

Woodland By-law Update
Questions/Comments & Responses Summary Table

ID #	Question/Comment	Response
Regulated Woodlands versus Other Woodlands		
1	Will the by-law affect or regulate small groupings of trees (e.g., 10 m ²) on private property?	<p>No, as per the <i>Municipal Act</i>, the Region only has the right to regulate trees in woodlands 1 hectare (2.47 acres) or more in size. Woodlots less than 1 hectare are the responsibility of the local municipality. Five local municipalities (Grimsby, Niagara-on-the-Lake, Niagara Falls, St. Catharines and West Lincoln) have currently delegated their responsibility for woodlots less than 1 hectare to the Region, but small groupings of single trees do not meet the definition of “woodland” as defined in the <i>Forestry Act</i>.</p> <p>Local municipalities also have the ability to enact local woodland by-laws as well as private tree by-laws. However, the Region does not have the ability to enact private tree by-laws.</p>
2	Will this affect my woodland, sized about 10-12 acres?	<p>Yes, private woodlands greater than 1 hectare in size (about 2.5 acres) are subject to the by-law. Woodlands less than 1 hectare in size are also subject to the by-law in five of the Region’s 12 local area municipalities where the municipality has delegated authority to the Region for smaller woodlands (Grimsby, Niagara-on-the-Lake, Niagara Falls, St. Catharines and West Lincoln). This means that as a private landowner, you are not allowed to clear your woodland without permission under the Planning Act. If you would like to remove multiple single trees to improve the health of the woodland (for example, to help combat the spread of Emerald Ash Borer), you will likely require a Good Forestry Practices permit. There are also exemptions identified in the by-law, including an exemption that permits landowners to remove dead or hazard (soon to be dead) trees.</p>
3	With regard to recommendations on what size woodland to regulate where authority has been delegated from the local municipality, I have concern with the small size of 0.2 ha. We don't have mature trees like other areas of the GTHA, and this size limit will restrict small lot owners. I would prefer 0.5 ha.	<p>Results of the woodland by-law survey suggest an approximately even, but slightly higher preference for a minimum regulated size threshold of 0.2 hectares (approximately 0.5 acres) as opposed to 0.5 hectares (approximately 1.2 acres). Approximately 36% of survey respondents preferred 0.2 hectares and 31% preferred 0.5 hectares, while 26% had no preference and 7% either preferred larger sizes (1 to 1000 hectares) or protections for all trees regardless of woodland size.</p> <p>The Natural Heritage Reference Manual (Ministry of Natural Resources, 2010) points to a threshold size as small as 0.2 hectares for establishing significance criteria, as is the case in some other municipalities (e.g., York Region).</p>
4	Does you plan include forests on federal land in the Niagara Region?	<p>Federal, provincial and municipal lands are exempt from the by-law as per the requirements of the <i>Municipal Act</i>.</p>
5	If a treed area is found not to be a woodland through the by-law (i.e. <i>Forestry Act</i> definition), but is mapped as an ECA under the Regional Official Plan, how will that be treated?	<p>The by-law only applies to woodlands that meet the definition of woodland as per the <i>Forestry Act</i>. Woodlands that do not meet the density requirements outlined in the Act, but do meet regional significance criteria to be designated as Environmental Conservation Area (ECA) or Environmental Protection Area (EPA), are subject to applicable Regional Official Plan policies through the development application process.</p>
6	What is the connection between the woodland by-law and the Region’s Official Plan? I would like to see more consistency.	<p>Yes, there is inconsistency between the Regional Official Plan and the by-law. According to Chapter 7 of the Regional Official Plan, a woodland must meet one or more of six criteria in order to be considered “significant woodland” – and the criteria do not include density. For example, those criteria pertain to whether the woodland contains wetlands or a watercourse, endangered species, or based on size, if it’s bigger than 2 hectares in urban areas, or 4 hectares outside urban areas north of the escarpment, or 10 hectares south of the escarpment. If it meets any one of these criteria, Official Plan policies apply. However, those policies are only triggered when a Planning Application is required, so for example, a new subdivision, or if a landowner wants to rezone or sever off a part of their property. Typically, the completion of an Environmental Impact Study is required if there is development proposed within 50 metres of Significant Woodland.</p>

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		<p>The Region is currently working on updating the woodland mapping and associated policies as part of the new Regional Official Plan work. Interested stakeholders and members of the public are encouraged to get involved in that process. More information is available on the Region's website at: https://www.niagararegion.ca/official-plan/default.aspx.</p> <p>Although we are striving to be as consistent as possible between the by-law and the Regional Official Plan, this may not be possible. The primary reason for this is that the Municipal Act requires the by-law to use the Forestry Act definition for a woodland, whereas the Official Plan relied more heavily on other methodologies for identifying a woodland (e.g., Ecological Land Classification methodology).</p>
7	Can separate/more protections be included in the by-law for Provincially Significant Woodlands which, as part of a Natural Heritage System (and EPA/ECA) are intricately tied to the ecosystem and biodiversity of the area?	<p>More protections for Significant Woodlands or Environmental Conservation Areas (ECA) as defined in the existing Regional Official Plan was originally one of the key goals of the by-law update. However, through the background review process, it has been determined that in order for the by-law to apply, a woodlot must meet the tree density requirements as outlined in the <i>Forestry Act</i>. If the woodlot is not large enough or does not contain enough live trees to meet the definition of “woodland” as per the Act, the by-law does not apply. This determination is made by the Regional Forester.</p> <p>For clarification, there is no such thing as “Provincially Significant Woodlands”. Rather, there are “Provincially Significant Wetlands” (PSWs), identified by the Province using provincial criteria, which are considered Environmental Protection Areas (EPA) as per the Regional Official Plan. Development or site alteration is generally not permitted within EPAs.</p>
8	There was an error in the tree workshop presentation. It was stated that there are no provincially significant woodlands. This is an error. These were determined by the Niagara Region using provincial criteria, which are laid out carefully in the Ministry of Natural Resources and Forestry's Natural Heritage Implementation Guidelines. These lands are identical to the Niagara Regional Official Plan's Environmental Conservation Areas. Participants should be emailed to correct this error. To further substantiate my view of Provincially Significant Woodlands, please go to the Lands Ontario [mapping]. The mapping is identical to the Environmental Conservation Areas identified in the Niagara Regional Plan.	<p>The Province does map woodlands that can be used by municipalities as a starting point for identifying “Significant Woodlands” within their jurisdiction. However, this mapping is not the only thing used by municipalities to identify significant woodlands. Rather, they are identified by the municipality using regional criteria as informed by provincial guidelines.</p> <ul style="list-style-type: none"> • The Regional Official Plan does not refer to any woodlands as “provincially significant”, as this is specific terminology with specific classification requirements. • For Woodland, the Region uses ‘significant’ as woodlands are identified using regionally developed criteria that were <i>informed</i> by provincial guidelines. <ul style="list-style-type: none"> ○ The Province provides Municipalities multiple documents that provide criteria for determining significance of woodlands. ○ In Niagara, the ‘<i>Natural Heritage Reference Manual</i>’ and ‘<i>Technical Definitions and Criteria for Key Natural Heritage Features in the NHS of the Protected Countryside Area</i>’ can be used for developing a criterion for significance. • For Wetlands the Region uses ‘provincially significant’ as wetlands are identified by the province using provincial criteria. <ul style="list-style-type: none"> ○ Provincially significant wetland mapping is provided to the Region by the Province. • Although most significant woodlands in the Region are in the Environmental Conservation Area (ECA) designation, significant woodlands in the Greenbelt Plan Natural Heritage System are in an Environmental Protection Area (EPA) designation. The ECA/EPA designations are specific to the Regional Official Plan, and not a requirement of the Province.
9	The Provincial Ministry has identified certain areas as Heritage Woodlands. How does the by-law protect these provincially designated resources?	<p>The Province does not identify “Heritage Woodlands”. Rather, Significant Woodlands are considered a “key natural heritage feature” within the Provincial Natural Heritage System and applicable provincial natural heritage policies apply. The by-law can only regulate woodlands that meet the definition of woodland as per the <i>Forestry Act</i>.</p>
10	What about woodlands composed on mostly non-native species, like plantations of black locust, Norway spruce, red spruce, red poplar. Will these be protected under the by-law?	<p>Plantations are typically composed of mostly Scots Pine, White Pine, or a combination of Walnut and White Pine. Plantations that are not actively managed eventually transition to woodland, and the by-law will apply – regardless of species composition – if the woodland meets the tree density requirements outlined in the <i>Forestry Act</i>.</p>

