

**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**

232, rue Guelph  
Georgetown ON L7G 4B1  
No de tel. 905-877-5191  
Télécopieur 905-873-7452  
www.escarpment.org



Niagara Escarpment Commission  
An agency of the Government of Ontario

January 17, 2019

**INITIAL STAFF REPORT**

**RE: PROPOSED Niagara Escarpment Plan Amendment PS 215 18 Township of Clearview (Sideroad 26/27)**

---

**APPLICANT/OWNER:** Township of Clearview

**AGENT:** Steven Sage, CAO

**RECEIVED:** Plan Amendment application received February 2018 with Planning Analysis prepared by Skelton Brumwell Associates; Addendum to Planning Justification prepared by Skelton Brumwell Associates, October 2018

**NEP Designation:** Escarpment Natural Area, Escarpment Protection Area, Escarpment Rural Area

**PROPOSAL SUMMARY:**

Application to amend the Niagara Escarpment Plan (NEP) by adding a special policy to apply to the subject property, being the road allowance of Sideroad 26/27 in the Township of Clearview. The Township's amendment application relates to a Development Permit application (DPA) to permit the re-construction of the road (including expansion and vertical re-alignment) pursuant to a Road Improvement Agreement between parties to the Duntroon quarry hearing decision, namely the Township of Clearview, Walker Aggregates Inc., and the County of Simcoe. That DPA is under appeal (S/T/2013-2014/9152).

**PURPOSE OF THIS REPORT**

The purpose of this report is to provide advice to the Niagara Escarpment Commission (NEC) to determine whether the application for amendment to the Niagara Escarpment Plan 2017 (NEP) has met the requirements for a Plan amendment application as set out in Part 1.2.1 of the NEP, whether the application should be initiated and circulated under Section 7 and Section 10 of the *Niagara Escarpment Planning and Development Act* (NEPDA), or, whether the NEC should recommend to the Minister that the application should be considered frivolous, vexatious, or not in the public interest, etc., under Section 6.1(3) of the NEPDA.

## **STAFF SUMMARY RECOMMENDATION:**

Instruct staff to process the proposed Amendment PS 215 18 for circulation and notification pursuant to Section 7 and Section 10 of the NEPDA.

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

---

The subject lands are owned by the Township of Clearview. Sideroad 26/27 is a municipal road allowance which is, for the majority of its length, maintained only seasonally.

A 2014 Joint Board decision granted approval to expand the nearby Duntroon quarry (Niagara Escarpment Plan Amendment No. 161). Under that decision, some of the parties to the hearing (Township of Clearview, Walker Aggregates Inc. and the County of Simcoe) were directed to enter into a Road Improvement Agreement to close a portion of County Road 91 in order to expand the quarry, and to make improvements to Sideroad 26/27 to make it an all-season road to replace the County Road.

The expansion of Sideroad 26/27 is the subject of a Development Permit application (DPA), which was refused by the NEC in November 2015, and has since been appealed. During the appeal process, additional environmental work undertaken by consultants on behalf of the Township identified that certain aspects of the road works would result in the removal of 1.2 ha of natural heritage and key hydrologic features within the existing right of way. This was not known when the DPA was originally submitted. The Township requested an adjournment of the hearing since the policies of the NEP in 2016 prohibited development in wetlands. The Township indicated to the Hearing Officers at a pre-hearing conference in 2016 that the basis for the adjournment was that it would be making an application to amend the NEP.

Following submission of the DPA, the Township determined that the proposed road works met the criteria for a Class “A+” Municipal Class Environmental Assessment (EA). According to the Municipal Class EA document, an “A+” EA includes projects that are deemed by the municipality to have minimal adverse environmental effects and include road maintenance and operational activities, and which require only public notice with no consideration of alternatives to the proposed road works. A request has been made by the Blue Mountain Watershed Trust for a Part II Order to ask the Minister of the Environment, Conservation and Parks to re-consider this EA classification. A decision on the Part II Order request is being withheld pending the outcome of the decision on the DPA appeal.

Through this amendment application, the Township of Clearview seeks to amend the NEP by adding site-specific policies that would allow improvements to Sideroad 26/27 to make it suitable for year-round use and make other road improvements that are the subject of DPA ST/2013-2014/9152. Specifically, the Township’s proposed road works include the following:

- Improving the vertical alignment;
- Replacing road-crossing culverts to improve fish passage;
- Improving and widening the road base;
- Channel re-alignment to increase the current separation between the road and a watercourse;
- Tree removal;
- Re-surfacing the road;
- Ditch improvements;
- Addressing environmental and road side safety measures such as drainage, erosion and sedimentation issues.

The purpose of the Township's proposed Plan amendment is to add site specific policies in the NEP for Sideroad 26/27 which would allow the proposed road improvements, notwithstanding policies in the NEP which require the consideration of alternatives for the development of infrastructure in *wetlands*, (Part 2.6.2 e), in key natural heritage features, (Part 2.7.2 e) and in Escarpment Natural Areas, (Part 2.12.5).

## **B. PLANNING DOCUMENTS**

---

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

Sections 6.1(2.2) of the NEPDA requires that no person or public body shall make an application or request to amend the NEP 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 NEP; or b) make any other amendment to permit urban uses, unless it is during the time of a Plan Review.

The proposed amendment is for a site-specific policy change, not a change in land use designation in the NEP. The amendment proposal does not trigger consideration of the prohibition regarding “urban uses” and “urban designations” under the NEPDA.

Therefore, the amendment is consistent with the NEPDA respecting urban uses and urban designations and the NEC can consider the 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 the 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 2017

The NEP Part 1.2.1 identifies that planning policies and land use designations may be changed by amendment to the Plan, as long as the proposed amendment is consistent with the Purpose and Objectives of the NEPDA and the NEP.

### Land use designations

Portions of the road allowance are designated Escarpment Natural Area, Escarpment Protection Area and Escarpment Rural Area. It is noted that since the consideration of the Development Permit application in 2015, the land use mapping for this area has been updated as part of the Co-ordinated Provincial Plan Review.

