September 16, 2021

# A3: INTERIM STAFF REPORT

## DEVELOPMENT PERMIT APPLICATION: PR/2017-2018/450 (Manors of Belfountain)

Part East and West Half Lot 9 , Concession 5 WHS,

Minor Urban Centre of Belfountain

Town of Caledon, Region of Peel

## SUMMARY

### PROPOSAL:

To develop a 75-lot residential plan of subdivision on private wells and septic systems; 3 stormwater management ponds, a future Town park and new municipal streets with access to Shaws Creek Road, all within the Minor Urban Centre of Belfountain. A portion of the subject lands is proposed to be conveyed to Credit Valley Conservation for a future park to be included in the Niagara Escarpment Parks and Open Space System.

### DESIGNATIONS:

Escarpment Natural Area, Escarpment Protection Area and Escarpment Rural Area; Belfountain Minor Urban Centre

**ISSUES:**

Policy conflicts, development on private services, need for additional information, need for Development Permit agreement

### SUMMARY RECOMMENDATION:

That the Niagara Escarpment Commission (NEC) endorse this report and direct NEC staff to work with the applicant to address the need for additional information and implementation details required to inform a decision on Phase 1 of the Development Permit application, and return to the Commission at a future date with a further recommendation regarding a decision on the Phase 1 Development Permit application (Phase 1 only).

### REASONS:

NEC staff is of the opinion that a final recommendation on the Development Permit application (for the proposed Phase 1) should not be made without:

1. further well testing to demonstrate an adequate water supply for the proposed lots; and,
2. the preparation of a detailed natural environment, ground and surface water and well monitoring plan for the development to ensure that any potential negative well issues or wetland impact issues that may arise in the development or on properties within the zone of influence of the development can be addressed by the developer.

## RECEIVED:

March 7, 2018

## APPLICANT:

The Manors of Belfountain Corp. c/o REDACTED

## **RELATED FILE**:

*Planning Act* File 21T-91015C, Draft Plan of Subdivision, Town of Caledon

## PROPOSAL:

Initial proposal (2018) – 67 estate residential lots, 10 blocks for roads, parks, and open space. Average lot size: 0.63 hectares.

Current proposal (2021)[[1]](#footnote-1) – 75 lots estate residential lots ranging in size from 0.34 to 0.57 hectares, average lot size: 0.40 hectares. Proposed house sizes ranging from 434- 464 square metres.

Park – 2.38 hectares

Open Space – 4.13 hectares

Storm water detention ponds – 5.41 hectares

## Details of current proposal

## To develop the 70.28-hectare property for an estate residential development of single dwellings within the Minor Urban Centre of Belfountain including a Town park, open space, roads sidewalks on one side of the road, roadway entrance feature/signage on Shaws Creek Road, street lighting and storm water detention facilities.[[2]](#footnote-2)

As municipal water and sewer are not available, the development would be privately serviced with wells, septic systems (e.g. Waterloo Biofilter systems), grey water recycling systems and backup cisterns to supplement wells.

## The subdivision is now proposed to be developed in two phases with the first phase being 44 lots on the west side of the property. Pending the outcome of monitoring to determine whether there is an adequate water supply for the remaining proposed lots and no impact to offsite private wells within the zone of influence, the second phase of development would be allowed to proceed.

## BACKGROUND:

The subject lands were incorporated into the Minor Urban Centre of Belfountain many years ago but continue to be used for agricultural purposes at present. Dating back to the 1980’s, successive owners of the property have tried to develop the lands for estate residential purposes.

A Joint Board hearing was held, and a decision rendered in August of 1990.[[3]](#footnote-3) The decision of the Joint Board was not to approve the application, having concluded that the proponent at the time (Enterac) “was not properly or adequately prepared”. The tribunal found that the applications were “premature” and dismissed the appeal. The Ontario Municipal Board (OMB) found in its decision that “the evidence is inadequate to indicate what constitutes the maximum sustainable development for this property”.[[4]](#footnote-4) Staff note that the issues considered at the Joint Board hearing in 1990, remain relevant today for the proposed rural estate subdivision on private services within the Minor Urban Centre of Belfountain.

A new application was submitted in a 1991 draft plan of subdivision. The landowner at the time continued to undertake additional work to demonstrate that the lands could be developed on private services (wells and septic systems) over the long term.

The current owner has referred the draft plan of subdivision to the Ontario Land Tribunal (OLT and successor to the OMB/LPAT) under a provision in the *Planning Act* that allows an applicant to request a hearing if the municipality fails to make a decision on an application within a specified time frame.

Notwithstanding the referral to the OLT, pursuant to S. 24(3) of the NEPDA, no other approval relating to development may be made under any other Act unless a Development Permit has been issued. Through legal counsel, the Tribunal was advised that we do not support a hearing on the plan of subdivision until a decision has been rendered on the Development Permit application.

## SITE DESCRIPTION:

The property is an undulating, hummocky farm property within the Belfountain Minor Urban Centre, south of Bush Street (the main commercial/residential street in the hamlet) between Shaws Creek Road (a Town of Caledon road) and Mississauga Road (Regional Road No. 1). Overall, the site slopes from south to north towards the West Credit River.

The site features wetlands which are the habitat of an endangered species and significant woodlands. The site is partially designated Core Greenlands (Region of Peel), Caledon Environmental Policy Area and Environmentally Significant Area and is located within a Significant Groundwater Recharge Area. The site also contains grasslands that are habitat for endangered and threatened species. The subject property has also been identified as a potential karst area.

The site also features remnants of former agricultural structures and buildings, hedgerows and stone walls between fields which are of cultural heritage significance. The site has historically been farmed for field crops.

## PROPOSED DEVELOPMENT:

The Development Permit application is to create the subdivision lots, establish building envelopes and create the blocks for the road widenings, stormwater ponds, parks, and open space. If the permit for the overall development is approved, then subsequent Development Permit applications would be required to build homes on the individual lots, to develop the Town park or to establish a walking trail through the development.[[5]](#footnote-5) A park management plan and addition to the NEPOSS would be necessary to allow the lands to be conveyed to Credit Valley Conservation to be used for park purposes in accordance with the Permitted Uses in the NEP for Escarpment Natural Areas.

As the property is proposed to be developed on private services, the subdivision concept relies on a design and development approval conditions designed to:

- maximize groundwater recharge to maintain the overall water balance within the zone of influence,

- provide for an adequate water supply for the private wells with backup cisterns,

- avoid changes to groundwater quality arising from the use of the property for roads and septic systems for the proposed single dwellings using tertiary (Level IV) treatment systems,

- provide adequate stormwater management capacity within the property relying on retention and infiltration to match existing conditions, and

- reduce water consumption through the installation of grey water recycling systems in the houses and limiting the use of private wells for filling swimming pools.

A monitoring program has now been recommended by the applicant for the first phase of the development to inform whether the development could move to a second phase of lots in the future. The Environmental Management Plan is described below.

## Technical Studies[[6]](#footnote-6):

This section of the NEC staff report provides a brief overview of the most recent technical reports submitted by the applicant. The reports were provided to address previous agency comments on earlier versions of the draft plan of subdivision and Development Permit application. NEC staff has reviewed the reports and the applicant’s matrix of responses to agency comments, to inform the Policy Analysis section of this staff report.

### Environmental Management Plan (EMP)

The purpose of this new document prepared by IBI Group for the applicant in July 2021 is to “identify, monitor and manage potential impacts associated with the proposed Manors of Belfountain residential subdivision in the Hamlet of Belfountain…”.[[7]](#footnote-7) The EMP states that it was discussed with agencies but it was not discussed or shared with NEC staff for comment prior to its submission.

The document is based on the assumption that the development would proceed on the basis of private wells, greywater recycling systems in the houses, cisterns “where the individual yield tests indicate the well unable to meet the peak demand rate specified by the Ministry of the Environment, Conservation and Parks” and septic systems using Waterloo Biofilters or similar technology. Assumptions by the consultants are that greywater recycling would reduce aquifer stress by 25% and that the proposed septic systems would reduce nitrate concentrations by over 50%.

