

**Colin Léger**  
9 Norwich St. W  
Guelph, ON N1H 2G8  
Telephone: (519) 837-0500  
Fax: (519) 763-2204  
Email: cleger@garrodpickfield.ca  
**File No: 11984**

**VIA ELECTRONIC MAIL**

April 15, 2021

Dan Ethier  
Municipal Services Office- Eastern Region  
Ministry of Municipal Affairs and Housing  
8 Estate Lane  
Rockwood House  
Kingston, ON K7M 9A8  
Email: dan.ethier@ontario.ca

ERO Number: 019-3333; MMAH File #13-OP-185146

Dear Mr. Ethier:

**RE: Prince Edward County Official Plan 2021 – Submissions on behalf of Waring’s Creek Improvement Association**

Our firm is legal counsel for the Waring’s Creek Improvement Association (the “WCIA”), a community-based group that is engaged in the rehabilitation and preservation of Waring’s Creek, an important and significant watercourse within the Prince Edward County (the “County”) that drains a watershed of over 3,500 acres and supports a very high level of biodiversity.

The WCIA has retained our firm to coordinate a review of the County’s new Official Plan, which was adopted by County Council on February 24, 2021 (the “Official Plan”). This letter and its appendix provide the WCIA’s respectful submissions and recommendations for improving the Official Plan to ensure that it adequately protects Waring’s Creek and its Watershed.

**Information on the WCIA**

The WCIA is a non-profit organization formed approximately 27 years ago for the purpose of contributing to the long-term protection, conservation and enhancement of the Waring’s Creek Watershed and its environmental resources. Since that time it has sought to serve as a steward of the Watershed.

One of WCIA’s primary founding goals is the purpose of restoring the Watershed to a healthy cold water ecosystem. As part of its award-winning rehabilitation efforts, the WCIA has planted over 15,000 trees to control erosion along the Creek. The Creek is now rehabilitated as a meandering cold-water stream capable of sustaining brook trout. This cold water fishery status and Waring’s Creek’s overall ecological importance has been recognized by the Ontario Ministry

of Natural Resources and Forestry (“MNR”), which has subsequently identified the Waring’s Creek Watershed in its County mapping of environmental resources.

The WCIA has sought to support the protection and enhancement of the Waring’s Creek Watershed through its active participation in several planning processes for development proposals throughout the County. In 1998 and 1999, the WCIA successfully challenged a gravel pit application through an Ontario Municipal Board hearing process. As a result of WCIA’s advocacy in this matter, the Board recognized the value of the Creek and its ecosystem, and its critically important connection to nearby groundwater resources, by limiting the pit proposal to above-water table extraction. As a result, the proponent abandoned the pit proposal.

In 2006 and 2007, the WCIA worked with the County to prevent impacts to the Watershed of sewer and watermain extensions proposed in the Picton area. This work led to the signing of Minutes of Settlement between the County and the WCIA that required protections for the Waring’s Creek Watershed in the Picton Urban Centre Secondary Plan. Section 2.12.3 of this Secondary Plan now states as follows:

*Over the years, the Prince Edward Stewardship Council, Quinte Conservation, and the Waring’s Creek Improvement Association have taken steps to ensure the future sustainability of the watershed. This effort has resulted in Waring’s Creek being classified as a cold water stream by the Ministry of Natural Resources and deserving of additional protection.*

Today, the WCIA maintains its conservation efforts and advocacy to ensure the Waring’s Creek Watershed is preserved and continues to be protected by the County’s planning policies.

### **WCIA Review of the Draft Official Plan**

The WCIA participated in the County’s public consultation process regarding the draft Official Plan. For this purpose, the WCIA retained Sarah Mainguy, a senior ecologist with the environmental consulting firm of North-South Environmental, and Mark Dorfman, F.C.I.P., R.P.P. a land use planner with over fifty years of experience advising municipalities, land developers and other stakeholders on land use and environmental planning policies. Ms. Mainguy and Mr. Dorfman were assigned the task of reviewing and providing comments and recommended improvements to the draft Official Plan with a focus on considering policies pertaining to the protection of natural heritage features including the Waring’s Creek Watershed.

Based on its review of the draft Official Plan, the WCIA submitted written comments and recommendations to County Council on November 5, 2020 for the purpose of ensuring that the Official Plan adequately protects Waring’s Creek and its Watershed. These comments and recommendations, including the two reports from Ms. Mainguy and Mr. Dorfman, are attached as an appendix to these Submissions.

