

## MEMORANDUM

**To: Dwayne Campbell, MCIP, RPP  
A/Director of Planning and Economic Development**

**From: Nick McDonald, MCIP, RPP, PLE, Meridian Planning Consultants**

**Date: January 2, 2025**

**Re: Final Recommendation on Proposed Modifications to OPA 1 (Natural Heritage System) - SUPPLEMENTAL MEMO**

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### **Purpose**

The purpose of this supplemental memorandum is to respond to the additional public comments made following the preparation of my December 16, 2024 recommendation memo. Below is a brief review of the comments made and my responses along with any recommended changes to the proposed policies and mapping:

### **Sifton Properties Limited (Haven on the Trent) - Municipality of Trent Hills**

In a letter dated December 19, 2024, it is requested that the mapping of the natural heritage system not apply to the approved Haven on the Trent development. The subject lands are currently designated Rural Area by the County Official Plan. Since there have been longstanding approvals to develop 149 units on full municipal services on the subject lands from 2001, the landowner has previously requested that the subject lands be included within the Campbellford Urban Area boundary.

In County report 2024-131 dated October 2, 2024 it was recommended that the Economic Development, Tourism and Planning Committee receive a summary of what we heard through the growth management consultation process. In this regard, Part E of the report dealt with the request to include the subject lands within the Campbellford Urban Area boundary and it was recommended that the lands be included within the Urban Area to recognize the legacy approvals that have already

been given. This recommendation will be implemented through a future update of the growth management Official Plan Amendment (OPA 2) in early to mid-2025.

It is noted that the proposed natural heritage system overlay designation is not proposed to extend into settlement areas as per Section A3.7 of the Official Plan, as proposed to be amended by OPA 1. This means that through the OPA 2 process, the natural heritage system can be also removed from the subject lands at that time. However, the timing of the decision on OPA 2 is unknown and as a result, it is recommended that the natural heritage system be removed from the subject lands now, in recognition of the legacy development approvals that have been obtained and which are now being implemented on the subject lands.

It is noted that the subject lands are also proposed to be partially designated NHA2 according to Schedule A-2 of OPA 1. On Schedule B-1, the lands within the NHA2 designation are identified as being the site of 'significant woodlands'.

Through a review of Schedule B-1, 'enhancement areas' are identified on the subject lands, which are considered to be a supporting feature or area. 'Regionally important wetlands' are also located on the subject lands - however, these same lands are not designated as NHA1 on Schedule A-2, as they are supposed to be. While the policy framework for Regionally important wetlands would apply regardless, it is recommended that Schedule A-2 be corrected to ensure that all regionally important wetlands outside of settlement areas are designated NHA1. However, given the recommendation made through the OPA 2 process to include the subject lands within the Campbellford urban area, it is recommended that the 'Regionally important wetlands' on the subject lands be identified as 'other wetlands' on Schedule B-2.

It is noted that Section D11 g) of OPA 1 states the following with respect to existing approvals and the NHA1 and NHA2 designations:

*"Where lands have been draft approved for development by way of Plan of Subdivision or Plan of Condominium, that approval can be implemented in accordance with the provisions of the County Official Plan and the local Official Plan as they existed when the lands were draft approved and any conditions that were put in place at the time of approval."*

In order to ensure that the above policy applies to developments that have been draft approved or registered, it is recommended that the word 'draft' be removed from the above policy in two places (as shown in under-line above) to ensure that existing development approvals, such as the haven on the Trent development can proceed as originally envisioned.

In addition, it is also recommended that a new sub-section D11 k) be added to recognize existing Aggregate Resources Act approvals:

- k) Notwithstanding sub-section a) above, where lands have been approved for a mineral aggregate operation pursuant to a license issued under the Aggregate Resources Act, that approval can be implemented in accordance with the provisions of the County Official Plan

and the local Official Plan as they existed when the lands were licensed and any conditions that were put in place at the time of approval. If the licensed area is proposed be expanded, then the policies of this Plan fully apply.

