource protection. Additional protection is provided under a range of other legislation and policy that governs specific areas of development planning, such as the Planning Act and the Environmental Assessment Act.

Archaeology law is primarily directed to the material aspects of archaeology, such as archaeological sites and artifacts. Guided by applicable statute and policy, the assessment, protection and excavation of archaeological sites impact real property, and generate collections of material objects that are held, in trust, for future generations of scholars and citizens. However, when viewed as property, archaeological site protection can reduce the nature, contents and meaning of archaeological sites to the material remains alone. To many descendant groups

archaeological and cultural heritage sites contain much more than material resources, including traditional, cultural, sacred, and spiritual values that are difficult, if not impossible to capture using standard archaeological techniques. In this way, statute and policy governing interaction with archaeological resources are deficient to the extent that they do not recognize and protect the full array of cultural heritage values that reside in the sites, artifacts, and places that mark past occupation of the land. It is notable that there is no comparable statute or policy – apart from policy direction concerning human remains, that addresses Indigenous interests in archaeological resources and cultural heritage values.

1.4.1 Ontario Heritage Act

Under the Ontario Heritage Act, archaeological resources are all of the material traces of past human occupation or use of a place, while archaeological sites and artifacts are a subset of these resources, specifically those which hold cultural heritage value or interest (CHVI). Criteria for determining CHVI of archaeological resources are presented in the *Standards and Guidelines for Consulting Archaeologists (S&Gs)*.

The Ontario Heritage Act (OHA)² defines and sets out the measures required conserving the heritage resources of Ontario. Archaeological practice and access to archaeological resources is regulated under the terms of the Act, regulations to the Act, terms and conditions of licensing, and standards and guidelines developed by MHSTCI. Achieving the conservation objectives of the Act is a shared responsibility between the ministry and other regulatory agencies. Archaeological practice is regulated directly by MHSTCI, while regulatory review of development proposals by other agencies to ‘trigger’ archaeological assessments is directed by policy created under the authority of other statute, such as the Environmental Assessment Act, Planning Act, and Aggregate Resources Act, among others.

The conservation of resources of archaeological value³ is described in Part VI (Sections 47 to 66) of the Act, and concerns two categories of activity: archaeological practice, and archaeological site alteration. The OHA views these two categories as linked: a licence is required to alter a site, and alteration without a license is a violation of the Act. Thus, the regulatory mechanism for achieving archaeological resource conservation is through the regulation of practice.

Preparing and submitting reports of archaeological fieldwork is a key condition of licensing. Apart from the preservation of artifacts, the primary public benefit arising from archaeology is the creation of archaeological reports and data. Section 65.1(1) of the Act stipulates that reports prepared under license are entered into the Ontario Public Register of Archaeological Reports (the Register). In Section 66, the Act states that the minister may

² RSO 1990, c. O18

³ Resources of archaeological value are described in Regulations to the Act. However, Part VI defines “property” as “real property, but does not include buildings or structures other than ruins, burial mounds, petroglyphs and earthworks” (R.S.O. 1990, c. O.18, s. 47.). In this definition two site types which include intangible cultural value, (petroglyphs [a representational form created using an arrangement of stones on the ground] and burial mounds), are identified as archaeological sites.

direct archaeological collections to a public institution, “held in trust for the people of Ontario”. While the Act identifies the province as stewards of the archaeological resource, it is silent on the question of ownership.

Archaeological resources are generally considered objects that can be transported (easily) from one location to another. The resource is not directly defined in the text of the Act; however, in Section 47 a distinction is drawn between types of heritage property, real properties exclusive of “buildings or structures other than ruins, burial mounds, petroglyphs and earthworks”. Since structures and buildings are the concern of Part IV and V of the Act, ruins, burial mounds, petroglyphs and earthworks remain behind as archaeological resources. Ontario Regulation 170/04 defines an archaeological site as “any property that contains an artifact or any other physical evidence of past human use or activity that is of cultural heritage value or interest”. Artifacts are defined as “any object, material or substance that is made, modified, used, deposited or affected by human action and is of cultural heritage value or interest” (O. Reg. 170/04, s. 1). The inclusion of burial mounds and petroglyphs as archaeological sites signals that the boundaries between archaeology and cultural, sacred or spiritual places are less distinct than the Act presents. For this reason, this document refers to both archaeological resources and cultural heritage values, which includes all of the material and intangible values present at archaeological sites and other places of cultural significance.

1.4.2 Other legislation

Human remains are to be expected in a range of archaeological contexts, including habitation sites and as isolated graves. Laws pertaining to human remains include the Coroners Act,⁴ the Funeral, Burial and Cremation Services Act,⁵ and the Ontario Heritage Act. Buried human remains are within the jurisdiction of the Registrar of Cemeteries, authorized under the Funeral, Burial and Cremation Services Act. By locating concern for human remains outside of the Ontario Heritage Act the law acknowledges that human remains are not archaeological resources and require special treatment and handling upon discovery.

The Funeral, Burial and Cremation Services Act requires any person who uncovers a burial containing human remains to immediately stop work and contact the appropriate authorities, such as the police or Coroner. The Coroner, authorized under the Coroners Act, will determine whether the person whose remains were discovered died under any of the circumstances set out in Section 10 of the Coroners Act. If the remains or burial is determined to be of no forensic interest, control of the process returns to the Registrar of Cemeteries, who then determines the origin of the burial site, and declares the site to be an aboriginal people’s burial ground, a burial ground, or an irregular burial site.⁶ Upon making the declaration, a site disposition agreement is negotiated among representatives of the landowner and the deceased. MCFN, as stewards of the archaeological resources and cultural heritage values of the Treaty area, would be party to the disposition agreement as a representative of

⁴ R.S.O. 1990, c. C.37

⁵ S.O. 2002, Chapter 33

⁶ S.O. 2002, Chapter 33, c. 34

the deceased. Disinterment of human remains under the terms of a site disposition agreement must be completed by a licensed archaeologist.

Development planning is addressed in a number of provincial laws. The Planning Act ⁷ directs the development of land by ensuring, among other things, that land use planning is led by provincial policy, and that matters of provincial interest are considered in planning. The Act directs that planning will be conducted with “regard to, among other things... the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest” (Section 2(d)). Cultural, historical and archaeological features extend the range of elements that approval authorities and developers must have regard to, including a range of cultural heritage values of interest to MCFN. The Act also empowers local authorities to make by-laws prohibiting development on properties containing significant archaeological resources (Section 34), allowing for avoidance and long term protection.

The Planning Act seeks to ensure that ‘various interests’ are considered in planning, and devolves the responsibility for planning decisions to accountable municipal authorities, although the overall authority of the Minister remains intact. Under regulations to the Planning Act, a complete application for subdivision must include information on the archaeological potential of the property, and a determination of whether any restrictions on development related to archaeological resources exist. Where development is permitted, properties with archaeological potential also require a completed archaeological assessment, and a conservation plan for any archaeological resources identified in the assessment (O.Reg. 544/06, Sched. 1). Generally, a draft plan is initially submitted, and archaeological assessment is completed prior to final plan submission. The timing of the archaeological work is not defined in the Act or Regulation, nor is the excavation and removal of the site from the property part of this direction. It is reasonable to assume that the evaluation of archaeological potential, archaeological assessment, and decisions concerning the disposition of archaeological resources on a development property should actively involve MCFN.

The Environmental Assessment Act (R.S.O. 1990 Chapter E.18) provides for the wise management of the environment in Ontario. It is the principle legislative process for major development that does not primarily involve the subdivision of land or extraction of a specific resource. Under the Act, the environment includes the social environment, including “social, economic and cultural conditions”, and “any building, structure, machine or other device or thing made by humans” (R.S.O. 1990 Chapter E.18, s. 1(1)). Class environmental assessments may be declared where development of a number of projects are planned or anticipated, and where the planning and anticipated effects are generally similar. Each environmental assessment or project under a class environmental assessment must address terms and conditions to approval, which include requirements to complete an archaeological assessment, and identify conservation measures for any archaeological resources identified within the project area. The Act also requires that the proponent consult “with such persons as may be interested” in the undertaking when preparing the Terms of Reference.

⁷ R.S.O. 1990, c. P.13

2.0 Engagement

The MCFN *Consultation and Accommodation Protocol*⁸ sets out expectations for engagement in archaeological assessment. The Protocol describes the MCFN stewardship of archaeological resources and cultural heritage values, and unequivocally asserts “that our Aboriginal and Treaty rights fundamentally entitle us to preserve our culture and heritage”. The Protocol further clarifies that DOCA is the body that leads all engagement, and that “MCFN expects to be engaged with the Crown and/or Proponents early in the project development and assessment process”. The Protocol also states that “MCFN is the only party who shall determine whether there are impacts on out Aboriginal or Treaty rights”. The last point is especially important in relation to evaluating archaeological potential, determining cultural heritage value or interest, and formulating Stage 4 mitigation strategies. Neither licensing nor the technical work of archaeological assessment grants to a consultant archaeologist the privilege of speaking on behalf of the First Nation regarding actual or potential development impacts to archaeological or cultural resources.

Engagement is the key to successful archaeological assessment. For archaeological assessment projects on the Treaty Lands and Territory, early and ongoing engagement is expected. Engagement is necessary at all stages of archaeological assessment, and extends to the period before and after an assessment is formally constituted. The requirement to engage is not limited to the consultant archaeologist, but includes approval authorities, proponents and others who may make decisions that hold the potential to infringe on the Aboriginal or Treaty rights of MCFN. Engagement in archaeological assessment may be viewed as an aspect of consultation, but does not relieve the Crown of its duty to consult and accommodate MCFN on the development project.

In conformance with the MHSTCI Bulletin, *Engaging Aboriginal Communities in Archaeology*, MCFN will determine the form for engagement.

Positive, collaborative engagement is more than a data exchange or transfer of information from MCFN to the archaeologist. Rather, it is a means of developing relations of trust among all parties to the development project that continue throughout the span of an assessment, and may carry over into subsequent projects. In this document, engagement requirements exceed the standards described in the MHSTCI S&Gs. Some consultant archaeologists may wish to engage only at Stage 3, as required by the S&Gs; however, as set out in the following section, engagement is a cumulative process and allowing engagement responsibilities to accumulate until Stage 3 may lead to unanticipated delays in project timelines. Late engagement may oblige DOCA to schedule extra time to review earlier fieldwork results and recommendations to ensure that MCFN stewardship concerns have been addressed before moving to engagement on Stage 3 questions.

The S&Gs require that the engagement process and outcomes must be summarized in an Aboriginal engagement report, a required part of each assessment report. These reports may be audited by DOCA to ensure that they

⁸ Department of Consultation and Accommodation. n.d. *Consultation and Accommodation Protocol*. Mississaugas of the Credit First Nation, Hagersville.

conform to DOCA's records of engagement. Serious shortcomings in engagement or inaccuracies in the Aboriginal engagement report may be referred to MHSTCI with a request that the report be flagged for detailed review or revision.

2.1 Engagement in Archaeological Assessment

Archaeological assessment proceeds from the review of the original development proposal, through to the final decisions on the mitigation of development impacts and the long term curation of collections. Engagement will ensure that important cultural considerations are incorporated into fieldwork and analysis, and the recommendations that are offered for development properties and archaeological sites.

The format of this section follows the general sequence of actions undertaken for a typical development project, including the four formal stages of archaeological assessment. The timing and nature of engagement through this sequence is highlighted and discussed. Note that MCFN expect engagement throughout this planning and assessment process.

2.1.1 Project concept and planning stage

This task primarily involves the proponent and the approval authority.

Most land-use planning and development processes in Ontario identify the conservation of archaeological resources as a provincial interest. A completed archaeological assessment, including a compliance review by MHSTCI, is a common condition of project approval and is rarely a 'late addition' to the list of required studies. Since archaeological assessment can be anticipated as a requirement of approval, DOCA notification should be an essential and automatic early phase activity for approval authorities and proponents.

Proponents should engage with DOCA to introduce the project, and identify the proposed schedule for background studies, archaeological assessment, site preparation and their anticipated start of construction. DOCA review of the project concept will allow approval authorities and development proponent's time to evaluate the anticipated impacts of the project relative to Aboriginal and Treaty rights. Project redesign, where necessary, will also be simpler at this early stage. Notification to DOCA should, at a minimum, include basic information on the proposed development, including the type of development and the associated regulatory process, project location, proponent identity and contact information, and any key milestones in the project plan. Early and ongoing contact with DOCA will aid in building positive working relationships that will benefit the proponent going forward.

Approval authorities can facilitate positive engagement by including DOCA notification as standard practice, and advising proponents to communicate with DOCA early in the process.

Of equal importance, the MHSTCI S&Gs reference the MHSTCI "Criteria for Evaluating Archaeological Potential" checklist, which was developed for non-specialists such as approval authority staff. A completed checklist is meant to provide planners with a basic tool for evaluating archaeological potential of a development property. The checklist includes a number of considerations that cannot be addressed using only cartographic information,

registered archaeological site data or knowledge of local history. Approval authority staff responsible for completing the checklist must engage DOCA for input concerning points 5, 6, 7, 9 and 11 of the checklist, at a minimum, to ensure that the checklist is completed comprehensively.

2.1.2 Project award / Filing a PIF

This task primarily involves the consultant archaeologist and MHSTCI.

Project Information Forms (PIF) is required by MHSTCI to track archaeological fieldwork. A PIF must be submitted at least 5 days, but no more than 15 business days before the start of fieldwork, as stated on the form. All PIFs are processed, and a file number assigned, within 5 business days of receipt.

Filing a PIF with the ministry is a term and condition of licensing. The PIF file number is used by the ministry to track archaeological fieldwork, and sets the dates for report submission. A completed PIF includes the project location, and identifies the approval authority and proponent. The S&Gs note that the PIF must be received by the ministry, and a PIF number assigned before fieldwork begins (S&Gs 7.1, s.1).

At the time that a PIF is submitted, notice should also be made to DOCA, providing the information contained in the PIF application, including the proposed start date for fieldwork, location of the subject property, and the name and contact information of the proponent and approval authority staff. This information will allow DOCA to open a file on the project, and assist in managing engagement, workflow and FLR deployment.

DOCA will work toward an agreement with MHSTCI to ensure that accurate PIF information for archaeological assessment projects proposed for the Treaty area is transmitted to DOCA in a timely manner. DOCA may advise MHSTCI of PIFs that have or appear to have been incorrectly filed in advance of the 15 day window, or where engagement has not been initiated by a licensee.

DOCA staff will determine whether the potential impact of the proposed development will be high or low. For low impact projects, information sharing may be sufficient. For high impact projects, high impact undertakings, DOCA work directly with the proponent to determine the requirement for FLRs during the fieldwork portion of the archaeological assessment, and identify accommodation requirements to protect Aboriginal and Treaty rights relating to archaeological resources and cultural heritage values.

2.1.3 Stage 1 Background study and evaluation of potential

This task primarily involves the consultant archaeologist and the proponent.

Engagement at Stage 1 is required. The guidelines (Section 1.1, guideline 1, bullet 3, and Section 1.4.1, guideline 1), should be treated as standards for the purposes of Stage 1 assessment within MCFN Treaty Lands and Territory. The basis for this is the requirement for engagement at Stage 3, as described in Section 3.4, s. 2 of the S&Gs, which states:

Aboriginal communities must be engaged when assessing the cultural heritage value or interest of an Aboriginal archaeological site that is known or appears to have sacred or spiritual importance, or is associated with traditional land uses or geographic features of cultural heritage interest, or is the subject of Aboriginal oral histories. This will have been determined through background research in Stage 1, detailed documentary research on the land use and occupation history early in Stage 3, and/or analysis of artifacts and other information recovered through archaeological field work.

In this standard, information on a range of traditional and cultural concerns is identified as the basis for decision-making, and this information is noted as having "...been determined through background research in Stage 1". MCFN is the only party who can determine if a property holds cultural heritage value or interest based on the criteria expressed in the standard. The Stage 3 standard refers to actions taken and information gathered during Stage 1. From this, it is clear that the process of evaluating the CHVI of an archaeological site is an ongoing process that begins in Stage 1. This process must actively engage MCFN participation.

For properties with archaeological potential, Stage 2 property assessment is required (Section 1.3, s. 1). In some cases, the consultant may recommend reducing the Stage 2 fieldwork requirements based on the evaluation of low potential on parts of the development property (Section 1.4.1, guideline 1). A guideline to this section recommends engagement "to ensure that there are no unaddressed Aboriginal cultural heritage interests", which would necessarily require engagement. The results of engagement may also lead to the expansion of the area of Stage 2 fieldwork. The MHSTCI Aboriginal Engagement Bulletin suggests that one method of addressing community interest in a development property is to "extend a Stage 2 survey to include lands that have been identified as of interest to the Aboriginal community, even though those lands may have low potential".⁹ For this to happen, engagement must be undertaken, and a clear understanding of the nature of the interest, and appropriate techniques to address them must be achieved prior to fieldwork.

A copy of the Stage 1 assessment report, including the Aboriginal engagement report, must be provided to DOCA at the time it is submitted to MHSTCI for review. DOCA may review the report for accuracy, and transmit the result of this review to MHSTCI.

2.1.4 Stage 2 Property Assessment

This task primarily involves the consultant archaeologist and proponent.

Stage 2 is directed towards identifying all of the archaeological resources present on the development property. Engagement at Stage 2 includes the participation of FLRs in fieldwork. DOCA, and FLRs funded by the proponent, will work with the consultant archaeologist to represent MCFN's stewardship interest, to support compliance with the S&Gs Section 2.1, and to provide advice and information on cultural heritage values.

⁹ MHSTCI. 2011. Engaging Aboriginal Communities in Archaeology: A draft technical Bulletin for consultant archaeologists in Ontario. Ministry of Tourism and Culture, Toronto.

Engagement must include providing a daily briefing to FLRs ('tailgate talk') outlining the work schedule for the day in the context of the overall assessment, and a summary review at the end of each work day. Allowance for FLRs to record finds, unusual or diagnostic artifacts, and related information should be made throughout the workday. Information sharing builds relations of trust, and demonstrates respect for the FLR's role in the assessment.

For sites with human remains (Section 2.2, s. 2(e)), engagement will be a required part of the on-site interaction with the FLRs. FLRs will provide direction regarding the handling and disposition of the remains.

In Section 2.2, the S&Gs recommend that consultant archaeologists engage on two questions: if the Aboriginal interest in archaeological resources found during Stage 2 is correctly determined and if there are no other Aboriginal archaeological interests in the subject property. The engagement described in Section 2.2, guideline 1 of the S&Gs must be treated as a standard. DOCA must be engaged regarding the analysis of the Stage 2 fieldwork results.

It is also important to remember that the fieldwork and analysis at Stage 2 leads to the separation of 'artifacts' and 'archaeological sites' from among the archaeological resources identified on the subject property. Stage 3 assessment is only required for sites holding CHVI, and all other resources may be considered sufficiently assessed and documented.

It is important that at MCFN interests are addressed before making final decisions concerning the CHVI of archaeological resources. DOCA must be engaged when determining Stage 3 requirements for archaeological resources identified in Stage 2 fieldwork. Section 2.2, guideline 1 must be treated as a *standard* within the Treaty Area. The guideline states, in part, that "the consultant archaeologist may engage ... Aboriginal communities to determine their interest (general or site specific) in the ... archaeological resources found during Stage 2 and to ensure there are no unaddressed ... archaeological interests connected with the land surveyed or sites identified". Engagement when determining CHVI and the requirement for further assessment at Stage 3 will ensure that the results of the assessment and the observations of the FLRs correctly reflect MCFN's role in archaeological resource stewardship.

Generally, the quantitative targets found in Section 2.2, s. 1 do not override MCFN interests regarding resources.

The outcome of Stage 2 property assessment includes the identification of all archaeological resources on the subject lands and a preliminary determination of CHVI for some archaeological sites. Reports, which should detail the basis for the conclusions and recommendations, must be provided to DOCA for review and comment. DOCA may choose to review the report, and it may be necessary to revise reports based on the review. The results of the DOCA review may also be transmitted to MHSTCI.

2.1.5 Stage 3 Site-specific assessment

Stage 3 involves the consultant archaeologist and proponent.

Stage 3 site-specific assessment establishes the size and complexity, and CHVI of archaeological sites identified at Stage 2. The Stage 3 report includes detailed recommendations for Stage 4 mitigation of development impacts.

The S&Gs require engagement at Stage 3. Specifically, the historical documentation research required in Section 3.1, s. 1(a), 1(b) and 1(e), cannot be completed without engagement. MCFN is the only party who can determine whether an archaeological site is sacred to the Nation, and must be engaged. The limitation to engagement included in the text of the standard (research sources “when available”), should be viewed as direction to engage DOCA to confirm the availability of the information necessary to comply with Section 3.1, s. 1(b) and 1(e). Note that engagement is in addition to diligent archival, historical and online research by the consultant archaeologist.

For compliance with Section 3.4, including the application of the criteria and indicators listed in Table 3.2, engagement is required. Note that Section 3.4, s. 1(a), concerning human remains, engagement in the field at the time of discovery is required through the FLRs on-site. Section 3.4, s. 2 requires engagement in the analysis of archaeological sites, and indicates that this engagement must be the culmination of an ongoing practice between the consultant archaeologist and DOCA. Engagement throughout Stage 3 is required, and consultant archaeologists entering into a Stage 3 assessment must engage DOCA for the subject lands overall. Preferably, this engagement starts at Stage 1.

Engagement at Stage 3 also includes the participation of FLRs in fieldwork. DOCA, and FLRs funded by the proponent will work with the consultant archaeologist to represent MCFN’s stewardship interest, to support compliance with the S&Gs Sections 3.2 and 3.3, and to provide advice and information on cultural heritage values. Engagement must include providing a daily briefing to FLRs (‘tailgate talk’) outlining the day’s work objectives, progress of the assignment, and a review at the end of each work day. Allowance for recording finds, features, unusual or diagnostic artifacts, and related information should be made throughout the work day. Information sharing builds relations of trust, and demonstrates respect for the FLR’s role in the assessment.

Determining Stage 3 strategies based on direction found in Section 3.3 requires engagement with FLRs who will observe and report on compliance with the technical standards and the agreed strategy. In support of this, it is expected that the consultant archaeologists will review the Stage 2 data, and the rationale for the site being assigned to a particular Table 3.1 category with the FLRs. It is not appropriate to assume that DOCA or individual FLRs have reviewed earlier reports, or additional unreported facts that may be available to the consultant.

MCFN asserts an interest in the disposition of all archaeological sites on the Treaty Lands and Territory. Determining whether an archaeological site requires Stage 4 mitigation, and the form this mitigation will take has significant consequences for archaeological resources and cultural heritage values. For this reason, DOCA must be actively engaged in the deliberations leading to Stage 3 recommendations.

Section 3.5, s. 1 sets out the requirements for engagement when formulating Stage 4 mitigation strategies. Section 3.5, s. 1(f) requires engagement for all “sites previously identified as being of interest to an Aboriginal community”. MCFN have asserted the Aboriginal and Treaty right of stewardship of all archaeological resources and cultural

heritage values on the Treaty Lands and Territory of MCFN, whether or not these sites are known prior to assessment. This requirement is not limited by Section 3.5, guideline 1 which suggests that engagement in planning Stage 4 mitigation strategies is discretionary. Engagement is required in developing all Stage 3 recommendations, including recommendations that a site is considered completely documented at the end of Stage 3.

The preamble to Section 3.5 notes that:

The avoidance and protection of sites is always the preferred approach to the Stage 4 mitigation of impacts to archaeological sites. Where Stage 4 is recommended, the consultant archaeologist will need to review the viability of Stage 4 protection options with the client.

While this text is not a standard under the S&Gs, it is important to note that these discussions hold the potential to infringe on the asserted Aboriginal and Treaty right of MCFN to act as stewards of the archaeological resources of the traditional and Treaty area. Therefore, DOCA must be provided the opportunity to participate in these discussions to ensure that the evaluation of the opportunities for site avoidance and protection were evaluated correctly, and to clarify the Stage 4 requirements alternatives. Where it is deemed necessary, the approval authority or relevant Crown agency should also be included in these discussions.

The outcomes of Stage 3 site-specific assessment include a determination of CHVI for all archaeological sites on the subject lands, and detailed recommendations for Stage 4 mitigation of development impacts, or that the site is fully documented and no further work is required (Section 7.9.4). Note that MCFN is the only party who can determine whether an archaeological site holds cultural heritage value beyond the archaeological value determined through Stage 3 assessment, and this recommendation must be subject to engagement. Reports, including the analysis and supporting data leading to the conclusions and recommendations, must be provided to DOCA for review. DOCA may choose to review the report, and it may be necessary to revise reports based on the review.

2.1.6 Stage 4 Mitigation of development impacts

Stage 4 involves the consultant archaeologist, proponent and the approval authority.

Stage 4 mitigation of development impacts may include either avoidance and protection (Section 4.1), or excavation and documentation (Section 4.2) of the archaeological site. In some cases a combination of avoidance and excavation (partial long term protection) is possible (Section 4.1.6).

During fieldwork, FLRs should be briefed daily on the work schedule for the day and overall progress of the assessment relative to expectations. A daily summary review at the end of each work day should be provided as well. Field directors should also advise FLRs when significant changes in fieldwork strategies are impending (such as decisions to begin mechanical topsoil stripping of a site) with as much lead time as possible. FLR work recording finds, features, and related information should be supported.

In avoidance and protection, FLRs will attend fieldwork for setting buffers and monitoring activity near the sites as required ensuring compliance with the S&Gs and site specific agreements. In Stage 4 excavation, engagement includes the work of FLRs who will observe and report on compliance with the technical standards found in Section 4.2 during fieldwork, and any additional requirements set out in the Stage 4 recommendations. This includes specific recommendations regarding undisturbed archaeological sites (Section 4.2.9), and rare archaeological sites (Section 4.2.10). If it was not completed at Stage 3, FLRs will advise on the necessary requirements for determining the extent of excavation. FLRs will also advise on specific practices, such as handling human remains and managing artifacts in back dirt when mechanical site stripping is employed.

The S&Gs state that the outcome of Stage 4 avoidance and protection, or excavation and documentation is a final report including a detailed account of the fieldwork, artifacts and features recovered and analyzed and a statement that the archaeological site “has no further cultural heritage value or interest” (Section 7.11.4, s. 1). It is necessary to stress that MCFN is the only party who can determine whether an archaeological site holds cultural heritage value beyond the archaeological value addressed through Stage 4 excavation.

Stage 4 excavation reports must be provided to DOCA at the time it is submitted to MHSTCI for review. Based on FLR reports or other factors, DOCA may choose to review the report for accuracy or to determine if remaining cultural heritage value is correctly identified in the recommendations to the report. Where necessary, DOCA may request that the report is revised, or communicate directly with MHSTCI and the approval authority regarding a continued interest in the property or site.

2.1.7 Long Term Protection

MCFN stewardship of archaeological resources and cultural heritage values does not end with at the conclusion of the archaeological assessment. DOCA must be engaged at Stage 4 for planning and fieldwork relating to avoidance and protection. Providing the option of participating in planning long term protection strategies, will ensure that these strategies meet MCFN’s stewardship obligations and cultural expectations for the treatment of the site. This concern must be included in the long-term protection agreement / mechanism formulated under Section 4.1.4. The agreement mechanism should address access to the site for cultural purposes, and require DOCA engagement in the future whenever changes to the agreement or removal of archaeological restrictions are considered in the future.

2.1.8 Report submission and review

This task involves the consultant archaeologist, MHSTCI and approval authorities.

Reports are required for each stage of archaeological fieldwork, although Stages 1 to 3 may be combined in a single report. Archaeological assessment reports are due 12 months from the date that the PIF number was assigned. For Stage 4 reports, the report are due 18 months from the date of the PIF number was assigned. Each report submitted is screened for completeness before being accepted for review. This screening required up to 10 business days to complete, and is included within the 12 or 18 month submission period. Incomplete reports are

returned to allow the missing information to be included. MHSTCI customer service standards allow up to 60 business days for report review. Reports that have been revised and resubmitted are reviewed within 15 days. In some circumstances, a consultant archaeologist may request expedited review of specific reports on the basis of external time pressures. Where a report is submitted and an expedited review granted, the timeline for screening is 5 business days, and review is within 20 business days of clearing screening.

The ministry does not commit to reviewing all reports received. Once report packages are screened for completeness, reports are considered 'filed' with the ministry. These reports are then either entered into the Register directly, or sent for technical review by an Archaeology Review Officer (ARO). Report review triage is based on the perceived risks that may arise to the archaeological resource by deferring review. Where higher risks of adverse impact exist, the ministry undertakes a full technical review. Filed reports may also be subject to technical review at a later date, if required.¹⁰ Regardless of review status, "mandatory standards for Aboriginal engagement remain unchanged, and [remains]... subject to ministry review. *This review includes a look at whether community feedback was considered when engagement informs the development of a mitigation strategy*" [emphasis added].¹¹

Based on the foregoing, archaeological assessment reports may be submitted and MHSTCI reviews completed more than a year after the completion of fieldwork. In cases where consultant archaeologists do not engage FLRs during fieldwork, and fail to provide information on fieldwork and copies of their reports to DOCA, this delay creates an infringement on MCFN's stewardship of the archaeological resources within the Treaty Lands and Territory by limiting our ability to participate in the disposition of archaeological resources. While engagement is not a requirement of report submission and review, it is important that MHSTCI and consultant archaeologists recognize their obligation to provide this information to MCFN, through DOCA in a timely manner. It is also important that approval authorities recognize that final decisions regarding land dispositions may fall short of the Crown's duty to consult and accommodate when the submission and review process is used to conceal information about the assessment from the First Nation.

Further, DOCA reserves the right to intercede in ministry review where DOCA believes it holds information of value to the review. This information will be communicated to MHSTCI at DOCA's discretion. This is most likely to occur where DOCA believe that critical aspects of fieldwork were non-compliant with the S&Gs, where the report does not adequately reflect MCFN's stewardship objectives, or that engagement with DOCA was inadequate or misrepresented in the report. In particular, the Aboriginal Engagement Report, required in Section 7.6.2, may be reviewed to ensure that it accurately represents the engagement completed and any agreed outcomes.

¹⁰ Additional detail is available on the MTCS website:

http://www.mtc.gov.on.ca/en/archaeology/archaeology_report_requir.shtml#developmentproponents

¹¹ http://www.mtc.gov.on.ca/en/archaeology/archaeology_report_requir.shtml#addresses

Table 1, below, summarizes when, who and how engagement should occur in a typical archaeological assessment.

| Timing | Engagement by | Form of engagement |
|-------------------|---|---|
| Draft plan review | Approval authority Proponent | Information sharing Engage DOCA when applying the Criteria for Evaluating Archaeological Potential Advise DOCA of development application and project details Agreement on FLR participation in assessment |
| PIF | Consultant archaeologist MHSTCI | Information sharing Engage DOCA to advise on award of contract, identification of regulatory trigger, project location, proponent information, scheduled dates for fieldwork |
| Stage 1 | Consultant archaeologist Proponent | Information sharing Engage DOCA on background study (Section 1.1, g. 1, bullet 3; Sec. 1.3.1, bullets 5 – 8; Sec. 1.4.1, g. 1) FLRs may attend Stage 1 property inspection |
| Stage 2 | Consultant archaeologist Proponent | Facilitate FLR engagement and field review of S&G compliance, cultural inputs. Engage DOCA in review of analysis leading to proposed recommendations (Sec. 2.2, s. 1(b)(e); Section 2.2, g. 1) |
| Stage 3 | Consultant archaeologist Proponent Approval Authority | Engage DOCA on historical documentation (Sec. 3.1, s. 1(a), 1(b) and 1(e)) Facilitate FLR engagement and field review of compliance with standards in Sections 3.2 and 3.3 Engage DOCA on Section 3.3 decisions, and analysis (Sec. 3.4, s. 1(a), s. 2, and Sec. 3.4.1, g. 1) Engage DOCA on application of criteria and indicators in Section 3.4.3, Table 3.2 Work with DOCA when formulating Stage 4 strategies (Sec. 3.5, s. 1(f), g. 1) Include DOCA in the Section 3.5 “viability review” of Stage 4 avoidance and protection options with proponent |
| Stage 4 | Consultant archaeologist Approval Authority Proponent | Facilitate FLR engagement and field review of compliance with standards Engage DOCA on long term protection strategies, protection and cultural access considerations |
| Report review | MHSTCI | DOCA may advise MHSTCI of any concerns with fieldwork, engagement, reporting or recommendations DOCA may advise MHSTCI of concerns with Aboriginal engagement report. |

3.0 Compliance

Stewardship of archaeological resources and cultural heritage values within the Treaty Lands and Territory includes support for the technical guidance provided in the S&Gs. In this section, existing direction in the S&Gs is presented in relation to MCFN's archaeological resource stewardship objectives. In most cases, the direction is for compliance with existing standards. In others, additional detail or new direction is offered where increased effort in archaeological assessment will benefit the archaeological resource and address MCFN concerns.

It is important to note that MCFN's stewardship of resources extends to *all* archaeological resources and cultural heritage values within the Treaty Lands and Territory, regardless of CHVI or whether or not these sites are known to archaeologists or the ministry prior to assessment. Compliance with the S&Gs requires that MCFN is engaged and afforded the opportunity to consider the cultural heritage value or interest of all archaeological resources encountered during assessment, prior to defining a subset of these resources as 'artifacts' and 'archaeological sites'.

It is also important to note that the rules set out by the Funeral, Burial and Cremation Services Act regarding human remains should not be seen as overriding MCFN's assertion that all human remains are important and sacred, and must be subject to special consideration and treatment. All remains, including those not immediately identifiable as being associated with a burial or grave location should be considered to mark interments until archaeological evidence demonstrates otherwise.

3.1 MHSTCI Standards and Guidelines Stage 1

The S&Gs state that the purpose of the Stage 1 background study and property inspection is to gather and analyze information about the geography, history and current condition of a property, and to obtain information on prior archaeological fieldwork on or adjacent to the property. This data, including field observations of current conditions, is used to evaluate archaeological potential. This evaluation provides support for recommendations requiring Stage 2 assessment of all or parts of the property, including appropriate fieldwork strategies.

A thorough understanding of the full range of potential archaeological resources and cultural heritage values that may be present on a property is impossible without engagement.

3.1.1 Section 1.1¹²

Within the Treaty area, MCFN must be engaged as part of the Stage 1 background study for all archaeological assessment projects carried out within the Treaty Area. This requires that S&Gs Section 1.1, guideline 1, bullet 3 is

¹² The subsection headings are in reference to the section of the MTCS S&Gs that are being discussed.

treated as a *standard* within the Treaty Area. The guideline states, in part, that the background study “may also include research information from ... Aboriginal communities for information on possible traditional use areas and sacred and other sites on or around the property...” For the purpose of Stage 1 engagement, it is important to note that DOCA is not simply a source of research information, but should be viewed as a partner to the development of a comprehensive background study for the archaeological assessment.

In order to develop this partnership, consultants conducting background research on a property should conduct thorough documentary research at Stage 1. This may result in research products that not only address the requirements of the S&Gs, but also make a positive contribution to archaeological and cultural heritage research within the Treaty Area. This contribution may be in various forms, including new insight into archaeological research, historical occupations, or Anishinaabe place names on or near the subject lands.

For the purpose of developing a reasonable perspective on cultural practices and traditional use overlying the subject property it may be necessary to take a broader view of the surrounding landscape for context. For example, areas where numerous small archaeological sites have been recorded may need to be evaluated in aggregate within the wider landscape to determine if they are arrayed along a travel route. Similarly, areas of low site density within wider landscapes of generally high densities should be evaluated to determine whether the distribution is based on the quality of effort in past archaeological assessments that may have skewed available site data, or earlier cultural phenomena. Review of archaeological reports from areas beyond the recommended 50m radius is encouraged (Section 1.1, s. 1, bullet 2).

Notwithstanding the limiting nature of the language used in Section 1.1, guideline 1, bullet 3, MCFN assert that Stage 1 engagement should address all archaeological resources and cultural heritage values that may be present on the property. This approach better reflects the understanding that archaeological sites do coexist with places of sacred or spiritual importance, traditional use, or that are referenced in oral histories. Data relevant to Section 1.1, guideline 1, bullets 8 – 12 require engagement, and the results incorporated into the assessment report.

The timing and integrity of the approach to DOCA for background information will be recorded in the project file.

3.1.2 Section 1.2

The direction in this section applies as written.

3.1.3 Section 1.3 Analysis and Recommendations: Evaluating archaeological potential

S&Gs Section 1.3.1 provides general direction on evaluating archaeological potential. Features of archaeological potential are presented as a bullet point list, with no ranking of features. Bullets 1 – 4 are physical landscape characteristics that can be evaluated using maps or field observation. Bullet 9 concerns municipal or provincial designation and this can also be determined using available documentation.

Bullets 5 – 8 and 10 include information that will be available only through engagement. Specifically, “special or spiritual places” (bullet 5), or “resource areas” of value to the Nation (bullet 6) cannot be determined solely on the

basis of physical indicators. Further, historical settlement features described in bullets 7, 8 and 10 should not be construed as automatically describing European settler landscape elements, given the continuous and ongoing occupation of the Treaty area by Anishinaabe people.

In some areas, archaeological potential models or archaeological master plans are the basis for determining the requirement for assessment. As these models / plans are renewed, DOCA will seek engagement to ensure that the datasets considered in the development of the model / plan, and the output produced is a reasonable representation of archaeological site distributions and MCFN traditional use within the Treaty Lands and Territory.

3.1.4 Section 1.4.1

Section 1.4.1 describes the process for reducing the area that will be subject to Stage 2 test pit survey.

For areas that will be test pitted, reporting on Section 1.4.1, s. 1(c) (iii) and (iv), and Section 1.4.1, s. 1(e) (iii) and (iv), must clearly articulate how MCFN input was gathered and considered in the evaluation of potential.

DOCA must be engaged in the evaluation that leads to a reduction in areas to be subject to test pit survey. This requires treating S&Gs Section 1.4.1, guideline 1 as a *standard*. The guideline states, in part, that "the consultant archaeologist may wish to engage with Aboriginal communities to ensure there are no unaddressed cultural heritage interests".

In other cases, the area to be examined at Stage 2 may be increased to incorporate MCFN input, as described in the MHSTCI Bulletin on Engaging Aboriginal Communities, Section 3.3.

3.1.5 Stage 1 reporting

For Stage 1 assessment reports, the direction found in Sections 7.5.1 to 7.5.12, and 7.7.1 to 7.7.6 applies as written, with the following exceptions, additions or clarifications.

The results of the research conducted for the background study must be reported in the Stage 1 assessment report. Section 7.7.1, s. 1 states that the research must be clearly described and information sources documented. The report content must also clearly demonstrate that the standards for background research were met.

In addition to the Aboriginal engagement documentation required by Section 7.6.2, it will be necessary to provide a clear and accurate report of the information obtained through engagement, and how it was applied to the assessment functions required by Sections 1.1, 1.3 and 1.4.1.

3.2 MHSTCI Standards and Guidelines Stage 2

The S&Gs state that the purpose of the Stage 2 property assessment is to inventory the archaeological resources on a property, and to determine "whether any of the resources might be artifacts and archaeological sites with cultural heritage value or interest". The distinction between archaeological resources, on the one hand, and artifacts and archaeological sites on the other derives from the definitions found in O.Reg. 170/04.

Section 2 of the S&G set out the *minimum* standards for fieldwork at Stage 2. The standards form the basis for professional practice in archaeological assessment. As such, MCFN expect strict compliance with the standards for assessments undertaken within the Treaty Area. As most of the standards are quantitative targets, FLRs will assist consultant archaeologists in meeting compliance expectations, and can collect data on the conditions that led to the exercise of professional judgment to deviate from the standards. Planned deviation from the standards, based on professional judgment and permitted by the S&Gs should be discussed as part of the ongoing engagement with DOCA, and described clearly in resulting reports.

3.2.1 Section 2.1

Section 2.1 sets out the technical requirements for Stage 2 property survey, including pedestrian survey (Section 2.1.1), test pit survey (Section 2.1.2), intensification when archaeological resources are identified (Section 2.1.3), and fieldwork under special conditions (Sections 2.1.4 to 2.1.9).

The direction in Section 2.1 sets out the general and specific *minimum* requirements for Stage 2 fieldwork and analysis. The direction in this section applies as written. DOCA will work with proponents to ensure that FLRs participate in fieldwork to assist in meeting compliance with the standards.

3.2.2 Section 2.2

Section 2.2 sets out the process for determining whether archaeological resources hold cultural heritage value or interest and require further assessment at Stage 3. Notwithstanding the limiting nature of the language used in the Section 2.2 preamble (box text), Stage 2 analysis must address all archaeological resources present on the property. Engagement must address MCFN's stewardship interest in the archaeological resources and cultural heritage values on the property before final recommendations are formulated.

The fieldwork requirements of Stage 2, including intensification when resources are identified must be completed prior to analyzing the results of fieldwork and determining the CHVI of the resources. This determination should not be made 'on the fly' in the field, especially as MCFN have asserted an interest in all archaeological resources within the Treaty area. DOCA may choose to review FLR reports compiled during Stage 2 fieldwork to ensure that the data used in addressing Section 2.2, s. 1, and guidelines 1 to 4 was compliant with the S&Gs and supports the conclusions drawn.

It is important that the direction in Section 2.2, s. 1 is carried out in the context of the local or regional archaeological record. The report of the analysis must include a review of typical or expected artifact densities for sites of different time period or ascribed function regionally.

To clarify Section 2.2, s. 1(b), Stage 3 assessment is required when human remains are identified on a property. For the purposes of compliance with this direction, all human remains, regardless of element or quantity (including fragments, teeth, phalanges, etc.) must be recommended for Stage 3. This direction should not be construed as conflicting with, or limiting the requirement to comply with the Funeral, Burial and Cremation Services Act (SO 2002, c. 33). FLRs will advise on the treatment of the remains.

In Section 2.2 there are a number of considerations that must be taken into account when evaluating the cultural heritage value or interest of an archaeological site, such as the representativeness of the sample obtained through Stage 2 fieldwork. For example, a single artifact recovered from an average test pit may represent an artifact count equal to or higher than the 'cut-off' proposed for excavation in Stage 3 and 4 directions. Similarly, CSPs conducted under sub-optimal conditions will present a reduced certainty that the sample collected is representative. Reports maintained by FLRs during fieldwork can assist in ensuring that places where additional data, or corrected conclusions may be required.

In the discussion of Stage 1 guidance, it was noted that MCFN hold the view that archaeological potential needs to consider factors beyond the simple presence or absence of artifacts to include landscape considerations and the understanding of how ancestral populations used the land and the resources available. Similarly, in determining cultural heritage value or interest of archaeological resources, it is important to move beyond artifact counts. Highly mobile populations would not necessarily leave extensive and artifact rich sites behind. Analysis of archaeological resources should include the consideration of all archaeological resources as potentially informing the reconstruction of Anishinaabe history, with individual small sites analyzed in aggregate to reflect use of the broader landscape. To clarify, this direction directs the exercise of professional judgment as described in Section 2.2, guidelines 2 and 3 to recommend Stage 3 for low artifact count sites.

3.2.3 Stage 2 reporting

For Stage 2 assessment reports, the direction found in Sections 7.5.1 to 7.5.12 and 7.8.1 to 7.8.7 applies as written, with the following exceptions, additions or clarifications.

Section 7.8.1, s. 1 sets out the documentation requirements for areas *not* surveyed at Stage 2. For areas determined to be of no or low potential at Stage 1, a summary of the engagement on this evaluation must be included. For areas determined during Stage 2 fieldwork to hold low potential, a statement must be provided confirming that the decisions were taken in consultation with DOCA. Specifically, the statement should address the information and reasoning used in the field to satisfy the direction in Section 2.1, s. 2 (a), (b) or (c), confirm that FLRs were advised, and that their input was considered, as part of the decision making.

Section 7.8.1, s. 2 sets out the documentation requirements for Stage 2 property assessment generally. It is recommended that any available DOCA file reference for the project is included in the documentation. Any difference in opinion on fieldwork practices between the consultant archaeologist and FLRs that relate to standards set out in Sections 2.1, 2.1.1 and 2.1.2 should be summarized, including decisions to reduce the area surveyed (Section 7.8.1, s. 2 (c) and (d)).

Section 7.8.3 requires a summary of Stage 2 findings, including a clear statement concerning the assessment of the entire property and each archaeological site. The summary required in Section 7.8.3, s. 1 must include a discussion of all archaeological resources, including those which were determined to hold low CHVI and were not recommended for further assessment. In addition, the analysis and conclusions required in Section 7.8.3, s. 2 must

include a summary of DOCA engagement or FLR input as applicable. This should summarize the nature and timing of the engagement, the data provided in support of the discussions, and the input received from DOCA.

Section 7.8.2 requires that non-archaeological cultural heritage features, including cultural landscapes should not be documented. As noted in comments made in reference to Section 1.3 and Section 2.2, archaeological sites must be considered in their broader landscape context. The direction in Section 7.8.2 must not be seen as limiting the inclusion of landscape or cultural heritage considerations used in building a complete and accurate understanding of the development property or archaeological resources requiring additional assessment. For example, the discussion of archaeological sites identified at Stage 2, Section 7.8.2, s. 1(b) requires a description of the "area within which artifacts and features were identified", which may extend to wider landscapes as necessary.

Notwithstanding the direction of Section 7.8.4, s. 2, recommendations for Stage 3 assessment must include a requirement to consider the landscape context of archaeological sites, as appropriate.

Recommendations made in the Stage 2 report set out how all archaeological resources identified on the subject property will be addressed. Stage 3 strategies for sites with CHVI (Section 7.8.4, s. 1(c)), must include recommendations for engagement and FLR participation in fieldwork among the "appropriate Stage 3 assessment strategies".

Section 7.8.5, s. 1 recommendations for partial clearance must include requirements for engagement and including FLRs in excavation and monitoring.

3.3 MHSTCI Standards and Guidelines Stage 3

The purpose of Stage 3 site-specific assessment is to assess the cultural heritage value or interest of archaeological sites identified at Stage 2 in order to determine the need for mitigation of development impacts. The two key components to Stage 3 site specific assessment are historical research and archaeological site assessment. The outcome of Stage 3 is a clear understanding of whether each site has been sufficiently documented, or if further work is required to protect or fully document the site.

The direction in Section 3 of the S&Gs set out the *minimum* standards for additional background research and for fieldwork at Stage 3. While efforts in excess of the S&Gs are supported, strict compliance with the standards will be expected. DOCA will work with proponents to ensure that FLRs participate in fieldwork to assist in meeting compliance.

Stage 3 also includes a significant engagement component, and DOCA will serve as the primary contact for archaeologists and proponents. Engagement is specifically required as a standard in compiling additional historical documentation (Section 3.1, s. 1(a) and 1(b)), in the evaluation of CHVI (Section 3.4, s. 2), and in formulating Stage 4 strategies (Section 3.5, s. 1). As noted previously, MFCN assert that all archaeological sites should be considered as being of interest to the Nation (Section 3.5, s. 1(f)).

3.3.1 Section 3.1 Historical documentation

Section 3.1 sets out the requirements for additional research to supplement and expand the research carried out in Stage 1. The additional documentary information must be considered in Stage 3 and Stage 4 fieldwork and analysis. Documentary research should be sufficient to ensure that the consulting archaeologist has a good understanding of the recent occupation history, as well as clear knowledge of the landscape and traditional occupation of the local landscape surrounding the site.

Section 3.1, s. 1(a) requires that, "when available", research regarding "features or information identifying an archaeological site as sacred to Aboriginal communities" is completed. Further, Section 3.1, s. 1(b) requires research relating to "individuals or communities with oral or written information about the archaeological site". To meet the requirements of this direction, MCFN expect that research will be commenced as part of the Stage 1 background study, will require engagement, and in reporting should reflect a serious effort to identify information relating to the local area, property, or site especially as it pertains to past occupation by Mississauga or other Indigenous peoples. As part of the background research, Section 3.2, s. 1 requires that the consultant archaeologist review "all relevant reports of previous fieldwork" prior to commencing fieldwork. If a new licensee assumes responsibility for the archaeological assessment at Stage 3, this review must include contacting DOCA for a summary of engagement and FLR reports on Stage 1 and 2.

3.3.2 Section 3.2

Section 3.2 sets out the standards for Stage 3 site-specific assessment fieldwork, including controlled surface pickup (Section 3.2.1) and test unit excavation (Section 3.2.2). Section 3.2. 3 and Table 3.1 describe the how the number and distribution of test units is determined.

The direction in this section applies as written, with the exceptions, additions or clarifications noted below. In all instances, DOCA will work with proponent to ensure that FLRs are available to support compliance during fieldwork.

The identification and treatment of features encountered at Stage 3 is discussed in Section 3.2.2, s. 6. Feature identification should be conservative, as it is preferable to overestimate the number of features at Stage 3, rather than lose data or create complications for fieldwork at Stage 4. On sites where a high proportion of the features appear equivocal as to cultural origin (forest fire or hearth?), these features must be preserved, and a sample excavated and reported at Stage 4 to create a record for the benefit of future archaeological fieldwork. Alternately, this sampling can be completed under the direction in Section 3.2.2, g. 3.

Selecting screen aperture during Stage 3 fieldwork (Section 3.2.2, guideline 1), should also take a conservative approach. The consultant archaeologist should exercise professional judgment and move to screening with 3mm mesh whenever small artifacts (seed beads, retouch flakes) are anticipated or noted.

Section 3.2.3 and Table 3.1 set out the technical requirements for placement and number of test units. Critical to the success of Stage 3 fieldwork is establishing site boundaries. Site boundaries must be set beyond the edge of

the artifact concentration, plus a reasonable buffer within which solitary artifacts separated from the main site by post-depositional disturbance may be anticipated. While the guideline (Section 3.2.3, guideline 1) allows for discretion in determining site boundaries, determining boundaries on the basis of low artifact frequency (guideline 1(b)), or typical site characteristics (guidelines 1(c) and 1(d)), must be supported by both data and a clear rationale. For example, determining that a site boundary can be set based on "repetitive low yields" requires additional testing beyond this boundary to ensure that additional concentrations not identified at Stage 2 are recorded. Low yields at the periphery of a site may indicate a weakly defined boundary, but may also represent a much larger, diffuse site marking a low intensity, repeated occupation of a place.

Sterile units mark the boundary of archaeological sites, clearly demonstrating that no further archaeological resources occur within a reasonable distance from the site boundary. It is recommended that sterile units to *at least* ten meters from the site area (i.e. two consecutive sterile test units on the five meter grid), are recorded. This will ensure that isolated sterile units marking a low-count region within a site are misattributed as marking the site boundary. In reporting, the decisions made regarding site boundaries, including the rationale and supporting data should be clearly documented. This summary should note the input received from FLRs.

3.3.3 Section 3.3

Section 3.3.1 describes alternative strategies for determining the extent and complexity of large (Section 3.3.1 and 3.3.2) or deeply buried archaeological sites (Section 3.3.3).

The direction in this section applies as written, with the following exceptions, additions or clarifications. DOCA will work with proponent to ensure that FLRs are available to assist with compliance during fieldwork.

Section 3.3.2 outlines an optional strategy of using topsoil stripping to determine site boundaries, and is not the preferred approach to excavation by MCFN. It is necessary to note that mechanical topsoil removal is not intended to be applied within the site area. Mechanical excavation must begin outside the archaeological site boundary working in toward the centre (Section 3.3.2, s. 3), and must be suspended once cultural features or the previously mapped extent of surface artifacts is encountered (Section 3.3.2, s. 4).

Prior to scheduling mechanical stripping, the consultant archaeologist must establish an on-site protocol for the proposed mechanical stripping with FLRs. The protocol must confirm the extent of the site as determined by artifact distributions and test unit results to establish where trenching will commence and be suspended. The protocol must also cover terminating or suspending trenching when artifacts or features are identified, and for treating cultural features in subsoil, and artifacts from disturbed soil or back dirt, including how back dirt will be processed to recover artifacts from excavated soil.

3.3.4 Section 3.4

Section 3.4 provides direction on how the information gathered in the archaeological assessment up to the end of Stage 3 fieldwork is used to assess the CHVI of each archaeological site. In turn, CHVI will determine whether the site is sufficiently documented, or if Stage 4 mitigation of development impacts is required.

To comply with the requirements of Section 3.4, consultant archaeologists must work with DOCA to determine CHVI and Stage 4 mitigation strategies for each site. This requires that concise documentation demonstrating that the site has been assessed to the level of care set out in the S&Gs is provided in a timely manner, and that any concerns previously expressed by DOCA or individual FLRs were addressed. The documentation should include the historical background research conducted in Stage 1 and Stage 3, a record of engagement with DOCA, and a summary of the artifact and site analysis. DOCA may also review FLR reports on fieldwork, or determine if band members hold specific or general knowledge of the site or development property. In the absence of earlier engagement, it may be necessary to provide additional resources to support the DOCA review.

The S&Gs state that Stage 4 mitigation is required for specific classes of site, including "...sites identified as sacred or as containing burials" (Section 3.4, s. 1(a)). Sites of sacred or spiritual importance may include places on the landscape that do not contain archaeological resources in sufficient quantity to allow a clear determination of the site's CHVI. Alternately, ceremonial space may be clearly expressed through the features and objects recovered archaeologically. Burial sites, graves and human remains (including isolated elements) must also be considered sacred. As reflected in Section 3.5, s. 1(b), all human remains require special treatment. They are culturally important as they may represent interments or signal a sacred or spiritual value at the site. Ultimately, MCFN is the only party who can determine whether an archaeological site is sacred to the Nation, and as such, DOCA must be engaged.

The description of 'sacred' sites in the S&Gs is limiting. Sacred sites may include sites of cultural or historical importance, places associated with traditional land use or activities, or places features in traditional narratives (Section 3.4, s. 2). In most cases, 'sacred' sites will be those identified by the Nation, and FLRs will be the source of much of this information. Where specific knowledge of an individual archaeological site does not exist in the Nation's current knowledge base, the CHVI of the site may be co-determined by the Nation and consultant archaeologist.

Note that the underlying cultural interest in a site or development property, or the basis of the identification of sacred or spiritual places will not be disclosed in all cases. The Nation will not assume the position of research subject.

Small or diffuse lithic scatters must not be automatically determined to hold low CHVI (Section 3.4.1). Anishinabeg traveled extensively throughout the Treaty area and beyond, and one aspect of this lifestyle was traveling light, with individuals and groups carrying only a small amount of material goods. As a result, loss rates were low and the archaeological sites associated with this cultural pattern will be smaller, low artifact count sites. Therefore, small sites with low artifact frequencies may hold a higher cultural significance than would be determined on the basis of artifact count. The analysis of small sites requires consideration of the wider landscape setting of the site and relationship to other local sites. For many of these smaller sites it is recommended that the consultant archaeologist exercise professional judgment, and follow the direction in Section 3.4.1, guideline 1(c).

Section 3.4.3 provides additional criteria for determining CHVI of individual archaeological sites. For archaeological sites in the Treaty area, the criteria in Table 3.2 must be reviewed by the consultant archaeologist to determine CHVI and formulating Stage 4 strategies. The consulting archaeologist must clarify in reporting how each of the criteria is or is not met for the archaeological site.

In terms of the 'information value' of a site, consideration of the related indicators must look beyond the concept of archaeological information, to include consideration of how the information contained in the site can contribute to building a more complete history of cultural and traditional land use patterns within the Treaty area.

3.3.5 Section 3.5

Developing Stage 4 mitigation strategies requires engagement at Stage 3 (Section 3.5, s. 1). This engagement should be the culmination of an ongoing engagement that began at Stage 1 (or earlier). Engagement will include contributing to the "careful consideration" leading to a decision to excavate, as required in Section 3.5, s. 2, and to document any "unusual circumstances" indicated in Section 3.5, s.3.

Contrary to the presentation in the S&Gs, the recommended Stage 4 strategies *must* reflect MCFN input. For compliance with Section 3.5, s. 2, documentation must include records of all communications, meetings, presentation materials, and resolutions arrived at between the consultant archaeologist and DOCA, and between the consultant and the proponent where mitigation was discussed. Where the recommended strategy is at variance with MCFN's position, the basis for the decision must be clearly articulated in the final report of Stage 3 fieldwork.

Some sites, where Indigenous occupation is not indicated by Stage 1 to 3 assessments, may be excluded from engagement by mutual agreement.

The formulation of Stage 4 strategies must anticipate operational decisions that may be made during Stage 4. Section 4.2.1, g. 1, allows for sampling strategies to reduce the "degree or intensity of the archaeological fieldwork". Incomplete excavation of an archaeological site promotes archaeological interests over the stewardship interest of MCFN. Sampling must only be considered after a detailed review of the sampling strategy and potential consequences for information recovery from the site is completed. Details of the proposed sampling strategies must be described in detail in the recommendations to the Stage 3 report, and the justification and research supporting the recommendations should be clearly articulated in the analysis and conclusion sections. Stage 4 recommendations should also provide a specific commitment to engage DOCA when sampling decisions are made in the field, including a time allowance to consider the decision, and a process for incorporating DOCA input into the decision making.

3.3.6 Stage 3 reporting

For Stage 3 assessment reports, the direction found in Sections 7.5.1 to 7.5.12 and 7.9.1 to 7.9.7 applies as written, with the following exceptions, additions or clarifications.

The description of the field methods required in Section 7.9.1, may be supplemented by reference to the FLR reporting on the fieldwork, as applicable.

Section 7.9.3, s. 3 requires that the analysis and conclusions of the report are compared to current archaeological knowledge. This must include current research, and not simply rely on other consulting reports and standards references. In addition, this research must consider the direction set out in this document, and the results of engagement. Section 7.9.4, s. 1(a) requires that reporting on Section 3.5 include a discussion and summary of engagement. A clear and detailed discussion of engagement is required in Section 7.9.4, s. 2, and this discussion must include the rationale for proposing any actions that is contrary to the stated position of DOCA. For example, decisions made to excavate or terminate an assessment (Sec. 7.9.4, s. 3 or s. 5), where that differs from the DOCA position, then a clear statement of this difference, including the dissenting position, must be provided in the report.

3.4 MHSTCI Standards and Guidelines Stage 4

Archaeological sites holding cultural heritage value or interest require Stage 4 mitigation of development impacts. Impacts may be mitigated by either avoidance and protection, or excavation and documentation. Avoidance and long term protection is the preferred approach to mitigation. Avoidance allows the archaeological site to be preserved intact for future use as an archaeological resource and cultural heritage value in addition to preserving a range of material and intangible values not directly recoverable through the application of archaeological techniques.

The S&Gs articulate that avoidance and protection are “most viable when the cultural heritage value or interest of the archaeological site is determined early in the planning stages of the development”. This supports the position taken in this document that early engagement with DOCA is beneficial for all parties to the assessment, and to the archaeological resource.

3.4.1 Section 4.1 Avoidance and Protection

The direction in Section 4 sets out the general and specific *minimum* requirements for Stage 4 fieldwork and analysis. The direction in this section applies as written, with the following exceptions, additions and clarifications. DOCA will work with proponents to ensure that FLRs participate in fieldwork to assist in meeting compliance.

Section 4.1, s. 1 requires that protection must follow completion of Stages 2 and 3. Where DOCA has not been engaged previously on the assessment, the process permitted under Section 4.1 is considered premature and must not proceed. This also applies in cases where the Stage 3 engagement is ongoing, or if a response to a concern raised by DOCA to MHSTCI or some other party to the development process has not been received.

The buffers signified in Section 4.1, s. 2 are minimums. Larger buffers based on local topographic or development conditions must be identified where they will enhance long-term protection. Elements of the surrounding landscape beyond the minimum buffers should be adapted into the protection area to ensure that the site

remains in a naturalistic setting. This requires working with the proponent and the approval authority early in the process to build agreement in principle with the idea, and to facilitate moving to a satisfactory outcome. In a similar manner, where a number of sites are present in close proximity, protection strategies that include protection of a larger area enclosing all of the sites should be considered.

Section 4.1.3 concerns temporary avoidance. The standard requires that the commitment from the proponent that "the archaeological site will not be impacted in the short term, and a plan to carry out full excavation in the future" is included in the report package. The avoidance and protection strategy requires approval authority agreement. DOCA must be provided with notice of the temporary avoidance and protection strategy and excavation timeline, and provided an opportunity to comment.

Section 4.1.4 concerns the mechanisms required to ensure effective long term protection of the archaeological site. The avoidance and protection strategy must include DOCA engagement, and an opportunity to participate in the long term protection. MCFN has the capacity to provide stewardship and oversight to the long term protection of archaeological sites beyond that provided by other corporate bodies and municipalities; therefore DOCA must be included in the drafting of long term protection mechanisms.

Section 4.1.4, s. 1 directs that the protection mechanism "sets out how protection of the archaeological site is to be addressed as a prerequisite to any proposed removal of the archaeological restrictions on the land in the future". The mechanism must recognize the Treaty rights and the stewardship role of MCFN, and require engagement regarding any future review of the protected status of the archaeological site for development or excavation. This recognition must form part of the long-term protection mechanism, and should not be part of a sub-agreement or other agreement that may not continue in force over time.

The identified restrictions on uses of the archaeological site (Section 4.1.4, s. 2) must not prohibit or infringe the right of MCFN to carry out any cultural or ceremonial activities that may be required. MCFN stewardship and DOCA participation in any future work at the site must be referenced in the "document confirming... awareness of" obligations for the archaeological site required in Section 4.1.4, s. 3.

3.4.2 Section 4.2 Excavation

Section 4.2 sets out the requirements for excavation and documentation. As the introduction to Section 4.2 states, "protection in an intact state is always the preferred option" for archaeological sites with CHVI. The S&Gs confirm that conversion of archaeological sites into archaeological data results in the "loss of contextual information". As noted previously, archaeological techniques are insufficient to capture the range of cultural heritage values the archaeological site may contain, including intangible values such as the sacred or spiritual elements that are referenced throughout the S&Gs. Nevertheless, conflict between contemporary development pressures and archaeological sites inevitably leads to a large proportion of archaeological sites being scheduled for destruction.

The direction in Section 4.2 sets out the general and specific requirements for Stage 4 fieldwork and analysis. The direction in this section applies as written, with the following exceptions, additions and clarifications. Within the

Treaty Lands and Territory, FLRs must participate in fieldwork, and will assist in meeting compliance. Stewardship of the archaeological resources and cultural heritage values require that archaeological sites will be completely excavated by hand (i.e. no mechanical topsoil stripping) and artifact recovery will be maximized, when excavation and documentation is considered the only mitigation alternative.

Before commencing fieldwork, the consultant archaeologist is required to review "all relevant reports of previous fieldwork" (Section 4.2.1, s. 2). If a new licensee assumes responsibility for the archaeological assessment at Stage 4, this review must include a review of engagement from the preceding stages. This review should also include reports of fieldwork on adjacent properties or the local area for context.

Section 4.2.1, g. 1 allows for sampling of archaeological sites "as a means of reduc[ing] the degree or intensity of archaeological fieldwork while still accomplishing the objectives for Stage 4 excavation". Sampling must be pursued with caution, in limited instances and following a detailed review of the strategy and potential consequences to archaeological and cultural data recovery. Sampling is generally only acceptable where it has been recommended in the Stage 3 report, and had been a focus of engagement.

Section 4.2.2 concerns excavation by hand. The preamble to Section 4.2 states, "All archaeological sites for which Stage 4 excavation is carried out...must be excavated partly or completely by hand. Hand excavation is the preferred method for removing topsoil because topsoil stripping destroys any evidence of later site formation processes and leaves behind displaced artifacts". This clarifies that hand excavation is preferred, and signals a concern that stripping may lead to archaeological data and features being overlooked or artifacts left behind at the site. The section continues, stating that on completing Stage 4 excavations "the site no longer exists in the ground [and] archaeological concerns under land use planning and development processes can be considered addressed". This creates the uncomfortable outcome that archaeological data, artifacts and other cultural heritage objects may remain at the location after the site has been declared to no longer exist. This loss of site context and artifacts compound the cumulative impact to cultural heritage values of importance to MCFN and other indigenous communities.

Mechanical topsoil stripping is discussed in Section 4.2.3. As the S&Gs note, "the rationale for topsoil stripping is that the careful documentation of intact archaeological resources...offsets the loss of fragmentary information in the topsoil layer". Mechanical stripping presents considerable risk to archaeological resources and must be considered an exceptional practice in the absence of a compelling rationale. Any proposal to mechanically strip a site must be a key topic of discussion during engagement at Stage 3. FLRs will be available to advise in the field on compliance with the S&Gs and any agreements reached in engagement.

As set out in the S&Gs, mechanical topsoil stripping is only acceptable under specific circumstances (Section 4.2.3). The archaeological site must have been subject to ploughing for many years, be a single component site, be "large", be a Woodland period site or later, and there must be a representative artifact collection from Stage 2 and Stage 3 surface collection and test unit excavation. Analysis of earlier fieldwork must be completed to the point where the site can be demonstrated to be a single component.

The judgment on the size of the site and adequacy of the artifact collection, and whether the site represents a single component, must be discussed in the Stage 3 report and raised during engagement. During fieldwork, stripping must not extend below the topsoil/subsoil interface (Section 4.2.3, s. 3), and only the area that can be cleared and examined at the time of stripping should be exposed (Section 4.2.3, s. 4). It is critical that the Stage 4 recommendations and on-site protocols support the role of FLRs in identifying compliance shortfalls during mechanical topsoil stripping. Work at variance with the S&Gs must be stopped as soon after being identified to the project archaeologist or field director as possible.

Section 4.2.4 provides direction on the excavation of Woodland period archaeological sites. This direction notes that Woodland sites are 'usually' excavated using a combination of hand and mechanical excavation. As mechanical topsoil stripping increases the risks to archaeological sites, use of the technique must be limited and justified on a site by site basis. It is strongly recommended that the area mechanically excavated is minimized, with hand excavation expanded beyond the limits set out in the S&Gs (Section 4.2.4, s.1, and 4.2.4, s. 5, augmented by guidelines 1 to 3). In all instances of mechanical topsoil stripping, provision for recovering any artifacts displaced to back dirt piles must be made. It is preferred that back dirt is screened to facilitate full artifact recovery.

For large lithic scatters and lithic quarry sites, compliance with Sections 4.2.5 and 4.2.6 will require that Stage 3 analysis is complete prior to engagement, and that the results of analysis are provided during engagement with DOCA. When finalizing the Stage 4 recommendations and strategies for Stage 4, (specifically Sec. 4.2.5, s. 1(b) and Sec. 4.2.6, s. 2), this analysis must be available, meaning that the Stage 3 results must have been analyzed from this perspective.

Requirements for the treatment of undisturbed archaeological sites are described in Section 4.2.9. The preamble of the section states that "every effort must be made to ensure" that undisturbed sites are avoided and protected. Further, "any recommendation to excavate must have been made in consideration of feedback from engagement...and a careful review of the viability of preservation options". MCFN support avoidance and long term protection of archaeological sites, and are emphatic that consultant archaeologists advocate strenuously that undisturbed sites are protected from adverse impact, including excavation. All undisturbed sites must be brought to the attention of DOCA as early in the assessment process as possible, and engagement on the Stage 4 recommendations for the site is required. FLR reports concerning earlier stages of fieldwork, and specifically indications of past disturbance, may be reviewed to ensure that undisturbed sites are appropriately represented in Stage 3 deliberations.

Undisturbed sites that cannot be avoided and protected must be completely excavated by hand. FLRs will be available to support compliance with the direction on excavating undisturbed sites. This will include ensuring that the additional units indicated in Section 4.2.9, s. 4 are sterile, and that features are investigated as directed in Section 4.2.9, s. 5. While not specified in the S&Gs, recording and collecting non-diagnostic artifacts and informal tools, collection must be to 0.25m² quadrant and level at a minimum. As with the direction on undisturbed sites, developing a mitigation plan for rare archaeological sites (Section 4.2.10) will require engagement and FLR participation in fieldwork.

3.4.3 Section 4.3

The goal of excavation and documentation is complete recovery of the archaeological information contained within the site. Sampling suggests that the contents of sites are generally consistent between sites, and that the information potential of any given site is predictable. However, this gives the impression that the site being assessed is of a lesser value than those that have been excavated previously. Cumulative effects to the overall archaeological record will accrue under this process, and shortcomings of historical research amplified. This perspective may also lead to acceleration in the rate of site loss over time, and excavated collections are increasingly viewed as additional and redundant data. For these reasons, sampling or reducing the extent of excavation at Stage 4 should only be pursued under exceptional circumstances, and then only after detailed research to support the decision to sample has been completed and presented in engagement. In all cases, excavation must include units within a 10m buffer (at Stage 3 or Stage 4) surrounding the site to ensure that site boundaries are accurately located and unit-yield counts do not increase in adjacent areas.

Table 4.1 in Section 4.3 of the S&Gs provides direction on determining the extent of Stage 4 excavations. In hand excavation, the unit-yield serves as an indicator of when the limits of a site have been reached. Units with fewer than 10 artifacts per unit mark the boundary of the site. Excavation must continue where at least two formal or diagnostic artifacts, fire cracked rock, bone or burnt artifacts are present. In the interest of complete recovery and correct boundary placement, it is recommended that excavation continue for at least two contiguous units at low counts (<5) before the site boundary or limits to excavation are declared.

Table 4.1 also provides direction for undisturbed site excavation limits, indicating that counts of ten or fewer artifacts mark the limit of excavations. However, undisturbed sites provide an opportunity to gather information on site formation processes as well as a "complete" inventory of materials and features. For this reason, 100% excavation and artifact recovery is required for these sites. Two consecutive units with zero artifacts must be excavated at the periphery of the site to ensure that excavation has captured the entire site.

For large, dense lithic scatters where individual unit counts are high, Table 4.1 allows that excavation can be terminated where unit counts drop to 10% of the highest yield at the core of the site. This guidance must be applied with caution, and excavations must continue where the nature of the artifact recoveries at the proposed boundary differ from those in the core of the site. For example, where a high count area comprised of smaller pressure flakes is used to define the centre of the site, and a lower count area comprised of larger early stage block reduction is positioned on the 'periphery', this may indicate the overlap of two different functional areas, and not the site boundary. This reinforces the direction in Table 4.1 that areas of lower concentration adjacent to the areas of higher density must be examined to ensure that they do not mark discrete components, habitation or activity areas. Lithic quarry sites require complete excavation of all discrete areas. There are no unit-yield measures for determining limits to excavation.

Table 4.1 also provides direction that for sites subject to mechanical topsoil stripping, excavation is considered complete when all cultural features have been exposed and excavated. The stripping must extend at least 10m

beyond all cultural features. Unit yields are not applicable as the artifacts from the plough zone are in the back dirt. As noted previously, measures must be taken to recover artifacts from the stripped topsoil to approach complete artifact recovery.

3.4.4 Stage 4 reporting

For Stage 4 excavation reports, the direction found in Sections 7.5.1 to 7.5.12 and 7.11.1 to 7.11.6 applies as written, with the following exceptions, additions or clarifications. Stage 4 avoidance reports follow the direction found in Sections 7.10.1 to 7.10.3.

Section 7.11.1, s. 1(c) requires that decisions made in the field regarding unit placement is documented. For compliance with this standard, the engagement, including in-field discussions with FLRs and any divergent opinions on how to proceed must be reported. Section 7.11.4, s. 1 requires that a recommendation of “no further cultural heritage value or interest” remains for the site. This recommendation should not be made if disputes regarding the completeness of the excavation have been raised by DOCA and are unresolved. Recommendations should also note that the outcome of the archaeological assessment may not remove a cultural heritage place, defined on the basis of cultural or intangible values at the site by MCFN, regardless of the archaeological assessment status.

3.5 Aboriginal Engagement Reporting (Section 7.6.2)

The Aboriginal engagement report supplements the information provided in the body of the report. As the guidance in this document sets out, MCFN expect to be engaged at all stages of archaeological assessment. Therefore, Aboriginal engagement reports should be prepared for all stages of assessment. Engagement includes timely notification of all assessment-related fieldwork to be undertaken on MCFN Treaty Lands and Territory, the participation of FLRs, clear communication regarding fieldwork decisions and recommendations, and acknowledgement of MCFN’s role as stewards of archaeological resources within the Treaty Lands and Territory.