On December 15, 2020, a Special Council Meeting was held to discuss public comments on the draft Official Plan. The County Staff Report prepared for this meeting indicated that many of the WCIA’s recommendations would be implemented in the final version of Official Plan. The WCIA made a deputation to County Council which highlighted the recommendations that remained to be addressed.

On February 24, 2021, County Council adopted the new County Official Plan, which the Ministry has received for review and approval.

### Submissions on the Adopted Official Plan

The WCIA has reviewed the Official Plan as adopted for the purpose of ensuring that it contains adequate protective land use and environmental policies which appropriately balance the need to accommodate growth with appropriate long-term protection of the County's natural heritage system and its component features and functions. The adopted Official Plan has implemented many of recommendations made by the WCIA to County Council in 2020. However, the WCIA submits that the following remaining recommendations should be implemented:

- The WCIA submits that the term "Waring's Creek Sub-Watershed" should be modified to "Waring's Creek Watershed" throughout the Official Plan for the following reasons. First, the Waring's Creek Watershed is a watershed not a sub-watershed, as is indicated in Schedule 'B' to the adopted Official Plan. Second, in the WCIA's submission, this modification is necessary as the Official Plan defines "watershed" but not "sub-watershed," and the policies of the Official Plan refer only to watersheds; as such the use of "sub-watershed" allows for potential confusion as to whether policies relating to watersheds apply to the Waring's Creek Watershed.
- The WCIA submits that a sentence should be added at the end of section 3.1.4(16) of the Official Plan to state that an Environmental Impact Study is required as part of an application for proposed development on lands adjacent to the Waring's Creek. The following wording is suggested for this addition to section 3.1.4(16):

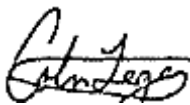
*An Environmental Impact Study (EIS) in accordance with section 5.1.9 of this Plan shall be required as part of any application for development or site alteration adjacent to the riparian area extending a minimum 50 metres out from the top of bank of the Creek and any tributaries, and any additional wetlands or other features providing groundwater discharge to the Creek and its tributaries.*

It is respectfully requested that these changes be implemented to ensure the Official Plan contains sufficient protections for the Waring's Creek Watershed.

The WCIA requests that it be advised of any modifications to the Official Plan that would impact the WCIA's interests.

Thank you for your attention to these submissions.

Yours truly,



Colin Léger

Cc: Cliff Rice, President, WCIA  
Joanne Tammel, Vice-President, WCIA  
Cheryl O'Brien, Secretary, WCIA  
Mark L. Dorfman, F.C.I.P., R.P.P.  
Sarah Mainguy,  
County of Prince Edward, Michael Michaud

**Peter Pickfield**  
9 Norwich St. W  
Guelph, ON N1H 2G8  
Telephone: (519) 837-0500  
Fax: (519) 763-2204  
Email: pickfield@garrodpickfield.ca  
**File No: 11984**

**VIA ELECTRONIC MAIL**

November 5, 2020

Mayor Steve Ferguson and Members, Prince Edward County Council  
Shire Hall - 332 Main St.  
Picton, ON K0K 2T0

Dear Mayor Ferguson and Members of Council:

**RE: Prince Edward County Draft Official Plan 2020 – Submissions on Warings Creek Improvement Association**

Our firm is legal counsel for the Warings Creek Improvement Association (the “WCIA”), a community-based group that is engaged in the rehabilitation and preservation of Warings Creek, an important watercourse within the Prince Edward County (the “County”) that drains a watershed of over 3,500 acres and supports a very high level of biodiversity.

The WCIA has retained our firm to coordinate a review of the County’s 2020 Draft Official Plan (the “Draft OP”). This letter and its attachments provide the WCIA’s respectful submissions and recommendations for improving the Draft OP to ensure that it adequately protects Warings Creek and its watershed.

**Information on the WCIA**

The Warings Creek Improvement Association is a non-profit organization formed approximately 17 years ago for the purpose of contributing to the long-term protection, conservation and enhancement of the Warings Creek Watershed and its environmental resources. Since that time it has sought to serve as a steward of the Watershed.