In addition, it is also recommended that the following three sub-sections be added to Section D10.2 dealing with supporting features and areas to ensure that existing development approvals can also proceed on lands that are also the site of a supporting feature or area as shown on Schedule B-1:

- d) Notwithstanding sub-section a) above, where a site plan pursuant to Section 41 of the Planning Act has been approved on lands that have been identified as being the site of a supporting feature or area on **Schedule B-1**, that approval can be implemented in accordance with the provisions of the County Official Plan and the Local Official Plan as they existed when the site plan was approved.
- e) Notwithstanding sub-section a) above, where lands have been approved for development by way of Plan of Subdivision or Plan of Condominium on lands that have been identified as being the site of a supporting feature or area on **Schedule B-1**, that approval can be implemented in accordance with the provisions of the County Official Plan and the local Official Plan as they existed when the lands were approved and any conditions that were put in place at the time of approval.
- f) Notwithstanding sub-section a) above, where lands have been approved for a mineral aggregate operation pursuant to a license issued under the Aggregate Resources Act on lands that have been identified as being the site of a supporting feature or area on **Schedule B-1**, that approval can be implemented in accordance with the provisions of the County Official Plan and the local Official Plan as they existed when the lands were licensed and any conditions that were put in place at the time of approval. If the licensed area is proposed be expanded, then the policies of this Plan fully apply.

### **Supplementary Submission by Mr. Robert Fishlock - Save our Trees**

In a letter dated December 21, 2024, Mr. Fishlock followed up his verbal comments made at the public meeting on December 4, 2024 with a written submission. During the public meeting, Mr. Fishlock made a number of comments about the loss of a specific woodlot in the urban area of the Municipality of Port Hope and the implications of the updated policy framework on other woodlots in the County of Northumberland.

In his written submission, Mr. Fishlock provides additional details on the loss of the woodlot in question. What Mr. Fishlock does not mention in his submission is that the woodlot was located on lands that were draft approved and zoned for development before the woodlot was identified as such in the Municipality of Port Hope Official Plan. As a consequence, the municipality decided to enter into settlement discussions with the proponent in an effort to resolve the matter.

Going forward, it is noted that Section D11 of OPA 1 also recognizes and permits development approvals obtained before the approval of OPA 1 to proceed in accordance with the policies that were in effect at the time the approvals were given. This is a common policy approach to pre-existing development approvals.

The one request Mr. Fishlock makes in his written submission is that Section C4.4 d) of OPA 1 be deleted from the OPA. This section indicates the following:

*"The approval authority may scope or waive the requirement for an EIS to support a development proposal within or adjacent to natural heritage features and areas if, in the opinion of the approval authority the proposed development is minor and is not anticipated to have a negative impact on the natural heritage feature and area or its ecological functions or if the policies of this Plan provide an exception to the submission of an EIS related to the natural heritage feature and area."*

The above policy is standard in most Official Plans in Ontario and allows for professional judgement to be applied in cases where minor development is proposed. It is recommended that this policy be retained, since it allows for the context of the site, the nature of the application and the significance and extent of the natural heritage features and areas in the vicinity to all be assessed by the approval authority in determining what studies are required to support an application.

#### **Email Submission by Mr. Dick Kauling**

In an email dated December 21, 2024 asks 7 questions, which are reproduced below, along with my responses:

- 1) Schedule A-1 Official Plan Settlement Structure and Natural Heritage System: The mapping offered does not extend within the urban or rural settlement boundaries of the lower tier municipalities. It appears by design with the next step being that the lower Tier municipalities have the requirement to obviously comply with the Northumberland County Natural Heritage requirements but that within the urban and rural boundaries a set of different criteria in support of development exists. Does this mean that each lower tier municipality needs to implement its own Natural Heritage System Mapping based on the criteria spelled out by the County? And is there a time frame required by legislation? I wish to confirm scope of Schedule A-1 and role with a lower tier municipality. I seem to recall the original Natural Heritage Mapping encompassed the Urban Areas and Rural Settlement Areas.

**Response:** The purpose of Schedule A-1 is to set out the broad settlement structure of the County and to identify the natural heritage system outside of the settlement areas as per Section A3.7 of OPA 1. However, Section C3 a) of OPA 1 does indicate that the County's natural heritage system includes natural heritage features and areas that are designated NHA1 and NHA2 as shown on Schedule A-2, watercourses as shown on all schedules and other supporting features and areas shown on Schedule B-1, all of which extend into settlement areas. Sections C3 c) and d) then set out

the requirement that the natural heritage system and the NHA1 and NHA2 designations be implemented with potential refinements in the local Official Plans.

