Planning Justification Report

Township of Clearview
Improvements to
Nottawasaga Sideroad
26/27
Niagara Escarpment Plan
Amendment Application

August 2020



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Prepared for:

Township of Clearview

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Attachment No. 4 - June 8, 2020 Letter from the Mayor, Municipality of Grey Highlands to the NEC

Attachment No. 5 – June 5, 2020 Letter from The Town of The Blue Mountains Council to the NEC

Attachment No. 6 – July 7, 2020 Letter from the Mayor, Township of Clearview to Grey County, the Municipality of Grey Highlands and the Town of The Blue Mountains

Attachment No. 7 – July 14, 2020 Letter from Walker Industries to Grey County Warden and Council and Mayors and Councils of the Municipality of Grey Highlands and the Town of The Blue Mountains

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Appendix A – Summary of written comments received from Agencies and Interest Groups from the January 2019 circulation of the NEPA application

Appendix B – Summary of written comments received from Local Businesses and Residents from the January 2019 circulation of the NEPA application

Appendix C - Letters prepared by R. J. Burnside & Associates Limited in response to comments received in 2019 – Letters addressed to: NEC, NVCA, GSCA, MNRF, MTCS, and Blue Mountain Watershed Trust; and Letter prepared by GSP Group Inc. to Mr. George McKibbon.

1.0 EXECUTIVE SUMMARY

This Planning Justification Report (PJR) is written in support of the Township of Clearview's application to amend the Niagara Escarpment Plan (NEP), as well as its application for a Niagara Escarpment Development Permit (NEDP) to permit the Township to improve existing Nottawasaga Sideroad 26/27 (Sideroad 26/27).

The Niagara Escarpment Plan Amendment (NEPA) application is seeking permission to improve Sideroad 26/27 within the existing right of way with the knowledge that the improved road will impact key natural features. The NEP permits infrastructure in all land use designations and the proposed road improvements are necessary for public safety and to mitigate impacts the existing road is having on adjacent key natural heritage and hydrological features. The 2017 NEP Development Criteria state that infrastructure may be permitted in key natural features if the works are deemed necessary to the public interest following a review of alternatives. The Environmental Assessment Schedule authorized by the Minister of the Environment, Conservation and Parks does not require the review of alternatives to improving Sideroad 26/27.

The road improvement works require a NEDP. In 2015, Niagara Escarpment Commission (NEC) staff supported the permit application, but it was refused by the NEC. As part of its decision to refuse the permit, the NEC indicated that the road improvements could not be deemed necessary to the public interest given that alternatives were not considered. The Township appealed the NEC decision. A revised NEP came into effect in 2017. Given the NEC's reasons to refuse the NEDP in 2015 and based on specific wording changes made to the NEP in 2017, the Township, out of an abundance of caution, submitted the NEPA application to support the existing NEDP application.

Sideroad 26/27 connects Simcoe County Road 95/Grey County Road 31 with Concession Road 10 in the Township of Clearview and is approximately 2.7 km in length. The road traverses the Niagara Escarpment, has a granular base and gravel surface and the travelled portion varies in width between approximately four (4) metres and five (5) metres. The Township plans to improve the road to Township standards within the existing 20-metre right-of-way width. Road improvements will provide for a safer road. The improved road design with improved drainage features will reduce the negative impacts from sediment and coarse materials entering surface water features (small tributaries of Pretty River and local wetlands).

The Township is seeking to amend the NEP to add specific provisions to:

- permit the improved road "in" key hydrologic features;
- permit the improved road "in" key natural heritage features; and,
- permit the improved road in the Escarpment Natural Area designation, as it cannot be avoided.

The Infrastructure Development Criteria in the NEP state, in part that infrastructure shall avoid Escarpment Natural Areas, unless the project has been deemed necessary to the public interest after all other alternatives have been considered.

Following the preparation of a detailed Environmental Impact Study (EIS) that evaluated the key natural features in and surrounding the road right-of-way, the Township is satisfied that the road improvements are in the public interest and that the Escarpment environment will be protected to the greatest extent possible. The Township is satisfied that the proposed road improvements minimize the impact on key natural features and provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, being the purpose of the *Niagara Escarpment Planning and Development Act (NEPDA)*.

The NEPA application was circulated by NEC staff in early 2019. The circulated Provincial Ministries and Conservation Authorities do not object to the NEPA. Specific comments were made and addressed by the Township, and the Township is aware of additional actions required to obtain a Conservation Authority permit for the works.

The NEPA application has been contested by area municipalities, environmental groups, aggregate businesses in the area and individual residents. The reasons for the objections are varied and have been categorized based on common themes.

Many objectors oppose the closure of a portion of Township Road 91 to through traffic and question the need for improving Sideroad 26/27. Township Road 91 is south of and parallel to Sideroad 26/27. Township Road 91 borders the fully extracted Duntroon Quarry located on the south side of the road, and the expanded quarry on the north side of the road. The quarry applications were opposed by the NEC and others and a hearing took place. Agreements, including a Road Settlement Agreement, were entered into by area municipalities, including the Township of Clearview, and were referenced as part of the quarry approval. The Agreements address closing the western portion of Township Road 91 to through traffic and improving Sideroad 26/27.

In the latter part of 2019, GSP Group Inc. was retained by the Township to prepare an updated PJR to review both the NEDP application and the NEPA application based on the 2017 NEP. The NEPDA requires that the PJR address the rationale for the amendment, as well as reasons, arguments, and evidence in support of the change to the NEP. It must be demonstrated that the development proposed does not conflict with the purpose of the NEPDA as well as the NEP objectives and criteria for the land use designations applied to the road. The development must also meet the NEP Development Criteria associated with identified natural features. This report has been written to address these matters, as well as other planning documents and the comments received following the circulation of the NEPA application.

This PJR relies upon the information contained within the 2018 EIS, the series of mitigation measures proposed, as well as the EIS appendices which address hydrogeology, stormwater

management and geotechnical considerations. This report also relies upon environmental comments submitted by various provincial ministries and conservation authorities.

Over the years, adjacent natural features have extended into portions of the right-of-way. Edge vegetation associated with two (2) smaller wetland units within the Rob Roy Provincially Significant Wetland Complex must be removed. Peripheral trees that form part of the vast surrounding Significant Woodlands must be removed. Local wetland vegetation is within the right-of-way and a small segment of a tributary of Pretty River must be re-aligned outside of the travelled portion of the improved road.

The 2018 EIS has proposed mitigation measures to protect areas exposed during road improvements. Topsoil will not be removed from the site and will be used for seeding and planting. Erosion and Sediment Control (ESC) devices will be installed to limit erosion and remove sediment from stormwater run-off during and after construction. Construction in or across a watercourse or wetland will be timed to minimize impacts on fish and wildlife habitat. Removal of vegetation will occur outside of critical timing windows for lifecycles of wildlife, including bats. A revegetation plan will be prepared to offset removed vegetation and reduce impacts to the natural features.

Section 2 of this report provides the context for the NEDP and NEPA applications. Section 3 provides an overview of the Escarpment environment in the vicinity of Sideroad 26/27. Sections 4 and 5 provide justification for the NEPA application and demonstrate consistency with the 2017 NEP Development Criteria, respectively. Sections 6, 7, 8 and 9 provide a summary of comments received from area municipalities, interest groups, aggregate businesses in the area and residents. Section 10 provides a discussion on public interest and Section 11 provides a summary and conclusion.

2.0 BACKGROUND TO NEPA APPLICATION

In 2015, the Township of Clearview (Township) submitted a NEDP application (S/T/2013-2014/9152) to improve existing Sideroad 26/27. The application was supported by NEC staff and refused by the NEC. The decision to refuse the permit application was appealed by the Township. The scheduling of a hearing on the matter has been held in abeyance pending the processing of the related application to amend the 2017 Niagara Escarpment Plan (NEP), submitted by the Township.

The NEC refused the NEDP application based on four (4) written reasons, one being that the Township did not consider alternatives to the proposed improvements to Sideroad 26/27. Without a review of alternatives, the NEC decided the infrastructure project was not in the public interest. The NEC also decided that the road improvements would cause harm to the Escarpment environment.

In 2017, the NEP was revised and now contains revised wording regarding infrastructure. The 2017 NEP Development Criteria state that infrastructure may be permitted in key natural heritage features and key hydrologic features should the infrastructure be deemed in the public interest after a consideration of alternatives.

In 2018, given the previous position of the NEC regarding the consideration of alternatives, the Township submitted a NEPA application (PS 215 18). It is the Township's position that the road works are in the public interest and should be permitted to proceed notwithstanding the fact that components of key natural heritage features and key hydrologic features will be impacted given that they are located in or immediately adjacent to the 20 metre right-of-way for Sideroad 26/27.

Sideroad 26/27 is a gravel road with a travelled portion ranging from 4 metres to 5 metres. The road has an inadequate granular base as well as deficient drainage features which creates an adverse effect (erosion and sedimentation) on the adjacent natural features. The Township has determined that the road must be improved, within the existing right-of-way limits, to address public safety and mitigate the impact on the adjacent environment.

The proposed improvements to Sideroad 26/27 has proceeded as a Schedule A+ Municipal Class Environmental Assessment (EA) undertaking and therefore the consideration of alternatives to the improvements is not required as part of the EA process. The Ministry of Environment, Conservation and Parks (MECP) concurs that the Schedule A+ Municipal Class EA selected by the Township is appropriate and this has recently been confirmed by the Minister in a letter dated May 21, 2020 (see **Attachment No. 1**).

2.1 Clarifications

In January 2019, the NEC instructed staff to process the NEPA application and provide notification pursuant to Section 7 and Section 10 of the NEPDA. In September 2019, the Township retained GSP Group Inc. to review the background materials, technical reports and comments received from the circulation of the NEPA application and prepare an updated PJR. This PJR replaces the October 2018 PJR. The Sideroad 26/27 right-of-way is often referred to as the Subject Lands.

The 2014 NEDP application submitted by the Township was based on the provisions of the 2005 NEP. Following the 2015 Coordinated Review of Provincial Plans, the NEP was amended, and the revised version took effect on June 1, 2017 (2017 NEP). The NEPA application provides the opportunity to review both the NEDP application and the NEPA application under the 2017 NEP Development Criteria.

The Sideroad 26/27 right-of-way is designated Escarpment Natural Area (ENA), Escarpment Protection Area (EPA) and Escarpment Rural Area (ERA) in the 2017 NEP. The 20-metre right-of-way is referred to as the Improvement Area (IA) in the 2018 EIS and 120 metres beyond the right-of-way is referred to as the Study Area.

Certain vegetation communities and water resources are located within the Sideroad 26/27 20-metre right-of-way. When the gravel road was constructed, many years ago, certain areas within the right-of-way may have been left undisturbed or if they were disturbed, they have now expanded into the right-of-way through natural succession. If a key feature is currently located in the Township right-of-way, then for the purposes of this report, the proposed road improvements are considered to impact the feature or in the words of the NEP, the road improvements will take place "in" the defined key feature. The extent to which the key features are impacted varies along the length of the 2.7 km road.

A summary of comments received from the January 2019 circulation of the NEPA application is contained in two (2) tables. The first table provides a summary of comments from agencies and interest groups (see **Appendix A**). The second table provides a summary of comments from local businesses and residents (See **Appendix B**). Appendices A and B contain the same information as a previous Comment Matrix that was forwarded to NEC staff. In April 2020, R. J. Burnside & Associates Limited (Burnside) forwarded response letters to commenting agencies, including a separate letter to the NEC. A response letter was also forwarded to the Blue Mountain Watershed Trust. A response letter was also forwarded to Mr. George McKibbon, an environmental consultant working on behalf of Mr. David Stevenson. All response letters are contained within **Appendix C**.

The NEC staff recirculated the NEPA application, with revised wording, in early May 2020 to everyone who provided comments following the first circulation. To the best of our knowledge, the April 2020 response letters prepared on behalf of the Township were included in the recirculation. NEC staff sought additional comments on the NEPA application by June 8, 2020. On June 11, 2020 we were advised that the NEC received submissions from municipalities, individuals, and companies regarding the revised NEPA. We are aware of the Grey County, the Municipality of Grey Highlands and the Town of The Blue Mountain responses as well as the response from Mr. George McKibbon. No additional comments were forwarded. Comments received following the May 2020 recirculation are not included in Appendix A or B.

Throughout this report, short quotations are identified with quotation marks and longer quotations are indented within the body of a paragraph, with no quotation marks.

The following subsections of Section 2 provide the location of Sideroad 26/27, an overview of the planned road improvements; the relationship between Sideroad 26/27 and the Duntroon Quarry expansion to the south approved in 2014; an overview of the status of the 2015 NEDP application; and a list materials submitted to support the NEPA application.

2.2 Location of Sideroad 26/27 and an Overview of the Planned Improvements

Sideroad 26/27 lies within the north-west portion of the Township, north of Township Road 91 and south of Sideroad 30/31. Simcoe County Road 95/Grey County Road 31, also referred to as Osprey-Clearview Townline, forms the north-south boundary between the Municipality of Grey Highlands (Grey County) and the Township of Clearview (Simcoe County). Sideroad 26/27

intersects with the north-south County boundary road at its western edge and Concession Road 10 North at its eastern edge (approximately 2.7 km in length) (see **Figure 1**).

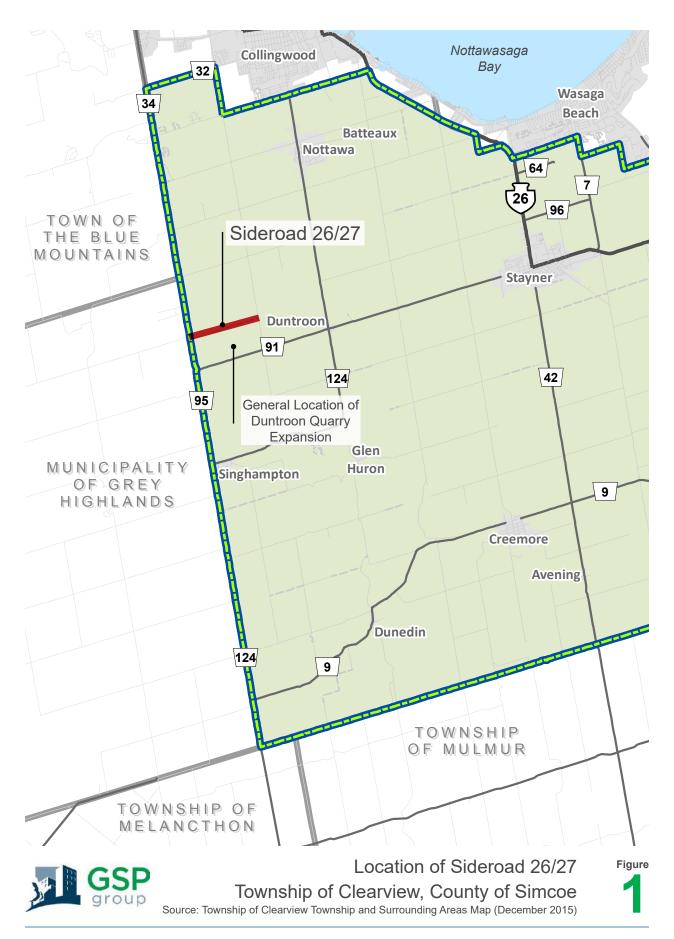
The Niagara Escarpment also lies within the western portion of the Township. In 1985 Sideroad 26/27 became subject to the NEP and Ontario Regulation 828 (Development within the Development Control Area of the NEPA Area) in 1991. Prior to January 1, 2013, when amendments to Ontario Regulation 828 took effect, certain types of maintenance, repair or renewal of municipal roads were exempt from requiring a NEDP. As of January 1, 2013, a NEDP is required for the expansion of road widths, changing the road surface from gravel to pavement, changing the road from seasonal to year-round, road cuts and contour changes.

Given that the road was not developed within its full right-of-way, through natural succession, vegetation and water features have extended into the existing roadside ditches/right-of-way. The total area of the right-of-way is approximately 5.4 hectares (approximately 13.3 acres) and the existing road surface occupies approximately 1.36 hectares (approximately 3.36 acres). The width of the travelled portion of the gravel road varies along its length (between 4.0 and 5.0 metres) and the travelled portion, east of the Escarpment brow (located at the approximate midsection of the road) is not maintained in the winter months.

Within the right-of-way, the proposed improvements include widening and paving the travelled portion of the road to 9.0 metres in width, with associated ditching and grading. This work will encompass an additional 1.21 hectares (approximately 3.0 acres) within the south portion of the right-of-way and an additional 1.16 hectares (approximately 2.86 acres) within the north portion of the right-of-way. A total of approximately 2.37 hectares (approximately 5.8 acres) must be cleared and graded. Approximately 1.67 hectares (approximately 4.12 acres) of the right-of-way will remain undisturbed. The road improvements and new drainage features have been designed to protect, to the greatest extent possible, the natural features that remain in the right-of-way and the adjacent natural features.

The 2018 EIS identifies, among other matters, the characterization of, and the area of the vegetation communities to be removed, including trees, and recommends mitigation and protection measures for the adjacent lands. The EIS states that erosion of the existing gravel roadbed, coupled with inadequate roadside ditches and culverts, results in poor stormwater conveyance and negative impacts on the surrounding environment.

The 2018 EIS concludes that improved road design and stormwater management techniques will improve the existing water quality of the surrounding tributaries and wetlands. The design drawings contained in the EIS show the extent of grading within the right-of-way and the areas to remain undisturbed. The intent is to provide, wherever possible, an undisturbed area as a buffer to the key natural heritage features and key hydrologic features. In some areas, it is possible to accommodate the pavement area and low impact development (LID) stormwater measures without utilizing the entire right-of-way.



2.3 Relationship Between Sideroad 26/27 and the Duntroon Quarry

By way of background, in 2008, Walker Aggregates Inc. (Walker) submitted a NEPA application (and other required applications) to re-designate lands on the north side of County Road 91 (now Township Road 91) east of Simcoe County Road 95/Grey County Road 31, Mineral Resource Extraction Area (see notation on Figure 1). Walker has quarried land on the south side of former County Road 91 (Duntroon Quarry). The NEPA application was refused by the NEC and appealed by Walker.

A hearing commenced on May 3, 2010, before a Joint Board pursuant to section 3 of the *Consolidated Hearings Act*. The ability of County Road 91 to accommodate additional vehicle and truck traffic from an expanded quarry was considered by the Joint Board. The Joint Board was advised that County Road 91 would require upgrading to full County standards, including greater lane width, wider shoulders, and changes to grade to meet site distance standards. Given the level of environmental and visual impact these works would cause, the NEC was opposed to the widening and reconstruction of County Road 91.

Simcoe County recommended that the portion of Country Road 91 adjacent to the quarry lands be downloaded to the Township and ultimately closed to through traffic. The road would continue to serve as a local access road and private haul road for the expanded quarry. The Joint Board was advised that under this scenario, another east-west local road for local vehicular traffic would be required. Given the proximity of Sideroad 26/27 to the north, it was suggested that Sideroad 26/27 could be upgraded to meet Township standards. A Road Settlement Agreement, as well as other Agreements, were entered into and supported by the Joint Board.

The Walker applications (a NEPA, NEDPs, a Township Official Plan Amendment and the issuance of a Category 2, Class "A" Quarry License) were approved. A final Joint Board Order was issued on July 17, 2014 and contained the decision, the direction(s), and the order(s). One of the amendments to the Site Plan included the statement that "improvements to former County Road 91 and Sideroad 26/27 as contemplated by the Road Settlement Agreements be undertaken to the satisfaction of the Township of Clearview."

Page 69 of the Joint Board Decision states:

It is the Joint Board's finding that Sideroad 26/27 with its improvements (within the existing road allowance) as set out in the Road Settlement Agreements can provide an appropriate alternative access to the closing of the portion of County Road 91 with nominal visual impacts to the Niagara Escarpment and is to be preferred to the reconstruction of County Road 91 to full Simcoe County Road primary arterial road standards. The existing access and crossing of the Bruce Trail with existing Sideroad 26/27 are virtually unchanged.

2.4 2015 NEDP Application and NEC Decision

The 2015 NEDP application (File No. S/T/2013-2014/9152) to improve Sideroad 26/27 was submitted and reviewed under the 2005 NEP, as amended. The intent of the 2005 NEP was to limit transportation and utility facilities on land designated ENA to those facilities considered essential. "Essential" was defined as being deemed necessary to the public interest after all alternatives have been considered. "Public interest" and "alternatives" were not defined in the 2005 NEP. All forms of transportation and utility facilities, whether deemed essential or not, were permitted in the EPA and the ERA with the proviso that only linear facilities may be permitted in prime agricultural areas and specialty crop areas.

The NEC staff report on the NEDP application, dated November 19, 2015, stated:

NEC staff accepts that 26/27 SR is an "essential transportation facility" and that the proposed improvements are a permitted use, subject to satisfying the Development Criteria in Part 2 of the NEP.

The NEC staff report relied upon the August 2014 EIS prepared by Burnside and the June 30, 2015 EIS Addendum. The NEC staff report provided an analysis of the NEP Development Criteria, the 2014 Provincial Policy Statement (PPS), County and Township Official Plan policies and comments received from circulated agencies and the public. The conclusion was:

The proposed road works are a permitted use and the overall changes that would result from the road works are in keeping with the NEP Objectives, Land Use Designation Objectives and Development Criteria.

NEC staff recommended approval of the NEDP application, with conditions.

The NEC refused the 2015 NEDP application, for the following reasons.

- The road project does not meet the test of essential as defined in the NEP (Appendix 2, Definitions), which requires consideration of all options in the Escarpment Natural Area. The Development Permit application did not provide adequate evidence that all options had been taken into consideration.
- 2. A tunnel under (former) County Road 91, that will be used to move aggregate from the new Duntroon Quarry to the processing plant on the floor of the existing Duntroon Quarry, was not in place, or taken into consideration, when the Development Permit application was made and is now operational, which further erodes the case for this road project to be deemed "essential".
- Development would offend the objectives of the NEP's two most sensitive land use designations: Escarpment Natural Area and Escarpment Protection Area.

4. Development would cause environmental harm, in particular to cold water streams and would damage steep Escarpment slopes.

One of the purposes of this PJR is to discuss the objectives of the ENA and EPA designations (as well as the ERA designation) in relation to the proposed road improvements. This PJR relies on the 2018 EIS and other technical documents to understand impacts, mitigation and benefits to the environment resulting from the proposed road improvements.

2.5 2017 NEP Infrastructure Policies and Subsequent 2018 NEPA Application

The previous 2005 NEP permitted transportation and utility facilities in the EPA and ERA designations and essential transportation and utility facilities in the ENA. Essential was defined in the 2005 NEP as "that which is deemed necessary to the public interest after all alternatives have been considered."

Within the 2017 NEP, the term "transportation and utility facilities" has been replaced by the word "infrastructure". Part 1 of the 2017 NEP lists infrastructure as a permitted use in all land use designations, including the ENA, subject to Part 2 Development Criteria.

The 2017 NEP now uses the terms 'key natural heritage features' and 'key hydrologic features', similar to the Provincial Policy Statement and the Greenbelt Plan. In Part 2 of the NEP, the former definition of essential is used to describe infrastructure that may be permitted to locate "in" key natural heritage features and "in" key hydrologic features. Should infrastructure be planned within a key feature, the infrastructure must be considered necessary to the public interest after all alternatives have been considered. Neither "public interest" nor "alternative" is defined in the 2017 NEP.

While key natural heritage features and key hydrologic features are primarily located on lands designated ENA, key features are found in other NEP land use designations. Through the preparation of the 2018 EIS, the Township understands how the road improvement works will impact key natural heritage features and key hydrological features. Natural features will only be removed within the limits of the right-of-way. However, it is recognized that adjacent lands may experience indirect impacts, and these impacts must also be understood.

The right-of-way of Sideroad 26/27 has been previously disturbed through the initial construction, decades ago and through continued brush clearing and maintenance. Portions of edge vegetation and approximately 0.86 hectares of woodland will require removal to accommodate the proposed road improvements. In some locations, key features will remain within the Sideroad 26/27 right-of-way and be protected to the greatest extent possible. An example is the proposed realignment of a small segment of a stream to make way for the widened travelled portion within the right-of-way. The stream will be realigned but will remain within the outer portion of the right-of-way.

The subject NEPA application does not seek to change a NEP land use designation. The Township is requesting an amendment to permit improvements to the road to locate partially "in" key natural heritage and key hydrologic features.

The Township is seeking to amend the NEP to add specific provisions to:

- permit the improved road "in" key hydrologic features;
- permit the improved road "in" key natural heritage features; and,
- permit the improved road in the Escarpment Natural Area designation, as it cannot be avoided.

(see NEPA – Attachment No. 2)

2.6 NEPA Application Supporting Documentation

Some supporting documentation associated with the NEDP application was updated when the NEPA application was submitted in 2018. In addition to this PJR, the updated reports include:

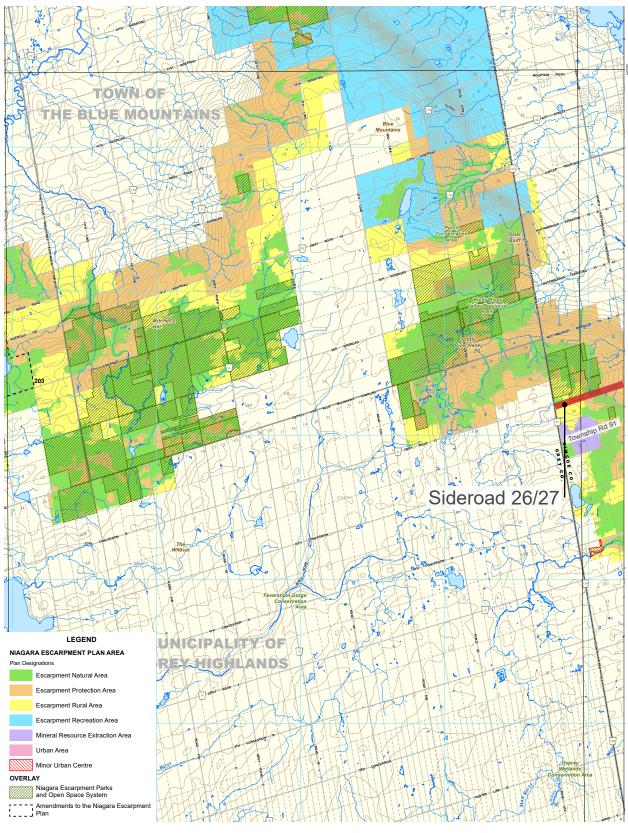
- 1. Environmental Impact Study (EIS) (October 2018) prepared by R. J. Burnside & Associates Limited,
- 2. Hydrogeological Report (August 2018) prepared by R. J. Burnside & Associates Limited,
- 3. Detailed Roadway Design Drawings (October 2018) prepared by R. J. Burnside & Associates Limited,
- 4. Stormwater Management Report (October 2018) prepared by R. J. Burnside & Associates Limited, and
- 5. Bat Habitat Report, Final, (March 2019) prepared by Skelton Brumwell & Associates Inc.

Previous documentation, not requiring an update includes:

- 1. Department of Fisheries and Ocean Submission (September 2016) prepared by R. J. Burnside & Associates Limited,
- 2. Visual Impact Assessment, Tenth Concession & Sideroad 26/27 Reconstruction prepared by Envision Tatham revised to August 15, 2015, and
- 3. Geotechnical Investigation, prepared by Peto MacCallum Ltd., Consulting Engineers, March 2015.

3.0 OVERVIEW OF THE SIDEROAD 26/27 ESCARPMENT ENVIRONMENT

To understand the extent of the Escarpment environment to the west of Sideroad 26/27, **Figure 2** is an extract from Map 6 of the NEP. Figure 2 shows the NEP designations within the Town of The Blue Mountains and the Municipality of Grey Highlands. Areas include Pretty River Valley Provincial Park, Petun Conservation Area as well as several moraines and wetlands.





Extract from Map 6 of the Niagara Escarpment Plan Source: Niagara Escarpment Plan Map 6 (2017)

Figure 2

An extract from Map 5 of the NEP (**Figure 3**) shows the Subject Lands in relation to the Escarpment lands in the western portion of the Township of Clearview and shows the Duntroon Quarry lands to the south of Sideroad 26/27. The NEP land use designations in the immediate vicinity of Sideroad 26/27 are shown in **Figure 4**

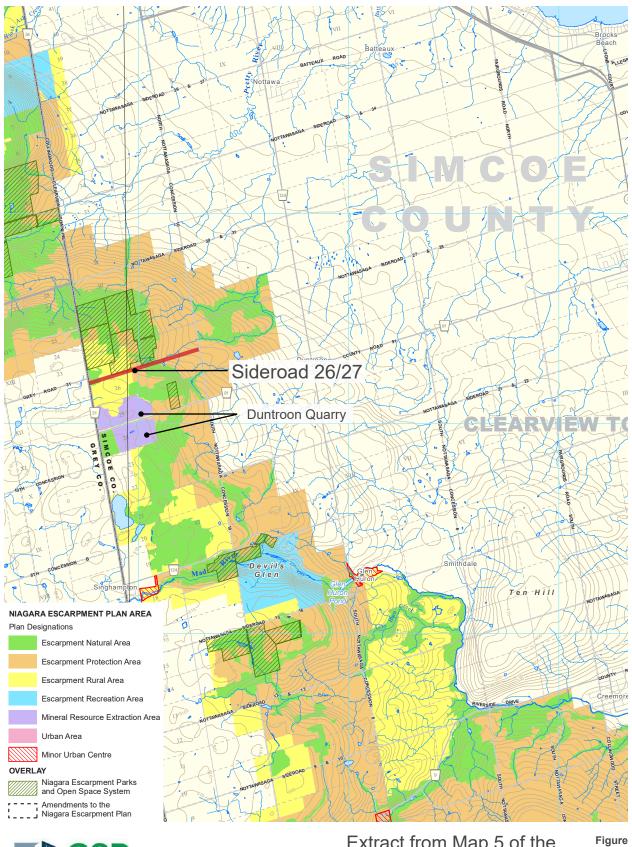
Along Sideroad 26/27, between the Townline and the brow of the Escarpment, the land is underlain by dolostone, being the cap rock of the Escarpment. The lands below the brow are underlain by older shales and limestone. Within the Sideroad 26/27 right-of-way the Escarpment bedrock is overlain by glacial drift of approximately 7.6 metres (25 feet) and the bedrock is not exposed.

Figure 5 is an extract from Map 10 of the NEP and illustrates the Niagara Escarpment Parks and Open Space System (NEPOSS) areas surrounding the Subject Lands. NEPOSS areas 67, 68, 69 and 70 are located to the west within the Town of The Blue Mountains. These areas represent the Petun Conservation Area (Escarpment Access); Pretty River Valley Provincial Park (Natural Environment), Pretty River Tract (Resource Management Area) and Rob Roy Forest (Escarpment Access) respectively. The Pretty River Valley Provincial Park contains Provincially Significant Earth Science (Pretty River Valley) and Life Science (Pretty River Valley) Areas of Natural and Scientific Interest (ANSIs), which include the Gibraltar Moraine and the headwaters of Pretty River.

Lands to the immediate north of the western section of Sideroad 26/27 are shown within the NEPOSS and are designated primarily ENA, as well as ERA and EPA. Two (2) NEPOSS areas (71 and 72) are identified and described in the NEP as:

- 71. Nottawasaga Lookout Provincial Nature Reserve (Nature Reserve) This 130-hectare property is managed by Ontario Parks. There is a scenic lookout and a route for cliff and ravine habitats and includes the Provincially Significant Earth Science (Nottawasaga Lookout ES) and Life Science (Nottawasaga Lookout) ANSIs. The area supports an outstanding number of fern species. The Bruce Trail crosses the property.
- 72. Nottawasaga Lookout (Escarpment Access) The Nottawasaga Lookout is approximately 117.6 hectares in size and is managed by the Ministry of Natural Resources and Forestry. The property contains 82 hectares of mixed red/white pine plantation, which was planted in the mid to late 1980s for reforestation purposes. The site contributes to contiguous forest cover in the local and regional landscape. The site also contains a portion of the Nottawasaga Lookout Provincially Significant Life Science ANSI. An OPP Communications Tower is located on the lands.

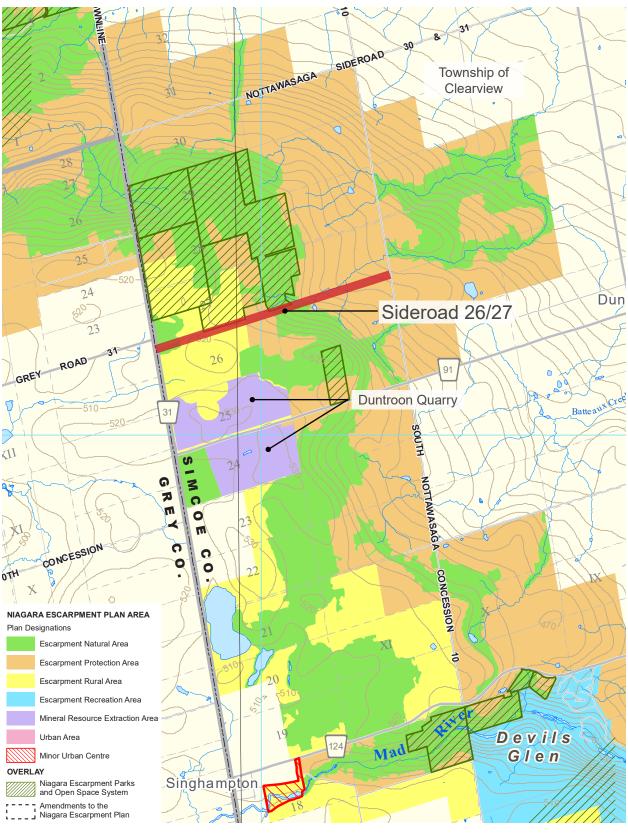
The Nottawasaga Lookout Provincial Nature Reserve is regulated under the *Provincial Parks and Conservation Reserves Act*. The Nottawasaga Lookout (Escarpment Access) is a Crown parcel.





Extract from Map 5 of the Niagara Escarpment Plan Source: Niagara Escarpment Plan Map 5 (2017)

3

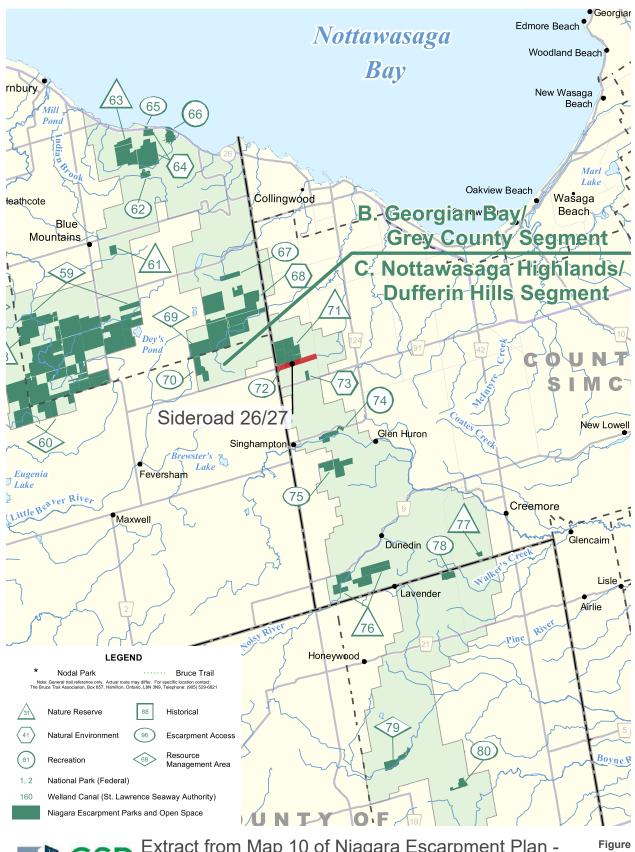




Niagara Escarpment Plan Land Use Designations along Sideroad 26/27

Source: Niagara Escarpment Plan Map 5 (2017)







Extract from Map 10 of Niagara Escarpment Plan Open Space System (NEPOSS)
Source: Niagara Escarpment Plan Map 10 (2017)

5

The proposed road improvements are confined to the existing right-of-way and do not directly impact any features within the NEPOSS boundaries.

NEPOSS Area 72 does not include the wetland units located at the western edge of Sideroad 26/27. These units are part of the extensive Rob Roy Provincially Significant Wetland (PSW) Complex (see **Figure 6**). The Rob Roy PSW complex is comprised of 17 individual wetland units that total approximately 408 hectares. The largest wetland community is located to the west of Sideroad 26/27 and is approximately 240 hectares in size. The PSW units lying north and south of Sideroad 26/27 fall under the jurisdiction of the Grey Sauble Conservation Authority (GSCA).

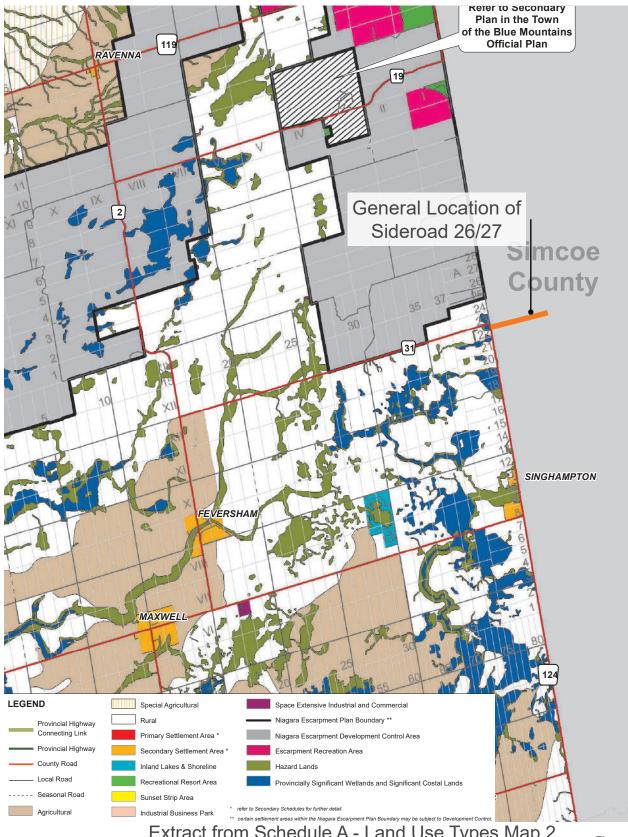
The majority of the Sideroad 26/27 right-of-way is located within the jurisdiction of the Nottawasaga Valley Conservation Authority (NVCA). East of the Rob Roy PSW units, on both sides of the Sideroad 26/27 right-of-way, there is a large dry-fresh sugar maple – white ash deciduous forest (2018 EIS). This forest extends a significant distance to the north. East of this forest community, on the north side of the road is a plantation of red pine and scattered sugar maple with little to no subcanopy or understory. There is an abundance of grass species along the plantation edge. The vegetation communities south of the pine and sugar maple plantation have been influenced by past agricultural practices.

The Escarpment brow and slope lie at the approximate centre of Sideroad 26/27 and designated ENA. East of the brow to Concession Road 10 North the lands are designated EPA. The EIS states the young slope forest is a dry-fresh white ash-hardwood deciduous forest and there are indications that this area was previously an open agricultural area. In the mid-road section, on the south side of the road, there is a poplar mineral deciduous swamp and meadow marsh. The EIS states there is evidence of groundwater input to the wetland features to the east.

There is a cattail mineral shallow marsh running parallel to the road on the south side where groundwater seeps were observed. The edge of the marsh includes basswood, white cedar, and green ash. Water is conveyed to the north side of the road through a culvert.

Within the NVCA jurisdiction, there are ten (10) aquatic management zones, most of which are sub-watersheds (see **Figure 7**). Figure 7 shows the Blue Mountain Watersheds located in the northwest portion of the NVCA watershed which include four (4) watercourses originating from the Niagara Escarpment; Silver Creek, Black Ash Creek, Pretty River and Batteaux River.

Five unnamed headwater tributaries of the Pretty River transect the Sideroad 26/27 right-of-way (see **Figure 8**). The Pretty River and some of its tributaries are cold water fish habitat for Brook Trout. Brook Trout was only observed in Tributary A shown in Figure 8 (north of the right-of-way) and no other fish species were observed. Tributary B is fed primarily by groundwater seeps originating on the northeast-facing slope of the Niagara Escarpment. Tributary C is currently conveyed beneath the road via an existing culvert. Seepage areas were observed within open marsh areas, the east facing escarpment slope and the roadbed itself. These seeps support the wetland features flanking the road.

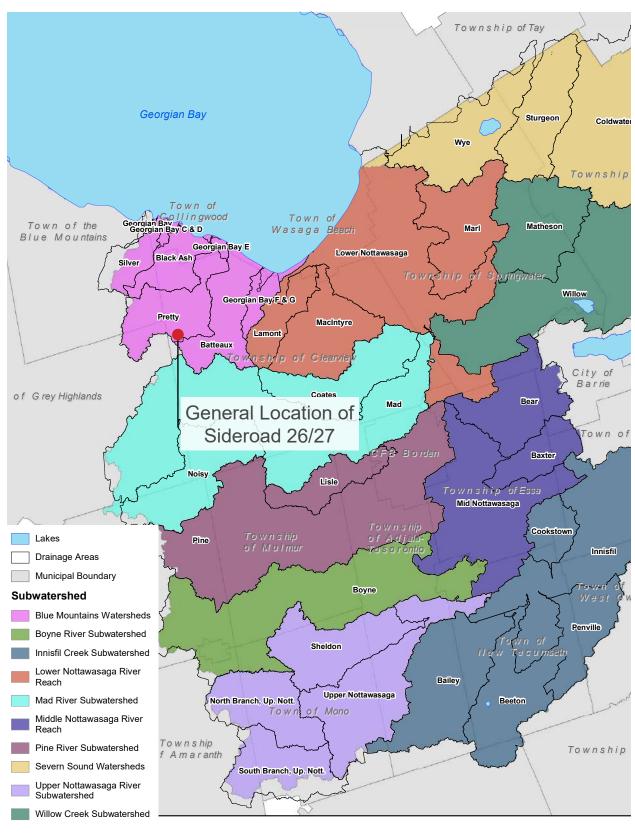




Extract from Schedule A - Land Use Types Map 2 showing Provincially Significant Wetlands in Grey County (Blue), County of Grey Official Plan

Figure 6

Source: County of Grey Official Plan Schedule A Map 2 (June 2019)

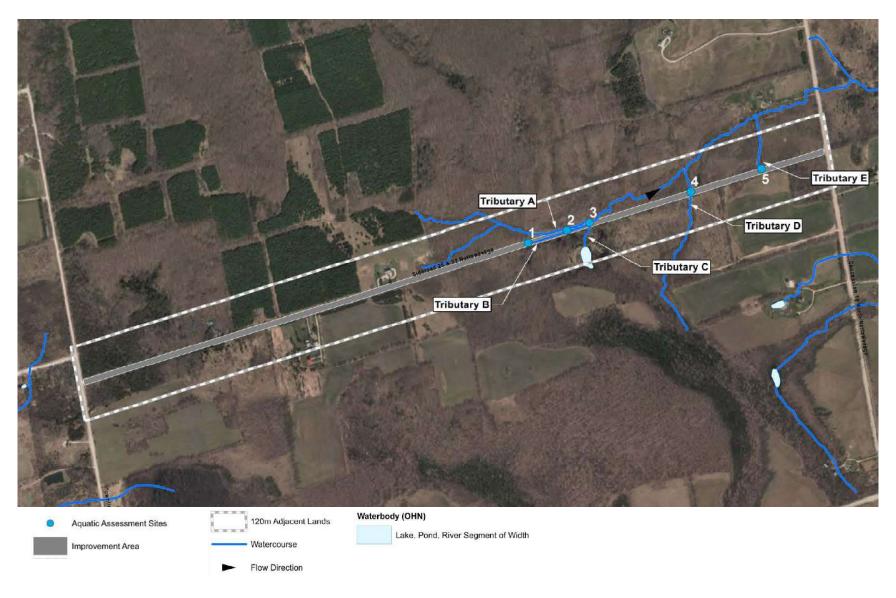




Nottawasaga Valley Conservation Authority Watersheds

Source: NVCA Integrated Watershed Management Plan, Characterization Report Figure 3.1-1 (June 2018)

Figure





Extract from Figure 3.4 of 2018 Environmental Impact Study Prepared by Burnside

Source: Burnside Environmental Impact Report Figure 3.4 Aquatic Assessment Sites (October 2018)



According to the NVCA Integrated Watershed Management Plan, Characterization Report, June 2018, water quality and stream habitat in the Blue Mountain watershed ranges from impaired to unimpaired but overall stream health is classified as 'Good'. The report states that within the escarpment zone, healthy cold-water habitat exists, but downstream of the escarpment water quality typically deteriorates, particularly in Silver Creek and Pretty River. Trout habitat is found in Silver Creek and Pretty River but limited to the headwaters of Black Ash Creek and Batteaux River.

Generally, the vegetation communities on either side of Sideroad 26/27 include forests and wetland features. Burnside conducted field investigations and surveys to classify the vegetation communities and all are relatively common in Ontario. The natural and naturalized communities along the corridor, east of the PSW, characterized with their associated Ecological Land Classification (ELC) codes are:

- Dry Fresh White Ash Hardwood Deciduous Forest (FODM4-2)
- Dry Fresh White Ash Hardwood Deciduous Forest (FODM5-8)
- Dry Fresh White Cedar Poplar Mixed Forest (FOMM4-2)
- Cattail Mineral Shallow Marsh (MASM1-1)
- Sugar Maple Deciduous Woodland / Dry Fresh Hawthorn Apple Deciduous Woodland (WODM4-1 – WODM4-3)
- Poplar Mineral Deciduous Swamp / Cattail Horsetail Graminoid Mineral Meadow Marsh (SWDM4-5 – MAMM1-2/10)
- Medium Mineral Coniferous Plantation Red Pine (TAGM1)
- Medium Mineral Fencerow (TAGM5)
- Apple Deciduous Thicket (THDM2-10)
- Native Deciduous Regeneration Thicket (THMD4-1)

There are also anthropogenic communities of Rural Property (CVR_4) and Agriculture (AG), as well as the existing road that is identified as Transportation (CVR_1).

Figure 9 is an aerial view of Sideroad 26/27 between Simcoe County Road 95/Grey County Road 31 and Township of Clearview Concession Road 10.

The following is a brief overview of how the natural features will be impacted. Impact and mitigation are discussed in more detail in other sections of the report.

Burnside and the Watershed Ecologist from NVCA staked the local wetland boundaries, east of the Escarpment brow. Burnside has estimated that approximately 0.18 hectares (0.44 acres) of





Aerial Views of Sideroad 26/27
Source: ESRI Aerial Imagery (2017)



unevaluated wetland vegetation associated with the cattail marsh community and poplar mineral deciduous swamp / cattail – horsetail mineral meadow marsh will require removal. The surface water management plan focuses on maintaining the water balance and improving groundwater conveyance to the remaining wetland features. The Township will explore with the NVCA the possibility of rehabilitation offsetting to compensate for any loss of wetland area.

With the required re-alignment of a small segment of Tributary A, the EIS has documented a minor reduction in fish habitat (less than 5 square metres) and the DFO approved the loss under a Letter of Advice (LOA) dated June 19, 2017.

Trees within the right-of-way, which must be removed, are considered part of the larger significant woodland natural heritage feature. Mitigation measures, such as vegetation preservation plans and edge management (including new planting) will minimize any indirect impacts. Burnside estimates the removal of approximately 0.86 hectares (2.12 acres) of significant woodlands. Clearing of trees will be completed outside of the breeding bird season (May 1 to September 1).

4.0 JUSTIFICATION FOR THE NEPA APPLICATION

4.1 Consistency with Purpose and Objectives of the Niagara Escarpment Planning and Development Act (NEPDA)

One of the fundamental tests for all NEPA applications is consistency with the purpose and objectives of the NEPDA.

4.1.1 Purpose of the NEPDA

Purpose of Act

The purpose of this Act is to provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment. R.S.O. 1990, c. N.2, s. 2.

The 2.7 km Sideroad 26/27 exists and is planned to be improved within the existing 20-metre-wide right-of-way. When the road was established, the continuity of the Escarpment environment was interrupted. While all infrastructure within the NEP Area interrupts or divides the continuous natural environment, infrastructure is necessary, and the NEP provides policy and Development Criteria to guide its location.

Historically, roads were established on Escarpment slopes and through natural features. The level of scrutiny involved in the approval of road projects has increased over time with the goal of balancing the requirement for new roads and road improvements with the overall environmental impact. Also, over time, road design, including the implementation of stormwater management techniques, has evolved to better support and enhance the surrounding natural environment.

The subject applications are seeking permission to improve an existing road within the existing right-of-way. The linear edge of the current travelled portion of Sideroad 26/27 will be impacted through the removal of vegetation. The current substandard gravel road and culverts are not compatible with the natural environment. The 2018 EIS has demonstrated that the improved road includes erosion and drainage controls that reduce the migration of sediment into watercourses and wetlands.

In our opinion, the planned improvements to Sideroad 26/27 will better maintain the large tracts of remaining Escarpment features and reverse damage caused by the deposition of gravel. Key, hydrologic and expansive natural heritage features will remain (PSW and Significant Woodlands) and the overall water balance will be maintained. Large continuous areas of natural features are retained on both sides of Sideroad 26/27 that provide both species habitat and scenic value. In our opinion, the purpose of the NEPDA to maintain Escarpment features as a continuous natural environment is met.

4.1.2 Objectives of the NEPDA

The NEPDA objectives are quoted below followed by a discussion on each objective.

