
Subject: Environmental Planning Function Overview

Report to: Planning and Economic Development Committee

Report date: Wednesday, February 20, 2019

Recommendations

1. That Report PDS 2-2019 **BE RECEIVED** for information; and,
2. That a copy of Report PDS 2-2019 **BE CIRCULATED** to the Local Area Municipalities, Niagara Peninsula Conservation Authority (NPCA), and the Niagara Home Builders Association.

Key Facts

- The purpose of this report is to outline the roles and responsibilities of the Region for the delivery of environmental planning services versus those of the NPCA.
- The Region is responsible for review of planning applications, secondary plans, and studies to ensure compliance with Regional Official Plan and Provincial policies related to the natural environment.
- As per the Protocol for Planning Services between the Regional Municipality of Niagara (the Region) and the Niagara Peninsula Conservation Authority (NPCA) (first approved in 2008 and updated in 2011, 2014 and 2018), the NPCA assumed responsibility for environmental planning reviews on the Region's behalf until 2018, after which the NPCA returned the responsibility to the Region.
- The NPCA continues to be responsible for review of planning applications in NPCA-regulated areas in accordance with the Conservation Authorities Act and Ontario Regulation 155/06, as well as interpretation and enforcement of the Niagara Region Tree and Forest Conservation Bylaw.

Financial Considerations

Financial costs resulting from the Region resuming responsibility for review of natural environmental matters can be accommodated through the proposed 2019 Operating Budget. The proposed budget includes a Regional fee for environmental review of planning applications taking effect in April 2019.

Analysis

Background

In 2007, the Niagara Region, Local Area Municipalities, and NPCA signed a Memorandum of Understanding (MOU) which transferred to the NPCA the responsibility for review of all planning applications (e.g., Draft Plans of Subdivision or Condominium, Official Plan or Zoning Bylaw Amendments, Consents/Boundary Adjustments, etc.) with respect to natural heritage interests and stormwater management. As outlined in the MOU and subsequent *Protocol for Planning Services between the Region and the NPCA* (2008), the NPCA agreed to ensure applications were compliant with all Regional Official Plan and relevant Provincial policies related to the natural environment. This transfer of review responsibility from the Region to the NPCA was premised on a consolidated 'one window' approach since the NPCA is also involved in planning application reviews pursuant to the *Conservation Authorities Act* and Ontario Regulation 155/06: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses. Funding was provided to the NPCA to support this increased role.

In September 2017, the NPCA informed Niagara Region that it would no longer take on the responsibility for planning application and stormwater management reviews from a Regional and Provincial natural heritage perspective. The *Protocol for Planning Services between the Region and the NPCA* was updated to reflect this change in consultation with the Local Area Municipalities Working Group (Area Planners) and the Niagara Home Builders Association. The Updated Protocol was approved by Council in January 2018 (Appendix 1) and a transition plan was implemented, including the use of consulting services until operationalization of the Regional Environmental Planning team in mid- 2018.

Key Policy Considerations

The 2014 Provincial Policy Statement (PPS) contains overall policy direction for the protection and management of natural heritage and water resources, as well as other Provincial interests. The Growth Plan for the Greater Golden Horseshoe (2017), together with the Greenbelt Plan (2017) and the Niagara Escarpment Plan (2017), builds on the PPS to identify where future growth should occur and what must be protected. Through Official Plans, Zoning Bylaws and other tools, Niagara Region and its Local Area Municipalities are responsible for ensuring local planning decisions are consistent with all Provincial and Regional policies.

According to Provincial and Regional policies, development or site alteration is not permitted within features referred to in the Regional Official Plan as Environmental Protection Areas (EPA). Subject to the findings of an Environmental Impact Study (EIS), development or site alteration is permitted on lands adjacent to EPAs and within or

adjacent to features referred to in the Regional Official Plan as Environmental Conservation Areas (ECA).

The Core Natural Heritage System (NHS) in Niagara Region consists of EPA and ECA features, plus the Water Resources System and potential natural heritage corridors connecting these features. The Core NHS is generally shown on Regional Official Plan Schedule C and internal Geographic Information Systems (GIS) mapping. However, the boundaries may be defined more precisely, or additional areas identified, through an EIS or other studies required through the planning process.

EIS Guidelines

The Region's EIS Guidelines (PDS 8-2018) outline the EIS process, requirements, and criteria by which the EIS requirements may be waived for small scale developments. Administrative updates are planned to reflect changing Provincial legislation, and provide clarifications and additional checklists. It is anticipated that the updated guidelines will be circulated to the Planning and Economic Development Committee for information purposes in mid-2019.

Niagara Region Roles and Responsibilities

As per the Protocol (Appendix 1), the Region is responsible for review of planning applications and technical clearance services related to the above-listed EPA and ECA natural heritage features. In addition, the Region is also responsible for water resources, including the protection of both groundwater and surface water features, sensitive areas, and stormwater management. Generally, the Region's Environmental Planning team involvement in planning applications includes:

- Participation in pre-consultation meetings as required, including identification of EIS triggers or alternatives to reduce EIS or other study requirements;
- Site visit(s), EIS scoping and Terms of Reference approval;
- Review and comment on EIS/EIS Addendums; and
- Clearance of conditions.