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11	Will there be specific terminology to exclude certain species from protection under the by-law?	It is not currently anticipated that certain species (e.g., invasive or non-native species) will be excluded from the by-law. Buckthorn for example, is an invasive species that rarely reaches the height considered to be a tree (1.37 metres at breast height). Therefore, buckthorn is not considered a tree under the by-law.
Woodland Assessment		
12	Who and how does someone decide upon an area to be measured to determine if it is a "woodlot" under the by-law? For instance, the density would be affected if a less-dense greater area is measured, rather than a smaller more dense area for the same site. A few stray trees could affect the area to be measured.	The Regional Forester is responsible for administration of the by-law and conducts forest sampling to determine tree density. Foresters are trained to conduct sampling using various methods. The fixed-area plot method is the ideal way to collect tree density.
13	There should be clarification in the by-law on who is qualified to evaluate woodlands (i.e. biologist and forester). There also needs to be clarification on what would be included towards calculating density of a woodlot. The <i>Forestry Act</i> definition is problematic because it can lead to using saplings, especially non-native, towards density calculations. Ecologically speaking, this would be a thicket. I would like qualification or exemption for this scenario (i.e. only saplings at a height of 5 m would count).	<p>The Regional Forester is responsible for administration of the by-law, including forest sampling to determine tree density and whether a woodlot meets the <i>Forestry Act</i> definition of "woodland". Biologists or ecologists are responsible for determination of woodland "significance" through the development approvals process.</p> <p>The <i>Municipal Act</i> requires that the by-law use the <i>Forestry Act</i> definition of woodland, which includes trees of any size, as long as they can be measured at "breast height" which is considered 1.37 metres (just under 5 feet) in height.</p>
14	The definitions in the by-law need to be refined (i.e. using woody plant height for physiological maturity is open to interpretation, and many species of hawthorns may meet this definition compared to sexual maturity). There should be an exemption for shrubs, but the by-law doesn't specify that and shrubs aren't defined (i.e. hedge row - is it 20 m from drip line, space of stem, etc.).	<p>The <i>Municipal Act</i> requires that the by-law use the <i>Forestry Act</i> definition of woodland, which includes trees of any size, as long as they can be measured at "breast height" which is considered 1.37 metres (just under 5 feet) in height.</p> <p>The definition of hedgerow has been included and clarifies that measurements shall be taken from the dripline.</p>
15	In cases where a forest has been infested with emerald ash borer, but then the ash trees miraculously come back to life after being dead, will these trees count as dead or alive when calculating density plots?	If during the time a density count is being conducted and there is an ash stump with live sprouts on it and they are greater than 1.37 meters in height, then yes, it would be counted in the density plot. Epicormic branching (or "suckers" that emerge from dormant buds along the trunk or branches) does not count.
16	Regarding density, is there any opportunity to recognize a forest as a woodland where it is in transition (e.g. forest which has a high percentage of (now) dead ash which will increase density over time)?	The determination/recognition of a woodland through the by-law is based on what exists there at the time of inventory, not projections of its future forest condition.

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17	Be clear on the methodology for determining density and whether a feature meets the <i>Forestry Act</i> definition of woodland. Dan's process of using plots is good – other municipalities use assessment methodologies that are not reproducible (i.e., counting whole woodland). Representative sample plots are supported.	The methodology for determining density is not defined in the <i>Forestry Act</i> . However, the Regional Forester uses sample plots or “fixed area cruising” as per the recommendations of the Ontario Woodlot Association found here: https://www.ontariowoodlot.com/publications-and-links/owa-publications/woodland-notes/the-art-of-timber-cruising-part-ii-fixed-area-plots .
18	Is there an appeal process for whether something is considered a woodland?	An appeal cannot be made by the general public. However, the landowner could call into question the Regional Forester's determination of tree density by hiring their own experts qualified to measure/sample tree density. This might occur when there is a by-law violation and the owner is disputing the charges.
19	Is there a database on woodlands?	Yes, Significant Woodlands are mapped as per the Regional Official Plan. This database includes approximate size and the criteria for which the woodland was originally identified as “significant”. This mapping is currently being updated as part of the new Regional Official Plan using a combination of aerial photo interpretation and sample field verification.
20	Can we not use Google Earth mapping to identify protected woodlands across the Region, rather than the ad hoc means by one individual as is the current practice?	Woodland density cannot be determined using Google Earth. Identification of woodland density requires field assessment. As part of the new Regional Official Plan, updated Ecological Land Classification (ELC) mapping is being prepared using a combination of aerial photo interpretation and sample field verification.
Woodland By-law Scope		
21	If a tree or small group of trees on private property could be cut because the by-law doesn't apply, how does the <i>Endangered Species Act</i> factor into the removal process?	Trees listed as endangered such Butternut or Eastern Flowering Dogwood for example, are protected under the provincial <i>Endangered Species Act</i> . A landowner must get permission from the Ministry of Environment, Conservation and Parks (MECP) before disturbing or removing an endangered species. If appropriate permissions are not obtained, the landowner could be charged by the Province under the <i>Endangered Species Act</i> .
22	Can a site alteration by-law regulate smaller groups of trees on private property?	The <i>Municipal Act</i> section 142(2) delegates the authority to local municipalities to prohibit or regulate what would typically be the subject of site alteration by-laws (e.g., placing/dumping of fill, removal of topsoil, alteration of the grade of the land)
23	At the March meeting it was stated that owners of woodlands are being allowed to remove underbrush to maintain woodlands “in a more park-like” setting. The concern is that if this continues to be allowed, no woodlands will eventually qualify as woodlands as older trees die and new trees are not allowed to grow. Will this practice continue to be allowed under the new by-law?	Removing the understory is certainly not a good forestry practice as it eliminates new growth/young regeneration. Known instances where this happens will continue to be inspected to determine if the understory tree removal reduces the tree density below the minimum levels to be considered a woodland under the by-law. If there is no compliance issue with the residual tree density, the owner cannot be charged under the by-law, but will still be made aware that it is not a recommended forest practice. It is also important to note that the size of the area disturbed must meet the area requirements to be covered under the by-law. For example, a 0.5 hectare treed area in Welland is not regulated under the by-law because it is less than 1 hectare in size and Welland has not delegated authority to the Region for woodlands less than 1 hectare.
24	My concerns focus on the critical importance of woodlands to the ‘water cycle’; providing habitat for wildlife, several of which are classed as endangered; and especially on the role of woodlands in climate change mitigation. The US	Increasing our urban tree canopy and the percentage of land area in forest or wetland cover is an important aspect of climate change mitigation. The purpose of the by-law is to prohibit or regulate the harvesting, destruction or injuring of trees in woodlands. Several existing Regional Official Plan policies also speak to this requirement (see below). In addition, Niagara Region is currently working on a new Regional Official Plan, including updated policies that address natural heritage and water resource systems protection.

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	Forestry Service estimated the value of free services provided by a tree as approximately \$57,000 (\$65,000 Canadian?). Several countries, including Canada, have worked on strategies for planting millions of trees to combat the worst effects of climate change. Scientists tell us we have just ten years to stop the increase of atmospheric carbon. How do we preserve the health and viability of the forests we already have and expand them to meet the threat posed by climate change?	
25	<p>The Project Scope (PDS 13-2019 - March 20, 2019) states: “In addition, recent changes to the Municipal Act (more particularly section 270 which introduced the <u>requirement for municipalities to adopt a policy addressing the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality</u>) warrant consideration through a review of comparator municipalities.”</p> <p>I raised this question as well at the PIC and the presenter advised they did not have an answer and would respond to me later.</p> <p>As well, the Region is a leader in setting the standard for municipalities on protecting our Natural Environment and enabling policies for climate change resiliency. One of the goals of the Region’s OP is to achieve a target of 30% forest cover/wetland.</p> <p>Question: How does the by-law address Section 270 (1) 7 of the <i>Municipal Act</i> (implemented under Bill 68) where municipalities must demonstrate how they will protect the tree canopy?</p>	<p>The by-law currently prohibits or regulates the harvesting, destruction or injuring of trees in woodlands in the Regional Municipality of Niagara. Policies for the protection and enhancement of the tree canopy and vegetative cover are more appropriately defined in the Regional Official Plan. Several existing Regional Official Plan policies also speak to this requirement:</p> <p>7.A.1.1 The Region shall support efforts to achieve...30% of the land area in the Region in forest cover or wetland...</p> <p>7.A.1.2 The Region shall support the efforts of landowners to maintain and improve ecosystem health by:</p> <ul style="list-style-type: none"> a) Promoting good forestry practices and development of Woodland Management Plans; b) Encouraging and supporting natural heritage conservation and restoration, including the planting of native vegetation; and c) Maintaining and implementing a Regional Forest Conservation By-law regulating harvesting, destruction or injuring of trees in woodlands... <p>7.A.1.3 Local municipalities shall be encouraged to:</p> <ul style="list-style-type: none"> a) Adopt by-laws protecting trees and woodlands not covered by the Regional Forest Conservation By-law or delegate their authority to the Region; b) Require preparation and implementation of Tree Saving Plans for new development, if needed; and c) Integrate natural features and natural vegetation, including the planting of native species, into development. <p>In addition, Niagara Region is currently working on a new Regional Official Plan, including updated policies that address natural heritage and water resource systems protection. Interested stakeholders and members of the public are encouraged to get involved in that process. More information is available on the Region’s website at: https://www.niagararegion.ca/official-plan/default.aspx.</p>
26	Who is responsible for drafting the policy?	Niagara Region is currently working on a new Regional Official Plan, including updated policies that address natural heritage and water resource systems protection. Interested stakeholders and members of the public are encouraged to get involved in that process. More information is available on the Region’s website at: https://www.niagararegion.ca/official-plan/default.aspx
27	Can “enhancement” of the tree canopy policies be implemented and incorporated into this By-law?	Enhancement of tree canopy policies will need to be evaluated outside of the Woodland Bylaw, due to the limitations and parameters of the bylaw identified in the Municipal Act.