One of WCIA’s primary founding goals is the purpose of restoring the Watershed to a healthy cold water ecosystem. As part of its award-winning rehabilitation efforts, the WCIA has planted over 15,000 trees to control erosion along the Creek. The Creek is now rehabilitated as a meandering cold-water stream capable of sustaining brook trout. This cold water fishery status and Warings Creek’s overall ecological importance has been recognized by the Ontario Ministry of Natural Resources and Forestry (“MNR”), which has subsequently identified the Warings Creek Watershed in its County mapping of environmental resources

The WCIA has sought to support the protection and enhancement of the Warings Creek Watershed through its active participation in several planning processes for development proposals throughout the County. In 1998 and 1999, the WCIA successfully challenged a gravel

pit application through an Ontario Municipal Board hearing process. As a result of WCIA's advocacy in this matter, the Board recognized the value of the Creek and its ecosystem, and its critically important connection to nearby groundwater resources, by limiting the pit proposal to above-water table extraction. The pit was never constructed and significant impacts to the Watershed were avoided.

In 2006 and 2007, the WCIA worked with the County to prevent impacts to the Watershed of sewer and watermain extensions proposed in the Picton area. This work led to the signing of Minutes of Settlement between the County and the WCIA that required protections for the Warings Creek Watershed in the Picton Urban Centre Secondary Plan. Section 2.12.3 of this Secondary Plan now states as follows:

*Over the years, the Prince Edward Stewardship Council, Quinte Conservation, and the Waring's Creek Improvement Association have taken steps to ensure the future sustainability of the watershed. This effort has resulted in Warings Creek being classified as a cold water stream by the Ministry of Natural Resources and deserving of additional protection.*

Today, the WCIA maintains its conservation efforts and advocacy to ensure the Warings Creek Watershed is preserved and continues to be protected by the County's planning policies.

### **WCIA Review of the 2020 Draft Official Plan**

The WCIA has retained Sarah Mainguy, a senior ecologist with the environmental consulting firm of North-South Environmental, and Mark Dorfman, RPP, FCIP, a land use planner with over fifty years of experience advising municipalities, land developers and other stakeholders on environmental planning policies. Ms. Mainguy and Mr. Dorfman were assigned the task of reviewing and providing comments and recommended improvement to the Draft OP with a focus on considering policies pertaining to the protection of natural heritage features including the Waring's Creek Watershed.

A summary of Ms. Mainguy's comments and specific recommended changes are provided as **Attachment 1** to these submissions. Mr. Dorfman's comments and specific recommended changes are provided in **Attachment 2** to these submissions.

### **Submissions on the Draft OP**

The WCIA believes that Prince Edward County, a highly desirable place to live, work and play, will continue to attract residential and business growth over the coming years that will provide strong community benefits. The increased development that the County is experiencing is no doubt due in no small part to the environmental resources and scenic natural beauty it has to offer. The Warings Creek Watershed is a critically important component of this unique natural heritage system. The increased development pressures, however, also open the County's natural heritage system to potentially significant impacts which undermine the very features and values that are drawing residents, visitors and businesses to the County.

For these reasons, the WCIA believes special attention needs to be given to establishing protective environmental policies which appropriately balance the need to accommodate growth with appropriate long-term protection of the County's natural heritage system and its component features and functions. Based on the results of the above-described expert planning and ecological review, it is submitted that a number of changes to the proposed policies in the Draft

OP are required in order to ensure and that future planning and development decisions within the County serve to protect and enhance the County's environmental resources, and the Warings Creek Watershed in particular. The specifics are provided in the attached memoranda from Ms. Mainguy and Mr. Dorfman.

By way of summary, and as specified in the attached memoranda:

- The Draft OP should identify the Warings Creek Watershed as a significant watercourse within the County.
- A number of policies in the Draft OP are more specific or rigorous than the policies in the Picton Secondary Plan. While the more detailed provisions of secondary plans should generally apply in the case of conflict with the proposed new Official Plan, certain Draft OP policies should take precedence over secondary plans to provide the best available protections for the Natural Heritage System and natural heritage features and areas.
- Certain specified policies in the Draft OP should be amended to require that the hydrological and hydrogeological functions of the Natural Heritage System and the natural heritage features and areas are protected from impacts of new development. This is particularly important as it impacts the Waring's Creek Watershed, which relies on groundwater inputs from adjacent lands to maintain watershed features including the Creek's cold water fishery
- Amendments are recommended to ensure that the requirement for an environmental impact statement ("EIS") applies to new development adjacent to the Natural Heritage System.
- The Sample Terms of Reference for an EIS in Appendix 'B' to the Draft OP should apply to any EIS required for new development in the County, rather than the terms of reference contained in any secondary plan.
- The WCIA recommends further detailed requirements for the Sample EIS Terms of Reference in Appendix 'B' to the Draft OP. This document is critically important as it will provide guidance for the environmental study required prior to planning and development decisions which could impact the long-term health of the Natural Heritage System including the Warings Creek Watershed.