Regional Official Plan policies currently state that within Settlement Areas (urban boundaries), the local municipality must be satisfied with the EIS, in consultation with the Region and NPCA. Outside Settlement Areas, the Region must be satisfied with the EIS, in consultation with the local municipality and NPCA.

With respect to Species at Risk (SAR) (i.e., endangered or threatened species), Regional staff currently require sign-off on the development application from the Ministry of Natural Resources and Forestry (MNRF) when the EIS identifies the potential for impacts to SAR habitat.

Stormwater management responsibilities (Appendix 1) are currently conducted through Infrastructure Planning and Development Engineering within the Planning and Development Services Department.

NPCA Roles and Responsibilities

As per the 2001 MOU between Conservation Ontario, the Ministry of Natural Resources and Forestry (formerly the Ministry of Natural Resources), and the Ministry of Municipal Affairs and Housing, the NPCA continues to be responsible for Provincial policy interests related to natural hazards as outlined in Section 3.1 of the PPS. In addition, the NPCA is also responsible for planning application, policy and technical clearance reviews related to regulated watercourses and wetlands in accordance with the *Conservation Authorities Act* and Ontario Regulation 155/06.

The NPCA Policy Document (November 2018) provides the policies for administration of NPCA's mandate under Ontario Regulation 155/06 and its delegated roles and responsibilities within the planning and approvals process.

NPCA planning application review responsibilities overlap with those of the Region when development or site alteration is proposed within or adjacent to wetlands, or when a natural heritage feature is also regulated by the NPCA (e.g., significant valleylands that provide wildlife habitat and linkage functions are also susceptible to erosion and flooding, a regulated watercourse provides fish habitat, etc.). Where there may be policy conflicts between the Regional Official Plan and the NPCA Regulation and/or Board adopted policies, currently the NPCA Regulation takes precedence.

Niagara Region Tree and Forest Conservation Bylaw

The NPCA has administered and enforced the Niagara Region Tree and Forest Conservation Bylaw on the Region's behalf since August 1, 2008. The Bylaw currently requires that a Good Forestry Practices permit be obtained prior to any commercial tree harvesting or non-commercial removals in EPAs or designated Natural Areas under the Niagara Escarpment Plan. Its overarching purpose is to prohibit the clearing of woodland, with the following key exceptions:

- To remove dead or hazard trees;
- To remove diseased trees as per a Forest Management Plan;
- For municipal purposes, by a municipality;
- For agricultural purposes, with conditions;
- In accordance with a Tree Saving Plan approved as part of a development project; or
- Where a building permit has been issued by a local municipality.

The Bylaw was last updated in 2008. As such, updates are planned to reflect changing Provincial legislation, better align the Bylaw with current Niagara Region Official Plan policies, and provide enhanced processes for administration and enforcement. It is anticipated that the Bylaw will be updated through a public consultation process, inclusive of Local Area Municipality representatives and agency stakeholders. It is anticipated that an information report regarding the proposed Bylaw update program will be presented to Planning and Economic Development Committee by mid-2019.

Alternatives Reviewed

Delivery of environmental planning services is obligatory pursuant to the *Ontario Planning Act* (1990), Provincial Policy Statement (2014) and other legislation. No alternatives were reviewed as this report is for information purposes only.

Relationship to Council Strategic Priorities

Doing Business Differently was a strategic priority of Regional Council. Updates to the Protocol will improve the delivery of planning services across the region and provide more certainty and clarity for current and future property owners and investors.

Other Pertinent Reports

- PDS 8-2018 – Environmental Impact Study Guidelines – Administrative Update (March 7, 2018)
- PDS 2-2018 – Protocol for Planning Services Between the Regional Municipality of Niagara (The Region) and the Niagara Peninsula Conservation Authority (January 10, 2018)
- PDS 49-2017 – MOU Planning Services in Niagara (November 8, 2017)

Prepared by:

Jennifer Whittard, B.E.S., PMP
Manager, Environmental Planning
Planning and Development Services

Recommended by:

Rino Mostacci, MCIP, RPP
Commissioner
Planning and Development Services

Submitted by:

Ron Tripp, P.Eng
Acting Chief Administrative Officer

This report was reviewed by Diana Morreale, MCIP, RPP, Director, Development Approvals, Adèle Labbé, B.Sc., MPlan, Senior Environmental Planner, and Sean Norman, PMP, MCIP, RPP, Senior Planner.