Objectives

- The objectives of the Niagara Escarpment Plan are, and the objectives to be sought in the consideration of amendments to the Plan shall be, in the Niagara Escarpment Planning Area,
 - (a) to protect unique ecologic and historic areas
 - (b) to maintain and enhance the quality and character of natural streams and water supplies
 - (c) to provide adequate opportunities for outdoor recreation
 - (d) 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
 - (e) to ensure that all new development is compatible with the purpose as expressed in section 2
 - (f) to provide for adequate public access to the Niagara Escarpment; and
 - (g) to support municipalities within the Niagara Escarpment Planning Area in their exercise of the planning functions conferred upon them by the Planning Act.

NEPDA Objective 8 (a)

Neither the NEPDA nor the 2017 NEP define unique ecologic and historic areas.

The Niagara Escarpment Planning Area is ecologically unique, with some areas more so than others. Ecology is defined as the "branch of biology dealing with the relations and interactions

between organisms and their environment." An organism "refers to a living thing that has an organized structure, can react to stimuli, reproduce, grow, adapt and maintain homeostasis." Areas containing habitats for threatened, rare, or declining species are unique, as well as areas that have high biological and genetic diversity and areas that contain unique geomorphological features.

Most of the Rob Roy PSW complex is located on the west side of Townline (outside of the Township of Clearview). Two wetland units located on the east side of Townline are divided by Sideroad 26/27. The EIS indicates that approximately 663 sq. m. of herbaceous wetland edge vegetation will be removed from the right-of-way for the road improvements. Protection measures include best management practices, permanent wildlife exclusion fencing and detailed Erosion and Sediment Control (ESC) plans. The size and unique nature of the PSW will be protected. The Township will work with GSCA to compensate for the loss of the wetland for this project.

To the east of the Rob Roy PSW, on the north side of Sideroad 26/27 is the Nottawasaga Lookout Provincial Nature Reserve and the Nottawasaga Lookout (Escarpment Access). The Nottawasaga Lookout Provincial Nature Reserve is a 130-hectare property containing cliff and ravine habitats and includes Provincially Significant Earth Science and Life Science ANSIs. The Bruce Trail crosses this area. The Nottawasaga Lookout is approximately 117.6 hectares and provides a contiguous forest cover including 82 hectares of a mixed red-white pine plantation established in the mid to late 1980s for reforestation purposes. The EIS states that the road improvement works will not include site alterations to the terrain or physiography of these areas.

Below the Escarpment brow there are unevaluated local wetlands located north and south of the right-of-way but primarily located within 120 metres. Small tributaries of Pretty River are also located below the brow. These areas are not necessarily unique ecologic areas for the purposes of the objectives of the NEPDA, but they are recognized as key hydrologic features and will be protected, to the greatest extent possible.

The adjective 'historic' could refer to a building, a village, an attraction, a lighthouse, ruins, a grist mill, a mill pond, a historic park/education centre, a monument, or a National Historic Site. Aside from the Nottawasaga Lookout Provincial Nature Reserve and the Nottawasaga Lookout (Escarpment Access), which will both be protected, there are no other historic areas in the vicinity of the road project.

In our opinion, the Sideroad 26/27 road improvement project is consistent with Objective 8 (a) of the NEPDA.

NEPDA Objective 8 (b)

Objective 8 (b) is to maintain and enhance the quality and character of natural streams and water supplies. Currently, Sideroad 26/27 has a gravel surface with inadequate ditches on both sides which drain either to the west, to the Rob Roy PSW or to the east, to the local tributaries of the

Pretty River. The EIS states: "Based on the mass of granular material required to restore the road after each significant rainfall event, the level of erosion of the road surface results in significant quantities of material being washed into the downstream system per event."

A portion of Tributary A must be re-aligned approximately 1.0 metre to the north of its current location, to provide an area for the road shoulder and embankment but will remain within the undisturbed portion of the right-of-way. The intent is to maintain the quality and character of this natural stream to the greatest extent possible.

Upgrading and paving Sideroad 26/27, coupled with drainage improvements will greatly reduce erosion and current adverse effects on the tributaries and wetlands. The proposed road improvements are consistent with the NEPDA objective of maintaining and enhancing the quality and character of natural streams.

NEPDA Objective 8 (c)

Objective 8 (c) is to provide adequate opportunities for outdoor recreation. Given the Nottawasaga Lookout Provincial Nature Reserve managed by Ontario Parks, the Nottawasaga Lookout managed by the MNRF and the Bruce Trail, adequate opportunities for outdoor recreation are provided and they are not blocked, impeded or harmed by the planned road improvements. The existing crossing of Sideroad 26/27 by the Bruce Trail will be improved through the road improvement works.

NEPDA Objective 8 (d)

Objective 8 (d) is 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.

Open Landscape Character is defined in the NEP as: "The system of rural features, both natural and human-made, that makes up the rural environment, including forests, slopes, streams, valleylands, hedgerows, agricultural fields, agricultural buildings and other features of similar character and scale."

In our opinion, rural roads are part of the system of rural features. Improvements to Sideroad 26/27, designed to provide a safe year-round road will provide the travelling public with views of wetlands, forests, slopes, streams, agricultural fields, and buildings. The proposed road improvements are consistent with the NEPDA objective of maintaining and enhancing the open landscape character and preserving natural scenery.

The Visual Impact Assessment prepared for the NEDP application concludes that the road improvements impact on views and scenery are negligible.

NEPDA Objectives 8 (e), (f) and (g)

Objectives 8 (e) through (g) are to ensure that all 'new development' is compatible with the purpose of the NEPDA; to provide for adequate public access to the Niagara Escarpment; and to support municipalities in their exercise of the planning functions conferred upon them by the *Planning Act*.

The NEPDA defines 'development' as including a change in the use of any land, buildings, or structures. Portions of the right-of-way, not travelled upon, have, over time regenerated to a more natural state. Most of these lands are now proposed to be graded, and a portion paved to provide for a road that meets the Township's minimum standards.

In our opinion the planned road improvements are compatible with the purpose of the NEPDA to maintain the Niagara Escarpment and surrounding areas as a "substantially continuous natural environment".

Objective 8 (f) relates to the provision of adequate public access to the Niagara Escarpment. "Access" is not defined in the NEP and may refer to a road access or a parking access. A Bruce Trail access point is defined as: "Property managed and/or acquired in whole or in part for the purpose of providing public access to the Bruce Trail (e.g., parking areas)."

The planned improvements to Sideroad 26/27 do not adversely affect the access to the Bruce Trail on either side of the road, and in fact improve the pedestrian crossing of Sideroad 26/27.

Objective 8 (g) is to support municipalities in their exercise of the planning functions conferred upon them by the *Planning Act*. The purposes of the *Planning Act* are,

- (a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act,
- (b) to provide for a land use planning system led by provincial policy,
- (c) to integrate matters of provincial interest in provincial and municipal planning decisions,
- (d) to provide for planning processes that are fair by making them open, accessible, timely and efficient,
- (e) to encourage co-operation and co-ordination among various interests,
- (f) to recognize the decision-making authority and accountability of municipal councils in planning.

The provision of safe, adequate roads is not directly conferred upon municipalities by the *Planning Act*, but rather the *Municipal Act*, Part III, Specific Municipal Powers, Highways. Highways include municipal roads and the Township has jurisdiction over Sideroad 26/27.

There are regulations that govern road construction or reconstruction under the *Environmental Assessment Act* and the purpose of the Act is to provide for "the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment." To improve Sideroad 26/27, the Township has conducted background research, undertaken field studies, consulted with conservation authorities and prepared an EIS for the road project.

The removal of edge vegetation associated with key natural heritage features and key hydrologic features is necessary for the road works. The removal of vegetation, outside of the current travelled portion of Sideroad 26/27 but within the right-of-way, maintains the adjacent Escarpment features as a continuous natural environment.

The seven (7) objectives stated within the NEPDA and the NEP which are the "objectives to be sought in the consideration of amendments to the Plan" have been addressed above. Planning for improvements to Sideroad 26/27 has included: protection of unique ecologic areas; maintenance and enhancement of the quality and character of natural streams; maintenance of the open landscape character in so far as possible; ensuring the road works are compatible with the purpose of the NEPDA to maintain the Escarpment and land in its vicinity substantially as a continuous natural environment; and the provision of adequate public access to the Niagara Escarpment, i.e., adequate public road to municipal standards. The measures taken to protect, maintain and enhance specific natural features are discussed in more detail in the 2018 EIS and throughout this report.

In our opinion, the proposed infrastructure works are consistent with the objectives of the NEPDA.

4.2 Proposed Amendments to the NEP and Consultation required under the NEPDA

Section 4 (1) of the NEPDA is titled Advisory Committee and reads:

4 (1) The Minister shall establish an advisory committee, consisting of such persons as the Minister appoints who are broadly representative of the people of the Niagara Escarpment Planning Area, to advise and make recommendations to the Minister, through the Commission, in respect of the amendment and implementation of the Niagara Escarpment Plan and to perform any other function given to the committee by the Minister.

The Minster has appointed five (5) persons to the Public Interest Advisory Committee (PIAC) to provide advice on the proposed NEPA to the NEC. The members represent the Bruce Trail Conservancy, the Ontario Federation of Agriculture, Ontario Nature, Ontario Stone, Sand and Gravel Association and Ontario Snow Resorts.

On June 12, 2019, the PIAC met to discuss the proposed NEPA application. At that meeting PIAC deferred its full consideration until the following additional information was received:

- Classification of the Class EA required,
- · Receipt of outstanding agency comments,
- Nature of extraction license on Township Road 91,
- Consequences of closing Township Road 91 and not improving Sideroad 26/27,
- Information on whether a Traffic Study was submitted with the NEPA application,
- Existing Road Agreement requirements, and
- Emergency Services comments regarding response times if Sideroad 26/27 cannot be use.

It was agreed that PIAC would reconvene in September or October 2019 to review the additional information.

The PIAC conducted a site visit and held a second meeting on October 9, 2019. The Township's consultants attended the October 9th meeting to provide information and answer questions. At that time, GSP Group Inc. had just been retained and was reviewing the background information and the specific wording of the proposed NEPA. The PIAC was advised that there may be certain modifications to the wording of the draft NEPA. As such, the PIAC deferred consideration of the NEPA.

The April 2020 letters from the Township's consultants to the NEC, which addressed concerns raised through the initial circulation of the proposed NEPA, were provided to the PIAC. The PIAC subsequently met on May 8, 2020 with three (3) of the five (5) members present, which is a quorum. The PIAC was requested to consider the revised wording of the draft NEPA.

The PIAC does not support the proposed NEPA because the Township, in PIAC's opinion, has not demonstrated that the road improvements are in the public interest and the Township has "not considered other evident alternatives". One member of the PIAC stated that the impacts on all wetlands must be considered and the Township has not adequately described those impacts. A concern was also expressed that the Township has not clearly identified if compensation for the environmental impact will be provided.

4.3 Consistency with the Designation Objectives and Designation Criteria of the NEP

4.3.1 Escarpment Natural Area (ENA) Designation

The preamble to the ENA objectives states:

Escarpment features that are in a relatively natural state and associated valleylands, wetlands and woodlands that are relatively undisturbed are included within this designation. These areas may contain important cultural heritage resources, in addition to wildlife habitat, geological features and natural features that provide essential ecosystem services, including water storage, water and air filtration, biodiversity, support

of pollinators, carbon storage and resilience to climate change. These are the most sensitive natural and scenic resources of the Escarpment. The policies aim to protect and enhance these natural areas.

Along the length of the 2.7-kilometre Sideroad 26/27, the Escarpment brow and slope are in a relatively natural state. Wetlands and woodlands are in a relatively undisturbed state adjacent to the right-of-way. Within the right-of-way, the Escarpment slope, wetlands, and woodlands have been previously disturbed through clearing and construction of the existing road.

There are two (2) separate areas designated ENA along the length of the right-of-way which include the Rob Roy PSW and the Escarpment slope / Significant Woodlands. The ENA designation covers approximately one-quarter of the length of the right-of-way.

The 2017 NEP permits infrastructure in the ENA designation and the Development Criteria in Part 2 of the NEP permits infrastructure to be located within wetlands and woodlands provided the infrastructure is in the public interest and the natural features cannot be avoided. The Township's position is that the improvement of Sideroad 26/27 is in the public interest and to improve the road, natural features cannot be avoided.

The ENA designation objectives are:

1.3.1 Objectives

- 1. To recognize, protect and where possible enhance the natural heritage and hydrological systems associated with the Niagara Escarpment Plan area.
- 2. To protect the most natural *Escarpment* features, *valleylands*, *wetlands* and related significant natural areas.
- 3. To conserve cultural heritage resources, including features and areas of interest to First Nations and Métis communities.
- 4. To encourage *compatible* recreation, *conservation* and educational activities.
- 5. To maintain and enhance the *scenic resources and open landscape* character of the Escarpment. [Words and phrases in italics are defined in the NEP]

In an ecological context, the word conserve or conservation is defined in the NEP as "the wise management of the environment in a way that will maintain, restore, enhance and protect its quality and quantity for sustained benefit to humans and the environment."

The 2018 EIS refers to the natural heritage features and hydrological systems in the ENA designation and assesses the current health of the systems and any impacts, both positive and negative from the planned road improvements.

Objectives associated with the ENA designation include protection of the most natural Escarpment features, including wetlands/hydrological systems and significant natural areas.

The Rob Roy PSW is a wetland (swamp) and hydrological system located at the western end of Sideroad 26/27. Wetland edge vegetation associated with the Rob Roy PSW must be removed from the right-of-way to improve the road to minimum Township standards. For the purposes of this report, we have considered the vegetation within the right of way to be that of a PSW. However, no wetland vegetation will be removed from the legal limit of the PSW, being the boundary between the right-of-way and privately-owned PSW lands. Improved stormwater management measures and protection fencing, which are currently not in place will be provided to protect the PSW area.

There will be a temporary disturbance to the edge portion PSW which is Significant Wildlife Habitat based on the presence of the Western Chorus Frog (Habitat for Species of Conservation Concern and Amphibian Breeding Habitat - Woodland). The Western Chorus Frog is ranked S3 which means vulnerable in Ontario. For reference purposes, species ranked S1 are critically imperiled in Ontario and S2 means imperiled and S4 means secure. S3 species usually have between 21-100 occurrences in the province and may be susceptible to large-scale disturbances. In the opinion of Burnside ecologists, the disturbance to the edge of the wetland units is not a large-scale disturbance and Western Chorus Frogs are not in danger of being harmed or killed.

Vegetation located on either side of the existing road, including trees along the edge of Significant Woodlands, must be removed to improve the road. Habitat to be lost, such as edge trees that may contain bat habitat, will be compensated for with the provision of bat houses.

The ENA vegetation to be removed has already been disturbed, to some degree over the years. When assessed in terms of the larger PSW area and the larger Significant Woodland area, the area wherein vegetation will be removed represents a small percentage of the larger features.

There are no cultural heritage resources within the right-of-way to conserve and no features of interest specific to First Nations and Métis communities. There are compatible recreation, conservation, and educational activities in the nearby conservation areas and along the Bruce Trail. The scenic resources and open landscape character of the Escarpment will be maintained, as per the Visual Impact Assessment prepared for the road. Scenic resources can continue to be viewed and valued by the travelling public and hikers.

In our opinion, the NEPA application to facilitate the improvements to Sideroad 26/27 is consistent with the ENA objectives.

The criteria for designating an area ENA are:

1.3.2 Criteria for Designation

- Escarpment slopes and Escarpment Related Landforms associated with the underlying bedrock that are in a relatively natural state.
- 2. Where woodlands abut the Escarpment, the designation includes the woodlands 300 metres back from the brow of the Escarpment slopes.
- 3. Provincially Significant Areas of Natural and Scientific Interest (Life Science).
- 4. Significant valleylands, provincially significant wetlands and wetlands greater than 20 hectares in size.

Within the travelled portion of Sideroad 26/27, there are no natural features, other than the Escarpment slope itself underlying the road, and this portion of the right-of-way does not exhibit the natural qualities associated with the ENA designation.

The untravelled portions of Sideroad 26/27, have been disturbed to some extent by ditches and road shoulders but these areas do contain edge vegetation associated with wetlands and significant woodlands as well as the Escarpment slope itself.

The ENA designation applies to the Rob Roy PSW, Significant Woodlands, and the Escarpment slope. Other wetlands in the eastern portion of the Study Area are not greater than 20 hectares and are therefore not included in the ENA designation. The right-of-way does not contain the ANSI, which is located to the north of the right-of-way. The proposed NEPA does not seek to change the ENA designation that applies to the Sideroad 26/27 right-of-way.

On the north side of the right-of-way, the Rob Roy PSW is categorized as a Black Ash – Conifer Mineral Mixed Swamp. On the south side of the right-of-way, the vegetation community is a White Birch – Poplar Mineral Deciduous Swamp. These large vegetation communities will remain with the removal of some less sensitive wetland edge vegetation. Both units of the larger Rob Roy PSW contain small pockets of standing water and there is no surface water connection from the north side to the south side of the road.

The 2018 EIS states that approximately 663 sq. m. of PSW wetland edge vegetation will be removed from the right-of-way. Appropriate erosion and sediment control measures will be implemented, and the area will be re-vegetated and stabilized with specific native seed mixes. The EIS recommends permanent fencing at the edge of the road shoulder. The grading limit has been established outside of a buffer area to protect the roots of edge trees and shrubs. The EIS

concludes that the proposed road improvements will maintain the existing water balance to the Rob Roy PSW.

The Escarpment slope, designated ENA, is surrounded by Dry – Fresh White Ash – Hardwood Deciduous Forest. The 2018 EIS describes the slope forest as young to mid-aged with a few large open crowned trees, which indicates this community was previously part of a more open agricultural area. On the north side of the right-of-way, the forest extends for most of the slope with a canopy cover that is patchier than on the south side. Groundcover includes a mixture of upland deciduous forest plants and riparian species such as wood ferns, goldenrod, and aster.

It is recognized that Sideroad 26/27 will be improved "in" key features and therefore there will be impacts to the edges of large key features. The edge vegetation does not exhibit the same quality of features that are evident on lands further removed from the right-of-way. The right-of-way itself does contain key hydrologic and key natural heritage features that are a component of larger key hydrologic (PSW) or key natural heritage features (e.g. Significant Woodlands). The NEPA application does not request a change to the existing ENA designations but is requesting that the improved road be permitted "in" the key features, as permitted by the NEP for infrastructure deemed necessary to the public interest.

When any road right-of-way is cleared, whether narrow or wide, paved or gravel, it is not quite accurate to state that the road itself meets the criteria for the ENA designation.

In our opinion, the proposed infrastructure improvements are consistent with the ENA designation criteria and a permitted use within the ENA.

4.3.2 Escarpment Protection Area (EPA) Designation

The EPA policies aim to protect and enhance natural and hydrologic features and the open landscape character of the Escarpment and lands in its vicinity.

The EPA objectives are:

1.4.1 Objectives

- 1. To maintain and enhance the *scenic resources* and *open landscape character* of the *Escarpment*.
- 2. To provide a buffer to prominent *Escarpment* features.
- 3. To recognize, protect and where possible enhance the natural heritage system associated with the Niagara Escarpment Plan area and protect natural areas of regional significance.

- 4. To *conserve cultural heritage resources*, including features and areas of interest to First Nation and Métis communities.
- 5. To encourage *forest management*, *compatible* recreation, *conservation* and educational activities.
- 6. To encourage agriculture and protect agricultural lands and *prime* agricultural areas. [Words in italics are defined in the NEP]

The lands designated EPA lie on either side of the Escarpment slope. The largest section is located east of the slope beyond Nottawasaga Lookout. This area contains local wetlands regulated by the NVCA and Pretty River Tributaries A through E (as named by Burnside).

Tributary A generally runs parallel to the road, on the north side and Tributaries B, C, D and E cross the right-of-way, flowing from south to north. These EPA lands include the Aquatic Assessment Sites and Amphibian Survey Stations, as referenced in the 2018 EIS, from Tributary B through to Concession Road 10 North (eastern extent of Sideroad 26/27).

The planned road improvements are consistent with the six (6) objectives of the EPA designation.

Clearing and grubbing must take place to accommodate the road improvements, however, the existing scenic resources and open landscape character of the Escarpment remain as well as the buffer function that the EPAs provide (buffer to Escarpment features within the ENA designation).

One of the EPA designation objectives is to recognize, protect and where possible enhance the natural heritage system. With the appropriate road reconstruction and LID drainage techniques, as documented in the 2018 EIS, it is possible to enhance the quality of runoff entering surface water features (watercourses and wetlands).

The significant woodlands, which are part of the natural heritage system will be slightly reduced in area, and this impact cannot be avoided. The loss of potential bat habitat in trees to be removed will be compensated for with bat houses.

Existing tributaries will be protected, and the crossings will be improved. A very short section of Tributary A will be relocated to the north given its current location within the right-of-way. The local wetlands will be protected to the greatest extent possible. As stated in the 2018 EIS, it is expected that the adjacent wetlands will evolve and adapt to any changes in input associated with the road improvements. It is also expected that the water quality within the wetlands will improve.

The objectives pertaining to planned forest management, compatible recreation, conservation and educational activities are not affected by the road improvement works. Further the road works will not adversely affect the objective to encourage agriculture and protect agricultural lands.

In our opinion, the proposed improvements to Sideroad 26/27 are consistent with the objectives associated with the EPA designation.

The criteria for designating an area EPA are:

1.4.2 Criteria for Designation

- 1. Escarpment slopes and Escarpment Related Landforms where existing land uses have significantly altered the natural environment (e.g., agricultural lands or residential development).
- 2. Areas in close proximity to *Escarpment slopes* that are visually part of the landscape unit.
- 3. Areas of Natural and Scientific Interest (Life Science), or environmentally sensitive or environmentally significant areas identified by municipalities or conservation authorities. [Words in italics are defined in the NEP]

The EPA designation along the Sideroad 26/27 corridor is primarily based on proximity to the Escarpment slope as well as the Nottawasaga Lookout Provincial Nature Reserve including Provincially Significant Earth Science and Life Science ANSIs. The internal portions of the ANSIs contain escarpment related landforms such as cliffs and ravines.

The EPA lands, east of the Escarpment slope, contain key hydrologic features in the form of wetlands, tributaries, and groundwater seeps, although these features are not specifically listed in the criteria for EPA designated land.

The NEP defines Escarpment Related Landform as a "physical feature of the land associated with the Escarpment and created by erosion, sedimentation and/or glaciation, often including such features as moraines, *lakes*, river valleys, beach ridges, drumlins and kames." The subject area does not contain the features listed in this definition.

The proposed infrastructure works will alter the Escarpment slope within the right-of-way only to the extent required to obtain acceptable grades and sight distances in accordance with Township and Provincial road standards and the alteration is expected to be relatively minor in nature.

The proposed NEPA application, to facilitate the road works, does not eliminate any of the existing natural features which reflect the EPA designation. Escarpment slopes remain. Areas to the north and south of the right-of-way have already been altered (agricultural lands and rural residential development on large lots). The planned road improvements will have a minimal overall impact on the EPA natural environment based on the improved road design standards and stormwater management techniques.

In our opinion, the proposed infrastructure improvements are consistent with the EPA designation criteria and a permitted use within the EPA.

4.3.3 Escarpment Rural Area (ERA) Designation

The ERA land use designation provides a buffer to the more ecologically sensitive areas of the Escarpment. The ERA designation objectives are:

1.5.1 Objectives

- 1. To maintain the *scenic resources* of lands in the vicinity of the *Escarpment* and the open landscape character of the *Escarpment*.
- 2. To *conserve cultural heritage resources*, including features of interest to First Nation and Métis communities.
- 3. To encourage *forest management* and recreation.
- 4. To provide for *compatible* rural land uses.
- 5. To encourage agriculture and protect agricultural lands and *prime* agricultural areas.
- 6. To provide a buffer for ecologically sensitive areas of the *Escarpment*.
- 7. To provide for the consideration of new Mineral Resource Extraction Areas which can be accommodated by an amendment to this Plan. [Words in italics are defined in the NEP]

The land designated ERA is located east of the Sugar Maple – White Ash Deciduous Forest that lies east of the Rob Roy PSW. The ERA designation includes the disturbed area of a rural residential property. On the south side of the right-of-way there are various thicket vegetation communities, influenced by past agricultural uses, a large rural residential property and cultivated agricultural land directly to the east of the residential property.

The NEPA application, to facilitate the road improvements does not eliminate any of the scenic resources or open space character associated with the ERA designation. The NEPA application also does not affect the objectives to encourage forest management, recreation, or agriculture. This designation continues to provide a buffer for more ecologically sensitive areas.

Compatible rural land uses will continue to exist. Neither the road right-of-way itself nor the surrounding ERA lands contain any cultural heritage resources, including any features of interest to First Nation and Métis communities.

In our opinion, the proposed infrastructure works are consistent with the ERA designation objectives.

The ERA designation criteria are:

1.5.2 Criteria for Designation

- 1. Minor Escarpment slopes and Escarpment Related Landforms.
- 2. Lands in the vicinity of the Escarpment necessary to provide an open landscape character.
- 3. Lands in the vicinity of the *Escarpment* which are of ecological importance to the *Escarpment environment*.
- 4. Lands that have potential for enhanced ecological values through natural succession processes or due to their proximity to other ecologically sensitive lands, areas or features. [Words in italics are defined in the NEP]

The NEP defines Escarpment environment as:

Escarpment environment: The physical and natural heritage features, cultural heritage resources, and scenic resources associated with the Escarpment landscape.

The proposed NEPA application does not alter the ERA lands such that the criteria for the designation are no longer met. In our opinion, the road improvements are a permitted use within the ERA and consistent with the ERA objectives.

4.4 Consistency with the PPS (2020)

The PPS 2020 defines development and site alteration as:

Development: means the creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the *Planning Act*, but does not include:

- a) activities that create or maintain *infrastructure* authorized under an environmental assessment process;
- b) works subject to the Drainage Act;"
- c) [not quoted relates to underground or surface mining]

Site alteration: means activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of a site.

The 2020 PPS contains restrictive language prohibiting development and site alteration within a PSW. Based on the definition of development, activities that create or maintain infrastructure, authorized under an environmental assessment process, are not considered 'development'.

The proposed Sideroad 26/27 road improvements have been 'pre-approved' as a Schedule A+ undertaking under the Municipal Class Environmental Assessment process. This classification has been confirmed in a letter from the Minister of the Environment, Conservation and Parks. The Minister advises that Ministry staff has confirmed that the Township classified the project correctly under Appendix 1 of the Municipal Class Environmental Assessment. The activities required to create the improved infrastructure have been authorized under an environmental assessment process and therefore are not 'development' for the purposes of the 2020 PPS.

Subsection 4.4.1 below discusses Sideroad 26/27 in the context of the infrastructure and transportation policies in Part 1 of the 2020 PPS.

Subsection 4.4.2 below discusses policies in Part 2 of the 2020 PPS regarding Natural Heritage and Water Resources. Policies that do not permit development or site alternation in or adjacent to natural features do not apply to the proposed infrastructure based on the definition of development in the PPS. However, while consistency with the Part 2 policies is not required, the Part 2 policies are reviewed and discussed below.

4.4.1 Part 1 of the PPS

The PPS defines infrastructure as:

Infrastructure: means physical structures (facilities and corridors) that form the foundation for development. *Infrastructure* includes: sewage and water systems, septage treatment systems, stormwater management systems, waste management systems, electricity generation facilities, electricity transmission and distribution systems, communications/telecommunications, transit and transportation corridors and facilities, oil and gas pipelines and associated facilities.

For the purposes of the PPS discussion, Sideroad 26/27 is an existing transportation corridor.

Subsection 1.6.7 of the PPS contains policies regarding transportation systems. A Transportation System is defined in the PPS as:

Transportation system: means a system consisting of facilities, corridors and rights-of-way for the movement of people and goods, and associated transportation facilities including transit stops and stations, sidewalks, cycle lanes, bus lanes, high occupancy

vehicle lanes, *rail facilities*, parking facilities, park'n'ride lots, service centres, rest stops, vehicle inspection stations, inter-modal facilities, harbours, *airports, marine facilities*, ferries, canals and associated facilities such as storage and maintenance. [Words in italics defined in the PPS]

Sideroad 26/27 is one of many rural Township roads and forms part of the Township road network. Given its location immediately to the east of Grey County and the Municipality of Grey Highlands, Sideroad 26/27 will provide an improved rural road to accommodate vehicles travelling east and west between Grey County/Grey Highlands and Simcoe County.

There are no associated transportation facilities, as listed in the definition of a Transportation System (transit, sidewalks, bus lanes etc.).

Sideroad 26/27 is a part of a system of Township roads and the PPS policies pertaining to Transportation Systems are quoted below.

1.6.7 Transportation Systems

- 1.6.7.1 *Transportation systems* should be provided which are safe, energy efficient, facilitate the movement of people and goods, and are appropriate to address projected needs.
- 1.6.7.2 Efficient use shall be made of existing and planned *infrastructure*, including through the use of *transportation demand management* strategies, where feasible.
- 1.6.7.3 As part of a *multimodal transportation system*, connectivity within and among *transportation systems* and modes should be maintained and, where possible, improved including connections which cross jurisdictional boundaries.
- 1.6.7.4 A land use pattern, density and mix of uses should be promoted that minimize the length and number of vehicle trips and support current and future use of transit and *active transportation*. [Words in italics are defined in the PPS]

As per Policy 1.6.7.1, the planned improvements to Sideroad 26/27 will provide for a safe road and meet the Township's need for an improved east-west travel route in this area of the Township. Improvements to Sideroad 26/27 will make more efficient use of the existing road corridor and address projected needs.

The PPS defines a multimodal transportation system as "a transportation system which may include several forms of transportation such as automobiles, walking, trucks, cycling, buses, rapid

transit, rail (such as commuter and freight), air and marine." For the purposes of this report, Sideroad 26/27 is not considered part of a multimodal transportation system. As such, PPS Policies 1.6.7.3 and 1.6.7.4 are not applicable.

The planned improvements to Sideroad 26/27 are not being proposed to accommodate additional development along the road and the existing and proposed land uses abutting the road remain subject to the NEP policies.

The PPS also contains policies pertaining to transportation and infrastructure corridors and the policies are quoted below.

1.6.8 Transportation and Infrastructure Corridors

- 1.6.8.1 Planning authorities shall plan for and protect corridors and rights-of-way for *infrastructure*, including transportation, transit and electricity generation facilities and transmission systems to meet current and projected needs.
- 1.6.8.2 *Major goods movement facilities and corridors* shall be protected for the long term.
- 1.6.8.3 Planning authorities shall not permit *development* in *planned corridors* that could preclude or negatively affect the use of the corridor for the purpose(s) for which it was identified.

New *development* proposed on *adjacent lands* to existing or *planned corridors* and transportation facilities should be compatible with, and supportive of, the long-term purposes of the corridor and should be designed to avoid, mitigate or minimize negative impacts on and from the corridor and transportation facilities.

- 1.6.8.4 The preservation and reuse of abandoned corridors for purposes that maintain the corridor's integrity and continuous linear characteristics should be encouraged, wherever feasible.
- 1.6.8.5 The co-location of linear *infrastructure* should be promoted, where appropriate.
- 1.6.8.6 When planning for corridors and rights-of-way for significant transportation, electricity transmission, and *infrastructure* facilities, consideration will be given to the significant resources in Section 2: Wise Use and Management of Resources.

The phrase major goods movement facilities and corridors mentioned above is defined in the PPS as:

Major goods movement facilities and corridors: means transportation facilities and corridors associated with the inter- and intra-provincial movement of goods. Examples include: intermodal facilities, ports, *airports*, *rail facilities*, truck terminals, freight corridors, freight facilities, and haul routes and primary transportation corridors used for the movement of goods. Approaches that are *freight-supportive* may be recommended in guidelines developed by the Province or based on municipal approaches that achieve the same objectives.

Sideroad 26/27 is not an example of a major goods movement corridor, however, it is a transportation corridor. As noted in Policy 1.6.8.1, the Township has planned for and protected the Sideroad 26/27 right-of-way. Policies 1.6.8.2 and 1.6.8.3 are not applicable to the subject lands. There are no future land uses planned for lands adjacent to Sideroad 26/27. Limited development may take place on vacant lots of record in accordance with the NEP policies.

Policy 1.6.8.4 quoted above states that the preservation and reuse of abandoned corridors should be encouraged, wherever feasible. Sideroad 26/27 is not an abandoned corridor, however, a portion of it is not maintained year-round and is therefore referred to as a seasonal road. Sideroad 26/27 is planned to be improved within the existing right-of-way as a continuous improved linear corridor, in accordance with the PPS.

Policy 1.6.8.6 states that when planning for significant transportation facilities, consideration will be given to the significant resources referred to in Section 2 of the PPS. In our opinion, the 2.7 km local Township road is not a significant transportation facility in the meaning of the PPS. However, given the road location in the NEP Area, the 2018 EIS has considered all natural resources, significant or otherwise within and adjacent to the Sideroad 26/27 right-of-way and has concluded that while trees and vegetation will need to be removed from the existing right-of-way, paving and improved drainage features will improve and enhance remaining natural features. The road improvements will have a limited impact on the overall ecological functions of the area.

In our opinion, the proposed improvements to Sideroad 26/27 are consistent with the transportation corridor policies in the PPS.

Some PPS policies contain the term "adverse effects". This term is used regarding an assessment of compatibility between a major facility and sensitive land uses (Policy 1.2.6.1). The PPS states that these two types of uses must be sufficiently separated or buffered to prevent or mitigate adverse effects from odour, noise and other contaminants.

Sideroad 26/27 is neither a sensitive land use nor a major facility, as defined in the PPS. As per the definition of major facilities in the PPS, the term means airports, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems and resource extraction activities. Transportation

infrastructure is also included in the definition. However, relying on the adjective "major", Sideroad 26/27 is not major transportation infrastructure.

The only other use of the term "adverse effects" is regarding human-made hazards. Policy 3.2.2 states that development sites with water or land contaminants must be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects. The Sideroad 26/27 right-of-way is not contaminated, i.e., not a human-made hazard that requires remediation.

The term "adverse effects" is defined in the Environmental Protection Act, as one or more of:

- a) impairment of the quality of the natural environment for any use that can be made of it;
- b) injury or damage to property or plant or animal life;
- c) harm or material discomfort to any person;
- d) an adverse effect on the health of any person;
- e) impairment of the safety of any person;
- f) rendering any property or plant or animal life unfit for human use;
- g) loss of enjoyment of normal use of property; and
- h) interference with normal conduct of business.

The improvements to Sideroad 26/27 have been assessed in the 2018 EIS in the context of "adverse effects" as defined in the *Environmental Protection Act*. The EIS concludes that the Sideroad 26/27 improvements will not impair the quality of the adjacent natural environment for any use that can be made of it (e.g. wildlife habitat) and the road improvement activities will be timed and managed to protect animal life. Given the need to remove natural vegetation, including trees, injury and damage will occur to plant life.

The LID stormwater management techniques proposed will improve current degradation of the natural environment.

Part 2 of the PPS contains resource policies regarding Natural Heritage (2.1); Water (2.2); Agriculture (2.3); Mineral and Petroleum (2.4); Mineral Aggregates (2.5) and Cultural Heritage and Archaeology (2.6).

Restrictive policies regarding development and site alteration, stated in Policy 2.1 (Natural Heritage) and Policy 2.2 (Water) do not apply given the definition of development in the PPS. Nevertheless, the policies are reviewed below.

4.4.2 Part 2 of the PPS - Natural Heritage (Policy 2.1)

The subsections in Policy 2.1 are quoted below.

- 2.1.1 Natural features and areas shall be protected for the long term.
- 2.1.2 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.
- 2.1.3 Natural heritage systems shall be identified in Ecoregions 6E & 7E, recognizing that natural heritage systems will vary in size and form in settlement areas, rural areas, and prime agricultural areas.
- 2.1.4 *Development* and *site alteration* shall not be permitted in:
 - a) significant wetlands in Ecoregions 5E, 6E and 7E; and
 - b) significant coastal wetlands.
- 2.1.5 *Development* and *site alteration* shall not be permitted in:
 - a) significant wetlands in the Canadian Shield north of Ecoregions 5E, 6E and 7E;
 - b) significant woodlands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River);
 - c) significant valleylands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River);
 - d) significant wildlife habitat;
 - e) significant areas of natural and scientific interest, and
 - f) coastal wetlands in Ecoregions 5E, 6E and 7E that are not subject to policy 2.1.4(b)

unless it has been demonstrated that there will be no *negative impacts* on the natural features or their *ecological functions*.

- 2.1.6 Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.
- 2.1.7 Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.
- 2.1.8 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5, and 2.1.6 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*.

2.1.9 Nothing in policy 2.1 is intended to limit the ability of *agricultural uses* to continue. [Words in italics are defined in the PPS]

For the purposes of Policy 2.1.8, the PPS defines adjacent lands as:

those lands contiguous to a specific *natural heritage feature* or area where it is likely that *development* or *site alteration* would have a *negative impact* on the feature or area. The extent of the *adjacent lands* may be recommended by the Province or based on municipal approaches which achieve the same objectives.

Adjacent to the Sideroad 26/27 right-of-way, the natural heritage features and areas include significant wetlands, fish habitat, significant woodlands, habitat of endangered and threatened species, SWH and an ANSI.

Edge vegetation, including trees within the right-of-way, will be removed. No grading or site alteration will take place beyond the right-of-way.

The PPS does not permit development and site alteration within a significant wetland. Development or site alteration is also not permitted within significant woodlands, SWH or an ANSI, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. As noted, infrastructure authorized under an EA process does not represent development or site alteration as per the PPS.

Edge vegetation associated with the Rob Roy PSW is located within the undisturbed portion of the road right-of-way, and the area is limited given that the road is currently at its widest in the area adjacent to the PSW. The MNRF has advised that the limits of the PSW are the property boundary between the right-of-way and the PSW lands. Based on this interpretation, no disturbance of the PSW will take place. Vegetative features that exist in the right-of-way will be removed for the purpose of grading and drainage, with a portion left undisturbed for a buffer area.

Significant woodland trees are also located in the right-of-way and extend for a considerable distance north of the right-of-way. One or more trees, to be removed at the edges of the Significant Woodlands, could possibly include a cavity suitable for breeding bats (endangered species). Yet large tracts of significant woodlands will remain undisturbed. The features which qualify the Nottawasaga Lookout Provincial Nature Reserve as earth science and life science ANSIs, are not located in or immediately adjacent to the right-of-way.

Smaller or more isolated features include unevaluated wetlands and unnamed tributaries of Pretty River (partly within and adjacent to the right-of-way). These surface water features are currently experiencing negative impacts from road gravel (erosion and washouts).

"Negative impact" is defined in the PPS as it relates to specific policies, habitats or features. The policies cited in the definition of negative impacts include Policy 1.6.6.4 (pertaining to municipal and private services), Policy 1.6.6.5 (pertaining to partial services) and Policy 2.2 (pertaining to the quality and quantity of water).

As per Policy 2.1.6 of the PPS, the ecological functions of fish habitat were evaluated to ensure no negative impacts (except as permitted in accordance with provincial and federal requirements). Negative impacts to fish habitat are defined as "any permanent alteration to, or destruction of *fish habitat*, except where, in conjunction with the appropriate authorities, it has been authorized under the *Fisheries Act*." The alteration to fish habitat, i.e. a small stream diversion, has been addressed in accordance with provincial and federal requirements.

From the outset, the design of the road improvements has taken into consideration the natural environment to the greatest extent possible, such as limiting grading within the right-of-way to protect adjacent features and designing a site-specific stormwater management system for the road. The drainage features include a series of low impact stormwater management techniques. These measures are outlined in more detail in the 2018 EIS and Stormwater Management Report.

The 2018 EIS has demonstrated that there will be no negative impacts on the key natural heritage features i.e. significant woodlands, ANSIs, wetlands, watercourses, and habitat, including fish habitat because of the removal of edge vegetation within the right-of-way. The biological and physical processes within the balance of the woodlands, wetlands and tributaries will be maintained and the ecosystem will not be significantly impacted.

4.4.3 Part 2 of the PPS - Water (Policy 2.2)

The PPS contains policies to protect water resources. The entirety of Policy 2.2 is quoted below.

- 2.2.1 Planning authorities shall protect, improve or restore the *quality and quantity of water* by:
 - a) using the *watershed* as the ecologically meaningful scale for integrated and long-term planning, which can be a foundation for considering cumulative impacts of development;
 - b) minimizing potential *negative impacts*, including cross-jurisdictional and *cross-watershed* impacts;
 - c) Evaluating and preparing for the *impacts of a changing climate* to water resource systems at the watershed level;
 - d) identifying water resource systems consisting of *ground water features*, *hydrologic functions*, *natural heritage features and areas*, and *surface*

- water features including shoreline areas, which are necessary for the ecological and hydrological integrity of the watershed;
- e) maintaining linkages and related functions among *ground water features*, hydrologic functions, natural heritage features and areas, and surface water features including shoreline areas;
- f) implementing necessary restrictions on *development* and *site alteration* to:
 - 1. protect all municipal drinking water supplies and *designated vulnerable areas*; and
 - 2. protect, improve or restore *vulnerable* surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions;
- g) planning for efficient and sustainable use of water resources, through practices for water conservation and sustaining water quality;
- h) ensuring consideration of environmental lake capacity, where applicable; and
- ensuring stormwater management practices minimize stormwater volumes and contaminant loads and maintain or increase the extent of vegetative and pervious surfaces.
- 2.2.2 Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored.

Mitigative measures and/or alternative development approaches may be required in order to protect, improve or restore *sensitive surface water features*, *sensitive ground water features*, and their *hydrologic functions*. [Word in italics are defined in the PPS]

Regarding Policy 2.2, Water, "negative impacts" is defined as "degradation to the *quality and* quantity of water, sensitive surface water features and sensitive ground water features, and their hydrologic functions, due to single, multiple or successive development or site alteration activities."

Policy 2.2.2 is not applicable given that the road improvement works are not considered development or site alteration. Nevertheless, the 2018 EIS did review sensitive surface water features and sensitive ground water features and their hydrologic functions.

Regarding surface water features and groundwater features, sensitive means "areas that are particularly susceptible to impacts from activities or events including, but not limited to, water withdrawals, and additions of pollutants."

The PPS states that planning authorities shall protect, improve, or restore the quality and quantity of water by several actions, being those in policy 2.2.1 a) through i) quoted above. Through the 2018 EIS, the Township has assessed the impact the road improvements will have on the quality and quantity of water and are satisfied that the quality of surface water will be improved and the quantity of water will not be impacted.

The PPS states the quality and quantity of water "is measured by indicators associated with hydrologic function such as minimum base flow, depth to water table, aquifer pressure, oxygen levels, suspended solids, temperature, bacteria, nutrients and hazardous contaminants, and hydrologic regime." The 2018 EIS contains the hydrogeological report (Appendix A to the 2018 EIS) that measures and discusses water levels and temperatures.

The 2018 EIS has identified the water resource systems in and surrounding Sideroad 26/27. Provincial quality control criteria have been reviewed to ensure that the road improvements do not result in increased flooding downstream. Hydrologic modelling compared existing and proposed peak flows for the 2 - 100-year storm events and with or without the road improvements, the peak flows are generally the same. This result is based on the relatively small impermeable road surface compared to the large pervious natural environment surrounding Sideroad 26/27.

Currently, there is no quality control provided for the existing road stormwater runoff. The stormwater carries and deposits large amounts of sediment into the tributaries and wetlands. The stormwater management strategy proposed by Burnside incorporates LID techniques to achieve enhanced quality control. Bioretention detains and infiltrates stormwater and increases contact with vegetation, the root zone and soil. Enhanced grassed swales (dense native vegetation) detain a portion of the stormwater behind check dams and allow stormwater infiltration. A mixture of suitably size clear stone cover will be used to ensure the check dams remain in place under high flow conditions. Bioretention will be sized to exceed MECP enhanced quality control requirements.

There are groundwater seep locations adjacent to (and within) the right-of-way descending the Escarpment slope. It is important to maintain this groundwater input to downstream cold-water streams that support fish. Burnside proposes to place a perforated underdrain in existing ditches prior to grading new ditches. As detailed in the 2018 EIS, the underdrain will capture the ground water at the existing ditch elevation and transfer it to the enhanced grassed swale periodically as it descends the slope.

The various techniques proposed to be utilized in the overall Stormwater Management Plan will minimize potential impacts from the road improvements and maintain linkages and related functions between ground water, surface water and natural heritage features in accordance with the PPS. Also, in accordance with the PPS, the proposed stormwater management techniques will minimize stormwater volumes (negligible increase) and the existing and planned vegetative and pervious surfaces will improve water quality and contaminant loads.

The PPS also states that necessary restrictions on development and site alteration should be implemented to protect all municipal drinking water supplies and designated vulnerable areas; and protect, improve or restore vulnerable surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions.

There are no municipal drinking water supplies taken from the subject area. Vulnerable areas, including surface and ground water will be protected.

The Sideroad 26/27 right-of-way is not a hazardous site, as defined in the PPS. A hazardous site means "property or lands that could be unsafe *for development* and *site alteration* due to naturally occurring hazards. These may include unstable soils (sensitive marine clays [leda], organic soils) or unstable bedrock (karst topography)." The 2018 EIS and its appendices have not identified unstable soils or unstable bedrock in the right-of-way. As such, the right-of-way lands are not a hazardous site, as per the definition in the PPS.

4.5 Endangered Species Act (ESA) – Endangered Bat Species

The Committee on the Status of Species at Risk in Ontario (COSSARO) considers which plant and animal species should be listed as at risk. Species classified as endangered or threatened receive legal protection, and if classified as such, the species' habitat is also protected. Specific habitat protection is established by regulation following the development of a recovery strategy and statement published by the province.

General habitat descriptions have been developed for some species that are most affected by human activity. Habitat is defined in Section 2 of the ESA as:

"habitat" means,

- (a) with respect to a species of animal, plant, or other organism for which a regulation made under clause 56 (1) (a) is in force, the area prescribed by that regulation as the habitat of the species, or
- (b) with respect to any other species of animal, plant or other organism, an area on which the species depends, directly or indirectly, to carry on its life processes, including life processes such as reproduction, rearing, hibernation, migration or feeding, and includes places in the area described in clause (a) or (b), whichever is applicable, that are used by members of the species as dens, nests, hibernacula or other residences;

Habitat of endangered species and threatened species is defined in the PPS as habitat within the meaning of Section 2 of the *Endangered Species Act*, 2007.

To determine whether an activity may damage or destroy the habitat of a threatened or endangered species the document *Categorizing and Protecting Habitat Under the Endangered Species Act, February 2012* has been consulted, as well as the provincial publication entitled *Endangered Species Act Permit Process* which sets out the process to receive authorization for activities which may impact habitat.

Ontario Regulation 230/08 provides the list of SAR species in Ontario. Four (4) species of bats (mammals) are listed as endangered.

Field observations and acoustical monitoring were undertaken by Skelton Brumwell & Associates Inc. (SBA) over a period of three (3) years to determine the presence of bat species in the subject area. SBA also identified potential bat habitat within the area of vegetation removal required for the road improvements. The results of the analysis are contained within the SBA Final Bat Habitat Report dated March 2019.

Seven (7) of the eight (8) species of bats in Ontario were recorded in the subject area, three (3) of which are endangered being Eastern Small-footed, Little Brown and Tri-coloured bats. The Province has developed recovery strategies for each of these bats. The primary threat is whitenose syndrome caused by an invasive fungus. Bats infected develop a white fungus on their nose and wing membranes during the hibernation period and has resulted in high mortality rates.

The Bat Habitat Report describes the habitat of these endangered bats as follows:

Eastern Small-footed – prefer hilly areas in deciduous and coniferous forests; hibernates in caves and abandoned mines; and summer roosts include buildings, bridges, cracks, and fissures in tree bark, under rocks and behind shutters or siding on buildings.

Little Brown – forage in forest canopy and near water bodies; hibernate in caves and mines; and roosts in small enclosed spaces including rock crevices, hollow trees, and man-made structures.

Tri-coloured – forage along forest edges and near water; hibernates in caves and abandoned mines; and roosts foliage of deciduous trees and occasionally in buildings.

Within the Sideroad 26/27 right-of-way there are no talus slopes, cliffs, caves, mines, or buildings. Some of these features do exist north of the right-of-way in the Nottawasaga Lookout Provincially Significant Earth Science and Life Science Areas. The Bat Habitat Report states that there are no hibernacula or swarming areas, associated with hibernacula, in the subject area. The habitat features impacted by the infrastructure works include tree removal and loss of vegetation cover.

The Bat Habitat Report provides a summary of planned tree removal, including the number of cavity/snag trees with potential to provide bat habitat (43 trees) and the number of maple trees with a diameter at breast height (DBH) greater than 10 cm (327 trees). Mature maple trees potentially support roosting habitat for Tri-coloured bats.

Mitigation measures associated with tree removal include:

- 1. maximize the retention of mature trees and potential habitat trees during construction, wherever feasible;
- 2. revegetate the roadside with tree planting, where feasible, to recreate a canopy over the road;
- 3. avoid placement of lighting on or adjacent to the road;
- 4. place a minimum of 40 bat houses along the road corridor in the area where cavity/snag trees are removed (under the supervision of an ecologist); and
- 5. as required by the ESA, undertake ongoing monitoring in accordance with an established protocol.

The MNRF advised, in correspondence dated February 8, 2019 that the proposed road improvement activities are not likely to contravene Sections 9 or 10 of the ESA (addressing prohibition on killing and prohibition on damage to habitat respectively) provided no tree cutting takes place between April 1st and October 31st in any given year. This will avoid impacts to female SAR bats that may be birthing and rearing their pups in tree cavities.

In response to the circulation of the proposed NEPA application, MNRF referred to their February 2019 review and approval of the Bat Habitat Report prepared by SBA. It was stated that as of April 1, 2019, responsibilities regarding SAR and the ESA transitioned to the MECP.

MNRF staff recommended that should tree removal plans be changed, any potential impact on SAR bats and their habitat should be discussed with MECP. The MECP's written comments, received by the NEC on September 27, 2019 state: "the letter previously provided by MNRF provides the guidance that is needed to avoid contravention of the ESA."