### Revised Hydrogeological Investigation Report

This report prepared by Cole Engineering is an update of the report completed in 2018 to respond to agency review comments and is based on additional field work. The consultants were aware of historical site investigations undertaken in 1988 by other consultants. Many of the historical reports were in the files of the NEC and were provided to assist the applicant. The recent hydrogeological investigation involved groundwater level measurements, groundwater sampling, a nitrate loading assessment, assessment of water taking rates and analysis of pumping tests based on the characterization of the local geologic conditions.

The analysis by the consultants predicted an estimated 16% reduction in infiltration across the site because of the proposed development. The inclusion of two stormwater management ponds within the development are proposed to maintain pre-development infiltration.[[8]](#footnote-8)

### Stormwater Management Addendum/Functional Servicing Report

As the applicant now proposes to develop the land in two phases, the consultant prepared an addendum relating to stormwater management.[[9]](#footnote-9) The introduction to the report states that Phase 1 of the subdivision would be constructed first. Phase 2 would proceed once monitoring of Phase 1 demonstrates no negative impact on the water quantity and quality of wells within the subdivision or within the zone of influence. If the project does not proceed to Phase 2, the addendum shows what additional stormwater management infrastructure would not be necessary and a change to the size of one of the stormwater management blocks (Block 81). The remainder of the property (20.49 hectares) would remain in agricultural use and would rely on the existing natural drainage toward the eastern side of the property.

The original plan of subdivision did not contain any stormwater management ponds. During the review of the application and site visits conducted by agency and NEC staff, it was discovered that the subject lands were receiving drainage from land to the south. It is noted in the addendum that approximately 253.36 hectares of lands external to the subdivision drain into the site and so the large ponds were added to the design of the development to provide adequate stormwater management facilities.

Water quality assessment was undertaken and identified some exceedances in certain water parameters which the consultant described as aesthetic parameters such as sulfates, turbidity, and iron. Nitrates were also identified in water samples and were attributed to historical agricultural practices on the site. The consultant predicted that nitrates would diminish over time if the development were approved as the area under agricultural production would diminish. Drinking water standards and standards for sensitive surface water habitat would be met, according to the report. However, the area showing the highest nitrate concentration, including proposed Lots 54-57 and 75, should have their wells located upgradient of the highest nitrate area as a “precautionary approach”.

The report noted that based on historical pumping tests, an adequate water supply could be provided for 50 years. Based on a safe yield analytical technique with wells to sufficient depth in the Amabel Formation, wells could continue pumping at the peak pumping rates for 20 years according to the report.[[10]](#footnote-10) Notwithstanding these calculated predictions, the consultant recommended the enforcement of drought resistant grasses and the use of cisterns to reduce potential summer demand pumping, enforced through design guidelines. Other measures proposed to restrict water usage in the development included restricting use of groundwater for filling swimming pools and for lawn irrigation during the summer, creation of a homeowner manual containing water conservation educational material and use of low impact landscaping alternatives.[[11]](#footnote-11)

In terms of possible interference with surrounding wells, the report stated that long term impacts would be minimal. The report predicted negligible impacts arising from the use road salt and residential water softeners. It was also noted in the matrix of responses to agency concerns that the Town employs a different product for traction on its municipal roads. It was also stated that natural features on the site do not rely on groundwater contributions and so it was predicted that there would be minimal impact to on-site features.

Assuming the mitigation measures mentioned and implementation of tertiary septic systems across the site, the report predicts no significant potential for impacts to groundwater users or natural features on the property arising from the proposed development. NEC staff had requested a consideration of possible cumulative effects from other water users in the watershed, as required by NEP policy, and the report concluded that cumulative negative impacts are not anticipated arising from the James Dick sand and gravel pit expansion (north of Belfountain) or the proposed Erin Sewage Treatment plant (west of Belfountain) in addition to the proposed subdivision development.

### Tree Inventory Report

This 2021 report and associated Tree Inventory and Preservation Plans build on previous tree inventories completed in 2014 and 2018. The consultant provides an assessment of types of existing trees, provides opinions as to the health of the trees, identifies certain areas where trees are to be retained, proposes compensation for tree removal at a ratio of 2:1 but proposes monetary compensation to the Town in the event that the replacement trees cannot be located on the property. Hazard trees and certain hedgerows are identified for removal based on the location of future roads, lots, or stormwater management facilities. Vines are proposed to be removed from trees to be preserved. Measures to protect trees during future construction and annual inspections of trees by the consulting arborist are recommended, to the satisfaction of the Town.

Where existing trees provide habitat, pursuant to the *Migratory Birds Convention Act, 1994,* it is recommended that tree removal not take place during migratory breeding bird season (May 1 to July 31) or that trees be inspected for nests which would not be disturbed by construction activity until the nest is vacated by imposing an appropriate setback depending on the bird species.

The woodlot on proposed Lot 18 at the south end of the site is proposed to be protected through “appropriate restrictions on title”.

### Visual Impact Assessment (VIA)

A VIA was completed for the development and reviewed by NEC staff in 2018. Additional work was identified to be completed. As the concept for the subdivision changed, a new Terms of Reference (TOR) for the visual assessment was required. The consultant completed viewshed analysis in June 2021 based on the updated TOR to reflect “leaf on” conditions. Further work is recommended by the consultant for the fall during “leaf off” conditions to confirm visibility of the proposed development, assess its impact on those views and identify any necessary mitigation. This work is necessary for NEC staff to assess the application in respect of the policies in Part 2.13, Scenic Resources and Landform Conservation in the NEP.

## AGENCY CONSULTATIONS:

### NEC staff circulated the latest updated technical reports and submissions and draft plan of subdivision to the agencies listed below but are still awaiting comments on the new documents (except for MECP as noted below). Therefore, the synopsis of the comments below reflects the previous submission which had a different lot configuration and did not include the current phasing proposal or Environmental Management Plan. NEC staff will update the Commission on any further or final agency comments in the final recommendation report on the Development Permit application.

### Huron Wendat First Nation

NEC staff received the following comment from the Huron Wendat First Nation. “As the archaeological reports conclude that there is no further work recommended, the Huron-Wendat Nation has no further comments. However, in the event that any archaeological features are encountered in the next phases of the project we insist to stay informed and updated”.

### Town of Caledon

## The latest comments from Town Planning staff were received in February 2021. The comments included (but are not limited to) the following:

