

NIAGARA ESCARPMENT — FOUNDATION —

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June 12, 2024

Written Submission of The Niagara Escarpment Foundation to Grey County's Public Meeting (via Zoom), Wednesday, June 12, 2024 on the Subdivision Application at the former Talisman site of the Beaver Valley Development Group

My name is Rob Leverty, and since November 1, 1973, I have been a resident and taxpayer in the Municipality of Grey Highlands (formerly Euphrasia Township), County of Grey.

I have a working farm on the western slopes of the Beaver Valley which is designated Escarpment Natural and Escarpment Protection in the Niagara Escarpment Plan. All my farmland is situated in the Beaver Valley watershed.

For over 50 consecutive years, we have allowed the Bruce Trail to cross our farmland. While working on the farm, I have met both local hikers and visitors from around the world. During the COVID pandemic, the Bruce Trail on our farm was overwhelmed with hikers desperate for exposure to nature given the lack of adequate public green spaces in southern Ontario.

In June 2000, I signed with the Ontario government a Natural Heritage Conservation Easement Agreement to protect and enhance in perpetuity both a provincially significant wildlife corridor and the quality and quantity of the streams and groundwater that flow from a portion of our farm into the Beaver Valley.

For over 30 years, on behalf of The Ontario Historical Society, I had the privilege of working across Grey County with its community museums and historical organizations including Old Durham Road Black Pioneer Cemetery Association, Friends of Moreston, Town of Blue Mountains Historical Society, Community Waterfront Heritage Centre, Grey County Historical Society, Owen Sound Emancipation Festival, Friends of South Grey Museum and the Sheffield Park Black History Museum and Cultural Centre, to name a few.

Today, I am representing The Niagara Escarpment Foundation (NEF), which is a not-for-profit corporation and registered charity founded in 2001 to encourage public awareness of the natural and cultural significance of the Niagara Escarpment and to conduct research related to protection of the Niagara Escarpment.

I note that the members of the NEF's board of directors have a combined total of over 150 years of involvement in the Niagara Escarpment protection program in various capacities, stretching as far back as 1967.

This submission first provides a short overview reflecting some of the provincial planning history dealing with the Niagara Escarpment in its entirety, and the Beaver Valley in particular. We then address the subdivision proposal for the former Talisman site specifically.

In June 1973, Ontario's Conservative government launched an unprecedented program to recognize and preserve the Niagara Escarpment as a predominantly natural environment for future generations. The program was comprised of a statement of Government Policy for The Niagara Escarpment describing a long-term vision; and an associated *Niagara Escarpment Planning and Development Act* (NEPDA) to reflect and implement that vision (**see attachments 2 & 3**).

The Act included, among other things:

- a statement of the Purpose and Objectives for the planning program (sections 2 & 8);
- provision for the appointment of a Niagara Escarpment Commission, with staff to manage the program;
- guidelines for the preparation of a Plan with policies to reflect the vision mentioned above; and
- provision of a Development Control system to replace municipal zoning in the Escarpment planning area.

This bold and unprecedented government initiative – over 30 years before establishment of the Greenbelt – produced the following:

- the first Niagara Escarpment Commission (1973);
- a Development Control system (1975);
- the first Niagara Escarpment Plan (1985), approved by Cabinet after 2 ½ years of public hearings, with the support of all three political parties in the Legislative Assembly of Ontario; and
- designation of the Niagara Escarpment Plan Area as a UNESCO Biosphere (1990).

The Niagara Escarpment Plan established a visionary and achievable blueprint for the long-term management of the Escarpment's precious ecosystems and associated outstanding landscapes. The blueprint's key element was a **BALANCE** between ecosystem / landscape protection and compatible development, reflecting the vision described in the June 1973 Government Policy statement (pp.6-7) and the purpose and objectives of the NEPDA (sections 2 & 8). The current (2017) Niagara Escarpment Plan includes those Purpose and Objectives statements (p. 7).

Today, that BALANCE between ecosystem / landscape protection and compatible development in appropriate locations is in danger of being destroyed by the Beaver Valley Development Group's subdivision application on the Talisman site.

To reflect the vision in the 1973 Government Policy, the Niagara Escarpment Plan allows BALANCE in the Plan Area by designating areas for development (residential, commercial, recreational, etc.) in Urban Areas, Minor Urban Centres, cottage-based Escarpment Recreation Areas, the large four-seasons Escarpment Recreation Area in the Blue Mountains, and Mineral Resource Extraction Areas.

Ski-based recreation sites such as Talisman were also designated Escarpment Recreation Area in recognition of the recreational and associated uses that existed at the time of approval of the Niagara Escarpment Plan in 1985.

The above "development" designations are balanced by the Niagara Escarpment Plan's "preservation" designations: Escarpment Natural Area, Escarpment Protection Area and Escarpment Rural Area. In the Beaver Valley, the designation of an existing ski operation such as Talisman as Escarpment Recreation Area reflected the key importance of the actual Escarpment slopes in the provision of compatible, nature-based outdoor recreation.

Where no ski operations existed, the Beaver Valley slopes were and still are predominantly designated Escarpment Natural Area, and Escarpment Protection Area, the two most protective categories of the Niagara Escarpment Plan. The Niagara Escarpment slopes and adjacent lands have never been considered potential sites for urban-type development (e.g., residential, commercial). In fact, the Escarpment slopes and adjacent lands represent the continuous natural corridors of the Beaver Valley.

This balanced approach has been strongly justified also by the fact that the Beaver Valley was rated "outstanding" in the NEC's Landscape Evaluation study, one of the background studies completed in support of and prior to approval of the 1985 Niagara Escarpment Plan. That "outstanding" rating proved to be a vital and successful defence against a proposed Hydro corridor from the Bruce Nuclear Plant to Barrie through the Beaver Valley in the 1980s. Both the Niagara Escarpment Commission and I (representing hundreds of Beaver Valley landowners) gave evidence at the hearings which resulted in a decision against the Beaver Valley route preferred by Ontario Hydro.

We must also keep in mind that when the Greenbelt Plan was approved in 2005, it included the entire Niagara Escarpment Plan Area in addition to other lands. Events of the past two years have shown that the people of Ontario are strong supporters of the Greenbelt for its protection of our natural heritage areas and agricultural lands from urban development and sprawl.

The Beaver Valley Development Group's subdivision application would clearly destroy the Beaver Valley's "outstanding" landscape rating. It would set a dangerous precedent, undermining both the 1990 UNESCO Biosphere designation and the Greenbelt.

Another historical example of a developer attempting to skew the BALANCE mentioned above was a residential and hotel proposal in 1979 called Epping Commons on the western Escarpment slopes of the Beaver Valley north of the Talisman site.

This residential development application was vigorously supported by the local municipality and Grey County and ultimately the Niagara Escarpment Commission. However, in 1985 the Ontario government decisively rejected the entire Epping Commons development for many reasons.

One of the reasons was that an independent study by a hydrogeologist-engineer concluded that Epping Commons would likely cause massive, irreparable damage to valley hydrology and Beaver River water quality and quantity. It would also damage natural habitat and therefore fishing.

In preparing the Niagara Escarpment Plan, one of the objectives (under section 8 of the NEPDA) is “to maintain and enhance the quality and character of natural streams and water supplies.”

It is also noted that the Epping Commons proposal was not a subdivision application and the site was not near the Beaver River and not on or adjacent to a flood plain but rather, high on the slopes of the Escarpment. The Beaver Valley Development Group’s subdivision application is right beside the Beaver River, on and adjacent to a flood plain.

Decades after Epping Commons, the impact of the currently proposed development on the Beaver River and the Beaver Valley watershed must remain a central planning issue **(see attachment 1 – Trout Unlimited Canada. Letter of Concern Beaver Valley, June 2024).**

Keeping these watershed concerns in mind, the Niagara Escarpment Foundation has concluded that the “Hydrogeological Assessment Report (Interim)” prepared for the BVDG’s subdivision application is completely inadequate. It provides woefully insufficient support for this development application, and would set a dangerous precedent. On the basis of this hydrogeology report alone, Grey County must refuse the subdivision application.

History has shown the wisdom of rejecting the Epping Commons development. For the last 39 years since the 1985 approval of the Niagara Escarpment Plan, the people and natural habitats of Ontario have benefited from this priceless legacy. We emphasize that in 1990, UNESCO designated the Niagara Escarpment Plan Area a World Biosphere. While the Niagara Escarpment Plan Area is part of the Greenbelt, only the Niagara Escarpment Plan has the international UNESCO recognition.

Finally, the Niagara Escarpment Foundation is firmly convinced that in the NEP Area, the policies of the Niagara Escarpment Plan take precedence over municipal Official Plans and by-laws. As section 14 of the NEPDA states: “Despite any other general or special Act, where the Niagara Escarpment Plan is in effect and there is a conflict between any provision of the Plan and any provision of a local plan or any provision of a zoning by-law covering any part of the Niagara Escarpment Planning Area, then the provision of the Niagara Escarpment Plan

prevails." This simply reflects what the vision of the 1973 Government Policy (pp. 13-14) states: "... if the stated purpose of Escarpment protection is to be achieved, provincial policies and plans must be pre-eminent in the control and development of the Escarpment."

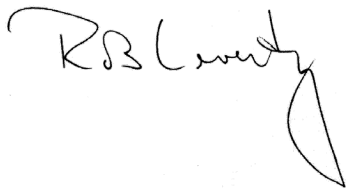
The Niagara Escarpment Foundation understands why the spectacular landscapes, the diverse farmland, the watershed and the continuous natural corridors of the Beaver Valley would attract the attention of developers seeking potential development sites. But the BALANCE reflected in the Niagara Escarpment Plan is meant to direct urban-type development to existing urban areas and to preserve the outstanding scenic beauty of the natural environment for the public good in Ontario, Canada, and indeed the world.

Clearly, the Beaver Valley is a unique feature of the Canadian landscape, and as a re-entrant Escarpment valley with a fragile but currently healthy ecosystem, it is unique in the world. Since 1967, hundreds of millions of dollars have been raised and spent by both the public and private sectors to safeguard this unique valley and the entire Niagara Escarpment. The NEPDA and the Niagara Escarpment Plan were approved by the provincial government, and exist today, to maintain that unique character in perpetuity.

The Beaver Valley Development Group subdivision proposal would for many reasons set a dangerous precedent for not just the Beaver Valley but for the entire Greenbelt. Grey County Council must reject this subdivision application.

On behalf of The Niagara Escarpment Foundation, thank you.

Rob Leverty

A handwritten signature in black ink that reads "Rob Leverty". The signature is written in a cursive style with a large, sweeping flourish at the end.

President
The Niagara Escarpment Foundation
email: mailbox@niagaraescarpment.ca

Attachments:

1. Trout Unlimited Canada. Letter of Concern Beaver Valley, June 2024
2. Government Policy for The Niagara Escarpment, June, 1973
3. Niagara Escarpment Planning and Development Act

Footnotes:

(1) In 1982, my then farming neighbour Herman McConnell, who was a longtime member of the East Grey Anglers and Hunters, in response to assurances from the Epping Commons developers that they wouldn't harm the Beaver River and the natural environment, declared, "They'd be the first people since Moses to keep that promise."

In 1994, the Ontario government re-named the entire Epping Commons development site the **Herman McConnell Memorial Forest** as part of the Niagara Escarpment Parks and Open Space system, and classified it as “natural environment” for the public benefit.

(2) Canada's worst-ever outbreak of E. coli contamination happened 24 years ago in Walkerton, a town in the rural heartland of Bruce County, Ontario. From the Walkerton Inquiry we learned that the devastating impact of development on rivers, streams and groundwater is a critical human public health and safety issue. The magical escarpment watershed of the Beaver Valley is like a magnificent historic quilt - it is all interconnected. Downstream from the former Talisman site, the communities (Kimberley, Heathcote, Slabtown, Clarksburg, Thornbury), farms, fishing and nature-based tourism (e.g. canoeing/kayaking from Epping Bridge) all along the Beaver River and out into the Georgian Bay depend on clean water and a healthy ecosystem.

(3) In an unprecedented move, the Ontario government's current Bill 185 is stripping community organizations working in the public interest of their traditional right to appeal land use planning decisions to a provincial tribunal. The Niagara Escarpment Foundation and local residents' organizations are now defined as “third parties” with no appeal rights. Therefore, the decision of Grey County Council on this subdivision application would be final, unless the Council rejects the application and the developer exercises appeal rights. If Grey County Council approves the application as is or modifies it before approving it, it will effectively be silencing community voices, thereby having decided that no further expert evidence is required and sanctioning the loss of our traditional right of appeal.



Municipality of Grey Highlands
PO Box 409
206 Toronto St S
Markdale, ON N0C 1H0

June 7, 2024

RE: Proposed development of former Talisman Resort lands

To Whom It May Concern,

Trout Unlimited Canada (TUC) is a national conservation charity that is science-based and volunteer-driven. Partners and volunteers are paramount to the numerous successful river restoration projects we implement every year. Our work protects and enhances water quality, water flow, and aquatic community health. TUC is proud of the critical role our organization has played in the protection of Canada's natural resources for 50 years, and the value of this work to the lives of Canadians.

TUC has recently become aware of the proposed resort development on the former Talisman Resort lands in the Beaver River Valley. For 20 years, our organization has been working with local partners and landowners to help conserve the Beaver River and its tributaries. The Beaver Valley is one of the last relatively undeveloped areas in southern Ontario and its high quality coldwater fishery, large areas of intact forest, and beautiful vistas help make it a popular tourist destination for hiking, canoeing, flyfishing and other outdoor activities. We are writing to express our concerns about this proposed development.

Though our awareness of the proposed development of the Talisman Lands is recent, we have already identified some concerning issues that may put the future of the Beaver River at risk. In particular, we are concerned about the insufficient scope and scale of the hydrology study and whether it fully encompassed the potential influence on the entire watershed below the proposed development, especially in light of the presence and value of the adjacent Beaver Valley Lowlands Management Area. Major developments create large areas of impervious surfaces that have several hydrological impacts, including the prevention of groundwater infiltration and disruption to the movement of surface and groundwaters. TUC believes proper form and function of a landscape is critical to maintaining healthy ecosystem, not just of the river but the valley as a whole. A hydrology study of appropriate scale would help to better understand the implications of the development and potential impacts on groundwater, surface water quality and quantity, and aquatic and terrestrial ecosystems in the area and downstream. Any large development must be properly understood in the context of environmental, human, and economic health of the valley, its rivers, wetlands, fish and people. An independent hydrology and hydrogeology study of the entire area could provide the information required to make informed decisions concerning the development, and implications for the local community and those downstream.

Trout Unlimited Canada has invested over \$300,000 in money, resources, and personnel to monitor the health of the coldwater fish community and help conserve and enhance the high-quality environmental attributes of the Beaver River and valley. By our investments in the region, and through our mission to

help conserve freshwater resources for current and future generations, TUC identifies as a concerned stakeholder in the development of the former Talisman Resort lands, and we request to be kept informed of how the municipality intends to ensure the protection of terrestrial and aquatic ecosystems, and to be informed of future developments on this file.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lesley Peterson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lesley Peterson
Director of Conservation, Trout Unlimited Canada

DEVELOPMENT PLANNING IN ONTARIO: The Niagara Escarpment

Handwritten signature

MINISTRY OF TREASURY, ECONOMICS AND INTERGOVERNMENTAL AFFAIRS/JUNE, 1973



C. Lewis

Government Policy
for
The Niagara Escarpment

JUNE, 1973

The Niagara Escarpment

INTRODUCTION

The Niagara Escarpment is one of the major natural features in the landscape of southern Ontario. This Escarpment is a unique environmental corridor stretching from Queenston, near Niagara Falls, across the expanding urban belt and rich agricultural lands of southern Ontario, to the tip of the Bruce Peninsula near Tobermory. It is a rich mosaic of forests, cliffs, hills, waterfalls, scenic viewpoints, unusual rock formations, and interesting plant and animal life. In its southern portion, the Escarpment is the site of a multi-million dollar extractive industry. Expanding urban, recreational and industrial development are subjecting the Escarpment to a number of undesirable pressures.

It is the view of the Government of Ontario that these and associated factors necessitate a program to protect the Escarpment's distinct characteristics and to ensure a balanced future use of Escarpment lands.

BACKGROUND

The Government of Ontario has expressed a continued interest in the future of the Niagara Escarpment. This has been manifest in a number of ways over the last few years.