As noted above, specific recommendations to implement the above changes are set out in the attached memoranda. It is submitted that these changes are necessary to fulfill the commitment made by the County in the 2007 Minutes of Settlement with the WCIA.

### **Summary and Request to the County**

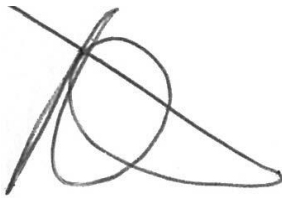
The Warings Creek Watershed is a crucially important component of Prince Edward County's Natural Heritage System with many provincially significant features. It supports the unique and exceptionally high biodiversity of the County. The requested changes to the draft Official Plan summarized in this letter and set out in detail in the attached memoranda are needed to ensure the County's new Official Plan adequately protects the Watershed.

It is respectfully requested that County Council direct staff to implement the proposed changes set out in these submissions. The WCIA welcomes an opportunity to make its experts available to County staff to discuss these changes.

Finally, it should be noted that the WCIA will be making a delegation at the upcoming statutory public meeting with respect to the Draft Official Plan. In the meantime, by copy of this letter to Michael Michaud, Manager of Planning, County staff is invited to contact our office if it wishes to discuss the WCIA's recommendations or arrange virtual meeting with Ms. Mainguy and or Mr. Dorfman.

Thank you for your attention to these submissions.

Yours truly,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Peter C. Pickfield

Cc:

Catalina Blumenberg, Clerk, PEC  
Michael Michaud, Manager of Planning, PEC  
Cliff Rice, President, WCIA  
Joanne Tammel, Vice-President, WCIA  
Cheryl O'Brien, Secretary, WCIA

# Memorandum

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**To:** Garrod Pickfield LLP.

**From:** North-South Environmental Inc.

**Date:** 4<sup>th</sup> November 2020

**File:** Warings Creek EIS Guideline Review

**cc:** Peter Pickfield, Garrod Pickfield LLP

**Re:** Review of Warings Creek EIS Guidelines

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## Introduction

The Warings Creek Improvement Association (WCIA) has provided input regarding the stewardship of the Warings Creek subwatershed, in Prince Edward County, for the past two decades. North-South Environmental Inc. (NSE) has been retained by the WCIA to

- Review the sample EIS Terms of Reference in the draft OP (Appendix B) and the Secondary Plan (Appendix A) to determine if they are sufficient for studies required to assess impacts of development to the Warings Creek sub watershed.

This memo also provides an overview of comments on the draft Prince Edward County Official Plan (OP), which was reviewed for context.

## Comments on Draft OP Terms of Reference (Appendix A)

As a general comment, the Draft OP Terms of Reference (“TOR”) are not detailed enough to direct environmental impact studies within the area of Warings Creek, an area that supports exceptionally high biodiversity, with many provincially significant features. Specific reference should be made to guidance in the Natural Heritage Reference Manual (MNRF 2010) for significant feature evaluation (for features that have not yet been evaluated), as well as supporting documents such as the Significant Wildlife Habitat Criteria Schedules for Ecoregion 6E (MNRF 2015), found at the following link: . <https://www.ontario.ca/document/significant-wildlife-habitat-ecoregional-criteria-schedules-ecoregion-6e>.

All mapping should be conducted on an aerial photo base. The aerial photography is readily available and is critical for assessing the size and type of habitat on the site.



The order of tasks should follow a logical progression. For example, as an initial step, a list of potential significant species should be compiled from background sources and cross-referenced with the initial review of features on the site prior to planning field surveys, as these will inform the type of field surveys that need to be conducted. This exercise is noted in item g (though it is not as explicit as it needs to be; see comments under that specific item) but not mentioned until Item g). The background review should also include a screening for candidate significant wildlife habitat (SWH) according to the Significant Wildlife Habitat Criteria Schedules for Ecoregion 6E in order to inform species-specific and habitat-specific surveys that will be required to determine if SWH is present.

It should be explicit that the size of all features must be measured accurately, including both on-site and contiguous off-site portions. Two communities separated by a gap of 20 m or less should be evaluated as one contiguous feature. The size of features is critical to assessing their significance.

There should be a requirement that adjacent lands are adequately studied and considered in the EIS to fully assess impacts. Guidance for the width of adjacent lands should be specifically directed to the Natural Heritage Reference Manual.