Section 7.6.2 provides direction on the required contents of the Aboriginal engagement report. Each report must include the identification of who was engaged, and how the engagement was carried out. For assessments on MCFN Treaty Lands and Territory, engagement will be with DOCA and the FLRs participating in the fieldwork (Section 7.6.2, s. 1(a)). This document will represent the protocol for engagement (Section 7.6.2, s. 1(b)). To compile a complete record of engagement, the report must also include information on the timing of engagement and, for Stage 2 to 4 assessments, whether engagement had been carried out in earlier stages. DOCA, as part of their administration and coordination of the engagement response, will provide a reference number for each engagement. The report should note this reference and the dates of engagement (Section 7.6.2, s. 1(c)). This will assist DOCA in tracking the assessment, and provide MHSTCI reviewers with assurance that the documentation reflects the approach, process and outcome clearly and accurately.

Documentation for the engagement process must also outline and give reasons for the strategies used to incorporate input from DOCA and FLRs into fieldwork decisions, and how the results of the assessment were

reported back to the Nation. The outline required by Section 7.2, s. 1(d) must include a description of how DOCA was approached for input to the assessment, including background information at Stage 1 and Stage 3, field direction from FLRs at Stages 2 through 4, and DOCA participation in preparing or reviewing recommendations made at Stage 1 through 4. Acknowledging that points of difference may occur, it is important that the report clearly articulate where DOCA direction varied from S&Gs direction, where the consultant archaeologist chose not to implement direction from DOCA or FLRs, or where recommendations made were at variance with the position taken by DOCA or FLRs. Finally, a statement on when and how the final report of each stage of assessment was transmitted to DOCA must be included (Section 7.6.2, s. 1(e)). Reporting back must include providing a copy of the final report of the assessment to DOCA in a timely manner, including the completed Aboriginal engagement report.

The direction provided in Section 7.6.2, s. 2, applies as written; however, it is important to note places or values holding cultural sensitivity may be identified on any property. In these cases, DOCA will work with the consultant archaeologist to identify boundaries, restrictions, or fieldwork practices that will address the cultural concern, even if detailed information on the underlying value is not provided. This will be the practice when, in the view of DOCA, providing MHSTCI or the consultant archaeologist details of the exact nature of the underlying cultural value is not required to achieve protection.

In reference to Section 7.6.2, g. 1, it is important to note that MCFN hold that all archaeological resources present within the Treaty Lands and Territory are of interest to the Nation as part of their cultural patrimony. Resources, regardless of size, frequency or condition should not be interpreted in such a way as to remove the requirement for engagement.

3.5.1 Supplementary Documentation

Section 7.3.4 notes that supplementary documentation is required to improve the clarity of archaeological assessment reports... "For the purposes of review, the ministry may require supplementary documentation to verify that fieldwork was conducted according to [the MHSTCI] standards and guidelines."

Section 7.6.2 provides standards and guidelines for Aboriginal engagement and is applicable to all stages of archaeological assessment reporting. The section clarifies that "critical information arising from Aboriginal engagement that affected fieldwork decisions, documentation, recommendations or the licensee's ability to comply with the conditions of the license" should be documented and included in the body of the report. Additional details and data resulting from engagement should be provided in supplementary documentation to the report. This includes "copies of any documentation arising from the process of engagement".

DOCA administrative processes and FLR reports do not constitute additional documentation to be included in the supplementary documentation to an archaeological report. The documentation will not be provided, as the licensee's own records should provide sufficient detail regarding engagement. These records may be made available to and approval authorities if required to address an unresolved disagreement between MCFN, the consultant, proponent, or approval authority. MCFN expect that a complete record of engagement will be

maintained for any work within the Treaty Lands and Territory, and that MHSTCI and approval authorities will consider the substance and outcome of engagement when reviewing assessment reports or development proposals.

4.0 Additional Direction

4.1 Collections management

The disposition of archaeological collections remains of interest to MCFN. All disposition agreements entered into at the end of an archaeological assessment must recognize MCFN's role as stewards of the resource, and provide explicit direction that MCFN may assume control over collections under the following circumstances:

- When the curatorial facility is derelict in its responsibility to care for the collections, including providing for appropriate cultural protocols, or,
- When MCFN develop a curatorial facility for the purpose of long term curation of archaeological collections.

When the license holder fails to make arrangements for the long term care of archaeological collections within a reasonable period of time after the conclusion of an archaeological assessment, MCFN may intervene with MHSTCI to require that the collection is transferred to an appropriate facility with the costs of the transfer being assumed by the ministry or archaeologist.

Note: We recognize that MHSTCI will be developing collections management direction in the near future. MCFN will be actively engaged in the deliberations leading to this policy as it progresses.

4.1.1 Costs

Archaeological fieldwork is directed to the identification and recovery of archaeological resources, primarily material objects indicating past cultural activity. Through excavation and documentation the cultural legacy contained in archaeological sites is imperfectly translated from the material remains into collections and documents that represent the site as data.

At the early stages of archaeological assessment, artifact collections may be relatively modest; however, excavation of archaeological sites can lead to sizeable collections, including artifacts and documentary records. Excavated collections must be cared for. The Ontario Heritage Act is clear that the initial cost to curate collections falls to the licensed archaeologist responsible for the fieldwork. These costs include cleaning, cataloguing, analysis, packing and storage. The OHA also provides for collections to be transferred to a public institution or repository, which may also involve a cost. The cost for maintaining collections remains with the licensee until alternate arrangements are made. If provisions for the long term curation are not addressed during the assessment, the license holder may be liable for the cost of long term curation as well, unless the collection is abandoned or a public or private institution is willing to assume responsibility.

It is important that costs relating to short and long term curation are identified to the proponent early in the assessment process. This will reinforce that archaeological site excavation is a serious undertaking. If excavation is carried out, proposals for the work must include costs for packing and transferring the collections to a repository, and a timeline for this transfer to be effected. A commitment to complete the transfer must be included in the final report.

Another significant concern arising from the creation of archaeological collections is the cultural cost of reducing the rich cultural legacy that can reside in an archaeological site to collections and data formulated in a way that privileges standard archaeological practice and view of the past. The OHA and S&Gs provide little direction and do not compel any licensee to address First Nations' concerns with investigation, collection or excavation at archaeological sites.

Additional costs may be encountered when curating an archaeological collection to culturally specific standards, including additional cultural requirements for artifact handling, storage and treatment. Storage conditions may require that collections are made available from time to time for traditional observance or cultural ceremony, or the collections and facility itself may require ongoing cultural maintenance. This will increase costs above the basic cost of 'dead storage' space, and must be anticipated in funding.

A hidden cost in curation is the cumulative impact of archaeological practice on the remaining archaeological sites. Collections currently managed for long term use as research and educational material far exceed the capacity for new research to address. However, the value of archaeological collections to communities has not been thoroughly explored. Given that MCFN stewardship over the archaeological resource does not end with excavation and reporting, the potential for long term community management of archaeological collections should be identified. A provision that MCFN retain the right to transfer collections or specific artifacts from archaeological sites Treaty Lands and territory to MCFN designated or operated facilities at some time in the future should be included in the final report of the assessment.

For this, and a variety of other reasons, it is vitally important to MCFN that the archaeological collections that are removed from the ground are treated in a manner that conforms to the OHA, and allows MCFN to exercise our inherent right to act as stewards of our cultural patrimony.

4.2 Human remains and burials

Human remains are not archaeological resources. They are the remains of ancestors who were interred, or died without burial, at or near the location where they are discovered. All human remains identified during archaeological fieldwork are of interest to MCFN, and appropriate treatment of human remains is of considerable importance to the Nation.

The Funeral, Burial and Cremation Services Act and the Coroners Act direct the treatment of human remains upon discovery. While there is variation in the language used in the legislation and the S&Gs (burials, graves, human remains), it is preferred that a uniform approach is followed. When human remains are identified in the field first contact should be to the Coroner or police. Protocol should also dictate that DOCA or the FLR on site, and the Registrar of Cemeteries area also advised of the discovery. Once the police determine that the remains have no forensic interest, the Registrar, the proponent or landowner, MCFN and others representing the deceased will negotiate a site disposition agreement. MCFN prefer that the remains are re-interred as close as possible to the location where they were found. Depending on the quantity of human remains, the nature of the development, and the local availability of undisturbed lands that will not be impacted by development, re-interment may occur on the development property. If this is not possible, then interment at another location suitable to the purpose and acceptable to MCFN (and others) should be pursued.

The nature of this document is to put into practice pre-emptive engagement with DOCA and the ongoing presence of FLRs on location during archaeological assessments. For this reason, there should be no circumstances in which decision-making around the current and future treatment of human remains should bypass MCFN. However, if the protocols within this document have not been respected and a discovery of human remains is made without FLR presence on site, it is the responsibility of the consultant archaeologist or other party responsible for this discovery to immediately notify DOCA.

Human remains that were interred at an archaeological site signify that cultural practice was carried out at that location. The practice imbues the location with intangible values that must be protected. Isolated elements, such as teeth or smaller bones or fragments of bone, may not be immediately associated with an archaeological feature, such as a grave shaft; however, this does not diminish the cultural importance of the remains, or signal that the burial and associated cultural practice were absent. A variety of post-depositional effects may lead to the erasure of the grave site, and loss of skeletal material and it is important that archaeological fieldwork includes investigating the original position of the remains. Where human remains are identified, but no grave location is evident, it is incumbent on the archaeologist to make a reasoned argument about why this may be the case. If post-depositional disturbance from, for example, ploughing and soil erosion caused the remains to be displaced, then this would be a consideration for the analysis of the entire site. If, on the other hand, there is a belief that the body originally lay on or near the ground surface, then this also has an influence on the analysis of the sites, and should be the focus of additional engagement and documentary research.

It is important to note that scientific research on human remains, apart from the collection of the data necessary to satisfy the information requirements of the Coroner, must not be undertaken without the express consent of the representatives of the deceased. It is also important to note that the discovery of human remains on an archaeological site or development property signal the presence of intangible cultural heritage values which cannot be captured by standard archaeological techniques. Additional engagement on the analysis of the site, the conclusions reached and the final recommendations regarding the disposition of the site at the end of the archaeological assessment will require additional engagement with MCFN.

In addition to the directives provided herein, all applicable parties including the consultant archaeologist, the Registrar, and/or the proponent/landowner will be expected to follow MCFN's protocol for the discovery of human remains, which is available as a stand-alone document.

5.0 Glossary¹³

approval authority

In the land use and development context, this includes any public body (e.g., municipality, conservation authority, provincial agency, ministry) that has the authority to regulate and approve development projects that fall under its mandate and jurisdiction (e.g., *Planning Act*, *Environmental Assessment Act*, *Aggregate Resources Act*).

archaeological assessment

For the defined project area or property, a survey undertaken by a licensed archaeologist within those areas determined to have *archaeological potential* in order to identify archaeological sites, followed by evaluation of their *cultural heritage value or interest*, and determination of their characteristics. Based on this information, recommendations are made regarding the need for mitigation of impacts and the appropriate means for mitigating those impacts.

archaeological potential

The likelihood that a property contains archaeological resources.

archaeological resources

In the context of the Standards and Guidelines, objects, materials and physical features identified by licensed archaeologists during a Stage 2 archaeological assessment as possibly possessing *cultural heritage value or interest*.

archaeological site

Defined in Ontario regulation as "any property that contains an *artifact* or any other physical evidence of past human use or activity that is of cultural heritage value or interest".

artifact

Defined in Ontario regulation as "any object, material or substance that is made, modified, used, deposited or affected by human action and is of *cultural heritage value or interest*".

cultural feature

The physical remains of human alteration at a given location that cannot be removed intact and are not portable in the way that artifacts can be removed and are portable. Typically, a cultural feature must be documented in the field, although samples can be taken. Examples include post molds, pits, living floors, middens, earthworks, and various historic structural remains and ruins.

cultural heritage value or interest

For the purposes of the *Ontario Heritage Act* and its regulations, archaeological resources that possess cultural heritage value or interest are protected as archaeological sites under Section 48 of the act. Where

¹³ Definitions as found in: MHSTCI 2011. Standards and Guidelines for Consultant Archaeologists. Ministry of Heritage, Sport, Tourism and Culture Industries.

analysis of documented artifacts and physical features at a given location meets the criteria stated in the Standards and Guidelines, that location is protected as an archaeological site and further archaeological assessment may be required.

community

For the purpose of these Standards and Guidelines, the use of "Aboriginal community" is used only in the context of citing such use by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries in their Standards and Guidelines

diagnostic artifact

An artifact that indicates by its markings, design or material the time period it was made, the cultural group that made it, or other data that can identify its original context.

formal tool

Most often a stone artifact with a form or design that indicates the reason it was made, like a stone spearpoint or hide scraper. Contrasted with an informal tool, like a chert flake used for cutting.

lithic scatter

A loose or tight concentration of stone flakes and tools resulting from the manufacture and sometimes the use of one or more stone tools.

nation

Refers to the Mississaugas of the Credit First Nation.

project area

The lands to be impacted by the project, e.g.: the area of a development application under the *Planning Act*; the area to be licensed under the *Aggregate Resources Act*; the area subject to physical alteration as a result of the activities associated with the project. This may comprise one or several properties, and these properties may or may not be adjoining. However, all properties must be part of one project that is being undertaken by one proponent.

Project Information Form (PIF)

The form archaeological license-holders must submit to the Ministry of Heritage, Sport, Tourism and Culture Industries upon decided to carry out fieldwork.

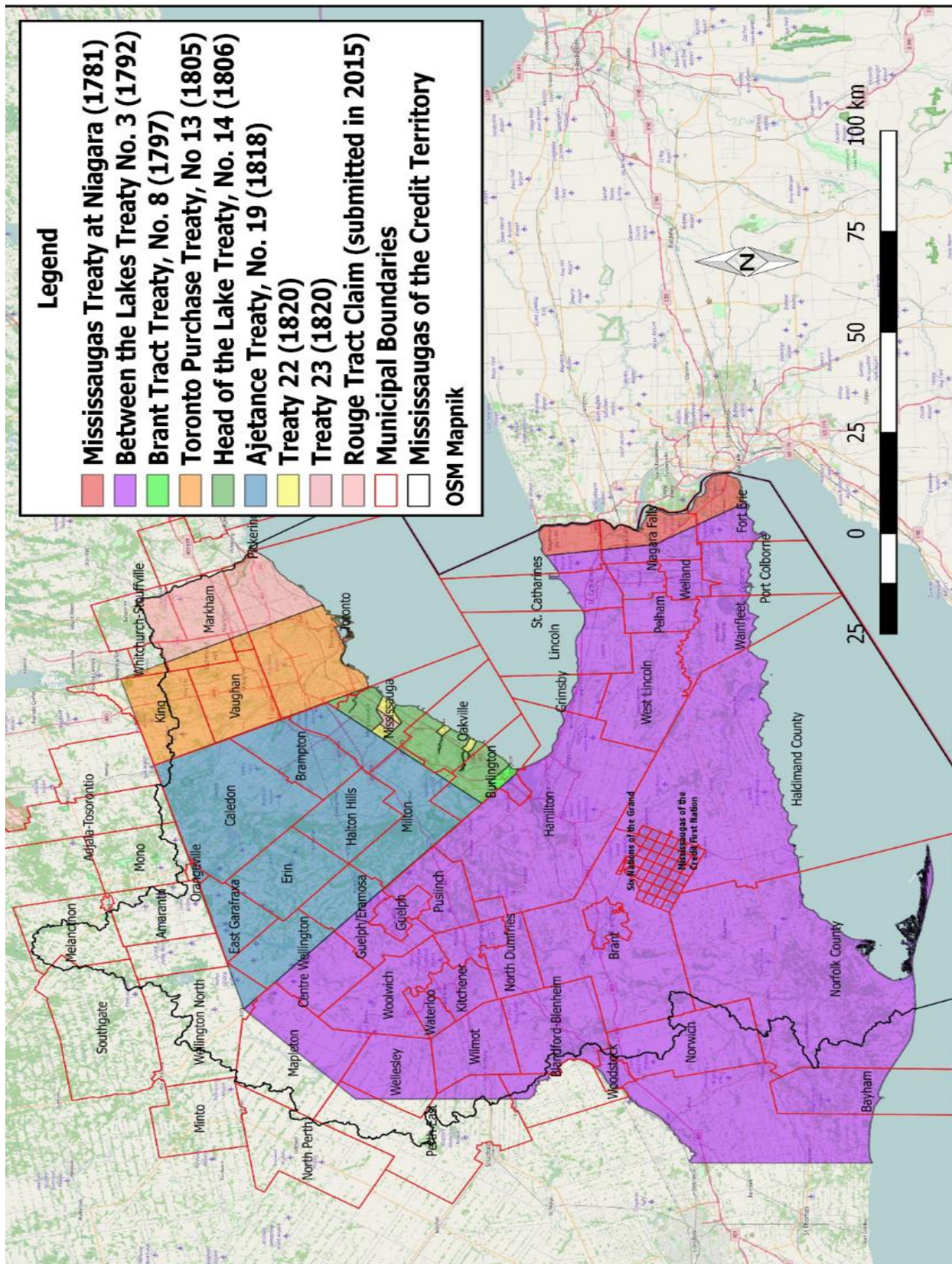
protection

Measures put in place to ensure that alterations to an archaeological site will be prevented over the long-term period following the completion of a development project.

traditional

The word "traditional" refers mainly to use of land, e.g. "traditional lifeways" while all references to MCFN's land are to be construed as the MCFN Treaty Lands".

6.0 Map of the Treaty Lands and Territory



Municipal Boundaries Related to the Between the Lakes Treaty, No. 3 (1792)



Front page artwork is from the MCFN Lloyd S. King Elementary School Art Mural.

Artists include:

Philip Cote – Principal Coordinating Artist

Rebecca Baird – Artist

Tracey Anthony – Artist

Rachele King – Student

Eric Laforme – Student

Jocelyn Hill – Student

Carolyn Cote – Artist



Mississaugas of the Credit First Nation

Department of Consultation & Accommodation

4065 Hwy 6

Hagersville, ON N0A 1H0

Tel: 905-768-4260

<http://mncfn.ca/doca-2/>

MCFN Looks To Our Anishinaabe Roots To Guide Our Vision For The Future As A Strong, Caring, Connected Community Who Respects The Earth's Gifts And Protects The Environment For Future Generations. MCFN Identity And Heritage Includes Our History, Language, Culture, Beliefs And Traditions.

**Archaeological Review Agreement between:
The Mississaugas of the Credit First Nation (“MCFN”)
and
[name of the proponent]**

A - Background

1. The purpose of this agreement is to provide the Mississaugas of the Credit First Nation (hereinafter, “MCFN”) with capacity assistance to review reports and other materials in connection with all archaeological assessments required for the [name of project] (hereinafter, “the Project”) located at [address], in [town/city], Ontario, owned by [name of the proponent], (hereinafter, “the Proponent”).
2. The Proponent understands that MCFN wishes its designated representatives at the Department of Consultation and Accommodation (hereinafter, “DOCA”) to provide timely and meaningful comment on the Project via its established review process.
3. The Proponent, or their consultant(s), will therefore provide all reports in draft form to MCFN (via DOCA) for review and comment prior to their submission to other approval or regulatory authorities. The Proponent and their consultant(s) agree to provide reasonable and adequate time for MCFN to complete its review and provide comments on draft reports. MCFN is unable to review of any material in less than one week.
4. For archaeological assessments, the Proponent agrees that their consultant(s) will provide, if applicable, both the Supplementary Documentation and the Indigenous Engagement report alongside the draft archaeological report. The Indigenous Engagement report must contain the consultant’s full account of MCFN’s participation in and comments on the archaeological assessment.
5. For archaeological assessments, the Proponent agrees that no new fieldwork will commence until MCFN has completed its review and has provided comments on the previous Stage of assessment.
6. MCFN agrees that MCFN representatives will have appropriate qualifications for the work required – for example, education in environmental and/or archaeological assessments – and experience in bridging Indigenous perspectives with Western approaches, as reasonably determined by MCFN.

B – Fees and Cost Structure

7. The Proponent will provide capacity funding for the designated DOCA staff representative in the amount of \$150.00 per hour for all activities relating to review of Project materials.
8. If MCFN is of the view, that designated DOCA staff are unable to complete a comprehensive technical review of Project materials, the Proponent agrees to pay costs incurred by MCFN to retain an external expert in the appropriate field to be chosen at MCFN's sole discretion. The Parties agree that a review by an external expert will commence following mutual acceptance by both Parties of an estimate of work provided by the expert.

C – Additional Conditions

9. All archaeological work in connection with any Project in the Territory will be carried out in accordance with the *Ontario Heritage Act* and its Regulations. The Archaeological work will meet or exceed the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries (hereinafter, "MHSTCI") standards and guidelines for consultant archaeologists as amended, including the *Terms and Conditions for Archaeological Licences, Standards and Guidelines for Consultant Archaeologists (2011)* and the Draft *Engaging Aboriginal Communities in Archaeology Technical Bulletin (2011)*, (hereinafter collectively, "MHSTCI Standards 2011").
10. The Proponent agrees that all archaeological work conducted for the Project will comply with the MCFN *Standards and Guidelines for Archaeology* (published April 2, 2018), (hereinafter, "MCFN Standards") as long as the MCFN Standards do not fall below MHSTCI Standards 2011. The MHSTCI Standards 2011 will be paramount in the event of a direct conflict between MCFN Standards and the MHSTCI Standards 2011.
11. The Proponent shall make best efforts to avoid and protect archaeological sites, artifacts, and/or features. The Parties agree that the preferred option for human remains that may be of Aboriginal ancestry is that they remain where they are found with appropriate protections.
12. If archaeological resources are encountered at any time during construction or other Project-related activity, all excavation or other activity that could disturb the site shall immediately cease, and the Proponent shall immediately notify MCFN's duly appointed Archaeological Operations Supervisor or designate. The Parties shall work

collaboratively to minimize impacts and ensure respectful treatment of any archaeological resources in accordance with the practices and values of MCFN as identified by MCFN.

13. If human remains are encountered at any time during construction or other Project-related activity, the following steps shall be taken:
 - a. All excavation or other activity that could disturb the site shall immediately cease, and the area shall be secured in a manner which protects the site location and prevents public access and trespass; and
 - b. In addition to any notifications required under the *Funeral, Burial and Cremation Services Act, 2002*, SO 2002, C 33, the Proponent shall immediately contact MCFN's duly appointed Archaeological Operations Supervisor or designate; and
 - c. MCFN shall be permitted to conduct any ceremonies on site in relation to the human remains that may be of Aboriginal ancestry; and
 - d. MCFN shall be consulted about all steps in the investigation and any decisions or agreements to be made regarding human remains that may be of Aboriginal ancestry.
14. Nothing in this Agreement shall be interpreted or implemented so as to derogate or abrogate from any MCFN Aboriginal or Treaty right or claim, or to indicate consent to the Project.

D - Method of Payment

15. The Parties agree that the Proponent will pay the capacity funding as agreed to above by cheque or bank transfer and upon receipt of an invoice from MCFN. All invoices will be addressed directly to the Proponent, the Project will be noted in the text of each invoice, and all invoices will be prepared as per MCFN-DOCA's standard invoicing format.

Invoices should be submitted electronically to the following address:

Email address: [insert email address here]

Attention: [insert name here]

[name of the proponent]

[phone number of proponent]

[full address of proponent]

16. All payment should be made to the MCFN Department of Consultation and Accommodation to the following address. For additional information, please call the office at 905-768-4260.

Email address: nicole.laforme-hess@mncfn.ca

Attention: MCFN-DOCA

4065 Highway 6
Hagersville, Ontario
N0A 1H0

17. After thirty [30] days, a 5% monthly compounded interest rate will be charged on outstanding invoices. After six [6] months of non-payment, a 20% monthly compounded interest rate will be charged on outstanding invoices.

F – Disclaimer

18. The Parties agree that the capacity funding payments for the FLRs will be used only for the purposes described in this Agreement and will not be paid for the improper personal gain of any individual or for any other purpose that might violate any Canadian anti-corruption law.
19. This agreement may be executed in counterparts.
20. This agreement is legally binding on MCFN and the Proponent.
21. The term of this agreement is from April 1, 2020 to March 31, 2021. In the event that Project-related activities requiring FLR participation continue past this termination date, a new agreement will be executed between Parties.

[The remainder of this page is intentionally left blank.]

Signed this _____ day of _____, 2021,

Authorized Signatory on behalf of
The Proponent

[printed name of signatory]
[job title]
[department]
[name of the proponent]

Authorized Signatory on behalf of
Mississaugas of the Credit First Nation

Mark LaForme
Director
Dept. of Consultation and Accommodation
Mississaugas of the Credit First Nation

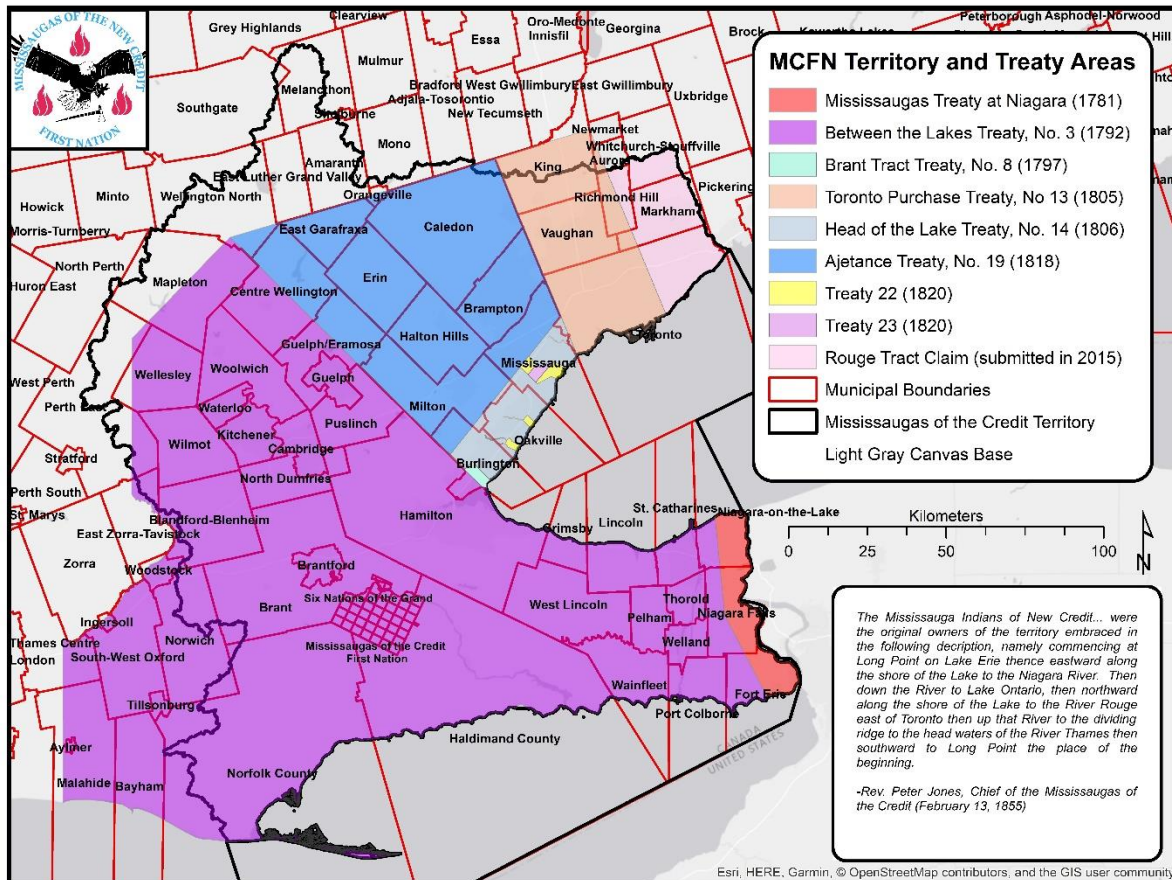
Witness

[printed name of witness]
[job title]
[department]
[name of the proponent]

Witness

Megan DeVries
Archaeological Operations Supervisor
Dept. of Consultation and Accommodation
Mississaugas of the Credit First Nation

Schedule A



Municipalities within Mississaugas of the Credit Treaty Lands and Territory

Field Liaison Representative Participation Agreement
between:
The Mississaugas of the Credit First Nation
and
[name of the proponent]

A - Background

1. The purpose of this agreement is to provide the Mississaugas of the Credit First Nation (hereinafter, “MCFN”) with capacity assistance to its Field Liaison Representatives (hereinafter, “FLRs”) in connection with all environmental and/or archaeological assessments required for the [name of project] (hereinafter, “the Project”) located at [address], in [town/city], Ontario, owned by [name of the proponent], (hereinafter, “the Proponent”).
2. The Proponent understands that MCFN wishes to send its FLRs to participate in and monitor the assessments associated with the Project, and that the FLRs’ mandate will be to ensure that MCFN’s perspectives and priorities are considered and to enable MCFN to provide timely and meaningful comment on the Project.
3. All archaeological work in connection with any Project in the Territory will be carried out in accordance with the *Ontario Heritage Act* and its Regulations. The archaeological work will meet or exceed the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries (hereinafter, “MHSTCI”) standards and guidelines for consultant archaeologists as amended, including the *Terms and Conditions for Archaeological Licences, Standards and Guidelines for Consultant Archaeologists (2011)* and the Draft *Engaging Aboriginal Communities in Archaeology Technical Bulletin (2011)*, (hereinafter collectively, “MHSTCI Standards 2011”).
4. The Proponent agrees that all archaeological work conducted for the Project will comply with the MCFN *Standards and Guidelines for Archaeology* (published April 2, 2018), (hereinafter, “MCFN Standards”) as long as the MCFN Standards do not fall below MHSTCI Standards 2011. The MHSTCI Standards 2011 will be paramount in the event of a direct conflict between MCFN Standards and the MHSTCI Standards 2011.
5. Nothing in this Agreement shall be interpreted or implemented so as to derogate or abrogate from any MCFN Aboriginal or Treaty right or claim, or to indicate consent to the Project.

B – Fees and Cost Structure

6. The Proponent will provide capacity funding for each FLR in the amount of \$85.00 per hour for all activities relating to the Project. Activities relating to the Project include, but are not limited to:
 - a. Time spent on site monitoring assessment or predetermined construction-related activities;
 - b. Time spent completing data or artifact processing, identification, analysis, and interpretation activities alongside their consultant(s);
 - c. Actual travel time at the beginning of, during, and/or end of each day;
 - d. Time completing daily notes relating to the Project;
 - e. Time spent on standby at the request of the Proponent or their consultant(s); and
 - f. Time completing mandatory training at the request of the Proponent or their consultant(s).
7. The Proponent will pay a supervisory fee of 3.5%, based on the number of hours charged to the Proponent, to provide MCFN with the capacity to facilitate in-field technical support for the FLRs via the Field Archaeologist.
8. The Proponent will reimburse the FLRs for reasonable mileage and meals in accordance with current Federal Canada Treasury Board guidelines, over and above the hourly rate [see Schedule B]. Mileage rates are determined using the MCFN Department of Consultation and Accommodation as the place of departure.
9. The Proponent will provide capacity funding for each FLR in the amount of \$125.00 per hour for any work exceeding eight hours per day and/or forty hours per week. The above noted mileage and meal allowance remains in effect.
10. The Proponent will provide capacity funding for each FLR in the amount of \$125.00 per hour for any work occurring on the following holidays: New Year's Day, Family Day, Good Friday, Victoria Day, Indigenous Solidarity Day (June 21), Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, and Boxing Day. The above noted mileage and meal allowance rates remain in effect.
11. The Proponent agrees that the FLRs will be paid for a minimum of three hours, plus actual travel time, mileage, and meal allowance rates as noted above, on any day when work is cancelled by the Proponent or their consultant(s) while FLRs are en route to the work site or after the FLRs have already arrived.

12. If its use is deemed necessary by both Parties, the Proponent agrees to reimburse the FLRs for their use of the 407ETR upon receipt of a copy of the bill. This agreement will be provided in writing to MCFN's Field Coordinator.
13. If deemed reasonable by both Parties, the Proponent agrees to cover the cost of overnight accommodation for FLRs participating in environmental and/or archaeological fieldwork at locations which would otherwise require more than 90 minutes of travel time at both the beginning and end of the work day, as determined using the MCFN Department of Consultation and Accommodation as the place of departure. An additional Incidental Allowance fee is required for any work which requires overnight accommodations, as set out in Schedule B. This agreement will be provided in writing to MCFN's Field Coordinator.

C – Additional Conditions

14. The parties acknowledge that the Project, in whole or in part, takes place within MCFN Territory and agree that the Proponent shall provide capacity funding for FLR participation on the Project for the duration of the Project.
15. The Proponent agrees that two FLRs shall be on location whenever Project-related activities are taking place within its Territory, as set out in Schedule A.
16. Furthermore, additional FLRs are required if the number of field personnel utilized by the consultant exceeds fourteen (14) individuals and the Proponent agrees to provide capacity funding for additional FLRs as required. MCFN requires one additional FLR per five additional field crew, as outlined in the chart below:

| Number of Field Personnel | Number of FLRs Required |
|---------------------------|-------------------------|
| 1 to 14 | 2 |
| 15 to 19 | 3 |
| 20 to 24 | 4 |
| 25 to 29 | 5 |
| 30 to 34 | 6 |
| 35 to 39 | 7 |
| 40+ | 8+ |

17. The Parties acknowledge that the FLRs time and travel will be recorded and verified using the ClockShark Time Tracking Software System and that invoicing will be prepared using these records, not those of a third party.

18. If archaeological resources are encountered at any time during construction or other Project-related activity, all excavation or other activity that could disturb the site shall immediately cease, and the Proponent shall immediately notify MCFN's Archaeological Operations Supervisor or designate. The Parties shall work collaboratively to minimize impacts and ensure respectful treatment of any archaeological resources in accordance with the practices and values of MCFN as identified by MCFN.
19. If human remains are encountered at any time during construction or other Project-related activity, the following steps shall be taken:
- All excavation or other activity that could disturb the site shall immediately cease, and the area shall be secured in a manner which protects the site location and prevents public access and trespass; and
 - In addition to any notifications required under the *Funeral, Burial and Cremation Services Act, 2002*, SO 2002, C 33, the Proponent shall immediately contact MCFN's duly appointed Archaeological Operations Supervisor or designate; and
 - MCFN shall be permitted to conduct any ceremonies on site in relation to the human remains that may be of Aboriginal ancestry ("Ancestral Remains"); and
 - MCFN shall be consulted about all steps in the investigation and any decisions or agreements to be made regarding Ancestral Remains.

D - Coordination of the FLRs

20. The Parties agree that the FLRs will follow the reasonable instructions of the Proponent and their consultant firm(s) conducting the environmental and/or archaeological work concerning safety practices, and that the FLRs will attend "tailgate" safety meetings if requested.
21. The contact person for activities relating to the environmental assessment portion of the Project is [name of contact person #1] from [name of consultant]. Contact information for this person is as follows:
[insert contact information here]
22. The contact person for activities relating to the archaeological assessment portion of the Project is [name of contact person #2] from [name of consultant]. Contact information for this person is as follows:
[insert contact information here]

23. The Parties agree that the contact person for the consultant firm(s) will coordinate site meeting locations and times through MCFN's duly appointed Field Coordinator. Contact information for the Field Coordinator is as follows:

Joelle Williams

Telephone: 905-768-4260

Cell: 905-870-2918

Email: joelle.williams@mncfn.ca

E - Status of the FLRs

24. The FLRs selected by MCFN have appropriate qualifications for the work required – for example, training in environmental and/or archaeological monitoring – and experience in bridging Indigenous perspectives with Western approaches, as reasonably determined by MCFN.
25. The Parties agree that the FLRs are not employees, contractors, or sub-contractors of the Proponent or their consultant(s) and that the FLRs will be responsible for their own personal protective equipment, such as hard hats, safety boots, and safety vests, unless specific or otherwise unique personal protective equipment is required, which will therefore be provided or reimbursed by the Proponent.
26. FLRs take direction from MCFN. MCFN pays Workplace Safety and Insurance Board ("WSIB") contributions in respect of the FLRs and will, at its own expense, maintain for the term of this agreement a comprehensive general liability ("CGL") policy or policies with a limit of at least \$1 million and shall provide the Proponent with evidence of such insurance, upon request. MCFN agrees that FLRs will perform their activities safely, in a good and competent manner, in compliance with all applicable laws, regulations, and guidelines.
27. MCFN expects that the Proponent will comply with the *Occupational Health and Safety Act*, R.S.O. 1990, C. 0.1, the *Ontario Human Rights Code*, R. S. O. 1990, c. H.19, and maintain a safe, harassment-free work environment.
28. The Proponent is responsible for negligence or other failure to maintain a safe and harassment-free work environment. To the extent that the Proponent is responsible for negligence or other failure to maintain a safe and harassment-free work environment, the Proponent is liable and shall indemnify MCFN claims or demands related to injury, accident, discrimination, or harassment by the Proponent's employees, agents, consultants, or other parties under the control or direction of the Proponent.

F - Method of Payment

29. The Parties agree that the Proponent will pay the capacity funding as agreed to above by cheque or bank transfer and upon receipt of an invoice from MCFN. All invoices will be addressed directly to the Proponent, the Project will be noted in the text of each invoice, and all invoices will be prepared as per MCFN-DOCA's standard invoicing format.

Invoices should be submitted electronically to the following address:

Email address: [insert email address here]

Attention: [insert name here]

[name of the proponent]

[phone number of proponent]

[full address of proponent]

30. All payment should be made to the MCFN Department of Consultation and Accommodation to the following address. For additional information, please call the office at 905-768-4260.

Email address: nicole.laforme-hess@mncfn.ca

Attention: MCFN-DOCA

4065 Highway 6

Hagersville, Ontario

N0A 1H0

31. After thirty [30] days, a 5% monthly compounded interest rate will be charged on outstanding invoices. After six [6] months of non-payment, a 20% monthly compounded interest rate will be charged on outstanding invoices.

G – Disclaimer

32. The Parties agree that the capacity funding payments for the FLRs will be used only for the purposes described in this Agreement and will not be paid for the improper personal gain of any individual or for any other purpose that might violate any Canadian anti-corruption law.

33. This agreement may be executed in counterparts.

34. This agreement is legally binding on MCFN and the Proponent.

35. The term of this agreement is from April 1, 2020 to March 31, 2021. In the event that Project-related activities requiring FLR participation continue past this termination date, a new agreement will be executed between Parties.

[The remainder of this page is intentionally left blank.]

Signed this _____ day of _____, 2021,

Authorized Signatory on behalf of
The Proponent

[printed name of signatory]
[job title]
[department]
[name of the proponent]

Authorized Signatory on behalf of
Mississaugas of the Credit First Nation

Mark LaForme
Director
Dept. of Consultation and Accommodation
Mississaugas of the Credit First Nation

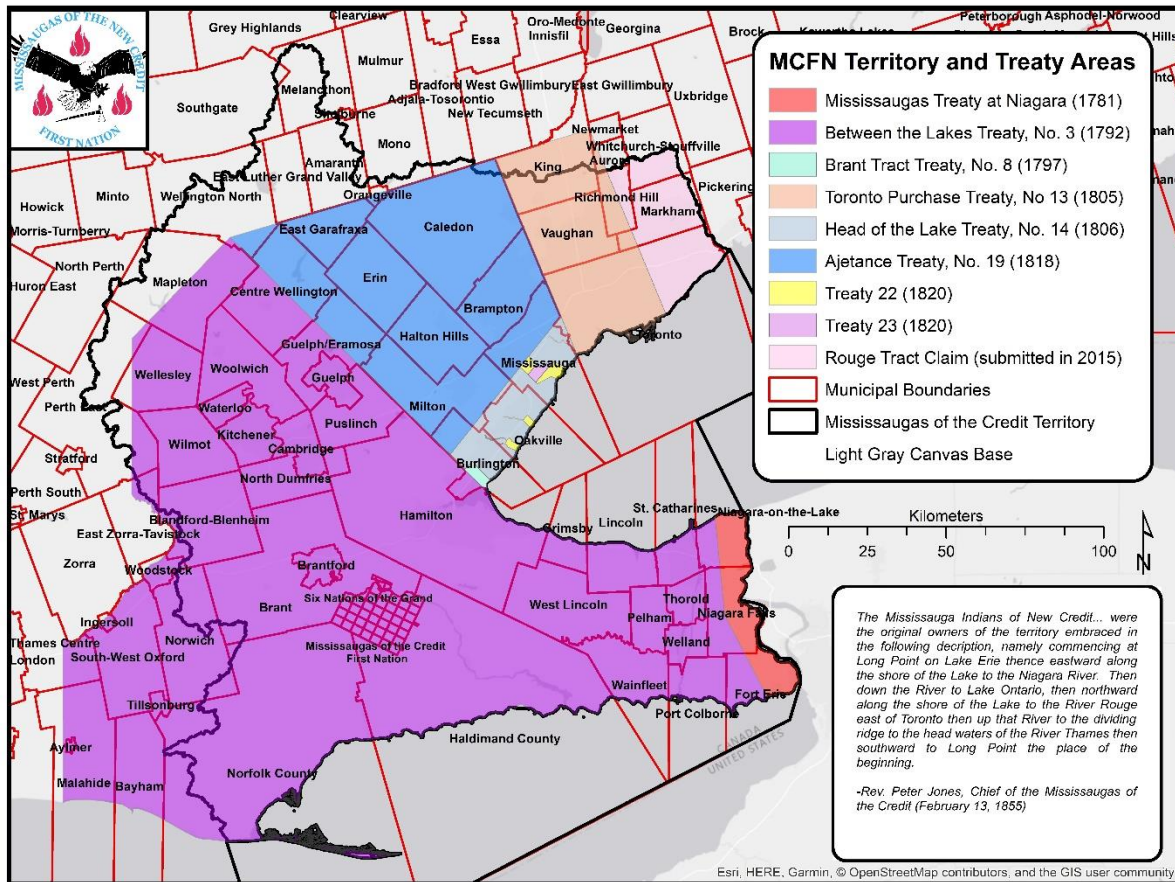
Witness

[printed name of witness]
[job title]
[department]
[name of the proponent]

Witness

Megan DeVries
Archaeological Operations Supervisor
Dept. of Consultation and Accommodation
Mississaugas of the Credit First Nation

Schedule A



Municipalities within Mississaugas of the Credit Treaty Lands and Territory

Schedule B

| <u>MISSISSAUGAS OF THE CREDIT FIRST NATION MILEAGE & ALLOWANCE CHART</u> | | | |
|--|---|-------|--|
| <i>EFFECTIVE APRIL 1, 2020 to MARCH 31, 2021</i> | | | |
| MILEAGE | \$ 0.56 per KM https://www.njc-cnm.gc.ca/directive/d10/v238/s658/en#s658-tc-tm | | |
| MEAL ALLOWANCE | not eligible if: | | |
| BREAKFAST | \$ | 20.65 | leave after 8am; get home before 7:30am |
| LUNCH | \$ | 20.90 | leave after 1:15pm; get home before 12:15pm |
| DINNER | \$ | 51.25 | leave after 7pm; get home before 6:30pm |
| INCIDENTALS | \$ | 17.30 | not staying overnight https://www.njc-cnm.gc.ca/directive/d10/v238/s659/en#s659-tc-tm |
| NIGHTTIME* | \$ | 51.25 | *Applies only to nighttime surveys that would not otherwise trigger dinner or breakfast. |



DEPARTMENT OF
CONSULTATION AND ACCOMMODATION

January 26, 2021

VIA EMAIL

Lindsay Earl, Senior Development Planner
Niagara Region, Planning and Development Service
lindsay.earl@niagararegion.ca

Dear Lindsay Earl,

RE: MCFN Archaeological Review for Notice of Complete Application Regional

Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Confirmation of Receipt

I am writing in follow up to the letter of response dated January 21, 2021 by Fawn Sault, Consultation Coordinator, from the Department of Consultation and Accommodation ("DOCA") on behalf of the Mississaugas of the Credit First Nation ("MCFN") to acknowledge that we have received your above named communication, dated December 21, 2020.

Outline of MCFN Rights and Territory

In 1792, the Crown and MCFN entered into Between the Lakes, No. 3 (1792) regarding the lands in which your project is situated.

MCFN has formed the Department of Consultation and Accommodation ("DOCA") to represent its interests in consultation and accommodation matters. In this regard, it is DOCA's mandate to ensure that we are directly involved in all planning and development that impacts the integrity of our Territory. DOCA will assess and help alleviate impacts on our rights, land claims, and ways of life by building relationships with governments and private sector proponents. We share a mutual interest in ensuring that projects in the Territory are planned, reviewed, and developed in a manner which ensures healthy communities, ecological protection, and sustainable development for present and future generations in the Territory.

MCFN has a stewardship responsibility over its Territory and asserts that our Aboriginal and treaty rights fundamentally entitle us to preserve our culture and heritage, including

DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260

archaeological materials and human burials. Our Territory is the source of our identity as a First Nation and the basis for many cultural activities and spiritual ceremonies. It is home to sacred sites, burial grounds, traditional teachings and meeting places, and sites of profound archaeological and historical significance. We assert that our Aboriginal and treaty rights fundamentally entitle us to preserve our cultural and heritage.

Too much of our cultural objects and the remains of our ancestors have been lost already through development of the most intensely urbanized lands in Canada and we have a strong interest in ensuring that no more of it becomes bulldozed and desecrated.

MCFN Standards and Guidelines for Archaeology

In April 2018, MCFN Chief and Council adopted the *MCFN Standards and Guidelines for Archaeology*, a document aimed to provide guidance to consultant archaeologists, proponents, governments, etc. who are conducting archaeological assessment activities within MCFN's Territory. It sets out, in MCFN's own words, what engagement with our Nation should entail for archaeology as well as technical expectations for fieldwork, in relation to the provincial regulations which were created without our input and feedback. It is important to note that MCFN holds all archaeological resources present within its Territory as of interest to the Nation as part of their cultural patrimony. Resources, regardless of size, frequency, condition, etc., should not be interpreted by non-MCFN representatives in such a way as to remove the requirement for engagement with our Nation.

We are attaching a copy for your reference. We expect compliance with these *Standards and Guidelines* as any fieldwork you will be conducting will have the potential of disturbing MCFN's cultural artifacts or its ancestors' remains.

MCFN Expectations Regarding Ancestors' Remains

MCFN has obligations under Anishinaabe law to protect burials within its Territory and MCFN maintains its right to do so. Our ancestors buried their loved ones in our Territory with the understanding that they would not be disturbed.

We would also like to draw your attention to our expectation that at any time that ancestral remains are encountered during fieldwork, we expect all activities on site to stop and that MCFN be contacted immediately to determine a proper course of action.

Technical Review

In the exercise of its stewardship responsibility, DOCA seeks to work together with project proponents and their archaeological consultants to ensure that archaeological work is done properly and respectfully. DOCA has retained technical advisers with expertise in the field of archaeology. These experts will review the technical aspects and cultural appropriateness of the archaeological assessments and strategies associated with your project. Upon completion of these reviews, MCFN will identify, if



necessary, mitigation measures to address any project impacts upon MCFN rights. For cultural materials and human remains, DOCA may advise that this includes ceremonies required by Anishinaabe law, as well as request adjustments to the proposed fieldwork strategy.

The proponent is expected to pay the costs for MCFN to engage in a technical review of the project. DOCA anticipates at this time that all archaeological review will be undertaken by in-house technical experts, but will advise the proponent if an outside peer-review is required. Please find attached the agreement that covers MCFN's in-house technical review of the archaeological assessments and strategies associated with your project. Please fill in the additional required information, highlighted in yellow, and return to us a signed copy.

Please note that capacity at DOCA is limited. We maintain the right to review all material that comes to our office as part of our consultation process. If you have specific filing deadlines, please advise us as soon as possible. However, it is MCFN's assertion that part of the process of meaningful engagement is allowing our Nation a reasonable amount of time to review, reflect upon, and respond to reports and recommendations. On average, this process can be accomplished in 4-6 weeks. It is our position that no archaeological assessment – but especially Stage 4 mitigation – should begin until DOCA has completed our review and is in agreement that with the proposed strategy for fieldwork.

Request for Missing Information

In order to complete our project record, we ask that you provide the following information:

1. Is an archaeological assessment required for this project? If no, why not?
2. Have any archaeological assessments already been completed for this project and/or its study area? If yes, please provide all documentation including reports, supplementary documentation, etc.
3. Has the MHSTCI issued a letter of entry into register for some or all of the study area? If yes, please provide all documentation, including letter, communications to and from MHSTCI, etc.
4. Is there any archaeological activity (e.g. assessment, excavation, monitoring) that has not yet been completed for the project?
5. If the answer to #4 is yes, please provide the following:
 - a. A description of the outstanding archaeological activity/activities.
 - b. Anticipated date of the activity/activities.
 - c. The appropriate contact person overseeing the archaeological activity/activities.



Closing

The review of project-related archaeological assessments is only one part of the consultation process that may be required for your development. Please contact DOCA's Consultation Coordinator, Fawn Sault, if you have any questions about the process.

We ask that you respond with the above requested information and executed agreement within fourteen days following receipt of this letter. We thank you in advance for your attention to our requirements and we look forward to working with you further to shape the planning for development in our Territory.

Sincerely,



Megan DeVries
Archaeological Operations Supervisor
megan.devries@mncfn.ca

Attachment(s)

MCFN Standards and Guidelines for Archaeology [2018]
DOCA Archaeological Review Agreement [2020]





DEPARTMENT OF
CONSULTATION AND ACCOMMODATION

January 26, 2021

VIA EMAIL

Lindsay Earl, Senior Development Planner
Niagara Region, Planning and Development Service
lindsay.earl@niagararegion.ca

Dear Lindsay Earl,

RE: MCFN FLR Participation for

Notice of Complete Application Regional Official Plan Amendment No. 19 475635
Canal Bank Street, Welland

Confirmation of Receipt

I am writing in follow up to the letter of response dated January 21, 2021 sent by Fawn Sault, Consultation Coordinator, from the Department of Consultation and Accommodation ("DOCA") on behalf of the Mississaugas of the Credit First Nation ("MCFN") to acknowledge that we have received your above named communication, dated December 21, 2020.

Outline of MCFN Rights and Territory

In 1792, the Crown and MCFN entered into Between the Lakes, No. 3 (1792) regarding the lands in which your project is situated.

MCFN has formed the Department of Consultation and Accommodation ("DOCA") to represent its interests in consultation and accommodation matters. In this regard, it is DOCA's mandate to ensure that we are directly involved in all planning and development that impacts the integrity of our Territory. DOCA will assess and help alleviate impacts on our rights, land claims, and ways of life by building relationships with governments and private sector proponents. We share a mutual interest in ensuring that projects in the Territory are planned, reviewed, and developed in a manner which ensures healthy communities, ecological protection, and sustainable development for present and future generations in the Territory.

One of the ways we require proponents to engage with us is in providing transparency during the environmental survey and archaeological assessment process. The best way

DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260

to accomplish this is by having Field Liaison Representatives (“FLRs”) on location while fieldwork is occurring, who can ensure that the Nation’s special interests and concerns are respected and considered during fieldwork. The cultural and natural resources in question are part of MCFN’s territory and heritage and it is our responsibility to ensure their protection, on behalf of the Nation. MCFN’s stewardship of its territory extends through the life of any development project and beyond.

It is our expectation that no project-related fieldwork will take place without the participation of our FLRs. MCFN considers it disrespectful of our rights as Indigenous peoples if our natural and cultural heritage is interfered with without our involvement.

FLR Participation

DOCA deploys FLRs to be boots on the ground so that fieldwork by a proponent and their consultants/contractors is carried out with appropriate care, thoroughness, and respect. In the context of MCFN’s Territory, where so much natural and cultural heritage has already been lost or destroyed, MCFN’s monitoring of fieldwork is of utmost importance to ensure that the trail of desecration stops. FLRs are deployed to observe fieldwork, provide cultural advice, act as a direct link back to DOCA and MCFN, and assist with compliance.

FLRs are MCFN band members who have received training in environmental and archaeological assessments, traditional medicine identification and use, Anishinaabe burial practices, and more throughout their employment with DOCA.

DOCA requires, at minimum, FLR participation during the following project-related studies and/or activities:

- ecological and natural heritage technical studies
- archaeological assessments (Stages 2 through 4) and site visits
- monitoring of activities within 50m of areas of special concern (e.g. waterways and wetlands, archaeological sites, species at risk)
- post-construction remediation activities and follow-up impact monitoring

Agreement for FLR Participation

The cost for the participation of our FLRs is covered by the proponent, not the consultant, whom we view as having the ultimate responsibility to consult with, and accommodate, the Nation. Therefore, please find attached the agreement that covers MCFN’s participation in the upcoming fieldwork. The costs associated with this involvement reflect a number of expenses not visible at first glance: payment for the FLRs themselves, operational costs for DOCA, and efforts to engage the community to garner feedback on development projects. If you could please fill in the additional required information, highlighted in yellow, and return to us a signed copy so that we may arrange for FLR participation on your project, that would be greatly appreciated.



Once a signed agreement is in place, DOCA generally arranges scheduling and other related matters directly with the consultant conducting the fieldwork, unless you prefer otherwise.

Please note that MCFN requires two of its FLRs to be on location whenever fieldwork is taking place within its territory. The reason for this is so that FLRs can provide support and security for each other in the field. This has become a requirement in light of uncommon, but unfortunate, occurrences when FLRs have felt pressured or intimidated from external persons while at work locations. We ask that you would respect this request.

Request for Missing Information

In order to complete our project record, we ask that you provide the following information:

1. Please provide a list of all completed technical studies for the project, their date of completion, and the contact information of the consultant who completed each study.
2. Please provide a list of all incomplete and/or upcoming technical studies for the project, the anticipated date of fieldwork for each, and the contact information for the consultant who will complete them.
3. Are there any short-term and/or long-term avoidance and protection strategies currently in place for the natural and/or cultural resources in the study area for this project? If yes, what are they?

Closing

The participation of FLRs in project fieldwork is only one part of the consultation process that may be required for your development. Please contact DOCA's Consultation Coordinator, Fawn Sault, if you have any questions about the process.

We ask that you respond with the above requested information and executed agreement within fourteen days following receipt of this letter. We thank you in advance for your attention to our requirements and we look forward to working with you further to shape the planning for development in our Territory.

Sincerely,



Megan DeVries
Archaeological Operations Supervisor
megan.devries@mncfn.ca



Attachment(s) MCFN *Standards and Guidelines for Archaeology* [2018]
FLR Participation Agreement [2020]



DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



Earl, Lindsay

From: Ellen Savoia <esavoia@niagaraparks.com>
Sent: Tuesday, January 26, 2021 9:23 AM
To: Earl, Lindsay
Cc: Rachel Adamsky
Subject: RE: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Hello Lindsay

I hope you are well. Niagara Parks advises that the proposed ROPA lands are outside of our jurisdictional area. We have no comments with regard to the proposal.



Ellen Savoia, MCIP, RPP
Senior Manager, Environmental Planning



P 905-295-4396 x3258 **M** 289-241-8375 **F** 905-356-7262

7805 Niagara River Parkway, P.O. Box 150
Niagara Falls, Ontario, Canada L2E 6T2

esavoia@niagaraparks.com

niagaraparks.com

From: Earl, Lindsay
Sent: Monday, January 25, 2021 1:52 PM
Subject: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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“CAUTION: This email originated from outside of the Niagara Parks email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.”

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Earl, Lindsay

From: Kathleen Dale <kdale@lincoln.ca>
Sent: Monday, January 25, 2021 2:04 PM
To: Earl, Lindsay
Subject: RE: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Hi Lindsay
Since this is in Welland the Town of Lincoln will not be providing any comments

Kathleen Dale
Director of Planning & Development
Town of Lincoln
Direct: 905-563-2799 ext. 242
Tel: 905-563-8205
kdale@lincoln.ca

lincoln.ca
 @TownofLincolnON

From: Earl, Lindsay
Sent: January 25, 2021 1:52 PM
Subject: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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Earl, Lindsay

From: Mott, Nancy (MNRF) <Nancy.Mott@ontario.ca>
Sent: Monday, January 25, 2021 2:00 PM
To: Earl, Lindsay
Subject: RE: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

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The subject lands are not in the NEP Area and so the NEC has no comments.

Thank you,

Nancy

Nancy Mott, MCIP, RPP
Senior Strategic Advisor
Niagara Escarpment Commission
Cell: 289-839-0106
www.escarpment.org

Please let me know if you have any accommodation needs or require communication supports or alternate formats.

From: Earl, Lindsay
Sent: January 25, 2021 1:52 PM
Subject: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services

Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

Appendix 3
Public and Agency Comments
PDS 15-2021
March 10, 2021

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Earl, Lindsay

From: Fawn Sault <Fawn.Sault@mncfn.ca>
Sent: Thursday, January 21, 2021 10:56 AM
To: Earl, Lindsay
Cc: Mark LaForme; Megan DeVries
Subject: {Filename?} 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland
Attachments: NiagaraRegion-Attachment-Warning.txt
Follow Up Flag: Follow up
Flag Status: Completed

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Warning: This message has had one or more attachments removed (2021-0024 MCFN.pdf). Please read the "NiagaraRegion-Attachment-Warning.txt" attachment(s) for more information.

Dear Lindsay,

Please see the attached letter as our response to your project Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland.

Miigwech,

Fawn Sault
Consultation Coordinator
Mississaugas of the Credit First Nation
4065 Hwy. 6, Hagersville, NOA 1H0
Website: <http://mncfn.ca/>
Ph: 905-768-4260
Cell:289-527-6580

Earl, Lindsay

From: Mott, Nancy (MNRF) <Nancy.Mott@ontario.ca>
Sent: Monday, December 21, 2020 10:03 AM
To: Earl, Lindsay
Subject: RE: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Thank you for the notice. The subject lands are outside the NEP Area and therefore we have no comment and do not need to receive further notices.

Nancy

Nancy Mott, MCIP, RPP
Senior Strategic Advisor
Niagara Escarpment Commission
Cell: 289-839-0106
www.escarpment.org

Please let me know if you have any accommodation needs or require communication supports or alternate formats.

From: Earl, Lindsay
Sent: December 21, 2020 8:39 AM
Subject: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good Morning,

Please see attached Notice of Complete Application for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

A separate notice will be provided confirming the date of the Public Meeting in the New Year.

Feel free to contact me should you require anything further.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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Earl, Lindsay

From: CP Proximity-Ontario <CP_Proximity-Ontario@cpr.ca>
Sent: Monday, December 21, 2020 1:38 PM
To: Earl, Lindsay
Subject: RE: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

RE: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

Thank you for the recent notice respecting the captioned development proposal in the vicinity of Canadian Pacific Railway Company.

CP's approach to development in the vicinity of rail operations is encapsulated by the recommended guidelines developed through collaboration between the Railway Association of Canada and the Federation of Canadian Municipalities. Those guidelines are found at the following website address:

<http://www.proximityissues.ca/>

The safety and welfare of residents can be adversely affected by rail operations and CP is not in favour of residential uses that are not compatible with rail operations. CP freight trains operate 24/7 and schedules/volumes are subject to change.

Should the captioned development proposal receive approval, CP respectfully requests that the recommended guidelines be followed.

Thank you,

CP Proximity Ontario



CP Proximity Ontario
CP_Proximity-Ontario@cpr.ca
7550 Ogden Dale Road SE, Building 1
Calgary AB T2C 4X9

From: Earl, Lindsay
Sent: Monday, December 21, 2020 6:39 AM
Subject: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

This email did not originate from Canadian Pacific. Please exercise caution with any links or attachments.

Good Morning,

Please see attached Notice of Complete Application for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

A separate notice will be provided confirming the date of the Public Meeting in the New Year.

Feel free to contact me should you require anything further.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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----- IMPORTANT NOTICE - AVIS IMPORTANT -----

From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee
Date: Friday, February 26, 2021 1:20:29 PM

From: Niagara Region Website
Sent: Friday, 26 February 2021 13:20:24 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee

Request to Speak at a Standing Committee

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name
Ted Kirkpatrick

Address
[Redacted]

City
[Redacted]

[Redacted]

[Redacted]

Email
tkirkpatrick@heddleshipyards.com

Organization
Heddle Shipyards

standing committee
Planning and Economic Development Committee

Presentation Topic

Local Official Plan amendment No.26

Presentation includes slides

No

Previously presented topic

No

Presentation Details

I would like to speak on behalf of Heddle Shipyards to request the Regional council approve the Local Official Plan Amendment No.26, passed by the St. Catharines City Council on November 30th, 2020. Specifically, I would like to speak to Heddle Shipyards activities at the Port Weller Dry Docks and why our business will benefit from the approval of the Official Plan Amendment.

Video Consent

Yes



From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee
Date: Monday, March 01, 2021 1:59:33 PM

From: Niagara Region Website
Sent: Monday, 01 March 2021 13:59:26 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee

Request to Speak at a Standing Committee

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

Brad Schlegel

Address

325 Max Becker Drive, Suite 201

City

Kitchener

Postal

N2E 4H5

Phone

[REDACTED]

Email

bshlegel@rbjschlegel.com

Organization

Schlegel Villages Inc.

standing committee

Planning and Economic Development Committee

Presentation Topic

Notice to Consider - Local Official Plan Amendment No. 26 - City of St. Catharines (PDS 10-2021)

Presentation includes slides
No

Previously presented topic
No

Presentation Details
Appearing in support of the staff recommendation for approval of OPA No. 26.

Video Consent
Yes



From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee
Date: Wednesday, March 03, 2021 4:07:02 PM

From: Niagara Region Website
Sent: Wednesday, 03 March 2021 16:06:51 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee

Request to Speak at a Standing Committee

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

Julia Redfearn and Mary Lou Tanner

Address

360 James Street North, Suite 200, East Wing

City

Hamilton

Postal

L8L1H5

Phone

[REDACTED]

Email

julia.redfearn@ibigroup.com

Organization

IBI Group and NPG Planning Solutions

standing committee

Planning and Economic Development Committee

Presentation Topic

Local OPA No. 26 - City of St. Catharines

Presentation includes slides

Yes

Previously presented topic

No

Presentation only new info

Yes

Presentation Details

Requesting a deferral, as the Regional Land Needs Assessment is pending and big picture planning needs to be addressed in order to make an informed decision on which employment lands are suitable for conversion.

Video Consent

Yes



City of St. Catharines Amendment No. 26, as modified

Regional Planning and Economic Development Committee



IBI GROUP
NPG PLANNING SOLUTIONS

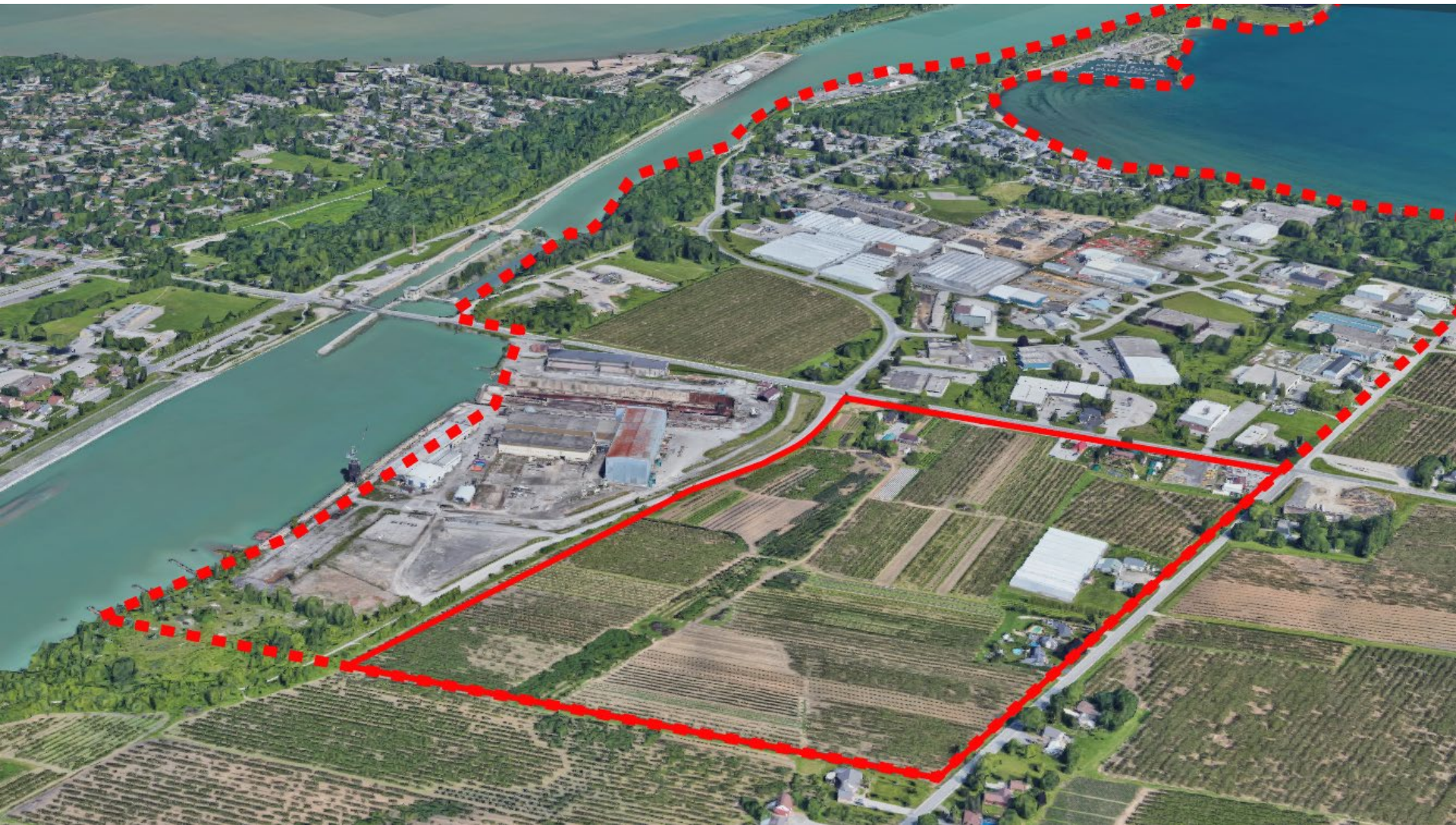
Julia Redfearn MCIP, RPP
Mary Lou Tanner FCIP, RPP

Port Weller East, St. Catharines ON
March 10, 2021

Timberlee Glen Developments

- Active throughout Niagara Region since 1989
- Thorhold:
 - Kottemeir Road – Builder was Empire Communities
- Grimsby:
 - Orchardview Plaza
 - Sidare Court: Builder was Home by DeSantis
 - Casablanca Interchange: Several prominent area builders
 - Bedford Park Estates: Builder was Phelps Homes
- West Lincoln:
 - Olde Towne Gateway Estates: Builder was Marz Homes
 - Dunloe Subdivision: Under design
 - Large urban expansion within NW Smithville
- Niagara-on-the-Lake:
 - Paxton Lane: Under design
- Lincoln:
 - Stadelbauer Drive
 - Campden Heights: Under design

Introducing: Timberlee Glen Developments



Port Weller East



Lot Area: 185,149 sq. m
(18.5 ha)

Frontage on Lakeshore
Road: +/- 197 m

Lot Depth: +/- 590 m

Road Classifications:

- Lakeshore Road – Regional Arterial
- Seaway Haulage Road – Local Road
- Read Road – Local Road

Port Weller East

Where Are We Today?

- The City of St. Catharines conducted a Land Needs Assessment finding that there are 30 ha of surplus vacant employment lands.
- The Port Weller East Lands:
 - Have been underutilized for employment purposes and farmed for many years;
 - Are remote and lack of access to the 400-series highway;
 - Are located along the Greater Niagara Circle Route and Related Trails, Regional Wine Route, and Strategic Cycling Network; and,
 - Are a gateway entrance to and from Niagara-on-the-Lake.

Where Are We Today?

Introducing...

“Port Weller Estates”

Port Weller Estates



Proposed Development – Land Use Plan

Land Use Breakdown:

Low Density – 4.63 ha
Medium Density – 4.11 ha
Mid-Rise – 1.34 ha
Mixed-Use – 0.74 ha
Assisted Living – 0.95 ha
Open Space/ Park – 2.34 ha
Commercial – 1,155 sq. m

Proposed Development – Land Use
Statistics

Supporting Studies

- Archaeological Assessment, prepared by Parslow Heritage Consultancy Inc.
- Planning Justification Report, prepared by IBI Group
- Functional Servicing Report, prepared by IBI Group
- Preliminary Transportation Analysis, prepared by IBI Group
- Land Needs Assessment, prepared by the City of St. Catharines
- Land Use Feasibility Assessment, prepared by RWDI
- Phase II ESA, prepared by Terraprobe

Supporting Studies



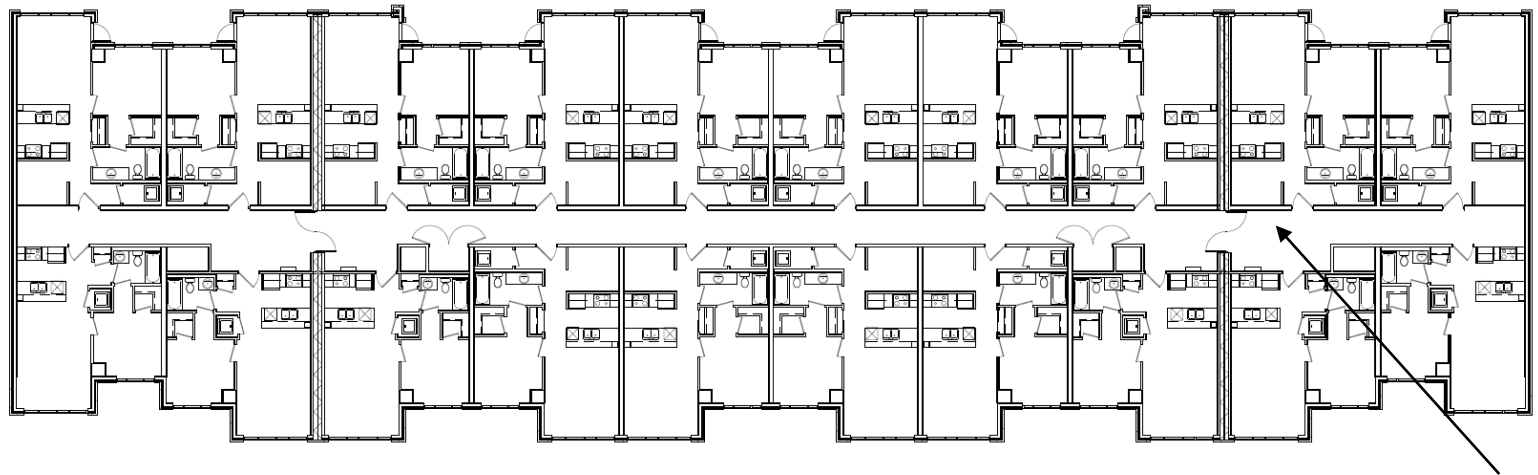
Concept Plan Rendering



**Land use
compatibility is
addressed through
urban design**

Concept Plan Rendering

Conventional Building

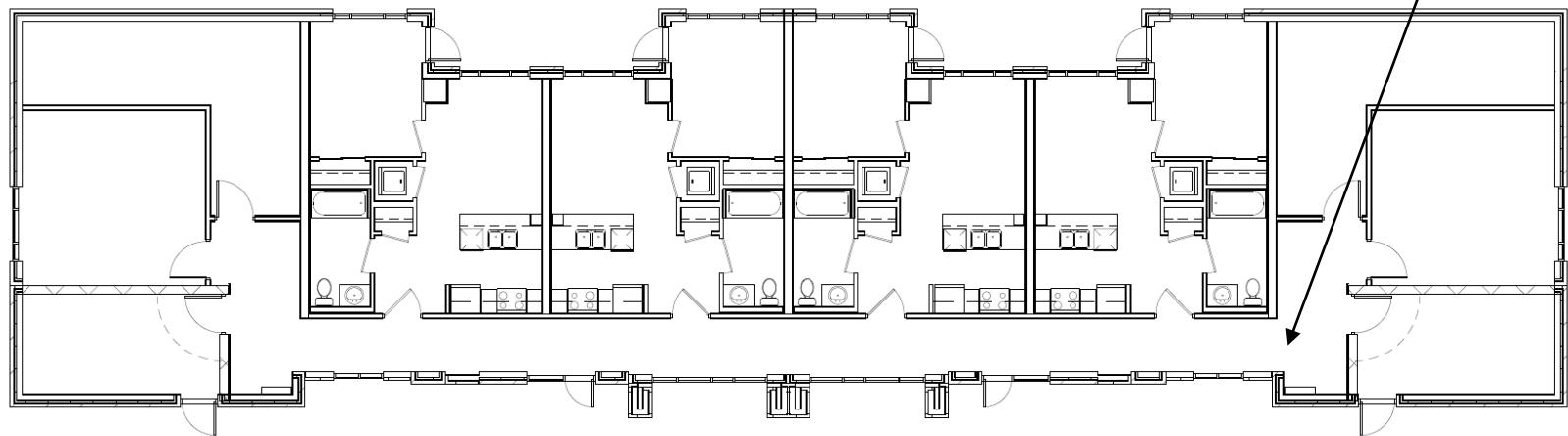


Hallway

Proposed Development – Land Use
Compatibility

Single Loaded Building

Hallway



Noise Source

Proposed Development – Land Use
Compatibility



Precedent: Waterview Condominiums, Grimsby



Proposed Development – Land Use Compatibility

Compatibility with Heddle Shipyards

- Separation distances
- Urban design
- NPC 300
- Noise mitigation upon the dwellings

Similar approach as we used in Niagara Falls between Salit Steel and Land Ridge Developments

Proposed Mix and Range of Housing Options:

- Single Detached – 65 units
- Semi-Detached – 84 units
- Street Townhouses – 58 units
- Condo Townhouses – 35 units
- Back-to-back Townhouses – 98 units
- Apartments – 475 units
- Seniors Living – 126 units
- Assisted Living – 140 units

Total – 1,081 units



Complete Communities – Mix and Range
of Housing Options

Affordable Housing Experience:

- Bedford Park Estates, Grimsby



Application to Port Weller East Lands:

- Memorandum of Understanding with Niagara Habitat for Humanity - Donation of 10 Townhouse Lots
- Donation proposed to Niagara Regional Housing for apartment block

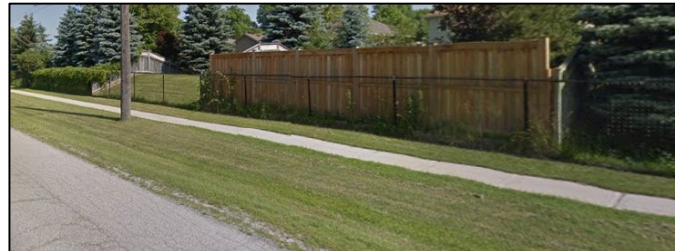


Affordable Housing

Open Spaces, Park and Trail Connections Proposed:

Open Space – 1.36 ha

Park – 0.98 ha



Open Spaces & Trails

Proposed Mixed-Use – 0.74 ha

- Ground Floor Commercial – 1,155 sq. m
- Residential Apartment Units – 230 units



Commercial & Apartments – Lakeshore Road

Key Takeaways from City of St. Catharines Land Needs Assessment:

- 433 population / office jobs and 851 employment land employment jobs are allocated to the 26.8 ha of vacant employment lands in Port Weller
- A changing employment environment
- The emerging trend = more offices, more services, and more population-related employment
- Knowledge-based focus on hospital and Brock University

Key Takeaways from LNA prepared by
Hemson Consulting Ltd.

