

**Niagara Escarpment Commission**

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**Commission de l'escarpement du Niagara**

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Niagara Escarpment Commission  
An agency of the Government of Ontario

March 18, 2021

## INITIAL STAFF REPORT

**RE: PROPOSED Niagara Escarpment Plan Amendment PP 220 20  
Baghai Development Ltd.  
2975 Escarpment Sideroad  
Lot 10, Concession 1 WHS  
REGION OF PEEL, TOWN OF CALEDON**

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**APPLICANT/OWNER:** Baghai Development Limited

**AGENT:** John Cox, JL Cox Planning Consultants

**RECEIVED:** August 2020, Revised Addendum November 26, 2020

**NEP DESIGNATIONS:** Escarpment Protection Area / Escarpment Natural Area

### PROPOSAL SUMMARY:

To amend the Niagara Escarpment Plan (NEP) by adding a special site-specific policy provision under Part 1.4.4 Escarpment Protection Area which addresses Part 2.4 Lot Creation and Part 2.10 Cultural Heritage, and that would permit the creation of three separate parcels, one of which contains a designated heritage dwelling, and by doing so facilitate the acquisition of approximately 21.8 ha of lands by a public body, for conservation purposes and securement of the permanent route of the Bruce Trail.

### PURPOSE OF THIS REPORT

The purpose of this report is for the Niagara Escarpment Commission (NEC) to determine whether the application for amendment to the NEP should be initiated and circulated under Section 7 and Section 10 of the *Niagara Escarpment Planning and Development Act* (NEPDA), or, under Section 6.1(3) of the NEPDA, whether the NEC should recommend to the Minister that the application not be considered on the basis that the proposal does not disclose a planning justification for the amendment and/or is not in the public interest. One primary issue of consideration is that a previous Development Permit issued for the subject property includes a Condition that no severance of the heritage dwelling be permitted.

## **STAFF SUMMARY RECOMMENDATION:**

That the Niagara Escarpment Commission instruct staff to process the proposed Amendment PP 220 20 Baghai for circulation and notification pursuant to Section 6.1(2) of the *Niagara Escarpment Planning and Development Act*.

### **A. BACKGROUND/OVERVIEW**

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The subject lands at Lot 10, Concession 1 WHS re approximately 24.24 ha (59.9 ac) and are generally located on the southwest corner of Hurontario Street (Highway 10) and north of Forks of the Credit Road, known municipally as 2975 Escarpment Sideroad. The subject lands contain two existing residences and a garage; the original farmhouse dates to around 1875, and a newer single dwelling and garage were constructed in 2018 (see Related Files section).

As described in Schedule A (Statement of Cultural Value or Interest and Description of Heritage Attributes), to the Heritage Conservation Agreement (November 2013), the subject lands have a history of agricultural use dating back to the early 1820's. The first listed owner of the property was Peter Grant, a farmer from Toronto, who then sold the lands to The Garrity's in 1866. The Garrity family were early Irish settlers in Caledon Township. The farmhouse was believed to be constructed sometime between 1872 and 1876. The property changed hands amongst various Caledon farmers up until 2011, after which time the current landowner purchased the property.

The heritage dwelling on the property was designated through By-law 2007-128 of the Town of Caledon, with the significance attributed to the architectural details related to the farm house and the barn, which has since been demolished due to structural failure, and removed from the Heritage Easement Agreement (see Related Files section). The Planning Justification Report provides that up until the failure of the barn, it had been the intention of the landowner to maintain an agricultural operation (beef cattle) on the property, with the owners living in the new dwelling and the farm manager living in the heritage home. However, replacement of the barn was proven to be cost prohibitive for the landowner, and the agricultural operation no longer commercially viable. Staff can't confirm whether the previous landowners intended to live on the property, or the scale and scope of more recent agricultural operations. The previous NEC Development Permit Applications suggest that the landowner was previously not interested in preserving the original farmhouse and farm and intended to pursue an alternate option of providing photographic documentation and opportunity for the Town of Caledon to salvage materials from both structures. However, the proponent changed this position, following the application's conditional approval (to keep the dwelling and barn subject to heritage easement agreement).

The amendment proposal is seeking to sever the original farmhouse and create a 0.4 ha (1 ac) new lot ('Parcel A'), with remnant lot ('Parcel B') of approximately 1.99 ha (4.9 ac), containing the newer dwelling. The remaining lands ('Parcel C') approximately 21.8 ha (53.8 ac), would be acquired by the Credit Valley Conservation (CVC), and used in part as a linkage for the Bruce Trail to where it connects with a pedestrian tunnel under Highway 10. The placement of the lands in public ownership is contingent upon the severance of the heritage dwelling in the manner proposed by this application.

A complicating factor in the consideration of the proposed amendment is that in addition to seeking a site-specific policy exception to the new lots policies of the NEP, the proposal also seeks to essentially “undo” the Conditions of a previous Development Permit (see Related Files Section), which approved the development of the second single dwelling on the basis of a heritage conservation easement agreement, and included prohibition of any future severances.

## **B. PLANNING DOCUMENTS**

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### **1. *Niagara Escarpment Planning and Development Act (NEPDA)***

Sections 6.1(2.2) of the NEPDA identifies that no person or public body shall make an application or request to amend the Niagara Escarpment Plan if the application or request relates to land that is within the land use designation of Escarpment Natural Area, Escarpment Protection Area, Mineral Resource Extraction Area or Escarpment Rural Area of the NEP and the application or request seeks to, a) re-designate the land to the land use designation of Minor Urban Centre, Urban Area or Escarpment Recreation Area of the Niagara Escarpment Plan; or b) make any other amendment to permit urban uses, unless it is during the time of a Plan Review.

Staff finds that the amendment proposal for site-specific policy exception respecting a new lot subject of a heritage designation, does not trigger consideration of the prohibition regarding “urban uses” and “urban designations” under the NEPDA. Escarpment Natural Area and Escarpment Protection Area designations come with their own suite of Permitted Uses and policies, including provisions for lot creation, as set out in the NEP. Therefore, the proposed amendment is consistent with the NEPDA respecting urban uses and urban designations and the NEC can consider the planning merits of this application under Section 6.1 of the NEPDA.

Sections 6.1(2.1) and 10(6) of the NEPDA require that amendments to the NEP be justified. As identified in Part 1.2.1 of the NEP, the justification for a proposed amendment to the NEP means that there is a sound and defensible rationale for the amendment, as well as reasons, arguments or evidence in support of the change to the Plan proposed through the amendment.

### **2. *Niagara Escarpment Plan (NEP)***

NEP Part 1.2.1 identifies that planning policies and land use designations may be changed by amendment to the Plan, provided that the proposed amendment is consistent with the Purpose and Objectives of the NEPDA and the NEP. The Development Criteria set out in Part 2 of the NEP are to be considered in the assessment of any amendment to the NEP. The following Development Criteria are applicable to the consideration of the proposal which is seeking a site-specific amendment to the NEP Lot Creation policies and Cultural Heritage policies:

**Part 2.2.7 General Development Criteria** states that only one single dwelling is permitted on each existing lot of record in the Escarpment Natural, Protection and Rural Areas designations, unless a second single dwelling is, in the opinion of the implementing authority, the only viable way to conserve the heritage attributes of an existing single dwelling; and:

a) the existing single dwelling is a *heritage attribute* and is subject to a *heritage*

*conservation easement agreement;*

- b) the second single dwelling is located on the same existing lot of record as the existing single dwelling to be preserved;
- c) the second single dwelling is not located within the Escarpment Natural Area unless the implementing authority has determined that there is no other less restrictive designation within which the new dwelling can be sited; and,
- d) municipal official plan policies and standards are met (e.g., lot size).

*Heritage attribute* is defined in Part 2 of the NEP as: the principal feature or element that contributes to a protected heritage property's cultural heritage value or interest that may include the property's built or manufactured elements, as well as natural landforms, vegetation, water features, and its visual setting (including significant views or vistas to or from a protected heritage property) (Provincial Policy Statement, 2014).

*Heritage conservation easement agreement:* A covenant or agreement that may be entered into by the owner of real property and either a municipality or the Ontario Heritage Trust, is registered on title and executed with the primary purpose of preserving, conserving and maintaining a cultural heritage feature or resource, or preventing its destruction, demolition or loss. A heritage conservation easement may be entered into under either Parts II (Section 10) or IV (Section 37) of the Ontario Heritage Act.

The Objective of the NEP **Part 2.4 Lot Creation** policies is to direct the formation of new lots, (where permitted), to those locations that are the least environmentally sensitive. Part 2.4.5 requires that new lots must: a) maintain and enhance the existing community character and/or open landscape character of the Escarpment; and b) protect and enhance existing natural heritage and hydrologic features and functions.

**Part 2.4.6** requires that prior to commenting upon proposals for new lots, the implementing authority shall consider: a) the number, distribution and density of vacant lots in the area; b) the additional lots that may be created in conformity with this Plan; c) the consequences of the development of the lots with regard to the objectives of the designation; and d) providing for or protecting public access to the *Niagara Escarpment*, including the Bruce Trail corridor.

**Part 2.4.15** states that where more than one single dwelling exists on the same lot, a new lot may be created for the additional dwelling(s) provided that:

- a) neither the dwelling on the new lot nor the dwelling(s) to be retained were approved on the basis that they would be for temporary use or as a dwelling unit accessory to agriculture;
- b) all the dwellings on the property are existing uses as defined in this plan and have received approval from the municipality;
- c) both the dwelling on the new lot and the dwelling retained are of a reasonable standard for habitation and have been used as a dwelling unit within the year before making application to sever;
- d) severance of the existing dwelling does not conflict with Part 2.4.18; and
- e) a new lot is not to be created for a mobile or portable dwelling unit.

**Part 2.4.14** of the Lot Creation Development Criteria permits the creation of a new lot by a public body through acquisition, provided such a lot does not conflict with the new lot policies of the applicable designation and the provisions of Part 3 of the NEP.

**Part 2.4.15** of the Lot Creation Development Criteria addresses the situation where multiple dwellings are located on a single lot, and identifies several criteria where if met, a new lot may be created for the additional dwellings.

**Part 2.4.17** prohibits severances from being permitted on any property subject to a heritage conservation easement agreement.

**Part 2.18** identifies that notwithstanding 2.4.17, if the number of severances permitted by the NEP has already been granted or exceeded, the second single dwelling may be permitted, but future severance of a new lot off the existing lot of record is prohibited.

As identified, the application does not meet the Lot Creation policies in Part 2.4 with respect to severance of the dwelling subject of the Heritage Conservation Easement Agreement. Therefore, the amendment is seeking an exception to the applicable policies of Part 2.4.

### **Cultural Heritage in the Niagara Escarpment Plan**

Cultural heritage resources are recognized and protected through both the Designation Criteria in Part 1 of the NEP, and through the NEP Development Criteria in Part 2. Both Escarpment Natural Area and Escarpment Protection Area Objectives refer to conserving the *cultural heritage resources* of the Escarpment.

*Cultural heritage resources* are defined as property that includes built heritage resources, cultural heritage landscapes, archaeological resources and/or areas of archaeological potential.

*Built heritage resource* is a building, structure, monument, installation or any manufactured remnant that contributes to a property's cultural heritage value or interest as identified by a community, including Aboriginal community. Built heritage resources are generally located on a property that has been designated under Parts IV or V of the *Ontario Heritage Act*, or included on local, provincial and/or federal registers.

The Objective of **Part 2.10 Cultural Heritage** is to conserve the Escarpment's cultural heritage resources, including significant built heritage resources, cultural heritage landscapes and archaeological resources. Part 2.10.3 requires that construction, alterations and consideration of a second dwelling under Part 2.2.7 should be compatible with the area's community character.

**NEP Part 3.2** includes policies related to the Bruce Trail. The Optimum Route, as well the development of Overnight Rest Areas and Bruce Trail Access Points, is determined by the Bruce Trail Conservancy (BTC) in alignment with the Development Criteria in Part 2.14. The Objective is to locate uses within the Bruce Trail Corridor in an environmentally sound manner.

The Bruce Trail is identified as an essential component of the Niagara Escarpment

Parks and Open Space System (NEPOSS). The goal of the BTC is to establish a conservation corridor containing a public footpath along the length of the Niagara Escarpment, in order to protect its natural ecosystem and to promote environmentally responsible public access to the UNESCO designated Biosphere. This goal is achieved in part through the acquisition of lands through donation or purchase.

The NEP supports the BTC's long term goal of securing a permanent corridor for the Bruce Trail along its entire length in accordance with Part 3.2 of the NEP.