The requirement to maintain the water balance within wetlands should particularly be addressed as part of the impact assessment. This will potentially require a comparison of surface water and groundwater inputs to the wetland before development and after development. Post-development surface water quality inputs to the wetland should also be addressed, particularly impacts of potential increases in conductivity because of road salt on habitat for SAR and on SWH (for example amphibian breeding habitat). It should be noted that hydrological and hydrogeological impacts have the potential to affect wetland habitats at distances greater than the adjacent lands widths noted by the Natural Heritage Reference Manual, such that impacts of development should be evaluated where they have the potential to impact the wetland, rather than at a fixed distance from the feature.

The requirement to assess tree protection should be included in the EIS Guidelines.

The requirement to assess site-level and landscape-level connections (i.e., linkages) between features, and potential impacts of the development on linkages, should be explicitly stated. This includes assessing the role and ecological function that smaller features and areas, not identified as significant according to acceptable criteria, play in supporting significant features and areas, including as linkages, stepping stones, and contributing habitat.

## Specific Comments

The following provides more detailed comments on individual sections of the TOR.

**Section a)** qualifications of personnel conducting field surveys should be provided for review.

**Section d)** Mapping of proposed development should be overlaid on an aerial photo base, as these are now readily available for southern Ontario. The aerial photo base used should be at sufficiently high resolution to provide a clear picture of the vegetation communities on the site.

**Section e)** The following details should be applied to Section e:

- As noted above, “clearly legible, scaled maps” should be based on clear digital aerial photography as this photography is now readily available for southern Ontario. The resolution should be sufficient to clearly show the vegetation communities on the site, which have been refined in the field. Aerial photography base is critical to the initial and subsequent assessment features.
- Two features separated by a gap of 20 m or less (both on-site and off-site features) should be considered contiguous for the purposes of boundary mapping.
- The type of wildlife surveys to be conducted should be guided partly by the potential for Species at Risk (SAR) on the site. A list of potential SAR should be derived by searching databases for SAR within the area of the site including the Natural Heritage Information Centre (NHIC), Ontario Herpetofaunal Atlas, the Ontario Breeding Bird Atlas, as well as Citizen Science databases such as eBird and iNaturalist. The list should then be cross-referenced with the habitat (vegetation communities) on the site, to determine if SAR have the potential to occur on the site or in the adjacent area, as defined by the Natural Heritage Reference Manual (NHRM).
- The type of wildlife surveys should also be guided by the potential for Significant Wildlife Habitat (SWH). Ecoregion Criteria Schedules for Ecoregion 6E, attached as Appendix 1. Guidance is provided by this document that shows criteria for candidate Significant Wildlife Habitat. If desktop analysis indicates the vegetation communities on the site (and contiguous communities off-site) meet any of the criteria for Candidate SWH, wildlife surveys should be conducted to determine if the community qualifies as SWH.
- The potential for Alvar (a provincially significant vegetation community that has been found in Prince Edward County) should be specifically assessed through surveys at the appropriate time of the year.
- It should be clear that bird surveys should generally include surveys of birds during the breeding season. In addition, migration surveys may be required on sites within 5 km of Lake Ontario, as wooded sites > 10 ha within 5 km of Lake Ontario can qualify as SWH for migrant landbird stopover and butterfly stopover sites.
- The qualifications of the surveyor(s) should be provided (e.g. for breeding bird surveys, an experienced wildlife biologist is required who may have different qualifications than a botanist).
- On the last line, “sloe” should be “slope”.

**Section f)** Identification of the potential for known Species at Risk (SAR) depending on the habitat on the site should be made as an initial step prior to planning field surveys, as the surveys should be designed to determine whether potential SAR are present or absent.

**Section g)** “best information available from others” should be more specific, and include the databases noted above as well as local and regional data if available and applicable.

**Section h)** a specific mention of the requirement for consideration of SWH should be included.

**Section i)** boundary delineation should include a statement that the boundary may be reviewed by agencies as applicable.

**Section j)** discussion of significance should be accompanied by a map showing significant areas confirmed during field surveys.

**Sections k) to s)** should include the following:

- A specific consideration of impacts of changes in water balance to wetlands before and after development (i.e. impacts of changes in hydrology and hydrogeology).
- An analysis of the potential changes in water quality to wetlands, with consideration of potential impacts of increases in, for example, conductivity as a result of road salt, especially if the outlet of storm water facilities is directed at an area that serves as Significant Wildlife Habitat for breeding amphibians.