### Development Criteria

All applicable 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 Township's proposed Plan amendment which is seeking a site-specific amendment to the NEP policies relating to development affecting water resources, natural heritage and *infrastructure*:

The Objective of **Part 2.2 General Development Criteria** of the NEP is to permit the reasonable enjoyment by the owners of all lots that can sustain development. Part 2.2.2 states that "development is only permitted on an *existing lot of record*". *Existing lot of record* is defined, in part, to mean "a lot held under distinct and separate ownership from all abutting lots". The Township's planning consultant has interpreted the NEP to mean that a municipal right-of-way is not an existing lot of record and is therefore seeking a policy amendment so that the policy does not "conflict with any attempt to maintain, repair or renew a municipal road".<sup>1</sup> NEC staff does not share the same interpretation but has incorporated the requested site-specific policy in the draft amendment attached to this report.

The Objective of **Part 2.5 Development Affecting Steep Slopes and Ravines** of the NEP is "to ensure that development affecting steep slopes ... and ravines is *compatible with the Escarpment environment* and does not result in unsafe conditions". Part 2.5.3 states that "where this setback cannot be achieved on an *existing lot of record* on a steep slope or ravine, the setback may be varied or eliminated to the satisfaction of the *implementing authority*". As noted in the previous paragraph, the Township's planning consultant has interpreted the NEP to mean that a municipal right of way is not an existing lot of record and is therefore seeking a policy amendment. NEC staff does not share the same interpretation but has incorporated the requested site-specific policy in the draft amendment attached to this report.

---

<sup>1</sup> Planning Report, Sideroad 26/27 Reconstruction, M. Wynia, Skelton Brumwell & Associates Inc., October 2018, p. 8.

The Objective of the NEP **Part 2.6 Development Affecting Water Resources** policies is to ensure that hydrologic features and functions including the quality, quantity and character of groundwater and surface water, at the local and watershed level, are protected and where possible enhanced. Part 2.6.2 states that development is not permitted in key hydrologic features with certain exceptions including:

- e) *infrastructure*, where the project has been deemed necessary to the public interest after all other alternatives have been considered.

There are *wetlands* adjacent to the road corridor which may be impacted by the proposed road works. NEC staff will evaluate the Environmental Impact Study prepared for the Township and consult with relevant agencies to determine how this policy may have been addressed.

The Objective of the NEP **Part 2.7 Development Affecting Natural Heritage** is to protect and where possible enhance natural heritage features and functions, in order to maintain the diversity and connectivity of the continuous *natural environment*. Part 2.7.2 states that development is not permitted in key natural heritage features with certain exceptions including:

- e) *infrastructure*, where the project has been deemed necessary to the public interest and there is no other alternative.

Key Natural Heritage Features identified within the right-of-way include *wetlands*. Key Natural Heritage Features identified adjacent to the right-of-way which may be impacted by the proposed development include *wetlands, habitat of endangered and threatened species, an Area of Natural and Scientific Interest, fish habitat, significant woodlands and significant wildlife habitat*. NEC staff will evaluate the Environmental Impact Study prepared for the Township and consult with relevant agencies to determine how this policy may have been addressed.

The Objective of Part 2.12, Infrastructure is to design and locate *infrastructure* so that the least possible impact occurs on the *Escarpment environment* and to encourage *green infrastructure and low impact development*, where appropriate. Part 2.12.5 states: *Infrastructure* shall avoid Escarpment Natural Areas, unless the project has been deemed necessary to the public interest after all other alternatives have been considered.

Sideroad 26/27 is predominantly a seasonally maintained road, which is proposed to be upgraded to a year-round road to municipal standards through an area designated Escarpment Natural Area, Escarpment Protection Area and Escarpment Rural Area. As part of the proposed road works, a stream would be required to be re-aligned, trees removed, the road base expanded within the right-of-way and the profile of the Escarpment would be required to be altered through cutting and filling to reduce the steepness of the slope. NEC staff will evaluate the Environmental Impact Study prepared for the Township and consult with relevant agencies to determine how this policy may have been addressed.

Staff note that in evaluating the Plan amendment application and supporting technical information, additional Development Criteria may be identified as applicable to the application and further technical information may be required as a result of this review in order to determine whether the proposed amendment conflicts with the NEP. The NEC's decision to refuse the DPA occurred in November 2015. However, the policies of the NEP have since been revised and so this Plan Amendment application must be considered with respect to the NEP 2017.

### **3. Provincial Policy Statement (2014)**

The PPS (2014) is intended to provide direction on matters of provincial interest related to land use and planning. In their decisions on land use planning, 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 of the NEP.

Policy 4.0 Implementation and Interpretation of the PPS (2014), Section 4.9 states:

*Provincial Plans shall take precedence over policies in the Provincial Policy Statement to the extent of any conflict. Examples of these are plans created under the Niagara Escarpment Planning and Development Act, and the Oak Ridges Moraine Conservation Act, 2001.*

Policy 1.6.7 of the PPS supports the provision of transportation systems that are safe, energy efficient, facilitate the movement of people and goods, and are appropriate to address projected needs. The PPS also states that efficient use should be made of existing and planned infrastructure. Transportation and land use considerations shall be integrated at all stages of the planning process.

Policy 2.0 of the PPS identifies the Province's objectives respecting the long-term protection of natural heritage and water resources for their economic, environmental and social benefits. Policy 2.1 requires that natural features and areas shall be protected for the long-term and Policy 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. Policy 2.1.8 states that development and site alteration shall not be permitted on adjacent lands to natural heritage features unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

NEC staff will consider the technical information provided by the applicant to evaluate whether the proposed amendment is consistent with the PPS.

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

The *Greenbelt Act, 2005* 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 the NEP Area. The policies of the NEP are the policies of the Greenbelt Plan for the NEP Area except for Section 1.1 (Context); Section 1.2.1 (Vision); and 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 County of Simcoe, and provides direction on how to manage growth (Section 6). Emphasis is placed on optimizing the use of existing and planned *infrastructure* and promoting *green infrastructure* and innovative technologies. Municipalities are to ensure that the natural environment is protected from the impacts of growth in the *Simcoe Sub-Area*.

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.

#### **6. Municipal Plans**

The NEP Development Criteria are applied to assess the conformity of local official plans, secondary plans and, where applicable, zoning by-laws and for evaluating site plan applications. 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. Part 1.1.1 of the NEP states that municipal official plans and by-laws can be more restrictive or stringent than the policies of the NEP provided that does not result in a conflict with the NEP.