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28	How does this By-law support the Region's target of 30% forest cover/wetland?	Recognizing that preserving existing forest cover is critical to achieving the Region's target of 30% forest cover, this by-law serves as a deterrent to the illegal removal of woodlands and is one tool to support the baseline so that reforestation efforts increase rather than replace removed forest cover. The bylaw also contains tools and mechanisms that support replanting where forest cover has been removed illegally.
29	<p>Woodlands protected through the Planning Act process are identified as Environmental Conservation Areas (significant woodlands). Not all of these areas are mapped under the Niagara Regional Official Plan. The Tree and Forest Conservation By-law overrides mapping to ensure woodlands that meet the criteria may be protected.</p> <p>Question: What is the Region doing to ensure that mapping of Woodland (woodlots) meeting the Forestry Act and Woodland Conservation By-law are aligned with the Regional OP?</p>	As part of the new Regional Official Plan, updated Ecological Land Classification (ELC) mapping is being prepared using a combination of aerial photo interpretation and sample field verification. This will identify all wooded areas; then further desktop assessment will be undertaken to identify those areas that meet one or significance criteria. However, woodland density – and by extension whether the woodland by-law would apply – cannot be accurately determined via a desktop exercise. Identification of woodland density requires field assessment, which is why the by-law may not align with even the new Regional Official Plan mapping.
30	How recent and up-to-date is the Woodlands (and Wetlands) inventory mapping?	<p>The Region's woodland mapping dates from the early 2000's and is currently being updated as part of the new Regional Official Plan, using Ecological Land Classification (ELC) mapping being prepared via a combination of aerial photo interpretation and sample field verification.</p> <p>Provincially Significant Wetland (PSW) mapping is provided to Niagara Region by the Ontario Ministry of Natural Resources and Forestry (MNRF) on a regular basis, as is Locally Significant Wetland (LSW) mapping by the Niagara Peninsula Conservation Authority (NPCA).</p>
31	Who is responsible for validating the accuracy of the mapping/Woodland determination in the event of a property owner appeal and is this addressed in the amended By-law?	The by-law has been updated to clarify that an appeal cannot be made by the general public. However, the landowner could call into question the Regional Forester's determination of tree density by hiring their own experts qualified to measure/sample tree density. This might occur when there is a by-law violation and the owner is disputing the charges.
32	<p>The definition of "Sensitive Natural Area" currently means lands that are in a woodland and within an Environmental Protection designation as defined in the Niagara Region Official Plan or within a natural area as designated in the Niagara Escarpment Plan.</p> <p>Policy 7.B.1.3 Environmental Protection Areas include provincially significant wetlands; provincially significant Life Science Areas of Natural and Scientific Interest (ANSIs); and significant habitat of threatened and endangered species. In addition, within the Greenbelt Natural Heritage System, Environmental Protection Areas also include wetlands; significant valleylands; significant woodlands;</p> <p>Question:</p>	Significant Woodlands as per Regional Official Plan policy 7.B.1.5 are automatically elevated to Environmental Protection Area (EPA) (i.e., no development or site alteration) within the Provincial Natural Heritage System (expanded to include areas outside the Greenbelt as per the 2019 Growth Plan for the Greater Golden Horseshoe). Additional protections or the elevation of woodlands to EPA status are more appropriately considered through updated Regional Official Plan policy.

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	Where a Woodland is designated Regionally significant and retains characteristics that are provincially significant or rare, is there opportunity to add a section to the By-law to provide additional protections for these Woodlands, and to have them elevated from Environmental Conservation Areas to Environmental Protection Areas?	
33	As there are some cases where the Regional OP does not identify a significant Woodland as an EPA (as not all Woodlands are currently mapped), does the Woodland Conservation By-law take precedence?	<p>The woodland by-law takes precedence over the mapping. If a woodland is not mapped as Significant Woodland but meets density requirements, it is still subject to the by-law. Conversely, if a woodland is mapped as Significant Woodland but is found through field verification by the Regional Forester, to not meet the by-law density requirements, then the by-law cannot apply.</p> <p>Regional Official Plan policy 7.B.1.8 addresses unmapped areas with natural vegetative cover. For example, through the development review process, where woodlands or wetlands may be located on a property but are not mapped, a Constraints Analysis as outlined in the Region's Environmental Impact Study Guidelines is typically required as a first step to determine if the unmapped feature meets criteria for identification as an Environmental Conservation Area (ECA) or Environmental Protection Area (EPA).</p> <p>Simply put, in both the by-law and Regional Official Plan, the text takes precedence over any mapping that exists. If a woodland meets the definition of the by-law then the policies of the by-law apply. If a woodland meets the criteria of significance in accordance with the Regional Official Plan, then the policies of the Official Plan apply.</p>
34	Could you please explain to me how this by-law can supersede the rights given and granted by the Sovereign of all of the woods and waters laying and being to the first settler his heirs and assigns forever? How does the municipality elevate it's self above our head of state?	<p>In Ontario, municipalities are created by statute, specifically the <i>Municipal Act</i>, 2001. As provided by section 2 of the <i>Municipal Act</i>: "Municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this Act and many other Acts for the purpose of providing good government with respect to those matters."</p> <p>The Region's proposed woodland by-law will be passed in accordance with the legal authority conferred upon the Region pursuant to the <i>Municipal Act</i>. In this regard, the Region is empowered pursuant to section 11 of the <i>Municipal Act</i> to pass bylaws with respect to the "economic, social and environmental well-being of the municipality"; and more specifically, s. 135 of the Act grants the Region the specific power to prohibit or regulate the destruction or injuring of trees in woodlands designated in the by-law. Further pursuant to section 270(1)7 of the Act, the Region is required to adopt and maintain a policy regarding the manner in which the municipality will protect and enhance the tree canopy and natural vegetation within the municipality.</p>
35	The recommendation is to create a stand alone Tree Saving By-law, separate from the Woodland By-law and Regional OP. Will a Tree Saving By-law be enforceable, and under what legislation?	For clarification, there will be no separate Tree Saving "by-law". Rather, the intent is to create a separate "guideline" for the development of Tree Saving Plans. Currently, the by-law section 1.36 provides the minimum requirements for Tree Saving Plans, which are often required as a condition of development approval. In the past, these requirements have been widely interpreted, resulting in a variety of "plans" which sometimes do not meet expectations. It is anticipated that the creation of a standalone guideline or standard, to be prepared separate from the by-law as is common in most other municipalities, will alleviate the inconsistencies in Tree Saving Plans currently being prepared.
36	<p>Removal of the Tree Saving Plan (1.36) requirements from the By-law</p> <p>Question: Who will be drafting the Tree Saving Plan as a separate policy and will it be brought to Regional Council at the same time as the draft Woodland</p>	At this time, the current or existing Tree Saving Plan definition (Section 1.36) will be removed from the body of the bylaw and included as an appendix so that it may be updated from time to time expeditiously through a report to council, but without amendment to the bylaw. The Bylaw Update report to Council will include a recommendation to direct staff to prepare updated Tree Saving Plan Requirements.

