

October 6, 2022

Ms. Alejandra Perdomo  
Municipal Services Office - Central Ontario  
16th floor  
777 Bay Street  
Toronto, ON  
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Dear Ms. Perdomo,

**Re: Comments Regarding Niagara Region Recommended Official Plan (ERO Number 019-5717)**

This letter is provided to outline comments regarding the Niagara Region Recommended Official Plan. These comments pertain primarily to polices contained in Chapter 3 of the Recommended Official Plan, as well as associated terms in Chapter 9 and criteria in Schedule L. For ease of reference, the comments provide below have been grouped into sections relating to specific policy topics or natural heritage features.

#### **POLICY AND FEATURE BASED COMMENTS**

##### *Development Prohibited*

Section 3.1.9.5.1 states that development and site alteration shall not be permitted in the following natural heritage features and areas:

- a) provincially significant wetlands;
- b) significant coastal wetlands; and
- c) significant woodlands.

Parts a and b of this policy section are consistent with the PPS, however Part c is not. The inclusion of Part c (significant woodlands) in Section 3.1.9.5.1 goes beyond the standard of the PPS and could become problematic for many landowners in the Region. The inclusion of significant woodlands in Section 3.1.9.5.2 is more appropriate to remain consistent with the PPS.

##### *Significant Woodlands*

The definition of "Significant woodlands" included in Chapter 9 of the Recommended OP is consistent with the PPS, although it is not consistent with the Growth Plan or Greenbelt Plan. Because the Recommended OP includes polices that reference Significant Woodland in the context of the Growth Plan and Greenbelt Plan, it is recommended that the following wording be incorporated to ensure consistency with definitions included in those plans.

"A Significant woodland means a woodland which is ecologically important in terms of features such as species composition, age of trees and stand history; functionally important due to its contribution to the broader landscape because of its location, size or due to the amount of forest cover in the planning area; or economically important due to site quality, species composition, or past management history. These are to be identified using criteria established by the Province."

It should also be noted that the criteria established by the Province is in reference to the Natural Heritage Reference Manual.

Criteria associated with significant woodlands is included in Schedule L and states that a significant woodland must meet one or more of the following criteria:

1. 2 ha or greater in size;
2. 1 ha or greater in size meeting at least one of the following criteria:
  - a. Naturally occurring (i.e., not planted) trees (as defined in the species list of Appendix D in the Greenbelt Technical Paper);
  - b. Treed areas planted with the intention of restoring woodland;
  - c. 10 or more trees per ha greater than 100 years old or 50 cm or more in diameter;
  - d. Wholly or partially within 30 m of a provincially significant wetland or habitat of an endangered or threatened species;
  - e. Overlapping or abutting one or more of the following features:
    - i. Permanent streams or intermittent streams;
    - ii. Fish habitat;
    - iii. Significant valleylands;
3. 0.5 ha or greater in size meeting at least one of the following criteria:
  - a. A provincially rare treed vegetation community with an S1, S2 or S3 in its ranking by the MNRF's N.H.I.C.;
  - b. Habitat of a woodland plant species with an S1, S2 or S3 in its ranking or an 8, 9, or 10 in its Southern Ontario Coefficient of Conservatism by the NHIC, consisting of 10 or more individual stems or 100 or more sqm of leaf coverage;
  - c. Any woodland overlapping or abutting one or more of the following features:
    - i. Significant wildlife habitat;
    - ii. Habitat of threatened species and endangered species; or
    - iii. Non-Provincially Significant Wetlands
4. any size overlapping or abutting one or more of the following features:
  - a. provincially significant wetland; and
  - b. Life Science area of natural and scientific interest.

The criteria listed above appears to have been generated specifically for the purposes of the Recommended OP and is not consistent with criteria included in Section 7 (Table 7-2) of the Natural Heritage Reference Manual (NHRM). Many of the above criteria are not consistent with provincial recommendations or appear to be based in science.

One example of this is regarding woodland size. The NHRM recommends the minimum size thresholds be correlated with the amount of woodland cover in the planning area. The recommended criteria from the NHRM does not appear to have been followed as part of the Recommended OP process or the above listed criteria.