**Township of Clearview Official Plan:**

The local official plan, September 2001, classifies Sideroad 26/27 as a Local Road and designates it as Escarpment Natural, Protection and Rural Areas with an overlay of Public Lands in the Parks System. The policies of the NEP (1994) are contained within the local official plan. It acknowledges that to the extent of any conflict the policies of the NEP prevail over the policies of the official plan.

**County of Simcoe Official Plan:**

The County Official Plan, December 2016 designates the lands of Sideroad 26/27 as Escarpment Natural, Protection and Rural Areas. The policies of the County official plan acknowledge that to the extent of any conflict, the policies of the NEP prevail over the policies of the official plan. The transportation policies of the official plan state that land use planning and development shall be integrated with transportation considerations.

**7. Conservation Authority Regulation****Ontario Regulation 172/06 Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses**

Pursuant to Ontario Regulation 172/06, the Nottawasaga Valley Conservation Authority (NVCA) regulates development and site alterations in or adjacent to river or stream valleys, watercourses, hazardous lands and wetlands. Where lands are under regulation, Conservation Authorities ensure 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. A portion of the subject lands are regulated by the NVCA. The proposals on the subject lands would require assessment by the NVCA and will require a Permit prior to road re-construction.

The Grey Sauble Conservation Authority also requires a Permit pursuant to Regulation 151/06. Their regulated area is associated with the Rob Roy Provincially Significant Wetland through which a portion of the subject road allowance traverses and includes a 120-metre area of interference.

The Conservation Authorities will be consulted on the proposed Plan amendment.

**8. Federal Fisheries Act (Department of Fisheries and Oceans - DFO)**

A proponent led self-assessment is required. The EIS concluded that with the use of proper mitigation techniques, “any potential impact to the aquatic environment will be minimized or negated completely”<sup>2</sup>. The EIS further states that the loss of fish habitat has been reviewed by DFO and approved under a Letter of Advice (LOA) issued June 19, 2017 under conditions relating to screening dewatering pumps and maintaining 100% of downstream flows during construction. NEC staff is not proposing to circulate

---

<sup>2</sup> Environmental Impact Study, R.J. Burnside & Associates Limited, October 2018, p. 81.



the proposed Plan amendment to DFO as they have already stated their opinion on the road works.

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

---

### **Sideroad 26/27**

The subject property is a municipal gravel road with a 20-metre right-of-way that is only seasonally maintained through the majority of its length. The westerly portion of the road serves a number of local residents and agricultural properties and is maintained year-round. The Rob Roy Swamp, Provincially Significant Wetland (PSW) complex is located adjacent to the road, at the intersection of Sideroad 26/27 and Townline Road. The PSW complex is comprised of 17 individual wetland units. A number of small unevaluated wetland features are also adjacent to the road, within the 120-metre adjacent lands. There are headwater tributaries of the Pretty River that intersect and flow within the road right of way.

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

The Landscape Evaluation Study (1976) was prepared as background for the NEP in determining its coverage and associated Land Use Designations (see Map 4). The Landscape Evaluation gave scenic rankings for the area, progressing eastward from Osprey Clearview Townline to east of Concession 10 as follows:

- Landscape Unit 182 Rob Roy Singhampton Uplands – Average
- Landscape Unit 425 Duntroon Edge – Attractive (Brow)
- Landscape Unit 182 Duntroon Slopes – Very Attractive.

The NEC Landscape Architect had concluded in 2015, as part of the review for the Development Permit application, that the proposed road works would not change the scenic rankings for the landscape units within which the road corridor is located.

### **Niagara Escarpment Parks and Open Space System (NEPOSS)**

The subject lands are located adjacent to the Nottawasaga Lookout Provincial Nature Reserve (NEPOSS Park #71). This park is a 130-hectare property managed by Ontario Parks which contains Provincially Significant Earth Science and Life Science Areas of Natural and Scientific Interest and a section of the Bruce Trail. The Ministry of Natural Resources and Forestry and the Bruce Trail Conservancy will be consulted with respect to the proposed amendment and any implications for the NEPOSS or the Bruce Trail.

## **D. RELATED NIAGARA ESCARPMENT DEVELOPMENT PERMIT APPLICATION FILES**

---

**Development Permit Application S/T/2013-2014/9152** (Township of Clearview) for the proposed improvements to Sideroad 26/27 was refused by the NEC in November 2015

and was appealed to the ERT. The hearing regarding the Development Permit application was adjourned in August 2016 pending processing of the Plan amendment application. The applicant has identified an intent to have the Development Permit and Plan amendment applications dealt with through the same hearing.

## **E. ANALYSIS**

---

### **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.”

### **AMENDMENT CONSIDERATIONS**

Matters raised in this preliminary review of this application are noted in order to provide the commenting agencies and the public with an initial evaluation of the application. The issues identified are not a complete review of the final merits of the application either in terms of the NEP or any other relevant legislation or regulation.

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

### **JUSTIFICATION FOR THE AMENDMENT**

Section 6.1(2) of the *NEPDA* requires that applications for amendments to the NEP must include a statement of justification together with supporting material. Part 1.2.1 of the NEP (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 has been 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* and the NEP and are consistent with other relevant Provincial policies.

Justification means the rationale for the amendment as well as the reasons, arguments or evidence in support of the change to the NEP proposed through the amendment.

Prior to recommending that an application should be processed, the NEC must determine if the applicant has provided a statement of justification which addresses the above. However, even if the proposed Amendment is found to have set out a justification at this stage, NEC staff caution that this is not an endorsement of the eventual approval of the amendment application, in whole or in part.

The Township of Clearview, the applicant has provided the following reports in support of the amendment application:

- Planning Justification Report, February 2018
- Addendum to Planning Justification Report, October 2018
- Environmental Impact Study, October 2018 (which includes a hydrogeological report, detailed road design drawings and a stormwater management report).

The applicant submits that the proposed amendment is justified on the following basis:

The amendment proposal:

- is in accordance with the Purpose and Objectives of the NEPDA;
- satisfies and achieves the Purpose and Objectives of NEP;
- is consistent with the PPS (2014), and the local municipal and County Official Plans;
- is in the “public interest” insofar as it will maintain adequate transportation capacity in the municipality by replacing the road that was removed as part of the approval of the Duntroon quarry expansion;
- involves road works that are minor in nature, through an existing right of way, are therefore an “existing use”, and that the Township has deemed that all alternatives have been considered and there is no alternative to the proposed road improvements;
- are such that the environmental impacts can be mitigated;
- will address existing issues of siltation and runoff that are negatively impacting the wetland and overall safety; and,
- the road will improve with changes to the road profile, widening within the existing right of way and ultimately paving the road as transportation demands increase the use of the road.