The BTC is treated as a public body with respect to its role in securing and managing the Bruce Trail Corridor and therefore, it is afforded a number of the advantages that other public agencies (e.g., conservation authorities, municipalities) receive when undertaking projects or initiatives that are in keeping with the Purpose and Objectives of the NEPDA and the NEP. The NEP recognizes the establishment of the Bruce Trail corridor and other trail-related constructions and access points as a Permitted Use in all the NEP land use designations.

### **3. Provincial Policy Statement (2020)**

The PPS (2020) is intended to provide direction on matters of provincial interest related to land use and planning. The PPS is issued under Section 3 of the *Planning Act* and the current PPS came into effect May 1, 2020. All agencies, including the NEC, must be consistent with the policies of the PPS; however, the PPS states that Provincial Plans take precedence over policies in the PPS to the extent of conflict. The NEP builds upon the policy foundation provided by the PPS and provides additional land use planning policies in support of the Purpose and Objectives.

The PPS speaks to the relationship with Provincial Plans and provides that Provincial Plans are to be read in conjunction with the PPS. The Provincial Plans take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise.

Section 1.5 of the PPS: Public Spaces, Recreation, Parks, Trails and Open Space, identifies that healthy, active communities should be promoted by planning and providing for a full range and equitable distribution of publicly accessible built and natural settings for recreation, including facilities, parklands, public spaces, open space areas, trails and linkages, and, where practical, water-based resources.

Section 2.0 of the PPS identifies the Province's objectives respecting the long-term protection of natural heritage, water resources and cultural heritage and archaeological resources for their economic, environmental and social benefits. Part 2.1 requires that natural features and areas shall be protected for the long-term and Part 2.1.2 identifies that the diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

Part 2.6 Cultural Heritage and Archaeology identifies that significant built heritage resources and significant cultural heritage landscapes shall be conserved, and that planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site

alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved. The PPS provides for a definition of Built heritage resource to mean a building, structure, monument, installation or any manufactured or constructed part or remnant that contributes to a property's cultural heritage value or interest as identified by a community, including an Indigenous community. Built heritage resources are located on property that may be designated under Parts IV or V of the Ontario Heritage Act, or that may be included on local, provincial, federal and/or international registers.

#### **4. Greenbelt Plan (2017)**

The *Greenbelt Act* authorized the preparation of the Greenbelt Plan, which was approved in February 2005 and updated in 2017 through the 2015 Co-ordinated Land Use Plan Review. The Greenbelt Plan Area includes all of the NEP Area. The policies of the NEP are the policies of the Greenbelt Plan for the NEP Area with the exception of the Open Space and Trails Policies set out in Section 3.3 of the Greenbelt Plan. The planning, construction, and maintenance of parkland, open space, and trails in the NEP Area must also comply with the policies in Section 3.3 of the Greenbelt Plan.

#### **5. Growth Plan for the Greater Golden Horseshoe**

The Growth Plan applies to lands within the Greater Golden Horseshoe (GGH), which includes the Town of Caledon, and provides direction on how to manage growth. Emphasis is placed on intensification and redevelopment in existing settlements and built-up areas rather than sprawl or haphazard expansion that requires new municipal services (e.g., sewers and water). The Growth Plan on its Map Schedules also identifies Urban Growth Centres within existing built-up areas. The subject lands are not identified as being part of an Urban Growth Centre or Built-up Area as designated in the Growth Plan.

The Growth Plan and Greenbelt Plan are intended to work together. Areas to be protected in the GGH were established first (in the Greenbelt Plan) and then areas where development could be considered were identified second (the Growth Plan). Both the Growth Plan (Section 1.4) and its enabling legislation (*Places to Grow Act, 2005*), indicate that in considering the Growth Plan in relation to other Provincial Plans and Policies (e.g., the NEP), the planning direction to be followed is the one that “provides more protection to the natural environment or human health”. In considering the hierarchy of Provincial Plans and policies governing this area and the provisions within those documents, the greatest protection to the natural environment and human health (particularly the natural environment), is accomplished most effectively through the policies and appropriate land use designations of the NEP.

The Natural Heritage System of the Growth Plan is not identified in the area of the NEP.

The subject lands are not identified as being within the identified Prime Agricultural Area of the Growth Plan.

#### **6. Regional and Local Planning Context**

The NEP Development Criteria are used as minimum standards for assessing the conformity of local official plans, secondary plans and, where applicable, zoning by-laws

and for administering site-plan control approvals. If an official plan, secondary plan, zoning by-law or other planning approval is silent on one or more Development Criteria included in the NEP, the Development Criteria of the NEP still apply.

### **Region of Peel Official Plan**

The Peel Region Official Plan (OP) is Regional Council's long-term policy framework for decision making. It sets the Regional context for detailed planning by protecting the environment, managing resources, directing growth and setting the basis for providing Regional services in an efficient and effective manner. The OP provides direction for future planning activities and for public and private initiatives aimed at improving the existing physical environment. The first Regional OP was adopted in 1996 and has been updated and amended several times. The Peel Regional OP is currently under review.

The policies of the Regional OP generally support and defer to the policies of the NEP.

Part 2.5.2.4 encourages and promotes jointly with the NEC, the Town of Caledon and the conservation authority, the maintenance and enhancement of the natural environment, the open landscape and natural scenery within the area of the NEP in accordance with the objectives of the NEPDA and the NEP.

Part 3.5 Recreation identifies an objective to support passive recreational opportunities through regional cooperation and partnerships with agencies having the prime responsibility for recreational facilities; namely, the area municipalities, conservation authorities, provincial park agencies including the NEC, Bruce Trail Conservancy.

Part 3.6 Cultural Heritage. The Region encourages and supports heritage preservation and recognizes the significant role of heritage. The Region supports the identification, preservation and interpretation of the cultural heritage features, structures, archaeological resources, and cultural heritage landscapes in Peel, according to the criteria and guidelines established by the Province. Objective 3.6.1.1 is to identify, preserve and promote cultural heritage resources, including the material, cultural, archaeological and built heritage of the region, for present and future generations.

A portion of the lands are identified on Schedule A as being within the Peel Regional Core Areas of the Greenlands System. The subject lands are not identified on Schedule B, Prime Agricultural Areas.

### **Town of Caledon Official Plan**

Caledon's Official Plan is a statement of principles, goals, objectives and policies intended to guide future land use, physical development and change. It also takes into account the social, economic and environment impact of growth and development in Caledon. The plan contains policies that govern land use in the Town. It also provides the basis for preparing zoning and other by-laws (staff notes the lands fall within the NEC Area of Development Control and are not subject to zoning). The Town is currently in the process of undergoing an OP Review and update.

Schedule A Land Use Plan of the OP identifies the subject property as within the **Rural Lands** designation. The Rural Lands are identified as being an important component of



the Town's land base with its open countryside, scenic vistas, built and cultural heritage landscapes, agricultural activities and interrelationships with villages and hamlets. The function of the Rural Lands within the Town structure is to protect the open rural character and rural lifestyle of the countryside, protect existing agricultural uses and encourage appropriate new agricultural and appropriate rural economic development uses.

Notwithstanding the Lot Creation Policies of Part 5.2.4 (discussed below), with respect to lot size, Section 5.2.3.1 of the OP identifies that:

- vi) *In order to protect and preserve the scenic quality of the rural environment of the Town as well as the unique OPA 179 OPA 237 Town of Caledon Official Plan Chapter 5 Town Structure and Land Use Policies 5-22 April, 2018 Office Consolidation resource including the Oak Ridges Moraine Complex and the Niagara Escarpment, the minimum lot size of a severance granted for residential purposes within the Rural designation as per Schedule A, Land Use Plan shall be 6 hectares in size.*

The sizes of the lots proposed are .4 ha ('Parcel A' heritage dwelling lot), and 1.99 ha ('Parcel B') respectively, therefore the proposed severances would require an amendment to the Town OP policies respecting lot size.

Schedule A Land Use Plan also identifies that a portion of the subject lands are within the **Environmental Policy Area (EPA)**. Environmental Policy Areas includes all Natural Core Areas and Natural Corridors.

The Town recognizes that the sustained integrity of the natural environment is essential to the continued social and economic well-being of the Town. Therefore, an ecosystem-based planning and management approach is required to guide the land use decision-making process. This approach must emphasize that development not only protect and steward ecosystems but also strive to enhance and restore ecosystems in an appropriate manner.

New development is prohibited within areas designated EPA on the Land Use Schedules to this Plan, with the exception of the permitted uses as specified in policy 5.7.3.1.2. which are limited to: legally existing residential and agricultural uses; a building permit on a vacant existing lot of record; portions of new lots; activities permitted through approved Forest Management and Environmental Management Plans; limited extractive industrial; non-intensive recreation; and, essential infrastructure.

Section 5.7.3.1.8 identifies that in order to facilitate environmental conservation and management, the Town generally discourages fragmentation of ownership of EPA lands and shall strive, through the planning process, to ensure that EPA lands are retained in larger privately or publicly owned blocks. With regard to lot creation on EPA lands, the OP identifies in Section 5.7.3.3.1 that new lots wholly with EPA will not be permitted unless such lots are being proposed for non-development purposes (e.g., lot line adjustments; severance for conveyance to a public agency) and will not lead to conflict with the environmental provisions of the plan or other relevant agencies.

Section 5.7.3.4.1 of the OP sets out policies with respect to the use of EPAs for non-intensive recreational uses as follows:

*Proposals for non-intensive recreational development or uses, including related facilities, operations and programs, either wholly or partially within EPA may be permitted, subject to the completion of appropriate environmental studies/investigations, up to, and including, an EIS and MP, as determined by the Town and other relevant agencies. Such studies/investigations shall demonstrate that the proposed use adheres to the Town's ecosystem principle, goal, objectives, policies and performance measures, and the relevant policies and programs of other agencies, to the satisfaction of the Town and other such agencies.*

Further to the above policy, the Town recognizes that public agencies, such as the Town and the Conservation Authorities, are major providers of recreational opportunities and therefore, where such opportunities are provided on lands which are designated EPA they must be planned and managed in a manner which adheres to the Town's ecosystem principle, goal, objectives, policies and performance measures. As such, the Town encourages the preparation of Comprehensive Master Plans, or comparable documents, for these sites, through a co-operative process, involving relevant agencies such as the Town, the Conservation Authorities and the Niagara Escarpment Commission, where applicable.

**Section 3.3 Cultural Heritage Resources** identifies how the Town seeks to wisely manage cultural heritage resources within its municipal boundaries that are of historical, architectural and archaeological value. The objectives include to identify and conserve the Town's cultural heritage resources, in balance with the other objectives of the OP, through the implementation of appropriate designations, policies and programs including public and private stewardship and partnering with other heritage organizations in the community.

Pursuant to the *Ontario Heritage Act*, Council may by by-law designate cultural heritage resources, including individual properties, conservation districts and landscapes, and archaeological sites. The Town may pass by-laws for the entering into of easements or covenants with owners of property of cultural heritage value or interest for the purposes of conservation. The Town may also acquire, by purchase, lease or donation, property of cultural heritage value or interest for the purposes of conservation (Part 3.3.3.1.13 Heritage Easements and Acquisitions). The heritage dwelling on the subject lands was designed by by-law 2007-128 of the Town of Caledon.

With respect to **Built Heritage Resources, Part 3.3.3.3.1**, the Caledon Heritage Committee serves as a Local Architectural Conservation Advisory Committee (LACAC) under the *Ontario Heritage Act*, to provide cultural heritage advice to Council and undertake, subject to Council's approval, such other activities as will contribute to the Cultural Heritage Conservation goals and objectives.

The Town encourages the retention of significant built heritage resources in their original locations whenever possible. **Part 3.3.3.3.4 Second Dwellings** In Prime Agricultural Area and General Agricultural Area and Rural Lands designations, and subject to all provisions of this Plan and any other relevant legislation and/or policy, the

retention and conservation of built heritage resources containing a single-dwelling may be permitted by allowing the construction of a second single-dwelling, or the conversion of a building to a second single-dwelling, on an existing lot of record subject to a number of requirements including that the existing dwelling is designated and an easement agreement is registered under the *Ontario Heritage Act*; there is adequate provision for private sewage disposal for both dwellings; there is adequate provision for potable water for both dwellings; all setback requirements are satisfied; will not adversely impact surrounding land use and landscape character; and notably, no future severance of either dwelling. Therefore, the proposal will require an amendment to the Town OP policies respecting second dwellings in Rural Lands designations.