What Do We Ask Of Council?

1. Deferral
2. Consider re-distributing 851 employment land jobs and 433 population employment jobs to other municipalities in the Niagara Region with Employment Land Needs or (Excess) (ha) greater than 26.8.

Why?

- City of St. Catharines LNA does not contemplate potential changes to the Regional LNA
- Port Weller will not develop for employment purposes
- Although the GM Lands are suitable for employment conversion, so is Port Weller

What Do We Ask Of Council?

Thank you.

Questions?





IBI GROUP
200 East Wing – 360 James Street North
Hamilton ON L8L 1H5 Canada
tel 905 546 1010
ibigroup.com

March 5, 2021

Ann-Marie Norio, BA, Dipl. M.A., CMM III
Regional Clerk
Region of Niagara
1815 Sir Isaac Brock Way, Thorold ON L2V 4T7

Dear Ms. Norio:

REPORT PDS 10-2021 LOCAL OFFICIAL PLAN AMENDMENT NO. 26 - EMPLOYMENT AND INSTITUTIONAL RELATED POLICY AMENDMENTS - CITY OF ST. CATHARINES

On behalf of Timberlee Glen Developments Ltd., IBI Group submitted a local Official Plan Amendment (“OPA”) respecting lands legally described as Part Lot 61 CP Part Lot 5 Grantham as in RO527208 E/S 30R3062 except Part 2, 4 & 6, 30R10760; except PT 1 30R13649 City of St. Catharines, Regional Municipality of Niagara, (the “subject lands”), as shown in **Figure 1** below. The subject lands have an approximate lot frontage of 20 metres, lot depth of 340 metres, and lot area of 185,148.79 sq. metres (18.5 ha). The subject lands are located within Port Weller (east), predominately characterized by its industrial and agricultural uses, but also comprise low density residential and commercial land uses.



Figure 1: Aerial Image of the Subject Lands

Currently, the subject lands are identified as Designated Greenfield Area on Schedule ‘A’ Regional Structure of the Niagara Region Official Plan, Employment on Schedule ‘D1’ General Land Use Plan of the City of St. Catharines Garden City Plan, and ‘General Employment’ on Schedule ‘E2’

Ann-Marie Norio – March 5, 2021

North Planning Districts Land Use Designation of the City of St. Catharines Garden City Plan. Accordingly, the local OPA proposed to change the land use designation to permit a mix and range of residential types and densities, open space/ park areas, and a mixed-use commercial building fronting onto Lakeshore Road, as per the development scheme shown in **Figure 2** below (the “proposed development”).



Figure 2: Proposed Development

The proposed development includes an affordable housing component and a compatible interface with the adjacent Class III Industrial Facility to the west. Specifically, a single loaded corridor is proposed within the apartment buildings opposite the Heddle Shipyard without openings or balconies, transitioning from higher to lower densities and building heights as the development proceeds east. Based on current estimates prepared by RWDI Consulting Engineers and Scientists (“RWDI”) as part of their Land Use Compatibility Assessment, they determined that the shipyard noise may be mitigated with the use of suitable site layout, application of a Class 4 land use designation, and properly designed building materials.

The subject lands have been undeveloped throughout their history resulting in a remnant parcel that was intended to be developed for industrial purposes from when the canal was used as a primary method for freight transportation. The changing nature of Port Weller, including the introduction of residential neighbourhoods, has resulted in an increasingly less viable employment

Ann-Marie Norio – March 5, 2021

future for these lands. In addition, with the shifting need for employment lands to front on 400 series highways in order to be viable for employers, the Port Weller lands are now a remnant isolated parcel with little to no employment future. The proposed development by our client is a practical development solution for lands that would otherwise remain vacant indefinitely. Additional studies are currently being executed by RWDI to update the completed noise and emissions models to predict a worst case scenario and determine if further mitigation measures are required to ensure a viable project.

As you are aware, the City of St. Catharines conducted a Land Needs Assessment (“LNA”) where they determined that there are 113 ha of vacant employment land in the City, whereas 83 ha of employment land are required to accommodate the 4000 jobs allocated to the City by the Region of Niagara, resulting in an excess of 30 ha of vacant employment land in the City. As a result of their qualitative and quantitative LNA, the City of St. Catharines is recommending to designate 6 Employment ‘Areas’ for long term protection for employment land employment jobs, including Port Weller, and to:

- Re-designate 282 and 285 Ontario Street from General Employment to Mixed Use
- Re-designate the NHS Hospital site on Fourth Avenue from Employment to Institutional
- Re-designate lands west of the NHS Hospital site from Business Commercial Employment to Mixed Use
- Re-designate Brock University lands on the west side of Glenridge Avenue, and adjacent properties on the east side of Glenridge Avenue from Employment to Institutional; and,
- Increase the percent of site floor area permitted for accessory uses (i.e. retail, service commercial).

Specifically, the City of St. Catharines allocated 433 population / office jobs and 851 employment land employment jobs to the 26.8 ha of vacant land in Port Weller. The number of total employment jobs that were allocated to the City of St. Catharines by the Region of Niagara was based on their 2019 LNA, prepared by Hemson Consulting Limited (“Hemson”). A Regional Official Plan update report will be presented to the Planning and Economic Development Committee in May 2021. Within that report will be updated municipal level forecasts and an updated draft LNA. As such, they City of St. Catharines have based their LNA on the Hemson LNA forecasts from 2019, prior to considering updates to the Land Needs Methodology and Schedule 3 forecasts that were implemented as part of Amendment 1 to A Place to Grow: the Growth Plan for the Greater Golden Horseshoe.

On behalf of Timberlee Glen Developments, IBI Group is suggesting that approving local OPA No. 26 is premature without the Region having finalized their LNA. The Regional LNA should take into account “big picture” planning that considers the availability of vacant land across the Region when distributing employment jobs. Specifically, Fort Erie, Grimsby, Lincoln, Niagara Falls, and West Lincoln all have Employment Area Land Needs or (Excess) (ha) greater than the 26.8 ha of land that Port Weller offers to accommodate their respective allocated employment targets. Therefore, redistributing these 433 population / office jobs and 851 employment land employment jobs from St. Catharines to one of these five municipalities in the Niagara Region will have no impact to the overall employment capacity in Niagara Region. It is a minor adjustment on a Regional basis that would significantly boost the City of St. Catharines residential lands inventory, as the majority of land within the urban boundary is already built-up and the City has a 95% residential intensification target. Our client is committed to mixed use development on these lands; however, the number of jobs assigned as “employment land” employment to these lands will not materialize.

The subject lands are also suitable for employment conversion to permit the proposed development, as they:

Ann-Marie Norio – March 5, 2021

- Have been undeveloped for employment purposes and farmed for many years;
- Have received no interest from the employment sector due to its remote location and lack of access to the 400-series highway;
- Are located along the Greater Niagara Circle Route and Related Trails, Regional Wine Route, and Strategic Cycling Network;
- Are a gateway entrance to and from Niagara-on-the-Lake;
- Encourage the expansion of the existing City of St. Catharines transit system and provide the opportunity to utilize active transportation infrastructure for inter-regional travel;
- Are feasible from a technical perspective (stormwater management, sewage treatment, water distribution, land use compatibility, and traffic);
- Are located within the Settlement Area where there is existing land, resources, services, and infrastructure that can support the achievement of a complete community;
- Facilitate a new public park that will offer recreational opportunities for the existing workforce and future residents;
- Include a broad range and mix of housing types and tenures, including affordable housing options through a partnership with Habitat for Humanity to cater to a broad range of demographics, incomes and abilities;
- Contribute to exceeding the minimum Greenfield Area target of 50 residents and jobs combined per hectare; and,
- Provide short and long-term economic prosperity by creating jobs related to processing building and planning applications, construction, retail and service commercial shops, and retirement home care.

Overall, it is our request that the Region of Niagara address Port Weller and its overall inability to accommodate employment by deferring local OPA No. 26 and reallocating 433 population / office jobs and 851 employment land employment jobs elsewhere in Niagara Region.

If you have any questions or require further clarification, please do not hesitate to contact the undersigned.

IBI Group



Julia Redfearn MCIP, RPP
Planner

Cc: Mr. John Ariens, MCIP, RPP, Associate Director | Practice Lead, Planning, IBI Group
Ms. Mary Lou Tanner, FCIP, RPP, Principal Planner, NPG Planning Solutions
Mr. Isaiah Banach, Development Planner, Niagara Region
Mr. David Heyworth, Official Plan Policy Consultant at Regional Municipality of Niagara
Mr. Alexander Morrison, MCIP, RPP, Planner, Planning and Development Services, Niagara Region
Mr. Greg Bowie, Planner, Community Planning, Planning and Development Services, Niagara Region
Ms. Tami Kitay, Director of Planning and Building Services, City of St. Catharines
Mr. Don Manson, Timberlee Glen Developments Ltd.

From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee
Date: Wednesday, March 03, 2021 4:19:02 PM
Attachments: [Norio let.March 3 21.pdf](#)

From: Niagara Region Website
Sent: Wednesday, 03 March 2021 16:18:47 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee

Request to Speak at a Standing Committee

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

Tom Richardson

Address

40 Queen Street, P.O. Box 1360

City

St Catharines

Postal

L2R 6Z2

Phone

[REDACTED]

Email

tarichardson@sullivanmahoney.com

Organization

Sullivan Mahoney LLP

standing committee

Planning and Economic Development Committee

Presentation Topic

City of St. Catharines Official Plan Amendment No. 26

Presentation includes slides

No

Previously presented topic

No

Presentation Details

I am requesting the approval of the Regional Planning and Economic Development Committee of City of St. Catharines Official Plan No. 26 as it applies to lands located at 2060, 2126 and 2196 First Street and 326 and 362 St. Paul Street West

Video Consent

Yes

Support_File_1

Norio let.March 3 21.pdf



From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee
Date: Wednesday, March 03, 2021 4:21:04 PM
Attachments: [Norio let.March 3 21.pdf](#)

From: Niagara Region Website
Sent: Wednesday, 03 March 2021 16:20:57 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee

Request to Speak at a Standing Committee

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

Matthew Cory

Address

140 Renfrew Drive, Suite 201

City

Markham

Postal

L3R 6B3

Phone

905-513-0170

Email

mcory@mgp.ca

Organization

Malone Givens and Parsons

standing committee

Planning and Economic Development Committee

Presentation Topic

City of St. Catharines Official Plan Amendment No. 26

Presentation includes slides

No

Previously presented topic

No

Presentation Details

I am requesting the approval of the Regional Planning and Economic Development Committee of City of St. Catharines Official Plan Amendment No. 26 as it applies to lands located at 2060, 2126 and 2196 First Street and 326 and 362 St. Paul Street West.

Video Consent

Yes

Support_File_1

Norio let.March 3 21.pdf



From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee
Date: Wednesday, March 03, 2021 4:24:19 PM
Attachments: [Norio let.March 3 21.pdf](#)

From: Niagara Region Website
Sent: Wednesday, 03 March 2021 16:24:12 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee

Request to Speak at a Standing Committee

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

Leonard Pennachetti

Address

3836 Main Street

City

Jordan

Postal

L0R 1S0

Phone

905-562-3581

Email

l.pennachetti@cavespring.ca

Organization

Fermo Holdings Limited

standing committee

Planning and Economic Development Committee

Presentation Topic

City of St. Catharines Official Plan Amendment No. 26

Presentation includes slides

No

Previously presented topic

No

Presentation Details

I am requesting the approval of the Regional Planning and Economic Development Committee of City of St. Catharines Official Plan Amendment No. 26 as it applies to lands located at the southeast corner of Fourth Avenue and Third Street in St. Catharines.

Video Consent

Yes

Support_File_1

Norio let.March 3 21.pdf



SULLIVAN | MAHONEY LLP
LAWYERS

February 8, 2021

Via Email to ann-marie.norio@niagararegion.ca

Reply to St. Catharines office
THOMAS A. RICHARDSON, C.S.
905.688.2207 – Direct line
tarichardson@sullivanmahoney.com

*Certified Specialist (Municipal Law – Local
Government/Land Use Planning & Development)*

Ms. Ann-Marie Norio, Clerk
Regional Municipality of Niagara
1815 Sir Isaac Brock Way
P.O. Box 1042
Thorold, ON L2V 4T7

Dear Ms. Norio:

**Re: Lakewood Beach Properties Ltd.
Our File No. 113577**

We act as solicitors for Lakewood Beach Properties Ltd. which proposes to develop lands in the Township of Wainfleet for a plan of condominium. This development plan was the subject of Township of Wainfleet Official Plan Amendment No. 18 which contemplates a Communal Private Sanitary Servicing System which was approved by the Niagara Region Public Works Committee based on Report PWA58-2009 on June 25, 2009.

In 2010 the OMB approved site-specific amendments to the Township of Wainfleet's Official Plan and Zoning By-law. Since these approvals, the Regional Municipality of Niagara and Lakewood Beach Properties Ltd. have been in negotiations to create a "Municipal Responsibility Agreement" to address the design, construction, maintenance, operation, monitoring and construction security of the water system and the wastewater system that are proposed for the servicing of the development. Those negotiations have now concluded and have resulted in a Municipal Responsibility Agreement which has been signed on behalf of Lakewood Beach Properties Ltd. and has been submitted for execution by the Corporation of the Township of Wainfleet and by the Regional Municipality of Niagara.

We are informed that, given the substantial period of time which has passed between Regional approval of this development and the concept of a Municipal Responsibility Agreement, staff intend to bring a report forward to the Regional Planning & Economic Development Committee at its meeting on Wednesday, March 10, 2021.

Client Committed. Community Minded.

40 Queen Street, P.O. Box 1360, St. Catharines, ON L2R 6Z2 t: 905.688.6655 f: 905.688.5814

4781 Portage Road, Niagara Falls, ON L2E 6B1 t: 905.357-3334 f: 905.357.3336

sullivanmahoney.com



Official Counsel

The purpose of this letter is to request an opportunity to address the Planning and Economic Development Committee, on March 10, 2021, on behalf of Lakewood Beach Properties Ltd. in support of the Municipal Responsibility Agreement.

Would you please advise if you require any further information? We will await your confirmation that this writer may speak to the Planning Committee on March 10, 2021.

Yours very truly,

SULLIVAN, MAHONEY LLP

Per:



Thomas A. Richardson, C.S.

Thomas Richardson Legal
Professional Corporation

TAR:sm

cc—Mr. Sterling Wood
cc—Mr. Phill Lambert
cc—Mr. Dan Raseta
cc—Ms. Elizabeth Thomas
cc—Mr. James Warren

Local Official Plan Amendment No. 26 Employment and Institutional Related Policy Amendments City of St. Catharines

Planning and Economic Development Committee
PDS 10-2021

March 10, 2021

Isaiah Banach

Acting Director, Community and Long Range Planning

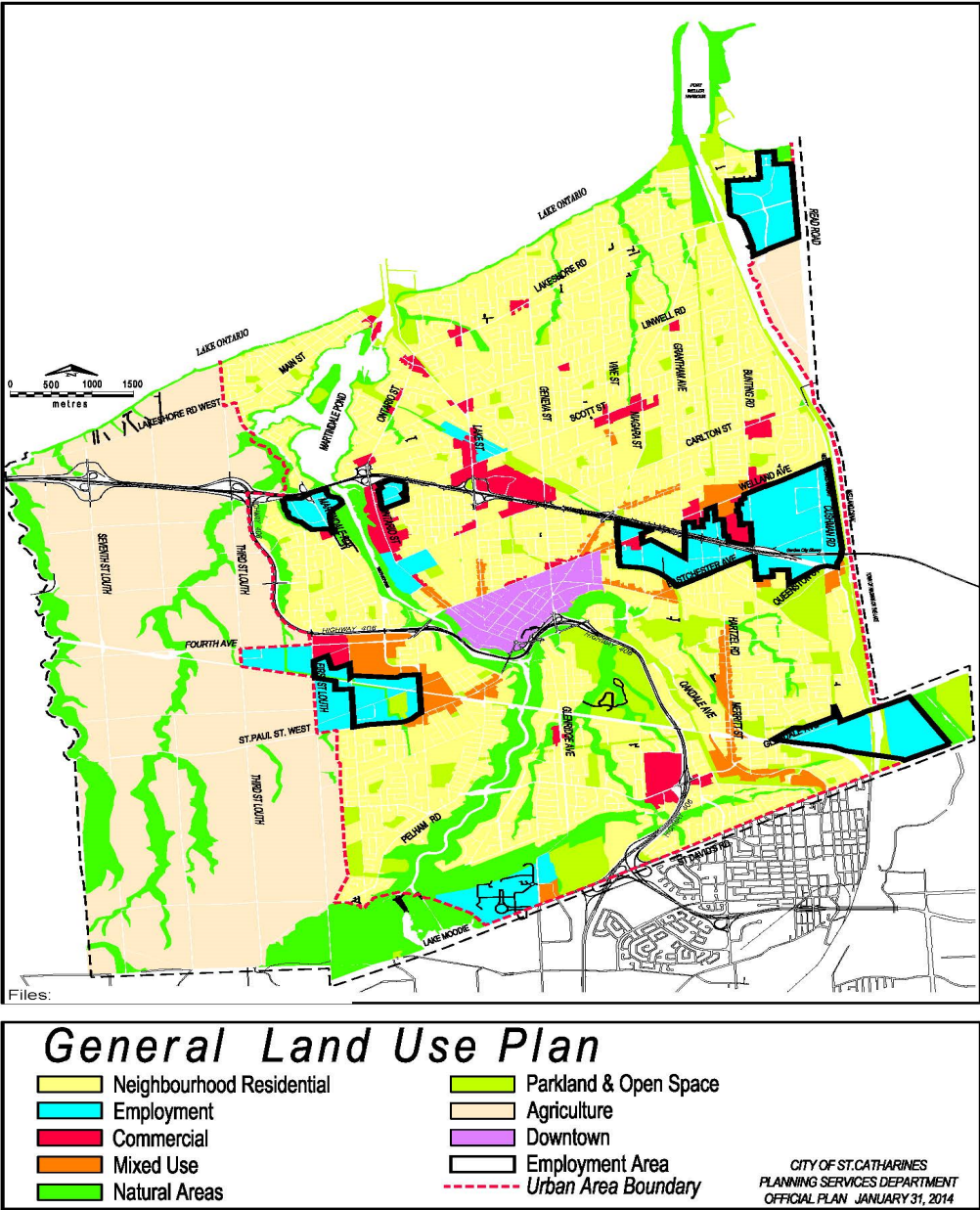
OFFICIAL PLAN AMENDMENT 26

EMPLOYMENT AND INSTITUTIONAL RELATED POLICY AMENDMENTS

CITY OF ST. CATHARINES

Associated report:
PDS 10-2021

St. Catharines Employment Areas



Employment Planning Context

- The *Growth Plan* requires the Region, in consultation with local municipalities, to define the boundaries of Employment Areas and designate them in the Official Plan.
- Employment Areas are clusters of business and economic activities intended to be protected for employment uses over the long term.
- The Region has been working on its Employment Strategy for several years involving all local municipalities.

St. Catharines Employment Study

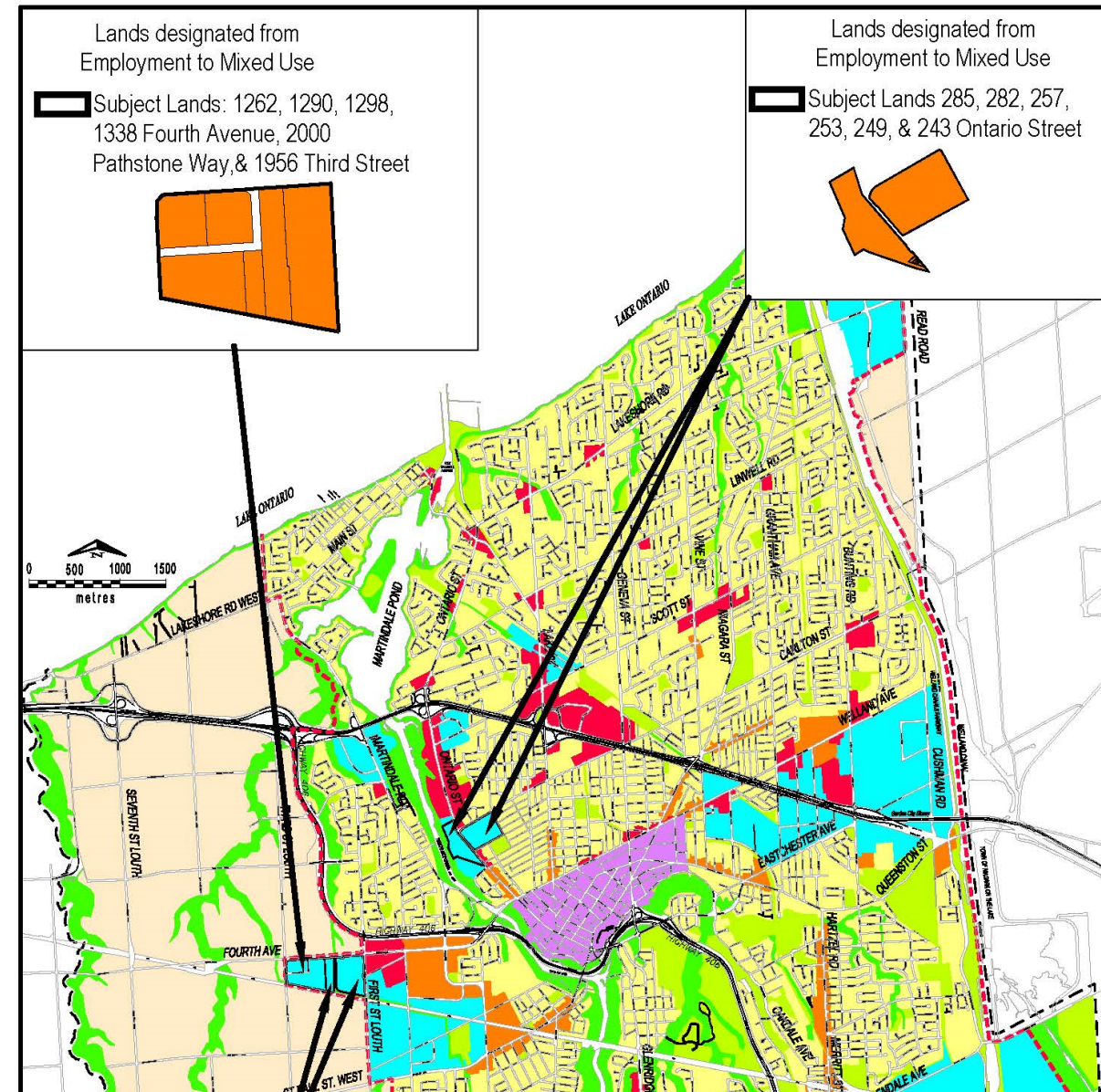
- Review of City's employment lands to identify the boundaries of its Employment Areas.
- City's Employment Areas aligns with the Region's work.
- Significant consultation during Region's Employment Strategy, City's Employment Study and OPA 26 process.
- Regional staff support the City's recommendations (subject to minor technical changes).

Amendment Details

Topic 2 – Land Use Changes

Redesignates 2 locations from Employment to Mixed Use

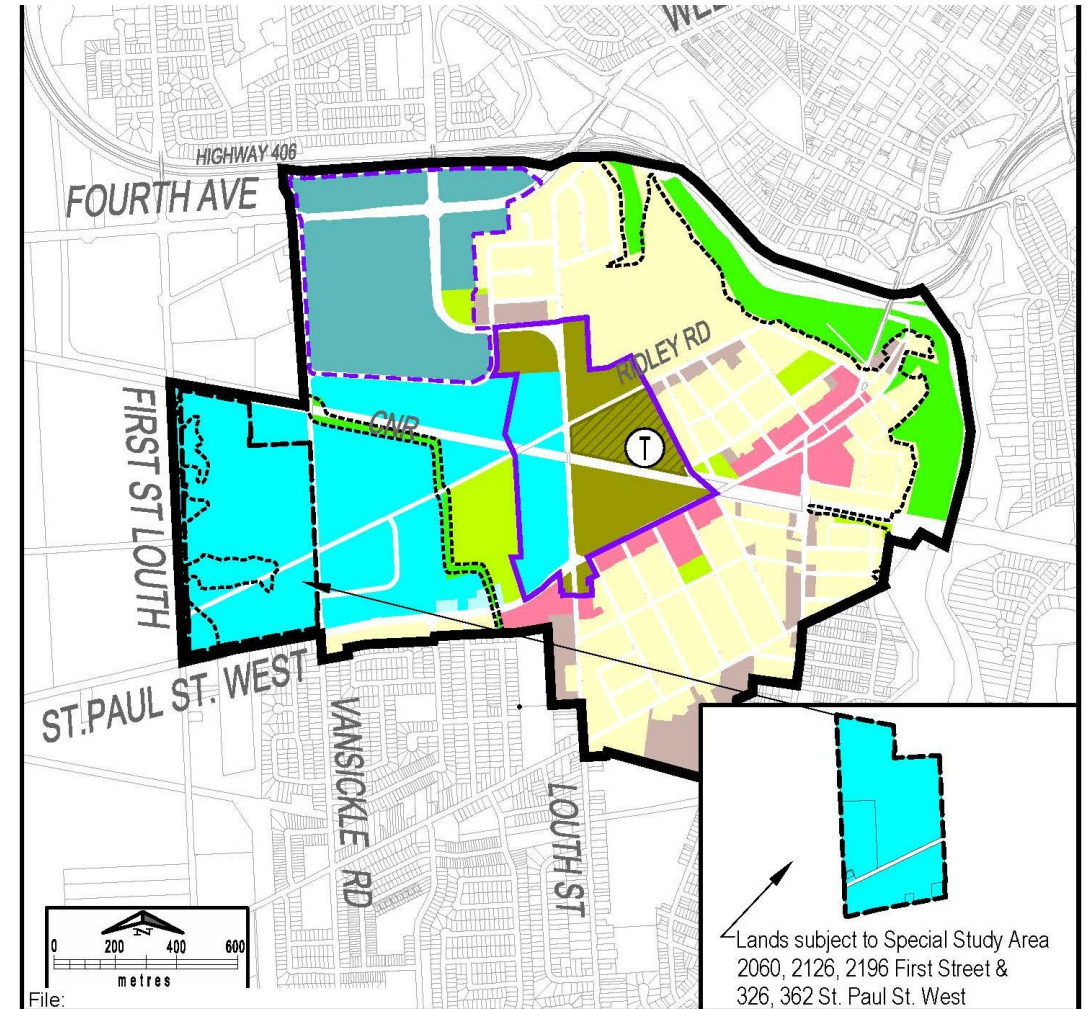
- Former Industrial lands at Ontario and Carlton Streets
- Lands west of Hospital on Fourth Ave



Amendment Details

Topic 3 – Special Study Area

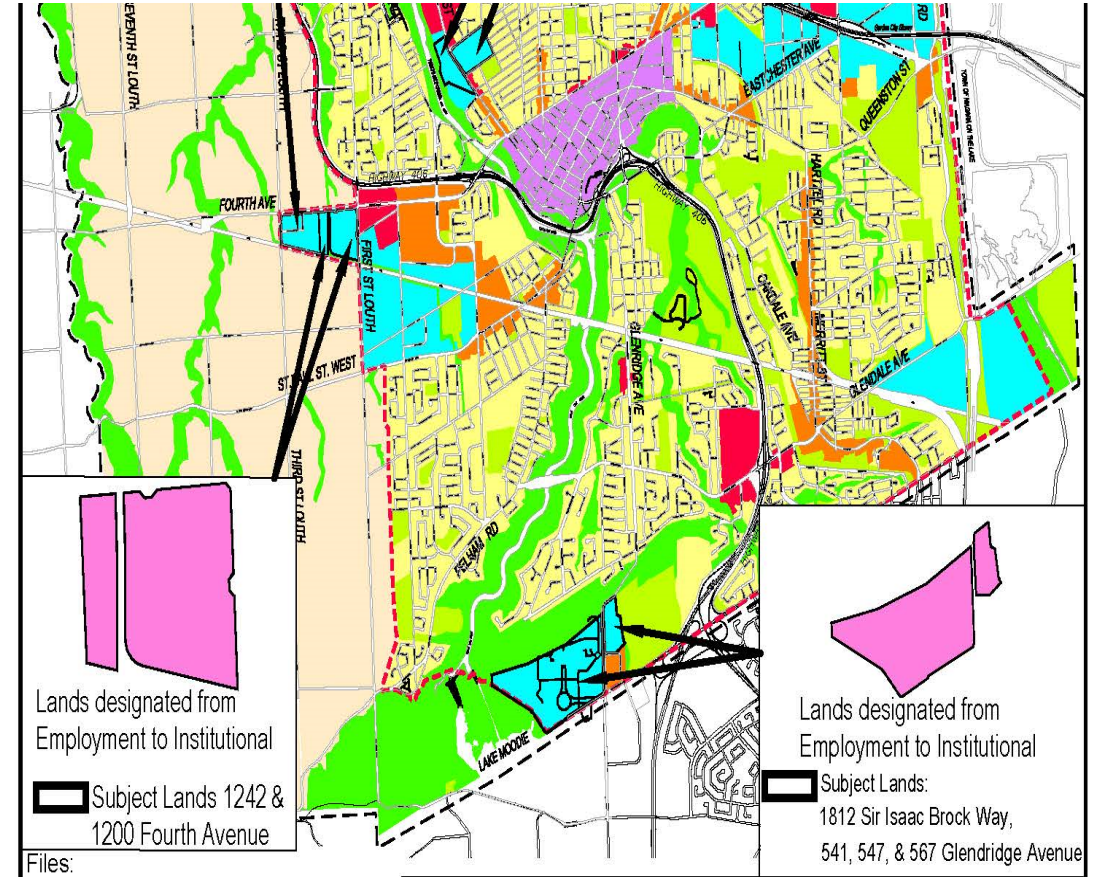
- Employment Land with policy for future change to Mixed Use
- Will require Secondary Plan
- Minor modification to policy to better conform with the *Growth Plan*



Amendment Details

Topic 4 – Institutional

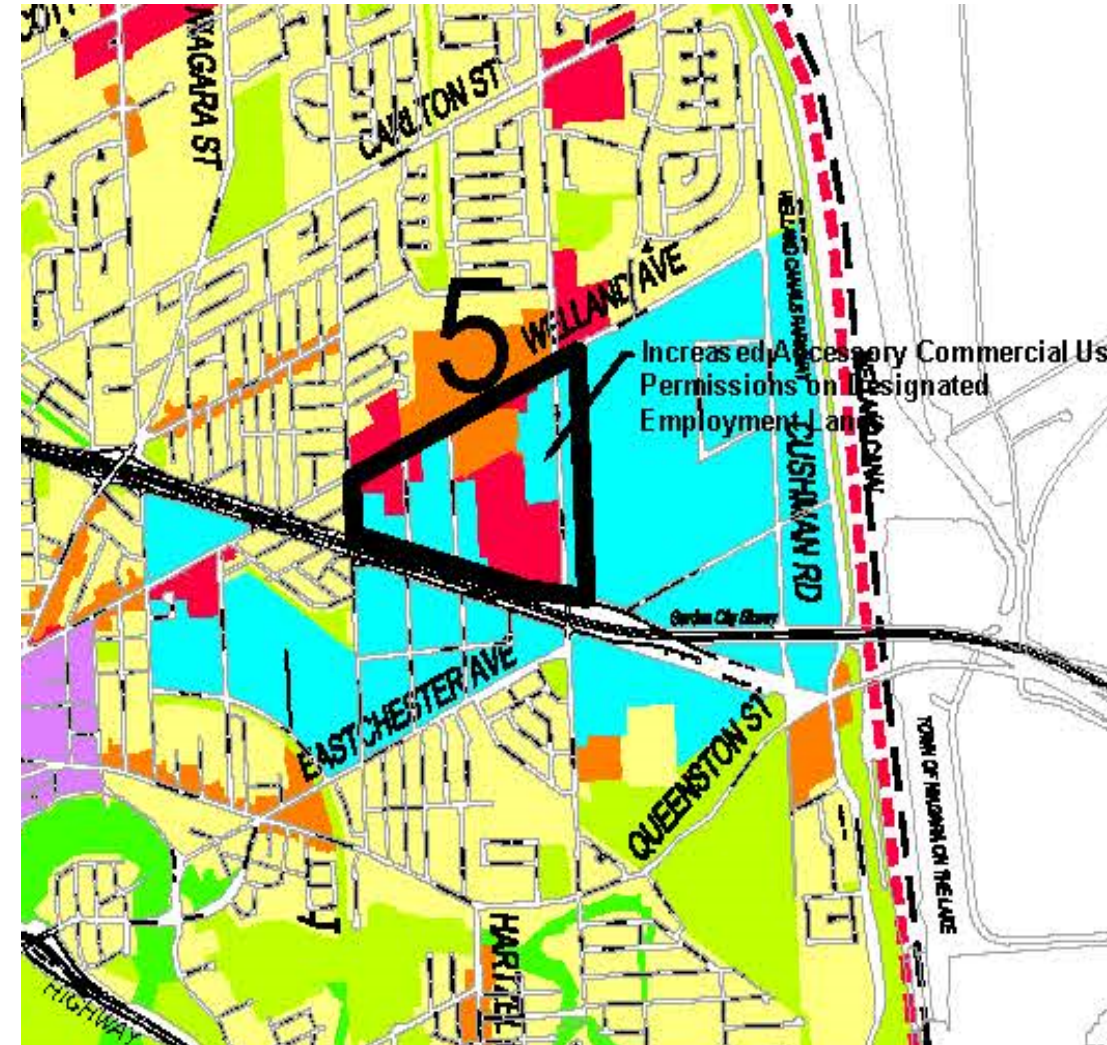
- Redesignates 3 locations to Institutional to reflects current and future use:
 - Brock University
 - Shaver Hospital
 - Hospital lands at Fourth Avenue
- Minor modification: Institutional heading added in City OP and alignment with Brock District Plan



Amendment Details

Topic 5 – Accessory Floor Space

- Minor increase in floor space percentage for currently permitted accessory uses on all Employment lands.
- A further increase in permissions is also being permitted for Area 5.
- Minor modification to provide clarity on location for Area 5.



OPA 26 Recommendation

- ✓ Regional staff support OPA 26, as modified.
- ✓ Public and agency comments considered.
- ✓ Region and City have co-operated throughout the process.
- ✓ Consistent with and conforms with Provincial policy.
- ✓ OPA 26 aligns with the Region's employment work.

Subject: Local Official Plan Amendment No. 26 - Employment and Institutional Related Policy Amendments – City of St. Catharines

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 10, 2021

Recommendations

1. That Official Plan Amendment No. 26 to the City of St. Catharines Official Plan (Garden City Plan) **BE APPROVED**, as modified in Appendix 2 of this report;
2. That all parties **BE NOTIFIED** of Regional Council's decision in accordance with *Planning Act, 1990* requirements;
3. That staff **ISSUE** a declaration of final approval of Official Plan Amendment No. 26, 20 days after notice of Council's decision has been given, provided that no appeals have been filed against the decision; and
4. This report **BE CIRCULATED** to the City of St. Catharines

Key Facts

- This Report provides Regional Council with Staff's recommendation for approval of the City of St. Catharines' (the "City") local Official Plan Amendment No. 26 ("OPA 26"), as modified.
- OPA 26 was adopted by the City of St. Catharines Council on November 30, 2020 and subsequently sent to the Region for consideration.
- OPA 26 relates to Employment Lands and Employment Areas, which are Regional matters. The *Growth Plan* requires upper-tier municipalities, in consultation with lower-tier municipalities, to designate all Employment Areas and protect them for appropriate employment uses over the long-term.
- City and Region staff have been working cooperatively on employment planning for many years. OPA 26, as modified, is consistent with the Region's ongoing employment work.

- OPA 26 identifies six Employment Areas. A seventh location is identified as Employment Land with a special study area. Additional land use changes are made to four areas. All changes are supported by Regional staff and align with the Region's work.
- The Region made several minor modifications to the version of OPA 26 passed by the City. These changes do not alter the intent of OPA 26 or the basis of the City's approval. City staff support the minor modifications.
- OPA 26, as modified, is consistent with and conforms with applicable Provincial policy. The Amendment strengthens the long-term protection of the City's Employment Areas.

Financial Considerations

There are no direct financial implications arising from this report.

The cost to process OPA 26 is accommodated within the Planning and Development Services Department Operating Budget.

In the event Council's decision is appealed to the Local Planning Appeal Tribunal, additional resources will be needed. In such case, a further report on financial implications will be provided.

Analysis

Employment Planning Context

The Growth Plan for the Greater Golden Horseshoe, 2019 (Amendment 1, 2020) ("*Growth Plan*") and Provincial Policy Statement, 2020 ("PPS, 2020") gives direction to the Region to identify and plan for "Employment Areas".

Employment Areas are defined in those Plans as "areas designated in an official plan for clusters of business and economic activities including, but limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities."

The Region uses the term “Employment Lands” for parcels designated for employment uses within a local municipal official plan and/or zoning by-law. Employment Lands may be located within or outside of an Employment Area. Employment Lands located outside of Employment Areas typically have or are designated for employment uses that can be more easily integrated with other land uses.

Identifying and planning for Employment Areas provides predictability and stability for employment investment, including the protection from sensitive land uses that may impact business operations. Employment Areas are intended to be protected over the long-term.

The Region is the approval authority over Employment Area matters. Retaining and protecting Employment Areas is a Provincial interest; it is therefore the Region’s interest in how St. Catharines undertook its Employment study and met Provincial policy requirements.

Region’s Employment Policy Work

The Region has been working on its Employment Policy development for several years and will be further reporting on that work in April 2021.

The Region has had a tremendous amount of consultation during this process with municipal partners, industry groups, stakeholders, and the public. Background study and data collection completed during earlier phases of the employment strategy work have been valuable on informing employment policy development.

By definition, the Region has Employment Areas. The Region’s forthcoming work will include mapping that identifies draft Employment Areas and policies for these areas across the Region.

The *Growth Plan* requires municipalities designate Employment Areas in their Official Plans. It also requires the Region to consult with local municipalities in the process of Employment Area identification.

The Region’s work on developing new employment policies has been extensive. Considerable effort has gone into developing draft policies that will respond to current Provincial policy direction, enhancing protections where needed, including future protections, and providing flexibility on potential future changes.

Regional staff support OPA 26 (with minor modifications, as described later) as it aligns with the Region's employment work.

St. Catharines Employment Study

The City has been working on its employment planning for many years.

The City's study work considered the types of employment use, size of cluster, strategic location with respect to transportation access or separation from sensitive uses, to determine and define its Employment Areas. Designation of Employment Areas is usually representative of a municipality's key or strategic interest and location in order to protect for continued use.

Protection in this context is referring to guarding against encroachment of sensitive uses (such as residential) that may create conflicts and threaten operational activity that is otherwise a part of normal practice shared by those within the cluster.

The employment study, leading to OPA 26, was the City's opportunity to review the current status of all its clusters of Employment Land. OPA 26 is the result of this work, which identifies and defines the boundaries of clusters of employment uses.

Regional staff were involved at various intervals throughout the City's study work to provide comments and discuss conformity-related matters.

Official Plan Amendment No. 26 and Modifications

OPA 26, as adopted, is attached as **Appendix 1**.

OPA 26, with the Region's proposed modifications, is attached as **Appendix 2**.

A list of the modifications is attached as **Appendix 3**.

A summary describing OPA 26 is outlined below, followed by Regional comments.

- **OPA 26 identifies and designates six Employment Areas for the protection of existing Employment Land clusters for long-term provision of Employment Land jobs.**

Region staff support the boundaries of the City's Employment Areas shown in OPA 26. The Employment Areas align with the Region's current employment work for the Niagara Official Plan.

- **OPA 26 proposes redesignation of other existing Employment Lands to permit alternative residential and mixed use development.**

As part of the City's employment study, City staff considered 10 requests for land use changes to non-employment uses. The City's OPA 26 recommendation report includes analysis of these requests. A link to the City's report is provided at the end of this Report.

Two of the ten requests were supported by City Staff for a redesignation to non-employment uses. One was the former industrial lands at 282 and 285 Ontario Street (Ontario and Carlton Streets, close to the downtown). The second was a site west of the St. Catharines Hospital on Fourth Ave. Both sites were recommended for redesignation to mixed use.

Additionally, City Staff supported a third site, located north of St. Paul's Street West and east of First Street, for a redesignation to a special study area. This is described further in the next section.

City Council adopted OPA 26 with these 3 site changes. No other requests for redesignation were supported by City Staff or adopted by City Council.

Region staff do not object to the three changes noted above.

- **OPA 26 establishes an Employment Land Special Study Area to allow for potential future redesignation to mixed use.**

As noted above, the First Street lands are redesignated in OPA 26 as a Special Study Area. The Special Study Area contemplates mixed use development with certain permissions for "a similar number of jobs to remain accommodated on site". Development of these lands will be required to proceed by way of Secondary Plan.

The Region made minor changes to the policy language to better conform with the *Growth Plan*. The modifications do not change the premise of the policy.

- **OPA 26 introduces an “Institutional” designation for several sites, including Brock University, Hotel Dieu Shaver Hospital and the St. Catharines Hospital site at Fourth Avenue.**

The City introduced an Institutional use designation to better capture the nature of these sites as large scale institutional-type uses. Regional staff support these designations.

The Region made a minor modification related to the Brock University lands to better conform to the Council-endorsed Brock District Plan.

An additional technical modification is included to add a section heading in the General Policy text for consistency with a change to Schedule D1. The added policy serves to direct users to the two separate Garden City District Plans where the institutional designation has been added and policy relating to these specific sites is found.

- **OPA 26 permits a minor increase in the floor space percentage for permitted accessory retail/service commercial, office and recreation uses for all designated Employment Lands. It also identifies one specific location for a further percentage increase from that which is already being increased.**

Region staff support the minor increase in floor space percentage. A technical change has been made to clarify the specific location to which the more significant percentage increase applies.

- **Administrative Modifications**

Two additional minor administrative modifications are made to include the amendment number (OPA 26) in Part A Preamble and the re-ordering of paragraph numbering due to the other changes noted above.

OPA 26 Modifications Summary

Region staff support OPA 26, as modified. For the reasons outlined above, the modifications are minor and do not change the purpose of OPA 26 as adopted by the City. The changes better align OPA 26 with provincial policy and the Region’s ongoing employment work.

City staff were consulted on the recommended modifications and are supportive of the modifications.

Planning Review

OPA 26 must be consistent with and conform to Provincial, Regional and local planning policy. Below is commentary on these policies.

Provincial Policy Statement, 2020

The *PPS, 2020* provides direction on land use planning to promote sustainable, strong communities, a strong economy, and a clean and healthy environment. *PPS, 2020* took effect on May 1, 2020.

The *PPS, 2020* encourages efficient development patterns that optimize the use of land, resources and public investment in infrastructure, and public service facilities by promoting a mix of housing, employment, recreation, parks and open spaces. It encourages active transportation and transit before other modes of travel.

PPS, 2020 policies direct the protection and enhancement of natural heritage features and systems, cultural heritage and archaeological resources, and the wise use and management of resources.

Policies 1.3.1 direct planning authorities to promote economic development and competitiveness by providing an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs.

Policies 1.3.2 provide specific direction for Employment Areas. In particular, Policy 1.3.2.1 directs municipalities to plan for, protect and preserve Employment Areas for current and future uses. Policy 1.3.2.5 sets out policies for the conversion of lands to non-employment uses, subject to specific criteria.

Regional staff have reviewed OPA 26 against *PPS, 2020* policies and find that OPA 26, as modified, is consistent with *PPS, 2020* direction on:

- Managing and directing land use to achieve efficient and resilient communities;
- Addressing land use compatibility through designation of Employment Areas;
- Providing for appropriate residential and mixed use housing options within the community leading to long-term prosperity for the City.

Regional staff are satisfied that OPA 26, as modified, is consistent with the *PPS, 2020*.

A Place to Grow - Growth Plan for the Greater Golden Horseshoe, Amendment 1, 2020

The *Growth Plan* sets out the long-range growth management framework for the Greater Golden Horseshoe area. The *Growth Plan* supports Ontario's vision of building stronger, more efficient, prosperous communities.

The *Growth Plan*, policy 2.2.1.4 a) recognizes that a diversity of land use, includes employment uses, as components of a *complete community*. This relates to the City and Region's desire to protect land for employment uses for the long-term.

Similar to the *PPS, 2020*, the *Growth Plan* contains Policy 2.2.5.1 that promotes economic development and competitiveness by making more efficient use of existing Employment Areas.

Policy 2.2.5.5 provides that municipalities should designate and preserve lands within *settlement areas* located adjacent to or near *major goods movement facilities and corridors*, as areas for manufacturing, warehousing and logistics, and appropriate associated uses and ancillary facilities. OPA 26 designates Employment Areas around the QEW interchange, in close proximity to QEW and Hwy 406 corridors, and along the Welland Canal.

Policy 2.2.5.6 sets out as follows:

Upper- and single-tier municipalities, in consultation with lower-tier municipalities, will designate all employment areas in official plans and protect them for appropriate employment uses over the long-term. For greater certainty, employment area designations may be incorporated into upper- and single-tier official plans by amendment at any time in advance of the next municipal comprehensive review.

Policy 2.2.5.14 provides as follows:

Outside of employment areas, development criteria should be established to ensure that the redevelopment of any employment lands will retain space for a similar number of jobs to remain accommodated on site.

The OPA 26 policy applicable to the Special Policy Area were developed with consideration of Growth Plan Policy 2.2.5.14. Specifically, the City and Region seek that space for a similar number of jobs remain accommodated on site.

Regional staff have reviewed OPA 26 against the policies of the *Growth Plan*, and find the policies conform to *Growth Plan* policies direction on:

- Managing growth in the existing urban settlement area;
- Enhancing protection of employment for the long-term by designating Employment Areas in consultation with the Region;
- Adding to the diversity of employment and housing options by providing mixed use and residential through re-designation of certain Employment Lands; and
- Contributing and supporting the achievement of complete community principles.

Regional staff are satisfied that OPA 26, as modified, conforms to the *Growth Plan*.

Greenbelt Plan, 2017

OPA 26 applies to lands contained entirely within St. Catharines urban area. Thus, Greenbelt Plan policies are not applicable to OPA 26.

Current Regional Official Plan

The current Niagara Region Official Plan (“ROP”) Chapter 3 – Employment, has policies directing local municipalities to provide a range and mix of employment use across the Region (Rural, Commercial and Employment).

OPA 26 identifies Employment Areas within the City’s urban settlement area. This was done by identifying the congregation of existing or planned employment types that would share similar interest in ensuring their long term ability to operate without being compromised by adjacent or encroaching land uses deemed more sensitive.

Policy 3.C.1 of the ROP provides as follows:

“The Region and the local municipalities will ensure economic competitiveness by: ...

“c) Planning for, protecting and preserving employment areas for current and future use.”

Policy 3.C.2 and 3.C.4 provide more specific direction. These policies are under review for conformity with the in-effect *Growth Plan*.

As previously noted, the Region's forthcoming Employment work and the Niagara Official Plan will provide Employment Areas designations and policies across the Region.

Region staff are satisfied that OPA 26, as modified, conforms to the current Region Official Plan. Further, OPA 26 aligns with the work being completed through the Region's new Official Plan.

City of St. Catharines Official Plan

The City's Official Plan (referred to as the "Garden City Plan") is a comprehensive framework of policies and guiding principles that seeks to manage and direct the future orderly and efficient long term development and growth of the City.

Garden City Plan section 10.1 contains Employment policies, including those that recognize the need for protecting Employment Lands for the long term provision of jobs in a variety of employment settings.

Section 10.3.1 sets out the different designations for Employment Land being, "General Employment" and "Business Commercial Employment". The Employment Areas designated by the City include both designations, which provides for a full range of employment types identified under the City's Employment policies.

Having diversity of employment is a component of a complete community and providing long term protection through designating Employment Areas provides assurance to manufacturing and businesses that their operations are being guarded from encroachment of sensitive uses.

As noted above, the Region and City have communicated regularly through the Region's Employment Strategy work, the City's Employment Study and the OPA 26 process.

Regional staff support the designation of the six identified Employment Areas, and the additional changes made through OPA 26, which align with the Region's ongoing work on the Niagara Official Plan.

Consultation

Consultation on the Region's Employment work has been ongoing and extensive. In 2018, the Region initiated its "Employment Strategy" background work, having retained

MHBC and urbanMetrics to undertake a critical review of regional employment land uses.

In 2019, the Region hosted a series of consultations with municipal staff, industry stakeholders and economic development offices. Also at this time, Regional staff held individual meetings with municipal planning staff for further input and refinement of local interest.

This material was presented at 4 public information centres in November 2019. Following that, another Region-led industry stakeholder meeting was held in February 2020 by planning and economic development staff to present and answer industry-specific questions.

Additional consultation continued with an online employment survey in July 2020. Subsequently, individual meetings with local municipal planning staff was held in September-October 2020.

Also in October 2020, the Region's employment work was presented as part of a public webinar series for the new Niagara Official Plan.

At the same time, several additional meetings were held with local municipalities to discuss employment designations and uses.

In February 2021, a further round of individual meetings with local planning staff was held, covering a number of topics, including employment matters.

In addition to the meetings with local staff and the public, Regional staff have had many meetings with individual landowners and their consultants to discuss site-specific employment matters.

The Region and City have worked collaboratively to ensure their respective work aligns, particularly that relating to Employment Area designations.

As the City progressed with OPA 26, City and Region staff held several OPA 26-specific meetings. These included discussions on land use changes, process, and conformity with the *PPS, 2020* and the *Growth Plan*. Also discussed were matters of Regional interest such as alignment with the Brock District Plan and the City's desire for re-designation of specific sites for mixed-use purposes.

As previously noted, OPA 26 is the culmination of many years of work on employment planning. Following initiation of the City's Employment Study and background research, their findings and recommendations were presented a virtual Open House meeting conducted with the City's EngageSTC interactive digital platform on August 17, 2020.

Written comments submitted through the City's public consultation process were included in the City's Recommendation Report PBS-178-2020.

Additional written correspondence was received and made available to local Council prior to the virtual Statutory Public Meeting held November 30, 2020. Eleven oral submissions were made at the Meeting.

Regional staff carefully reviewed and considered these submissions and comments in preparing this Report. A link to these submissions is provided at the end of this Report.

After reviewing the submissions, Regional staff are not recommending any substantive changes to OPA 26 as approved by St. Catharines (only minor modifications, as set out above).

Conclusion

The Region has worked cooperatively with the City on employment planning for many years. Regional staff support OPA 26, as adopted by City Council, subject to the minor modifications outlined in this report. The changes are supported by City staff.

Regional staff recommend approval of OPA 26, as modified. OPA 26 sets out the boundaries of Employment Area clusters across the City, providing long-term protection for these uses. The Amendment is consistent with and conforms to the *PPS, 2020* and the *Growth Plan* and policies of the Region Official Plan. Furthermore, OPA 26, as modified, aligns with the Region's ongoing employment work for its new Niagara Official Plan.

Alternatives Reviewed

Option 1: Council may choose not to approve OPA 26. This approach is not recommended as the amendment is consistent with and conforms to Provincial and Regional planning documents. Further, Regional staff have worked cooperatively with the City and agree with OPA 26, as modified. The work to define and show their Employment Areas is a requirement under the *Growth Plan* and reflect the draft

employment work of the Region. The outcome of the OPA 26 process includes input from public agencies, stakeholders, the public and Regional staff.

Option 2: Council may choose to approve OPA 26 without the modifications. This approach is not recommended as the modifications are appropriate and do not change the intent, purpose or outcome of the Amendment. The modifications serve to clarify wording, align with *Growth Plan* policy, and reflect the Region's employment work. The modifications are supported by City staff.

Option 3: Council may choose to modify OPA 26 further, for specific sites, in response to public submissions. All submissions received by City Council were considered when it made its decision to approve OPA 26 in November 2020. Regional staff do not propose any substantive modifications to this City decision.

Relationship to Council Strategic Priorities

Approval of OPA 26 supports the following Regional Council strategic priorities:

- Supporting Businesses and Economic Growth
- Healthy and Vibrant Community
- Responsible Growth and Infrastructure Planning

Employment planning for location, protection and compatibility are critical to ensuring access to a broad range of jobs within close proximity to the residents, as well as contributing to a complete community. The identified Employment Areas will protect these uses over the long-term and contribute to supporting a strong economy for the City. OPA 26 addresses this objective.

Other Pertinent Reports

There are no other Regional reports directly related to the City's OPA 26 exercise. Background reports on the Region's employment work include PDS 14-2020 (PEDC May 13, 2020) and PDS 21-2020 (PEDC July 15, 2020) and are available through the Planning and Economic Development Committee Agenda dates noted above.

The City's Corporate Report No. PBS-178-2020 and Appendices are available on the City's website.

Access is available at the Report link provided below.

Report [PBS-178-2020](#)

Written submission made to St. Catharines are available in two locations at the above link:

- Appendix 9 (grouped together in link as “Appendices 5 to 9”)
- Additional Correspondence re. Council Agenda Item 6.1

Prepared by:

Chris Millar, MCIP, RPP, CNU-A
Senior Planner, Long Range Planning
Planning and Development Services

Recommended by:

Doug Giles, MES, BUP
Acting Commissioner
Planning and Development Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Kirsten McCauley, Acting Manager of Long Range Planning, and reviewed by Isaiah Banach, Acting Director of Community and Long Range Planning.

Appendices

| | |
|------------|---|
| Appendix 1 | OPA No. 26 to the City of St. Catharines Official Plan (as adopted) |
| Appendix 2 | OPA No. 26 to the City of St. Catharines Official Plan (as modified for approval) |
| Appendix 3 | Modification List |

BY-LAW NO. 166 - 2020

A By-law to provide for the adoption of an amendment to the Official
Plan of St. Catharines.

THE COUNCIL OF THE CORPORATION OF THE CITY OF ST.
CATHARINES enacts

as follows:

1. The attached text and maps forming Amendment No. 26 to
the St. Catharines Official Plan (Garden City Plan) is hereby
adopted.

2. This By-law shall come into force and effect on the day after
the last day for filing notice of appeal or as otherwise provided for in
the Planning Act.

Read and passed this 30th day of November 2020.

(Original Signed)
CLERK

(Original Signed)
MAYOR

Amendment No. 26 to the Garden City Plan

(City of St. Catharines Official Plan)

This Amendment No. 26 to the Garden City Plan (City of St. Catharines Official Plan), which has been adopted by the Council of the Corporation of the City of St. Catharines, is approved under Section 17 of the Planning Act.

| | |
|-------------------------|--|
| PART A - THE PREAMBLE | An explanation of the Amendment, but does not constitute part of the Amendment. |
| PART B - THE AMENDMENT | Consisting of the following text and maps (Schedules A to G) which constitutes Amendment No. 26 to the Garden City Plan (City of St. Catharines Official Plan). |
| PART C - THE APPENDICES | These Appendices contain background data, planning considerations and public involvement associated with the Amendment, but does not constitute part of the Amendment. |

PART A - THE PREAMBLE

Triggered by the closure of a large industrial user, and the potential redevelopment of what is now a mostly vacant, 21 hectare (51 acre) brownfield site located on Ontario Street in the middle of the City, Council directed the Planning and Building Services Department to study the potential conversion of the industrial lands to allow for re-development for future alternative uses (residential, mixed use, etc).

The conversion, or re-designation, of the industrial lands requires an amendment to the City's Official Plan (Land Use Plan).

Provincial policy requires that any changes to the Official Plan must conform or not conflict with Provincial land use plans, and that conversion of employment (industrial) lands must be addressed through a comprehensive Land Needs Assessment (LNA). The assessment is an examination of all employment lands, and other land uses in the municipality. It will ensure that any changes made to the City's Official Plan (Land Use Plan) support and facilitate the accommodation of projected population growth, housing need, and job growth by different sectors, that is forecast for the City to the year 2051.

The findings of the Land Needs Assessment (LNA) recommend an amendment to the Official Plan to establish and designate Employment Areas within the municipality, and to re-designate certain employment (industrial) lands in the City, including the property on Ontario Street, to permit alternative development opportunities. The LNA also recommends re-designation of 2 properties from an Employment designation to an Institutional designation to better reflect existing property use, and other associated revisions to employment land policies affecting the percentage of accessory population-related and office uses that may locate on employment lands.

Official Plan Amendment implements the findings of the LNA.

PART B - THE AMENDMENT

Details of Official Plan Amendment No. 26

The Garden City Plan (City of St. Catharines Official Plan) is hereby amended as follows:

1. Part A, Section 1.2 and Section 2.3.3.4 is amended by replacing ' Growth Plan for the Greater Golden Horseshoe (2006) with 'A Place to Grow Plan'
2. Part A, Section 1.3 b) is amended by adding ', and beyond' at the end of the sentence.
3. Part B, Section 2.3.1.4 is amended by changing the number from 8 to 9, and adding Institutional to the list of designations.
4. Part B, Section 2.3.3.6 ii) is amended by adding "Employment Areas and' after 'designated'.
5. Part B, Section 2.3.3.6 is amended by adding a new section iii) as follows;

and, amending subsequent section numbers accordingly.

'iii) Employment Areas are designated areas containing Employment lands to protect for and support the long- term provision of employment land jobs and opportunities.'
6. Part D, Section 10.1 is amended by adding a new subsection a) as follows;

and, amending subsequent section letters accordingly.

‘a) to designate Employment Areas to protect for long term provision of employment land jobs.’

7. Part D, Section 10.2 is amending by deleting the rest of the section in it’s entirety after ‘contemplated in the Employment designation,’ and adding the words ‘subject to the Provincial A Place to Grow Plan.’

8. Part D, Section 10.3.1 g) i) is amended by replacing 15% with 20%.

9. Part D, Section 10.3.2 c) i) is amended by replacing 30 % with 35%.

10. Part D, Schedule D, Municipal Structure, and Part D, Schedule D1

General Land use Plan, is amended by adding six ‘Employment Areas’, on the schedules, and Employment Area to the legend, as outlined in Schedule A and Schedule B to this Amendment

11. Part D, Schedule D1, General Land Use Plan is amended by re-designating 2 sites from Employment to Mixed Use, and 2 sites from Employment to Institutional, and adding Institutional to the legend, as outlined on Schedule C to this Amendment.

12. Part E, Section 15.2.1 is amended by adding new subsection e), as follows:

‘e) The entirety of lands known municipally as 282 and 285 Ontario Street are to be planned for future development through approval of a comprehensive Secondary Plan, and amendment to this Plan.’

13. Part E, Section 15.2, Schedule E4 is amended by re-designating lands from General Employment to Mixed Use, as outlined in Schedule D to this Amendment.

14. Part E, Section 15.3, Schedule E6 is amended by re-designating lands from Business Commercial Employment to Mixed Use, and re-designating lands from Business Commercial Employment to Institutional, and adding Institutional to the legend, as outlined in Schedule E to this Amendment.

15. Part E, Section 15.3.1 c) is amended by removing the first sentence and replacing it with the following:

‘The Mixed Use designation west of the NHS Hospital site and consisting of properties known municipally as 1262, 1290, 1298, 1338 Fourth Avenue, 2000 Pathstone Way, and 1956 Third Street, are to be developed as a campus format prestige business park setting providing opportunity for a mix of population-related uses (retail/service commercial, institutional, recreation, cultural and community uses), office uses, together with institutional residential long term care and assisted living facilities. Non institutional residential apartment dwellings, including seniors housing, are only permitted on upper floors of population-related and office uses.’

16. Part E, Section 15.3.1 is amended by adding new subsection e), as follows:

‘ e) Institutional

The lands designated Institutional on Schedule D1 and Schedule E6 of this Plan permit Hospital and related accessory or ancillary uses, and uses to serve community social and educational needs.

The lands known municipally as 1242 Fourth Avenue also permit institutional residential long term care and assisted living facilities.’

17. Part E, Section 15.3, Schedule E6/7 is amended by adding a Special Study

Area on lands known municipally as 2060, 2126, 2196 First Street and 326,

362 St. Paul Street West, as outlined in Schedule F to this Amendment.

18. Part E, Section 15.3.3.3.7 is amended by adding a new subsection ii), as

follows:

‘ ii) Special Study Area:

The lands known municipally as 2060, 2126, 2196 First Street and 326, 362 St. Paul Street West may be developed with a mix of uses (eg. employment, commercial, office, residential, institutional, community and cultural uses), subject to the following:

- a) the entirety of the lands be planned for future development through approval of a comprehensive Secondary Plan, and amendment to this Plan; and that development be planned to achieve:
 - i) accommodation of purpose built population-related and office jobs at a minimum density of 48 jobs/gross hectare across the entirety of the lands; and,
 - ii) accommodation for a mix and range of housing types at a minimum density of 25 dwelling units/gross hectare across the entirety of the lands.

19. Part E, Section 15.4, Schedule E8 is amended by re-designating lands from Business Commercial Employment to Institutional, and adding Institutional to the schedule legend, as outline in Schedule G to this Amendment.

20. Part E, Section 15.4.1 is amended by replacing subsection a) with new subsection a) as follows:

‘ a) Institutional

The lands designated Institutional on Schedule D1 and Schedule E8 of this Plan permit hospital and related accessory or ancillary uses, university/college and related uses including residential uses, and uses to serve community social, educational and recreation uses.

The Institutional designation provides for the continuation and expansion of existing uses, and supports the redevelopment of lands to implement the Brock District Plan approved by the Region of Niagara in March, 2019 by Regional Official Plan Amendment No. 14 (ROPA 14).’

21. Part E, Section 15.1.3 is amended by adding a new subsection f), as follows:

- ‘f) Notwithstanding Part D, Section 10.3.1 g) i) and Part D, Section 10.3.2 c) i), the combination of such uses shall generally not exceed 50% of the total floor area of all buildings on the property, and in the case of a split designation on the property, on all lands so designated for General Employment or Business Commercial Employment.’

PART C - THE APPENDICES

The following Appendices do not constitute part of the Amendment to the Official Plan but are included as information supporting the Amendment.

Appendix 1

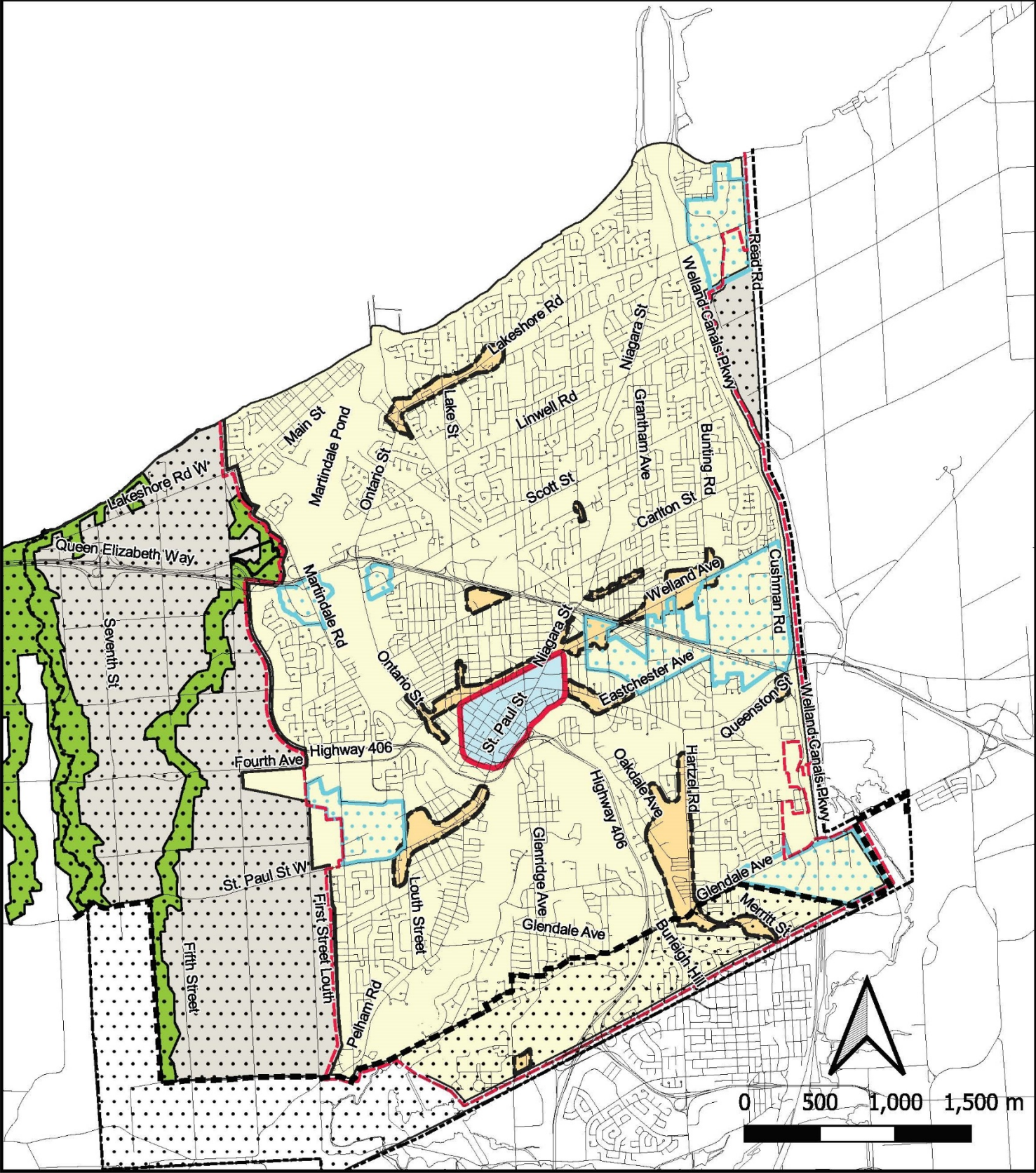
A copy of the "Public Notice" to citizens which outlines City Council's intent to consider an Amendment to the Official Plan for the subject lands.

Appendix 2

A copy of the staff reports which relate to the proposed Official Plan Amendment.