* The revised plan provides for improvements over previous submissions, but certain matters remain to be reviewed which may impact density, unit count, lot pattern and distribution and will require a resubmission of certain material.
* Conditions of draft plan approval may be considered for issuance upon further understanding and clearance of identified items and understanding LPAT appeal status.
* Historic population of Belfountain is 520 people but the current population is 208. The proposed 75 lots would result in a Hamlet population of 445 people. This would result in a total Hamlet population for the entire Town of 1277 persons and a remaining available population of 66 people or 21 houses (for all the other hamlets). However, it is not expected that settlement boundaries will change as a result of the Official Plan reviews so the development will not place undue hardship on the ability of the municipality to accommodate Hamlet population.
* The 3rd submission has a better design for the retention of existing stone fencelines/tree rows along road and property lines. The layout appears to involve less grading which helps to retain the existing hummocky cultural landscape.
* Conditions of approval need to ensure the recommendations about protecting stone fences and hedgerows are implemented.
* The park block size and location are acceptable. A park facility fit plan will be required.[[12]](#footnote-12)
* A satisfactory phasing plan should be developed to address servicing and other considerations.
* Contingency, monitoring, and mitigation measures noted in other agency comments need to be addressed in addition to consideration of implementation measures during detailed design, construction, and occupancy.
* Given the site’s rolling topography, private servicing and cultural and natural heritage features on the proposed lots, Town staff have an interest in establishing structural envelopes on each lot for structures, amenity space, lot grading and private servicing. Options for controlling development on each lot could include some level of zoning control, site plan approval, agreements, and/or an expanded development permit control process.[[13]](#footnote-13)
* Development on the site needs to be appropriate in terms of scale and massing, consistent with NEP and other applicable policies and the broader Belfountain community. Consideration should be given to confirming if the 600 square metre cap is a satisfactory limit, beyond firefighting requirements.
* Decisions regarding the subdivision application now rest with LPAT [now the Ontario Land Tribunal]. This needs to be factored in as part of the process moving forward including Council updates and need for any additional public meetings.
* Development Engineering had concerns with the proposed grading which could result in emergency overland flow onto private property for some lots.
* Rear yards must provide a depth of 7.5 metres that is sufficiently level (2-5%).
* Driveways must have a maximum slope of 6%.
* Stormwater management facilities must meet Ministry Design Criteria.
* Runoff from Shaws Creek Road must meet Town and CVC standards.
* Development restrictions may be required on certain lots until the SWM ponds have been determined to be functioning as designed.
* Erosion and sediment control plans will be required to ensure that the storm water management facilities are protected from siltation during house construction.
* A monitoring program for the stormwater network will be required.
* As the stormwater management method falls outside Town standards, any additional cost for maintenance could be the responsibility of the developer.
* The developer will be required to provide reports and engineering drawings for the reconstruction of Shaws Creek Road in front of the development.
* The impact of the use of road salt is to be addressed in the Hydrogeological Investigation report.
* The development presents an opportunity to enhance the community through innovative urban design, protection of the natural environment and sustainable technologies.

### Region of Peel

Comments from the Region were provided in 2021. Region staff confirmed that Core Areas of the Greenlands system are found on the property but noted that some of these areas are proposed to be protected in Open Space blocks in the subdivision. Based on the layout of the subdivision at the time, the Region requested additional discussion regarding grassland bird habitat and hedgerow/woodlot impacts on Lots 9-11.

Other comments included (but are not limited to):

* Support for low impact development.
* Need for 0.3 metre reserve along Mississauga Road to prevent access.
* No significant drinking water threat activity pursuant to the *Clean Water Act.*
* Municipal sanitary sewers and municipal water facilities are not available.
* Region has undertaken design for road improvements along Mississauga Road and the applicant should contact the Region in this regard.[[14]](#footnote-14)
* No updated door-to-door well survey within the 500-metre zone of influence has been undertaken.
* A private well survey is recommended to study water quantity concerns and confirm theoretical calculations regarding water supply.
* A pumping test is recommended to determine potential impacts to local sources of water.
* The well for the pumping test should be designed for the hydrogeological conditions of the area and should be done at a rate that would reflect the anticipated pumping rate for the proposed number of lots and any other existing private wells within the 500 metre zone of influence.
* A satisfactory pumping test should be done prior to approval of the project.
* Pumping tests already undertaken did not include impact analysis to private wells within 500 metres and/or impacts on the natural features due to cumulative pumping within the same area.
* No contingency plan or mitigation plan for impacts to septic systems, storm water system or water supply to private wells within 500 metres or natural features has been provided; this must be provided prior to any approval.
* The development scores well from a healthy communities’ perspective but sidewalks on both sides of the road and trail connections to the open space are recommended.

Preliminary comments and inquiries came from the Region of Peel regarding the most recent submission by the applicant and included:

* With the new proposal for use of cisterns and grey water recycling systems, the approval will fall under the MECP under the *Safe Drinking Water Act*.
* Will the cisterns be filled by an approved licensed hauler?

Further detailed comments from Region staff are anticipated. NEC staff will provide an update at the Commission meeting if they are received by that time.

### Credit Valley Conservation

CVC staff last commented on the application in February 2021 and provided technical recommendations and information requirements relating to:

* Surface water quality impacts from roadway runoff and potential impacts to fish, amphibian habitat, wetlands, and watercourses.
* Need for long term monitoring plans including targets, assessments, and remedial actions to support the proposal.
* Additional information required to address the stated 16% reduction in infiltration to the site post-development to demonstrate how directing storm water into dry wells will address this.
* Further information to confirm information relating to presence of karst on the site.
* Impact of placing a storm water management feature over a stream (RB1) on habitat, wetlands, and watercourses.
* Impact to the significant woodland near Shaws Creek Road and whether offsetting would be required.
* Demonstrate adequate distance between wells, septic systems, and infiltration areas on individual lots.
* Impact on tile fields of changes in slope and elevation on certain lots.
* Enforcement of the maintenance agreement for the proposed treatment systems through the subdivision agreement over the long term.
* Impact from increased groundwater flows of the large SWM facilities on the proposed lots that surround them.
* Impact of significant site grading on the hydraulic conductivity of the existing soils.
* Potential impact to Shaws Creek Road from proposed emergency overland stormwater flows.
* Attention to erosion and sediment control measures to ensure that measures are in place during construction to prevent soil compaction and clogging of catch basins.

### Ministry of the Environment, Conservation and Parks (MECP):

* **Species at Risk (SAR):** Based on a review of the information provided, MECP has determined that the activities associated with the project, as currently proposed, will likely not contravene section 9 (species protection) and/or section 10 (habitat protection) of the Endangered Species Act, 2007 (ESA 2007).

Should any of the project parameters change, please notify the Species at Risk Branch (SARB) of MECP  immediately to obtain guidance on whether additional actions will need to be taken to remain in compliance with the ESA 2007. Also, if any SAR species and/or habitats are observed in the project area, please contact the SARB as soon as possible.

If a significant amount of time passes before development can begin the proposed development may have to be reassessed for its potential impacts to SAR.

* **Hydrogeology:** Staff of the Environmental Approvals Branch provided comments in September 2020, having reviewed the Hydrogeological Investigation Report, Function Servicing Report and response to agency comments provided by the applicant.

MECP staff stated that if the proposed mitigation measures, if properly implemented, will significantly minimize impacts on groundwater resources and groundwater related features in the area. The revised reports have evaluated groundwater-related issues in a manner that is appropriate for this stage of the project and that adequately foresee the need for additional investigations.

Additional recommendations were offered for consideration:

* It is recommended that monitoring of groundwater nitrate levels at the site be implemented as a component of the phased development progression approach as recommended by Terra Dynamics Consulting (2020).
* Completion of water well survey and updated assessment (using monitoring wells) of potential private water supply interference with off-site users including water quality concerns.
* Implementation of the phased development approach based on the results of groundwater level and water quality monitoring contingent on compliance with the predicted level of protection of the aquifer, as recommended by Terra Dynamics Consulting (2020).
* Implementation of proposed appropriate restrictions on limiting groundwater use (restrictions on title), as recommended by COLE 2020 Report.
* Enforcement measures for treatment target of 20 mg/L for tertiary (Level IV) treatment system through subdivision agreement.

In a further email on August 27, 2021, having reviewed the latest information provided by the applicant, MECP staff advised that “the technical reviewer reviewed the updated technical reports and proposed Environmental Management Plan and has no additional recommendations and/or comments related to groundwater resources for the proposed development being completed in two phases to implement the proposed Environmental Management Plan”.[[15]](#footnote-15) NEC staff understand this comment to indicate that the prior MECP recommendations, listed above are still applicable.

### Ministry of Heritage, Sports, Tourism, and Culture Industries (MHSTCI)

Comments from MHSTCI in 2021 advised that they had reviewed the Cultural Heritage Resource Assessment and Cultural Heritage Impact Statement and indicated that the reports addressed their concerns with respect to built heritage resources and cultural heritage landscapes. They had no further concerns provided the recommendations of the consultant’s reports are followed in the development process.

### Ministry of Natural Resources and Forestry (MNRF)

The last set of comments from MNRF staff were received in 2018 before the Ministry became Northern Development and Mines, Natural Resources and Forestry.