## **7. Conservation Authority Regulation**

### **Ontario Regulation 160/06 Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses**

Pursuant to Ontario Regulation 160/06, the Credit Valley Conservation (CVC) regulates development and site alterations in or adjacent to river or stream valleys, watercourses, hazardous lands and wetlands. Where lands are under regulation, the CA ensures that development proposals take into consideration natural features like floodplains, steep slopes, wetlands, rivers and lakes, through general policies that speak to buffers adjacent to natural features/areas in order to maintain ecological and hydrological functions. Portions of the property are CVC-regulated for crest of slope, floodplain, meander belt, slope hazard, and wetlands.

The amendment is not proposing any new development outside of the creation of the lots. CVC undertook a natural heritage assessment of the lands in 2019 as part of their Natural Areas Inventory (NAI) (See Section C Site Description). Additional review of the proposal, including the proposed delineation of the conservation severance parcel may be necessary. Recognizing that the CVC is the public body acquiring the lands (the proponent on their own lands), additional discussion may need to be undertaken with respect to whether it is appropriate for an external third-party consultant to be engaged on this matter.

The amendment proposes the acquisition of approximately 21.8 ha (53.8 ac) of lands by the CVC through a conservation severance, in order to facilitate the acquisition of natural areas for conservation uses, including re-alignment of the Bruce Trail (through an easement agreement). Conservation organizations are provided the ability to complete conservation severances through *Planning Act*.

## **8. Ontario Heritage Act (OHA), Ministry of Heritage, Sport, Tourism and Culture Industries**

The Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) oversees implementation of the *Ontario Heritage Act* (OHA) which came into force in 1975 and grants municipalities the ability to designate and protect properties of local heritage and archeological significance. The OHA also provides municipalities the ability to amend or revoke the designation. The heritage protection by-law currently in place will have to be amended should the proposal be successful and the property re-configured. The Cultural Policy Unit at the Ministry of Heritage, Sport, Tourism and Culture Industries

(MHSTCI) produces the *Ontario Heritage Tool Kit*, a series of guides that outlines the heritage conservation process in Ontario.

The Garrity Farmstead property subject of this proposal is identified by the Town of Caledon designation By-Law 2013-111 as having cultural heritage value or interest. The By-Law was amended in 2014 to reflect the demolition of the barn and construction of the garage.

### **C. SITE DESCRIPTION AND SURROUNDING LAND USES**

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The lands are characterized primarily by rolling topography and former open pasture and wooded area, a portion of which is associated with the Escarpment Natural Area and part of the Credit Forks Lowlands Life Science Area of Natural and Scientific Interest (ANSI). A tributary of the Credit River and an associated valley slope traverse the lands. One small wetland feature (the portion of the subject lands designated Escarpment Natural Area), is situated on the most westerly limit of the subject lands, and is identified as part of the Credit Forks Provincially Significant Wetland (PSW) complex which extends outside of the boundary of the subject lands to the south and east. A small dug pond is also situated on the eastern side of the property, adjacent to Hurontario St.

The Bruce Trail is currently situated along the adjacent section of Escarpment Sideroad. The preliminary Optimum Route of the Bruce Trail is identified on the subject lands, extending through the wooded area and eastward, along the tributary.

The adjacent land uses are a mix of rural residential and rural estate residential subdivision south of the property and the Devil's Pulpit golf course on the east side of Hurontario St.

As identified previously, portions of the lands are designated Environmental Protection Area (Town of Caledon) and Core Greenlands (Region of Peel). The CVC has identified a portion of the lands to also be within the Credit River Watershed Natural Heritage System (NHS), including high function woodland, high function valleyland, NHS buffers, NHS restoration priority.

The Ecological Survey of the Niagara Escarpment Biosphere Reserve (Riley & Jalava, 1996), is a comprehensive identification and summary of the outstanding natural areas along the Niagara Escarpment. The Ecological Survey identifies the Credit Forks site, which is situated to the southeast of the subject lands, as providing the best representation in the Dufferin Section of the major outlier valley feature, supporting the section's most extensive talus slopes. With respect to the ecological functions the larger area exhibits, the Survey notes that tree cover along the Credit River contributes to maintaining its status as one of the most important cold-water fish spawning areas in the region. The extensive corridor provides habitat for a diversity of species requiring relatively large tracts of undisturbed forest interior and includes natural areas such as the Silver Creek Valley and Credit River Lowlands. The Survey confirms the Credit Forks as a provincial ANSI and does not recommend further residential development within the site's boundaries.

While the subject property falls outside of the confirmed ANSI boundary, the ANSI data

layer does identify a portion of the site (the boundary of the woodland), as “Candidate” ANSI. Candidate ANSIs are areas of natural and scientific interest that have been identified and recommended for protection by the MNRF or other sources but have not been formally confirmed through the confirmation procedure. The MNRF confirms whether the ANSI is provincially, regionally, or locally significant. Staff is unaware of any plans for the candidate ANSI area to be confirmed in the future.

The CVC has identified a portion of the subject lands (boundary of the wooded area), as being part of the “Forks of the Credit Centre for Biodiversity”. CVC Staff provides the following description of Centres for Biodiversity (CVC, October 2020):

*Centres for Biodiversity are defined for the purposes of the Natural Heritage System (NHS) as “landscapes with a concentration of natural heritage features representative of physiographic regions in the watershed, which collectively represent important ecological features and functions capable of supporting native biodiversity over the long term.*

*Centres for Biodiversity are landscapes that contain the best representative aggregations of natural features such as woodlands, wetlands, aquatic habitat or open country habitat associated with the watershed’s major physiographic regions, one inland lake and one estuarine area in the Credit River watershed.*

*Centres for Biodiversity may contain several natural heritage features such as valleylands, wetlands, woodlands, aquatic habitat, and Lake Ontario shoreline. They may also contain other habitat contributing to diversity or connectivity of ecosystems on the landscape, such as tableland successional or other natural habitat, agriculture, open space, or urban land use.*

As noted, one wetland in the southern portion of the parcel is confirmed PSW (Credit Forks Wetland Complex). The pond in the agricultural field has been identified by MNRF but not yet evaluated, and at this time, it is not considered PSW. Two additional wetland communities have been identified by CVC staff (see ELC mapping, polygons MAM2-2 and SWM4-1); it is CVC staff’s recommendation that these should be considered for inclusion in the Credit Forks Provincially Significant Wetland Complex (however the MNRF has not confirmed significance to date).

The CVC provided data from the McLaren-Charleston South Natural Areas Inventory (NAI) dated May 2019. Vegetation communities were identified either through field surveys or aerial imagery interpretation. All field confirmed vegetation communities were classified by CVC Natural Heritage staff through the application of the southern Ecological Land Classification (ELC) system as follows (see attached Map 6):

FOM6-1 Forest Moist Sugar Maple & Hemlock Mixed Forest: Regionally Rare (Peel)  
FOM6-2 Fresh Moist Hemlock – Hardwood Mixed Forest  
SWD7-2 Yellow Birch Organic Deciduous Swamp  
SWM4-1 White Cedar-Hardwood Organic Mixed Swamp  
MAM2-2 Reed Canopy Grass Mineral Meadows Marsh

The CVC has confirmed a number of Species at Risk (SAR) have been confirmed on the site, and portions of the subject lands contain habitat types for SAR that have been

identified on adjacent lands.

### **Landscape Evaluation Study (NEC, 1976)**

The Landscape Evaluation Study (1976) was prepared as background for the NEP in determining its coverage and associated Land Use Designations. The Landscape Evaluation rates the subject lands as being within the 'Attractive' ranking. 'Attractive' units generally score a little lower than 'Very Attractive' in one or more of the components (e.g., landform, veg cover, land use, special features, views), but would likely still have prominent topographic relief and veg cover and views (i.e. edge, apron, valleys, upland hilly areas, or flatter areas with pleasing land uses and good views).

### **D. RELATED NIAGARA ESCARPMENT PLAN AMENDMENT APPLICATIONS**

Since the date of the original NEP approved in June 1985, the NEC has considered approximately fourteen (14) applications for site-specific amendments to the NEP for the creation of (a) lot(s) in excess of the lot creation policies. The preponderance of decisions on these proposals have been to refuse the applications on the basis that the proposal is inconsistent with the Purpose and Objectives of the Act and the Plan, insufficient planning justification and/or not in the public interest. Several of these proposals are summarized below.

Staff notes that most of these applications did not include a proposal for the conveyance or acquisition of conservation lands as part of the lot creation. Staff is unaware of any previous applications (Development Permit or Amendment), which have proposed the severance of a property that is subject to a Heritage Conservation Easement Agreement.

**23/N/86 (Daboll):** proposed to create a new lot by separating an industrial use from an existing residential use on the same lot. The application was supported by the Commission and the Hearing Officer. Cabinet approved the amendment on May 11, 1988.

**53/HW/89 (Davidson):** proposed an additional lot as infilling. The Commission and the Hearing Officer opposed. The file was closed on November 28, 2000.

**61/HW/89 (Gibson):** proposed an additional severance. The Commission and Hearing Officer opposed the application and the amendment was refused by Cabinet on February 16, 1994.

**PW 140 02 (Berlingieri):** The application submitted in January 2003 proposed a site-specific policy exception to allow the creation of a lot in excess of the lot creation policies in the Escarpment Protection Area. The application proposed to separate an approximate .09 ha (.25 ac) parcel with an existing residence and construct a new dwelling on the 3.13 ha (7.75 ac) lot. The Staff opinion was that the applicant had not provided sufficient justification for the application to proceed. The application lacked conformity with the new lots policies of the local official plan. The Commission supported the Staff recommendation and informed the Minister that in the opinion of the Commission, the application was not in the public interest and inconsistent with the Purpose and Objectives of the NEPDA, pursuant to S. 6.1(3) of the NEPDA.

In accordance with S. 6.1(4) of the NEPDA, the Minister's final decision was to refuse the application, finding that the application did not disclose a genuine planning justification.

**PN 152 04 (Tomshar Investments Inc.):** The application submitted in March 2004 proposed to amend the NEP to provide a site specific exception to the New Lots Policy of the Escarpment Protection Area designation, to permit the creation of a new building lot in excess of the provisions of the NEP, in conjunction with the dedication and conveyance of other remnant lands to the Short Hills Provincial Park.

Staff recommended that the proposal not be initiated/processed and that the Minister of Natural Resources be informed that the application was not in the public interest and should be refused pursuant to Section 6.1(3) of the NEPDA. Included in the reasons for recommending dismissal of the application was that the amendment proposal was inconsistent with the Purpose and Objectives of the NEPDA, the Purpose and Objectives of the Escarpment Protection Area, insufficient planning justification, inconsistency with municipal and provincial policy, and concern that consideration of the proposal could set a precedent and encourage the submission of other applications for the creation of a lot in excess of the number permitted by the NEP.

In 2006, the Minister concurred with the recommendation of the NEC and pursuant to S. 6.1.4 of the NEPDA, the approval of the amendment was deemed to be refused.

**PD 212 17 Sinclair (Scotts Falls):** The application was submitted in 2018, to amend the NEP by adding a special policy to apply to the subject property at 714148 1<sup>st</sup> Line EHS, Part Lots 12 & 13, Concession 1 EHS in the Town of Mono, County of Dufferin. The proposal was to permit the creation of lots beyond that which is supported by the Lot Creation policies of the NEP, and in doing so, facilitate the acquisition of significant conservation lands containing the Canning's Falls Complex Area of Natural and Scientific Interest (also known as Scott's Falls), by a public body for the purposes of securing the Bruce Trail corridor and conservation uses.

Staff found that there was adequate information and justification provided to warrant the initiation of the proposal (circulation and request for comments). The Commission endorsed the Staff recommendation. The final Staff recommendation was to support the amendment, finding that the proposed amendment reflected a special set of site-specific planning circumstances that if approved, would be beneficial from a public interest perspective. The Commission endorsed the Staff recommendation. The conservation lands subject of the conveyance (Canning's Falls complex) were not previously accessible to the public (without trespassing and had caused a great deal of impact). The acquisition of these environmentally significant lands by a public body (the BTC) would be facilitated by amending the NEP to permit a net of two additional new lots, which would ultimately achieve the long-envisioned goal of contributing these lands to the public system.

The amendment was approved by the Minister in March 2019.

## RELATED NIAGARA ESCARPMENT DEVELOPMENT PERMIT APPLICATIONS (The property)

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**Development Permit 10902/P/R/2014-2015/162** was issued in July 2015 to construct a 1 storey,  $\pm 4.5$  m ( $\pm 14.76$  ft) high,  $\pm 64.10$  sq m ( $\pm 690$  sq ft) two-car garage and driveway adjacent to an existing municipally designated heritage dwelling on an existing 24.25 ha (59.91 ac) lot. The garage has an architectural style sympathetic to its design. In December 2014, Town Council passed resolution 2014-417 approving an alteration request for the designated Garrity Farmstead property at 2975 Escarpment Side Road (designation by-law 2013-111). The approved alteration pertained to the construction of the two-car garage.

