

**Administration**

Office of the Regional Clerk

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September 26, 2022

**CL 17-2022, September 22, 2022**  
**PEDC 7-2022, September 14, 2022**  
**PDS 25-2022, September 14, 2022**

Local Area Municipalities

Niagara Peninsula Conservation Authority

***SENT ELECTRONICALLY***

Niagara Peninsula Conservation Authority's (NPCA) Policy Document and Procedural Manual Update

PDS 25-2022

Regional Council, at its meeting held on September 22, 2022, passed the following recommendation of its Planning & Economic Development Committee:

That Report PDS 25-2022, dated September 14, 2022, respecting Niagara Peninsula Conservation Authority's Policy Document and Procedural Manual Update, **BE RECEIVED** for information, and **BE CIRCULATED** to the Niagara Peninsula Conservation Authority (NPCA) and Local Area Municipalities.

A copy of PDS 25-2022 is enclosed for your reference.

Yours truly,



Ann-Marie Norio

Regional Clerk

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CLK-C 2022-124

cc: D. Heyworth, Manager, Long Range Planning  
C. Lampman, Manager, Environmental Planning  
M. Sergi, Commissioner, Planning & Development Services  
N. Oakes, Executive Assistant to the Commissioner of Planning & Development Services

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**Subject:** Niagara Peninsula Conservation Authority's Policy Document and Procedural Manual Update

**Report to:** Planning and Economic Development Committee

**Report date:** Wednesday, September 14, 2022

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## **Recommendations**

1. That this Report **BE RECEIVED** for information; and
2. That Report PDS 25-2022 **BE CIRCULATED** to the Niagara Peninsula Conservation Authority (NPCA) and Local Area Municipalities.

## **Key Facts**

- The purpose of this report is to provide information to Committee and Council on the review that Niagara Peninsula Conservation Authority (NPCA) is conducting on their Planning and Permitting Policies and Procedural Manual.
- This report highlights a few areas of common policy interest between the NPCA and the Region.
- The report outlines the importance of consultation and alignment of NPCA and Regional policies on Environmental Impact Study Guidelines, buffers, ecological net gain, watershed planning and other natural heritage planning.
- Regional staff will be providing formal comments on the Policy themes and Buffers Discussion documents prior to the Sept. 9, 2022 deadline.

## **Financial Considerations**

There are no financial impacts to the Region as a result of this report.

## **Analysis**

### **Background**

#### **Roles and Responsibilities**

The Region of Niagara and NPCA have an Environmental Planning Protocol in place that outlines the respective roles and responsibilities within Niagara's land use planning system.

Since 2018, the Region of Niagara is responsible for the environmental review of planning applications and stormwater management review from a Regional and Provincial natural heritage perspective.

The NPCA continues to be responsible for Provincial policy interests related to natural hazards, except wildfires, as outlined in Section 3.1 of the PPS. In addition, the NPCA is also responsible for planning applications, policy and technical clearance reviews related to regulated watercourses and wetlands in accordance with the Conservation Authorities Act and Ontario Regulation 155/06.

#### **Niagara Official Plan (2022)**

The Niagara Official Plan (NOP) engagement strategy began in 2018 and significant consultation took place with the public, special interest groups (including the development industry), local area municipalities and the NPC, in particular, the Natural Environmental System (NES) policies of the NOP. The policy formulation of this section follows Council direction after considering several NES mapping and policy options.

Prior to 2018, there were some concerns on policy overlap and alignment between the Region and NPCA on the NES. Anticipating these early issues, the consultation program provided the opportunity for significant consultation with the NPCA relative to creation of background discussion papers, NES mapping and policy options development. Significant consideration was given to NES overlap and alignment with the NPCA in the development of the NOP.

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## **NPCA Policy Review 2022**

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.

In March 2022, the NPCA Board of Directors (the Board) directed NPCA staff to complete an update on the NPCA's Planning and Permitting Policies by the end of the year. The NPCA is now proceeding to develop a new Policy Document and accompanying Procedural Manual.

The NPCA Policy Theme Discussion Document indicates a new Policy Document and Procedural Manual is needed as the current Policy Document:

- does not contain policy and legislative references that are in alignment with changes to provincial policy, legislation, technical guidelines, in particular Conservation Authorities Act changes;
- was developed at a time when hard copies were preferred, and there is a need to develop a document that can be accessed by staff and others in an accessible, digital format; and
- contains terminology that needs clarity to guide consistent interpretation and implementation of policies.