MNRF staff reviewed the Environmental Impact Study and had comments including:

* Potential impact of the development on brook trout streams including use of road salt or household water softeners.
* Potential impact to bobolink and meadowlark habitat.
* Portions of proposed lots should not extend into the Escarpment Protection Area; recommended 30-metre buffer from significant woodland for Lots 9, 40, 51 to 55.
* The hedgerow on the west side of the development may qualify as significant woodland.
* Confirmation that all butternut trees had been identified.

### Department of Fisheries and Oceans (DFO)

In 2021 DFO received an application to construct a storm water management (SWM) facility at the end of an ephemeral drainage feature on the subject lands and to construct a berm around the SWM facility to prevent fish from ending up in the intermittent section of the watercourse and keep them in the upstream portion of the watercourse. DFO reviewed the proposal and indicated that the proposed works were not in fish habitat and will not likely affect fish or fish habitat.

## PUBLIC SUBMISSIONS:

A public meeting was conducted by the Town of Caledon on June 18, 2019. NEC staff was in attendance. Most local residents who spoke at the meeting expressed considerable opposition to the proposed development citing concerns about traffic, negative impact on the natural environment and wells, as well as compatibility with the character of the community.

The Belfountain Community Organization (BCO), a residents’ group, has made direct submissions to the NEC, including a submission from an expert they retained to review the technical reports relating to hydrogeology.

The Town is considering whether to hold another public meeting regarding the revised subdivision proposal.

## POLICY FRAMEWORK:

### Provincial Policy Statement 2020 (PPS)

NEC wrote to the applicant in March and April of 2021 providing comments on earlier submissions. As it relates to the PPS, the following policy issues were raised.

Rural Areas in Municipalities:

* Policy 1.1.4 encourages development that leverages rural assets and protects the environment; development in rural areas is to build on rural character, accommodate a range and mix of housing, conserve biodiversity and consider the ecological benefits of nature while focusing development in rural settlement areas.
  + Although there are other estate subdivisions in the area, the predominant form of development in the village is small dwellings and commercial activities on small lots. The proposed subdivision represents a significant contrast to the character of parts of the village.
  + The type of dwelling proposed for each lot will be the subject of future development permit applications but it is important to finalize the visual impact assessment and measures to mitigate the impact of the proposed dwelling envelopes at this stage to determine if the subdivision can be made to fit more harmoniously into the Escarpment environment, given the topography of the site and its rural setting in proximity to the village.
  + The subdivision as proposed in the architectural documents does not show a range and mix of housing and so this policy is not met in this application. It is the applicant’s position that this policy must be achieved overall in the municipality, not necessarily in each development proposal. Nevertheless, consideration could be given to providing different forms of housing within the development while not exceeding the site’s water and septic capacity.
* Policy 1.6.6.4 contemplates development on private services, only if municipal services or communal services are not available. The policy further states that in settlement areas individual services may be used for “infilling and minor rounding out of existing development”.
  + The Region of Peel has confirmed that municipal servicing is not available to the subject lands and that they do not support communal servicing.
  + The policy question remains as to whether the development of 72 lots within the Minor Urban Centre (MUC) of Belfountain from the existing the edge of current development to the southern boundary of the MUC constitutes infilling or minor rounding out of existing development. It is the position of NEC staff that 72 new lots do not represent minor rounding out and is only infilling to the extent that development would “fill in” the remainder of the undeveloped area of the MUC.
* Policy 1.6.6.4 also states it must be demonstrated that the site conditions are suitable for the long-term provision of individual services with no negative impacts on the environmental health and desired character of rural settlement areas.
  + In this regard, the staff of the MECP indicated that they were generally satisfied with the latest technical submission, but they requested an updated assessment of potential private water supply interference.
  + Further, staff of the Region of Peel remain of the opinion that a private well survey of existing wells in the community and a pumping test should be undertaken to determine a potential zone of influence for the drawdown on existing private wells prior to development approval.
  + The sufficiency of the work done to date to satisfy the commenting agencies and determine if the development can proceed on the scale proposed on individual services should be the subject of further discussion in order to determine if the PPS Infrastructure policy requirement has been met.

In its response, the applicant is of the opinion that not all PPS policies need to be met on each property and that this development does not need to satisfy them if opportunities exist elsewhere in the Town or the Region to achieve them. They are of the opinion that the proposed dwellings on estate lots “add to the variety of housing forms and lifestyle options available to the residents of the Region”.[[16]](#footnote-16)

With respect to whether the proposed development can be considered “infill”, the applicant notes that the term in not defined in the PPS but that the Town of Caledon Official Plan defines it to mean “housing development in existing residential neighbourhoods within settlements on vacant or underutilized land”.[[17]](#footnote-17)

As to the sufficiency of the proposed method of servicing, the applicant is of the opinion that their consultants have done sufficient work to demonstrate that there will be an adequate water supply and that a phased development approach accompanied by monitoring, and timely mitigation and remediation if required would be satisfactory to allow the development to proceed. Rather than completing a consolidated pumping test (i.e. to simulate the impact of 75 wells operating concurrently) and baseline well survey, prior to draft approval, the applicant proposes that this would be a condition of draft approval. The proposed Environmental Management Plan would monitor for any water quality or quantity issues arising from the development, according to the applicant.

### Greenbelt Plan 2017

The Niagara Escarpment Plan Area is part of the Greenbelt, but the policies of the NEP apply, and the Protected Countryside policies do not apply, except for Section 3.3 of the Greenbelt Plan (Parkland, Open Space and Trails).

Section 3.3 of the Greenbelt Plan notes that parkland, open spaces, and trails across the Greenbelt are necessary to provide opportunities for recreation, tourism, and appreciation of natural and cultural heritage. These features are important components of complete communities, support environmental protection, improved air quality and climate change mitigation.

The proposed development concept for the Manors of Belfountain includes a block for a future Town park and the applicant proposes to convey a block including lands designated Escarpment Natural Area to Credit Valley Conservation for a future Niagara Escarpment Parks and Open Space System (NEPOSS) park. A future trail may also connect the subdivision to the NEPOSS park and adjacent roads utilizing a former farm laneway subject to future consideration of the appropriate type of trail and achieving a balance between the environmental protection of wildlife habitat, protection of cultural heritage features and public safety in terms of the appropriate connection to existing roads with the need for an active transportation (pedestrian) connection to the hamlet and local businesses . The NEPOSS park would retain the remains of the cultural heritage farm buildings on the site. The development is therefore consistent with the Section 3.3 policies of the Greenbelt Plan.

### A Place to Grow - Growth Plan for the Greater Golden Horseshoe 2020

In comments provided to the applicant in March 2021, the following policy issues were raised.

It is important to note that Part 1.2.3, the Introduction to the Growth Plan, confirms it must be read in conjunction with the PPS and other provincial plans and that with respect to the natural environment or human health, the policy direction that provides more protection in these areas prevails.

Part 2.2.1b of the Growth Plan states that growth will be limited in settlement areas that “are not serviced by existing or planned municipal water and wastewater systems”. The Region of Peel in its comments on the Development Permit application has made it clear that municipal services are neither planned nor available to the subject lands. Whether this application would achieve this policy in terms of whether it represents “limited growth” should be the subject of further discussion.

The policies for managing growth in this section of the Growth Plan further support housing development within complete communities with a range of land uses, access to stores and services and a range of housing options. Although some local services exist in Belfountain such as the school, limited shopping and dining and access to parks and trails, the subject lands are considerably removed from employment opportunities, health services or transit and only one type of housing option, large estate homes, is proposed. Low impact development is proposed to be achieved through the design of the storm water management system, but other climate change objectives such as low-carbon communities would not be supported by a development which would rely mostly on the use of personal vehicles for daily activities.