4.6 Endangered Species Act (ESA) - Butternut

In addition to bat species, three (3) butternut trees were observed around the right-of-way and butternut trees are endangered. The existing trees were assessed according to the MNRF Butternut Health Assessment protocol. One tree located within the right-of-way was assessed as "not retainable". Of the two other trees documented outside of the right-of-way, one tree was assessed as healthy and one as "not retainable". Non-retainable trees may be removed in accordance with the ESA.

4.7 Significant Wildlife Habitat (SWH)

The PPS defines wildlife habitat as:

Wildlife habitat: means areas where plants, animals and other organisms live, and find adequate amounts of food, water, shelter and space needed to sustain their populations. Specific wildlife habitats of concern may include areas where species concentrate at a vulnerable point in their annual or life cycle; and areas which are important to migratory or non-migratory species.

The PPS defines wildlife habitat as significant if it is demonstrated that it is ecologically important in terms of features, functions, representation, or amount, and contributing to the quality and diversity of an identifiable geographic area or *natural heritage system*. [Definition of Significant in the PPS, clause c.]

The MNRF has prepared SWH Criteria Schedules for Ecoregion 6E (January 2015) which support the SWH Technical Guide and provides information on the description, criteria, information sources and assessment methods for SWH in Ecoregion 6E. The Schedules are updated with changes to the wildlife species status (SAR).

To prepare the 2018 EIS, Burnside consulted SWH descriptions from the Guide and Schedules and utilized ecology staff expertise to determine whether SWH is present in the Study Area. SWH is broken down into four categories:

- 1. Seasonal Concentration Areas of Animals
- 2. Rare Vegetation Communities or Specialized Habitat for Wildlife
- 3. Habitat for Species of Conservation Concern
- 4. Animal Movement Corridors.

Within each of the four (4) main categories, the MNRF has listed the wildlife habitat and the wildlife species and the criteria for establishing the habitat's significance.

4.7.1 Seasonal Concentration Areas of Animals

Seasonal Concentration Areas of Animals listed include:

- Waterfowl Stopover and Staging Areas (terrestrial and aquatic)
- Shorebird Migratory Stopover Area
- · Raptor Wintering Area
- Bat Hibernacula
- Bat Maternity Colonies
- Turtle Wintering Areas
- Reptile Hibernaculum

- Colonially Nesting Bird Breeding Habitat (Bank and Cliff and Tree and Shrubs and Ground)
- Migratory Butterfly Stopover Areas
- Landbird Migratory Stopover Areas
- Deer Yarding Areas
- Deer Winter Congregation Areas

Between the background data review and field investigations, Burnside identified the potential for three (3) SWH in the seasonal concentration areas category:

- Colonially Nesting Bird Breeding Habitat (Bank and Cliff and Tree and Shrubs and Ground)
- Reptile Hibernaculum
- Turtle Wintering Areas

The habitat for Colonially – Nesting Bird Breeding Habitat in trees and shrubs includes nests in live or dead standing trees in wetlands (11 to 15 metres from the ground). The species include cliff swallows in banks and cliffs; herons and egrets in trees and shrubs and gulls and terns (potential in marshy areas). Burnside did not identify any colonial nesting species based on their surveys and research and did not identify any nests in trees.

Reptile hibernation generally takes place below frost lines in burrows, rock crevices, rock piles or slopes. The species include types of garter snakes and other species. The 2018 EIS concluded that the right-of-way does not contain the natural features required for hibernating snakes. One (1) Eastern Milksnake was observed during field investigations but this species is no longer listed as at risk and impacts to its habitat, because of the road improvement works, are not anticipated.

Turtle wintering areas are generally in the same area as their core habitat. Water must have soft mud substrates and be deep enough not to freeze. Wintering areas include large wetlands with adequate levels of dissolved oxygen. Burnside concludes that the wetlands in the subject area do not consist of suitable habitat for turtles.

4.7.2 Rare Vegetation Communities and Specialized Habitats for Wildlife

Examples of rare vegetation communities include cliffs and talus slopes, sand barren, alvar, old growth forest, savannah, tallgrass prairie and provincially rare vegetation communities. Specialized habitats include waterfowl nesting areas, bald eagle and osprey nesting habitat, woodland raptor nesting habitat, turtle nesting areas, seeps and springs, amphibian breeding (woodland and wetland) and woodland area-sensitive bird breeding habitat.

The 2018 EIS states: "There are no rare vegetation communities present within the IA. Background data review indicated two uncommon vegetation communities are located within, or in close proximity to the IA, but they both include talus slopes, which are not found within the IA

or 120 m adjacent lands. All the vegetation communities described in Section 4.4 [of the EIS] are common in southern Ontario. No significantly old or uniquely diverse habitats are present."

Background data did not identify any specialized wildlife habitats in the area. However, breeding amphibians, one snake and area sensitive bird species were observed during field investigations.

Area sensitive bird habitat includes interior forest typically large and mature (greater than 60 years old), woodlots greater than 30 hectares and the interior forest habitat, at least 200 metres from the forest edge habitat. Burnside concludes that large blocks of forest and thicket habitat are available on both sides of the right-of-way, and only a minimal portion of the forest edge will be impacted by the proposed road improvements.

No specialized habitat for turtles or snakes were found. Burnside acknowledges that, since the 2018 EIS submission and following feedback from NVCA, amphibian breeding habitat (woodland) is also present within the Rob Roy PSW. The EIS recommends eco-passages and/or wildlife exclusion fencing for the wetlands located along the right-of-way edge.

The wildlife species associated with seeps and springs include wild turkey, grouse, and white-tailed deer. Seeps and springs may be important feeding and drinking areas, especially in the winter. The 2018 EIS states that the seepage areas observed were not discreet features located within forested habitats but were found within larger open marsh areas. Seeps were noted on the east facing escarpment slopes including the roadbed itself. These seeps provide a supporting function for wetlands that flank the eastern portion of the right-of-way. There is no evidence, however, that they support wild turkey, grouse, or deer.

4.7.3 Habitat for Species of Conservation Concern

Habitats considered SWH in this category include marsh breeding bird habitat, open country bird breeding habitat, shrub/early successional bird breeding habitat, terrestrial crayfish (only found in southwestern Ontario) and special concern and rare wildlife species.

Background data did not identify any habitat for Species of Conversation Concern. During ecological field investigations, it was determined that areas of amphibian concentrations and area sensitive breeding bird habitat are present in the vicinity of the right-of-way.

Several woodland area-sensitive species have been recorded in the vicinity of the Subject Lands and they are listed in the 2018 EIS. The EIS states that forest habitat for area-sensitive species is at least 100 metres from the edge of the forest community. The EIS states: "tree loss associated with the clearing required to conduct the road improvements accounts for a small percentage of forest area and is not likely to result in a measurable loss of area sensitive, forest interior habitat features or functions."

Open country bird breeding habitat includes grasslands that are not Class 1 or 2 agricultural lands. To be considered significant they should have a history of longevity, either abandoned fields,

mature hayfields and pasturelands that are at least five (5) years or older. While there is no grassland habitat within the right-of-way, fallow agricultural lands are located on both sides of the road and are buffered by either forest, wetland or fencerow communities and are not expected to be impacted by the road improvement works. Thicket habitat (shrub /early successional bird breeding habitat) is located on inactive farmland beyond the limits of the right-of-way, and no species removal within the thicket communities is required.

Burnside acknowledges that, since the 2018 EIS submission and following feedback from NVCA, habitat for Western Chorus Frog that is ranked S3 is also present within the Rob Roy PSW.

4.7.4 Animal Movement Corridors

Animal movement corridors include those of amphibians and deer and include movement corridors between breeding habitat and summer habitat. Movement corridors must be determined when amphibian breeding habitat is confirmed as SWH. Species include frogs such as the Gray Treefrog and Western Chorus Frog, the Eastern Newt, American Toad, and types of salamanders.

As the Western Chorus Frog was heard during the amphibian call surveys, the PSW is SWH for this species. The 2018 EIS recommends that "wildlife fencing should be included in locations where wetland features are located to minimize potential road mortality and direct wildlife to areas of safer passage."

Deer movement corridors may be found in all forested ecosites. Improvements to the road and surface drainage conditions will not result in a measurable negative impact to wildlife movement across the roadway.

4.8 Conformity with A Place to Grow, Growth Plan for the Greater Golden Horseshoe, 2019 (A Place to Grow); Simcoe Sub-Area

The policies in Part 4 of A Place to Grow, titled Protecting What is Valuable apply to the Subject Lands. Similar to the 2020 PPS, A Place to Grow contains the following definition of development:

Development

The creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the Planning Act, but does not include:

- a) activities that create or maintain *infrastructure* authorized under an environmental assessment process; or
- b) works subject to the Drainage Act.

(Based on PPS, 2014 and modified for this Plan)

The activities required to create the improved infrastructure have been authorized under an environmental assessment process and therefore not considered 'development' for the purposes of A Place to Grow, similar to the PPS.

Subsection 4.2.3.1 of A Place to Grow states that outside of settlement areas, development or site alteration is not permitted in key natural heritage features that are part of the Natural Heritage System for the Growth Plan or in key hydrologic features, unless the use is included in one of the specific exceptions stated in Subsection 4.2.3.1 a) through g). One such exception is activities that create or maintain infrastructure authorized under an environmental assessment process.

Subsection 4.2.4.3 of A Place to Grow does not permit development or site alteration in a vegetation protection zone, i.e. lands adjacent to key natural heritage features and key hydrologic features, subject to the same exceptions stated in Subsection 4.2.3.1.

The introduction to A Place to Grow advises that the *Places to Grow Act*, 2005, states that where there is a conflict between the NEP and the Growth Plan regarding the natural environment or human health, the direction that provides more protection to the natural environment or human health prevails.

The NEP does not specifically exempt infrastructure authorized under an environmental assessment process from the definition of development. The NEP does not permit development, including infrastructure, to locate in key natural heritage features or key hydrological features unless the infrastructure has been deemed necessary to the public interest after a review of alternatives.

If a review of alternatives is not required, it appears that the infrastructure must still be deemed necessary to the public interest by the NEC and ultimately the Minister. The issue addressed in this report is how to balance interests in the Niagara Escarpment Planning Area with the need for improved infrastructure. It is important to address the level or cumulative environmental impact from a proposed activity and to determine its acceptability, based on proposed mitigation measures and possible compensation and balance that with the need for improved infrastructure. In our opinion, the nature and scope of the Sideroad 26/27 road improvements will not result in an unacceptable level of environmental impact that surpasses the need to provide a safe road for travel. In our opinion, Escarpment related landforms, the open landscape character, scenic resources and the overall diversity and connectivity of the continuous natural environment are maintained.

Part 6 of A Place to Grow contains policies regarding the Simcoe Sub-area. Section 6.1 states:

While this Plan is to be read in its entirety and all policies are applicable to all municipalities within the GGH, this section provides additional, more specific direction on how this Plan's vision will be achieved in the Simcoe Sub-area. The Simcoe Sub-area is comprised of the County of Simcoe and the cities of Barrie and Orillia.

The policies specific to the Simcoe Sub-area in Part 6 of A Place to Grow pertain primarily to growth forecasts, intensification targets and managing growth. These policies do not specifically address improving infrastructure in the Simcoe Sub-area. The Simcoe Sub-area is shown in **Figure 10**, extract from Schedule 8 (Simcoe Sub-Area) within A Place to Grow.

4.9 Compliance with Agency and Municipal Policies

4.9.1 Nottawasaga Valley Conservation Authority (NVCA)

In a letter dated August 28, 2019, NVCA staff advised NEC staff that they have no objection to the site-specific amendments to the NEP to facilitate improvements to Sideroad 26/27 based on their review of Natural Hazard and Natural Heritage policies in the PPS and Ontario Regulation 172/06. NVCA advised that additional details will be requested through the permit review process, including,

- Presence of SWH, particularly pertaining to amphibian habitat
- Wildlife movement functions Permanence of wildlife crossing infrastructure and wildlife exclusion fencing
- Fish habitat and passage

The unevaluated wetlands in the vicinity of the road were delineated by Burnside staff and NVCA staff and surveyed. While these wetlands are not provincially significant, they were examined for SWHs which might include rare or specialized habitat such as bogs and fens; important seasonal concentration of animals (colonial birds, snake hibernaculum, and turtle wintering areas); and habitats of species of conservation concern.

No rare vegetation communities or specialized habitats were identified, however, breeding amphibians, one Eastern Milksnake and area sensitive species of birds were observed during field investigations. No colonial nesting species and no turtle wintering areas were documented within the Sideroad 26/27 right-of-way in the vicinity of the unevaluated wetlands. The right-of-way also does not contain any features that provide for hibernating snake species.

Amphibian call count surveys were conducted in 2014, 2015 and 2016 to confirm the presence of early breeding frog species. Seven (7) species were heard or seen in the Study Area including the American Toad, Gray Treefrog, Green Frog, Western Chorus Frog, Wood Frog, Northern Leopard Frog and Spring Peeper. The Western Chorus Frog is listed as vulnerable and was heard. As stated in the 2018 EIS, all site preparation and construction will occur outside of breeding seasons and periods of movement between habitats, including spring breeding ponds for amphibians.

No amphibian endangered species or reptile endangered, or threatened species were documented or observed in the Study Area. The background data indicated the potential for the Massasauga (Carolinian population) endangered reptile in the general vicinity of the right-of-way.





Extract from Schedule 8, Simcoe Sub-Area, A Place to Grow, 2019

Source: Government of Ontario Growth Plan for GGH Schedule 8 (May 2019)

However, no observations, basking sites, hibernacula or suitable habitat conditions were observed.

While the habitat for the Barn Swallow and Bobolink threatened species may be present within the agricultural fields in the Study Area, these birds were not documented in the breeding bird surveys completed by Burnside.

Wildlife exclusion fencing, one (1) metre in height is proposed surrounding all wetland features which is effective for both reptiles, amphibians, and small mammals. Adjacent to all wetlands and watercourses erosion and sediment control fencing will be installed, inspected, and maintained during the construction period. The clearance of vegetation within the grading limit will be undertaken outside of the window of April 15 to August 30 which is the local bird nesting season. The tree clearing window has also been recommended to be extended to April 1 and October 31 to prevent impacts to bats.

NVCA has advised that any potential impacts to fish and fish habitat will be appropriately mitigated as evidenced by the Department of Fisheries and Oceans (DFO) letter of approval. Through the NVCA permit process more comments may be received regarding fish habitat and fish passage.

In our opinion, the planned road improvements comply with the NVCA policies and regulations.

4.9.2 Grey Sauble Conservation Authority (GSCA)

In a letter dated August 30, 2019, GSCA staff advised NEC staff that they generally have no objection to the NEPA application provided the recommendations within the 2018 EIS are complied with and a permit is obtained from GSCA. The GSCA comments were prepared based on their mandate to comment upon Natural Hazards, their Planning Agreement with the Town of the Blue Mountains regarding Natural Heritage policies of the PPS and GSCA guidelines for the implementation of Ontario Regulation 151/06.

The only potential hazard identified by the GSCA is the flooding of the Rob Roy PSW. The 2018 EIS notes that there is a relatively small drainage area contributing to the PSW which minimizes any flooding potential. GSCA agrees with Burnside's assessment and has advised that the proposed road improvements are not anticipated to have negative hydrologic impacts to the PSW or measurable negative drainage impacts in the Upper Beaver River Watershed within the jurisdiction of the GSCA.

GSCA staff advised that a section of the proposed road improvement works is located directly adjacent to the Rob Roy PSW. Burnside has prepared a response letter to GSCA which states:

In the location of the Rob Roy PSW, the existing road and maintained corridor is at its widest point and is regularly graded and maintained through vegetation management, brushing, seasonal snow removal and application of maintenance gravel. This has

widened the road in this location and has prevented the natural growth of the vegetation communities in the areas immediately adjacent to the roadway.

The 2018 EIS notes that the vegetation within the right-of-way does not exhibit the same sensitivity of features and function as the PSW vegetation located beyond the right-of-way. Nevertheless, we have considered the wetland vegetation to be removed from the right-of-way as PSW vegetation. Sideroad 26/27 adjacent to the PSW does not include any defined swales or roadside ditches and there are no existing culverts or connections between the PSW on the north side and south side of the existing road.

GSCA expressed some concerns about wildlife crossing the roadway and the potential for increased vehicle speeds associated with the improved road. To mitigate impacts, GSCA suggest a reduction in the posted speed limit, signage, crossing structures and appropriate fencing and recommended an eco-passage appropriate to the species found in their jurisdiction. The posted speed limit will be reduced to 60 km/hour.

In response to GSCA's recommendations, Burnside has advised:

The Rob Roy PSW area is very flat with no existing connections between the north and south sides of the road. The existing road alignment does not provide any opportunities for eco-passage design based on the flatness and the lack of roadside water conveyance features. The installation of an eco-passage would require significant excavation and grading to maintain the road elevation at this intersection. The current road design is proposed to minimize the footprint and any encroachment into the wetland features. When weighing the impacts of installing an eco-passage against the potential benefits, it was determined that it would be best from both an ecological and an engineering perspective not to include a passage in this location.

Fish habitat was not identified in the portion of the Study Area under the GSCA's jurisdiction.

GSCA advises that the ecological function of the PSW has been evaluated and recommendations have been made to protect the feature and the habitat and a GSCA permit is required.

In our opinion, the planned road improvements which the NEPA application facilitate comply with the GSCA policies and regulations.

4.9.3 Ministry of Natural Resources and Forestry (MNRF)

In a letter dated June 14, 2019, MNRF staff advised they had reviewed the EIS dated October 2018 including the assessment of natural heritage features and SWH. MNRF advised that as of April 1, 2019, the MECP is responsible for SAR and the *Endangered Species Act, 2007*. Prior to April 1, 2019, in February 2019, MNRF cleared any concerns they had regarding impacts to potential habitat for the three (3) endangered species of bats.

MNRF recommends that no tree cutting take place between April 1st and October 31st to avoid impacts to roosting bats. SAR bats may seasonally use the adjacent woodlands for birthing and rearing pups. The tree cutting restriction will also cover the migratory bird breeding core season between May and July.

MNRF staff noted that they did not review fish habitat, given the Burnside DFO submission and the DFO letter of advice received by Burnside. MNRF staff also stated that the review of the stormwater management techniques should be undertaken by GSCA and the NVCA.

As noted in the 2018 EIS, bat species and habitat were considered and addressed in a separate report prepared by Skelton Brumwell. Upon review of the report on bats and their habitat, MNRF staff did not recommend further evaluation of bat maternity colonies and advised their concerns regarding potential impacts to the SWH for SAR bats have been addressed. MNRF staff advised that the road improvement project will not likely impact non-SAR bat habitats.

MNRF staff advised that additional candidate SWHs should have been reviewed to assess the overall habitat potential within the Study Area. MNRF also advised that the 2018 EIS does not consider Woodland Raptor Nesting Habitats in the evaluation for SWHs and requested an explanation. MNRF also requested the locations and design details for the eco-passage culverts to allow the passage of amphibian species between wetland habitats (eastern end of the road corridor).

Burnside prepared a response letter to the MNRF addressing their concerns and acknowledged that the forest communities may support certain types of woodland raptor nesting habitat, based on the SWH Technical Guide. The additional candidate SWH potential that Burnside reviewed included:

- Sharp-shinned Hawk, nest in conifer trees in young to medium aged forests: likely potential
- Cooper's Hawk, prefer Sugar Maple, Beech, White Pine, Red Pine and Hemlock: likely potential
- Northern Goshawks, common in large, dense stands of mature or old growth forests and older pine plantations: likely potential
- Broad-winged Hawk, dense younger forest within White and Yellow Birch: unlikely potential
- Red-shouldered Hawk, mature closed-canopy stands of maple-beech near small woodland ponds and creeks in large tracts of 200 ha or more: likely potential
- Red-tailed Hawk, forest edges, small woodlots and fence rows: likely potential
- Merlins, old crow's nests in spruces and near lake shores: unlikely potential

Burnside advised that none of these species were recorded during the bird surveys completed on June 30 and July 10, 2014, which is during the peak nesting period and completed as per standard breeding bird survey protocols.

In terms of additional information on the eco-passages, Burnside has advised MNRF that the eco-passage function is provided within the proposed culverts with a deep low flow channel comprised of mixed river stone and a bench on either side. These culverts will be installed in the vicinity of Tributary C and Tributary D.

In our opinion, the planned road improvements comply with applicable MNRF policies and guidelines and comments made by MNRF have been addressed.

4.9.4 Ministry of Environment Conservation and Parks (MECP)

In correspondence dated September 26, 2019, the MECP staff advised that they have records of some SAR (threatened) birds in the Study Area, being Bobolink, Barn Swallow and Eastern Meadowlark. While the species were not observed in the area by Burnside, MECP requested a comment on any impacts on habitat.

In a response letter to MECP, Burnside advised that the three (3) threatened bird species were discussed in the 2018 EIS in Section 5.1 and Subsection 5.3.3. The three (3) bird species are all open country-grassland bird species and the habitat is present in specific areas (fallow agricultural lands) surrounding the road corridor and beyond.

In our opinion, the planned road improvements comply with applicable MECP policies and guidelines.

4.9.5 Ministry of Tourism Culture and Sport (MTCS)

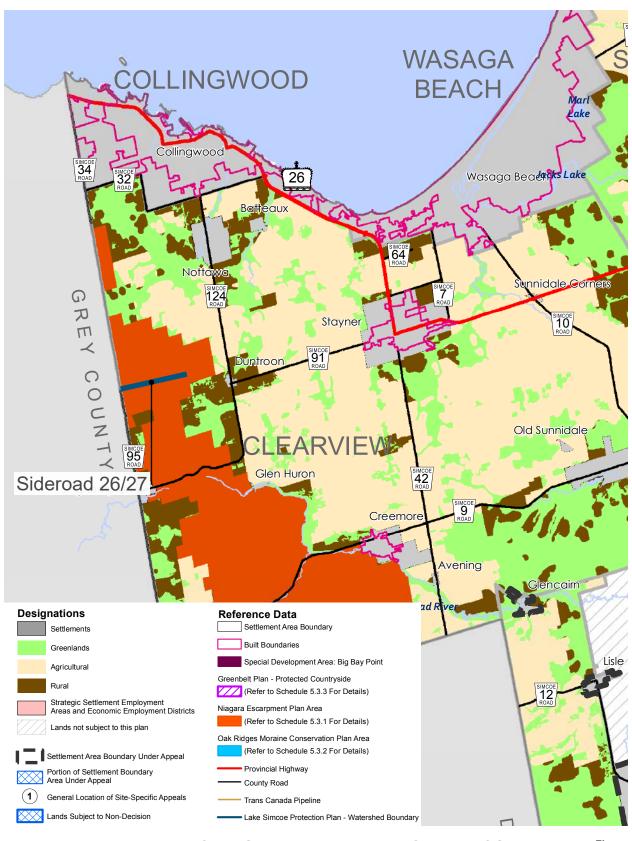
In correspondence dated May 31, 2019, MTCS advised that no reference was made to the preparation of an archaeological assessment. The MTCS referenced the NEP Development Criteria 2.10, wherein it states that an archaeological assessment should be carried out unless the subject lands lack archaeological potential, which can be determined through the Criteria for Evaluating Archaeological Potential.

Burnside has reviewed the Criteria for Evaluating Archaeological Potential and find that the road right-of-way has been disturbed over the years and that the lands do not exhibit archaeological potential.

In our opinion, the planned road improvements which the NEPA application facilitates comply with applicable MTCS policies and guidelines.

4.9.6 County of Simcoe Official Plan (CSOP)

County Council adopted the revised CSOP on January 22, 2013 and the Ontario Municipal Board (OMB) granted partial approval of the Plan on April 19, 2013. On December 29, 2016, the OMB granted final approval of the consolidated text and schedules (see **Figure 11** – County of Simcoe Official Plan, Land Use Designations). There are no site-specific appeals outstanding within the Township of Clearview.





Extract from Schedule 5.1 to the County of Simcoe Official Plan, Land Use Designations

Source: County of Simcoe Official Plan Schedule 5.1 (December 2016)

Section 2.1 of the CSOP states:

Thus, *County* municipal government is organized in two tiers and municipal functions are split between them. The planning function is a shared responsibility; the *County* sets a broad policy framework for planning while *local municipalities* establish a more detailed set of policies all of which are implemented through local official plans and decisions on planning applications and other related matters such as infrastructure, human services, and economic development.

The policy quoted above states that decisions regarding several matters, including infrastructure are the responsibility of the local municipality.

The Township of Clearview is the only municipality in the County that has lands subject to the NEP (western portion of the Township). Section 2.2, titled Physical Geography states, in part:

The *County* contains features which have received international recognition for their environmental significance: Minesing Wetland, Matchedash Bay and the Niagara Escarpment. The first two are protected as *wetlands*, the latter by the Niagara Escarpment Plan which takes precedence over this *Plan*. The *County* recognizes the ecological and economic importance of the preservation of these features and other *natural heritage features and areas* within the *County* which is reflected within the Greenlands Section 3.8 and other policies of this Plan. [Words in italics are defined in the CSOP]

Part 3 of the CSOP is titled Growth Management Strategy and contains a section on the NEP as well as Greenlands, Settlements etc. One of the four (4) themes associated with Growth Management is the protection and enhancement of the County's natural heritage system and cultural features and heritage resources, including water resources.

The CSOP states: "the Plan contains policies to require the analysis and protection of ecological functions and hydrologic functions such as groundwater recharge, stream/river base flow, wildlife movement and biotic diversity." In general, it is the intent of CSOP to encourage the conservation of water resources to protect its long-term quality and quantity (Subsection 3.1.3 of the SCOP). In our opinion, the 2018 EIS has addressed these policies.

Subsection 3.3.6 of the CSOP states, in part:

Where feasible, and subject to *local municipal* policies and bylaws, *infrastructure* and passive recreational uses may be located in any designation of this *Plan*, subject to Sections 3.8, and 4.2, and the requirements of the Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, Greenbelt Plan and Lake Simcoe Protection Plan where applicable, and applicable *provincial* and federal policy and legislation. [Words in italics are defined in the CSOP]

Section 3.3.8 of the CSOP (General Development Policies) states the co-ordination and integration of planning policies and planning application decisions that impact more than one municipality must take place on matters such as, but not limited to the natural heritage systems and the provision of infrastructure.

The west portion of Sideroad 26/27 intersects with Simcoe Road 95/Grey County Road 31 and provides a link for travelers from Grey County and Grey Highlands. In the example of infrastructure, the CSOP states that decisions affecting more than one municipality should be made in a coordinated and integrated manner. For the NEPA application, both the Township and the NEC must take into the consideration the comments received from other municipalities.

Section 3.10 of the CSOP is titled Niagara Escarpment Plan and states that a portion of the Township of Clearview is within the NEP Area. Section 3.10.1 states:

The Niagara Escarpment Plan designations are identified on Schedule 5.3.1. Development and the creation of new lots within the Niagara Escarpment Plan must meet the requirements of the Niagara Escarpment Plan as well as the requirements of this *Plan* and the Township of Clearview official plan that are not in conflict with the Niagara Escarpment Plan, and the more restrictive policies will apply. [Words in italics are defined in the CSOP]

County policies state that stormwater plans will provide for the protection and maintenance of natural heritage systems, including fish habitat.

Part 4, Section 4.5 of the CSOP is titled Resource Conservation. The policies address water, flood plains and other hazard lands, steep slopes, slopes, mineral and petroleum resources, human made-hazards watercourses, fish habitat, landform conservation and soil conservation air quality and energy conservation.

The policy regarding steep slopes (4.5.19) states: "Development will be prohibited on slopes and ravines which could be subject to active erosion hazards or historic slope failure." Neither the 2018 EIS nor the Geotechnical Investigation prepared in support of the NEPA application identify the Sideroad 26/27 Escarpment slope as subject to active erosion hazards or historic slope failure.

Schedule 5.2.2 to the CSOP shows streams and evaluated wetlands, including Provincially Significant Wetlands and Locally Significant Wetlands. The Rob Roy PSW is shown on Schedule 5.2.2, however there are no evaluated Locally Significant Wetlands shown on Schedule 5.2.2 within the Sideroad 26/27 Study Area.

Schedule 5.2.3 to the CSOP shows Areas of Natural and Scientific Interest. The Provincial Nottawasaga Lookout Provincial Nature Reserve ANSI is shown directly north of the Sideroad 26/27 right-of-way.

There are no Well Head Protection Areas or Surface Water Intake Protection Zones shown in the vicinity of Sideroad 26/27 or in the immediate area. In accordance with Schedule 5.2.5 to the CSOP, much of the County is mapped as containing Highly Vulnerable Aquifers as well as Significant Groundwater Recharge Areas, as shown on Schedule 5.2.6 to the CSOP. The Escarpment slope traversed by Sideroad 26/27 is shown as an area containing Highly Vulnerable Aquifers and Significant Groundwater Recharge Areas. The proposed road improvements will not impact aquifers or significant groundwater recharge areas.

In our opinion, the proposed NEPA application is consistent with the policies in the CSOP.

4.9.7 Township of Clearview Official Plan (TCOP)

The former municipalities of Nottawasaga, Sunnidale, Stayner and Creemore were amalgamated in 1992 to form the Township of Clearview. The TCOP was prepared in 2001 and approved on January 29, 2002.

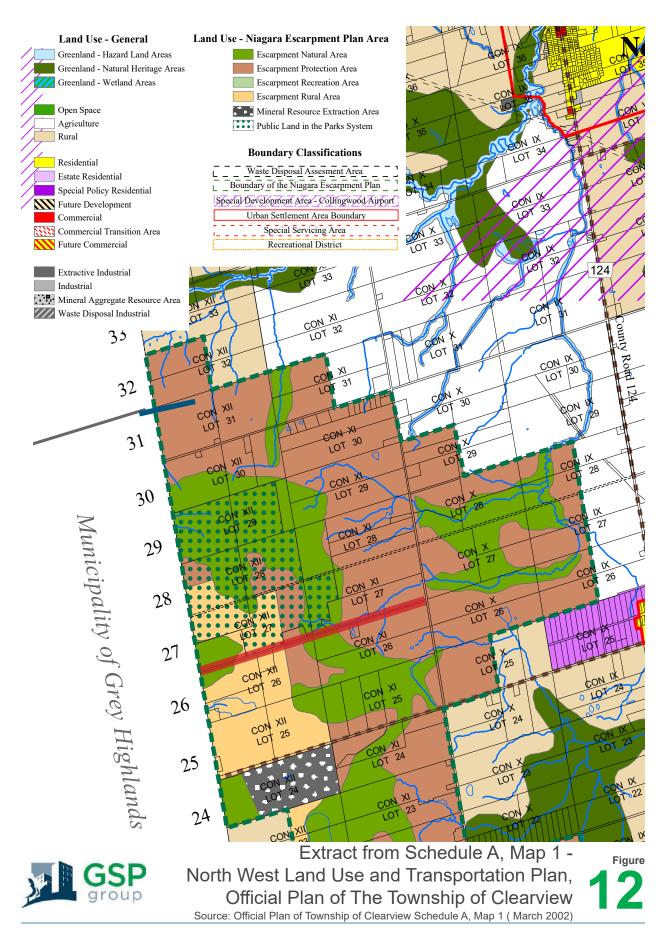
Reference to the NEP is made throughout the TCOP, including Section 1.0 Introduction; Section 5.0 Niagara Escarpment Plan; Section 11.12 Niagara Escarpment Development Control; and Section 12.6 is titled Amendments to the Niagara Escarpment Plan. Section 6.0 is titled Transportation Policies (see **Figure 12** – extract from Schedule A, Map 1, North West Land Use and Transportation Plan, Township of Clearview Official Plan).

Niagara Escarpment Plan Area Policies

Section 1.5 of the TCOP, titled Relationship of the Official Plan and Provincial Policy Statement to the Niagara Escarpment Plan states, in part:

The provisions of the Niagara Escarpment Plan continue to prevail over any local Plan or Zoning By-law where there is a conflict. The Niagara Escarpment Plan policies incorporated into this Official Plan are not to be interpreted in a manner which is determined to be less restrictive than the Niagara Escarpment Plan. However, the Township policies in this Official Plan that are more rigorous or restrictive than the Niagara Escarpment Plan are considered not to be in conflict with the Niagara Escarpment Plan and apply.

Section 5.0 of the TCOP is titled Niagara Escarpment Plan and it is stated that the policies in other sections of the TCOP also apply unless they conflict with the policies of Section 5.0 in which case the policies of Section 5.0 prevail. The NEP policies in the TCOP are based on a previous version of the NEP, being the NEP approved on June 1, 2005. The TCOP has been in effect since 2002, and a separate amendment to the TCOP was adopted to incorporate the 2005 NEP policies.



Environmental Policies

Other TCOP policies that may apply to lands within the NEP, provided they do no conflict therewith, would include Section 2.2.2, Environmental Resources, quoted in part below:

Increased environmental awareness and a public desire to link economic growth with environmental sustainability ensures that the preservation and management of Clearview's natural heritage resources will play a prominent role in the evolution of the community. Areas of Natural and Scientific Interest (ANSI's) and Provincially-significant wetlands, significant valleylands, significant woodlands, the habitat of threatened and endangered species, and fisheries and wildlife habitat, as refined and delineated as Greenlands in the Official Plan of the County of Simcoe, are an important part of what makes Clearview unique and will be protected. Consideration shall also be given to vulnerable species, where appropriate.

Any future development, that may be permitted within or adjacent to an identified natural heritage resource, shall be established in a manner which minimizes disruption to the resource and the character of the municipality in general, and, in the case of aggregate operations, shall be rehabilitated in a manner consistent with the surrounding environment.

The Township of Clearview has planned for the Sideroad 26/27 road improvements in line with policies written to protect significant natural features. Sections 2.2.7 and 3.3 of the TCOP states that the overall intent is to preserve the Township's habitat of threatened and endangered species, Areas of Natural and Scientific Interest (ANSIs), and significant wetlands, fish and wildlife habitat, woodlands and valleylands.

Another TCOP objective is to require the completion of an EIS demonstrating that there will be no negative impact on natural heritage features and their functions, where development and/or site alteration is planned on lands adjacent to significant nature features. The 2018 EIS prepared for the planned road improvements fulfills the Township's objective.

Transportation Policies

The preamble to the transportation policies contained with Section 6.0 of the TCOP states:

The policies of this section concern the movement of vehicular and pedestrian traffic within the Township of Clearview. The policies are intended to enable vehicles and pedestrians to move safely and efficiently within a rational system of routes which, wherever possible, shall be separated.

Sideroad 26/27 is a Local Road and road improvements are planned to move traffic safely and efficiently between Simcoe County Road 95/Grey County Road 31 and Township of Clearview Concession Road 10 North.

Given that improvements to Sideroad 26/27 require a NEDP, the Township has undertaken the required EIS and in conformity with the TCOP, has assessed the potential impact of the road improvements on the natural and cultural heritage resources and has designed the project to mitigate negative impacts.

The Stayner and Area Transportation Plan (SATP) was prepared in August 2009 and refers to the County of Simcoe plans to assume jurisdiction of Sideroad 27/28, as part of a new east/west County road corridor through the Georgian Triangle. The SATP also states that in the short term an alternate route to Highway 26 will be provided around Stayner, via County Road 7 and Sideroad 27/28.

The Township of Clearview has prepared Engineering Standards (2016) to establish, among other matters, minimum engineering standards. The Engineering Standards contain a cross section of a standard 9.0 metre road within a 20 metre right-of-way with an open ditch, being the standards to be applied to an improved Sideroad 26/27.

Given the location of the road through the NEP Area, site specific grading and stormwater management techniques have been proposed to protect the environment, to the greatest extent possible, while also providing for a safe road for travel.

In our opinion, the NEPA application conforms with the TCOP.

5.0 CONSISTENCY WITH 2017 NEP DEVELOPMENT CRITERIA

Part 1.2.1 of the NEP states that "Development Criteria set out in Part 2 of the Niagara Escarpment Plan will be considered in the assessment of any amendment to the Niagara Escarpment Plan."

The NEPA application is seeking to permit improvements to Sideroad 26/27 without the need to consider alternatives since it is an existing road, work is proposed within the existing right-of-way and the road is required to be improved to municipal standards for safety and environmental reasons.

Given the wording of the 2017 NEP, the NEPA is seeking to clarify that the road improvements (infrastructure) may be in key natural heritage features and key hydrological features that exist in the right-of-way and the Escarpment Natural Area cannot be avoided.

The NEP permits infrastructure in all NEP designations, subject to the Development Criteria in Part 2 of the NEP.

5.1 General Development Criteria - Part 2.2 of the NEP

The objective associated with the General Development Criteria (Part 2.2) is "to permit reasonable enjoyment by the owners of all lots that can sustain development." Part 2.2.3 states that development is permitted only on an existing lot of record.

The following definitions are in the NEP.

Existing lot of record: a lot held under distinct and separate ownership from all abutting lots, as shown by a registered conveyance in the records of the Land Registry Office at the date of approval of the Niagara Escarpment Plan on June 12, 1985......

Lot: A parcel of land capable of being conveyed legally in accordance with the Planning Act.

The previous PJR, dated October 2018 proposed that a new special provision be added to the NEP, out of an abundance of caution, to read:

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.

We have received correspondence from NEC staff stating that an "existing road is an existing lot of record, so we are of the opinion that this policy relief is not needed."

We agree that a clause recognizing the existing road as an existing lot is not necessary.

5.2 Development Affecting Steep Slopes and Ravines – Part 2.5 of the NEP

The objective of Part 2.5, Development Affecting Steep Slopes and Ravines "is to ensure that development affecting steep slopes (e.g., Escarpment slopes, rock faces, talus slopes) and ravines is compatible with the Escarpment environment and does not result in unsafe conditions." The following definitions are contained in the NEP:

Brow (edge): The uppermost point of the Escarpment slope or face. It may be the top of a rock cliff or where the bedrock is buried. The most obvious break in slope associated with the underlying bedrock.

Talus slope: The slope created by the mass of broken rock that accumulates at the base of the cliff face along the Escarpment.

Toe (base): The lowest point on the Escarpment slope or face determined by the most obvious break in slope associated with the bedrock or landforms overlying the bedrock.

Part 2.5.2 states:

The implementing authority will establish a minimum development setback from the brow or crest and toe of a slope or ravine, and no disturbance of grades or vegetation below the crest or brow and above the toe shall occur.

The previous PJR, dated October 2018 proposed that a new special provision be added to the NEP, out of an abundance of caution, to read:

Notwithstanding the policies set out in Part 2.5.2, 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.

Part 2.5.3 states:

"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."

We have received correspondence from NEC staff stating that "Policy 2.5.3 of the NEP allows consideration of eliminating or varying the setback, so we are of the opinion that this policy relief is not needed."

Part 2.5.4 states:

Development shall not be permitted on slopes in excess of 25 per cent (1:4 slope) or if the stability of the slope or ravine is in question, unless an engineering report has been prepared by the applicant that demonstrates the future stability of the slope would not be affected.

Vertical and horizontal cross-sections of Sideroad 26/27 were submitted with the NEDP application and were later revised as the detailed design of the road advanced. The steepest portion of the vertical alignment of the road will be reduced from 14 per cent to 11.7% per cent through managed cut and fill.

The 2017 NEP defines the Escarpment Brow (edge) as, "The uppermost point of the Escarpment slope or face. It may be the top of a rock cliff or where the bedrock is buried. The most obvious break in slope associated with the underlying bedrock." Sideroad 26/27 currently crosses the Escarpment Brow, where the bedrock is buried. The Sideroad 26/27 road improvements are not

proposed on slopes more than 25 per cent. The road improvements will eliminate existing unsafe conditions.

A Geotechnical Investigation was prepared for Sideroad 26/27 by Peto MacCallum Ltd., Consulting Engineers and it was concluded that the slope is stable and can withstand the road improvements without any issues.

5.3 Development Affecting Water Resources - Part 2.6 of the NEP

Part 2.6 of the NEP contains Development Criteria pertaining to water resources.

The objective 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.

Key hydrologic features, within the meaning of the NEP include the following:

- permanent and intermittent streams tributaries of Pretty River
- lakes (and their littoral zones) not within the Subject Area
- seepage areas and springs seepage areas at the base of the Escarpment slope, and
- wetlands PSW and local unevaluated wetland features

Part 2.6.2 d) states:

- 2. Development is not permitted in key hydrologic features with the exception of the following, which may be permitted subject to compliance with all other relevant policies of this Plan:
 - d) infrastructure, where the project has been deemed necessary to the public interest after all other alternatives have been considered.

Given the presence of the Rob Roy PSW, small Pretty River tributaries and unevaluated wetlands below the brow, the infrastructure works have been reviewed in considerable detail regarding potential impacts on key hydrologic features.

The 2018 EIS, a Hydrogeological Report, a Geotechnical Investigation and a Stormwater Management Report were prepared to inform the design of the road improvements. Together, these documents satisfy the NEP Development Criteria pertaining to the preparation of a hydrologic evaluation. The reports address key hydrologic features and their functions; the quality and quantity of surface and groundwater; the natural streams and the overall water budget.

Part 2.6.3 of the NEP requires that a hydrologic evaluation be undertaken for development within 120 metres of a key hydrologic feature that has the potential to result in a negative impact on the feature and/or its function. The hydrologic evaluation must demonstrate that the site alterations required to improve the road, including any alteration of the natural grade or drainage, will protect:

- i. the key hydrologic feature or the hydrologic functions of that feature,
- ii. the quality and quantity of groundwater and surface water,
- iii. natural streams or drainage patterns; and
- iv. the overall water budget for the watershed, including existing and planned municipal drinking water systems.

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[Part 2.6.3 a) i. – iv.]
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As per Part 2.6.3 b) of the NEP, a hydrologic evaluation is required that:

- b) identifies planning, design and construction practices that will minimize erosion, sedimentation and the introduction of nutrients or pollutants and protect, and where possible, enhance or restore the health, diversity and size of the key hydrologic feature, including:
 - i. natural features should be preserved;
 - ii. temporary vegetation and/or mulching should be used to protect critical areas exposed during development;
 - iii. topsoil should not be removed from the site, but rather, should be stored and redistributed as a suitable base for seeding and planting;
 - iv. sediment control devices should be installed to remove sediment from run-off due to changed soil surface conditions during and after construction; and
 - v. construction in or across a watercourse or wetland should be appropriately timed to minimize impacts on fish and wildlife habitat.
- c) determines the minimum vegetation protection zone required to protect and where possible enhance the key hydrologic feature and its functions.

Mitigation measures are proposed to protect areas exposed during road improvements. Topsoil will not be removed from the site and will be used for seeding and planting. Erosion and Sediment Control (ESC) devices will be installed to limit erosion and remove sediment from stormwater runoff during and after construction. Construction in or across a watercourse or wetland will be timed to minimize impacts on fish and wildlife habitat. Also, removal of vegetation will occur outside of critical timing windows for lifecycles of wildlife, including bats. Finally, a revegetation plan will be prepared to offset removed vegetation and reduce impacts to remaining natural features.

Parts 2.6.4 and 2.6.5 state:

- 4. A vegetation protection zone shall:
 - a) be of sufficient width to protect the key hydrologic feature and its functions from the impacts of the proposed change and associated activities that may occur before, during, and after construction, and where possible, restore or enhance the feature and/or its function; and
 - b) be established to achieve and be maintained as natural selfsustaining vegetation.
- 5. In the case of permanent and intermittent streams and seepage areas and springs, the determination of the vegetation protection zone shall include, without limitation, an analysis of land use, soil type and slope class.

Given the desire to improve the road within the 20 metre right of way, the vegetation protection zone is achieved through the provision of grassed swales and vegetated roadside ditches. The vegetation protection zones include site-specific stormwater management techniques to protect the key hydrologic features and their function, including natural self-sustaining vegetation.

Parts 2.6.6 through 2.6.8 do not apply to the proposed infrastructure as the Development Criteria pertains to ponds, sewage disposal systems or water takings.

Regarding water quality and quantity, Parts 2.6.9 through 2.6.12 of the NEP state:

- Development shall protect the quality and quantity of groundwater and surface water.
- Changes to the natural drainage should be avoided.
- Water taking must be accessory to the principal use except in the case of municipal water supply facilities. Increasing the capacity of existing water taking as a principal use shall not be permitted except for municipal water supply facilities.
- The implementing authority shall consider source protection plans developed under the Clean Water Act.

The 2018 EIS has addressed protection of the quality and quantity of groundwater and surface water, as well as natural drainage and the importance of retaining the overall water balance.

The following subsections address seepage areas and unevaluated wetlands; tributaries and the overall Stormwater Management Plan.

5.3.1 Seepage Areas and Unevaluated Wetland Features

Seeps occur from the Escarpment slope and in some areas along the right-of-way. The seeps, in part, maintain the cold-water nature of the surrounding streams. The 2018 EIS addresses improving the conveyance of seeps by capturing and directing it to the watercourses or wetlands.

Mitigation measures include temporary vegetation and/or mulching to protect critical areas and topsoil will be stored and redistributed as a suitable base for seeding and planting. The proposed road improvements and associated road drainage systems recognize the presence of seeps and springs in the area and are designed to capture and convey the water to emulate and enhance the existing seepage patterns.

Wetlands are key natural heritage features and can be categorized as swamps, fens, marshes, or bogs. Their ecological functions include water storage, water filtration and habitat.

In 2015, the Ministry of Natural Resources and Forestry (MNRF) produced a Discussion Paper on Wetland Conservation in Ontario. In July 2017, the province released <u>A Wetland Conservation Strategy for Ontario: 2017-2030.</u> The Wetland Conservation Strategy Advisory Panel was established in November 2017 and in May 2018 they released <u>Considerations for the Development of a Wetland Offsetting Policy for Ontario, A Report of the Wetland Conservation Strategy Advisory Panel.</u>

The Wetland Conservation Strategy and implementation documents are complementary to the NEP policies regarding the protection of wetlands as key hydrologic features. The Province has set targets to assist in maintaining wetlands and restoring wetlands where significant losses have occurred.

The definition of wetland in the 2005 NEP and the 2017 NEP has remained much the same, with the 2017 definition including one additional sentence at the end.

Wetland: Land that is seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic or water tolerant plants. The four major types of wetlands are swamps, marshes, bogs, and fens. Periodically soaked or wetlands being used for agricultural purposes which no longer exhibit wetland characteristics are not considered to be wetlands for the purposes of this definition (Provincial Policy Statement, 2014).

During the 2015 Co-ordinated Land Use Planning Review, the NEC endorsed policies that were not included in the final 2017 NEP. For example, the NEC recommended to the Minister that all wetlands five (5) hectares or greater be included in the Escarpment Natural Area designation. However, the ENA criteria for the designation were not amended to include wetlands five (5) hectares or greater. The criteria for the ENA in the 2017 NEP include "significant valleylands, provincially significant wetlands and wetlands greater than 20 hectares in size."

Except for the Rob Roy PSW, other wetlands identified in the vicinity of the right-of-way are individually not greater than 20 hectares and are designated EPA.

Several small wetland features were identified within 120 metres of the right-of-way in areas adjacent to the tributaries and where groundwater discharge occurs.

In 2016, the boundaries of the smaller wetland features were refined and surveyed with the assistance of NVCA staff. As stated in the 2018 EIS:

The total direct impacts to these small wetland features located in the roadside ditches in the IA [right-of-way] includes removal of 0.18 hectares of both woody and herbaceous wetland vegetation associated with both cattail marsh and willow-dogwood thicket swamp communities.

The water balance to these features will be maintained as part of the proposed road improvements and stormwater management plan......The existing ditches will be improved to allow for appropriate conveyance of flows during peak periods, which will minimize both erosion and transfer of materials into wetland and aquatic features. It is therefore expected that direct effects will result in an overall benefit to existing conditions within the wetland features. [Page 69 of the 2018 EIS]

While wetland vegetation will be removed, the function of the complex of smaller wetlands will be protected and their quality enhanced given that road improvement measures will be designed to eliminate, to the greatest extent possible, the deposition of sediments (road washout) into the wetland areas. Areas that are disturbed to accommodate construction will be mitigated through the implementation of a revegetation plan.

5.3.2 Tributaries

Field investigations of the aquatic features commenced in 2014. Additional fieldwork was undertaken in 2015 and 2016 when mini-piezometers were installed to provide additional data on groundwater-surface water interactions. An electrofishing survey was also undertaken in July 2016 to obtain further information on fish communities in the tributaries.

Tributary A, a tributary of Pretty River, is located on the north side of the right-of-way, below the brow and consists of a channel with multiple flow paths within a wetland community. A reach of the tributary consists of a series of step-pool features interspersed with short riffles and runs. The bank full width ranges from 1.5 metres (4.9 feet) to 3.2 metres (10.5 feet). Several sand and gravel washout areas impact Tributary A. The existing grass buffer area between the road and Tributary A has been eroded by road washout.

Two (2) high-gradient headwater tributaries contribute flow to Tributary A. Tributary B is a first order stream and Tributary C is a second order stream and both streams are currently conveyed under the road through a degraded CSP culvert. Both existing culverts are partially obstructed

with sand and gravel and will be replaced and sized to convey the 25-year storm event without overtopping the road.

South of the right-of-way (upstream) Tributaries B and C are fed by groundwater seeps originating on the slope and their channels are small and poorly defined. Surface flow is directed to Tributary C through a ditch (Tributary B) on the south side of the right-of-way. The widths of these channels do not exceed 0.7 metres (2.3 feet) with depths of less than 0.2 metres (0.65 feet) during periods of high flow. Tributary C flows through a private online pond located approximately 60 metres (197 feet) south of the right-of-way.

Tributary D is a first order stream conveyed under Sideroad 26/27 and within the right-of-way it consists of organics, silt, sand and dense wetland vegetation upstream. No fish were observed during multiple site visits and during the electrofishing survey.

Tributary E is a spring-fed first order stream located mainly in the south ditch and conveyed under the road. Very little flow was observed in the upstream channel. A proposed precast concrete box culvert will be used to convey Tributaries C and D. The culvert conveying Tributary E will also be replaced and extended.