### **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 NEPDA 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.

**Comment:** The amendment proposed by the Township of Clearview must be evaluated with respect to all relevant Objectives, particularly #1, 2, 5 and 6. Through the review of the technical information provided by the applicant and consultation with other agencies through the circulation of the application and proposed amendment, NEC staff will evaluate whether the proposed amendment would achieve the Objectives 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?**

The applicant is not seeking a change in the designation of any lands and so the proposed amendment will be evaluated on the basis of the Objectives for the applicable designations.

#### **Escarpment Natural Area designation**

This designation includes *Escarpment features* that are in a relatively natural state and associated *valleylands*, *wetlands* and *woodlands* that are relatively undisturbed.

The Objectives of the Escarpment Natural Area include protecting and where possible enhancing the natural heritage and hydrological systems associated with the Niagara Escarpment Plan area, protecting the most natural *Escarpment features*, *valleylands*, *wetlands* and related significant natural areas and maintaining and enhancing the *scenic resources* and *open landscape character* of the *Escarpment*.

**Comment:** NEC staff will evaluate whether the roadworks described in Appendix E of the Environmental Impact Study (detailed design drawings) demonstrate that the Objectives of the Escarpment Natural Area designation are addressed by the proposed amendment.

### **Escarpment Protection Area designation**

This designation includes lands that are important for their visual prominence and environmental significance including increased resilience to climate change through the provision of ecosystem services. These lands can include more visually prominent areas than the Escarpment Natural areas but also lands that have been significantly modified by land use activities. These lands provide a buffer to Escarpment Natural Areas and natural areas of regional significance.

The Objectives of this designation include maintaining and enhancing the *scenic resources* and *open landscape character* of the *Escarpment*, providing a buffer to prominent *Escarpment* features, protecting and enhancing the natural heritage system and protecting natural areas of regional significance, encouraging compatible land use activities such as agriculture, forest management, recreation, conservation and educational activities.

**Comment:** Through the review of the technical information provided in support of the Plan amendment application and consideration of agency comments, NEC staff will determine if the proposed amendment addresses the Objectives of this designation.

### **Escarpment Rural Area designation**

This designation includes lands that are an essential component of the *Escarpment* corridor and provide a buffer to the more ecologically sensitive areas of the *Escarpment*. These lands include minor *Escarpment slopes* and *Escarpment Related Landforms*, lands that are necessary to provide *open landscape character*, lands that are of ecological importance to the *Escarpment environment* and lands that have potential for enhanced ecological values through natural succession or due to their proximity to other ecologically sensitive lands, areas or features.

The Objectives of this designation include maintaining *scenic resources*, encouraging compatible rural land uses and agriculture, providing a buffer for ecologically sensitive areas of the *Escarpment* and encouraging *forest management* and recreation.

**Comment:** Through the review of the technical information provided in support of the Plan amendment application and consideration of agency comments, NEC staff will determine if the proposed Amendment addresses the Objectives of this designation.

### **3. Is the proposed amendment in the public interest?**

The amendment proposed by the Township of Clearview would facilitate the re-development of an existing municipal right of way from a seasonal road to an expanded year-round road. The Township asserts that the proposed road upgrades would improve its current condition by making it safer for the travelling public and would prevent runoff from the road thereby improving the natural environment adjacent to the road and is therefore in the public interest.

**Comment:** Through the processing of this application and consideration of comments received, NEC staff will consider whether the applicant has demonstrated that the proposed amendment is in the public interest, considering all relevant policies of the NEP.

**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 with respect to the relevant policies in the PPS (2014), Growth Plan, local Official Plans and the Greenbelt Plan. Circulation of the application to the affected ministries, municipality and conservation authorities would allow for further evaluation and a staff recommendation as to whether the proposed amendment is consistent with provincial and municipal policy.

**CONCLUSION**

In conclusion, staff finds that there is adequate information and justification provided to warrant the circulation and further consideration of this proposed site-specific application to amend the NEP.

**RECOMMENDATION**

That the Niagara Escarpment Commission should instruct staff to process the proposed Amendment PS 215 18 Township of Clearview (Sideroad 26/27), 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