Appendices

Appendix 1 Protocol for Planning Services Between the Regional Municipality of Niagara (The Region) and the Niagara Peninsula Conservation Authority (January 2018)

Protocol

For Planning Services

Between

the Regional Municipality of Niagara (The Region)

And

the Niagara Peninsula Conservation Authority (NPCA)

January 2018

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Appendix A - Excerpt from the 2001 Memorandum of Understanding on Procedures to Address Conservation Authority Delegated Responsibility

Appendix B - Excerpt from the Provincial Policy Statement 2014 – Conservation Responsibility for Natural Hazards

Appendix C - Excerpt from the Ontario Regulation 155/06 Niagara Peninsula Conservation Authority: Regulation of Development, Interface with Wetlands and Alterations to Shorelines and Watercourses

1.0 Basis

In 2007, the Niagara Region, local area municipalities and NPCA signed a Memorandum of Understanding (“MOU”) for improving the planning function in Niagara with the ultimate goal of having *“an integrated and seamless planning system that is embraced and easily understood by Councils, the public, applicants and staff that encourages participation in policy development and application processing.”*

Part 3 of the MOU - *Consolidation of the Review of Planning Applications as they Relate to the Natural Environment* - assigned to the NPCA certain responsibilities as part of its review of development applications¹ and proposed policy, and providing technical clearance services with respect to compliance with the Regional Official Plan and Provincial Policies and Plans. Specifics of this assignment of function were detailed in the *Protocol for Plan Review and Technical Clearance* (“Protocol”) between the Region and NPCA, which was approved in 2008.

The MOU was reviewed and revised in 2011 and again in 2014. The Protocol has not been updated since its inception in 2008.

The MOU and Protocol have succeeded in managing relationships, reducing duplication and effecting continuous improvements. Since that time changes have occurred in Niagara in terms of legislation, relationships, resources, and growth that have impacted the established roles and responsibilities, particularly with respect to the review of environmental matters.

Through this revised Protocol, the NPCA and the Region will establish a new framework within which the NPCA will provide specified updated services to the Region.

This 2018 Protocol is intended to replace in its entirety the 2008 Protocol. Subsequent to the approval of the 2018 Protocol, the MOU will be updated to incorporate the approved revised functions and other aspects of the planning program in Niagara Region.

This Protocol has been prepared for the Niagara Region and NPCA by an Area Planners MOU Working Group consisting of senior representatives from Niagara Region, NPCA and local municipalities.

2.0 Purpose

The purpose of this Protocol is to:

- Redefine, clarify and set out a new Protocol within which the NPCA will provide specified planning application, policy and technical review services to the Region;
- Identify the respective roles and responsibilities of the NPCA and the Region in Ontario’s Land Use Planning System with respect to environmental matters;
- Provide direction for consistent and streamlined circulation and review procedures for all applications under the *Planning Act*, *Environmental Assessment Act*, and *Niagara Escarpment Planning and Development Act*;
- Reinforce the positive relationship between the NPCA and the Region;
- Allow the NPCA and Region to focus on provincially mandated responsibilities, and
- Provide increased decision making autonomy.

¹ Including *Planning Act*, *Niagara Escarpment and Development Act* applications, and *Environmental Assessments*

3.0 Definitions

3.1 Planning Application Review means:

- The review of planning applications (including formal preconsultation) under the *Planning Act, the Niagara Escarpment Planning, and Development Act and the Environmental Assessment Act*;
- The identification of the need for and review of related technical reports (including scoping); and
- The identification of conditions of approval.

3.2 Policy Review means:

- The review of existing or new policy documents, including but not limited to stormwater management guidelines, watershed studies, secondary plans and background studies; and
- The identification of the need for and review of related technical reports.

3.3 Technical Clearance Review means:

- The assessment of technical reports submitted by a proponent of development to determine if the reports satisfy the specified requirements; and
- The clearing of conditions.

3.4 Lead Agency means:

- The organization responsible for the principal review of an environmental feature located within or in proximity to land subject to a planning application to ensure compliance and conformity with all applicable legislation and regulations; and
- The organization responsible for the principal review of proposed policies, studies, guidelines or Environmental Assessments as they relate to environmental features to ensure compliance and conformity with all applicable legislation and regulations.

3.5 Environment Feature means:

- All of the environmental features identified in the first column of Table 1 of this Protocol.

3.6 Natural Hazards means:

- Those environmental features identified in Table 1 of this Protocol as natural hazards and/or identified in the 2014 Provincial Policy Statement Section 3.1.

4.0 Principles

This Protocol is based upon the following principles:

1. Adoption of improvements to the planning application processes which results in streamlining and consistency.
2. Direction that interpreting policy is the responsibility of the organization writing and approving that policy unless delegated by the approving authority.
3. Continuing cooperation between the NPCA and the Region.
4. Effective communication and collaboration.
5. Effective, proactive planning².
6. Effective leveraging of resources to deliver planning application, policy and technical clearance reviews.
7. Eliminate overlap in planning application review processes to the extent possible.

5.0 Jurisdiction

This Protocol applies to those lands within the Regional Municipality of Niagara.

² Proactive planning refers to preparing new or updating existing comprehensive studies and guidelines that assist in the early identification of issues and the need for additional study, and include, but are not limited to, watershed and sub-watershed planning, stormwater guidelines, master servicing plans, updates to Schedule C of the Regional Official Plan, etc.