A further example is the criteria associated with a provincially rare (S1-S3) treed vegetation community. The 0.5ha criteria established as part of the OP process is not consistent with criteria used by NHIC when creating or updating their rare vegetation communities mapping. In certain cases, vegetation communities must be several hectares in size and be considered good examples of the specific vegetation community to be included in the layer. Applying screening criteria as part of the OP that is not consistent with the NHIC mapping and evaluation process is fundamentally flawed.

It must be further noted that a minimum woodland size threshold consistent with the NHRM needs to be incorporated into each of the four criteria above. It is assumed that criteria in point number 4 above is intended to be applied to woodlands less than 0.5ha in size, with no minimum size threshold. This criterion is fundamentally flawed in that small aggregations of trees do not function as a woodland, and therefore a minimum size threshold consistent with published literature should be included in this criterion.

It is recommended that the criteria used to identify significant woodlands be revised to be consistent with the NHRM and be appropriate for woodlands in Niagara Region.

#### *Other Woodlands*

The term “Other woodlands” is not consistent with the PPS or other provincial plans. It is understood that the term “Other woodlands” means woodlands determined to be ecologically important in terms of features, functions, representation, or amount, and contributing to the quality and diversity of an identifiable geographic area or natural heritage system. It is further understood that “Other woodlands” include all terrestrial treed vegetation communities where the percent tree cover is >25% and meet one or more of the following criteria:

1. an average minimum width of 40 m and  $\geq 0.3$  ha, measured to crown edges; or
2. any size abutting a significant woodland, wetland or permanent stream.

Treed areas that “abut” a significant woodland, wetland or permanent stream are considered adjacent when located within 20 m of each other.

The definition of “Other woodlands” provided in the Recommended OP appears to be disjointed. The first part of the definition references important ecological functions, while the established mapping criteria is based only on what appears to be arbitrary size (>0.3ha) or simple proximity to other features (with no minimum size threshold). This definition and the associated criteria are not well reasoned or based in science. Additionally, the intent of this criteria appears to overlap substantially with SWH, which is based in science and provincially standardized.

The use of the term “Other woodlands” is likely to lead to confusion among landowners and is redundant to SWH. This definition and any references to “Other woodlands” in the Recommended OP, including Sections 3.1.11.1- 3.1.11.6 should be removed.

#### *Cultural and Regenerating Woodlands*

Cultural and regenerating woodland has been defined in the Recommended OP to mean woodlands where the ecological functions of the site are substantially compromised as a result of prior land use activity and would be difficult to restore and/or manage as a native woodland and which provide limited ecological function and ecosystem services.

It is understood that a significant or other woodland can be classified as a cultural and regenerating woodland if all of the following are met:

- a. The woodland is less than 2 ha in size;
- b. The removal of a portion of woodland will not result in a negative impact to the ecological functions of the remaining portion;

- c. There are no other important ecological functions that the woodland provides (e.g., critical function zone for wetlands, etc.);
- d. The woodland is not identified as another component of the Natural Environment System (e.g., significant wildlife habitat, linkage, enhancement area, buffer);
- e. The canopy is dominated by invasive, non-native species including, but not limited to: Norway Maple, Manitoba Maple, Siberian Elm, Scots Pine, European Buckthorn, White Mulberry, Tree-of-heaven, Apple, Black Locust and White Poplar, or any combination thereof;
- f. The area was not treed approximately 20-25 years ago as determined through air photo interpretation or other suitable techniques;
- g. The soil is deemed to preclude the development of a native woodland; for example: soil that is degraded, soil that is compacted, the topsoil has been removed, soil displaying substantial erosion from over-use and/or the woodland is regenerating on fill or spoil that was introduced to the site;
- h. There is limited ability to maintain or restore self-sustaining ecological functions typical of native woodlands; and
- i. The woodland provides limited social values (e.g., does not contain sanctioned trails, nor currently provides organized research or educational opportunities).

The concept of cultural and regenerating woodland is not consistent with the PPS and is likely to introduce confusion for landowners. Additionally, the criteria above used to determine a cultural and regenerating woodland appears to be very specific, poorly justified and very difficult to satisfy. Accordingly, any references to cultural and regenerating woodland should be removed from the OP.