Amendment Document  
Circulation and Notification Document

**Prepared By:**

*Original Signed by:*

---

Nancy Mott, MCIP, RPP  
Senior Strategic Advisor

**Approved by:**

*Original Signed by:*

---

Debbie Ramsay, MCIP, RPP  
Manager














*Original Signed by:*

---

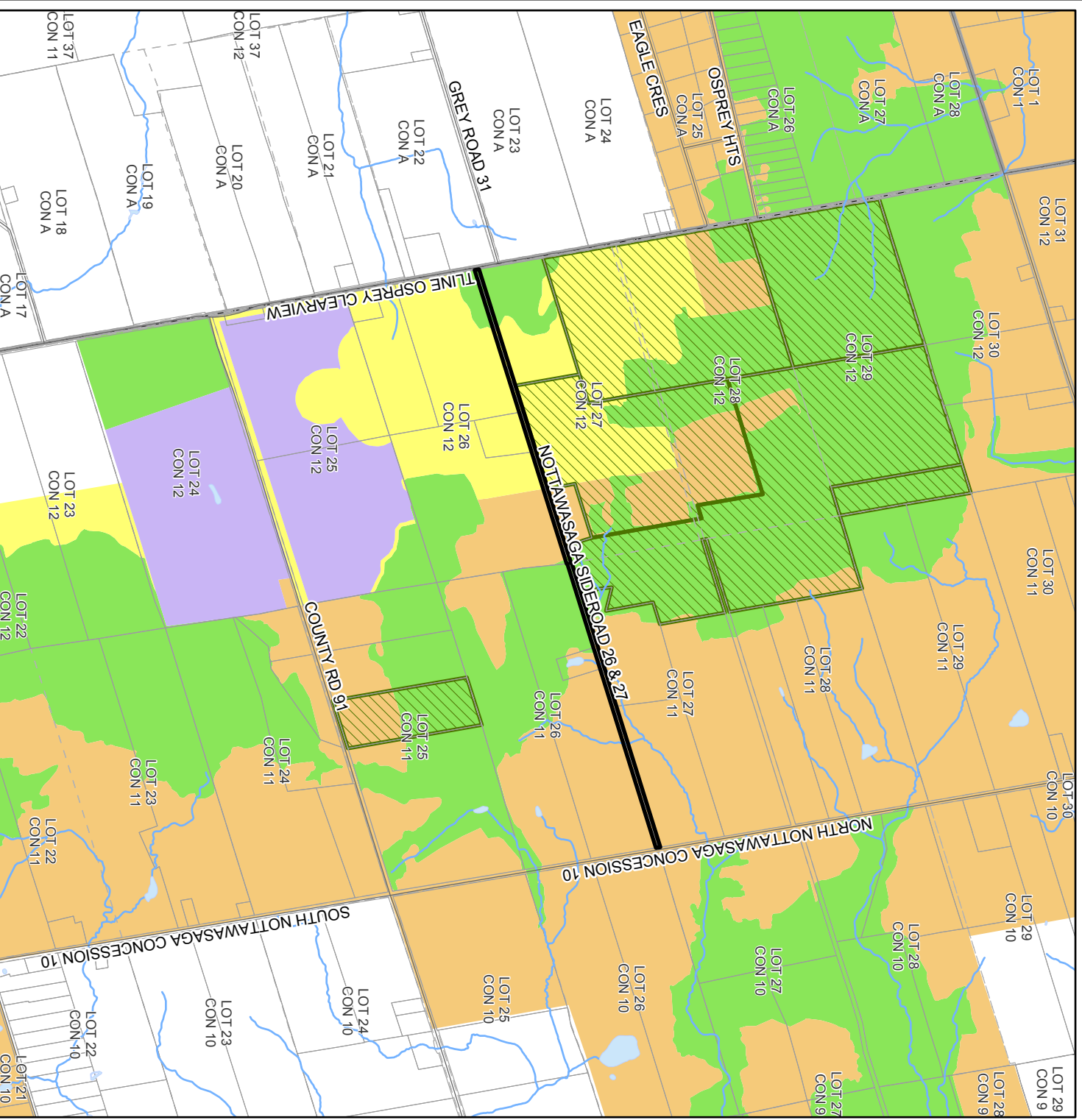
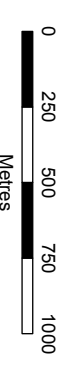
David Ayotte  
Director

# Map 1 Niagara Escarpment Plan and Amendment Location

PS 215 18  
Sideroad 26/27  
Township of Clearview  
County of Simcoe

-  Area Subject to Amendment
-  Escarpment Natural Area
-  Escarpment Protection Area
-  Escarpment Rural Area
-  Mineral Resource Extraction Area
-  Niagara Escarpment Parks and Open Space System
-  Roads
-  Waterbodies
-  Watercourse
-  Upper Tier Municipality
-  Lower/Single Tier Municipality
-  Lot and Concession Boundary
-  Parcel Boundary

NOTE: The Niagara Escarpment Plan Designation boundaries shown on this map are for informational purposes only. They do not constitute a site inspection and the application of the interpretation of boundaries' section of the Niagara Escarpment Plan.





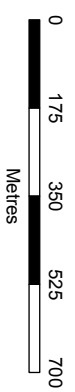
# Map 2

## Orthophoto

PS 215 18  
Sideroad 26/27  
Township of Clearview  
County of Simcoe

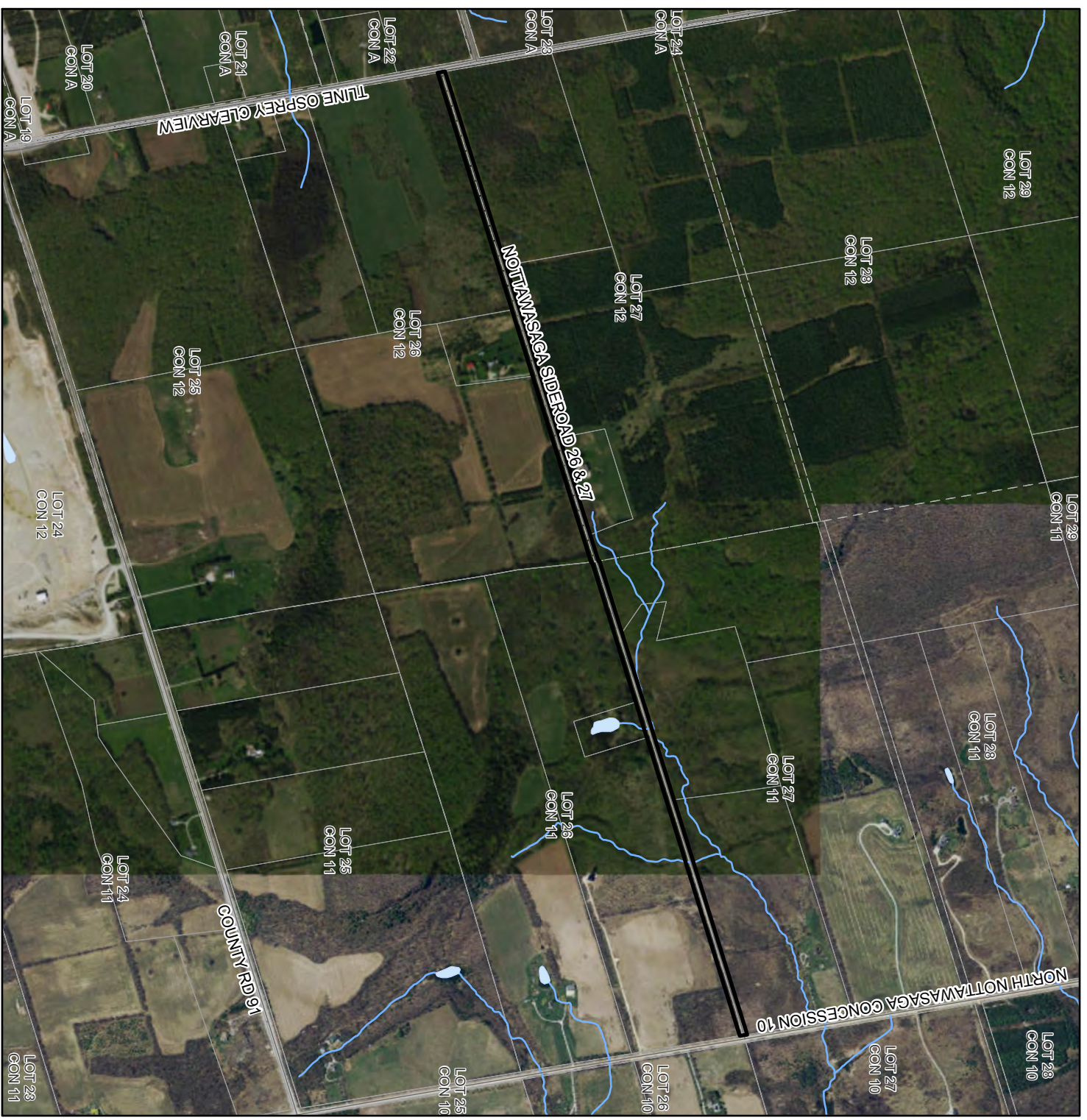
- Roads
- Waterbodies
- Watercourse
- Upper Tier Municipality
- Lower/Single Tier Municipality
- Lot and Concession Boundary
- Parcel Boundary