Appendix 3

Minutes of the Public Meeting held on November 30, 2020



Municipal Structure

----- Municipal Boundary

Urban Area

Provincial Greenbelt Plan Area

Provincial Greenbelt Plan Area - Protected Countryside (Specialty Crop Area)

Provincial Greenbelt Plan Area - Protected Countryside (Natural Heritage System)

----- Niagara Escarpment Plan Boundary

----- Provincial Growth Plan - Limits of Built Boundary

Employment Areas

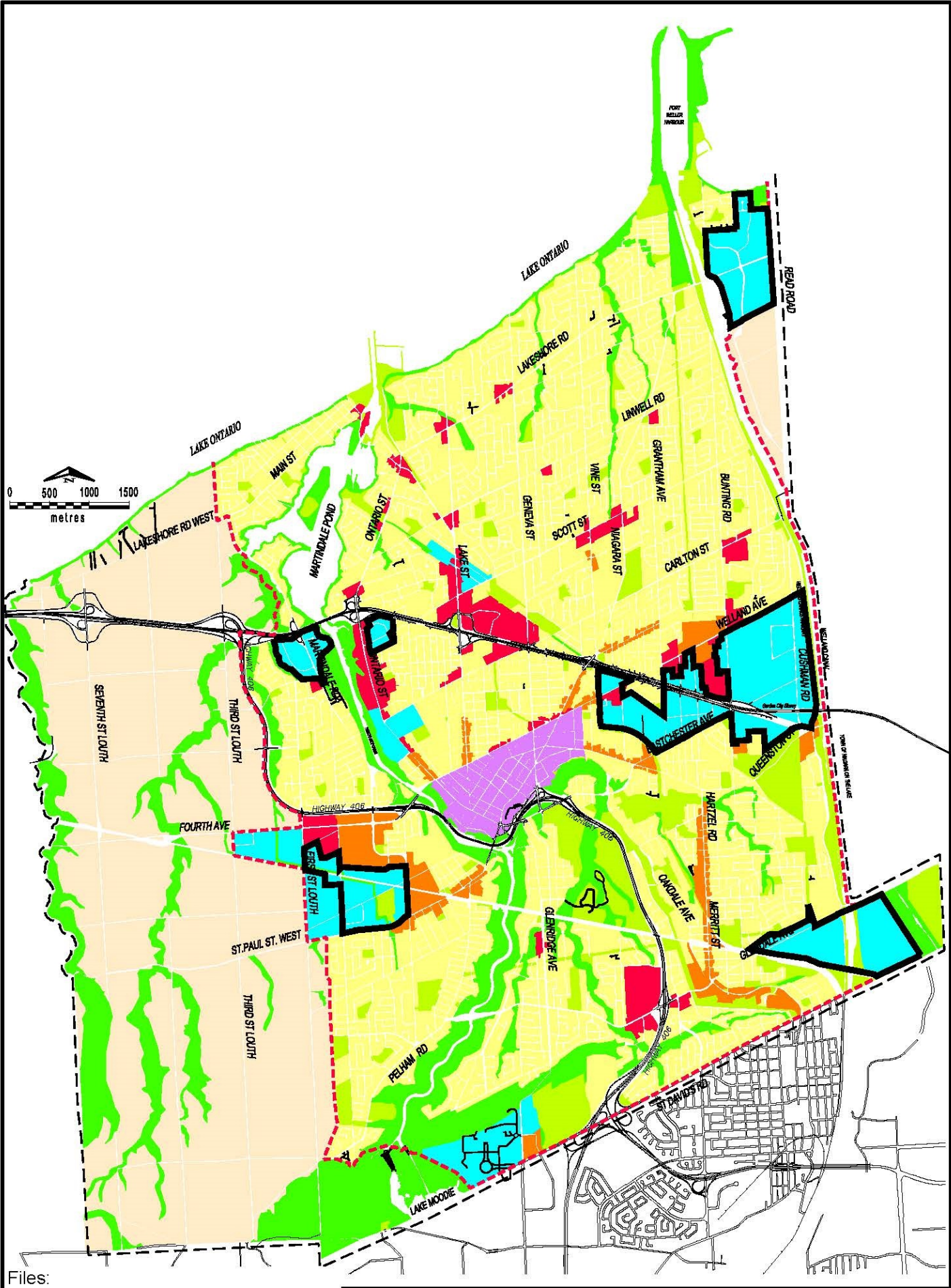
Intensification Areas

Urban Growth Area

CITY OF ST. CATHARINES
PLANNING AND
BUILDING SERVICES
OFFICIAL PLAN JULY 31,
2012

Schedule B to Amendment No. 26 to The Garden City Plan
- General Land Use Plan (Schedule D1)

By-Law 2020-166



Files:

General Land Use Plan

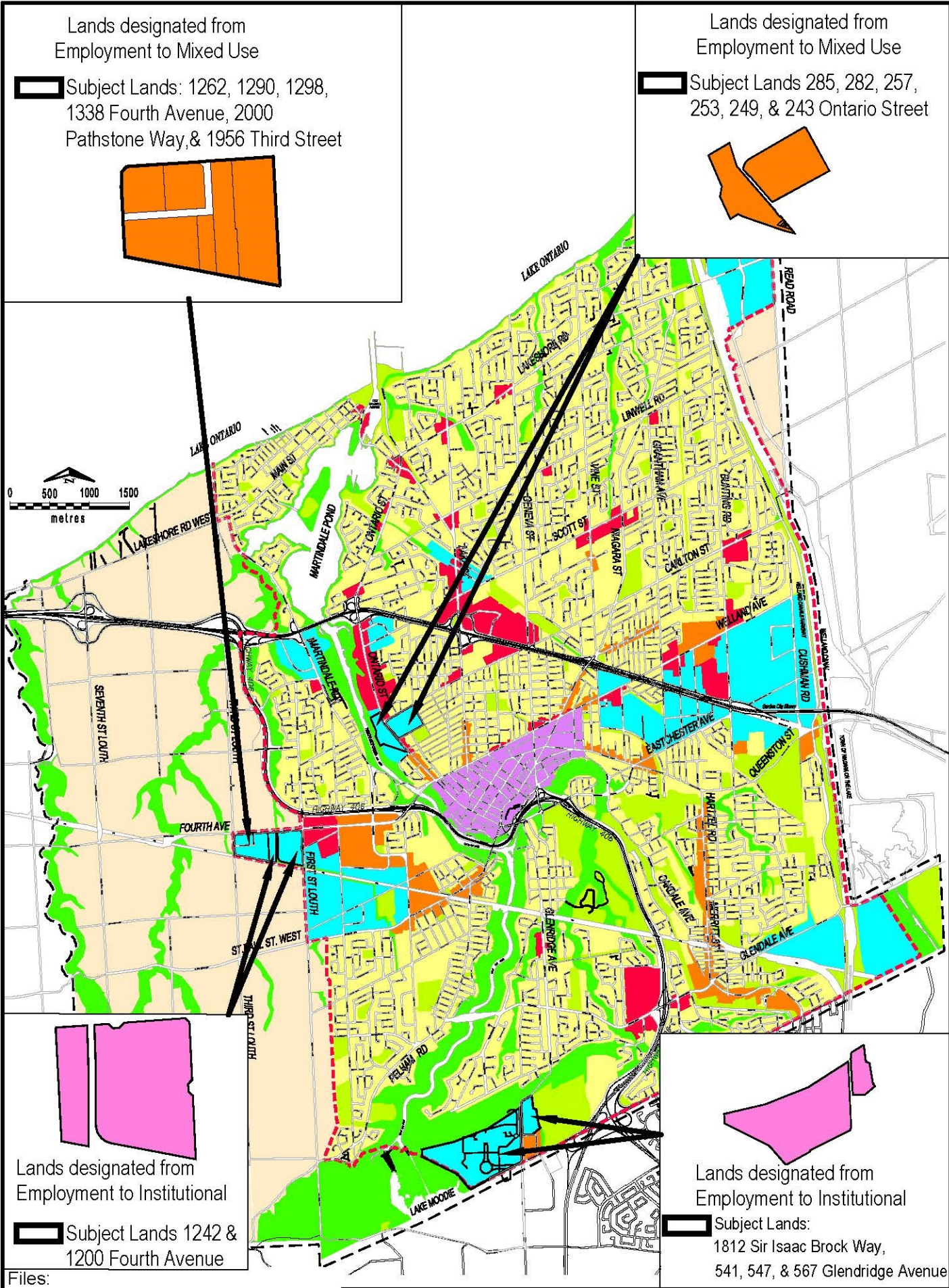
- | | |
|---------------------------|-----------------------|
| Neighbourhood Residential | Parkland & Open Space |
| Employment | Agriculture |
| Commercial | Downtown |
| Mixed Use | Employment Area |
| Natural Areas | Urban Area Boundary |

CITY OF ST. CATHARINES
PLANNING SERVICES DEPARTMENT
OFFICIAL PLAN JANUARY 31, 2014

Schedule C to Amendment No. 26 to The Garden City Plan

- General Land Use Plan (Schedule D1)

By-Law 2020-166



General Land Use Plan

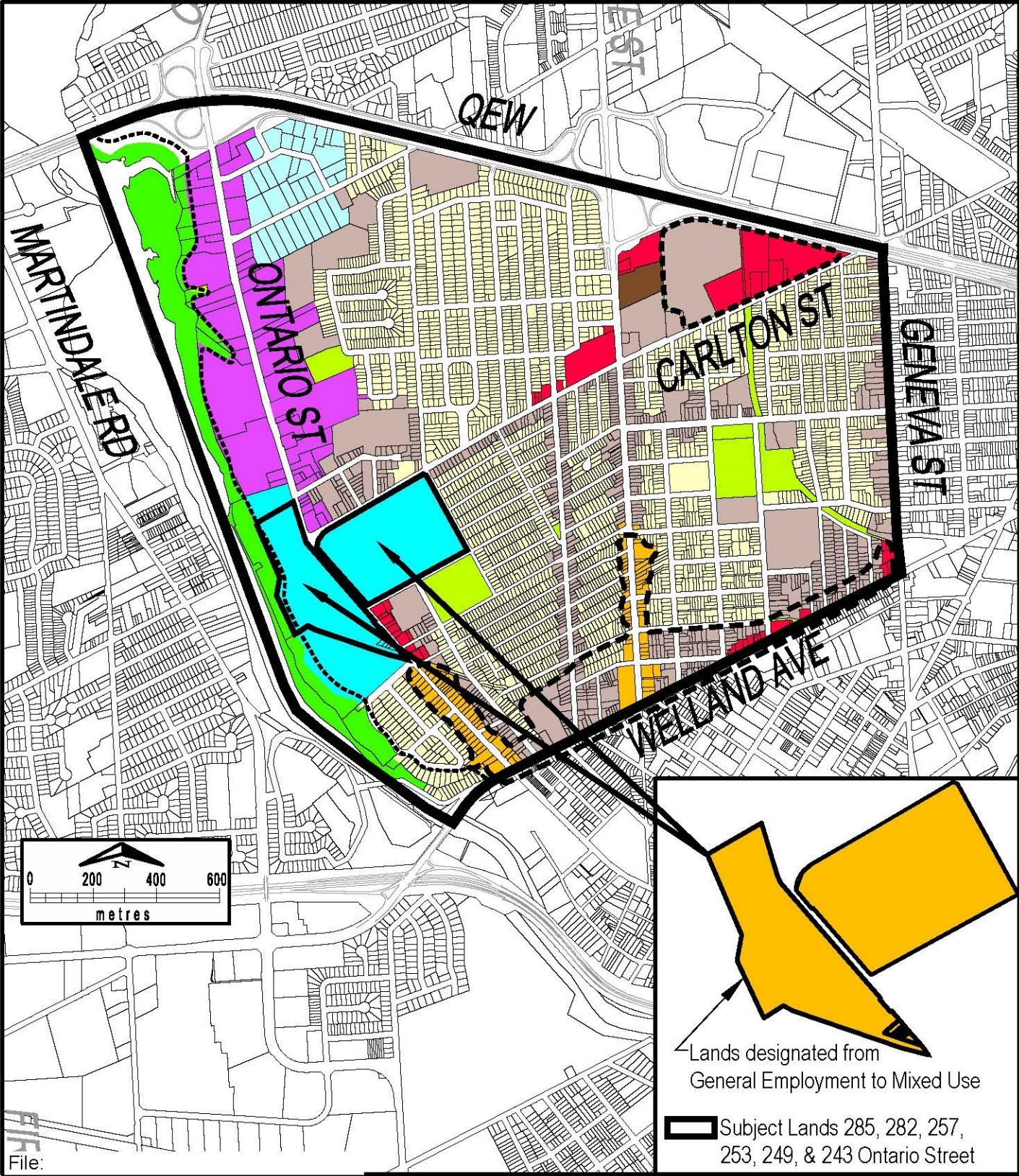
| | |
|---------------------------|-----------------------|
| Neighbourhood Residential | Parkland & Open Space |
| Employment | Agriculture |
| Commercial | Downtown |
| Mixed Use | Institutional |
| Natural Areas | Urban Area Boundary |

212

CITY OF ST. CATHARINES
PLANNING AND BUILDING
SERVICES DEPARTMENT
OFFICIAL PLAN JANUARY 31, 2020

Schedule "D" to Amendment No. 26 to The Garden City Plan

- Central Planning District (Schedule E4)By-Law 2020-166



Land Use Designations

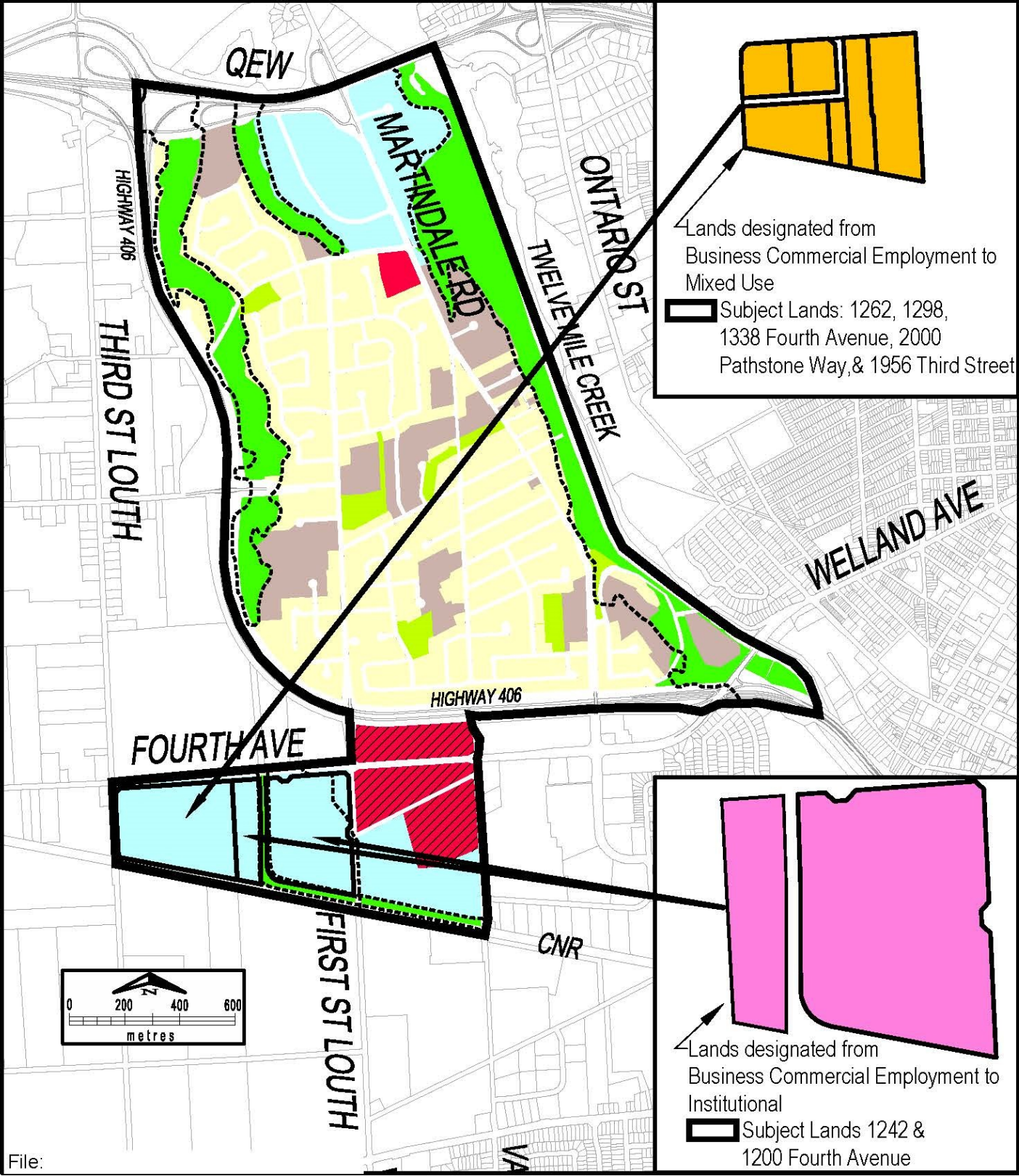
| | |
|---|--------------------------------|
| Low Density Residential (20 to 32 units / ha) | Special Study Area |
| Medium Density Residential (25 to 99 units / ha) | Mixed Use |
| High Density Residential (85 units / ha or greater) | General Employment |
| Major Commercial | Business Commercial Employment |
| Community Commercial | Parkland & Open Space |
| Arterial Commercial | Natural Areas |
| Institutional | Natural Area Extent Line |

NOTWITHSTANDING LAND USE DESIGNATIONS SHOWN ON THIS SCHEDULE, THE USE OF LAND WITHIN OR ADJACENT TO THE NATURAL AREA EXTENT LINE MAY BE SUBJECT TO ADDITIONAL REGULATION OR RESTRICTION. REFER TO PART D, SECTION 13.2 NATURAL AREA POLICIES, ALSO SEE SCHEDULES F2, F3, F4 AND F5

Schedule "E" to Amendment No. 26 to The Garden City Plan

- WEST Planning District (Schedule E6)

By-Law 2020-166



Land Use Designations

- Low Density Residential (20 to 32 units / ha)
- Medium Density Residential (25 to 99 units / ha)
- High Density Residential (85 units / ha or greater)
- Major Commercial
- Community Commercial
- Arterial Commercial
- Institutional

- Special Study Area
- Mixed Use
- General Employment
- Business Commercial Employment
- Parkland & Open Space
- Natural Areas
- Natural Area Extent Line

NOTWITHSTANDING LAND USE DESIGNATIONS SHOWN ON THIS SCHEDULE, THE USE OF LAND WITHIN OR ADJACENT TO THE NATURAL AREA EXTENT LINE MAY BE SUBJECT TO ADDITIONAL REGULATION OR RESTRICTION. REFER TO PART D, SECTION 13.2 NATURAL AREA POLICIES, ALSO SEE SCHEDULES F2, F3, F4 AND F5

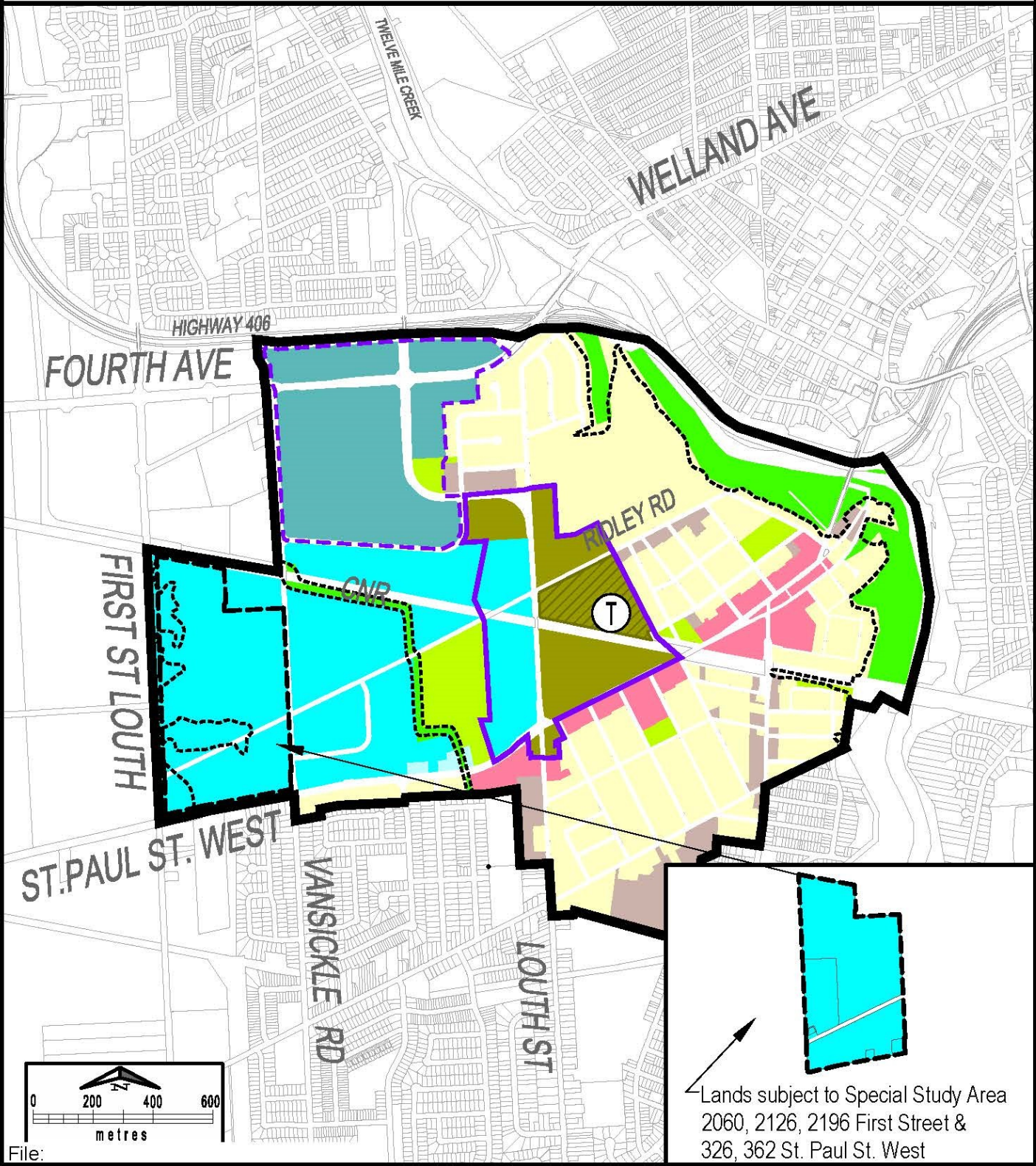
Schedule "F" to Amendment No. 26 to The Garden City Plan

- West Planning District (Schedule E6/7)

GO Transit Station Secondary Plan (GTSSP)

By-Law

2020-166



Land Use Designations

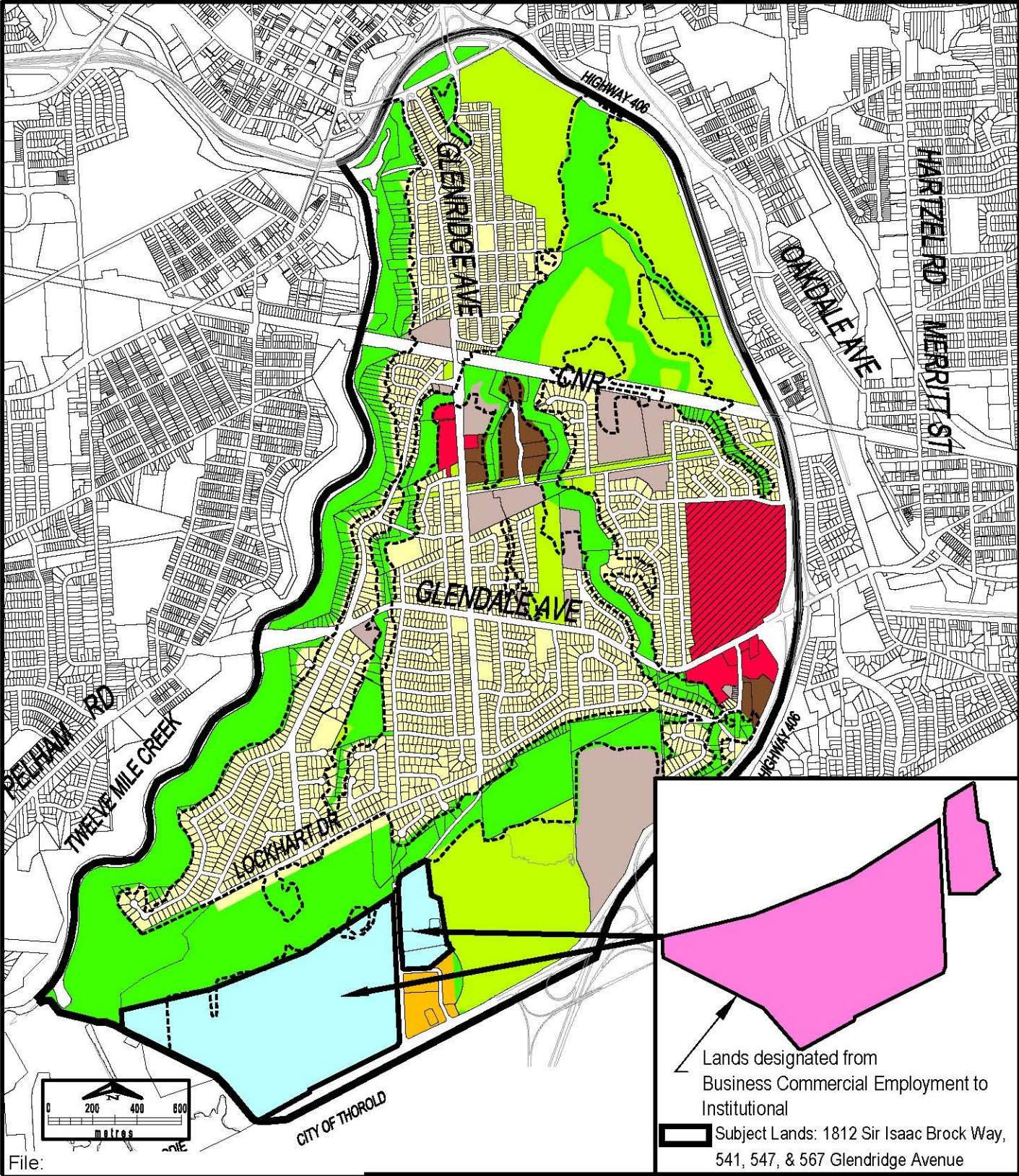
- | | | |
|---|--------------------------------|--|
| Low Density Residential (20 to 32 units / ha) | General Employment | Louth Centre Node |
| Medium Density Residential (25 to 99 units / ha) | Business Commercial Employment | West Transit Station Area |
| High Density Residential (85 units / ha or greater) | Parkland & Open Space | Transit Station Site Overlay |
| Major Commercial | Natural Areas | Major Transit Station |
| Community Commercial | | Special Study Area |
| Arterial Commercial | | Natural Area Extent Line |
| Mixed Use 1 | | GO Transit Station Secondary Plan Area |
| Mixed Use 2 | | |
| Mixed Use 3 | | |

NOTWITHSTANDING LAND USE DESIGNATIONS SHOWN ON THIS SCHEDULE, THE USE OF LAND WITHIN OR ADJACENT TO THE NATURAL AREA EXTENT LINE MAY BE SUBJECT TO ADDITIONAL REGULATION OR RESTRICTION. REFER TO PART D, SECTION 13.2 NATURAL AREA POLICIES, ALSO SEE SCHEDULES F2, F3, F4 AND F5

Schedule "G" to Amendment No. 26 to The Garden City Plan

- South Planning District (Schedule E8)

By-Law 2020-166



Land Use Designations

- Low Density Residential (20 to 32 units / ha)
- Medium Density Residential (25 to 99 units / ha)
- High Density Residential (85 units / ha or greater)
- Major Commercial
- Community Commercial
- Arterial Commercial
- Institutional

- Special Study Area
- Mixed Use
- General Employment
- Business Commercial Employment
- Parkland & Open Space
- Natural Areas
- Natural Area Extent Line

NOTWITHSTANDING LAND USE DESIGNATIONS SHOWN ON THIS SCHEDULE, THE USE OF LAND WITHIN OR ADJACENT TO THE NATURAL AREA EXTENT LINE MAY BE SUBJECT TO ADDITIONAL REGULATION OR RESTRICTION. REFER TO PART D, SECTION 13.2 NATURAL AREA POLICIES, ALSO SEE SCHEDULES F2, F3, F4 AND F5

BY-LAW NO. - 2020

A By-law to provide for the adoption of an amendment to the Official Plan of St.
Catharines.

THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. CATHARINES enacts
as follows:

1. The attached text and maps forming Amendment No. 26 to the St. Catharines
Official Plan (Garden City Plan) is hereby adopted.

2. This By-law shall come into force and effect on the day after the last day for filing
notice of appeal or as otherwise provided for in the Planning Act.

Read and passed this day of 2020.

CLERK

MAYOR

Amendment No. 26 to the Garden City Plan

(City of St. Catharines Official Plan)

This Amendment No. 26 to the Garden City Plan (City of St. Catharines Official Plan), which has been adopted by the Council of the Corporation of the City of St. Catharines, is approved under Section 17 of the Planning Act.

| | |
|-------------------------|--|
| PART A - THE PREAMBLE | An explanation of the Amendment, but does not constitute part of the Amendment. |
| PART B - THE AMENDMENT | Consisting of the following text and maps (Schedules A to G) which constitutes Amendment No. 26 to the Garden City Plan (City of St. Catharines Official Plan). |
| PART C - THE APPENDICES | These Appendices contain background data, planning considerations and public involvement associated with the Amendment, but does not constitute part of the Amendment. |

PART A - THE PREAMBLE

Triggered by the closure of a large industrial user, and the potential redevelopment of what is now a mostly vacant, 21 hectare (51 acre) brownfield site located on Ontario Street in the middle of the City, Council directed the Planning and Building Services Department to study the potential conversion of the industrial lands to allow for re-development for future alternative uses (residential, mixed use, etc).

The conversion, or re-designation, of the industrial lands requires an amendment to the City's Official Plan (Land Use Plan).

Provincial policy requires that any changes to the Official Plan must conform or not conflict with Provincial land use plans, and that conversion of employment (industrial) lands must be addressed through a comprehensive Land Needs Assessment (LNA). The assessment is an examination of all employment lands, and other land uses in the municipality. It will ensure that any changes made to the City's Official Plan (Land Use Plan) support and facilitate the accommodation of projected population growth, housing need, and job growth by different sectors, that is forecast for the City to the year 2051.

The findings of the Land Needs Assessment (LNA) recommend an amendment to the Official Plan to establish and designate Employment Areas within the municipality, and to re-designate certain employment (industrial) lands in the City, including the property on Ontario Street, to permit alternative development opportunities. The LNA also recommends re-designation of 2 properties from an Employment designation to an Institutional designation to better reflect existing property use, and other associated revisions to employment land policies affecting the percentage of accessory population-related and office uses that may locate on employment lands.

Modification
No.1

Official Plan Amendment No. 26 implements the findings of the City's LNA.

PART B - THE AMENDMENT

Details of Official Plan Amendment No. 26

The Garden City Plan (City of St. Catharines Official Plan) is hereby amended as follows:

1. Part A, Section 1.2 and Section 2.3.3.4 is amended by replacing ' Growth Plan for the Greater Golden Horseshoe (2006) with 'A Place to Grow Plan'
2. Part A, Section 1.3 b) is amended by adding ' , and beyond' at the end of the sentence.
3. Part B, Section 2.3.1.4 is amended by changing the number from 8 to 9, and adding Institutional to the list of designations.
4. Part B, Section 2.3.3.6 ii) is amended by adding "Employment Areas and" after 'designated'.
5. Part B, Section 2.3.3.6 is amended by adding a new section iii) as follows; and, amending subsequent section numbers accordingly.

'iii) Employment Areas are designated areas containing Employment lands to protect for and support the long- term provision of employment land jobs and opportunities.'

6. Part D, Section 10.1 is amended by:

Modification
No.2

1. adding "Employment Areas and" before "Employment Lands" in the opening sentence of the policy; and

2. adding a new subsection a) as follows; and, amending subsequent section letters accordingly.

‘a) to designate Employment Areas to protect for long term provision of employment land jobs.’

7. Part D, Section 10.2 is amending by deleting the rest of the section in it's entirety after 'contemplated in the Employment designation,' and adding the words 'subject to the Provincial A Place to Grow Plan.'
8. Part D, Section 10.3.1 g) i) is amended by replacing 15% with 20%.
9. Part D, Section 10.3.2 c) i) is amended by replacing 30 % with 35%.
10. Part D, Schedule D, Municipal Structure, and Part D, Schedule D1 General Land use Plan, is amended by adding six 'Employment Areas', on the schedules, and Employment Area to the legend, as outlined in Schedule A and Schedule B to this Amendment
11. Part D, Schedule D1, General Land Use Plan is amended by re-designating 2 sites from Employment to Mixed Use, and 2 sites from Employment to Institutional, and adding Institutional to the legend, as outlined on Schedule C to this Amendment.
12. Amend the City of St. Catharines Official Plan by adding a new "Part D, Section 10A - Institutional" line to the Table of Contents and adding a new Section Header following Part D, Section 10 Employment, in the document body to contain as follows:
- "10A - Institutional
- 10A.1 Institutional policies for Niagara Health Site (1200 and 1240 Fourth Avenue), refer to Part E, Section 15.3.1 e)
- 10A.2 Institutional policies for Brock University, west side of Glenridge Avenue (1812 Sir Isaac Brock Way), and certain properties on the east side of Glenridge Avenue (541, 547 and 567 Glenridge Avenue), refer to Part E, Section 15.4.1 a)"
13. Part E, Section 15.2.1 is amended by adding new subsection e), as follows:
- ‘e) The entirety of lands known municipally as 282 and 285 Ontario Street are to be planned for future development through approval of a comprehensive Secondary Plan, and amendment to this Plan.’
14. Part E, Section 15.2, Schedule E4 is amended by re-designating lands from General Employment to Mixed Use, as outlined in Schedule D to this Amendment.
15. Part E, Section 15.3, Schedule E6 is amended by re-designating lands from Business Commercial Employment to Mixed Use, and re-designating lands from Business Commercial Employment to Institutional, and adding Institutional to the legend, as outlined in Schedule E to this Amendment.

Modification
No.3

~~15- 16.~~ Part E, Section 15.3.1 c) is amended by removing the first sentence and replacing it with the following:

‘The Mixed Use designation west of the NHS Hospital site and consisting of properties known municipally as 1262,1290,1298,1338 Fourth Avenue, 2000 Pathstone Way, and 1956 Third Street, are to be developed as a campus format prestige business park setting providing opportunity for a mix of population-related uses (retail/service commercial, institutional, recreation, cultural and community uses), office uses, together with institutional residential long term care and assisted living facilities. Non institutional residential apartment dwellings, including seniors housing, are only permitted on upper floors of population-related and office uses.’

~~16- 17.~~ Part E, Section 15.3.1 is amended by adding new subsection e), as follows:

‘ e) Institutional
The lands designated Institutional on Schedule D1 and Schedule E6 of this Plan permit Hospital and related accessory or ancillary uses, and uses to serve community social and educational needs.

The lands known municipally as 1242 Fourth Avenue also permit institutional residential long term care and assisted living facilities.’

~~17- 18.~~ Part E, Section 15.3, Schedule E6/7 is amended by adding a Special Study Area on lands known municipally as 2060, 2126, 2196 First Street and 326, 362 St.Paul Street West, as outlined in Schedule F to this Amendment.

~~18- 19.~~ Part E, Section 15.3.3.3.7 is amended by adding a new subsection ii), as follows:

‘ ii) Special Study Area:
The lands known municipally as 2060, 2126, 2196 First Street and 326, 362 St. Paul Street West may be developed with a mix of uses (eg. employment, commercial, office, residential, institutional, community and cultural uses), subject to the following:

a) the entirety of the lands be planned for future development that retains space for a similar number of jobs to remain accommodated on site through amendment to this Plan by means of a comprehensive Secondary Plan, in context with the GO Transit Station Area Secondary Plan, and that development be planned to achieve:

i) population-related and office jobs at a minimum density of 48 jobs/gross hectare; and,

ii) a mix and range of housing types at a minimum density of 25 dwelling units/gross hectare,

~~19- 20.~~ Part E, Section 15.4, Schedule E8 is amended by re-designating lands from Business Commercial Employment to Institutional, and adding Institutional to the schedule legend, as outline in Schedule G to this Amendment.

~~20- 21.~~ Part E, Section 15.4.1 is amended by replacing subsection a) with new subsection a) as follows:

‘ a) Institutional

Modification
No.4

Deleted: approval

Deleted: amendment to this Plan; and

Deleted: ¶
accommodation of purpose built

Deleted: across the entirety of the lands

Deleted: ¶
accommodation for

Deleted: across the entirety of the lands

The lands designated Institutional on Schedule D1 and Schedule E8 of this Plan permit hospital and related accessory or ancillary uses, university/college and related uses including residential uses, and uses to serve community social, educational and recreation uses.

The Institutional designation provides for the continuation and expansion of existing uses, and supports the redevelopment of lands, including a Mixed Use designation along the frontage of the west side of Glenridge Avenue, to implement the direction and land use concept of the Brock District Plan (ROPA 14).'

Deleted: approved by the Region of Niagara in March, 2019 by Regional Official Plan Amendment No. 14

~~24.22.~~ Part E, Section 15.1.3 is amended by adding a new subsection f), as follows:

f) On all lands designated General Employment or Business Commercial Employment west of the hydro corridor, extending from Dieppe Road to Welland Avenue (lands known municipally as 215 Dieppe Road and 540 Welland Avenue), the following applies:

Notwithstanding Part D, Section 10.3.1 g) i) and Part D, Section 10.3.2 c) i), the combination of such uses shall generally not exceed 50% of the total floor area of all buildings on the property, and in the case of a split designation on the property, on all lands so designated for General Employment or Business Commercial Employment.'

PART C - THE APPENDICES

The following Appendices do not constitute part of the Amendment to the Official Plan but are included as information supporting the Amendment.

Appendix 1

A copy of the "Public Notice" to citizens which outlines City Council's intent to consider an Amendment to the Official Plan for the subject lands.

Appendix 2

A copy of the staff reports which relate to the proposed Official Plan Amendment.

Appendix 3

Minutes of the Public Meeting held on November 30, 2020

Appendix 2
PDS 10-2021
March 10, 2021

**Modification and Approval of
Employment and Institutional Related Policy Amendments,
Official Plan Amendment 26
City of St. Catharines**

The following modifications are made to the Employment and Institutional Related Policy Amendments adopted by the City of St. Catharines on November 30, 2020 as a consolidated document titled “**Amendment 26 to the Official Plan for the Corporation of the City of St. Catharines.**” As modified, OPA 26 for the City of St. Catharines is approved under subsection 17 (34) of the Planning Act, R.S.O. 1990, as amended.

Part A: Text

The Region has made 6 modifications to Official Plan Amendment 26. The recommended modifications are referenced within Appendix 2 to PDS 10-2021.

Modification 1 amends wording in Part A – The Preamble for minor text addition to identify the amendment number and clarify findings are those from City study work.

Modification 2 amends wording in Part B – The Amendment for minor text addition to include Employment Areas in the City’s existing policy 10.1 that speaks to the protection of Employment Land.

Modification 3 adds wording in Part B – The Amendment to insert an Institutional heading into the Official Plan Table of Contents and to further provide reference to the City’s District Plans for which policy is found. The City has introduced the Institutional designation into the City’s Official Plan and the modification provides connection between General Land Use Schedule mapping and the District Plan policies. Further integration of numbering can occur through a future consolidation or conformity exercise.

Modification 4 amends text in Part B – The Amendment for Section 15.3.3.3.7 of the City’s Official Plan, being policy on the Special Study Area added to the Plan, to include wording to conform with the Growth Plan respecting retention of space for similar number of jobs to remain accommodated on site. Further addition of text identifies the required Secondary Plan to be developed in context with the GO Transit Station Secondary Plan for which these lands are in close proximity.

Modification 5 amends text in Part B – The Amendment for Section 15.4.1 a) to recognize inclusion of Mixed Use along a portion of Brock University’s Glenridge Avenue frontage in keeping with the land use concept included in the previously approved Brock District Plan (ROPA 14).

Modification 6 amends text in Part B – The Amendment for Section 15.1.3 f) by adding a specific description for lands to which the policy applies.

Administrative Note – as a result of Modification 3, the itemized numbering sequence for the Amendment document are adjusted beyond No. 10. This is due to a Modification being inserted at that point of the document, reordering numbers by 1 beyond that point.

Part B: Mapping

None

Recommendation Report

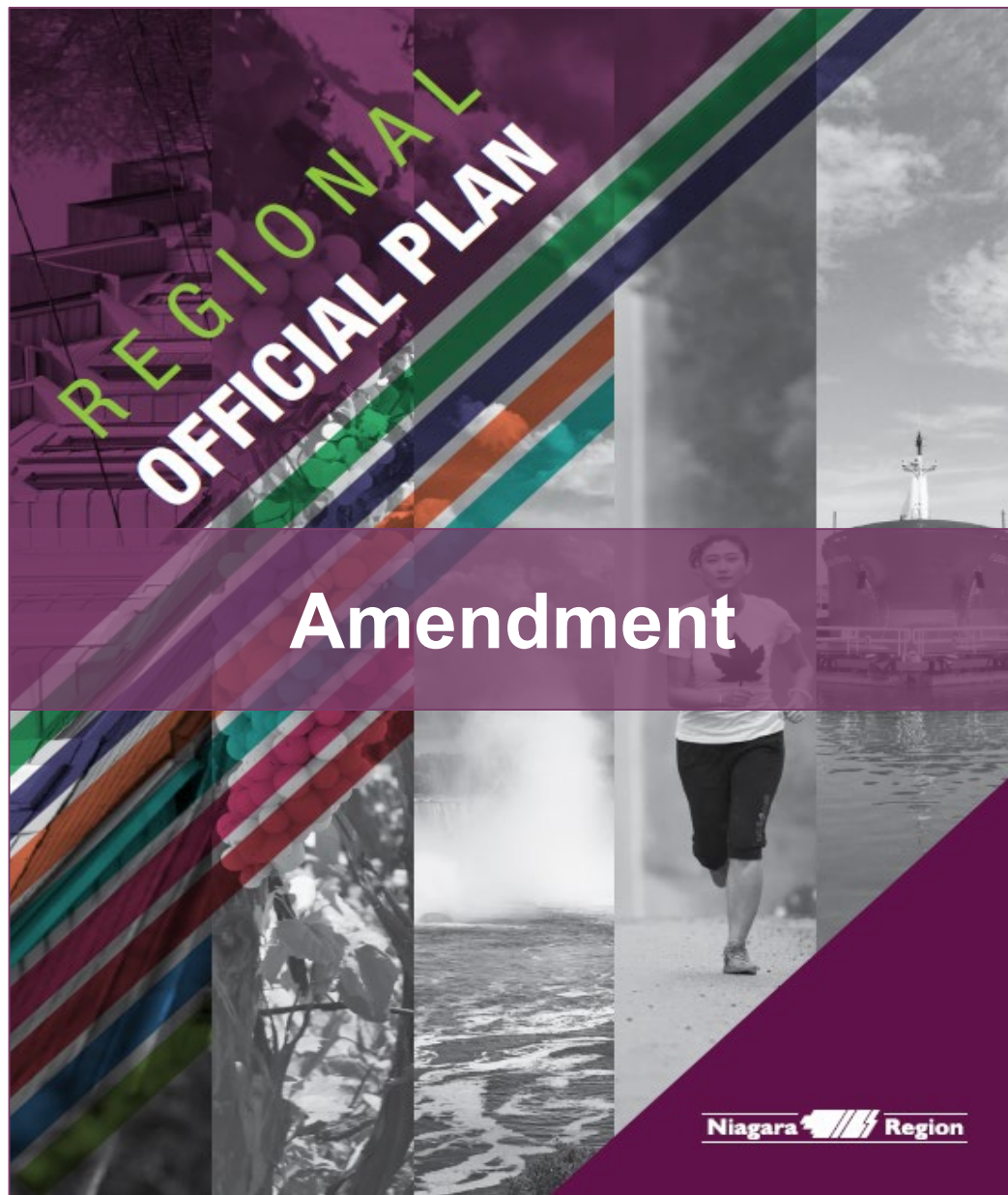
Regional Official Plan Amendment 17

Glendale District Plan

Planning and Economic Development Committee
PDS 5-2021

March 10, 2021

Kirsten McCauley, MCIP, RPP
Acting Manager, Long Range Planning



Recommendation Report

March 10, 2021

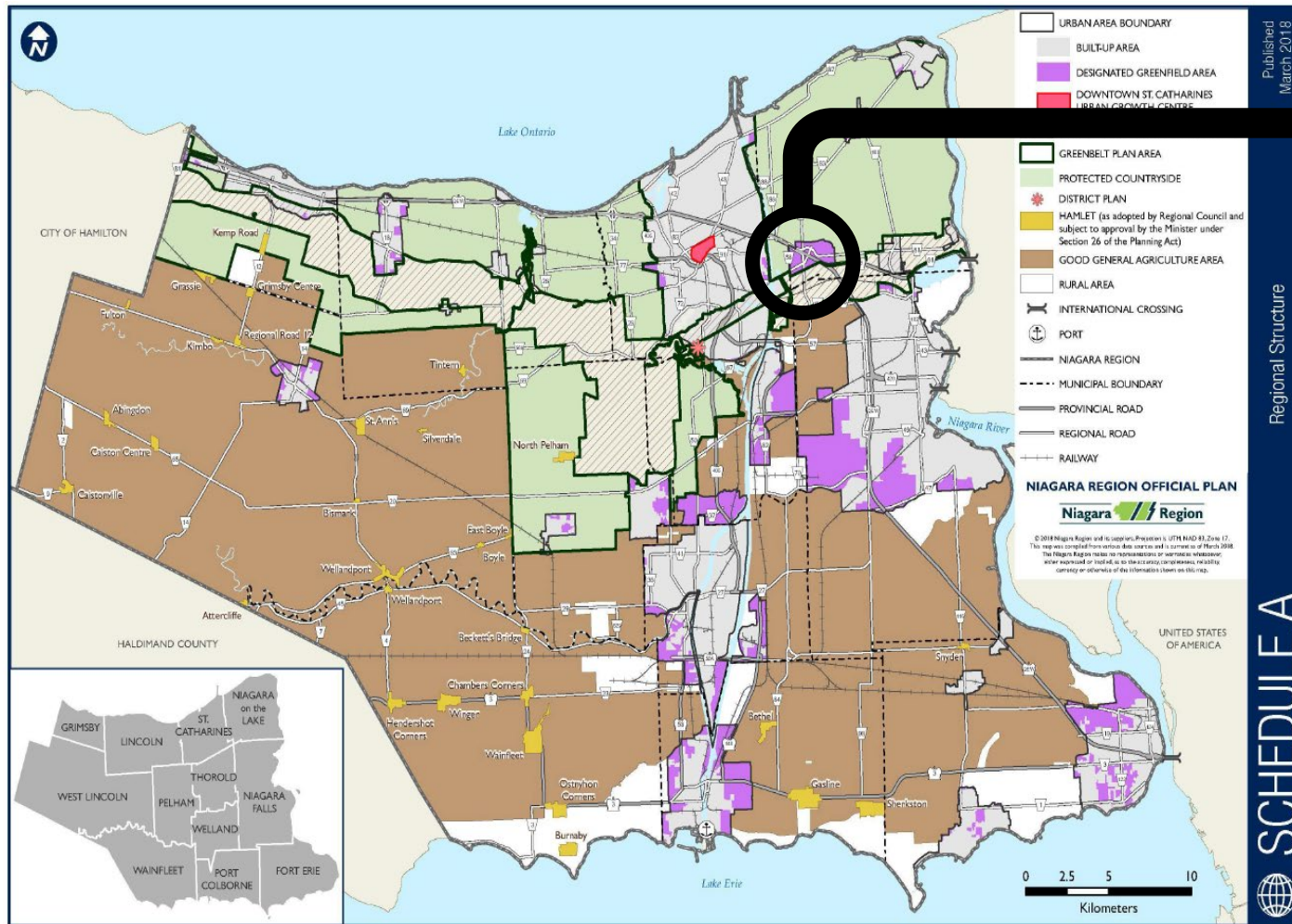
Regional Official Plan Amendment (ROPA) 17: Glendale District Plan

Presented by:

Kirsten McCauley, MCIP, RPP
Acting Manager, Long Range Planning
kirsten.mccauley@niagararegion.ca

Associated report:
PDS 5-2021

ROPA 17 Location



Total Study Area:
Approx. 700 ha

Purpose of ROPA 17

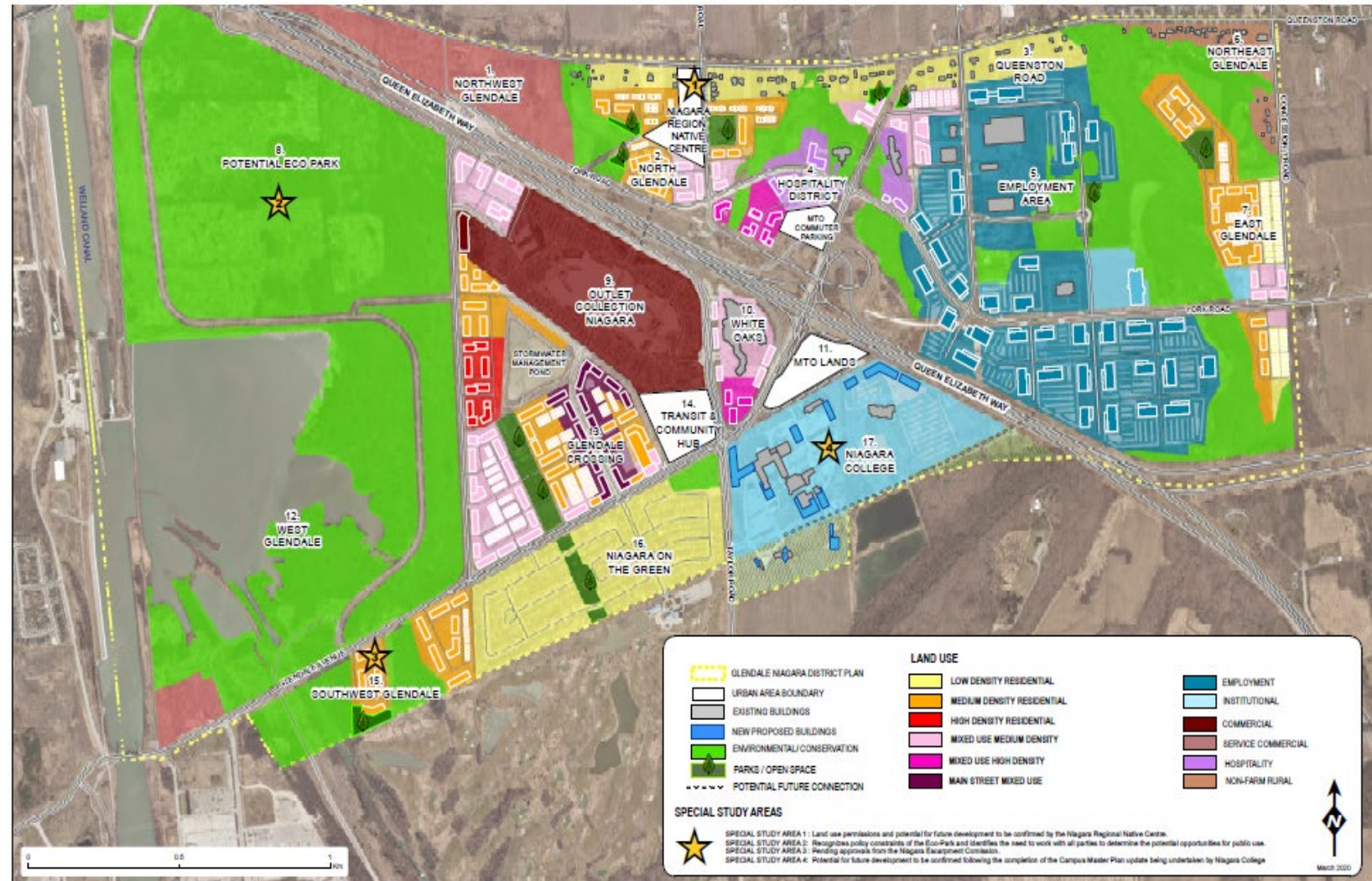
Policy to implement the vision and key directions of the Glendale District Plan.

Ensures future decisions are consistent with the vision and direction of the District Plan.



Glendale Demonstration Plan and Key Directions

- 1: Protect/enhance natural features
- 2: Trails and active transportation
- 3: Connected transit system
- 4: Build on existing assets
- 5: Create a “main street”
- 6: Diverse range of housing
- 7: Create public/civic space
- 8: Use sustainability measures
- 9: Coordination of infrastructure



Specifics of the Amendment



Renderings for illustration purposes only

ROPA 17 policies encourage:



Greater connectivity and active transportation options



Variety in built form and housing options



Sustainability measures to address climate change and protect greenspace



Retention and attraction of businesses



Enhanced public realm and activated Main Street



Centralized, mixed use transit station/hub



Variety of implementation measures

Recommendation

- ✓ Comments from agencies and the public reviewed and addressed.
- ✓ Ensures future decisions are consistent with the District Plan.
- ✓ Supports implementation measures and ongoing collaboration.
- ✓ Policies reflect the shared vision of Glendale and its transformation to mixed use, vibrant and complete community.



Subject: Recommendation Report for Regional Official Plan Amendment 17 – Glendale District Plan

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 10, 2021

Recommendations

1. That Regional Official Plan Amendment No. 17 – Glendale District Plan **BE APPROVED** (attached as Appendix 1 to Report PDS 5-2021);
2. That all parties **BE NOTIFIED** of Regional Council's decision in accordance with *Planning Act, 1990* requirements;
3. That staff **ISSUE** a declaration of final approval for Regional Official Plan Amendment No. 17, 20 days after notice of Council's decision has been given, provided that no appeals have been filed against the decision, in accordance with *Planning Act, 1990* requirements; and
4. That this report **BE CIRCULATED** to the Town of Niagara-on-the-Lake and the City of St. Catharines.

Key Facts

- The purpose of this report is to provide Staff's recommendation for approval of Regional Official Plan Amendment 17 (ROPA 17), which implements the Council-endorsed Glendale District Plan.
- The Glendale ROPA covers approximately 700 ha, located primarily within the Town of Niagara-on-the-Lake, with a small portion within the City of St. Catharines.
- ROPA 17 reflects the vision and key directions of the Glendale District Plan as a proactive development strategy which supports growth and economic prosperity. It establishes the long-term commitment to Glendale becoming a mixed use, vibrant and complete community where residents and visitors can meet their daily living needs.
- The inclusion for policy in the Region's Official Plan will ensure that future decisions within the Glendale plan area are consistent with the vision and direction of the District Plan.

- A statutory public meeting for draft ROPA 17 was held on November 9, 2020 in accordance with *Planning Act, 1990* requirements. All comments received on this matter have been reviewed and considered in staff's recommendation on ROPA 17.
- ROPA 17 is consistent with, conforms with and does not conflict with Provincial policy.

Financial Considerations

There are no direct financial implications arising from this report.

The cost to process ROPA 17 has been accommodated within the Planning and Development Services Department 2021 Operating Budget.

In the event Council's decision is appealed to the Local Planning Appeal Tribunal, additional resources would be needed. In such case, a further report on financial implications will be provided.

Analysis

The Glendale area covers approximately 700 ha located primarily within the Town of Niagara-on-the-Lake, with a small portion located within the City of St. Catharines. The boundary of the amendment area includes Queenston Road to the north, Concession 7 Road to the east, Niagara Escarpment to the south, and the Welland Canal to the west.

The Glendale District Plan is a proactive planning strategy that focuses on growth, the development of a complete community and supports economic prosperity. It was developed as a collaborative effort with the Town of Niagara-on-the-Lake, the City of St. Catharines and Niagara College. The process included extensive consultation and engagement with many stakeholders and landowners, a Technical Advisory Committee, a Community Focus Group and the general public. Input from these sources assisted in establishing the vision, key directions and content of the Plan.

The Glendale District Plan was endorsed by Niagara-on-the-Lake Town Council on August 24, 2020 and Regional Council on September 17, 2020.

Following this endorsement, the Region initiated ROPA 17. ROPA 17 is the instrument to incorporate policy related to the District Plan's vision and strategic direction into the Region's Official Plan.

The policies of ROPA 17 reflect the shared vision of Glendale becoming a mixed use, vibrant and complete community where residents and visitors can meet their daily living needs.

The amendment includes objectives that incorporate the District Plan's 9 key directions:

- 1:** Protect and enhance the landscape/natural features.
- 2:** A convergence for the area's trails and active transportation facilities.
- 3:** Provide an accessible and connected transit system to serve the Glendale area, the greater Niagara Region and beyond.
- 4:** Create a strategy to build on the existing assets within Glendale and linking Glendale with the greater NOTL and the Region.
- 5:** Create a "main street" from the Outlet Collection of Niagara to the adjacent urban neighbourhood.
- 6:** Provide a diverse range of housing ensuring choice and affordability.
- 7:** Create public/civic space as a focus for Glendale.
- 8:** Use sustainability measures related to resiliency and climate change.
- 9:** Coordination of infrastructure review, capacity and upgrades.

Within the District Plan, each of the key directions includes a series of strategies and recommendations for consideration through the implementation of the District Plan. ROPA 17 policies reflect the strategies of Regional interest, provide direction for the local Secondary Plan process, and support additional ongoing collaboration.

In particular, ROPA 17 policies encourage:

- greater connectivity and active transportation options,
- variety in built form and housing options,
- retention and attraction of businesses to the area,
- a centralized transit station/hub,

- enhanced public and private realm through urban design elements,
- protection of greenspace,
- an activated mixed-use Main Street, and
- inclusion of sustainability measures to address climate change.

Through the policies of ROPA 17, there are a number of studies and implementation measures that have been identified:

- The Region will work with the Town of Niagara-on-the-Lake to update the Glendale Secondary Plan to further assess the land use concept and prepare detailed policy and mapping to implement the direction of the District Plan. As part of this update, technical studies will be undertaken, including:
 - Planning review to refine land use boundaries and confirm population and employment forecasts.
 - Functional servicing study to assess infrastructure capacity.
 - Transportation study to assess the road network, improvements and new connections.
 - Environmental planning study to review and assess the natural heritage features.
 - Commercial lands review to determine the commercial space that can be supported by the forecasted population.
 - Urban design guidelines to provide direction for high quality design in the public and private realm.
 - Phasing plan to determine how the area will logically build out over time based on the servicing and transportation inputs.
 - Fiscal impact assessment to ensure that infrastructure and services are sustainable.
- The District Plan Land Use Concept and Demonstration Plan Map will guide the Secondary Plan update and can be used to review development proposals within the Glendale area.
- A feasibility study will be undertaken, in consultation with the local municipalities, the Inter-regional Transit Working Group and any other identified stakeholders, for the transit station/hub location to determine the mix of land uses and site requirements.
- Additional studies that will support economic development and tourism in Glendale.

- The creation of an Eco-park for recreation uses.
- The District Plan to be reviewed every 10 years, but minor refinements consistent with the overall vision are permitted.
- Ongoing implementation work through a Regional Technical Advisory Committee.

The inclusion of these policies in the Regional Official Plan will ensure that future decisions within the Glendale study area are consistent with the vision and direction of the Council-endorsed Glendale District Plan.

A copy of ROPA 17 is included as **Appendix 1**.

Policy Review

Provincial Policy Statement (PPS), 2020

PPS, 2020 provides direction on land use planning to promote sustainable, strong communities, a strong economy, and a clean and healthy environment. It took effect on May 1, 2020.

The PPS encourages efficient development patterns that optimize the use of land, resources and public investment in infrastructure and public service facilities by promoting a mix of housing (including affordable and market-based range of residential types), employment, recreation, parks and open spaces. It encourages transportation choices that increase the use of active transportation and transit before other modes of travel. Policies of the PPS also seeks to protect and enhance natural heritage, cultural heritage and archaeological resources.

ROPA 17 is consistent with the PPS, 2020.

A Place to Grow - Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan for the Greater Golden Horseshoe (“Growth Plan”) provides a strategic, long-range growth management framework for the Greater Golden Horseshoe area. The Growth Plan supports Ontario’s vision of building stronger, more efficient, prosperous communities.

The guiding principles of the Growth Plan focus on achieving complete communities, stimulating economic growth, prioritizing intensification and higher densities to optimize infrastructure investments, and mitigating the adverse impacts of climate change.

The built boundary mapping of the Growth Plan (2008) identified the Glendale settlement area as an undelineated built-up area due to the low existing population within this settlement area. Through a previously-approved conformity exercise, the Region designated Glendale as Designated Greenfield Area to recognize its potential to achieve a contemporary urban community.

Through the District Plan, the Glendale area has been planned as a Designated Greenfield Area to achieve a mixed use, compact and complete community.

ROPA 17 conforms with the Growth Plan.

Greenbelt Plan, 2017

The Greenbelt Plan designates the urban area of Glendale as 'Towns/Villages'. Applicable policies support the achievement of complete communities and provide significant economic, social, and commercial functions to surrounding areas.

The remainder of the lands are designated 'Protected Countryside' and 'Niagara Escarpment Plan Area.' The Protected Countryside lands are further designated as 'Niagara Peninsula Tender Fruit and Grape Area' or Specialty Crop Area by Schedule 2 and 'Natural Heritage System' by Schedule 4. The Specialty Crop Area within the Agricultural System is considered unique prime agricultural land and has restrictions for non-agricultural uses.

ROPA 17 reflects the Greenbelt Plan policy direction. Lands located outside the urban boundary, within the Greenbelt Plan area, reflect the existing local Official Plan land use designations. No changes are being proposed to these permissions.

The amendment includes Special Study Area 2 which contemplates an Eco-park (passive recreational use) adjacent to the Welland Canal. Any future use within this Special Study Area will be considered through consultation with the applicable stakeholders and in accordance with the policies of Greenbelt Plan.

ROPA 17 conforms with the Greenbelt Plan.

Niagara Escarpment Plan, 2017

The Niagara Escarpment Plan serves as a framework of objectives and policies that balance development and protection of the Niagara Escarpment. Map 1 of the Niagara Escarpment Plan designates portions of the southern area of Glendale primarily as 'Niagara Escarpment Protection Area', with a 'Niagara Escarpment Parks and Open Space System' overlay, and a small area is designated as 'Escarpment Natural Area'.

Southwest Glendale and the south portion of the Niagara College site are within the Niagara Escarpment Plan Development Control Area. Lands located within the area of development control require a development permit from the Niagara Escarpment Commission.

The Southwest Glendale area is subject to a request to re-designate the lands from Escarpment Protection Area to Urban Area in the Niagara Escarpment Plan through the Provincial Coordinated Plan Review (2017). This request was deferred by the Ministry of Natural Resources and Forestry (MNRF), with additional information to support the request required. The additional information was provided and is currently being reviewed. A decision has not yet been made.

ROPA 17 reflects the Glendale District Plan direction and includes Southwest Glendale as Special Study Area 3 to indicate that it is subject to the deferral noted above. Although the land use concept and demonstration plan show the lands as being eligible for development, this will not occur if the NEP designation remains Escarpment Protection Area. It is also recognized that Southwest Glendale will require additional planning approvals to permit development on these lands.

ROPA 17, with the inclusion of the Special Study Area policy, does not conflict with the Niagara Escarpment Plan.

Regional Official Plan (ROP)

The ROP designates the urban area of the Glendale District Plan area as 'Designated Greenfield Area' (DGA) on Schedule A – Regional Structure. The DGA requires compact, mixed-use development that contributes towards the Region's density target of 50 persons and jobs per hectare.

The remaining District Plan area is designated as 'Protected Countryside' and 'Niagara Escarpment Plan Areas' on Schedule A and 'Unique Agricultural Area' on Schedule B.

Schedule C designates environmental features throughout the study area as 'Environmental Protection Area' and 'Environmental Conservation Area.' Development and site alteration within these designations is generally not permitted without further study. A policy has been included in ROPA 17 that directs environmental planning study work to be undertaken to fully review the natural heritage system through the Secondary Plan process.

The Region is preparing the new Niagara Official Plan (NOP). As part of the NOP work, the Region is establishing a Regional Structure to strategically direct growth. Within the Regional Structure, the Region will designate 'Strategic Growth Areas' (SGA). SGAs will be areas planned to accommodate a significant portion of population and employment growth to allow for the establishment of a complete community. Glendale has been identified within the draft Regional Structure as a SGA.

ROPA 17 provides the land use and implementing study guidance to support the strategic direction of the Regional Official Plan.

Consultation Summary

Statutory Public Meeting

The *Planning Act, 1990*, requires that a statutory public meeting be held for all amendments to Official Plans. A public meeting was held on November 9, 2020 to present a draft of ROPA 17 to Planning and Economic Development Committee and receive comments from the public.

The Notice of Public Meeting was advertised on October 15, 2020 in newspapers having general circulation in and around the study area. Notice of the meeting was also provided to prescribed agencies and those that had been involved in the Glendale District Plan process. No oral comments were received from the public at the Public Meeting. Several written submissions were received and considered through the review of ROPA 17.

Public and Agency comments

It is important to note that the Glendale District Plan itself is a result of ongoing collaboration between the Region and the local municipalities, as well as extensive consultation including 6 public engagement sessions, 5 Technical Advisory Committee

meetings, 3 Community Focus Group meetings and numerous meetings with stakeholders, agencies and landowners.

Notice of ROPA 17 was provided to the full circulation list of participants in the District Plan process, as well as prescribed agencies.

Comments received generally indicate support for this amendment. Policy refinements, as appropriate, have been made as a result of comments received. None of the refinements change the basis or intent of the amendment.

Niagara-on-the-Lake Town Council received a staff report on ROPA 17 and endorsed the amendment at its meeting on November 25, 2020.

City of St. Catharines staff advised no comments on the amendment as they have been directly involved throughout the District Plan process.

Niagara College issued a letter to the Regional Chair's office advising of the completion of its Campus Master Plan. Within this letter, the College acknowledges the alignment of the Campus Master Plan with the Glendale District Plan direction.

On January 11, 2021, one window comments were received from the Ministry of Municipal Affairs and Housing. Comments have been reviewed and changes made, as appropriate.

All comments received have been reviewed and considered in the Region's recommendation prior to finalizing ROPA 17. The comments received, including a summary table with response, are attached as **Appendix 2**.

Conclusion

ROPA 17 provides direction for strategic growth and the promotion of new mixed-use and compact development. It illustrates how the Glendale area can develop into a complete community, setting a framework for density and diversity through a variety of land uses and built form, an activated public realm, and walkable, connected streets.

ROPA 17 should be supported because it represents the visionary work of the Glendale District Plan. The policies will guide the development of the Glendale area and will support its transformation into a complete, mixed-use, urban community.

Alternatives Reviewed

None recommended – ROPA 17 contains policy direction for the Council-endorsed Glendale District Plan. The District Plan had a high degree of consensus and support as a result of the extensive consultation process. ROPA 17 embeds the vision and strategic direction of the District Plan into the Region’s Official Plan.

Relationship to Council Strategic Priorities

ROPA 17 will implement aspects of all four aspects of Council’s priorities by supporting the Region’s focus on growth and economic prosperity. It brings together a pro-active land-use strategy, urban design guidelines, and recommendations for improving sustainability and quality of life.

- Supporting Businesses and Economic Growth
- Healthy and Vibrant Community
- Responsible Growth and Infrastructure Planning
- Sustainable and Engaging Government

Other Pertinent Reports

PDS 27-2020 - Endorsement of the Glendale District Plan

PDS 30-2020 - Statutory Public Meeting for Regional Official Plan Amendment (ROPA) 17 - Glendale District Plan

View the [Glendale District Plan](#) website for more information and to review the endorsed District Plan.

Prepared by:

Kirsten McCauley, MCIP, RPP
Acting Manager, Long Range Planning
Planning and Development Services

Recommended by:

Doug Giles, MES, BUP
Acting Commissioner
Planning and Development Services

Submitted by:

Ron Tripp, P.Eng.

Acting Chief Administrative Officer

This report was reviewed by Isaiah Banach, Acting Director of Community and Long Range Planning.

Appendices

Appendix 1 Regional Official Plan Amendment 17

Appendix 2 Public and Agency Comments

Amendment No. 17 To The Official Plan for the Niagara Planning Area

PART “A” – THE PREAMBLE

The preamble provides an explanation of the Amendment including the purpose, location, background, and basis of the policies and implementation, but does not form part of this Amendment.

- Title and Components
- Purpose of the Amendment
- Location of the Amendment
- Background
- Basis for the Amendment
- Implementation

PART “B” – THE AMENDMENT

The Amendment describes the additions and modifications to the Official Plan for the Niagara Planning Area, which constitute Official Plan Amendment No. 17.

- Map Change
- Text Change

PART “C” – THE APPENDICES

The Appendices provide information regarding public participation and agency comments relevant to the Amendment, but do not form part of this Amendment.

PART “A” – THE PREAMBLE

TITLE AND COMPONENTS:

This document, when approved in accordance with Section 17 of the *Planning Act, 1990*, shall be known as Amendment 17 to the Official Plan of the Niagara Planning Area.

Part “A” – The Preamble, contains background information and does not constitute part of this Amendment.

Part “B” – The Amendment, consisting of map and text changes, constitutes Amendment 17 to the Official Plan of the Niagara Planning Area.

Part “C” – The Appendices, does not constitute part of the Amendment. These Appendices contain information related to public involvement and agency comments associated with the Amendment.

PURPOSE OF THE AMENDMENT:

The purpose of this Amendment is to add policy to the Niagara Region Official Plan that reflects and supports the implementation of the vision, key directions and strategies of the Council-endorsed Glendale District Plan. The amendment also includes the addition of an asterisk identifier on Schedule A to the Regional Official Plan to denote the general location of the Glendale District Plan area.

LOCATION OF THE AMENDMENT:

The amendment area is approximately 700 hectares generally bound by Queenston Road to the north, the Niagara Escarpment to the south, Concession 7 Road to the east, and the Welland Canal to the west. The QEW bisects the study area and includes the Glendale Avenue interchange. The study area is primarily comprised of lands within the Town of Niagara-on-the-Lake, with a small portion located in the City of St. Catharines.

BACKGROUND

The Glendale District Plan provides a framework for land use planning and design to support the Region’s focus on growth and economic prosperity. It establishes the long-term commitment to Glendale becoming a mixed use, vibrant and complete community where residents and visitors can meet their daily living needs.

The direction of the Glendale District Plan is a result of ongoing collaboration between the Region and the local municipalities, as well as extensive consultation including 6 public engagement sessions, 5 Technical Advisory Committee meetings, 3 Community Focus Group meetings and numerous meetings with stakeholders, agencies and landowners.

The vision of the District Plan directs the transformation of the Glendale settlement area into a vibrant and complete community; a community that celebrates its distinct character and builds on its unique attributes. The District Plan sets out nine key directions and numerous strategies to achieve the vision. It also contains a land use concept and demonstration plan to assist in guiding this transformation.

The Glendale District Plan was endorsed by the Town of Niagara-on-the-Lake on August 24, 2020 and Regional Council on September 17, 2020.

This Amendment adds policy direction into to the Regional Official Plan to support the vision, key directions and regional strategies of the Glendale District Plan. The policies guide development and support its transformation into a complete, mixed-use, urban community and will ensure that future decisions within the Glendale area are consistent with the vision and direction of the District Plan.

The Amendment also includes direction for future implementation measures to ensure success of the Plan.

BASIS FOR THE AMENDMENT:

- a) The Amendment was the subject of a Public Meeting held under the *Planning Act, 1990* on November 9, 2020. Public and agency comments were addressed as part of the preparation of this Amendment.
- b) The Amendment will provide Regional policy that implement the Council endorsed District Plan's vision and key directions to transform the Glendale District Plan area into a vibrant and complete community for people of all ages, lifestyles, and abilities.
- c) The Amendment will support continued collaboration between stakeholders to advance the key directions of the District Plan.
- d) Based on the Region's review of the *Planning Act, 1990*, the Provincial Policy Statement (2020), the Provincial plans (2017 and 2020), the Regional Official Plan, and public and agency consultation, Regional staff is of the opinion that the amendment represents good planning and is consistent with, conforms with, and does not conflict with Provincial policy.

IMPLEMENTATION:

Section 14, Implementation of the Official Plan for the Niagara Planning Area, shall apply where applicable.

PART “B” – THE AMENDMENT

Amendment 17 To the Official Plan for the Niagara Planning Area

The Official Plan for the Niagara Planning area is amended as follows:

Map Changes (attached)

1. “Schedule A – Regional Structure” is amended to add an asterisk to the map denoting the general location of the Glendale District Plan area.

Text Changes

The Official Plan for the Niagara Planning Area is amended as follows:

Part I – Modifications to Existing Policies

None

Part II – New Policies

1. Add Policy “4.G.14 Glendale District Plan” to Chapter 4.

“4.G.14 Glendale District Plan

The Glendale study area is approximately 700 hectares generally bound by Queenston Road to the north, the Niagara Escarpment to the south, Concession 7 Road to the east, and the Welland Canal to the west. The QEW bisects the study area and includes the Glendale Avenue interchange. The majority of the study area falls within the Town of Niagara-on-the-Lake with a small portion located within the City of St. Catharines.

The Glendale District will be a vibrant and *complete community* for people of all ages, lifestyles, and abilities - a place to live, work, play, learn and grow. Its urban districts, with a mix of uses, will protect, integrate and celebrate the natural and rural surroundings reflecting the distinct character of the area.

Glendale District will be framed by connection to green space along the Welland Canal, the Niagara Escarpment, the creek valleys and agricultural lands.

Glendale District will put mobility first with a robust transit system, cycling trails and pedestrian routes seamlessly connecting areas north and south of the QEW highway.

4.G.14.A Objectives

Objective 4.G.14.A.1

To position the Glendale District Plan area as a *strategic growth area* within the settlement area boundary and transition it to a complete, vibrant, mixed-use, urban community.

Objective 4.G.14.A.2

To ensure the protection and enhancement of Glendale's natural features and *agricultural areas*.

Objective 4.G.14.A.3

To offer a safe, comfortable and connected *active transportation* network while supporting all modes of mobility.

Objective 4.G.14.A.3

To incorporate a centrally located, accessible transit hub/station area.

Objective 4.G.14.A.4

To build on Glendale's existing assets and celebrate its distinct character.

Objective 4.G.14.A.5

To promote a range of housing in terms of built form and affordability.

Objective 4.G.14.A.6

To promote the development of a sustainable and resilient community.

4.G.14.B Policies

4.G.14.B.1

The Glendale District shall become a *complete community* by integrating current and new uses, with a revitalized public realm and compact mixed use development supporting a blend of residential, retail, institutional, recreational, hospitality and employment activities.

4.G.14.B.2

The Glendale District Plan provides the framework for the update to the Niagara-on-the-Lake Glendale Secondary Plan. This update will be supported by technical studies, including but not limited to:

- a) Planning review, including population and employment forecasts;
- b) Transportation study;
- c) Functional servicing study;
- d) Environmental planning study;
- e) Commercial lands review;
- f) Urban design guidelines;
- g) Phasing plan; and
- h) Financial impact assessment.

4.G.14.B.3

A transit station/hub will be centrally located to serve the entire Glendale area and beyond. The final location/configuration, transit operations and logistical requirements for this hub will be determined via the completion of a feasibility study and ongoing discussion with the Inter-Municipal Transit Working Group and other key stakeholders. The transit station/hub may incorporate a mix of uses as determined through feasibility study and consultation.

4.G.14.B.4

In order to support affordability, the Glendale District will encourage a range in the mix and type of housing and units to be built in the community. Information from the Region's Housing and Homelessness Action Plan and consultation with the affordable housing providers will assist in forming guidance and recommendations for *affordable* and supportive housing.

4.G.14.B.5

An *active transportation* network shall be improved by ensuring new development applications incorporate a continuous sidewalk network, cycling infrastructure and safe marked crossings. The existing network shall be enhanced by making it *active transportation-friendly* and displaying signage that is clear and informative throughout the District.