**Development Permit 10639 P/R/2011-12/248** was issued in January, 2014 to reconfigure two (2) existing lots of record and construct a 2 storey (plus walkout) ,  $\pm 1650$  sq m ( $\pm 17,742$  sq ft) single dwelling, having a maximum height of  $\pm 14$  m ( $\pm 46$  ft), septic system, driveway (with possible retaining wall), on each of the two reconfigured lots. Various accessory structures, including an existing livestock barn were also to be demolished as part of the proposal.

A condition of approval included a requirement for the existing dwellings to be demolished prior to commencing construction of the new dwelling on any one of the reconfigured lots, unless the existing brick farmhouse was retained through a heritage designation and registered easement under the *Ontario Heritage Act*. If such a designation was obtained, the farmhouse was to be listed on Appendix 3 to the Niagara Escarpment Plan and any future severance of the farmhouse would be prohibited as a surplus or second dwelling.

The heritage designation and Registered Heritage Conservation Easement Agreement was entered into with the Town of Caledon in November 2013 and filed with the NEC. The property is currently listed in Appendix 3 of the NEP (No. 10).

**Consent Application B10-13 (385277 Ontario Limited)** was conditionally approved by the Town of Caledon Committee of Adjustment in March 2013, for the reconfiguration of two existing lots.

**Development Permit 10614 P/R/2013-14/52** was issued in November 2013 (Directors Approval), to retain an existing barn (through a Heritage Conservation Easement), in conjunction with a conditional approved development under Development Permit 10639/P/R/2011-12/248. The barn was previously required to be demolished.

When the barn was undergoing restoration and being brought up to current standards, it was discovered that the foundation was incapable of supporting the structure as required, and the barn was ultimately demolished. Subsequently (post-demolition), the Heritage Committee of the Town of Caledon visited the site and authorized the removal of the barn from the HEA and designation report in lieu of the garage being constructed (DP 10902/P/R/2014-15/162 noted above).

**Development Permit 5576/P/R/95-96/111** was issued by the Commission in October 1995 for grading associated with a new septic system and to enlarge an existing lot.



**Development Permit 3685/P/R/87-88/412** was issued by the Commission in June 1988 for construction of a single dwelling on a proposed lot.

**Development Permit 2381/P/R/84-85/101** was issued by the Commission in August 1984 for construction of a dwelling addition.

## **E. ANALYSIS / AMENDMENT CONSIDERATIONS**

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### **INITIATING THE AMENDMENT**

Section 6.1(3) of the *NEPDA* provides that: *“Where, in the opinion of the Commission, an application for an amendment does not disclose a planning justification for the amendment, is not in the public interest, is without merit, is frivolous or vexatious or is made only for the purposes of delay, the Commission shall inform the Minister of its opinion and, where the Minister concurs in that opinion, the Minister shall inform the applicant in writing of his or her opinion and notify the applicant that unless the applicant makes written representations thereon to the Ministry within such time as the Minister specifies in the notice, not being less than 15 days from the time the notice is given, the provisions of this Act in respect of the considerations of the amendment shall not apply, and approval of the amendment shall be deemed to be refused.”*

Matters raised in this preliminary review of the application are noted in order to assist in coming to a determination if the application should be initiated under s. 6.1(2) of the *NEPDA*, and if so, to also provide the commenting agencies and the public with an initial understanding of the application. **The planning considerations as presented are not a complete review or analysis of the final merits of the application either in terms of the NEP or any other relevant legislation or regulation.**

In reviewing the proposed amendment, there are several key issues that must be addressed. All amendments must be considered against the Purpose and Objectives of the *NEPDA*, and the Objectives and provisions of the NEP, and be consistent with other provincial policies.

### **JUSTIFICATION FOR THE AMENDMENT**

Section 6.1(2) of the *NEPDA* states that an amendment application shall include a statement of the justification and shall be accompanied by research material, reports, plans and the like, that were used in the preparation of the amendment

NEP Section 1.2.1 Plan Amendments provides that the Plan may be amended if:

- the Purpose and Objectives of the *NEPDA* and the NEP are met;
- justification for the amendment is provided; and,
- it can be demonstrated that the proposed amendment and the expected impacts resulting from the proposed amendment do not adversely affect the Purpose and Objectives of the *NEPDA*.

Prior to recommending that an application should be initiated, the NEC must determine if the applicant has provided a statement of justification which addresses the above.

**However, even if the proposed amendment is processed by the NEC at this stage, again, Staff cautions that this is not an endorsement of the eventual approval of the amendment application in whole or in part.**

The applicant has provided a Planning Justification Report prepared by JL Cox Planning Consultants Inc. (July 2020, Revised Addendum November 26, 2020).

A summary of the applicant's justification is as follows:

- The proposed applications are consistent with PPS 2020, conform to the Provincial Growth Plan, and are not in conflict with any other Provincial Plans.
- The applications generally conform to the policies of the NEP, particularly as they apply to protection of the natural environment and facilitating public access through dedication of lands to a public agency, and that there are no additional visual impacts from the proposal. An amendment to the NEP is required to permit the creation of an additional lot.
- The applications also generally conform to the policies of the Caledon OP which support some severance of properties within the Rural Lands designation and encourage the retention of natural heritage access and improvements to trail systems such as the Bruce Trail. An amendment of the OP is required to permit an additional severance of the property and to create lots smaller than 6 ha. in size.
- The proposed applications are compatible with adjacent land uses and will result in additional protection for natural heritage lands; and there are no visual impacts or impacts on agriculture or the existing built heritage resource.
- The proposed new lots resulting from the applications are already provided with suitable access and water and septic services. No impacts on requirements for municipal services are expected.

Credit Valley Conservation staff have indicated that the acquisition of a portion of the subject lands as proposed would achieve a number of CVC objectives and provide a number of opportunities, including:

- Acquisition of a portion of future optimum route of the Bruce Trail;
- Acquisition of a portion of the Forks of the Credit Centre for Biodiversity; and,
- Protection of land with provincial and municipal designations such as Caledon – EPA, Peel Greenlands, Credit Forks PSW, and Credit Forks lowland (Candidate) Life Science ANSI;
- Opportunities for naturalization and restoration.

*NEC Staff Comment:*

With respect to the submission that the acquisition of lands with provincial and municipal designations being afforded protection by being in public ownership, Staff would note that the natural heritage features associated with the subject lands are currently afforded a high level of protection by way of being within the NEP Area and having the Objectives of Part 1 (Escarpment Protection Area), and Development Criteria in apply to any development proposals, and additionally by the policies of the PPS (2020), and the municipal land use designations and related policies.

Staff would agree that while lands under the ownership of a public body being managed for conservation purposes and passive recreation may result in fewer development pressures, the current policies of the NEP and PPS, together with the municipal OP have been working to ensure that the lands are developed in a manner which protects the natural and cultural heritage attributes of the property.

Further discussion on the merits of the planning justification are contained in the sections below.

### **The NEPDA & the NEP**

#### **1. Does the Proposed Amendment satisfy the Purpose and Objectives of the Niagara Escarpment Plan and the *Niagara Escarpment Planning and Development Act*?**

The **Purpose** of the Act and the Plan is: “to provide for the maintenance of the Niagara Escarpment and land in its vicinity as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment”.

The **Objectives** of the Act and the NEP are:

1. *To protect unique ecologic and historic areas;*
2. *To maintain and enhance the quality and character of natural streams and water supplies;*
3. *To provide adequate opportunities for outdoor recreation;*
4. *To maintain and enhance the open landscape character of the Niagara Escarpment, in so far as possible, by such means as compatible farming or forestry and by preserving the natural scenery;*
5. *To ensure that all new development is compatible with the purpose of the Plan;*
6. *To provide for adequate public access to the Niagara Escarpment; and,*
7. *To support municipalities within the Niagara Escarpment Plan Area in their exercise of the planning functions conferred upon them by the Planning Act.*

#### ***NEC Staff Comment:***

The subject lands are already located within the NEP Area and therefore have met the tests of contributing to the Purpose and Objectives of the NEPDA and the NEP. What is at issue for consideration in this amendment proposal is the appropriateness of allowing site-specific special policy provisions to the NEP Lot Creation policies in Part 1.4 and Part 2.4, and Part 2.10 Cultural Heritage policies (and related Appendix 3), in order to allow for the creation of a lot containing a dwelling with a heritage conservation easement agreement and listed in the NEP Appendix 3, and whether this site-specific application seeking a policy exception is consistent with the Purpose and Objectives of the NEP.

The lot creation and conservation severance are proposed in the Escarpment Protection Area designation. The boundaries of the natural heritage features are generally respected in the proposed delineation of the land to be acquired by the Conservation Authority. These lands generally include the PSW (designated Escarpment Natural Area), ESA (candidate), ANSI (candidate), and tributary of the Credit.

With respect to the lands proposed for public ownership, should the lands be conveyed, the Conservation Authority would be responsible for managing the acquired lands in a manner that upholds the Purpose and Objectives of the NEP, and it would be expected that the lands would be put into the NEPOSS. The NEP Objectives respecting supporting and creating opportunities for recreation and public access would be

required to be balanced with any development of the lands (i.e., trails), demonstrating compatibility with the Purpose and Objectives of the Plan respecting the protection of natural heritage and water resources, in addition to meeting the Objectives and policies of Part 3 of the NEP.

### **Land Use Designation and Designation Criteria**

#### ***2. Is the Amendment consistent with the Objectives of the Designation and the Designation Criteria in the NEP?***

#### **Escarpment Natural Area Designation**

The Escarpment Natural Area includes Escarpment features that are in a relatively natural state and associated valleylands, wetlands and woodlands that are relatively undisturbed. These areas contain natural features that provide essential ecosystem services. They are the most sensitive natural and scenic resources of the Escarpment. The policies aim to protect and enhance these natural areas.

The Objectives of the Escarpment Natural Area are to recognize, protect and where possible enhance the natural heritage and hydrological systems associated with the NEP Area, to protect the most natural Escarpment features, valleylands, wetlands and related significant natural areas, to conserve cultural heritage resources, including features and areas of interest to First Nations and Metis communities, to encourage compatible recreation, conservation and educational activities; and, to maintain and enhance the scenic resources and open landscape character of the Escarpment.

#### ***NEC Staff Comment:***

A very small portion of the subject lands are designated as Escarpment Natural Area (meeting Criterion 4 as a Provincially Significant Wetland). The Escarpment Natural Area on the subject lands is protected by the Part 2 Development Criteria respecting key natural heritage features and key hydrologic features (a prohibition of development in wetlands, and demonstration of no negative impacts for adjacent lands). The acquisition of the lands by the Credit Valley Conservation would enable the portion of the lands to be acquired to be part of the NEPOSS, and overall, the Objectives and Criterion for the Escarpment Natural Area designation would not be expected to be adversely impacted by the proposal.

#### **Escarpment Protection Area Designation**

Escarpment Protection Areas are important due to their visual prominence and their environmental significance, and their role as buffers to the prominent and sensitive Escarpment Natural Area features. They are often more visually prominent than Escarpment Natural Areas and include Escarpment related landforms and natural heritage and hydrologic features that have been significantly modified by land use activities such as agriculture or residential development.

The Objectives of the Escarpment Protection Area include to maintain and enhance the scenic resources and open landscape character of the Escarpment, to buffer the prominent Escarpment features, to recognize, protect and where possible enhance the

natural heritage system associated with the NEP Area and to protect natural areas of regional significance, to conserve cultural heritage resources, including features and areas of interest to First Nation and Metis communities; and, to encourage compatible recreation, conservation and forest management activities.

*NEC Staff Comment:*

The proposal is seeking a net increase of one additional building lot in the Escarpment Protection Area designation in this location. No additional development on the parcel containing the heritage conservation easement (proposed 'Parcel A') is being proposed at this time.

Part of the planning rationale purported by the Applicant is that the second dwelling already exists, and there would be no additional built form on the landscape (no further development of the lot is being proposed at this time). Both residential properties would have access from Escarpment Sideroad and Hurontario Street respectively, and their own private well and septic. Therefore, from the Applicant's perspective, the additional lot creates no additional impact on the landscape. Any future development would be required to be assessed through a subsequent Development Permit Application (subject to the Amendment ultimately being approved). Staff provides further comments with respect to the potential impact of the proposal (and subsequent proposals), on the open landscape character of the Escarpment in the sections below.