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	Conservation By-law (as it currently forms a part of it)?	
37	By separating the Tree Saving Plan into its own policy (which in a lot of cases is directly related to a Planning Act application), how do municipalities ensure the minimum requirements are incorporated into any pre-consultation agreement and enforceable?	<p>The requirement for a Tree Saving Plan is typically required as part of the development approvals process through the <i>Planning Act</i> (Site plan, Plan of Subdivision, etc). It is helpful to have a set of Tree Saving Plan Requirements independent of the bylaw so that staff can consistently and clearly convey to applicants and their consultants the requirements for a tree saving plan, and allow staff to verify that they are reflected in application submission materials for treed areas. These plans often become incorporated into conditions of approval and are required to be implemented in agreements through the Planning Act.</p> <p>Tree Saving plans should not be confused with Environmental Impact Studies or Assessments for which there are already guidelines in effect, and which may contain a tree saving plan component.</p>
38	<p>I do appreciate that the <i>Municipal Act, 2001</i> permits municipalities to legislate "... with respect to matters within their jurisdiction...". As well, I acknowledge that the <i>Municipal Act, 2001</i> grants specific powers concerning regulation of trees. However, I ask that you please keep in mind that at all times such powers are limited to any municipality's respective jurisdiction.</p> <p>My concern is that the Region's proposed by-law fails to recognize that the powers derived from the <i>Municipal Act, 2001</i> will vary depending upon the type of land at issue. For instance, a municipality's ability to legislate pursuant to, or in accordance with, the <i>Municipal Act, 2001</i> differs in respect to Federal Crown Land, Reserve lands, and as well to land conveyed to a private landowning entity (be it individual or corporation) at different times throughout history.</p> <p>Consider the <i>Public Lands Act</i> RSO 1990, s. 58 which states:</p> <p style="padding-left: 40px;">“(3) A reservation of all timber and trees or any class or kind of tree contained in letters patent dated on or before the 1st day of April, 1869 and granting public lands disposed of under this or any other Act is void. R.S.O. 1990, c. P.43, s. 58 (3).”</p> <p>Through this section, reservations concerning trees that are contained in letters patent prior to April 1, 1869 are void. Thus, any Crown interest in those reservations which the Crown may have had since the time of issuance of the respective letters patent, are no longer, by confirmation of the Public Lands Act. Indeed, this was confirmed to me by Mr. Scott</p>	<p>Section 2 of the <i>Municipal Act, 2001</i> states “<i>Municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this Act and many other Acts for the purpose of providing good government with respect to those matters.</i>”</p> <p>The Regional Municipality of Niagara is also required to follow Federal and Provincial Legislation (Ontario). Under the <i>Constitution Act</i>, the control of land and its uses is a provincial responsibility, which is derived from the Constitutional authority of “property and civil rights”. The provincial government of Ontario has established municipalities that are empowered to control the use of land within their boundaries. Crown patents are part of a broader legal framework and any rights or obligations granted to a landowner in such patents must be considered together with the applicable statutory regime. The rights under such patents, however, do not displace otherwise validly enacted provincial legislation.</p> <p>On the day of the Virtual Open House for the Woodlands By-law Review, XXXXXX asked a very similar question to the one staff had provided a response to you on. Unfortunately, we did not verbally respond back to her question. This was an oversight on our part. Following the open house, we did respond to her question via email. All questions posed at the Open House and the Region's responses to these questions will be posted on the Region's website next week. You will be able to view these questions and answers by following this link: https://www.niagararegion.ca/culture-and-environment/woodland-bylaw-review/default.aspx</p> <p>The Virtual Open House that was conducted was not legislatively required by the <i>Municipal Act, 2001</i> or the <i>Forestry Act</i>. The Region of Niagara is conducting public engagement on the by-law because we are soliciting feedback as part of our review process. The engagement process we are conducting goes above and beyond the Region's strict legislative requirements. Section 270 of the <i>Municipal Act</i> mandates that a municipality shall adopt and maintain policies with respect to public notice. The Act does not specify what the content of the public notice requirements should be. The Region's Public Notice policy requires public notice of any Public Meeting be published in a Newspaper or posted on the Region's website at least ten (10) days in advance. While not strictly meeting the definition of “Public Meeting”, notice of the Open House was provided on the Region's website and in local newspapers, in accordance with the Region's policy.</p> <p>Further, the proposed bylaw amendments have not yet been considered by Council or the appropriate Standing Committee. Once it is placed on the Standing Committee agenda, public notice of the committee meeting will be given and copies of the agenda along with the related staff report and draft bylaw will be available to the public on the Region's website, in accordance with the Region's Procedural By-law no.120-2010.</p>

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	<p>Kaldeway, Ministry of Natural Resources, who wrote:</p> <p><i>"reservations of trees granted under any Act prior to April 1, 1869 are void (Section 58 of the Public Lands Act) – you would now own all trees, regardless of species."</i>^[1]</p> <p>Mr. Kaldeway was responding to an inquiry I had made concerning land granted through letters patent. The patent I inquired about expressly grants land "together with all of the woods and waters laying and being".</p> <p>Lest you doubt that letters patent may themselves be of any force or effect, I also refer you to section 24 of the <i>Evidence Act</i>, RSO 1990 which states:</p> <p><i>"Letters patent</i> <i>24 Letters patent under the Great Seal of the United Kingdom, or of any other of Her Majesty's dominions, may be proved by the production of an exemplification thereof, or of the enrolment thereof, under the Great Seal under which such letters patent were issued, and such exemplification has the like force and effect for all purposes as the letters patent thereby exemplified or enrolled, as well against Her Majesty as against all other persons whomsoever. R.S.O. 1990, c. E.23, s. 24."</i></p> <p>Accordingly, proof of the contents of the letters patent flows from the patent itself.</p> <p>In summary, my concern about the Region's draft by-law is that it overreaches – the Municipal Act, 2001 only permits a municipality powers in respect of trees over which it has jurisdiction. It does not extend unilaterally to all trees, on all different types of land against all different types of landowners. To claim otherwise would constitute an excess of jurisdiction, elevating the Municipality's by-law over other acts of the Province of Ontario, the Federal Crown, and the Crown as it historically existed, prior to Confederation. Quite simply, the proposed by-law cannot elevate above the authority of those who</p>	

^[1] See attached email of Scott Kaldeway, Ministry of Natural Resources, dated May 15, 2014, attached hereto as Appendix 1.

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	<p>may have granted trees (and land) to property owners, their heirs and assigns forever. Instead, and in my view it would be prudent that the by-law ought to first meet a jurisdiction threshold to establish whether the municipality has appropriate jurisdiction over the subject tree in question. If so, then the remainder of the by-law may apply to that particular tree. The by-law cannot be drafted so as to apply equally to all trees within a geographical area. Such a by-law would be ultra vires the municipality, necessitating a challenge and ought to be struck down.</p> <p>Lastly, I acknowledge that you invited my participation in the virtual open house held June 17th through Zoom. I was unable to attend. However, I understand that the above issue concerning the letters patent was raised during the virtual open house. Sadly, the Zoom host or facilitators ignored putting the question to the general assembly (i.e. the public) and no answer was provided or explanation given (see appendix 2 concerning the question posed at open house). Thus, the open house appears to have been far less “open” then one would expect. Accordingly, my position is that the virtual open house failed to meet the legislatively mandated requirements of transparency and access to the public pertaining to public discussion on draft by-laws. I therefore invite you to please provide an explanation as to 1. why this question was not put forward to the public, 2. why the question was left unanswered by the facilitators or authorities in attendance, and 3. how the failure to address, and at the very least raise, this question meets the Region’s obligations concerning a public forum for by-law introduction. Presently, and in my opinion, the Region’s conduct does not meet the Region’s obligations, and so even in its efforts to present this by-law, the Region is acting contrary to the legislative scheme concerning enactment of by-laws.</p> <p>Further to my above-noted concern about the apparent lack of transparency surrounding this by-law, I ask that you provide me with the following:</p>	

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	<ol style="list-style-type: none">1. the background staff reports prepared in support of this by-law,2. the notice of the public/council meeting or meetings that considered the enactment or amendment of this by-law,3. the Agenda of each respective meeting where this by-law was considered;4. the date the Agenda for each council meeting was made public, how it was publicized, and all attached proposed bylaw amendments or enactments, and all supporting material which accompanied these Agendas;5. the minutes of any Council/Region meeting where this by-law was considered,6. any public announcements involving this by-law, after being amended, passed or repealed. <p>Given that I am aware that at least one question was asked at the Region’s purported open house but not put the public, I also ask that you provide me with a complete list of all questions asked at the open house, including identifying those questions that were raised, but not made public or otherwise responded to during the Zoom call.</p> <p>If you disagree with any of the contents of this letter, I ask that you identify your basis of disagreement together with rationale for same.</p> <p>I look forward to hearing from you and to receipt of the aforementioned (public) documents concerning the Region’s consideration, consultation, and presentation of this draft by-law.</p>	
39	<p>Climate Change</p> <p>Under the current Purposes of the bylaw, there is no mention of “mitigating the impacts of Climate Change” or maintaining the benefits of the green infrastructure services healthy woodlands provide. I am pleased to see you are considering adding “to increase species diversity and forest health to help Niagara adapt to climate change”, however, I don’t see anything in the suggested changes to the bylaw that will help you achieve this purpose.</p>	<p>The core mandate of the By-law, to protect trees within woodlands, serves to preserve opportunities for biodiversity and forest resilience to help our communities adapt to climate change. We will be addressing more specific climate change strategies through the Regional Official Plan review.</p>

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	Question 1: In what way would the proposed changes to the bylaw address this proposed purpose?	
40	Aesthetic Values Furthermore, I submit mitigating the impacts of Climate Change or maintaining the benefits of the green infrastructure services healthy woodlands provide should be high on the list of purposes and are certainly infinitely more important than “enhancing the aesthetic values of woodlands”, in fact what does that even mean? Who is judging the aesthetics? Too often groomed and maintained landscapes are valued by humans when natural, wild spaces provide the most environmental, biodiversity, green infrastructure and climate change benefits. Question 2: What is meant by “aesthetic values” in this context? Is this needed as a goal?	The “aesthetic value” purpose was included in the 2009 By-law and is being considered for removal in the revised Woodland By-law.
41	Allowing Understory Removal This brings me to one of the greatest concerns I have that is not addressed by your proposed changes to the bylaw: currently, woodland owners are not prohibited from clearing out the understory of their woodlands. This means that they are being allowed to destroy the very biodiversity this bylaw purports to protect both in the current bylaw where it says “Supporting the objective of the Niagara Regional Official Plan to maintain, restore, and enhance the ecological health, integrity and biodiversity of the Core Natural Heritage System” or in the goals being considered in the new bylaw: <ul style="list-style-type: none">• To increase species diversity and forest health to help Niagara adapt to climate change• To help achieve the current Niagara Regional Official Plan goal for increased forest cover in Niagara It also means that no woodland in Niagara is protected overtime because if new trees are not allowed to grow, then as older trees die off or are removed, the woodland will lose its designation over time. I have asked questions about this at the in person public meeting and during the online meeting and have yet to receive a satisfactory answer about why this is allowed and	The Woodland By-law is limited specifically to the protection of “trees” by the Municipal Act. However, staff recognize the importance of the forest understory and will be reviewing opportunities to address this concern.