4.G.14.B.6

Opportunities for additional vehicular or *active transportation* connections north to south of the QEW may be studied at a future time.

4.G.14.B.7

The Glendale District Plan is committed to supporting the numerous established business, employment and hospitality assets and building on these assets. Marketing, economic development and tourism strategies shall be pursued to promote existing assets, support opportunities for intensification and attract new assets to the area. The proximity of Niagara District Airport

shall be leveraged as an asset for supporting important social and economic links, including passenger connections, tourism and movement of goods.

4.G.14.B.8

The Glendale *Employment Area* is well situated with high visibility to the QEW and close proximity to the international border and Niagara District Airport. The boundary of this *Employment Area* is shown in the District Plan. Refinements may be made to this boundary with supporting technical analysis through the update to the Town's Glendale Secondary Plan.

4.G.14.B.9

The Glendale District Plan will have a distinct character celebrated by a high-quality public and private realm and incorporation of public art. In accordance with Policy 4.G.14.B.2, urban design shall be further defined through creation of urban design guidelines.

4.G.14.B.10

To build on the distinct character of the community, prominent view corridors to the Niagara Escarpment and surrounding *agricultural areas* shall be identified and protected through viewshed analysis prepared in conjunction with the urban design guidelines outlined in Policy 4.G.14.B.9.

4.G.14.B.11

The Glendale District Plan identifies potential locations for major, minor and character gateways. These gateways shall have a consistent design approach to promote the Glendale area as a unique location within Niagara.

4.G.14.B.12

The Glendale District is uniquely located adjacent to the Niagara Escarpment, a UNESCO World Biosphere Reserve. The Glendale District should capitalize on this unique location to promote research and innovation for the conservation of biodiversity and sustainability.

4.G.14.B.13

Development and re-development within the Glendale District shall consider incorporating measures related to sustainability and resiliency, such as low impact development techniques, green building standards, transit oriented development and other new innovative techniques and technologies that will achieve this direction. The creation of a sustainability strategy shall be directed by the Regional Technical Advisory Committee.

4.G.14.B.14

Land use designations in local Official Plans shall be reviewed in the context of the Glendale District Plan, as well as the Natural Heritage policies of Section

7B, the Niagara Peninsula Conservation Authority policies and regulations, the Greenbelt Plan and the Niagara Escarpment Plan. The environmental features shall be further reviewed and refined through an Environmental Planning Study, or equivalent, prepared to support the Town's Glendale Secondary Plan update.

4.G.14.B.15

The *infrastructure* capacity of the Glendale District shall be assessed through the functional servicing study and monitored to proactively plan for *infrastructure* upgrades and ensure that *infrastructure* capacity is available and development ready.

4.G.14.B.16

A fiscal impact assessment will be completed as part of the Town's Glendale Secondary Plan update to ensure that infrastructure and services are provided in a financially sustainable and responsible manner. The assessment will report on the cost of providing services to new development and redevelopment in the Glendale District. The mechanisms set out in Policy 14.H.3 may be used to offset the financial impact of development. The assessment will also report on an appropriate balance between residential and non-residential assessment.

The assessment will inform any phasing requirements to ensure the logical progression of development.

4.G.14.B.17

Local municipal Official Plans, Secondary Plans, and Zoning By-laws shall be updated to implement the vision, objectives, and policy direction of Glendale District Plan, as required.

4.G.14.B.18

The Land Use Concept and Demonstration Plan Map as shown in the Glendale District Plan shall be used to guide the layout and design of permitted development within the District Plan settlement area.

4.G.14.B.19

The District Plan contains four Special Study Areas as shown on the Land Use Concept and Demonstration Plan. Additional study is required through the Town's Secondary Plan update and ongoing consultation and collaboration.

A) Special Study Area 1: Further to the Land Use Concept and Demonstration Plan, the Niagara Regional Native Centre (NRNC) does not indicate land use direction to reflect the ongoing NRNC Master Plan work.

B) Special Study Area 2: The creation of an Eco-park should be pursued to support the connection to nature, offering opportunities for improved physical and mental health for residents and visitors alike. The Region shall consult with the Province, Transport Canada (or future owner) and local municipality to investigate opportunities for the creation of an Eco-park with passive recreational uses or other complimentary uses in accordance with the Greenbelt Plan.

C) Special Study Area 3: Notwithstanding the direction provided by the Land Use Concept and Demonstration Plan, the lands shown as Southwest Glendale, within the City of St. Catharines, are subject to the Niagara Escarpment Plan and cannot proceed as illustrated without the required planning approvals.

D) Special Study Area 4: The District Plan's Demonstration Plan reflects the Niagara College Campus Master Plan and recognizes the Master Plan guidance in the ongoing collaboration. Regard for the vision, objectives and key directions of the Glendale District Plan shall be given through future review of this Campus Master Plan.

4.G.14.B.20

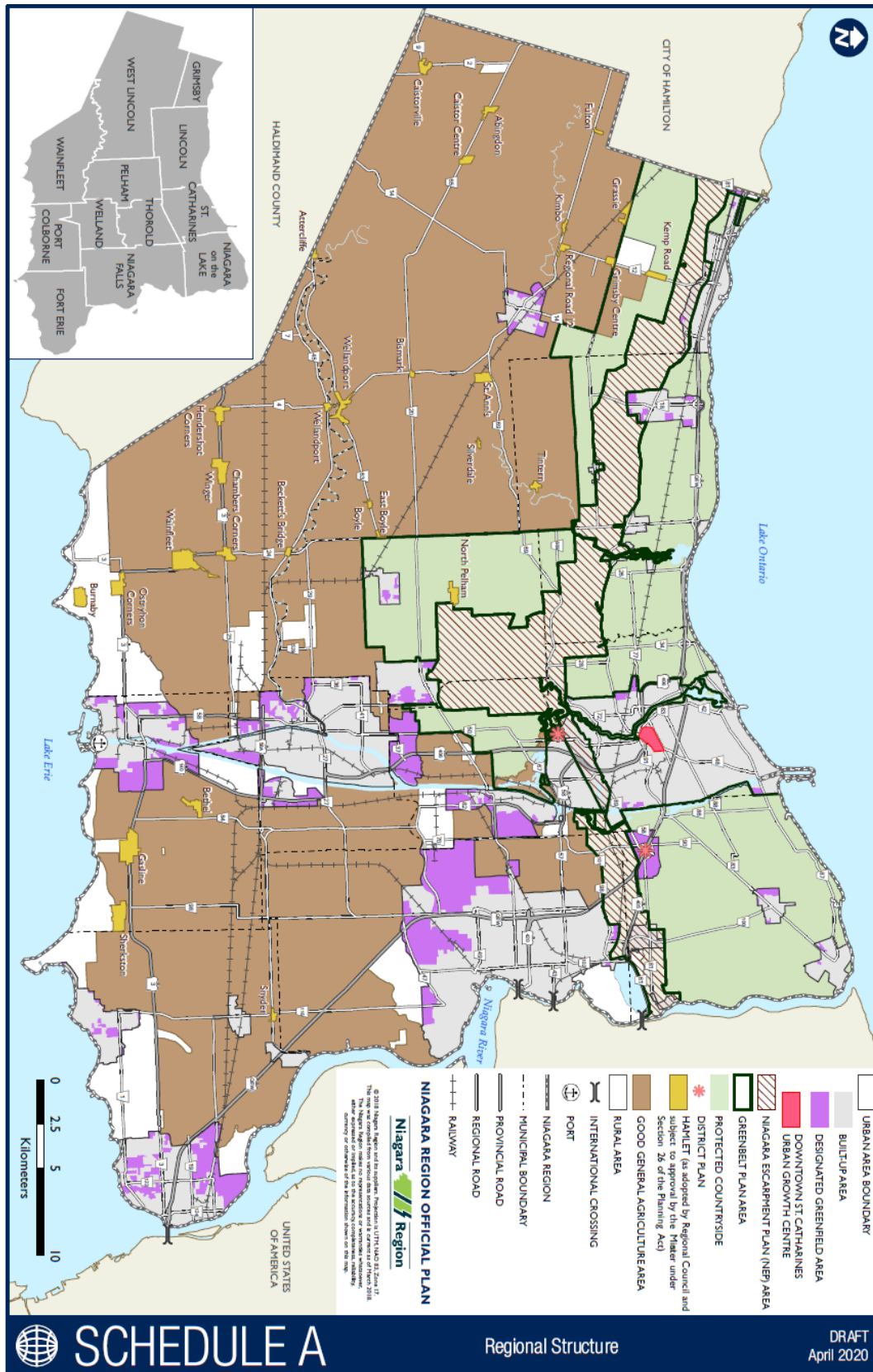
The Glendale District Plan shall be reviewed and updated every 10 years in consultation with stakeholders.

4.G.14.B.21

Minor refinements the land use concept may be permitted as a result of future planning study or technical review provided it is consistent with the overall vision and framework of the Glendale District Plan.

4.G.14.B.22

A Regional Technical Advisory Committee shall be formed by the Region to develop an implementation framework as part of the ongoing commitment to the District Plan.



SCHEDULE A

Regional Structure

DRAFT
April 2020

Appendix 2: Public and Agency Comments

| Comment Origin: | Response: |
|---|---|
| 1. Niagara-on-the-Lake | NOTL Council endorsed ROPA 17. Staff suggested minor edits to the policies. Changes made, as appropriate. |
| 2. St. Catharines | No specific comments. City Staff advised that they did not need to provide formal comments as they have been involved throughout the District Plan process. |
| 3. Niagara College | Campus Master Plan (CMP) complete. Glendale District Plan aligned with CMP. |
| 4. NPCA | Requested change made. |
| 5. Niagara Region – Development Planning | Suggested minor edits. |
| 6. City of Niagara Falls | No comments. Noted. |
| 7. City of Thorold | No concerns. Noted. |
| 8. Hummel Properties – represented by Jennifer Vida | Letter of support. |
| 9. White Oakes – represented by Stephen Bedford | Comments noted. Minor changes made. Will continue to involve in the Secondary Plan process. |
| 10. Ministry of Municipal Affairs – One Window Comments | <p>Strategic Growth Area comment: Change made.</p> <p>Greenbelt Specialty Crop comment: The District Plan Land Use Concept and Demonstration Plan reflect the existing land use designations within the NOTL Official Plan. No changes have been proposed for these lands.</p> <p>Special Study Area (Eco-park): Change made in part. It is understood that additional consultation is required.</p> <p>Additional comments: Noted for future study work.</p> |

| Comment Origin: | Response: |
|---|--|
| 11. Resident – Eric Galloway | Comments noted. Contact added to circulation list and continued involvement in the Secondary Plan process. |
| 12. Kaneff (Southwest Glendale) – represented by Neal De Ruyter | Comments noted. No decision on NEP deferral as of the date of authoring this report. |
| 13. Resident – Gordon Stratford – November 6, 2020 | Evolution of the Outlet Mall comment: Considered through the District Plan process and discussed with the Outlet Mall representative. Noted in the recommendations of the District Plan itself. Diverging Diamond Interchange comment: The Region has been consulted on the DDI design and will continue to engage with MTO consultants through the detailed design/construction process to ensure the safety and comfort of active transportation users. |
| 14. Niagara-on-the-Green Properties – represented by Bousfields | Comment on Flexibility: The District Plan is meant to be used as a guide. The update to the Secondary Plan will provide the more detailed land use direction and further refine land use boundaries. Comment on Eco-park: Noted. Comment on Transit Station/Hub: The District Plan itself provides for further study of the site to determine the site requirements needed for the transit hub. The intent is to have a community facility incorporated with the transit hub and other uses, such as residential, could also be considered in the assessment. |
| 15. Vrancor (represented by Quartek Group) | Summary of land use changes suggested for client's land holdings. Comments noted and will continue to involve in the Secondary Plan process. |

1. Niagara-on-the-Lake Letter:



Department of Corporate Services
1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 • Fax: 905-468-2959

www.notl.org

February 10, 2021

SENT ELECTRONICALLY

Regional Municipality of Niagara
1815 Sir Issac Brock Way, PO Box 1042
Thorold ON L2V 4T7

Attention: Ann-Marie Norio, Regional Clerk

Dear Ms. Norio:

RE: Regional Official Plan Amendment 17 - Glendale District Plan Policies

Please be advised the Council of The Corporation of the Town of Niagara-on-the Lake, at its regular meeting held on November 23, 2020 approved Staff Report CDS-20-036 (attached) which included the following recommendations:

- 1.1 *Council endorse the proposed Niagara Region Official Plan Amendment (ROPA 17), attached as Appendix A to this report; and*
- 1.2 *Council direct Town Staff to submit this report and Town Council comments and minutes with respect to ROPA 17 to the Region of Niagara.*

If you have any questions or require further information please contact our office at 905-468-3266.

Yours sincerely,

Peter Todd, Town Clerk

Cc: Kirsten McCauley – Niagara Region, Senior Planner

3. Niagara College Letter:



Senior Vice President, College Operations

November 2, 2020

Jim Bradley, Regional Chair
Niagara Region
1815 Sir Isaac Brock Way
Thorold, ON
L2V 4T7

Dear Chair Bradley

Re: Niagara College's Master Plan

I'm pleased to provide you with a link to Niagara College's new Master Plan which articulates a cohesive vision of how Niagara College's campuses will transform over the next 10-15 years to meet the evolving needs of a growing and enterprising college.

The Master Plan was developed through collaborative visioning workshops and information-gathering sessions across the college community. Outreach to external community stakeholders, including Niagara Region, the City of Welland and the Town of Niagara-on-the-Lake was also undertaken, to gather their input on the College's future plans.

Specific to our Niagara-on-the-Lake campus, we engaged in parallel consultation on the Glendale District Plan to seek alignment in our respective visions for the future.

VISION STATEMENTS

The following six Vision Statements form the foundation of the Campus Master Plan and will be a measure against which future design decisions are made.

- I. Invite and Showcase
- II. Embrace Pride of Place
- III. Engage and Innovate
- IV. Be Diverse and Welcoming
- V. Lead Pre-Emptive Change
- VI. Drive Economic Growth

Niagara College looks forward to working with our municipal and regional partners as we build an exciting future!

<https://www.niagaracollege.ca/masterplanning/wp-content/uploads/sites/63/2020/10/NC-Master-Plan-Final.pdf>

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Skinner', is written over a light blue rectangular background.

Pamela Skinner
Senior Vice President, College Operations

Cc. Ron Tripp, Acting CAO

4. Niagara Peninsula Conservation Authority:

Good Morning,

Thank you for the opportunity to review and provide comments on the above noted application. The NPCA has no concerns in principle to the overall plan to incorporate policy related to the vision and key directions of the Council endorsed Glendale District Plan into the Regional Official Plan.

The NPCA would request that reference be made to the NPCA and our Regulations/policies particularly in section 4.G.14.B.14 along with other applicable policies and pieces of legislation pertaining to the Natural features within the Plan area.

Please let me know if you have any questions.

Sarah Mastroianni
Manager, Planning and Development, Niagara Peninsula Conservation Authority

5. Development Planning, Niagara Region:

Good afternoon Kirsten,

Thank you for circulating Regional Development Planning staff on Regional Official Plan Amendment (ROPA) No. 17 to implement the Glendale District Plan, which was endorsed by Regional Council on September 17, 2020. Regional staff has reviewed the Draft Amendment (received October 5, 2020), which proposes to add policy to the Niagara Region Official Plan that reflects and supports the implementation of the vision, key directions and strategies of the Council-endorsed Glendale District Plan, and include an asterisk identifier on Schedule A of the Regional Official Plan (ROP) to denote the general location of the Glendale District Plan area.

Regional Development Planning staff are supportive of the intent of ROPA No. 17 to guide development within the Glendale District area, and to implement policies in-text and identify the Glendale District Plan area on Schedule A of the ROP. It is recommended that wording be added to Policies 4.G.14.B.9, 4.G.14.B.10 and 4.G.14.B.13 to clarify when these requirements will be undertaken, whether that be as part of the Regional Technical Advisory Committee to be formed through Policy 4.G.14.B.22 or as part of the update to the Niagara-on-the-Lake Glendale Secondary Plan.

Regional Development Planning staff looks forward to continued collaboration with the Town of Niagara-on-the-Lake, City of St. Catharines and the Technical Advisory

Committee to facilitate the development of the Glendale District area, and contribute to creating a vibrant and complete community.

Should you have any questions regarding the above comments, please contact the undersigned or Lola Emberson (lola.emberson@niagararegion.ca or 905-980-6000 ext. 3518).

Kind regards,
Aimee Alderman, MSc, MCIP, RPP
Development Planner
Planning and Development Services
Regional Municipality of Niagara

6. City of Niagara Falls:

Hi Kirsten,

Thank you for circulating Niagara Region Official Plan Amendment 17- Glendale District Plan to the City for review and comment. City staff have reviewed the draft ROPA (policies and mapping) and offer no objections.

Regards,

Brian Dick

Brian Dick, MCIP, RPP | Manager Policy Planning | Planning, Building & Development | City of Niagara Falls

7. City of Thorold:

November 2, 2020 - EMAIL ONLY

Kirsten McCauley, MCIP, RPP
Senior Planner, Secondary Plans, Planning and Development, Niagara Region

RE: Glendale District Plan- ROPA No. 17

Thank you for the opportunity for the City of Thorold to review and comment on ROPA No. 17 regarding the Glendale District Plan.

The City of Thorold has no concerns with ROPA No. 17. Consideration may be given to numbering/labelling the Districts on the Regional Structure- Schedule A map to clarify the locations of the various Districts (i.e. Glendale District, Brock District, etc.).

With the on-going conformity exercise of the Brock District Plan/Brock Business Park Secondary Plan, there may be opportunity to implement similar policies in the mixed-use and employment areas.

If the City can be of any further assistance, please advise.

Yours truly,

Julie Hannah, MES, MA, MCIP, RPP
Senior Planner

8. Jennifer Vida, on behalf of Hummel Properties:

November 16th 2020

Kirsten McCauley
Planning and Development Services
Niagara Region
1815 Sir Isaac Brock Way
P.O. Box 1042, Thorold, ON. L2V 4T7

Dear Ms. Kirsten McCauley, MCIP, RPP, Senior Planner, Secondary Plans,

Re: Glendale District Plan & Regional Official Plan Amendment No. 17

On behalf of Hummel Properties Inc. (HPI) and 2645162 Ontario Inc., please accept this letter of support in relation to Regional Official Plan Amendment No. 17, which will implement the Glendale District Plan. HPI and 2645162 Ontario Inc. have land holdings within the boundary of the Glendale District Plan Area, more specifically, land holdings that front onto Concession 7 along the eastern boundary of the plan area. The two companies own a total of 57 acres, which are identified to accommodate a large portion of the plans low and medium density residential uses in the future.

HPI and 2645162 have both been actively involved throughout the public consultation and approvals process for the Glendale District Plan and are very happy to see the plan move forward with approval of Regional Official Plan Amendment No. 17.

Regional staff have done a great job in moving this process forward throughout the pandemic and we commend this effort. The Glendale District is a progressive, up and coming area in the Niagara Region that the owners are excited to be a part of.

We would like to thank Regional Staff for their commitment and dedication to making this plan come to fruition and look forward to continuing to work together through the forthcoming secondary planning process.

Thank you.

Sincerely,



Jennifer Vida, MCIP, RPP

9. Stephen Bedford, on behalf of White Oaks:

THX Kirsten for forwarding the Draft OPA to me. I understand this is a Regional level document but I find it so vague that I fear that the next step the Secondary Plan could end up in a different place given all the additional work that is listed,

Surely this Plan that has been endorsed needs to be more than a "Guide" There was a lot of energy spent on creating a "Guide".

More argument from my perspective that we should have gone further at this stage and moved to the next level of detail, the Secondary Plan as part of the ongoing Regional initiative and continuum in the planning process.

Can we find stronger words that Section 4.G14.B.7 "to support numerous established business employment and hospitality assets."

The "Land Use Concept and Demonstration Plan Map" reflects particular thinking in terms of future dev't. In the case of White Oaks the Demonstration Plan identifies specific land use concepts that in fact build on previously approved designation and policies in the existing Secondary Plan. We would have preferred to see the "Land Use Concept and Demonstration Plan be more than just a "Guide" after all the work that has been done.

We would like the confidence that the next step, the Secondary Plan, refines, builds upon the **details** of the Mixed Use High Density and Mixed Use Medium Density proposed development so that we can move forward on refining the draft designs we have developed. Given the present status of a "Guide" we would not want to be put in a position of having to restate any arguments that this concept is appropriate in the face of some future thought that the Demonstration Plan should be reduced in scale.

We would appreciate your consideration of amending these policies to:

Reinforce the status of the Demonstration Plan beyond a "Guide" and

Reinforce the ability of existing "assets" to grow and develop to a great intensity as envisaged in the Goals of the District Plan.

Look forward to discussing these concerns further.

Best Wishes

Stephen

Stephen Bedford MCIP, RPP, PLE

Development Manager

LANDx Developments Ltd.

293-1235 Fairview St.

Burlington, ON L7S 2K9

Office: 905.688.2610 Cell: 905.933.5439

10. Ministry of Municipal Affairs and Housing:

Ministry of Municipal Affairs
and Housing

Municipal Services Office
Central Ontario

777 Bay Street, 13th Floor
Toronto ON M7A 2J3
Fax.: 416 383-6882

Ministère des Affaires municipales
et Logement

Bureau des services aux municipalités
du Centre de l'Ontario

777, rue Bay, 13^e étage
Toronto ON M7A 2J3
Télé.: 416 383-6882



January 11, 2021

Sent via email only

Kirsten McCauley, MCIP, RPP
Acting Manager, Long Range Planning
Planning and Development Services
Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7
kirsten.mccauley@niagararegion.ca

Dear Kirsten McCauley,

**Re: One Window Provincial Review Comments
Region of Niagara Draft Regional Official Plan Amendment No. 17
Glendale District Plan
MMAH File No.: 26-EOPA-207266**

Thank you for requesting comments from the Ministry of Municipal Affairs and Housing (MMAH) through the One-Window Provincial Planning Service on draft Regional Official Plan Amendment No. 17 (ROPA 17) by letter dated October 5, 2020. We understand that draft ROPA 17 is proceeding under section 17 of the *Planning Act* and therefore the Region of Niagara (the Region) is the approval authority.

MMAH staff understand draft ROPA 17 is a first step to implementing the Regional Council-endorsed Glendale District Plan by amending the Niagara Regional Official Plan (ROP). The draft amendment proposes to add policies to Section 4.G of the Niagara ROP to implement the vision to transform the Glendale settlement area into a vibrant and complete community, including key directions and an outline of additional work required. The amendment also includes an asterisk identifier on Schedule A to the ROP to denote the general location of the Glendale District Plan area.

The Glendale District Plan study area is located primarily within the Town of Niagara-on-the-Lake (NOTL), with a small portion located in the City of St. Catharines. The urban lands are designated as Designated Greenfield Area in the Niagara ROP and the remaining lands are designated as Greenbelt Protected Countryside (Specialty Crop Areas) and Niagara Escarpment Plan (NEP) Areas (See **Appendix 1** to this letter).

Draft ROPA 17, including the final Glendale District Plan have been reviewed in the context of the Provincial Policy Statement, 2020 (PPS), A Place to Grow: Growth Plan for the Golden Horseshoe, 2019, as amended (Growth Plan), the Greenbelt Plan, 2017 and the Niagara Escarpment Plan, 2017 (NEP). We circulated the proposed ROPA 17 to the following partner ministries: Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA), Ministry of Natural Resources and Forestry (MNRF) and the Ministry of Transportation (MTO). This letter reflects

coordinated provincial land use planning comments through the One-Window Provincial Planning Service.

Draft ROPA 17 Comments

Glendale as a Strategic Growth Area and Complete Community

MMAH staff understand the Region is using district plans, in collaboration with local municipalities to support growth and development with a focus on Strategic Growth Areas (SGAs). One of the key objectives of ROPA 17 is to "To position the Glendale District Plan area as a *strategic growth area* and transition it to a complete, vibrant, mixed-use, urban community" (Objective 4.G.14.A.1). Ministry staff support this approach.

The Growth Plan directs that within settlement areas, growth will be focused in certain areas, including SGAs and allows municipalities to delineate SGAs and assign minimum densities to them as part of the Municipal Comprehensive Review (MCR) (policies 2.2.1.2, 5.2.3.2 and 5.2.5.3).

ROPA 17 proposes to amend "Schedule A – Regional Structure" of the Niagara ROP to denote the general location of the Glendale District Plan area. There are no minimum density targets included for the SGA. The ministry understands the detailed delineation of the SGA and implementation of the minimum density targets will occur through the Region's new Official Plan / MCR.

We note the final Glendale District Plan includes the study area lands located outside the urban area boundary as well, including lands located within the Greenbelt Protected Countryside and NEP Area. While we understand the purpose of the study area, the detailed delineation of the Glendale SGA through the Region's MCR should not include the lands outside the urban area boundary as SGA's are areas within settlement areas in accordance with the Growth Plan. In addition, the majority of the lands outside the urban area boundary are designated as Specialty Crop Areas within the Greenbelt and settlement areas are not permitted to expand into Specialty Crop Areas. Therefore, the Glendale SGA cannot include the Specialty Crop Areas identified in the Greenbelt Plan.

Recommendation:

The following modification to Objective 4.G.14.A.1 is recommended to clarify the Glendale SGA is within the settlement area boundary to ensure the conformity with the Growth Plan (see **bold text** for suggested additions):

"Objective 4.G.14.A.1

To position the Glendale District Plan area **within the settlement area boundary** as a *strategic growth area* and transition it to a complete, vibrant, mixed-use, urban community."

Greenbelt Specialty Crop Areas

Policy 4.G.14.B.17 of draft ROPA 17 states, Local municipal Official Plans, Secondary Plans, and Zoning By-laws shall be updated to implement the vision, objectives, and policy direction of Glendale District Plan, as required" and Policy 4.G.14.B.18 provides that the 'Land Use Concept and Demonstration Plan' (the Concept Plan) map in the Glendale District Plan should be used as a guide for the layout and design of permitted development. These policies appear to suggest that local official plan land use designations and/or permitted uses may be changed.

The ministry is concerned with certain districts located outside the urban boundary and within the Greenbelt Specialty Crop Area which appear to propose non-agricultural uses. More specifically, District 1, District 6 and a portion of District 12 in the Concept Plan, are identified as 'Service Commercial' and 'Non-Farm Rural' land uses. It is unclear what these land use terms mean and whether the uses will conform with the Specialty Crop Area policies of the Greenbelt Plan.

The above-noted districts are identified as Specialty Crop Area (Niagara Peninsula Tender Fruit and Grape Area) in the Greenbelt Protected Countryside and the primary use of specialty crop lands is for agricultural uses. They are designated 'Unique Agricultural Area' (Specialty Crop Area) in the Niagara ROP. There may be some existing non-conforming residential, institutional uses and commercial uses in this area and the Greenbelt Plan permits legally existing uses (section 4.5). However, since non-agricultural uses are not permitted, the land use for these districts should have been shown as Specialty Crop Area in the final Glendale District Plan to conform with the Greenbelt Plan and Niagara ROP.

Therefore, MMAH/OMAFRA staff is concerned that the proposed non-agricultural land uses in these districts outside the urban boundary could be perceived as already permitted by the Glendale District Plan and thereby pre-empt the local planning process or create policy conflicts between regional and provincial policy, in particular conformity with the Greenbelt Plan.

Requested Policy Revision – Greenbelt Plan conformity:

To avoid a potential perceived conflict between draft ROPA 17 and the Greenbelt Plan with respect to local municipal implementation, the ministry requests the following revision to policy 4.G.14.B.17 and policy 4.G.14.B.18 of draft ROPA 17 (see bold text for suggested additions):

"4.G.14.B.17

Local municipal Official Plans, Secondary Plans, and Zoning By-laws shall be updated to implement the vision, objectives, and policy direction of Glendale District Plan, as required. **Notwithstanding the direction provided by the Land Use Concept and Demonstration Plan, the lands shown outside the settlement area, within the Town of Niagara-on-the-Lake and City of St. Catharines, are subject to the Greenbelt Plan and Niagara Escarpment Plan."**

"4.G.14.B.18

The Land Use Concept and Demonstration Plan Map as shown in the Glendale District Plan shall be used as a guide for the layout and design of permitted development within the District Plan settlement area."

Special Study Area 2 (Eco Park) and the Greenbelt Plan

Draft ROPA 17 includes a Special Study Area 2 (policy 4.G.14.B.19 B) as shown on the Concept Plan (District 8 - Potential Eco Park) that says, "The creation of an Eco-park should be pursued to support the connection to nature, offering opportunities for improved physical and mental health for residents and visitors alike. The Region shall consult with the Province, Transport Canada (or future owner) and local municipality to investigate opportunities for the creation of an Eco-park with passive recreational uses or other complimentary uses."

District 8 is located outside the urban area boundary and within the Greenbelt Protected Countryside and identified as Specialty Crop Area. It is unclear what is intended by the term 'eco-park'. The primary use of specialty crop land is for agricultural purposes. The generic use of the term 'eco park' does not suggest that agriculture will remain the primary land use as it suggests potential opportunities for recreational uses.

Therefore, since these are Greenbelt Specialty Crop Area lands, and non-agricultural uses such as recreational uses are not permitted, the land use in the final Glendale District Plan should have been shown as Specialty Crop Area to conform with the Greenbelt Plan and Niagara ROP.

Requested Policy Revision – Greenbelt Plan conformity:

In light of the foregoing, a modification is requested to policy 4.G.14.B.19 B), Special Study Area 2 to add wording to ensure conformity with the Greenbelt Plan (see bold text for suggested additions):

"4.G.14.B.19

B) Special Study Area 2: Notwithstanding the direction provided by the Land Use Concept and Demonstration Plan, the lands shown as Potential Eco-park within the Town of Niagara-on-the-Lake are identified as Specialty Crop Areas and subject to the Greenbelt Plan. The creation of an Eco-park should be pursued to support the connection to nature, offering opportunities for improved physical and mental health for residents and visitors alike. The Region shall consult with the Province, Transport Canada (or future owner) and local municipality to investigate opportunities for the creation of an Eco-park with passive recreational uses or other complimentary uses to ensure conformity with the Greenbelt Plan."

Natural Heritage

Policy 4.G.14.B.14 of draft ROPA 17 states that "Land use designations in local Official Plans shall be reviewed in the context of the Glendale District Plan, as well as the Natural Heritage policies of Section 7B, the Greenbelt Plan and the Niagara Escarpment Plan. The environmental features shall be further reviewed and refined through an Environmental Planning Study, or equivalent, prepared to support the Town's Glendale Secondary Plan update."

MNRF notes that the provincially significant wetland – 'Upper Six Mile Creek Wetland Complex' is appropriately proposed within an Environmental Protection Area and the 'Welland Canal North Turn Basin Wetland Complex' within a Conservation land use area on the Concept Plan. As well, the provincially mapped Natural Heritage System (NHS) is encompassed within these identified land use areas (with the exception of Special Study Area 3).

MNRF has no concerns with the above-noted policies as it relates to natural heritage features/NHS. MNRF should be consulted if any refinement of the boundaries of these provincially significant wetlands or to the NHS are proposed as boundary changes must be approved by the MNRF.

Special Study Area 3 (Southwest Glendale) and the Niagara Escarpment Plan (NEP)

The draft amendment includes a Special Study Area 3 (policy 4.G.14.B.19 C) as shown on the Concept Plan that says, "Notwithstanding the direction provided by the Land Use Concept and Demonstration Plan, the lands shown as Southwest Glendale, within the City of St. Catharines, are subject to the NEP and cannot proceed as illustrated without the required planning approvals."

MNRF notes that the proposed District 15 (Southwest Glendale) of the Glendale District Plan is outside the Glendale urban area boundary and within the NEP Area and located within the City of St. Catharines. The lands are the subject of a request to MNRF to re-designate the lands from 'Niagara Escarpment Protection Area' to 'Urban Area' which request was submitted through the 2017 Coordinated Plan Review (CPR) to facilitate an urban boundary expansion and develop the lands for urban residential uses.

The request was deferred for further review and the application is currently being reviewed by MNRF and a decision has not been made to date.

Glendale District Plan Comments

Transportation

GO Rail Transit

The Glendale District Plan states that "GO rail transit stop was also identified as another transit option for further investigation "(pg. 31). Recognizing that the existing rail corridor is two kilometres south of the Glendale District, MTO advises that Metrolinx does not have current plans for a new station in the vicinity of the Glendale Study Area and potential future station sites would be subject to future analysis, environmental assessment and business case evaluation. Metrolinx's new market-driven strategy will guide the future development of stations by engaging with developers on transit-orientated communities opportunities.

Regional Transit Hub/Terminal

One of the strategies of the Glendale District Plan is to provide a multi-modal transit hub for inter-regional transit, GO Transit, tourism buses and terminal facilities. Metrolinx requests that GO Transit be a participant in any future discussions regarding the planned Glendale bus Transit Hub/Terminal.

Conclusion

Thank-you for the opportunity to review draft ROPA 17. Please send the ministry a copy of the Notice of Decision when a decision is made. If you have any questions, please do not hesitate to contact me by phone at 416-629-6399 or by email at Louis.Bitonti@ontario.ca.

Sincerely,

< Original Signed By >

Louis Bitonti, MCIP, RPP
Senior Planner
Municipal Services Office – Central

- c. Anneleis Eckert, OMAFRA
Elaine Hardy and Anna Golovkin, MTO
Ian Thornton and Kim Benner, MNRF

Appendix 1 Glendale District Plan Area

Glendale Study Area



11. Resident – Eric Galloway (provided in separate emails):

Thank you for the consideration. If you have time could you tell me in the new development if natural gas will be run to the rural boundaries and if so if that is something that the adjacent properties along this new development can receive. Or if there are any benefits to the property owners beside this new development that we might be able to be compensated with in what is being planed at this time or are the boardering properties not considered with the changes that are happening.

Thank you for the up date is there any talk of considering all the properties in the yellow hatched boarder to become part of the city limits it would allow future growth and municipal services to all those lots that is a interest to me if there is all of this development in our back yard. Us locals sitting lust out side the boarder are seeing the opportunity of growth and development but in the plan it cover the area to queenston street ad york road but no development changes have been made in our rr zoning. We see this change happening around us and we are in the Glendale zone. But are missing out on any benefits of this change to the properties we own in this area. It would be nice for a consideration for our lots to be apart of this change happening around us in the Glendale area.

12. Kaneff (Southwest Glendale) – represented by Neal DeRutyer (MHBC)

Friday, January 15, 2021 8:58 AM

Subject: Kaneff Glendale - Cabinet Update

Good morning Kirsten,

I wanted to provide a quick update on the status of the NEP urban request and Cabinet's decision as I understand the Region provided an update to the Planning Committee on the OP review and settlement boundary review.

We are still awaiting a decision by Cabinet. The item was included on the agenda in late December with what we understand to be an approval recommendation but was pulled due to other circumstances and Provincial priorities. Kaneff continues to push for a decision and we hope to hear back on this shortly. We will keep you posted.

Thanks

Neal

NEAL DERUYTER BES, MCIP, RPP | Partner

MHBC Planning, Urban Design & Landscape Architecture

540 Bingham Centre Drive, Suite 200 | Kitchener | ON | N2B 3X9 | T 519 576 3650 X 733 | F 519 576 0121 | C 519 841 4011 | nderuyter@mhbcplan.com

13. Resident – Gordon Stratford

November 06, 2020

Office of the Regional Clerk,
Niagara Region,
1815 Sir Isaac Brock Way,
Ontario, L2V 4T7

Re: Regional Official Plan Amendment (ROPA) No. 17 – Glendale District Plan

Submitted by email to clerk@niagararegion.ca

To Whom it May Concern,

I would like to submit the following input related to the Glendale District Plan (GDP), for your consideration.

The GDP's strategic vision is for a vibrant and complete mixed-use community within the boundaries of the Glendale District Plan Study Area. The following input is being shared with the goal of supporting and enhancing the strategic vision and goals of the GDP.

OUTLET COLLECTION AT NIAGARA

The GDP is essential to anticipating and framing future growth and change in Niagara Region and the Town of Niagara on the Lake. For the area of the GDP bounded by Glendale Avenue, Taylor Road and Homer Road drawings and views have been created depicting a mixed-use neighbourhood that will form the vibrant centre of the GDP. The future for much this area has been clearly portrayed in the GDP but there is one key part missing, the future of the Outlet Collection at Niagara land.

Like many retail malls the Outlet Collection at Niagara (OCN) was designed to meet market opportunity and conditions at the time of its creation. However, a trend is well underway where malls are proactively planning the future of the land they occupy. This future often includes replacing surface parking (that typically rings a mall) with mixed-use development that can potentially evolve past retail alone to include places to live and work. There are many examples of this evolution in North America, including malls in the Golden Horseshoe/Greater Toronto region. Such future-forward planning will likely be accelerated by the pandemic which has seriously upended the retail market.

The GDP does not currently appear to include this trend, which could be a significant contribution to the GDP's strategic vision. It would be highly beneficial for Niagara Region and the OCN owner to partner towards updating the GDP to include a master plan for the future of the OCN land.

GLENDALE AVENUE BRIDGE CROSSING THE QEW

The GDP's strategic vision for a vibrant and complete mixed-use community is challenged by a major expressway that runs through the centre of the Glendale District Plan Study Area. A complete community must be well connected in order to ensure success, and this connectivity includes providing safe means for people to move throughout the GDP community... whether they drive, are driven, bike or walk.

I understand that the existing Glendale Avenue bridge crossing the QEW will be replaced by a new diverging diamond interchange (DDI). It appears that the DDI offers a more effective/efficient and safer circulation solution for vehicular traffic than the current bridge provides. However, the DDI design may result in far less safety for pedestrians.

Through studying several examples of DDI's there is the possibility that pedestrians would need to cross the vehicular on and off ramps as part of their journey across the DDI bridge. As a result, they would experience the extremely dangerous condition of crossing in front of vehicles moving at speed from and onto the QEW. Depending on how bike circulation is handled in the DDI design similar danger may exist for this mode of transportation as well.

To realise the goals that the GDP has so clearly and correctly stated all means of overcoming the QEW-divide and connecting the Glendale District Plan Area together are essential. With this in mind, it would be a shame to miss the opportunity to design a DDI that fully supports the GDP.

I would be happy to discuss the above items further.

Thanks,

Gordon Stratford

14. Niagara-on-the-Green Lands – represented by Bousfields



Project No. 20362

February 12, 2021

VIA E-MAIL

Kirsten McCauley
Senior Planner – Secondary Plans
Niagara Region
1815 Sir Isaac Brock Way
P.O Box 1042
Thorold, ON L2V 4T7

*Re: Glendale District Plan Review
Draft Policies for Niagara Region Official Plan (ROPA)*

We are the planning consultant for Canadian Niagara Hotels and ARG Group of Companies (the "Owners"), with respect to the Niagara-on-the-Green Lands (the "subject site", NOG) at the northeast corner of Glendale Avenue and Taylor Road in the Town of Niagara-on-the-Lake.

On behalf of our clients, we have reviewed the draft text for Amendment No. 17, which describes the additions and modifications to the Niagara Region Official Plan to reflect and support the implementation of the vision, key directions and strategies of the Council-endorsed Glendale District Plan and wish to provide the following comments.

In general, we are supportive of the overall direction provided by the Draft Amendment and its intent to create a mixed-use and transit supportive community and we applaud staff in this regard. The subject site currently enjoys a higher level of flexibility within the policy framework, namely the Glendale Secondary Plan, which permits a full range of uses and densities throughout the subject site. Although the District Plan and Draft Amendment allows for higher density forms, it does create a more refined neighbourhood structure that could potentially predetermine the location of higher density forms, mixed use areas and parks. While it is understood that a degree of complexity is unavoidable given the scope and scale, it is of our opinion that additional flexibility in the policy language as it relates to the subject site will allow for greater flexibility in implementation of the District Plan and avoid future amendments to the official plan. In addition, it is our opinion that the Draft Amendment should further its objective of providing a complete, vibrant, mixed-use, urban



community and require the Transit Hub be incorporated into a mixed-use development that encourages commercial and higher density commercial uses.

Background – Existing Policy Framework

The subject lands consist of approximately 30 hectares (75 acres) of vacant land located in the Glendale urban area, north of Glendale Avenue, east of Homer Road, and south of the Niagara Collection Outlet mall. The subject lands are future development phases of the Niagara-on-the-Green Subdivision, which is being developed in phases for a mix of uses over a long period of time. A brief history of the subdivided lands is found below:

- Draft Plan approval of the NOG subdivision was originally granted in 1996. Phase 1, residential development to the south of Glendale Avenue and west of Taylor Road was registered in 1999 as Plan 30M-267.
- In 2006, Phase 2, further residential development to the south of Glendale Avenue, was registered as Plan 30M-364.
- In 2012, the 1996 draft plan was extended and modified for the remaining unregistered lands north of Glendale Avenue by order of the Ontario Municipal Board (OMB).
- In 2013, Phase 3, the final phase of residential development south of Glendale Avenue, was registered as Plan 30M-410.
- Also, in 2013, Phase 4, the road network and stormwater pond north of Glendale Avenue, was registered as Plan 30M-415. The lands currently containing the Niagara Collection Outlet Mall were also removed from the draft plan of subdivision in 2013.
- In 2015 a 3-month temporary extension was issued before Council approved a 3-year extension of draft plan approval in 2016.
- A subsequent one (1) year extension of draft plan approval was approved in 2018 and is set to lapse on December 28, 2019. Staff recommended that the extension of draft approval be limited to 1 year to provide an opportunity to evaluate the conformity of the draft approved plan with the policies of the proposed Glendale District Plan, which had recently been announced by the Niagara Region.

The following summarizes the existing policy framework with respect to the subject site.

The subject site is a *Designated Greenfield Area* in the ROP, which will be planned as compact, complete communities with a range of uses, including residential, commercial, institutional, recreational employment and other uses. With respect to density, the ROP



establishes a minimum density for the *Designated Greenfield Area* of 50 people and jobs per hectare. The subject lands in its entirety are designated as *Urban Residential* in the Town-of-Niagara-on-the-Lake Official Plan (the "Town OP"). We note that the western limit of the subject site along Homer Street to the west are designated for *Future Urban Use*.

Furthermore, the subject lands are designated as *Niagara-on-the-Green Residential Community* (Schedule F1) in the Glendale Secondary Plan Area (the "Secondary Plan"). In accordance with the Secondary Plan height maps, the *Niagara-on-the Green Residential Community* will be comprised of 1-3 storey buildings along the perimeter of the subject lands with 2-5 storey buildings located in the interior lots and blocks. We note that notwithstanding the *Urban Residential* policies of the Town OP, the maximum overall density of residential development (including land for streets, pathways, parks, schools and stormwater management) shall be 25 units per hectare (see Policy 3.9 g) of the Secondary Plan).

Finally, we note that the subject site in its entirety is subject to two different zoning codes (Figure 2). The portion of the lands on the northwest corner of Glendale Avenue and Taylor Road is zoned as Village Commercial (VC) and the remainder of the lands are zoned Residential Multiple Zone (RM2, RM3, RM4, RM5).

Comments on the Draft Amendment

Flexibility

- In our opinion, Policy 4.G.14.B.17 should be refined or interpreted so that the future updates to the policy framework that apply to the District Plan, including the subject site, should not apply a rigid land use policy framework based on the conceptual district plan.
- Policy 4.G.14.B.19: We note that in addition to the lands identified in this letter (also the lands contained within the approved Draft Plan – 26T 95005 Revised), our client has acquired additional lands from the St. Lawrence Seaway Authority on the east side of Homer Street, which will need to be considered as well. This portion is located in the Greenbelt Plan Area and is further identified as Special Study Area 1 in the Glendale District Plan, which is intended for an Eco-Park. We are aware of the environmental constraints associated with these lands and are supportive of investigating the range of permitted uses including any opportunity for public uses.



Transit Hub

- Policy 4.G.14.B.3: While the policy objectives to incorporate a centrally located, accessible transit hub/station area are clear, it is our opinion that the policy should be rewritten to emphasize the mixed-use nature of the node and its ability to accommodate additional density and support the objectives of the existing zoning and secondary plan. More specifically, in our opinion, this policy should be revised to not only permit mixed use development on the *Transit Hub* lands but require that the future transit hub be incorporated into a mixed use development that encourages commercial and higher density commercial uses. Furthermore, the policy framework should provide clarity regarding the amount of land required for the Transit Hub and encourage a coordination of the station with the future development on the *Transit Hub* lands.

We trust that the foregoing comments are of assistance in refining the proposed draft policies, should you have any questions or wish to discuss any of these matters in greater detail, please do not hesitate to contact the undersigned or Aisha Jallow of our office.

Yours truly,

Bousfields Inc.
David Falletta MCIP, RPP

DF:aj/jobs

cc. P. Wadsworth, Canadian Niagara Hotels
C. Iacobelli, ARG Group of Companies
N. Wilson, Niagara-on-the-Lake

15. Vrancor (represented by Quartek Group)



Date: 14 January 2021
Project No: 13254.104P

Regional Municipality of Niagara
Planning and Development Services
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON, L2V 4T7

Attn: Kirsten McCauley, MCIP, RPP
Senior Planner, Secondary Plans

**Re: Glendale Niagara District Plan – Vrancor Development Corp. Land Holdings
Requested Amendment to the Land Use Designation**

Dear Ms. McCauley,

Quartek Group has been retained by Vrancor Development Corporation referred to as "Proponent", to prepare this planning justification for the request to amend the designation of the Proponents' land holdings, of which consists of approximately 11.56 hectares (28.56 acres) as shown in the map below.

Map 1 – Proponent Land Holdings



T 905 984 8676
89 - 91 St. Paul Street, Suite 100,
St. Catharines, ON L2R 3M3
www.quartekgroup.com

Glendale Niagara District Plan
Vrncor Development Corp. Land Holdings and Requested Amendment to the Land Use Designation

We understand that the Glendale District Plan was endorsed by the Region of the Niagara Council on September 17, 2020 (ROPA 17) and formerly endorsed by the Town-of Niagara-on-the-Lake Council on August 24, 2020 for the commitment to the shared vision and key directions for the transformation of Glendale into a mixed use, complete community.

According to the Glendale Land Use Concept and Demonstration Plan shown below, the land uses that apply to the Proponents land holdings include:

- Environmental/Conservation
- Mixed Use Medium Density
- Employment
- Hospitality

Map 2 – Glendale Land Use Concept and Demonstration Plan



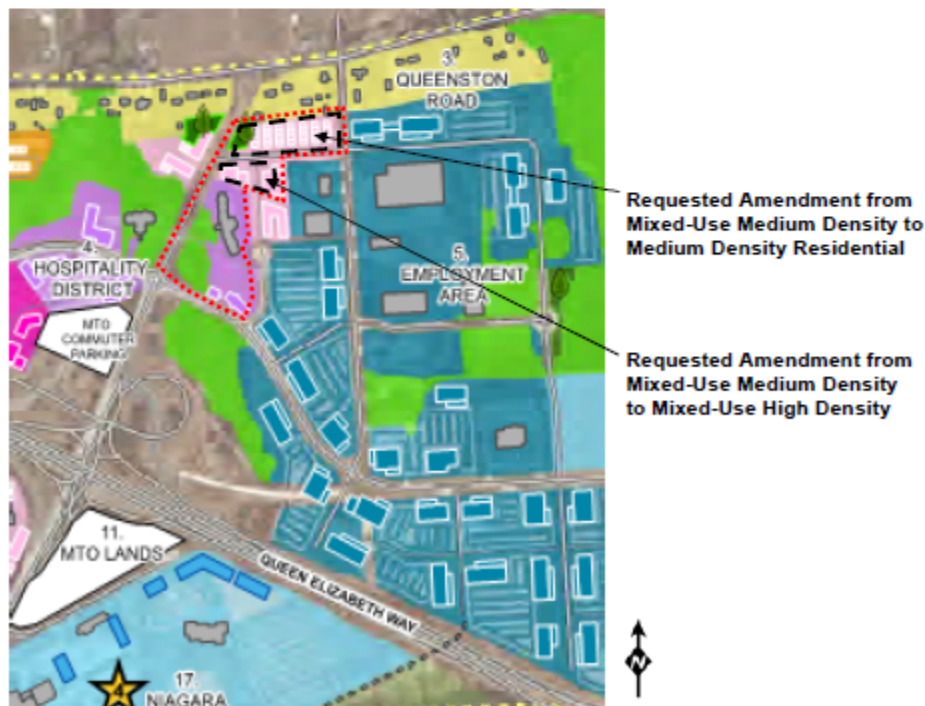
**Glendale Niagara District Plan
Vancor Development Corp. Land Holdings and Requested Amendment to the Land Use Designation**

The Environmental/Conservation designation is important to protect the natural features that surround the area including the woodland and Six Mile Creek while incorporating them into development plans and preserving the appropriate connections throughout the larger study area. The Proponent is seeking an amendment to a small section of the Environmental/Conservation designation for the internal road connection that traverse westerly from the Glendale Avenue cul-de-sac west of the Hilton Garden Inn and connects to Counsell Street which leads southerly to York Road. The Proponent is not considering amendments to the remainder of the designation at this time and will be subject to further environmental investigations to determine the significance of the natural features and the potential impacts to the function of the ecological systems located on the Proponents lands.

The Mixed-Use designation promotes development that includes more than one type of land use within the same building or on the same site. The associated Medium Density designation allows for denser built form such as townhouses, as well as low-rise and mid-rise apartment buildings. This designation applies to the Proponents land holdings located closer to Queenston Road and it is requested that the Mixed-Use designation be removed and only permit the Medium Density Residential.

The justification to remove the mixed-use type of development is to gradually phase in residential uses from the low density uses along Queenston Road and marginally become denser towards York Road with the mixture of townhouse units and apartment units in the medium – high density designation.

Map 3 – Requested Amendment: Mixed-Use Medium Density to Medium Density Residential and Mixed-Use High Density

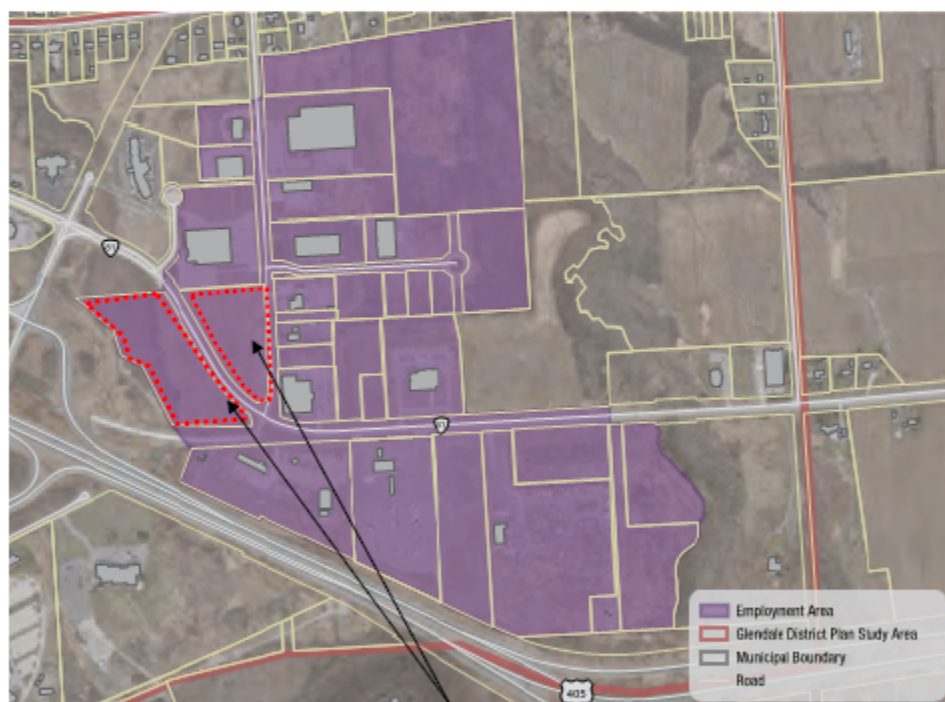


**Glendale Niagara District Plan
Vancor Development Corp. Land Holdings and Requested Amendment to the Land Use Designation**

The Hospitality designation is building upon the existing cluster of hotels and provides opportunities for other complementary uses to support the hotels (e.g., restaurants, retail). The Proponent is not considering amendments to this designation at this location since it has easy access to the QEW and caters to the travelling public and promotes more commercial offerings to the surrounding local residents and businesses.

The Employment designation appears to offer an abundance of land and quite possibly attributed to the existing cluster of industrial businesses and employment uses in the area as well as being positioned to benefit from the Niagara District Airport, access to the QEW and close proximity to international borders. However, the Proponent is requesting an amendment to the Employment designation on portions of his land holdings and allow for the Mixed-Use High Density designation instead.

Map 4 – Requested Amendment: Employment to Mixed-Use High Density



**Requested Amendment from Employment to
Mixed-Use High Density**

The requested amendment for the mixed-use would allow for commercial/employment uses on the ground level up to 2 or 3-storeys and high density residential above to the maximum density/height restrictions. The justification for the requested amendment is because there is a higher probability for these lands to become developed with flexibility for residential uses.

Glendale Niagara District Plan
Vrancor Development Corp. Land Holdings and Requested Amendment to the Land Use Designation

The mixed-use designation at these locations will contribute to the reduced dependency on the vehicles and promote the use of alternative modes of travel with the proposed accessible connections with the Regional and local transit systems and active trails and transportation facilities.

The requested amendment is not removing employment opportunities from the area rather offer and support opportunities for people of all ages and abilities to conveniently access necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and public service facilities. This requested amendment is consistent with the PPS 2020 and Growth Plan policies for the creation of complete communities where people can live, work, and play.

In summary, the Proponent has presented to the Regional Council and the Town Council for the requested amendments as they pertain to the land holdings of which generally meet the intent of the Glendale District Plan's vision for driving growth and economic prosperity in this strategic growth area for the Region.

The requested amendments include:

- Change Mixed-Use Medium Density to Medium Density Residential (Map 3)
- Change Mixed-Use Medium Density to Mixed-Use High Density (Map 3)
- Change Employment to Mixed-Use High Density (Map 4)

On behalf of the Proponent, we would like to request a meeting to discuss the next steps on how to apply the requested amendments to the Glendale District Plan.

Sincerely,



Susan Smyth
Senior Planner

cc: Richard Wilson – Town of Niagara-on-the-Lake
Gunther Bluesz – Vrancor Developments
Leigh Whyte – PLW Consulting
Doug Peters – Quartek Group

MEMORANDUM

PDS-C 23-2021

Subject: Referred Niagara River Ramsar Designation Endorsement Motion for Consideration

Date: March 10, 2021

To: Planning and Economic Development Committee

From: Ann-Marie Norio, Regional Clerk

At its meeting held on February 25, 2021, Regional Council referred consideration of a motion to endorse the Ramsar designation to the Planning and Economic Development Committee (PEDC) meeting being held on March 10, 2021.

An overview of the Ramsar designation for the Niagara River was first brought before Planning and Development Committee (PDC) in September 2014 by way of Report PDS 39- 2014 (attached as Appendix I) which was received for information.

At its meeting held on September 2, 2015, Planning and Development Committee considered Report PDS 36-2015 (attached as Appendix II) which recommended that Regional Council endorse the designation of the Niagara River as a Ramsar site of international importance. PDC deferred the endorsement, requesting that staff return with a report after the Town of Fort Erie and the Town of Niagara-on-the-Lake each provide endorsement for the Ramsar project. While the Town of Fort Erie and City of Niagara Falls both endorsed the Ramsar designation, the Town of Niagara-on-the-Lake did not.

In June of 2020, the Niagara River Ramsar Designation Bi-national Steering Committee reached out to Regional staff to indicate they were interested in revisiting the request for Regional endorsement. The Ramsar Steering Committee presented to PEDC at its meeting held on September 9, 2020 and the Planning and Economic Development Committee recommended endorsement of the designation.

At the September 17, 2020 meeting of Regional Council, the endorsement of the Ramsar designation was referred to staff to engage outside legal counsel to research the implications of a Ramsar designation on the Niagara River in so much as such a designation could affect the agricultural properties throughout the Region. The Planning

and Economic Development Committee was provided with the external legal opinion at its meeting held on February 17, 2021 (attached as Appendix III).

The Niagara River Ramsar Designation Bi-national Steering Committee has submitted correspondence dated March 4, 2021, requesting support for the Ramsar designation. This correspondence has been included on the agenda for the March 10 PEDC meeting as PDS-C 24-2021, Agenda Item 7.11.

As the motion to endorse the designation was referred to the Planning and Economic Development Committee, the following motion is before Committee for consideration:

That the Regional Municipality of Niagara ENDORSE the nomination of the Niagara River as a Wetland of International Importance (Ramsar Site).

Respectfully submitted and signed by

Ann-Mario Norio
Regional Clerk

Appendices:

Appendix I PDS 39-2014

Appendix II PDS 36-2015

Appendix III CWCD 2021-60



REPORT TO: Planning and Development Committee

SUBJECT: Canadian/American Partnership Approach to Promote the
Niagara River Corridor as a 'Wetland' of International
Importance

RECOMMENDATIONS

1. That this report **BE RECEIVED** for information.
2. That this report **BE CIRCULATED** to local area municipalities and the Niagara Peninsula Conservation Authority.

PURPOSE

The purpose of this report is to provide Regional Council with an overview of a partnership project between Canadian and American agencies to designate the Niagara River Corridor as a Ramsar Site and the region-wide benefits of this designation. Ramsar sites are wetlands of international importance, designated under the Ramsar Convention.

This report on the Niagara River Corridor as a Ramsar Site aligns with Council Business Plan Theme 1: Responsive Region and Theme 4: Environmentally Responsible.

BUSINESS IMPLICATIONS

There are no direct financial or regulatory implications related with this report. The Niagara Parks Commission is the lead 'nominating' agency on the Canadian side. As the majority of the ground-work is being done by the SUNY Buffalo Law team at the University at Buffalo, there are no financial requirements at this time aside from staff time, which is within current budgets. At this time, Niagara Region's staff commitments are only required for Working Group meetings and documentation review.

Ramsar is voluntary, non-regulatory, and non-binding and therefore there are no legal or legislative implications associated with this designation. Wetland protection legislation is and will continue to be under the jurisdiction of the Ontario Ministries of Natural Resources and Environment and the Department of Fisheries and Oceans Canada.

As this designation is non-regulatory, there would be no additional enforcement requirements or development limitations; just a commitment from landowners to follow sustainable practices. While the designation would encompass the entire Niagara River, each landowner/stakeholder is only responsible for its own property.

REPORT

Background

The Ramsar Convention is a voluntary intergovernmental treaty that is committed to encouraging education and sustainable development as a means of protecting global wetlands. The Convention uses a broad definition of the type of wetlands covered in its mission, including lakes and rivers, swamps and marshes, wet grasslands and peatlands, oases, estuaries, deltas and tidal flats, near-shore marine areas, mangroves and coral reefs, and human-made sites such as fish ponds, rice paddies, reservoirs, and salt pans. The purpose of this treaty signed in Ramsar, Iran, in 1971, is to promote conservation and wise use of wetland areas through local, national, and international sustainable development practices. These sustainable practices are a framework for maintaining ecological, hydrological, social as well as economic characteristics and functions of Ramsar sites. The criteria for obtaining Ramsar designation is provided in Appendix I. Sites must meet one of nine criteria.

Opportunity to Designate the Niagara River Corridor

The Niagara River Corridor Ramsar Working Group has been working collectively with representatives from both Canada and the United States to determine the feasibility of designating the Niagara River Corridor as a Ramsar wetland site. Canadian representatives include The Niagara Parks Commission, Niagara Region, Ontario Ministry of Natural Resources, Niagara Peninsula Conservation Authority and Brock University. American Representatives include Niagara River Greenway Commissions, New York State Department of Environmental Conservation, US Fish and Wildlife Service, SUNY Buffalo, and Buffalo Niagara Riverkeepers. Canada currently has 37 Ramsar designated sites, including Long Point and Point Pelee. If the Niagara River Corridor is designated as a Ramsar site, it will mark the first trans-boundary site in North America.

The Niagara Parks Commission has elected to be the lead 'nominating' agency on the Canadian side because they currently own and manage a significant portion of the Niagara River (Canadian side) up to the Canada/U.S border. The Niagara River consists of characteristics that satisfy several of the convention's criteria, making it eligible for ecological, hydrological, social and economic protection under Ramsar wetland designation.

To date, a wide variety of agencies have been included and consulted with on this initiative as noted above. It is anticipated that public consultation will be done in the

near future, and private residents living along the Niagara River will need to be consulted.

Regional Benefits

This designation will allow for Niagara Region to further foster cooperation and partnership between the United States and Canada to ensure conservation both within and around the Niagara River Corridor. Such a partnership will allow Niagara Parks Commission and more broadly the Niagara region to showcase their image as an international leader in environmental and ecological sustainability.

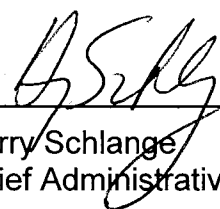
The Ramsar designation of the Niagara River Corridor will promote increased public awareness of the River's importance through research and development. More specifically, the Niagara Parks Commission and its partners will have the potential to lead research and development programs alongside United States representatives to improve understanding of the River and preserve its ecological importance.

As a Ramsar site, the Niagara River Corridor will also open up greater opportunities for expanding tourism programming both along the river and throughout the region. This process will also provide opportunities for members of the public to participate in consultation processes and discussions pertaining to the significance of environmental and ecological conservation of the region.

Approved by:



Mary Lou Tanner, MCIP, RPP
Acting Commissioner
Planning and Development Services



Harry Schlange
Chief Administrative Officer

This report was prepared by Pegah Tootoonchian, Policy Planning Student and reviewed by Katelyn Vaughan, Project Manager, Community and Long Range Planning; Curt Benson, MCIP, RPP, Acting Director, Community and Long Range Planning; and Bob Seguin, Director of Economic Development.

APPENDICES

Appendix I Ramsar Designation Criteria and Niagara River Corridor Criteria Alignment

PDS 39-2014
September 24, 2014
Appendix I
Page 4 of 4

Appendix I: Ramsar Designation Criteria and Niagara River Corridor Criteria Alignment

| Ramsar Criteria | Ramsar Criteria Description |
|------------------------|---|
| 1 | Site is representative, rare or unique. |
| 2 | Site supports vulnerable or endangered species, or threatened ecological communities.* |
| 3 | Site supports keystone or endemic species.* |
| 4 | Site supports species at a critical stage in their life cycles (migration, breeding, and nesting).* |
| 5 | Site supports 20,000 or more water birds.* |
| 6 | Site supports 1% of the individuals in a population of one species of water bird. |
| 7 | Site supports 1% of individuals in a population of one species or subspecies of wetland-dependent non-avian animal species. |
| 8 | Site supports a significant proportion of indigenous fish species. |
| 9 | Site is an important source of food, spawning ground, and nursery and/or migration path for fish.* |

** Niagara River Corridor characteristics that align with Ramsar Criteria*

REPORT TO: Planning and Development Committee

MEETING DATE: Wednesday, September 02, 2015

SUBJECT: Proposed Niagara River Ramsar Designation

RECOMMENDATIONS

1. That this report be **RECEIVED** for information;
2. That Regional Council **ENDORSE** the designation of the Niagara River as a Ramsar site of international importance;
3. That the Town of Niagara-on-the-Lake, the City of Niagara Falls, the Town of Fort Erie, the Niagara Peninsula Conservation Authority (NPCA) and the Niagara Parks Commission (NPC) **BE ADVISED** of Regional Council's endorsement; and,
4. That this report **BE CIRCULATED** to the Town of Niagara-on-the-Lake, the City of Niagara Falls, the Town of Fort Erie, the Niagara Peninsula Conservation Authority (NPCA) and the Niagara Parks Commission (NPC).

KEY FACTS

- Regional Council received an information report regarding the Ramsar designation on October 2, 2014 and requested that the report be circulated to the International Niagara Board of Control.
- A designation for the Niagara River to become a Ramsar site of international importance is being sought by U.S. and Canadian agencies in order to recognize the importance of the Niagara River's contribution to the natural environment.
- The Ramsar Convention is a voluntary intergovernmental treaty that is committed to encouraging education and sustainable development as a means of protecting global wetlands. The Convention uses a broad definition of the type of wetlands covered in its mission, including lakes and rivers.
- The designation will not impose any additional regulations on property owners along the Niagara River Corridor.

- The designation will open up greater opportunities for expanding tourism programming, promote increased public awareness of the River's importance through research and development, and allow for Niagara region to further foster cooperation and partnership between the United States and Canada to ensure conservation both within and around the Niagara River Corridor.

CONSIDERATIONS

Financial

There are no financial considerations associated with this report.

Corporate

A staff member from Planning and Development Services is a member of the Niagara River Corridor Ramsar Working Group. In addition to the Working Group, there is a Ramsar Steering Committee, which Niagara Region is not involved in. The Steering Committee is comprised of key organizations that are leading the Ramsar designation process. Local representatives from the Niagara Parks Commission, the Niagara Peninsula Conservation Authority, the Environmental Sustainability Research Unit (Brock University) and Niagara College are part of the Steering Committee.

Governmental Partners

The Niagara River Corridor Ramsar Working Group has been working collectively with representatives from both Canada and the United States to determine the feasibility of designating the Niagara River Corridor as a Ramsar wetland site. Canadian representatives include The Niagara Parks Commission, Niagara Region, Ontario Ministry of Natural Resources, Niagara Peninsula Conservation Authority and Brock University. American Representatives include Niagara River Greenway Commissions, New York State Department of Environmental Conservation, US Fish and Wildlife Service, SUNY Buffalo, and Buffalo Niagara Riverkeepers. The Council's of the Town of Niagara-on-the-Lake, the City of Niagara Falls and the Town of Fort Erie have all received a presentation on the Ramsar designation. To date, Niagara Falls has endorsed the designation. Niagara-on-the-Lake and Fort Erie Council's have asked their staff to provide a staff report before they determine whether or not to endorse the Ramsar designation.

Public and/or Service Users

This designation will allow for Niagara Region to foster cooperation and partnership between the United States and Canada to ensure conservation both within and around the Niagara River Corridor. Such a partnership will allow the Niagara Parks Commission

and more broadly the Niagara region to showcase their image as an international leader in environmental and ecological sustainability.

The Ramsar designation of the Niagara River Corridor will promote increased public awareness of the River's importance through research and development.

More specifically, the Niagara Parks Commission and its partners will have the potential to lead research and development programs alongside United States representatives to improve understanding of the River and preserve its ecological importance.

As a Ramsar site, the Niagara River Corridor will also open up greater opportunities for expanding tourism programming both along the river and throughout the region.

This will also provide opportunities for members of the public to participate in consultation processes and discussions pertaining to the significance of environmental and ecological conservation of the region.

ANALYSIS

The Niagara River was deemed by the International Joint Commission (IJC) in the early part of the 19th century as the most degraded place in North America. By the 1970's there were over 700 chemical industries, steel mills, oil refineries, etc. discharging over 950 million litres of wastewater into the Niagara River each day. In response to environmental degradation around the Great Lakes, the Great Lakes Water Quality Agreement (GLWQA) was first signed in 1972 between Canada and the U.S. The goal of the agreement is to work in collaboration to restore and maintain the overall integrity of the Great Lakes Basin ecosystem. Significant progress has been made to address nutrients and toxic chemicals in the basin, however; localized concentrated effort was determined to be needed. In 1987, an amendment to the GLWQA identified 43 Areas of Concern ("hot spots") around the Great Lakes. The Niagara River was designated as one of the 43 Areas of Concerns (AOCs), resulting in the development of a Remedial Action Plan (RAP).

To date, major accomplishments have been made in the Niagara River including the establishment of modern regulatory frameworks and abatement programs, resulting in over 99% reduction of point source discharges. Significant reductions in toxic chemicals have been achieved including numerous contaminated sediment remediation projects. Removing the Niagara River from the "List" of degraded places in the Great Lakes is a priority identified in the 2012 amended GLWQA and the 2014 renewed Canada Ontario Agreement (COA). The goal is to "de-list" the river as an AOC by March 2020.

Through the cooperation of all government agencies, stakeholders and the active involvement of the public, the Niagara River has been successfully remediated from one of the most degraded places in North America to one of the most ecologically healthy and diverse areas in the world. In order to acknowledge this achievement and change

the narrative of the river, a Steering Committee has been established of key advisors and agency representatives from Canada and the US who have in-depth knowledge of the river and the region.

The Steering Committee includes representatives from The Niagara Parks Commission, the Niagara Peninsula Conservation Authority, Buffalo Niagara Riverkeeper, the Regional Institute (SUNY Buffalo), the Environmental Sustainability Research Unit (Brock University), Niagara College, members at large: Kerry Mitchel (formerly with the Canadian Consulate). The Steering Committee is recommending the pursuit of a Ramsar designation for the river in order to acknowledge its global contributions to ecological significance, rich biodiversity and healthy, resilient communities.

The Ramsar Convention is a voluntary intergovernmental treaty, committed to encouraging education and sustainable development as a means of acknowledging global wetlands. The Convention uses a broad definition of wetlands, it is defined as any substrate that is at least occasionally wet, including lakes and rivers. The purpose of this treaty signed in Ramsar, Iran, in 1971, is to promote the conservation and wise use of water-based ecosystems through local, national, and international sustainable practices.

What Ramsar Is:

- An honorary endorsement of ecological significance (an affirmation through designation of the global ecological importance the Niagara River already has).
- A voluntary, non-regulatory Convention treaty, signed by 168 countries including Canada and the United States. Canada signed in 1981 and currently has 37 Ramsar sites.
- A mechanism to encourage ecological sustainability through increased public awareness of the rivers global contribution to biodiversity and ecological goods and services. (i.e. increased tourism and recreation).
- A mechanism to encourage higher international engagement and cooperation.

What Ramsar Is Not:

- A wetland designation.

Ontario has a very specific understanding of the word “wetland” and its meaning. The Niagara River is not a wetland under the Ontario Wetland Evaluation System (i.e., from a regulatory perspective, a Ramsar designation would in no way implicate the Niagara River as a Provincially Significant Wetland). The Convention uses the term in its widest application to apply to any water related feature (land that is wet). As a result, the term translates across many languages and cultures at its broadest definition to define water-based ecosystems globally.

- The Convention is not policy or law, with no regulatory obligations imposed.

The designation will not impact, restrict or limit any user's ability to use the river whether for recreation, business or commerce. A Ramsar designation will not impose regulatory obligations or take away anyone's rights and ability to enjoy their properties.

To qualify for Ramsar designation, the site must meet at least one of the following nine criteria:

1. Is representative, rare, or unique.
2. Supports vulnerable, endangered or threatened species.
3. Supports keystone or endemic species.
4. Supports species at a critical stage in their life cycles (migration, breeding).
5. Supports 20,000 or more waterbirds.
6. Supports 1% of the individuals in a population of one species of waterbird.
7. Supports a significant proportion of indigenous fish species.
8. An important food source, spawning area, nursery or migration path for fish.
9. Supports 1% of the individuals in a population of one species or subspecies of wetland-dependent non-avian animal species.

The Ramsar Steering Committee has confirmed the Niagara River meets all nine criteria. There are 2,200 Ramsar sites globally; only 35 (1%) of these sites meet all nine criteria. The Niagara River would be the first bi-national Ramsar site in North and South America (the America's).

The Process for Designation:

- i. Selection of a site nominator. A site nominator is the appropriate administrative authority (the parties holding title to the land or water). The Canadian bed of the Niagara River is owned by the Province of Ontario (Crown). The Niagara Parks Commission (NPC) holds a lease from the "Crown" for the river bed and therefore could be an appropriate site nominator. The NPC is currently reviewing the requirements associated with being a nominator. The proposed nominator on the U.S. side is the Greenway Commission.
- ii. Completion of a nomination package which includes:
 - A completed Ramsar Information Sheet (RIS) which verifies the site (i.e. meets at least one of the nine criteria necessary for designation). The RIS has been completed for both countries; the river meets all nine criteria.
 - Written endorsement from the province of Ontario represented by the Ministry of Natural Resources and Forestry (MNRF).
 - Concurrence from the landowner (The Niagara Parks Commission).
 - Proof of engagement with stakeholders (local municipalities, users of the river, etc.)

Next Steps for Designation:

Once an appropriate nominator is chosen, written endorsements (support) must be obtained for the proposed designation from each agency that has an interest in the river. These agencies would include local municipal and regional governments, local conservation clubs, businesses, aboriginal community, etc. Written endorsement has been received from Ontario Power Generation (OPG), the Niagara Peninsula Conservation Authority, and the City of Niagara Falls, ON.