6.0 Roles and Responsibilities

6.1 NPCA

- 6.1.1 The NPCA, through the *Memorandum of Understanding between Conservation Ontario, the Ministry of Municipal Affairs and Housing and the Ministry of Natural Resources and Forestry*, is responsible for providing the Provincial interest comments on policy documents and development applications related to natural hazards (Section 3.1 of the Provincial Policy Statement except Section 3.1.8). See Appendices A and B. Specifically, the NPCA will provide planning application, policy and technical clearance reviews to ensure consistency with the Provincial Policy Statement related to flooding hazards, erosion hazards, dynamic beach hazards, unstable soils and unstable bedrock. This function is not impacted by this Protocol.
- 6.1.2 The NPCA has legislated responsibilities under the *Conservation Authorities Act* (see Appendix C) and will continue to provide planning application and technical clearance reviews pursuant to the NPCA Regulation, as administered through Board approved policies. This function is not impacted by this Protocol.
- 6.1.3 The NPCA will provide the services as identified in Table 1, Table 2 and Table 3.
- 6.1.4 The NPCA will review Region-initiated studies and projects, pursuant to the NPCA Regulation, as administered through Board approved policies, and to the Memorandum of Understanding between the Province and the Conservation Authorities, as a commenting agency without fee to the Region.
- 6.1.5 The NPCA will provide comments on Environmental Assessments pursuant to the NPCA Regulation, as administered through Board approved policies, and pursuant to the Memorandum of Understanding between the Province and the Conservation Authorities.
- 6.1.6 The NPCA will actively participate in formal pre-consultation meetings with developers and landowners when environmental features identified in Table 1 (when the NPCA is the Lead Agency) have potential to be impacted. To help ensure a consistent planning application review and a coordinated message, the NPCA and Region, together with the local municipality, will participate in pre-consultation meetings at the same time with the proponents. The NPCA will work to scope the complete application requirements related to environmental matters prior to the preconsultation meeting. Should the NPCA determine that no environmental features (where the NPCA is identified as the Lead Agency as shown in Table 1) will be impacted, the NPCA will notify the approving authority and may not attend the pre-consultation meeting.
- 6.1.7 The NPCA will scope Environment Impact Studies (EIS) and review the Terms of Reference (ToR) for EIS and similar reports to ensure *natural hazards* and NPCA Regulation/Policy are addressed.
- 6.1.8 Where the NPCA is identified as the Lead Agency on Table 1, the NPCA will provide Technical Clearance on the EIS with respect to those environmental features only.
- 6.1.9 The NPCA will copy the Region on all responses to requests for comment on development planning, technical clearance and policy matters.
- 6.1.10 Nothing in this Protocol shall limit the NPCA from independently appealing a decision or lack of a decision to the Ontario Municipal Board (OMB) or other tribunal. The NPCA will provide notice of an appeal to the Region and local municipality at the time of appeal.
- 6.1.11 The NPCA will provide the Region with its Regulatory Screening Map and provide regular updates.

6.2 Niagara Region

- 6.2.1 The Region will provide planning application review and technical clearance services as identified in Tables 1, 2 and 3, to ensure consistency with the Regional Official Plan, Provincial Policies, Provincial Plans, the Provincial Policy Statement (except Section 3.1 Natural Hazards policies 3.1.1 to 3.1.7), and matters of Provincial Interest.
- 6.2.2 The Region shall circulate to the NPCA for planning application review and/or technical clearance, all Regionally led planning applications, studies or Environmental Assessments that are located in or adjacent to a NPCA property or within a regulated feature/area.
- 6.2.3 The Region in its review of *Planning Act* and *Escarpment Planning and Development Act* applications and *Environmental Assessments* will comment on stormwater management, as identified in Table 3, in accordance with MOECC Stormwater Management Guidelines as well as the NPCA Stormwater Management Guidelines until such time as new stormwater management guidelines are approved by the Region.
- 6.2.4 The Region will review NPCA-initiated studies and projects without fee to the NPCA.
- 6.2.5 The Region will actively participate in formal preconsultation meetings with developers and landowners. To help ensure a consistent planning application review and a coordinated message, the NPCA and Region, together with the local municipality, will participate in preconsultation at the same time with the proponents.
- 6.2.6 Prior to a formal pre-consultation meeting, the Region will work to scope the complete application requirements related to environmental features by identifying environmental features that will be need to be addressed in an Environment Impact Study³ (EIS). Where the NPCA, Region and/or local municipality have identified interests, the Lead Agency (see Table 2) will consult with those parties on the review of the EIS Terms of Reference.
- 6.2.7 Where the Region is identified as the Lead Agency on Table 1, the Region will provide Technical Clearance on EIS with respect to those environmental features.
- 6.2.8 Nothing in this Protocol shall limit the Niagara Region from independently appealing a decision or lack of a decision to the Ontario Municipal Board (OMB) or other tribunal.
- 6.2.9 The Region will be responsible for preparation and maintenance of a comprehensive natural environment screening map, incorporating the NPCA Regulatory screening map as provided and updated by the NPCA.