Burnside advises that the shallow, poorly defined channels of Tributaries B, C, D and E do not provide direct habitat for cold water fish species.

A portion of Tributary A must be re-aligned approximately 1.0 metre to the north of its current location, to provide an area for the road shoulder and embankment but will remain within the undisturbed portion of the right-of-way. While the Development Criteria states that changes to natural drainage should be avoided, the minor re-alignment is necessary to protect the integrity of the tributary.

The realignment will facilitate the road improvements and improve the buffer between the stream and the road reducing current sedimentation issues. There will be a vegetation protection zone of sufficient width to protect the stream and result in a net improvement in habitat. The area of impact (area to be realigned) is approximately 22 metres (approximately 72 feet) in length. The new channel will be straighter and approximately 18.5 metres in length (approximately 60.7 feet). The re-alignment will include a natural channel design to replicate the existing habitat and morphology. Natural sod mats are proposed along the re-aligned channel banks. Salvaged substrate will be used in the new channel. Seeding and plantings will be provided along the upper banks in accordance with input from NVCA.

A report from a professional geomorphologist, included as an appendix to the 2018 EIS, indicates that the proposed re-alignment is appropriate and potentially beneficial to the geomorphic function of the tributary given existing erosion and sedimentation issues. Burnside has advised they have overseen the construction of a number of re-alignments approved by the DFO and Conservation Authorities.

The tributaries within the subject area are cold water streams with some reaches identified as providing spawning and rearing habitat for Brook Trout. The realigned stream channel will replicate fish habitat features such as undercut banks, small riffle-pool features and coarse substrates. Fish will be captured and released downstream during construction activities. The 2018 EIS contains a list of mitigation measures to be implemented to minimize or avoid impacts to fish and their habitat during construction of the re-aligned portion of the channel and culvert replacement.

5.3.3 Stormwater Management (SWM) Plan

The SWM Plan has been prepared by Burnside and considers, among other matters, the quality and quantity control requirements to protect the downstream natural environment; the hydrogeologic regime; and the hydraulic impact of the proposed changes to culverts.

Burnside concludes:

Surface water is inadequately conveyed through ditches that are either failing due to high flow velocities or through flow across the road surface, causing granular washout after road surface grading into the adjacent forested and aquatic habitats.

Sideroad 26/27 currently drains to seven (7) outlets, including the Rob Roy PSW; Tributaries A-E and the Concession Road 10 North ditch (east limit of Sideroad 26/27). The hydrology methodology (hydrologic model) considered topography, soil conditions, land use patterns, rainfall data, and overland flow lengths and slopes. The proposed paving is the only significant change from existing to proposed conditions. The Rob Roy PSW receives drainage from the grassed fill slopes.

Road crossing culverts are associated with Tributaries B through E and they are all ineffective due to age, size, and obstructions. New crossing structures will increase the water way to accommodate the 25-year storm event and improve emergency access during the Regional Storm event (one lane width clear). The post-development stormwater peak flow rates at each outlet will not exceed the existing peak flow rate. Burnside advises that these stormwater improvements will minimize in-stream work.

The Nottawasaga Valley Watershed Management Plan (NVWMP) requires that all work within their watershed must preserve the integrity of the receiving water body with enhanced level quality – control protection for 80% of total suspended solids removed. In addition to SWM practises, the Sideroad 26/27 SWM Plan includes rock check dams and sediment basins to reduce scour of ditches and outlets and control erosion sediment at the source.

Given the existence of local wetlands, the SWM Plan includes devices that treat stormwater as close to the source as possible. The stormwater conveyance design minimizes ditch depths and widths to minimize encroachment into the wetlands.

The main hydrogeology factors considered in the SWM design include maintaining groundwater contributions to streams and the groundwater table in the vicinity of wetlands; and maintaining the current infiltration to emulate the existing gravel road. The SWM Plan also identifies the criteria contained in the NEP such as development limit criteria, and the SWM Report addresses how each criterion is respected.

Several traditional SWM techniques were considered and determined to be not suitable for the surrounding environment. Two main types of LID SWM practices are proposed to achieve enhanced quality control including bioretention LID adapted to a rural road cross-section and enhanced grass swales.

Bioretention detains and infiltrates a portion of the stormwater and pollutants are removed through vegetative uptake. Bioretention consists of a series of level spreaders constructed of a tubular filter (to intercept road runoff) and attached to the side of the road embankment. The road embankment will be restored with 75 mm of topsoil and both the embankment and level spreader will be seeded with a native seed mix appropriate for riparian restoration. This will stabilize the road embankment.

In some locations the proposed ditch is at a higher elevation than the existing ditch. To address this, a perforated underdrain will be placed in the existing ditch prior to the placement of fill to create the new ditch. The underdrain will capture the groundwater at the existing elevation and transfer it to the enhanced grassed swale as it descends the Escarpment slope. This will preserve cold groundwater inputs to cool/cold water fisheries.

Enhanced grass swales detain a portion of the stormwater behind check dams and allow it to infiltrate. Rock check dams are placed within the ditches to slow stormwater velocities and are to be used in steep ditch sections (greater than 4%). In certain locations a perforated underdrain will be installed.

Section 8 of the SWM Report provides an overview of SWM design for each section of the proposed road and demonstrates how each ditch and culvert satisfies the applicable SWM criteria.

Hydraulic calculations indicate that the proposed peak flow to the Rob Roy PSW match existing conditions. The high point of Sideroad 26/27 (brow of the Escarpment) forms the division between water flowing toward the Rob Roy PSW and towards the tributaries of the Pretty River.

5.4 Development Affecting Natural Heritage – Part 2.7 of the NEP

The objective of the natural heritage Development Criteria is to protect and where possible enhance natural heritage features and functions, to maintain the diversity and connectivity of the continuous natural environment. Within the meaning of the NEP, natural features include:

Wetlands

- Habitat of endangered species and threatened species
- Fish habitat
- Life Science Areas of Natural and Scientific Interest
- Earth Science Areas of Natural and Scientific Interest
- Significant valleylands
- Significant woodlands
- Significant wildlife habitat
- Habitat of special concern species in Escarpment Natural and Escarpment Protection Areas

[Words in italics are defined in the NEP]

The Sideroad 26/27 right-of-way (20 metres) and/or the lands immediately adjacent to the right-of-way contain all the listed natural features, except for significant valleylands.

Similar to the water resources Development Criteria in the NEP, development is not permitted in key natural heritage features except for the following, which may be permitted subject to compliance with all other relevant policies of this Plan.

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

Part 2.7.3 through 2.7.8 are guoted below.

- 3. The diversity and connectivity between key natural heritage features and key hydrologic features shall be maintained, and where possible, enhanced for the movement of native plants and animals across the landscape.
- 4. Development in other natural features not identified as key natural heritage features or key hydrologic features should be avoided. Such features should be incorporated into the planning and design of the proposed use wherever possible, and the impact of the development on the natural feature and its functions shall be minimized.
- 5. Where policies or standards of other public bodies or levels of government exceed the policies related to key natural heritage features or key hydrologic features in this Plan, such as may occur with habitat of endangered species and threatened species under the Endangered Species Act, 2007; with natural hazards where section 28 regulations of the Conservation Authorities Act apply; or with fisheries under the Federal Fisheries Act, the most restrictive provision or standard applies.

- 6. If in the opinion of the implementing authority, a proposal for development within 120 metres of a key natural heritage feature has the potential to result in a negative impact on the feature and/or its functions, or on the connectivity between key natural heritage features and key hydrologic features, a natural heritage evaluation will be required that:
 - a) demonstrates that the development, including any alteration of the natural grade or drainage, will protect the key natural heritage feature or the related functions of that feature:
 - b) identifies planning, design and construction practices that will minimize erosion, sedimentation and the introduction of nutrients or pollutants and protect and, where possible, enhance or restore the health, diversity and size of the key natural heritage feature;
 - determines the minimum vegetation protection zone required to protect and where possible enhance the key natural heritage feature and its functions; and
 - demonstrates that the connectivity between key natural heritage features and key hydrologic features located within 240 metres of each other will be maintained and where possible enhanced for the movement of native plants and animals across the landscape. except with respect to a key natural heritage feature that is solely the habitat of endangered species or threatened species, which is subject to Part 2.7.8 below.
- 7. For the purposes of 2.7.6, a vegetation protection zone shall:
 - be of sufficient width to protect and where possible enhance the key natural heritage feature and its functions from the impacts of the proposed change and associated activities that may occur before, during, and after, construction;
 - b) be established to achieve, and be maintained as, natural self- sustaining vegetation; and
 - c) in the case of Areas of Natural and Scientific Interest (Earth Science and Life Science), include without limitation an analysis of land use, soil type and slope class.
- 8. Development within the habitat of endangered species and threatened species:

- a) located within Escarpment Natural Areas and Escarpment Protection Areas, is not permitted, except for development referred to in Parts 2.7.2 a) b) c) d) or e) which may be permitted provided it is in compliance with the Endangered Species Act, 2007; and
- b) located within Escarpment Rural Areas, Mineral Resource Extraction Areas, Urban Areas, Minor Urban Centres and Escarpment Recreation Areas, is not permitted unless it is in compliance with the Endangered Species Act, 2007.

Similar to the water resources criteria, the natural features criteria require a natural heritage evaluation that demonstrates how key natural heritage features and their functions will be protected; highlights design and construction practices to minimize erosion and sedimentation; utilizes a vegetation protection zone and demonstrates that the connectivity between key natural heritage features (within 240 metres of each other) will be maintained, and where possible enhanced for the movement of native plants and animals across the landscape.

Part 2.7.8 states that development within the habitat of endangered species and threatened species, located within ENAs and EPAs is not permitted, except infrastructure may proceed provided it complies with the *Endangered Species Act, 2007*. The proposed road works comply with the *Endangered Species Act, 2007*.

The NEP also contains Development Criteria for forest management which include natural regeneration or rehabilitation using native tree species where necessary, and overall protection of woodland and associated wildlife habitat.

It is important to distinguish between the key natural features "in" the right-of-way and the key natural heritage features adjacent to the right-of-way. Development is not permitted in key natural heritage features except for certain stated purposes, including infrastructure, where the project has been deemed necessary to the public interest and there is no other alternative.

In accordance with Part 2.7.6, a natural heritage evaluation (2018 EIS) has been prepared in support of the NEP Amendment. The EIS demonstrates that key natural heritage features and their functions will be protected. The EIS also identifies planning, design and roadway construction practices that will minimize erosion and sedimentation and protect and restore the health and diversity of the key natural heritage features.

The 2018 EIS also demonstrates that connectivity between key natural heritage features and key hydrologic features, located within 240 metres of each other, will be maintained and where possible and practical, the movement of native plants and animals across the landscape will be enhanced.

The location of and impact upon key natural heritage features are discussed below and the information is taken from the 2018 EIS prepared by Burnside and the 2020 letters prepared by Burnside responding to comments raised by public agencies.

5.4.1 Provincially Significant Wetland (Rob Roy PSW)

Two (2) wetland units, components of the larger Rob Roy PSW Complex to the west, are located on either side of Sideroad 26/27. Portions of the right-of-way that have remained undisturbed contain PSW vegetation. Approximately 663 square metres of herbaceous wetland edge vegetation must be removed from the Sideroad 26/27 right-of-way. The 2018 EIS recommends an appropriate buffer within the road right-of-way to the edge of the wetland and recommends the development of a more comprehensive erosion and sediment control plan during the detailed design phase.

Regarding wetlands, 'significant' is defined in the NEP as "an area identified as provincially significant by the Ministry of Natural Resources and Forestry using evaluation procedures established by the Province, as amended from time to time." The Rob Roy PSW is located on either side of Sideroad 26/27, just east of Townline.

The 2018 EIS and Burnside's Response letter forwarded to the GSCA in April 2020 both address the Rob Roy PSW and indicate how the existing road currently impacts this key natural heritage feature and how impacts can be reduced and mitigated.

The Rob Roy PSW located on either side of existing Sideroad 26/27 is part of a larger PSW wetland complex with a total area of approximately 408 hectares (approximately 1,008 acres). In the subject location, the PSW contains two (2) vegetation communities including the White Birch-Poplar Mineral Deciduous Swamp and the Black Ash-Conifer Mineral Mixed Swamp. According to the Amphibian Call Survey (2014-2016) calls from the Spring Peeper, Gray Treefrog, Green Frog, Western Chorus Frog and the Wood Frog were heard calling from within the PSW.

Sideroad 26/27, immediately east of Townline is at its widest point and is maintained through the application of gravel, vegetation management, brushing, snow removal and road maintenance activities that have extended quite close to the limits of the right-of-way. Within the existing right-of-way there is some vegetation that is not as sensitive and does not function in the same manner as the features beyond the right-of-way. In this area, there are no existing culverts or connections between the two wetlands on either side of the road. Surface water and potentially groundwater maintain the water balance.

The flood potential of a PSW area is considered a natural hazard. However, the wetland units of the Rob Roy PSW, located on either side of Sideroad 26/27, are close to the upstream boundary of the Upper Beaver River watershed and there is a relatively small drainage area contributing to the PSW. The GSCA has advised that the infrastructure works are not anticipated to have negative hydrologic impacts to the PSW key natural heritage feature or measurable negative drainage impacts in the Upper Beaver River Watershed.

The GSCA accepts the Burnside conclusion that there are no habitat of endangered species and threatened species or fish habitat within that portion of the project area under the GSCA's jurisdiction.

The 2018 EIS recommends a buffer to the PSW within the right-of-way and states "limiting development to land outside of the buffer will sufficiently protect the roots of edge trees, and shrubs will minimize impacts to wildlife habitat associated with the wetlands."

As an enhancement measure, permanent exclusion fencing for amphibians will be installed. Prior to any grading or site alteration, sediment fencing will be placed along the limit of the right-of-way. The wetland edge will be re-vegetated and stabilized using habitat specific native seed mixes and where appropriate, individual plantings. Erosion and Sediment Control plans have also been produced in association with the detailed road construction drawings.

Burnside has further clarified, in a response letter to the Blue Mountain Watershed Trust dated April 16, 2020 that:

The water balance as a result of the improved road design has been reviewed by the GSCA with respect to the Rob Roy PSW located on the north and south side of Sideroad 26/27, and they are satisfied with the EIS recommendations. The wetland will be protected by proposed enhanced grassed swales upstream which are known to provide a water quality, water balance and erosion control benefit (TRCA CVC Low Impact Development Stormwater Management Planning and Design Guide, 2010). There is 25 m3 of stormwater storage provided in ditches by the enhanced swale design (Appendix C of the SWM Report).

It is also worth noting that the future paved area of the road comprises an area that covers roughly 2%* of the catchment that drains toward the intersection on either side of the road, so it has been determined that there will be a water balance change of less than 2% even if there were no enhanced grassed swales. The enhanced grassed swales further reduce the potential change in water balance. Such a small change should be considered insignificant relative to the wetland area.

*Note the ROW was modelled as a single catchment. It contained 0.42 ha of paving in post development conditions. Half of the ROW would contain 0.21 ha of paving. The half ROW plus external catchment area is approximately 10.5 ha. 0.21/10.5*100% = 2%.

5.4.2 Significant Woodlands

Woodlands that are in a relatively undisturbed state are included within the ENA designation. The criteria for the ENA designation include woodlands that abut the Escarpment and woodlands 300 metres back from the brow of the Escarpment slopes. An Escarpment slope is defined in the NEP as the "area between the brow and toe of the Escarpment and usually characterized by a

steep gradient. Where the rise occurs in the form of a series of steps, the slope also includes the terraces between the steps."

Regarding woodlands, the NEP defines Significant as:

an area that is ecologically important in terms of features such as species composition, age of trees and stand history; functionally important due to its contribution to the broader landscape because of its location, size or due to the amount of forest cover in the planning area; or economically important due to site quality, species composition or past management history. These are to be identified using criteria established by the Ministry of Natural Resources and Forestry.

Significant woodlands are a key natural heritage feature within the meaning of the NEP. Part 2.7.12 of the NEP states that all development involving the cutting of trees requires approval from the implementing authority (body responsible for the administration of the NEP) subject to certain stated criteria. One criterion is to limit the cutting of trees to the minimum necessary to accommodate the proposed infrastructure works. The criteria also require that tree cutting minimize disruption to wildlife habitat and that efforts be made to protect the biodiversity of the woodland.

5.4.3 Habitat of Endangered Species and Threatened Species

Background research for the EIS indicates that certain endangered and threatened species have the potential to be present in the subject area and include:

- Eastern Massasauga Rattlesnake (Threatened)
- Barn Swallow (Threatened)
- Bobolink (Threatened)
- Butternut (Endangered)
- Little Brown Myotis (Endangered)
- Northern Myotis (Endangered)
- Eastern Small-footed Bat (Endangered)

Burnside found no evidence of the Eastern Massasauga, Barn Swallow or Bobolink species or their habitat within the road right-of-way or within 120 metres.

During field data collection, between 2014 and 2018, Butternut trees were found in three (3) locations and were assessed in accordance with the MNRF Butternut Health Assessment protocol. One (1) butternut tree was located within the defined road Improvement Area (IA) and was assessed as "not retainable". The other two specimens are located outside of the IA on the north side of the road, within the Bruce Trail area. One specimen is not retainable, and one is healthy. The Butternut Health Assessment was submitted to the MNRF in December 2013.

Development within the habitat of endangered species and threatened species is not permitted within the ENA or the EPA except for development referred to in Parts 2.7.2 a) b) c) d) or e) which

may be permitted provided it is in compliance with the ESA. Part 2.7.2 e) permits infrastructure, where the project has been deemed necessary to the public interest and there is no other alternative.

The Little Brown Myotis and Eastern Small-footed bat species were observed in the area and habitat on site was confirmed. The Northern Myotis species was not identified during the bat surveys, but the habitat is generally present within the study area. The proposed road improvements impact potential habitat of bat species at risk. As a result, the clearance of trees and vegetation will be scheduled beyond the active seasons for bat maternity roosting.

5.4.4 Fish Habitat

Burnside undertook spawning survey investigations between 2015 and 2018 and Brook Trout spawning activity was documented in Tributary A. based on evidence of Young of the Year (YOY). Given the conditions of the surface water, spawning microhabitat within the study area was very limited. Burnside concluded that Tributary A marginally contributes to the spawning success of resident Brook Trout. Brook Trout are part of or support a Recreational Fishery as defined in the *Fisheries Act*.

The Stormwater Management Plan addresses the Department of Fisheries and Oceans (DFO) criteria with respect to protection of fish and fish habitat. The 2018 EIS has documented a minor reduction in fish habitat (less than 5 square metres) and the Department of Fisheries and Oceans approved the loss under a Letter of Advice (LOA) dated June 19, 2017.

Section 7.0 of the 2018 EIS recommends implementation of mitigation measures to minimize or avoid impacts to fish and fish habitat during re-alignment of a small portion of the channel and during culvert replacement. Examples of mitigation include in-water construction between July 1st and September 30th or as directed by MNRF, performed in dry, dewatered conditions. Other measures include maintaining flow upstream to downstream of the work area, stabilization works and sediment and erosion control measures.

5.4.5 Area of Natural and Scientific Interest (ANSI)

The Nottawasaga Lookout is both an Earth Science and Life Science ANSI, located on the north side of Sideroad 26/27. The proposed infrastructure works are located outside of the ANSI boundary and will not impact the features or their functions.

5 4.6 Significant Wildlife Habitat (SWH)

During the summer of 2014, breeding bird surveys were conducted and there was no evidence of colonial nesting species in the vicinity. An Eastern Milksnake (Special Concern) was identified in the field but this species is no longer listed as threatened and impacts to its habitat are not anticipated through the road improvement project. Turtle wintering areas were not identified within the small wetland features, either within the right-of-way or within 120 metres.

Field investigations determined that areas of amphibian concentrations and area sensitive breeding bird habitat were present within the study area. However, neither woodland-area sensitive species nor grassland area-sensitive species were documented.

A few woodland area-sensitive bird species have been recording in the vicinity of the subject lands. These species prefer habitat located at least 100 metres away from the edge of the woodlands, in interior forest habitat. Clearing activities are not expected to have a measurable effect on the function of the forested communities based on the vast areas of contiguous forested habitat within 120 metres and both north and south of the road improvement area.

5.5 Infrastructure – Part 2.12 of the NEP

Part 2.12 of the NEP contains Development Criteria pertaining to infrastructure. The objective is to design and locate infrastructure so that the least possible impact occurs on the Escarpment environment and to encourage green infrastructure and LID where appropriate. The infrastructure Development Criteria are quoted below.

 Infrastructure shall be planned in an integrated fashion, to obtain the most value out of existing infrastructure and to ensure that the most sustainable infrastructure alternatives have been identified.

Sideroad 26/27 is an existing road in need of repair and improvements to become a safe year-round road for local and through vehicle traffic.

- Infrastructure shall be sited and designed to minimize the negative impact on the Escarpment environment. Examples of such siting and design considerations include, but are not limited to the following:
 - a) blasting, grading and tree removal should be minimized where possible through realignment and utilization of devices, such as curbs and gutters, retaining walls and tree wells;
 - finished slopes should have grades no steeper than 50 per cent (1:2 slope) and be planted; large cuts should be terraced to minimize surface erosion and slope failure;
 - c) site rehabilitation should use native species of vegetation and protect and enhance the natural environment;
 - a development setback from the Escarpment brow shall be established by the implementing authority to minimize visual impacts; and

e) visual impacts from infrastructure should be minimized by siting, structural design, colouration and landscape planting and/or vegetation screening."

Given that Sideroad 26/27 is located within a rural environment, curbs and gutters and retaining walls will not be utilized. Any blasting required, as well as grading and tree removal has been examined through the 2018 EIS. Attention has been paid to minimizing impacts and site rehabilitation. A Visual Impact Assessment concludes there will be minimal visual impact associated with the improved road. Specific mitigation measures have not been recommended given that the improved road will not be seen from a distance.

Low impact stormwater management techniques are proposed to minimize impacts on the adjacent natural features and to ensure the quality of ground and surface water is enhanced form its current state. The road improvements, to be confined to the right of way, will not impact adjacent parks and open space or the Bruce Trail.

The one (1) Development Criteria associated with infrastructure that the Township is seeking an amendment to is Part 2.12.5 which states that infrastructure shall avoid the ENA designation, unless the project has been deemed necessary to the public interest after other alternatives have been considered. Sideroad 26/27 currently traverses the ENA and improving the road requires the continuation of infrastructure within the ENA and cannot be avoided.

5.6 Scenic Resources and Landform Conservation – Part 2.13 of the NEP

Part 2.13 of the NEP contains Development Criteria pertaining to scenic resources and conservation of landforms. The objective is to ensure that development preserves the natural scenery and maintains Escarpment Related Landforms and the open landscape character of the Escarpment.

The improvements to Sideroad 26/27 were identified as a potential concern and a Visual Impact Assessment (VIA) was prepared. The VIA provides a detailed photographic inventory and description of the existing conditions; a description and evaluation of impact from the expected change in the road; photographic simulations, viewshed modelling, analysis and recommendations. The VIA concludes that the proposed road improvements would have a neutral effect and the overall scenic ranking would remain unchanged by the proposed infrastructure works.

The 2015 NEC staff report on the NEDP application states: "the concern that the proposed improvements to this roadway would result in a dominant, visible, man-made feature on the Escarpment landscape similar to former CR 91 has been allayed through extensive distance view photography and zone of visual influence mapping (viewshed mapping)."

NEC staff did identify a potential visual impact associated with lowering the grade at or near the brow of the Escarpment and utilizing steeper backslopes on road swales to reduce the encroachment into key natural features. The NEC staff concluded, in 2015, that:

The majority of the VIA report comments and conclusions are in keeping with the NEP policies that either directly or indirectly relate to visual impact and scenic resources. Overall, the changes that would result are in keeping with the NEP Objectives, Land Use Designations and Development Criteria.

An Escarpment Related Landform is a physical feature created by erosion, sedimentation and/or glaciation, often including such features as moraines, lakes, river valleys, beach ridges, drumlins, and kames. These features are not located in the study area.

5.7 The Bruce Trail - Part 2.14 of the NEP

Part 2.14 of the NEP contains Development Criteria regarding the Bruce Trail, including access points. This part of the NEP states that preference is given to access points located outside of ENA on existing public parkland within the NEPOSS or on properties owned by the Bruce Trail Conservancy. The Bruce Trail is not located on public lands to the south of Sideroad 26/27 but does wind its way through public lands north of the road.

6.0 COMMENTS FROM OTHER AREA MUNICIPALITIES

6.1 Grey County, Planning and Transportation Services

6.1.1 May 2019 Comments

Grey County submitted a letter dated May 30, 2019 signed by the Director of Planning & Development and the Director of Transportation Services. The letter includes a motion passed by Grey County Committee of the Whole on May 23, 2019. The motion was associated with Report PDR-CW-23-19, received for information, that provided background on the proposed closure of Township Road 91 and the proposed upgrades to Sideroad 26/27. The motion includes the following:

That Grey County respectfully requests that the Township of Clearview complete an appropriate level Municipal Class C Environmental Assessment process for the proposed reconstruction of Nottawasaga Sideroad 26/27 in light of the new environmental information that has been gathered in the past couple of years in support of the proposed Niagara Escarpment Amendment application; and

That it is recommended that the Township of Clearview request that the Niagara Escarpment Commission put the proposed Niagara Escarpment Amendment application on hold until the appropriate level Municipal Class C Environmental Assessment process has been completed; and

That this motion and the correspondence received by the County related to the closure of Simcoe Road 91 be sent to the Minister of Environment, Conservation and Parks, to local Members of Provincial Parliament, to the Niagara Escarpment Commission, and to the County of Simcoe.

Grey County deferred the passage of the above-quoted motion until after the Grey Highlands Public Meeting, which was held on May 9, 2019.

Attachments to the May 30, 2019 from Grey County Planning and Transportation Services include:

- a May 23, 2019 presentation to Grey County Council by George Powell, Vice President of the Blue Mountain Watershed Trust (BMWT) and a letter prepared by Mr. Powell dated May 15, 2019;
- a letter dated May 15, 2019 from J.A. Brydges;
- a 16-page presentation by Doug Dingeldein provided to Council on May 23, 2019;
- a 42-page power point presentation titled Concerns with Closing Simcoe Rd 91 and Upgrading SR 26/27; a motion carried by the Town of The Blue Mountains dated May 13, 2019; and
- Minutes from the May 9, 2019 Grey Highlands Public Meeting.

The letter acknowledges that in July 2010, Grey County entered into an agreement with the Township and Walker Industries regarding the work to be undertaken on Sideroad 26/27 and the letter provides a link to the Sideroad 26/27 Agreement authorized by By-law 4675-10. Regardless, the County is now opposed to the closure of Township Road 91 and the proposed upgrades to Sideroad 26/27.

The May 30, 2019 letter provides a summary of the comments received in writing as well as comments expressed at the Grey Highlands Public Meeting on May 9, 2019. The concerns include:

- The closure of Simcoe Road 91 and an upgraded Sideroad 26/27 not being an adequate substitute
- Impacts to the environment including impacts to wetlands, fish habitat, impacts to springs and seeps, and impacts to groundwater
- Emergency response times being impacted should Simcoe Road 91 be closed
- The need for updated traffic studies
- That Sideroad 26/27 should be brought up to a County standard
- The lack of public consultation
- No longer a need to close Simcoe Road 91 now that the tunnel has been constructed by Walkers
- Visual impacts on the escarpment
- Increased traffic on other roads in the areas because of the closure of 91and increased travel times

 Impacts on trucks and commercial vehicles that cannot use this road during load restriction periods

On June 13, 2019, Grey County Council passed a motion to oppose the NEPA application.

6.1.2 June 2020 Comments

The June 5, 2020 letter from the Grey County Warden's Office includes a Grey County Committee of the Whole resolution opposing the NEPA application and the resolution reiterates Grey County's request that the Township of Clearview undertake a Schedule C Municipal Class EA (see Attachment No. 3).

The County Warden, Mr. Paul McQueen provides the following comments in the letter dated June 5. 2020:

Nothing presented within the last few years has demonstrated how this project is in the public interest or considered any alternatives. Enshrining these words in the amendments essentially neutralizes the important protections enshrined in section 2.6 and 2.7 of the NEP with regard to Water Resources, and Natural Heritage features. No other previous amendments go that far and approving these amendments would set a dangerous precedent and remove these protections during the permitting process.

Grey County does not believe that the road improvements are in the public interest. While an improved Sideroad 26/27 will provide an east west through road between Grey County and Simcoe County (Township of Clearview), the County would prefer that the Township consider alternatives, such as Township Road 91 open to through traffic. To the best of our knowledge, the Township does not plan to reverse the past Joint Board decision to close Township Road 91 to through traffic in front of the Duntroon Quarry.

We understand the historical connection between past decisions pertaining to Township Road 91 and Sideroad 26/27. These decisions, however, were not made solely by the Township of Clearview. Back in 2010 there was a consensus among the Municipalities and parties to Road Settlement Agreements setting the course of action for these two (2) roads. Disputes arose when the Township sought a NEDP to implement the improvements to Sideroad 26/27.

We would like to address that comment above that the words in the NEPA application neutralize required protections to water resources and natural heritage features and that no previous amendments go that far, and approving the NEPA would set a dangerous precedent and remove protections during the permitting process.

Regarding infrastructure, there are a few new policies in the 2017 NEP which are not clear and open to interpretation. The Township has sought clarity on the matter through a NEPA application. The wording open to interpretation is that while infrastructure is permitted in all NEP land use designations, the 2017 NEP states that infrastructure may be permitted in key natural

heritage features and key hydrologic features only if the road improvements are deemed necessary to the public interest following a review of alternatives. If a municipality is not required to review alternatives, then how is this policy interpreted? Questions raised include was it the intent to only permit infrastructure "in" key features following a review of alternatives? Can the public interest test be addressed without a review of alternatives and what does the public interest mean regarding a local road improvement project in the Township of Clearview?

The NEPA application was submitted to acknowledge that alternatives to the Sideroad 26/27 road improvements are not required by the MECP. The Township and its consultants have thoroughly reviewed the environmental impacts and conclude that improving the safety of the road and utilizing it as a through road between Counties, serves the public interest. The right-of-way and travelled portion of the road currently impacts portions of key features and through the improvement process, further impacts are unavoidable. However, proper road design techniques and mitigation measures will be implemented, and the measures will improve the overall health of the key features and the surrounding natural environment.

We do not believe that the proposed NEPA application neutralizes the protections in the NEP, as mentioned. The proposed amendment is specific to 2.7 km of Sideroad 26/27. We are aware that other infrastructure projects where alternatives have been reviewed and the chosen route results in far greater impacts on key natural heritage features and key hydrologic features than those documented in the subject EIS, yet a route was approved without the need for a NEPA. We are also aware of at least one NEDP granted for infrastructure works that are in key features, where no review of alternatives was required, yet we surmise the works were deemed to be in the public interest.

6.2 Municipality of Grey Highlands

On May 15, 2019, the Council of the Municipality of Grey Highlands passed the following motion:

That Council receive the minutes from the 2019-05-09 Public Meeting for information; and

That Council direct staff to send comments to the NEC related to the amendment application for Clearview Sideroad 26/27 indicating similar concerns as presented in the presentation to the Environmental Review Tribunal Case No. 15-176 – Urbaniak v Ontario (NEC) dated May 13, 2016 and including concerns related to:

- requirement for Class C Environmental Assessment vs the proposed Class A;
- lack of traffic studies;
- lack of public process as per PPS 1.2.1;
- no need to close CR91 since the tunnel is in place beneath the road;
- environmental concerns related to Provincially Significant Wetlands;

- visual impacts on the escarpment;
- lack of necessity related to essential corridor changes;
- increased traffic on Pretty River Road

CARRIED

NEC staff circulated a revised draft of the NEPA on May 6, 2020. The Municipality of Grey Highlands prepared two (2) letters to the NEC staff; one dated June 3, 2020 from the Municipal Clerk and another dated June 8, 2020 from the Mayor.

The letter dated June 3, 2020 from the Municipal Clerk includes a Council Resolution that, among other matters, endorses the May 28, 2020 Grey County resolution to oppose the NEPA application and Grey Highlands Council reiterated its position that the "project not proceed until a proper Class C Environmental Assessment is completed."

Council notes in their resolution that improvements to Sideroad 26/27 are tied to the closure of former Simcoe County Road 91 and that the closure will have serious regional traffic implications. Council also notes that the road improvements as currently planned raise serious environmental issues which need to be addressed and that the proposed NEPA neutralizes provisions of the NEP regarding protecting natural heritage features and water resources.

The June 8, 2020 letter includes further comments from the Office of the Mayor (see Attachment No. 4). The Mayor states that the proposed road improvements to Sideroad 26/27 are intimately tied to the closure of former County Road 91 and that the road closure should be taken into consideration when reviewing the proposed NEPA. The Mayor also disagrees with the Township's engineering consultants' conclusion that the planned road improvements will take place in the same location, for the same purpose and use and for the same capacity. The Mayor also believes that the number of environmental and construction issues identified does not align with a Schedule A+ project. The Mayor's opinion is that the Schedule A+ Municipal Class EA selected by the Township is not appropriate and urges the NEC to refuse the NEPA application.

The 2018 EIS did identify the potential for environmental impacts from the road improvements within the right-of-way, and in our opinion the environmental issues been fully addressed in the 2018 EIS and its appendices.

6.3 The Town of The Blue Mountains

On May 13, 2019, the Town of The Blue Mountains passed the following motion:

THAT Council of the Town of The Blue Mountains directs the Mayor and staff to engage with the Township of Clearview for the potential resolution of the matter of the closure of County Road 91 and the proposed reconstruction of Nottawasaga Sideroad 26/27;

AND THAT Council direct staff to work with Mayor Soever to develop correspondence to the Minister of Environment, Conservation and Parks and the Niagara Escarpment Commission to express The Blue Mounts concerns regarding the proposed Niagara Escarpment Plan Amendment;

AND THAT Council direct staff to prepare correspondence for the Mayor to request that the Municipal Class Environmental Assessment Schedule be reviewed on the proposed reconstruction of Nottawasaga Sideroad 26/27 and that the appropriate Schedule is utilized, CARRIED

On June 1, 2020 (see **Attachment No. 5**), The Town of The Blue Mountains Council passed another resolution, identical to the resolution passed by the Municipality of Grey Highlands, to oppose the NEPA application and reiterate its position that the "project not proceed until a proper Class C Environmental Assessment is completed."

The Mayor's letter also disagrees with specific comments made by Burnside in their letter to the NEC staff dated April 14, 2020.

6.4 Township of Clearview - July 7, 2020 Response to the Municipalities

In response to the Municipalities' letters forwarded to NEC staff in June 2020, the Mayor of the Township of Clearview prepared a letter dated July 7, 2020 (see **Attachment No. 6**).

The Township Mayor advised the Municipalities that the Township will not be changing its position on the Schedule A+ Municipal Class EA. The Mayor advised that the MECP confirmed the appropriateness of the process in two (2) letters dated March 5, 2019 and May 21, 2020, respectively. The Mayor also advised that an EIS was prepared for the road improvement works independent of any requirements of the Environmental Assessment process. The Mayor advised that the EIS concluded that the road works are environmentally and ecologically sound and the potential impacts will be mitigated.

The Mayor also advised the Municipalities that:

....the planned closure of [former] County Road 91 was proposed by the County of Simcoe, as a means of addressing the NEC's opposition to re-building County Road 91 to a county road standard, and to address traffic volume issues by diverting regional traffic to County Road 124. This plan was formalized and incorporated into Minutes of Settlement and two written agreements involving Simcoe County, Grey County, Clearview Township and Walker Industries, with the mutual interest and objective in closing County Road 91 as a means of satisfying the NEC and mitigating traffic volumes on and avoiding the reconstruction of County Road 91.

The Mayor concluded that an alternative to improving existing Sideroad 26/27 is to build a new road through an area where the features have not already been impacted. The Mayor also

strongly disagrees that closing a portion of Township Road 91 to through traffic and improving 2.7 kms of a road for through traffic necessitates a review of the overall regional transportation network, as suggested by the Area Municipalities.

6.6 Walker Industries – July 14, 2020 Response to the Municipalities

Walker Industries (Walker) was copied on the June and July 2020 letters prepared by the Municipalities and responded in a letter dated July 14, 2020 (see Attachment No. 7). The Walker letter addresses the signed agreements pertaining to the quarry expansion and the Township Municipal Class EA. The Walker letter states, in part:

Grey County was a party/participant in the Joint Board hearing regarding the expansion of Walker's Duntroon Quarry. The Settlement was filed as Exhibit #100 at the Joint Board hearing. The Settlement was approved by Grey County Council (by Bylaw Number 4675-10) in a unanimous vote, including the members of Grey County Council from the Municipality of Grey Highlands and the Town of [The]Blue Mountains.

The Walker letter also advises the Municipalities that during the quarry expansion hearing, the Director of Transportation and Public Safety for Grey County (Director) wanted to ensure that and east-west connection between the Township and the Municipality of Grey Highlands was maintained when Simcoe Country Road 91 (now Township Road 91) was closed. The Director testified that the works set out in the Road Settlement Agreement resolved all issues with respect to Sideroad 26/27 and was fully supported by Grey County.

Walker also re-iterates the comments made by the Mayor of the Township of Clearview that the Schedule A+ EA process was confirmed by the MECP on more than one occasion.

7.0 SUMMARY OF COMMENTS FROM INTEREST GROUPS

All written comments received following the circulation of the NEPA application have been documented in a spreadsheet (see **Appendix A**). Technical comments received from agencies and provincial ministries have been addressed in previous sections of this report. Comments from interest groups, aggregate businesses and residents/public are discussed in separate sections below.

7.1 Blue Mountain Watershed Trust (BMWT) - May 2019

The BMWT are opposed to the NEPA application and have provided their comments through a submission dated May 2019. The submission included, as appendices, reports prepared by North-South Environmental Inc. which are reviews of the Township's 2018 EIS and Bat Report, and a letter from Dr. Karl Schiefer, an aquatic biologist. The submission is written in sections: Section B – Conclusions; Section C – Recommendations; Section D – Background; Section E – Transportation Concerns; Section F – EIS Review; Section G – Ecology Concerns; Section H – Fisheries Concerns and Section I – Planning Concerns.

Given the length and the number of points raised in the submission, Burnside, on behalf of the Township, prepared a response letter to the BMWT, dated April 16, 2020 (see **Appendix B**). The Burnside letter provides responses to each section listed above. Below is an overview of the environmental concerns raised by the BMWT specifically related to the improvements to Sideroad 26/27.

The BMWT expressed concerns related to the potential impact on key natural heritage and key hydrologic features in the ENA and EPA designations, adjacent to the Sideroad 26/27 right-of-way, including the health of the cold-water tributary where brook trout have been observed (referred to as Tributary A in the 2018 EIS and this report).

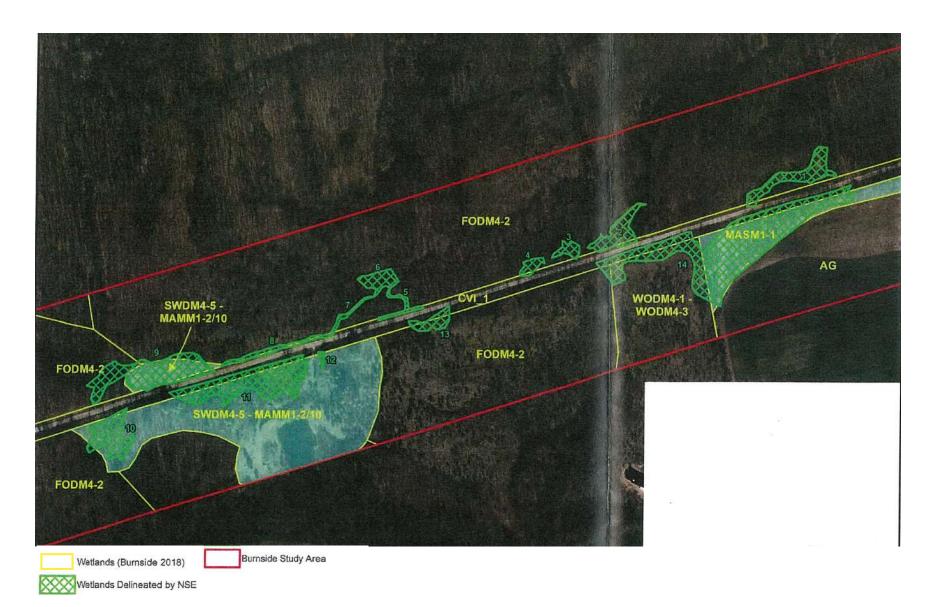
7.1.1 Wetlands

The report prepared by North-South Environmental Inc. (NSEI) titled *Review of Updated EIS for the Upgrade of Nottawasaga Side Road 26/27* states that on October 14, 2016, a certified wetland evaluator conducted a reconnaissance field survey of the area approximately 10-20 metres on either side of Sideroad 26/27. The reconnaissance field survey was focused on wetland vegetation below the brow and sixteen (16) separate wetlands units were identified in Figure 1 to their report (see **Figure 13**).

NSEI advised that they identified more wetland cover than Burnside. Burnside responded by stating that their wetland vegetation inventories were completed in June and July 2016 and flagging of the wetlands was completed with David Featherstone (NVCA Watershed Ecologist) on August 3, 2016, from Concession 10 to immediately east of the toe of the escarpment. The flagged limits of the wetlands were subsequently surveyed. Burnside advises that wetland boundary staking is generally undertaken between the end of May until the first frost, being late in September or early October. Assessing wetland vegetation communities in early August versus mid-October will not provide the same findings.

NSEI also expressed concerns about certain stormwater management measures (underdrain) to be implemented and the impacts on groundwater flow and the wetlands. Burnside advised that the underdrain will be placed at the existing ditch elevations and no new hydraulic connections will be created. Burnside also advised that no adverse impact to groundwater elevations is anticipated as the proposed perforated pipe cross-connections will not exceed the depth of the proposed new culverts. Burnside acknowledges that portions of local wetland communities will be impacted by the road works, and that the Township will work with the NVCA and GSCA to compensate for any wetland removal as part of the conservation authority permit application process.

The BMWT does not agree with the closure of a portion of former County Road 91 (now a Township road) and their position is that alternatives should be review through the Municipal Class Environmental Assessment process. Through their engineering consultant, BMWT has proposed an alternative to the Sideroad 26/27 improvements, being a new road through the depleted Walker guarry on the south side of Township Road 91.





Map Prepared by North-South Environmental Inc. dated April 2019 Showing Potential Additional Local Wetlands

Source: North-South Environmental Inc. Review of Updated EIS for Upgrade of Nottawasaga Sideroad 26/27 (April 2019)

This PJR cannot comment on any proposed alternatives to the Sideroad 26/27 improvements given that the EA process does not require a review of alternatives. The Township's position is that the improvements to Sideroad 26/27 are in the public interest to address safety and environmental issues.

The May 2019 BMWT submission regarding the NEPA application includes the following statement:

the discovery of the additional wetlands required Clearview to request an amendment to the NEP to add site specific policies to allow construction of Side Road 26/27 in wetlands (NEP Part 2.6.2e), in key natural heritage features (NEP Part 2.7.2e) and in Escarpment Natural Areas (Part 2.12.5 NEP).

Reference to the "discovery of the additional wetlands" must be addressed. Prior to the release of the 2018 EIS, it was discovered that there was a mapping error regarding the exact location of the existing travelled portion of Sideroad 26/27 within the 20 metre right-of-way, i.e., the travelled portion is currently not centred within the right-of-way. When the right-of-way was correctly shown on the mapping prepared by Burnside, it was determined that unevaluated wetlands, as delineated by NVCA were partially located within the right-of-way. This discovery did not, in and of itself lead to the decision by the Township to submit a NEPA application. Prior to the map correction, it was known that small portions of wetlands were located within the right-of-way. The mapping correction simply revealed that there is a slightly greater area of existing wetlands located in the right-of-way.

The NSEI report states that the following wetlands were underrepresented or missed:

- Wetland areas 1-8 north side of Sideroad 26/27 (considerable area of seepage),
- Wetland 13 south side of Sideroad 26/27, and,
- West portion of Wetland 14, south side of Sideroad 26/27.

Burnside delineated the unevaluated wetlands on-site with the assistance of NVCA on August 3, 2016. The wetlands observed and delineated by NVCA included wetlands nine (9) through twelve (12), the majority of wetland fourteen (14), fifteen (15) and sixteen (16) as shown on the NSEI Figure 1. Burnside's response to this issue is that wetland mapping was completed with the NVCA Watershed Ecologist and that they trust that the authority was correct with the interpretation of the conditions.

NSEI states that the road improvements will cut into several seepage areas and road-side ditches and the porous roadbed will channel water away from the seepage areas. The Stormwater Management Report addresses this issue LID mitigation measures ensure that the seeps are preserved and continue to provide water to wetlands and small tributaries.

7.1.2 Vegetation Surveys

NSEI also noted that the vegetation surrounding the wetlands was more variable than noted by Burnside and provided the example of the FODM4-2 vegetation community, located on the north side of Sideroad 26/27, which NSEI noted contains more variable vegetation including intermediate aged deciduous forest, deciduous and mixed swamps, cultural woodlands and cultural thickets.

In a response, Burnside stated that the ELC and associated vegetation inventory was completed by Burnside staff in June and July 2016 and the NSE review was completed in November 2016. Different plant species would have been evident at these different times of year.

7.1.3 Amphibian Surveys

NSEI noted that the Western Chorus Frog is ranked S3 – Vulnerable and advised that the amphibian breeding habitat should be considered SWH for Species of Conservation Concern. NSEI also noted that the additional wetlands identified by NSEI should be included as Habitat for Species of Conservation Concern (under Seeps and Springs). Regarding the PSW, NSEI commented that the PSW SWH for breeding woodland amphibians should have been described and mapped. NSEI also suggested a discussion on the potential impacts on the water regime.

Burnside and NSEI agree that the Rob Roy PSW does contain SWH given that is contains breeding woodland/wetland for the Western Chorus Frog, a vulnerable species. Burnside does not agree that the "additional" wetlands identified by NSEI should be included as Habitat for Species of Conservation Concern.

7.1.4 Summary of Impacts identified by NSEI

NSEI state:

- that the two culverts to be placed in the vicinity of the PSW have the potential to drain the swamp when a high-water level is most required in the spring amphibian breeding season.
 It was also noted that the roadside ditches and porous roadbed could channel the surface water and ground water away from the PSW.
- that there is a high potential for invasion of non-native species into the wetland, particularly Giant Reed Grass that could potentially change the habitat such that it is no longer suitable for amphibian breeding.
- that culverts may not be suitable for amphibian species within the PSW given that the
 species are mainly in the family Hylidae, which tend to climb over exclusion fences.
 [Hylidae is a wide-ranging family of frogs commonly referred to as "tree frogs and their
 allies". However, the hylids include a diversity of frog species, many of which do not live
 in trees, but are terrestrial or semiaquatic.]

 that wetlands established through groundwater discharge are highly sensitive with soils that are easily eroded. NSEI commented that indirect impacts include promoting invasion by non-native species. NSEI conclude that the wetlands in the area surveyed likely have regional as well as local significance.

No new proposed culverts crossing Sideroad 26/27 are planned where currently none exist (replacement only). The only culverts proposed are replacement culverts. In some locations the culvert is to be enlarged to meet current municipal standards. No changes in water balance are expected in the wetlands.

The small wetlands identified by NSEI are already subject to existing road impacts, including invasive species colonization. Erosion is not anticipated during and after construction due to, respectively the ESC plan and revegetation (including seeding).

It is the position of Burnside ecologists that the culverts in concert with the permanent exclusion fencing will benefit smaller wildlife, not necessarily just frog species.

The BMWT also has identified concerns with the closure of former County Road 91 which are not discussed herein.

7.1.5 Review of Bat Report by North-South Environmental Inc.

NSEI states that there is no indication if bat surveys were undertaken five (5) hours from sunset to midnight as required. NSEI also advised that for the 2016 and 2018 surveys, bat detectors were set up for only four (4) to seven (7) days, whereas protocols for bat surveys note that bat detectors should be set up for 10 days. Further, NSEI notes that detectors were set up largely in July, whereas protocols state they should record in June, and there is no indication of where stations 20, 21 and 22 were located. NSEI states "The potential presence for an unusually large tree cavity or cluster of trees with cavities should be investigated at this site." Bats roosting in rock crevices should also be investigated.

It is our understanding that bat maternity colonies typically occur within tree cavities and hollows as well as under loose or exfoliating bark of both live and dead trees. Tree assessment surveys were conducted on November 14, 2017, following Phase I & II of the Survey Protocol for Species at Risk Bats within Treed Habitats. The tree survey included the assessment of trees of at least 10 centimetres in diameter at breast height (DBH), both live and dead, with loose or naturally exfoliating bark, cavities, hollows or cracks. A total of eight trees within the proposed development exhibited characteristics of suitable maternity roost trees for bats. Three of these trees displayed features typical for Little Brown Myotis and Northern Myotis, while five displayed features for Tricoloured Bat.

MNRF concluded in their Letter of Advice that any negative impacts from the road improvements could be avoided by removing trees outside the season of bat activity.

7.1.6 Site Visit Report, May 16, 2016, Prepared by Karl Schiefer, Ph.D.

The comments from Dr. Karl Schiefer, an aquatic biologist indicate that construction of the original road involved cutting into the top edge of the escarpment to reduce the grade with fill placed near the base of the escarpment where there is significant groundwater discharge. Dr. Schiefer also advised that groundwater seeps were covered by the road with poorly designed and installed culverts and ditches. The conclusion reached by Dr. Schiefer is that improvements to the road, including improvements to drainage has the potential to further reduce the quantity and quality of aquatic habitats within and downstream of the road corridor.

The Township's consultants have concluded that improvements to the design of the road, including new culverts and LID stormwater management will improve the quality of aquatic habitats. Burnside has also concluded that water quality and aquatic habitat will benefit from mitigation measures to eliminate gravel from entering wetlands and tributaries.