The Gertler Report

In 1967, the Government appointed Professor L. O. Gertler of the University of Waterloo to co-ordinate a wide-ranging study of issues and policies for the Niagara Escarpment area. Professor Gertler reported his findings the following year in a document entitled The Niagara Escarpment Study: Conservation and Recreation Report. This study recommended that steps be taken to ensure "the preservation of the Niagara Escarpment as natural parkland". To accomplish this, the study set out specific recommendations in four interrelated areas:

- (a) preservation of the land through a combination of government land purchases and land-use regulation;
- (b) establishment of a network of parks;
- (c) standards to regulate the operations of the extractive mineral industry; and
- (d) a joint provincial-municipal planning and finance program.

Response to The Gertler Report

While the Government of Ontario did not adopt all the recommendations in the Gertler report, it did accept the basic principles and set about on a program of Escarpment preservation.

In September 1971, Premier Davis announced that the Government intended "to proceed in a more vigorous way to acquire

additional land for recreational and related uses along the Niagara Escarpment", and that "the Government, which had previously adopted the basic philosophies set out in the Niagara Escarpment Report, has now instigated action towards meeting the principal objectives and recommendations".

More specifically, following the Gertler Report action was taken on four fronts:

- (a) funds were allocated, on an expanded basis, for the acquisition of key Niagara Escarpment lands. In addition, the Government increased grants to conservation authorities from 50 per cent to 75 per cent of the cost of Escarpment lands approved for acquisition since January 1968;
- (b) the Niagara Escarpment has been an area of special emphasis for the provincial land acquisition program. Between January 1968 and the end of 1972 the Government bought approximately 20,000 acres of Escarpment land at a cost of almost \$7 million;
- (c) as a result of discussions with the Province, several municipalities now have Escarpment preservation measures built into their official plans.
- (d) a new policy on pits and quarries, incorporating most of the recommendations of the Gertler Report, became effective in June 1970 with the passage of The Niagara Escarpment Protection Act. The following year, The Pits and Quarries Control

Act was passed, strengthening regulations covering the operation and siting of all pits and quarries.

The Niagara Escarpment Task Force

Effective though these measures were in meeting a number of immediate problems, they did not represent a comprehensive program for the Escarpment. Many key issues remained unanswered:

- what are the overall goals and objectives which the Government should adopt in framing a comprehensive policy for the Escarpment
- which level of government—municipal or provincial—should bear the primary responsibility for developing an overall land-use plan for this area
- what kind of planning program is most appropriate for the Escarpment
- what should be the priorities for government acquisition of lands
- what further interim measures are necessary to ensure that good planning and land-use control become a reality for the Escarpment area
- what further measures, if any, are needed to regulate the operation of pits and quarries?

Obviously these are fundamental questions. The Government was fully cognizant of the fact that "snap" answers to questions such as these could do more harm than good. At the same time, the

Government was aware that early action was needed if key portions of the Escarpment were not to be overwhelmed by competing development pressures.

To aid in formulating a practical and realistic policy for the Escarpment, the Government announced the appointment of a Niagara Escarpment Task Force in May 1972. This Task Force, consisting of senior representatives from those Ministries most directly associated with Escarpment programs, had the following terms of reference:

1. To develop overall priorities to be used in the acquisition of land by the Province and its agencies
2. To advise on all proposed land acquisitions by the Province and its agencies
3. To establish land-use and development standards and to examine methods of land-use control and to recommend a system to ensure the appropriate use of lands
4. To advise upon all proposals which would result in major changes in existing land-use patterns.

The Task Force began its work immediately, and was able to submit its final report to the Government in December 1972. Before examining the substance of the Task Force Report, and the Government's response to it, a word should be said about how the Task Force operated.

The Niagara Escarpment Task Force set out to find out how the people most concerned actually felt about the preservation of the Escarpment. How did the public feel about what had been done? About what remained to be done? To provide for this public

discussion, the Task Force held open meetings in seven communities along the Escarpment: St. Catharines, Hamilton, Milton, Orangeville, Collingwood, Owen Sound and Lion's Head. The meetings were well attended and proved to be forums for spirited debate. As well as the public meetings, the Task Force maintained extensive contact with local authorities and concerned citizens through personal interviews, meetings with municipal councils, ratepayers' groups, conservation-oriented organizations and businessmen, and through hundreds of briefs and letters. In total, the Task Force has estimated that it had direct contact with more than 3,500 people.

The Task Force reported in late 1972. The intervening months have been spent in a careful analysis of the report, and the formulation of a definitive Government policy for the Escarpment. While this policy will vary from some of the recommendations of the Task Force, the Government wishes to emphasize that a comprehensive policy would not now be possible without the work performed by the Niagara Escarpment Task Force. The report of the Task Force is being released today as a supplement to this Statement of Government policy.

GOAL AND OBJECTIVES FOR THE NIAGARA ESCARPMENT

To provide the framework for an Escarpment policy the Task Force recommended that the fundamental goal, or purpose, of any policy for the Escarpment should be:

To maintain the Niagara Escarpment as a continuous natural environment while seeking to accommodate

demands compatible with that environment.

The Government accepts this recommendation. This means that all Government actions in the Escarpment area will be directed toward the preservation of the unique natural environment of the Escarpment. It is important to note, however, that this goal recognizes that preservation of the natural environment should not be the sole purpose of all government activity related to the Escarpment. Acceptance of the goal means that the Government will pursue policies which also accommodate other demands—such as urban and recreation development—which are compatible with the goal of Escarpment preservation.

To attain this goal, the Task Force set out six objectives. The Government accepts these objectives and will use them as guidelines for its own programs, and for the activities of the municipal and private sectors. These objectives are:

1. To protect unique ecologic and historic areas
2. To maintain and enhance the quality and character of natural streams and water supplies
3. To provide adequate opportunities for outdoor recreation, through the public and private sectors
4. To maintain and enhance the open landscape character of the Escarpment by such means as compatible farming or forestry and by preserving the natural scenery

5. To ensure that all new development is compatible with the goal for the Escarpment
6. To provide adequate access to the Escarpment.

To ensure that all policies and programs for the Escarpment will be framed with the basic goal and six objectives in mind, these have been incorporated in new legislation introduced today.

TO ACHIEVE OUR PURPOSE

To carry out a program designed to realize the goal and objectives outlined above, two differing approaches or alternatives could have been used.

The Acquisition Approach

The first alternative is a massive program of land acquisition. Using this approach, the Government of Ontario would have ended up owning the Escarpment and associated lands—an area of approximately 1.3 million acres. This approach has been rejected by the Government.

Many activities in the Escarpment area can, most appropriately, be left to the private sector. Examples of these activities are agriculture, and some forms of recreation, quarrying and urban development. To the extent that these activities do not conflict with the accepted goal and are, in the words of the goal "demands compatible with that environment", they are acceptable.

We must also consider costs. The Government estimates that the cost of purchasing all lands associated with the Escarpment would

be in excess of \$3 billion. If public purchases were necessary in order to achieve our purposes in the Niagara Escarpment area, it could be done although the cost would be high. However, in most parts of the Escarpment such purchases would be to ensure that present land uses will continue. Therefore, it is appropriate that the land remain in private hands and present uses remain undisturbed.

For these reasons, the Government has rejected total acquisition of the Escarpment area.

The Planning Approach

The second alternative is to create a planning system featuring strong, provincially-directed land-use regulation plus public ownership where necessary. This approach is the method chosen by the Government. This has been done for several reasons.

First, this approach permits a variety of land ownership and uses in the Escarpment area. This in turn means that we can harness the strengths and initiatives of the private sector in helping us to achieve our purposes. It is generally agreed that continued private ownership in agriculture and some forms of recreation facilities, for example, is desirable and necessary to our policies.

Second, we must recognize that the Escarpment has both provincial and local significance. By using a planning framework to achieve our purposes we will be able to provide for a strong local contribution to land-use decisions affecting the Escarpment area.

Third this technique will enable the Government to concentrate its land acquisition funds on those key areas of the Escarpment where public ownership is most desirable. It must be emphasized, however, that such an acquisition program will still be expensive.

For these reasons, the Government has decided to preserve the Niagara Escarpment through a new and innovative planning framework which marks a significant departure from past practices. Again, it should be noted that this conclusion is supported by the findings of the Niagara Escarpment Task Force.

THE NEW PLANNING FRAMEWORK

The planning framework exhibits three new major features: a new organization to do the planning, a new process whereby the planning will be done, and new legislation to embody these changes.

The Niagara Escarpment Commission

The Niagara Escarpment Task Force recommended the establishment of a Niagara Escarpment Secretariat to prepare a plan for the Escarpment, to co-ordinate and monitor government programs, and to serve as the source of public contact on Escarpment issues. The proposed Secretariat was not seen by the Task Force as a part of a regular formal Ministry structure.

After careful consideration, the Government has adopted a slightly different approach. In the Government's view, the body charged with planning for the Escarpment area must exhibit three essential features.

First, this body should have a large degree of flexibility in setting out its own administrative arrangements and in securing the best staff support possible—whether inside or outside government. Innovative planning requires innovative structures.

Second, there must be direct local participation in such a planning program. As noted before, the Escarpment is vitally significant to those local communities directly influenced by its presence.

Third, the body directing such an important and new planning program should be directly accountable to a member of Cabinet—

because Cabinet is the final policy-making body within our system of government.

For these reasons, the Government has decided to establish a Niagara Escarpment Commission. This Commission will report to the Treasurer of Ontario because the Ministry of Treasury, Economics and Intergovernmental Affairs now has the responsibility for guiding provincial and local planning in Ontario.

Membership in the Niagara Escarpment Commission will be secured on the following basis:

- (a) eight members will represent local government. These will be appointed by the Provincial Government following nomination by the eight Counties and Regions within the Niagara Escarpment Planning Area. In making nominations, it is expected that the Counties and Regions will consider individuals from those local municipalities through which the Escarpment runs. The Counties and Regions which will be asked to nominate representatives are: The Regional Municipality of Niagara and the Counties of Wentworth, Halton, Peel, Dufferin, Simcoe, Grey and Bruce;
- (b) nine members, one of whom will be the Chairman, will be appointed by the Government as Provincial representatives.

Thus, the Niagara Escarpment Commission will have a total of seventeen members.

To enable it to carry out its duties effectively, the Niagara Escarpment Commission will have the power to hire such staff as it

feels appropriate, and will also be able to request the services of key personnel within any government ministry.

The Government does not view the Commission as a permanent feature of the Province's organization structure. As has been noted, the Commission's main task is to prepare a plan for the Niagara Escarpment area. When this job has been substantially completed—probably not later than 1976—the Government intends to transfer to local government many of the responsibilities initially carried out by the Commission.

The Planning Process

The Commission has been charged with the responsibility of preparing a master plan for an area to be known as the Niagara Escarpment Planning Area. This Area is similar to the study area used by the Gertler Report with two important differences:

- the boundaries of the original study area have been "squared off" to follow lots, concessions and municipal boundaries wherever possible.
- the entire Bruce Peninsula has been included.

A map of the Niagara Escarpment Planning area is attached to this Policy Statement.

In setting out a planning framework the Task Force noted that if the stated purpose of Escarpment protection is to be achieved, provincial policies and plans must be pre-eminent in the control and

development of the Escarpment. The Government accepts this premise and has, therefore, authorized the Niagara Escarpment Commission to prepare a master plan for the Escarpment area.

The Master Plan

In the preparation of this master plan the Commission will be directed to work closely with local government. As will be seen throughout this Policy Statement, the Government does not view the Commission—or its planning program—as a substitute for direct local decision-making. Municipalities will be full participants in the Commission, in the plan preparation and ultimately in much of its execution.

The Niagara Escarpment plan may contain guidelines covering any or all of the following:

- policies for the economic, social and physical development of the planning area, including land and water management, population distribution and density, pollution control, the designation of major land uses, provision of parks and major servicing, transportation and communication systems;
- policies relating to the financing and scheduling of public works—provincial or municipal;
- provision for the co-ordination of provincial and local planning and development activities;
- policies designed to ensure that private development will be compatible with the plan.

This must not be taken to mean that the Niagara Escarpment Commission will be responsible for all planning in the affected area. Within the guidelines of the provincial master plan, there will still be many significant planning decisions which can be made most effectively by local government.

In recognition of this continuing role for local government, and to ensure that local government accepted this responsibility, the Task Force recommended that official plans be made mandatory for all municipalities having jurisdiction within the Escarpment planning area. In slightly modified form this recommendation has been accepted by the Government. Under the new Niagara Escarpment Act, the Province may require any municipality to prepare and adopt an official plan and submit the plan for approval within a specified period of time.

In order to be effective, any plan prepared by the Niagara Escarpment Commission and adopted by the Province must have clear legal status. To achieve this, the Task Force recommended that any such plans must be legally binding on all governments--provincial and municipal. The Government endorses this approach. Once the master plan has been approved by the Government, the plan will take precedence over local plans. This means that no works can be undertaken which do not conform to the plan. In addition, all existing official plans will be modified to bring them into conformity with the overall plan.

The Government recognizes that the obligation to modify existing official plans and, in some cases, to prepare new official plans, will mean significant expenditures for many municipalities.

Because of this, funds will be made available to assist those municipalities obliged to undertake such activities.

In a planning program as far-reaching as this, provision must be made to enable changes in the plan after its initial adoption. The Task Force recommended two ways of doing this: clear provision for amendments, and periodic reviews of the entire plan. The Government has accepted both of these recommendations, and appropriate provisions are included in the new Niagara Escarpment Act.

Participation in the Planning Process

In a key set of recommendations relating to the planning process, the Niagara Escarpment Task Force recommended that municipalities, individual citizens and provincial agencies should be able to contribute to the development of provincial and local plans covering the Escarpment. These recommendations are entirely in keeping with this Government's view of the planning process as an open system where all can contribute. Because of this, the recommendations have been accepted by the Government and a detailed system of participation is contained in the new Niagara Escarpment Act.

The Act provides that the Niagara Escarpment Commission must ensure that copies of the proposed plan or any subsequent amendments are supplied to municipalities, advisory bodies and provincial agencies. In addition, copies of the proposed plan or amendments will be available to any member of the public for examination. After a stated period of time has passed, during which the

plan will have been evaluated by the general public and official bodies, and comments will have been received by the Commission, the Commission will appoint an impartial person to conduct a hearing or series of hearings and to report back. This will provide a further opportunity for any municipality or member of the public to state a view on the proposed plan or amendment. The report of the hearing officer, together with briefs and other comments, will be submitted to the Treasurer along with the Commission's draft master plan. All these documents will also be made public at the same time. Only after this process has been completed would the Province proceed with approval of the plan or amendment.

The Local Role in Planning for the Escarpment

The Task Force points out, quite correctly, that the planning framework outlined above will truly be a joint provincial-local effort only if local governments are strong enough to carry their share of the program. To accelerate the process, the Task Force recommended that the system of local government in the Escarpment area should be restructured immediately. The Government has not accepted this recommendation.

One part of the Niagara Escarpment area is already operating under a system of regional government. The Regional Municipality of Niagara covers the southernmost portion of the Escarpment. Three regional governments have been proposed for the segment of the Escarpment running from Hamilton to Orangeville—Hamilton—Wentworth,

Halton and Peel. Some of these areas may be operating under a form of regional government as early as the beginning of next year. In the remaining section of the Escarpment, from Orangeville to Tobermory, no proposals have been made for regional government. In these areas, the Government will move to enable the existing counties to set up effective planning mechanisms.

The Government of Ontario will take several steps to ensure that the planning process makes adequate provision for local concerns in all areas of the Escarpment.

In the Regional Municipality of Niagara, the new Niagara Escarpment Commission will be directed to work closely with the Region. The Government policy being announced today will assist the Regional Municipality of Niagara in its planning program. Regional Niagara can only frame detailed planning policies for its area of the Escarpment when definitive statements of overall Provincial policy and guidelines are available. The formation of the Niagara Escarpment Commission and the planning program set out in The Niagara Escarpment Act will make these policies and guidelines available. From the beginning, we expect that the level of planning undertaken by the Niagara Escarpment Commission within the Regional Niagara area can be more generalized and less specific than will be the case elsewhere since many decisions can and will be made at the regional government level. The Commission will be expected to use much of the existing draft regional plan for Niagara as part of its own guidelines.

The Niagara Escarpment Commission will be developing the Escarpment master plan at the same time that the Hamilton-Wentworth, Halton and Peel areas are working on their official plans and the "time-lag" noted in the case of Niagara will not recur. With the Provincial and local governments developing their plans concurrently, a fully integrated plan will be a reality.