7.0 Coordination of Environmental Comments on Development Applications

The MOU, as may be revised, gives overall directions for the coordination of development applications, policy and Environmental Assessments review. For the purposes of clarity with respect to environmental features, the NPCA will review the following list of applications in accordance with the Conservation Ontario MOU with the Province and ensure that they are consistent with the NPCA Regulation, NPCA Board adopted Policies and Section 3.1. Natural Hazards of the Provincial Policy Statement (except Section 3.1.8). This may include providing comments directly to MMAH as part of the provincial one window process. The NPCA will copy the Region and local municipality on all correspondence.

- Regional Official Plan and Amendments
- Local Official Plans and Amendments

³ Includes characterisation reports, natural heritage systems reports and other environmental reports.

- Zoning By-laws and Amendments
- Subdivisions/Condominiums
- Environmental Assessments
- Other Development Applications including: Site Plan, Consents, Minor Variances and NEC Development Permits

8.0 Protocol Terms and Implementation

The Region and NPCA agree to the following:

8.1 Monitoring and Cancellation

This Protocol will be reviewed and amended concurrent with the Memorandum of Understanding between the local municipalities, NPCA and Region to:

- Reflect any changing policies or programs at the provincial, watershed, or regional level, and
- Assess its effectiveness, relevance and appropriateness with respect to the affected parties.

8.2 Transition of Responsibilities

When a complete⁴ development application, Notice of Commencement for an Environmental Assessment (EA) or major study (such as a Secondary Plan) has been received by the NPCA from a local area municipality or the Region prior to the effective date of this Protocol, the NPCA will continue to review the application consistent with the NPCA's roles and responsibilities identified in the 2008 Protocol in accordance with a matrix of open files to be prepared by the Region and NPCA, after which the files will transition to the 2018 Protocol provisions and the Region will assume responsibility.

In an effort to continue the timely reviews of development applications, EAs and major studies during the transition period, the NPCA may support the Region by providing expertise as needed on a fee for service basis; alternatively the Region may hire consultants as necessary.

8.3 Overlapping Mandate

There will be occasions when the responsibilities of the NPCA and the Region overlap. On those occasions, both parties shall work together to provide consistent and sound comments. This will be accomplished by maintaining open dialogue and a good working relationship.

8.4 Conflict

- a) Where this Protocol is in conflict with the 2014 MOU, this Protocol will take precedence.
- b) Where there is conflict between new (changing) legislation and this Protocol, new legislation will take precedence.
- c) Subject to paragraph (d) below, where there is a conflict between the Region's Official Plan, the NPCA Regulation and/or Board adopted policies, the Regulation shall take precedence.

⁴ As determined by the approving authority generally as identified through pre-consultation and shown on the Pre-consultation Form/Letter.

- d) Where there are policy conflicts only, Regional, NPCA and local municipal staffs will work together to resolve the issue. If all efforts fail to resolve a policy conflict, a decision will be made by the approval authority, as per Table 2.

8.5 Streamlining

Further streamlining of the planning review process, as it relates to Provincial, NPCA and regional/local interests, is encouraged.

8.6 Information Sharing / Open Data

Any information or data sources generated by the Province, NPCA or Region, or generated through municipal or watershed studies will be shared, where possible.

8.7 Fees

- a) The Region will collect the NPCA Fee for applications to amend the Region's Official Plan and remit any fees collected upon circulation of the application to the NPCA; fees for planning review and technical clearance services will be set by the NPCA;
- b) The NPCA will be responsible for collecting any further processing, approvals and/or Final Clearance Fees, if required; and,
- c) The NPCA will provide the Region and the local municipalities with an approved schedule of fees and updates.

8.8 Effective Date

This Protocol will take effect on the last date signed by the parties to this Protocol.

Date of Regional Council approval _____.

Date of NPCA Board approval _____.

Table 1: Responsibilities for Planning Application Review with Respect to Environmental Features

| Environmental Features | Lead Agency | Mandate Authority | Planning Application and Policy Review Agency | Technical Clearance Review |
|--|--------------------|--|--|-----------------------------------|
| Natural Hazards ⁵ | | | | |
| Flooding Hazards, Floodways and Floodplains | NPCA | PPS Section 3.1, MOU with Province, O. Reg. 155/06 | NPCA | NPCA |
| Dynamic Beach and Erosion Hazards | NPCA | PPS Section 3.1, MOU with Province, O. Reg. 155/06 | NPCA | NPCA |
| Hazardous Lands and Hazardous Sites | NPCA | PPS Section 3.1, MOU with Province, O. Reg. 155/06 | NPCA | NPCA |
| Riverine Hazards | NPCA | PPS Section 3.1, MOU with Province, O. Reg. 155/06 | NPCA | NPCA |
| Regulated Watercourses | NPCA | PPS Section 3.1, MOU with Province, O. Reg. 155/06 | NPCA | NPCA |
| Wildland Fires | Region | PPS Section 3.1.8 | Region | Region |
| Natural Heritage | | | | |
| Wetlands | NPCA/Region | O. Reg. 155/06 PPS Section 2.1, ROP | NPCA/Region | NPCA/Region |
| Habitat of Endangered and Threatened Species | MNRF | Endangered Species Act (Federal and Provincial), ROP | Region | MNRF |
| Significant Woodlands | Region | PPS Section 2.1, ROP | Region | Region |
| Significant Wildlife Habitat | Region | PPS Section 2.1, ROP | Region | Region |