**3. *Is the proposed amendment in the public interest and is there a need to accommodate the proposed use within the NEP area given the availability of lands both within and outside the NEP?***

In consideration of an amendment application the NEC must decide on one of two processes:

Section 6.1(1) of the *NEPDA* allows an application for amendment to the NEP to be made by any person, Ministry, or municipality. The NEC may, however, refuse to initiate an amendment and send it to the Minister for a determination (i.e., initiate or reject).

Section 6.1(3) provides the opportunity for the Commission to advise the Minister if an application for amendment does not disclose sufficient planning justification, is not in the public interest, is without merit, is frivolous or vexatious, or is made only for the purpose of delay. Historically, this determination has been applied sparingly (see Related Files section), but could be considered, for example, where the justification is insufficient, the application is clearly not in the best interests of the NEP, or the application is deemed unlikely to succeed. Examples provided include those proposals which did not include the conveyance of conservation lands (e.g., NEPA 152 Tomshar).

The NEPDA Section 6.1(4) allows the Minister to make a final decision following representation by the Applicant pursuant to Section 6.1(3). The Minister could reject an application or direct that it be initiated and processed by the NEC.

Notwithstanding the concerns identified herein, Staff is providing the Commission with recommendation to initiate the application, on the basis that the Applicant has provided a degree of justification meeting the threshold for the application to proceed and be circulated

for comment and further assessment. This recommendation is primarily based upon the consideration of NEP Objective 3 respecting the provision of adequate opportunities for outdoor recreation, and the Part 3 NEPOSS Objectives; namely, to provide opportunities for outdoor education and recreation and for public access to the Niagara Escarpment, and to secure a permanent route for the Bruce Trail. Circulation of the proposal would allow municipal partners to assess conformity with their Official Plans and allow opportunity for broader public input, and recommendation from the NEC Public Interest Advisory Committee (PIAC).

If the application were to proceed, there are a number of outstanding matters to be considered including, whether or not the lands proposed to be conveyed represent lands which offer an essential contribution to the NEP Objectives respecting public access opportunities and Part 3 NEPOSS, and whether or not the integrity of the NEP Objectives and policies respecting Cultural Heritage would be upheld over the long-term, through the approval of the amendment. Notably, Staff points to Objective 1 of the NEP Part 3 NEPOSS Objectives which is: *To protect the Niagara Escarpment's natural heritage resources and conserve its cultural heritage resources*. It is evident in the reading of this Objective, together with the Purpose of the Plan and the Act, that the achievement of the NEP Objectives respecting public access and securement of the permanent route for the Bruce Trail were never intended to supersede or be at the expense of, the long-term protection of natural and cultural heritage resources.

With respect to whether the application is in the public interest, an application would be considered not in the "public interest" if there was major inherent conflict with the underlying Purpose and Objectives of the *NEPDA* and NEP. An additional consideration in assessing public interest is with respect to public confidence in the planning process. If the facts of a proposed amendment are such that to approve it would undermine confidence in the planning approvals process, it could be said that the proposal is not in the public interest. The erosion of confidence in the NEC's approval process in this instance could result from the previous Development Permit approval which was issued with a Condition prohibiting the severance of the dwellings, and which the current application now seeks to dissolve. And further concern with similar proposals arising as a result.

Staff has concern that initiation of this application could establish an undesirable precedent and lead to further amendment proposals for severance of lots containing two single dwellings as a result of a heritage easement agreement, and where donation of lands containing natural heritage features is proposed in exchange for lot creation that would otherwise not be supported by the Plan, essentially compromising the intent and integrity of the NEP Cultural Heritage Objectives and policies and Lot Creation policies.

Through the consideration of this application, the NEC is essentially being asked whether deviating from a prior binding NEC Development Permit condition, prohibiting any further severances of the heritage dwelling is acceptable because doing so would result in land being transferred to the benefit of two public agencies, and involving public access.

A preliminary review of the existing NEP Appendix 3 Residential Protected Heritage Property Listings by Staff indicates that there are a number of other similar scenarios where the properties listed in Appendix 3 are adjacent to lands in the public domain, and/or contain natural heritage features that are contiguous to adjacent significant natural areas, and/or where the Optimum Route of the Bruce Trail is identified on the properties.

Therefore, making the current amendment proposal and planning justification less “unique” in the set of site-specific planning circumstances, and highlighting Staff’s concern respecting the potential for precedence.

There are no NEP policies, guidelines or technical criteria that speak to the assessment of applications to amend the Plan policies on a site-specific basis in return for the dedication of lands to a public body and inclusion of the lands the open space system and/or securement of the permanent route of the Bruce Trail. Over the years NEC Staff have applied a consistent approach to the assessment of these proposals, absent any policies or guidelines (e.g., assessment of the land values from a natural heritage perspective in the context of the public interest).

While there are Objectives in the Act and the Plan to provide adequate opportunities for outdoor recreation; to provide for adequate public access to the Niagara Escarpment; and, to secure a permanent route for the Bruce Trail, these Objectives must be balanced against the overall Purpose of the Plan and the Act and the other Objectives namely, (a) to protect unique ecologic and historic areas”; (b) to maintain and enhance the quality and character of natural streams and water supplies”; and “(e) to ensure that all new development is compatible with the purpose of the Act. Staff are of the opinion that the implementation of the NEP Objectives and Policies as written and contained in Parts 1, 2 and 3, provides this ‘balance’.

The single approved NEP amendment on file, which sought a site-specific exception to the lot creation policies, and involving the conveyance of lands to a public body (NEPA 212, Sinclair), is in Staff’s perspective, truly distinctive from the current application being considered in the set of site-specific planning circumstances. The lands conveyed through the approval of NEPA 212 comprise the Canning’s Falls Complex, which are of substantial greater significance from a natural heritage and public interest perspective, in comparison to the subject lands. The Canning’s Falls Complex lands have been well documented over the years as provincially significant lands which would benefit greatly from being in the public domain. Additionally, given these sensitive lands were experiencing negative impacts from trespassing and misuse, the benefits of land management by a public body was observed to be of benefit over the long-term in supporting the Purpose and Objectives of the NEP.

Staff also point to proposed NEPA 152 (Tomshar), where NEC Staff concluded that the proposal did not provide sufficient planning justification, and was not in the public interest, finding that the recreational value of the lands proposed to be conveyed was nominal. Staff found that while the long-term goal of acquisition of the lands as part of the Short Hills Provincial Park were valid, the primary purpose of such acquisition was identified to be more for the provision of natural area protection of the vulnerable Escarpment slopes and a watercourse, rather than for providing public access, and these features were already provided a strong degree of protection by way of being within the NEP Area.

An Objective of the ***Escarpment Protection Area*** is “to encourage compatible recreation, conservation and educational activities.” However, it is not expected nor intended that all the Escarpment (private) lands found to meet this Objectives should be secured by a public body for recreational or conservation uses. Such a goal would be unaffordable, both financially and from a public interest perspective, and if faced with

additional applications for site-specific policy exceptions on this basis, would erode the Purpose and Objectives of the Act and the Plan. Of course, it is not possible for staff to have a full understanding of how many similar proposals may arise, and what the priority acquisitions are for any public body, in order to comprehend the full risk of precedence. It is understood that a public body may not desire all lands that are offered by donation, and that acquiring land comes with other costs and considerations (even if donated).

Staff notes that there are alternatives (to the request for additional lot creation), to achieve the desired objectives of the public bodies, including an easement agreement between the landowner and the public body(ies), or purchase of the lands by the public body to allow for a conservation severance (without the lot creation component that could undermine the NEP's cultural heritage conservation policies). While Staff recognizes that such alternatives are unlikely to achieve the interests of the private landowner, consideration of alternatives should be required, and would better support the broader public interest and ensure the Purpose and Objectives of the NEPDA and the Plan are upheld now and into the future.

NEP Part 2.2.7 allows for consideration of a second single dwelling on an existing lot of record if the existing single dwelling is a heritage attribute and is subject to a heritage conservation easement. Approval of the development of a second single dwelling in this scenario is on the basis that the second single dwelling is the only viable way to preserve and protect the heritage of the existing dwelling. If, as the planning justification report presents, the heritage status of the existing dwelling can be equally preserved over the long-term on a separate lot of record, it undermines the NEP cultural heritage policies respecting how these features should be maintained.

A complicating factor in the consideration of the proposed amendment is that in addition to seeking a site-specific policy exception to the new lots policies of the NEP, the proposal also seeks to essentially "undo" the Conditions of a previous Development Permit which approved the development of the second single dwelling on the basis of a heritage conservation easement. Most relevant of those Conditions of Approval seeking to be dissolved is that the neither of the dwellings are to be severed. A subsequent Development Permit would be required to address this matter (should the Amendment be approved).

Further, while the heritage conservation easement agreement requires that the landowner maintain the heritage dwelling in a good state of repair, and not cause or permit the demolition, construction, or alteration of the dwelling, ultimately if for some reason the dwelling was destroyed under any variety of circumstances, and restoration of the dwelling was not feasible, there is no remedy that could be applied respecting the new lot that now exists without the heritage dwelling. The lot would be considered an existing lot of record under the NEP, and Development Permit Application for new development could be considered. If this scenario were to occur under the current conditions, there would be no additional lot subject to additional development, and the second single dwelling would remain the only single dwelling on the lot going forward.

#### ***4. Is the Amendment consistent with the Provincial Policy Statement (PPS), Greenbelt Plan, Places to Grow, and local planning documents?***

Discussion has been provided earlier in this Report (Section B Planning Documents),



with respect to the planning framework and policy that the proposal is required to be assessed against, and the applications consistency with the PPS (2020), Growth Plan, local Official Plans and the Greenbelt Plan. Circulation of the proposal to the affected ministries, municipality and Conservation Authority would allow for further evaluation of the proposal against the provincial and municipal planning policy.

## **F. CONCLUSIONS**

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The lot density provisions of the NEP are fundamental in achieving the Purpose and Objectives respecting the maintenance and enhancement of the open landscape character of the Niagara Escarpment. While sufficient planning justification and a case for achieving the public interest may be made for these types of proposals on a site-specific basis, the broader landscape scale, cumulative impacts of these types of site-specific exceptions needs to be considered Plan-wide, given that these scenarios may not be so unique across the Escarpment.

In conclusion, there are underlying concerns at this stage of the amendment consideration as to whether the proposal wholly upholds the Purpose and Objectives of the NEP, both at the site-level and in the context of potential cumulative impacts on a Plan-wide, landscape scale perspective. Further, approval of this application is inconsistent with the previous NEC Development Permit prohibiting any further severances.

However, Staff is recommending that the Commission circulate and further consider the proposal based on the merits of the proposal in meeting the NEP Objectives related to the NEPOSS; namely, the provision of public access and supporting the permanent route of the Bruce Trail.

Staff advises that should the Commission endorse proceeding with processing of the application at this time, doing so does not represent an endorsement of the eventual approval of the amendment application in whole or in part. Staff would consider any comments received through circulation of the proposal and return to the Commission with a comprehensive policy analysis and final recommendation. Staff notes however that with respect to further consideration of the public interest – individual comments submitted on the site-specific application from the public, either in support of or opposed to the proposal, while relevant for consideration in coming to a final recommendation on the proposal, do not represent the “public interest”. However, it is recognized that other public agencies may bring additional insight on matters related to the public interest and the Public Interest Advisory Committee (PIAC) would also convene to provide advice and recommendation on the proposal.

Notwithstanding the Staff recommendation outlined above to proceed with circulation of the proposal, given the concerns Staff has presented herein respecting whether the public interest has been met in the context of the Purpose and Objectives of the NEPDA and the NEP, and that approving the application would be contrary to a prior NEP approval, the Commission does have the option to not endorse the Staff recommendation and pursuant to NEPDA S.6.1(3), recommend to the Minister that the application not proceed. This would be on the basis that the Commission finds that the proposal is not in the public interest, and given the potential for additional similar applications that could arise and cumulatively jeopardize the Purpose and Objectives of the Plan respecting the maintenance of the open landscape character of the Escarpment.

## RECOMMENDATION

That the Niagara Escarpment Commission instruct staff to process the proposed Amendment PP 220 20 Baghai for circulation and notification pursuant to Section 6.1(2) of the *Niagara Escarpment Planning and Development Act*.