In the remaining section of the Escarpment, where no restructuring of local government will occur, a different approach must be taken to ensure effective local participation.

This section covers parts of the counties of Dufferin, Simcoe, Grey and Bruce. In each of these counties, the Government will continue to encourage the establishment of county planning boards to prepare county-wide official plans in close association with the Niagara Escarpment Commission.

The working relationship between the Niagara Escarpment Commission and local government is important. As suggested above, this relationship will vary considerably from one part of the Escarpment to another. In the Niagara Region, the entire Provincial planning program will be less detailed than elsewhere, perhaps being confined to a set of guidelines which the Region can use in defining its own planning program. While the master plan will be more detailed in other parts of the Escarpment, it must not become so specific as to frustrate local decision-making. The Government will monitor the work of the Commission carefully to ensure that the master plan does not become a substitute for local plans and local decision-making.

As the planning program of the Commission evolves, the provincial-local relationship will change. The bulk of the work to be done by the Niagara Escarpment Commission will be completed by 1976. At that time it is the intention of the Government that as many functions of the Commission as possible will be transferred to local government.

In addition to the responsibilities they will exercise as planning authorities, local government on the Escarpment will have a role within the provincial planning process itself. Each regional government and county will be directly represented on the Niagara Escarpment Commission—the body responsible for the preparation of the provincial master plan. Also, during the period when the public response is being solicited to the proposed plan or amendments, the new legislation gives a clear advisory role to local government. For example: counties and regions will be asked to receive any submissions, comments or proposals from constituent municipalities, and then to prepare a consolidated statement of views for submission to the Commission.

Finally, provision is made for some of the detailed planning powers of the Treasurer to be delegated to local governments along the Escarpment when they have the necessary experience and planning staff.

New Legislation

Today the Government has introduced new legislation—The Niagara Escarpment Act. This Act will establish the Niagara Escarpment Commission and initiate the planning process outlined above. Specific features of the Act will be referred to in subsequent sections of this Policy Statement.

In order to implement the policy of Escarpment preservation through rational land use, the Government assigns a high priority to this legislation and expects early passage during the current session of the Legislature.

The Planning Framework: Summary

To summarize, the Government is introducing a new system of planning for the Niagara Escarpment area. This new system has the following basic features:

- (a) establishment of a Niagara Escarpment Commission to draft the master plan. The Commission will be a joint provincial-municipal body
- (b) establishment of a planning process in which:
 - provincial policies will be stated in a master plan
 - official plans will be mandatory
 - both the provincial plan and municipal official plans, will be legally binding on provincial and local governments
 - all existing official plans will be modified to reflect the approved provincial master plan

- assistance will be given to municipalities in drafting and modifying their official plans
- full provision will be made for public comment and response to plan proposals before the master plan is adopted
- local government will play an increasingly significant role in plan formulation and execution

(c) the passage of The Niagara Escarpment Act is a high priority during the present session.

PLAN IMPLEMENTATION: DEVELOPMENT CONTROL

The Niagara Escarpment Task Force concluded that the present system of controlling land uses through zoning by-laws "cannot provide the kind of control needed in a large, varied and environmentally sensitive area such as the Niagara Escarpment."

In support of this conclusion, the Task Force took a critical look at the current method of enforcing planning policies through restricted-area by-laws (usually referred to as zoning by-laws). They noted that such by-laws create a series of zones or land-use areas and establish development standards for all the uses permitted in each zone. A by-law of this sort is prepared according to general knowledge of each zone's physical condition. Because of this, a zoning by-law cannot set out the particular requirements which would be followed if every individual property were to be treated according to

its own environmental elements. If this were attempted, the zoning by-law would become unmanageable since all the detailed conditions would have to apply to all lands designated for the same use within the area. This means that an important element of flexibility in judging individual development would be lost.

What is needed is a system in which every proposed development would be studied on its own merits and, if found compatible with planning policies, would be subject to special standards designed to implement these planning policies. This type of plan implementation is known as development control.

Accordingly, the Task Force recommended that an Escarpment plan should be implemented by development controls instead of zoning by-laws, and that the criteria for development control should be incorporated into any master plan for the Escarpment area.

The Government has accepted these recommendations and, in the new Niagara Escarpment Act, incorporates a system of plan implementation through development control.

Development control is a departure from existing practices. We do not know of any jurisdiction in North America where development control is used as a method of plan implementation—although it has been used successfully in some European countries including the United Kingdom. Because it is new, unforeseen problems will undoubtedly arise in the initial period. In the longer run, however, this

technique will provide the flexibility needed if we are to achieve our primary goal in the preservation of the Niagara Escarpment.

More specifically, the development control process will proceed along the following lines within the planning process outlined above:

- (a) As soon as The Niagara Escarpment Act is passed, parts of the Escarpment planning area would be designated as subject to development controls, and appropriate regulations would be instituted. These would be administered initially by the Ministry of Treasury, Economics and Intergovernmental Affairs
- (b) When the Niagara Escarpment Commission becomes operational, development control administration would be delegated to it
- (c) The Commission would then be responsible for preparing the master plan as well as administering development controls
- (d) After the master plan is substantially complete, development control may be delegated to local governments.

The Government has decided to use development control as a means of plan implementation in order to avoid the cumbersome and unwieldy techniques of freezing all development on the Escarpment pending the adoption of the master plan. Development which is not in conflict with our overall goal of preservation will not be held back. Indeed, the establishment of the Commission as a central "point of reference" for all Escarpment issues should facilitate the making of planning decisions on proposed development.

PLAN IMPLEMENTATION: LAND ACQUISITION

The Niagara Escarpment Task Force considered the issue of land acquisition in detail. As pointed out before, a massive program of land acquisition is not appropriate as a means for preserving the Escarpment. The provincial purchase of key areas, however, will be an important aspect of the Government's Escarpment preservation program. But it is clear that the land acquisition program must reinforce the realization of the master plan for the Escarpment.

There are many land uses which are compatible with the Escarpment's natural environment—agriculture, commercial forestry, resort and residential development could all be compatible depending on location and character. In such instances, there should be no need for provincial land acquisition. In other parts of the Escarpment area, the environment can be maintained through the master plan and the use of development controls outlined previously. Although this should reduce much of the need for provincial land purchases, there are certain features which can be preserved most effectively by acquisition. The Task Force has recommended, and the Government has adopted for itself, and provincially-aided agencies such as conservation authorities, the following priorities for future acquisitions:

- (a) unique ecologic and historic areas
- (b) new recreational facilities, especially potential park lands near urban centres
- (c) the best route for the Bruce Trail.

One form of acquisition which can be used is the purchase of easements. This is the purchase of certain rights such as access and specified uses without total acquisition. This is particularly applicable in the case of the Bruce Trail, where acquisition will be in the form of easements and total purchase, depending on particular circumstances.

A further word here is appropriate regarding the future of the Bruce Trail. The Task Force recommended, and the Government accepts, an approach whereby the Province will determine the best route for the Trail in consultation with the Bruce Trail Association. It is the Government's intention to delegate Trail management responsibilities to the Bruce Trail Association. There has been much discussion about use of the Trail. The Task Force has recommended that the Bruce Trail should be used only for walking, snowshoeing and cross-country skiing. The Government endorses this recommendation and will ensure that the Niagara Escarpment master plan reflects this decision.

The Government is now developing land acquisition priorities for southern Ontario. As far as the Escarpment is concerned, it is our intention to adhere to these broader priorities in making any land purchases outside the three categories outlined previously.

A vigorous program of provincial land acquisition is currently underway on the Escarpment. This program has many activities proceeding at any given time, including the securing of options on certain properties, and the commitment of provincial funds upon the completion of current negotiations. To avoid any confusion or hardship,

the Task Force recommended that the Province honour its existing options and other firm agreements regarding land acquisition. The Government accepts this recommendation and appropriate provision is made in The Niagara Escarpment Act.

Finally, on the question of land acquisition, the Task Force put forth a series of recommendations on funding for these purchases. Without accepting the details of each recommendation, the Government agrees with the philosophy expressed. Funding for land acquisition should be tied to the priorities set out previously for the various types of purchases, and be seen as part of an overall long-term funding of a provincial land acquisition program. The Government has, in the past, viewed Escarpment land purchases as a high priority within its overall land acquisition program for Ontario, and will continue to do so.

PLAN IMPLEMENTATION: PITS AND QUARRIES

Perhaps no other issue has received more public attention along the Escarpment than the question of the proper role for pit and quarry operations. This issue will be an important element in the implementation of any plan to preserve the Niagara Escarpment.

As pointed out by the Task Force, guidelines relating to pits and quarries must take into account the importance of the Escarpment as a source of construction material. In 1969, consumption of sand, gravel and stone in the Toronto-Centred Region totalled more than 50.2 million tons, and the rate of consumption was increasing faster than the rate of population growth. The availability of such

materials is essential to continued development in Central Ontario. In that portion of the Escarpment extending from Saltfleet Township to Collingwood, aggregate production represents more than 35 per cent of all aggregate used in the Central Ontario Region.

But aggregate production is, by its very nature, disruptive to the natural environment. No amount of "cosmetic surgery" during or after production can hide the fact that a pit or quarry is incompatible with the accepted policy of preserving the Niagara Escarpment. How then does one reconcile the overall policy with the need for Escarpment aggregate materials? This is a question which the Task Force has considered carefully. A series of recommendations have been made, and are accepted by the Government as policy for the Escarpment.

The Policy which the Government will adopt on pits and quarries will have the following features:

- (a) Within the Niagara Escarpment planning area, the Government will establish a "Pits and Quarries Restrictive Zone". Within this zone, new pits or quarries—including wayside pits—will be prohibited. The Niagara Escarpment Task Force has outlined a proposed restrictive zone shown on a map attached to this Statement. This zone has been delineated on the basis of prominent topographical features associated with the Escarpment, unique and scenic areas and recreational sites. As an interim measure, the Government is adopting the restrictive zone as recommended, and will issue no new permits within this area.

The restrictive zone will be reviewed by the Niagara Escarpment Commission as part of its planning program, and any necessary changes will be made when the master plan for the Escarpment is adopted.

- (b) Within the "Pits and Quarries Restrictive Zone", if a licensed pit or quarry is found, by the Niagara Escarpment Commission, to be in serious conflict with the goals and objectives for the Escarpment, the Government will work with the operator to seek an alternative location. This might necessitate the construction of access roads, aid in assembling land, and freight cost assistance. The old site would be rehabilitated by the operator and turned over to an appropriate government agency.
- (c) To protect the Escarpment's valuable mineral resources, the Niagara Escarpment Commission will be asked to designate "Mineral Resource Areas" in the Escarpment corridor. New pits and quarries will be permitted in these areas under standards to be defined in the master plan for the Escarpment.

Finally, the Task Force has recommended that changes be made in The Pits and Quarries Control Act to simplify permit procedures for small operators producing less than 10,000 cubic yards per year.

The Task Force also recommends the publication of a booklet explaining in simple language the complex regulations under The Pits and Quarries Control Act. The Government accepts both these recommendations and will take appropriate action.

PLAN IMPLEMENTATION: LIMITED RECREATION RESOURCES

Another area of concern identified by the Task Force is the growing scarcity of recreational resources in view of rapidly accelerating demand. Two recommendations have been made and will be incorporated as Government policy in the master plan for the Escarpment.

One of the recommendations is a general statement of policy: that good harbour areas, shorelines and water and access to shorelines and water should be protected for public use within a comprehensive plan for the Escarpment area. As part of this general policy, the Task Force has made a recommendation with specific reference to the existing 66-foot shoreline reserve around much of the Bruce Peninsula. In all cases where this reserve has not been legally alienated, no new private development should be permitted, and existing development should continue only if it conforms to provincial and municipal plans. Both these recommendations are accepted and will be referred to the Niagara Escarpment Commission as directions to be included in the planning program.

FINANCIAL IMPLICATIONS

The program to preserve the Escarpment will have financial implications for both the Province and municipalities.

The Province

As noted previously, the acquisition of key areas within the Niagara Escarpment corridor will make significant demands upon the Province's financial resources. It is not possible to make accurate cost estimates

at this time. However, the Government has attempted to develop some very rough figures.

If it is assumed that the Government will acquire 20 per cent of the Niagara Escarpment area (and we do not know precisely if the area designated for acquisition will be 20 per cent, the figure could be higher or lower), then acquisition costs could run from a low of \$250 million to a high of more than \$500 million. The high and low is based on differing assumptions as to average cost per acre. Full compensation will be paid to all owners of property acquired in the Niagara Escarpment area.

The Niagara Escarpment Commission itself will require financing. For example, members of the Commission may receive payments for their services, and it will be necessary to establish one or more offices and to hire staff. Costs associated with the Commission could be in the neighbourhood of from \$100,000 to \$200,000 per year.

The Niagara Escarpment Task Force has recommended certain payments to local government, and these proposals have been accepted by the Government. These payments will include the following:

- (a) payments in lieu of municipal taxes on properties owned by the Province and its agencies;
- (b) payments in recognition of the need by municipalities to modify existing official plans and prepare and adopt new plans;

The Government has not attempted to quantify the financial implications of these decisions at this time.

Finally, the Province may incur expenditures associated with the relocation of operating pits and quarries within the restrictive zone described previously. Again, an estimate of expenditure associated with this policy cannot yet be made.

Municipalities

No major new expenditures at the municipal level are expected as a result of the policies outlined in this Statement. As noted above, municipalities will receive grants to cover, in part, any significant new costs associated with official plan preparation and amendment.

Private Sector

The land-use designations in the provincial plan and local official plans will, of course, be reflected in property taxation in due course. There will, therefore, be no undue taxation burden placed on owners of lands in the Escarpment area. However, the Task Force did identify one case where special tax treatment is recommended. While the property tax assessment base will reflect the use to which the land is put, there may be a few cases where the actual land-use is less intense than the land-use permitted by the plan. Under such circumstances, a system of partial deferral of property taxes was suggested. The Government has accepted the concept behind this recommendation. The Niagara Escarpment Act permits agreements between property owners and municipalities in those cases which would permit the owner to pay property taxes based on actual land-use with deferment of the remaining taxes for a stipulated period.

One other point of particular concern to the private sector must be noted. Much of the land in the Escarpment is used for agricultural purposes and will be preserved as such. A policy of preservation is not possible, however, without joint action by all governments. The Government of Ontario and the municipalities of the Escarpment area are ready to play their part in a program of farmland preservation. But this will not succeed unless the federal government also plays its role by ensuring stable domestic markets for agricultural products. Recent tariff changes provide cause for great concern that this legitimate role will not be accepted by the federal government. If stable markets for agricultural products are not realized, the Province will be forced to re-examine the validity of engaging in a program of farmland and fruitland preservation along the Escarpment and elsewhere in Ontario. All of the residents of Ontario—urban as well as rural—have an interest in the preservation and encouragement of our agricultural industry. We are all beneficiaries of a vital and healthy farm economy. Ontario has recognized this in the farm tax changes announced a few weeks ago in the 1973 Budget Statement. This, and the needed action by the federal government to ensure adequate markets, will make the role of agriculture in the Escarpment area significant—as it should be.

CONCLUSION

The Government of Ontario's concern over the future of the Niagara Escarpment area is related to the two purposes of our policy to preserve this unique area as a wilderness and recreation resource

and also to accommodate other land uses that are compatible with such preservation. Neither purpose will be realized without a comprehensive plan for the future and an effective means of putting that plan into action.

Considering the size of the Escarpment area—2,000 square miles—and the number of local bodies currently holding jurisdiction throughout the area, there is a clear need for strong leadership in both planning and implementation of Escarpment policies. The Government of Ontario recognizes its responsibility to provide that leadership, on behalf of all the people of Ontario.

The Government's goal for the Escarpment concerns the entire Province. The Government's plan, however, must have a role built into it for the communities of the Escarpment area. Within these areas are the people most immediately concerned. They will have a strong voice in the planning and, to as great an extent as possible, they will have a major part to play in making the plan work. In this way, they will participate in the preservation of an irreplaceable heritage.

Throughout the industrial nations of the world, people have recognized the need to do something about the unstemmed tide of development which could threaten the quality of human life. However, in too many places, there is little more than mere recognition of the problem. Ontario is a pioneer in taking action—now—to provide a better life for the future. The course of this action, in the Niagara Escarpment area, is a carefully planned program of development control—something new to this continent and, like anything new, it is bound to




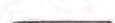



encounter some teething problems. Nevertheless, the Government of Ontario is convinced that without adequate planning, particularly in this area of the Province, the future will bring ecological and psychological chaos.