ORTHOPHOTO DATE:  
Southwest Ontario Orthophoto Project 2015  
South Central Ontario Orthophoto Project 2013



Printed on December 24, 2018

THIS IS NOT A PLAN OF SURVEY.  
This map is illustrative only. Do not rely on it as being a precise indicator of routes, location, boundaries or other information. It is not intended to be used for legal purposes. Map compiled and published by the Geographic Information Systems (GIS) Department of the Niagara Escarpment Commission, Ministry of Natural Resources





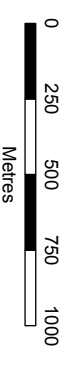
# Map 3

## Natural Heritage Features

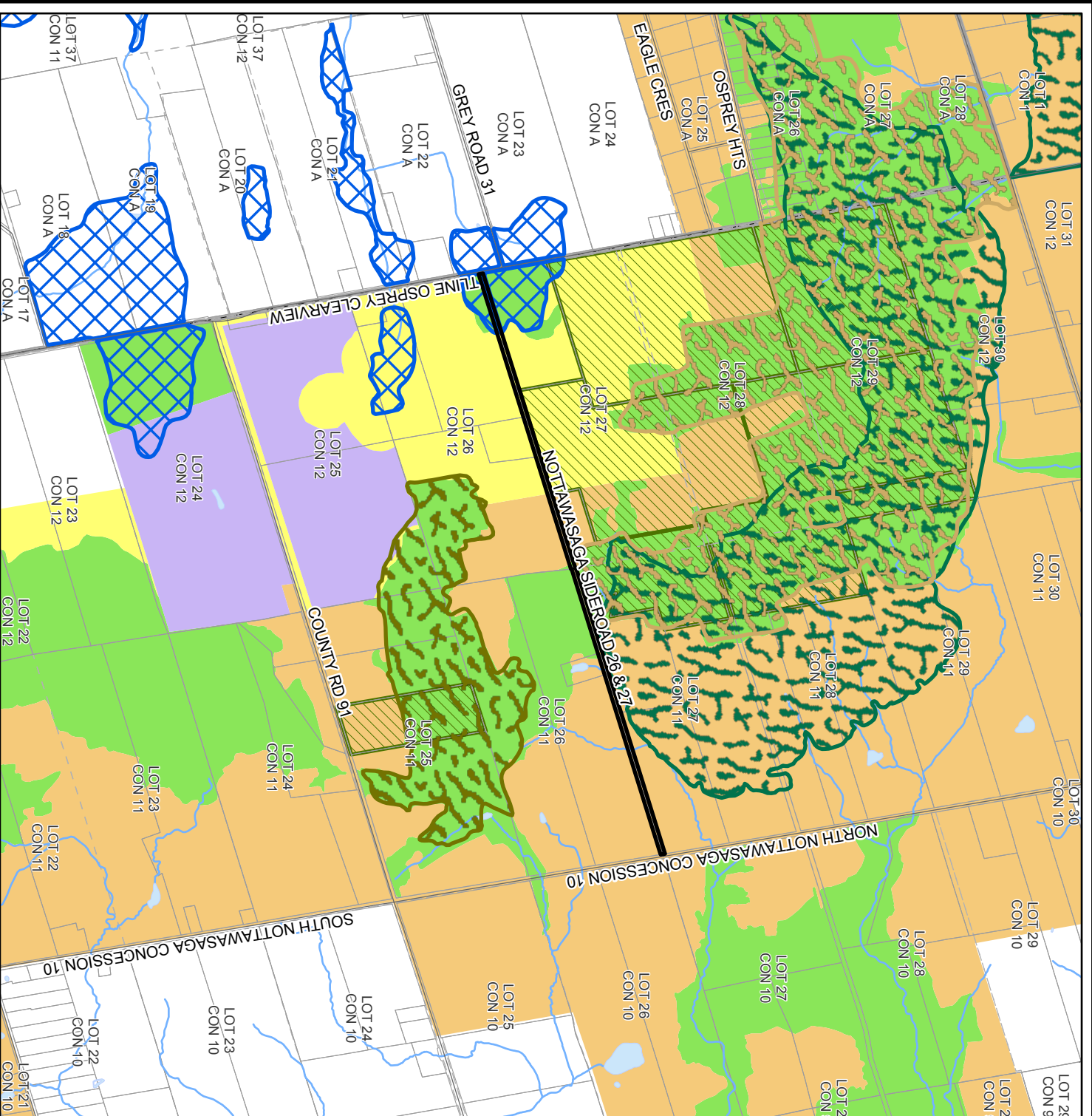
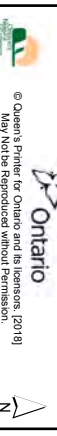
PS 215 18  
Sideroad 26/27  
Township of Clearview  
County of Simcoe