### Attachments

Map 1	Amendment Location Map/Existing NEP Designations
Map 2	Orthophoto
Map 3	Natural Heritage Features
Map 4	Landscape Evaluation Study
Map 5	Soils
Map 6	Ecological Land Classification (ELC) Communities (prepared by CVC)
Figure 1	Proposed Lot Configuration Concept Plan (Prepared by Applicant)
Appendix 1	Proposed Amendment Document – Prepared by Applicant (January 2021)
Appendix 2	Circulation and Notification

### **Prepared By:**

Original signed by:

---

Lisa Grbinicek, RPP, MCIP  
Senior Strategic Advisor

### **Approved by:**





Original signed by:

---

Debbie Ramsay, RPP, MCIP  
A/Director

# Map 1 Amendment Location and the Niagara Escarpment Plan

Amendment No. PP 220 20  
Baghai  
Town of Caledon  
Regional Municipality of Peel

-  Area Subject to the Amendment
- Plan Designations**
  -  Escarpment Natural Area
  -  Escarpment Protection Area
  -  Escarpment Rural Area
  -  Mineral Resource Extraction Area
  -  Roads
  -  Waterbodies
  -  Watercourse
  -  Upper Tier Municipality
  -  Lower/Single Tier Municipality
  -  Lot and Concession Boundary

NOTE: The Niagara Escarpment Plan Designation boundaries shown on this map are approximate and subject to confirmation through Site Inspection and the application of the 'Interpretation of Boundaries' section of the Niagara Escarpment Plan

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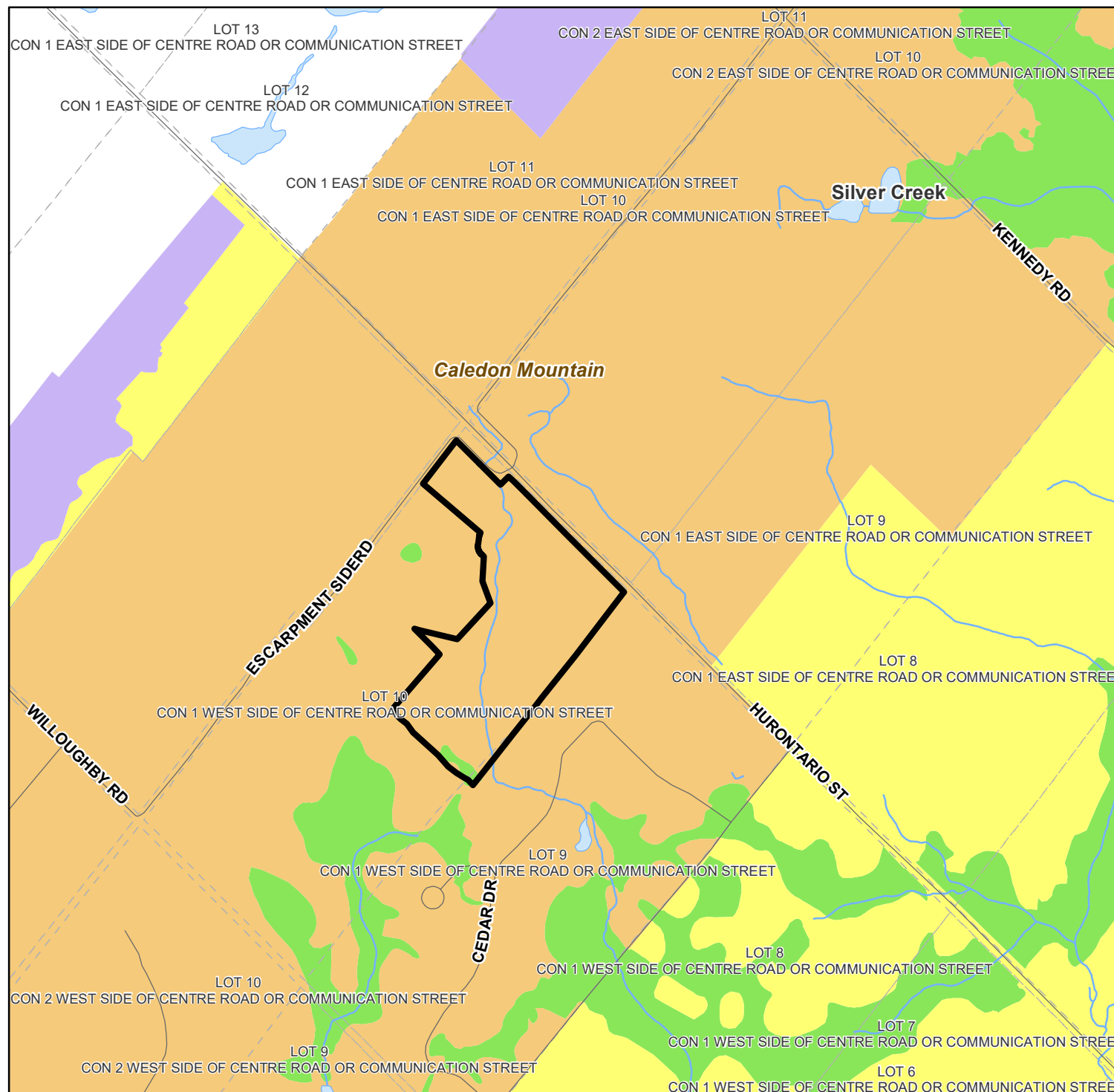
Metres

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

















# Map 3 Natural Heritage Features and Bruce Trail

Amendment No. PP 220 20  
Baghai  
Town of Caledon  
Regional Municipality of Peel

-  Area Subject to the Amendment
- Plan Designations**
-  Escarpment Natural Area
  -  Escarpment Protection Area
  -  Escarpment Rural Area
  -  Mineral Resource Extraction Area
  -  Roads
  -  Waterbodies
  -  Watercourse
  -  Upper Tier Municipality
  -  Lower/Single Tier Municipality
  -  Lot and Concession Boundary
  -  Wooded Area
- Bruce Trail**
-  Main Trail
  -  Optimum Route (OR)
  -  ESA - Peel (Potential)
- Evaluated Wetlands**
-  Evaluated-Provincial
  -  Evaluated-Other
  -  Candidate ANSI, Life Science

NOTE: The Niagara Escarpment Plan Designation boundaries shown on this map are approximate and subject to confirmation through Site Inspection and the application of the 'Interpretation of Boundaries' section of the Niagara Escarpment Plan

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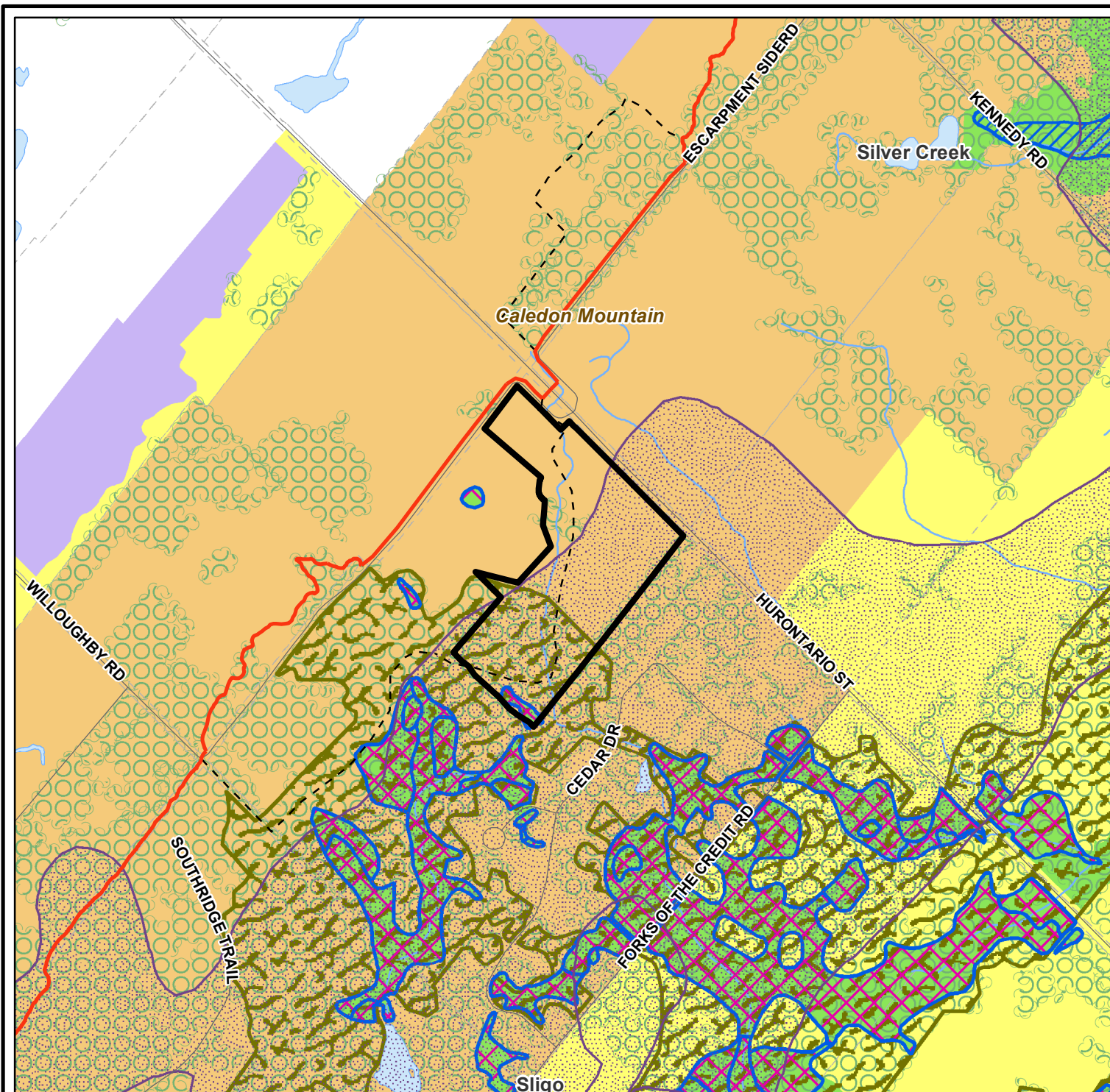
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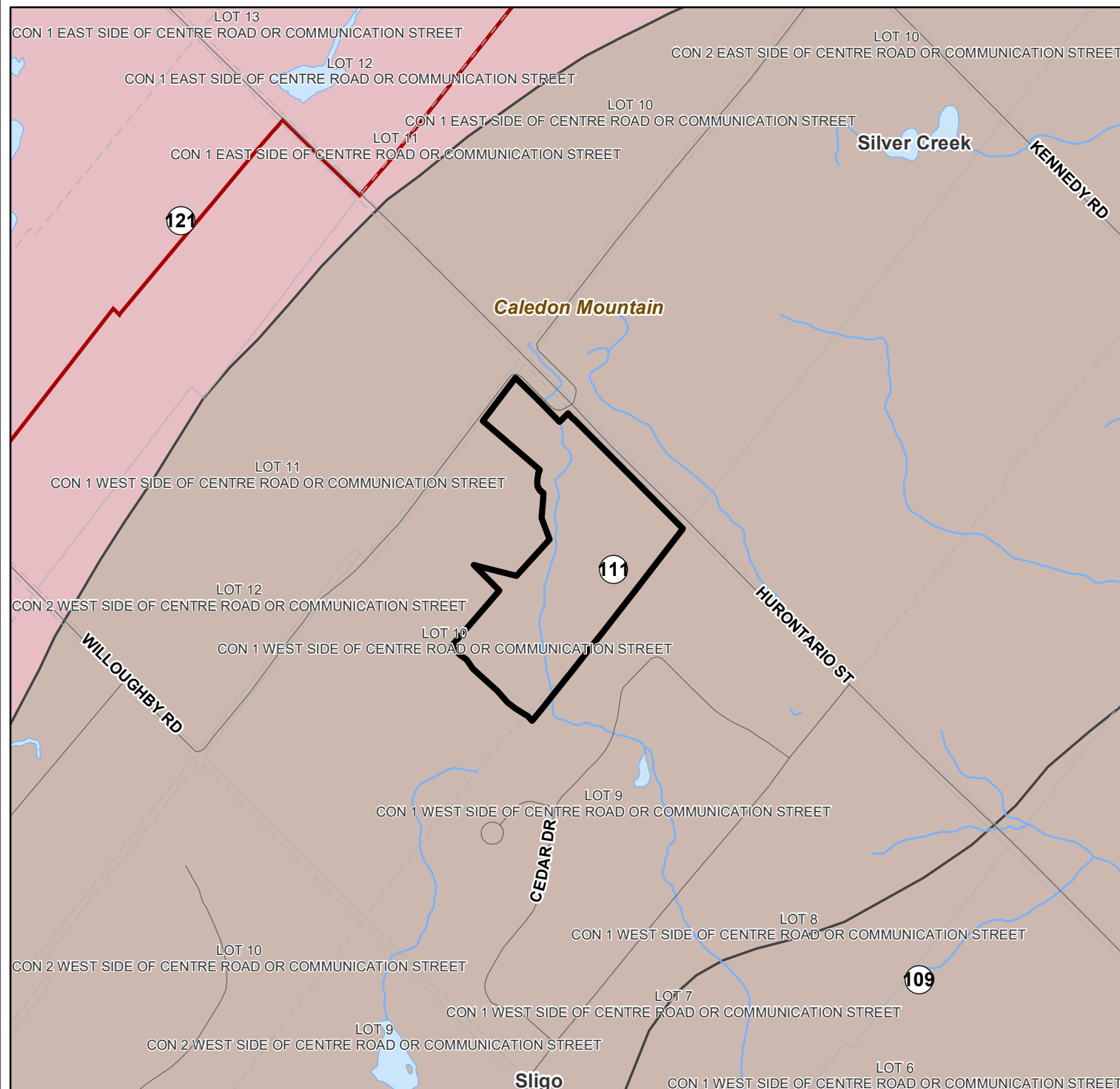
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# Map 4 Landscape Evaluation Study