7.2 Bruce Trail Conservancy

Written comments were received from the Bruce Trail Conservancy (BTC) in a letter dated June 24, 2019, signed by Antoin Diamond, MCIP, RPP, Director of Land Securement & Management. The letter advises that the "Bruce Trail Optimum Route continues to cross Sideroad 26/27 by necessity, approximately in the centre of the section of road to be improved. In addition, unofficial on-road parking continues to provide hikers with a place to park in this location."

The BTC have categorized their comments into three (3) areas: pedestrian crossing safety; pedestrian crossing safety during construction; and parking. The BTC advise that if the NEPA is approved, they request that it be conditional upon a 50 km/hour speed limit for the road, with signage alerting drivers of the Bruce Trail crossing. The BTC also support the placement of new culverts at the Bruce Trail crossing, as proposed.

The BTC has also requested assurances that hikers will still be able to safely cross Sideroad 26/27 during the construction phase with appropriate signs warning the construction crews of the Bruce Trail crossing.

The BTC recognize that traffic volumes will increase significantly and therefore roadside parking will become unsafe. The BTC advise that they "welcome discussions with Clearview Township to accommodate parking in the area, potentially off road parking on the south side of the road on quarry owned lands."

Overall, the BTC has no objection to the proposed road improvements provided the works do not conflict with the NEP, including policies regarding the securement of NEPOSS and the Bruce Trail.

In our opinion, the proposed NEPA does not conflict with NEP policies and the Township is willing to work with the BTC to mitigate any potential impacts on the Bruce Trail.

7.3 Friends of the Pretty River Valley

The President and Secretary of the Friends of the Pretty River Valley (FPRV) submitted a letter to NEC staff dated May 12, 2019. The FPRV state they undertake research, are concerned about the preservation of the Niagara Escarpment and act in cooperation with the BMWT. The letter states that the NEC's four (4) reasons to refuse the NEDP application in 2015 are still valid and the FPRV remain opposed to the reconstruction of Sideroad 26/27.

7.4 The Coalition on the Niagara Escarpment (CONE)

CONE is a not-for-profit organization dedicated to promoting and protecting the Niagara Escarpment. In an email to NEC staff, Mr. Robert Patrick, President of CONE stated that Sideroad 26/27 is too steep and disturbs too many sensitive wetland areas. CONE also stated that they believe the original road [Township Road 91] is the best haul road and that Sideroad 26/27 will still not be safe when completed.

7.5 Georgian Shore Drive Preservation Association

Eric Button, President of Georgian Shores Drive Preservation Association (GSDPA) prepared an email to NEC staff dated May 24, 2019. On behalf of the GSDPA, concern and opposition were expressed "to the closure of RD91 and usage of SR26/27 as an alternate route." The GSDPA represent ratepayers opposed to the widening of Highway 26 to a 4-5 lane highway from the Collingwood/Town of The Blue Mountains boundary to Thornbury. The Association is concerned about the transfer of a portion of Township Road 91 to a private interest without going through the appropriate and necessary closing procedure. The email states:

CR91 is a well established section of a major thoroughfare which is part of the well established arterial inter-county road system. This loss will adversely affect the Grey/Simcoe road network and adversely affect municipalities to the west and north. We are particularly concerned that the loss will result in more traffic being directed onto the already stressed Highway 26 and cause more congestion in and around Collingwood.

The GSDPA is also concerned about the environmental impact of the improvements to Sideroad 26/27 and submit that the work should be "subject to at least a phase three environmental assessment with the attendant public hearings."

8.0 SUMMARY OF COMMENTS RECEIVED FROM AGGREGATE BUSINESSES

8.1 CBM Aggregates (Votorantim Cimentos)

Votorantim Cimentos (VC) owns and operates the Osprey Quarry immediately north of the intersection of Township Road 91 and Simcoe Road 95/Grey Road 31. The Director of Land & Resources, Mr. David Hanratty, P. Geo, provided a letter to the NEC dated May 22, 2019. Mr. Hanratty states that VC believes that the reasons given by the NEC for refusing the NEDP application remain fundamental to the consideration of the NEPA application.

The letter states that VC does not believe the road allowance should be treated as an existing lot of record as it would contradict Sections 1.3.4.4 (lot creation within the ENA), 1.4.4.7 (lot creation within the EPA) and 1.4.5.8 of the NEP (Section 1.4.5.8 does not exist in the 2017 NEP). The letter quotes Sections 1.3.4.4 and 1.4.4.7 of the NEP (which are identical) and the quote is:

A lot created by a public body (e.g., for a road or park) or by an approved conservation organization for a nature preserve will not be considered a previous lot. A remnant lot(s) created as a result of a lot acquired by a public body, or an approved conservation organization, which may be used as a building lot(s) shall be considered an existing lot of record if the pre-existing lot was an existing lot of record and will be considered a previous lot for the purpose of determining entitlement to further severances if the pre-existing lot was a previous lot.

The letter also states that the closure of Township Road 91 to through traffic would allow Walker to remove the aggregate in the road allowance. In response to this comment we note that Township Road 91 is designated ERA and a NEPA application would be required to extract aggregate from the road allowance.

VC also believe the proposed closure of Township Road 91 would result in a significant economic impact to other existing aggregate operations in the area that use the road, including Osprey Quarry. The letter states that the use of Township Road 91 is permitted on their site plans for servicing their customers in the area. Mr. Hanratty states that closing the road would add 7 kilometres each way to their haul route and would be extremely detrimental to their business. VC urges the NEC to deny the application given the environmental, social and economic impacts and given that it does not meet the tests of the NEP.

The NEPA application is the subject of this report and the VC letter does not specifically address the planned Sideroad 26/27 road improvements but rather the closure of Township Road 91. Improved Sideroad 26/27 will be a local road and will not be a truck/haul route.

8.2 Seeley and Arnill Construction

Mr. Paul S. Arnill of Seeley and Arnill Construction (SAC) has written two (2) letters to the NEC dated April 29, 2019 and May 16, 2019. Mr. Arnill objects to the NEPA and NEDP applications.

Mr. Arnill states that the reason for the planned Sideroad 26/27 improvements is the future closure of Township Road 91 but it need not close, given the Walker tunnel under the road. Mr. Arnill states that the road closure "makes no sense in any way except to limit competition to aggregate entering the Collingwood, Wasaga Beach, and Clearview markets from the west to the benefit of Walker Industries." Mr. Arnill re-iterates the concerns of VC regarding adding 14 kilometres (round trip) to their haul route and "this would mean a 0.70 cent per tonne disadvantage to aggregate entering the market from anyone other than Walker Industries."

SAC share the comments made by VC that reconstructing Sideroad 26/27 is not a matter of urgent public interest as Township Road 91 does not need to be closed for a number of years. SAC also advises that given "Walker Industries current rate of extraction of about one million and a half tonnes per year, Walker Industries have 53 years of supply without excavating and closing the road."

Below are a few key quotes from SAC indicating their opposition to the closure of Township Road 91 and the truck restriction proposed for Sideroad 26/27.

- To suggest that this amendment to create a legitimate roadway where none currently exists, does not alter the natural environment or change the open landscape character of the escarpment is simply false.
- To suggest that changing an unpassable "goat path" into an engineered roadway would not change the natural environment is simply incorrect.
- The construction of a passenger vehicle roadway on 26/27 is unjustified as Clearview 91 should be kept open to the public.
- In addition, emergency management services such as fire, and ambulance services would be adversely affected by closing 91 and rerouting traffic to a new 26/27 side road which people are not familiar with.
- Again, closing Clearview 91 is effectively decreasing the efficiency of an existing transportation route.
- Clearview 91 is currently a major corridor for transportation of resources and goods. Closing it and forcing truck traffic to use a much longer route is contrary to Provincial Policy.
- Closing Clearview 91 to aggregate resources to the west and not allowing any truck traffic on the proposed development of 26/27 clearly contravenes Provincial Policy in this regard.

The last quote references Policy 1.6.8.2 of the PPS which states that major goods movement facilities and corridors shall be protected for the long term. Township Road 91 is not a major goods movement corridor.

The May 16, 2019 letter re-stated SAC's concerns and it states: "Issues regarding disruption of the natural environment, public safety, tourism, and consumer protection were not satisfactorily considered in the 2010 Minutes of Settlement between the County of Simcoe, Township of Clearview and Walker Industries which required the construction of 26/27 side road."

9.0 SUMMARY OF COMMENTS FROM RESIDENTS

Individuals residing in the vicinity of Sideroad 26/27, from communities such as Singhampton, Flesherton, Duntroon and Collingwood, have provided written comments on the proposed NEPA.

One resident has engaged an environmental consultant and lawyer to submit written comments on his behalf (Mr. David Stevenson). Another resident has assisted an interest group in preparing written comments and has also prepared comments as an individual (Dr. Donald Avery).

9.1 Comments from Residents with Representation

Mr. George McKibbon, MCIP, RPP, AICP CEP prepared a letter dated June 24, 2019 on behalf of his client, Mr. David Stevenson, who is also represented by David R. Donnelly, MES, LLB, Donnelly Law. Mr. McKibbon's letter (McKibbon submission) provides several reasons why previous reports pertaining to the NEPA application are not complete in their analyses.

The McKibbon submission references the Walker quarry hearing and refers to the magnitude of the proposed NEPA.

We disagree that the NEPA application is significant in magnitude given that a new right-of-way is not being proposed and the road improvements will include previously disturbed areas. Key natural heritage features and key hydrologic features will be impacted given that they have expanded into the right-of-way. The right-of-way exists, it is planned to be utilized and LID stormwater techniques will improve road drainage and the quality of water resources in the area.

The McKibbon submission also states that the road works "will create a hard physical linear edge severing a natural environment of recognized importance along the Niagara Escarpment isolating biologically a Provincial Nature Reserve Park...." In our opinion, the natural environment has been severed by Sideroad 26/27 for years now and the key natural features in the area lie outside of the right-of-way and have been designated, protected and in some cases purchased by the government for long-term protection. A linear edge exists, and it will shift within the right-of-way. A new pavement edge, approximately 2-3 metres (6.5 feet – 9.8 feet) on either side of the travelled portion of the road will be created.

The submission made by Mr. McKibbon states that the 2017 NEP treats transportation infrastructure differently than comparable policy in the previous NEP and setbacks from the brow are now required. Where feasible, we agree that infrastructure should be setback from the Escarpment brow. However, the current road traverses the Escarpment brow and the NEC staff has advised that a setback from the Escarpment brow is not required for an existing road.

9.2 Comments from Residents

To the best of our knowledge, NEC staff received approximately forty (40) letters and emails from members of the public (residents). Most of the written comments include opposition to the

planned closure of a portion of Township Road 91 to through traffic. Some residents express a concern about the future routes taken by Emergency Services vehicles and the potential increase in response times, with the closure of a portion of Township Road 91. Other residents have expressed concerns about the road improvement impacts on wetlands and wildlife (see Appendix B).

Some residents support the closure of Township Road 91 and advise that truck traffic has increased on the road since another quarry has opened in the area and they do not believe that Township Road 91 forms part of their haul route.

Dr. Donald Avery prepared a critique, dated May 24, 2019 of the NEPA application. Dr. Avery advised NEC staff that he was once a member of the BMWT and assisted Mr. George Powell (BMWT) in preparing a response to the 2015 NEDP application. Dr. Avery, while no longer a member of the BMWT, prepared comments as a historian and author and assisted the Friends of the Pretty River Valley with their response to the proposed amendment.

Dr. Avery has written about his perspective on the errors and omissions from the May 8, 2019 Public Meeting held by the Township of Clearview and provides an historical and social context for the establishment of the Niagara Escarpment Planning Area and NEP.

Dr. Avery takes issue with the fact that the Township does not see the steep gradient of Sideroad 26/27 as an obstacle and he believes the Township's position is not based on a scientific assessment. Dr. Avery believes that the steep middle portion of the road, coupled with the road's narrow width and current erosion problems explains why Sideroad 26/27 has remained a seasonal road.

Dr. Avery concludes that the proposed road works "will degrade the environment, cause harm to the extensive natural areas and wetlands, adversely affect the scenic views of the Niagara Escarpment, and disrupt the regional transportation system across Simcoe and Grey County."

The VIA prepared on behalf of the Township concludes that "while different, the change is not necessarily negative, instead providing diversity and re-establishing viewsheds in exchange for the loss of intimacy."

Any harm caused to the natural environment will be to the very edge features of the extensive forested areas and wetland features. The re-established edge will remain as the edge of woodlands and wetlands, and disturbed areas will revegetate over time. Improvements to Sideroad 26/27, a local road, will not disrupt the regional transportation system, but will enhance the system.

Residents are aware of the substandard nature of Sideroad 26/27 and are concerned about continuing washouts, the safety of the steep sloped portion in the middle of the right-of-way and

the overall suitability of an improved Sideroad 26/27 as a 'replacement' road for that portion of Township Road 91 planned to be closed.

Some residents have written that they are concerned about the potential environmental impacts created through the improvements to Sideroad 26/27 and would prefer to see Township Road 91 upgraded. With the improvements to Sideroad 26/27, some residents believe the impacts on wetlands, wildlife and the headwaters of the Pretty River are too significant and not in the public interest.

A concern was expressed about the safety of vehicles turning left onto Concession Road 10 from Sideroad 26/27 given grading differences and poor sightlines. These issues will be improved with the improvements to the road.

A resident of the Municipality of Grey Highlands provided seven (7) reasons why the improvements to Sideroad 26/27 are neither necessary nor in the public interest. The reasons are summarized below.

- 1. No evidence presented to the public that Sideroad 26/27 is unsafe in its present condition.
- 2. Increased traffic travelling east on Sideroad 26/27 will enter a blind intersection with Concession Road 10 which is not safe.
- If Sideroad 26/27 is left in its present state (without the Township adding gravel to the road) gravel will not wash into the streams and the construction of a new paved road is not necessary.
- 4. It is not in the public interest to undertake a Schedule A+ Environmental Assessment when a Schedule C Environmental Assessment is warranted.
- 5. There is a major concern regarding the contamination of the wetlands, streams and springs by the salt and sand required for a new paved road and the planned drainage measures are not adequate to contain the runoff.
- 6. A portion of the road allowance is a natural habitat for plants, trees and animals and would need to be cleared to complete the road improvements. A related concern is that three endangered bat species and other rare species would be put at risk to build a road.
- 7. Grey County has an agreement with Simcoe County for the provision of EMS services for the northeast area of Grey Highlands (approximately 300 households). There is a concern that there has been no confirmation that EMS services can use Sideroad 26/27 and if so, the EMS response times would increase, putting lives at risk.

Sideroad 26/27 is currently, without dispute, a local road that is unsafe and cannot accommodate expected traffic volumes for a local road. There are several safety issues associated with Sideroad 26/27, including the intersection with Concession Road 10 North. The Township is currently obliged to and has sought NEC approvals to improve Sideroad 26/27.

We have read the concerns of Grey County, Grey Highlands, the Town of The Blue Mountains, aggregate producers, environmental interest groups and the public. We have also read the comments provided by commenting agencies. A broad array of public concerns and public opinions have been examined.

The Township will implement the recommendations of the Joint Board decision on the quarry expansion, including closing Township Road 91 at Country Road 95/County Road 31 to through traffic. This requires the upgrading of Sideroad 26/27. Since 2014, the Township has been preparing the appropriate documentation to support the Sideroad 26/27 improvements.

The closure of a portion of Township Road 91 to through traffic is not supported by many residents and other groups. The evidence at the hearing was that Road 91 would require upgrading to County standards to support the additional traffic generated by an expanded quarry. Widening Road 91 was not supported by the NEC and a solution was put forward and supported and solidified with the appropriate settlement agreements. Township Road 91 will not be closed to through traffic until Sideroad 26/27 is improved to meet current municipal and provincial safety standards. Determining the impact on key natural features and proposing mitigation measures was the focus of the 2018 EIS. This report places the conclusions of the 2018 EIS in the context of NEP policies and other policies as required. The merits of the Sideroad 26/27 road improvements are the focus of this report not the decision(s) regarding Township Road 91.

10.0 PUBLIC INTEREST

The 2017 NEP permits infrastructure in all land use designations. It is recognized that infrastructure will be required throughout the NEP Area, both linear and non-linear, and the NEP Development Criteria seeks to limit impacts on key natural features. For infrastructure to locate "in" key hydrologic features and "in" key natural heritage features, the works must be deemed necessary to the public interest and it must be demonstrated that the ENA designation cannot be avoided.

The Township's position is that improving the design and safety of Sideroad 26/27 is in the public interest. The 20-metre right-of-way has not been utilized in its entirety. The granular base and gravel surface are being eroded and impacting adjacent wetlands and streams. Since the road currently traverses the ENA, improvements must also take place in the ENA, and this cannot be avoided.

The Township is required to fulfill its obligations to improve Sideroad 26/27 based on agreements to address the distribution of through traffic when Township Road 91 is closed to through traffic. We understand that impacts on and removal of portions of woodlands and unevaluated wetlands is disconcerting to some. After considering all public opinions and comments, in our opinion there are more positive reasons to improve Sideroad 26/27 than there are negative, when considering the context of the road and the function it is meant to serve. The Township firmly believes that the road improvement works will greatly improve the quality of surface water features through the

reduction of the deposition of significant amounts of sand and gravel and are willing to discuss wetland compensation with the NVCA.

To date, the NEC refused a development permit for the road improvements given their belief that the works are not in the public interest as alternatives were not reviewed and the improvements will cause environmental harm. As expressed, several times in this report, the MECP has agreed with the Municipal EA process to be followed and no alternatives are required to be reviewed. Based on this fact, the public interest must be reviewed based on improving the existing Sideroad 26/27.

Protecting the Escarpment features is also a matter of public interest. The 2018 EIS was written to demonstrate which features will be impacted by the road improvements and how best to mitigate negative effects. Given the interface between human and environmental interests, one way to assess the public interest is to determine which human activities will be blocked, impeded or harmed because of the proposed road works, and which natural environment processes will be blocked, impeded or harmed due to the road works.

People currently drive along Sideroad 26/27 to access their properties, access the Bruce Trail and some may use the current substandard road to travel between Simcoe Road 95/Grey Road 31 and Concession Road 10 North. Depending on the time of year and weather conditions, the act of travel is blocked, impeded, or harmed based on the condition of the road. The road is gravel, partly seasonal and very narrow. It is in the public interest to eliminate these conditions which affect human activity. The public interest is served by improving the road and providing an alternate through road between Simcoe County and Grey County. The road improvements will also improve the locations where the Bruce Trail crosses the right-of-way.

The activities required to improve the road must also be analyzed based on which environmental processes may be blocked, impeded, or harmed because of the planned road improvements. The nature of the impacts to living organisms, both individuals and groups, was reviewed in the 2018 EIS to determine the spatial effects, indirect effects, short-term and long-term effects, tolerance to disturbance etc. As an example, the 2018 EIS considered impacts to habitats of endangered bat species, proposed mitigation measures and sought the government's advice as to whether a specific authorization under Ontario's legislation was required to proceed. No authorization was required as the activities would not contravene the *Endangered Species Act*, 2007.

We have reviewed written and verbal public opinions, consultants' critiques, policy documents, agency comments and other inputs, including the 2018 EIS and road design. We have worked towards balancing all interests to determine the overall public interest in the context of the NEP and other applicable policy.

It is our opinion that the public requires a safe east-west roadway in this location of the Township, and it is in the public interest to improve Sideroad 26/27. The road improvement activities are

confined to the right-of-way with special attention paid to the impact on abutting lands, particularly maintaining the water balance to supply existing minor streams and local wetlands. Significantly large areas of key natural heritage features and key hydrologic features will remain and will be protected.

As stated in the NEP, infrastructure must be sited and designed to minimize the negative impact on the Escarpment environment, and the NEP provides examples of site and design considerations. The NEP acknowledges that negative impacts will occur, but infrastructure is required and must be responsibly designed. In our opinion, the Sideroad 26/27 upgrades are required to provide a safe, public road and the road improvements have been responsibly designed.

11.0 SUMMARY AND CONCLUSIONS

Sideroad 26/27 is a narrow gravel road, approximately 2.7 kms in length with the east portion being seasonal (not maintained in the winter months). The area of the 20-metre right-of-way is approximately 5.46 hectares. The existing travelled portion of the road covers approximately 1.36 hectares, approximately 25% of the 20 metre right-of-way.

Sideroad 26/27 does not meet minimum Township standards for a local road and is unsafe in its current condition. There is no quality control provided for the existing road run-off. Surface water resources in the area (wetlands and tributaries) are impacted by gravel deposits from the continual erosion of the gravel roadbed. Improvements to Sideroad 26/27 have been anticipated since 2012 when approval to expand Duntroon Quarry, to the south, resulted in settlement agreements for various purposes, including the improvements to Sideroad 26/27.

The Niagara Escarpment permit application to improve the road was refused by the NEC in 2015, primarily because alternatives were not considered (as they were not required to be considered) and the project was not deemed to be in the public interest. There were concerns that the infrastructure improvements would be harmful to the Escarpment environment.

Like other roads in the NEP Area, the Sideroad 26/27 right-of-way is bordered by key natural heritage features and key hydrologic features. The natural features were all identified and assessed in the 2018 EIS, Stormwater Management Report and Hydrogeological Investigation. Field investigations were undertaken, Species at Risk (SAR) data and habitat for SAR were considered, and an amphibian call survey and a breeding bird survey were conducted.

The maternal roosting habitat (tree cavities) of bat species at risk may be present in one or more edge trees that must be removed. Bat houses will be provided for potential roosting habitat. One non-retainable Butternut tree within the road right-of-way requires removal, the one healthy Butternut tree identified will not require removal. The Western Chorus Frog was heard within the

Rob Roy PSW and is a vulnerable species. Its habitat within the Rob Roy PSW will be protected and concerns regarding the habitat have not been raised by the MNRF, GSCA or the MECP.

A number of trees, edge trees which form part of the surrounding Significant Woodlands will require removal.

Burnside documented the existing condition of the five (5) unnamed tributaries of the Pretty River in the area. Flows from these streams converge downstream, prior to crossing Concession Road 10 (eastern limit of Sideroad 26/27) and eventually merge with the main tributary of Pretty River. The quality of surface water around Sideroad 26/27 is degraded from the gravel sediment entering the streams and wetlands. Burnside has developed a site-specific stormwater management plan that utilizes LID techniques to achieve the required enhanced water quality, as required by the Provincial regulations and the NVCA.

Tributary A is a cold-water stream that contains Brook Trout. A portion of Tributary A (22 metres) will be re-aligned in an area where it would be directly impacted by the road improvements. A Letter of Advice (LOA) was issued by the Federal Department of Fisheries and Oceans on June 19, 2017 and no further approval under the *Fisheries Act* is required. A permit is required from the GSCA and the NVCA prior to undertaking the road improvement works.

Variations to the grading limits and a composite of LID stormwater management techniques were considered within the right-of-way to improve current conditions and to avoid certain natural features. As the road currently traverses lands designated ENA, improving the road within the ENA cannot be avoided.

A review of alternatives has not been undertaken as it is not required under the Municipal EA process. The NEPA proposes the addition of site-specific policies to permit road improvement works 'in' natural features, notwithstanding the fact that alternatives were not required to be considered.

Section 7.0 of the 2018 EIS is titled Potential Impacts and Proposed Mitigation and **Figure 14** outlines the impacts, mitigation measures and environmental benefits in a table form for quick reference. Overall, in our opinion, the impacts expected, as per the 2018 EIS and the series of mitigation measures designed to address the impacts, do not, in our opinion, result in an unacceptable impact.

Negative impact is defined as degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified. The proposed infrastructure improvements will impact certain natural features initially, however, the ecosystems within the area will continue to function. Through thoughtful mitigation measures, seeding and replanting, the road improvements will not result in environmental degradation threatening the health and integrity of the ecological system.

SUMMARY OF IMPACTS ON NATURAL FEATURES, PROPOSED MITIGATION MEASURES AND BENEFITS TO THE NATURAL ENVIRONMENT

Natural Feature	Direct Impact	Potential Indirect Impact	Proposed Mitigation	Benefits
Two Units of Rob Roy PSW currently separated by Sideroad 26/27 (west end of project area)	Removal of approximately 663 sq. m. of herbaceous wetland edge vegetation within the right-of-way PSW is also a Significant Wildlife habitat for Amphibian Breeding habitat (Woodland) based on the presence of the Western Chorus Frog (Vulnerable)	Erosion/sedimentation during road works	Provide grading setback within the right-of-way to reduce impacts to wetland features Implementation of Erosion and Sediment control Plan Erosion and Sediment Control mitigation installed prior to construction Permanent wildlife exclusion fencing Revegetation with habitat specific native seed mixes	Currently no wildlife exclusion fencing to reduce road mortality Stabilization of road slopes that prevents sediment migration into wetland features Protection from erosion and sediment during construction New plantings and seeding will reduce edge impacts and diversify native species

Significant Woodlands	Tree Removal - 0.86 ha	Change in light conditions and air quality during road works	Tree removal and brushing should be targeted to only those species required for removal and completed outside of the breeding bird season	Impacts to breeding birds avoided Impact to woodland minimized to greatest reasonable extent
Unevaluated Wetlands (Local)	Removal of 0.18 ha of woody and herbaceous vegetation associated with the cattail marsh and willow-dogwood thicket swamp	Changes to surface and groundwater hydrology Temporary impact to amphibian habitat in culvert replacement areas	Replacement culverts will be designed to reduce velocities through the culvert, scour at the outlet and reduce frequency of overtopping of the road by flood waters Sediment and erosion control measures Monitoring and inspection program to evaluate impacts and ensure mitigation measures are properly installed and functioning No equipment refueling near the	More effective stormwater conveyance and quality control measures and reduced road erosion will result in reduced sedimentation in wetlands and downstream tributaries

			tributaries, wetlands, culverts, or ditch areas Eco passage culverts to prevent wildlife from entering the road Additional signage for awareness and reducing road mortality Wildlife exclusion fencing at wetland features	
Fish and Fish Habitat including aquatic health of tributaries	Re-align a section of Tributary A away from the travelled portion of the improved road Reduce length of Tributary A from 22 metres to 18.5 metres (minor loss of aquatic habitat)	Installation of new, larger culverts Erosion/sedimentation and loss of natural cover Relocation of roadside swale resulting in temporary reduction in baseflow	Capture and release of fish downstream during in-water road works In-water construction window limited to July and September to protect cold-water species Maintaining flow upstream to downstream of work area Stabilization using natural channel design	More effective stormwater conveyance and quality control measures and reduced road erosion will result in reduced sedimentation in tributaries Fish passage improved for Tributaries C and D based on new box culvert design to tie into

techniques (river stone and plantings) Sediment and erosion control measures implemented prior to road work Stabilize and revegetate immediately following road works Best management practices to avoid deleterious substances techniques (river stone and plantings) All existing culverts are currently impacted by accumulated sand and gravel Culvert replacement to improve conveyance and fish passage
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deleterious substances
from entering the water Groundwater
inputs will be
more efficiently
directed across
Sideroad 26/27
and into the
receiving
tributary thereby
reducing
potential for
surface warming
in the roadside
ditch
Tributary A
realignment will
result in a
greater

				separation between the road and the tributary reducing the input of sediment and coarse materials. It is anticipated that the natural geomorphic function of Tributary A will be improved
Species at Risk	No direct enecies less	SAP hate may be	Land clearing	Additional bat
Species at Kisk	No direct species loss or removals Of three (3) butternut trees, two (2) are not retainable (poor health) and one (1) will be retained	SAR bats may be indirectly affected by vegetation removal and site preparation activities Potential removal of tree(s) with cavity for maternal roosting	Land clearing scheduled outside of active season for bat maternity roosting Installation of Bat Boxes as compensation	maternity roosting habitat available with bat boxes
01 101 111	5 1 (1 11)			
Significant Wildlife Habitat and Wildlife Movement Corridors	Removal of habitat features, including brushing and tree removal	Changes to surface water quantity and quality, changes to noise levels, light levels, and air quality	Drainage features are designed for minimal encroachment into the vegetation communities, to provide adequate water flow transfer and	Impacts to vegetation features minimized to greatest reasonable extent

		minimize the potent for sedimentation Site preparation to occur outside of breeding seasons, period of movement between habitat features (spring breeding ponds for amphibians and upland habitats) Wildlife exclusion fencing and culverts with eco passage features to control access of small wild crossing the road corridor	wildlife reduced or avoided Reduced road mortality t
Migratory Birds and Area Sensitive Birds	Migratory birds or their nests may be harmed during land clearing and grading	Clearing to take plate outside of the breed bird season Avian ecologist to survey the corridor prior to clearing to confirm no active not of migratory birds If nests are found, to should be flagged,	ding Migratory Birds during construction est

			buffer provided and avoided until the nest(s) is not longer active	
Escarpment Slope	Descending the Escarpment slope there are groundwater seep locations	Potential impacts to seepage area during construction with the right-of-way	Proposed ditch design will capture and maintain the seeps (groundwater) SWM methods will capture seeps and preserve their input into cool/coldwater tributaries Linear SWM controls at the source avoids large areas required for SWM measures	Seepage within the roadbed will not collect sediment before discharging to the watercourse

The staking of wetland boundaries was completed in the field by Burnside and the Watershed Ecologist from NVCA. Burnside has estimated that approximately 0.18 hectares (0.44 acres) of unevaluated wetland vegetation (within the right-of-way) associated with the cattail marsh and will-dogwood thick swamp will require removal. The surface water management plan focusses on maintaining the water balance and improving groundwater conveyance to wetland features.

The 2018 EIS indicates that the water balance to downstream environments will be maintained while maintaining up-gradient wetland features. A monitoring and inspection program will be employed. The 2018 EIS is also recommending wildlife exclusion fencing and eco-passage culverts, which are not currently in place, which will result in a positive net improvement for wildlife. The Township and NVCA will explore the possibility of rehabilitation offsetting to compensate for any loss of local wetlands.

Acting in the public interest means acting for the common good of the community. The Township has determined that upgrading Sideroad 26/27 is required for the common good of the community.

Infrastructure is a permitted use in all NEP land use designations subject to Part 2 of the NEP, Development Criteria. The 2018 EIS and other technical documents refer to the current harm being done to surface water resources in the area given the degraded gravel road. The road reconstruction will include new culverts and the implementation of stormwater management measures to reverse current environmental harm. Disturbed areas will revegetate, and embankment slopes will be revegetated and stabilized. Proper ditch drainage will convey stormwater and eliminate washouts into sensitive wetland and cold-water streams.

The VIA demonstrates that the reconstructed road will not be visible from Township Road 91 or County Road 124 and the Bruce Trail crossing of Sideroad 26/27 will be less steep, with greater visibility to oncoming traffic.

The Minister of the Environment, Conservation and Parks has confirmed the appropriateness of the EA process selected by the Township and a review of alternatives to the planned road improvements is not required. Detailed studies documenting the road works and potential impacts were required to satisfy the Niagara Escarpment Plan and commenting agencies.

The required level of review of the Sideroad 26/27 improvements has allowed the Township to assess the potential for environmental effects and make an informed decision. The Township has not been able, to date, to achieve consensus on the merits of the Sideroad 26/27 project and the Township is not responsible for resolving issues outside the scope of the project. The proposed improvements to Sideroad 26/27 have been discussed in relation to applicable planning documents, first and foremost the NEP as well as the 2020 PPS and other planning documents.

In our opinion, there is a need for a safe east west transportation route in this area of the Township. Existing Sideroad 26/27 must not be left in its current condition and requires upgrades to meet the minimum Township standards. The gravel road washouts have had negative impacts

on the surrounding surface water features. The proposed improvements to Sideroad 26/27 have been anticipated since 2014 based on road agreements related to the quarry hearing. The Sideroad 26/27 upgrades have been planned in an environmentally responsible manner with a

series of mitigation measures designed to minimize the impacts on the Escarpment environment.

We support the approval of the NEPA application and the NEDP application to facilitate the

improvements to Sideroad 26/27 for the following reasons.

1. The proposed NEP Amendment application is consistent with the purpose and objectives

of the Niagara Escarpment Planning and Development Act.

2. The proposed NEP Amendment application is consistent with the designation objectives

and designation criteria of the 2017 NEP.

3. The proposed NEP Amendment application, to facilitate the upgrading of Sideroad 26/27

is in the public interest.

4. The proposed NEP Amendment application is consistent with the 2020 Provincial Policy

Statement and other provincial policies, including the Endangered Species Act.

5. The proposed NEP Amendment application complies with policies of the appropriate

public agencies, provincial ministries, and municipal official plans.

6. The proposed NEP Amendment application is consistent with the Development Criteria in

Part 2 of the 2017 NEP.

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Respectfully,

Nancy Frieday, MSc. (Pl.), MCIP, RPP

Senior Planner

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Ministry of the Environment, Conservation and Parks

Ministère de l'Environnement, de la Protection de la nature et des Parcs

Office of the Minister

Bureau du ministre

777 Bay Street, 5th Floor Toronto ON M7A 2J3 Tel.: 416-314-6790 777, rue Bay, 5° étage Toronto ON M7A 2J3 Tél. : 416-314-6790



May 21, 2020

357-2019-1273 357-2019-1312

Mr. Steven Sage Chief Administrative Officer Township of Clearview 217 Gideon Street Stayner ON LOM 1S0 ssage@clearview.ca

Dear Mr. Sage:

On May 22, 2019, the ministry received one Part II Order request asking that Clearview Township be required to prepare a Schedule C Municipal Class Environmental Assessment for the proposed reconstruction of Sideroad 26/27. I am taking this opportunity to inform you of the results of a thorough ministry review of the matter.

The Sideroad 26/27 reconstruction was classified by the Township as a pre-approved Schedule A+ undertaking under the Municipal Class Environmental Assessment. Schedule A+ projects are limited in scale, have minimal adverse environmental effects, and do not have any study requirements under the Municipal Class Environmental Assessment process.

On June 6, 2019, the More Homes, More Choice Act, was passed and the Environmental Assessment Act was amended. As a result, Schedule A and A+ undertakings under the Municipal Class Environmental Assessment are exempt from the Environmental Assessment Act. As such, any Part II Order requests for projects, such as the Sideroad 26/27 reconstruction, received before or after June 6, 2019 cannot be considered.

While I cannot consider a Part II Order request for a Schedule A+ project, ministry staff have reviewed the documentation and confirmed that the Township classified the project correctly under Appendix 1 of the Municipal Class Environmental Assessment. The ministry also reviewed the concerns related to the alternative assessment and environmental impacts as a result of the project. I understand that the alternative option to keep County Road 91 open was considered during a number of hearings for the quarry expansion. In addition, ministry staff have advised me that the Township will be

Mr. Steven Sage Page 2.

required to obtain a permit from the Conservation Authorities to identify potential impacts to natural heritage features (e.g. wetlands, streams and springs, wildlife and wildlife habitat) and mitigation measures.

In the interest of transparency, I encourage you to make this letter available to the greater public on Clearview Township's website.

Clearview Township can continue proceeding with its planning of the project. I understand that further permits or approvals are required from the Niagara Escarpment Commission as well as the Nottawasaga Valley and Grey Sauble Conservation Authorities, and there may be additional proceedings at the Environmental Review Tribunal. Clearview Township must ensure the project is implemented in the manner it was developed and designed, as set out in these approval / decision documents, and inclusive of all mitigating measures, commitments and environmental and other provisions therein.

I am confident that Clearview Township recognizes the importance and value of continued consultation with the public, stakeholders, and Indigenous communities, and will ensure that the requirements of any other applicable legislation are satisfied.

Sincerely,

Jeff Yurek

Minister of the Environment, Conservation and Parks

Attachment

c: The Honourable John Yakabuski
Gerry LeMay, General Manager, Township of Clearview
Selwyn Hicks, Warden, Grey County
Paul McQueen, Mayor, Municipality of Grey Highlands
Nancy Mott, Senior Strategic Advisor, Niagara Escarpment Commission
George Powell, Blue Mountain Watershed Trust Foundation
EA File No. 19022 – Sideroad 26/27 Reconstruction (Clearview)

PROPOSED NIAGARA ESCARPMENT PLAN

AMENDMENT PS 215 18

TOWNSHIP OF CLEARVIEW SIDEROAD 26/27

August 2020

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PART A - The Preamble

PART B - The Amendment

PART A - The Preamble

PURPOSE:

To amend the Niagara Escarpment Plan by adding special site-specific policies to permit improvements to Sideroad 26/27.

LOCATION:

The property subject to this amendment is the Sideroad 26/27 20-metre right-of-way located in the 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.

The proposed Niagara Escarpment Plan Amendment has been prepared to address policy conflicts which prevent the Township of Clearview from undertaking improvements to an existing municipal road that includes partially impacting key natural heritage features and key natural hydrological features.

Existing Sideroad 26/27 is a gravel road with a narrow-travelled portion and the section of the road east of the Escarpment Brow is seasonal. The existing road does not meet minimum Township road standards and is unsafe in its current condition. Further, the gravel road base and surface are continuously being washed out and significant amounts of gravel are deposited in nearby surface water features, such as local wetlands and small tributaries of Pretty River.

The Niagara Escarpment Plan permits infrastructure in the three designations that apply to Sideroad 26/27, being the Escarpment Natural Area, the Escarpment Protection Area, and the Escarpment Rural Area subject to the Development Criteria in Part 2 of the Niagara Escarpment Plan.

The Niagara Escarpment Plan Development Criteria permit infrastructure in key natural features and in key hydrological features where the project has been deemed necessary to the public interest and there is no other alternative.

The project has proceeded as a Schedule A+ Municipal Class Environmental Assessment that does not require a review of alternatives. The Minister of the Environment, Conservation and Parks has confirmed that the Environmental Assessment Schedule is appropriate.

The Niagara Escarpment Plan Development Criteria also state that infrastructure shall avoid Escarpment Natural Areas unless the project has been deemed necessary to the public interest after all other alternatives have been considered.

The linear, east/west Sideroad 26/27 right-of-way currently lies within two (2) areas designated Escarpment Natural Area and to improve the road, these areas cannot be avoided.

Section 1.2.1 of the Niagara Escarpment Plan sets out provisions for the consideration of an amendment to the Plan. In support of the proposed Niagara Escarpment Plan Amendment, the

Township has provided a Planning Justification Report; an Environmental Impact Study; a Hydrogeological Report; Detailed Roadway Design Drawings; a Stormwater Management Report; a Bat Habitat Report; a Department of Fisheries and Ocean Submission; a Visual Impact Assessment and a Geotechnical Investigation.

The Township and its consultants have thoroughly reviewed the environmental impacts and conclude that improving the safety of the road and utilizing it as a through road between the County of Simcoe and Grey County serves the public interest. The right-of-way and travelled portion of the road currently impacts portions of key features. Through the road improvement process, further impacts are unavoidable. However, the Township's consultants have concluded that improvements to the design of the road, including new culverts and low impact design stormwater management measures will improve the quality of aquatic habitats. Burnside has also concluded that water quality and aquatic habitat will benefit from mitigation measures to eliminate gravel from entering wetlands and tributaries.

There is a need for a safe east west transportation route in this area of the Township of Clearview. Existing Sideroad 26/27 must not be left in its current condition and requires upgrades to meet the minimum Township standards. The Sideroad 26/27 upgrades have been planned in an environmentally responsible manner with a series of mitigation measures designed to minimize the impacts on the Escarpment environment.

PART B – The Amendment

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

1. Add a new subsection to Part 2.6 – Development Affecting Water Resources that states:

Infrastructure improvements to Sideroad 26/27 from the Osprey-Clearview Townline to Concession Road 10 North have been deemed necessary to the public interest and shall be permitted.

2. Add a new subsection to Part 2.7 – Development Affecting Natural Heritage that states:

Infrastructure improvements to Sideroad 26/27 from the Osprey-Clearview Townline to Concession Road 10 North have been deemed necessary to the public interest and shall be permitted.

3. Add a new subsection to Part 2.12 – Infrastructure that states:

Infrastructure improvements to Sideroad 26/27 from the Osprey-Clearview Townline to Concession Road 10 North shall be permitted as the project has been deemed necessary to the public interest and the Escarpment Natural Area cannot be avoided.



Warden's Office

595 9th Avenue East, Owen Sound ON N4K 3E3 519-372-0219 / 1-800-567-GREY / Fax 519-376-7970

June 5, 2020

Ms. Nancy Mott Senior Strategic Advisor Niagara Escarpment Commission 232 Guelph Street Georgetown, ON L7G 4B1

Re: Proposed Niagara Escarpment Plan Amendment PS 215 18, Township of Clearview (Sideroad 26/27)

Dear Ms. Mott:

Grey County Committee of the Whole has reviewed the correspondence from the Niagara Escarpment Commission dated May 6, 2020 regarding the above noted proposed Niagara Escarpment Plan Amendment (NEPA). They also discussed the response from RJ Burnside dated April 14, 2020 regarding comments received with respect to this NEPA.

The Niagara Escarpment Commission has asked the stakeholders that previously provided comments on the proposed NEPA if they have any further comments and if they are in support of, or opposed to, the proposed NEPA. Grey County Council previously provided comments to the NEC regarding the proposed NEPA on May 30, 2019.

Grey County Committee of the Whole passed the following motion at its meeting on May 28, 2020:

Main Motion as Amended

CW112-20 Moved by: Councillor Soever Seconded by: Councillor Potter

That the correspondence from the Niagara Escarpment Commission and Burnside regarding the proposed Niagara Escarpment Plan Amendment for Sideroad 26/27, be received; and

That the County of Grey reiterate its position of 2019 with respect to the Niagara Escarpment Plan Amendments and the request to the Township of Clearview to complete a Municipal Class C EA for Nottawasaga Sideroad 26/27; and

Grey County: Colour It Your Way

That the County of Grey oppose this proposed amendment to the Niagara Escarpment Plan; and

That a meeting be set up with the Mayor of Clearview, the Mayor of Blue Mountains, Wardens of Grey and Simcoe Counties, the Deputy Mayor of Grey Highlands and Walker Aggregates to further discuss and report back.

Carried

Based on this motion, Grey County Committee of the Whole wants to reiterate Grey County Council's position as expressed in Motion CW-114-19 that was approved by Grey County Council on June 13, 2019. We continue to request that the Township of Clearview complete a Municipal Class C Environmental Assessment. Grey County Committee of the Whole also wants to express their opposition to the proposed NEPA.

Comments made at Committee of the Whole, but not reflected in the motion expressed concern as to the wording of the amendments which state that the project has "been deemed necessary to the public interest and all other alternatives have been considered". Nothing presented within the last few years has demonstrated how this project is in the public interest or considered any alternatives. Enshrining these words in the amendments essentially neutralizes the important protections enshrined in sections 2.6, and 2.7 of the NEP with regard to Water Resources, and Natural Heritage features. No other previous amendments go that far, and approving these amendments would set a dangerous precedent and remove these protections during the permitting process.

Grey County Council will consider the motion adopted by Committee of the Whole on May 28th, 2020 at their June 11th, 2020 Council Meeting. As comments are due by June 8th, 2020, the County wanted to provide a response to you now and we will provide confirmation if Council endorses the motion following the June 11th, 2020 meeting.

Should Council approve the motion, Grey County Council would like to move forward with a meeting between the Mayors of Clearview, Town of The Blue Mountains, the Deputy Mayor of Grey Highlands, the Wardens of Grey and Simcoe Counties, and Walker Aggregates to attempt to resolve the issues surrounding this matter.

If you have any questions or require any further information, please do not hesitate to contact this office.

Yours truly,

Warden Paul McQueen

County of Grey

519-372-0219 x1225

Paul.McQueen@grey.ca

Encl.

cc. Hon. Jeff Yurek, Minister of Environment, Conservation and Parks (via email only)

Hon. Bill Walker, Associate Minister of Energy (via email only)

Jim Wilson, MPP Simcoe-Grey (via email only)

Warden George Cornell, County of Simcoe (via email only)

Mayor Doug Measures, Township of Clearview (via email only)

Mayor Alar Soever, Town of The Blue Mountains (via email only)

Deputy Mayor, Aakash Desai, Grey Highlands (via email only)

Walker Industries Inc. (via email only)

Kim Wingrove, CAO, Grey County (via email only)

Mark Aitken, CAO, Simcoe County (via email only)

Steve Sage, CAO, Township of Clearview (via email only)

Karen Mills, CAO, Municipality of Grey Highlands (via email only)

Shawn Everitt, CAO, Town of The Blue Mountains (via email only)

Sent via email: Nancy.mott@ontario.ca



Office of the Mayor

Mayor Paul McQueen

Email: Mayormcqueen@greyhighlands.ca

Phone: 519-375-1912

June 8, 2020

Ms. Nancy Mott Senior Strategic Advisor Niagara Escarpment Commission 232 Guelph Street Georgetown, ON L7G 4B1

Dear Ms. Mott:

Re: Proposed Niagara Escarpment Plan Amendment PS 215 18, Township of Clearview (Sideroad 26/27)

The Council of the Municipality of Grey Highlands received and reviewed the following documents at the June 3, 2020 Council meeting.

- Niagara Escarpment Commission Notice dated May 6, 2020,
- RJ Burnside Response to Comments letter dated April 14, 2020,
- Town of the Blue Mountains resolution dated June 1, 2020, and
- County of Grey Resolution dated May 28, 2020

Further to the comments sent on behalf of the Municipality of Grey Highlands Council, and in support of the Mayor of Blue Mountains, I would like to submit the following comments to be included on record from the Office of the Mayor, Municipality of Grey Highlands.

The Municipality of Grey Highlands Council remains opposed to the amendments to the Niagara Escarpment Plan and reiterate its position that the project does not proceed until a proper Class C Environmental Assessment is completed.

It is quite apparent in reviewing the history and the legal agreements included in this matter, that the reconstruction of Sideroad 26/27 is intimately tied to the closure of former County Road 91. These agreements include but are not limited to:

- THE MUNICIPAL ROAD TRANSFER AGREEMENT between THE CORPORATION OF THE COUNTY OF SIMCOE and THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW dated February 10th, 2010
- MINUTES OF SETTLEMENT between THE CORPORATION OF THE COUNTY OF SIMCOE "Simcoe County" and THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW "Clearview Township" and WALKER AGGREGATES INC. "Walker" dated April 8th,2010

• ROAD IMPROVEMENT AGREEMENT BETWEEN: THE CORPORATION OF THE COUNTY OF GREY "Grey County" and THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW "Clearview Township" and WALKER AGGREGATES INC. "Walker" dated July 6th, 2010

Therefore, the following statement provide in the Burnside Letter:

"It is also important to note that many of the comments are directed at the decision to close a portion of former County Road 91, a decision that is not the subject matter of this application. The closure of former County Road 91 was addressed extensively as part of the Duntroon Quarry expansion application and the ensuing Joint Board hearing process. This application resulted in a Road Settlement Agreement, initiated by the Simcoe County and later endorsed through a subsequent agreement with Grey County and the decision of the Joint Board. In our respectful submission, the issues and controversies associated with the expansion of the Duntroon quarry and the closing of former County Road 91 are not proper issues in the Commissions and/or the Niagara Escarpment Hearing Office's consideration of the Township's proposed amendment to the NEP."

is clearly not accurate and it should be noted that the closure of former CR91 is directly tied to the project and should be taken into consideration as important subject matter when reviewing this **Proposed Niagara Escarpment Plan**Amendment PS 215 18, Township of Clearview (Sideroad 26/27).

The Burnside Letter also states:

"As you know, the proposed project is the reconstruction of an existing Township road in the same "location", for the same "purpose" and "use" and for the same "capacity", all as defined in the Municipal Engineers Associations (MEA) Municipal Class Environmental Assessment document. The road will be reconstructed on the same alignment within the existing ROW, will continue to serve vehicular traffic and the travelling public and will be built to the Township of Clearview's minimum standard for a rural cross section road. Although a significant portion of the existing road is open year around, there is a portion, which for operational reasons, is not maintained through the winter months. This is an operational decision made by the Township of Clearview which could change at any time."

I also disagree with this statement given that The reconstruction of Sideroad 26/27 is not for the same purpose, use, capacity and that the same location does not fit the intent of the Township's plans for the reconstruction of Sideroad 26/27. Given the fact that the reconstruction project is tied to the closure of CR91 and thus the project is replacing a seasonal gravel road which cannot be maintained in the winter with a road that would be required to handle 1,265 to 3,411 vehicles per day, no reasonable person would agree that the project is for the same "purpose", "use" and for the same "capacity", as is required for all Class A+ projects as defined in the Municipal Engineers Associations (MEA) Municipal Class Environmental Assessment document.

Further the Municipal Class EA process is clear in stating that some projects may require a higher level category or schedule due to greater potential for environmental impact and that selection of the appropriate project schedule will vary depending on the complexity of the project and its budget cost limit. In this case, if the project budget is in excess of \$2.4 million it would require a Schedule C Class EA.

Notwithstanding the project exceeding the \$2.4 million limit, the complexity of the project is well documented by the description of the challenges of building a road in this location in the Burnside Letter which addresses the previous comments. It addresses various environmental concerns as well as the construction challenges.

I do not feel the project has been subjected to a fulsome EA Process, and this project has not been proven to be necessary to the public interest or that all other alternatives have been considered. There is a significant risk for negative impact to the adjacent and surrounding lands that have yet to be mitigated. The number of complex issues are demonstrated in the Burnside Report and do not align with a Schedule A+ project.