The applicant responded in July 2021 stating that the subject lands had been committed for development in the Town’s Official Plan for 30 years and that the Growth Plan encourages residential development in settlement areas.[[18]](#footnote-18)

### Niagara Escarpment Plan 2017

A complete policy analysis will be provided in the final staff report on the Development Permit application. Policy issues raised by NEC staff in the spring of 2021 in comments provided to the applicant are included below with updates based on revisions to the technical reports, the applicant’s response to agency comments matrix and the latest draft plan of subdivision dated June 24, 2021.

Part 1 – Permitted Uses in Parts 1.3, 1.4, 1.5, 1.6.5 and 1.6.8:

Permitted Uses in Part 1 of the NEP must also comply with the applicable Development Criteria in Part 2 of the NEP.

With respect to the **Escarpment Natural Area** on the subject lands:

* The proposed park on Block 78 would only be a permitted use in the Escarpment Natural Area as an active park if it becomes part of the NEPOSS; (e.g. uses permitted in the Parks and Open Space System Master/Management Plans that are not in conflict with the Niagara Escarpment Plan). Confirmation that the open space block will be added to NEPOSS has been provided by CVC, but NEC staff need to confirm that the conveyance will still take place if the development includes only one phase of lots;

The subject lands are in the **Minor Urban Centre** (MUC) of Belfountain. The MUC policies state that the Development and Growth Objectives will be applied to all proposed development in conjunction with other policies of this Plan. MUC’s “may accommodate growth and development within their boundaries, so long as it does not conflict with the community character and can be achieved in an environmentally sustainable manner.”[[19]](#footnote-19) Permitted Uses and the creation of lots in an MUC will be those in approved official plan that is not in conflict with the NEP but also subject to the relevant Development and Growth Objectives of the MUC designation (Part.1.6.8 of the NEP).

Staff notes that the applicant is of the opinion that the character of the Belfountain hamlet includes other estate lot developments and that the MUC is part of the broader municipality where other types of housing may be provided. Architectural and urban design guidelines have been drafted for the proposed houses.

**Part 1.6.8 - Development and Growth Objectives**

* Development and growth and creation of lots shall not extend into the Escarpment Natural Areas. Staff note that the Escarpment Natural Area is not proposed to contain new lots or development.
* Development should be directed out of Escarpment Protection Areas even if in a Minor Urban Centre. Staff notes that Lots 51 to 54 have been taken out of the Escarpment Protection Area and the land incorporated into Block 78.
* Development and growth should be limited to minimize land use conflicts and the design of the development must be compatible with the scenic resources of the Escarpment. Conformity with this policy cannot be confirmed at this time and must wait until the VIA is completed in a manner satisfactory to NEC staff.
* Development within MUC’s should encourage reduced energy consumption, improved air quality, reduced greenhouse gas emissions and work towards long-term goals of low carbon and net-zero communities with increased resilience to climate change through maximizing opportunities for green infrastructure and low impact development. Some aspects of the development address this development criterion such as the proposed replacement of trees to be removed because of the development, creation of a park and proposed protection of the Escarpment Natural Area as a future NEPOSS park. The future dwellings could be designed with the goals of a net-zero community, but those details are not known at this time. The proposed measures to reduce water consumption in the development need to be confirmed through planning controls that can be enforced rather than achieved through warning clauses, and homeowner education. Planning controls need to be in place to ensure that if the water supply is not adequate or sustainable, or impacts off-site wells or natural heritage features, that further development is not permitted and additional measures can be implemented to rectify the problem, if it arises. Other aspects do not achieve this policy. The proposed subdivision will be car-dependent due to the absence of public transit and local services.
* Development and growth should be minor only, relative to the size and capacity of the settlement to absorb new growth, so that community character is maintained. The estate lot subdivision may be similar in character to other estate developments in the hamlet but is unlike the character of the village core which features small historic homes and businesses on small lots. Character is a subjective term that is not defined in the NEP but generally is understood to mean in accord with usual qualities or traits. As to the capacity of the settlement to absorb new growth, the Town in its comments indicated that the estimated population arising from the proposed development was within the total population estimates for all hamlets, although leaving little population increase available for other hamlets. The developer has proposed that the development could be phased and that the new residents could provide additional enrolment for the local school and customers for local businesses.
* The objectives of the MUC policies state that development and growth should be compatible with and provide for the protection of natural features and functions, hydrologic features and functions, considerations for the reduction of greenhouse gas emissions and improved resilience to a changing climate, sustainable use of water resources for ecological and servicing needs, among others. In the applicant’s response to NEC and agency comments they state that based on their modelling:
  + No groundwater quality impacts are anticipated at the site or down-gradient, but monitoring will be undertaken which will also monitor for groundwater interference;
  + With the proposed mitigation measures (e.g. water conservation) they believe that with mitigation there will be a 10% increase in recharge to the subject lands; without mitigation there would be a 16% reduction in recharge;
  + Details of the future design for the SWM facilities and pre-treatment options for preventing clogging of them with sediment will be addressed at the detailed design stage with the Town who will be given an operations manual for long term maintenance of these facilities;
  + Lack of public transit is acknowledged but the trend to work from home will offset the climate impacts of private vehicle uses by future residents.
* NEP policy clearly states that “municipal sewage and water services will be the preferred form of servicing”. Communal servicing is the second choice and the final option being individual on-site sewage services and individual on-site water services which may only be permitted when communal servicing is not available.
  + As the preferred servicing options are not available, according to the Region of Peel, the proposed development is proposed on individual wells and septic systems.
  + The applicant’s consultants maintain that water quantity and quality can be maintained and that monitoring will be undertaken.
  + As the Environmental Management Plan to address agency concerns was a recent proposal to introduce the concept of monitoring the first phase of lots, NEC staff is of the opinion that there should be more discussion as to the details of the monitoring proposal, how it would be enforced, what actions would be undertaken by the developer in the event test results show declining well yields or water quality, how quickly there would be a response to unpredicted water resource changes (e.g. temporary water supplies to affected residents in or outside the development) and under what specified Development Permit conditions would it be determined by the NEC or municipal authorities (for the draft plan conditions) that the development could not proceed to a second phase.

**Part 2.5 – Development on Steep Slopes**: additional information is required to demonstrate that lots with sloping topography have a stable and suitable building envelope; this information is required now for the Development Permit application, not at a later stage in the municipal planning approval process which would follow the NEC decision.

**Part 2.6 – Development Affecting Water Resources**: significant issues remain, based on the comments received from peer reviewers and other agencies. These must be addressed in order to demonstrate that the NEP policies with respect to new development affecting water resources in Part 2.6.3, 2.6.9 and 2.6.10 particularly have been or can be met using planning tools or agreements available to the NEC under the NEPDA. NEC staff will be informed by further comments from the agencies and municipalities on the latest applicant submissions. Further discussion regarding the proposed monitoring plan is warranted as it does not propose to monitor potential impacts to natural heritage features and the habitat they support.

**Part 2.7 – Development Affecting Natural Heritage**: NEC staff had questioned how the loss of the significant woodland adjacent to Shaws Creek Road demonstrates maintaining and enhancing natural heritage features and functions as required by NEP policy.

Staff note that CVC has now acknowledged that the future widening of Shaws Creek Road in front of the development will create a sufficient break in the continuity of the woodland with land on the west side of the road to render the portion of the woodland on the subject lands as no longer significant.

NEC staff had raised the need to demonstrate that the federal Department of Fisheries and Oceans (DFO) requirements are met by the application at this stage.

The applicant has provided confirmation that DFO is satisfied with the impact to the stream on the subject lands.

NEC staff had raised the issue that protection for the habitat of SAR on site has not been fully finalized; (will the bird habitat be fenced, how will the JESA[[20]](#footnote-20) wetland pond be protected in the interim until the lands are conveyed to CVC)?

Final comments from MECP have been received indicating that the biologist was satisfied that the development does not contravene the *Endangered Species Act.* Notwithstanding the position of the MECP, NEC are of the opinion that additional land use planning controls need to be considered in consultation with the applicant, to ensure the preservation and enhancement of the habitat of endangered and threatened species, which are key natural heritage features in the NEP.