## Comments on Appendix A of Picton Urban Centre Secondary Plan

### General Comments

Comments on these guidelines are similar to the comments on the Official Plan guidelines, i.e.:

- Pre-field analysis should specifically include consultation with databases to determine which SAR could potentially be found on the site, through cross-referencing with aerial photography interpretation and refined through field truthing.
- Reference should be made to the importance of guidance in the Natural Heritage Reference Manual to guide evaluation of provincially significant features. Adjacent lands width should be defined according to the Natural Heritage Reference Manual.
- The potential for the site to support Candidate SWH should also be assessed, so that field surveys can be targeted to confirming (or not) Candidate habitat as SWH.
- Results should be portrayed on aerial photography at a scale that clearly shows the vegetation communities.
- Vegetation communities should be measured (both on-site and contiguous off-site portions), with two communities separated by a gap of less than 20 m treated as a single contiguous unit.

- The water balance of wetlands should be assessed and compared with predicted post-development water balance.
- The requirement to assess connectivity between features should be assessed.
- Tasks should be organized in a logical sequence.

## Specific Comments

Section b) PPS 2014 should be changed to PPS, 2020

## Related General Comments on Prince Edward County Draft Official Plan

Some of the language for policies is weak and unspecific, so that there would be considerable uncertainty in how to satisfy the policy. For example:

- Section 3.1.3 1) i) Wildlife Habitat: reference is made to “larger wetlands” and “larger woodlands”, but there is no definition of what constitutes a larger woodland or wetland. Criteria should be developed to define these. In addition, the policy seems to state that protection of these “larger” features will protect wildlife habitat, when protection of SWH often requires protection of very specific features, some of which are not necessarily large nor contained within a wetland or woodland (e.g., foraging and/or overwintering habitat for amphibians).
- Section 3.1.4 Feature Specific Policies: “5) *Regardless of the scale of adjacent development activity, opportunities to improve upon identified Wetlands – Other which may have been degraded in the past, or which have insufficient natural buffers to support their full range of natural functions are to be considered when development applications are reviewed.*” The phrase “must be considered” is unspecific: it does not relate the extent or nature of improvement to protection of wetland functions, which are critical to protection of the feature. Criteria must be provided to determine which wetlands should be improved.

and

- Section 3.1.4: Woodlands: 9): “*There are many large woodlands outside of the identified areas, which also must be considered as part of the review of an application for development, particularly applications for larger scale commercial or industrial development.*” The term “large” is undefined. The use of the term “must be considered” with regard to woodlands does not specify a policy commitment to improving protection of woodland natural heritage. The term “must be considered” does not specify the type or size of feature that should be protected, or which woodland functions should be protected.

The policies regarding SWH should be clearly separated from policies for SAR. For example, wording on page 29 (under the heading “Endangered, Threatened Species and Species at Risk”) mixes up

habitat functions supporting Endangered and Threatened Species and the functions supporting habitat for migrating bird species, which is a type of SWH. Both of these functions are important. The habitat for SAR is regulated under the Endangered Species Act, whereas SWH is protected according to the Natural Heritage policies of the Provincial Policy Statement, which sets the policy foundation for regulating the development and use of land.

There should be specific references within the OP for defining provincially significant features such as Significant Woodlands and SWH as guided by the Natural Heritage Reference Manual, and the accompanying Significant Wildlife Habitat Criteria Schedule for Ecoregion 6E.

The policies should require a specific assessment of the role of surface water and ground water quantity and quality in supporting wetlands and watercourses.

**November 4, 2020**

**Memo to: Waring's Creek Improvement Association (W.C.I.A.)**

**Subject: Prince Edward County Draft Official Plan**

The purpose of this memo is to provide my planning opinion on the Prince Edward County Draft Official Plan September 2020 ("Draft Official Plan") with the focus on the consideration of policies pertaining to the protection of the Waring's Creek Watershed and its associated features. In completing my review, I have reviewed the Draft Official Plan and the Picton Urban Centre Secondary Plan (OPA No. 63), July 7, 2015 ("Picton Secondary Plan").

My comments are set out below. Text in **bold** refers to my opinion and suggested text modifications.