#### *Natural Features that have been Disturbed*

Section 3.1.18.1 where a feature was identified as a significant woodland or other woodland as of the date of approval of this Plan, and no longer meets the definition of significant woodland or other woodland because of either a natural or anthropogenic disturbance, the feature shall retain its status as either a significant woodland or other woodland and the policies of this plan shall continue to apply.

This policy section is fundamentally flawed and should be removed. This section fails to recognize that woodlands, like most natural heritage features, are dynamic and can change naturally over time. This policy also assumes that the extent of significant woodlands and other woodlands mapped as part of this OP process is accurate, which is not the case.

Section 3.1.18.2 goes on to state that where a natural heritage feature and area, key natural heritage feature, or key hydrologic feature has been removed without authorization in advance of making, or prior to approval of, an application for development or site alteration, Regional, Local, and/or Conservation Authority staff shall use all available information to determine the limit and classification of the feature that existed, and restoration of the feature shall be required through the approval of the application for development or site alteration.

This section appears to introduce policy that will require the re-establishment of natural areas, without recognition of temporal or circumstantial limitation. Without including specific bounds on timing or circumstances, it is not clear when or how this policy is to be applied, and therefore should be removed from the Recommended OP.

Additionally, there are various regulations and local by-laws in force that limit site alteration in natural areas, outside of the planning process. If a natural area is removed or altered for whatever reason and did not require authorization or permission under any applicable regulations or by-laws, it is not clear why this Recommended OP would attempt to implement policies that exceed the standards of applicable regulations and by-laws.

### *Wetlands*

The definition of wetland provided in the Recommended OP is consistent with the PPS, however this definition is not consistent with the Growth Plan or Greenbelt Plan. Since the recommended OP incorporates policies from the Growth Plan and Greenbelt Plan, the definitions should also be consistent. The following should be added to the current definition of wetland in the Recommended OP for consistency with provincial plans.

“Wetlands are further identified, by the Ministry of Natural Resources and Forestry or by any other person, according to evaluation procedures established by the Ministry of Natural Resources and Forestry, as amended from time to time.”

### *Other Wetlands*

It is understood that the term “Other Wetlands” was created for the purposes of the Recommended OP and is intended to include the following:

- all wetlands that meet an Ecological Land Classification (ELC) wetland system classification and have not been evaluated as a provincially significant wetland (PSW).
- both evaluated non-PSWs and wetlands that have not been evaluated. These include wetlands that are regulated, and wetlands that are not regulated by the Conservation Authority; and
- wetlands with ecological and hydrological functions and wetlands that have only have a hydrological function.

The definition of “Other Wetlands” created for the purposes of the Recommended OP is not consistent with the PPS or provincial plans. The criteria established as part of this definition is also very general, and aside from the reference to evaluated wetlands, does not appropriately consider the context of the established criteria.

For reference, the ELC was created as a means of standardizing the description of vegetation communities in the province and does not make any inferences on ecological or hydrological functions of various vegetation communities. Simple application of the ELC in this context is not an appropriate means for identifying wetlands that are subject to planning policies.

The term “Other Wetlands” should be revised to “Other Evaluated Wetlands” and reflect only wetlands that have been evaluated using Ontario Wetland Evaluation System (OWES), but are

not considered PSW. The OWES is based in wetland science and has been peer reviewed on several occasions. This is the only method for evaluating wetlands in Ontario, and accordingly, has been referenced in various planning instruments.

Section 3.1.9.5.6 states that where an other wetland in a settlement area has been identified, and it is determined that it is not regulated by the Niagara Peninsula Conservation Authority:

- a. The Region will require that an evaluation be undertaken through an environmental impact study and/or hydrologic evaluation as part of an application for development, or through a sub-watershed study as part of a secondary planning process to determine the appropriate classification and protection or management of the feature.
- b. Outcomes of the evaluation completed with Section 3.1.9.5.6 a) could include the in-situ protection with appropriate buffers or incorporation of hydrologic function into the design of the development in accordance with the following:
  - i) if the other wetland is a treed community with a canopy coverage greater than 25%, the other woodland policies of this Plan shall apply;
  - ii) if the other wetland is a treed community with a canopy coverage greater than 60%, the significant woodland policies of this Plan shall apply;
  - iii) no negative impact on the ecological function of the other wetland; and
  - iv) maintain the hydrologic function of the other wetland.