Nomination submission:

The Ramsar Steering Committee will submit the completed nomination package to the Director General, Canadian Wildlife Service, Ottawa. The Service will coordinate and facilitate the review of the nomination (approximately six months) with appropriate organizations. Once reviewed and deemed to be complete, the nomination package will be submitted to the Ramsar Convention Bureau for review in Switzerland. The Director General of the Canadian Wildlife Service will forward the nomination to the Bureau through the office of the Minister of Environment for Canada. Acceptance or rejection of nominated sites (approximately six month review) is the responsibility of the Ramsar Bureau.

Although the Niagara River Ramsar Site Steering Committee is pursuing **the first transboundary Ramsar site designation in the America's**, both Canada and the United States must submit a separate application, as each country has different procedural requirements. The transboundary designation occurs at the end of the process once each country has met the procedural requirements for designation. It is possible to designate only one side of the river. Dual designation is required for transboundary status.

In Ontario, the opportunity to endorse the Ramsar designation is being presented to the Town of Niagara-on-the-Lake, the City of Niagara Falls, the Town of Fort Erie, the Niagara Peninsula Conservation Authority, Ontario Power Generation (the largest consumer of water along the Niagara River) and the Niagara Parks Commission. To date, the Niagara Peninsula Conservation Authority, Ontario Power Generation and the City of Niagara Falls have endorsed the Ramsar designation.

ALTERNATIVES REVIEWED

Staff recommend that Regional Council endorse the proposed Ramsar designation because of the benefits that it will create for tourism, research and public awareness and the fact that there are no regulatory requirements associated with the designation.

Regional Council may choose not to endorse the Ramsar designation or may choose to defer the endorsement until such time as Niagara-on-the-Lake and Fort Erie Councils

have endorsed the Ramsar designation (these Council's have deferred their endorsements until they have received a staff report).

ORIGIN OF REPORT

This report is being brought forward by staff at the request of the Ramsar Steering Committee, who will be delivering a presentation to Planning and Development Committee on behalf of the Ramsar Steering Committee.

OTHER PERTINENT REPORTS

- PDS 39-2014, Canadian/American Partnership Approach to Promote the Niagara River Corridor as a 'Wetland' of International Importance; October 2, 2014

SUBMITTED & SIGNED BY:

Rino Mostacci, MCIP, RPP
Commissioner
Planning and Development Services

APPROVED & SIGNED BY:

Harry Schlange
Chief Administrative Officer

This report was prepared by Katelyn Vaughan, Senior Planner, Community and Long Range Planning and reviewed by Mary Lou Tanner, MCIP, RPP, Chief Planner and Director, Community and Long Range Planning

MEMORANDUM

CWCD 2021-60

Subject: Release of Confidential Report PDS 2-2021 - Implications of a Ramsar Designation on the Niagara River

Date: February 26, 2021

To: Regional Council

From: Ann-Marie Norio, Regional Clerk

At its meeting held on Thursday, February 25, 2021, Regional Council approved the following recommendation of its Planning and Economic Development Committee:

That Confidential Report PDS 2-2021, dated February 17, 2021, respecting A Matter of Advice that is Subject to Solicitor-Client privilege under s. 239(2) of the Municipal Act, 2001 - Implications of a Ramsar Designation on the Niagara River, **BE RECEIVED**; and

That the Planning and Economic Development Committee **RECOMMEND** that Confidential Report PDS 2-2021 including Appendix 1 authored by Willms & Shier dated January 18, 2021, respecting Implications of a Ramsar Designation on the Niagara River, be released publicly subject to Council approval.

Confidential Report PDS 2-2021, including Appendix 1 in accordance with the above recommendation, is attached to this memo.

Respectfully submitted and signed by

Ann-Marie Norio
Regional Clerk

Subject: A Matter of Advice that is Subject to Solicitor-Client privilege under s. 239(2) of the Municipal Act, 2001 - Implications of a Ramsar Designation on the Niagara River

Confidential Report to: Planning and Economic Development Committee

Report date: Wednesday, February 17, 2021

Recommendations

1. That the legal opinion of Willms & Shier dated January 18, 2021 regarding the implications of a Ramsar designation on the Niagara River **BE RECEIVED** for information.

Key Facts

- The purpose of this report is to provide the opinion of external legal counsel regarding the implications of a Ramsar designation on the Niagara River as directed by Regional Council.
- External legal counsel Jacquelyn E. Stevens, a certified Environmental law Specialist of the law firm Willms & Shier Environmental Lawyers LLP, was retained accordingly and has provided a legal opinion attached as **Appendix 1**.
- The Ramsar Convention is a voluntary global treaty that promotes the conservation and wise use of wetlands. It is not a regulatory instrument and has no punitive sanctions for violations.
- Designating the Niagara River as a Wetland of International Importance under the Ramsar Convention will not, on its own, change the regulatory regime currently in place for the Niagara River or its surrounding area. It is possible that a Ramsar designation could serve as an impetus for future changes to the status of the Niagara River.
- The area proposed to be designated includes only the water on the Canadian side of the Niagara River, from Lake Ontario to Lake Erie. The proposed site excludes privately-owned lands along the shoreline, private holdings that extend into the Niagara River and private railroad bridges that cross the Niagara River. The area to be designated also excludes any tributaries or their estuaries flowing into the river.
- Designating a site as a Wetland of International Importance under the Ramsar Convention offers no legal protection for the site, but the site will continue to be subject to existing mechanisms for protection and legal requirements.

- Support for the designation would represent a commitment to the conservation and wise use of the Niagara River.

Confidential Matter

This Report provides Council with legal advice that is subject to solicitor-client privilege and as such meets the requirements of section 239(2)(f) of the *Municipal Act, 2001* for consideration at a closed meeting.

Financial Considerations

There are no financial implications arising from consideration of this report.

Analysis

The Ramsar Bi-National Committee made a presentation to the Planning and Economic Development Committee on September 9, 2020 seeking the endorsement of the Region for the proposed nomination of the Niagara River as a Wetland of International Importance pursuant to the Ramsar Convention. As a result, the following resolution was approved by Regional Council on September 17, 2020;

*That the endorsement of the Ramsar designation **BE REFERRED** to staff to engage outside legal counsel to research the implications of a Ramsar designation on the Niagara River in so much as such a designation could affect the agricultural properties throughout the Region; and*

*That the research **INCLUDE** but not be limited to assessment of potential sites, their limitations and how any such designation would work with other provincial and federal agencies and policy documents and provides the Ramsar status of other agencies and organizations and municipalities in the Region of Niagara.*

In accordance with Council direction, external legal counsel Jacquelyn E. Stevens, a certified Environmental law Specialist of the law firm Willms & Shier Environmental Lawyers LLP, was retained and has provided a legal opinion attached to this report as **Appendix 1**. External legal will be in attendance at the Planning and Economic Development Committee on February 17, 2021 to answer any questions.

As indicated in the attached memo, the Ramsar Convention is a voluntary global treaty that promotes the conservation and wise use of wetlands. It is not a regulatory instrument and has no punitive sanctions for violations.

Designating the Niagara River as a Wetland of International Importance under the Ramsar Convention will not, on its own, change the regulatory regime currently in place for the Niagara River or its surrounding area.

Since the withdrawal of The Niagara Parks Commission, there is currently no lead Nominator of the site which is required to advance the designation. Based on the requirements for nomination, a site nominator is the party holding title to the subject land or water, meaning that either the NPC or the Province would likely need to agree to be the nominator for the designation to proceed, based on the proposed area to be designated. The Ramsar Steering Committee has been in communication with the Province about the designation and determining a nominator.

The specific area currently proposed to be designated includes only the water on the Canadian side of the Niagara River, from Lake Ontario to Lake Erie. The proposed site excludes privately-owned lands along the shoreline, private holdings that extend into the Niagara River and private railroad bridges that cross the Niagara River. The area to be designated also excludes any tributaries or their estuaries flowing into the River.

The designation of a site requires the implementation of various management activities in alignment with existing legislative and policy requirements (as Federal and Provincial legislation, regulations and policies continue to apply to sites designation under the Ramsar Convention as they had prior to designation); however designation does not restrict activities that are legally permitted under current regulations and there are no additional enforcement mechanisms.

In Canada, designating a site as a Wetland of International Importance under the Ramsar Convention, offers no legal protection for the site but the site will continue to be subject to existing mechanisms for protection and legal requirements.

Support for the Ramsar designation of the Niagara River would signal a commitment on the part of Niagara Region to the preservation and enhancement of the Niagara River as a wetland of international importance. The designation could be a driver for future changes to the status of the Niagara River.

Alternatives Reviewed

N/A; this report provides an external legal opinion for information purposes at the direction of Regional Council.

Relationship to Council Strategic Priorities

This report relates most closely to Objective 3.2 of the 2019-2022 Council Strategic Plan, "Environmental Sustainability and Stewardship", reproduced below:

- A holistic and flexible approach to environmental stewardship and consideration of the natural environment, such as in infrastructure, planning and development, aligned with a renewed Official Plan;
- Drive environmental protection and addressing climate change such as through increasing waste diversion rates and reducing our carbon footprint.

Other Pertinent Reports

- PDS 39-2014
- PDS 36-2016
- CL-C 99-2020
- PDS-C 11-2020

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This report was reviewed by Doug Giles, Acting Commissioner, Planning & Development Services.

Appendices

Appendix 1 Memorandum from Willms & Shier Environmental Lawyers LLP dated
January 18, 2021

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Memorandum Privileged and Confidential

To: Niagara Region
Attn: Donna Gibbs, Director, Legal and Court Services

From: Jacquelyn Stevens and Lauren Wortsman, Willms & Shier Environmental Lawyers LLP

Date: January 18, 2021

File: 10078

Re: Designation of the Niagara River as a Wetland of International Importance under the Ramsar Convention

cc:

| | | |
|-----|--|-----|
| 1 | BACKGROUND AND PURPOSE | 2 |
| 2 | CONCLUSIONS..... | 3 |
| 2.1 | QUESTION 1: IMPLICATIONS OF DESIGNATING THE NIAGARA RIVER AS A WETLAND OF INTERNATIONAL IMPORTANCE | 4 |
| 2.2 | QUESTION 2: HOW DESIGNATION WORKS WITH FEDERAL AND PROVINCIAL LEGISLATION AND POLICIES | 5 |
| 2.3 | QUESTION 3: STATUS OF SUPPORT FOR DESIGNATION BY MUNICIPALITIES, AGENCIES, AND ORGANIZATIONS | 7 |
| 3 | DISCUSSION..... | 9 |
| 3.1 | THE RAMSAR CONVENTION..... | 9 |
| 3.2 | QUESTION 1: IMPLICATIONS OF DESIGNATING THE NIAGARA RIVER AS A WETLAND OF INTERNATIONAL IMPORTANCE | 13 |
| 3.3 | QUESTION 2: HOW DESIGNATION WORKS WITH FEDERAL AND PROVINCIAL LEGISLATION AND POLICIES | 17 |
| 3.4 | QUESTION 3: STATUS OF SUPPORT FOR DESIGNATION BY MUNICIPALITIES, AGENCIES, AND ORGANIZATIONS | 22 |
| | APPENDIX A – KEY DOCUMENTS..... | A-1 |
| | APPENDIX B – DETAILS OF MUNICIPALITIES’ AND AGENCIES’ POSITION | B-2 |



1 BACKGROUND AND PURPOSE

The Convention on Wetlands of International Importance especially as Waterfowl Habitat (the “Ramsar Convention”) is an intergovernmental treaty that provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources.¹ The Ramsar Convention was adopted on February 2, 1971 in Ramsar, Iran.² It entered into force in 1975.³

Canada joined the Ramsar Convention on May 15, 1981.⁴

In 2013, the Niagara Corridor Ramsar Site Steering Committee (“Ramsar Steering Committee”) was established to oversee and provide assistance in applying to designate Niagara River as a Wetland of International Importance under the Ramsar Convention.

On September 17, 2020, the Regional Council for the Niagara Region passed the following resolution:

That the endorsement of the Ramsar designation **BE REFERRED** to staff to engage outside legal counsel to research the implications of a Ramsar designation on the Niagara River in so much as such a designation could affect the agricultural properties throughout the Region; and

That the research **INCLUDE** but not be limited to assessment of potential sites, their limitations and how any such designation would work with other provincial and federal agencies and policy documents and provides the Ramsar status of other agencies and organizations and municipalities in the Region of Niagara.

Niagara Region retained Willms & Shier Environmental Lawyers LLP to address the questions posed by this resolution.

As such, this memorandum addresses the following three questions:

- 1 What are the implications of designating the Niagara River as a Wetland of International Importance under the Ramsar Convention and how will designation affect the agricultural properties in the Niagara Region?
- 2 How will the designation of the Niagara River under the Ramsar Convention work with other provincial and federal legislation and policies?
- 3 What is the status of support for or opposition to designation of the Niagara River under the Ramsar Convention by other municipalities, agencies, and organizations in the Niagara region?

¹ Ramsar, <https://www.ramsar.org/>.

² Ramsar Handbook 1, *An Introduction to the Convention on Wetlands*, 5th ed (2016) at 8, https://www.ramsar.org/sites/default/files/documents/library/handbook1_5ed_introductiontoconvention_e.pdf [Ramsar Handbook 1”].

³ *Ibid.*

⁴ Ramsar, “Canada”, <https://www.ramsar.org/wetland/canada>.



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2 CONCLUSIONS

- ♦ The mission of the Ramsar Convention is to promote “the conservation and wise use of all wetlands through local, regional and national actions and international cooperating, as a contribution towards achieving sustainable development throughout the world.”
- ♦ Designating the Niagara River as a Wetland of International Importance under the Ramsar Convention will not, on its own, change the regulatory regime currently in place for the Niagara River, or the area around the Niagara River.
- ♦ The Ramsar Convention is a voluntary treaty. It is not a regulatory instrument and it has no punitive sanctions for violations of or defaulting upon its commitments.
- ♦ The area proposed to be designated includes only the water on the Canadian side of the Niagara River, from Lake Ontario in the north to Lake Erie in the South. The site excludes privately-owned land along the shoreline, private holdings that extend into the Niagara River, and private railroad bridges that cross the Niagara River. The area to be designated also excludes any tributaries or their estuaries flowing into the Niagara River.
- ♦ The Niagara Peninsula Conservation Authority (“NPCA”) passed a motion on November 20, 2019 to endorse and support the proposed nomination of the Niagara River as a Ramsar site. The NPCA confirmed in 2018 that it will continue to only use the existing Land Use Planning and regulatory frameworks when providing review of development applications to ensure that existing NPCA and Region of Niagara Core Natural Heritage policies are satisfied.
- ♦ The Niagara Parks Commission (“NPC”) initially supported the designation and was to be the lead nominator during the designation process. However, on September 10, 2020, NPC Board members voted against acting as the lead nominator for the designation and to step down from participating in the Ramsar Steering Committee.
- ♦ A Ramsar designation could be the driver for future changes to the Niagara River’s status, such as a change from designation as a Coastal Wetland to a Significant Coastal Wetland under Ontario’s Provincial Policy Statement.
- ♦ While Ramsar designation does not restrict the activities that municipalities are legally entitled to engage in under current legislation and regulations, Ramsar designation may require additional management activities. Determining exactly what future management, legislative and policy requirements Ramsar designation may impose on municipalities is beyond the scope of this memorandum.
- ♦ A Ramsar designation would serve to confirm Niagara Region’s commitment to environmental stewardship and healthy living policies both currently in place and being developed as part of the New Niagara Region Official Plan review.



2.1 QUESTION 1: IMPLICATIONS OF DESIGNATING THE NIAGARA RIVER AS A WETLAND OF INTERNATIONAL IMPORTANCE

- ♦ Designating the Niagara River as a Wetland of International Importance under the Ramsar Convention will not, on its own, change the regulatory regime currently in place for the Niagara River, or the area around the Niagara River.
- ♦ The mission of the Ramsar Convention is to promote “the conservation and wise use of all wetlands through local, regional and national actions and international cooperating, as a contribution towards achieving sustainable development throughout the world.”⁵
- ♦ The Ramsar Convention is a voluntary treaty. It is not a regulatory instrument and it has no punitive sanctions for violations of or defaulting upon its commitments.⁶
- ♦ In Canada, designating a site as a Wetland of International Importance under the Ramsar Convention offers no legal protection for the site.⁷
- ♦ The Government of Canada and the Government of Ontario confirmed that designating the Niagara River as a Wetland of International Importance under the Ramsar Convention carries no regulatory implications.⁸ The Government of Canada confirmed this opinion as recently as June 2020. As far as we are aware, the Government of Ontario has not confirmed this opinion since September 2015. Given changes in political leadership and changes to the *Conservation Authorities Act*,⁹ it is recommended that an updated opinion be sought from the Government of Ontario. We understand that the Ramsar Steering Committee has been in communication with the Government of Ontario about the designation and determining a Nominator.¹⁰

⁵ Ramsar Handbook 1, *supra* note 2 at 2.

⁶ *Ibid* at 14.

⁷ Government of Canada, “Management of Canadian Ramsar Sites” (1996) at 3, <http://nawcc.wetlandnetwork.ca/Management%20of%20Can%20Ramar.pdf> [Canada, “Management of Ramsar Sites”].

⁸ Letter from Environment Canada to Community & Development Services, Town of Niagara-on-the-Lake dated September 10, 2015 in the NPCA Full Authority Meeting Agenda (26 March 2018) at 35, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf; Letter from Environment and Climate Change Canada to NPCA dated November 8, 2019 in the NPCA Full Authority Meeting Agenda (20 November 2019) at 6, https://npca.ca/images/uploads/board_files/F.A..AGENDA_20191120_.pdf; Letter from Jacey Scott to Jim Bradley dated June 10, 2020 in the Niagara Region Planning and Development Services’ Report CWCD 248-2020 to Regional Council (11 September 2020) at 34, <https://www.niagararegion.ca/council/Council%20Documents/2020/council-correspondence-sep-11-2020.pdf>; Letter from Ontario Ministry of Natural Resources and Forestry to Community & Development Services, Town of Niagara-on-the-Lake dated September 16, 2015 in the NPCA Full Authority Meeting Agenda (26 March 2018) at 37, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf; Niagara Corridor Ramsar Site Steering Committee, “Niagara River Proposed Ramsar Designation: Frequently Asked Questions” in the Town of Niagara-on-the-Lake’s “Information Report to Council” (24 March 2016) at 38, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/\\$FILE/Information%20Report%20Ramsar%20Update.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/$FILE/Information%20Report%20Ramsar%20Update.pdf) [“Ramsar Steering Committee FAQ”];

⁹ RSO 1990, c C27.

¹⁰ Telephone call between Jocelyn Baker and Lauren Wortsman on January 15, 2021.



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- ♦ While the area proposed to be designated under the Ramsar Convention initially included some protected greenspaces and riparian areas along the Niagara River,¹¹ these areas have since been excluded from designation. The area proposed to be designated includes only the water on the Canadian side of the Niagara River, from Lake Ontario in the north to Lake Erie in the South.¹² The site excludes privately-owned land along the shoreline, private holdings that extend into the Niagara River, and private railroad bridges that cross the Niagara River.¹³ The area to be designated also excludes any tributaries or their estuaries flowing into the Niagara River.¹⁴
- ♦ Guidance documents on implementing the Ramsar Convention set out various management activities for Ramsar sites. Existing federal and provincial legislation and policies may already require governments and management bodies to carry out these activities. To the extent that municipalities are compliant with existing wetlands legislation and policies, there may be no net new requirements with which to comply. Where municipalities have not implemented strategies for compliance with existing wetlands legislation and policies, designation may create a need for enhanced wetland management given that designation signals a higher level of commitment to preservation of the wetland. However, Ramsar designation itself would not create additional enforcement mechanisms for failure to implement wetland management.
- ♦ While a Ramsar designation does not restrict the activities that municipalities are legally entitled to engage in under current regulations, Ramsar designation may require additional management responsibilities. Determining exactly what future management activities and legislative and policy requirements a Ramsar designation may impose on municipalities is beyond the scope of this memorandum.

2.2 QUESTION 2: HOW DESIGNATION WORKS WITH FEDERAL AND PROVINCIAL LEGISLATION AND POLICIES

- ♦ Both the Federal Policy on Wetland Conservation and Ontario's Wetland Conservation Strategy for Ontario 2017-2030 contain commitments promoting the Ramsar Convention.¹⁵

¹¹ NPCA Report No 32-18, "Designation of the Niagara River as a RAMSAR Site" dated March 26, 2018 in the NPCA Full Authority Meeting Agenda (26 March 2018), at 32, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf.

¹² Jocelyn Baker, Jajean Rose-Burney and Kerry Mitchell, "Niagara River Ramsar Presentation" at slide 11, <https://pub-niagararegion.escrimetings.com/filestream.ashx?DocumentId=11169>. Telephone call between Jocelyn Baker and Lauren Wortsman on January 15, 2021.

¹³ Jocelyn Baker, Jajean Rose-Burney and Kerry Mitchell, "Niagara River Ramsar Presentation" at slide 11 <https://pub-niagararegion.escrimetings.com/filestream.ashx?DocumentId=11169>.

¹⁴ Email from Jocelyn Baker to Lauren Wortsman dated January 15, 2021 re Niagara River Ramsar – Presentation.

¹⁵ Government of Canada, "The Federal Policy on Wetland Conservation" (1991) at 11, <http://nawcc.wetlandnetwork.ca/Federal%20Policy%20on%20Wetland%20Conservation.pdf>; Government of Ontario, "A Wetland Conservation Strategy for Ontario 2017–2030 Framework" at 35, https://files.ontario.ca/mnr_17-075_wetlandstrategy_final_en-accessible.pdf.



- ♦ Ramsar sites in Canada continue to be subject to existing mechanisms for protection, including a site's existing status within areas such as national or provincial parks, national wildlife areas, and federal or provincial/territorial bird sanctuaries.¹⁶ For example,
 - Point Pelee in Ontario was designated as a Ramsar site on May 27, 1987.¹⁷ Point Pelee is administered as a National Park under the *Canada National Parks Act*.¹⁸ Restrictions on land use in Point Pelee result from its designation as a National Park, rather than its designation under the Ramsar Convention.
 - Long Point in Ontario was designated as a Ramsar site on May 24, 1982. Lands administered by the Canadian Wildlife Service have been designated as National Wildlife Areas under the *Canada Wildlife Act*¹⁹ since 1973. Lands administered by the Ontario Ministry of Natural Resources and Forestry ("MNR") are designated either as provincial park or controlled through the *Public Lands Act*.²⁰ The Long Point Region Conservation Authority owns and administers its property under the *Conservation Authorities Act*. The wetlands of Long Point are also zoned as Environmental Protection Areas under the official plan for the Regional Municipality of Haldimand-Norfolk.²¹
 - The Fraser River Delta in British Columbia was first designated under the Ramsar Convention in 1982. The designation was expanded in 2012 to cover additional wetland areas. The site comprises of 70% cultivated farmland.²² The site is protected as a National Wildlife Area under the *Canada Wildlife Act* and as a Migratory Bird Sanctuary under the *Migratory Birds Convention Act*.²³ A portion of the Delta falls within the framework of the multilateral/intergovernmental Fraser River Estuary Management Program, which is aimed at sustaining the Delta's natural productivity.²⁴ Non-wetland areas within the site continue to provide products and services of long-term interest to local communities.²⁵ For example, hay crops are harvested on agricultural land within the boundaries of the Alaksen National Wildlife Area in the Delta.²⁶ Such regulated land uses are part of the site's applicable land use management planning process.²⁷

¹⁶ Canada, "Management of Canadian Ramsar Sites", *supra* note 7 at 3.

¹⁷ Ramsar Sites Information Service, Point Pelee, <https://rsis Ramsar.org/ris/368>.

¹⁸ SC 2000, c 32; Ramsar, Information Sheet on Ramsar Wetlands, "Canada 26: Point Pelee National Park" at page 2, <https://rsis Ramsar.org/RISapp/files/RISrep/CA368RIS.pdf>.

¹⁹ RSC, 1985, c W-9.

²⁰ RSO 1990, c P43.

²¹ Ramsar Information Sheet, "Canada 2: Long Point National Wildlife Ontario" at page 5, <https://rsis Ramsar.org/RISapp/files/RISrep/CA237RIS.pdf>.

²² Ramsar Information Sheet, "Canada 9: Alaksen, British Columbia", at page 1, https://rsis Ramsar.org/RISapp/files/RISrep/CA243RISformer2001_EN.pdf.

²³ SC 1994, c 22; *Ibid*.

²⁴ Ramsar Information Sheet, "Canada 9: Alaksen, British Columbia", at page 1, https://rsis Ramsar.org/RISapp/files/RISrep/CA243RISformer2001_EN.pdf.

²⁵ Canada, "Management of Canadian Ramsar Sites", *supra* note 7 at 3.

²⁶ *Ibid*.

²⁷ *Ibid*.



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- ♦ Designation of the Niagara River as a Ramsar site will not directly cause changes to the management of the Niagara River under federal, provincial and municipal wetlands legislation or policy.
- ♦ The Niagara River is currently designated as a Coastal Wetland under Ontario's Provincial Policy Statement, 2020.²⁸ Designation of the Niagara River as a Wetland of International Importance under the Ramsar Convention could be the driver for the Province to designate the Niagara River as a Significant Coastal Wetland.²⁹ Such a change in policy designation could create additional restrictions for the Niagara River. In this way, designation of the Niagara River under the Ramsar Convention could result, albeit not directly, in changes to the regulation of the Niagara River and surrounding area.

2.3 QUESTION 3: STATUS OF SUPPORT FOR DESIGNATION BY MUNICIPALITIES, AGENCIES, AND ORGANIZATIONS

- ♦ The NPCA passed a motion on November 20, 2019 to endorse and support the proposed nomination of the Niagara River as a Ramsar site.³⁰ The NPCA confirmed in 2018 that it will continue to only use the existing Land Use Planning and regulatory frameworks when providing review of development applications to ensure that existing NPCA and Region of Niagara Core Natural Heritage policies are satisfied.³¹
- ♦ Bill 229 was approved by the Government of Ontario on December 8, 2020. Bill 229 makes changes to various legislation, including the *Conservation Authorities Act*. These changes do not directly impact the definition of "wetlands" or NPCA's Land Use Planning and regulatory frameworks for reviewing development applications.
- ♦ The NPC initially supported the designation and was to be the lead nominator during the designation process. However, on September 10, 2020, NPC Board members voted against acting as the lead nominator for the designation and to step down from participating in the Ramsar Steering Committee.³²

²⁸ Government of Ontario, "Provincial Policy Statement, 2020 under the *Planning Act*" (1 May 2020).

²⁹ Memorandum from Callum Shedden to John Henricks re Opinion – Potential Impacts of RAMSAR Wetland Designation for Niagara River (21 March 2016) at 47, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/\\$FILE/Information%20Report%20Ramsar%20Update.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/$FILE/Information%20Report%20Ramsar%20Update.pdf).

³⁰ NPCA Full Authority Meeting Minutes (20 November 2019), at 3, https://npca.ca/images/uploads/board_files/FAMinutes_11202019.pdf.

³¹ Letter from Niagara Peninsula Conservation Authority to the Director of Community & Development Services, Town of Fort Erie (8 October 2015) at 1, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/\\$FILE/Appendix%20D%20-%20NPCA%20Correspondence.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/$FILE/Appendix%20D%20-%20NPCA%20Correspondence.pdf); NPCA Report No 32-18, "Designation of the Niagara River as a RAMSAR Site" dated March 26, 2018 in the NPCA Full Authority Meeting Agenda (26 March 2018), at 31, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf.

³² Allan Benner, "Niagara Parks slammed for lack of support for Ramsar designation", St. Catharines Standard (22 September 2020), <https://www.stcatharinesstandard.ca/news/niagara-region/2020/09/21/niagara-parks-slammed-for-lack-of-support-for-ramsar-designation.html>.



- If the Niagara River is to be designated under the Ramsar Convention, a new nominator will need to be identified. Based on the requirements for nomination (see section 3.1.2.3 of this memorandum, below), a site nominator is the party holding title to land or water. Accordingly either the Province of Ontario would need to be the nominator, or the NPC would need to change its position and be the nominator. We understand that the Ramsar Steering Committee has communicated with the Government of Ontario concerning the appropriate nominator.³³
- ♦ The Town of Fort Erie has supported the designation of the Niagara River since 2015.³⁴
- ♦ The City of Niagara Falls supported the designation of the Niagara River in 2015.³⁵ The current position of the City of Niagara Falls and the outcome of a closed meeting held on October 6, 2020 relating to Ramsar designation is unknown.³⁶
- ♦ The Town of Niagara-on-the-Lake's Council initially supported the designation in principle in July 2015.³⁷ However, the Agricultural Advisory Committee recommended that Council not support the designation on February 3, 2016.³⁸
- ♦ Niagara Region's current Official Plan contains commitments to environmental stewardship and healthy living policies.³⁹ A Natural Environment Background Study conducted in the development of a new Official Plan states that the Region's policies related to meeting objectives for a healthy landscape should be updated to reflect current Provincial Policy, including by reviewing targets for wetland cover.⁴⁰

³³ Telephone call between Jocelyn Baker and Lauren Wortsman on January 15, 2021.

³⁴ The Municipal Corporation of the Town of Fort Erie, Council-in-Committee Meeting Minutes (2 November 2015) at 10, [http://www.forterie.ca/WebSite/minutes.nsf/0/9EF2173A2E59A06E85257EEC006A61F0/\\$File/Nov2c-minutes.pdf](http://www.forterie.ca/WebSite/minutes.nsf/0/9EF2173A2E59A06E85257EEC006A61F0/$File/Nov2c-minutes.pdf).

³⁵ Niagara Falls, Regular Council Meeting Minutes (28 July 2015) at 3, <https://docs.niagarafalls.ca/WebLink/DocView.aspx?id=753625&dbid=0&repo=nfalls-doc&searchid=6c34118a-b5f8-44f5-8a30-60fb418c4713>.

³⁶ City of Niagara Falls, Resolution (6 October 2020), <https://docs.niagarafalls.ca/WebLink/DocView.aspx?id=1024773&dbid=0&repo=nfalls-doc&searchid=6c34118a-b5f8-44f5-8a30-60fb418c4713>.

³⁷ Niagara-on-the-Lake, Community and Development Advisory Committee Minutes (27 July 2015), <https://domino.notl.com/sites/notl/NOTLCOTW.nsf/BF5BF13826D2CAA28525783E006E878E/E8498B83D495908385257E8F004DDAB2>.

³⁸ Niagara-on-the-Lake, Agricultural Advisory Committee Minutes (3 February 2016) at 3, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74c6e02bcbf6fc1c8525783e00620d4e/93e557a63ec663aa85257f47005a7fa0/\\$FILE/Agricultural%20Advisory%20Minutes%20-%20February%203,%202016.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74c6e02bcbf6fc1c8525783e00620d4e/93e557a63ec663aa85257f47005a7fa0/$FILE/Agricultural%20Advisory%20Minutes%20-%20February%203,%202016.pdf).

³⁹ Niagara Region, Official Plan (2014), Chapter 7: Natural Environment at 7-6, <https://www.niagararegion.ca/living/icp/pdf/2015/Chapter-7-Natural-Environment.pdf>.

⁴⁰ North-South Environmental Inc, "New Niagara Official Plan, Natural Environment Work Program: Natural Environment Background Study" (26 September 2019), at 171, <https://www.niagararegion.ca/projects/rural-and-natural-systems/pdf/natural-environment-work-program-study.pdf>.



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3 DISCUSSION

3.1 THE RAMSAR CONVENTION

3.1.1 PURPOSE AND KEY COMPONENTS

The mission of the Ramsar Convention is to promote “the conservation and wise use of all wetlands through local, regional and national actions and international cooperating, as a contribution towards achieving sustainable development throughout the world.”⁴¹ Governments that join the Ramsar Convention (called “Contracting Parties”) are expressing their willingness to make a commitment to reversing the history of wetland loss and degradation.⁴²

The Ramsar Convention defines “wetlands” as “areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres”.⁴³

States that join the Ramsar Convention accept four main commitments:⁴⁴

- 1 Designate at least one wetland at the time of accession for inclusion in the List of Wetlands of International Importance (the “List”) and promote its conservation⁴⁵
- 2 Include wetland conservation considerations in national planning (e.g. land-use planning, water-resource management planning, or development planning)⁴⁶
- 3 Establish nature reserves in wetlands, whether or not they are considered to be internationally important and included in the List, and promote training in the fields of wetland research and wetland management,⁴⁷ and
- 4 Consult with other Contracting Parties about implementation of the Convention, especially in regard to trans-boundary wetlands, shared water systems, and shared species.⁴⁸

⁴¹ Ramsar Handbook 1, *supra* note 2 at 2.

⁴² *Ibid* at 12.

⁴³ Convention on Wetlands of International Importance especially as Waterfowl Habitat, Ramsar, Iran, 2.2.1971, as amended by the Protocol of 3.12.1982, and the Amendments of 28.5.1987, Paris, 13 July 1994, Director, Office of International Standards and Legal Affairs, United Nations Educational, Scientific and Cultural Organization (UNESCO), at Article 1.1, https://www.ramsar.org/sites/default/files/documents/library/current_convention_text_e.pdf [“Ramsar Convention”].

⁴⁴ Ramsar Handbooks, *supra* note 2 at 14.

⁴⁵ Ramsar Convention, *supra* note 43, art 2.4.

⁴⁶ *Ibid*, art 3.1.

⁴⁷ *Ibid*, art 4.1.

⁴⁸ *Ibid*, art 5.



3.1.2 IMPLEMENTATION OF THE RAMSAR CONVENTION

3.1.2.1 The Area Proposed to be Designated

The area of the Niagara River proposed to be designated under the Ramsar Convention includes only the water on the Canadian side of the Niagara River, from Lake Ontario in the north to Lake Erie in the South.⁴⁹ The site excludes privately-owned land along the shoreline, private holdings that extend into the Niagara River, and private railroad bridges that cross the Niagara River.⁵⁰ The area to be designated also excludes any tributaries or their estuaries flowing into the Niagara River.⁵¹

In the past, the area proposed to be designated included some protected greenspaces and riparian areas along the Niagara River.⁵² Those areas have since been removed from the area proposed to be designated. Designation now only covers water in the Niagara River.⁵³

3.1.2.2 Appropriate Administrative Authority

The head of state or government of each Contracting Party designates a national agency to act as the implementing agency of the Convention in that country.⁵⁴ Canada's implementation authorities are Stewardship and Regional Operations/Canadian Wildlife Service/Environment and Climate Change Canada ("ECCC").⁵⁵

The Government of Canada's Nomination and Listing of Wetlands of International Importance in Canada: Procedures Manual ("Procedures Manual") provides guidelines for the nomination of sites in Canada to the List. The Procedures Manual states that nominations can be made only by the appropriate administrative authority or authorities for a site.⁵⁶ For the purpose of nominating sites, the appropriate

⁴⁹ Jocelyn Baker, Jajean Rose-Burney and Kerry Mitchell, "Niagara River Ramsar Presentation" at slide 11, <https://pub-niagararegion.escribemeetings.com/filestream.ashx?DocumentId=11169>. Telephone call between Jocelyn Baker and Lauren Wortsman on January 15, 2021.

⁵⁰ Jocelyn Baker, Jajean Rose-Burney and Kerry Mitchell, "Niagara River Ramsar Presentation" at slide 11 <https://pub-niagararegion.escribemeetings.com/filestream.ashx?DocumentId=11169>.

⁵¹ Email from Jocelyn Baker to Lauren Wortsman dated January 15, 2021 re Niagara River Ramsar – Presentation.

⁵² NPCA Report No 32-18, "Designation of the Niagara River as a RAMSAR Site" dated March 26, 2018 in the NPCA Full Authority Meeting Agenda (26 March 2018), at 32, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf.

⁵³ Jocelyn Baker, Jajean Rose-Burney and Kerry Mitchell, "Niagara River Ramsar Presentation" at slide 11, <https://pub-niagararegion.escribemeetings.com/filestream.ashx?DocumentId=11169>; Email from Jocelyn Baker to Lauren Wortsman dated January 15, 2021 re Niagara River Ramsar – Presentation.

⁵⁴ Ramsar Handbook 1, *supra* note 2 at 31.

⁵⁵ Canada, "National Report to COP13", at 1, https://www.ramsar.org/sites/default/files/documents/importftp/COP13NR_Canada_e.pdf.

⁵⁶ Government of Canada, Nomination and Listing of Wetlands of International Importance in Canada: Procedures Manual (updated 1999) at 3, <http://nawcc.wetlandnetwork.ca/Nomination%20and%20Listing%201994.pdf>.



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Energy Law

administrative authority is defined as the party holding title to the land or water area.⁵⁷ This may include federal, provincial, territorial, private, corporate, or other non-government authorities.⁵⁸

Nominations must have the endorsement and/or concurrence from the government of the province or territory in which the site is located.⁵⁹ The Procedures Manual affirms the Canadian Wildlife Service's policy to promote the nomination of proposed sites only if there is concurrence from the province or territory in which the site is located.⁶⁰

3.1.2.3 Process for Designating a Site under the Ramsar Convention

The process for designating a Ramsar site is as follows:

- 1 Selection of a site nominator⁶¹
 - a) A site nominator is the appropriate administrative authority (i.e., the party holding title to land or water).⁶² The Canadian bed of the Niagara River is owned by the Province of Ontario, and the NPC holds a lease from the Province of Ontario for several parts of the river bed.⁶³ Thus, the Province or the NPC would be an appropriate site nominator.
- 2 Completion of Canadian nomination package requirements⁶⁴
 - a) The following elements are required:
 - i. A completed Ramsar Information Sheet ("RIS"), verifying the site meets the criteria for designation.⁶⁵ The Ramsar Steering Committee indicates that a RIS verifying the Niagara River meets the criteria has been completed.⁶⁶
 - ii. Written endorsement from the Province of Ontario, represented by the MNRF.⁶⁷ As of June 18, 2020, written endorsement from the MNRF was pending.⁶⁸

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.* at 2.

⁶¹ Niagara River Remedial Action Plan, "Ramsar FAQ", <https://ourniagarariver.ca/ramsar/ramsar-faq/> ["Remedial Action Plan FAQ"]; Ramsar Steering Committee FAQ, *supra* note 8 at 40.

⁶² *Ibid.*

⁶³ Ramsar Steering Committee, *supra* note 8 at 40; Kim Diana Connolly, Professor and Vice Dean, SUNY Buffalo Law School, Report to John Hennicks, Director of Community & Development Services, Town of Niagara-on-the-Lake re the Ramsar Designation and the Niagara River (1 September 2015) at 4, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74c6e02bcbf6fc1c8525783e00620d4e/8f2cb5f9f347ebd785257e92006d27ff/\\$FILE/AppendixB_Letter%20from%20SUNY%20Buffalo%20re%20Ramsar%20to%20Niagara-on-the-Lake%20Sept%202015.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74c6e02bcbf6fc1c8525783e00620d4e/8f2cb5f9f347ebd785257e92006d27ff/$FILE/AppendixB_Letter%20from%20SUNY%20Buffalo%20re%20Ramsar%20to%20Niagara-on-the-Lake%20Sept%202015.pdf) ["Connolly Report"].

⁶⁴ Remedial Action Plan FAQ, *supra* note 61; Ramsar Steering Committee FAQ, *supra* note 8 at 40.

⁶⁵ *Ibid.*

⁶⁶ Ramsar Site Steering Committee FAQ, *supra* note 8 at 40; Connolly Report, *supra* note 63 at 4.

⁶⁷ Remedial Action Plan FAQ, *supra* note 61; Ramsar Steering Committee FAQ, *supra* note 8 at 40.



Environment
Indigenous
Energy Law

iii. Agreement from the landowner (NPC and the Province of Ontario).⁶⁹

b) The following elements are preferred:

- i. Letters of support from stakeholders (e.g. federal, provincial, regional municipalities, Indigenous communities, river users, etc.) would strengthen the nomination.⁷⁰

3.1.2.4 Niagara River Corridor Ramsar Steering Committee

The Ramsar Steering Committee was established in the fall of 2013 to oversee and provide technical advice and assistance with the Ramsar designation application for the Niagara River. The Ramsar Steering Committee includes members from the Western New York Land Conservancy, the NPC, the NPCA, the Regional Institute (SUNY Buffalo), the Environmental Sustainability Research Unit (Brock University), Niagara College, Buffalo Niagara Riverkeeper, and member at large Kerry Mitchell (formerly with the Canadian Consulate).⁷¹

The Ramsar Steering Committee will submit the completed nomination package to the Canadian Wildlife Service.⁷² The Canadian Wildlife Service will then coordinate the review of the nomination with appropriate organizations. Once deemed to be complete, the nomination package will be submitted to the Ramsar Secretariat by ECCC.⁷³ Acceptance or rejection of nominated sites is the responsibility of the Ramsar Secretariat.⁷⁴ If approved, the Niagara River would be added to the Ramsar List.⁷⁵

This process can take between 2-6 months.⁷⁶ All past Canadian nominations submitted to the Secretariat have been approved as Ramsar sites.⁷⁷

3.1.3 MANAGEMENT OF RAMSAR SITES

Article 3.1 of the Convention requires contracting parties to “formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory.”⁷⁸ Often Ramsar sites in Canada are managed by the Nominator and various provincial, municipal and third party interested stakeholders.

⁶⁸ Report from Niagara River Ramsar Designation Binational Steering Committee to Office of the Regional Chair, Jim Bradley (18 June 2020) at 4, <https://pub-niagararegion.escrimetings.com/filestream.ashx?DocumentId=11170>.

⁶⁹ Remedial Action Plan FAQ, *supra* note 61; Ramsar Steering Committee, *supra* note 8 at 40.

⁷⁰ *Ibid.*

⁷¹ Connolly Report, *supra* note 63 at 2.

⁷² Remedial Action Plan FAQ, *supra* note 61.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ Ramsar Convention, *supra* note 43, art 3.1.



Environment
Indigenous
Energy Law

The Ramsar Handbooks provide guidance on the various steps that contracting parties are recommended to take to implement the Ramsar Convention. For example, management of a Ramsar site includes:

- 1 Describing the site at the time of designation
 - a) using the RIS, a detailed site map, and the ecological character of the site
- 2 Development of a management plan for the site
 - a) implement a monitoring regime for regular review of the management plan
 - b) set out management actions and monitoring regime for maintenance of ecological character
 - c) develop in consultation with stakeholders, leading to the establishment of a cross-sectoral management committee
- 3 Management actions
 - a) regular monitoring
 - b) design restoration or rehabilitation plans, as appropriate
 - c) advise the Conference of the Contracting Parties of the changes in ecological character of the site and report on revised management plans
- 4 Monitoring and impact assessments
 - a) a Wetlands Risk Assessment and impact assessment may be required.⁷⁹

3.2 QUESTION 1: IMPLICATIONS OF DESIGNATING THE NIAGARA RIVER AS A WETLAND OF INTERNATIONAL IMPORTANCE

3.2.1 DESIGNATION CARRIES NO REGULATORY IMPLICATIONS

The Ramsar Convention is a voluntary treaty. It is not a regulatory regime and has no punitive sanctions for violations of or defaulting upon treaty commitments.⁸⁰ In Canada, designating a site as a Wetland of International Importance under the Ramsar Convention offers no legal protection for the site.⁸¹

Article 2.3 of the Convention states that “The inclusion of a wetland in the List does not prejudice the exclusive sovereign rights of the Contracting Party in whose territory the wetland is situated.”⁸²

⁷⁹ Ramsar Handbook 18, “Managing Wetlands”, 4th ed (2010) at 10, <https://www.ramsar.org/sites/default/files/documents/pdf/lib/hbk4-18.pdf> [“Ramsar Handbook 18”].

⁸⁰ Ramsar Handbook 1 *supra* note 2 at 14.

⁸¹ Canada, “Management of Canadian Ramsar Sites”, *supra* note 7 at 3.



Both the federal government and the Government of Ontario have confirmed that designating the Niagara River as a Wetland of International Importance carries no regulatory implications.

On September 10, 2015, Grant Hogg, Director, Habitat Conservation Management at (then) Environment Canada wrote to the Director of Community & Development Services at the Town of Niagara-on-the-Lake to clarify the regulatory implications of Ramsar designation in Canada. The letter states:

- ♦ “designation as a Ramsar site in and of itself offers no legal protection”⁸³
- ♦ “Ramsar designation is voluntary and carries with it no financial support or regulatory implications”⁸⁴
- ♦ Ramsar designation “affects neither the management regime for these areas nor resource use within them, nor for lands adjacent to the Ramsar site”,⁸⁵ and
- ♦ “At Canadian Ramsar sites, typical activities that occur include recreational activities such as boating, bird watching, consumptive activities such as hunting and fishing, and agriculture.”⁸⁶

ECCC affirmed this position in a November 8, 2018 letter from Grant Hogg to the Chair and Board Members of the NPCA⁸⁷ and a June 10, 2020 letter from Jacey Scott to Jim Bradley, Regional Chair of the Niagara Region.⁸⁸

On September 16, 2015, Joad Durst, Resource Management Supervisor at the Guelph District of the MNR wrote a letter to the Director of Community & Development Services at the Town of Fort Erie stating:

- ♦ “A Ramsar designation will not impose any regulatory measures or legally enforceable restrictions on landowners or affect sovereignty rights under the treaty”⁸⁹

⁸² Ramsar Convention, *supra* note 43, art 2.3.

⁸³ Letter from Environment Canada to Community & Development Services, Town of Niagara-on-the-Lake dated September 10, 2015 in the NPCA Full Authority Meeting Agenda (26 March 2018) at 35, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ Letter from Environment and Climate Change Canada to NPCA dated November 8, 2019 in the NPCA Full Authority Meeting Agenda (20 November 2019) at 6, https://npca.ca/images/uploads/board_files/F.A. AGENDA 20191120 .pdf.

⁸⁸ Letter from Jacey Scott to Jim Bradley dated June 10, 2020 in the Niagara Region Planning and Development Services' Report CWCD 248-2020 to Regional Council (11 September 2020) at 34, <https://www.niagararegion.ca/council/Council%20Documents/2020/council-correspondence-sep-11-2020.pdf>

⁸⁹ Letter from Ontario Ministry of Natural Resources and Forestry to Community & Development Services, Town of Niagara-on-the-Lake dated September 16, 2015 in the NPCA Full Authority Meeting Agenda (26 March 2018) at 37, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf.



Environment
Indigenous
Energy Law

- ♦ “The treaty is clear; the Ramsar Convention is not a regulatory regime and has no punitive sanctions for violations of or defaulting upon treaty commitments”⁹⁰
- ♦ “A Ramsar wetland designation is not the same as a wetland designated by the MNRF and therefore cannot be used as part of natural heritage feature regulation, or as criteria to protect natural systems”⁹¹
- ♦ “The designation of a Ramsar site in and of itself offers no legal protection”,⁹² and
- ♦ “the Ramsar designation of wetland is voluntary and carries no regulatory implications.”⁹³

Wetlands remain part of MNRF’s mandate and the Ramsar Steering Committee has communicated with the Province about the designation of the Niagara River.⁹⁴

The NPCA wrote letters to the Town of Fort Erie and the Town of Niagara-on-the-Lake on October 8, 2015 and November 30, 2015, respectively, confirming that the NPCA will continue to only use the existing Land Use Planning and regulatory framework when providing review of development applications to ensure that existing NPCA and Region of Niagara Core Natural Heritage policies are satisfied.⁹⁵

The NPCA confirmed this opinion in a report to its Board of Directors dated March 26, 2018.⁹⁶

The letters and reports from ECCC, the MNRF, and the NPCA are attached to this memorandum in **Appendix A.**

The Ramsar Steering Committee stated that a Ramsar designation:

- ♦ will not impose any regulatory measures or legally enforceable restrictions on landowners⁹⁷
- ♦ will not impact, restrict or limit the use of the Niagara River for recreation, business or commerce,⁹⁸ and

⁹⁰ *Ibid.*

⁹¹ *Ibid* at 38.

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ Government of Ontario, “Wetlands Conservation”, <https://www.ontario.ca/page/wetland-conservation>; Telephone call between Jocelyn Baker and Lauren Wortsman on January 15, 2021.

⁹⁵ Letter from Niagara Peninsula Conservation Authority to the Director of Community & Development Services, Town of Fort Erie (8 October 2015) at 1, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/\\$FILE/Appendix%20D%20-%20NPCA%20Correspondence.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/$FILE/Appendix%20D%20-%20NPCA%20Correspondence.pdf); Letter from Niagara Peninsula Conservation Authority to the Agricultural Committee, Town of Niagara-on-the-Lake dated November 30, 2015 in the NPCA Full Authority Meeting Agenda, at 39, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf.

⁹⁶ NPCA Report No 32-18, “Designation of the Niagara River as a RAMSAR Site” dated March 26, 2018 in the NPCA Full Authority Meeting Agenda (26 March 2018), at 31, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf.

⁹⁷ Ramsar Steering Committee FAQ, *supra* note 8 at 38.



- ♦ will not take away anyone's rights and ability to enjoy their properties.⁹⁹

Designation under the Ramsar Convention does not preclude development at Ramsar sites. For example, the Oak Hammock Marsh was designated as a Ramsar site in 1987. In 1991, a development was proposed for the building of an interpretive centre. Ramsar's Secretary General provided a letter in support of the project, stating that "Development is not precluded at Ramsar sites, but contracting parties are obliged to promote the conservation of these areas and to provide information to the Ramsar Bureau if the ecological character of such a site has changed, is changing, or is likely to change as a result of technological developments, pollution or other human interference."¹⁰⁰

Additionally, a site nominator can withdraw a site from the List at any point without penalty.¹⁰¹ Support or endorsement of a Ramsar site can also be withdrawn at any time, even after designation.¹⁰²

3.2.2 MANAGEMENT ACTIVITIES OF RAMSAR SITES REQUIRED IN EXISTING REGULATION

As discussed in section 3.1.1 of this memorandum, the designation of a site under the Ramsar Convention requires the implementation of various management activities, such as the creation of a management plan and ongoing monitoring. While the creation, implementation, and maintenance of management activities may require time and resources, many of these management activities are required in existing legislation and policies. For example, the following legislation and policies support wetland conservation and may contain requirements that apply to wetlands regardless of designation under the Ramsar Convention:

- ♦ Federal Policy on Wetland Conservation
- ♦ Federal Water Policy
- ♦ Federal Policy on Land Use
- ♦ Fisheries and Oceans Canada Policy for the Management of Fish Habitat
- ♦ Federal Environmental Quality Policy Framework
- ♦ *Great Lakes Protection Act, 2015*¹⁰³

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*

¹⁰⁰ Jocelyn Baker, Jajean Rose-Burney and Kerry Mitchell, "Niagara River Ramsar Presentation" at slide 11, <https://pub-niagararegion.escribemeetings.com/filestream.ashx?DocumentId=11169>; Legislative Assembly of Manitoba, Standing Committee on Public Utilities and Natural Resources, 2nd Sess, 35th legislature (21 June 1991) at 1330, https://www.gov.mb.ca/legislature/hansard/35th_2nd/hansardpdf/punr8.pdf.

¹⁰¹ Ramsar Binational Steering Committee, "Niagara River Ramsar Designation Information Sheet" (January 2021) at 2.

¹⁰² *Ibid.*

¹⁰³ SO 2015, c 24.



Environment
Indigenous
Energy Law

- ♦ *Conservation Land Act*¹⁰⁴
- ♦ *Planning Act*¹⁰⁵
- ♦ *Greenbelt Act, 2005*¹⁰⁶
- ♦ Ontario's Provincial Policy Statement Ontario's Wetland Conservation Strategy for Ontario 2017-2030.¹⁰⁷

There are also several policies applicable specifically to agriculture that contain requirements for wetland protection and conservation, such as:

- ♦ Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas¹⁰⁸
- ♦ A Place to Grow: Growth plan for the Greater Golden Horseshoe¹⁰⁹
- ♦ Greenbelt Plan (2017)¹¹⁰
- ♦ Drainage Act and Conservation Authorities Act Protocol.¹¹¹

3.3 QUESTION 2: HOW DESIGNATION WORKS WITH FEDERAL AND PROVINCIAL LEGISLATION AND POLICIES

3.3.1 FEDERAL AND PROVINCIAL POLICIES SUPPORT CANADA'S COMMITMENT TO THE RAMSAR CONVENTION

Federal and provincial wetlands policies contribute to the delivery of Canada's commitments to the Ramsar Convention.¹¹²

¹⁰⁴ RSO 1990, c C28.

¹⁰⁵ RSO 1990, c P13.

¹⁰⁶ SO 2005, c 1.

¹⁰⁷ Canada, "Ramsar National Report to COP13" (2018) at 7, https://www.ramsar.org/sites/default/files/documents/importftp/COP13NR_Canada_e.pdf.

¹⁰⁸ Ontario Ministry of Agriculture, Food and Rural Affairs, "Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas" (2016), <http://www.omafra.gov.on.ca/english/landuse/facts/permitteduseguide.pdf>.

¹⁰⁹ Ontario, "A Place to Grow: Growth plan for the Greater Golden Horseshoe" (August 2020), <https://files.ontario.ca/mmah-place-to-grow-office-consolidation-en-2020-08-28.pdf>.

¹¹⁰ Ontario, "Greenbelt Plan (2017)", <https://files.ontario.ca/greenbelt-plan-2017-en.pdf>.

¹¹¹ Ontario, "Drainage Act and Conservation Authorities Act Protocol", <https://docs.ontario.ca/documents/1970/drainage-act-and-conservation-authorities-act.pdf>.

¹¹² Government of Canada, "Strategic Overview of the Canadian Ramsar Program" (1996) at 7, <http://nawcc.wetlandnetwork.ca/Ramsar%20Strategic%20Overview%201996.pdf>.



3.3.1.1 Federal Policies

Canada achieves the objectives of the Ramsar Convention through its North American Waterfowl Management Plan and The Federal Policy on Wetland Conservation.¹¹³

The Federal Policy on Wetland Conservation contains a commitment to promoting international actions. The Policy states that the federal government will promote conservation and sustainable use of wetlands internationally and encourage the involvement of other nations and international organizations in wetland conservation efforts.¹¹⁴ The Policy commits to promoting wetland conservation through continued strong commitments to the Ramsar Convention.¹¹⁵

A non-exhaustive list of legislation and policies have been identified in section 3.2.2 of this memorandum, above.

3.3.1.2 Provincial Policies

Ontario has implemented several policies that impact wetland management. For example, Ontario's Provincial Policy Statement, 2020 issued under the *Planning Act* provides policy direction on matters of provincial interest related to land use planning and development.¹¹⁶ Ontario's Wetland Conservation Strategy for Ontario 2017-2030 provides a framework to "guide the future of wetland conservation across the province."¹¹⁷ The Strategy makes note of the Ramsar Convention and lists as one of its action items for meeting its conservation goals the identification of additional candidate wetlands for designation under the Ramsar Convention.¹¹⁸

A non-exhaustive list of legislation and policies have been identified in section 3.2.2 of this memorandum, above.

3.3.2 DESIGNATED SITES ARE MANAGED UNDER EXISTING LEGISLATION AND POLICIES

Although a designation under the Ramsar Convention does not impose regulations on a site, Ramsar sites in Canada continue to be subject to existing mechanisms for protection such as the site's existing status within areas such as national or provincial parks, national wildlife areas, and federal or provincial/territorial bird sanctuaries.¹¹⁹ Federal and provincial legislation, regulations, and policies continue to apply to sites designated under the Ramsar Convention as they had prior to designation.

¹¹³ Remedial Action Plan FAQ, *supra* note 61.

¹¹⁴ Government of Canada, "The Federal Policy on Wetland Conservation" (1991) at 10, <http://nawcc.wetlandnetwork.ca/Federal%20Policy%20on%20Wetland%20Conservation.pdf>.

¹¹⁵ *Ibid* at 11.

¹¹⁶ Government of Ontario, "Provincial Policy Statement, 2020 under the *Planning Act*" (1 May 2020).

¹¹⁷ Government of Ontario, "A Wetland Conservation Strategy for Ontario 2017-2030" (2017) at iii.

¹¹⁸ Government of Ontario, "A Wetland Conservation Strategy for Ontario 2017-2030 Framework" at 35, https://files.ontario.ca/mnr_17-075_wetlandstrategy_final_en-accessible.pdf.

¹¹⁹ Canada, "Management of Canadian Ramsar Sites", *supra* note 7 at 3.



Environment
Indigenous
Energy Law

For example, the *Conservation Authorities Act* regulates the conservation, restoration, development and management of Ontario's wetlands. The definition of "wetlands" in the Ramsar Convention is a much broader definition than the definition of wetlands that comes from s. 28 of the *Conservation Authorities Act*.¹²⁰ Despite this, the NPCA, which implements the *Conservation Authorities Act*, cannot use the definition of "wetlands" in the Ramsar Convention to expand its regulatory authority.¹²¹ The designation of the Niagara River cannot be used as part of the NPCA review or screening process when implementing the NPCA's regulations or as criteria to protect natural systems within its watershed.¹²²

The NPCA has confirmed that it will continue to only use the existing Land Use Planning and regulatory frameworks when providing review of development applications to ensure that existing NPCA and Region of Niagara Core Natural Heritage policies are satisfied.¹²³ Bill 229 was approved by the Government of Ontario on December 8, 2020. Bill 229 makes changes to various legislation, including the *Conservation Authorities Act*. These changes do not directly impact the definition of "wetlands" or NPCA's Land Use Planning and regulatory frameworks for reviewing development applications.

Most Canadian sites designated under the Ramsar Convention lie on federal lands and are managed by federal agencies such as the Canadian Wildlife Service and Parks Canada.¹²⁴ Restrictions on land use and other protections for these sites are not due to their designation under the Ramsar Convention, but rather the application of existing legislation and policies. For example:

- ♦ Point Pelee in Ontario was designated as a Ramsar site on May 27, 1987.¹²⁵ Point Pelee is administered as a National Park under the *Canada National Parks Act*.¹²⁶ Restrictions on land use in Point Pelee result from its designation as a National Park, rather than its designation under the Ramsar Convention.
- ♦ Long Point in Ontario was designated as a Ramsar site on May 24, 1982. Lands administered by the Canadian Wildlife Service have been designated as National Wildlife Areas under the *Canada Wildlife Act* since 1973. Lands administered by the MNRF are designated either as provincial park or controlled through the *Public Lands Act*. The Long Point Region Conservation Authority owns

¹²⁰ "Wetland" is defined in s. 28(1) of the *Conservation Authorities Act* as "land that, (a) is seasonally or permanently covered by shallow water or has a water table close to or at its surface, (b) directly contributes to the hydrological function of a watershed through connection with a surface watercourse, (c) has hydric soils, the formation of which has been caused by the presence of abundant water, and (d) has vegetation dominated by hydrophytic plants or water tolerant plants, the dominance of which has been favoured by the presence of abundant water, but does not include periodically soaked or wet land that is used for agricultural purposes and no longer exhibits a wetland characteristic referred to in clause (c) or (d)."

¹²¹ Letter from Niagara Peninsula Conservation Authority to the Director of Community & Development Services, Town of Fort Erie (8 October 2015) at 1, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/\\$FILE/Appendix%20D%20-%20NPCA%20Correspondence.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/$FILE/Appendix%20D%20-%20NPCA%20Correspondence.pdf).

¹²² *Ibid.*

¹²³ *Ibid.*

¹²⁴ Canada, "Management of Canadian Ramsar Sites", *supra* note 7 at 4.

¹²⁵ Ramsar Sites Information Service, Point Pelee, <https://rsis Ramsar.org/ris/368>.

¹²⁶ Ramsar, Information Sheet on Ramsar Wetlands, "Canada 26: Point Pelee National Park" at page 2, <https://rsis Ramsar.org/RISapp/files/RISrep/CA368RIS.pdf>.



Environment
Indigenous
Energy Law

and administers its property under the *Conservation Authorities Act*. The wetlands of Long Point are also zoned as Environmental Protection Areas under the official plan for the Regional Municipality of Haldimand-Norfolk.¹²⁷

- ♦ St. Clair, Ontario is designated as a National Wildlife Area and protected under the *Canada Wildlife Act*.¹²⁸ The adjacent upland area is among the most productive farmland in Canada and is extensively cash-cropped, primarily for corn and soybeans.
- ♦ Cap Tourmente in Quebec is designated under the Ramsar Convention and is managed in part as a migratory bird sanctuary and in part as a National Wildlife Area. Under federal regulations, a limited number of permits are sold each year for fall hunting of waterfowl and other birds.¹²⁹ The site has a wide range of habitats and is comprised of tidal marsh, coastal meadow, forest, and 700 hectares of agricultural land.¹³⁰ The area surrounding the site is primarily agricultural land use.¹³¹
- ♦ The Fraser River Delta in British Columbia was first designated under the Ramsar Convention in 1982. The designation was expanded in 2012 to cover additional wetland areas. The site comprises of 70% cultivated farmland.¹³² The site is protected as a National Wildlife Area under the *Canada Wildlife Act* and as a Migratory Bird Sanctuary under the *Migratory Birds Convention Act*. A portion of the Delta falls within the framework of the multilateral/intergovernmental Fraser River Estuary Management Program, which is aimed at sustaining the Delta's natural productivity.¹³³ Non-wetland areas within the site continue to provide products and services of long-term interest to local communities.¹³⁴ For example, hay crops are harvested on agricultural land within the boundaries of the Alaksen National Wildlife Area in the Delta.¹³⁵ Such regulated land uses are part of the site's applicable land use management planning process.¹³⁶
- ♦ In Lac Saint-Pierre, Quebec, the main human activities are extensive agriculture and recreation.¹³⁷ The surrounding land is privately owned and much of it is used for agriculture.¹³⁸ Parts of the site

¹²⁷ Ramsar Information Sheet, "Canada 2: Long Point National Wildlife Ontario" at page 5, <https://rsis Ramsar.org/RISapp/files/RISrep/CA237RIS.pdf>.

¹²⁸ Ramsar Information Sheet, "Canada 16: St. Clair National Wildlife Area, Ontario" at 2.

¹²⁹ Government of Canada, "Management of Canadian Ramsar Sites" (1996) at page 3, <http://nawcc.wetlandnetwork.ca/Management%20of%20Can%20Ramar.pdf>.

¹³⁰ Ramsar Information Sheet, "Canada 1: Cap Tourmente National Wildlife Area, Quebec, at 1, <https://rsis Ramsar.org/RISapp/files/RISrep/CA214RIS.pdf>.

¹³¹ *Ibid* at 2.

¹³² Ramsar Information Sheet, "Canada 9: Alaksen, British Columbia", at page 1, https://rsis Ramsar.org/RISapp/files/RISrep/CA243RISformer2001_EN.pdf.

¹³³ *Ibid*.

¹³⁴ Canada, "Management of Canadian Ramsar Sites", *supra* note 7 at 3.

¹³⁵ *Ibid*.

¹³⁶ *Ibid*.

¹³⁷ Ramsar Sites Information Service, "Lac Saint-Pierre", <https://rsis Ramsar.org/ris/949>.

¹³⁸ *Ibid*.



Environment
Indigenous
Energy Law

are designated as wildlife sanctuaries and a migratory bird sanctuaries.¹³⁹ Certain areas are reserved strictly for the purpose of conservation, while others are enhanced through wildlife management and wildlife-agricultural management.¹⁴⁰

- ♦ Lac Saint-Francois in Quebec is designated as a National Wildlife Area under the *Canada Wildlife Act*.¹⁴¹ The site consists of mostly freshwater marsh and flooded shoreline swamp. The surrounding area is mainly used for agriculture.¹⁴² Only activities compatible with National Wildlife Area objectives are permitted; all other land use is rigorously controlled.¹⁴³

Increasingly, co-management arrangements with provincial and non-government agencies are being implemented for particular sites.¹⁴⁴ For example, the Creston Valley Wildlife Management Area in British Columbia lies on provincial land but is managed by a three-party management board representing federal, provincial and non-government interests in this important area.¹⁴⁵

3.3.3 DESIGNATION COULD BE THE DRIVER FOR A CHANGE IN REGULATION

Designation of the Niagara River as a Ramsar site alone will not directly cause changes to the management of the Niagara River under federal or provincial wetlands legislation or policy. However, designation under the Ramsar Convention could be the driver for such a change.¹⁴⁶

The Delta Marsh in Manitoba is an example where regulatory change occurred following Ramsar designation. The Delta Marsh was designated under the Ramsar Convention in 1982. Following designation, a large portion of the marsh was purchased from private property owners and became a protected wildlife management area.¹⁴⁷ The marsh is now a National Heritage Marsh, and while the restrictions associated with designation as a National Heritage Marsh are not Ramsar restrictions,¹⁴⁸ designation as a Ramsar site may have been the impetus for the subsequent protection of the Delta. The Delta Marsh has also been characterized as an International Union for Conservation of Nature protected

¹³⁹ Ramsar Information Sheet, "Canada 36: Lac Saint-Pierre", at 3,
https://rsis Ramsar.org/RISapp/files/RISrep/CA949RISformer1997_EN.pdf.

¹⁴⁰ *Ibid.*

¹⁴¹ Ramsar Information Sheet, "Canada 19: Lac Saint-Francois National Wildlife Area, Quebec", at 2,
<https://rsis Ramsar.org/RISapp/files/RISrep/CA361RIS.pdf>.

¹⁴² *Ibid.*

¹⁴³ *Ibid.*

¹⁴⁴ Canada, "Management of Canadian Ramsar Sites", *supra* note 7 at 4.

¹⁴⁵ *Ibid.*

¹⁴⁶ Memorandum from Callum Shedden to John Henricks re Opinion – Potential Impacts of RAMSAR Wetland Designation for Niagara River (21 March 2016) at 47,
[https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bfl3826d2caa28525783e006e878e/074773803324b17e85257f6c004fla9e/\\$FILE/Information%20Report%20Ramsar%20Update.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bfl3826d2caa28525783e006e878e/074773803324b17e85257f6c004fla9e/$FILE/Information%20Report%20Ramsar%20Update.pdf).

¹⁴⁷ Niagara-on-the-Lake, Report CDS-16-013 to Community and Development Advisory Committee re Agricultural Advisory Committee Minutes – February 3, 2016 (27 January 2016),
<https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74C6E02BCBF6FC1C8525783E00620D4E/93E557A63EC663AA85257F47005A7FA0>.

¹⁴⁸ Remedial Action Plan FAQ, *supra* note 61.



area management category IV managed mainly for conservation of habitat and species through management intervention.¹⁴⁹

The Niagara River is currently designated as a Coastal Wetland under Ontario's Provincial Policy Statement, 2020.¹⁵⁰ Designation of the Niagara River as a Wetland of International Importance under the Ramsar Convention could be the driver for the Province to consider a change in designation for the Niagara River to a Significant Coastal Wetland.¹⁵¹ Such a change in policy designation could create additional future restrictions for the Niagara River. In this way, designation of the Niagara River under the Ramsar Convention could result, albeit not directly, in future changes to the regulation of the Niagara River and surrounding area.

3.4 QUESTION 3: STATUS OF SUPPORT FOR DESIGNATION BY MUNICIPALITIES, AGENCIES, AND ORGANIZATIONS

This section considers the status of support for or against the designation of the Niagara River under the Ramsar Convention by the three municipalities located along the Canadian side of the Niagara River: Fort Erie, Niagara Falls, and Niagara-on-the-Lake. It also considers the position of the NPC and the NPCA on designation of the Niagara River.

Details of the resolutions passed by the Council and Boards of these municipalities and authorities can be found in **Appendix B**.

This section also reviews Niagara Region's commitment to a healthy natural environment as set out in the Region's Official Plan.

3.4.1 NIAGARA PENINSULA CONSERVATION AUTHORITY

The NPCA passed a motion on November 20, 2019 to endorse and support the proposed designation of the Niagara River under the Ramsar Convention.¹⁵²

3.4.2 NIAGARA PARKS COMMISSION

In 2015, the NPC's Board of Directors approved the NPC playing the role of site nominator in principle pending an acceptable legal review.¹⁵³

¹⁴⁹ Niagara-on-the-Lake, Report CDS-16-013 to Community and Development Advisory Committee re Agricultural Advisory Committee Minutes – February 3, 2016 (27 January 2016), <https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74C6E02BCBF6FC1C8525783E00620D4E/93E557A63EC663AA85257F47005A7FA0>.

¹⁵⁰ Government of Ontario, "Provincial Policy Statement, 2020 under the *Planning Act*" (1 May 2020).

¹⁵¹ Memorandum from Callum Shedden to John Henricks re Opinion – Potential Impacts of RAMSAR Wetland Designation for Niagara River (21 March 2016) at 47, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/\\$FILE/Information%20Report%20Ramsar%20Update.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/$FILE/Information%20Report%20Ramsar%20Update.pdf).

¹⁵² NPCA Full Authority Meeting Minutes (20 November 2019), at 3, https://npca.ca/images/uploads/board_files/FAMinutes_11202019.pdf.



Environment
Indigenous
Energy Law

On September 10, 2020, the NPC's Board of Directors voted against the NPC acting as the lead nominator for the designation and to step down from participating in the steering committee.¹⁵⁴ We understand from Fort Erie's Regular Council Meeting Minutes on April 9, 2018 that the NPC will not support designation unless all municipalities supported the designation.¹⁵⁵

We do not know if the lack of support from all municipalities is the only reason NPC has withdrawn support or if there were other reasons behind NPC's decision.

3.4.3 FORT ERIE

The Town of Fort Erie has supported the designation of the Niagara River as a Ramsar site since November 2015.¹⁵⁶

3.4.4 NIAGARA FALLS

The City of Niagara Falls' City Council unanimously carried a motion to support the Ramsar designation of the Niagara River in July 2015.¹⁵⁷

On October 6, 2020, Council held a closed meeting to discuss Ramsar designation.¹⁵⁸ We do not know the status or outcome of this meeting and whether it had any impact on Niagara Falls' support for designation.

3.4.5 NIAGARA-ON-THE-LAKE

The Town of Niagara-on-the-Lake's Town Council initially supported the designation in principle and sought additional information on the implications of designation in July 2015.¹⁵⁹ The Community & Development Advisory Committee issued a report in July 2015 supporting the designation in

¹⁵³ Report from Niagara River Ramsar Designation Binational Steering Committee to Office of the Regional Chair, Jim Bradley (18 June 2020) at 4.

¹⁵⁴ <https://www.stcatharinesstandard.ca/news/niagara-region/2020/09/21/niagara-parks-slammed-for-lack-of-support-for-ramsar-designation.html>.

¹⁵⁵ The Municipal Corporation of the Town of Fort Erie, Regular Council Meeting Minutes (9 April 2018) at 12 of 122, <https://www.forterie.ca/WebSite/minutes.nsf/0/91ADD24203C1143585258274006F2282/%24File/Regular%20Council%20-%2023%20Apr%202018%20-%20Agenda%20-%20Pdf.pdf>.

¹⁵⁶ The Municipal Corporation of the Town of Fort Erie, Council-in-Committee Meeting Minutes (2 November 2015) at 10, [http://www.forterie.ca/WebSite/minutes.nsf/0/9EF2173A2E59A06E85257EEC006A61F0/\\$File/Nov2c-minutes.pdf](http://www.forterie.ca/WebSite/minutes.nsf/0/9EF2173A2E59A06E85257EEC006A61F0/$File/Nov2c-minutes.pdf).

¹⁵⁷ Niagara Falls, Regular Council Meeting Minutes (28 July 2015) at 3, <https://docs.niagarafalls.ca/WebLink/DocView.aspx?id=753625&dbid=0&repo=nfalls-doc&searchid=6c34118a-b5f8-44f5-8a30-60fb418c4713>.

¹⁵⁸ City of Niagara Falls, Resolution (6 October 2020), <https://docs.niagarafalls.ca/WebLink/DocView.aspx?id=1024773&dbid=0&repo=nfalls-doc&searchid=6c34118a-b5f8-44f5-8a30-60fb418c4713>.

¹⁵⁹ Niagara-on-the-Lake, Community and Development Advisory Committee Minutes (27 July 2015), <https://domino.notl.com/sites/notl/NOTLCOTW.nsf/BF5BF13826D2CAA28525783E006E878E/E8498B83D495908385257E8F004DDAB2>.



Environment
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Energy Law

principle.¹⁶⁰ The issue of designation was then referred to the Agricultural Advisory Committee, which recommended that Council not support the designation on February 3, 2016.¹⁶¹

Town Council has not provided its support for the designation following the Agricultural Advisory Committee's recommendation.