It is entirely appropriate that the place designated for introducing development controls should be the Niagara Escarpment. This ancient geological formation and superb wildlife habitat represents the essence of Ontario: splendour, strength and diversity. It is a place where native plants and animals can flourish as they have for millions of years, where people can find refuge from an increasingly man-made environment and discover their harmony with nature. On the Escarpment, within easy reach of the crowded metropolitan centres of southern Ontario, it is possible to relax, observe, explore and be refreshed by the presence of something that people have no ability to create, and no right to destroy.

The Government of Ontario is committed to keeping this unique tract of nature for its own sake, for the people of the Province and for the future.

NIAGARA ESCARPMENT PLANNING AREA

LEGEND

-  NIAGARA ESCARPMENT
-  PLANNING AREA BOUNDARY
-  MUNICIPAL BOUNDARIES
-  DIVIDED HIGHWAYS
-  HIGHWAYS AND COUNTY ROADS - PAVED
-  OTHER ROADS - IMPROVED
-  RAILWAYS
-  BUILT UP AREAS
-  SETTLEMENTS

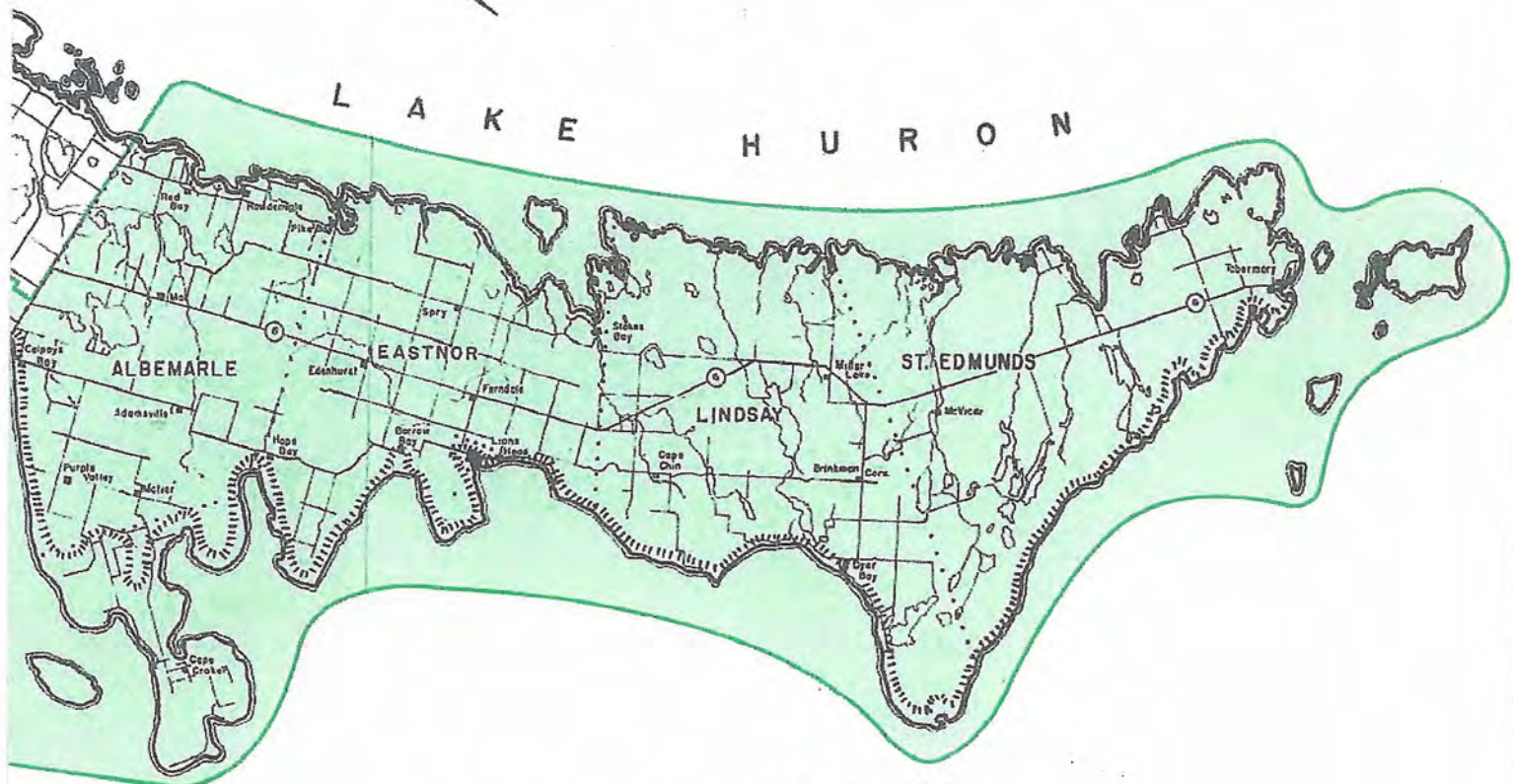
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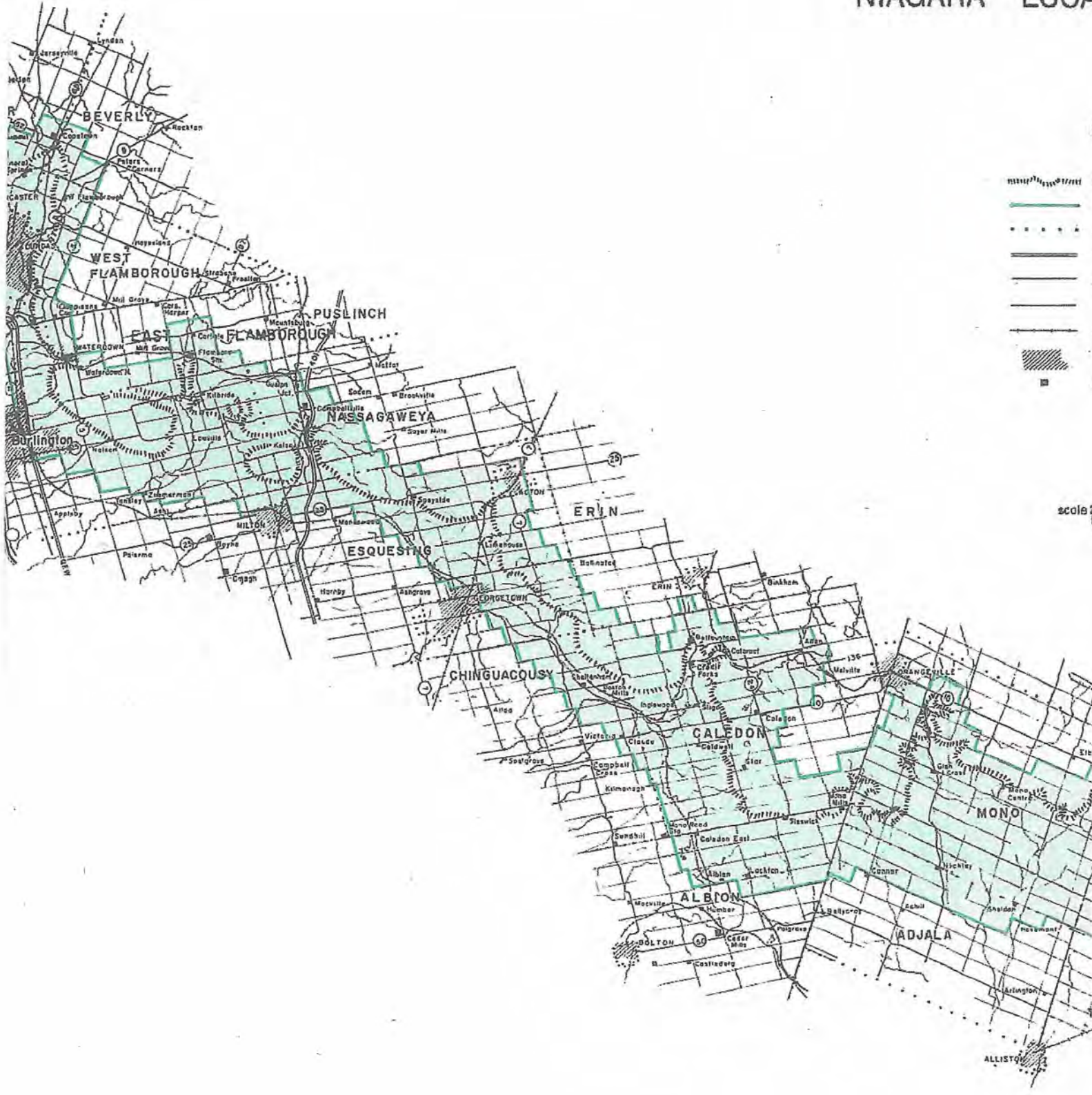


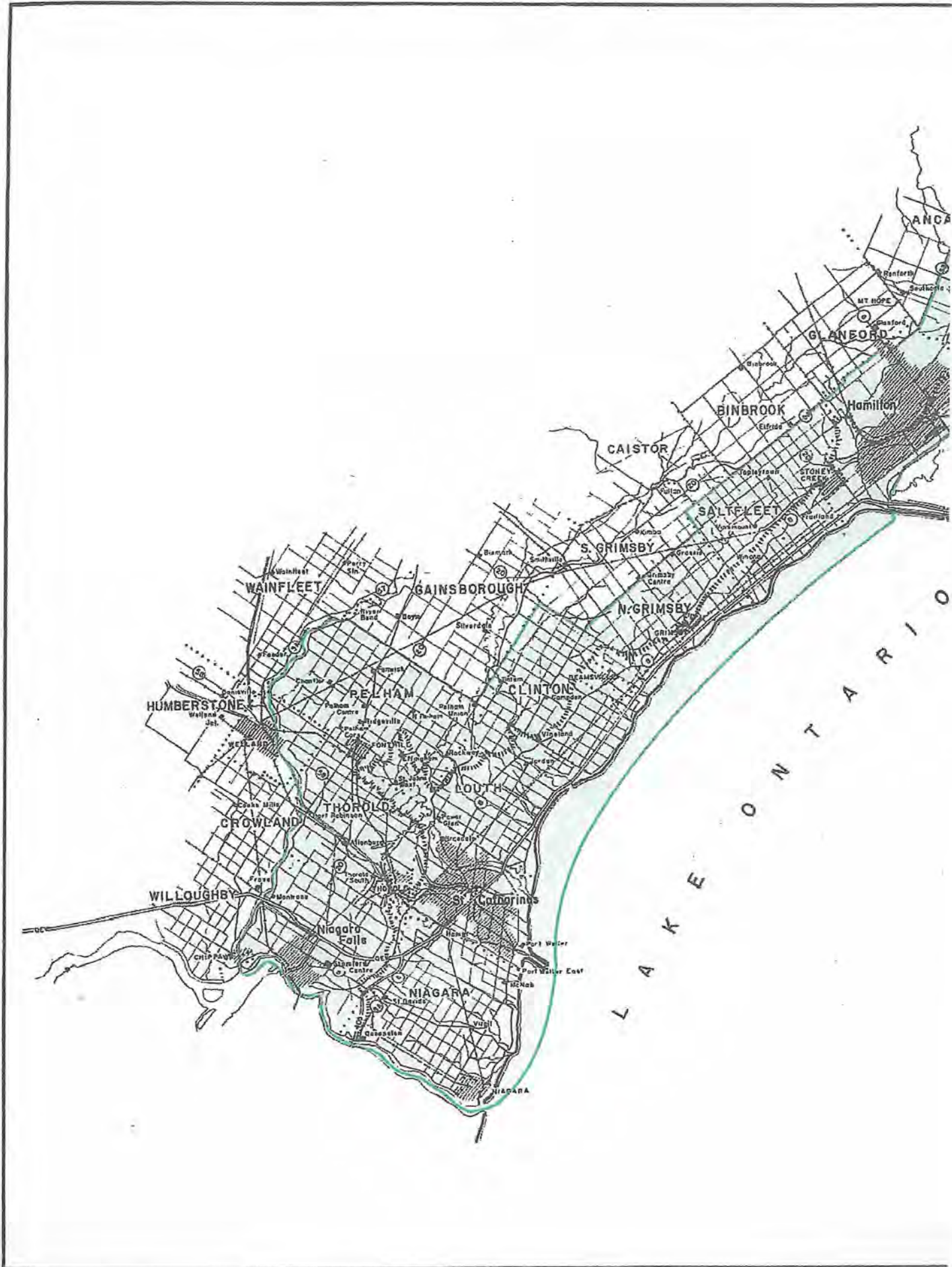
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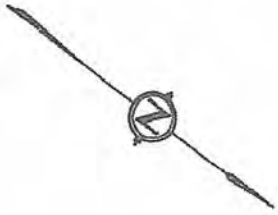
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NIAGARA ESCA







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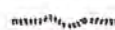









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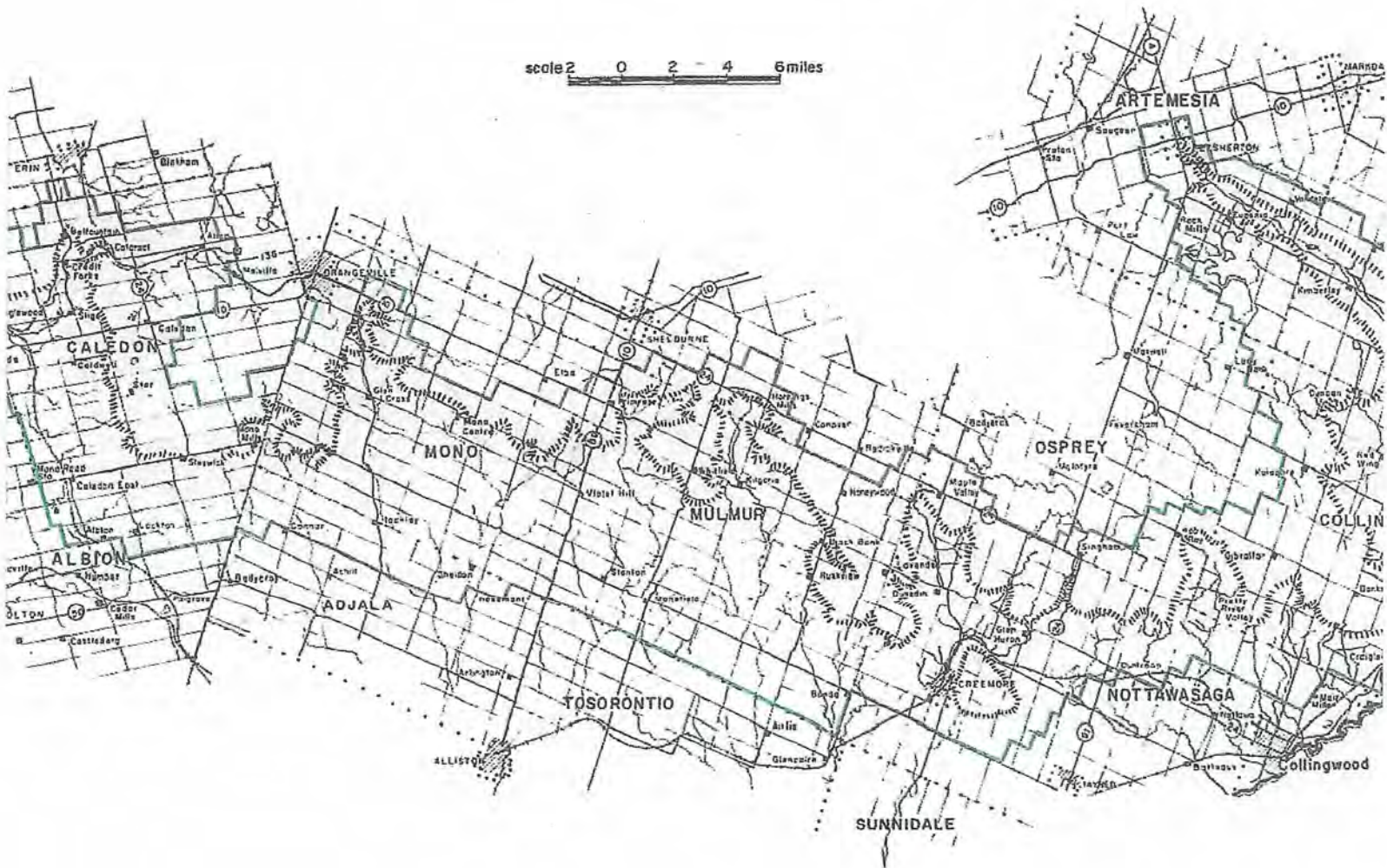
NIAGARA ESCARPMENT PLANNING AREA