This section should be revised to clarify that the term evaluation refers to the Ontario Wetland Evaluation System.

Additionally, part b above is poorly worded, redundant, and presumptuous. This section should be revised to simply state that management recommendations for the Other Wetland will be determined as part of the evaluation. If the feature meets the criteria to be considered an “Other Woodland” or “Significant Woodland” the more restrictive policy would apply.

#### *Supporting Features and Areas*

Section 3.1.15.1 states that supporting features and areas are lands that have been restored or have the potential of being restored, and include:

- a. grasslands, thickets and meadows that support the ecological functions of adjacent key natural heritage features, key hydrological features, and natural heritage features and areas;
- b. valleylands, which includes lands that may have ecological and/or hydrological functions, that are not significant valleylands, and are not the site of a permanent or intermittent stream that is regulated by the Niagara Peninsula Conservation Authority
- c. wildlife habitat that is not considered to be significant wildlife habitat; and
- d. enhancement areas, which are the subject of Section 3.1.16 of this Plan.

The concept of Supporting Features and Areas, as well as the above listed criteria, appears to be very subjective. All lands in the Region have the potential to be restored, regardless of location or current land use. Additionally, all lands, including highly urbanized municipal centers, has the potential to provide general habitat for wildlife.

The concept of Supporting Features and Areas is not consistent with the PPS or Growth Plan and is very subjective. This section and any reference to Supporting Features and Areas should be removed from the document.

#### *Enhancement Areas*

Section 3.1.16.1 states that enhancement areas are intended to consist of natural self-sustaining vegetation that increase the ecological resilience and function of individual key natural heritage features, key hydrological features and natural features and areas or groups of such features by:

- a. increasing the size of key natural heritage features, key hydrological features and natural heritage features and areas;
- b. connecting key natural heritage features, key hydrological features and natural heritage features and areas to create larger contiguous natural areas;
- c. improving the shape of key natural heritage features, key hydrological features and natural heritage features and areas to create larger contiguous natural areas; or
- d. including critical function zones and important catchment areas for sustaining ecological functions.

It is understood that Enhancement Areas are identified where:

1. The area is comprised of natural vegetation communities (as determined according to Ecological Land Classification); or
2. The area is currently under agricultural production; or
3. The area does not contain a permanent form of development (i.e., house, road, or related infrastructure).

Enhancement areas inside of settlement areas (NES Option 3C only) are to be identified as follows:

- in 'bays and inlets' along the edge of features - < 60 m wide
- interior gaps in features - < 0.5 ha
- gaps between features - < 60 m

Enhancement areas outside of settlement areas (Option 3B and 3C) are to be identified as follows:

- in 'bays and inlets' along the edge of features - < 120 m wide
- interior gaps in features - < 1 ha
- gaps between features - < 120 m

The concept of Enhancement Areas is not consistent with the PPS or Growth Plan and appears to be subjective. This section and any reference to Enhancement Areas should be removed from the document or better defined to remove subjectivity.

#### *Linkages*

Section 3.1.17.1 states that large, medium, and small linkages outside of settlement areas and outside of the Provincial Natural Heritage System and small linkages inside of settlement areas

which are identified between natural heritage features and areas and key natural heritage features are shown on Schedule C2.

The rationale for establishing the linkages illustrated is not clear in the OP or attached schedules. The linkages illustrated in mapping appear to be very random, and other obvious linkage opportunities have been excluded. I support the concept of establishing linkages as part of a NHS, however the location and nature of the linkage must be ecologically appropriate and justified.

#### *Woodland Cover*

Section 3.1.25.1 states that it is the goal of this Plan that woodland cover be maintained or enhanced in the region by 2051. Section 3.1.25.2 goes on to list several opportunities which may assist with achieving this goal.

Although Section 3.1.25.2 lists several potential opportunities to enhance woodland cover in the Region, opportunities for offsetting or compensation are not included on this list. It is not clear why offsetting or compensation has been intentionally excluded from the document. The concept of compensation, offsetting or replacement is well established in other jurisdictions and excluding this opportunity from the OP is short-sighted, since this mechanism will provide an additional tool for achieving woodland cover objectives. Simple in-situ protection of degraded urban woodlands does very little to benefit the NHS, and in certain situations, the NHS would benefit from enhancements that could be associated with offsetting or compensation.