3.4.6 NIAGARA REGION

Niagara Region's current Official Plan contains commitments that align with the goals of the Ramsar Convention. For example, Chapter 7: Natural Environment of the Official Plan contains the following objectives:

- ♦ To maintain a healthy natural environment for present and future generations
- ♦ To conserve Niagara's distinctive natural character
- ♦ To apply an ecosystem-based approach to planning and decision-making
- ♦ To foster and promote cooperation among public agencies, private landowners and community groups, and
- ♦ To support and encourage environmental stewardship and restoration.¹⁶²

Niagara Region is developing a new Official Plan.¹⁶³ A Natural Environment Background Study conducted in the development process states that the Region's policies related to meeting objectives for a healthy landscape should be updated to reflect current Provincial Policy, including by reviewing targets for wetland cover.¹⁶⁴

¹⁶⁰ Niagara-on-the-Lake, Report CDS-15-065 to Community and Development Advisory Committee re Ramsar – Niagara Peninsula Conservation Authority Request for Support of Ramsar Designation of the Niagara River (Convention on Wetlands of International Importance Especially as Waterfowl Habitat) (July 30, 2015), <https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74C6E02BCBF6FC1C8525783E00620D4E/8F2CB5F9F347EBD785257E92006D27FF>.

¹⁶¹ Niagara-on-the-Lake, Agricultural Advisory Committee Minutes (3 February 2016) at 3, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74c6e02bcbf6fc1c8525783e00620d4e/93e557a63ec663aa85257f47005a7fa0/\\$FILE/Agricultural%20Advisory%20Minutes%20-%20February%203,%202016.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74c6e02bcbf6fc1c8525783e00620d4e/93e557a63ec663aa85257f47005a7fa0/$FILE/Agricultural%20Advisory%20Minutes%20-%20February%203,%202016.pdf).

¹⁶² Niagara Region, Official Plan (2014), Chapter 7: Natural Environment at 7-6, <https://www.niagararegion.ca/living/icp/pdf/2015/Chapter-7-Natural-Environment.pdf>.

¹⁶³ Niagara Region, "Creating a New Niagara Official Plan", <https://www.niagararegion.ca/official-plan/default.aspx>.

¹⁶⁴ North-South Environmental Inc, "New Niagara Official Plan, Natural Environment Work Program: Natural Environment Background Study" (26 September 2019), at 171, <https://www.niagararegion.ca/projects/rural-and-natural-systems/pdf/natural-environment-work-program-study.pdf>.



APPENDIX A – KEY DOCUMENTS

This Appendix contains copies of the following documents:

- 1 Letter from Environment and Climate Change Canada to the Town of Niagara-on-the-Lake dated September 10, 2015
- 2 Letter from Environment and Climate Change Canada to the Niagara Peninsula Conservation Authority dated November 8, 2019
- 3 Letter from Environment and Climate Change Canada to the Niagara Region dated June 10, 2020
- 4 Letter from the Ontario Ministry of Natural Resources and Forestry to the Town of Fort Erie dated September 16, 2015
- 5 Letter from the Niagara Peninsula Conservation Authority to the Town of Fort Erie dated October 8, 2015
- 6 Letter from the Niagara Peninsula Conservation Authority to the Town of Niagara-on-the-Lake dated November 30, 2015
- 7 Niagara Peninsula Conservation Authority's Report 32-18 to the Board of Directors re Designation of the Niagara River as a RAMSAR Site dated March 26, 2018



APPENDIX B – DETAILS OF MUNICIPALITIES' AND AGENCIES' POSITION ON RAMSAR DESIGNATION OF THE NIAGARA RIVER

FORT ERIE

At a Regular Council meeting on August 17, 2015, members of the Niagara Peninsula Conservation Authority presented a proposal for Ramsar designation of the Niagara River. The meeting minutes state that Deanna Lindblad, Project Lead Restoration:

outlined the opportunity for a Ramsar designation and that Ramsar is the name of a place in Iran. Its significance is that a treaty was signed there in 1971 looking at wetlands of international importance with the idea to advance the conservation and wide use of water based ecosystems. The treaty uses a very broad definition of wetland because it's a global treaty compared to the wetland designation that we are used to. It is not a policy or law, regulatory, or restricted in any way. There are 168 countries in the world that have already voluntarily signed onto the treaty with over 2,200 sites identified. She outlined consideration of the Niagara River to become a Ramsar site. There are nine criteria and only one of them needs to be met for a site to be designated as a Ramsar site. Niagara River is unique with Niagara Falls and having over 90 species in the Niagara River area. Ontario Power Generation is the largest user of the River and has stated they have no objection to the designation. Ms. Lindblad provided examples of the advantages resulting from the San Francisco Bay area designation including increased funding opportunities, increase in tourism and recreation with extended stays, heightened global environmental importance, and increased attention by the scientific community. On both sides of the Niagara River, we have academic institutions that are doing research on the River. Further advantages include improved management through collaboration; stronger, healthier and more resilient communities. The Niagara River would be North America's first binational Ramsar site. Additional advantages in designating the Niagara River would be the protection of ecological gains made thus far and providing a global legacy.¹⁶⁵

Following this proposal, Councillor Passero recommended directing staff to prepare a resolution of support for the Ramsar designation as requested by the Niagara Peninsula Conservation Authority for the next regular Council meeting.¹⁶⁶ Mayor Redekop suggested putting forward a motion at present.¹⁶⁷

¹⁶⁵ The Municipal Corporation of the Town of Fort Erie, Regular Council Meeting Minutes (17 August 2015) at 4–5, <https://www.forterie.ca/WebSite/minutes.nsf/Doc/OpenDoc.html?OpenFrameset&ID=D3D0A0BDAB661F9B85257EA000768A5B&File=August+17r-minutes.pdf&Title=COUNCIL%20MINUTES&Document=>,.

¹⁶⁶ *Ibid* at 8.

¹⁶⁷ *Ibid*.



Environment
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Energy Law

Mr. Brady (Town staff) requested some time to review the request and advise the Environmental Advisory Committee to allow for a staff report to come to Council at the September 8, 2015 meeting.¹⁶⁸

At a Council-in-Committee meeting on November 2, 2015, the Council supported the Ramsar designation of the Niagara River.¹⁶⁹ Council agreed to direct staff to forward a copy of Report No. CDS-79-2015 to the NPCA, Town of Niagara-on-the Lake, City of Niagara Falls, Regional Municipality of Niagara, the NPC, and the Fort Erie Environmental Advisory Committee.¹⁷⁰

At a Regular Council meeting on April 9, 2018, Reginal Councillor Annunziata reported on matters at the Region. The meeting minutes state:

Councillor Passero stated in November 2015 this Council unanimously supported the RAMSAR designation for the Niagara River and some publicity came out over the weekend about some road blocks the Bi-National organization has hit in regards to the NPCA, to the point where they have withdrawn their letter of support. He questioned where does that designation stand and what are the timelines of the NPCA. RC Annunziata advised the NPCA endorsed the RAMSAR designation and part of that was a motion to have its members sit and liaise with the RAMSAR Steering Committee, a BiNational Committee made up of American and Canadian board members. Over the last couple of years there have been questions that have come forward from partners in Niagara-on-the-Lake, Niagara Falls and the NPC. They have approached the NPCA to try to fill in the gaps and tried to engage their partners at RAMSAR but unfortunately they have not been able to get the information they need to make a formal and thoughtful decision. The road block is not at the NPCA and they were fully supportive of the designation. Since then, RAMSAR has sent a letter to the NPCA advising that they no longer need the consent or approval of the NPCA and they are still waiting for any information with respect to that designation. It is to be a unanimous decision. Partners in Niagara-on-the-Lake have considerable concerns and they have never ratified it. The Mayor added that Niagara-on-the-Lake does not support it and the NPC is taking the position that unless all 3 municipalities support it, they will withhold support.¹⁷¹

¹⁶⁸ *Ibid.*

¹⁶⁹ The Municipal Corporation of the Town of Fort Erie, Council-in-Committee Meeting Minutes (2 November 2015) at 10, [http://www.forterie.ca/WebSite/minutes.nsf/0/9EF2173A2E59A06E85257EEC006A61F0/\\$File/Nov2c-minutes.pdf](http://www.forterie.ca/WebSite/minutes.nsf/0/9EF2173A2E59A06E85257EEC006A61F0/$File/Nov2c-minutes.pdf).

¹⁷⁰ *Ibid.*

¹⁷¹ The Municipal Corporation of the Town of Fort Erie, Regular Council Meeting Minutes (9 April 2018) at 12 of 122, <https://www.forterie.ca/WebSite/minutes.nsf/0/91ADD24203C1143585258274006F2282/%24File/Regular%20Council%20-%2023%20Apr%202018%20-%20Agenda%20-%20Pdf.pdf>.



At a Regular Council meeting on September 21, 2020, Regional Councillor Insinna reported on matters at the Niagara Region. The meeting minutes state that Councillor Insinna “shares the view of the Mayor and supports the Ramsar Designation.”¹⁷²

NIAGARA FALLS

At a Niagara Falls Council meeting on July 28, 2015, the Regional Councillor, Chair, and members of the NPCA made a presentation on the proposed Ramsar designation of the Niagara River.¹⁷³ On the motion of Councillor Kerrio, seconded by Councillor Ioannoni, Council supported the Ramsar designation for the Niagara River.¹⁷⁴ The motion was carried unanimously.¹⁷⁵

On September 15, 2020, a motion of Councillor Chris Dabrowski, seconded by Councillor Mike Strange, that the staff bring back a report regarding the Ramsar designation for the Niagara River was carried unanimously.¹⁷⁶

On October 6, 2020, City Council passed a Resolution to hold a Closed Meeting on that day to discuss the potential designation of the Niagara River as a Ramsar site.¹⁷⁷ The Closed Meeting was permitted under s. 239(2)(f) of the *Municipal Act* which allows a meeting to be closed to the public if the subject matter being considered is “advice that is subject to solicitor-client privilege, including communications necessary for that purpose”.¹⁷⁸

NIAGARA-ON-THE-LAKE

At a July 27, 2015 Council meeting, a staff member from the Niagara Peninsula Conservation Authority made a presentation regarding designation of the Niagara River as a Ramsar site and asking for a letter of support from the Council.¹⁷⁹ A motion by Councillor Jim Collard, seconded by Councillor

¹⁷² The Municipal Corporation of the Town of Fort Erie, Regular Council Meeting Minutes (21 September 2020) at 12 of the pdf, <https://www.forterie.ca/WebSite/minutes.nsf/0/98F4FFE6F839EF2A85258602006AF0A8/%24File/October%2019%20-%20Regular%20Council.pdf>.

¹⁷³ Niagara Falls, Regular Council Meeting Minutes (28 July 2015) at 3, <https://docs.niagarafalls.ca/WebLink/DocView.aspx?id=753625&dbid=0&repo=nfalls-doc>.

¹⁷⁴ *Ibid.*

¹⁷⁵ *Ibid.*

¹⁷⁶ City of Niagara Falls, City Council Meeting Minutes (15 September 2020) at 23, <https://docs.niagarafalls.ca/WebLink/DocView.aspx?id=1024771&dbid=0&repo=nfalls-doc&searchid=6c34118a-b5f8-44f5-8a30-60fb418c4713>.

¹⁷⁷ City of Niagara Falls, Resolution (6 October 2020), <https://docs.niagarafalls.ca/WebLink/DocView.aspx?id=1024773&dbid=0&repo=nfalls-doc&searchid=6c34118a-b5f8-44f5-8a30-60fb418c4713>.

¹⁷⁸ *Ibid.*

¹⁷⁹ Niagara-on-the-Lake, Report CDS-15-065 to Community and Development Advisory Committee re Ramsar – Niagara Peninsula Conservation Authority Request for Support of Ramsar Designation of the Niagara River (Convention on Wetlands of International Importance Especially as Waterfowl Habitat) (July 30, 2015),



Environment
Indigenous
Energy Law

John Wiens, that the Town support the designation of the Niagara River in principle and forward the NPCA Ramsar information report to staff for further review to identify the potential legal and other costs to the Town and to report back in September was approved.¹⁸⁰

Report CDS-15-065 to the Community & Development Advisory Committee dated July 30, 2015 recommended that:

- 1 Council seek clarification regarding the possible impact of the Ramsar designation on privately owned lands adjacent to the Niagara River and confirm that the NPCA has contacted private landowners and received their comments regarding the designation, and
- 2 Council support, in principle, the designation of the Niagara River as a Ramsar site and that the Town provide a letter of support after the nominator (the NPC) is confirmed.¹⁸¹

Report CDS-15-065 concluded that Ramsar designation is voluntary and does not impose any new regulations on the local municipalities or property owners.¹⁸² However, further clarification is needed regarding communications with private landowners along the river.¹⁸³ The report states that wetland protection legislation will continue to be under the jurisdiction of the MNRF and the Department of Fisheries and Oceans Canada. Currently, there are no additional enforcement requirements or development limitations.¹⁸⁴ However, the report notes that there is a possibility that the Ramsar designation could be used by the NPC, the NPCA and the MNRF when reviewing development applications along the river which could subject these applications to more extensive and stringent analysis.¹⁸⁵ Further clarification is required with respect to how, and if, the designation will be used.¹⁸⁶

On September 1, 2015, Kim Diana Connolly, Professor and Vice Dean of SUNY Buffalo Law School, provided a report to the Town's Director of Community & Development Services on Ramsar designation of the Niagara River. The report states that Ramsar designation is not an official wetland designation within the meaning of "wetland" in Ontario.¹⁸⁷ It also states that the Ramsar Convention

<https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74C6E02BCBF6FC1C8525783E00620D4E/8F2CB5F9F347EBD785257E92006D27FF>.

¹⁸⁰ Niagara-on-the-Lake, Community and Development Advisory Committee Minutes (27 July 2015), <https://domino.notl.com/sites/notl/NOTLCOTW.nsf/BF5BF13826D2CAA28525783E006E878E/E8498B83D495908385257E8F004DDAB2>.

¹⁸¹ Niagara-on-the-Lake, Report CDS-15-065 to Community and Development Advisory Committee re Ramsar – Niagara Peninsula Conservation Authority Request for Support of Ramsar Designation of the Niagara River (Convention on Wetlands of International Importance Especially as Waterfowl Habitat) (July 30, 2015), <https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74C6E02BCBF6FC1C8525783E00620D4E/8F2CB5F9F347EBD785257E92006D27FF>.

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

¹⁸⁷ Connolly Report, *surpa* note 63 at 3.



does not create or enhance regulatory obligations.¹⁸⁸ The report states that the Ramsar Convention is clear that its obligations cannot be legally enforced and therefore concludes that endorsing a Ramsar designation for the Niagara River will not impose any regulatory measures or legally enforceable restrictions on the landowners or affect sovereignty rights under the Ramsar Convention.¹⁸⁹

At a meeting of the Community and Development Advisory Committee on September 14, 2015, the Committee approved proposed amendments to the recommendations in Report CDS-15-065:

1.1.a) Adopt recommendation 1 of the Report, with the inclusion of all tenants using the proposed designated wetland area for business purposes or recreational facilities, and request the NPCA to confirm in writing to the Town that this has been done.

1.1.b) Refer the report to the NOTL Agricultural and Irrigation Committees for their comments on potential impacts of this Wetland Designation for members of the farm community who use the Niagara River.

1.1.c) Request staff to obtain written confirmation from the NPCA Board, the NPC Board, and the Niagara Regional Council that they or their staff will not, due to this Wetland Designation, require or support future regulatory requirements or future additional studies of the Niagara-on-the-Lake Irrigation Committee/ System or for the individual farmers who use the Niagara River.

1.1.d) Ask staff to get a legal opinion on any potential impacts of the RAMSAR Wetland designation after reviewing the articles, resolutions and by-laws that are part of a RAMSAR Wetland Designation, including the responsibilities of the management authorities of the site once designated.

1.1.e) Request the Committee of the Whole defer recommendation 2 of the Report to Committee of the Whole meeting at the time recommendation 1,2,3,4 are completed.¹⁹⁰

At an Agricultural Advisory Committee meeting on February 3, 2016, a motion that Town Council be asked to endorse the Agricultural Advisory Committee's recommendation to not support the Ramsar designation for the Niagara River and that Town Council forward a letter to the NPCA stating that the Town is not supportive of the designation was approved.¹⁹¹ The meeting Minutes state that the intent of

¹⁸⁸ *Ibid.*

¹⁸⁹ *Ibid.*

¹⁹⁰ Niagara-on-the-Lake, Community & Development Advisory Committee Minutes (14 September 2015), <https://domino.notl.com/sites/notl/NOTLCOTW.nsf/BF5BF13826D2CAA28525783E006E878E/B2E66305F04DD97385257E69004A7291>.

¹⁹¹ Niagara-on-the-Lake, Agricultural Advisory Committee Minutes (3 February 2016) at 3, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74c6e02bcbf6fc1c8525783e00620d4e/93e557a63ec663aa85257f47005a7fa0/\\$FILE/Agricultural%20Advisory%20Minutes%20-%20February%203.%202016.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74c6e02bcbf6fc1c8525783e00620d4e/93e557a63ec663aa85257f47005a7fa0/$FILE/Agricultural%20Advisory%20Minutes%20-%20February%203.%202016.pdf).



Environment
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Energy Law

the Ramsar designation was not to be regulatory; it was just a designation or a recognition.¹⁹² However, information received recently indicates that other areas having the Ramsar designation are applying it on a regulatory basis for protection, conservation and management.¹⁹³ The Committee noted that there was not enough clarity and too many unanswered questions.¹⁹⁴ The Committee expressed concern for future implications, noting the potential for new regulations that could make it more difficult to farm.¹⁹⁵ As such, the Committee found that designation of the Niagara River is not supportable.¹⁹⁶

Report CDS-16-013 to the Community and Development Advisory Committee recommended that the February 3, 2016 Agricultural Committee minutes be received and that the following recommendation be forwarded to Council for approval:

that Town Council be asked to endorse the Agricultural Advisory Committee recommendation to not support the Ramsar designation for the Niagara River and that Town Council forward a letter to the Niagara Peninsula Conservation Authority stating the Town is not supportive of the designation.¹⁹⁷

Report CDS-16-013 states that the Agricultural Advisory Committee no longer supports the Ramsar designation of the Niagara River because of additional information that has recently come to light about Ramsar designation in two jurisdictions: Australia and Manitoba.¹⁹⁸ The Committee found that Ramsar designation in both jurisdictions appears to have placed additional legislative controls and protections on these sites.¹⁹⁹

Report CDS-16-013 states:

In Australia, the *Environment Protection and Biodiversity Conservation Act* is the main piece of federal legislation that relates to the protection, conservation and management of fish habitat. It provides the legal framework for the protection and management of nationally and internationally important flora, fauna, ecological communities and heritage places including wetlands of international importance (Ramsar wetlands). The Act, as of 2015, lists the principles required for meeting treaty obligations in respect to “wetlands of international importance” including environmental approvals, the approval process, strategic assessments, and the management approach. A set of general principles for

¹⁹² *Ibid* at 2.

¹⁹³ *Ibid*.

¹⁹⁴ *Ibid*.

¹⁹⁵ *Ibid*.

¹⁹⁶ *Ibid*.

¹⁹⁷ Niagara-on-the-Lake, Report CDS-16-013 to Community and Development Advisory Committee re Agricultural Advisory Committee Minutes – February 3, 2016 (27 January 2016), <https://domino.notl.com/sites/notl/NOTLCOTW.nsf/74C6E02BCBF6FC1C8525783E00620D4E/93E557A63EC663AA85257F47005A7FA0>.

¹⁹⁸ *Ibid*.

¹⁹⁹ *Ibid*.



management is described including the need for "public consultation," the involvement of parties with an interest and/or who may be affected by the management of wetland, as well as allowing for continuing community and technical input. Secondly, the requirements for the management plan to be prepared for each listed wetland are described. Thirdly, the requirements for the "environmental impact assessment and approval are described for parties wishing to undertake activities that are likely to have a significant impact on the ecological character of a Ramsar wetland. A review of the list of Australian Ramsar sites indicates that they are largely national parks, crown land, nature reserves and national forests. Virtually no private land has received a Ramsar designation.²⁰⁰

Report CDS-16-013 then discusses a Ramsar designation in Manitoba:

In Manitoba, the Delta Marsh was designated as a Ramsar site in 1982. Since that time a large portion of the marsh has become a protected wildlife management area, purchased from private property owners. It has been categorized as an International Union for Conservation of Nature protected area management category IV managed mainly for conservation of habitat and species through management intervention. However, existing hunting, trapping, fishing and agricultural uses have and will continue within the protected lands and existing Aboriginal and treaty rights are respected in protected areas of the marsh.²⁰¹

Report CDS-16-013 states that operations staff have indicated that there is a possibility that the Ramsar designation could result in an enhanced monitoring program with respect to the quality of the water coming from agricultural land and draining into the Niagara River.²⁰² Operations staff have also expressed concern regarding the expansion of the Dee Road pumping station which could be impacted if the Ramsar designation is approved.²⁰³

In an Information Report to Council dated March 24, 2016, the Community & Development Department stated that while there are arguably long term benefits to a Ramsar designation, timing for Council's consideration may be too early and it may be prudent to defer further consideration until after the Town's Official Plan is adopted and new environmental policies for the Town are in place.²⁰⁴

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

²⁰² *Ibid.*

²⁰³ *Ibid.*

²⁰⁴ Niagara-on-the-Lake, Information Report to Council re Ramsar Update (24 March 2016) at 2, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/\\$FILE/Information%20Report%20Ramsar%20Update.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/$FILE/Information%20Report%20Ramsar%20Update.pdf).



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The Information Report to Council states:

The correspondence from the Ministry of Natural Resources and Forestry to the Town of Fort Erie dated September 16, 2015 confirms that the MNRF will use the wetland definition from the Ontario Wetland Evaluation System, and not the RAMSAR definition, in natural heritage feature regulation and as the criteria to protect natural systems.

The correspondence from the Niagara Peninsula Conservation Authority to the Town of Fort Erie dated October 8, 2015 confirms that the NPCA cannot use the RAMSAR wetland definition and must use the wetland definition from the Conservation Authorities Act as part of the NPCA review or screening process when implementing NPCA's regulation or as criteria to protect natural systems within its watershed. The NPCA letter further indicates that there is no mechanism to establish a buffer around the RAMSAR designation.²⁰⁵

On April 1, 2016, the Mayor of the Town of Niagara-on-the-Lake wrote to the Niagara Parks Commission, the NPCA and the Region of Niagara asking them to confirm that they will not, due to Ramsar designation, require or support future regulatory requirements or future additional studies of the Niagara-on-the-Lake Irrigation System or individual farmers who use the Niagara River.²⁰⁶

The NPCA forwarded the Town of Niagara-on-the-Lake's letter to the Ramsar Steering Committee for response. The Ramsar Steering Committee responded to the NPCA on June 2, 2016. The NPCA forwarded the Ramsar Steering Committee's response to the Town of Niagara-on-the-Lake on June 3, 2016.²⁰⁷ The Ramsar Steering Committee's letter dated June 2, 2016 states the following about Ramsar designation:

²⁰⁵ Memorandum from Callum Shedden to John Henricks re Opinion – Potential Impacts of RAMSAR Wetland Designation for Niagara River (21 March 2016) at 46, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/\\$FILE/Information%20Report%20Ramsar%20Update.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/bf5bf13826d2caa28525783e006e878e/074773803324b17e85257f6c004f1a9e/$FILE/Information%20Report%20Ramsar%20Update.pdf).

²⁰⁶ Letter from Pat Darte, Lord Mayor of the Town of Niagara-on-the-Lake to the Niagara Parks Commission (1 April 2016), [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/\(LUTOC\)/3EDB1608D5CE318885257F8E006B4750/\\$File/Staff%20CorrespondenceApr07.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/(LUTOC)/3EDB1608D5CE318885257F8E006B4750/$File/Staff%20CorrespondenceApr07.pdf); Letter from Pat Darte, Lord Mayor of the Town of Niagara-on-the-Lake to the Niagara Peninsula Conservation Authority (1 April 2016) at 6, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/\(LUTOC\)/3EDB1608D5CE318885257F8E006B4750/\\$File/Staff%20CorrespondenceApr07.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/(LUTOC)/3EDB1608D5CE318885257F8E006B4750/$File/Staff%20CorrespondenceApr07.pdf); Letter from Pat Darte, Lord Mayor of the Town of Niagara-on-the-Lake to the Region of Niagara (1 April 2016) at 7, [https://domino.notl.com/sites/notl/NOTLCOTW.nsf/\(LUTOC\)/3EDB1608D5CE318885257F8E006B4750/\\$File/Staff%20CorrespondenceApr07.pdf](https://domino.notl.com/sites/notl/NOTLCOTW.nsf/(LUTOC)/3EDB1608D5CE318885257F8E006B4750/$File/Staff%20CorrespondenceApr07.pdf).

²⁰⁷ Letter from the NPCA to the Town of Niagara-on-the-Lake dated June 3, 2016 in the NPCA Full Authority Meeting Agenda (15 June 2016) at 4, https://npca.ca/images/uploads/board_files/2016-06-15-Full-Authority-Agenda.pdf.



Environment
Indigenous
Energy Law

- ♦ “On September 1st, 2015, Ramsar Working Group member and Professor, Director of Clinical Legal Education, and Vice Dean for Legal Skills of the University of Buffalo Law School submitted to the Town of Niagara-on-the-Lake a letter verifying ‘a Ramsar designation is a voluntary, non-regulatory Convention Treaty’.”²⁰⁸
- ♦ “On September 10, 2015, Environment Canada submitted to the Town of Niagara-on-the-Lake, a letter verifying ‘a Ramsar site in and of itself offers no legal protection. Ramsar designation is voluntary and carries no regulatory implications’.”²⁰⁹
- ♦ “On September 16, 2015, the Province of Ontario through the Ministry of Natural Resources and Forestry submitted a letter to the Town verifying ‘a Ramsar designation will not impose any regulatory measures or legally enforceable restrictions on landowners or affect sovereignty rights under the treaty’.”²¹⁰
- ♦ “On November 30th, 2015, the NPCA submitted a letter verifying the NPCA’s wetland definition comes directly from section 28 of the *Conservation Authorities Act*. The Ramsar Convention uses a much broader definition of wetlands, defined as any substrate that is at least occasionally wet, including lakes and rivers. To be clear, this proposed designation cannot be used as part of the NPCA review or screening process when implementing NPCA’s regulation, or as criteria to protect natural systems within its watershed. The NPCA will continue to only use the existing Land Use Planning and regulatory framework when providing review of development applications to ensure adherence to existing NPCA and Region of Niagara Core Natural Heritage policies.”²¹¹

The Steering Committee’s letter goes on to state that “the Ramsar Convention and proposed designation cannot impose new or future regulatory requirements, including any irrigation works or network (including the Dee Road irrigation system). The Ramsar designation cannot impose any study requirements on the NOTL irrigation committee including future requirements of permits to take water and the user rights of landowners and/ or farmers who use the Niagara River.”²¹²

NIAGARA PARKS COMMISSION

A Report to the NPC states that at a NPC meeting on November 17, 2017, the NPC resolved to:

- 1 “Receive this report as information only as an update to the Ramsar designation of the Niagara River.

²⁰⁸ Letter from the Ramsar Steering Committee to the NPCA dated June 2, 2016 in the NPCA Full Authority Meeting Agenda (15 June 2016) at 5–6, https://npc.ca/images/uploads/board_files/2016-06-15-Full-Authority-Agenda.pdf.

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*

²¹¹ *Ibid.*

²¹² *Ibid* at 6.



Environment
Indigenous
Energy Law

- 2 Direct Chair Thomson to follow-up with the Niagara Peninsula Conservation Authority (NPCA) Chair to request a response to NPC's correspondence regarding NPCA's updated position on this matter."²¹³

The Report to the NPC does not say what "this report" refers to.

On September 10, 2020, Niagara Parks Commission board members met and voted against acting as the lead nominator for the designation, and to step down from participating in the steering committee.²¹⁴

NIAGARA PENINSULA CONSERVATION AUTHORITY

On July 15, 2015, the NPCA Board resolved to receive a presentation by NPCA staff Jocelyn Baker and Deanna Lindblad regarding the Ramsar designation.²¹⁵ The NPCA Board also endorsed the proposed Niagara River Ramsar designation and resolved to have Board members S. Annunziata, P. Darté, B. Baty, J. Kaspersetz, and Tony Quirk volunteer to sit on the Ramsar Steering Committee pending approval of the Ramsar Steering Committee.²¹⁶

The NPCA's Agenda for the Full Authority Meeting on September 16, 2015 contains a Watershed Management Status Report that provides a table of various Ramsar presentations to the Niagara Region, Niagara Falls, Niagara-on-the-Lake, Fort Erie, the NPC and the NPCA from 2013-2015.²¹⁷

At a NPCA Full Authority Meeting, Chief Administrative Officer D'Angelo commented that "concerns were raised regarding the Ramsar designation and the perception that the Ramsar designation may be viewed as regulatory and thus there is a need for NPCA to refocus and restructure."²¹⁸

At the NPCA's Full Authority Meeting on December 16, 2015, P. Darté commented that the "agricultural community needs to know that this RAMSAR designation will not impact their

²¹³ Niagara Parks Commission, Report to the Commission, <https://www.niagaraparks.com/search/ramsar> at 3.

²¹⁴ Allan Benner, "Niagara Parks slammed for lack of support for Ramsar designation" (22 September 2020), <https://www.stcatharinesstandard.ca/news/niagara-region/2020/09/21/niagara-parks-slammed-for-lack-of-support-for-ramsar-designation.html>.

²¹⁵ NPCA Full Authority Meeting Minutes (15 July 2015) at 3, https://npca.ca/images/uploads/board_files/2015-07-15-Full-Authority-Meeting-Minutes.pdf.

²¹⁶ *Ibid* at 7.

²¹⁷ NPCA Full Authority Meeting Agenda (16 September 2015), Watershed Management Status Report, at 46 of pdf, https://npca.ca/images/uploads/board_files/2015-09-16-Full-Authority-Agenda.pdf.

²¹⁸ NPCA Full Authority Meeting Minutes (16 September 2015) at 7, https://npca.ca/images/uploads/board_files/2015-09-16-Full-Authority-Meeting-Minutes.pdf.



farming.”²¹⁹ Member Baty suggested staff prepare a document for members to use that will explain how the Ramsar designation will be beneficial and that this designation is cause for celebration.²²⁰

The NPCA’s Watershed Management Status Report No. 13-16 dated February 15, 2016 states that “To date, endorsement has been received by Ontario Power Generation, the Niagara Peninsula Conservation Authority, the City of Niagara Falls, and the Town of Fort Erie. The Agricultural Committee of NOTL met on February 3rd and they did not endorse the Ramsar designation. Town of Niagara-on-the-Lake staff will be taking a report to Council on February 29th.”²²¹

At the NPCA’s Full Authority Meeting on June 28, 2017, Member Baty requested that the process of seeking Ramsar designation be renewed.²²² The NPCA Board directed staff to provide an information update to the Board regarding the status of the Ramsar designation.²²³

At the NPCA’s Full Authority Meeting on February 28, 2018, the Board resolved to reconsider its endorsement of the proposed Niagara River Ramsar designation and to have its Board Members sit on the Ramsar Steering Committee.²²⁴

On March 20, 2018, the Ramsar Steering Committee wrote to the NPCA to formally withdraw the Committee’s request for NPCA endorsement of the Ramsar designation for the Niagara River.²²⁵ The letter states that:

It was the volunteer Committee’s sincere hope that the NPCA would join the ever growing list of organizations on both sides of the border showing leadership through their support of this important recognition. Regrettably, despite the volunteer Committee having answered all reasonable questions from the NPCA, including having provided written assurance by Environment Canada that the Ramsar recognition would not prompt any regulatory oversight, the NPCA appears dissatisfied with the assurances given.

The volunteer Committee respects that the request of the NPCA to endorse the Ramsar designation causes apparent apprehension for the NPCA. In recognition of that, and in

²¹⁹ NPCA Full Authority Meeting Minutes (16 December 2015) at 6, https://npca.ca/images/uploads/board_files/2015-12-16-Full-Authority-Meeting-Minutes.pdf.

²²⁰ *Ibid.*

²²¹ NPCA Full Authority Meeting Agenda (17 February 2016), Watershed Management Status Report No. 13-16 dated February 5, 2016, at 16 of pdf, https://npca.ca/images/uploads/board_files/2016-02-17-Full-Authority-Agenda.pdf.

²²² NPCA Full Authority Meeting Minutes (28 June 2017) at 12, https://npca.ca/images/uploads/board_files/2017-06-28-Full-Authority-Meeting-Minutes.pdf.

²²³ *Ibid.*

²²⁴ NPCA Full Authority Meeting Minutes (28 February 2018) at 6, https://npca.ca/images/uploads/board_files/2018-02-28-Full-Authority-Meeting-Minutes.pdf.

²²⁵ Letter from Ramsar Steering Committee to NPCA dated March 20, 2018 in the NPCA Full Authority Meeting Agenda (26 March 2018) at 25, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf.



Environment
Indigenous
Energy Law

order to relieve the NPCA Board of this apparent discomfort, we are hereby withdrawing our request for the NPCA's endorsement and thank you for your consideration.²²⁶

The NPCA's Report No. 32-18, Designation of the Niagara River as a RAMSAR Site, dated March 26, 2018 was submitted to the NPCA Board. The Report states that a Ramsar designation carries with it no financial support or legal protection.²²⁷ It also states that a Ramsar designation does not affect the management of the site or adjacent lands and it cannot be used as part of natural heritage feature regulation.²²⁸ The Report states that the "proposed RAMSAR designation cannot be used as part of the NPCA review or screening process when implementing NPCA's regulation, or as criteria to protect natural systems within its watershed. The NPCA will continue to only use the existing Land Use Planning and regulatory framework when providing review of development applications to ensure adherence to existing NPCA and Regional of Niagara Core Natural Heritage policies."²²⁹

On November 20, 2019, the NPCA Board passed a motion to endorse and support the proposed nomination of the Niagara River as a Ramsar site.²³⁰

Document #: 1876467

²²⁶ *Ibid.*

²²⁷ NPCA Report No 32-18, "Designation of the Niagara River as a RAMSAR Site" dated March 26, 2018 in the NPCA Full Authority Meeting Agenda (26 March 2018), at 30, https://npca.ca/images/uploads/board_files/2018-03-26-Full-Authority-Agenda.pdf

²²⁸ *Ibid.*

²²⁹ *Ibid* at 31.

²³⁰ NPCA Full Authority Meeting Minutes (20 November 2019) at 3, https://npca.ca/images/uploads/board_files/FAMinutes_11202019.pdf.



APPENDIX A – Key Documents

This Appendix contains copies of the following documents:

- 1 Letter from Environment and Climate Change Canada to the Town of Niagara-on-the-Lake dated September 10, 2015
- 2 Letter from Environment and Climate Change Canada to the Niagara Peninsula Conservation Authority dated November 8, 2019
- 3 Letter from Environment and Climate Change Canada to the Niagara Region dated June 10, 2020
- 4 Letter from the Ontario Ministry of Natural Resources and Forestry to the Town of Fort Erie dated September 16, 2015
- 5 Letter from the Niagara Peninsula Conservation Authority to the Town of Fort Erie dated October 8, 2015
- 6 Letter from the Niagara Peninsula Conservation Authority to the Town of Niagara-on-the-Lake dated November 30, 2015
- 7 Niagara Peninsula Conservation Authority's Report 32-18 to the Board of Directors re Designation of the Niagara River as a RAMSAR Site dated March 26, 2018

TAB 1
LETTER FROM ENVIRONMENT AND CLIMATE CHANGE CANADA TO THE
TOWN OF NIAGARA-ON-THE-LAKE DATED SEPTEMBER 10, 2015



Environment
Canada

Environnement
Canada

John Henricks, Director of Community & Development Services
Town of Niagara-on-the-Lake
1593 Four Mile Creek Road, PO Box 100
Virgil, ON L0S 1T0

September 10, 2015

Dear Mr. Henricks,

As requested by the Niagara River Ramsar Steering Committee, I am providing information that will clarify the regulatory implications of Ramsar site designation in Canada and the responsibilities of management authorities of those sites once designated.

Canada acceded to the Ramsar Convention in 1981. As part of its commitment to promote the wise use of wetlands, Canada implements the North American Waterfowl Management Plan and a number of federal and provincial policy initiatives, including the Federal Policy on Wetland Conservation.

The global network of Wetlands of International Importance (Ramsar sites) is one of the cornerstones of the Ramsar Convention. Canada currently has 37 Ramsar sites, the last of which was designated in 2005, covering over 13 million hectares and representing 8% of the total wetland area in Canada. Ramsar sites are located in all Provinces and Territories. Should the nomination of the Niagara River Ramsar Site be successful, it will be the first transboundary Ramsar site in North America.

As you may be aware, designation as a Ramsar site in and of itself offers no legal protection. Ramsar designation is voluntary and carries with it no financial support or regulatory implications. In fact, the designation of a site serves to highlight the values of the Site but affects neither the management regime for these areas nor resource use within them, nor for lands adjacent to the Ramsar site.

A Ramsar site designation is a "good faith" designation to maintain the ecological character of a site in the context of wise use. Ramsar defines wise use of Ramsar sites as "the maintenance of their ecological character, achieved through ecosystem approaches, within the context of sustainable development". At Canadian Ramsar sites, typical activities that occur include recreational activities such as boating, bird watching, consumptive activities such as hunting and fishing, and agriculture. The aim is not to prohibit activities, but rather to encourage activities in the framework of "wise use".

Site managers, those responsible for the management of the lands/waters within the boundaries of the Ramsar site and named on the Ramsar Information Sheet are required to assure the maintenance of the ecological, hydrological, and socioeconomic characteristics and



functions of the Site and promote the wise use of resources on this wetland area. Site managers are also responsible for communicating any human-induced changes on the site that affect ecological character to the Administrative Authority (Environment Canada). Additional guidance material on the wise use of wetlands and management planning at Ramsar sites can be found on the Secretariat's website at www.ramsar.org.

I hope you find this information helpful. Ramsar is a co-operative endeavor and Canada's success in implementing the Convention is due in large part to partnerships. We thank you for your interest and dedication in this pursuit. If you have any further questions on the Ramsar Convention or the nomination of Ramsar sites in Ontario, please contact Nancy Patterson at Nancy.Patterson@ec.gc.ca or 416-739-5824.

Sincerely,


Grant Hogg
Director, Habitat Conservation Management
Ramsar Convention on Wetlands Canadian National Focal Point

cc. Niagara River Ramsar Steering Committee
Nancy Patterson, Environment Canada

TAB 2
LETTER FROM ENVIRONMENT AND CLIMATE CHANGE CANADA TO THE
NIAGARA PENINSULA CONSERVATION AUTHORITY DATED
NOVEMBER 8, 2019



Chair and Board Members

Niagara Peninsula Conservation Authority

250 Thorold Road West; 3rd Floor

Welland, ON L3C 3W2

November 8, 2019

Dear Chair and Board Members:

As requested by the Niagara River Ramsar Designation Steering Committee, I am writing to provide you with information that aims to clarify the regulatory implications of Ramsar site designation in Canada and the responsibilities of management authorities of those sites once designated.

The global network of Wetlands of International Importance (Ramsar sites) is one of the cornerstones of the Ramsar Convention. Canada currently has 37 Ramsar sites covering over 13 million hectares and representing 80% of the total wetland area in Canada. Ramsar sites are located in all Provinces and Territories. Should the nomination of the Niagara River Ramsar Site be successful, it will be the first transboundary Ramsar site in North America.

As you may be aware, designation as a Ramsar site in and of itself offers no legal protection. Ramsar designation is voluntary and carries with it no financial support or regulatory implications. In fact, the designation of a site serves to highlight the values of the Site but affects neither the management regime nor resource use for these areas or for lands adjacent to the Ramsar site.

A Ramsar site designation is a "good faith" designation to maintain the ecological character of a site in the context of wise use. Ramsar defines wise use of Ramsar sites as "the maintenance of their ecological character, achieved through ecosystem approaches, within the context of sustainable development". At Canadian Ramsar sites, typical activities that occur include recreational activities such as boating, bird watching, consumptive activities such as hunting and fishing, and agriculture. The aim is not to prohibit activities, but rather to encourage activities in the framework of "wise use".

Site managers, those responsible for the management of the lands/waters within the boundaries of the Ramsar site and named on the Ramsar Information Sheet are required to assure the maintenance of the ecological, hydrological, and socioeconomic characteristics and functions of the Site and promote the wise use of resources on this wetland area. Site managers are also responsible for communicating any human-induced changes on the site that affect ecological character to the Administrative Authority (Environment and Climate Change Canada). Additional guidance material on the wise use of wetlands and management planning for Ramsar sites can be found on the Secretariat's website at www.ramsar.org.

I hope you find this information helpful. Ramsar is a co-operative endeavour and Canada's success in implementing the Convention is due in large part to partnerships. We thank you for your interest and dedication in this pursuit. If you have any further questions on the Ramsar Convention or the nomination of Ramsar sites in Ontario, please contact Graham Bryan at Graham.Bryan@canada.ca or 416-739-4918.

Sincerely,



Grant Hogg

Executive Director, Conservation Partnerships and Programs
Environment Climate Change Canada

Ramsar Convention on Wetlands Canadian Acting/Head of Administrative Authority and National Focal Point

Cc: Jocelyn Baker, Canadian Co-chair, Niagara River Ramsar Designation Steering Committee
Jajeen Rose-Burney, U.S. Co-chair, Niagara River Ramsar Designation Steering Committee

TAB 3
LETTER FROM ENVIRONMENT AND CLIMATE CHANGE CANADA TO THE
NIAGARA REGION DATED JUNE 10, 2020

Government
of CanadaGouvernement
du Canada

Canada

Jim Bradley, Regional Chair
Niagara Region
2201 St. David's Road, P.O. Box L042
Thorold, ON L2V 4T7

June 10, 2020

Dear Mr. Bradley:

As requested by the Niagara River Ramsar Designation Steering Committee, I am writing to provide you with information that aims to clarify the implications of Ramsar site designation in Canada and the responsibilities of management authorities of those sites once designated.

The global network of Wetlands of International Importance (Ramsar sites) is one of the cornerstones of the Ramsar Convention. Canada currently has 37 Ramsar sites covering over 13 million hectares and also has the distinction of being home to the second largest Ramsar site in the world, Queen Maud Gulf (6.3 million hectares). Ramsar sites are located in all Provinces and Territories. Should the nomination of the Niagara River Ramsar Site be successful, it will be the first transboundary Ramsar site in North America.

As you may be aware, designation as a Ramsar site in and of itself offers no legal protection. Ramsar designation is voluntary and carries with it no financial support. The designation of a site serves to highlight the values of the Site but affects neither the management regime nor resource use for these areas or for lands adjacent to the Ramsar site.

A Ramsar site designation is a "good faith" designation to maintain the ecological character of a site in the context of wise use. Ramsar defines wise use of Ramsar sites as "the maintenance of their ecological character, achieved through ecosystem approaches, within the context of sustainable development". At Canadian Ramsar sites, typical activities that occur include recreational activities such as boating, bird watching, consumptive activities such as hunting and fishing, and agriculture. The aim is not to prohibit activities, but rather to encourage activities in the framework of "wise use".

Site managers, those responsible for the management of the lands/waters within the boundaries of the Ramsar site and named on the Ramsar Information Sheet are required to assure the maintenance of the ecological, hydrological, and socioeconomic characteristics and functions of the Site and promote the wise use of resources on this wetland area. Site managers are also responsible for communicating any human-induced changes on the site that affect ecological character to the Administrative Authority (Environment and Climate

Change Canada), whom in return, have the obligation to report to the Ramsar Secretariat. Additional guidance material on the wise use of wetlands and management planning for Ramsar sites can be found on the Secretariat's website at www.ramsar.org.

I hope you find this information helpful. Ramsar is a co-operative endeavour and Canada's success in implementing the Convention is due in large part to partnerships. We thank you for your interest and dedication in this pursuit. If you have any further questions on the Ramsar Convention or the nomination of Ramsar sites in Ontario, please contact Graham Bryan at Graham.Bryan@canada.ca or 416-739-4918.

Sincerely,



Jacey Scott

Head Wetlands Office, Regional Operations Directorate
Environment and Climate Change Canada
Ramsar Convention on Wetlands Canadian National Focal Point

Cc: Rino Mostacci, Commissioner of Planning and Development Services

Jocelyn Baker, Canadian Co-chair, Niagara River Ramsar Designation Steering Committee

Jajean Rose-Burney, U.S. Co-chair, Niagara River Ramsar Designation Steering Committee

TAB 4
**LETTER FROM THE ONTARIO MINISTRY OF NATURAL RESOURCES AND
FORESTRY TO THE TOWN OF FORT ERIE DATED SEPTEMBER 16, 2015**

**Ministry of Natural
Resources and Forestry**

Guelph District
Vineland Field Office
4890 Victoria Ave North
P.O. Box 5000
Vineland Station, Ontario
L0R 2E0

Telephone: (905) 562-4147
Facsimile: (905) 562-1154

**Ministère des Richesses
naturelles et des Forêts**

District de Guelph
Bureau régional de Vineland
4890 avenue Victoria Nord
C.P. 5000
Vineland Station, Ontario
LOR 2E0

Téléphone: (905) 562-4147
Télécopieur: (905) 562-1154



Guelph District

September 16, 2015

Mr. Richard F. Brady
Director of Community & Development Services
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario L2A 2S6

Dear Mr. Brady,

Re: Proposed Ramsar Designation of the Niagara River

I am writing to clarify our position on Provincially Significant Wetlands (PSW's) and wetlands as defined by the Ramsar Convention. The Ramsar Convention is a voluntary intergovernmental treaty, committed to encouraging education and sustainable development as a means of acknowledging global wetlands. The purpose of the treaty is to promote the conservation and wise use of water-based ecosystems (wetlands) through local, national, and international sustainable practices. A Ramsar designation will not impose any regulatory measures or legally enforceable restrictions on landowners or affect sovereignty rights under the treaty. The treaty is clear; the Ramsar Convention is not a regulatory regime and has no punitive sanctions for violations of or defaulting upon treaty commitments.

It should be noted, the Convention uses a broad definition of wetlands; it is defined as any substrate that is at least occasionally wet, including lakes and rivers. The Ministry of Natural Resources and Forestry (MNR) designates wetland provincially using the Ontario Wetland Evaluation System (OWES). In this evaluation system wetlands are defined as:

"Lands that are seasonally or permanently flooded by shallow water as well as lands where the water table is close to the surface; in either case the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic or water tolerant plants".

To meet with our staff please be sure to call ahead and make an appointment.
For general information visit: www.mnr.gov.on.ca or www.ontario.ca

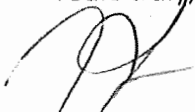
[2]

The term wetland is a general one and includes specific land types commonly called marshes, bogs, swamps and fens.

A Ramsar wetland designation is not the same as a wetland designated by the MNRF and therefore cannot be used as part of natural heritage feature regulation, or as criteria to protect natural systems. The designation of a Ramsar site in and of itself offers no legal protection. As stated above, the Ramsar designation of wetland is voluntary and carries no regulatory implications.

I trust this clarifies our position on this. Should you have any questions on this, please do not hesitate to contact me directly.

Yours truly,



Joao Durst
Resource Management Supervisor
Guelph District

CC: Rino Mostacci, Niagara Region
John Henricks, Town of Niagara-on-the-Lake
Peter Graham, NPCA

To meet with our staff please be sure to call ahead and make an appointment.
For general information visit: www.mnr.gov.on.ca or www.ontario.ca

TAB 5
LETTER FROM THE NIAGARA PENINSULA CONSERVATION AUTHORITY
TO THE TOWN OF FORT ERIE DATED OCTOBER 8, 2015



Office of the Chair

250 Thorold Road West, 3rd Floor, Welland ON L3C 3W2
Telephone (905) 788-3135 x 251 / Facsimile (905) 788-1121
bruce.timms@niagararegion.ca / www.npca.ca

October 8, 2015

Director of Community & Development Services
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario L2A 2S6

Attention: Richard F. Brady, MA, MCIP, RPP

Dear Mr. Brady;

Re: Proposed Ramsar Designation of the Niagara River

On behalf of the Niagara Peninsula Conservation Authority (NPCA), thank you for the opportunity to clarify our position with respect to the proposed Ramsar designation for the Niagara River.

In response to the International Joint Commission (IJC) deeming the Niagara River the most degraded place in North America, the Great Lakes Water Quality Agreement was signed in 1972 between Canada and the U.S. Its goal was to work collaboratively to restore the ecosystem health of the Great Lakes, including the Niagara River. To date, major accomplishments have been made in the Niagara River including a 99% reduction of point source discharges along with significant reductions in toxic chemicals. In order to acknowledge this achievement of improved health and prosperity, a Ramsar designation for the river is being pursued. This effort is being led by the Ramsar Steering Committee consisting of agency representatives from Canada and the U.S., including representation from the NPCA. The NPCA Board of Directors passed a resolution at their June 15th, 2015 Board meeting, endorsing the proposed Ramsar designation for the Niagara River.

Recognizing that some regulatory and legal concerns have recently been raised regarding the Niagara River potentially becoming a Ramsar site of International Importance, we have consulted with our provincial and federal partners for site designation clarification. On September 10, 2015, Environment Canada submitted a letter verifying "a Ramsar site in and of itself offers no legal protection. Ramsar designation is voluntary and carries no regulatory implications. The designation serves to highlight the values of the site but affects neither the management regime for these areas nor resource use within them, nor for lands adjacent to the Ramsar site".

On September 16, 2015, the Province of Ontario through the Ministry of Natural Resources and Forestry submitted a letter verifying "a Ramsar designation will not impose any regulatory measures or legally enforceable restrictions on landowners or affect sovereignty rights under

the treaty. The treaty is clear: the Ramsar Convention is not a regulatory regime and has no punitive sanctions for violations of or defaulting upon treaty commitments”.

Ramsar Steering Committee member and Vice Dean of the University of Buffalo Law School also submitted a letter dated September 1st, 2015 verifying from a legal perspective and as a Ramsar Treaty expert, “a Ramsar designation is a voluntary, non-regulatory Convention Treaty, signed by 168 countries including Canada and the United States. It is an honorary endorsement of the rivers ecological significance, affirming through designation, the rivers global importance. It is a mechanism to encourage increased tourism, recreation and fund raising opportunities through heightened international awareness of the rivers global contribution to biodiversity and its role in building stronger, healthier and more resilient communities”.

The Ramsar Convention is a voluntary intergovernmental treaty, committed to encouraging education and sustainable development as a means of acknowledging global wetlands. The purpose of this treaty is to promote the conservation and wise use of water-based ecosystems (wet lands) through local, national, and international engagement and collaboration.

It should be noted that the NPCA’s definition of wetland comes directly from section 28 of the Conservation Authorities Act and is not how the Ramsar Convention defines it. The Convention uses a broad definition of wetlands, defined as any substrate that is at least occasionally wet, including lakes and rivers (wet lands). As such, this proposed designation cannot be used as part of the NPCA review or screening process when implementing NPCA’s regulation, or as criteria to protect natural systems within its watershed. In addition, there is no mechanism of establishing a buffer around the Ramsar designation, which includes the wetted portion of the river from the inlet at Fort Erie to the outlet at Niagara-on-the-Lake. The NPCA will continue to only use the existing Land Use Planning and regulatory framework when providing review of development applications to ensure that existing NPCA and Region of Niagara Core Natural Heritage polices are satisfied.

The progress achieved over the last 45 years in restoring the health of the Niagara River would not have been possible without the cooperation of all government agencies, stakeholders and the active involvement of the general public.

We look forward to continuing to collaborate with our member municipalities on this important initiative. If you require any further information or clarification on the Niagara River restoration efforts or the proposed Ramsar designation, please do not hesitate to contact myself or NPCA staff.

Sincerely,



D. Bruce Timms, P.Eng.;
 Chairman – NPCA

cc: Rino Mostacci, Commissioner of Planning & Development Services, Niagara Region
 John Henricks, Director of Community & Development Services, Town of NOTL
 John Lohuis, General Manager, The Niagara Parks Commission
 Ramsar Steering Committee

TAB 6
LETTER FROM THE NIAGARA PENINSULA CONSERVATION AUTHORITY
TO THE TOWN OF NIAGARA-ON-THE-LAKE DATED NOVEMBER 30, 2015



Office of the Chair

250 Thorold Road West, 3rd Floor, Welland ON L3C 3W2
Telephone (905) 788-3135 x 251 | Facsimile (905) 788-1121
bruce.timms@niagararegion.ca | www.npca.ca

November 30, 2015

Agricultural Committee
Town of Niagara-on-the-Lake
1593 Four Mile Creek Road, PO Box 100
Virgil, ON L0S 1T0

Attention: Chairman Mr. Dennis Dick

Dear Mr. Dick;

Re: Proposed Ramsar Designation of the Niagara River

On behalf of the Niagara Peninsula Conservation Authority (NPCA), thank you for the opportunity to clarify our position with respect to the proposed Ramsar designation for the Niagara River.

In response to the International Joint Commission (IJC) deeming the Niagara River the most degraded place in North America, the Great Lakes Water Quality Agreement was signed in 1972 between Canada and the U.S. Its goal was to work collaboratively to restore the ecosystem health of the Great Lakes, including the Niagara River. To date, major accomplishments have been made in the Niagara River including a 99% reduction of point source discharges along with significant reductions in toxic chemicals. In order to acknowledge this achievement of improved health and prosperity, a Ramsar designation for the river is being pursued. This effort is being led by the Ramsar Steering Committee consisting of agency representatives from Canada and the U.S., including representation from the NPCA. The NPCA Board of Directors passed a resolution at their June 15th, 2015 Board meeting, endorsing the proposed Ramsar designation for the Niagara River.

Recognizing that some regulatory and legal concerns have recently been raised regarding the Niagara River potentially becoming a Ramsar site of International Importance, we have consulted with our provincial and federal partners for site designation clarification. On September 10, 2015, Environment Canada submitted a letter verifying "a Ramsar site in and of itself offers no legal protection. Ramsar designation is voluntary and carries no regulatory implications. The designation serves to highlight the values of the site but affects neither the management regime for these areas nor resource use within them, nor for lands adjacent to the Ramsar site".

On September 16, 2015, the Province of Ontario through the Ministry of Natural Resources and Forestry submitted a letter verifying "a Ramsar designation will not impose any regulatory measures or legally enforceable restrictions on landowners or affect sovereignty rights under the treaty. The treaty is clear: the Ramsar Convention is not a regulatory regime and has no punitive sanctions for violations of or defaulting upon treaty commitments".

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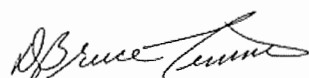
It should be noted that the NPCA's definition of wetland comes directly from section 28 of the Conservation Authorities Act and is not how the Ramsar Convention defines it. The Convention uses a broad definition of wetlands, defined as any substrate that is at least occasionally wet, including lakes and rivers (wet lands). As such, this proposed designation cannot be used as part of the NPCA review or screening process when implementing NPCA's regulation, or as criteria to protect natural systems within its watershed. In addition, there is no mechanism of establishing a buffer around the Ramsar designation, which includes the wetted portion of the river from the inlet at Fort Erie to the outlet at Niagara-on-the-Lake. The NPCA will continue to only use the existing Land Use Planning and regulatory framework when providing review of development applications to ensure that existing NPCA and Region of Niagara Core Natural Heritage polices are satisfied.

Further to the above, the Ramsar Convention and proposed designation cannot impose new or future regulatory requirements related to any irrigation works or network, including the Dee Road irrigation system. The Ramsar designation cannot impose additional study requirements on the NOTL irrigation committee including future requirements of permits to take water and the user rights of landowners and/ or farmers who use the Niagara River.

The progress achieved over the last 45 years in restoring the health of the Niagara River would not have been possible without the cooperation of all government agencies, stakeholders and the active involvement of the general public.

We look forward to continuing to collaborate with our member municipalities on this important initiative. If you require any further clarification on the Niagara River restoration efforts or the proposed Ramsar designation, please do not hesitate to contact myself or NPCA staff.

Sincerely,



D. Bruce Timms, P.Eng;
Chairman - NPCA

TAB 7
NIAGARA PENINSULA CONSERVATION AUTHORITY'S REPORT 32-18 TO
THE BOARD OF DIRECTORS RE DESIGNATION OF THE NIAGARA RIVER
AS A RAMSAR SITE DATED MARCH 26, 2018



Report To: Board of Directors

Subject: Designation of the Niagara River as a RAMSAR Site

Report No: 32-18

Date: March 26, 2018

RECOMMENDATION:

That Report No. 32-18 respecting the Designation of the Niagara River as a RAMSAR Site **BE RECEIVED** for information.

PURPOSE:

To provide information about the pursuit of the RAMSAR designation for the Niagara River.

BACKGROUND:

The Convention on Wetlands of International Importance, known as the RAMSAR Convention, is a voluntary, intergovernmental treaty that provides the framework for national action and international cooperation for the conservation and wise use of wetland and their resources (RAMSAR 2017). The RAMSAR Convention was signed on February 2, 1971 with Canada agreeing to the RAMSAR Convention on May 15, 1981. The RAMSAR designation is considered an honorary endorsement of the ecological importance of the site. The RAMSAR designation carries with it no financial support or legal protection (Appendix 1). A RAMSAR designation does not affect the management of the site or adjacent lands and it cannot be used as part of natural heritage feature regulation (Appendix 2). The province of Ontario already has laws, regulations, and policies that guide land use and protect wetlands (e.g., *Conservation Authorities Act*, *Provincial Policy Statement*) (OMNRF 2018). The Government of Canada has existing laws and policy that govern the management of boundary waters, fisheries, water quality, and navigation (ECCC 2018).

The Convention uses a broad definition of wetlands defined as any substrate that is at least occasionally wet, including lakes and rivers. In a letter from the NPCA Chairman of the Board, the NPCA's definition of a wetland (Section 28 of the *Conservation Authorities Act*) (Appendix 3). The proposed RAMSAR designation cannot be used as part of the NPCA review or screening process when implementing NPCA's regulation, or as criteria to protect natural systems within its watershed. The NPCA will continue to only use the existing Land Use Planning and regulatory framework when providing review of development applications to ensure adherence to existing NPCA and Region of Niagara Core Natural Heritage policies.

Canada became a Contracting Party to the RAMSAR Convention in 1981 (Canadian Wildlife Service & Secretariat 1999). The Convention promotes cooperation among countries to promote wetland conservation recognizing that waters can cross political boundaries and that animals are often migratory. In addition to wetland conservation considerations in national land use planning, Canada and the other Contracting Parties to the Convention undertake four main obligations:

- Designation of at least one wetland for inclusion in the *List of Wetlands of International Importance*;
- Promotion of the wise use of wetlands within their nation particularly through the implementation of wetland conservation and management policies;
- Consultation with other Contracting Parties about implementing the obligations arising under the Convention particularly for those wetlands shared between nations; and
- Establishment of protected wetland areas throughout their nation.

Currently, Canada has designated 37 sites as Wetlands of International Importance, with the most recent site being added to the list in 2005. Eight of those sites are located in the Province of Ontario (Appendix 4).

To meet the requirements of being listed as a RAMSAR Convention Wetland of International Importance, a site must fulfill at least one of these nine criteria:

1. Is representative, rare, or unique.
2. Supports vulnerable, endangered or threatened species.
3. Supports keystone or endemic species.
4. Supports species at a critical stage in their life cycles (migration, breeding).
5. Supports 20,000 or more waterbirds.
6. Supports 1% of the individuals in a population of one species of waterbird.
7. Supports a significant proportion of indigenous fish species.
8. An important food source, spawning area, nursery or migration path for fish.
9. Supports 1% of the individuals in a population of one species or subspecies of wetland-dependent non-avian animal species.

The Niagara River has been found to meet all nine criteria; therefore, a RAMSAR designation is being sought for the Niagara River corridor (Appendix 5). If the Niagara River's nomination is successful for U.S. and Canada, it will be the very first transboundary site in North America. Efforts towards the RAMSAR designation process is led by the Niagara River RAMSAR Steering Committee which was established in 2013 to provide expertise and guide the procedural nomination process (Appendix 6). Each country must nominate their own site but to coordinate a transboundary designation, the Steering Committee is Co-Chaired by a Canadian and American representative. An Advisory Group (formerly called the Working Group), made up of groups/organizations that have an interest in the Niagara River, continue to support ongoing efforts of stakeholder engagement and promotion of the RAMSAR designation process. Representatives from the NPCA as well as the Niagara River Remedial Action Plan are identified as members of the Advisory Group (Appendix 6).

The Niagara River is a 58-KM bi-national connecting channel linking Lake Erie to Lake Ontario. It provides many beneficial water uses for humans and wildlife alike. The Niagara River corridor is a vibrant ecosystem that supports birds, fish, reptiles, amphibians and provides us with a source of drinking water, electricity, recreation, and economic benefits as it's a big tourist destination. Approximately 54% of the NPCA's watershed area drains into the Niagara River. It is a natural boundary between Canada and the United States and its waters are shared and managed cooperatively through the Boundary Waters Treaty of 1909 (as well as other policies). In Ontario, there are three municipalities adjacent to the Niagara River: Town of Fort Erie, City of Niagara Falls, and Town of Niagara-on-the-Lake.

In 1987, the Niagara River was listed as a Great Lakes' Area of Concern (AOC) through the Canada-U.S. Great Lakes Water Quality Agreement (GLWQA) because of water pollution and habitat loss. The GLWQA commits both countries to working cooperatively to "restore and maintain the chemical physical and biological integrity of the waters of the Great Lakes". Since 1971, Canada and Ontario have worked together to fulfill Canada's obligations under the GLQWA (called the Canada-Ontario Agreement on Great Lakes Water Quality and Ecosystem Health or COA). A Niagara River Remedial Action Plan (RAP) partnership was established in 1989 as part of the requirements of the GLWQA and COA to restore and protect water quality and ecosystem health in the Niagara River. Since then, significant efforts of many RAP partners (including the NPCA) have improved the condition of the Niagara River through the reduction of pollution discharges, habitat improvements, and better water use/management. The Niagara River RAP initiative supports the pursuit of the RAMSAR designation as an opportunity to celebrate and highlight the achievements of the Niagara River's cleanup. Through involvement of the RAP Project Manager, the RAP initiative continues to provide support by participating on the RAMSAR Working Group to ensure the alignment of goals and messaging for both initiatives, while the RAP works to remove the Niagara River from the list of Great Lakes' Areas of Concern.

The proposed geographic scope of the RAMSAR designation is the waters of the Niagara River from Lake Erie to Lake Ontario and shore to shore (same as the Niagara River Area of Concern), as well as some existing protected greenspaces and riparian areas along the river

DISCUSSION:

In July 2015, the NPCA Board of Directors endorsed the proposed Niagara River RAMSAR designation (*Resolution No. FA - 134 -15*: Appendix 7 & 8). The NPCA is currently listed as a member of the Advisory Group (formerly called the Working Group), made up of groups/organizations that have an interest in the Niagara River, to continue to support ongoing efforts of stakeholder engagement and promotion of the RAMSAR designation process.

If successful, the RAMSAR designation would acknowledge the river's global contributions to ecological significance, rich biodiversity, and healthy communities. Canada currently has 37 RAMSAR sites but the Niagara River would be the first bi-national RAMSAR site in North and South America. Overall, this new title would shine a light on this significant natural resource, celebrate major ecological accomplishments through the RAP (Remedial Action Plan), help to change the public's perception of the Niagara River being a polluted area to one that supports a healthy and vibrant ecosystem that sustains humans and wildlife, and bring well-deserved recognition to the Niagara region.

FINANCIAL IMPLICATIONS:

There are no financial implications to the NPCA. The Niagara River RAP (Remedial Action Plan) Project Manager is identified as a member of the RAMSAR Advisory Group. Presently, the NPCA receives financial support from the Great Lakes Sustainability Fund (administered through Environment and Climate Change Canada) and the Ontario Ministry of the Environment and Climate Change for RAP Governance to support the coordination and administrative services provided by the Project Manager to implement the RAP initiative.

Supporting the RAMSAR designation is identified as one of the deliverables under the Provincial RAP Governance Agreement and is identified as an ongoing work plan priority to ensure the alignment of goals and messaging for both initiatives while the RAP Committee works to remove the Niagara River from the list of Great Lakes' Areas of Concern.

RELATED REPORTS AND APPENDICES:

- Appendix 1: Letter from Environment Canada
- Appendix 2: Letter from Ontario Ministry of Natural Resources and Forestry
- Appendix 3: Letter from NPCA Chairman NOTL Agriculture Committee
- Appendix 4: Details on RAMSAR Sites in Ontario
- Appendix 5: Niagara River RAMSAR Factsheet
- Appendix 6: Niagara River RAMSAR Designation Steering Committee Terms of Reference
- Appendix 7: Board Report No. 77-15
- Appendix 8: NPCA Full Authority Meeting Minutes – July 15, 2015

REFERENCES:

Canadian Wildlife Service & Secretariat, North American Wetlands Conservation Council (Canada). 1999. Canada and the RAMSAR Convention: The Convention on Wetlands of International Importance.

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RAMSAR. 2017. The Designation and Management of RAMSAR Sites – A practitioner's guide.

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Accessed online on March 7, 2018.

Prepared by:

Natalie Green

Natalie Green, RAP Project Manager
Niagara River (Ontario)
Remedial Action Plan

Submitted by:

Mark Brickett

Mark Brickett
Chief Administrative Officer/Secretary-Treasurer

MEMORANDUM

ED 6-2021

Subject: COVID-19 Response and Business Continuity in Economic Development

Date: March 10, 2021

To: Planning and Economic Development Committee

From: George Spezza, Director, Economic Development

Economic Development

Current Status of Operations

This memo is the Economic Development Division's monthly update on our response to COVID-19 and business continuity. We continue to lead the implementation of the Economic Recovery Plan in collaboration with the Economic Rapid Response Team (ERRT). However, in developing operational work plans for 2021 we are working on planning priority activities in preparation to return to our core mandate.

Service/Operational Changes

The Economic Development Officer responsible for coordinating the activities of the Foreign Trade Zone and supporting the Foreign Direct Investment program, has been redeployed to a Regional long term care home for 2 months. He is expected to return to the division in mid-April.

Significant Initiatives and Actions Taken

COVID-19: Business Support

With constant updates related to the COVID-19 pandemic, keeping on top of all the information available can be overwhelming, especially for those who are trying to run a business. Niagara Region's Economic Development team has been combing through the information available online and has curated some resources we think will be most useful for small business owners on NiagaraCanada.ca.

We will continue to update these resources with new information as it becomes available.

| Website Analytics: | Last 30 days: | Vs. Same time last year: |
|---------------------------|----------------------|---------------------------------|
| Visits | 4,197 | (+1,267) |
| Page views: | 7,114 | (+1,362) |
| Unique Visitors: | 3,407 | (+921) |
| Returning Visitors: | 144 | (+11) |

| Most popular Pages: | Number of Views: |
|--|-------------------------|
| Tourism Adaptation and Recovery Fund Grant Program | 1,735 |
| COVID-19 Business Support | 978 |
| COVID-19 News | 789 |

Business Updates

Biweekly calls continue to the ERRT Taskforce which includes our Economic Development Officer colleagues, BIAs, Chambers and Industry Associations. These calls are used as a communications channel to disseminate information to our local businesses. The calls take place in partnership with Niagara Region Public Health and include the latest information on new government announcements and protocols. In the last month they have provided information on changes to the stages of the Provincial Opening Up plan in preparation for the 'Stay at Home' order expiring on February 16th. Information that is released between meetings is shared with the group by email. These calls are also an opportunity to provide an update on the progress of the Economic Recovery Plan.

Tourism Adaption and Recovery Funding

The over-subscription of this fund in a very short period of time is the result of a tremendous effort by both the Regional team and our Economic Development colleagues in the municipalities. The application period closed on January 31st and an adjudication committee with representation from all the municipalities evaluated over 200 applications against the eligibility criteria of the funding.

At the time of writing this report, the applicants are being notified and funding agreements are being put in place, in order for Niagara Region to submit a claim to the funder by March 15th. We are still waiting for an official announcement from the Minister and so are unable to disclose the total amount of the funding.

Business and Economic Research and Analysis

Ongoing projects include:

- Niagara COVID-19 Business Impact Survey (Part 3)
- Niagara Community Observatory, Regional Active Economy Policy Brief with Prof. Julie Stevens
- Niagara Community Observatory, Updated ICT Policy Brief with Prof. Charles Conteh
- Niagara Workforce Planning Board Scenario Planning Prioritization Committee (drafting a report on Niagara and southern Ontario for the Province that looks at potential scenarios and possible outcomes over the next 2 years)
- Niagara Workforce Planning Board: Students Going Digital: The Economic Impact on Niagara (research collaboration)
- Niagara Region COVID-19 Recovery Measurement Indicators (providing support on the economic recovery dashboard)
- Niagara Economic Update (April 2021)

Business Development

Niagara Economic Development has been actively involved in two site selection exercises with the Province of Ontario. One request for existing shipping and logistics space and the second was related to aquaculture. This resulted in a number of sites from across the region being put forward for consideration. In addition, the Niagara Economic Development Department received a referral from the St. Lawrence Seaway Management Company for a potential land user.

The Manager of Business Development is working closely with the City of Port Colborne, the Ontario Ministry of Agriculture and Rural Affairs, the Ministry of Economic Development, Job Creation and Trade, and the Senior Investment officer in Switzerland on a potential investment by Jungbunzlauer at their citric acid manufacturing facility in Port Colborne. Jungbunzlauer is considering an expansion of its lactic acid manufacturing with a new facility in Port Colborne. If successful this investment would increase the company's workforce in Niagara and lay the foundation for future growth.

Trade and Investment

Foreign Direct Investment (*FDi*) meetings are ongoing virtually, focused on the U.S. and U.K. markets as they have been; with the EU added in February. Three different lead generation consulting companies are working, one in each of the three target market areas to provide pre-qualified leads. The work has continued to be hindered by COVID-19, particularly in the U.S. and U.K., with the added aggravation of post-Brexit as a distraction in the U.K. Notably, however, we are finding very strong leads in the EU at the moment, with 3 meetings completed to date in February, and 3 more booked. The current status of Niagara Economic Development's (NED) lead generation work has the following outstanding qualified leads due: the U.S. with 58; the U.K. with 10; and, the EU with 4. The *FDi* work which was placed on hold for 15 virtual qualified lead meetings with the Hamilton Niagara Partnership in the State of Florida for the December-January period, has now been relaunched, with meetings anticipated in March. Concurrently, the NED *FDi* team is working closely with two Ontario ministries [OMAFRA and MEDJC&T] and the applicable Niagara Local Area Municipality Economic Development Officer's in each case to nurture four very strong leads, 3 from the U.S. and one from the EU, to facilitate their respective goals to locate in the Niagara Region – challenging work during our current COVID-19 lockdown.

A second virtual round table to address the Supply Chains/Import Replacement portion of the ERRT Economic Recovery Plan was convened with 10 Niagara Manufacturers. A decision was made to adopt the DISCORD App, utilizing the Niagara Industrial Association as the platform host. It is anticipated this App will enhance our themes of "localization" and "connectivity" among Niagara's 650 manufacturers, with this virtual drop-in centre. The initiative is being presented to TEAM Niagara on February 18th to gain their support via grass-roots promotional networks.

Niagara Foreign Trade Zone Point

The Coordinator for the Foreign Trade Zone (FTZ) has continued to link Niagara's trade community to current federal government Covid-19 trade resources including: a particular focus on the CanExport grant; connected Niagara's PPE suppliers to the Canadian COVID-19 Capabilities Directory with several in process; and, 5 new client inquires regarding the benefits of Niagara's FTZ designation. A meeting was held with the WTC-Toronto and WTC-Buffalo to discuss the strategy for the next TAP seminar in April or May. Several Niagara businesses have been identified, to be targeted as soon as the program details are set and the speakers have been established. The NFTZ Coordinator plans to host a webinar in late April, subject matter to be determined.

LAM and Sector Support

Ongoing support is provided to the municipalities that do not have Economic Development resources: Niagara-on-the-Lake; Pelham; Wainfleet and West Lincoln. Support is also provided to the tourism and agribusiness sectors.

In the past month applications for the Tourism Adaption and Recovery Fund from the four municipalities have been evaluated. There has been ongoing support for broadband infrastructure expansion projects, Buy Local campaigns, preparation for the Agriculture Policy Advisory Committee (APAC) as well as the ERRT biweekly update calls and tourism sector workforce engagement.