1. Subsection 1.3 c) [How to Read this Plan] states that the Picton Urban Centre Secondary Plan is in effect and shall be read in conjunction with the Official Plan. There is a clarification that "where there is a conflict between the policies of this Plan and the policies of any Secondary Plan, the policies of the Secondary Plan shall prevail." In my opinion, there are a number of instances where the Official Plan policies provide more detail and precision and/or enhanced policies regarding the protection of natural area features and functions than the applicable secondary plan. Accordingly, I have identified areas below where the policies of the Draft Official Plan should precedence over those of the Secondary Plan.
2. Subsection 2.3.1 [Principles] sets out "key directions for protecting and enhancing the quality of life and quality of place that define Prince Edward County over approximately the next 25 years." Among the nine Principles, Principle vii is important with regard to the Waring's Creek Watershed:

The County will demonstrate environmental leadership by maintaining and enhancing a comprehensive *Natural Heritage System*, the components of which are identified in this Plan and include *natural heritage features and areas* linked by natural corridors. Further, the County supports the need to protect drinking water sources, including municipal intakes and wells, as well as groundwater and surface supply sources for private water systems, in accordance with the Source Water Protection Plan.

3. The Waring's Creek Watershed is an important Natural Heritage System feature and area and it is necessary that the natural life and integrity of the watershed be maintained and enhanced by guidance policies in the Official Plan.

**I recommend that Principle vii be modified to include a statement that the hydrological and hydrogeological functions of the *Natural Heritage System* and the *natural heritage features and areas* shall be protected.**



4. Subsection 2.4.2, the Objective 5 in the Growth Management policies should be modified (in **bold**):
 

Promote *compatible development* and land use patterns, and ensure that new *development* does not cause environmental or public health and safety concerns or negatively impact the agricultural community **or the ecological features and functions of the Natural Heritage System and the natural heritage features and areas.**
  
5. Subsection 2.5, the Policies in Growth Management, should be modified in paragraphs b) iii and iv as follows (in **bold**):
  - iii. The County shall ensure the orderly progression of growth within the Urban and Rural *Settlement Area boundaries* and shall link the approval of new *development* to the protection of the *Natural Heritage System* **and the natural heritage features and areas**, the conservation of Cultural Heritage Resources and timely provision of the appropriate *infrastructure* systems/facilities; and,
  
  - iv. New *development* applications on a property that **could potentially be part of** or is adjacent to a **Natural Heritage System** or includes or is adjacent to **natural heritage features or areas** identified in this Plan, an **Urban Centre Secondary Plan** or in the Zoning By-law shall **generally** be accompanied by an *Environmental Impact Study*, **following the Appendix B terms of reference in this Plan**, that will ensure that the **Natural Heritage System** and the *natural heritage feature and area* and its associated *ecological functions* are protected from any *negative impact* related to the proposed *development*.
  
6. Subsection 2.5, the Policies in Growth Management, should be modified in paragraph f) v, as follows (in **bold**):
  - v. Identified **Natural Heritage Systems** and *natural heritage features and areas* and their associated *ecological functions* shall be protected from any *negative impact* related to the proposed *development*.
  
7. Subsection 3.1 [Environmental Protection and Enhancement] sets out the “County-shaping policies to provide the over-arching direction for how the Municipality will grow over the next 25 years”, including environmental protection. The Intent in subsection 3.1.1 is generally acceptable. The seven Objectives in subsection 3.1.2 are generally acceptable with respect to recognizing the Natural Heritage System, the Environmental Protection System and “avoiding *negative impacts* on water quality and the integrated hydrological/hydrogeological functions of *wetlands*, watercourses and groundwater resources.” [Objective 4]



8. Subsection 3.1.3 1) [Natural Heritage System Policies], identifies nine natural area components. Under (e) in Subsection 3.1.3 1), the following description should be added in order to indicate that the watershed has been identified as a significant watercourse within the County;

**The Waring's Creek Watershed, identified as a natural feature or area on Schedule 'B', that has been derived from the "Natural Heritage Areas" mapping provided by the Ministry of Natural Resources and Forestry. Schedule 'A' designates several Provincially Significant Wetlands and Provincially Significant Coastal Wetlands, including sections of the Waring's Creek Watershed as "Environmental Protection".**