**Part 2.10 - Cultural heritage**: the subject lands feature stone walls and some remnant farm buildings on Block 78. If Block 78 is conveyed to CVC, conservation of the cultural heritage buildings in that location could be conserved. The stone walls and hedgerows throughout the site should be conserved in accordance with Part 2.10.2, but the planning restriction to ensure protection is not clear at this stage. Restrictions on title for some of the lots are proposed by the applicant where certain walls and hedgerows will be on private property.

**Part 2.11 - Recreation**: since trails are no longer part of the current application, they are not shown on the draft plan and would be part of a subsequent application by others.

Staff note that the draft plan no longer includes the trails. These could be established through subsequent development permit applications by the Town or by the CVC should they wish to provide pedestrian access from the proposed subdivision roads and the lots to the open space, Old Main Street or Mississauga Road.

The Region of Peel proposes that sidewalks be incorporated into the development on both sides of the road to promote active transportation. As a rural subdivision, and considering NEP Policy 1.6.8.5, NEC staff are of the opinion that infrastructure should be kept to a minimum and the sidewalks on one side of the road would be adequate to allow future residents to access the school or the park.

**Part 2.12 - Infrastructure**

The objective of these policies is to ensure the least possible impact on the *Escarpment environment. Green infrastructure and low impact development* are encouraged where appropriate. NEC staff note that the design of the proposed development is based on the use of storm water management ponds with dry wells which can be considered green infrastructure. NEC staff note that there are still issues that need to be addressed, as identified in previous CVC comments, with respect to the functioning of the system as a groundwater recharge feature. Their comments also seek additional information regarding the separation of infrastructure within and between the proposed lots.

In its response, the applicant states that the stormwater management system is designed to infiltrate all rainfall and control back to back two hundred-year storms. The Level IV septic systems proposed will reduce nitrates to levels lower than current guidelines and the use of grey water systems will reduce water use by 25%.

This issue should be re-visited once final agency comments on the latest proposal are received.

**Part 2.13 -** **Scenic Resources and Landform Conservation**: the applicant’s consultant is undertaking further work as part of the visual impact assessment process; the outcome of that work will determine if the proposed development can satisfy the policies in Part 2.13.4.

The NEC Landscape Architect has reviewed the Stage 1 work submitted by the applicant’s consultant in August 2021 which includes preliminary visual assessment work completed during “leaf on” conditions. Additional work has been requested by NEC staff including re-examination of certain viewpoints to confirm conclusions about the impact of the proposed development on scenic resources. As such, the Stage 1 VIA work is not complete at this time.

Further study of certain viewpoints will be required in a Phase 2 VIA in the fall during “leaf off” conditions to confirm the visibility of the proposed development and measures required to mitigate any impact and to protect the scenic resources of the Escarpment. The Phase 2 VIA must also include an assessment of visual impacts associated with all aspects of the proposed development (e.g. built form, entry features, streetscaping, storm pond, tree removal, grading, etc.). The VIA should also cross-reference the cultural heritage study.

## Region of Peel Official Plan (ROP)

The subject lands are identified on Schedule D to the ROP as part of the Rural System. The General Objectives include conserving the environmental and resource attributes of the region and recognizing the *integrity* and characteristics of existing communities.[[21]](#footnote-21) Further, rural communities are to providing living opportunities, respect the natural environment and allow choices in rural lifestyles. Growth in the Rural System must be consistent with the policies of provincial plans including the Niagara Escarpment Plan. Sustainable development is to be achieved.

Policy 5.4.2.7 of the ROP directs area municipalities to require applicants to provide a comprehensive assessment of alternative methods of providing water and sewer services for proposed development ensuring groundwater quality and quantity is protected and most suitable to the characteristics of the site.

Policy 5.4.4 relates to Estate Residential Communities in the Region. The policy notes that estate residences are large lot housing units that generally rely on private services, constitute a limited portion of the total housing stock but add to the variety of housing forms and lifestyle options for residents of the region. Belfountain is not identified as an estate residential area.

Policy 5.4.4.2.3 is especially relevant to the consideration of the subject proposal. It states: “Direct the Town of Caledon to consider new estate residential development only [emphasis added] in the Palgrave Estate Residential Community or on other lands already [emphasis added] committed for estate residential development…”.

The policy for Rural Settlements, which include Hamlets such as Belfountain in section 5.4.5 of the ROP indicate that they generally provide for lower density housing including the objective of preserving and enhancing the distinct character and historical heritage of rural settlements.

With respect to Growth Management, Policy 5.5. of the ROP support planning for complete communities that include offering transportation choices, diverse mix of land uses, accommodate people at all stages of life, have an appropriate mix of housing, high quality open space and easy access to retail and services to meet daily needs.

Region staff advised that portions of the property are designated Core Areas of the Greenlands System where development and site alteration are prohibited. Areas such as the grassland habitat and existing hedgerows and woodlots are also located on the property and may require protection.

### Town of Caledon Official Plan

Belfountain is located within the Rural System of the Region of Peel and designated a Hamlet in the Town’s OP. Hamlets are existing communities which are generally a cluster of houses around a small historic settlement. Residential uses shall be the predominant land use within Belfountain, and limited Village Commercial and Institutional uses may be permitted. The minimum parcel size is to be determined by the Town in consultation with the Region’s Health Department and the Ministry of the Environment and Climate Change where intensification is proposed in the NEP Area, according to the Town’s OP. Hamlets rely on Villages and Rural Service Centres for most services.

The Town’s OP designates a portion of the subject lands as Environmental Policy Area. Development within the EPA is restricted.

Type of development: The form of the proposed subdivision is a hybrid development in that in incorporates elements of design and infrastructure to have a lower impact on the land but proposes a lot fabric and housing form less common today. Historically, rural estate subdivisions were a common form of rural development, but now they depart from current planning policy which supports the preservation of agricultural land, higher density, mixed-use development with a range of housing types and on full municipal services or communal services where municipal services are not available.

This development has been carried forward to present day even though the hearing decision (August 1990) refused the original Development Permit application and the 1988 plan of subdivision for 73 lots. A subsequent plan of subdivision for 48 estate residential lots came in 1991 and the current application proceeds under that historical Town file number as the owners try to demonstrate how or if the property could be developed on private services while protecting the environmental features and functions of the land.

## DISCUSSION:

In considering Development Permit applications, NEC staff must determine whether the development conflicts with policies of the NEP 2017 or could be recommended for approval subject to appropriate conditions. This review is informed by the positions of the commenting agencies, input from the public and the professional opinions and recommendations of the consultants retained by the applicant.

NEC staff has worked collaboratively and extensively with the Town, the Region, and Credit Valley Conservation regarding both technical and policy issues raised by the application. Provincial ministry staff have also reviewed the technical reports and provided comments and recommendations. Further comments on the latest proposal are pending.

Numerous meetings have been held with the applicant and their consultants at different times during the review of the application. In July 2021 NEC staff received updated technical reports and a response to prior agency comments, including those of the NEC. There had been no recent contact with NEC staff by the applicant and their consulting team as to the rationale for some of the changes to the development, how the Development Permit, if approved, would be implemented or any potential necessary conditions of NEC Development Permit approval to ensure that the necessary measures to oversee the development could be enforced. Rather, the implementation measures are presented by the applicant as resting either with the Town or the future homeowners. It must be reiterated that the Town will not be the approval authority for the draft plan as the applicant has appealed the subdivision application to the Ontario Land Tribunal which would render the final decision and, if approved, impose conditions of approval.

NEC staff are therefore of the opinion that in order to ensure NEP policy is met, the appropriate reports and/or studies to support a decision on the Development Permit need to be prepared prior to a decision on the Development Permit application.