AND PIT & QUARRY RESTRICTIVE AREA

LEGEND

-  NIAGARA ESCARPMENT
-  PLANNING AREA BOUNDARY
-  MUNICIPAL BOUNDARIES
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-  HIGHWAYS AND COUNTY ROADS - PAVED
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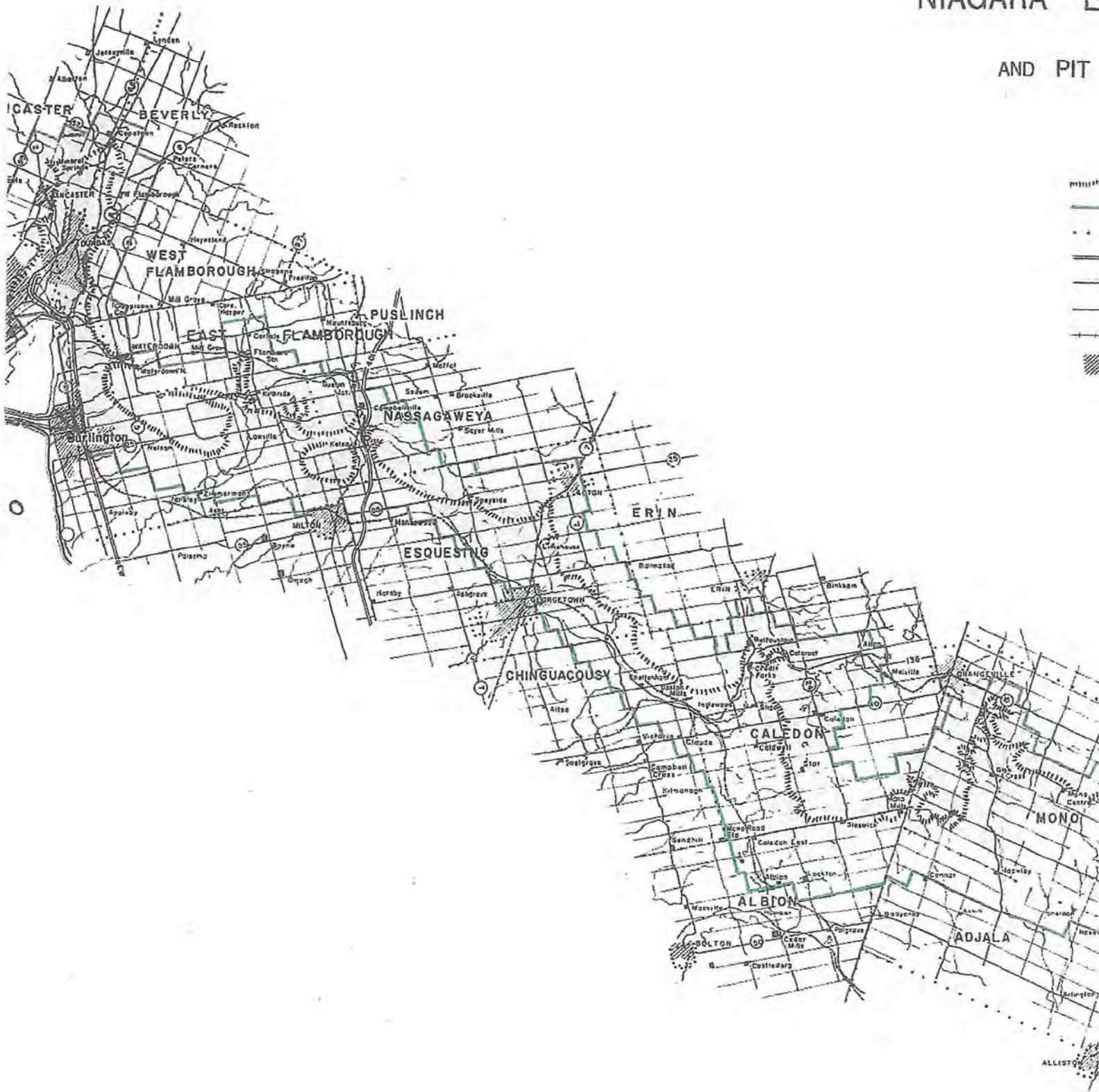
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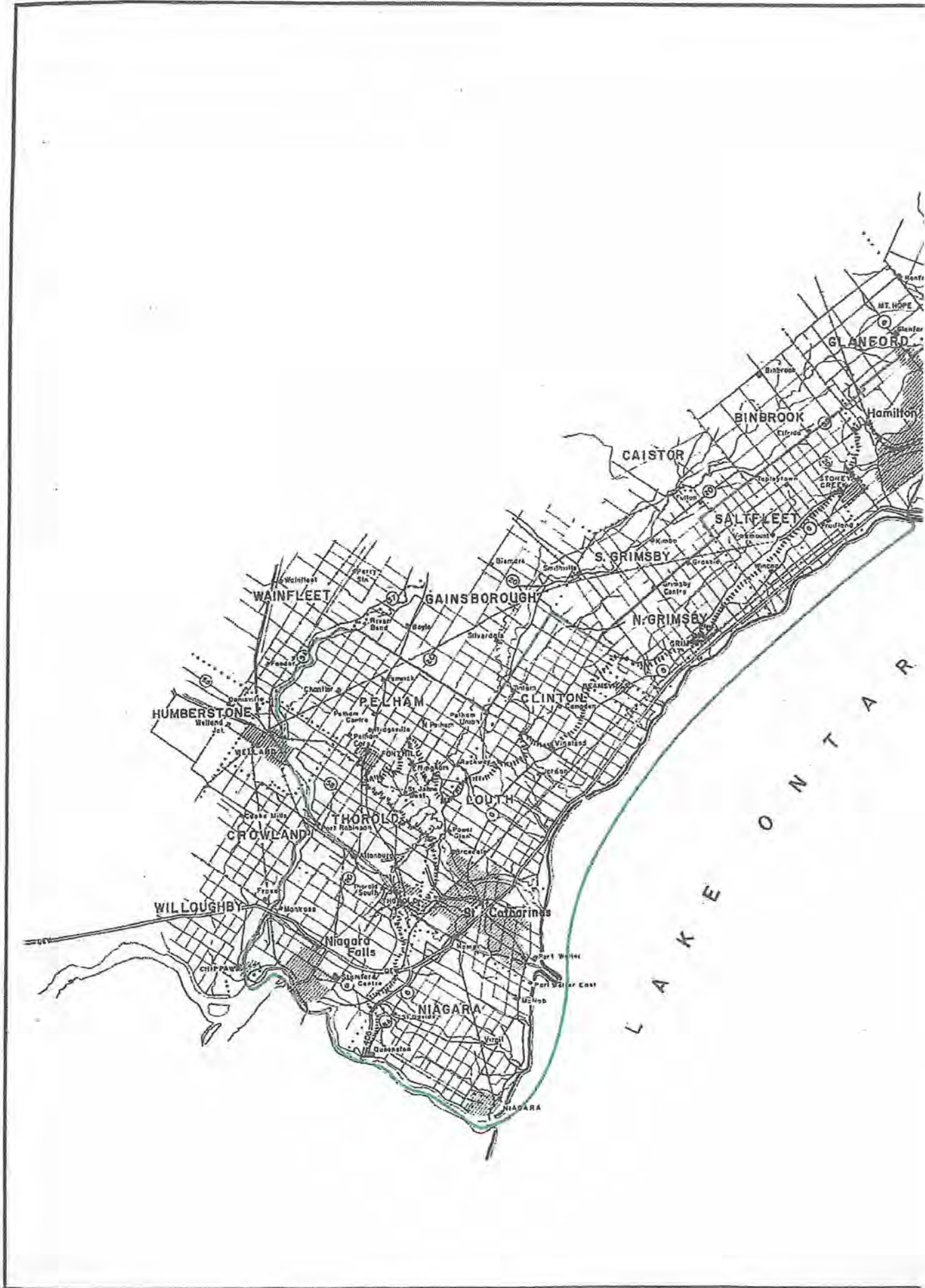




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Niagara Escarpment Planning and Development Act

R.S.O. 1990, CHAPTER N.2

Consolidation Period: From April 25, 2024 to the [e-Laws currency date](#).

Last amendment: [2024, c. 7, s. 6](#).

Legislative History: [+]

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Definitions

1 In this Act,

“Commission” means the Niagara Escarpment Commission; (“Commission”)

“development” includes a change in the use of any land, building or structure; (“aménagement”)

“enforcement officer” means an enforcement officer appointed or designated under section 27.1; (“agent d’exécution”)

“justice” has the same meaning as in the *Provincial Offences Act*; (“juge”)

“local plan” means an official plan under the *Planning Act*; (“plan local”)

“Minister” means the member of the Executive Council to whom the administration of this Act is assigned; (“ministre”)

“ministry” means any ministry of the Government of Ontario and includes a board, commission or agency of the Government; (“ministère”)

“Niagara Escarpment Plan” means a plan, policy and program, or any part thereof, as approved by the Lieutenant Governor in Council under this Act on June 12, 1985 and amended and revised in accordance with this Act, covering the Niagara Escarpment Planning Area, or any part thereof defined in the Plan, designed to promote the optimum economic, social, environmental and physical condition of the Area, and consisting of the texts and maps describing the program and policy; (“Plan d’aménagement de l’escarpement du Niagara”)

“Niagara Escarpment Planning Area” means the area of land in Ontario continued as such under section 3 and amended in accordance with that section; (“zone de planification de l’escarpement du Niagara”)

“zoning by-law” means a by-law under section 34 of the *Planning Act* or any predecessor of that section. (“règlement municipal de zonage”) R.S.O. 1990, c. N.2, s. 1; 1994, c. 23, s. 69; 1999, c. 12, Sched. N, s. 4 (1); 2000, c. 26, Sched. L, s. 7 (1); 2009, c. 12, Sched. L, ss. 7, 8; 2009, c. 33, Sched. 22, s. 6 (1); 2023, c. 20, Sched. 11, s. 1.

Section Amendments with date in force (d/m/y) [+]

Purpose of Act

2 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.

Niagara Escarpment Planning Area and Plan

3 (1) The Niagara Escarpment Planning Area and the Niagara Escarpment Plan as they exist immediately before the day this section comes into force are continued. 2009, c. 33, Sched. 22, s. 6 (2).

Altering boundaries of Planning Area

(2) Subject to subsection (3), the Lieutenant Governor in Council may make regulations altering the boundaries of the Niagara Escarpment Planning Area. 2009, c. 33, Sched. 22, s. 6 (2).

Removal of lands

(3) The Lieutenant Governor in Council shall not make a regulation under subsection (2) that has the effect of removing any lands from the Niagara Escarpment Planning Area unless, before the regulation is filed,

(a) the Minister lays the regulation before the Assembly if it is in session or deposits it with the Clerk of the Assembly if the Assembly is not in session; and

(b) the Assembly, by resolution, approves the regulation. 2009, c. 33, Sched. 22, s. 6 (2).

Section Amendments with date in force (d/m/y) [+]

Advisory committee

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. 1999, c. 12, Sched. N, s. 4 (2); 2009, c. 12, Sched. L, s. 7.

Additional advisory committees

(2) The Minister may establish additional advisory committees, consisting of such persons as the Minister appoints, 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 committees by the Minister. 1999, c. 12, Sched. N, s. 4 (2); 2009, c. 12, Sched. L, s. 7.

Section Amendments with date in force (d/m/y) [+]

Niagara Escarpment Commission continued

5 (1) The commission known as the Niagara Escarpment Commission is continued under the name Niagara Escarpment Commission in English and Commission de l'escarpement du Niagara in French. R.S.O. 1990, c. N.2, s. 5 (1).

Members

(2) The Commission shall be composed of seventeen members appointed by the Lieutenant Governor in Council as follows:

1. Nine members shall be appointed as representative of the public at large.

2. The eight remaining members shall be appointed from a list containing the names of at least three persons submitted by the council of each upper-tier municipality and of each single-tier municipality that is outside an upper-tier municipality if the jurisdiction of the municipality includes any part of the Niagara Escarpment Planning Area and one member shall be appointed from each list. R.S.O. 1990, c. N.2, s. 5 (2); 2000, c. 5, s. 16 (1); 2002, c. 17, Sched. F, Table.

Term of office

(3) Each member of the Commission shall hold office for such period of time as the Lieutenant Governor in Council determines. R.S.O. 1990, c. N.2, s. 5 (3).

Eligibility

(4) No person is eligible to be included in a list of persons submitted under paragraph 2 of subsection (2) unless he or she is a member or employee of the council of a municipality whose jurisdiction includes a part of the Niagara Escarpment Planning Area. R.S.O. 1990, c. N.2, s. 5 (4).

When Commission deemed established

(5) The Commission shall be deemed to be established when a majority of the number of members has been appointed, and it may

then proceed to carry out the functions conferred upon it under this Act, even if the remaining number of members has not been appointed. R.S.O. 1990, c. N.2, s. 5 (5).

Chair

(6) The Lieutenant Governor in Council may designate one of the members appointed under paragraph 1 of subsection (2) to be chair of the Commission. R.S.O. 1990, c. N.2, s. 5 (6); 2006, c. 2, s. 51 (1).

Quorum

(7) Nine members of the Commission constitute a quorum. R.S.O. 1990, c. N.2, s. 5 (7).

Remuneration

(8) Members of the Commission shall receive such salary and other remuneration as the Lieutenant Governor in Council from time to time determines. R.S.O. 1990, c. N.2, s. 5 (8).

Employees

(9) Such employees as are considered necessary for the proper conduct of the business of the Commission may be appointed under Part III of the *Public Service of Ontario Act, 2006*. 2006, c. 35, Sched. C, s. 89.

Pension plan

(9.1) The Commission shall be deemed to be a local board for the purposes of the *Ontario Municipal Employees Retirement System Act, 2006* and the chair shall be deemed to be an employee of the Commission for the purposes of that Act. 2006, c. 2, s. 51 (2).

Professional assistance

(10) Subject to the approval of the Minister, the Commission may engage persons to provide professional, technical or other assistance to the Commission. R.S.O. 1990, c. N.2, s. 5 (10).

Seconding of staff to Commission

(11) In the performance of its functions, the Commission may be assisted by such persons in the public service of Ontario as the Minister designates for the purpose. R.S.O. 1990, c. N.2, s. 5 (11).

Commission is body corporate

(12) The Commission is a body corporate without share capital. R.S.O. 1990, c. N.2, s. 5 (12).

Not-for-Profit Corporations Act, 2010

(13) The *Not-for-Profit Corporations Act, 2010* does not apply to the Commission. 2017, c. 20, Sched. 8, s. 101.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 5 of the Act is amended by adding the following subsection: (See: 2024, c. 7, s. 6)

Limitation, real property

(14) The Commission's capacity, rights, powers and privileges are subject to any limits imposed by section 11.0.1 of the *Ministry of Infrastructure Act, 2011*. 2024, c. 7, s. 6.

Section Amendments with date in force (d/m/y) [+]

Money

6 All expenditures, costs, charges and expenses incurred and payable in respect of the carrying out by the Commission of its functions, including the salaries and expenses of the members and employees of the Commission shall be paid out of the money appropriated therefor by the Legislature. R.S.O. 1990, c. N.2, s. 6.

Amendments to Plan

Definition

6.1 (1) In this section,

“public body” means a municipality, local board, ministry, department, board, commission, agency or official of a provincial or federal government or a First Nation. 2005, c. 1, s. 25 (1).

Amendments to Plan

(2) An amendment to the Niagara Escarpment Plan may be initiated by the Minister or by the Commission, and application may be made to the Commission by any person or public body requesting an amendment to the Plan. 2005, c. 1, s. 25 (1); 2009, c. 12, Sched. L, ss. 7, 9 (1).

Material to accompany application

(2.1) An application to the Commission by a person or public body requesting an amendment to the Plan shall include a statement of the justification for the amendment and shall be accompanied by research material, reports, plans and the like that were used in the preparation of the amendment. 2005, c. 1, s. 25 (1); 2009, c. 12, Sched. L, s. 9 (1).

Restriction re: applications or requests to amend the Plan

(2.2) No person or public body shall make an application or request to amend the Niagara Escarpment Plan if the application or request relates to land that is within the land use designation of Escarpment Natural Area, Escarpment Protection Area, Mineral Resource Extraction Area or Escarpment Rural Area of the Niagara Escarpment Plan and the application or request seeks to,

- (a) redesignate the land to the land use designation of Minor Urban Centre, Urban Area or Escarpment Recreation Area of the Niagara Escarpment Plan; or
- (b) make any other amendment to permit urban uses. 2005, c. 1, s. 25 (1); 2009, c. 12, Sched. L, s. 9 (2).