For these reasons, I urge you to put the best interest of the South Georgian Bay Region, it's people and it's natural environment ahead of this project and reject **Proposed Niagara Escarpment Plan Amendment PS 215 18, Township of Clearview (Sideroad 26/27).**

Sincerely,

Mayor Paul McQueen Municipality of Grey Highlands

cc. Hon. Jeff Yurek, Minister of Environment, Conservation and Parks (via email only)

Hon. Bill Walker, Associate Minister of Energy (via email only)

Jim Wilson, MPP Simcoe-Grey (via email only)

Warden Paul McQueen, County of Grey (via email only)

Warden George Cornell, County of Simcoe (via email only)

Mayor Doug Measures, Township of Clearview (via email only)

Deputy Mayor, Aakash Desai, Grey Highlands (via email only)

Ken Lucyshyn, Walker Industries Inc. (via email only)

Mayor Brian Saunderson, Town of Collingwood (via email only)

Mayor Nina Bifolchi, Town of Wasaga Beach (via email only)

Grey County Council (via email only)

Kim Wingrove, CAO, Grey County (via email only)

Mark Aitken, CAO, Simcoe County (via email only)

Steve Sage, CAO, Township of Clearview (via email only)

Karen Govan, CAO, Municipality of Grey Highlands (via email only)

Shawn Everitt, CAO, Town of The Blue Mountains (via email only)

Mayor and Council, Town of The Blue Mountains (via email only)



Town of The Blue Mountains

32 Mill Street, Box 310
THORNBURY, ON NOH 2P0
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OFFICE OF: Mayor Alar Soever

 $\textbf{Email:} \ \underline{asoever@the blue mountains.ca}$

Phone: 519-599-3131 Ext 400

Sent via E-mail

June 9, 2020

Ministry of Environment, Conservation and Parks Hon. Jeff Yurek | Minister | jeff.yurek@pc.ola.org 777 Bay Street, 5th Floor Toronto, ON M7A 2J3

Dear Minister Yurek:

Re: Classification of Sideroad 26/27 reconstruction as proposed by Clearview Township as a Class A+ project

Thank you for your letter of May 21, 2020 responding to our May 22, 2019 Part II Order request asking that Clearview Township be required to prepare a Schedule C Municipal Class Environmental Assessment for the proposed reconstruction of Sideroad 26/27.

Respectfully, we must disagree with your ministry staff's conclusion that "the Township classified the project correctly under Appendix 1 of the Municipal Class Environmental Assessment." Before we consider our next steps and this becomes an issue in the public eye, we would like to propose a meeting with you and ministry staff to be able to understand their reasons for their decision.

I completely understand that under the new the More Homes, More Choice Act (the "Act"), Schedule A and A+ undertakings under the Municipal Class Environmental Assessment are exempt from the Environmental Assessment Act. As such, any Part II Order and as such requests for projects, such as the Sideroad 26/27 reconstruction, received before or after June 6, 2019 cannot be considered. However, our request was submitted well before the implementation date of the Act.

Significant concerns were raised by the public at the time the More Homes, More Choice Act was being passed that removing the ability for Part II orders would allow the misclassification of projects to be used to circumvent the protections in the Environmental Assessment Act. Having faith in responsible government I was not inclined to agree with this sentiment at that time. However, in this case, for whatever reason, it appears that my faith in responsible government may have been misplaced.

Your letter states: "ministry staff have reviewed the documentation and confirmed that the Township classified the project correctly under Appendix 1 of the Municipal Class Environmental Assessment." We would like an explanation of what documentation your Ministry officials looked at and how they reached their flawed conclusion.

It is clear to any reasonable person that this project does not fit the Schedule A+ Municipal Class EA project category which is limited to reconstruction of roads where the reconstructed road or other linear paved facilities "will be for the same purpose, use, capacity, and at the same location as the facility being reconstructed."

The reconstruction of SR 26/27 is tied to the closure of former CR91 by means of at least 3 public legal agreements. These documents include:

- THE MUNICIPAL ROAD TRANSFER AGREEMENT between THE CORPORATION OF THE COUNTY OF SIMCOE and THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW dated February 10th, 2010
- MINUTES OF SETTLEMENT between THE CORPORATION OF THE COUNTY OF SIMCOE "Simcoe County" and THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW "Clearview Township" and WALKER AGGREGATES INC. "Walker" dated April 8th,2010
- ROAD IMPROVEMENT AGREEMENT BETWEEN: THE CORPORATION OF THE COUNTY OF GREY
 "Grey County" and THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW "Clearview Township"
 and WALKER AGGREGATES INC. "Walker" dated July 6th, 2010

Most of these agreements are 10 years old and predate the Act. How SR26/27 is reconstructed will have profound impacts on regional traffic patterns, which have changed greatly in the last 10 years in the South Georgian Bay Region, one of the fastest growing areas in Ontario. The Ministry of Transport has identified this by including our area in the recently announced regional transportation study.

Currently, based on recent traffic counts on Grey Road 31, north and south of its junction with former CR91, former CR91 serves 1,265 to 3,411 vehicles per day. It serves as an alternate route between Simcoe and Grey counties, allowing traffic to bypass the congestion on Highway 26 in the Collingwood-Blue Mountains area.

Since your government has just embarked on a regional transportation study it would seem to be premature to begin to significantly alter the transportation network in this section of the study area without the consideration of that regional study or at least a higher class EA.

Regardless of the recent amendments to the EA Act and the resulting applicability of Part II Order requests, it is clear the required works for the reconstruction of Sideroad 26/27 would require a higher level Schedule undertaking. Projects classified as Schedule A+ are generally those that are limited in scale, have minimal adverse environmental effects, and typically include operational or maintenance related activities.

For road projects, Schedule A+ undertakings are reserved for operational or maintenance repairs to an existing linear roadway such as building or removal of sidewalks, resurfacing an existing urban road with no change to horizontal alignment, streetscaping, installation of guide rails, establishment of a roadside park, etc.

Furthermore, reconstruction where the reconstructed road will be for the same purpose, use, capacity and at the same location does not fit the intent of the Township's plans for the reconstruction of Sideroad 26/27. The proposed reconstruction project is legally and operationally tied to the closure of former CR 91, and thus the project is replacing a seasonal gravel road which cannot be maintained in the winter with a road that has to handle the 1,265 to 3,411 vehicles per day. No reasonable person would agree that the project is for the same "purpose", "use" and for the same "capacity", as is required for Class A+ projects all as defined in the Municipal Engineers Associations (MEA) Municipal Class Environmental Assessment document.

The Municipal Class EA process is clear in stating that some projects may require a higher level category or schedule due to greater potential for environmental impact and that selection of the appropriate project schedule will vary depending on the complexity of the project. It has been clearly demonstrated that the reconstruction of Sideroad 26/27 does not align with a Schedule A+ project given the plans for repurposing this road from a seasonal road to one that will take the majority of traffic from the former CR 91 once it is closed and the potential for environmental impacts (impacts to the adjacent stream and associated brook trout habitat, etc) which have been raised by MNRF and other review agencies.

Furthermore, other previous (license under the Aggregate Resources Act) or subsequent approvals or permits (GSCA approval, NEC), as listed in your letter, have no bearing on the applicability of the EA Act and the selection of the proper Schedule.

It is for these reasons we believe the decision of your ministry staff is flawed and we ask that you provide us with whatever rationale they may be able to provide for their decision. In the absence of such an explanation, we can only assume that the worst fears of people about this provision of the More Homes, More Choice Act are becoming a reality, and we will have to consider next steps, in what is likely to become a very public debate on whether environmental protections still apply in this province.

Yours Truly,

Mayor Alar Soever

alar Soever

Town of The Blue Mountains

cc: The Honourable John Yakabuski (via email only)

Doug Measures, Mayor, Township of Clearview (via email only)

Steven Sage, CAO, Township of Clearview (via email only)

Paul McQueen, Warden, Grey County (via email only)

Paul McQueen, Mayor, Municipality of Grey Highlands (via email only)

Nancy Mott, Senior Strategic Advisor, Niagara Escarpment Commission (via email only)

George Powell, Blue Mountain Watershed Trust Foundation (via email only)

Hon. Bill Walker, Associate Minister of Energy (via email only)

Jim Wilson, MPP Simcoe-Grey (via email only)

Council, Town of The Blue Mountains (via email only)

Shawn Everitt, CAO, Town of The Blue Mountains (via email only)

Mayor and Council, Town of The Blue Mountains (via email only)



July 7, 2020

Warden Paul McQueen Warden's Office Grey County, 595 9th Avenue East Owen Sound, ON N4K 3E3

Mayor Paul McQueen Office of the Mayor Municipality of Grey Highlands PO Box 409, 206 Toronto Street South Markdale, ON NOC 1H0

Mayor Alar Soever Office of the Mayor Town of The Blue Mountains 32 Mill Street, Box 310 Thornbury, ON NOH 2P0

Dear Warden and Mayor McQueen and Mayor Soever:

Re: Mayor's Response to your Submissions on Niagara Escarpment Plan Amendment PS 215 18, Township of Clearview

Thank you for providing me with a copy of your June 2020 letters to Nancy Mott, Senior Strategic Advisor, Niagara Escarpment Commission ("NEC"), regarding the reconstruction of Nottawasaga Sideroad 26/27. As I understand your letters, you would like the Township of Clearview to undertake a Class C Environmental Assessment, as opposed to the Class A+ approach we have followed.

I am writing to you today with the hope of persuading you of the appropriateness of the process that has been followed and of the need for area municipalities at all levels to not only work together, but to respect the decisions of and agreements between municipalities in Simcoe and Grey Counties.

The Appropriateness of the Municipal Class A+ Categorization

With respect, the Township maintains that the reconstruction of the Sideroad as a Class A+ project is appropriate, and we will not be changing our position in that regard. Our position is based on the advice of our municipal engineers and environmental scientists, and our experience applying the Class Environmental Assessment process for other Township road projects.

As you know, the *Environmental Assessment Act* provides for the pre-approval of certain projects, including municipal road improvements, such as the reconstruction of Sideroad 26/27. Pre-approval is based on the professional expertise of members of the Municipal Engineers Association. Class A and Class A+ projects are pre-approved, as stated in the Municipal Class Environmental Assessment document and schedules (MCEA). Apply the criteria of the MCEA, the work on Sideroad 26/27 is very clearly a Schedule A+ project.

This classification is supported by the Ministry of the Environment, Conservation and Parks ("MECP") staff, who have reviewed the details of the project and confirmed that the Township classified the project correctly. On March 5, 2019, Annamaria Cross, the Manager, Environmental Assessment Services Section of the Environmental Assessment and Permissions Branch, wrote to George Powell of the Blue Mountain Watershed Trust Foundation. In that letter, Ms. Cross states very clearly that: "Based on the information and the requirements of the Municipal Class Environmental Assessment, the MECP has determined that the Township's classification of the Project as a Schedule A+ undertaking is appropriate". The correctness of the classification was recently again confirmed by the MECP, in correspondence dated May 21, 2020, addressed to Steve Sage, CAO of the Township of Clearview, and signed by Minister Jeff Yurek.

In any event, as noted in Minister Yurek's letter to Mr. Sage, on June 6, 2019, the *More Homes, More Choice Act* was passed, amending the *Environmental Assessment Act*. As a result, Schedule A and A+ undertakings under the MCEA are exempt from the *Environmental Assessment Act*. As such, any Part II Order requests for projects, such as the Sideroad 26/27 reconstruction, received before or after June 6, 2019, cannot be considered.

The EIS

Not only does the project technically qualify as a Class A+ project, if the concern is the protection of the environment, please rest assured that the project been subjected to a rigorous environmental review, independent of any requirements of the *Environmental Assessment Act*.

In the course of the application process for a Development Permit and an amendment to the *Niagara Escarpment Plan*, the Township commissioned an exhaustive environmental impact study that identified all possible environmental impacts that may be associated with the road improvements and concluded that the development is ecologically and environmentally sound. In particular, section 9.0 of the *Township of Clearview 26/27 Sideroad, Township of Clearview Proposed Improvements Environmental Impact Study* (the "**EIS**") established that:

- The proposed road improvements to 26/27 Sideroad in the Township of Clearview, between Townline and 10th Concession improve the safety and conditions of the road for local residents and minimize the damage that the existing stormwater management features are causing to the road surface, ditches and culverts, and to the watercourse, wetlands and forests through significant amounts of sediment deposition.
- 2. The ecological studies completed as part of the EIS have helped to inform the design of the road improvements, including such mitigation factors as reduced speed, improved surface water and stormwater quality, ecopassage design in sensitive habitat areas and a minimal footprint area within the IA.
- 3. Low impact design, improvements to water quality, maintenance of hydrology and improvements to fish and herpetofaunal habitat have been included and have resulted in an overall benefit to vegetation communities, wildlife and wildlife habitat within the road corridor and IA. The NVCA is in agreement with rehabilitation offsetting at a separate location in their watershed in order to appropriately compensate for minor impacts to unevaluated wetlands.
- 4. The duration of the effects will be both short and long-term, but the mitigation and compensation has been designed to result in an overall improvement to water quality, aquatic habitat features and functions and wetland habitats.
- 5. The proposed development is environmentally and ecologically sound and that the potential impacts are acceptable, on the basis of recommended mitigation and compensation measures.

With a finding that the proposed development is environmentally and ecologically sound and that the potential impacts are acceptable, the Township is completely satisfied that there will be no net negative impacts to the environment. In any event, the upcoming Niagara Escarpment Hearing Office hearing will allow these findings to be tested in a public hearing, and any competing views can be advanced.

I would be happy to provide you with a copy of the EIS.

The Closure of County Road 91 (now Clearview Road 91)

It is very clear to me that your main concern is the planned closure of County Road 91. As you know, however, the closure of County Road 91 was proposed by the County of Simcoe, as a means of addressing the NEC's opposition to re-building County Road 91 to a county road standard, and to address traffic volume issues by diverting regional traffic to County Road 124. This plan was formalized and incorporated into Minutes of Settlement and two written agreements involving Simcoe County, Grey County, Clearview Township and Walker Industries, with the mutual interest and objective in closing County Road 91 as a means of satisfying the NEC and mitigating traffic volumes on and avoiding the reconstruction of County Road 91.

As I am sure you will appreciate, the Township must abide by the terms of the Minutes of Settlement, the Decision of the Joint Board, and all subsequent agreements pertaining to the improvements to the Sideroad. Asking for any additional and unnecessary process will in no way alter the decision to close County Road 91. With a reversal of the decision to close County Road 91 off the table, the only "alternatives" to the proposed work that are available to the Township are to "do nothing" or build an entirely new road, outside of the current road allowance. Perhaps you will agree that the merits of either alternative need little review.

With respect, the Township regards any efforts to resile from or undermine these agreements as a serious and unconscionable breach.

Alternatives and the Public Interest

Your letters also questions the use of the phrase "deemed necessary to the public interest and all other alternatives have been considered". Of course, the use of this phrase simply reflects the actual language of the Niagara Escarpment Plan.

In response to this concern, I would remind you that the extent of any examination of "alternatives" is necessarily always a function of the nature of the project itself, and must be conducted with reasonable regard to the context of the project. Accordingly, even should there be a requirement to look at alternatives (which we do not believe there is), it is the alternatives to the reconstruction of an existing 2.7 kilometre long, local road running between Grey Road 31 and Concession 10 N Nottawasaga Road that would be the subject of a search for alternatives. In our view, it is self-evident that, but for some revised plan for County Road 91 (as per the agreements discussed above), the only possible alternatives would involve the construction of a new road, through all the same environmental features now currently disturbed by the existing road Moreover, given the limited role Sideroad 26/27 plays in the overall regional transportation network, it is, with respect, beyond the pale to suggest that this project should trigger such a massive, expensive and lengthy study of the entire regional road system, at Clearview's expense.

In any event, if it is the phrasing that you object to, we are happy to have the amendment read that the work "is permitted".

Working Together

Clearview has always tried to work together with neighbouring municipalities. Collaboration between municipal governments is crucial to promoting regional economic development and service provision. However, collaboration requires municipalities to work together as equals and to respect our respective jurisdictions. Intervening in the local affairs of a neighbouring municipality, or a lower-tier municipality in another upper-tier of government, not only vitiates respect for regional and local borders, but in many ways defeats the very basis of regional government.

We ask that Grey County, the Municipality of Grey Highlands, and the Town of The Blue Mountains respect Clearview's jurisdiction. It is an unwelcome precedent when a neighbouring municipality intervenes to stop another municipality from improving a local road within the

existing road allowance. Municipalities routinely improve roads within their own jurisdiction without a Class C Environmental Assessment. For instance, the County of Grey recently improved County Road 31, encroaching onto a Provincially Significant Wetland, without a Class C Environmental Assessment.

Respecting nearby municipalities entails not only acknowledging the jurisdiction of those municipalities to improve their own road network, but also to refrain from interfering in your neighbour's contractual obligations.

While the Township appreciates your interest in this matter, with respect, I must say that we were completely surprised to see you take the rather extraordinary step of challenging our processes for the reconstruction of a local road and asking the NEC to delay the processing of our applications. At a minimum, I would have expected an opportunity to discuss and address any concerns you may have with our project, before such an intervention.

I trust that you will all receive this letter in the spirit in which it has been written. I would be happy to make our staff and consultants available to you or your staff to further clarify the need for these improvements and the process that we intend to pursue to secure them.

Yours very truly,

Doug Measures

Mayor



July 14, 2020

Via Email

Warden and Council Grey County 595 9th Avenue East Owen Sound, ON N4K 3E3

Email: warden@grey.ca; Paul.McQueen@grey.ca

Mayor and Council
Municipality of Grey Highlands
PO Box 409
206 Toronto Street South
Markdale, ON NOC 1H0

Email: info@greyhighlands.ca; Mayormcqueen@greyhighlands.ca

Mayor and Council Town of The Blue Mountains 32 Mill Street, Box 310 Thornbury, ON NOH 2P0

Email: info@thebluemountains.ca; asoever@thebluemountains.ca

Dear Council / Mayors / Warden:

Re: Response to Municipal Submissions

Township of Clearview

Application for Amendment to the Niagara Escarpment Plan

Walker Industries ("Walker") is writing with respect to the submissions made by your municipalities (Grey County, Township of Grey Highlands, Town of The Blue Mountains, collectively the "Municipalities") regarding the application by the Township of Clearview for an amendment to the Niagara Escarpment Plan (the "NEP") to permit improvements to Sideroad 26/27 (the "Township Application" and the "26/27 Improvements").

Submissions are Contrary to Agreement With Grey County

The submissions objecting to the Township Application are contrary to the signed agreement between Grey County, Clearview Township and Walker regarding the 26/27 Improvements (the "Settlement").

Grey County was a party/participant in the Joint Board hearing regarding the expansion of Walker's Duntroon Quarry. The Settlement was filed as Exhibit #100 at the Joint Board hearing. The Settlement was approved by Grey County Council (by Bylaw Number 4675-10) in a unanimous vote, including the members of Grey County Council from the Municipality of Grey Highlands and the Town of Blue Mountains.

Mr. Gary Shaw, the Director of Transportation and Public Safety for Grey County, filed a participant statement and gave evidence on behalf of Grey County. In his Participant Statement Mr. Shaw stated that Grey County is supportive of the agreement reached between Simcoe County, Clearview Township and Walker (which provided for the closure of a portion of County Road 91 and the improvement of Clearview Sideroad 26/27). However, Mr. Shaw indicated that an important aspect of the settlement for Grey County is the requirement to improve Clearview Sideroad 26/27 in order to provide a link between the local municipalities of Grey Highlands and Clearview Township. Mr. Shaw's position on behalf of Grey County was that Sideroad 26/27 should be constructed to a Township standard or better and hard surfaced with a double surface treatment or hot mix surface. The Settlement provided that Sideroad 26/27 should be improved to a hard surface once a threshold volume of traffic was reached.

As reported in the decision of the Joint Board which approved the expansion of the Walker Quarry on the basis of the settlements reached between the municipalities, Mr. Shaw testified at the hearing that "his concerns and those of Grey County [emphasis added] were based on ensuring that an east-west connection between the municipalities of Clearview and Grey Highlands was maintained, if and when, Simcoe County Rd. 91 was closed".

In his testimony under oath before the Joint Board, Mr. Shaw "reviewed the operative section of the agreement, Section 2.1 and testified that works set out in the Road Settlement Agreement resolved all his issues with respect to Sideroad 26/27 and was <u>fully supported by Grey County</u>" [emphasis added]. Mr. Shaw confirmed as did Mr. McNalty, that the trigger of 400 vehicles per day was an appropriate standard to determine when Sideroad 26/27 should be upgraded from a gravel road. The panel of the Joint Board "confirmed that the tar and chip method of hard surface was an appropriate surface treatment for this road as set out in Section 2.1.2 of the Grey County Road Settlement Agreement".

We note that in order to address the concerns of the Municipalities, Clearview Township has agreed to pave Sideroad 26/27 as part of the initial 26/27 Improvements instead of waiting until the volume of traffic was reached as previously agreed.

Municipal Class EA

In each of your letters you object to the Township Application and the 26/27 Improvements and suggest that a Class C Environmental Assessment is required. These submissions are contrary to the Settlement.

In any event, the Clearview Township has determined that the 26/27 Improvements are classified as a Class A+ project under the Municipal Class Assessment document. This determination has been confirmed by the Ministry of Environment and Climate Change ("MECP") on more than one occasion.

Furthermore, the environmental aspects of the 26/27 Improvements have been fully studied and those studies have been made available to the public, including the municipalities. Any specific environmental issues will be canvassed in the course of the consideration of the development permit and the Niagara Escarpment Amendment applications.

Therefore, the submissions by your municipality objecting to the 26/27 Improvements and calling for a Municipal Class C Environmental Assessment are directly contrary to the position taken by Grey County (including its constituent municipalities) to fully support the Settlement and the improvements to 26/27 described therein. As such, the submissions by the Municipalities to the Niagara Escarpment Commission are entirely inappropriate and should be disregarded by the Niagara Escarpment Commission.

Yours very truly,

Ken Lucyshyn

cc: Nancy Mott, Niagara Escarpment Commission; Nancy.mott@ontario.ca

Honourable Jeff Yurek, Minister of Environment, Conservation and Parks; jeff.yurek@pc.ola.org

Jim Wilson, MPP Simcoe-Grey; jwilson@ola.org

Hon. Bill Walker, Associate Minister of Energy; bill.walker@ontario.ca

Mayor and Council, Clearview Township; dmeasures@clearview.ca

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Harold Elston, Counsel to Clearview Township; council@haroldelston.com

Kim Wingrove, CAO, Grey County; cao@grey.ca

Karen Govan, CAO, Municipality of Grey Highlands; cao@greyhighlands.ca

Shawn Everitt, CAO, Town of The Blue Mountains; cao@thebluemountains.ca

Warden George Cornell, County of Simcoe; Warden@simcoe.ca

Mark Aitken, CAO, Simcoe County; mark.aitken@simcoe.ca

Mayor Brian Saunderson, Town of Collingwood; brian@briansaunderson.ca

Mayor Nina Bifolchi, Town of Wasaga Beach; mayor@wasaga.beach.com

Table of Comments Received from Circulated Agencies and Interest Groups

Grey Sauble Conservation Authority (GSCA) Letter Project is not anticipated to have negative hydrologic impacts to the provincially significant wetland or measurable negative drainage impacts in the Upper Beaver River Watershed within GSCA jurisdiction; portions of the project site are directly adjacent to PSW features; regulated area associated with the Rob Roy PSW includes a 120-metre area of interference; SWH was not determined to be present in GSCA's jurisdiction; GSCA recommend a proposed reduction in speed and appropriate signage to protect wildlife; concerned that there is no designed crossing structure to connect the two wetland units and recommend an eco-passage would require significant excavation and grading to maintain the read elevation. Weighing the impacts of installation versus benefits, it was determined, from both an ecological and engineering perspective, that it would be best to not include an eco-passage in this area. Additional measures can be explored with GSCA to mitigate impact to wildlife species.	AGENCIES	DATE	SUMARY OF COMMENTS	NOTED AREAS OF INTEREST / CONCERN	HOW ADDRESSED
	Conservation Authority	August 30,	impacts to the provincially significant wetland or measurable negative drainage impacts in the Upper Beaver River Watershed within GSCA jurisdiction; portions of the project site are directly adjacent to PSW features; regulated area associated with the Rob Roy PSW includes a 120-metre area of interference; SWH was not determined to be present in GSCA's jurisdiction; GSCA recommend a proposed reduction in speed and appropriate signage to protect wildlife; concerned that there is no designed crossing structure to connect the two wetland units and recommend an eco-passage appropriate to the species within the PSW; generally not opposed to the Amendment provided that all the recommendations in the EIS are complied with and a	eco-passage to connect the wetland units on the north and south side of	April 9, 2020 There are no roadside streams or culvert connections for surface water in this area. The installation of an ecopassage would require significant excavation and grading to maintain the road elevation. Weighing the impacts of installation versus benefits, it was determined, from both an ecological and engineering perspective, that it would be best to not include an eco-passage in this area. Additional measures can be explored with GSCA to mitigate impact to wildlife

Nottawasaga Valley Conservation	Letter August 28,	NVCA noted some technical inaccuracies with regards to the presence of significant wildlife habitat; More information required on impact to wildlife	Wetland Terrestrial	Letter from Burnside dated April 9, 2020
Authority (NVCA)	2019	movement; clarity is required regarding the permanence of wildlife exclusion and crossing infrastructure; impacts to fish and fish habitat appear to be appropriately mitigated; a permit will be required regarding fish habitat and fish passage; applicant must address wetland enhancement and compensation; land clearing window must be extended to account for local bird nesting season; NVCA requested additional engineering design details		Surveys found that the amphibian habitat and call counts associated with NVCA unevaluated wetland habitat (to be impacted by road improvements) do not support consideration as a Specialized Habitat for Animals. Abundance codes greater than 2 were recorded greater than 50 metres outside the road improvement area. Burnside acknowledges that SWH for Amphibian Breeding Habitat (Woodland) has now been identified based on the quantity of calling species recorded within the Rob Roy Wetland Complex (GSCA jurisdiction). Burnside confirmed the installation of permanent exclusion fencing associated with the unevaluated wetlands and the Rob Roy PSW. The proposed fencing will be approximately 1 metre in

				height and small wildlife, including amphibians and small mammals will be prevented or dissuaded from entering the road area. A cross-section of the culverts shows a 400 mm bench on both sides of the low flow channel that will accommodate passage of small terrestrial wildlife. Township will work with the NVCA to investigate opportunities for enhancement and/or compensation for wetland loss as part of the NVCA's permit application process. The land clearing will be kept outside of the local bird nesting season (April 15 – August). MNRF recommended no clearing between April 1 and October 31 and this recommendation is accepted.
Ministry of the Environment Conservation and Parks (MECP)	Email September 26, 2019	Information with respect to bats has been addressed as per guidance from MNRF; records for other species at risk are on record in the area (Bobolink, Barn Swallow and Eastern Meadowlark) and the	Terrestrial	Letter from Burnside dated April 9, 2020 Burnside commented that the Bobolink, Eastern

		consultant should comment on whether the these species would be impacted by the development		Meadowlark and Barn Swallow, all open country- Grassland bird species were discussed in the 2018 EIS and Section 5.1 and 5.3.3. were quoted in the letter.
Ministry of Tourism, Culture and Sport	Email May 31, 2019	Archaeological Assessment may be required if not completed as part of the Duntroon hearing		Letter from Burnside dated April 9, 2020 All road improvements will occur within the existing right-of-way which has been previously disturbed. Based on a review of the Criteria for Evaluating Archaeological Potential, an Archaeological Assessment is not required.
Ministry of Natural Resources and Forestry	Letter June 14, 2019	MNRF staff advised that Bat Maternity Colonies (BMC) should have been considered in the evaluation of SWH but did not recommend further evaluation of BMC. MNRF reviewed the separate report on bats and cleared their concerns related to the three endangered species of bats and non-SAR bat habitat.	Terrestrial	Letter from Burnside dated April 9, 2020 Burnside acknowledged that the forest communities may support certain types of woodland raptor nesting habitat. Burnside listed their preferred habitat and noted any potential within the ELC communities

				within the study area. Burnside advised that none of the listed species were recorded during the breeding bird inventories and no additional mitigation measures are recommended. Eco-passage functions are provided within the proposed culverts. The deep low flow channel comprised of mixed river stone with a bench on either side is shown in the section details of the culverts. Burnside accepts that the clearing should avoid the most conservative window of April 1 to October 31 in any given year.
Simcoe County		No Comment		
Grey County	Letter May 30, 2019	Township should complete a Schedule Class EA for Sideroad 26/27; new County OP identifies PSW adjacent to Grey Rd. 31 and SR 26/27; EIS must demonstrate no negative impact on the PSW; noted comments from the public including comments that Sideroad 26/27 is not an adequate substitute for County Road 91 (now Township Road 91); concern about negative impact to wetlands, fish habitat,	Wetland Escarpment Slope (steep) and Grade Change	Burnside prepared a Response Letter to the NEC dated April 14, 2020. This letter has been provided to Grey County. The letter to the NEC dated April 14, 2020

	springs and groundwater, reduced emerger response times, need for updated traffic studies, is of consultation, no need to close 91 since Walker is a tunnel under Township Road 91, concern ab commercial vehicles using other roads in the wir when they can't use Sideroad 26/27	ck Cold Water las Stream out	provides a response on each of the sixteen (16) themes. Please refer to this letter for how Grey County comments were generally addressed. Sideroad 26/27 will be improved to the same standard as the reconstructed Road 91 between Concession Road 10 and County Road 124
Municipality of the Grey Highlands	PPS identifies need to co-ordinate with other lever of government, agencies, boards and Aboriging communities; in addition there should be a ordination of economic development strategic multimodal transportation systems, Great Lal related issues, housing needs and emergen management; this is non-existent in the amendma application; complete lack of public process and later of recent traffic studies that show true use of roads affected by this amendment application; true need to close County Road 91 has be provided to this municipality since the tunnel benefither road has been put into place; request that NEC deny the amendment application requests.	nal Process / NEC not Fulfilling Goals es, Goals es Escarpment Slope (steep) and Grade Change he no Class EA en Closure of Township Road	Burnside prepared a Response Letter to the NEC dated April 14, 2020. This letter has been provided to the Municipality of Grey Highlands. The letter to the NEC dated April 14, 2020 provides a response on each of the sixteen (16) themes. Please refer to this letter for how the

		failure to do so will result in an irreversible impact on the Escarpment on what is now a relatively pristine area	Regional Transportation Impacts Road Design Public Safety	Municipal of Grey Highlands comments were generally addressed.
Town of The Blue Mountains	Letter May 21, 2019	Very concerned that Sideroad 26/27 will not be an adequate replacement for Simcoe Rd. 91; loss of 91 will force traffic to use other routes including Hwy. 26 which is already at capacity and move up the date for a major bypass across the Escarpment with huge environmental impact and cost of millions of dollars to taxpayers; Road would have to be paved right away; recent traffic counts undertaken showing 1265 vehicles per day using 91; need for a traffic study to determine if Sideroad 26/27 would be a suitable replacement of Road 91 to meet function of gateway to our Town, used by commuters and tourists; negative visual impact, increased timelines for EMS/Fire; environmental concerns related to PSW; Class C EA should be undertaken	Class EA Closure of Township Road 91 Increased emergency response times Regional Transportation Impacts Public Safety	Burnside prepared a Response Letter to the NEC dated April 14, 2020. This letter has been provided to the Town of The Blue Mountains. The letter to the NEC dated April 14, 2020 provides a response on each of the sixteen (16) themes. Please refer to this letter for how the Town of The Blue Mountains comments were generally addressed.
Historic	Email	Project is outside HSM traditional territory so no		
Saugeen Metis	April 2, 2019	comments will be provided.		
WITEDEST				
INTEREST GROUPS				

Bruce Trail Conservancy (BTC)	Letter June 14, 2019	Bruce Trail crosses Sideroad 26/27 in the centre of the road to be improved; unofficial on-road parking continues to provide hikers with a place to park in this location; it would be helpful if a traffic study was available to assist in understanding the future impacts of re-rerouting traffic from County Road 91; we anticipate that traffic volumes and speeds will increase dramatically making the Bruce Trail crossing hazardous for users and parking unsafe; if the NEPA is approved we request that speeds be limited to 50 km/h for the entire road and that signs be posted to alert drivers of the trail crossing; new culverts will facilitate pedestrian crossing of the road; this section of the Bruce Trail is heavily used and we would like assurance that hikers will be able to cross the road safely during construction; we would welcome discussions with Clearview Township to accommodate parking in the area, potentially off road on quarry owned lands; no objection to the Amendment if it respects NEP policies pertaining to securement of NEPOSS and the Bruce Trail	Public Safety	Burnside prepared a Response Letter to the NEC dated April 14, 2020. Public Safety is addressed in the letter. The BTC has emphasized the need for safe pedestrian crossing and parking. The road elevation at the Bruce Trail crossing will be raised and culverts are proposed to facilitate hikers crossing the roadside ditches. This will improve the safety of the hikers crossing the road with a flatter trail surface and improved visibility.
Blue Mountain Watershed Trust (BMWT)	Submission Package	Cost of road improvements are now \$4,000,000 which place the project as a Schedule C EA; relocation of Pretty River tributary and increased size	Lack of Public Process / NEC not Fulfilling	Burnside prepared a separate response letter to the BMWT dated April 16,
	May 13, 2019	of culverts make it a Schedule C project - BMWT experts recommend they strongly oppose the NEPA	Goals Wetlands	2020 given the length of their submission which included a review of the 2018 EIS and the Bat
			Terrestrial Escarpment Slope (steep) and	Habitat Report (March 2019) We have listed all 16
			Grade Change	areas of concern for the BMWT based on their

	Fish Habitat / Cold Water Stream Stormwater Quality and Erosion and Sedimentation Stormwater Quantity Control Stormwater Drainage Hydrogeology Class EA Closure of Township Road 91 Propose new road through the depleted Duntroon Quarry Regional Transportation Impacts	detailed submission. Please refer to the April 16, 2020 letter attached to this report.
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Coalition on Niagara Escarpment (CONE)		This road is too steep and disturbs many sensitive wet areas; we believe that the original haul road is the best and not the proposed changes that will not be safe when completed.	Wetland Escarpment Slope (steep) and Grade Change	Response Letter to the NEC dated April 14, 2020. Sideroad 26/27 will be improved to the same standard as the reconstructed Road 91 between Concession Road 10 and County Road 124
Friends of the Pretty River Valley	Letter May 12, 2019	Reasons NEC turned down Development Permit are still valid; project did not meet the test of essential as alternatives were not taken into consideration. 26/27 upgrades are not essential because there is a tunnel under the Township Road 91; widening the road would offend the objectives of the ENA and EPA; environmental harm to cold-water streams and steep Escarpment slopes.	Lack of Public Process / NEC not Fulfilling Goals Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream Stormwater Quality and Erosion and Sedimentation Hydrogeology Class EA	Response Letter to the NEC dated April 14, 2020. Sideroad 26/27 will be improved to the same standard as the reconstructed Road 91 between Concession Road 10 and County Road 124

Grey Highlands Chamber of Commerce		Closure of 91 will have an impact on the citizens and businesses of Grey and Simcoe; new projects should be environmentally sound; evaluating Sideroad 26/27 using only Class A EA is insensitive to all citizens living in the area; impact on people's lives and the environment will be extraordinary; Class B or C EA should be done; 26/27 is not an essential road; other options should be considered; loss of east/west corridor may impact tourism and economic development; SR 26/27 if improved should be paved at the outset	Class EA Closure of Township Road 91	Schedule A+ Class EA confirmed as appropriate by the Minister of the Environment, Conservation and Parks as recently as May 21, 2020. Response Letter to the NEC dated April 14, 2020
Brewster Lake Home- Owner's Association	Email May 20, 2019	EMS comes from Stayner and uses CR91; closing CR91 could add 5-6mins to EMS response times (potential life-threatening consequences)	Increased emergency response times Regional Transportation Impacts Public Safety	Response Letter to the NEC dated April 14, 2020
Georgian Shores Drive Preservation	Email May 24, 2019	Incorrect procedure undertaken; closing Township Road 91 will adversely affect the Grey/Simcoe road network; more traffic onto Highway 26; a Class C EA is required	Lack of Public Process / NEC not Fulfilling Goals Class EA Regional Transportation Impacts Public Safety	Schedule A+ Class EA confirmed as appropriate by the Minister of the Environment, Conservation and Parks as recently as May 21, 2020

Table of Comments Received from Local Businesses and Residents

BUSINESS	DATE	SUMARY OF COMMENTS	NOTED AREAS OF INTEREST / CONCERN
Walker Industries MHBC Planning Consultants		Closure of County Road 91 and improvement to Sideroad 26/27 was considered during the Walker Duntroon hearing; public concerns about traffic, safety and noise on 91 were known to Twp. Council during public meetings and Council meetings; concerns were addressed through Settlement Agreements between Simcoe, Twp. and Walker; the agreement was mentioned in the Joint Board decision noting that the Township and County will benefit from the development of the quarry but that the elected councils were acting in the public interest in reaching the agreement and trying to resolve public concerns; Grey County and Grey Highlands did not object; the Joint Board concluded that Sideroad 26/27can provide an appropriate alternative access to the closing of 91 with nominal visual impact to the Niagara Escarpment; open the local road on a year round basis is an operational matters that vests with the Township of Clearview	
CBM Aggregates	Letter May 22, 2019	Closing Clearview Rd. 91 is at the heart of the matter; Township's application is premature, not essential, not in the public interest or an immediate need and Walker have many more years of reserves in the quarry extension before they need the aggregate under the road; closure would have significant economic impact to other existing aggregate operations in the area, including the Osprey quarry; closure of 91 would force them to serve customers using Grey/Simcoe Roads 31/95 and 124, adding 14 km to the haul route which would be extremely detrimental to the business and adversely impact competitive pricing within the local market	Lack of Public Process / NEC not Fulfilling Goals Closure of Township Road 91 Regional Transportation Impacts Design Public Safety

Seeley and Arnill Construction	Letter April 29, 2019	Contrary to provincial policy; closing Clearview 91 makes no sense except to limit competition to aggregate entering the local markets from the west to the benefit of Walker Industries; adds 14 km. round trip to haul to market (70 cents per tonne disadvantage); there will be a change to the natural environment on Sideroad 26/27 and change to the open landscape character; optimize existing infrastructure; transportation management strategy should be used; using longer route means more greenhouse gas emissions; vertical grades have improved on 91 and trucks supplying aggregate have been using it with no issues	Terrestrial Closure of Township Road 91 Regional Transportation Impacts Public Safety
RESIDENTS (Names redacted)			
	Letter No Date	Improper public consultation (road improvement agreement not part of tribunal report)	Lack of Public Process / NEC not Fulfilling Goals
	Email March 30, 2019	Closing CR91 and upgrading 26/27 would be an environmental disaster; CR91 is used for emergency services	Escarpment Slope (steep) and Grade Change Closure of Township Road 91 Increased emergency response times
	Email April 1, 2019	Closing CR91 is unnecessary; environmental impact, would cause damage; would like Walkers to just keep using their tunnel and have CR91 fixed/upgraded	Escarpment Slope (steep) and Grade Change

Letter	Comments provided by George McKibbon, planning consultant	Wetland
June 24, 2019	retained by resident; notes the works required on the road bed are substantially different than what was considered at the Walker hearing; wetland features were discovered after the hearing; the development will sever the continuous natural environment by widening an edge in the forest canopy, cutting into the Escarpment face and filling in the lower section; impacts to the Escarpment and significant natural heritage will be profound and cannot be ameliorated; new NEP policy requires a setback from the brow and emphasizes a landscape approach and this is not addressed in the Township's 2018 PJR; if a permit is required, the policies of the NEP apply; the NEPDA and NEP protect the public interest and there should be a consideration of alternatives and a setback from the brow; local residents, the travelling public, EMS, other businesses and aggregate producers and a range of stakeholders will be prejudiced by this decision; Sideroad 26/27 is not a suitable alternative to County Road 91 as the roadbed is not of equivalent in design, traffic safety and performance; an alternative would be to restore the road to a natural state, transfer it to the Nature Reserve and relocate the County Road within the quarry as part of its rehabilitation	Escarpment Slope (steep) and Grade Change Increased emergency response times Regional Transportation Impacts Design Public Safety
	Terraphilation	
Email May 5, 2019	CR91 and Sideroad 26/27 are not comparable/equivalent (width, drainage, setback of trees) and using Sideroad 26/27 would increase travel time; it cannot accommodate 2 trucks side-by-side; using Sideroad 26/27 would hinder emergency response times and snow clearance; expects that Sideroad 26/27 will be upgraded to the same standards as CR91 (at a very minimum)	SWM Drainage Increased emergency response times Regional Transportation Impacts Design Public Safety

Email May 8, 2019	Heard that Sideroad 26/27 will be upgraded but will only be gravel (should be paved and registered with EMS as useable route)	Increased emergency response times Regional Transportation Impacts
Email May 9, 2019	Hope that the agreements will respect the intent (to prohibit quarry traffic from using the upgraded road)	
Email May 9, 2019	Believe the improvements will provide traffic circulation; no solution is perfect but seems to be a perfect imperfect solution; Sideroad 26/27 is not in great condition (have helped a lot of people who get lost or are stranded because of the state of the road - thankfully no serious injuries yet)	
Email May 10, 2019	Existing Sideroad 26/27 is rugged and trail-like (not usable by automobiles); area along road contains wetland, fish habitat; upgrades will encourage high traffic and speeding; road improvement agreement was made 10+ years ago in time when traffic needs were different	Lack of Public Process / NEC not Fulfilling Goals Wetland Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream Design Public Safety
Email	Walkers has been a conscientious neighbour and this resident supports the closure of CR9; truck traffic has increased on CR91 since CBM quarry has opened and drivers have no regard for	

	May 10, 2019	local residents (this is not their haul route); truck traffic from CBM quarry adds extra wear and tear on CR91 (at cost to Clearview); closing CR91 will force them to use their approved haul route	
N	Email May 12, 2019	Presentation was misleading saying that closure of CR91 is a done deal (cannot be done until 26/27 is upgraded); CR91 is the EMS route from Stayner; concerned about damage to escarpment and to trout streams.	Lack of Public Process / NEC not Fulfilling Goals Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream Closure of Township Road 91 Increased emergency response times Regional Transportation Impacts
l N	Letter May 12, 2019	Road Improvement Agreement was not mentioned in 2014 Joint Board Order; should have been Class C EA	Lack of Public Process / NEC not Fulfilling Goals Class EA Closure of Township Road 91 Increased emergency response times Regional Transportation Impacts

		Design
		Public Safety
Letter May 13, 2019	CR 91 is an essential route and should not be removed from Sideroad 26/27 discussion; review of file should be broad (not just Sideroad 26/27)	Lack of Public Process / NEC not Fulfilling Goals Closure of Township Road 91 Regional Transportation Impacts Public Safety
Email May 14, 2019	Closure of CR91 will add time for emergency vehicles; If CR91 is closed and then County Road 124 is closed for any reason, there are no viable alternatives; no public process; Sideroad 26/27 isn't an option for farming equipment; Upgrades to Sideroad 26/27 will damage escarpment and cold water stream	Lack of Public Process / NEC not Fulfilling Goals SWM , Quality and Erosion and Sedimentation Closure of Township Road 91 Increased emergency response times Regional Transportation Impacts
Email and Letter	Road Improvement agreement was rushed without due diligence and assessment of environmental impacts; Sideroad 26/27 (either as gravel or upgraded) cannot be considered a	Lack of Public Process / NEC not Fulfilling Goals
May 15, 2019	replacement to CR 91; Sideroad 26/27 works not a necessity, CR91 provides for existing needs (is existing transportation	Wetland

	infrastructure); should have been Class C EA; environmental implications on Escarpment	Terrestrial Escarpment Slope (steep) and Grade Change Class EA Closure of Township Road 91 Regional Transportation Impacts
Letter May 15, 2019	CR 91 is a key access route (employment, EMS, farming); resident notes importance of clause in agreement that CR91 cannot be closed until 26/27 SR is upgraded; resident is shocked at lack of concern for environment (existing ROW width contains sensitive features); concerned that no traffic data/counts done on 26/27; alternate: paving 2 remaining gravel sections of Con 10 rather than going east into Duntroon via CR 91; intersection at Con 10 and 26/27 is a blind T intersection and is unsafe; gravel on 26/27 shouldn't have been disturbed in 2017 in the first place; Paving roads means salt and sand runoff	Lack of Public Process / NEC not Fulfilling Goals Wetland Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream Closure of Township Road 91 Increased emergency response times Regional Transportation Impacts Design Public Safety

May 17, 2019	emergency response times; potential safety concerns for Concession Road North and Sideroad 26/27 intersection; concerned about salt/sand runoff from paved road and impacting the cold-water stream	Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream Closure of Township Road 91 Increased emergency response times Regional Transportation Impacts Design Public Safety
Email May 19, 2019	Concerned about increased travel times for medical attention (CR91 is quickest route to Duntroon, then Barrie)	Closure of Township Road 91 Increased emergency response times
		Data Catala
		Public Safety
Email	Opposed to closing Township Road 91; environmental concerns,	Wetland
May 19, 2019	loss of wildlife/natural heritage, commuting will be more difficult, safety concerns in winter	Terrestrial Escarpment Slope (steep)

		Regional Transportation Impacts Design Public Safety
Email May 21, 2019	Sideroad 26/27 improvements are not in the public interest (too steep, impacts wetlands/wildlife); there are alternatives such as leaving Township Road 91 as a through road or new road through the quarry	Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream SWM, Quality and Erosion and Sedimentation Closure of Township Road 91 Road Diversion through Quarry
		Public Safety
May 21, 2019	Should have been a Class C EA; alternatives were not assessed; the intersection of Concession Road 10 North and Sideroad 26/27 is unsafe (serious grading problem and does not allow any sightlines)	Lack of Public Process / NEC not Fulfilling Goals Class EA Regional Transportation Impacts Design Public Safety

Letter May 2 2019	EMS times, travel times for farming and other employment and	Closure of Township Road 91 Increased emergency response times Regional Transportation Impacts Public Safety
Email May 2 2019	improvements agreement was done in secret; want CR 91 to	Lack of Public Process / NEC not Fulfilling Goals Wetland Escarpment Slope (steep) and Grade Change Hydrogeology Closure of Township Road 91 Increased emergency response times Regional Transportation Impacts Design Public Safety
Email	Alternatives should have been discussed	Lack of Public Process / NEC not Fulfilling Goals

May 24, 2019		Escarpment Slope (steep) and Grade Change
Email May 25, 2019	Sideroad 26/27 not a safe or viable substitute for CR91; would like to see upgrades done in an environmentally acceptable way that will provide for a safe roadway	Wetland Terrestrial Escarpment Slope (steep) and Grade Change Closure of Township Road 91 Regional Transportation Impacts
		Design Public Safety
Email May 26, 2019	No public consultation on closure of Township Road 91; no Traffic Study to support the closure of Township Road 91; damage to Escarpment and the cold-water fishing stream; adjoins Nottawasaga Lookout Provincial Nature Reserve; should be a Schedule C Class EA not A	Lack of Public Process / NEC not Fulfilling Goals Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream SWM , Quality and Erosion and Sedimentation Class EA

	Closure of Township Road 91 Regional Transportation Impacts Public Safety
Given springs in the middle and steep slopes of Sideroad 26/27, cost of maintaining 26/27 would be high	Wetlands Escarpment Slope (steep) and Grade Change
	Hydrogeology
Three (3) issues with closing Road 91; convenience of travel route; environmental and public safety. Believes public safety is greater than environmental impact overall; more fully loaded aggregate trucks illegally using Road 91; road safety appears not to be a purview of the NEC; supports closing Road 91, given volume of through traffic, and leaving Sideroad 26/27 as is or upgrading it and not allowing any trucks.	Lack of Public Process / NEC not Fulfilling Goals Wetland Terrestrial Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream SWM , Quality and Erosion and Sedimentation SWM, Quantity Control SWM Drainage
	Three (3) issues with closing Road 91; convenience of travel route; environmental and public safety. Believes public safety is greater than environmental impact overall; more fully loaded aggregate trucks illegally using Road 91; road safety appears not to be a purview of the NEC; supports closing Road 91, given volume of through traffic, and leaving Sideroad 26/27 as is or

		Class EA Closure of Township Road
		91 Increased emergency response times Regional Transportation
		Impacts Design Public Safety
Email May 28,	Do not want Sideroad 26/27 to replace Township Road 91; concerned about 911 response times; Concerned about more traffic on Concession Road 10; possible traffic accidents at 26/27	Lack of Public Process / NEC not Fulfilling Goals
2018	and 10th Line intersection; MECP should review Class Schedule; Grey Highlands should have had a say in the transfer of Road 91 to Walkers	Class EA Closure of Township Road 91
		Increased emergency response times
		Regional Transportation Impacts
		Design
		Public Safety
_		
Email	Sideroad 26/27 was never a viable alternative; public roads should not be surrendered for profit; natural habitats should be	Lack of Public Process / NEC not Fulfilling Goals

May 30, 2019	preserved; worldwide we are eroding the very foundations of economies, livelihoods, food security, health, and quality of life worldwide	Wetland Terrestrial Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream Closure of Township Road 91 Design
Francii	Decree to the second transfer of the second t	\\\\-\\\\-\\\\\\\\\\\\\\\\\\\\\\\\\\\\
Email May 30, 2019	Damage to ecosystem from quarry is enough, road will cause more damage	Wetland Terrestrial Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream
Email May 30, 2019	Approving roadworks is not consistent with the intent of the UNESCO designation; extensive exemptions to the NEP are required (NEPA)	Lack of Public Process / NEC not Fulfilling Goals Wetland Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream

	Email	Lack of process in Grey Highlands to discuss closing Road 91;	Increased emergency response times Regional Transportation Impacts Public Safety Lack of Public Process /
N	May 30, 2019	Upgrading 26/27 has serious flaws that have not yet been appropriately addressed	NEC not Fulfilling Goals Public Safety
			The state of the s
ı	Email May 30, 2019	Great concern about closing Road 91; underground springs that keep the roadway wet in the (spring, summer, and fall); Road 91 is serving the needs of all including the quarry	Hydrogeology Closure of Township Road 91 Increased emergency response times Regional Transportation Impacts Public Safety
		Owner of 50 same on the continuent same of the 40th	Laster Dublis Deserve
ı	Email May 31, 2019	Owner of 50 acres on the southwest corner of the 10th Concession and Sideroad 26/27 is disturbed that no person has approached them about the impact of the road reconstruction on their property; property has several waterfalls and pools and one pool is now filled with gravel; advised that the Township would do nothing to repair the stream; past damage has no bearing on NEC Application; catastrophic impacts on the stream from Township work in 2016; cold water stream holds brook trout and other fresh-water species; to suggest that 26/27 is seeing	Lack of Public Process / NEC not Fulfilling Goals Wetland Escarpment Slope (steep) and Grade Change

	increased use is not true; concerns about cars turning left onto Concession Road 10	Fish Habitat / Cold Water Stream Regional Transportation Impacts Design Public Safety
Email May 31, 2019	At Concession Road 10, climb steep hill to go south to Road 91; most vehicles will not be able to climb the hill in poor weather; issues were never considered around the closure of road 91 throughout the Walker's application; not addressed at the hearing because it was too late to bring in experts (stunned to learn of Agreement between Simcoe and the Township); undermines all the financial and volunteer investment by municipalities from Niagara Falls to Tobermory since the 1960s; minor amendments to the NEP over the years but this is a major affront to the integrity of the NEP	Lack of Public Process / NEC not Fulfilling Goals Wetland Escarpment Slope (steep) and Grade Change Fish Habitat / Cold Water Stream Closure of Township Road 91
Email June 1, 2019	This resident appears to live on Sideroad 26/27; as a professional engineer, he disagrees that this is a Class A project; questions Townships' argument to the MECP about the Schedule A activity; use, capacity and classification of 26/27 is proposed to change; will accept the results of a complete evaluation of the road but until that time, will continue to object	Lack of Public Process / NEC not Fulfilling Goals Class EA Regional Transportation Impacts Public Safety
Email and Letter	Purpose and Objectives of the NEP easily defeated due to pressure from municipalities, industry and other interest groups	Lack of Public Process / NEC not Fulfilling Goals

June 10, 2019	and NEC authority eroded; Resident refers to legal challenge of the sale of the road to Walkers; Resources under the road worth \$80 million (expert consulted by local opposition group Quarry Aware); if Walkers is not quarrying under the road, why has it fought so hard for Sideroad 26/27?	Design
Email June 18, 2019	Against the road reconstruction 10 years ago and still opposed; Sideroad 26/27 road allowance is half of County Road 91; 26/27 is steep, estimate 20% in some places; Water runs across the road causing washout; Additional land required to widen the road; can the steep slope be averaged to an acceptable slope?; Switchbacks required?; Has a fixed price bid been obtained to reconstruct the road?; How was the \$10 million cost determined?; Questions about safety, paving of Concession 10 road; Not a win-win, with taxpayers put at risk	Lack of Public Process / NEC not Fulfilling Goals Escarpment Slope (steep) and Grade Change SWM, Quantity Control SWM Drainage Regional Transportation Impacts Public Safety

APPENDIX C

April 2020 Response Letters prepared on behalf of the Township of Clearview

- 1. April 9, 2020 Letter to Grey Sauble Conservation Authority
- 2. April 9, 2020 Letter to Nottawasaga Valley Conservation Authority
- 3. April 9, 2020 Letter to the Ministry of Natural Resources and Forestry
- 4. April 9, 2000 Letter to the Ministry of the Environment, Conservation and Parks
- 5. April 9, 2020 Letter to the Ministry of Tourism, Culture & Sport
- 6. April 14, 2020 Letter to the Niagara Escarpment Commission
- 7. April 16, 2020 Letter to the Blue Mountain Watershed Trust
- 8. April 17, 2020 Letter to Mr. George McKibbon



April 9, 2020

Via: Email (a.sorensen@greysauble.on.ca)

Andrew Sorensen
Environmental Planning Coordinator
Grey Sauble Conservation Authority
237897 Inglis Falls Road, R.R. #4
Owen Sound, ON N4K 5N6

Dear Andrew:

Re: Grey Sauble Conservation Comment Response

Proposed NEP Amendment PS 215 18 Township of Clearview, Sideroad 26/27

Project No.: 300034587.0000

R.J. Burnside & Associates Limited (Burnside) received your letter dated August 30, 2019 outlining the comments provided by Grey Sauble Conservation Authority (GSCA) regarding the portion of the 26/27 Sideroad Improvements application located within their jurisdiction. It is discussed in the letter that GSCA staff had previously provided comments on the first submission of the Environmental Impact Study and that this letter focusses on comments associated with the additional information presented in the most recent EIS submission.