⁵ For the purposes of this document reference to PPS Section 3.1 includes Policies 3.1.1 to 3.1.7 only.

| Environmental Features | Lead Agency | Mandate Authority | Planning Application and Policy Review Agency | Technical Clearance Review |
|---|-------------|--|---|----------------------------|
| Significant Valleylands | Region | PPS Section 2.1, ROP | Region | Region |
| Significant ANSIs (life and earth) | Region | PPS Section 2.1, ROP | Region | Region |
| Fish Habitat | DFO | Fisheries Act, PPS Section 2.1, ROP | Region | DFO |
| Water Resource | | | | |
| Vulnerable Groundwater Areas | Region | PPS Section 2.2, ROP | Region | Region |
| Groundwater Features | Region | PPS Section 2.2, ROP | Region | Region |
| Stormwater Management | Region | PPS Section 2.2, ROP | Region / Local | Region |
| Key Hydrologic Features | Region | Provincial Plans, ROP | Region | Region |
| Sensitive Water Features | Region | PPS Section 2.2, ROP | Region | Region |
| Significant Groundwater Recharge Areas | Region | Provincial Plans, ROP | Region | Region |
| Significant Surface Water Contribution Areas | Region | Provincial Plans, ROP | Region | Region |
| Intake Protection Zones/Vulnerable Surface Water Features | Local | Clean Water Act 2006 PPS Section 2.2, ROP | Region /Local | N/A |

Acronyms from Table 1

DFO – Depart of Fisheries and Oceans

NEC – Niagara Escarpment Commission

O. Reg. 155/06 - Provincial Legislation with respect to the Niagara Peninsula Conservation Authority: Regulation of Development, Interference with wetlands and Alteration to Shorelines and Watercourses.

PPS - Provincial Policy Statement 2014

ROP – Regional Official Plan

Table 2: Implementation Responsibilities

| Processes / Reports / Submissions | Lead Agency | Responsibility for Final Approval |
|---|---------------------------|-----------------------------------|
| Application Processes | | |
| Regional Official Plan/Amendments | Region | Region |
| Local Official Plan/Amendments | Local | Local / Region ⁶ |
| Zoning By-Law/Amendments | Local | Local |
| Draft Plans of Subdivision | Local | Local |
| Site Plan | Local | Local |
| Draft Plan of Condominium | Local | Local |
| Minor Variance/Permissions | Local | Local |
| Consent/Boundary Adjustments | Local | Local |
| NEC Applications | NEC | NEC |
| Building Permits | Local | Local |
| Aggregate Licence | Local / Region / MNRF | MNRF |
| Environmental Assessments | Local / Region / Province | Local / Region / Province |
| Reports / Studies | | |
| EIS in a NPCA Regulated Area | NPCA | NPCA |
| EIS outside Settlement Area ⁷ | Region | Region |
| EIS inside Settlement Area ⁸ | Local | Local |
| Watershed Studies | Region | Region |
| Subwatershed Studies | Local | Local |
| Technical Reports for Natural Hazard Identification | NPCA | NPCA |
| Regional Master Servicing Plans | Region | Region |
| Regional Stormwater Guidelines | Region | Region |

Notes for Table 2:

- (i) The responsibility for the Review of Environmental Features is as noted in Table 1
- (ii) The responsibility for Technical Clearance of Environmental Features is as noted in Table 1

⁶ Regional Official Plan Policies 14.E.7 and 14.E.8 identify criteria under which approval of Local Official Plan Amendment amendments may be delegated to the local Council for approval.

⁷ Notwithstanding the EIS is outside the Settlement Area, if the EIS includes a NPCA Regulated Area, the NPCA shall be the Lead and responsible for Final Approval of the EIS for the regulated features.

⁸ Notwithstanding the EIS is within the Settlement Area, if the EIS includes a NPCA Regulated Area, the NPCA shall be the Lead and responsible for Final Approval of the EIS for the regulated features.