Exception

(2.3) Despite subsection (2.2), an application, request or proposal to redesignate land in the Niagara Escarpment Plan to the land use designation of Minor Urban Centre, Urban Area or Escarpment Recreation Area of the Niagara Escarpment Plan or to amend the Niagara Escarpment Plan to permit urban uses may be made during the review set out in subsection 17 (1) and in order for any such application, request or proposal to be considered during the review it must be included in the terms of reference established for the review under subsection 17 (2). 2005, c. 1, s. 25 (1); 2009, c. 12, Sched. L, s. 9 (2).

Rejection of certain applications

(3) Where, in the opinion of the Commission, an application for an amendment does not disclose a planning justification for the amendment, is not in the public interest, is without merit, is frivolous or vexatious or is made only for the purpose of delay, the Commission shall inform the Minister of its opinion and, where the Minister concurs in that opinion, the Minister shall inform the applicant in writing of his or her opinion and notify the applicant that unless the applicant makes written representations thereon to the Minister within such time as the Minister specifies in the notice, not being less than 15 days from the time the notice is given, the provisions of this Act in respect of the consideration of the amendment shall not apply, and approval of the amendment shall be deemed to be refused. 1999, c. 12, Sched. N, s. 4 (3).

Same

(4) Where representations are made to the Minister under subsection (3), the Minister, after giving consideration thereto, shall inform the applicant in writing either that the Minister's opinion is confirmed and that approval of the amendment is deemed to be refused or that the Minister has directed that consideration of the amendment be proceeded with in accordance with this Act. 1999, c. 12, Sched. N, s. 4 (3).

Section Amendments with date in force (d/m/y) [+]

Consultation during preparation of plan

7 During the course of the consideration of amendments to the Niagara Escarpment Plan, the Commission shall consult with any affected ministry and with the council of each municipality within or partly within the Niagara Escarpment Planning Area, with respect to the proposed contents of the Plan. R.S.O. 1990, c. N.2, s. 7; 1999, c. 12, Sched. N, s. 4 (4); 2000, c. 26, Sched. L, s. 7 (2); 2009, c. 12, Sched. L, s. 7.

Section Amendments with date in force (d/m/y) [+]

Objectives

8 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 of this Act 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*. R.S.O. 1990, c. N.2, s. 8; 1999, c. 12, Sched. N, s. 4 (5); 2009, c. 12, Sched. L, ss. 7, 10.

Section Amendments with date in force (d/m/y) [+]

Contents of Plan

9 The Niagara Escarpment Plan may contain,

- (a) policies for the economic, social and physical development of the Niagara Escarpment Planning Area in respect of,
 - (i) the management of land and water resources,
 - (ii) the general distribution and density of population,
 - (iii) the general location of industry and commerce, the identification of major land use areas and the provision of major parks and open space and the policies in regard to the acquisition of lands,
 - (iv) the control of all forms of pollution of the natural environment,
 - (v) the general location and development of major servicing, communication and transportation systems,
 - (vi) the development and maintenance of educational, cultural, recreational, health and other social facilities, and
 - (vii) such other matters as are, in the opinion of the Minister, advisable;
- (b) policies relating to the financing and programming of public development projects and capital works;
- (c) policies to co-ordinate the planning and development programs of the various ministries for the Niagara Escarpment Planning Area;
- (d) policies to co-ordinate planning and development among municipalities within the Niagara Escarpment Planning Area;
- (e) policies designed to ensure compatibility of development by the private sector; and
- (f) such other policies as are, in the opinion of the Minister, advisable for the implementation of the Plan,

and shall contain such programs and policies as each minister desires to be incorporated in the Plan, in so far as the Commission considers it practicable. R.S.O. 1990, c. N.2, s. 9; 2009, c. 12, Sched. L, ss. 7, 11.

Section Amendments with date in force (d/m/y) [+]

Amendment of Plan

10 (1) During the course of the consideration of amendments to the Niagara Escarpment Plan, the Commission shall,

- (a) furnish each municipality within or partly within the Niagara Escarpment Planning Area with a copy of the proposed amendments and invite it to make comments thereon within such period of time, not being more than 60 days from the time the amendments

are furnished to it, as is specified;

- (b) publish a notice, on a website of the Government of Ontario or a website managed by the Commission, notifying the public of the proposed amendments, indicating where a copy of the amendments, together with the material used in the preparation thereof mentioned in subsection (6), can be examined and inviting the submission of comments thereon within such period of time, not being more than 60 days from the time the notice is first published, as is specified; and
- (c) furnish copies of the proposed amendments to the advisory committees appointed under section 4 and invite the committees to make comments thereon within such period of time, not being more than 60 days from the time the amendments are furnished to them, as is specified. 1999, c. 12, Sched. N, s. 4 (6); 2002, c. 17, Sched. F, Table; 2009, c. 12, Sched. L, s. 7; 2023, c. 20, Sched. 11, s. 2 (1).

Public meetings during comment period

(1.1) During the time for making comments, the Commission may hold public meetings to promote public discussion of the proposed amendments. 2000, c. 26, Sched. L, s. 7 (3).

Notice of public meetings

(1.2) The Commission shall give notice of public meetings held under subsection (1.1) in such manner as the Commission considers appropriate. 2000, c. 26, Sched. L, s. 7 (3).

Extension of time

(2) The Commission may extend the time for making comments, before or after the expiration of the time, if it is of the opinion that the extension is necessary to ensure a reasonable opportunity for comments to be made. 1999, c. 12, Sched. N, s. 4 (6).

Hearing officer

(3) If written objections to the proposed amendments are received by the Commission before the expiration of the time for making comments, the Commission shall, and if no written objections are received within that time the Commission may, appoint one or more hearing officers for the purpose of conducting one or more hearings within the Niagara Escarpment Planning Area or in the general proximity thereof for the purpose of receiving representations respecting the proposed amendments by any person desiring to make representations. 1999, c. 12, Sched. N, s. 4 (6); 2000, c. 26, Sched. L, s. 7 (4).

Notice of hearing

(4) If one or more hearing officers are appointed under subsection (3) to conduct a hearing, they shall fix the time and place for the hearing and give notice of the hearing in such manner as they consider appropriate. 1999, c. 12, Sched. N, s. 4 (6); 2023, c. 20, Sched. 11, s. 2 (2).

Time of hearing

(5) The time fixed for any hearing under subsection (3) shall not be before the expiration of the time for making comments on the proposed amendments. 2023, c. 20, Sched. 11, s. 2 (3).

Procedure at hearing

(6) At a hearing under subsection (3), the persons proposing the amendments or their representatives shall present the proposed amendments and the justification therefor and shall make available for public inspection research material, reports, plans and the like that were used in the preparation of the amendments and, subject to the rules of procedure adopted by the hearing officers for the conduct of the hearing, the persons presenting the amendments and any other persons who make presentations at the hearing may be questioned on any aspect of the amendments by any interested person. 1999, c. 12, Sched. N, s. 4 (6).

Application of *Public Inquiries Act, 2009*

(7) Section 33 of the *Public Inquiries Act, 2009* applies to a hearing under subsection (3). 2009, c. 33, Sched. 6, s. 75.

Report of hearing officers

(8) Not more than 60 days after the conclusion of any hearings conducted under subsection (3), or within such extended time as the Commission may specify, the hearing officers shall report to the Commission a summary of the representations made at the hearings

together with a report stating whether the proposed amendments should be accepted, rejected or modified, giving their reasons therefor, and shall at the same time furnish the Minister with a copy of the report. 1999, c. 12, Sched. N, s. 4 (6).

Commission recommendations

(9) After giving consideration to any comments received under subsection (1) and, if one or more hearings were conducted under subsection (3), after giving consideration to any report received under subsection (8), the Commission shall submit its recommendations on the proposed amendments to the Minister. 1999, c. 12, Sched. N, s. 4 (6).

Inspection of report and recommendations

(10) A copy of any report made under subsection (8) and a copy of the recommendations submitted to the Minister under subsection (9) shall be made available in the office of the Minister, in the offices of the Commission, in the office of the clerk of each municipality, the whole or any part of which is within the Niagara Escarpment Planning Area, and in such other offices and locations as the Minister determines, for inspection by any person desiring to do so. 1999, c. 12, Sched. N, s. 4 (6).

Decision of Minister

(11) After receiving the Commission's recommendations under subsection (9), the Minister may refuse the proposed amendments or may approve the proposed amendments with any modifications that he or she considers desirable, unless,

- (a) in the opinion of the Minister, to do so would be inconsistent with any recommendations received under subsection (8) or (9); or
- (b) the Lieutenant Governor in Council requires the Minister to submit the proposed amendments to the Lieutenant Governor in Council because the Lieutenant Governor in Council is of the opinion that the amendments could have a significant impact on the purpose or objectives of the Niagara Escarpment Plan. 1999, c. 12, Sched. N, s. 4 (6); 2009, c. 12, Sched. L, s. 7.

Submission of amendments to L.G. in C.

(12) If amendments are not refused or approved by the Minister under subsection (11), the Minister shall submit the proposed amendments with his or her recommendations thereon to the Lieutenant Governor in Council. 1999, c. 12, Sched. N, s. 4 (6).

Public notice

(13) If, in the opinion of the Minister, the recommendations of the Minister to the Lieutenant Governor in Council are inconsistent with any recommendations received under subsection (8), the Minister shall give public notice of his or her recommendations and the Lieutenant Governor in Council shall allow a period of at least 21 days after the giving of the notice during which representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. 1999, c. 12, Sched. N, s. 4 (6).

Decision of L.G. in C.

(14) The Lieutenant Governor in Council may refuse the proposed amendments or may approve the proposed amendments with any modifications that the Lieutenant Governor in Council considers desirable. 1999, c. 12, Sched. N, s. 4 (6).

Effect of approval

(15) If amendments are approved by the Minister under subsection (11) or by the Lieutenant Governor in Council under subsection (14), the amendments form part of the Niagara Escarpment Plan for the Niagara Escarpment Planning Area. 1999, c. 12, Sched. N, s. 4 (6); 2009, c. 12, Sched. L, s. 7.

Section Amendments with date in force (d/m/y) [+]

Copies of amendments

11 When the Niagara Escarpment Plan is amended, the Minister shall promptly provide a copy of the amendment to the Commission and to the clerk of every municipality that is affected by the amendment. 2000, c. 26, Sched. L, s. 7 (5); 2009, c. 12, Sched. L, s. 7.

Section Amendments with date in force (d/m/y) [+]

Commission to make Plan available

12 The Commission shall make the Niagara Escarpment Plan available for public inspection. 2000, c. 26, Sched. L, s. 7 (5); 2009,

c. 12, Sched. L, s. 7.

Section Amendments with date in force (d/m/y) [+]

By-laws, etc., to conform to Plan

13 (1) Despite any other general or special Act, when the Niagara Escarpment Plan is in effect,

(a) no municipality or local board as defined in the *Municipal Affairs Act* having jurisdiction in the Niagara Escarpment Planning Area, or in any part of the Area, and no ministry, shall undertake any improvement of a structural nature or any other development or undertaking within the Area if the improvement, development or undertaking is in conflict with the Niagara Escarpment Plan; and

(b) no municipality having jurisdiction in the Niagara Escarpment Planning Area, or in any part of the Area, shall pass a by-law for any purpose if it is in conflict with the Niagara Escarpment Plan. 2000, c. 26, Sched. L, s. 7 (6); 2002, c. 17, Sched. F, Table; 2009, c. 12, Sched. L, ss. 7, 12 (1).

Minister may deem by-law, etc., conforms to Plan

(2) The Minister, upon the application of the council of a municipality having jurisdiction in the Niagara Escarpment Planning Area, or in any part of the Area, may in writing declare that a by-law, improvement or other development or undertaking of the municipality shall be deemed not to conflict with the Niagara Escarpment Plan, if the Minister is of the opinion that the by-law, improvement or other development or undertaking conforms with the general intent and purpose of the Plan. 2000, c. 26, Sched. L, s. 7 (6); 2009, c. 12, Sched. L, ss. 7, 12 (2).

Section Amendments with date in force (d/m/y) [+]

Conflict

14 Despite any other general or special Act, where the Niagara Escarpment Plan is in effect and there is a conflict between any provision of the Plan and any provision of a local plan or any provision of a zoning by-law covering any part of the Niagara Escarpment Planning Area, then the provision of the Niagara Escarpment Plan prevails. R.S.O. 1990, c. N.2, s. 14; 2009, c. 12, Sched. L, s. 7.

Section Amendments with date in force (d/m/y) [+]

Minister may require submission of proposals to resolve conflict

15 (1) Where, in the opinion of the Minister, a local plan or a zoning by-law that covers any part of the Niagara Escarpment Planning Area is in conflict with the provisions of the Niagara Escarpment Plan, the Minister shall advise the council of the municipality that adopted the local plan or that passed the zoning by-law of the particulars wherein the local plan or zoning by-law conflicts with the Niagara Escarpment Plan and shall invite the municipality to submit, within such time as the Minister specifies, proposals for the resolution of the conflict. R.S.O. 1990, c. N.2, s. 15 (1); 2009, c. 12, Sched. L, s. 7.

Power of Minister to amend local plan

(2) Where the council of the municipality fails to submit proposals to resolve the conflict within the time specified by the Minister, or where after consultation with the Minister on such proposals the conflict cannot be resolved, and the Minister so notifies in writing the council of the municipality, the Minister may by order amend the local plan so as to make it conform to the Niagara Escarpment Plan, and the order when made shall have the same effect as though it were an amendment to the local plan made by the council of the municipality and approved by the Minister of Municipal Affairs and Housing. R.S.O. 1990, c. N.2, s. 15 (2); 2009, c. 12, Sched. L, ss. 7, 13.

Section Amendments with date in force (d/m/y) [+]

Minister may require adoption of local plan or passage of zoning by-law

16 Where the Niagara Escarpment Plan is in effect in a municipality or any part thereof and the municipality does not have a local plan in effect or has not passed a zoning by-law or by-laws covering the municipality or that part of the municipality covered by the Plan, the council of the municipality, upon being notified in writing by the Minister of that fact, shall, within such time as is specified in the notice,

prepare and adopt a local plan or pass a zoning by-law or by-laws that conform to the Niagara Escarpment Plan, as the case requires, and, in the case of a local plan, submit it to the Minister of Municipal Affairs and Housing or the approval authority. R.S.O. 1990, c. N.2, s. 16; 2000, c. 26, Sched. L, s. 7 (7); 2009, c. 12, Sched. L, s. 7.

Section Amendments with date in force (d/m/y) [+]

Review

17 (1) The Minister shall cause a review of the Niagara Escarpment Plan to be carried out at the same time the review of the Greenbelt Plan is carried out under the *Greenbelt Act, 2005*. 2005, c. 1, s. 25 (2); 2009, c. 12, Sched. L, s. 7.

Consultation and public participation

(2) During a review, the Minister shall,

- (a) consult with any ministry with an interest in the Plan, the Commission or other interested public bodies;
- (b) consult with any advisory committee established under section 4;
- (c) consult with the council of each municipality if the jurisdiction of the municipality includes any part of the Niagara Escarpment Planning Area; and
- (d) ensure that the public is given an opportunity to participate in the review. 2012, c. 8, Sched. 36, s. 1.

Amendments to Plan

(3) After completion of the review, the Minister may propose amendments to the Plan. 2012, c. 8, Sched. 36, s. 1.

Procedure

(4) The procedures for amendments to the Plan set out in sections 10 and 11 apply with necessary modifications to an amendment proposed by the Minister under subsection (3), with the following exceptions:

- 1. The Commission shall not appoint a hearing officer in accordance with subsection 10 (3) but may only do so if directed by the Minister.
- 2. After receiving the Commission's recommendations under subsection 10 (9), the Minister shall not act in accordance with subsection 10 (11) but shall submit the proposed amendments with his or her recommendations thereon to the Lieutenant Governor in Council in accordance with subsection 10 (12). 2012, c. 8, Sched. 36, s. 1.

Objectives

(5) Amendments to the Plan resulting from a review under this section shall be consistent with and promote the objectives of the Plan described in section 8. 2012, c. 8, Sched. 36, s. 1.

(6) REPEALED: 2012, c. 8, Sched. 36, s. 1.