NEC staff acknowledge that the proposed development has been revised to respond to some issues raised by NEC staff and the commenting agencies such as:

* Protection of bobolink habitat
* No roads through Escarpment Natural Area
* Lots taken out of Escarpment Protection Area
* Conveyance to CVC for future NEPOSS park including cultural heritage structures
* Proposed water restrictions, phasing, special septic systems, monitoring, grey water recycling, backup cisterns
* Protection of hedgerows and stone walls
* Enhanced storm water management (ponds)
* Housing proposed to be “net zero”
* Removal of trail.

However other issues are not resolved or appropriately addressed including but not limited to:

* Implementation of monitoring and any other land use or water restrictions are vague;
* An agreement with the NEC to enforce restrictions (that may not be addressed through the subdivision application process by the Town or the OLT) since the NEC is the land use approval authority for the Development Permit that must be approved before the draft plan of subdivision;
* Any measures to be undertaken by the developer (not public agencies) to rectify potential water quality/quantity issues in the future have not been clearly identified (e.g. temporary water supply to property within a Zone of Influence) if well yield is reduced);
* Proposed cisterns raise concern that wells may not be sufficient over time in the context of climate change and lack of baseline data to support modelled conclusions;
* Leaving certain relevant matters to be addressed post draft plan of subdivision approval and pre-site disturbance e.g. private well survey;
* Opportunities to consider the lack of housing variety in consideration of policy objectives in the PPS; housing examples indicate excessive lighting not in keeping with dark sky approaches;
* Proposed use of wells to fill swimming pools;
* Ability to mitigate visual impact not yet known and further work required to address NEP policy;
* No monitoring is proposed for the potential impact of development on the existing wetland feature.

Many of the implementation tools proposed by the applicant (such as conditions of draft plan approval, agreements, heritage easement agreements, use of a control architect, monitoring, securities) are all directed at the Town/Region and subdivision process; or homeowner (maintaining a water filtration system in the home, limiting salt/fertilizer use, maintaining a biofilter septic system, not filling pool using well, not installing a lawn irrigation system) rather than being conditions that need to be binding as part of the Development Permit process.

With respect to development on private services, it is the opinion of NEC staff that monitoring (wells and wetland) should be adaptive over time. Provision should be made for well locations or the number of lots to be adjusted if monitoring results do not align with modelled water quality or quantity estimates or if there are offsite impacts to private wells outside the development.

Using a precautionary approach to the consideration of a complex Development Permit application, NEC staff are of the opinion that consideration should be given to limiting a decision on the development to the first phase of the development only.

## CONCLUSION:

NEC staff is of the opinion that it would be premature to recommend a decision on the Development Permit application as additional time is required to review the latest submission, consider comments from circulated agencies and the public, and consult with the applicant and their consulting team on any outstanding issues or questions. Further, a key element of any decision on the application will be whether an appropriate set of conditions could be applied to the development to ensure that the monitoring and mitigation of any potential negative impacts arising from the development on the natural environment and the community can be achieved. Finally, staff is of the opinion that a Development Permit agreement should be drafted prior to any decision in consultation with Legal Services and the applicant.

In the event that an Ontario Land Tribunal hearing is scheduled on the appeal of the related plan of subdivision, prior to a decision on the Development Permit application, NEC staff should be authorized to attend to confirm the need for a Development Permit to be in place first, pursuant to S. 24(3) of the NEPDA.

## RECOMMENDATIONS:

1. That the NEC confirm that it is of the opinion that consistency of the development with provincial policy cannot yet be determined as outstanding matters are identified in this report; and,
2. That the NEC direct staff to:
3. continue working with the applicant to attempt to resolve outstanding policy and technical issues including the review of the final VIA;
4. request that the applicant undertake to provide NEC staff the studies and reports requested in order to properly assess the application before returning to the NEC with a final recommendation on the Development Permit application, for the first phase of the subdivision only;
5. Seek party status in the Ontario Land Tribunal hearing regarding the related plan of subdivision as the NEC has an interest in the subdivision application and the Development Permit, and the appropriate timing for their processing (i.e.; a decision on the subdivision cannot be made prior to a Development Permit per S. 24(3) of the *Niagara Escarpment Planning and Development Act);* and,
6. That the NEC advise the applicant that it is not prepared to recommend approval of Phase 2 until Phase 1 is completed, and the necessary studies and monitoring determine that Phase 2 can proceed without impacts. Phase 2 will be dealt with through a separate Development Permit application from Phase 1.

Prepared by:

Original signed by:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Nancy Mott, MCIP, RPP

Senior Strategic Advisor

Approved by:

Original signed by:

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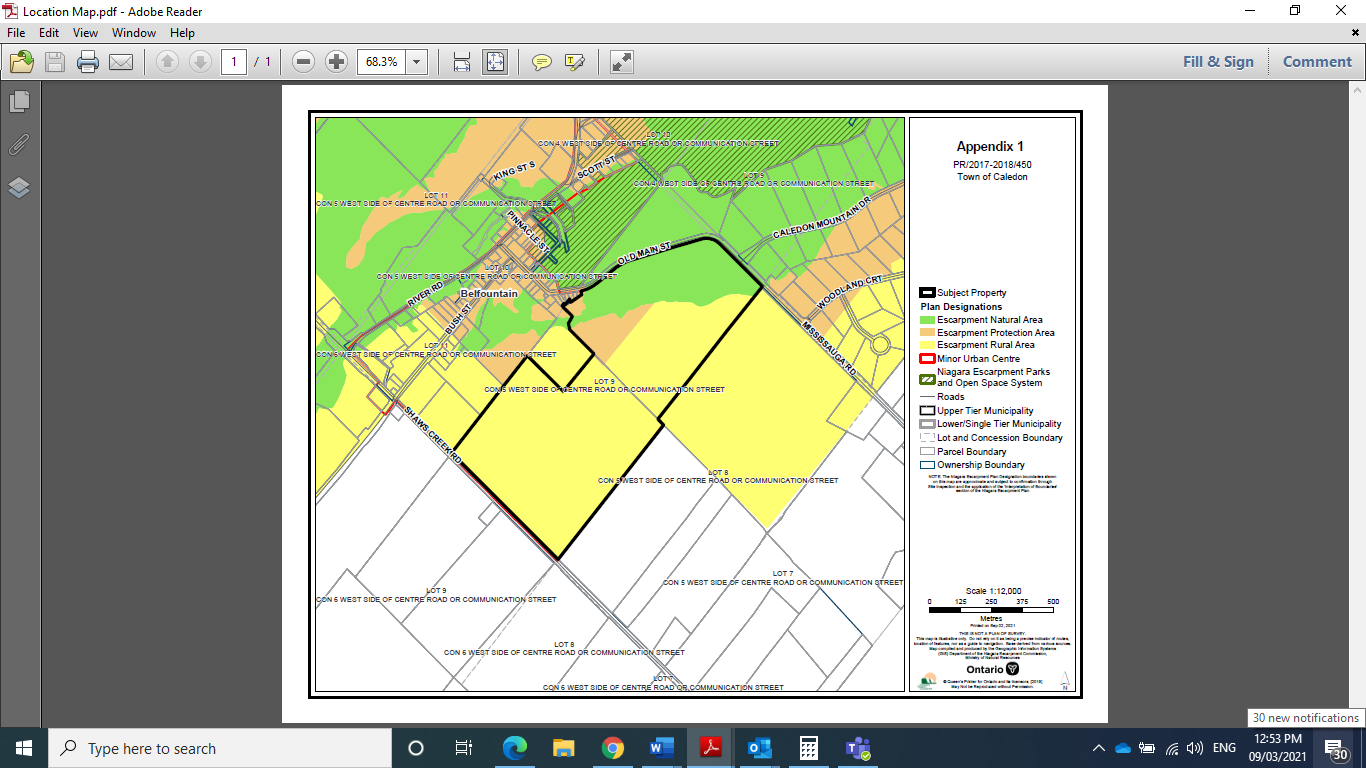
Debbie Ramsay, MCIP, RPP