Table 3: Responsibilities for Stormwater Management Review with Respect to Area of Interest

| Area of Interest | NPCA | Region | MOECC | Local |
|--|------|--------|-------|-------|
| Determination of need for Stormwater Report – Quality and Quantity | | ✓ | | ✓ |
| Review of Stormwater Report | | ✓ | ✓ | ✓ |
| Location of Facility with Respect to Vision of Area | | | | ✓ |
| Location of Facility with Respect to Natural Hazards | ✓ | | | |
| Location of Facility with Respect to Functionality | | * | | ✓ |
| Confirmation of Drainage Areas | | * | | ✓ |
| Sizing of Facility with Respect to Quality, Erosion and Quantity Controls, including Release Rates and Settling Calculations | | ✓ | | ✓ |
| Other Potential Impacts on Receiving Watercourse (e.g. thermal, water balance, etc) | | ✓ | | |
| Outlet Structure and Spillway Design | | ✓ | ✓ | ✓ |
| Outlet to Watercourse (if necessary) | ✓ | | ✓ | |
| Safety – Side Slopes, Grating, Grading, Emergency Access | | ✓ | | ✓ |
| Landscaping/Re-vegetation | | | | ✓ |
| Long Term Maintenance | | | ✓ | ✓ |
| Major and Minor Flow Conveyance (internal to subdivision) | | | | ✓ |
| Hydraulic Gradeline Analysis of Storm Sewer and Outlet | | | | ✓ |

*The Region will be involved in instances where the drainage of a Regional Road may be impacted.

Appendix A - Excerpt from the Memorandum of Understanding on Procedures to Address Conservation Authority Delegated Responsibility

Conservation Ontario, Ministry of Natural Resources & Ministry of Municipal Affairs and Housing

Memorandum of Understanding on Procedures to Address Conservation Authority Delegated Responsibility

2001

Purpose of the MOU

The MOU defines the roles and relationships between Conservation Authorities (CAs), the Ministry of Natural Resources (MNR), and the Ministry of Municipal Affairs and Housing (MMAH) in planning for implementation of CA delegated responsibilities under the Provincial One Window Planning System...

Roles and Responsibilities

Conservation Authorities (CAs)

- a) The CAs will review policy documents and development proposals processed under the Planning Act to ensure that the application has appropriate regard to Section 3.1 of the PPS. [see Appendix C]
- b) Upon request from MMAH, CAs will provide comments directly to MMAH on planning matters related to Section 3.1 of the PPS as part of the provincial one window review process.
- c) Where there may be a potential conflict regarding a Conservation Authority's comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the affected ministries and the Conservation Authority so that a single integrated position can be reached.
- d) CAs will apprise MMAH of planning matters where there is an issue as to whether there has been "regard to" Section 3.1 of the PPS to determine whether or not direct involvement by the province is required.
- e) Where appropriate, CAs will initiate an appeal to the OMB to address planning matters where there is an issue as to whether there has been "regard to" Section 3.1 of the PPS is at issue. CAs may request MMAH to support the appeal.
- f) CAs will participate in provincial review of applications for Special Policy Area approval.
- g) CAs will work with MMAH, to develop screening and streamlining procedures that eliminate unnecessary delays and duplication of effort.

Appendix B - Excerpt from the Provincial Policy Statement 2014 – Conservation Responsibility for Natural Hazards

3.1 Natural Hazards

3.1.1 Development shall generally be directed to areas outside of:

- a. hazardous lands adjacent to the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes which are impacted by flooding hazards, erosion hazards and/or dynamic beach hazards;
- b. hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards; and
- c. hazardous sites.

3.1.2 *Development and site alteration* shall not be permitted within:

- a. the dynamic beach hazard;
- b. defined portions of the flooding hazard along connecting channels (the St. Marys, St. Clair, Detroit, Niagara and St. Lawrence Rivers);
- c. areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard; and
- d. a floodway regardless of whether the area of inundation contains high points of land not subject to flooding.

3.1.3 Planning authorities shall consider the potential impacts of climate change that may increase the risk associated with natural hazards.

3.1.4 Despite policy 3.1.2, *development and site alteration* may be permitted in certain areas associated with the *flooding hazard along river, stream and small inland lake systems*:

- a. in those exceptional situations where a *Special Policy Area* has been approved. The designation of a *Special Policy Area*, and any change or modification to the official plan policies, land use designations or boundaries applying to *Special Policy Area* lands, must be approved by the Ministers of Municipal Affairs and Housing and Natural Resources prior to the approval authority approving such changes or modifications; or
- b. where the *development* is limited to uses which by their nature must locate within the *floodway*, including flood and/or erosion control works or minor additions or passive non-structural uses which do not affect flood flows.

3.1.5 *Development* shall not be permitted to locate in *hazardous lands* and *hazardous sites* where the use is:

- a. an *institutional use* including hospitals, long-term care homes, retirement homes, pre-schools, school nurseries, day cares and schools;
- b. an *essential emergency service* such as that provided by fire, police and ambulance stations and electrical substations; or
- c. uses associated with the disposal, manufacture, treatment or storage of *hazardous substances*.

3.1.6 Where the *two zone concept* for *flood plains* is applied, *development* and *site alteration* may be permitted in the *flood fringe*, subject to appropriate floodproofing to the *flooding hazard* elevation or another *flooding hazard* standard approved by the Minister of Natural Resources.