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	why the Region cannot include something in the bylaw that would not prevent this destruction. Question 3: Could you please explain why allowing this practice cannot be prohibited?	
42	Provincial Legislation Three of the stated goals of the Woodland By-law update was to: To review any changes to provincial legislation that provides Niagara Region with the power to enact/delegate the administration and enforcement of such a by-law; To review the alignment between the existing Niagara Regional Official Plan and the by-law; To review whether the by-law is able to fulfill the current objectives as outlined in the preamble of the current by-law, and any other objectives identified through the review. Question 6: What was the review's findings in regard to these goals?	The process is still ongoing and the findings are not fully known. The findings of the consultation and review process with regard to the goals and objectives of the By-law will be summarized in the report going to Committee and Council in the Fall.
43	As well there was another stated goal to review whether the by-law is in line with similar municipal tree and forest conservation by-laws within the Greater Golden Horseshoe and commonly accepted best practices. I would suggest the goal should be to find out whether the bylaw was not similar to others but rather meets the very highest standards of best practice. Question 7: Why not aim to have the best standards?	We do aim to have best management practices incorporated into the updated By-law, and as you mentioned, the review process did include a review of best practices from other upper tier municipalities.
44	Replacement You asked: Should Niagara Region require replacement planting or cash-in-lieu payments to be used for planting in targeted areas when trees are approved for removal under building permits or Planning Act applications? The answer is of course replacement planting should be required. No to cash in lieu because it usually gets misdirected into general revenues. Cash in lieu doesn't address the loss of canopy. The question is how do you put a good replacement plan in place. Removing a forest can only be remedied by adding new forest. Where do you do that? Who does it? How is it monitored?	Since the survey was drafted, we have consulted with the Region's Legal staff. They have advised that Section 135(7) of the Municipal Act specifies the conditions that may be imposed in relation to a permit, which include conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees. The context for the replacement plan will be for tree removal that occurs through applications under the <i>Planning Act</i> , which is an exemption specified in the current Tree and Forest Conservation By-law. We hoped to address this through the proposed By-law; however, because of legislation limitations of the By-law, we are unable to require this under the proposed By-law.

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	<p>You can't replace one on one. Replacement should be related to the canopy cover lost, for instance, the canopy of one 200-year-old oak cannot be replaced by even 10 young trees, especially since most won't survive given the harsh conditions they are usually planted in. What do you plant in lieu? Will it only be native trees? Are we planting for the future by taking climate change into effect and planting appropriate species? Are we only replanting trees of a certain DBH or are we trying to recreate what was lost by planting additional shrubs, plants etc.?</p> <p>Question 10: What kind of replacement plan are you contemplating?</p>	
45	<p>Cash in Lieu</p> <p>Further to the question you asked about directing cash in lieu on the questionnaire. Ideally, as previously stated, there is immediate replacement planting, but if cash in lieu is allowed, it should go to purchasing woodland so that it remains as woodland, as a top priority but the Region could also do that by providing funding to the NPCA. The Region shouldn't have to buy land to preserve because it should create a Natural Heritage System and designate the land as Halton Region has done. Protecting the remnant woodlands that exist should be the Region's top priority. Following that, planting more native trees on Regional properties, and working with partners like the NPCA to plant more trees, is the next step. Identifying lands that can be reforested should be a priority. Providing grants for tree planting, as long as that's well supervised, and doing tree giveaways as well as the educational component that goes along with it.</p> <p>Question 11: If you allow cash in lieu, how do you ensure the money is not diverted into general coffers, as it usually is, and if directed into land preservation or tree planting, how so you ensure that it is properly managed so that the goal of increasing Regional tree cover is met?</p>	<p>Since the survey was drafted, we have consulted with the Region's Legal staff. They have advised that we cannot allow cash-in-lieu payments for replacement planting that must occur as a result of an offense. With respect to the fines that may be imposed, those fines don't 'compensate' a specific department and they are divided up on a pro rata share with the lower tier municipalities based on legislated requirements.</p>
46	<p>The Project Scope (PDS 13-2019 - March 20, 2019) states one of the objectives of the review is to</p>	<p>More protections for Significant Woodlands or Environmental Conservation Areas (ECA) as defined in the existing Regional Official Plan was originally one of the key goals of the by-law update. However, through the background review process, it has been determined that in order for</p>

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	<p>“Recommend changes to bylaw as required to align with current ROP”</p> <p>On the June 17 PIC Q&A, the presenters noted that the By-law “can’t fix the disconnect between the Regional OP and the By-law...”</p> <p>Question: If the mandate was to align the By-law to be in conformity with the OP, how does this meet the objective?</p>	<p>the by-law to apply, a woodlot must meet the tree density requirements as outlined in the <i>Forestry Act</i>. Use of this definition is legislated as per the <i>Municipal Act</i> and cannot be changed. Unfortunately, there may continue to be instances where the by-law and Official Plan are not in complete alignment.</p>
47	What is the implication of not aligning the OP and the By-law with respect to definitions, administration and enforcement?	<p>Niagara Region can only lay charges or levy fines for by-law violations. Where trees or woodlots are removed that do not meet the density requirements to be defined as woodland as per the <i>Forestry Act</i>, unfortunately there is no legal recourse. This means that the by-law may not apply to all woodlands currently mapped as Significant Woodland or Environmental Conservation Area as per the Regional Official Plan. Further, dying woodlands that no longer meet by-law density requirements, due to Emerald Ash Borer for example, cannot be protected under either the by-law or existing Regional Official Plan policies. It is anticipated that the new Regional Official Plan may include new policy regarding dead trees, similar to other municipalities.</p>
48	How are property owners being informed and educated on the requirements under this By-law (before it becomes a compliance or enforcement issue)?	<p>We are currently considering what components of community outreach will be necessary to communicate changes to the updated bylaw.</p>
Advisory Committee		
49	<p>I have concerns about the reliance on elected officials and the removal of an advisory committee with non-elected officials on it. Given our recent political history, how is it felt prudent to further remove citizen involvement in something as important as this?</p>	<p>Having an advisory committee for by-law enforcement is very irregular. It is not required under the <i>Municipal Act</i> and no other region/county has such a committee to oversee implementation of their forest by-law. Enforcement decisions are to be made by an individual designated as a by-law enforcement officer, not by a committee.</p> <p>When enforcement of the by-law was transferred to the Niagara Peninsula Conservation Authority (NPCA) in 2008, there was an expectation of the advisory committee to discuss compliance matters, know the parties involved, and decide/vote on whether charges should be laid. This practice was ended given it is highly improper to discuss compliance matters with members of the public. Further, the issuance of Good Forestry Practice Permits does not require a committee to make decisions on whether a permit should be approved. Rather, the decision is made by an individual with the education, expertise and authority to do so. No complaints have been received by the Region or the NPCA since 2013 regarding why there were no meetings.</p> <p>The stated purpose of the advisory committee in the current by-law is to “review and provide advice on matters of tree and forest conservation as requested by the NPCA.” It is proposed that this statement will be removed and no advisory committee be required.</p>
50	<p>I am a member of the Niagara Federation of Agriculture. Prior to 2008, the Niagara Region managed the Woodland By-law and enforcement, whereby regional staff ran all meetings and invited members from the Woodlot Association, agricultural sectors and others to regular meetings. The meetings were well attended and much was</p>	<p>Thank you for your letter and suggestions. We will review your request and see how we move this forward with our review of the woodland by-law. In the meantime, I will reach out to Councilor Witteveen and see if we can use APAC as a way to discuss any issues that arise from the woodland by-law instead of having a separate advisory committee.</p>

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	<p>discussed. After 2008, the NPCA was given the administration and enforcement of the by-law, whereby things went awry. Even though the chair of the committee was an agricultural member, meetings did not run well and eventually stopped altogether. Farmers are great stewards of the forests and land as they utilize Best Management Practices. I believe that removing the Advisory Committee as a whole is wrong as the Region only heard one side of the story.</p> <p>In the best interests of the Woodland By-law, I suggest that the Niagara Region's Agricultural Policy and Action Committee (APAC) take the place of Section 11's Tree Forest Conservation By-Law Advisory Committee for advice and comment. I understand that APAC does not meeting regularly enough, however items for reference or discussion could be sent out to the committee for comment and added to the following meeting for updating.</p>	
Building Permits		
51	How can the potential to overharvest with building permits be eliminated?	Building permits are the responsibility of lower-tier municipalities, and as such, the woodland by-law is unable to address concerns related to the overharvest of woodlands through the building permit process. However, staff will be working with lower-tier municipalities to determine how best to enact best management practices.
52	Has the Region given thought to what the "zoning clearance" process could look like at the building permit stage? Would that be a clearance at the local level or Regional level?	Staff are having discussions with our partner lower-tier municipalities to determine what the 'zoning clearance' process would look like. Based on a review of the process being implemented by other upper-tier municipalities.
Good Forestry Practice Permits		
53	How many GFP permits do you typically process annually?	The Regional Forrester typically processes approximately 20 Good Forestry Practice permits per year. The Niagara Region Tree and Forest Conservation By-law Annual Reports are currently available by request. However, given the interest, these Annual Reports will soon be made available online at: https://www.niagararegion.ca/government/bylaws/tree/default.aspx .
54	Is it possible for someone who has recently purchased property with a woodland on it to obtain a "Good Forestry Practice Permit" before 2 or 3 years?	Yes, the two-year rule is for the landowner's own use, not for Good Forestry Practices permits.
55	How much does a Good Forestry Practices permit cost?	Currently there is no charge for obtaining a Good Forestry Practices permit. However, there is a cost involved because the services of a Professional Forester are required to prepare a Forest Management Plan or Silvicultural Prescription to accompany the permit application.