- Area Subject to Amendment
- Escarpment Natural Area
- Escarpment Protection Area
- Escarpment Rural Area
- Mineral Resource Extraction Area
- Niagara Escarpment Parks and Open Space System
- Roads
- Waterbodies
- Watercourse
- Upper Tier Municipality
- Lower/Single Tier Municipality
- Lot and Concession Boundary
- Parcel Boundary
- ANSI - Life Science
- Life Science, Provincial
- Life Science, Regional
- ANSI - Earth Science
- Earth Science, Provincial

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



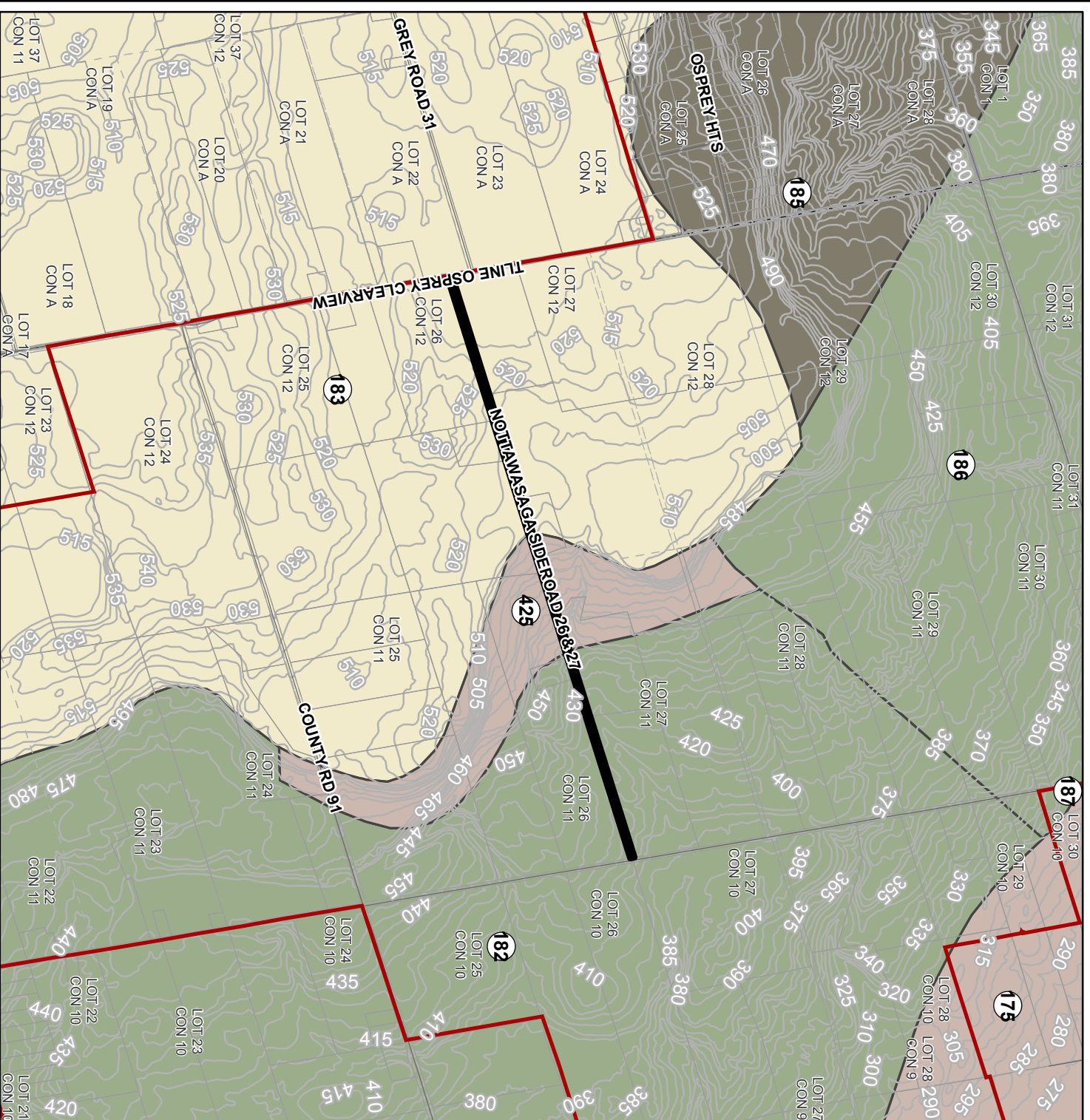
Printed on December 24, 2018  
THIS IS NOT A PLAN OF SURVEY.  
This map is illustrative only. Do not rely on it as being a precise indicator of routes, location, map control and subject to the Geographic Information System (GIS) Department of the Niagara Escarpment Commission, Ministry of Natural Resources



# Niagara Escarpment Plan and Amendment Location

## Landscape Evaluation

PS 215 18  
Sideroad 26/27  
Township of Clearview  
County of Simcoe



- Area Subject to Amendment
- Niagara Escarpment Plan Area
- Landscape Evaluation Study**
- Outstanding
- Very Attractive
- Attractive
- Average
- Roads
- Contour (5 metre intervals)
- Upper Tier Municipality
- Lower/Single Tier Municipality
- Lot and Concession Boundary
- Parcel Boundary

NOTE: The Niagara Escarpment Landscape Evaluation Studies of 1976 and 2003 resulted in the landscape units depicted on this plan along with an associated scenic ranking. The studies, instruction contain manuals and individual score sheets for each landscape unit. The studies are available for purchase from the Ministry of Natural Resources. Each landscape unit has a reference number located on the map (e.g. 183) for most but not all of the units a score sheet is available.

Scale 1:25,000  
0 200 400 600 800  
Metres

Printed on Jan 04, 2019  
THIS IS NOT A PLAN OF SURVEY.  
This map is illustrative only. Do not rely on it as being a precise indicator of routes, location of features, nor as a guide to navigation. Base derived from various sources. Map (GIS) Department of the Niagara Escarpment Commission.  
Ministry of Natural Resources

**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**

232, rue Guelph  
Georgetown ON L7G 4B1  
No de tel. 905-877-5191  
Télécopieur 905-873-7452  
www.escarpment.org



Niagara Escarpment Commission  
An agency of the Government of Ontario

January 17, 2019

**AMENDMENT DOCUMENT**

**RE: NIAGARA ESCARPMENT PLAN AMENDMENT PS 215 18**  
**Application by Township of Clearview**  
**Township of Clearview, County of Simcoe**

---

**Recommendation:**

That the Niagara Escarpment Commission circulate the attached amendment document (Amendment No. PS 215 18), as the municipality's proposed amendment for the subject property at Sideroad 26/27, Township of Clearview.