Director

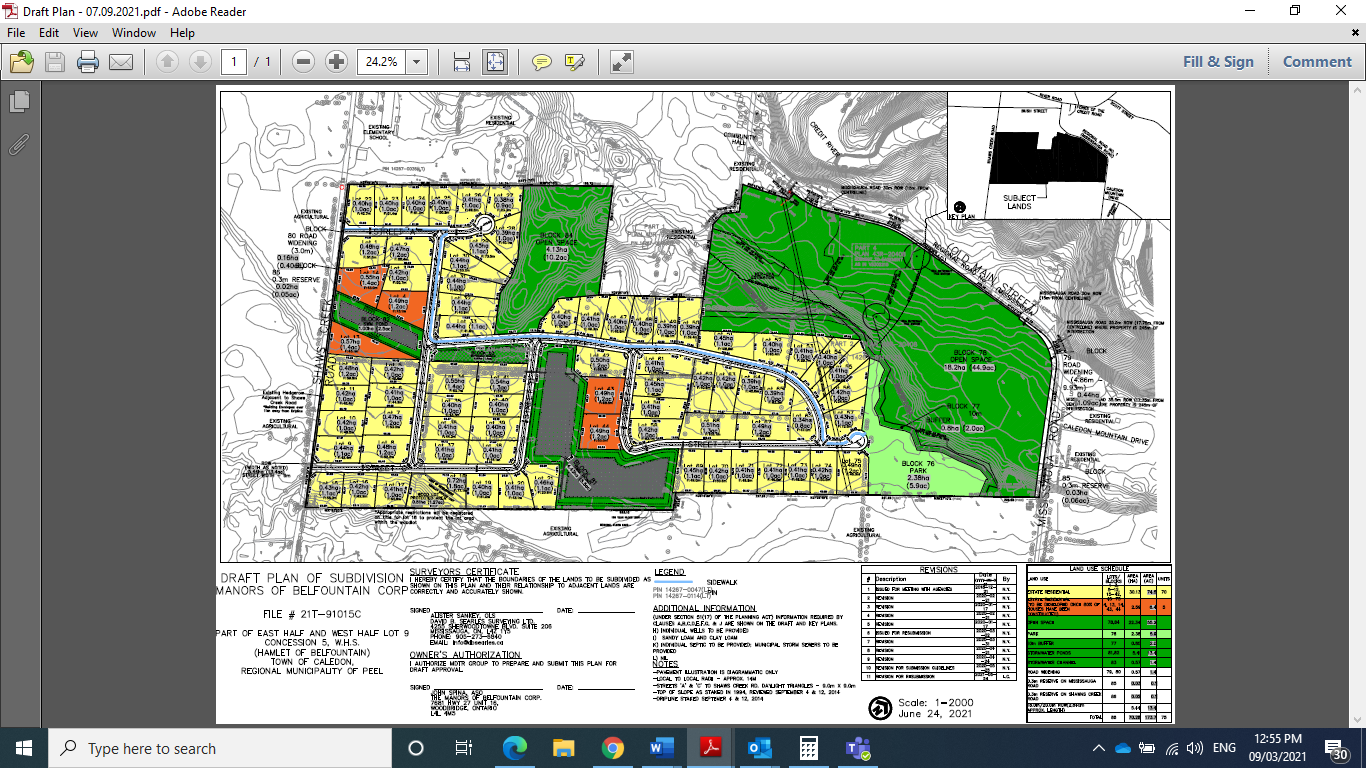
Appendix 1 – Location Map

Appendix 2 – Draft Plan of Subdivision

Appendix 3 – List of technical studies submitted by the applicant



## Appendix 2 – Draft Plan of Subdivision



## Appendix 3 – List of technical reports and other submissions by applicant

Response to comments matrix, July 12, 2021, Manors of Belfountain Corp.

Maps: Areas of Potential Karst, shallow dug wells, Port Stanley till, phasing plan

Cultural heritage impact statement

Cultural heritage resource assessment

Development brief

Environmental Impact Statement addendum

Environmental Management Plan (July 2021, IBI Group)

Functional servicing report

Geotechnical Investigation and Slope stability report

Healthy development assessment

Hydrogeological Investigation Report

List of warning clauses, restrictions, and conveyances (July 2021, MDTR Group)

Night Sky Lighting analysis

Noise impact study addendum

Planning Justification report addendum

Revised draft plan of subdivision with phasing (June 2021, Manors of Belfountain)

Stormwater management addendum

Tree Inventory report

Tree inventory and preservation plan

Sample draft conditions of approval for wells and septic systems in other municipalities (July 2021, MDTR Group)

Urban design and architectural guidelines

Water balance

Visual impact assessment – terms of reference/initial results

1. ## The applicant provided a proposal to develop the site in two phases to the Town and Region and the NEC in July 2021, together with new supporting information.

   [↑](#footnote-ref-1)
2. Note that the development of the individual houses will be the subject of subsequent Development Permit applications if the subdivision is approved. Should development control be lifted in the future and zoning come into effect, the Town would be the planning approval authority. [↑](#footnote-ref-2)
3. Since the hearing dealt with matters under the NEPDA and Planning Act, a Joint Board was convened including members of the former OMB and the Environmental Assessment Board. [↑](#footnote-ref-3)
4. Joint Board decision, Case No. CH-90-03, August 28, 1990, p. 27. [↑](#footnote-ref-4)
5. If the draft plan of subdivision is approved and if the Town were to pass a zoning by-law for the subject lands, and if the lands were removed from the NEC Area of Development Control through a change to Regulation 826, then development permits would not be required to develop the individual lots. [↑](#footnote-ref-5)
6. A complete review of the technical studies submitted by the applicant will be undertaken in the final recommendation report on the Development Permit application. A complete list of technical studies is found in Appendix 3. [↑](#footnote-ref-6)
7. Environmental Management Plan, IBI Group, July 2021, p.1. [↑](#footnote-ref-7)
8. Cole Engineering, Hydrogeological Investigation, Manors of Belfountain, May 2020, p.vii. [↑](#footnote-ref-8)
9. Functional Servicing Report, IBI Group, July 2021, p. 1. [↑](#footnote-ref-9)
10. Cole Engineering, Hydrogeological Investigation, Manors of Belfountain, May 2020, p.viii. [↑](#footnote-ref-10)
11. Ibid, p. 49. [↑](#footnote-ref-11)
12. NEC staff has advised the Town that development of the Town park will require a future development permit. [↑](#footnote-ref-12)
13. The subject lands are in the NEC Area of Development Control (ADC). Historically, the NEC has chosen not to lift development control due to the historic development proposals for the subject lands. The Town could request an amendment to Regulation 826, to remove the MUC from Development Control in the future. The Town could also adopt a zoning by-law to use as standards to apply to the development of the individual lots, if the subdivision is approved, but individual development permits would still be required as long as the property is in the ADC. [↑](#footnote-ref-13)
14. NEC staff has an active Development Permit application for the road improvements: PT/20-21/353. [↑](#footnote-ref-14)
15. Erin Lee, MECP, Email dated August 27, 2021. [↑](#footnote-ref-15)
16. Comments Response Matrix, MDTR Group, July 2021, p.4 [↑](#footnote-ref-16)
17. Ibid, p. 9. [↑](#footnote-ref-17)
18. Ibid, p. 15. [↑](#footnote-ref-18)
19. NEP 2020 Part 1.6.4. [↑](#footnote-ref-19)
20. JESA refers to Jefferson Salamander, which is a species protected under the *Endangered Species Act.* [↑](#footnote-ref-20)
21. Integrity in the Glossary of the Region’s Official Plan is described as: “integrity exists in an ecosystem when its inherent potential is realized, its capability for self repair when disturbed is preserved, and minimal external support for management is required”. [↑](#footnote-ref-21)