The portion of the 26/27 Sideroad improvement application located within the GSCA jurisdiction includes the Rob Roy Provincially Significant wetland complex. In the location of the Rob Roy PSW, the existing road and maintained corridor is at its widest point and is regularly graded and maintained through vegetation management, brushing, seasonal snow removal and application of maintenance gravel. This has widened the road in this location and has prevented the natural growth of the vegetation communities in the areas immediately adjacent to the roadway (within the Right-of-Way – ROW). As a result, the area within the ROW, which includes some limited wetland features and functions, does not currently exhibit the same sensitivity of features and functions as the PSW beyond the ROW. Through discussions with the MNRF and GSCA during the EIS preparation process it was determined that it is acceptable to remove wetland vegetation from within the ROW of an existing road in order to make improvements required for safety and capacity. The existing infrastructure use allows for continued activities associated with the road, which include the improvement proposed.

The road bisects the PSW at the west end of the project area in a location with flat topography and no existing culverts or connections between the two sides of the road. It appears that the PSW water balance is maintained by surface water inputs and potentially groundwater inputs outside of the ROW. Typical road maintenance activities have almost extended to the ROW limits. This area does not currently include any defined swales

Andrew Sorensen April 9, 2020 Project No.: 300034587.0000

or roadside ditches, and no north-south connectivity at the surface level, as previously mentioned.

Flooding potential for this location is minimal (as discussed in the Stormwater Management Report 2018). It is noted that the PSW is very close to the upstream boundary of the Upper Beaver River Watershed and consequently there is a relatively small drainage area contributing to the PSW which minimizes any potential for flooding. GSCA also notes that the proposal is not expected to have a measurable negative effect on the drainage in the watershed within the GSCA jurisdiction.

GSCA expresses a concern that the increase in road traffic expected as a result of the proposed road improvements poses the greatest concern to natural heritage features and function with the potential to increase the incidence of road mortality for wildlife species travelling between habitat features located adjacent to the roadway within the ROW. To mitigate this potential effect, GSCA recommends the inclusion of a specifically designed (and signed) road crossing structure (eco-passage) located between the PSW features at the west end of the project area.

It is noted that eco-passages have been included within the Nottawasaga Valley Conservation (NVCA) portion of the project area between habitat units where high numbers of amphibians were documented during field surveys and existing hydrological connections exist within culverts. Significance and functions of habitat features, and topography are both considered during the design of eco-passages under roadways. In addition, the natural landscape, existing migration of wildlife and habitat connections are also considered. While the west end of the project area includes wetland features, there are no roadside streams and culvert connections for surface water. The Rob Roy PSW area is very flat with no existing connections between the north and south sides of the road. The existing road alignment does not provide any opportunities for eco-passage design based on the flatness and the lack of roadside water conveyance features. The installation of an eco-passage would require significant excavation and grading in order to maintain the road elevation at this intersection. The current road design is proposed to minimize the footprint and any encroachment into the wetland features. When weighing the impacts of installing an eco-passage against the potential benefits, it was determined that it would be best from both an ecological and an engineering perspective not to include a passage in this location. Additional measures may be required to mitigate the impacts to SWH that will be coordinated with Conservation Authority staff.

Road speed was also mentioned as a concern to the GSCA. It should be noted that the Rob Roy PSW is located at the intersection of 26/27 Sideroad and Osprey Townline. This intersection includes a stop sign for western moving traffic on 26/27 Sideroad. Further, the speed limit on this road is being reduced from the unposted 80 km/hr to a posted speed of 60 km/hr. Due to the slow speeds approaching a stop sign and the reduction in legal speed limit, additional traffic calming measures to protect wildlife seem unwarranted on 26/27 Sideroad. A wildlife crossing sign can be examined at the time of road construction for east-west traffic. North-south traffic on Osprey Townline is outside the scope of this project.

The Township will work with GSCA on the final details of the design drawings as part of GSCA permit application process.

We hope that the above discussion addresses all the concerns presented by GSCA from both the ecological function and engineering design perspective. Please do not hesitate to contact us should you have any questions of concerns.

Yours truly,

R.J. Burnside & Associates Limited

Kevin Butt, B.Sc. (Env), Eco. Rest. Cert.

ISA Certified Arborist and Terrestrial Ecologist

KB:sj

Enclosure(s) None

cc: Nancy Mott, Niagara Escarpment Commission, Via Email: (Nancy.Mott@ontario.ca)

Nancy Frieday, GSP Group, Via: Email (nfrieday@gspgroup.ca)

Harold Elston, Elston Watt Barristers and Solicitors, Via: Email (helston@elstonwatt.ca)

Steve Sage, Township of Clearview, Via: Email (ssage@clearview.ca)

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26 27 GSCA Response Comments 200409.docx 09/04/2020 11:15 AM



April 9, 2020

Via: Email (eperry@nvca.on.ca)

Ms. Emma Perry Planner II Nottawasaga Valley Conservation Authority 8195 8th Line Utopia, ON LOM 1T0

Dear Emma:

Re: Nottawasaga Valley Conservation Authority Comment Response

Proposed NEP Amendment PS 215 18 Township of Clearview, Sideroad 26/27

Project No.: 300034587.0000

R.J. Burnside & Associates Limited (Burnside) received your letter dated August 28, 2019 outlining the comments provided by the Nottawasaga Valley Conservation Authority (NVCA) regarding the portion of the 26/27 Sideroad Improvements application located within their jurisdiction.

The NVCA numbered comments are referenced below, followed by Burnside's corresponding response:

1. There appear to be technical inaccuracies with regards to the presence of significant wildlife habitat (SWH) features and functions, specifically for amphibian habitat and presence of provincially significant species. It is understood that the Ministry of the Environment, Conservation and Parks will be providing comment on SWH concerns as pertaining to Species at Risk. We note that these features and functions relate directly to wetland function and are therefore a concern under the NVCA mandate as well.

Response: The EIS identifies the SWH determinations based on the documentation of the site investigations. The SWH conclusion regarding the amphibian habitat that can be considered a Specialised Habitats for Animals is generally not supported based on the amphibian call count surveys within the NVCA jurisdiction. The surveys found that wetland habitat that is anticipated to be impacted by the construction does not support the frog call count level 3 within the Impact Area and that all abundance codes greater than 2 were recorded greater than 50 metres outside the impact area (with the exception of Station B in April 2015).

We acknowledge the Western Chorus Frog is ranked S3 and the Rob Roy PSW (within Grey Sauble Conservation Authority jurisdictional area) as Habitat for Species of Conservation Concern (Significant Wildlife Habitat) due to its support of the frog species. The impacts to this kind of SWH, as well as Amphibian Breeding Habitat is documented in the EIS.

Ms. Emma Perry April 9, 2020

Project No.: 300034587.0000

Mitigation is proposed in the EIS to reduce impacts to amphibians and their breeding habitat and additional mitigation for impacts to this SWH may be required to will be coordinated with conservation authority staff. The limited breeding area within the ROW that may be temporarily made unavailable to the Western Chorus Frog will be supported in the greater PSW. We have responded to the MECP under a separate cover.

We also acknowledge that the Significant Wildlife Habitat for Amphibian Breeding Habitat (Woodland) should have been identified based on the quantity of calling species recorded within the Rob Roy Swamp (within GCSA jurisdiction).

2. Conclusions regarding the degree of potential impacts to wildlife movement functions are not clearly substantiated, e.g., implications for potential increase in wildlife road mortality.

Response: Burnside has documented the anticipated impacts and mitigation to reduce impacts to documented wildlife. It was a conservative conclusion in the EIS to suggest that a potential increase in wildlife road mortality may occur as a result of a widening due to an expanded road surface that presents a challenge to wildlife to safely cross in the absence of suggested mitigation measures. Otherwise, the improved sightlines resulting from the road improvements and the proposed reduced road speed limit are anticipated to allow drivers to avoid wildlife. It is noted that the existing road is unposted and as a rural road the speed limit is 80 km/hr. The proposed speed limit after construction is 60 km/hr. Furthermore, the clearing required within the grading limits as illustrated in the construction drawings, along with anticipated seasonal maintenance by mowing the roadsides will allow for drivers to see wildlife.

3. Clarity is required with regards to wildlife exclusion and crossing infrastructure, e.g., further details regarding the permanence of infrastructure and design specifications.

Response: The installation of permanent exclusion fencing on lands associated with the unidentified wetlands and Rob Roy PSW is proposed at the following approximate road chainage ranges: 4+265 to 4+550 and 5+850 to 6+180 (both north and south side); 6+460 to 6+560 and 6+710 to 6+810 (north side); and 6+460 to 6+850 on the south side. Small wildlife, including amphibians and small mammals will be prevented or dissuaded from entering into the road area. Proposed fencing to be implemented will be approximately 1 metre tall.

Erosion and sediment control (ESC) fencing and measures used during the construction period will be regularly inspected and maintained and will exclude amphibians from the impact area when work is adjacent to wetlands and channels.

A cross-section of the culverts (crossing infrastructure) illustrates a 400 mm bench on both sides of the low flow channel that will accommodate passage of small terrestrial wildlife.

 Impacts to fish and fish habitat appear to be appropriately mitigated as evidenced by DFO letter of approval; however, NVCA will have more comments on fish habitat and passage through the design review.

Response: Acknowledged. The Township will work with the NVCA on fish habitat and passage as part of NVCA's permit application process.

5. The extent of wetland 'compensation' measures which have occurred throughout the history of this file should be documented and presented. The applicant must address the question of wetland enhancement and/or compensation directly. Should it be determined that wetland compensation is appropriate, full implementation details will be required prior to permit issuance.

Response: The Township will work with the NVCA to investigate opportunities for enhancement and/or compensation for wetland loss as part of NVCA's permit application process.

6. The proposed land clearing window should be broadened to account for the appropriate - local bird nesting season.

Response: Acknowledged. The land clearing will be kept conservatively outside of the local bird nesting season of April 15th – August 30th.

It is noted that MNRF recommended no clearing between April 1st and October 31st and this recommendation is accepted.

7. Additional Engineering details on the project design.

Response: Burnside will work with NVCA to determine which additional details are required as part of the NVCA's permit application process.

Yours truly,

R.J. Burnside & Associates Limited

Kevin Butt, B.Sc. (Env), Eco. Rest. Cert.

ISA Certified Arborist and Terrestrial Ecologist

KB:sj

Enclosure(s) None

cc: Nancy Mott, Niagara Escarpment Commission, Via Email: (Nancy.Mott@ontario.ca)

Nancy Frieday, GSP Group, Via Email: (nfrieday@gspgroup.ca)

Harold Elston, Elston Watt Barristers and Solicitors, Via Email: (helston@elstonwatt.ca)

Steve Sage, Township of Clearview, Via Email: (ssage@clearview.ca)

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26 27 NVCA Response Comments 200409.docx 09/04/2020 2:08 PM



April 9, 2020

Via: Email (kim.benner@ontario.ca)

Kim Benner
District Planner
Ministry of Natural Resources and Forestry
Midhurst District Office
2284 Nursery Road
Midhurst, ON L9X 1N8

Dear Ms. Benner:

Re: Ministry of Natural Resources and Forestry Comment Response

Proposed NEP Amendment PS 215 18 Township of Clearview, Sideroad 26/27

Project No.: 300034587.0000

R.J. Burnside & Associates Limited (Burnside) reviewed the document outlining the comments provided by the Ministry of Natural Resources and Forestry (MNRF) as received by the Niagara Escarpment Commission on June 24, 2019. These comments are based on Burnside's October 2018 Environmental Impact Study (EIS) for the proposed improvements to Sideroad 26/27 within the Township of Clearview.

The MNRF identifies that additional candidate Significant Wildlife Habitats (SWH) should have been reviewed to assess the habitat potential within the Study Area. Burnside's responses to the comments are provided below.

SWH - Seasonal Concentrations of Animals: Bat Maternity Colonies

This component of the work was completed by Skelton Brumwell & Associates Inc. MNRF correspondence of February 8, 2019 does not recommend further evaluation of BMC's and accepts the findings of the Skelton Brumwell report. MNRF recommended that no tree cutting shall occur between April 1st and October 31st. This exclusion window will ensure that bats that seasonally use the woodland in the area are protected.

SWH - Specialized Habitats for Wildlife: Woodland Raptor Nesting Habitats

We acknowledge that the forested communities may support certain types of woodland raptor nesting habitat, based on the *Significant Wildlife Habitat Technical Guide*, *Appendix October 2000*. These species, their preferred habitat and potential within ELC communities within the study area are provided below:

- Sharp-shinned Hawk, nest in conifer trees in young to medium aged forests: likely potential;
- Cooper's Hawk, prefer Sugar Maple, Beech, White Pine, Red Pine and Hemlock: likely potential;
- Northern Goshawks, common in large, dense stands of mature or old growth forests and older pine plantations: likely potential;
- Broad-winged Hawk, dense younger forest within White and Yellow Birch: unlikely potential;
- Red-shouldered Hawk, mature closed-canopy stands of maple-beech near small woodland ponds and creeks in large tracts of 200 ha or more: likely potential;
- Red-tailed Hawk, forest edges, small woodlots and fence rows: likely potential; and
- Merlins, old crows nests in spruces and near lake shores: unlikely potential.

None of these species were recorded during the breeding bird inventories and no additional mitigation measures are recommended.

Mitigations

The MNRF requested that ecopassages locations and details are provided. Ecopassage functions are provided within the proposed culverts. The deep low flow channel comprised of mixed riverstone with a bench on either side is shown in the section details of the culverts. These two culverts will be installed at the following chainages: 6+135 (Tributary C) on drawing C014 and 6+505 (Tributary D) on drawing C015.

The tree/vegetation clearing windows were identified within the MNRF comments as inconsistent as a mitigation measure to reduce or prevent impacts to various wildlife. We accept that the clearing should avoid the most conservative window listed of April 1st to October 31st in any given year.

We acknowledge that Species at Risk consultation has been transitioned to the Ministry of Environment, Conservation and Parks (MECP) since the submission of the 2018 EIS and we will consult with MECP as needed. See attached Burnside response dated April 9, 2020 to MECP's comments dated September 26, 2019.

Yours truly,

R.J. Burnside & Associates Limited

Kevin Butt, B.Sc. (Env), Eco. Rest. Cert.

ISA Certified Arborist and Terrestrial Ecologist

KB:si

April 9, 2020

Project No.: 300034587.0000

Enclosure(s) April 9, 2020 letter to MECP

cc: Nancy Mott, Niagara Escarpment Commission, Via Email: (Nancy.Mott@ontario.ca)
Nancy Frieday, GSP Group, Via Email: (nfrieday@gspgroup.ca)
Harold Elston, Elston Watt Barristers and Solicitors, Via Email: (helston@elstonwatt.ca)
Steve Sage, Township of Clearview, Via Email: (ssage@clearview.ca)

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26 27 MNRF Response Comments 200409.docx 09/04/2020 1:20 PM



April 9, 2020

Via: Email (michelle.karam@ontario.ca)

Ms. Michelle Karam
Management Biologist
Permissions and Compliance, Species at Risk
Branch
Ministry of Environment, Conservation and Parks
50 Bloomington Road
Aurora ON L4G 0L8

Dear Michelle:

Re: Ministry of Environment, Conservation and Parks Comment Response

Proposed NEP Amendment PS 215 18 Township of Clearview, Sideroad 26/27

Project No.: 300034587.0000

R.J. Burnside & Associates Limited (Burnside) received your email dated September 26, 2019 outlining the comments provided by the Ministry of Environment, Conservation and Parks (MECP) regarding the portion of the 26/27 Sideroad Improvements application located within their jurisdiction. It is discussed in the letter that MECP staff had previously provided comments on the first submission of the Environmental Impact Study and that this letter focusses on comments associated with the additional information presented in the most recent EIS submission.

The comments in an email addressed to Nancy Mott of the Niagara Escarpment Commission (NEC) included the following:

EIS: It seems that apart from SAR bats they did not find any Endangered or Threatened Species. I do however have some records of some Threatened birds: Bobolink, Barn Swallow and Eastern Meadowlark in the project area. They don't seem to have been picked up on their field surveys. They should perhaps comment on if the project would have any impacts on habitat of these species if they were present.

1.0 Response

The Threatened Species the MECP discuss in the comment quoted above, including Bobolink, Eastern Meadowlark and Barn Swallow, all open country-Grassland bird species, were specifically discussed under both potential impacts to Endangered and Threatened Species (Section 5.1) and under Habitat for Species of Conservation Concern (Section 5.3.3.- Open Country Bird Breeding Habitat), of the Environmental Impact Study completed for the Proposed Sideroad 26/27 Improvements, submitted in 2018). The discussion of these species excerpted from the EIS are included below for ease of review by the MECP.

5.1 Habitat of Endangered and Threatened Species

The background data review indicated the potential presence of the following species in the general vicinity of the corridor (OBBA 2001-2005, Natural Heritage Information Centre (NHIC) 2013 and 2017):

- Eastern Massasauga (Sistrurus catenatus), THR;
- Barn Swallow (Hirundo rustica), THR;
- · Bobolink (Dolichonyx oryzivorus), THR;
- Butternut (Jugulans cinerea), END;
- · Little Brown Myotis (Myotis lucifugus);
- Northern Myotis (Myotis septentrionalis); and,
- Eastern Small-footed Bat (Myotis leibii).

Four of these seven species were observed on the corridor or within 120 m of the subject lands during field data collection completed in 2014 through 2018. Additional SAR observations are included in the Bat Survey report (Skelton Brumwell, 2019) including field observations from 2016 through 2018.

Butternut trees were found in a number of locations along the 26/27 Sideroad corridor. One specimen, documented on the north side of the road, at the west end, approximately 440 m from the Townline intersection, is located within the right-of-way. The other two specimens were also documented on the north side of the road within the Bruce Trail designated area, outside of the right-of-way.

Habitat for both Barn Swallow and Bobolink may be present within the agricultural lands located in the road corridor but outside of the proposed road right-of-way. Evidence for either of these two species was not documented during the breeding bird surveys. As such, it was concluded that these species are not present on the subject lands or within 120 m of the corridor and no further investigation or assessment is required.

We clarify and acknowledge that the timing of the breeding bird surveys may have missed documenting the early nesting grassland birds listed if present on the agricultural fields; however, no impacts to their habitat will occur.

5.3.3 Habitat for Species of Conservation Concern

Open Country Bird Breeding Habitat

Records from the OBBA (Square Number 17NK51 and 17NK6) identified four grassland area-sensitive species which have been recorded in the vicinity of the corridor (i.e., within 10 km), including:

- Bobolink (Pheucticus Iudovicianus);
- Eastern Meadowlark (Stumella magna);
- · Western Meadowlark (Sturnella neglecta); and,
- · Barn Swallow (Hirundo rustica).

Ms. Michelle Karam April 9, 2020

Project No.: 300034587.0000

Upon further investigation of the corridor, it was determined that grassland habitat is present. These habitat features include fallow agricultural lands located on both the north and south sides of the corridor. These communities are buffered from the road right-of-way by either forested, wetland or fencerow communities and are not expected to be affected by the proposed development. There is no grassland habitat within the corridor itself. Therefore, no direct effects to grassland habitat are associated with the proposed road improvement activities. In addition, indirect effects will be mitigated by both strict vegetation clearing timing windows in habitats adjacent to grassland habitat and the maintenance of buffers between the project works and clearing activities.

The EIS fully documents and discusses both species and species' habitat documented through field investigations in the study area (ROW and adjacent lands) and potential species and species habitat documented as part of the desktop assessment of background information in order to fully assess any potential impacts associated with the road improvement and provide informed recommendations for mitigation measures to avoid or minimize these impacts.

We hope that the above discussion addresses the concerns presented by MECP from the ecological function perspective. Please do not hesitate to contact us should you have any questions of concerns.

Yours truly,

R.J. Burnside & Associates Limited

Kevin Butt, B.Sc. (Env), Eco. Rest. Cert.

ISA Certified Arborist and Terrestrial Ecologist

KB:sj

Enclosure(s) None

cc: Nancy Mott, Niagara Escarpment Commission, Via Email: (Nancy.Mott@ontario.ca)

Nancy Frieday, GSP Group, Via: Email (nfrieday@gspgroup.ca)

Harold Elston, Elston Watt Barristers and Solicitors, Via: Email (helston@elstonwatt.ca)

Steve Sage, Township of Clearview, Via: Email (ssage@clearview.ca)

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26 27 MECP Response Comments 200409.docx 09/04/2020 11:46 AM



April 9, 2020

Via: Email (dan.minkin@ontario.ca)

Mr. Dan Minkin
Heritage Planner
Ministry of Tourism, Culture & Sport
Culture Division
401 Bay Street, Suite 1700
Toronto, ON M7A 0A7

Dear Mr. Minkin:

Re: Ministry of Tourism, Culture & Sport Comment Response

Proposed NEP Amendment PS 215 18 Township of Clearview, Sideroad 26/27

Project No.: 300034587.0000

R.J. Burnside & Associates Limited (Burnside) has been forwarded an email dated May 31, 2019, addressed to Nancy Mott, Senior Strategic Advisor, at Niagara Escarpment Commission (NEC), in regard to the Township of Clearview's proposed reconstruction of Sideroad 26/27. We understand that your comments have been a response to a circulation initiated by a proposed amendment to the Niagara Escarpment Plan relative to the proposed road reconstruction project. This can be referenced as NEC file NEPA PS 215 18 and MTCS file 0010461.

We note that the proposed reconstruction project is on an existing road within an existing road right-of-way which was created with the original road and lot fabric in the former Township of Nottawasaga and now in the Township of Clearview. A portion of the road is not maintained during the winter months but is maintained through the other three seasons. Both the open portion of the road, which is maintained year round, as well as the total road are maintained by the application of maintenance gravel, road grading, ditch cleanout, and roadside grass cutting. Based on the nature of the vegetation within the right-of-way it can be concluded that the road right-of-way has been completely disturbed in the past.

It is necessary to reconstruct the road to meet the Municipality's standards relative to road width and site distances. It is noted that the total road reconstruction project will occur within the existing right-of-way which has been previously disturbed. We have reviewed the Criteria for Evaluating Archaeological Potential and we conclude that an Archaeological Assessment is not required for the existing road right-of-way.

If you have any questions in regard to the above, please do not hesitate to contact us.

Yours truly,

R.J. Burnside & Associates Limited

Don McNalty, P.Eng.

DMcN:si

cc: Nancy Mott, Niagara Escarpment Commission, Via Email: (Nancy.Mott@ontario.ca)

Nancy Frieday, GSP Group, Via: Email (nfrieday@gspgroup.ca)

Harold Elston, Elston Watt Barristers and Solicitors, Via: Email (helston@elstonwatt.ca)

Steve Sage, Township of Clearview, Via: Email (ssage@clearview.ca)

Enclosure(s) None

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26 27 MTCS Response Comments 200409.docx 09/04/2020 10:53 AM



April 14, 2020

Via: Email (Nancy.Mott@ontario.ca)

Ms. Nancy Mott, MCIP, RPP Senior Strategic Advisor Niagara Escarpment Commission 232 Guelph Street Georgetown, ON L7G 4B1

Dear Nancy:

Re: Township of Clearview, Sideroad 26/27

Niagara Escarpment Plan Amendment PS 215 18

Responses to Comments Received from Agencies, Residents,

Local Businesses and Interest Groups

Project No.: 300034587.0000

As a result of the circulation by the NEC of the proposed amendment of the Niagara Escarpment Plan described as file PS 215 18, as well as the related public meeting and information centre held on May 8, 2019 at the Township of Clearview Administration building, comments were received by the NEC from ten (10) agencies including three (3) municipalities, seven (7) interest groups, three (3) local businesses and approximately forty (40) area residents. The comments received from Agencies, Residents, Local Businesses, and Interest Groups have been summarized on the attached matrix of comments where the content of the comments have been categorized into sixteen (16) themes as noted on the matrix.

We provide below a response to the comments relative to each theme as identified on the comment matrix.

1. Lack of Public Process/NEC not Fulfilling Goals

(Comments 7, 14, 17, 19, 23, 31, 33, 34, 35, 36, 37, 38, 43, 45, 46, 48, 50, 51, 52, 54, 55, 57, 58, 59, 60 and 61)

The Township of Clearview is the public authority for 26/27 Sideroad. This road in its current condition has inadequate granular base, as well as deficient drainage features, which creates erosion and sedimentation issues that have a negative impact on the adjacent natural features. The Township of Clearview has determined it must improve the condition of the road to address public safety. The reconstruction of the road is necessary to address the growing demands on the road and to mitigate the negative impact on the adjacent environment. These proposed improvements are located within the existing right-of-way for 26/27 Sideroad and the Township believes that this upgrade is necessary to the public interest and that there is no alternative.

Ms. Nancy Mott, MCIP, RPP Senior Strategic Advisor Niagara Escarpment Commission April 14, 2020

Project No.: 300034587.0000

An application for a Development permit to improve 26/27 Sideroad was submitted to the NEC on January 31, 2014. As with any Development Permit application, the NEC circulated to various agencies for comments and provided public notice of the application. Comments were received from Grey Highlands, Grey County, MNRF, NVCA, GSCA, Bruce Trail Conservancy and numerous property owners. Simcoe County, MOECC, Historic Saugeen Metis and Metis Nation of Ontario did not provide comments but were obviously circulated. The comments submitted by property owners were summarized in Appendix C of the NEC staff report dated November 19, 2015. The Development Permit Application was the subject to a hearing before the Niagara Escarpment Commission.

On February 6, 2018 an application for a Niagara Escarpment Plan Amendment was submitted, based on the policies of the Niagara Escarpment Plan and the previous decision of the NEC that the required upgrades were not deemed "essential". The application for an amendment to the NEP was also presented to a public meeting of the NEC and the consideration by the NEC of the proposed amendment has created a further opportunity for the agencies and public to offer comments. Moreover, as suggested by the NEC staff and agreed to by the Township of Clearview, the Township held a public meeting on May 8, 2019. This meeting was attended by approximately 50 persons with an opportunity to provide verbal comments during the meeting and written comments afterwards.

Considering that comments on the proposed amendment have been received from the Ministries of Environment, Conservation and Parks; Tourism, Culture & Sport; Natural Resources and Forestry; the Nottawasaga Valley Conservation Authority, the Grey Sauble Conservation Authority; the County of Grey; the Town of The Blue Mountains; the Municipality of Grey Highlands; seven local interest groups; three local businesses; and approximately 40 residents, there can be no questioning the adequacy of opportunity for public input and, in our opinion, comments regarding a lack of public process are unfounded.

It is also important to note that many of the comments are directed at the decision to close a portion of former County Road 91, a decision that is not the subject matter of this application. The closure of former County Road 91 was addressed extensively as part of the Duntroon Quarry expansion application and the ensuing Joint Board hearing process. This application resulted in a Road Settlement Agreement, initiated by the Simcoe County and later endorsed through a subsequent agreement with Grey County and the decision of the Joint Board.

In our respectful submission, the issues and controversies associated with the expansion of the Duntroon quarry and the closing of former County Road 91 are not proper issues in the Commissions and/or the Niagara Escarpment Hearing Office's consideration of the Township's proposed amendment to the NEP.

2. Environmental (Wetland)

(Comments 2, 8, 12, 13, 26, 31, 37, 38, 39, 41, 42, 45, 47, 49, 52, 53, 54, 57 and 58)

A number of comments from residents identified the sensitivity of the wetlands, and other natural features. The EIS provides an investigation of the vegetation communities and includes the limits of each community and a listing of the plant species found within each of the distinct vegetation communities as identified during the ecologist field investigations. Documentation of wildlife use and / or presence within the wetlands by amphibians, birds and bats was completed.

This natural heritage information, combined with other investigations including hydrogeology, stormwater and fisheries has given a comprehensive understanding of the existing features and the potential impacts.

The road was designed to reduce impacts to the adjacent wetland features through the implementation of mitigation factors that will benefit the wetland including improved stormwater and surface water quality. Also, the footprint of the improved road has been reduced from a typical cross-section by utilizing steeper backslopes on road swales that reduce the outward encroachment into adjacent wetland communities.

Wildlife, including amphibians and small mammals, that uses the wetlands as habitat will benefit from the culverts designed to allow for safe passage under the roads. Bedding within the culverts will be placed to allow for a central low flow channel with higher benches for terrestrial wildlife use. There will also be a reduction of impacts to small wildlife through the installation of approximately 1 metre tall permanent wildlife exclusion fencing where the road edge intersects with the wetland edges on the east portion of the project area. We acknowledge that there is proposed wildlife exclusion fencing but no ecopassage being installed at the Rob Roy PSW portion of the site (west limit). We will work with conservation authority staff to mitigate impacts of road mortality while maintaining functional connections between the wetland portions on the north and south sides of the road.

It is acknowledged that wetland compensation within the right-of-way cannot happen due to space constraints, and the Township and their agents will work with their Conservation Authority partners to determine a reasonable approach to provide for offsite wetland enhancement and compensation as part of the NVCA and GSCA permit application process.

3. Environmental Terrestrial

(Comments 2, 3, 5, 12, 20, 37, 41, 47, 52 and 53)

Similar to the wetland component, many of the concerns about impacts to natural features and wildlife have been addressed within the EIS. Studies of vegetation and wildlife were carried out and findings (including data) are provided within the EIS.

Temporary impacts to wildlife will be reduced by restricting clearing and grubbing activities to a time outside of critical lifecycle periods for amphibians, bats and birds, i.e., no tree clearing between April 1st and October 31st.

Long-term impact reduction to wildlife is anticipated through improved sightlines resulting from the road improvements and the reduced speed limit that will allow drivers to avoid wildlife. Furthermore, the brush clearing required to prepare the site for reconstruction, along with anticipated seasonal maintenance by mowing ditches will allow for drivers to see wildlife.

Vegetation loss to accommodate the construction is estimated to be 2.37 hectares of natural forested and wetland habitat, combined with some areas of anthropogenic land use and culturally influenced vegetation communities. The vegetation communities that were reviewed are common in Ontario and many of the dominant species within these communities are considered pioneer / early successional species that are tolerant of impacts and capable of recolonizing disturbed areas. Encroachment into terrestrial natural heritage features by road construction has been reduced through the implementation of steeper than usual backslopes on road swales.

Offsite compensation and / or enhancement will need to be coordinated with Conservation Authority as part of NVCA and GSCA permit application process.

4. Environmental (Escarpment/Steep Grade Change)

(Comments 2, 7, 8, 12, 13, 14, 24, 25, 26, 31, 33, 37, 38, 39, 41, 42, 45, 46, 47, 48, 49, 52, 53, 54, 57, 58 and 61)

Impacts to the Niagara Escarpment have been reduced by maintaining the road within the existing footprint to the greatest extent possible and reducing the cross-section of the road using steeper backslopes on road swales. Steeper stabilized backslopes reduced the area of disturbance for the reconstructed road and mitigated the environmental impacts.

5. Environmental (Fish Habitat/Cold Water Stream)

(Comments 8, 12, 14, 31, 33, 36, 38, 39, 42, 48, 52, 53, 54, 57 and 58)

A number of the comments can be categorized as concerns about potential negative impacts to fish habitats, relocation of a portion of a watercourse, increased size of culverts, salt and sand run-off impacting Brook Trout in the stream and damage to the cold water fishery.

Based on current existing conditions the granular base road is causing impacts to the cold water stream from run-off carrying sediment and granular material into the channel (Tributary of the Pretty River). There has also been evidence of the adjacent private pond on a vacated property to the south overflowing the berm and contributing to the gravel driveway washouts that also are impacting the cold water stream. It is anticipated that the road will be paved shortly after the reconstruction subject to anticipated traffic volumes. The relocation, set back, and realignment of a portion of Tributary A will improve those conditions since the paved road would not be erodible and slopes will be vegetated. An increase in culvert size has been incorporated in the road design to accommodate flood flows and is a standard approach to watercourse crossings in road improvement design. The Department of Fisheries and Oceans (DFO) reviewed the existing site conditions and has approved the detailed design based on realignment of the stream, an improvement to surface run-off and to control stormwater from road run-off. A Letter of Advice by DFO was issued to the Township on June 19, 2017.

A review of a "pickled sand" (92% sand and 8% salt) application to the new road has been modelled to determine potential impacts to cold water species such as Brook trout that currently exist in the stream. It was determined that a concentration of 173mg/L chloride based on a twice daily application of pickled sand to the asphalt surface was used. Based on the model, concentrations of chlorides to the stream will meet the National Recommended Water Quality Criteria - Aquatic Life Criteria of 230mg/l chloride concentration from the United States Environmental Protection Agency (EPA) based on a twice daily application of pickled sand by the Township. The chloride standard for Aquatic Life based on the Canadian Water Quality Guidelines (CWQG) is 640mg/L based on short-term exposure to chlorides for the protection of aquatic life. The CWQG standard is higher than the US EPA and therefore both standards for Aquatic Life have been met based on the model.

It has been noted that one of the downstream properties has waterfalls and pools of which one is partially filled with granular based sediment from the existing road. A primary goal in undertaking the road improvement is to mitigate the existing erosion and sedimentation conditions through various storm water quality and management measures.

Tributary A to Pretty River runs parallel to the road and various other smaller tributaries currently cross the right-of-way. Due to these conditions and the significant grade, seasonal impacts to the road from run-off occur. The absence of ditches to retain run-off allow water to sheet flow across areas of the road and discharge directly into the watercourse. Sediment and granular material is washed into the adjacent cold water stream potentially impacting fish habitat and stream function. The detailed design for road improvements includes ditches to carry stormwater run-off from a paved surface that is not erodible and therefore limits impact to the watercourse. The Department of Fisheries and Oceans reviewed the existing site conditions and has approved the detailed design based on realignment of the stream, upgraded culverts that allow fish passage and an improvement to control stormwater run-off.

Mitigation following the Tributary A realignment will be enhanced through the installation of sod blocks, comprised of material harvested onsite within the construction area and reapplied to the channel area. This technique will allow for instant reestablishment of the riparian ground layer vegetation that supports fish communities.

6. Stormwater Quality, Erosion & Sedimentation (Comments 8, 12, 36, 42 and 48)

Currently runoff travels uncontrolled off of the existing road surface carrying large amounts of sediment with it into the receiving natural stream system.



The proposed stormwater management strategy incorporates two types of low impact development (LID) stormwater management practices, in a treatment train approach, to achieve enhanced stormwater quality control. The first method is a bioretention LID concept adapted to a rural road cross-section. The second is the use of enhanced grassed swales. Both methods receive good reviews in the CVC/TRCA LID Stormwater Management Planning and Design Guide for achieving quality control and water balance benefits.

"Performance results from both laboratory and field studies indicate that bioretention systems have the potential to be one of the most effective BMPs for pollutant removal (TRCA, 2009b). Bioretention provides effective removal for many pollutants as a result of sedimentation, filtering, soil adsorption, microbial processes and plant uptake." (CVC/TRCA, 2010).

With respect to enhanced grassed swales the guide states: "Median pollutant mass removal rates of swales from available performance studies are 76% for total suspended solids, 55% for total phosphorus, and 50% for total nitrogen (Deletic and Fletcher, 2006)."

The proposed LID controls consisting of enhanced grass swales and bioretention are sized to provide enhanced quality control for road runoff prior to it entering the natural stream. From Sta. 5+420 (roughly the brow of the escarpment) west, ditch slopes are relatively flat, and the ditch does not contain any watercourses, therefore this section of road is treated by enhanced

grassed swales. Rock check dams are placed within the ditches to slow stormwater velocities and achieve the necessary retained stormwater volume to provide enhanced quality control. From 26/27 Sideroad Sta. 5+420 east the bioretention level spreaders are to be constructed on both sides of the road and check dams are to be located in steep (greater than 4%) ditch sections.

The enhanced grass swale design includes densely vegetating the ditch with native vegetation and installing a series of rock check dams as noted above. Where it descends the escarpment, the ditch design reduces stormwater velocities and erosion, it increases dissolved oxygen levels through the use of a series of cascading pools formed by the check dams and it increases infiltration through the use of the bioretention design.

The bioretention component of the quality control design consists of a series of level spreaders constructed of Filtrexx Silt Soxx (or similar tubular filter media device) attached at a level angle (0% slope) to the side of the road embankment. The road embankment is to be restored with 75 mm topsoil. The embankment and level spreader is to be seeded with a native seed mix appropriate for riparian restoration. The silt soxx level spreader over time will be naturalized such that it will appear as a small vegetated berm on the road embankment.

The proposed Stormwater Management Plan employing bioretention, enhanced grassed swales and select use of perforated underdrains satisfies the project criteria. It achieves enhanced quality control and mimics the infiltration that occurs on the existing gravel road.

Erosion and Sediment Control

The proposed erosion and sediment control design reduces erosion and sedimentation relative to existing conditions by addressing existing erosion problems on the road and capturing sediment before it leaves the site. The erosion and sediment control design applies to the entire site, but focusses in particular on existing erosion and sedimentation problems including the steep ditch sections where the existing road ditches descend the escarpment; wash-off of fines from road granulars downstream; and existing erosion areas at culvert inlets and outlets where stream flow is concentrated.

Standard erosion and sediment control will be required throughout the project as per NVCA requirements. In addition, "a series of check dams should be used for swales/ditches with a significant gradient or slope length" as per the *Erosion and Sediment Control Guidelines for Urban Construction* (Greater Golden Horseshoe Area Conservation Authorities, 2006). As such, a series of permanent check dams are to be located in the steeper ditch sections to reduce erosion and form a run of cascading pools. The stepped check dam design addresses the active erosion occurring in the existing ditch as it descends the escarpment.

Restoration of ditches is to also include revegetation using native seed mix. To maximize the catch of the seed, the mix can be applied with a spray emulsion and covered with biodegradable erosion protection matting to improve how quickly it takes hold and how well it withstands rain events.

In the location where Tributary 'B' descends the escarpment it may not prove possible to establish vegetation on the very bottom of the ditch because of the water flowing in Tributary 'B'. In this case the ditch would still have erosion protection because the ditch side slopes would be vegetated with the native seed mix and the ditch invert would be protected by the cascading

pool design achieved through the use of permanent rock check dams. This design would somewhat simulate the way Tributary 'A' descends the steeper sections of the escarpment in cascading pools.

The proposed quality control design encourages sheet flow through the use of naturalized level spreaders which will reduce potential scour of the road embankment.

Proposed culvert crossings for Tributaries C and D have improved scour protection at the inlet and outlet through the use of an enlarged flow area and river stone embedment. The Tributary C crossing is to be improved by realigning the culvert from a near right angle confluence with Tributary A to approximately a 45 degree confluence. This adjustment reduces potential scour on the opposite bank of Tributary A.

For more detail concerning the enhanced quality stormwater management, and the erosion and sediment control design refer to Nottawasaga 26/27 Sideroad Stormwater Management Report (October 2018).

7. Stormwater Quantity Control

(Comments 12 and 61)

The quantity control criteria for this project require that proposed peak flow rates should not exceed existing rates for the 2-100 year storm events. The hydrologic modelling completed for the project shows that the proposed paving of the road will not have a significant impact on runoff peak flow downstream. Peak flows were determined for each of the existing site outlet locations. The existing site outlet locations are shown schematically (labelled in red) on Figure 1 - Calculated Catchments-Existing of the Nottawasaga 26/27 Sideroad Stormwater Management Report (October 2018). Existing peak flow rates are summarized in Table 1.

Table 1 – Existing Peak Flow Rates at Existing Site Outlet Locations

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Outlet Name													
Design Storm	Return Frequency	Sta. 4+300 Rob Roy Wetland m³/s	Trib. B m³/s	Trib. C m³/s	Trib. B+C Confluence m ³ /s	Trib. D m³/s	Trib. E m³/s	Culvert Crossing 26/27 SR at 10 Conc. m³/s					
SCS Type II Design Storm, 24 hour duration	2-year	0.12	0.31	0.16	0.46	0.18	0.11	0.09					
	5-year	0.20	0.51	0.27	0.76	0.30	0.18	0.15					
	10-year	0.26	0.67	0.36	0.99	0.39	0.23	0.20					
	25-year	0.34	0.89	0.48	1.32	0.51	0.31	0.26					
	50-year	0.40	1.06	0.58	1.59	0.62	0.37	0.31					
	100-year	0.47	1.25	0.68	1.86	0.73	0.43	0.37					
Chicago Design Storm, 4 hour duration	2-year	0.073	0.15	0.07	0.21	0.08	0.05	0.04					
	5-year	0.12	0.30	0.14	0.43	0.16	0.10	0.08					
	10-year	0.16	0.42	0.21	0.60	0.23	0.14	0.12					
	25-уеаг	0.23	0.60	0.30	0.87	0.33	0.20	0.17					
	50-year	0.29	0.74	0.38	1.09	0.41	0.25	0.21					
	100-year	0.34	0.90	0.47	1.31	0.50	0.31	0.26					
Timmins Regional Storm		0.75	2.18	1.04	3.20	1.07	0.64	0.55					

Ms. Nancy Mott, MCIP, RPP Senior Strategic Advisor Niagara Escarpment Commission April 14, 2020

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There are no proposed changes to external areas. As such, the external area hydrologic parameters stay the same in the existing and proposed conditions modelling.

In the proposed condition modelling an assumed paved road surface 9.0 m wide is modelled for the entire length of 26/27 Sideroad from the Townline to Concession 10. The 9.0 m paved width represents the maximum potential paving scenario and is assumed as a conservative (maximum) paved surface which must be considered in the stormwater management calculations. The proposed paving is the only significant hydrological change from existing to proposed conditions.

Proposed parameters, including paving of the road, were entered into the proposed condition hydrologic model yielding the results shown in Table 2.

Table 2 - Proposed Peak Flow Rates at Existing Site Outlet Locations

Outlet Name											
Design Storm	Return Frequency	Sta. 4+300 Rob Roy Wetland m³/s	Trib. B m³/s	Trib. C m³/s	Trib. B+C Confluence m³/s	Trib. D m³/s	Trib. E m³/s	Culvert Crossing 26/27 SR at 10 Conc. m³/s			
SCS Type II Design Storm, 24 hour duration	2-year	0.11	0.30	0.16	0.44	0.17	0.11	0.09			
	5-year	0.18	0.49	0.27	0.73	0.28	0.17	0.15			
	10-year	0.24	0.64	0.36	0.96	0.37	0.22	0.19			
	25-уеат	0.31	0.85	0.47	1.28	0.49	0.29	0.26			
	50-year	0.37	1.01	0.57	1.54	0.59	0.35	0.31			
	100-year	0.43	1.19	0.67	1.80	0.70	0.41	0.36			
Chicago Design Storm, 4 hour duration	2-уеаг	0.09	0.25	0.07	0.29	0.09	0.06	0.04			
	5-year	0.13	0.33	0.15	0.42	0.16	0.10	0.08			
	10-year	0.15	0.41	0.21	0.60	0.22	0.14	0.12			
	25-year	0.22	0.58	0.30	0.86	0.32	0.20	0.17			
	50-year	0.27	0.72	0.38	1.07	0.41	0.25	0.21			
	100-year	0.33	0.87	0.47	1.29	0.49	0.30	0.26			
Timmins Regional Storm		0.73	2.14	1.04	3.14	1.05	0.63	0.54			

A comparison of Tables 2 and 3 reveals that proposed and existing peak flows are generally the same. The majority of storm events show a slight decrease in the proposed condition with the exception being the 2 and 5 year Chicago events which show a slight increase. The variance up or down is less than 0.1 m³/s and is not considered significant relative to the quantity control criteria for this project. Therefore, the quantity control criteria for this project are satisfied. For more detail concerning the enhanced quality stormwater management design refer to *Nottawasaga 26/27 Sideroad Stormwater Management Report* (October 2018).

8. Stormwater Drainage

(Comments 12, 27 and 61)

Replacement culverts are proposed in the same location as existing culverts. The capacity of the proposed culverts is the minimum required to adequately drain the area and allow for the appropriate environmental mitigation. The minimum drainage criteria used on the proposed

design is based on the requirements of a rural arterial road, to ensure 26/27 Sideroad is designed to current engineering standards.

9. Hydrogeology

(Comments 8, 45, 49 and 56)

The existing and proposed ditch descending the escarpment are at similar elevations. However, as the proposed ditch descends the escarpment, in a number of locations it is at a higher elevation than the existing ditch. In order to mimic the existing ditch elevation, it is proposed that a perforated underdrain is to be placed in the existing ditch prior to placement of fill to create the new ditch. The purpose of the underdrain is to capture the ground water at the existing ditch elevation and daylight it to the ditch periodically as the proposed ditch descends the slope. The underdrain will be surrounded by a granular jacket to prevent clogging long term. By installing an underdrain in the proposed ditch at the existing ditch invert elevation the underdrain keeps groundwater flowing freely at its existing elevations. If there are existing groundwater inputs to the ditch as it descends the escarpment the underdrain is proposed to prevent these groundwater inputs from being impeded, thereby preserving these potential cold water inputs to downstream cool/cold water fisheries.

10. Class EA Process

(Comments 7, 8, 9, 12, 14, 15, 17, 34, 37, 43, 48, 51 and 59)

While the determination of the most appropriate Class EA category is not properly a part of the consideration of the application to amend the NEP, so that there can be no confusion, we respectfully submit that the proposed upgrading of Sideroad 26/27 is a Schedule A+ Municipal Class EA project. This characterization has been determined by the "Proponent", the Township of Clearview, in conjunction with its engineers, R.J. Burnside & Associates Limited (Burnside), and has been confirmed by the provincial Ministry responsible for review of these projects, the Ministry of Environment, Conservation and Parks¹.