It should be recognized that implementation of offsetting or compensation should not be a default position for any application affecting natural heritage features and is not appropriate in all situations. It is recommended that a policy incorporating a mitigation hierarchy be incorporated into the OP to introduce the concept, with the incorporation of specific ecological or hydrological criteria to be investigated or assessed.

#### *Wetland Cover*

Section 3.1.26.1 states that it is the goal of this Plan that wetland cover be maintained or enhanced in the region by 2051. Section 3.1.26.2 states that to implement this goal, the Region supports opportunities to maintain and restore wetland functions at a watershed and sub-watershed scale based on historic reference conditions.

Unlike Section 3.1.25.2, Section 3.1.26.2 provides no recommended opportunities to assist with achieving this goal. It is recommended that this section be updated to include example opportunities. Additionally, it is recommended that the concept of compensation, offsetting or replacement be included as part of this section, as a means for assisting with increasing wetland cover in the Region.

#### *Provincial Natural Heritage System*

The Recommended OP makes several references to the Provincial Natural Heritage Systems. Since the mapped Provincial NHS forms the basis for the NHS of the Region and is intended to be strengthened through restoration and linkage enhancements, the Recommended OP should



provide links to the background documents used by the province to establish the NHS, to provide context to future enhancement works.

### *Significant Valleylands*

Consistent with the Growth Plan, the Recommended OP defines “Significant valleyland” to mean valleyland which is ecologically important in terms of features, functions, representation or amount, and contributing to the quality and diversity of an identifiable geographic area or natural heritage system. These are to be identified using criteria established by the Province.

It is understood that Significant valleylands are considered by the Region to include any of the features identified in any of the following three categories:

1. all streams with well-defined valley morphology (i.e., floodplains, riparian zones, meander belts and/or valley slopes) of an average width of 25 metres or more; the physical boundary is defined by the stable top of bank (as defined by the conservation authority);  
or
2. all spillways and ravines with the presence of flowing or standing water for a period of no less than two months in an average year. Such features must be greater than 50 metres in length (as defined from the point of valley formation downstream to the confluence of the valley being assessed); 25 metres in average width with a well-defined morphology (i.e., two valley walls of 15% slope or greater with a minimum height of 5 metres, and valley floor), and having an overall area of 0.5 ha or greater; or
3. additional features or areas beyond the ones described above that have been identified by the Region, local area municipality, or the Niagara Peninsula Conservation Authority as providing one or more of the features or functions described in the table contained in Appendix A of the Greenbelt Plan 2005 Technical Definitions and Criteria for Key Natural Heritage Features in the Natural Heritage System of the Protected Countryside Area (OMNR, 2012).

It should be noted that the above categories are not consistent with the identification recommendations included in the NHRM. If the Region intends to create criteria to delineate Significant Valleylands, the criteria must be established in conformance with the NHRM.

It is further noted that significant valleylands are included as a natural heritage feature in Table 3-1, Table 3-2 and referenced in various policies, however the extent of significant valleylands are not illustrated or included in mapping schedules. The location and approximate extents of significant valleylands could have easily been generated using existing mapping and digital elevation models, however this was not completed as part of the OP process. To provide transparency for landowners in the Region, the location and extents of significant valleylands should be included in OP mapping schedules and any associated digital mapping products.

### **GENERAL COMMENTS**

It is understood that a preliminary screening assessment of natural heritage features was completed as part of the background studies to inform the recommended natural heritage

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mapping. In situations where this screening did not include comprehensive study of a natural heritage features on a particular property, it is recommended that the term "Candidate" be applied to infer that further study is required to verify the accuracy of mapping and the extent of various features. Not using the term "Candidate" or similar implies that comprehensive studies have been completed and features have been field verified, which is often not the case.

Please do not hesitate to contact the undersigned at 905-931-4262 or [ian@colvilleconsultinginc.ca](mailto:ian@colvilleconsultinginc.ca) should you have any questions or require further clarification regarding these comments.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ian Barrett', written in a cursive style.

Ian Barrett, M.Sc.  
Colville Consulting Inc.