The new Policy Document and accompanying Procedural Manual is being developed to serve many uses and users. It will provide:

- direction to NPCA staff that will receive, review and evaluate development applications against the policies contained within the document;
- guidance and clarity to watershed municipalities who will take these policies and incorporate them further in their planning review functions and in Official Planning documents;
- guidance and direction to landowners, the development community and stakeholders who will utilize these policies in preparing Section 28 Permit Applications, Planning Act applications, or have an interest in protecting the environment.

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- confidence among Provincial partners that matters of stated Provincial interest have been accurately interpreted and are being applied appropriately; and finally
  - assistance to other municipal, provincial and federal agencies to coordinate the administration of their own jurisdiction and policies with those of NPCA.

The NPCA staff are currently consulting the Region and our Area Municipalities on their policy update and have recently released discussion papers on Buffer Technical Analysis and Policy Themes and Directions. The NPCA posted the relevant discussion papers from August 15-19, 2022 with a commenting deadline of Sept. 9, 2022.

The NPCA Policy Theme Discussion document indicates the NPCA plans to gather input from watershed municipalities, special interest groups, governments at all levels (including Indigenous governments) and community members, and invites readers to share their thoughts with respect to key policy theme areas. The policy theme areas for discussion are: climate change; cumulative impacts; ecological net gain; intensification and increasing urban density; Ministers Zoning Orders; public education awareness and responsibilities; stormwater management, low impact development and green infrastructure; watershed and subwatershed planning; feature resource specific policy themes; agriculture; buffers; natural heritage features and areas; and implementation and customer, client services.

The NPCA is expecting to have draft policies for priority areas in September with a final Policy and Procedural Manual in Nov. 2022, which is an aggressive timeline. Based on the NPCA consultation to date, Regional staff have identified a few areas of common interest.

#### 1. Consultation

Regional staff are pleased the NPCA is consulting with a wide array of interested parties in the development of the Planning and Permitting document as well as Procedural Manual. Regional staff note the consultation and document preparation is occurring within a short time frame. NPCA staff should ensure the development community, First Nations and local Indigenous communities be appropriately consulted. Regional Planning staff suggest NPCA staff meet with each for an appropriate discussion.

The NPCA documents being developed play an important role in both protecting regulated natural heritage features and hazards but also ensuring planning and permit approvals are aligned as much as possible for an efficient streamlined system.

## 2. Buffers Policy Alignment

The adopted NOP does not provide minimum buffers for natural heritage features within settlement areas. The policies require an EIS to ensure the appropriate buffer is required to properly address the protection of the features specific attributes and functions. An EIS will ultimately determine buffer widths based on: sensitivity of the feature and ecological functions; the potential impact from the adjacent land use; biophysical factors of the adjacent lands such as slope, soils, hydrology and vegetation; and other mitigating factors (e.g., fencing between adjacent land use and buffer).

In commenting on the draft NOP, the NPCA did recommend incorporating recommended buffers for natural heritage features within settlement areas. The NPCA policy options will look at minimum or maximum buffers to be adjusted by EIS. Regional alignment on buffers for features, to the greatest extent possible in the settlement areas in particular, is critical to ensure a streamlined development review process. Planning staff are supportive of including a decision support tool in the updated EIS Guidelines to provide greater transparency and consistency in the application of buffer policy.

The NPCA Buffer Discussion Paper focuses on the ecological aspects of buffers for natural heritage features with little focus on natural hazards, engineering or provincial technical guidelines. Ultimately, the NPCA Policy and Permitting manual needs to be clear the buffers established are for regulated features only. Further it is best these align with the Region's NOP.

## 3. Ecological Net Gain

The current NPCA Policy Document includes policy direction for reconfiguring and recreating Non-Provincially Significant Wetlands. This is currently only considered where no reasonable alternative exists to locate a proposed development, site alteration or activity outside of a Non-Provincially Significant Wetland. NPCA staff aim to achieve a net gain to the natural system functions upon policy implementation. The NPCA Interim Wetlands Procedure Document provides guidance on NPCA's expectations and requirements for satisfying the various tests of this policy.

The NPCA commented on the draft consolidated NOP and recommended the Region have a stand-alone policy/section to speak to offsetting of not just wetland features but other components of the NES.

Offsetting was the topic of a Regional discussion paper at the beginning of the NOP's NES program. The concept of offsetting was not pursued further at the direction of Regional Council. The NOP does contain policies that enable the creation of enhancement areas.