Amendment No. PP 220 20  
Baghai  
Town of Caledon  
Regional Municipality of Peel



- Area Subject to the Amendment
- Niagara Escarpment Plan Area
- Landscape Evaluation Study**
- Attractive
- Low
- Roads
- Waterbodies
- Watercourse
- Upper Tier Municipality
- Lower/Single Tier Municipality
- Lot and Concession Boundary

NOTE: The Niagara Escarpment Plan Designation boundaries shown on this map are approximate and subject to confirmation through Site Inspection and the application of the 'Interpretation of Boundaries' section of the Niagara Escarpment Plan

Scale 1:15,000  
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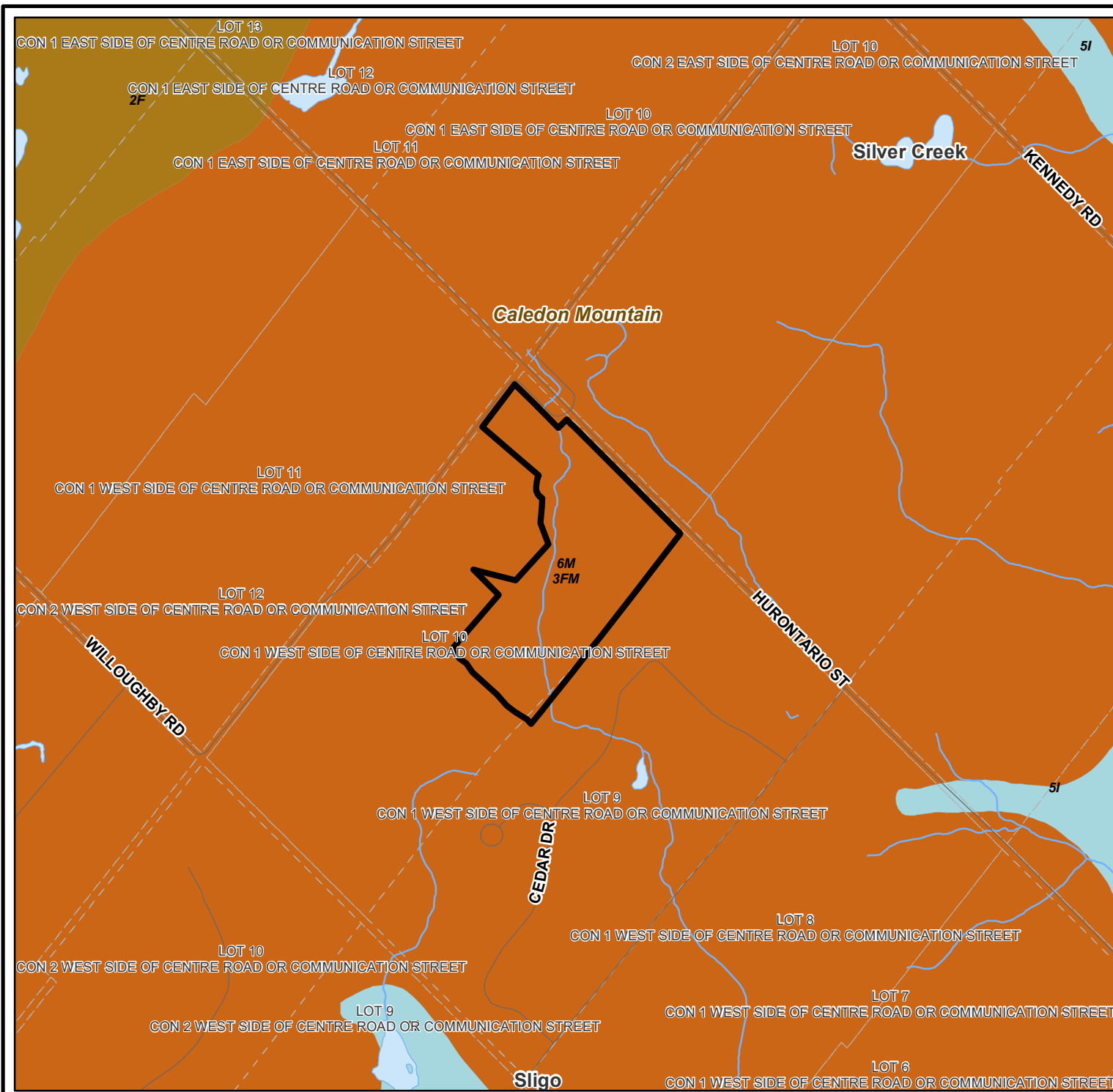
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## Map 5 Soils

Amendment No. PP 220 20  
Baghai  
Town of Caledon  
Regional Municipality of Peel

- Area Subject to the Amendment
- Roads
- Waterbodies
- Watercourse
- Upper Tier Municipality
- Lower/Single Tier Municipality
- Lot and Concession Boundary

### Soils - Canada Land Inventory

#### Class

- 2
- 5
- 6

### Soils - Hydrological Soil Group

#### Class

- A

### Soils - Drainage

#### Class

- Poorly Drained
- Well Drained

NOTE: The Niagara Escarpment Plan Designation boundaries shown on this map are approximate and subject to confirmation through Site Inspection and the application of the 'Interpretation of Boundaries' section of the Niagara Escarpment Plan

Scale 1:15,000  
0 125 250 375 500

Metres

Printed on Feb 23, 2021

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MAP 6 Ecological Land Classification (ELC)



**Legend**

-  Conveyed Parcel (estimated)
-  ELC and Land Use

CODE	DESCRIPTION
AGN	Non-intensive agriculture
CUM	Cultural meadow
FOD5-1	Dry-Fresh Sugar Maple Deciduous Forest
FOM6-1	Fresh-Moist Sugar Maple - Hemlock Mixed Forest
FOM6-2	Fresh-Moist Hemlock - Hardwood Mixed Forest
MAM2-2	Reed Canary Grass Mineral Meadow Marsh
MOS	Manicured open space
SWD7-2	Yellow Birch Organic Deciduous Swamp
SWM4-1	White Cedar - Hardwood Organic Mixed Swamp



1:5,000

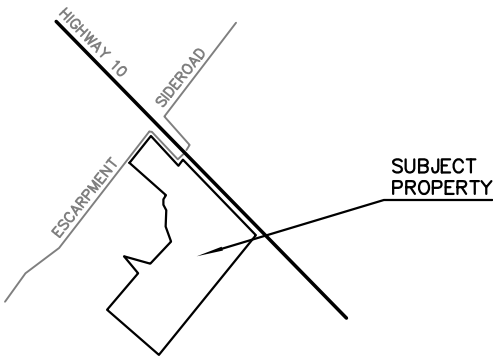


SKETCH FOR NEC PLAN AMENDMENT  
SHOWING PROPOSED LOT CREATION  
2975 ESCARPMENT SIDEROAD  
TOWN OF CALEDON  
REGIONAL MUNICIPALITY OF PEEL

J. R. FINNIE O.L.S.  
SCALE 1: 3500 METRIC  
0 30 60 90 120 METRES

**METRIC**  
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY  
DIVIDING BY 0.3048.

KEY MAP

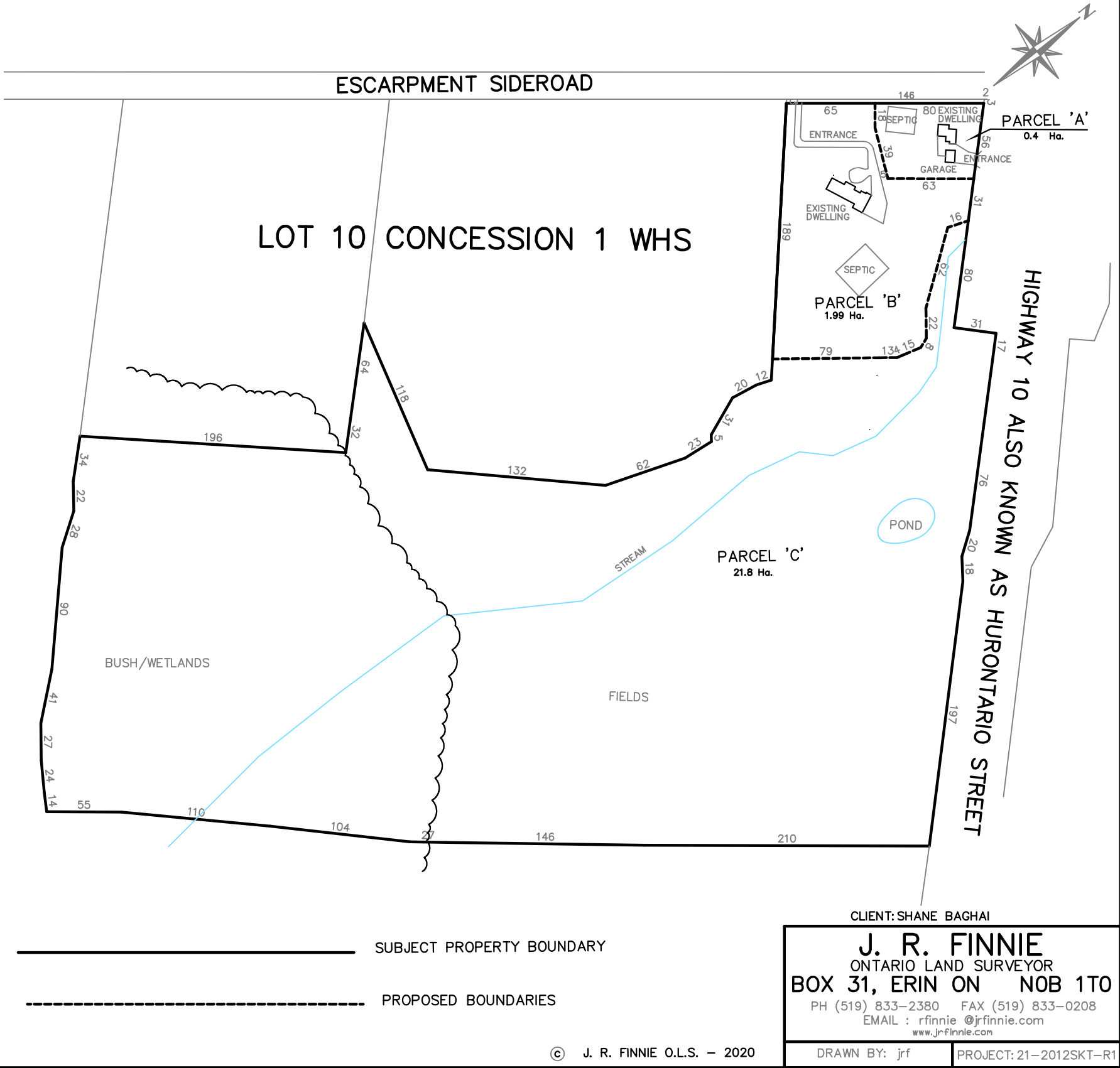


NOTES

PARCEL 'A' IS HERITAGE FARMHOUSE  
PARCEL 'B' IS NEW DWELLING  
PARCEL 'C' IS LAND TO BE DONATED TO CREDIT VALLEY CONSERVATION  
BOUNDARY BETWEEN PARCELS 'B' AND 'C' TO BE DETERMINED AT A LATER DATE.  
AREAS AND DISTANCES ARE APPROXIMATE, DERIVED FROM AERIAL PHOTOS AND PUBLISHED INFORMATION.