Operational Outlook

1 month

- Initial grant payments made to Tourism Adaption and Recovery Fund applicants. Project reporting underway.
- COVID-19 third Business Impact Survey released.
- Online regional Business Directory is 'live' and being promoted to businesses and organizations.
- Implementation of Economic Recovery Plan on-going.
- Review work practices depending on Niagara Region recommendations and Public Health advice.

3 months

- Implementation of Economic Recovery Plan completed.
- Initial work started on development of a 10 year Economic Development Strategy.
- Continue to monitor economic indicators to better understand the impact of COVID-19 on the local economy compared to previous years and determine where resources could be best utilized to maximize ongoing economic development programming.

6 months

- Longer term strategic economic development planning underway.
- Review work practices depending on Niagara Region recommendations and Public Health advice.

Respectfully submitted and signed by

George Spezza, Ec.D., CEcD
Director, Economic Development

MEMORANDUM

PDS-C 7-2021

Subject: COVID-19 Response and Business Continuity – Planning and Development Services

Date: March 10, 2021

To: Planning and Economic Development Committee

From: Doug Giles, Acting Commissioner

Community and Long Range Planning

Current Status of Operations

Next month, the Region will be providing a “Joint Report” on all Official Plan matters. This remains the department’s largest project and is proceeding in a work-from-home setting with regular group meetings. Without a modern Official Plan, the Region is at a competitive disadvantage to other municipalities in the Greater Toronto Area.

The Joint Report will include Natural Heritage System options and the Regions’ land needs assessment (i.e. population and employment forecasts), among other things. Draft Official Plan policies will be provided for many sections. In the months that follow, the Region will seek feedback on these matters from the public, LAMs, and interests’ groups.

In February, Regional staff met individually with planning directors and staff from all 12 local municipalities. The purpose of those meetings was to provide a preview to key matters that will arise in the Joint Report and to get initial feedback. In March and April, local Councilor workshops are scheduled for the same purpose.

It’s critical that the Joint Report advance in April so that it can be broadly circulated to everyone interested so they may provide feedback. Other than natural heritage system options, staff will ask for the Joint Report materials only to be received by Council. No decisions will be sought. This is to allow the information to be circulated for ongoing consultation, followed by further reporting in summer and fall 2021.

Development Planning & Approval Services

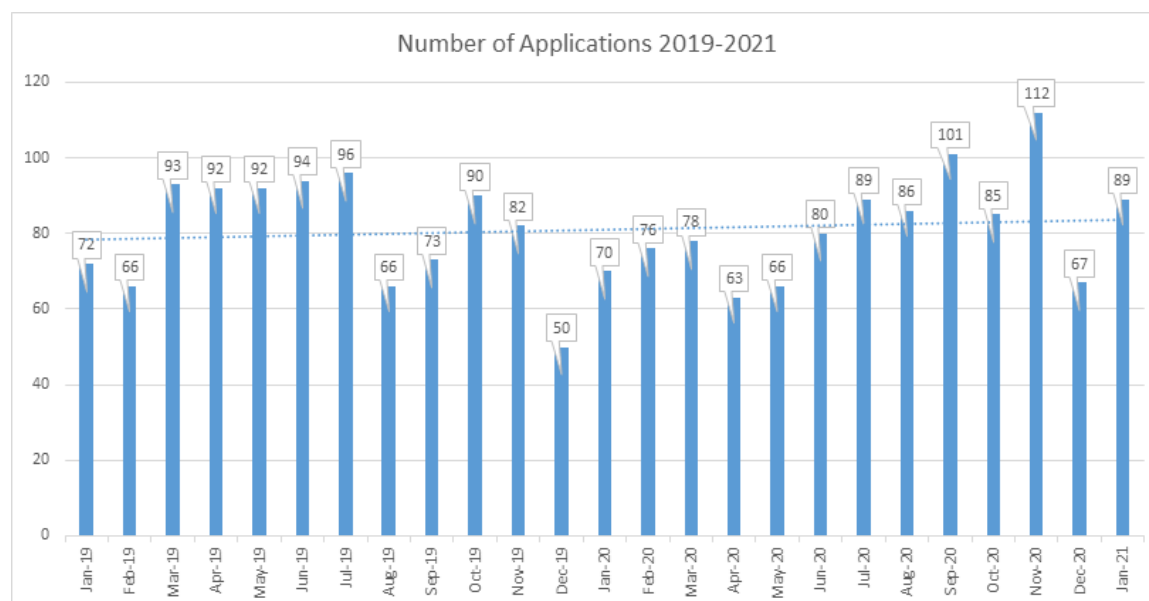
Current Status of Operations

Development Planning & Approval Services continues to adapt to ensure the delivery of core development review functions including: review and comment on all development applications from a Provincial and Regional perspective, coordinating and analyzing internal review/comments from Urban Design, Environmental Planning and Development Engineering for a “one-window” Regional response.

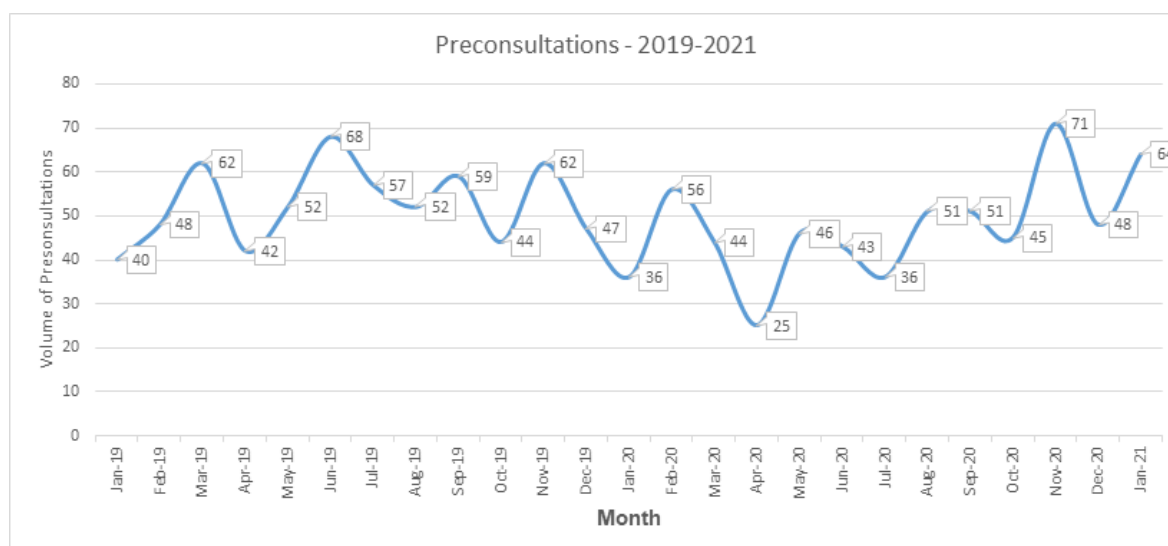
The following development volumes were received by the department during January 2021 (December 2020 data shown in brackets; February data was not complete at the time of writing this memo and will be reported on in April):

- Planning Applications (includes zonings, subdivisions, site plans, etc.) – **43** (31)
- Engineering Applications (includes servicing reviews, site plans, etc.) – **22** (13)
- Private Septic Applications – **24** (23)
- Pre-consultations – **64** (48)

The total volume of applications (89 excluding pre-consultations) represents a 33% increase from the December 2020 pre-holiday decline (67 applications). Further, the January 2021 applications volume exceeded the January volumes for the previous two years (72 in 2019 or 24% increase; 70 in 2020 or 27% increase) as shown in the graph below.



Pre-consultations experienced a 33% increase from the December 2020 volume (48 development proposals), which also mirrors the development applications' post-holiday increase. As previously reported, while there was a decline in pre-consultations at the early stages of the pandemic due to the shutdown, with the lowest volume for 2020 of 25 proposals received in April, volumes have continuously increased to typical levels. January 2021 pre-consultations exceeded the January volumes for the previous two years (40 in 2019 or 60% increase; 36 in 2020 or 78% increase) as shown in the graph below. Also, the January 2021 volume represents the third highest volume over that period.



Notes:

- a) March 2020 – Lockdown imposed mid-March resulted in beginning of volume decline due to pause in pre-consultation meetings
- b) April 2020 – First full month in lockdown resulted in lowest volume of 25 over past two years
- c) May 2020 – Volumes began return to normal levels as local area municipalities moved to virtual pre-consultation meetings

Infrastructure Planning & Development Engineering

Current Status of Operations

Development Engineering

We are continuing to respond to development applications with engineering comments, legal agreements for road works, and processing Environmental Compliance Approvals (ECA) under the Transfer of Review program for new sanitary and storm sewers. Additionally, we are continuing with Stormwater Management (SWM) review, Transportation review/meetings, and Water & Wastewater (W&WW) review/meetings as it relates to development applications and inquiries. We are working on the SWM Guidelines Project with Wood

Consulting Engineers and assessing schedule/deliverables to adapt to current situation. We are participating in the MECP sessions on the proposed changes to the Consolidated Linear Infrastructure ECA Process for the entire sanitary or stormwater management system. Once fully implemented this will result in changes and new processes for all local municipalities and the Region for the two-tiered sanitary (wastewater) system and stormwater management system in Niagara.

Infrastructure Planning

We are commencing the 2021 W&WW Master Servicing Plan (MSP) Update project with GM Blue Plan in consultation with W&WW team and Local Municipalities. This is an important project for the Region and all local municipalities with urban water and sanitary sewer services. It will require significant effort, analysis, and consultation with the majority of work to be completed by end of 2021/early 2022. The resulting growth capital water and wastewater projects are an essential input for the Development Charges Background Study and By-law update.

Collectively, there are ongoing corporate wide-efforts to coordinate long range planning/growth with infrastructure planning projects (2021 W&WW MSP update) and the upcoming Development Charges Background Study & By-law update.

Development Industry Liaison

We are continuing with the review of the potential build out scenarios for the urban areas in collaboration with planning group. This is necessary for the 2021 W&WW MSP update to evaluate servicing implications and supporting infrastructure. We are leading the development application process for the Linhaven and Gilmore Long Term Care (LTC) Redevelopment Projects and coordinating with St. Catharines and Fort Erie, respectively, as well as the MTO, and other review agencies to ensure that site plan application can be approved and the timelines associated with this project remain on track (Government funding is tied to this as well). Participating with development industry meetings (NHBA) to understand impacts and restrictions from COVID to residential development industry and housing stock.

Private Sewage/Septic Systems Program

The Private Sewage System group (responsible for Part 8 of the Ontario Building Code) is continuing to receive and respond to septic permit applications, inspections, development applications, special requests and complaints.

Respectfully submitted and signed by

Doug Giles, MES, BUP
Acting Commissioner, Planning and Development Services

Niagara Online Business Directory

Planning and Economic Development Committee

ED7-2021

March 10, 2021

Katie Desharnais, Strategic Marketing Manager

Niagara Online Business Directory

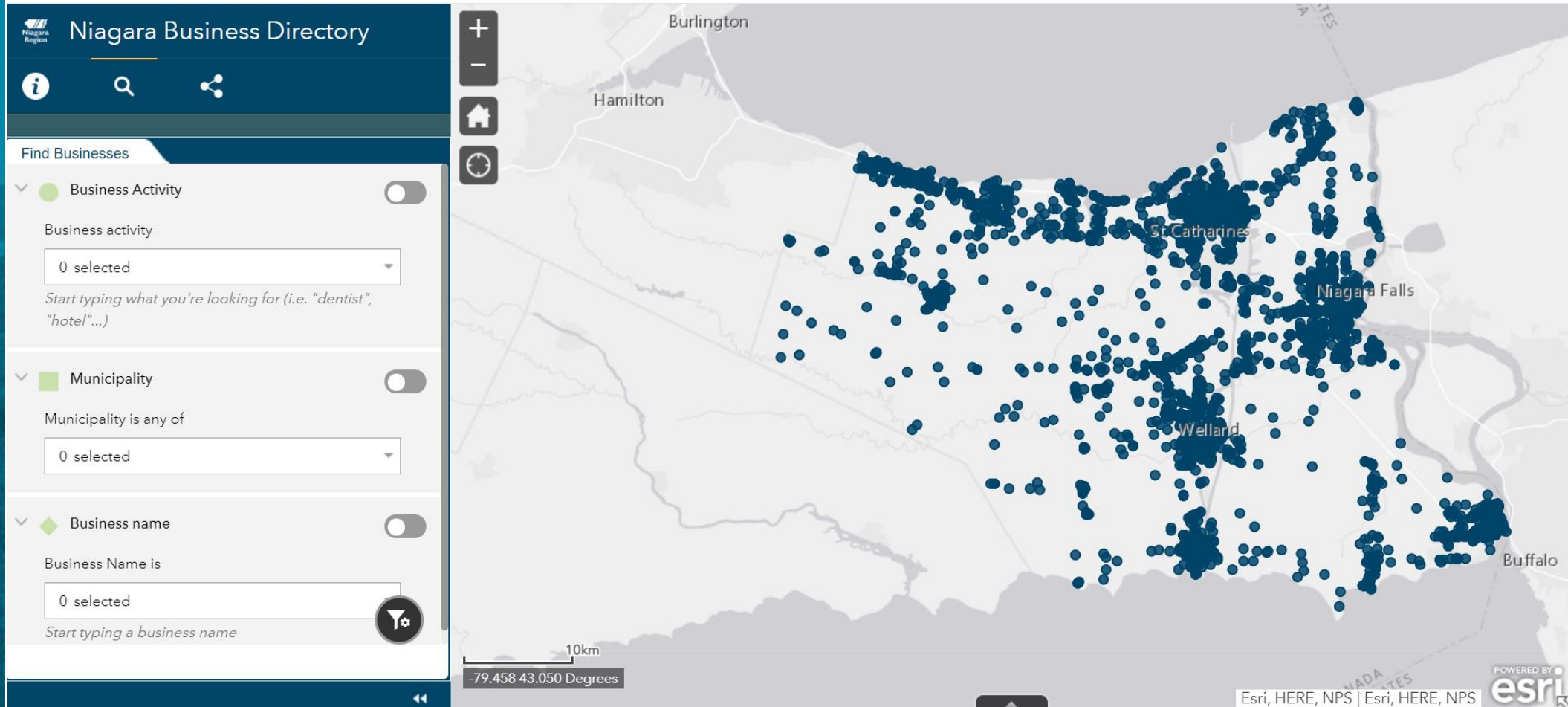
Presented by Katie Desharnais

NIAGARA
CANADA

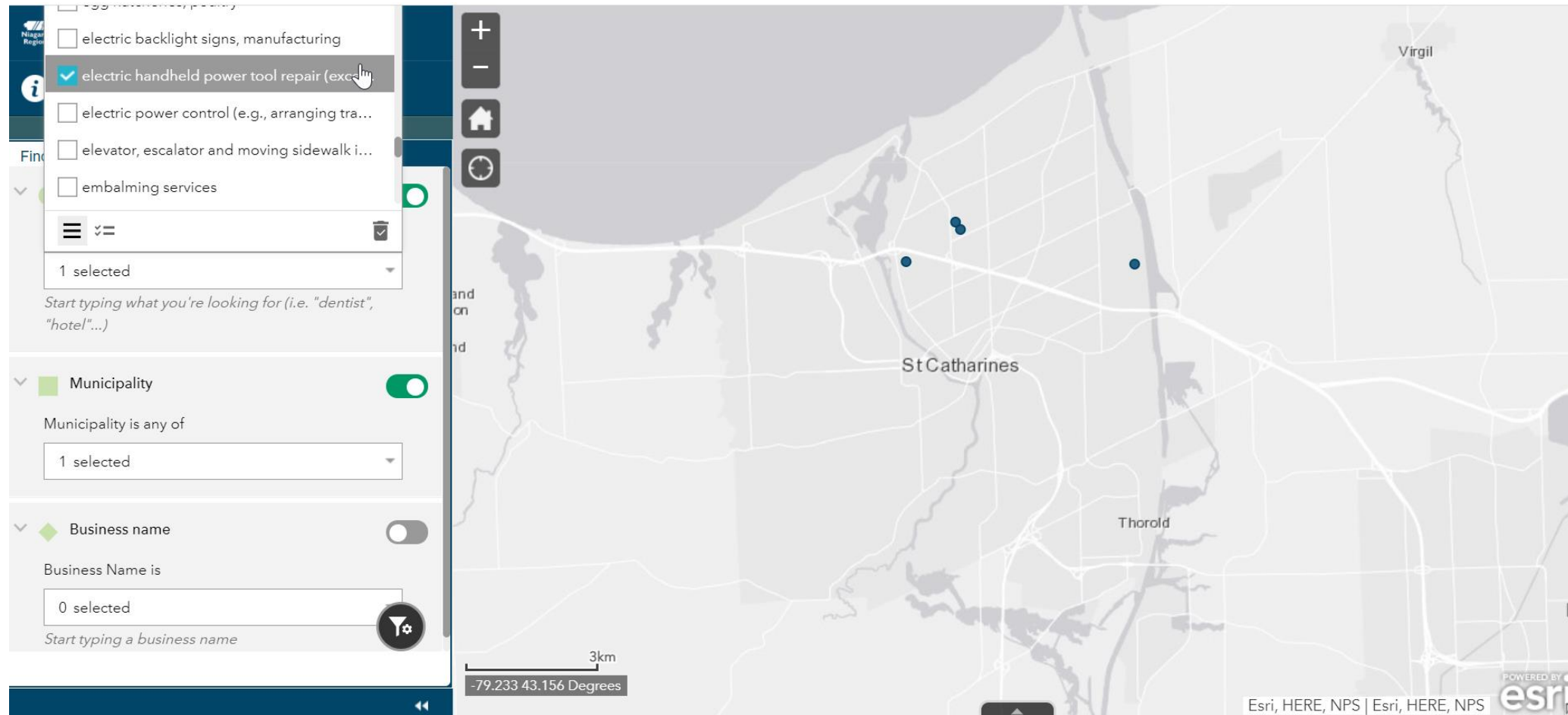
OVERVIEW

- Niagara Region Economic Development and Planning Divisions, teamed up to develop the new Niagara Business Directory delivering a more comprehensive tool to access businesses in the region.
- This tool uses data collected through the annual Employment Inventory project that is publically available through the Niagara Open Data Portal.
- The web-based tool provides the user with the information they need to research, contact, locate and otherwise interact with Niagara-based businesses.
- Hosted on NiagaraCanada.ca

OVERVIEW



SECTOR SEARCH



RESULTS



Business Name: Nu-Cut Sharpening

| | |
|------------------------|--|
| Business ID | 2687 |
| Municipality | St Catharines |
| Business Name | Nu-Cut Sharpening |
| Business Street Number | 43 |
| Business Street Name | Scott Street West |
| Business Unit | 5 |
| Business PO Box | |
| Business Postal Code | L2R1C9 |
| Business Website | |
| NAICS Code | 811411 |
| Sector | Other services (except public administration) |
| Industry | Home and garden equipment repair and maintenance |
| Keyword | electric handheld power tool repair (except lawn and garden) |
| Year Open | 1991 |
| Employee Size Range | 1-4 Employees |

A vertical teal-tinted image on the left side of the slide, showing a landscape with a river or waterfall, likely Niagara Falls, surrounded by dense foliage and hills.

THANK YOU

Subject: Online Business Directory

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 10, 2021

Recommendations

1. That Report ED 7-2021 **BE RECEIVED** for information.

Key Facts

- Niagara Region Economic Development and Planning Divisions collaborated to develop the new Niagara Business Directory delivering a more comprehensive tool to access businesses in the region.
- This tool uses data collected through the annual Employment Inventory project that is available to businesses and residents through the Niagara Open Data Portal.
- This web-based tool provides the user with the information they need to research, contact, locate and otherwise interact with Niagara-based businesses.
- Hosted on NiagaraCanada.ca

Financial Considerations

The online Niagara Business Directory was built and will be managed by internal staff from Economic Development and Planning & Development Services. Costs associated with the creation and management can be accommodated within the Council approved 2021 operating budget.

Analysis

Thousands of companies have chosen to grow in Niagara and boost our local economy, and we are proud to support them with the launch of a Niagara-based digital Business Directory. Niagara Region Economic Development and Planning Divisions have worked together to ensure these businesses can reach their full potential, by launching this online interactive map and directory of more than 12,000 Niagara businesses. The timing is especially important as it provides another avenue for businesses to reach customers and source supplies locally.

The Niagara Business Directory pulls data collected through the annual Employment Inventory project that is publically available through the Niagara Open Data Portal. Additionally, there is an option for businesses who were not yet included in the inventory to be entered into the directory. Hosted on the NiagaraCanada.ca website, the directory functions as an online portal. Potential browsers can find a given business alphabetically, geographically or by industry classification and can export this information for future use.

Alternatives Reviewed

Not applicable.

Relationship to Council Strategic Priorities

- Supporting Businesses and Economic Growth

Other Pertinent Reports

N/A

Prepared by:

Katie Desharnais
Strategic Marketing Manager
Economic Development

Recommended by:

George Spezza, Ec.D., CEcD
Director
Economic Development

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

Subject: 2021 Niagara Employment Inventory Status Update

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 10, 2021

Recommendations

1. That Report PDS 12-2021 informing Council that the 2021 Niagara Employment Inventory will not proceed this year **BE RECEIVED** for information; and
2. That a copy of this Report **BE CIRCULATED** to the Local Area Municipalities, Local Economic Development Offices, Niagara Workforce Planning Board, Brock University, and the Niagara Chambers of Commerce.

Key Facts

- The purpose of this report is to inform Council that the 2021 Niagara Employment Inventory (“NEI”) will not proceed this year. The ongoing COVID-19 emergency does not provide an opportunity to safely and effectively conduct the NEI.
- The decision to cancel the 2021 NEI was made jointly with staff from Planning and Development Services and Economic Development.
- The following are the reasons why the 2021 NEI was cancelled:
 - Risks related to the health and safety of the project team;
 - Challenges related to modified working arrangements; and
 - Concerns regarding low survey response rate and poor sample quality, leading to negative affect on the quality and usability of the database
- The Region anticipates resuming the NEI in spring 2022. Until then, the Region will rely on other secondary data sources that are collected from COVID-19-specific business surveys, the 2021 Census and The Conference Board of Canada.

Financial Considerations

The council approved operating budget for the 2021 Employment Survey is \$100,000, consisting of \$95,000 in intern and student salaries and \$5,000 in administrative costs. As a result of the employment survey not proceeding, these funds will be recognized as surplus in the 2021 financial reporting.

Analysis

Since 2016, the NEI has been conducted on an annual basis during the months of May to September. During this time, data points are collected by a team of post-secondary students through door-to-door interviews with primary contacts at businesses across all twelve local municipalities.

Given the challenges presented by the ongoing COVID-19 pandemic, Planning and Development Services and Economic Development decided that the 2021 NEI data collection could not proceed.

Three factors led to the conclusion to cancel the 2021 NEI: health and safety measures, human resource impacts, and data integrity concerns.

1. Health and Safety Measures

The health and safety of Regional staff and the community at large is top priority when conducting the NEI. Normally, recruitment for NEI summer students would have occurred by February, with a starting date in early May. However, with the uncertainty of COVID-19 impacts for the upcoming months, we are unable to start that process.

Of paramount importance is preventing transmission of the COVID-19 virus. This includes limiting Regional staff contact with the public, which is traditionally a normal occurrence as part of site visits to conduct the NEI. Regional staff considered continuing the NEI with the use of personal protective equipment and other tools to mitigate the risk; however, an uncomfortable level of risk would still exist.

2. Human Resource Impacts

Historically, the NEI employed up to six summer term students from post secondary institutions. A typical workday for these students consists of them working outside the office directly interacting with persons in businesses.

The Region considered a modified work arrangement for 2021. However, the public health risks noted above make such a program unfeasible.

If the team is unable to work in the field and engage directly with businesses, and instead work-from-home, accurate data cannot be captured. Further, this arrangement would present challenges to effectively manage and monitor students remotely. Additional financial investments to purchase computer hardware and other items would also be required.

For these reasons, this work cannot be effectively completed from home.

3. Data Integrity Concerns

In 2019, the NEI received a 90% participation rate. This high rate is attributed to the responses received from in-person visits. On average, the in-person responses account for over 75% of all responses. Approximately, 15% of responses are through email and the remaining 10% through telephone. Without in-person engagement, the Region anticipates a significantly reduced response rate, well below the 90% response rate historically achieved.

The inherent value of the NEI is dependent on the high quality data. A 90% response rate ensures that the data is reliable, and therefore usable for important research and analysis activities. A database with a low response rate cannot be relied on for nuanced and business-level research and analysis. This could result in mischaracterizations and/or businesses being misrepresented in the database.

Furthermore, COVID-19 is a very tumultuous time for many businesses. Some businesses have closed permanently or temporarily, some businesses have laid off staff, and some businesses have modified hours. This makes it more difficult to reach businesses and, as a result, would have a negative affect in the response rate. Also, during COVID-19, many businesses have made temporary changes to staffing and other temporary measures which could skew data if collected.

Other Data Collection Initiatives

Other data collection initiatives remain active during the COVID-19 pandemic.

These include the Niagara Economic Rapid Recovery Response Team's work on the Niagara COVID-19 Business Impact Survey. A third survey is currently being prepared.

The Niagara Workforce Planning Board will be working with Economic Development and other economic stakeholders on engaging businesses for a Labour Market Partnership Research Project.

Lastly, Statistics Canada is conducting the 2021 Census of Canada, as well as the 2021 Census of Agriculture, which is another intensive survey that will be widely administered in Niagara.

The above-noted surveys are valuable for the Region for certain purposes. However, they do not provide the level of detail Staff require to conduct micro level research and analysis. The Region relies on the NEI survey results to make recommendations on a variety of matters. For these reasons, we look to re-establish the NEI in 2022.

Alternatives Reviewed

For the reasons set out above, there are no reasonable alternatives to cancelling the 2021 NEI. Regional staff gave careful consideration to conducting the 2021 NEI solely through online and telephone engagement. However, we would not expect that to be successful. If the Region does not achieve a high survey response rate, the data results would not yield a complete and reliable dataset for business level research and analysis.

Relationship to Council Strategic Priorities

The Niagara Employment Inventory project supports Regional Council's priority of 'Supporting Businesses and Economic Growth'.

Other Pertinent Reports

- PDS 13-2016 - Niagara Region Employment Survey
- PDS 1-2017 - Niagara Region Employment Inventory Preliminary Results
- PDS 5-2018 - Niagara Region 2017 Employment Inventory Results
- PDS 6-2019 - Niagara Region 2018 Employment Inventory Results
- ED 9-2020 - COVID-19 Response and Business Continuity in Economic Development
- ED 11-2020 - Economic Recovery Plan Update

Prepared by:

John Docker
Planner
Planning and Development Services

Recommended by:

Doug Giles, BES, MUP
Commissioner (Acting)
Planning and Development Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Blake Landry, Manager, Economic Research and Analysis, and reviewed by Isaiah Banach, Director, Community and Long Range Planning (Acting) and Lyndsey Ferrell, Program Financial Specialist, Corporate Services.

Subject: Lakewood Beach Development - Municipal Responsibility Agreement for On-Site Water & Wastewater Communal Systems

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 10, 2021

Recommendations

1. That Report PDS 16-2021 **BE RECEIVED** for information; and
2. That Report PDS 16-2021 **BE CIRCULATED** to the Township of Wainfleet.

Key Facts

- The purpose of this report is to inform Council of the Municipal Responsibility Agreement (MRA) with the Township of Wainfleet and Lakewood Beach Properties Ltd. for the on-site water and wastewater communal system for the Lakewood Beach Development in the Township of Wainfleet which has been prepared through consultation between staff in Planning, Legal Services, Finance and Public Works to the satisfaction of the CAO, Commissioner of Public Works and Director of Legal and Court Services and is now ready for execution.
- Regional staff have been working on the MRA collaboratively with the Lakewood Beach Development group and the Township of Wainfleet since 2018 and it was finalized in Q4 2020 to the satisfaction of staff at the Region and the Township of Wainfleet.
- The Lakewood Beach Development is a residential condominium development consisting of 41 single detached units on approximately 14 hectares of land located at 11705 Lakeshore Road in the Township of Wainfleet.
- The on-site communal water and wastewater system was determined to be the required servicing solution in the Planning process and in an Environmental Assessment in 2015/2016 with the Ministry of Environment, Conservation and Parks requiring the Niagara Region enter into a MRA with the applicant (Lakewood Beach Properties Ltd.).
- Planning requirements for this development have been subject of planning applications and approvals since 2007/2008 and it is anticipated that final approval of the Condominium Agreement with the Township of Wainfleet will take place in early 2021 with construction targeted for later in 2021.

- Staff are relying on the authority to sign the MRA based on Section 8 of Schedule “A” to Execution of Documents By-law as the MRA is a condition of approval under the Planning Act for the Lakewood Beach Development.

Financial Considerations

The MRA requires that a Capital Reserve for the on-site communal water and wastewater system be established as well as an Operation & Maintenance (O&M) Reserve to be managed by a qualified Trustee and funded by a condominium corporation, once created and by its members. Regional staff have been working with the Trustee and the Lakewood Beach group to ensure that the appropriate level of understanding of the Trustee’s role and responsibilities are clear in the MRA. The Capital and O&M Reserves provide a funding source if the MECP were to order the Niagara Region to ensure operation of the water and wastewater (W&WW) services for this development in the event that the condominium corporation failed to maintain the system to the standards required by the MECP.

The reserves will be established initially with funding from the owner and then will be the responsibility of the condominium corporation when formed to maintain the required balances through recovery of fees from the property owners. The amounts required for the Capital Reserve are based on an independent engineering study that provided for a minimum balance as well as the replacement of the system at the end of life cycle. Reserve reporting will be provided to the Region annually by the Trustee with an option to engage an independent auditor at the owners’ expense should any further analysis or verification of compliance be required.

Niagara Region would access these funds through the Trustee to ensure operating services were provided to this development if required by the MECP until an alternative method of recovering from owner/condominium corporation/property owners is established. Furthermore, Niagara Region/Wainfleet has the ability to directly charge the owner/condo corporation for costs related to the operation and maintenance of the water and wastewater system in the unlikely event of default whereby the MECP orders the Niagara Region to operate these systems.

Security in the form of a letter of credit for the full cost of the on-site water and wastewater communal system are required to be provided to the Region prior to construction and will be released upon completion of the project to the satisfaction of the Region and MECP in accordance with the agreement. The MRA allows the Region to retain an Independent Engineer to inspect the onsite Water and Wastewater system

and to review any reporting and submissions for the life of the system with the cost paid for by the owner.

Analysis

The purpose of this report is to inform Council of the Municipal Responsibility Agreement (MRA) with Lakewood Beach Properties Ltd. and the Township of Wainfleet for the on-site water and wastewater communal system for the Lakewood Beach Development which has been prepared through consultation between staff in Planning, Legal Services, Finance and Public Works to the satisfaction of the CAO, Commissioner of Public Works and Director of Legal and Court Services and is now ready for execution.

The Lakewood Beach Development has had a long planning process with various planning applications and approvals since 2007/2008 with receiving approval of the Draft Plan of Condominium in July 2017. The extensive planning process provides a number of opportunities for public awareness and comment. The final registration and condo agreement for this development is almost complete and will be recommended to the Township of Wainfleet Council for approval in early 2021. Township staff have been informed about this report.

In June 2009, Report PWA 58-2009 was approved by Regional Council to permit a communal private sanitary servicing system for the Lakewood Beach Development as part of an Official Plan Amendment. The recommended and approved policies considered that *“in the event that the Ministry of Environment requires the Region to be included in an assumption agreement with the Condominium Corporation for these systems, the condition of the assumption agreement shall be to the satisfaction of the Region, and the Township of Wainfleet shall be responsible for full cost recovery for the communal water and sewer services.”*

The Wainfleet Official Plan has a site specific section for this development:

3.3.3.12 Notwithstanding any other policies to the contrary, on lands located in part of lots 16 and 17, Concession 1, a residential development on approximately 10.3 hectares of land shall be:

a) Permitted to a maximum of 41 units; and

b) Permitted through a plan of condominium on sustainable private services subject to the following servicing requirements:

i) The Condominium Corporation shall be responsible for the operation, maintenance and costs associated with the sustainable private services with adequate provision for replacement of these systems in the future;

ii) In the event that the Ministry of the Environment requires the Region to be included in an assumption agreement with the Condominium Corporation for these systems, the conditions of the assumption agreement shall be to the satisfaction of the Region, and the Township of Wainfleet shall be responsible for full cost recovery for communal water and sewer services;

Subsequently for the Draft Plan of Condominium for Lakewood Beach Development, a specific Regional draft plan condition was identified:

“34. That the owner enters into a Municipal Responsibility Agreement with the Regional Municipality of Niagara to address potential future requirements for the servicing of the site. This agreement needs to be reviewed and approved by the Region of Niagara prior to registration of development.”

The MRA with the Niagara Region and Lakewood Beach Properties Ltd. includes the Township of Wainfleet as a party to the agreement. Wainfleet has been involved in the drafting of the MRA for their review and comment as well as ensuring compliance with the planning conditions for this development. As identified in the MRA, Wainfleet has agreed to the responsibility of billing property owners for the system operating and capital costs in the event that the Region was required to operate the system as well as addressing any outstanding balance through property tax arrears. The MRA will be registered on title and included in every purchase and sale agreement.

In September 2018, Report PDS 32-2018 was received by Regional Council to provide the background and update of the MRA in anticipation of finalizing the MRA to the satisfaction of the Commissioner of Public Works and Director of Legal and Court Services. The process was delayed primarily due to difficulties initially faced by the developer in obtaining a Trustee with the initially described requirements in the MRA and when a Trustee satisfactory to Niagara Region was identified, ongoing discussions were necessary to finalize the Trustee Agreement which was to form part of the MRA.

On-site Communal Water and Wastewater Systems

The communal on-site wastewater system consists of an extensive treatment system with gravity sewers and a sewage pumping station for the 41 units which has been reviewed and approved by the MECP pursuant to the provisions of the *Environmental Protection Act, R.S.O. 1990, c. E. 19* and the *Ontario Water Resources Act, R.S.O. 1990, c. O.40*. A formal Environmental Compliance Approval with governing conditions and reporting requirements (Approval No. 0581-BQHNVC) for the onsite wastewater system was approved on July 21, 2020.

The communal on-site water system consists of water distribution mains to the 41 units as well as storage tanks with a chlorination booster system. Additionally, Wainfleet has reached an agreement with the proponent to include Fire Cisterns along Lakeshore Road with this water system to enhance fire protection to the overall community. This water system will be fed by the Long Beach Private Water System which is governed by the *Safe Water Drinking Act* and the MECP. The on-site water system for the condominium is considered “plumbing” under the Ontario Building Code and doesn’t require a formal approval from the MECP; however, a third party engineering review paid for by the proponent for this water system was completed for due diligence on behalf of both Wainfleet and the Niagara Region.

Clearford has designed the communal on-site water and wastewater systems and has extensive experience with these systems in Ontario and internationally. The proponent will have Clearford provide operation and maintenance (O&M) for these systems for the next 5 to 10 years. The future condominium corporation will be required to have a firm like Clearford provide O&M on an on-going basis with formal contracts.

The general site plan showing the locations of the on-site communal water and wastewater system are provided in Appendix 1.

Over the last 3 years, the MRA has been finalized through discussions, correspondence and meetings between Niagara Region Director level staff in finance and planning and legal counsel and the Developer’s legal and consulting team. The CAO, Commissioner of Public Works and Director of Legal and Court Services are satisfied with the final agreement.

By-law No. 09-2016, being a By-law to Govern the Execution of Documents and to Delegate Certain Administrative Powers and Duties to Staff, Schedule A, Section 8, provides authority for the CAO and Commissioner to sign this MRA on behalf of the Niagara Region. Section 8 identifies agreements imposed or required in satisfaction of

any condition of approval under the Planning Act in connection with the development of land including, without limitation, subdivisions, site plans and rezonings where the Regional Corporation is not the applicant, and Releases and Acknowledgments of Compliance pursuant to any such agreements. The requirement for the Niagara Region to enter the MRA with the applicant was identified as part of the Planning process and a condition of approval, and has been finalized to the satisfaction of the Niagara Region. This is the first MRA approved by Niagara Region and as such the first document of this specific type to be approved pursuant to Section 8 of Schedule “A” to the Execution By-law. Recognizing that this was a first time MRA combined with the fact prior reporting had been limited to previous Councils, staff considered it prudent to make Council aware of the project.

Alternatives Reviewed

No alternatives were reviewed as Regional Council provided approval from a planning perspective of the concept of a development requiring an MRA in June 2009. Over the last number of years, substantial effort and review by all parties have gone into finalizing the MRA which is one of the final steps prior to commencement of this development project.

Relationship to Council Strategic Priorities

This report supports Council’s Strategic Priority for Responsible Growth and Infrastructure Planning.

Other Pertinent Reports

- **PWA 58-2009** – June 15, 2009 – Official Plan Amendment 18, To Permit a Communal Private Sanitary Servicing System, Lakewood Beach Properties Ltd., Wainfleet
- **PDS 32-2018** – September 5, 2018 – Lakewood Beach Development – Municipal Responsibility Agreement for On-Site Water & Wastewater Communal System

Prepared by:

Phill Lambert, P. Eng.
Director, Infrastructure Planning &
Development Engineering
Planning & Development Services

Recommended by:

Doug Giles, MES, BUP
Acting Commissioner
Planning & Development Services

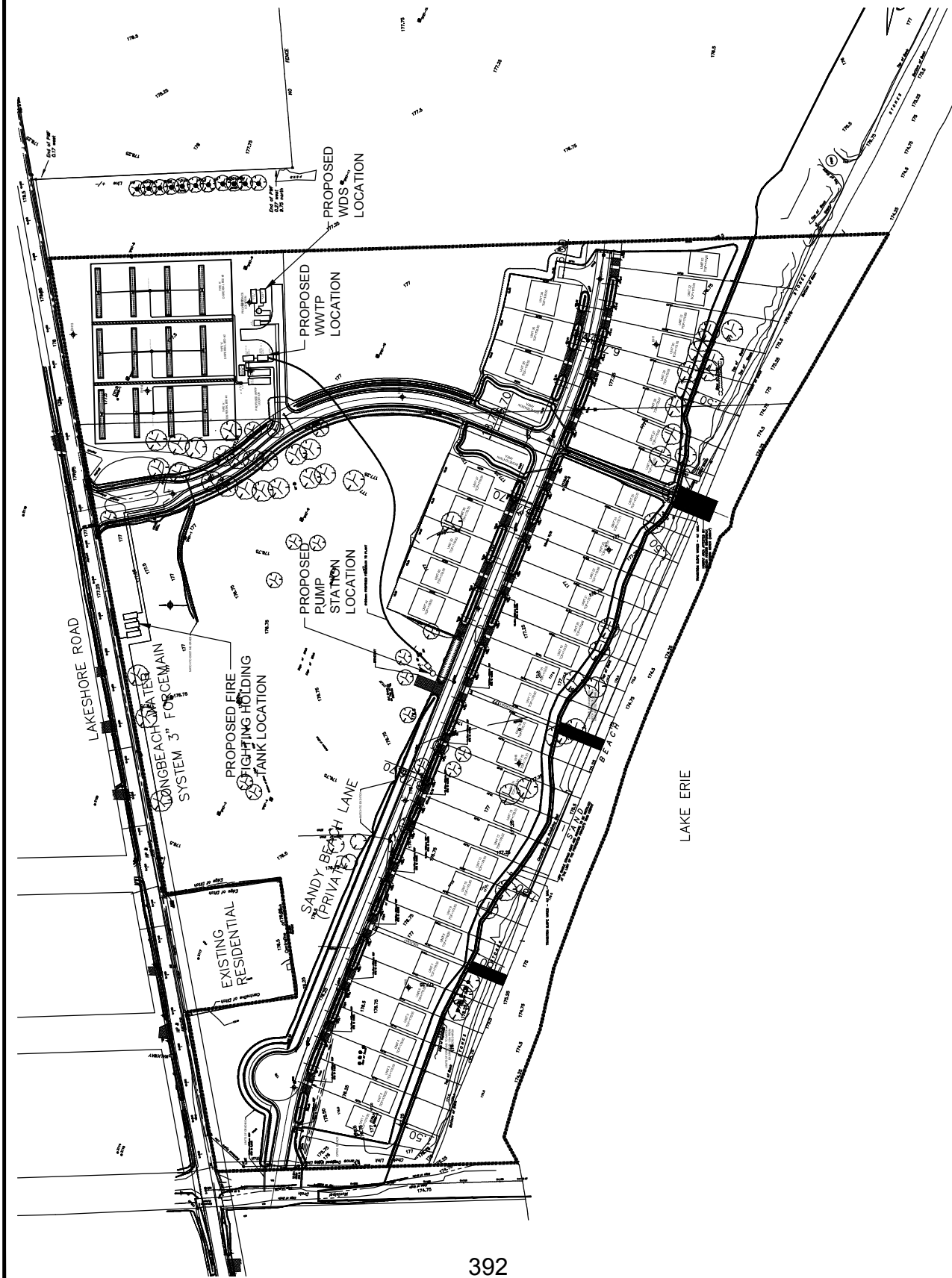
Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Sterling Wood, Legal Counsel, Legal & Court Services, Helen Chamberlain, Director, Financial Management & Planning/Deputy Treasurer, Corporate Services, Bruce Zvaniga, Commissioner of Public Works, and reviewed by Doug Giles, Acting Commissioner, Planning & Development Services.

Appendices

Appendix 1 General Site Plan



| | | | |
|---------------|--|--|--|
| PROJECT TITLE | | GENERAL SITE PLAN | |
| LOCATION | | 10 CANAL ST. PORT DALHOUSIE, ONTARIO L2N 4S6 | |
| PROJECT TITLE | | LAKEWOOD BEACH WATER DISTRIBUTION SYSTEM | |
| DRAWN BY | | CHECKED BY | |
| DATE | | DATE | |
| SCALE | | SCALE | |
| PROJECT NO. | | PROJECT NO. | |
| EN19-008 | | OCT. 26, 2018 | |
| S0101 | | S0101 | |

**Ministry of
Municipal Affairs and Housing**

Ontario Growth Secretariat

777 Bay Street, 23rd Floor, Suite 2304
Toronto ON M7A 2J3
Tel: 416 325-1210
Fax: 416 325-7403

**Ministère des Affaires
municipales et du Logement**

**Secrétariat des initiatives de
croissance de l'Ontario**

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Téléc. : 416 325-7403



February 23, 2021

Doug Giles
Acting Commissioner, Planning & Development Services
Niagara Region

Dear Doug Giles:

As part of Ontario's COVID-19 economic recovery efforts, this past summer changes were made to A Place to Grow: Growth Plan for the Greater Golden Horseshoe to help increase housing supply, create more jobs, attract business investments, and better align infrastructure while protecting what matters most, including the Greenbelt.

I am writing to you today in follow up to our discussions this past summer regarding the proposed and final changes to the Plan and the upcoming requirements for Municipal conformity. The date by which upper and single-tier municipalities must update their official plans to conform with the policies in A Place to Grow is July 1, 2022. This can be achieved through phasing a series of official plan amendments or a single official plan amendment.

As you know, the Plan's policies require municipalities to designate all land required to accommodate the Schedule 3 growth forecasts to the 2051 planning horizon. We encourage you to work with the Ministry of Municipal Affairs and Housing staff at the various stages as you work towards meeting conformity. As a reminder, Official Plans/Official Plan Amendments must be submitted by end of 2021 or early 2022.

Continued engagement with our Indigenous partners helped inform the changes to A Place to Grow. As part of these changes, a reminder that municipalities have a requirement to work with Indigenous communities in recognition of the unique relationship that all levels of government have with Indigenous Peoples.

We are committed to continue working with you and our inter-ministerial partners to achieve balance that ensures local decision-making that better reflects local realities. Should you or your staff have any questions about A Place to Grow, its implementation criteria, or matters related to conformity, please feel free to contact the Ontario Growth Secretariat at growthplanning@ontario.ca.

Thank you for your ongoing commitment to your community and for your ongoing collaboration and engagement in support of effective growth management in the Greater Golden Horseshoe.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cordelia Clarke Julien', with a stylized, flowing script.

Cordelia Clarke Julien
Assistant Deputy Minister

Subject: Growing the Greenbelt Environmental Registry of Ontario Posting

Report to: Planning and Economic Committee

Report date: Wednesday, March 10, 2021

Recommendations

1. That Report PDS 18-2021 and its appendices **BE RECEIVED** for information; and
2. That this report and its appendices **BE CIRCULATED** to the Local Area Municipalities, and the Local Area Municipalities consider identifying additional lands and Urban River Valleys for Greenbelt protection, responding directly to the Province through the Environmental Registry of Ontario.

Key Facts

- The purpose of this report is to respond to the Province's proposal "*Consultation on growing the size of the Greenbelt*". As part of this exercise, the Province is seeking feedback through six discussion questions.
- The Province's proposal is premised around 3 key areas:
 - An opportunity for Local Municipalities to identify additional Greenbelt expansions including Urban River Valley considerations;
 - Seeking feedback on balancing other Provincial priorities with Greenbelt expansions.
 - A Greenbelt expansion study area for the Paris Galt Moraine (located outside of Niagara Region);
- The proposal will not consider removals from the Greenbelt Plan area;
- As part of the 2015-2017 Provincial Plan review, Niagara Region and its local municipalities identified over 1400 hectares of additional lands for Greenbelt protection, resulting in Greenbelt expansions in Thorold and Grimsby.

- Responses on the current proposal are due to the Province on or before April 19, 2021.
- Niagara Region staff comments in response to discussion questions are included as Appendix I.

Financial Considerations

There are no financial implications associated with this report.

Analysis

Background

The Greenbelt Plan was first introduced through Provincial legislation in 2004. In Niagara, the Greenbelt Plan primarily introduced protections for Specialty Crop areas in north Niagara.

In 2013, the Province released Amendment 1 to the Greenbelt Plan, introducing the concept of an Urban River Valley (URV). The URV designation serves as a linkage between interior Greenbelt lands, urban areas, and Lake Ontario.

The 12 Mile Creek within the St. Catharines urban area was one of the first URVs. Prior to the URV designation, the 12 Mile Creek watershed was partially identified through the Specialty Crop designation with identification of the creek ending at the St. Catharines urban area boundary.

In 2015, at the start of the Province's 10-year review of the Greenbelt Plan, the Region and its local municipalities identified approximately 1,400 hectares (3,459 acres) of new land for Greenbelt protection. When the 2017 Greenbelt Plan was released, these lands were added to the Greenbelt's Protected Countryside designation, making Niagara one of only 3 regions to identify additional lands for Greenbelt protection.

Current ERO Proposal

On February 17, 2021, the Province released a proposal seeking feedback through 6 discussion questions on growing the Greenbelt. This proposal was shared on the Environmental Registry of Ontario (ERO).

The primary focus of this proposal is the identification of a study area for the Paris Galt Moraine, located outside of Niagara.

Additionally, the proposal asks about identification of additional lands that can support the growth of the Greenbelt. It also notes opportunities to identify new URVs or to extend current URV designated lands beyond the current 60 metre buffer, where public land ownership exists beyond the 60 metre threshold (such as government owned land, parks and conservation lands).

Niagara Region Staff prepared a response to the Province's discussion questions, attached as Appendix I. Staff support the Province's objectives with this proposal. A summary of Staff response is as follows:

- Identification of Regional and local municipal Greenbelt projects that would benefit from additional Provincial support, such as agricultural irrigation;
- Support for local municipalities to explore additional Greenbelt land and URV designations;
- Exploring opportunities to prioritize parkland expansions in the Greenbelt, including use of Provincial and Federal lands;
- Highlighting the Region's draft Official Plan work that targets growth to settlement areas, with intensification rates that will meet or exceed provincial targets.

While the ERO proposal provides a feedback mechanism for local municipalities to identify lands for consideration, the process to move municipally-identified additions forward is outlined in section 5.6.1.4 of the Greenbelt Plan. The policies indicate that to consider local municipal requests, the Province shall be guided by criteria developed for municipalities. These criteria include:

- Providing supportive Council resolutions;
- Demonstrating how the proposed lands connect physically or functionally to the Greenbelt;
- Demonstrating that a proposal would complement the Growth Plan and support other related provincial initiatives such as the Great Lakes Strategy and Climate Change Strategy and Action Plan.

To support this ERO proposal and to identify additional areas that could benefit from Greenbelt protection:

- In February, Regional Staff circulated the ERO posting to all local area Planning Directors and indicated that any areas for expansion identified by the local municipalities should be communicated directly with the Province and shared with the Region.
- Regional Staff comments have been prepared (Appendix I). These will be shared with local municipalities and the Province after receipt of this Report.

Following the April 19, 2021 commenting period, if areas are identified by the local municipalities for Greenbelt or URV expansion, the Region can coordinate with the local municipality to navigate the Greenbelt Plan amendment process as required.

Alternatives Reviewed

Council could chose not to circulate this Report to the local municipalities. This option is not recommended since the Region regularly works cooperatively, with open communication, with local municipalities on Greenbelt-related matters.

Relationship to Council Strategic Priorities

N/A

Other Pertinent Reports

N/A

Prepared by:
Erik Acs, MCIP, RPP
Manager of Community Planning
Planning and Development Services

Recommended by:
Doug Giles, BES, MUP
Acting Commissioner
Planning and Development Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was reviewed by Isaiah Banach, Acting Director of Community and Long Range Planning.

Appendices

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|------------|---|--------|
| Appendix 1 | Staff Response to Provincial Discussion Questions | Page 5 |
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ERO Posting: 019-3136 - Consultation on growing the size of the Greenbelt

Provincial discussion questions:

Question 1: What are your thoughts on the initial focus area of the Study Area of the Paris Galt Moraine?

Niagara Region Staff Response: As this study area is located outside of Niagara Region, staff have not reviewed the Paris Galt Moraine component of this proposal.

Question 2: What are the considerations in moving from a Study Area to a more defined boundary of the Paris Galt Moraine?

Niagara Region Staff Response: As this study area is located outside of Niagara Region, staff have not reviewed the Paris Galt Moraine component of this proposal.

Question 3: What are your thoughts on the initial focus area of adding, expanding and further protecting Urban River Valleys?

Niagara Region Staff Response: Regional staff note that the 12 Mile Creek in St. Catharines was one of the first Greenbelt Urban River Valleys (URV) added to the Plan following Amendment 1 to the Greenbelt Plan in 2013. In addition, the City of St. Catharines, with the Region's support, has encouraged the URV vision by creating opportunities for recreational, cultural and tourist amenities in the 12 Mile Creek URV which support the Greenbelt Plan.

Regional staff remain in favour of the URV designation and will support local municipalities who wish to identify new URV's or additional URV lands beyond the current 60 metre threshold for Greenbelt consideration.

Question 4: Do you have suggestions for other potential areas to grow the Greenbelt?

Niagara Region Staff Response: In support of the Province's 10-year review of the Greenbelt Plan which occurred between 2015 and 2017, the Region and its member municipalities worked collectively to identify an additional 1400 hectares (3459 acres) of area to expand Greenbelt protection. When the updated Greenbelt Plan (2017) was released, Niagara was one of only 3 Greenbelt regions with new land added to support the growth of the Greenbelt.

The Region's member municipalities put considerable effort into identifying and justifying new lands for inclusion in the Greenbelt Plan during the Province's 10-year

review in 2017. As the Region and several of its member municipalities are currently working on Provincial Plan conformity, including refinements of the agricultural land base, the identification of additional lands beyond those already added has not occurred. The Region is supportive of the Greenbelt Plan, and supports its member municipalities in the pursuit of identifying additional lands that could benefit from Greenbelt protection.

Question 5: How should we balance or prioritize any potential Greenbelt expansion with the other provincial priorities mentioned above?

Niagara Region Staff Response: This question is premised on the identification of 4 topics identified in the ERO posting as priorities: Growth Management, Infrastructure, Agriculture, and Natural Heritage & Water Resource Systems. Balancing priorities should be based on local considerations. Regional and local governments are best equipped to balance Provincially-identified priorities, with support from the Provincial and Federal government.

Growth Management & Infrastructure: As most of Niagara's Greenbelt land is designated Specialty Crop area, considerations for growth and non-agricultural infrastructure are predetermined through Specialty Crop policies. The draft work on Niagara's Official Plan will targeted growth in its settlement areas, with intensification rates that will meet or exceed provincial targets.

Agriculture: While the Greenbelt Plan has enabling policies that support the agricultural system, the Region and member municipalities have identified a need for agricultural irrigation to support continued farm viability, especially in the tender fruit and grape area. The Ministry of Agriculture Food and Rural Affairs has offered technical assistance with this initiative; however, prioritizing funding for agricultural infrastructure is important to combat the loss of specialty crop production.

Natural Heritage: Regional staff support the Province's identification of natural heritage and water resource systems as a priority item. This is consistent with the Region's position on these two important topics for our own municipal comprehensive review, where the natural environment has been identified as a key priority. As past and current participants in Greenbelt Foundation grant programs, the Province's commitment of \$12M over 3 years to further support the Greenbelt Foundation will continue to support the identification and protection of Niagara's natural environment.

Question 6: Are there other priorities that should be considered?

Niagara Region Staff Response: In terms of additional areas for prioritization, Section 3.3 of the Greenbelt Plan speaks to parkland, open space and trails. Regional staff

would identify parkland as a priority topic to complement the Province's growth related priorities.

The current Covid-19 pandemic has highlighted the importance of outdoor public spaces. Prioritizing the identification and/or conversion of Provincially and Federally held lands for park use would support the objectives of the Greenbelt Plan and serve as an important component of complete communities, providing benefits to support environmental protection and climate change adaptation and mitigation.



Niagara Industrial Association

34 Scott Street West
St. Catharines, ON L2R 1C9

To: Office of the Regional Clerk (Ann-Marie.Norio@niagararegion.ca)

From: Don Cyr, Chair of the Board, Niagara Industrial Association

Date: March 2nd, 2021

Re: Niagara Region Planning and Economic Development Committee, Wednesday March 10th, 2021
Agenda
Item 6.1: PDS 10-2021 Local Official Plan Amendment No. 26 - Employment and Institutional Related Policy Amendments – City of St. Catharines (OPA 26)

On behalf of the Niagara Industrial Association (NIA) Board of Directors I write in strong support of the recommendations of the Local Official Plan Amendment No. 26 Employment and Institutional Related Policy Amendments, City of St. Catharines (OPA 26).

In particular the NIA has become concerned, in recent years, with respect to the re-designation of employment lands, and/or the encroachment on such lands in the Region. In particular we note and strongly support the element of OPA 26 which:

“...identifies and designates six Employment Areas for the protection of existing Employment Land clusters for long-term provision of Employment Land jobs”

and would be strongly opposed to any change to this aspect of the motion for approval.

We believe that in order to foster a sustainable economy it is important that municipalities and the Region maintain the designation of significant employment lands. The long term economic multipliers from industrial establishment are very significant, providing the opportunity for future sustainable growth.

Don Cyr
Chair of the Board of Directors
Niagara Industrial Association



1004 Middlegate Road, Suite 1000, Mississauga, Ontario L4Y 1M4
905.896.8900
905.896.8911

March 3, 2021

Regional Chair Jim Bradley and Members of Council
Niagara Region
1815 Sir Isaac Brock Way
Thorold, ON L2V 4T7

Dear Regional Chair Bradley and Members of Council

**RE: March 10, 2021 Niagara Region Planning and Economic Development Meeting
City of St. Catharines Amendment No. 26, as modified
Fourth Avenue – West of NHS Hospital
1298 Fourth Avenue, 2000 Pathstone Way, and 1956 Third Street Louth**

As the prospective owners of the above noted lands, we would like to take this opportunity to offer our support for City of St. Catharines Amendment No. 26 (Agenda Item 6) regarding the proposed Official Plan Amendment (OPA) that designates Employment Areas and re-designates certain employment areas for alternative uses.

We support the recommended re-designation of the lands known municipally as 1298 Fourth Avenue, 2000 Pathstone Way and 1956 Third Street Louth to a *Mixed Use* designation to allow for a mix of population related uses together with institutional residential long term care and assisted living facilities.

We would like to commend both City and Regional planning staff on their lengthy and thorough process related to the Lands Needs Assessment that provided a lot of opportunity for Public input, resulting in the recommendation for an OPA.

Best regards,

A handwritten signature in black ink, appearing to read 'Joey Comeau', with a stylized flourish at the end.

Joey Comeau
Chief Operating Officer & Executive Vice President
EllisDon Capital

cc: Ann-Marie Norio, Regional Clerk

Date: March 2021
Project No: 16168

Regional Municipality of Niagara
Planning and Development Services
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON, L2V 4T7

Attn: Kirsten McCauley, MCIP, RPP
Senior Planner, Secondary Plans

**Re: Glendale Niagara District Plan
Bill Chohan Subject Lands (Roll No. 262702001802380)
Requested Amendment for Mixed Use High Density Designation**

Dear Ms. McCauley,

Quartek Group has been retained by 6300171 Canada Inc., c/o Bill Chohan referred as "Proponent", to prepare this planning justification for the request to amend the designation of the Proponents' subject lands (Roll No. 262702001802380) which is approximately 7,626.70 sqm (0.76 hectares/1.88 acres) in size as shown on Map 1 below.

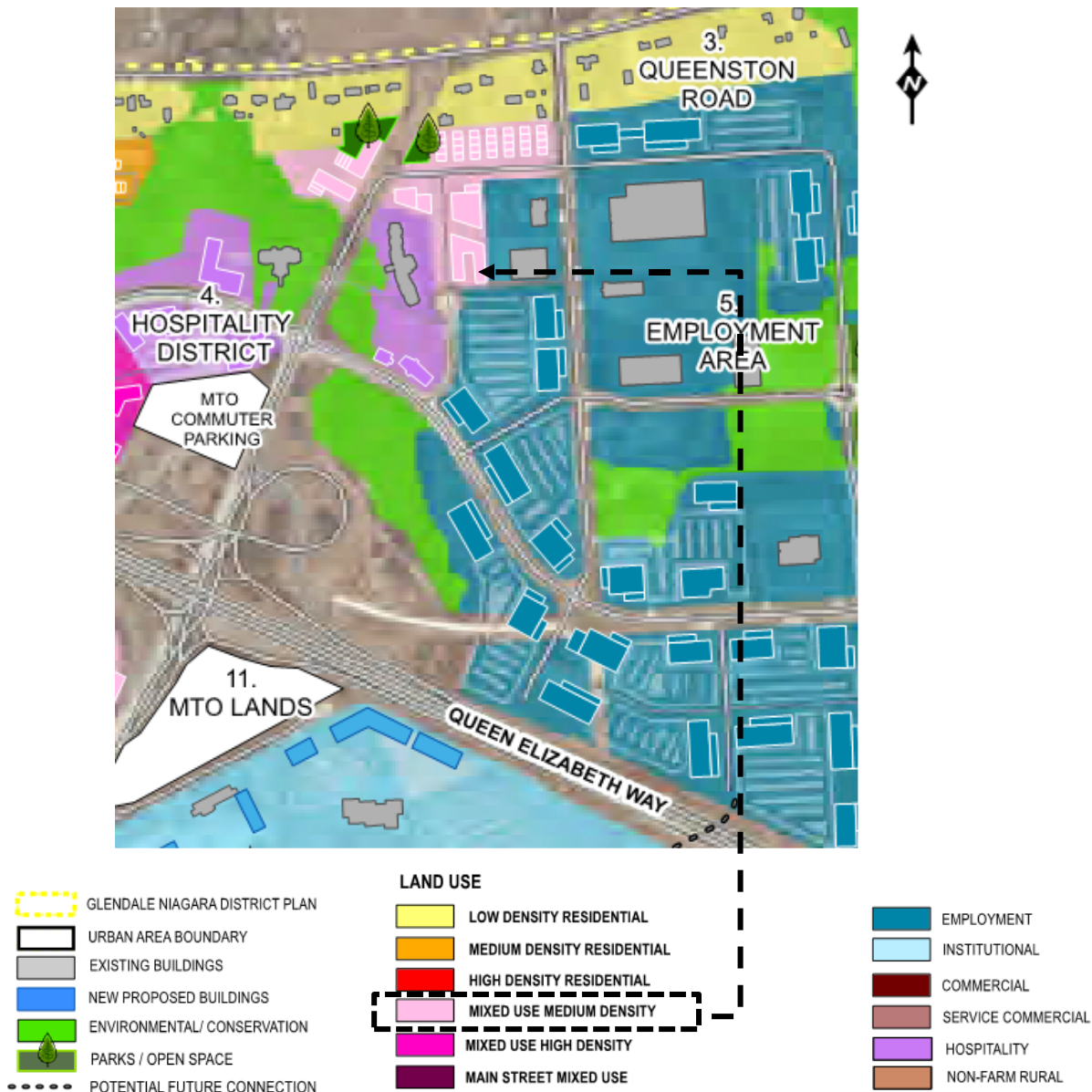
Map 1 – Subject Lands



Glendale Niagara District Plan**Requested Amendment for Mixed Use High Density Designation – Roll No. 262702001802380**

We understand that the Glendale District Plan was endorsed by the Region of the Niagara Council on September 17, 2020 (ROPA 17) and formerly endorsed by the Town-of Niagara-on-the-Lake Council on August 24, 2020 for the commitment to the shared vision and key directions for the transformation of Glendale into a mixed use, complete community.

According to the Glendale Land Use Concept and Demonstration Plan shown below on Map 2, the land use that applies to the Proponents' subject lands is Mixed Use Medium Density.

Map 2 – Glendale Land Use Concept and Demonstration Plan

Glendale Niagara District Plan
Requested Amendment for Mixed Use High Density Designation – Roll No. 262702001802380

The mixed-use designation promotes development that includes more than one type of land use within the same building or on the same site. The associated medium density designation allows for denser residential built forms such as townhouses, as well as low-rise and mid-rise apartment buildings.

The requested amendment is to change the Medium Density to High Density and permit the mid to high-rise apartment residential built form. The justification for the requested amendment is to provide an opportunity for new, diverse and affordable housing choices for all ages with the ability to have convenient access to employment, local stores, recreation, transportation options, and public service facilities. This requested amendment is consistent with the PPS 2020 and Growth Plan policies for the creation of complete communities where people can live, work, and play.

On behalf of the Proponent, we would like this written correspondence and request for the amendment to be included on record at the Niagara Region Planning and Economic Development (PEDC) meeting scheduled for March 10, 2021.

Sincerely,



Susan Smyth
Senior Planner

cc: Richard Wilson – Town of Niagara-on-the-Lake
Bill Chohan – Owner/Developer
Doug Peters – Quartek Group



March 4, 2021

Planning and Economic Development Committee
Niagara Region, Thorold, ON L2V 4T7

Dear Chair Huson:

RE: Request for Support & Legal Review Follow-up: Niagara River Ramsar Site Designation

The Niagara River Ramsar Binational Steering Committee continues to seek the Regional Municipality of Niagara's support for the designation of the Niagara River as a Ramsar Site. We are requesting the Regions support, through resolution, for the symbolic designation of the river as a Ramsar Site of International Importance. To clarify, the committee is not asking for endorsement, which can be perceived to imply financial considerations, nor are we requesting the Region to act in the capacity of Ramsar Site nominator, as the Region is not the landowner. We are looking for a nod of approval, acknowledging the river's ecological importance and global conservation contributions.

The Ramsar Binational Steering Committee would like to also thank council for recognizing that the legal advice contained in report PDS 2 – 2021 is rightfully public information, not meeting the threshold of being treated as a confidential matter. The legal opinion confirms our consistently maintained position that the Ramsar Convention is a voluntary global treaty, promoting the conservation and wise use of water-based ecosystems. It validates Ramsar is not a regulatory instrument and has no punitive sanctions for violations, nor does a Ramsar designation create regulatory requirements, especially for monitoring or reporting. We point to the fact that the Niagara River is currently governed and regulated by the **Boundary Waters Treaty**, the highest regulatory regimen possible for the river. Further, Environment and Climate Change Canada (ECCC) ask to be notified by the Ramsar nominator (landowner) to changes in ecological character. Ecological character as defined by the Ramsar Convention refers to any changes to Ramsar Site designation criteria (i.e., Niagara Falls as globally unique), and not changes to the river's ecology or water quality.

The sustainable development goals of the Ramsar Convention align with councils' mission of serving Niagara's *"residents, businesses and tourists through collaborative leadership, responsible policy and the provision of effective and efficient community-focused services, while maintaining environmental and economic sustainability"*. The members of the Ramsar Steering Committee share councils desire to *"achieve a prosperous, safe and inclusive community that **embraces our natural spaces** and promotes holistic wellbeing and quality of life"*. A Ramsar designation is certainly a path to get us to this mutually desired goal.

We look forward to achieving this globally significant designation together, and request this letter be included on the March 10th PEDC agenda and included with Friday March 5th council weekly correspondence.

Sincerely,

Jocelyn Baker Canadian Co-Chair, Niagara River Ramsar Binational Steering Committee
Email: jbaker@ramsar-niagara.ca Phone: 905.328.5213

Jajean Rose-Burney U.S. Co-Chair, Niagara River Ramsar Binational Steering Committee
Email: jajean.rose@wnylc.org Phone: 716.247.1255

Cc: Ann-Marie Norio, Niagara Regional Clerk
Chair Bradley, and all members of Regional Council



Project No. 20362

March 8, 2021

VIA E-MAIL

Regional Chair Jim Bradley & Members of Council
Niagara Region
1815 Sir Isaac Brock Way
P.O Box 1042
Thorold, ON L2V 4T7

Dear Chair & Members of Council,

***Re: Glendale District Plan Review – ROPA 17
Item 6.2 of the March 10, 2021 Planning & Economic Development Committee***

We are the planning consultant for Canadian Niagara Hotels and ARG Group of Companies (the “Owners”), with respect to the Niagara-on-the-Green Lands (the “subject site”, NOG) at the northeast corner of Glendale Avenue and Taylor Road in the Town of Niagara-on-the-Lake.

Further to our meeting with Regional and Town Planning Staff (Kirsten McCauley and Richard Wilson) and our follow up letter, dated February 12, 2021, regarding the Glendale District Plan, we have reviewed Report PDS 5-2021 and the accompanying ROPA 17 and are supportive.

As per our previous correspondence, our concerns were specifically related to ensuring the policy framework included flexibility and would not require a rigid implementation of the conceptual district plan; that Special Study Area 2 permit the range of uses permitted in the Greenbelt Plan; and, that the Transit Hub permit a mix of uses and encourage the incorporation of the transit station into a development.

Based on our meeting, it is our understanding that Policy 4.G.14.B.17 will not be applied rigidly and that the future secondary plan, which is to be completed by the Town, will provide a detailed policy framework that will include flexibility. We look forward to participating in the future Secondary Plan process.

Regarding Special Study Area 2, we are supportive of the revised wording in ROPA 17, which states permitted uses will be provided in accordance with the Greenbelt Plan.

Similarly, we are supportive of the revisions made to Policy 4.G.14.B.3 related to the Transit Hub, which emphasizes the mixed-use nature of the node and its ability to accommodate additional density. Furthermore, we support the direction to undertake a feasibility study for the transit hub in consultation with local municipalities, the inter-regional Transit Working Group, and any other identified stakeholders to determine the mix of land uses and site requirements.

Thank you for the opportunity to participate in the Glendale District Plan, with special thanks to Kirsten McCauley and Richard Wilson who worked collaboratively to address our concerns. We trust that we will continue to work collaboratively to implement the goals and policies of the District plan.

Should you have any questions or wish to discuss any of these matters in greater detail, please do not hesitate to contact the undersigned or Aisha Jallow of our office.

Respectfully Submitted,



Bousfields Inc.

David Falletta MCIP, RPP

DF:aj/jobs

cc. P. Wadsworth, Canadian Niagara Hotels
C. Iacobelli, ARG Group of Companies
R. Wilson, Niagara-on-the-Lake
K. McCauley, Niagara Region
A. Norio, Regional Clerk



KITCHENER
WOODBRIDGE
LONDON
KINGSTON
BARRIE
BURLINGTON

March 9, 2021

Kirsten McCauley, MCIP, RPP
Acting Manager, Long Range Planning
Planning and Development Services, Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7

Dear Ms. McCauley:

**RE: Kaneff Properties Limited Comments on Regional Official Plan Amendment 17
Glendale District Plan
590 Glendale Avenue, City of St. Catharines**

On behalf of our client, Kaneff Properties Limited, we are pleased to provide the following comments on Regional Official Plan Amendment (ROPA 17).

We want to thank Regional staff for their extensive efforts in arriving at this point to bring forward a recommendation on ROPA 17. We also thank the Region for actively engaging and consulting with our client throughout the Glendale District Plan process.

Our client supports ROPA 17 and the identification of the Glendale District Plan area as a strategic growth area. Specifically, we support the inclusion of our client's lands as Special Study Area 3 recognizing that the lands are subject to the Niagara Escarpment Plan and that additional planning approvals are required to implement the Land Use Concept and Demonstration Plan for these lands.

As an update, we have had further discussions with the Province regarding the status of their decision on our client's request to redesignate their lands from Escarpment Protection Area to Urban Area in the Niagara Escarpment Plan. We have not been provided a firm date for when Cabinet may make such a decision but the Province is cognizant and aware of the Region's timelines relative to the ongoing Municipal Comprehensive Review. Our expectation and hope is that Cabinet will make a decision prior to the Region taking a formal position on the land needs assessment including settlement area boundary expansions.

We will continue to keep the Region updated as we hear further information from the Province on the status of their decision.

We would ask that the Region please notify us of the Region's decision on ROPA 17.

If you have any questions, please let us know.

Yours truly,

MHBC

A handwritten signature in black ink, appearing to read 'ND' followed by a stylized flourish.

Neal DeRuyter, BES, MCIP, RPP

c. Kristina Kaneff

From: [Norio, Ann-Marie](#)
To: [Norio, Ann-Marie](#)
Subject: FW: Glendale District Plan. OP Policies
Date: Tuesday, March 09, 2021 9:35:28 PM
Attachments: [image003.png](#)
[image004.png](#)

From: Stephen Bedford <sbcc@stephenbedford.ca>
Sent: Tuesday, March 9, 2021 2:19 PM
To: McCauley, Kirsten <Kirsten.Mccauley@niagararegion.ca>
Cc: Zalepa, Gary <Gary.Zalepa@niagararegion.ca>; betty.disero@notl.com; Rick Wilson <rick.wilson@notl.com>; Craig Larmour <clarmour@notl.org>
Subject: Glendale District Plan. OP Policies

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Hi Kirsten, THX for getting back to me.

You and yur colleagues both t the Town and Region have completed a yeoman's task to move this project to its present point. Well dome!.

I have reviewed again in detail the policies being proposed. My concern has been, after all this time and energy has been consumed in order to come to this point that the policies being proposed on the ROPA would in fact offer clear direction and a stepping off point for the Secondary Plan being prepared by the Town.

I have reviewed the ROPA in more detail and do have some comfort that there are policies bing proposed to ensure that the Secondary Plan will not overturn the direction of the District Plan.

Even with this "comfort" I would recommend consideration be given to amend Policy 4G.14.B.17 to include "... vision, objectives, policy direction and the Land Use Concept and Demonstration Plan Map of the Glendale District Plan..."

4.G.14.B.17

Local municipal Official Plans, Secondary Plans, and Zoning By-laws shall be updated to implement the vision, objectives, and policy direction of Glendale District Plan, as required.

In addition it is recommended that Policy 4.G.14.B.18 be amended to use the term "direct" rather than "guide" the layout and design of permitted development within the District Plan settlement area. "Direction" rather than "guidance" provides great confidence in what has been accomplished so far.

4.G.14.B.18

The Land Use Concept and Demonstration Plan Map as shown in the Glendale District Plan shall be used to guide the layout and design of permitted development within the District Plan settlement area.

I have commented several times on this 2 step process, Regional District Plan and then Local Secondary Plan. After seeing within this District Plan document the work anticipated by the Town to eventually approve a Secondary Plan, I suggest as I have done before that the Region and Local Municipalities rethink for the future how to consolidate this process and reduce significantly the processing time to move from a Regional Direction to a Detailed Secondary Plan.

Best Wishes

Stephen

Stephen Bedford MCIP, RPP, PLE
Development Manager

LANDx Developments Ltd.
293-1235 Fairview St.
Burlington, ON L7S 2K9
Office: 905.688.2610
Cell: 905.933.5439