- 2) Schedule A-2 Official Plan - Land Use Designations: The mapping appears to focus on defining Natural Heritage Area 1 (NHA1) and Natural Heritage Area 2 (NHA2). Appears that Natural Heritage Area 2 includes an overlay (orange colour) based on a reference materials collected and to maybe indicate additional definitions and criteria in support of or protection from certain development. Might that be materials drawn from Ganaraska Region Conservation Authority information? Assume this might be the case but wish to confirm. And assume this is the current best estimate subject to closer and more specific definition if future development activities occur.

**Response:** Schedule A-2 does identify the extent of the NHA1 and NHA2 designations. Section D6 then identifies the components of the NHA1 designation and Section D7 identifies the components of the NHA2 designation. Only known mapped features are mapped with sources of information primarily being the Province and the Conservation Authorities. Section D11 dealing with implementation allows local municipalities to refine the limits of the NHA1 and NHA2 designations in their Official Plans based on updated information and Section C4.4 dealing with environmental impact studies permits updated information to be considered when reviewing development applications.

- 3) Schedule B-1 Official Plan - Natural Heritage Features and Areas: This mapping, within an urban boundary (my current focus) identifies certain key features "Significant Woodlands" and "Regionally Important Wetlands" as well as Supporting Features (watercourses buffer, linkages, other wetlands, linkages, enhancement areas and conservation oriented lands. How well defined are these boundaries? Assume ground truth interpretation might be required in the future or when development considerations become evident and so wish to confirm. And could I assume the definition of the mentioned features and areas as per the legend are well defined? Again, I assume that development changes might result in further mapping and interpretation against the definitions...

**Response:** Schedule B-1 is intended to provide additional details on the extent of individual natural heritage features and areas and within urban areas does identify significant woodlands, other wetlands, watercourse buffers, enhancement areas and linkage areas. These features are mapped using the best information available but as per the above, refinements to these features are permitted based on the receipt of more detailed information and/or studies in accordance with the policies of OPA 1.

- 4) Schedule B-1 Official Plan - Natural Heritage Features and Areas: Mapping shows "Linkages" (yellow) but did not see any linkages spelled out within the urban boundaries. Is there a process or set of requirements that can and could be considered to further define?

**Response:** Schedule B-1 does identify linkages in a number of settlement areas, including Brighton, Baltimore and Garden Hill for example. Nothing in OPA 1 prevents local municipalities from identifying other linkages in their Official Plans.

- 5) The word significant is clearly an important word as it may apply to many natural heritage features (woodlands, wetlands, habitat, etc.) The definition used to define significant woodlands and wetlands appears reasonably well defined. The definition of significant habitat draws reference in defining habitat per Ontario endangered species act. Again, it appears pretty robust. What does not appear to be clear is the definition of what species does this definition of habitat definition apply? I would assume it does not apply to extinct species but could and should apply to those listed as endangered, threatened and maybe even those at risk. Maybe only endangered? Not clear. in my mind if the definition of habitat is sufficiently robust..

note: Appreciate that the Federal regulations defining species of interest do not necessarily match that of the province and remain an opportunity for the province to follow suit if supported. Can a lower tier municipality add additional definitions surrounding habitats that could or should be further considered and applied? I am thinking of the recent activity to protect a significant piece of property that is considered important to Monarch butterfly habitat in Prince Edward County.

**Response:** Section D7.2 of OPA 1 indicates that development and site alteration shall not be permitted in the habitat of endangered species and threatened species, except in accordance with provincial and federal requirements. This policy implements a similarly worded policy in Section 4.1.7 of the PPS (2024). Endangered species is defined by the PPS (2024) as a species that is classified as "Endangered Species" on the Species at Risk in Ontario List, as updated and amended from time to time. Threatened species is then defined as a species that is classified as "Threatened Species" on the Species at Risk in Ontario List, as updated and amended from time to time. As a result, reliance is placed on these lists when applying the policy.