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56	<p>Good Forestry Practices Permit – Common Conditions (from the Presentation/Display Materials) #12 - The landowner or the logging contractor must notify the by-law officer at the Niagara Peninsula Conservation Authority of the exact day when operations are to commence. The notification must be three (3) working days (excludes weekend days) before the commencement</p> <p>Question: Should this be reworded with the proposed changes to show administration and enforcement fall under RMoN?</p>	<p>Yes, the updated by-law is being updated to reflect by-law administration and enforcement by Niagara Region.</p>
Timing Windows		
57	<p>I suggest including conditions for removals to follow bat and bird windows, even where exemption for agricultural uses applies.</p>	<p>Timing windows that avoid the spring/summer breeding bird and bat active season are typically required as part of the development approvals process. Outside of the development process, Good Forestry Practices permits are subject to conditions that include no harvesting during the spring/summer breeding bird period. However, an option is provided for a qualified ecologist or biologist to conduct a “bird sweep or nest sweep” within 48 hours of the proposed tree removals. If nests are found, work within 10 metres of the tree should cease until the young of year have fledged or until the nest is determined to be inactive. If no nests are present, clearing may occur.</p>
58	<p>If you add restrictions for removals to follow bird and bat windows, this will be restricting to only winter removals and will hinder development.</p>	<p>Timing windows that avoid the spring/summer breeding bird and bat active season are typically required as part of the development approvals process. Alternatively, bird or nest sweeps may be conducted as outlined above, and acoustical bat surveys may be conducted according to protocols approved by the Ministry of Natural Resources and Forestry.</p>
59	<p>Breeding Birds The more restrictive provisions to protect breeding birds are welcome but ultimately futile if you are allowing the permanent removal of their breeding sites and habitat. What is the point of allowing fledglings to survive only to remove any site for them to breed/feed in subsequent years? When you destroy the habitat, you destroy the animals that live there, period. There is no other place to go. All habitat is filled to capacity. We have to stop pretending otherwise. These continuous deaths of a thousand cuts are what is decimating our songbird population and in a larger sense creating the Holocene/Anthropocene extinction.</p> <p>Question 4: how will this bylaw protect breeding birds in the long term?</p>	<p>The proposed by-law changes include clarifying timing windows for removals permitted under the provisions of the By-law, and are intended to better align with Federal Guidelines and the provisions of the (s.6) Migratory Birds Convention Act. One of the overall goals of the by-law is also to enhance Regional tree canopy cover, which will assist in protecting habitat for breeding birds in the long term.</p>
Exemptions		

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60	In regards to your consideration of adding this option of allowing trees to be removed from historical areas of contamination when they are being restored to your by-law, can you please give an example of such a site?	For clarification, the proposed exemption for historically contaminated lands will allow the removal of trees from a site requiring soils remediation (cleanup) as directed by the Province. An example of such a site would be the old Cytec site in north Niagara Falls across from the Gale Centre.
61	If trees are required to be removed for remediation of a site as authorized by the Province, would an application still need to be made to the Region to complete this work?	A permit would not be required, so no application would need to be made. However, yes, the Regional Forester would still need to be made aware of the proposed work in order to ensure applicable Provincial requirements and/or authorizations are in place.
62	Further to the process of remediation involving the Province's direction, would the Region still require a professional to prepare the application, or would the owner simply need to provide the background information and Provincial direction for the Region's review and files? If formal application still required, what extra costs would need to be considered for a potential owner?	A permit would not be required, so no application would need to be made. However, the “extra costs” associated with Provincially-directed soils remediation are typically substantial. Applicable Environmental Site Assessment (ESA) reports prepared by a qualified professional and correspondence with the Ministry of Environment, Conservation and Parks (MECP) regarding the remediation requirements would be required.
63	For the contemplated exemption for contaminated land, would it be subject to Risk Management Plans, Record of Site Conditions or Certificate of Property Use?	Specifics have not yet been defined, but in cases where the Province has directed remediation based on the results of Environmental Site Assessment studies or otherwise, the intent is not to require a Record of Site Condition or Certificate of Property Use. It is anticipated that the requirement for Risk Management Plans would be determined by the Province on a site-specific basis.
64	With regard to the exception for removal of dead trees, if once dead trees are taken out, the overall density doesn't meet requirements, would it still be considered a woodland? (i.e., example of a property that was taken over by bush, which was removed, leaving 15 trees on 2 acres - would the owner have to replant to keep it as woodland?)	Dead trees are not included in the density count, thus the site would not be considered a woodland, the by-law would not apply, and the landowner would not be made to replant it. It is important not to fault a landowner for removing dead/hazardous trees if the trees were killed/infected by invasive species (e.g., Emerald Ash Borer) because the owner could not have fully prevented it. A government-funded restoration program for landowners interested in replacing the forest cover on their property would be ideal.
65	The three year "waiting period" for agricultural clearing seems excessive in cases of reclamation or return to agricultural use of former agricultural lands (e.g., vineyard establishment on overgrown former orchard). Could the revised by-law include a little more case-specific flexibility for farmers?	The 3-year waiting period was adopted in the previous by-law update to ensure tree clearing for farming was being carried out by established farmers. However, given it is restrictive on new people entering the agriculture industry (such as vineyards), the option to include site-specific flexibility will be explored.
66	Farmers who own farmland can clear - what about leased land? Would it be the landowner that could proceed with the clearing?	Yes, only a registered farmer and the owner of the farm (not tenant) may proceed with clearing farmland for agricultural purposes.
67	Through the existing by-law, there are exemptions for the removal of trees in accordance with an	There is no intention to remove that exemption – it’s one of the mandatory exemptions legislated under the <i>Municipal Act</i> .

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	approved Tree Saving Plan through a <i>Planning Act</i> Application. I would just like to confirm that there is no intent to remove the exemption.	
68	Optional Exemptions The list of Optional Exemptions is large, and you are adding another in regard to contaminated land. Should we be removing precious forest cover in Niagara for waste disposal sites? Should we be removing dead or diseased trees if they don't pose a danger to human health or the health of other trees? Dead trees are required for biodiversity and a healthy ecosystem. Many plants, animals and fungi feed of dead and dying trees, and as they decompose, they contribute immensely to the health of the forest soil. In terms of contaminated lands, plants are often employed to help decontaminate polluted soil. Unless there is a very dangerous situation that needs to be addressed to human health or the water system, why would we need to remove woodlands to remedy contaminated soil? Given the industrial and agricultural history of Niagara, I fear that there is very little land that is not contaminated and that this will be used as an excuse to remove forest cover to prepare land for development. Question 8: Are all of these really required?	Some exemptions are mandated by s. 135(12) of the Municipal Act. Some exemptions (i.e. agricultural exemption) were included from previous versions of the by-law as a result of stakeholder engagement.
69	Question 9: How will the Region prevent abuse of the contaminated land exemption?	The contaminated lands exemption proposed to be included in the updated By-law would come from Provincial direction for remediation, and would not apply to all lands that require remediation.
Violations/Penalties		
70	Under the current by-law, the Region must lay charges or levy fines within six months of a violation. Can the new by-law increase this time period to 1 or 2 years?	If a wooded area is dense enough to meet the definition of woodland, then the landowner can be charged for woodland removal. Charges typically involve a fine and/or court-ordered restoration works. An increase in the time-period to lay charges was originally one of the key goals of the by-law update. However, through the background review process, it has been determined that the Region is required to stay within the 6-month statute of limitations. As per section 76(1) of the <i>Provincial Offences Act</i> , "A proceeding shall not be commenced after the expiration of any limitation period prescribed by or under any Act for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed." The <i>Municipal Act</i> does not prescribe any other specific limitation period, so section 76(1) applies and the 6-month time limit must remain. The 2-year limitation period under the <i>Limitations Act</i> that applies to other claims (not under the <i>Provincial Offences Act</i>) unfortunately does not apply in this case.
71	Will the updated by-law address restoration requirements for woodland boundaries for portions of woodlands that are removed? For example, a	The Woodland by-law would not permit the removal of 30% of trees within a woodland unless it meets one of the identified exemption policies.