For your reference, Schedule A+ Municipal Class EA projects include Reconstruction where the reconstructed road or other linear paved facilities will be for the same purpose, use, capacity and at the same location as the facility being reconstructed². As you know, the proposed project is the reconstruction of an existing Township road in the same "location", for the same "purpose" and "use" and for the same "capacity", all as defined in the Municipal Engineers Associations (MEA) Municipal Class Environmental Assessment document. The road will be reconstructed on the same alignment within the existing ROW, will continue to serve vehicular traffic and the travelling public and will be built to the Township of Clearview's minimum standard for a rural cross section road. Although a significant portion of the existing road is open year around, there is a portion, which for operational reasons, is not maintained through the winter months. This is an operational decision made by the Township of Clearview which could change at any time.

The project is therefore "Pre-approved" with acknowledgement that the public is to be advised prior to project implementation. Specifically, **Schedule A+ activities are Pre-approved**;

¹ On January 23, 2019, the MECP contacted the Niagara Escarpment Commission for the latest information on the project. Based on MECP's review of this information and the requirements of the Municipal Class Environmental Assessment, the MECP has determined that the Township's classification of the project as a Schedule A+ undertaking is appropriate. See attached MECP letter dated March 5, 2019.

² Item 19 of the Project Schedules, Municipal Class Environmental Assessment

however, the public is to be advised prior to project implementation³. No public consultation process is required during the EA phase of the project; however, a formal notice will be provided to the public when the design components are finalized, and the Township is in a position to proceed with the proposed project.

That said, although this is a Schedule A+ project in accordance with the MCEA Class Environmental Assessment, it is important to understand that there are a significant number of agency permits, authorizations and approvals required, over and above the permissions of NEC, all of which involve consultation with the respective agencies and the provision of appropriate mitigation measures.

11. Closure of Former County Road 91

(Comments 7, 8, 9, 12, 13, 15, 19, 20, 24, 33, 34, 35, 36, 37, 38, 39, 40, 42, 44, 45, 47, 48, 50, 51, 52, 56 and 58)

As stated above, the decision on whether to close a portion of former County Road 91 is not the subject matter of this application. This matter was addressed extensively as part of the Duntroon Quarry application and Joint Board hearing process. This application resulted in a Road Settlement Agreement, initiated by the Simcoe County and later endorsed through a subsequent agreement with Grey County and the decision of the Joint Board.

The Road Settlement Agreement is legally binding on all parties and the Township of Clearview is obligated to implement the terms of the agreement. Closure of a portion of former County Road 91 does not require an EA as it is a pre-approved project as identified in the MCEA as an A+ project.

It is understood that the closure of the western portion of County Road 91 and the downloading of a portion from Simcoe County to Clearview Township would reduce the volume of traffic on 91 and mitigate the need to reconstruct the road to a County standard. This action addressed the concerns of the local residents regarding the volume of traffic on 91 as well as the NEC's concern about the reconstruction of 91 to a County standard.

12. Proposal to Divert Former County Road 91

(Comments 12 and 42)

With respect, the Township of Clearview, not to mention the Niagara Escarpment Commission and the Niagara Escarpment Hearing Office, should not have to entertain or respond to the proposal presented by the BMWT to divert 91 through the existing Walker Industries quarry (on the south side of 91) as it is not the subject of this application and is not consistent with the Road Settlement Agreement, the NEC Development Permit or ARA site plans that were approved as part of the Duntroon Quarry..

Moreover, the proposal to introduce a major diversion of Road 91 raises a number of issues as follows:

The proposal does not mitigate the vehicle and truck traffic issues on 91 as raised by the
public and potentially generating the need for ultimate reconstruction of the road to a County
Standard which was opposed to by the NEC.

³ MCEA Section A.1.2.2

- The proposal to construct a new road through the quarry would have significant impacts on the Adaptive Management Plan for Walker's quarry.
- The proposed road diversion will pass through and impact a PSW.
- The proposal would require the re-negotiation of the Road Settlement agreement and would require revisions to approvals that were issued by the Joint Board in its decision on the Duntroon Quarry, including the NEC Development Permit and MNRF ARA site plans.

13. Increased Emergency Response Times

(Comments 9, 16, 24, 26, 27, 28, 33, 36, 38, 39, 40, 44, 45, 51, 54 and 56)

There will be no difference to response times in Grey Highlands for fire calls as the First response is from Singhampton and the Second response is from Grey Highlands Fire department. The Third response if required is from Nottawa or Stayner which in many cases would be shorter with the construction of 26/27 Sideroad. It is anticipated that the road may be paved shortly after the reconstruction subject to anticipated traffic volumes.

There is no certainty with respect to the location of ambulances dispatched or to which hospital they will travel to. Some residents may actually have better service than currently exists.

14. Potential Impact on Travel and Regional Transportation Alternatives

(Comments 7, 8, 9, 12, 14, 17, 19, 20, 26, 27, 33, 35, 36, 37, 38, 39, 41, 43, 44, 47, 48, 50, 51, 54, 56, 57, 59 and 61)

The County of Simcoe's decision to transfer ownership of County Road 91 to the Township, and close a portion of it, was endorsed by the County of Grey, as part of the Duntroon Quarry approvals. This decision was to address transportation issues and other factors and does not result in a major change to traffic patterns in the area.

26/27 Sideroad will be constructed and eventually paved to the same standard as the reconstructed 91 between the 10th Concession road and County Road 124 and will actually be to a higher standard than the existing 91 between the 10th Concession and the Town line and as the traffic volumes on 26/27 are anticipated to be lower, the use of the reconstructed 26/27 will actually be safer than 91.

In any event, it is not the responsibility of the Township of Clearview to address Regional Transportation issues, certainly not through the proposed upgrades to an existing Township sideroad.

15. Road Design

(Comments 7, 12, 13, 26, 27, 28, 31, 38, 39, 41, 43, 47, 51, 52, 57 and 60)

The typical road cross section as shown on the engineering drawings conforms to the Township's minimum standard for a rural cross section road with respect to lane and shoulder widths and the proposed road profile meets the geometric design standards for a 70 km/hr design speed. This provides for 3.5 metre wide driving lanes, 1.0 metre shoulders and 0.25 m rounding. The sight distances on the vertical curves meet the requirements of a 70 km/hr design speed with the intent that the road will be posted for a 60 km/hr speed limit.

This is the same standard used for the reconstruction of 91 between the 10th Concession and County Road 124 (Duntroon) and consequently the reconstructed road will have the same lane and shoulder widths and sight distances as the reconstructed portion of former County Road 91. This standard will exceed the current conditions found on 91 between the 10th Concession and the Grey/Simcoe Townline.

The steepest gradient on the proposed reconstructed 26/27 Sideroad is 11.87 % for a road section of approximately 200 metres in length. The gradient over the 500 m of road up the escarpment slope ranges from 10.77% to the 11.87% noted above. The balance of the road which is over 2 km in length has gradients of 7% or less. The statement that the gradient on 26/27 Sideroad is twice as steep as 91 is just not factual.

We have made some comparisons on other roads on the escarpment and note that the proposed gradient is not unusual. There are many examples, but we provide nine (9) examples below for comparison purposes:

- Lavender Hill south of Dunedin 12.9%
- Jardine Sideroad just west of Townline 11.99%
- 21/22 Sideroad just west of County Road 124 –11.7%
- 10th Concession just south of 12/13 Sideroad 13%
- Concession 10 just north of 6/7 Sideroad 13.4%
- Section of 91 as reconstructed one section at 10.67%
- Section of 91 west of Concession 10 11.3%
- Grey Road 119 (Scenic Caves Road) 12%
- Grey Road 30 Bowles Bluff Road 12%

Steeper grades are often found on escarpment roads as a result of the natural slopes and topography and the desire to mitigate the impact on the surrounding/adjacent lands.

The objective of the proposed design was to mitigate the impact on the adjacent lands and environment and to complete the proposed reconstruction within the existing Right of Way. This has been accomplished but did require that ditch backslopes be steepened in many areas. The ditch back slopes are similar to many other roads on the escarpment and similar to the reconstructed portion of 91. Similar to 91 slope protection has been incorporated to stabilize any of the steeper slopes.

Considerable effort was made to design a safe road that respects the adjacent natural features and drainage, and to design an efficient LID stormwater management system with erosion and sedimentation controls which are described in previous sections of this letter.

It was the original intent to retain a gravel surface for a period in an attempt to encourage Regional traffic to use County Road 124 from Singhampton to Duntroon rather than 26/27 Sideroad. It is anticipated that the road may be paved shortly after the reconstruction subject to anticipated traffic volumes.

The road design has evolved with minor adjustments to mitigate the impact on the adjacent environment. Efforts have been made to preserve existing trees and vegetation as much as possible, to mitigate the impact on the streams and adjoining wetland areas.

It is noted that the reconstruction of 26/27 Sideroad has been addressed in a Visual Impact Assessment and due to the nature of the topography in the area, the existing or the improved road has very little visibility from the surrounding area unless you are on the road itself. This is not the case with 91 which is visible from much of central and north Simcoe County. The NEC objected to the reconstruction of 91 to a County standard due to the visual impacts of such a project. The visual impact of reconstructing 26/27 is much less than that of reconstructing 91 to a County standard.

16. Public Safety

(Comments 7, 8, 9, 11, 16, 17, 19, 20, 21, 26, 27, 31, 35, 38, 39, 40, 41, 42, 43, 44, 47, 48, 50, 51, 54, 55, 56, 57, 59 and 61)

As an active transportation corridor, the road is subject to the impacts from regular vehicular traffic which generates the need for ongoing maintenance of the road surface and drainage features. As required by the Provincial Road Maintenance Standards and typical of the Township's approach on the overall road system, the Township monitors the road conditions and implements the required maintenance works to ensure the road is as safe as possible for the travelling public and to mitigate any potential liability associated with the road conditions.

The Bruce Trail crosses the existing 26/27 Sideroad and hikers need to traverse relatively steep slopes from the Trail down to the road surface. In its submission of June 24, 2019, the Bruce Trail Conservancy has stressed the need for pedestrian crossing safety and parking. There is currently some informal (not a legally recognized or designated parking area) parking on 26/27 which is not currently a safe practice. The road elevation at the Bruce Trail crossing will be raised and culverts are proposed to facilitate hikers crossing the roadside ditches. This will improve the safety of the hikers crossing the road with a flatter trail surface and improved visibility. It is acknowledged that there may be more traffic on 26/27 after the proposed reconstruction but improved visibility and a flatter trail surface will offset the impacts of more traffic. It is also noted that the Bruce Trail crosses many other municipal roads where traffic is anticipated to be even higher than 26/27 Sideroad. Such examples being the existing Road 91 and County Road 124.

The Township of Clearview is open to discussions relative to the creation of off-road parking in the vicinity of the Bruce Trail crossing but it would not be immediately adjacent to the current crossing and it is reiterated that there is no designated /legal parking on the road now.

The reconstructed 26/27 will be to a higher standard than the existing 91 between the 10th Concession and County Road 124. The existing 91 is not built to a County Standard and the portion between the 10th Concession and the Townline does not even meet the Township's minimum standard relative to lane and shoulder width and sight distances.

It has been suggested that the speed limit should be reduced to 50 km/hr. Experience has shown that drivers will drive at speeds based on the roadside environment and a 50 km/hr posted speed is unreasonable for the roadside environment found adjacent to the road.

Should you have any questions, please contact our office to discuss.

Yours truly,

R.J. Burnside & Associates Limited

Don McNalty, P.Eng.

Senior Municipal Engineer

DMcN:sj

Enclosure(s) Comments Matrix – Last revised 04/14/2020

MECP March 5, 2019 letter regarding EA Classification

cc: Nancy Frieday, GSP Group, Via: Email (nfrieday@gspgroup.ca)

Harold Elston, Elston Watt Barristers and Solicitors, Via: Email (helston@elstonwatt.ca)

Steve Sage, Township of Clearview, Via: Email (ssage@clearview.ca)

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April 16, 2020

Via: Email (georgepowell@gmail.com)

George Powell, P.Eng.
Vice Chair Watershed Action Group
Blue Mountain Watershed Trust Foundation

Dear Mr. Powell:

Re: Blue Mountain Watershed Trust Comment Response

Proposed NEP Amendment PS 215 18 Township of Clearview, Sideroad 26/27

Project No.: 300034587.0000

R.J. Burnside & Associates Limited ("Burnside") received the document outlining the comments provided by the Blue Mountain Watershed Trust (BMWT) and received by the Niagara Escarpment Commission on May 28, 2019. The document was prepared by George Powell, Vice Chair of the BMWT, with contributions by Gary Hunter, Karl Schiefer and Sarah Mainguy based on their review of documents and site visits. We provide responses to the comments below as prepared by Burnside staff in various disciplines.

Section B – Conclusions of the 28 page submission authored by the BMWT contains five (5) conclusions which are quoted below:

- Reconstruction of Clearview Sideroad 26/27 has been carried as a Schedule A+
 undertaking. A schedule that does not require public consultation, problem definition or the
 study of alternatives. It is a serious misinterpretation of the Environmental Assessment Act
 and should be withdrawn and a Schedule C MCEA undertaken.
- 2. Reconstruction of Sideroad 26/27 is a flawed decision because of its unique location on the Niagara Escarpment, where species at risk, bat habitat, fish habitat, natural features such as steep slopes, woodlands, wetlands, ground water seeps and springs are encountered.
- 3. There are better alternatives to the proposed closing of County Road 91 than a sub-standard very expensive (estimate is currently at \$4,000,000) reconstruction of Sideroad 26/27. They should be evaluated in an open, transparent manner, which properly engages the public.
- 4. Sideroad 26/27 presently services the area residences located along the road allowance in all seasons and there is no need to make this seasonal road an all-weather road.

5. County Road 91 has served Simcoe and Grey Counties for many years as an established, safe intercounty transportation link. There was no adequate public consultation or traffic study supporting the closure and transfer of this County Road to Walker. Its closure and transfer out of public hands, has not followed proper Municipal Class Environmental procedure in accordance with the *Environmental Assessment Act*.

Burnside provides the following response to the above noted conclusions:

- 1. While the determination of the most appropriate Class EA category is not properly a part of the consideration of the application to amend the NEP, so that there can be no confusion, we respectfully submit that the proposed upgrading of Sideroad 26/27 is a Schedule A+ Municipal Class EA project. This characterization has been determined by the "Proponent", the Township of Clearview, in conjunction with its engineers, R.J. Burnside & Associates Limited (Burnside), and has been confirmed by the provincial Ministry responsible for review of these projects, the Ministry of Environment, Conservation and Parks (MECP). Please refer to correspondence received by BMWT from MECP of March 5, 2019.
 - For your reference, Schedule A+ Municipal Class EA projects include Reconstruction where the reconstructed road or other linear paved facilities will be for the same purpose, use, capacity and at the same location as the facility being reconstructed. As you know, the proposed project is the reconstruction of an existing Township road in the same "location", for the same "purpose" and "use" and for the same "capacity", all as defined in the Municipal Engineers Associations (MEA) Municipal Class Environmental Assessment document. The road will be reconstructed on the same alignment within the existing ROW, will continue to serve vehicular traffic and the travelling public and will be built to the Township of Clearview's minimum standard for a rural cross section road. Although a significant portion of the existing road is open year around, there is a portion, which for operational reasons, is not maintained through the winter months. This is an operational decision made by the Township of Clearview which could change at any time.
- 2. 26/27 Sideroad is an existing road and the location has been established by the original lot fabric survey for the former Township of Nottawasaga, now the Township of Clearview. The Environmental Impact Study has identified potential environmental impacts and the proposed design has mitigated the impacts and will in fact mitigate certain existing negative impacts on the environment from the existing gravel road.
- 3. The decision on whether to close a portion of former County Road 91 is not the subject matter of this application. This matter was addressed extensively as part of the Duntroon Quarry application and Joint Board hearing process. This application resulted in a Road Settlement Agreement, initiated by Simcoe County and later endorsed through a subsequent agreement with Grey County and the decision of the Joint Board. The Township of Clearview is simply fulfilling the terms of an agreement entered into as a result of the Joint Board hearing on the Walker quarry expansion and the Joint Board was secure in the knowledge that Sideroad 26/27 would be reconstructed, as discussed during the hearing proceedings.

We wish to also clarify that the proposed reconstructed 26/27 Sideroad will be built to a higher standard than the existing Road 91 between the 10th Concession and the Clearview/Grey Highlands Townline.

4. The road must be reconstructed to serve the vehicular traffic that is on the road throughout the whole year. The maintenance of the lower portion of the road in the winter is an operational decision made by the road authority (Township of Clearview).

- 5. The decision to download CR 91 to the Township and close a portion of CR 91 (now a Township Road) was initiated by the County of Simcoe and endorsed by the County of Grey as noted above. This decision was to address transportation issues and other factors and does not result in a major change to traffic patterns in the area.
 - 26/27 Sideroad will be constructed and eventually paved to the same standard as the reconstructed 91 between the 10th Concession road and County Road 124 and will actually be to a higher standard than the existing 91 between the 10th Concession and the Clearview/Grey HighlandsTownline and as the traffic volumes on 26/27 are anticipated to be lower, the use of the reconstructed 26/27 may actually be safer than 91.

In any event, it is not the responsibility of the Township of Clearview to address Regional Transportation issues, certainly not through the proposed upgrades to an existing Township sideroad.

Section C - Recommendations

The BMWT recommended to the NEC that the Niagara Escarpment Plan Amendment application should be denied and further, that the appeal of the refusal of the Niagara Escarpment Development Permit, currently before the Environmental Review Tribunal should be postponed until an appropriate Schedule of MCEA is completed.

Burnside notes that the basis of the BMWT recommendation provides limited, if any, position on the merits of the proposed NEP Amendment application.

Section D – Background

Generally this section contains the historic background of the project from the NEC's decision on the Development Permit through to BMWT's comments on the NEP amendment. The opinion comments contained within this section are captured in the Conclusion Section above and hence are repetitive in nature. Burnside responses to the conclusion section (see Section B) above address the opinion comments within this section of the submission.

Section E – Transportation Concerns

County Road 91

The decision on whether to close a portion of former County Road 91 is not the subject matter of the NEP amendment application. This matter was addressed extensively as part of the Duntroon Quarry application and Joint Board hearing process which resulted in a Road Settlement Agreement, initiated by the Simcoe County and later endorsed through a subsequent agreement with Grey County and the decision of the Joint Board.

The Road Settlement Agreement is legally binding on all parties and the Township of Clearview is obligated to implement the terms of the agreement. Closure of a portion of former County Road 91 is a pre-approved project as identified in the MCEA as an A+ project.

It is understood that the closure of the western portion of County Road 91 and the downloading of a portion from Simcoe County to Clearview Township would reduce the volume of traffic on 91 and mitigate the need to reconstruct the road to a County standard. This action addressed the concerns of the local residents regarding the volume of traffic on 91, as well as the NEC's concern about the reconstruction of 91 to a County standard.

With respect, the Township of Clearview, not to mention the Niagara Escarpment Commission and the Niagara Escarpment Hearing Office, should not have to entertain or respond to the proposal presented by the BMWT to divert 91 through the existing Walker Industries quarry (on the south side of 91) as it is not the subject of this application and is not consistent with the Road Settlement Agreement, the NEC Development Permit or ARA site plans that were approved as part of the Duntroon Quarry. This proposal was contained in Appendix 3 of the submission which was a report prepared by Hunter and Associates ("Hunter proposal") dated April 26, 2019.

Moreover, the proposal to introduce a major diversion of Road 91 raises a number of issues as follows:

- The proposal does not mitigate the vehicle and truck traffic issues on 91 as raised by the
 public and potentially generating the need for ultimate reconstruction of the road to a County
 Standard which was opposed to by the NEC.
- The proposal to construct a new road through the quarry would have significant impacts on the Adaptive Management Plan for Walker's quarry.
- The proposed road diversion will pass through and impact a PSW.
- The proposal would require the re-negotiation of the Road Settlement agreement and would require revisions to approvals that were issued by the Joint Board in its decision on the Duntroon Quarry, including the NEC Development Permit and MNRF ARA site plans.

Sideroad 26/27

The comments within this section are repetitive in nature and content to the comments in the Section B – Conclusions, as well as other sections of the submission. The opinion comments provided in this section are generally already addressed. In addition, we offer the following responses below.

The typical road cross section as shown on the engineering drawings conforms to the Township's minimum standard for a rural cross section road with respect to lane and shoulder widths and the proposed road profile meets the sight distance requirements of the geometric design standards for a 70 km/hr design speed although the intended posted speed will be 60 km/hr. This is the same standard used for the reconstruction of 91 between the 10th Concession and County Road 124 (Duntroon). This standard will exceed the current conditions found on 91 between the 10th Concession and the Grey/Simcoe Townline.

The steepest gradient on the proposed reconstructed 26/27 Sideroad is 11.87 % for a road

section of approximately 200 metres in length. The statement that the gradient on 26/27 Sideroad is twice as steep as 91 is just not factual.

We have made some comparisons on other roads on the escarpment and note that the proposed gradient is not unusual. There are many examples, but we provide nine (9) examples below for comparison purposes:

- Lavender Hill south of Dunedin 12.9%
- Jardine Sideroad just west of Townline 11.99%
- 21/22 Sideroad just west of County Road 124 –11.7%
- 10th Concession just south of 12/13 Sideroad 13%
- Concession 10 just north of 6/7 Sideroad 13.4%
- Section of 91 as reconstructed one section at 10.67%
- Section of 91 west of Concession 10 11.3%
- Grey Road 119 (Scenic Caves Road) 12%
- Grey Road 30 Bowles Bluff Road 12%.

Steeper grades are often found on escarpment roads as a result of the natural slopes and topography and the desire to mitigate the impact on the surrounding/adjacent lands.

The objective of the proposed design was to mitigate the impact on the adjacent lands and environment and to complete the proposed reconstruction within the existing right-of-way. This has been accomplished but requires that ditch backslopes be steepened in some areas. The ditch back slopes are similar to many other roads on the escarpment and similar to the reconstructed portion of 91. Similar to 91, slope protection has been incorporated to stabilize any of the steeper slopes.

It is noted that the reconstruction of 26/27 Sideroad has been addressed in a Visual Impact Assessment and due to the nature of the topography in the area, the existing or the improved road has very little visibility from the surrounding area. This is not the case with 91 which is visible from much of central and north Simcoe County. The NEC objected to the reconstruction of 91 to a County standard due to the visual impacts of such a project. The visual impact of reconstructing 26/27 is much less than that of reconstructing 91 to a County standard.

Section F – EIS Review of the submission authored by the BMWT provides 40 comments under the title of R.J. Burnside Environmental Impact Study (EIS) Review. Many of the comments are repetitive in nature and have been addressed in a comprehensive response letter addressed to Nancy Mott of the Niagara Escarpment Commission dated April 14, 2020.

This section of the BMWT submission makes reference to Appendix 3 that contains a report prepared by Hunter and Associates ("Hunter proposal") dated April 26, 2019. This was also referenced in Section E and a response has been provided in that section.

Below we provide responses to comments generated by Karl Schiefer, Aquatic Biologist and Sarah Mainguy, Senior Ecologist with North South Environmental.

Section G - Environmental Concerns (prepared by Sarah Mainguy, Senior Ecologist)

Section G of the BMWT submission pertains to environmental concerns that were addressed by Ms. Sarah Mainguy from North South Environmental Inc. (NSE) on behalf of the BMWT. Below is a summary of the comments in Section G of the BMWT submission followed by a response by Burnside.

1. Bird Survey timing missed early nesting period.

Response: The bird surveys were completed on June 30 and July 10, 2014 within the peak nesting period and were completed as per standard breeding bird survey protocol including timing. It is understood that the Regional (C2 nesting zone Identified by Environment Canada) nesting period of the site is early April to late August. This peak nesting period is May 22 to July 21 for forest habitats (61-100% known species breed in this window), May 20 to July 21 for open habitats (61-100% known species breed in this window) and May 10 to July 18 for wetland habitats (61-100% known species breed in this window). We clarify and acknowledge that the timing of the breeding bird surveys may have missed documenting the early nesting grassland birds listed if present on the agricultural fields; however, no impacts to their habitat will occur.

North-South Environmental found more wetland cover.

Response: Wetland mapping was completed with David Featherstone (NVCA Watershed Ecologist) for the entire NVCA regulated portion on August 3, 2016 from Concession 10 to east of the toe of the escarpment (starting at the west limit of Tributary A) and trust that the authority was correct with the interpretation of the conditions. Mapping was completed by NVCA flagging the limits and the points collected by the Burnside surveyor using equipment with survey grade precision to collect the locations. The majority of the GSCA regulated area is identified as the Rob Roy PSW. It has been our experience that wetland boundary staking generally is accepted by Conservation Authorities between the end of May and until the first frost (late September to early October) that is dependent on the review of vegetation during the active growing season, and assessing vegetation communities (including wetlands) in November will not provide the same findings as surveys completed during the growing season.

Wetlands are high quality, different plant species found by NSE compared to Burnside.

Response: The ELC and associated vegetation inventory was completed by Burnside staff in June and July, 2016 and the NSE review was completed in November 2016. Different plant species would have been evident at these different times of year. Wetland vegetation inventories were based on the natural feature delineation that included the wetland delineation completed by NVCA. Within the impacted areas, there are no unique ecological features and functions and the Township will work with the NVCA and GSCA to compensate for any wetland removal as part of the NVCA and GSCA permit application process.

4. Wetlands dependent on groundwater flow - concern regarding the underdrain.

Response: Referencing Note 2 on Drawing No. C-010 the underdrain is to be placed at the existing ditch elevations, so no new hydraulic connections are created when compared to the existing ditch.

With respect to the perforated pipe cross-connections from south to north (shown on the bio-retention and perforated pipe stormwater management concept plan detail), the cross-connections are to be located adjacent to the proposed culvert locations. The depth of the cross connection would not exceed the proposed culvert depth. As such, no adverse impact to groundwater elevations is anticipated.

5. Amphibian survey conclusions incorrect.

Response: We acknowledge that the Western Chorus Frog is ranked S3 (Vulnerable). The function of the Rob Roy PSW supports amphibian breeding including Western Chorus Frog, and therefore Habitat for Species of Conservation Concern (Significant Wildlife Habitat) was noted in the NSE letter.

We also acknowledge that the Significant Wildlife Habitat for Amphibian Breeding Habitat (Woodland) should have been identified based on the species recorded within the Rob Roy Swamp.

6. Additional wetland to be addressed.

Response: Wetland mapping was completed with David Featherstone (NVCA Watershed Ecologist) for the NVCA portion and trust that the authority was correct with the interpretation of the conditions.

7. Support of traffic study comment about ever increasing traffic.

Response: Burnside has witnessed, firsthand, the increased traffic in the area and the increased traffic on the existing road from numerous site visits over a number of years.

8. Impacts to seeps and springs.

Response: The proposed road improvements and associated drainage system recognize the potential presence of seeps and springs in the project area and a series of perforated pipes and upgraded culverts are proposed to emulate the existing filtration patterns.

Roadside ditches and porous roadbed impact wetlands.

Response: Ditches and roadbed are an existing condition.

10. Disruption of vegetation in small wetlands, replacement with invasive species.

Response: The small wetlands identified by NSE are already subject to existing road impacts, including invasive species colonization. All disturbed areas will be reseeded with native vegetation to reduce weed competition.

11. Impacts and mitigation to Rob Roy PSW to be addressed further – vegetation removal, erosion, sedimentation impacts, change in water balance.

Response: Section 7.1.1 of the 2018 Burnside EIS identifies extent of loss of vegetation, and the issues of erosion and sedimentation are resolved in the ESC plan.

The water balance as a result of the improved road design has been reviewed by the GSCA with respect to the Rob Roy PSW located on the north and south side of Sideroad 26/27, and they are satisfied with the EIS recommendations. The wetland will be protected by proposed enhanced grassed swales upstream which are known to provide a water quality, water balance and erosion control benefit (TRCA CVC Low Impact Development Stormwater Management Planning and Design Guide, 2010). There is 25 m³ of stormwater storage provided in ditches by the enhanced swale design (Appendix C of the SWM Report).

It is also worth noting that the future paved area of the road comprises an area that covers roughly 2%* of the catchment that drains toward the intersection on either side of the road, so it has been determined that there will be a water balance change of less than 2% even if there were no enhanced grassed swales. The enhanced grassed swales further reduce the potential change in water balance. Such a small change should be considered insignificant relative to the wetland area.

*Note the ROW was modelled as a single catchment. It contained 0.42 ha of paving in post development conditions. Half of the ROW would contain 0.21 ha of paving. The half ROW plus external catchment area is approximately 10.5 ha. 0.21/10.5*100% = 2%.

12. Culvert impacts to water balance.

Response: No new proposed culverts crossing 26/27 Sideroad are planned where currently none exist (replacement only). The only culverts proposed are replacement culverts. In some locations the culvert is to be enlarged to meet current municipal standards. No changes in water balance are expected in the wetlands.

13. Erosion control to be more rigorous to prevent non-native species invasion.

Response: An ESC plan has been prepared specific to site conditions to reduce erosion beyond the workzone. Implementation of post-construction seeding will promote the colonization of soils by native species.

14. Ecopassages to address impacts to amphibians and small animals, not drainage. The NSE report recommends that amphibian road mortality surveys are done to plan locations of ecopassages.

Response: Ecopassages and wildlife exclusion fencing will be used in concert to reduce impacts to smaller wildlife in the east portion of the project area. Culverts are identified as needed for stormwater management with ecopassage capacity added to them as a further enhancement. Any sections of road that divide 2 wetland pieces may be considered possible areas for amphibian crossing so the ecopassages and wildlife fencing will direct wildlife away from uncontrolled crossings, which is intended to reduce potential mortality. We acknowledge that there is proposed wildlife exclusion fencing but no ecopassage being installed at the Rob Roy PSW portion of the site (west limit). We will work with the Conservation Authority staff to mitigate impacts of road mortality while maintaining functional connections between the wetland portions on the north and south sides of the road.

15. Soil is erodible and disturbance of the soils can reduce wetland function.

Response: The ESC plan has been designed to address soil issues through the construction period and a seed mix applied to the post-construction soils will stabilize ditches, road embankments and culverts.

16. Endangered Bat species habitat.

Response: This component of the work was completed by Skelton Brumwell & Associates Inc. and MNRF accepts the findings and recommends that no tree cutting shall occur between April 1st and October 31 to protect endangered bat species.

17. Higher level of MCEA than A+.

Response: Concern is noted and has been addressed previously in this letter.

Section H – Fisheries Concerns (prepared by Karl Schiefer, Aquatic Biologist) of the BMWT submission also contains fishery concerns which are summarized below followed by a Burnside response.

1. Very poor location to construct a road.

Response: 26/27 Sideroad is an existing road and all work is proposed within the right-of-way that has been planned for the road.

2. Road siting based on Ontario grid system.

Response: Acknowledged.

3. This is an area with significant ground water discharges and seeps.

Response: The proposed road improvements and associated drainage system recognize the potential presence of seeps and springs in the project area and a series of perforated pipes and upgraded culverts are proposed to emulate the existing filtration patterns.

4. Maintenance of road is impairing aquatic ecosystem.

Response: Agreed that the existing condition is causing ongoing impacts to the watercourse. Sediment laden run-off entering the watercourse will continue to impair the aquatic ecosystems if the proposed road improvements are not implemented. The proposed upgrades to the road conditions are designed to control run-off to reduce impact to the aquatic ecosystems.

5. Impacts to aquatic habitat based on poorly designed culverts and ditches.

Response: We acknowledge many of the existing culverts are in poor condition and it is proposed that they will be replaced by properly designed and installed culverts. The concern of ongoing erosion and water quality impairment will be addressed by the proposed road upgrades and detailed stormwater management (SWM) practices.

6. A new road wouldn't have been constructed if one didn't already exist.

Response: The existing road needs to be improved to avoid further impacts from run-off.

7. Hardened surface will increase the speed of run-off.

Response: The Nottawasaga 26/27 Sideroad Stormwater Management Report (October 2018) included in the EIS contained modelling of runoff rates to each of the 26/27 Sideroad outlet locations. In the proposed condition modelling an assumed paved road surface 9.0 m wide is modelled for the entire length of 26/27 Sideroad from the Townline to Concession 10. The 9.0 m paved width represents the maximum potential paving scenario and is assumed as a conservative (maximum) paved surface which must be considered in the stormwater management calculations. A comparison of modelled existing and proposed runoff rates reveals that proposed and existing peak flows are generally the same. In addition, based on the proposed ditch design, run-off will be captured and allowed to infiltrate into the stormwater management system which will reduce run-off intensity and discharge to the receivers. Refer to the Nottawasaga 26/27 Sideroad Stormwater Management Report (October 2018) for more detail.

8. Aggregates imported for dump and grading without erosion control.

Response: We agree that the existing condition is causing ongoing impacts to the watercourse. Sediment laden run-off entering the watercourse will continue to impair the aquatic ecosystems if the proposed road improvements are not implemented. The proposed upgrades to the road conditions are designed to control run-off to reduce impact to the aquatic ecosystems.

9. Road grade and potential to erode considerable amounts of materials.

Response: The proposed design includes an asphalt road stormwater management practices including vegetated ditches that conform to Municipal standards that will reduce erosion and reduce current impacts to downstream properties.

10. Significant negative effect on aquatic ecosystems and fish habitat from turbidity, bed load scour.

Response: We agree that the adjacent stream habitat has been impacted by erosion of current gravel road material. The proposed upgrades to the road conditions are designed to eliminate erosion and reduce sediment transport to reduce impact to the aquatic ecosystems..

11. Invertebrate fauna presence is well below what would be considered natural.

Response: If invertebrate fauna is considered to be low within the existing conditions, then improvements to water quality and invertebrate diversity can be expected through improved road design and construction. Potentially, invertebrate taxa and diversity should improve due to less scour and erosion that is significantly reduced based on the proposed stable slopes and road bed (asphalt) design.

12. Proposed expansion will magnify existing problems.

Response: Existing problems relate to the current three season road that is impacting aquatic habitat due to use and run-off. The impacts will be reduced to aquatic habitats following the road improvements.

13. Loss of natural stream habitat from widening.

Response: The proposed road widening will only impact a short 22 m section of Tributary A. This stream section will be realigned not far from the original channel following natural stream channel design characteristics. The new realignment has been approved by the Department of Fisheries and Oceans (DFO) under a Letter of Advice (June 19, 2017).

14. Increase in hardened surfaces creating greater downstream erosion.

Response: The proposed stormwater Low Impact Development (LID) system is designed to accommodate seasonal precipitation events and infiltrate run-off to reduce increased volumes and intensity to downstream receivers. See also response to Comment #7.

15. Potential to increase summer water temperatures in a predominately spring-fed cold water stream.

Response: The proposed Low Impact Development storm water management system is designed to allow stormwater run-off to infiltrate into the ground allowing water temperatures to decrease prior to discharge into nearby cold water streams. Channelization of nearby streams is not being proposed.

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16. Increased risk of water contamination with greater volumes and intensity of road use.

Response: The risk from vehicle related spills is considered very low. Many cold water streams with healthy aquatic biota are found adjacent to paved roads in Ontario. The use of sand and salt (pickled sand) was considered as part of this application and modelled potential chloride levels in adjacent streams will be below the federal (CCME) chloride Guidelines for the protection of freshwater Aquatic Life.

17. Increasing the frequency of large vehicles will accentuate existing environmental problems.

Response: It is our expectation that the proposed road improvements will reduce the existing problems related to the aquatic environment.

18. Increase wildlife mortality, impacts to hikers and bikers.

Response: Terrestrial wildlife mortality comments are addressed in the responses to Sarah Mainguy regarding the EIS.

19. Impacts to users of the Bruce Trail.

Response: This comment falls outside of the scope of fisheries.

20. Decommission the steep gradient section of 26/27.

Response: This comment falls outside of the scope of fisheries.

21. Considerable effort to control erosion if kept as a seasonal road.

Response: We agree, but if the road is kept as a seasonal road there is no process or methodology for erosion control to be improved, therefore, existing impacts to adjacent streams will continue. The proposed improvements to upgrade the road will address the erosion and aquatic habitat impacts by ensuring all slopes are stable and vegetated.

Least desirable outcome based on topographic, hydrologic and ecological conditions.

Response: It is our expectation that the proposed road upgrades will provide a net benefit to the aquatic environment and fish habitat adjacent to the road. Comments on other environmental issues were addressed in the preceding section.

Section I – Clearview Planning Concerns: The comments within this section described as a "Discussion with respect to Skelton Brumwell & Associates (SBA) Planning analysis".

Burnside will not provide responses in this regard but note that the comments are repetitive of comments provided earlier in the submission to which responses have been provided.

Yours truly,

R.J. Burnside & Associates Limited

Don McNalty, P.Eng. Senior Engineer

DMcN:sj

Enclosure(s) None

cc: Nancy Mott, Niagara Escarpment Commission, Via: Email (Nancy, Mott@ontario.ca)

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April 17, 2020 File No. 19242

Via Email: GeorgeH@mckibbonwakefield.com

Mr. George McKibbon, MCIP, RPP, AICP CEP McKibbon Wakefield Inc.
Environmental Planning
27 Linwood Ave.
Port Colborne, ON L3K 5J4

Dear Mr. McKibbon:

Re: Proposed Niagara Escarpment Plan Amendment (NEPA) PS 215 18 Township of Clearview (Sideroad 26/27)

In the latter part of 2019, GSP Group was retained by the Township of Clearview (Township) to act as their planning consultant in the matter referenced above. All comments received by the Niagara Escarpment Commission (NEC) staff were forwarded to our office for review.

In your letter dated June 24, 2019 you advised NEC staff that your client Mr. David Stevenson requested your planning opinion on the Planning Justification Report dated October 2018, prepared by another planning consultant. Your letter provides seven (7) reasons why the Township's current planning justification is insufficient. Below your reasons are quoted in italics followed by our response.

 These Niagara Escarpment Plan ("NEP") amendment applications are before the Commission because of an agreement between Simcoe County, The Township of Clearview and the Walker Aggregates Inc. made during the review of the Walker Aggregate Quarry applications.1 [Footnote not provided here]

Our understanding of the impacts of the proposed roadbed and the application of the Niagara Escarpment Planning and Development Act ("NEPDA") and the NEP to Amendment PS 215 18, indeed the works required on the road bed are substantially different from that which existed at the time of the Walker Aggregate



Quarry hearing. Indeed no one during that hearing could reasonably foresee an Escarpment Plan amendment of this magnitude!

The matters that Board decided involved the approval of the quarry, not these Sideroad applications. To the extent to which the Board did address swapping the ownership of the County Road section, the Board declined to re-designate that section Mineral Aggregate Resource in the Escarpment Plan. As explained to me, and from the Decision of the Joint Board, consideration of the impacts of the Sideroad applications was not examined at the hearing. Proof of this fact is the discovery of the wetland feature during field work conducted long after the hearing.

Response to Reason 1

The current condition of Sideroad 26/27 is resulting in environmental impacts and health and safety risks. The Township of Clearview is the public authority responsible for this road and has deemed it necessary and in the public interest to upgrade this road to minimum municipal standards.

To permit these improvements, an application for a Niagara Escarpment Development Permit (NEDP) was submitted to the NEC on January 31, 2014. All of the proposed work is located within the existing right-of-way of Sideroad 26/27. In the NEC decision on the Development Permit, the Commission deemed that the proposed improvements to Sideroad 26/27 were not essential or in the public interest. The Commission's decision was contrary to the recommendation of NEC staff and the decision of the road authority, the Township. As a result, of the Commission's decision the Township filed the proposed Niagara Escarpment Plan (NEP) Amendment.

A series of technical studies completed on behalf of the Township identified the location of key natural heritage features, and included mitigation measures to minimize the impacts. These technical studies included: the Environmental Impact Study (EIS) (October 2018); the Hydrogeological Report (August 2018); the Stormwater Management Report (October 2018); the Final Bat Habitat Report (March 2019); the Department of Fisheries and Ocean Submission (September 2016); the Visual Impact Assessment (August 2015); and the Geo-Technical Investigation (March 2015).

2. The applications before the Niagara Escarpment Commission will sever the continuous natural Escarpment environment in this area by creating and widening an edge in the forest canopy and by cutting into the Escarpment face and filling the lower section. These actions will create a hard physical linear edge severing a natural environment of recognized importance along the Niagara Escarpment isolating biologically a Provincial Nature Reserve Park in return for the future extraction of a small section of the County road lying between two licensed quarries well removed from the Escarpment face. Mr. Wynia's report does not deal with this central problem to the applications.

I rely on the expert environmental report of the Blue Mountain Watershed Trust, dated May 24, 2019 which clearly indicates the impacts to the Escarpment and significant natural heritage features will be profound and not capable of being ameliorated through mitigation.

Response to Reason 2

The applications before the NEC are to improve an existing road to minimum municipal standards within the existing right-of-way. The current condition of Sideroad 26/27 is resulting in environmental impacts and health and safety risks. The Township of Clearview is the public authority responsible for this road and has deemed it necessary and in the public interest to upgrade this road to minimum municipal standards.

The 2017 NEP permits "Infrastructure" in the Escarpment Natural Area, Escarpment Protection Area and Escarpment Rural Area, subject to the Development Criteria in Part 2 of the Plan. Part 2 of the NEP permits infrastructure within key hydrologic features and key natural heritage features, where the project has been deemed necessary to the public interest and after alternatives have been considered.

Where an impact has been anticipated as a result of the proposed infrastructure project, mitigation measures are proposed. We disagree that the impacts to the Escarpment and significant natural heritage features will be "profound and not capable of being ameliorated through mitigation".

Your statement is not supported by the series of technical studies completed on behalf of the Township, including: Environmental Impact Study (EIS) (October 2018);

Hydrogeological Report (August 2018); Stormwater Management Report (October 2018); and the Bat Habitat Report, Final, (March 2019). Your statement is also not supported by comments received from the Grey Sauble Conservation Authority (GSCA) and the Nottawasaga Valley Conservation Authority (NVCA), the Ministry of Natural Resources and Forestry (MNRF) and the Ministry of Environment, Conservation and Parks (MECP).

In addition, there is also no evidence to support your statement that the widening of Sideroad 26/27 will sever the natural environment and isolate a Provincial Nature Reserve Park.

We note that we have reviewed the Blue Mountain Watershed Trust (BMWT) submissions and a separate letter has been sent to the BMWT with responses to their concerns.

Within Reason 2 you mention that prominent natural features will be severed and that this is "in return for the future extraction of a small section of the County road lying between two licensed quarries". This statement is simply incorrect. The section of former County Road 91 (now Township Road 91) that you refer to has <u>not</u> been designated in the NEP to permit the extraction of aggregate.

3. The 2017 NEP treats transportation infrastructure differently than comparable policy in the previous Niagara Escarpment Plan. Setbacks from the Niagara Escarpment brow are now required. The revised Plan also emphasizes a landscape approach, which is more rigorous. This emphasis is further refined and applied in the purpose statement for the Escarpment Natural Area designation where climate change and essential ecological services are concerned. These require a very different analytical approach where a proposal to sever the continuous Escarpment natural environment is concerned. Neither the planning justification or Commission staff reports prepared by Michael Wynia and Nancy Mott supply that analysis or suggest what these planning tests should be. This is a profound shortcoming.

Response to Reason 3

As noted, the 2017 NEP treats infrastructure differently than the 2005 NEP. The 2017 NEP now permits "Infrastructure" in the Escarpment Natural Area, Escarpment Protection Area and Escarpment Rural Area, subject to the Development Criteria in Part 2 of the

Plan, whereas the 2005 NEP only permitted essential infrastructure within the Escarpment Natural Area.

Part 2 of the 2017 NEP also permits infrastructure within key hydrologic features and key natural heritage features, where the project has been deemed necessary to the public interest and after alternatives have been considered.

No matter which designation the key feature is located within, the 2017 NEP states that infrastructure may be permitted "in" the key feature if it is deemed necessary to the public interest after all alternatives have been considered. "Public interest" is not defined and "alternative" is not defined in the 2017 NEP.

In this situation, the Township of Clearview is the public authority responsible for this road and has deemed it necessary and in the public interest to upgrade this road to minimum municipal standards. The Township also confirmed there is no alternative since the road in its existing state is resulting in environmental impacts and health and safety risks and needs to be upgraded.

Regarding a setback from the Escarpment brow, Development Criterion 2.5.2 states that the implementing authority will establish a minimum development setback from the brow and no disturbance of grades or vegetation below the brow and above the toe shall occur. Development Criterion 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. Sideroad 26/27 is an existing road that traverses the Escarpment brow. The proposed improvements are located within the existing right-of-way, and in this situation, it is appropriate to eliminate a setback as contemplated by the Development Criteria.

Regarding infrastructure, Development Criterion 2.12.2 d) states that a development setback from the Escarpment brow shall be established by the implementing authority to minimize visual impacts. The Visual Impact Assessment prepared for the Township concludes that the proposed road improvements would have a neutral effect and the overall scenic ranking would remain unchanged by the proposed infrastructure works.

4. A right-of-way is not a land use: it enables a land use. Mr. Wynia in his report suggests that the right-of-way has status in the NEP in the form of a permission. It

does not convey any such permission or justification. Just because the right-ofway exists doesn't mean a proponent can avoid the application of other policy that applies to infrastructure to the changes planned for the Sideroad's roadbed where Escarpment brow setbacks and the consideration of alternatives are concerned.

Response to Reason 4

The right-of-way does have status in the NEP and the Township is not avoiding any policy that applies to infrastructure. Sideroad 26/27 exists within the right-of-way and meets the definition of an "existing use" as defined in the NEP.

The matter of Sideroad 26/27 being an existing use was discussed in the Staff Report prepared by NEC staff regarding the NEDP application (S/T/2013-2014/9152) (November 19, 2015). NEC staff agreed that the road is an existing use but that the proposed widening of the road was a change in use. The Township did not agree with the interpretation that improving the road is a change in use. The position of the Township is that the use of the right-of-way is not changing and that the use within the right-of-way is currently a road and it will continue to be a road, albeit wider.

NEC staff undertook an analysis of the proposed "change in use" and made the following statement in the first portion of the 2015 Staff Report:

"The NEC staff accepts that 26/27 SR is an "essential transportation facility" and that the proposed improvements are a permitted use, subject to satisfying the Development Criteria in Part 2 of the NEP."

The balance of the 2015 Staff Report discusses the Development Criteria and recommended approval of the NEDP application, with conditions.

In our opinion, while the infrastructure policies have changed somewhat in the 2017 NEP, and a landscape approach to policy is taken, upon review of the NEPDA, the 2017 NEP, including the Development Criteria, the PPS and other planning policies, the proposed infrastructure project serves the public interest.

5. The policies of the NEP have to be read together with the Development control regulation. The regulation specifies the physical thresholds which trigger the

requirement for a development permit and the application of NEP policy. If a permit is required, the policies of the NEP apply. A permit is required in the present case, the environmental protection NEP policies apply.

Response to Reason 5

We do not disagree with the above. A Development Permit application has been filed and the policies of the NEP have been addressed. As noted above, Part 2 of the 2017 NEP permits infrastructure within key hydrologic features and key natural heritage features, where the project has been deemed necessary to the public interest and after alternatives have been considered.

6. The NEPDA and the NEP also represent the policies that protect the public interest. The opinions of Mr. Wynia and Clearview Township don't trump the public interest expressed in the NEPDA, they supplement that interest in the formation of a decision under the NEPDA when the applications are processed under the NEPDA using the policies of the NEP, which require a consideration of alternatives and a setback from the Escarpment brow. Mr. Wynia's report does not attempt to justify the opening of the Sideroad (allowing the closure of CR 91) as anything other than a substantial bonus to a single aggregate company. Local residents, the traveling public, neighbouring municipalities, Emergency Medical Services, other businesses and aggregate producers and a whole range of stakeholders will be prejudiced by this decision. Mr. Wynia's report is silent regarding these impacts.

Response to Reason 6

We agree that a NEPA application must address the public interest. We also agree that neither public opinion (as opposed to public interest) nor the interests of one group determine the public interest served.

The infrastructure project is to upgrade an existing road, that currently results in environmental impacts and health and safety risks, to minimum Township standards while protecting the environment to the greatest extent possible. The Township's position is that there are no alternatives to widening Sideroad 26/27 (no other road that can serve the same purpose) and that widening and improving the road is in the public interest. The

2017 NEP permits infrastructure projects that have been deemed necessary to the public interest and after alternatives have been considered.

Not upgrading Sideroad 26/27 is not an alternative; selecting another comparable east/west route to upgrade is not an alternative, as one does not exist, and constructing a new road elsewhere is not an alternative given the need for a through road in this location of the Township.

Following a review of public opinion, expressed public interest, consultant critiques, policy documents, agency comments and other inputs, including the 2018 EIS and road design, it is the position of the Township that the public requires a safe east-west roadway in this location of the Township and it is in the public interest to improve and widen Sideroad 26/27. The public interest it serves is the ability to travel safely in an east or west direction to connect to other roads in Simcoe and Grey County. There is also a public interest in ameliorating the impacts that the existing Sideroad 26/27 is having on the environment.

7. Whatever the improvements sought by Clearview for the Sideroad ROW are, these do not replace the County Road segment proposed to be transferred to the Duntroon Quarry. The roadbed is not of equivalent design, traffic safety and performance. The County Road segment is well removed from the Escarpment face and situated between two licensed quarries. That environment is heavily disturbed and the proper place for a roadway on the Escarpment. Conversely, the Sideroad severs the Niagara Escarpment face, the Natural Area designation and several key natural and hydrologic features adjacent to a Provincial Nature Reserve Park to the north as well as a Bruce Trail crossing. Alternatives such as restoration of this section of the Sideroad to a natural state and transferring it to the Nature Reserve Park to the north and the relocation of the proportion of the County road proposed to be transferred to the Duntroon Quarry to within the extracted quarry as part of its rehabilitation have not been considered. Such a transfer is clearly in the public interest.

Response to Reason 7

Regarding your comments pertaining to Niagara Escarpment designations, permitted uses, impacts to the natural environment, and the need to improve Sideroad 26/27 please refer to Responses 1-6 above.

Regarding the Bruce Trail, The Bruce Trail Conservancy supports the culvert replacements and the road design ensures the continued safe crossing of the Bruce Trail and the Township is working with the Bruce Trail Conservancy to mitigate any potential impacts.

Yours truly,

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