Regional Planning staff are concerned with the terms “ecological net gain” and “reconfiguration and compensation” which could create confusion with terms used in the NOP. It is understood that this type of ecological net gain policy direction may be required by the NPCA specific to the Ministers Zoning Order (MZO) process. Based on the feedback Regional planning staff received through the Official Plan consultation, planning staff recommend that any policies on this matter be confined to the review of MZO applications and that terms applied align with the NOP to reduce confusion.

#### 4. EIS Guidelines

The NPCA adopted Interim EIS Guidelines as well as an Interim Wetlands Procedure Document in June 2022. It is Regional planning staff's understanding that both Interim documents are to be updated and formalized following the Policy and Procedure update.

The Region is also beginning the process of updating our EIS Guidelines following the approval of the new Regional Official Plan. Regional and NPCA planning staff have been discussing a format for adopting a single EIS Guideline to provide as much consistency and efficiency in the development review process to meet provincial policy and regulation requirements. The NPCA Discussion Papers and consultation process will provide value in assisting in the development of EIS guidelines.

#### 5. Natural Heritage Beyond NPCA Regulated Areas

The NPCA operates under the Conservation Authorities Act and the Region has a MOU with the NPCA in place that outlines our respective roles and responsibilities in regards to environmental planning in Niagara Region. Recognizing this and with appropriate policies in place in the Region's NOP and NPCA Policy and Permitting and Procedural Manuals, planning staff believe environmental planning can be appropriately implemented under the current roles and responsibilities. Any policy development beyond regulated areas in Niagara would be unnecessary overlap and potentially confusing to the public and development community on roles and responsibilities. The Region has the role of implementing policy for natural heritage features under the Planning Act and it is inevitable there will be overlap with regulated features. However,

the Region has the staff expertise, capacity and resources to implement the policies of the NOP. There is no necessity for the NPCA to develop policies or procedures for non regulated areas in Niagara.

## 6. Watershed Planning

The Policy Theme Discussion Paper states, “The NPCA will continue to work collaboratively with municipalities in the development of watershed plans and any municipally-led watershed or subwatershed studies. NPCA has several watershed plans that require updating. The current Policy Document does not provide direction or guidance for the role of the NPCA in supporting the watershed municipalities in undertaking watershed planning or subwatershed planning to inform future growth, as directed by the Province through provincial legislation and plans.”

The Niagara Official Plan contains policies providing direction for subwatershed planning. The Growth Plan has delegated watershed planning to the Region as a responsibility. The Region is now assisting in coordinating two subwatershed plans in connection with secondary plan development. During the development of NOP watershed planning policies, NPCA staff had been generous to offer technical assistance in the subwatershed planning process. Regional Planning staff encourage continued dialogue on this topic to clarify how the subwatershed planning process is best administered. An outline from the NPCA on the level of service available and associated costs would be beneficial.

## Conclusion

Regional staff will continue to participate with NPCA on their development of policies and procedures and continue to streamline processes. Staff will also be updating our existing Protocol to reflect the recent changes to the Conversation Authorities Act and the NES policies in the NOP.

## Alternatives Reviewed

As this report is for information, there are no alternatives reviewed.

## Relationship to Council Strategic Priorities

This report highlights a few areas of common policy interest between the NPCA and the Region supporting the following Council Strategic Priorities:



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- **Healthy and Vibrant Community:** Protect regulated natural heritage features for, healthy neighbourhoods.
  - **Responsible Growth and Infrastructure Planning:** Assist in guiding infrastructure and growth to appropriate areas.
  - **Sustainable and Engaging Government:** Supports consultation and alignment of common policies.

### **Other Pertinent Reports**

PDS 2-2018      Protocol for Planning Services Between the Regional Municipality of Niagara (The Region) and the Niagara Peninsula Conservation Authority (January 10, 2018)

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#### **Prepared Jointly by:**

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Manager, Environmental Planning

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#### **Recommended by:**

Michelle Sergi, MCIP, RPP  
Commissioner of Planning and Development  
Planning and Development

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#### **Submitted by:**

Ron Tripp, P.Eng.  
Chief Administrative Officer

This report was prepared in consultation with Diana Morreale, Director of Development Planning, Erik Acs, Manager, Community Planning and reviewed by Angela Stea, Director of Community and Long Range Planning.

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## **Appendices**

None