9. Subsection 3.1.3 3) identifies the Natural Features and Areas on Schedule 'B'. This Schedule identifies the 'Waring's Creek Sub-Watershed'. Within this watershed, Schedule 'B' identifies part of Natural Core Area 'F', Provincially Significant Wetlands, Other Wetlands, Provincial Significant Coastal Wetlands, Other small sections of the Waring's Creek, and Woodlands. These natural heritage features are derived from the "Natural Heritage Areas" mapping provided by the Ministry of Natural Resources and Forestry.
10. **In order to eliminate conflict between the new Official Plan and the Picton Urban Centre Secondary Plan, a policy should be added that the "Environmental Protection Area", and associated policies, designated on Schedule 'A' of the Picton Urban Centre Secondary Plan should apply where these conflict with the "Environmental Protection Area" designation on Schedule 'A' and associated Environmental Protection policies of the new Official Plan.**
11. Subsection 3.1.3 4) identifies the Constraint Areas on Schedule 'C'. These are additional components in the *Natural Heritage System*. Within the Waring's Creek Watershed, these components include Potential Fire Hazards, Steep Slopes, and the Source Water Protection Zone, and a Landfill Site.
12. **Subsection 3.1.3 4) should be modified to provide that the Source Water Protection Zone in the Official Plan is applicable where it may differ from Schedule D [Secondary Plan Constraints Map] in the Picton Urban Centre Secondary Plan.**
13. **Subsection 3.1.3 5) is a heading "Schedule 'D': Resources Areas that identifies Major Groundwater Recharge Areas; however no explanation of the purpose of, or description of, Schedule 'D' is given in respect to this schedule. This section does not fully explain the purpose and description of Schedule 'D'. In my opinion, additional text is needed in Subsection 3.1.3 to describe and explain the purpose of this schedule.**





14. **The headwaters of the Waring's Creek Watershed are located within the Picton Urban Centre. Subsection 3.1.3 5) and Schedule 'D' should clearly identify the "Significant Groundwater Recharge Area" in the headwaters of the Waring's Creek Watershed (also see comment 17 below).**
15. Subsection 3.1.4 15) and 16) [Feature Specific Policies] sets out environmental protection policies for the Waring's Creek Sub-Watershed as identified on Schedule 'B'. Reference is appropriately made to the important "Waring's Creek Watershed-based Fisheries Management Plan". In Paragraph 16), the last sentence reads: "No *Development* shall occur within the natural feature." **It is not clear whether this policy refers to (1) the entire identified Waring's Creek Sub-Watershed or (2) the riparian area extending from the top of bank of the creek, any tributaries, and additional wetlands or other features providing groundwater discharge to the Creek and its tributaries. If it is intended to the latter that the prohibition on development should apply only to the latter riparian components of the watershed, then the language should be amended to make this clear. In addition, it should be expressly stated that, notwithstanding the Picton Urban Centre Secondary Plan, this policy must apply to the watershed within the Picton Urban Centre.**
16. I recommend that a new subsection 3.1.4 17) should be added under the Waring's Creek Sub-Watershed section:

**In the event that development and/or site alteration are proposed within and/or adjacent to the Waring's Creek Watershed, the relevant sections 2.5, 3.1.3, 3.1.4 and 3.1.6 of this Official Plan shall apply to the requirements for the completion and consideration of an Environmental Impact Statement.**
17. Subsection 3.1.6 15) and 16) sets out the policies for "Significant Groundwater Recharge Area" identified on Schedule 'D'. **"Significant Groundwater Recharge Area" is not, but should be a defined term in the Official Plan. It is not clear where these recharge areas are located on Schedule 'D' since the Schedule 'D' reference does not specifically identify 'significant Groundwater Recharge Area', but instead uses the phrase "Major Groundwater Recharge Areas". Schedule 'D' needs to be amended to clearly indicate the location of "Significant Groundwater Recharge Areas".**
18. Subsection 4.1.1.2 establishes that the detailed policies for the Picton Urban Centre are contained within the Picton Urban Centre Secondary Plan. **Paragraph 2) makes it mandatory that the Secondary Plan policies and the Official Plan policies shall apply together. Paragraph 3) provides that where there is a conflict between these two Plans, "the policy of the applicable Secondary Plan shall prevail." As noted above, in my opinion the more robust and precise Official Plan policies should prevail over the Secondary Plan. This subsection should be amended to state that unless otherwise specified, where there is a conflict, the Secondary Plan shall prevail.**



19. A policy should be added to Subsection 4.1.1 2) as follows:

**Where the County requires an Environmental Impact Study for proposed development in the Picton Urban Centre, Appendix B (Sample Terms of Reference for Environmental Impact Study) in this Official Plan shall apply in conjunction with Appendix A [Terms of Reference - Environmental Impact Study (EIS)] in the Picton Urban Centre Secondary Plan.**

**I acknowledge that I am providing independent planning expert opinions for the purpose of the submission to Prince Edward County.**

A handwritten signature in black ink, appearing to read "Mark L. Dorfman", followed by a period.

**Mark L. Dorfman, F.C.I.P., R.P.P.**