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	developer plans to develop a subject property which has a woodland (by definition) on a portion of the property. The developer proposes to remove 30% of the trees within the woodland. Trees previously protected by that 30% are now exposed, which may result in the eventual decline in the quality of the woodland. Is there a requirement by the developer to do invasive species management and/or to restore a 6-15m (just an example) strip along the boundary to prevent the deterioration of the quality of the stand?	The type of development being described would likely require a Planning Act approval, and through that process any proposed removal of woodland would require the completion of an Environmental Impact Study (EIS). If sufficient justification was provided in the EIS to remove portions of the woodland, then mitigation measures are typically required which include Edge Management Plans to prevent the deterioration of the quality of the remaining woodland.
72	When was the last time the Region prosecuted a violation under this by-law? Is it frequent?	Two violations are before the courts right now and one additional charge will be laid once the courts start intake again (currently on-hold due to the pandemic). The most recent conviction was in December 2019 involving a property in St. Catharines. The Niagara Region Tree and Forest Conservation By-law Annual Reports summarize this information and are currently available by request. However, given the interest, these Annual Reports will soon be made available online at: https://www.niagararegion.ca/government/bylaws/tree/default.aspx .
73	How many charges have been laid in the past 5 years?	There have been 13 charged laid in the past 12 years. Very few charges were laid from 2000-2008.
74	The NPCA had indicated that mandated restoration/remediation with regards to the first violation by GR-CAN, the developer at Thundering Waters, had been completed. However, there is no evidence of this, and requests for details of the remediation plan were not provided or acknowledged. What is the Region's role in enforcing this, as well as the second unsanctioned substantial violation that destroyed significant protected woodland, wetlands and wildlife habitat at Thundering Waters Forest? And what happens in the event of a conflict between the Region and a Municipality?	The restoration work required by the Niagara Peninsula Conservation Authority (NPCA) for the compliance matter related to borehole drilling was completed. The NPCA is responsible for enforcing violations related to wetlands under Ontario Regulation 155/06. Niagara Region has no involvement in this legislation or restoration order involving wetlands. The Region's by-law only applies to areas considered "woodlands" as per the <i>Forestry Act</i> definition. The treed areas most recently removed at the Thundering Waters/Riverfront property did not meet the density requirements to be defined as woodland, as verified during site inspections by the Regional Forester, nor were the tree removals within the wetlands. As a result, no second violation or charge could be laid under either Ontario Regulation 155/06 or the Region's Tree and Forest Conservation By-law. Tree removals were reported to the Ministry of Environment, Conservation and Parks (MECP) for follow-up regarding any potential violations under the <i>Endangered Species Act</i> . A lower tier municipality (e.g., City of Niagara Falls) cannot supersede the Region's authority to administer the by-law if woodlands are involved.
75	There is an obvious weakness in restoration plans in response to offences. At Thundering Waters since the violation there was no tree planting done in response to the cutting that resulted in charges under the Region's tree by-law. This was confirmed at the recent Riverfront Open House, where the ecological consultants of the developer admitted they had never been on site since the offence took place.	To clarify, there were no charges laid under the Region's Woodland By-law at the Thundering Waters property (Riverfront). The Region's by-law only applies to areas considered "woodlands" as per the <i>Forestry Act</i> definition. The treed areas most recently removed at the Thundering Waters/Riverfront property did not meet the density requirements to be defined as woodland, as verified during site inspections by the Regional Forester, nor were the tree removals within the wetlands. As a result, no violation or charge could be laid under the Region's Tree and Forest Conservation By-law. If you have further questions about the unauthorised works in the NPCA regulated area, please contact the NPCA directly as they are investigating the issue.

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76	Regarding the term "restoration" given in answer to a question involving breaking the law. Very vague. Who will be around to evaluate that? Nice term but rather weak.	The Region's current Tree and Forest Conservation By-law is enforced by the Region's Registered Professional Forester, and the revised Woodlands By-law will also be enforced by this Professional. If there is a contravention of the By-law, the Forester and the Region's Legal Department work together to determine appropriate remedies and/or pursue charges through the Provincial Offences Court. A Court Order requires full implementation of a reforestation prescription assigned to properties with by-law violations. The prescription is written by a Registered Professional Forester. Regular monitoring of the reforested area is done until it is considered "free growing" (i.e., young trees are mature enough to survive competing brush).
77	Did the landowner have permission to remove the woodland that came down in Niagara-on-the-Lake?	Relatively small groupings of trees are not subject to the by-law. Wooded areas that don't have enough trees to meet the definition of "woodland" as per the <i>Forestry Act</i> area also not subject to by-law. Trees were removed in Niagara-on-the-Lake, but they were not covered by the by-law. Individual trees are the responsibility of the lower tier municipality, and Niagara-on-the-Lake has a private tree by-law.
78	Charges It's an improvement to increase the time limit for charges to be laid from six months to two years. Question 5: How will you know if offences have occurred? Will you rely on citizen reports or will the Region actively monitor woodlands that fall under the bylaw?	Offences are pursued on a complaint basis. Under the Provincial Offences Act, we are not permitted to increase the timing window for pursuing charges.
79	Who is responsible for enforcement and under what authority for fines/penalties if it is not embodied within the Region's Woodland By-law (Penalties under Section 9)?	The Woodland Bylaw is currently enforced by the Region, and will continue to be. Until this point, the Regional Forester has been physically located at the NPCA, however, charges under the bylaw have always been pursued by the Region directly. Charges are pursued in the Ontario Court of Justice Provincial Offences Court under the provisions stipulated in the Municipal Act.
Stakeholder Sessions and Virtual Open House		
80	Who was invited to the stakeholder session on March 3?	Two stakeholder sessions were held on March 3, 2020 to solicit preliminary comments and feedback on the public open house materials in advance of the open houses previously scheduled for the end-of March. Invitees generally included local area municipal staff, environmental and agricultural group representatives, environmental consultants and local developers.
81	I went to the Niagara Region at 7 pm to try to attend this [March 3 rd] event. Was not listed at front desk and could not locate with help of a staff person.	The meeting was at 1 pm as per the invitation you RSVP'd to. Nonetheless, there is still lots of opportunity to become involved – the presentation slides and an online survey will be posted within the next few days on the Region's website. Please also feel free to attend one of the four Public Information Centres (PICs) scheduled for March 24, 25, 30 or 31 [subsequently cancelled due to the pandemic].
82	I was looking for the slide deck that was presented during the public meeting on Tuesday, March 3 rd . Will it be posted soon or can I be emailed a copy?	The presentation slides are available on the project website (https://www.niagararegion.ca/culture-and-environment/woodland-bylaw-review/default.aspx) and were again presented during the virtual public open house on June 17, 2020.
83	Were the Public Information Centre sessions cancelled last month due to the virus controls?	Yes, the Public Information Centres (PICs) were cancelled. The cancellations were advertised on the Region's website, in local newspapers and through the Region's social media accounts. Unfortunately posting of the planned survey link has also been delayed. In the meantime, we are investigating the possibility of moving to an online format, but no decisions have yet been made. Updates regarding a new format and/or rescheduled PICs will be communicated via our website, social media, newspaper notices, and email notification to those on our contact list.
84	Is this review continuing, and if so, how can the public receive more information or provide comments? Has the deadline been extended for commenting?	The by-law review will continue [despite the pandemic and closure of facilities] but yes, the original commenting deadline was extended to June 30, 2020. If anyone has any specific questions or comments or would like further information, they are welcome to contact us through the website or via e-mail at woodlandreview@niagararegion.ca .