Section Amendments with date in force (d/m/y) [+]

Power to acquire land

18 (1) For the purposes of developing any feature of the Niagara Escarpment Plan, the Minister may, for and in the name of Her Majesty, acquire by purchase, lease or otherwise, or, subject to the *Expropriations Act*, without the consent of the owner, enter upon, take and expropriate and hold any land or interest therein within the Niagara Escarpment Planning Area and sell, lease or otherwise dispose of any such land or interest therein. R.S.O. 1990, c. N.2, s. 18 (1); 2009, c. 12, Sched. L, s. 7.

Power of designated minister

(2) The Lieutenant Governor in Council may designate any minister of the Crown in respect of any land acquired under subsection (1), and thereupon the minister so designated may, for the purpose of developing any feature of the Niagara Escarpment Plan,

- (a) clear, grade or otherwise prepare the land for development or may construct, repair or improve buildings, works and facilities

thereon; or

(b) sell, lease or otherwise dispose of any of such land or interest therein. R.S.O. 1990, c. N.2, s. 18 (2); 2009, c. 12, Sched. L, s. 7.

Section Amendments with date in force (d/m/y) [+]

Statutory amendment to Plan

19 (1) On the day subsection 25 (3) of the *Greenbelt Act, 2005* comes into force,

- (a) the lands that are part of the Niagara Escarpment Planning Area and described in paragraphs 26, 30, 31 and 33 of the Schedule to Regulation 684 of the Revised Regulations of Ontario, 1980 (as the Schedule read on December 31, 1990) shall be covered by, and subject to, the Niagara Escarpment Plan; and
- (b) the Niagara Escarpment Plan is amended so that the provisions of the Plan that define the parts of the Niagara Escarpment Planning Area that are covered by the Plan shall be deemed to include a reference to the lands referred to in clause (a). 2005, c. 1, s. 25 (3); 2009, c. 12, Sched. L, s. 7.

Consequential amendments to Plan

(2) On or after the day subsection 25 (3) of the *Greenbelt Act, 2005* comes into force, the Lieutenant-Governor in Council may order that the Niagara Escarpment Plan be amended to,

- (a) provide for such land use designations with respect to the lands referred to in clause (1) (a) as the Lieutenant-Governor in Council considers advisable; and
- (b) make such other amendments to the Niagara Escarpment Plan as the Lieutenant Governor in Council considers necessary for the effective implementation of the amendment described in clause (1) (b). 2005, c. 1, s. 25 (3); 2009, c. 12, Sched. L, ss. 7, 15 (1).

Definition of utility

(2.1) On the day section 6 of the *Green Energy Repeal Act, 2018* comes into force, the definition of "utility" in Appendix 2 of the Niagara Escarpment Plan is revoked and the following substituted:

Utility: a water supply; storm or sanitary sewage system; gas or oil pipeline; the generation, transmission and distribution of electric power, including renewable energy projects as defined in the *Electricity Act, 1998*, commercial or otherwise, and all associated infrastructure; the generation, transmission and distribution of steam or hot water; telegraph and telephone lines and other cabled services; a public transportation system; licensed broadcasting, receiving and transmitting facilities; or any other similar works or systems necessary to the public interest, but does not include:

- (a) the establishment of a new waste disposal site;
- (b) any expansion or alteration to an existing waste disposal site from what has been approved under the applicable legislation (including any expansion in area or height of a landfill site or any change in the type of waste material being disposed);
- (c) incineration facilities (including energy from waste facilities); or
- (d) large scale packer and/or recycling plants or similar uses.

2018, c. 16, s. 6.

Non-application

(3) For greater certainty, the requirements of sections 6.1, 7, 10 and 11 with respect to amendments to the Niagara Escarpment Plan do not apply to the amendments described in clause (1) (b) and subsection (2.1). 2005, c. 1, s. 25 (3); 2009, c. 12, Sched. L, ss. 7, 15 (3).

Section Amendments with date in force (d/m/y) [+]

Financial assistance

20 When the Niagara Escarpment Plan is in effect, the Minister may, out of the money appropriated therefor by the Legislature, provide financial assistance to any person, organization or corporation, including a municipal corporation, undertaking any policy or program that implements the Plan. R.S.O. 1990, c. N.2, s. 20; 2009, c. 12, Sched. L, ss. 7, 16.

Section Amendments with date in force (d/m/y) [+]

Transfer of Commission functions

21 (1) Where, in the opinion of the Lieutenant Governor in Council, the Niagara Escarpment Plan has been substantially completed for any part of the Niagara Escarpment Planning Area, the Lieutenant Governor in Council may by order and subject to such terms and conditions as the Lieutenant Governor in Council considers appropriate, transfer any of the functions of the Commission to the council of an upper-tier municipality or of a single-tier municipality outside of an upper-tier municipality. R.S.O. 1990, c. N.2, s. 21 (1); 2000, c. 5, s. 16 (2); 2002, c. 17, Sched. F, Table; 2009, c. 12, Sched. L, s. 7.

Limitation

(2) No order shall be made under subsection (1) except upon application made to the Lieutenant Governor in Council by the council of the municipality, and every such application shall include a statement of the administrative procedures intended to be followed in the exercise of such functions. R.S.O. 1990, c. N.2, s. 21 (2); 2000, c. 5, s. 16 (3).

Section Amendments with date in force (d/m/y) [+]

Regulations

22 The Minister may make regulations designating any area or areas of land within the Niagara Escarpment Planning Area as an area of development control. R.S.O. 1990, c. N.2, s. 22.

Regulations

23 The Minister may make regulations,

- (a) providing that where an area of development control is designated, such zoning by-laws and such orders made under section 47 of the *Planning Act*, or any part thereof, as are designated in the regulation, cease to have effect in the area or in any defined part thereof, provided that where land is removed from an area of development control such land is thereupon subject again to the aforementioned by-laws or orders or parts thereof, as the case may be, unless in the meantime such by-laws or orders or parts thereof have been repealed or revoked;
- (b) providing for the issuance of development permits and prescribing terms and conditions of permits;
- (c) providing for the exemption of any class or classes of persons, or any class or classes of development within any development area from the requirement of obtaining a development permit, subject to any conditions or restrictions prescribed by the regulations;
- (d) prescribing the form of application for a development permit;
- (e) defining urban uses. R.S.O. 1990, c. N.2, s. 23; 2005, c. 1, s. 25 (4); 2023, c. 20, Sched. 11, s. 3.

Section Amendments with date in force (d/m/y) [+]

Regulations by L.G. in C.

23.1 Despite any other Act, the Lieutenant Governor in Council may, in respect of the area covered by the Niagara Escarpment Plan, make regulations to vary, supplement or override any provision in this Act or the Niagara Escarpment Plan in order to facilitate the effective operation of the Greenbelt Plan established under section 3 of the *Greenbelt Act, 2005*. 2005, c. 1, s. 25 (5); 2009, c. 12, Sched. L, ss. 7, 16.

Section Amendments with date in force (d/m/y) [+]

Development permits

24 (1) Despite any other general or special Act, if an area of development control is established by regulation made under section 22, no person shall undertake any development in the area unless such development is exempt under the regulations or unless the development complies with a development permit issued under this Act. 1999, c. 12, Sched. N, s. 4 (9).

Terms and conditions

(2) The Minister may issue development permits and may include such terms and conditions as he or she considers advisable. 1999,

c. 12, Sched. N, s. 4 (9).

Agreements

(2.1) The Minister may, as a condition of issuing a development permit, enter into an agreement with an owner of land, the agreement may be registered against the land and the Minister is entitled to enforce the provisions of the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, against any subsequent owners of the land. 2000, c. 26, Sched. L, s. 7 (10).

Other permits

(3) No building permit, work order, certificate or licence that relates to development shall be issued, and no approval, consent, permission or other decision that is authorized or required by an Act and that relates to development shall be made, in respect of any land, building or structure within an area of development control, unless the development is exempt under the regulations or,

- (a) a development permit relating to the land, building or structure has been issued under this Act; and
- (b) the building permit, work order, certificate, licence, approval, consent, permission or decision is consistent with the development permit. 1999, c. 12, Sched. N, s. 4 (9).

Offence

(4) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable,

- (a) on a first conviction to a fine of not more than \$25,000; and
- (b) on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted. R.S.O. 1990, c. N.2, s. 24 (4).

Corporation

(5) Despite subsection (4), if a corporation is convicted under subsection (1), the maximum penalty that may be imposed is,

- (a) on a first conviction a fine of not more than \$50,000; and
- (b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted. R.S.O. 1990, c. N.2, s. 24 (5).

Order to demolish, etc.

(6) Where any person undertakes any development that is in contravention of subsection (1), the Minister may order such person to demolish any building or structure erected in connection with the development or to restore the site to the condition it was in prior to the undertaking of the development, or both, within such time as the order specifies. R.S.O. 1990, c. N.2, s. 24 (6).

Order to stop work, etc.

(6.1) If a person undertakes any development that is in contravention of subsection (1) and the Minister or an enforcement officer has reasonable grounds to believe that the contravention is causing or is likely to cause a risk to public safety or significant environmental damage, the Minister or the enforcement officer may order the person to,

- (a) stop work on the development;
- (b) take such steps as the Minister or the enforcement officer considers necessary to ensure compliance with this Act or the regulations, within such time as the order specifies. 2023, c. 20, Sched. 11, s. 4.

Cost of work

(7) Where a person to whom an order is directed under subsection (6) or (6.1) fails to comply with the order within the time specified in it, the Minister may cause the necessary work to be done and charge such person with the cost thereof, which cost may be recovered with costs, as a debt due to Her Majesty, in any court of competent jurisdiction. R.S.O. 1990, c. N.2, s. 24 (7); 2000, c. 26, Sched. L, s. 7 (12).

Offence

(7.1) Every person who contravenes an order made under subsection (6) or (6.1) is guilty of an offence and on conviction is liable,

- (a) on a first conviction, to a fine of not more than \$10,000 for each day or part of a day on which the contravention continued; and
- (b) on a subsequent conviction, to a fine of not more than \$25,000 for each day or part of a day on which the contravention continued. 2000, c. 26, Sched. L, s. 7 (13).

Penalty for corporation

(7.2) Despite subsection (7.1), if a corporation is convicted of an offence under subsection (7.1), the maximum penalty that may be imposed is,

- (a) on a first conviction, a fine of not more than \$25,000 for each day or part of a day on which the contravention continued; and
- (b) on a subsequent conviction, a fine of not more than \$50,000 for each day or part of a day on which the contravention continued. 2000, c. 26, Sched. L, s. 7 (13).

Delegation of authority

(8) Subject to subsection (9), where the Minister has delegated his or her authority under section 25, the delegate has, in lieu of the Minister, all the powers and rights of the Minister under this section. 2000, c. 26, Sched. L, s. 7 (14).

Same

(9) Subsection (8) does not apply to the powers and rights of the Minister under subsection (6.1) unless the delegate is the Commission or the director of the Commission. 2000, c. 26, Sched. L, s. 7 (14).

Section Amendments with date in force (d/m/y) [+]

Delegation

25 (1) Subject to subsection (2), the Minister may in writing, and subject to such conditions as he or she considers appropriate, delegate authority to issue development permits to,

- (a) the Commission;
- (b) an officer or employee of the Commission who is designated by the Commission;
- (c) an upper-tier municipality having jurisdiction in the Niagara Escarpment Planning Area or any part thereof; or
- (d) a single-tier municipality outside an upper-tier municipality having jurisdiction in the Niagara Escarpment Planning Area or any part thereof. 1999, c. 12, Sched. N, s. 4 (11); 2002, c. 17, Sched. F, Table.

Limitation on delegation

(2) No delegation shall be made under subsection (1) to a municipality, except where the municipality on application therefor has been designated by order of the Minister as a municipality to which may be delegated the authority to issue development permits under subsection (1), and every such application shall include a statement of the organizational structure to be established and the administrative procedures intended to be followed. 2002, c. 17, Sched. F, Table.

Withdrawal of delegation

(3) The Minister may in writing withdraw any delegation made under subsection (1) where, in his or her opinion, it is in the public interest to do so. R.S.O. 1990, c. N.2, s. 25 (3).

Delegate's power of decision

(4) Where the Minister has delegated his or her authority under subsection (1), the delegate, on receiving an application for a development permit and, after giving consideration to the merits of the application, may make a decision in accordance with the Niagara Escarpment Plan to issue the development permit or to refuse to issue the permit or to issue the permit subject to such terms and conditions as the delegate considers desirable. 1999, c. 12, Sched. N, s. 4 (12); 2000, c. 26, Sched. L, s. 7 (15); 2009, c. 12, Sched. L, s. 7.

Notice of decision

(5) The delegate to whom the Minister has delegated his or her authority under subsection (1) shall give notice of decision on any application for a development permit as follows:

1. Notice shall be given by regular or registered mail, email or personal service to,
 - i. the Minister,
 - ii. the applicant for the permit,
 - iii. any person who has requested to receive notice of the decision, and
 - iv. subject to paragraph 2, all assessed owners of land lying within 120 metres of the land that is the subject of the application.
2. If a condominium development is located within 120 metres of the land that is the subject of the application, notice shall not be given to all owners assessed in respect of the condominium corporation but shall be given to the condominium corporation by email or by regular or registered mail at the corporation's most recent address for service or its mailing address registered under the *Condominium Act, 1998*. 2006, c. 19, Sched. P, s. 3 (1); 2019, c. 7, Sched. 42, s. 1 (1).

Same

(5.1) Notice of a decision given under subsection (5) to anyone other than the Minister shall inform the recipient that, within 14 days after the notice of the decision is sent by regular or registered mail or by email or is served personally, the recipient may appeal the decision by giving the delegate a written notice of appeal that specifies the reasons for the appeal. 2019, c. 7, Sched. 42, s. 1 (2).

Hearing officer

(6) Where the Minister receives notice of a decision under subsection (5), the Minister may, within 14 days after the notice of the decision is sent by regular or registered mail or by email or is served personally, request the Lieutenant Governor in Council to appoint an officer for the purpose of conducting a hearing at which representations may be made respecting the decision. 2019, c. 7, Sched. 42, s. 1 (3).

Procedure

(7) Where the Lieutenant Governor in Council appoints a hearing officer at the request of the Minister under subsection (6), subsections (10) to (14) apply with necessary modifications and any reference in those subsections to the Minister shall be deemed to be a reference to the Lieutenant Governor in Council. R.S.O. 1990, c. N.2, s. 25 (7); 1999, c. 12, Sched. N, s. 4 (13).

Hearing officer, appointment by Minister

(8) Where the delegate receives one or more notices of appeal under subsection (5.1) the Minister shall appoint an officer for the purpose of conducting a hearing at which representations may be made respecting the decision. R.S.O. 1990, c. N.2, s. 25 (8); 2000, c. 26, Sched. L, s. 7 (17); 2006, c. 19, Sched. P, s. 3 (2).

Exception

- (8.1) Despite subsections (8) and (10), an officer appointed under subsection (8) may refuse to conduct or to continue a hearing if,
- (a) in the opinion of the officer, the appeal does not disclose a planning justification for the appeal, is not in the public interest, is without merit, is frivolous or vexatious, or is made only for the purpose of delay;
 - (b) the notice of appeal did not specify the reasons for the appeal; or
 - (c) the person who appealed the decision has not responded to a request by the officer for further information within the time specified by the officer. 1999, c. 12, Sched. N, s. 4 (14).

Representations

(8.2) Before refusing under subsection (8.1) to conduct or to continue a hearing, the officer shall notify the person who appealed the

decision and give the person an opportunity to make representations thereon. 1999, c. 12, Sched. N, s. 4 (14).

Same

(8.3) If an officer refuses under subsection (8.1) to conduct or to continue a hearing, the decision of the delegate shall be deemed to be confirmed. 1999, c. 12, Sched. N, s. 4 (14).

Confirmation of decision

(9) Unless within the time specified in subsection (5.1), the delegate receives one or more notices of appeal or unless the Minister has under subsection (6) requested the appointment of a hearing officer, the decision of the delegate shall be deemed to be confirmed. R.S.O. 1990, c. N.2, s. 25 (9); 1999, c. 12, Sched. N, s. 4 (15); 2000, c. 26, Sched. L, s. 7 (18); 2006, c. 19, Sched. P, s. 3 (2).

Time of hearing

(10) The officer appointed to inquire under subsection (8) shall fix a time and place for a hearing and shall send by regular or registered mail or by email written notice thereof to each person to whom notice of the decision was sent under subsection (5). R.S.O. 1990, c. N.2, s. 25 (10); 2019, c. 7, Sched. 42, s. 1 (4).