- 5) Schedule B-1 Official Plan - Natural Heritage Features and Areas: Noticing the mapping show "Conversation Oriented Lands" (dark green with hash marks) even with an example of one within the urban boundary of Cobourg). Does its classification enshrine or place additional conditions on its development from a County versus the lower tier municipality of Cobourg? Again, what is the role at the County level versus the lower municipality level in applying protections and constraints on development? Does the use of the word "parks" and associated definition of a conservation area require clarity in definition and application of requirements?

**Response:** Based on a review of Schedule B-1, it does not appear as if 'conservation oriented lands' are present within Cobourg. Section 4.5 of the background report prepared by North-South Environmental dated June 19, 2020 indicates that such lands are generally owned by a public authority and a number of County forests and lands owned by Conservation Authorities have been

included on Schedule B-1. While private lands that are managed for conservation purposes could also be included, I am not aware of any such areas being identified on Schedule B-1.

- 6) Schedule B-1 Official Plan - Natural Heritage Features and Areas: Also notice the use of "Regionally Important Wetlands" (dark blue) being defined within an urban boundary. Does its classification also enshrine or place additional conditions on its future development or development in a surrounding boundary? The role of the lower municipality in applying?

**Response:** As noted in my December 16, 2024 memo, 'Regionally important wetlands' are intended to apply to wetlands outside of settlement areas and be designated NHA1. Within settlement areas, 'other wetlands' are identified and they are intended to be identified as a Supporting Feature of Area. As noted earlier in this memo, Schedule A-2 does not correctly include 'Regionally important wetlands' in the NHA1 designation and this will be corrected. All non-provincially significant wetlands outside of settlement areas are considered to be 'Regionally important wetlands' and the 'no negative impact test' applies to these features. All non-provincially significant wetlands inside settlement areas are considered to be 'other wetlands' and they are identified as Supporting Features and Areas by OPA 1.

Section D10.2 includes a number of policies that apply to 'other wetlands' and these policies require that these 'other wetlands' be evaluated to determine if they are significant and to determine what conditions should be attached to a development approval to mitigate and minimize impacts. If the wetland is regulated by a Conservation Authority, the policies of the relevant Conservation Authority apply. If it is not regulated, then a determination needs to be made on whether the wetland should be protected and if so under what conditions.

- 7) Schedule B-1 Official Plan - Natural Heritage Features and Areas:

Also notice some undefined use of a colour (pale / light green) on the map with no associated text in the legend. What does this mapping represent? They appear mostly next to "Significant Woodlands" (brown) and "Enhancement Areas" (purple).

**Response:** The green 'shadow' around certain natural features and areas appears to be previously identified buffers. It is not the intent of OPA 1 to map the location and extent of buffers and instead the policies of Section D8.3 are intended to apply. Schedule B-1 will be updated to remove these buffers.

### **Submission by D.M. Wills Associates Limited ('Wills')**

In a letter dated December 20, 2024, Wills requests that the natural heritage system be removed from the northern portion of a vacant 11.2 hectare property in the Township of Cramahe (Part Lot 19, Concession 6). A tributary of Cold Creek traverses the property and the majority of the property except for a small area at the northern boundary is proposed to be designated NHA2. Both the natural heritage system identified on Schedule A-1 and the NHA2 designation on Schedule A-2 are

considered to be overlays, meaning that the underlying designation of Rural Area applies in this case.

Development within the Rural Area designation is permitted subject to the policies of the County and local Official Plans, meaning that if a Planning Act application such as a consent was submitted, an Environmental Impact Study would be required. Given the location of the subject lands and the nature of the environmental features in the area, it is not recommended that any mapping changes be made in response to this request.

**Additional minor modification required**

In my memo dated December 16, 2024, I reviewed the changes proposed to how significant woodlands were classified and in this regard, it was proposed to delete 'Regionally important woodlands' from OPA 1 and a number of changes were made in this regard. However, there continues to be one carry-over reference to 'Regionally important woodlands' in OPA 1 and it is recommended that it be deleted. In this regard, it is recommended that Section C3 a) iv) be deleted.