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85	Do you have any document(s) that I could look at that would give me some guidance on what types of changes that you are considering? We have a client who has a nature trail on their property and we would like to provide some input to your process on their behalf. I see “overheads” on your website from a public meeting – is there any additional documentation?	A high-level summary of the changes being considered are summarized in the stakeholder presentation slides, pages 15-18, available on the project website (and attached). Pages 13 and 14 of the display boards available for download from the website also explain the proposed changes. If you have any specific questions regarding your client’s property, please let us know.
86	The majority of woodlot owners is Niagara live in rural areas. Many of them are farmers and the timing of this virtual meetings may seem convenient to the organizers but for those busy doing farm chores, the time of year may not be fair timing. Also, many of these woodlot owners will not be comfortable with a zoom meeting. Please make sure that you reschedule public meetings for a later time after COVID.	<p>The timing of public meetings is inevitably always inconvenient for at least some interested individuals. A live recording of the presentation is available for review on the project website (https://www.niagararegion.ca/culture-and-environment/woodland-by-law-review/default.aspx) and the recommendations for the by-law update will be brought forward to Regional Planning Committee, which is open to public viewing and comment. Rescheduling of the public meetings for a later time is not contemplated.</p> <p>Those on the project mailing list (who either attended the stakeholder sessions, registered for the virtual public open house or e-mailed woodlandreview@niagararegion.ca) will be notified when the Committee Report and attached by-law recommendations are posted online.</p>
87	It appears then that a journalist cannot follow this open house online. Why don't you wait and hold them when we can have a little physical distancing in a real room?	<p>There was certainly no intent to block access. The link to the virtual open house was sent but it may have gone to your junk mail folder. The presentation is available for viewing on the project website or on YouTube at: https://www.youtube.com/watch?v=HknmJ0kc6Mw.</p> <p>This was the Region’s first foray into online engagement, so we’re still working through some kinks. As we move forward we’ll be looking at ways to improve the process to make sure we’re as accessible and responsive as possible.</p>
88	I sent a notification to register for this presentation but did not receive the instructions.	It appears the meeting invites/link may have automatically been directed to some junk mail folders. As Niagara Region continues to move forward with online engagement, we’ll be looking at ways to improve the process.
89	I’m interested in knowing the names of the authors and their positions at the Region who prepared the woodland by-law review, and also was it done in collaboration with NPCA and/or any additional consultants. What is the consultant’s name if in fact one was used?	The woodland by-law update is being prepared internally by Niagara Region Planning and Legal staff, in consultation with Niagara Peninsula Conservation Authority (NPCA) staff, as applicable. No consulting services are contemplated.
General Comments/Feedback*		
90	There should be new definitions in the by-law to ensure consistency in terms between planning documents and this by-law.	The definitions included in the by-law are being reviewed and updated as part of this process. However, it is not anticipated that all inconsistencies can be rectified through this update (e.g., the protection of Significant Woodlands as identified in the Regional Official Plan if they do not meet the Forestry Act definition of woodland).
91	Clarification on who is qualified to assess hazard trees should be included (i.e., add arborist).	“Hazard tree” has been added to the definitions with clarification that a Qualified Ontario Professional Foresters Association (OPFA) Member (i.e., Certified Arborist or Registered Professional Forester) must agree that the woodland hazard tree(s) to be removed are in fact hazardous to human health or property.
92	A major reform to the Official Plan should be to make Peer Reviews of Environmental Impact	Environmental Impact Studies (EIS) are reviewed by Regional Environmental Planning staff and Niagara Peninsula Conservation Authority (NPCA) staff as applicable, depending on the natural heritage or regulated environmental features involved. Your comment has been forwarded to the OP team for consideration.

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	Studies mandatory. Now they are at the discretion of the regional planning commissioner.	
93	I support the exemption for contaminated sites.	Acknowledged.
94	<p>Development Process “Protections” Having been involved in reviewing and commenting on numerous development approval processes it was amusing to read that under “What Is Protected and How” that the development approval process legislated through the Planning Act is listed as one of two ways woodlands are protected. I have yet to see any environmental study completed as by the developers’ consultants that actually result in the protection of anything. Instead they catalogue all that will be destroyed and then either makes excuses why it won’t matter or suggest virtually useless mitigation measures. The truth of this is borne out by the well documented continued and accelerating losses to the Region’s natural forests, wetlands and waterways. As evidence refer to years of Watershed reports generated by the Niagara Peninsula Conservation Authority.</p> <p>Minimum Size Tightening up of the language is good and defining the minimum size to .2 hectares is good.</p> <p>Administration and Enforcement As up until now the NPCA has done a poor job of both administration and enforcement of the bylaw, I have no issue with the Region taking over these tasks as long as the Region has the budget, qualified staff and commitment to handle the job.</p> <p>Advisory Committee I have no issues with removing the requirement for the Advisory Committee especially since advisory committees’ positions tend to be filled from the ranks of groups that have little interest in protecting the environment.</p> <p>Tree Savings Plans</p>	Acknowledged

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	It's an improvement that Tree Saving Plans must be prepared by a qualified member of the Ontario Professional Foresters Association or a Certified Arborist. The updates to the "Good Forestry Practices Permit" section is also appreciated.	
95	I think the existing by-law is in pretty good shape – great to see this initiative moving forward and tweaks are positive.	Acknowledged.
96	I support rewording of the by-law title to be clearer.	Acknowledged.
97	There will be added clarity in decisions if the Region takes over enforcement.	Acknowledged.
98	<p>I am an independent commentator. All the words and ideas herein contained are my own and are not meant to be reflective of any organization or committee that I may now or ever have served on. Our family farms. We have a woodland that we value highly.</p> <p>Since the beginning of Bylaws regulating woodlands Niagara Region has worked with an Advisory Committee who helped in the creation of the original circumference limit Bylaw, then a Bylaw under the Municipal Act, and an amended Bylaw to be delegated to the NPCA while at the Region. The Committee continued at the NPCA.</p> <p>At the Region the Committee was in a position of trust and responsibility. The Region provided all the information they needed to do their jobs and be helpful. The Committee was promised that if they came to work with NPCA that there would be an important role for them to play. They soon found that they were not in "Kansas anymore" as routine information including what was public was not available. The Committee rarely met and fell into disuse.</p> <p>The Bylaw process at the Region was very transparent. It was more secret at the NPCA. The NPCA did hire good Staff. He was well received in the rural and agricultural community and was easy to work with and was tough on those who</p>	<ul style="list-style-type: none">• The addition of an exemption to remediate contamination is good. Is a requirement to reforest being considered? <i>In situations when contamination needs to be remediated we work closely with the Ministry of Environment, Conservation and Parks (MECP) to determine what the remediation will look like and what the end state of the land will be, including exploration of restoration opportunities.</i>• Can the performance and conduct of Foresters be regulated in a Woodlands Bylaw? <i>The professional conduct of foresters is regulated by the Professional Foresters Act (2000).</i>• The exemption for hedgerows less than 20 meters wide is good. Would this apply if it was a wetland or if it is contiguous to a woodland? <i>If a hedgerow is adjacent or within a wetland, there are other regulations in place to protect these features. Hedgerows that are contiguous to woodlands are evaluated on a site by site basis.</i>• The Municipal Act states very clearly that the Upper Tier Municipality regulates woodlands over 1 hectare in size, Lower tier Municipalities are attempting to regulate trees in woodlands as defined using their Property Standards Bylaw and are issuing Orders under the Building Code to cut trees with no regard for the time of year or conditions in the woodland and placing time deadlines on the work that cannot be reasonably met. This can result in unnecessary damage to the woodland or the PSW that woodlands usually are. What can the Region do to prevent this inside or outside the Bylaw? Could there be something put into the Bylaw? <i>As per the Municipal Act, the Region only has the ability to regulate trees in woodlands 1 hectare (2.47 acres) or more in size. Woodlots less than 1 hectare are the responsibility of the local municipality. PSWs are regulated by the NPCA. If there is something that you have observed that seems amiss, please reach out to the NPCA directly (info@npca.ca or 905-788-3135).</i>

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	<p>contravened Bylaw Requests to revive the Committee were not successful and there was real concern that pushing the issue might get a good Bylaw Officer fired. They did that a lot at the Conservation Authority.</p> <p>There is nothing irregular or unusual about an Advisory Committee in a Niagara Region Woodlands Bylaw. The contributions of a diverse group of Stakeholders have been a valuable part of the Bylaw since the beginning, could have been at the NPCA, and can be again at the Region. Why is there so much disdain and hate from Staff on this issue?</p> <p>Summary of Recommendations Reinstate the Advisory Committee and use language that insure the Committee will meet regularly and play an important role. It is good that enforcement is returning to the Region. The Regional Forester must be a full time employee of the Region. To avoid conflict of interest the Regional Forester should be prohibited from developing Forestry Management Plans for anyone within Niagara Region. This should be stated within the Bylaw. It is good that existing exemptions are being maintained. The addition of an exemption to remediate contamination is good. Is a requirement to reforest being considered? Section 5.1.a should remain as is. This was done because there was a lack of Foresters available to write Forestry Management Plans. There is no reason to believe this has changed. Can the performance and conduct of Foresters be regulated in a Woodlands Bylaw? The exemption for hedgerows less that 20 meters wide is good. Would this apply if it was a wetland or if it is contiguous to a woodland? The name change to Woodlands Bylaw is good. Tree Savings Plans should remain within the Bylaw. The Prohibition on tree cutting during Bird and Bat</p>	

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	<p>breeding season is opposed. Breeding Birds and Bats will not be in every woodland. Trees need to be cut when conditions are good to avoid damage to the woodland. Further the Region already has the ability to place conditions on any Permit.</p> <p>The Region should not go below .5 hectares for woodlands delegated by a Lower Tier Municipality. The Municipal Act states very clearly that the Upper Tier Municipality regulates woodlands over 1 hectare in size, Lower tier Municipalities are attempting to regulate trees in woodlands as defined using their Property Standards Bylaw And are issuing Orders under the Building Code to cut trees with no regard for the time of year or conditions in the woodland and placing time deadlines on the work that cannot be reasonably met. This can result in unnecessary damage to the woodland or the PSW that woodlands usually are. What can the Region do to prevent this inside or outside the Bylaw? Could there be something put into the Bylaw?</p>	