CAUTION

THIS IS NOT A PLAN OF SURVEY AND SHALL ONLY BE USED FOR PURPOSE INDICATED IN THE TITLE BLOCK.



**Niagara Escarpment Commission**

232 Guelph St.  
Georgetown, ON L7G 4B1  
Tel: 905-877-5191  
Fax: 905-873-7452  
www.escarpment.org

**Commission de l'escarpement du Niagara**

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www.escarpment.org



**Niagara Escarpment Commission**  
An agency of the Government of Ontario

March 18, 2021

**AMENDMENT DOCUMENT**

**RE: NIAGARA ESCARPMENT PLAN AMENDMENT PP 220 20 (BAGHAI)**  
**Baghai Development Ltd.**  
**2975 Escarpment Sideroad**  
**Lot 10, Concessions 1 WHS**  
**Town of Caledon, Region of Peel**

---

**Recommendation:**

That the Niagara Escarpment Commission circulate the attached Amendment Document prepared by the Applicant's Planning Consultant (Amendment No. PP 220 20), as the Proposed Amendment for the subject property at 2975 Escarpment Sideroad.

**Prepared by:**

Original signed by:

---

Lisa Grbinicek, RPP, MCIP  
Senior Strategic Advisor

**Approved by:**

Original signed by:

---

Debbie Ramsay, RPP, MCIP  
A/Director

**PROPOSED NIAGARA ESCARPMENT PLAN  
AMENDMENT PP 220 20**

**BAGHAI**

**March 18, 2021**

## **TABLE OF CONTENTS**

**PART A – The Preamble**

**PART B – The Amendment**

**PART C – SCHEDULE A**

## **Part A – The Preamble**

### **Purpose:**

The purpose of the amendment affecting the lands shown on Schedule A, attached hereto, is to amend the Niagara Escarpment Plan (NEP) by adding a special site-specific policy provision, under Part 1.4.4 Escarpment Protection Area, Part 2.4 Lot Creation policies and Part 2.10 Cultural Heritage, that would facilitate the acquisition of approximately 21.8 ha of environmentally significant conservation lands containing the natural heritage features by a public body, and in doing so, permit the creation of three parcels of land as follows:

Parcel A - consisting of a 0.4 ha. (1.0 ac.) lot containing the original farmhouse by means of a consent from the Town of Caledon

Parcel B - consisting of a 2.0 ha. (4.9 ac.) lot containing the newer house on the retained lands when Parcel C is conveyed

Parcel C - consisting of a 21.8 ha. (53.8 ac.) to be conveyed to Credit Valley Conservation

### **Location:**

The property subject of this amendment is known municipally as 2975 Escarpment Sideroad and the legal description is Part of Lot 10, Concession 1 WHS in the Town of Caledon, Region of Peel.

### **Applicant:**

Baghai Development Limited

### **Basis:**

Under Section 6.1(2) of the *Niagara Escarpment Planning and Development Act*, an amendment to the Niagara Escarpment Plan “*may be initiated by the Minister or the Commission, and application may be made to the Commission by any person or public body requesting an amendment to the Plan.*”

Part 1.2.1 of the NEP sets out provisions for an amendment to the NEP and this application satisfies Section 1.2.1.

This amendment to the Niagara Escarpment Plan addresses policy changes required to address Part 1.4 and 2.4 of the NEP respecting the creation of new lots in the Escarpment Protection Area following the acquisition of lands by a public body, and Part 2.10 respecting conservation of cultural heritage resources by providing that the existing heritage farmhouse on the property will be preserved on a separate lot.

Section 6.1 (2.1) of the *Niagara Escarpment Planning and Development Act* requires

that an application to amend the NEP be supported by a “statement of justification” and Section 8 sets out the objectives to be addressed in consideration of an amendment to the NEP. The applicant has provided a Planning Justification Report which satisfies the threshold justification requirements of the *Niagara Escarpment Planning and Development Act*.

## **Part B – The Amendment**

The Niagara Escarpment Plan is amended as follows:

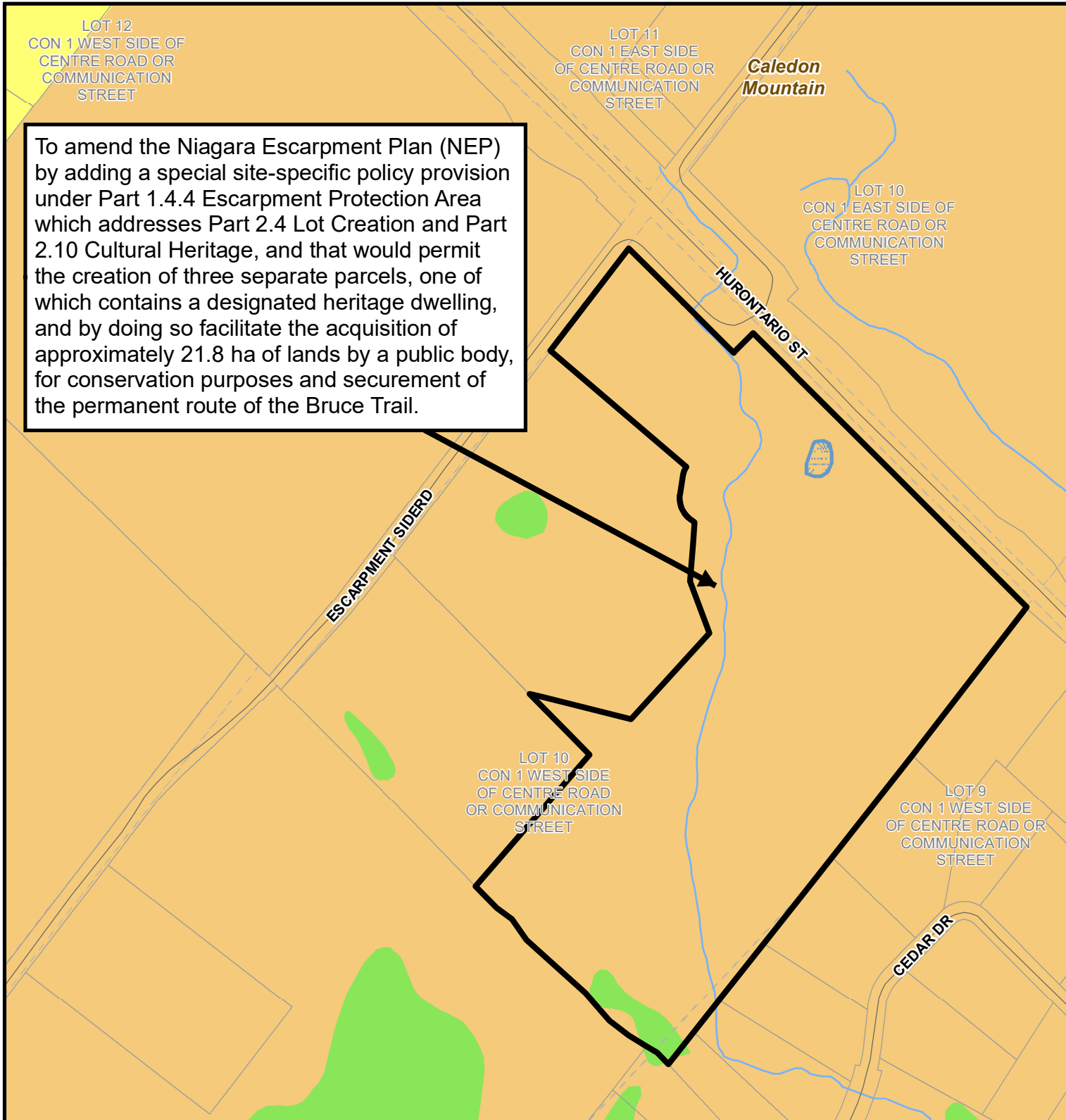
1. The following new policy is added to the end of Part 1.4.4 Escarpment Protection Area, Lot Creation

### **Special Provisions for 2975 Escarpment Sideroad, Town of Caledon:**

Notwithstanding the Lot Creation policies set out in Part 1.4.4 and 2.4 of the NEP, and subject to the requirements of this provision, the acquisition of approximately 21.8 hectares of land in the Town of Caledon, Region of Peel by a *public body* for conservation land and Bruce Trail purposes and the creation of the following new lots may be permitted:

- an approximately 0.4 ha. portion of Part of Lot 10, Concession 1 WHS, Town of Caledon
- an approximately 2.0 ha. portion of Part of Lot 10, Concession 1 WHS, Town of Caledon
- an approximately 21.8 ha. portion of Part of Lot 10, Concession 1 WHS, Town of Caledon being acquired by a public body

All parcels are to be generally in accordance with Schedule A attached to this amendment.



To amend the Niagara Escarpment Plan (NEP) by adding a special site-specific policy provision under Part 1.4.4 Escarpment Protection Area which addresses Part 2.4 Lot Creation and Part 2.10 Cultural Heritage, and that would permit the creation of three separate parcels, one of which contains a designated heritage dwelling, and by doing so facilitate the acquisition of approximately 21.8 ha of lands by a public body, for conservation purposes and securement of the permanent route of the Bruce Trail.



## SCHEDULE A MAP SHOWING AMENDMENT PP 220 20



Area Subject to the Amendment  
 Watercourse  
Geographic Names

### Plan Designations

#### Plan Designations

Escarpment Natural Area  
 Escarpment Protection Area  
 Escarpment Rural Area



October 21, 2019

The Niagara Escarpment Plan Designations shown on this map are approximate and subject to confirmation through site inspection and the application of the "Interpretation of Boundaries" section of the Niagara Escarpment Plan.

This map is not a legal document and may contain errors or omissions.

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SOURCE:  
Base derived from the Ontario Digital  
Topographic Database, Scale 1:10000

Map Compiled and Produced by the Geographic  
Information Systems (GIS) Department of the  
Niagara Escarpment Commission, Ministry of  
Natural Resources and Forestry



March 18, 2021

## **CIRCULATION AND NOTICE**

**RE: PROPOSED Niagara Escarpment Plan Amendment PP 220 20  
Baghai Development Ltd.  
2975 Escarpment Sideroad  
Lot 10, Concession 1 WHS  
REGION OF PEEL, TOWN OF CALEDON**

---

### **BACKGROUND:**

1. Section 7 and 10 (1) of the *Niagara Escarpment Planning and Development Act (NEPDA)* require that the Niagara Escarpment Commission (NEC) furnish each affected ministry and municipality, within or partially within the Niagara Escarpment Planning Area, with a copy of the proposed Amendment to the Niagara Escarpment Plan and invite the ministries and municipalities to make comments on the amendment to the Commission.
2. Section 10(1) (b) of the *NEPDA* requires that notice of the proposed Amendment be published in such newspapers having general circulation in the Niagara Escarpment Planning Area as the Commission considers appropriate.
3. The NEC is also required to post the Amendment on the Environmental Registry (ER) for public notice and comment.
4. Although not legislatively required, the NEC as a matter of practice also circulates other public agencies and stakeholders where the Commission believes there may be an interest (e.g., conservation authority).

The notice period under the *NEPDA* is 60 days; however, the NEC may extend the time if, in the Commission's opinion additional time for commenting becomes necessary.

### **PURPOSE:**

The purpose of this Report is for the Commission to approve the recommended circulation and notification list for the Niagara Escarpment Plan Amendment PP 220 20.



## **RECOMMENDATION:**

That the NEC instruct staff, pursuant to the NEPDA, to circulate the proposed amendment to ministries and municipalities, provide notice in newspapers and on the NEC web site and have the amendment posted on the Environmental Registry. Staff will also circulate agencies and stakeholders that may have an interest or have indicated an interest in the amendment, including property owners or their agents. The specified comment period will be 60 days.

Staff will also circulate agencies, and stakeholders who may have an interest or have indicated an interest in the Amendment, including property owners or their agents.

Required circulation and notice follows:

### **1. Municipalities and Ministries & Agencies**

Circulate to affected ministries and municipalities as follows:

Ministry of Heritage, Sport, Tourism and Culture Industries  
Ministry of Natural Resources and Forestry (Wetlands, ANSIs)  
Ministry of Environment, Conservation and Parks (Species at Risk)  
Town of Caledon  
Region of Peel  
Credit Valley Conservation Authority  
Bruce Trail Conservancy

### **2. Others**

Landowners within 120 metres of the amendment area

### **3. Newspapers**

The Caledon Enterprise

**Prepared by:**

**Approved by:**

Original signed by:

Original signed by:

\_\_\_\_\_  
Lisa Grbinicek, RPP, MCIP  
Senior Strategic Advisor

\_\_\_\_\_  
Debbie Ramsay, RPP, MCIP  
A/Director