3.1.7 Further to policy 3.1.6, and except as prohibited in policies 3.1.2 and 3.1.5, *development* and *site alteration* may be permitted in those portions of *hazardous lands* and *hazardous sites* where the effects and risk to public safety are minor, could be mitigated in accordance with provincial standards, and where all of the following are demonstrated and achieved:

- a. development and site alteration is carried out in accordance with floodproofing standards, protection works standards, and access standards;
- b. vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies;
- c. new hazards are not created and existing hazards are not aggravated; and
- d. no adverse environmental impacts will result.⁹

3.1.8 *Development* shall generally be directed to areas outside of lands that are unsafe for *development* due to the presence of *hazardous forest types for wildland fire*.

Development may however be permitted in lands with hazardous forest types for wildland fire where the risk is mitigated in accordance with wildland fire assessment and mitigation standards.¹⁰

⁹ Policy 3.1.7 of the PPS was added to the PPS in 2014, and was not part of the Memorandum of Understanding on Procedure to Address Conservation Authority Delegated Responsibility in 2001 between Conservation Ontario, Ministry of Natural Resources & Ministry of Municipal Affairs and Housing. However, Policy 3.1.7 provides clarity to Policies 3.1.2 and 3.1.5 and therefore could be considered part of the NPCA mandate.

¹⁰ Policy 3.1.8 of the PPS was added to the PPS in 2014, and was not part of the Memorandum of Understanding on Procedures to Address Conservation Authority Delegated Responsibility in 2001 between Conservation Ontario, Ministry of Natural Resources & Ministry of Municipal Affairs and Housing. As wildland fire is a new hazard, it should not be considered part of the NPCA mandate unless the Province gives further direction on this matter.

Appendix C - Excerpt from the Ontario Regulation 155/06 Niagara Peninsula Conservation Authority: Regulation of Development, Interface with Wetlands and Alterations to Shorelines and Watercourses

Development prohibited

2. (1) Subject to section 3, no person shall undertake development or permit another person to undertake development in or on the areas within the jurisdiction of the Authority that are,

(a) adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beaches, including the area from the furthest offshore extent of the Authority's boundary to the furthest landward extent of the aggregate of the following distances:

(i) the 100 year flood level, plus the appropriate allowance for wave uprush shown in the most recent document entitled "Lake Ontario Shoreline Management Plan" available at the head office of the Authority,

(ii) the 100 year flood level, plus the appropriate allowance for wave uprush shown in the most recent document entitled "Lake Erie Shoreline Management Plan" available at the head office of the Authority,

(iii) the predicted long term stable slope projected from the existing stable toe of the slope or from the predicted location of the toe of the slope as that location may have shifted as a result of shoreline erosion over a 100-year period,

(iv) where a dynamic beach is associated with the waterfront lands, the appropriate allowance inland to accommodate dynamic beach movement shown in the most recent document entitled "Lake Ontario Shoreline Management Plan" available at the head office of the Authority, and

(v) where a dynamic beach is associated with the waterfront lands, the appropriate allowance inland to accommodate dynamic beach movement shown in the most recent document entitled "Lake Erie Shoreline Management Plan" available at the head office of the Authority;

(b) river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined in accordance with the following rules:

(i) where the river or stream valley is apparent and has stable slopes, the valley extends from the stable top of bank, plus 15 metres, to a similar point on the opposite side,

(ii) where the river or stream valley is apparent and has unstable slopes, the valley extends from the predicted long term stable slope projected from the existing stable

slope or, if the toe of the slope is unstable, from the predicted location of the toe of the slope as a result of stream erosion over a projected 100-year period, plus 15 metres, to a similar point on the opposite side,

(iii) where the river or stream valley is not apparent, the valley extends the greater of,

(A) the distance from a point outside the edge of the maximum extent of the flood plain under the applicable flood event standard, to a similar point on the opposite side, and

(B) the distance of a predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood standard, to a similar point on the opposite side;

(c) hazardous lands;

(d) wetlands; or

(e) other areas where development could interfere with the hydrologic function of a wetland, including areas up to 120 metres of all provincially significant wetlands and wetlands greater than 2 hectares in size, and areas within 30 metres of wetlands less than 2 hectares in size. O. Reg. 155/06, s. 2 (1); O. Reg. 71/13, s. 1 (1-3).

(2) All areas within the jurisdiction of the Authority that are described in subsection (1) are delineated as the "Regulation Limit" shown on a series of maps filed at the head office of the Authority under the map title "Ontario Regulation 97/04: Regulation for Development, Interference with Wetlands and Alterations to Shorelines and Watercourses". O. Reg. 71/13, s. 1 (4).

(3) If there is a conflict between the description of areas in subsection (1) and the areas as shown on the series of maps referred to in subsection (2), the description of areas in subsection (1) prevails. O. Reg. 71/13, s. 1 (4).