**NOTE:**

**The proposed amendment is derived from the Planning Report prepared by Michael Wynia, Skelton Brumwell Associations, October 2018 for the Township of Clearview and from the covering letter to the Amendment application from Harold Elston, solicitor to the Township, dated February 6, 2018.**

**PROPOSED NIAGARA ESCARPMENT PLAN  
AMENDMENT PS 215 18  
TOWNSHIP OF CLEARVIEW SIDEROAD 26/27**

**January 17, 2019**

## **TABLE OF CONTENTS**

**PART A – The Preamble**

**PART B – The Amendment**



## **PART A – The Preamble**

### **PURPOSE:**

To amend the Niagara Escarpment Plan (NEP) by adding special site-specific policies, under Parts 2.2, 2.5, 2.6, 2.7 and 2.12 to permit the re-development of Sideroad 26/27 by interpreting that a municipal right of way is a lot of record, exempting the requirement for a setback from the brow and not considering alternatives to the proposed road works notwithstanding policies of the Plan that require such consideration.

### **LOCATION:**

The property subject of this amendment Sideroad 26/27, Township of Clearview, County of Simcoe.

**APPLICANT:** Township of Clearview

### **BASIS:**

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

This application by the Township of Clearview is to amend to the Niagara Escarpment Plan to address policy conflicts related to Parts 2.2.3, 2.5.2, 2.6, 2.7 and 2.12 of the NEP respecting the re-development of a municipal road, as identified by the Township's planning consultant in his Planning Report.

Section 1.2.1 of the NEP sets out provisions for the consideration an amendment to the NEP. The applicant has provided some technical information in support of the proposed amendment and a rationale for the proposed policy exceptions.

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 sought in consideration of an amendment to the NEP. The applicant has provided a Planning Report and Environmental Impact Study which meets the threshold justification requirements of the *Niagara Escarpment Planning and Development Act*.

## **PART B – The Amendment**

The Niagara Escarpment Plan is proposed to be amended as follows:

1. The following new policy would be added to the end of Part 2.2 General Development Criteria:

**Special Provisions for Sideroad 26/27, Township of Clearview (see Amendment No. PS 215 18 Township of Clearview):**

“Notwithstanding the policies set out in Part 2.2.3, development on an existing lot of record shall be deemed to include the re-development of a municipal right of way on the lands described as Sideroad 26/27, Township of Clearview, County of Simcoe.”

2. The following new policy would be added to the end of Part 2.5 Development Affecting Steep Slopes and Ravines:

**Special Provisions for Sideroad 26/27, Township of Clearview (see Amendment No. PS 215 18 Township of Clearview):**

“Notwithstanding the policies set out in Part 2.5.3, the re-development of a municipal right of way on the lands described as Sideroad 26/27, Township of Clearview, County of Simcoe, shall not be required to establish a minimum development setback from the brow.”

3. The following new policy would be added to the end of Part 2.6 Development Affecting Water Resources:

**Special Provisions for Sideroad 26/27, Township of Clearview (see Amendment No. PS 215 18 Township of Clearview):**

“Infrastructure improvements on 26/27 Sideroad from the Osprey-Clearview Townline to Concession 10 have been deemed necessary to the public interest after all other alternatives have been considered.”

4. The following new policy would be added to the end of Part 2.7 Development Affecting Natural Heritage:

**Special Provisions for Sideroad 26/27, Township of Clearview (see Amendment No. PS 215 18 Township of Clearview):**

“Infrastructure improvements on 26/27 Sideroad from the Osprey-Clearview Townline to Concession 10 have been deemed necessary to the public interest and there is no other alternative.”



5. The following new policy would be added to the end of Part 2.12 Infrastructure:

**Special Provisions for Sideroad 26/27, Township of Clearview (see Amendment No. PS 215 18 Township of Clearview):**

“Notwithstanding the policies set out in Part 2.12.2 d) and 2.12.5, the re-development of a municipal right of way on the lands described as Sideroad 26/27, Township of Clearview, County of Simcoe, shall not be required to establish a development setback from the brow to minimize visual impacts and further that infrastructure improvements on 26/27 Sideroad from the Osprey-Clearview Townline to Concession 10 have been deemed necessary to the public interest after all other alternatives have been considered.”



January 17, 2019

## **CIRCULATION AND NOTICE**

**RE: PROPOSED NIAGARA ESCARPMENT PLAN AMENDMENT PS 215 18**  
**Applicant: Township of Clearview**  
**Proposed site-specific policy changes relating to the re-development of**  
**Sideroad 26/27, Township of Clearview, County of Simcoe**

---

### **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 (NEP) and invite ministries and municipalities to make comments on the amendment to the NEC.
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 NEC considers appropriate.
3. The NEC is also required to post the amendment on the Environmental Bill of Rights Registry (EBR) 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 NEC believes there may be an interest (e.g. conservation authority) and provides details of the proposed amendment on the NEC website.

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

### **PURPOSE:**

The purpose of this Report is for the NEC to approve the recommended circulation and notification list for the Niagara Escarpment Plan Amendment PS 215 18, for the proposed site-specific policies relating to Sideroad 26/27.

## RECOMMENDATION:

That the NEC instruct staff, pursuant to the *NEPDA* to circulate the proposed amendment to ministries and municipalities, provide notice in the newspaper (at the applicant's expense as the normal administrative practice) and on the NEC website and request that the amendment be posted on the EBR.

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

The recommended comment period is 60 days.

Require circulation and notice as follows (in accordance with S. 10.(1) of the *NEPDA*):

1. Municipalities

Circulate to the County of Simcoe, Municipality of Grey Highlands and Grey County.

2. Newspapers

Creemore Echo  
Stayner Sun  
Collingwood Enterprise-Bulletin  
Thornbury Courier-Herald  
Markdale Standard

3. Public Interest Advisory Committee

**Prepared by:**

*Original Signed by:*

---

Nancy Mott, MCIP, RPP  
Senior Strategic Advisor

**Approved by:**

*Original Signed by:*

---

Debbie Ramsay, MCIP, RPP  
Manager

*Original Signed by:*

---

David Ayotte  
Director