SPPA applies

(10.1) The *Statutory Powers Procedure Act* applies to a hearing held under subsection (10). 1999, c. 12, Sched. N, s. 4 (16).

Failure to appear

(10.2) If the persons who appealed the decision withdraw their appeals or fail to appear at the hearing, the decision of the delegate shall be deemed to be confirmed. 1999, c. 12, Sched. N, s. 4 (16).

Report

(11) Within 30 days after the conclusion of the hearing or within such longer period as the Minister may permit, the officer appointed shall report to the Minister a summary of the representations made, together with his or her opinion on the merits of the decision. R.S.O. 1990, c. N.2, s. 25 (11); 1999, c. 12, Sched. N, s. 4 (17).

Deemed confirmation

(12) The decision of the delegate shall be deemed to be confirmed if,

- (a) the opinion of the officer expressed in his or her report under subsection (11) is that the decision of the delegate was correct and should not be changed; and
- (b) the decision of the delegate was not appealed by a municipality. 1999, c. 12, Sched. N, s. 4 (18); 2002, c. 17, Sched. F, Table.

Agreement on terms and conditions

(12.1) The decision of the delegate shall be deemed to be confirmed if,

- (a) the decision of the delegate was a decision to issue a development permit;
- (b) the parties who appeared at the hearing have agreed on all of the terms and conditions that should be included in the development permit and all of these terms and conditions are set out in the report of the officer under subsection (11); and
- (c) the opinion of the officer expressed in his or her report under subsection (11) is that, if the decision of the delegate included the terms and conditions referred to in clause (b), the decision would be correct and should not be changed. 2000, c. 26, Sched. L, s. 7 (19).

Same

(12.2) If subsection (12.1) applies, the decision of the delegate shall be deemed to be a decision to issue the development permit with the terms and conditions referred to in clause (12.1) (b). 2000, c. 26, Sched. L, s. 7 (19).

Application of subss. (12) and (12.1)

(13) Subsections (12) and (12.1) do not apply if the officer was appointed by the Lieutenant Governor in Council following a request

under subsection (6). 1999, c. 12, Sched. N, s. 4 (18); 2000, c. 26, Sched. L, s. 7 (20).

Power of Minister

(14) If the decision of the delegate has not been deemed to be confirmed under subsection (8.3), (9), (10.2), (12) or (12.1), the Minister, after giving consideration to the report of the officer, may confirm the decision or may vary the decision or make any other decision that in his or her opinion ought to have been made and the decision of the Minister under this section is final. 1999, c. 12, Sched. N, s. 4 (18); 2000, c. 26, Sched. L, s. 7 (21).

Section Amendments with date in force (d/m/y) [+]

Notice of application

26 (1) Where the Minister has not delegated his or her authority under section 25 and the Minister receives an application for a development permit, the Minister shall cause a written notice of the application, together with a brief statement of the nature of the application, to be given by personal service, by regular or registered mail or by email to all assessed owners of land lying within 400 feet of the land that is the subject of the application and every such notice shall specify the time within which any person receiving it may file with the Minister written notice of the person's objection to the issuance of a development permit. R.S.O. 1990, c. N.2, s. 26 (1); 2019, c. 7, Sched. 42, s. 2 (1).

Minister may issue, etc., permit

(2) Subject to subsection (7), unless within the time specified in the notice referred to in subsection (1) a notice objecting to the issuance of a development permit is filed with the Minister, the Minister may issue the development permit, refuse to issue the permit or issue the permit subject to such terms and conditions as he or she considers advisable. R.S.O. 1990, c. N.2, s. 26 (2).

Hearing officer, appointment by Minister

(3) Where a notice of objection to the issuance of a development permit is filed with the Minister within the time specified in the notice referred to in subsection (1), the Minister shall appoint an officer for the purpose of conducting a hearing at which representations may be made respecting the issuance of the development permit. R.S.O. 1990, c. N.2, s. 26 (3).

Time of hearing

(4) The officer appointed to inquire under subsection (3) shall fix a time and place for a hearing and shall send by regular or registered mail or by email written notice thereof to the applicant for the development permit and to each person to whom notice of the application was sent under subsection (1). R.S.O. 1990, c. N.2, s. 26 (4); 2019, c. 7, Sched. 42, s. 2 (2).

SPPA applies

(4.1) The *Statutory Powers Procedure Act* applies to a hearing held under subsection (4). 2000, c. 26, Sched. L, s. 7 (22).

Report

(5) Within 30 days after the conclusion of the hearing or within such longer period as the Minister may permit, the officer appointed shall report to the Minister a summary of the representations made, together with his or her opinion on the merits of the application for the development permit. 2000, c. 26, Sched. L, s. 7 (23).

Minister may issue, etc., permit

(6) After giving consideration to the report of the officer appointed to inquire into the matter, the Minister may issue the development permit, refuse to issue the permit or issue the permit subject to such terms and conditions as he or she considers advisable. R.S.O. 1990, c. N.2, s. 26 (6).

Hearing officer, appointment by Minister

(7) The Minister where he or she considers it desirable may, and at the request of the applicant for the development permit made at the time of submitting the application to the Minister shall, appoint an officer for the purpose of conducting a hearing into the matter, and where the Minister does so subsections (4), (5) and (6) apply with necessary modifications. R.S.O. 1990, c. N.2, s. 26 (7).

Decision final

(8) The decision of the Minister made under this section is final. R.S.O. 1990, c. N.2, s. 26 (8).

Subs. (1) amended

(9) On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “400 feet” and inserting in lieu thereof “120 metres”. R.S.O. 1990, c. N.2, s. 26 (9).

Section Amendments with date in force (d/m/y) [+]

Agreement for fixed assessment

27 (1) Where the use of any land within the Niagara Escarpment Planning Area is not in conformity with the use designated for such land in the Niagara Escarpment Plan or in any local plan covering such land, and the assessment of such land is increased because of such designation, the local municipality in which the land is situate and the owner of the land may, with the approval of the Minister, enter into an agreement providing for a fixed assessment for the land reflecting the use to which the land is being put, to apply to taxation for general, school and special purposes, but not to apply to taxation for local improvements. R.S.O. 1990, c. N.2, s. 27 (1); 2009, c. 12, Sched. L, ss. 7, 17.

Term of agreement

(2) Every such agreement shall be for such term of years not exceeding three as the Minister approves and the Minister may, in granting his or her approval, attach such terms and conditions thereto as the Minister considers appropriate. R.S.O. 1990, c. N.2, s. 27 (2).

Procedure

(3) Where a parcel of land has a fixed assessment under subsection (1),

assessment

(a) the land shall be assessed in each year as if it did not have a fixed assessment;

taxes

(b) the treasurer of the local municipality shall calculate each year what the taxes would have been on the land if it did not have a fixed assessment;

record

(c) the treasurer shall keep a record of the difference between the taxes paid each year and the taxes that would have been paid if the land did not have a fixed assessment and shall debit the land with this amount each year during the term of the agreement and shall add to such debit on the 1st day of January in each year such interest as may be agreed upon the aggregate amount of the debit on such date. R.S.O. 1990, c. N.2, s. 27 (3).

Payment to municipality

(4) The Minister may, out of the money appropriated therefor by the Legislature, pay in each year to a local municipality in respect of which an agreement made under subsection (1) is in force, an amount of money equal to the difference in the taxes paid pursuant to the agreement and the taxes that would have been paid if the land covered by the agreement did not have a fixed assessment. R.S.O. 1990, c. N.2, s. 27 (4).

Apportionment

(5) Where a local municipality receives an amount of money under subsection (4), the council of the local municipality shall apportion the amount to each body in the same manner as taxes would have been apportioned if taxes had been levied in the normal manner on the assessment in accordance with clause (3) (a). R.S.O. 1990, c. N.2, s. 27 (5).

When agreement terminated

(6) Where the land or a part thereof that is subject to an agreement under subsection (1) ceases to be put to the use that was the basis for determining the fixed assessment, the agreement is thereupon terminated with respect to the land or such part thereof. R.S.O. 1990, c. N.2, s. 27 (6).

Registration of agreement

(7) Any agreement entered into under subsection (1) may be registered against the land affected by the agreement and when registered such agreement runs with the land and the provisions thereof are binding upon and enure to the benefit of the owner of the land and, subject to the provisions of the *Registry Act*, any and all subsequent owners of the land. R.S.O. 1990, c. N.2, s. 27 (7).

Termination of agreement, as to all lands

(8) Where an agreement is for any reason terminated in respect of the whole of the land, the owner shall pay to the local municipality the amount debited against the land, including the amounts of interest debited in accordance with clause (3) (c). R.S.O. 1990, c. N.2, s. 27 (8).

as to part of lands

(9) Where an agreement is for any reason terminated in respect of a part of the land, the owner shall pay to the local municipality that portion of the amount debited against the land, including the amounts of interest debited in accordance with clause (3) (c), that is attributable to the portion of the land in respect of which the agreement is terminated. R.S.O. 1990, c. N.2, s. 27 (9).

Payment to Minister

(10) Where a local municipality receives a payment under subsection (8) or (9), the treasurer of the municipality shall forthwith pay the amount of money received, including the amount of debited interest, to the Minister. R.S.O. 1990, c. N.2, s. 27 (10).

Termination of agreement by owner

(11) An agreement may be terminated on the 31st day of December in any year upon the owner of the land that is the subject of the agreement giving six months notice of such termination in writing to the municipality. R.S.O. 1990, c. N.2, s. 27 (11).

Apportionment

(12) For the purposes of an apportionment required under any Act, the assessment used as the basis for such apportionment shall include the assessment determined under clause (3) (a). R.S.O. 1990, c. N.2, s. 27 (12).

Section Amendments with date in force (d/m/y) [+]

Enforcement officers

27.1 (1) The Minister may appoint or designate persons or classes of persons as enforcement officers for the purposes of this Act. 2023, c. 20, Sched. 11, s. 5.

Enforcement officers by virtue of office

(2) The following persons are enforcement officers for the purposes of this Act by virtue of their office:

1. A conservation officer appointed under subsection 87 (1) of the *Fish and Wildlife Conservation Act, 1997*.
2. A provincial offences officer employed by the Commission and designated by the Minister to enforce this Act. 2023, c. 20, Sched. 11, s. 5.

Production of identification

(3) An enforcement officer acting under this Act shall, on request, produce identification. 2023, c. 20, Sched. 11, s. 5.

Section Amendments with date in force (d/m/y) [+]

Entry re inspection

28 (1) Subject to subsection (3), an enforcement officer, an employee or agent of the Commission or a person designated under subsection 5 (11) may enter and inspect any land, building or dwelling if,

- (a) the entry is for the purpose of considering an amendment to the Niagara Escarpment Plan proposed by the owner of the property;
- (b) the entry is for the purpose of a review of the Niagara Escarpment Plan under section 17 and is not inconsistent with the terms of

reference established under that section for the review;

- (c) the entry is for the purpose of considering an application for a development permit under this Act;
- (d) the entry is for the purpose of considering or commenting on an application under any Act for a permit, order, certificate, licence, approval, consent, permission or other decision related to land use or development; or
- (e) there are reasonable grounds to believe that development to which this Act or the regulations apply has been or is being undertaken. 1999, c. 12, Sched. N, s. 4 (19); 2009, c. 12, Sched. L, s. 7; 2023, c. 20, Sched. 11, s. 6 (1, 2).

Powers during inspection

(2) A person conducting an inspection under subsection (1) may,

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations, make any measurements, take tests, samples or photographs or make any other records necessary for the purposes of the inspection. 2023, c. 20, Sched. 11, s. 6 (3).

Authority to enter and inspect

(3) A person specified in subsection (1) may, under that subsection, enter and inspect any land without the consent of the owner or occupier of the land and without a warrant but subsection (1) does not authorize the person to enter and inspect a building or dwelling without a warrant unless the occupier of the building or dwelling consents to the entry. 2023, c. 20, Sched. 11, s. 6 (3).

Warrant for building or dwelling

(4) On application without notice, a justice may issue a warrant authorizing an enforcement officer to enter and inspect a building or dwelling if the justice is satisfied by information under oath that there are reasonable grounds to believe that,

- (a) an inspection under this section is required for the reasons described in subsection (1); and
- (b) entry has been refused or is likely to be refused. 2023, c. 20, Sched. 11, s. 6 (3).

Same, application for warrant

(5) An application under subsection (4) shall specify that the warrant is to enter and inspect a building or a dwelling. 2023, c. 20, Sched. 11, s. 6 (3).

Conditions

(6) A warrant is subject to such conditions as may be specified in the warrant. 2023, c. 20, Sched. 11, s. 6 (3).

Assistance

(7) An enforcement officer may be accompanied or assisted by any person during an inspection under this section. 2023, c. 20, Sched. 11, s. 6 (3).

Time of entry

(8) The power to enter lands, buildings or dwellings under subsection (1) may be exercised at any reasonable time. 2023, c. 20, Sched. 11, s. 6 (3).

Use of force

(9) Subsection (1) does not authorize the use of force. 2023, c. 20, Sched. 11, s. 6 (3).

Return of things

(10) Any document or thing removed during an inspection shall be returned promptly to the person from whom it was taken unless it is not reasonable for the person to expect the thing to be returned. 2023, c. 20, Sched. 11, s. 6 (3).

Offence

(11) Any person who prevents or obstructs a person who is entitled to enter lands, buildings or dwellings and conduct an inspection under this section from entering the lands, buildings or dwellings or conducting the inspection is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. 2023, c. 20, Sched. 11, s. 6 (3).

Section Amendments with date in force (d/m/y) [+]

False statements and obstruction

28.0.1 (1) A person shall not,

- (a) knowingly make a false statement in an application or in any other document required to be submitted under this Act;
- (b) knowingly make a false or misleading statement to an enforcement officer who is acting under this Act; or
- (c) otherwise obstruct an enforcement officer who is acting under this Act. 2023, c. 20, Sched. 11, s. 7.

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. 2023, c. 20, Sched. 11, s. 7.

Section Amendments with date in force (d/m/y) [+]

Service

28.1 (1) Any notice or order required to be given under subsection 6.1 (3), section 24 or subsection 26 (1) is sufficiently given if delivered personally or sent by any method that allows receipt to be proven addressed to the person upon whom service is to be made at the last address for service appearing on the records of the Commission. 2006, c. 19, Sched. P, s. 3 (3); 2023, c. 20, Sched. 11, s. 8.

Same

(2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, and for cause beyond the control of the person, receive the notice until a later date. 2006, c. 19, Sched. P, s. 3 (3).

Section Amendments with date in force (d/m/y) [+]

Transition

29 Any matter, appeal, application, referral, procedure or hearing stayed by subsection 8 (1) of the *Greenbelt Protection Act, 2004* is continued as if that section had never been enacted and any time period shall be calculated as if no time had passed between the day the matter was stayed and the day this section comes into force. 2005, c. 1, s. 25 (5).

Section Amendments with date in force (d/m/y) [+]

Limitations on remedies

30 (1) With respect to subsections 6.1 (1), (2), (2.1), (2.2) and (2.3) and 17 (1), section 19, clause 23 (e) and sections 23.1 and 29, no cause of action arises as a direct or indirect result of,

- (a) the enactment or repeal of any provision of this Act;
- (b) the making or revocation of any provision of the regulations made under this Act; or
- (c) anything done or not done in accordance with this Act or the regulations made under it. 2005, c. 1, s. 25 (5).

No remedy

(2) No costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort or trust, is available to any person in connection with anything referred to in subsection (1). 2005, c. 1, s. 25 (5).

Proceedings barred

(3) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, that is directly or indirectly based on or related to anything referred to in subsection (1) may be brought or maintained against any person. 2005, c. 1, s. 25 (5).

Same

(4) Subsection (3) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before or after the coming into force of this section. 2005, c. 1, s. 25 (5).

Proceedings set aside

(5) Any proceeding referred to in subsection (3) commenced before the day this section comes into force shall be deemed to have been dismissed, without costs, on the day this section comes into force. 2005, c. 1, s. 25 (5).

No expropriation or injurious affection

(6) Nothing done or not done in accordance with this Act or the regulations made under it constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law. 2005, c. 1, s. 25 (5).

Section Amendments with date in force (d/m/y) [+]**Limitation period for prosecutions**

31 A prosecution for an offence under this Act shall not be commenced more than three years after the date on which the offence was committed or is alleged to have been committed. 2007, c. 7, Sched. 28, s. 1.

Section Amendments with date in force (d/m/y) [+]

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