

NIAGARA ESCARPMENT — FOUNDATION —

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November 23, 2023

Public Input Coordinator
MNR – Natural Heritage Section
300 Water Street, 2nd Floor South
Peterborough, ON
K9J 3C7

RE: ERO 019-7696: Bill 139, Schedule 11 –

Proposed Amendments to the Niagara Escarpment Planning and Development Act

The Niagara Escarpment Foundation (NEF) is pleased to provide this submission on the proposed amendments to the *Niagara Escarpment Planning and Development Act (NEPDA)*.

The NEF is an independent, non-government, not-for-profit corporation and registered charity founded in 2001 to encourage public awareness of the natural and cultural significance of the Niagara Escarpment, a UNESCO-designated Biosphere, and part of the Greenbelt; and to conduct research related to protection of the Niagara Escarpment. The Foundation has undertaken a number of research projects, primarily related to the effectiveness of the Ontario government's Niagara Escarpment Plan in protecting the Escarpment from inappropriate development and conserving its sensitive ecosystems. The Foundation also played a major role, together with the Niagara Escarpment Commission (NEC), in transitioning the leadership of the

Biosphere from the NEC to a community-based organization, now established as the Niagara Escarpment Biosphere Network (NEBN), a new non-profit.

The NEF is generally very supportive of the thrust of the proposed amendments to the *NEPDA* as outlined in Bill 139. More detailed comments follow below.

- (1) Notice requirements: The NEF supports the modernization of notice requirements under proposed clause 10(1)(b) regarding Niagara Escarpment Plan (NEP) amendments and under proposed clause 10(4) regarding hearings on NEP amendments.
- (2) Discrepancy between ERO posting and the actual proposed NEPDA amendments: The ERO posting indicates that the proposed amendments would “expand the Minister’s regulation-making powers to allow broader exemptions for low-risk activities where standard conditions would provide appropriate mitigation in regulation.” However, this new regulation-making power is not explicitly provided for in proposed clause 23(c). The amendments do not identify what the low-risk activities are.
- (3) Other proposed revisions to clause 23(c): The NEF supports the addition of “classes of persons” to this clause. This is essentially a technical correction since Regulation 828 under the *NEPDA* already lists classes of persons who are exempt from the requirement to obtain a development permit (e.g. the Bruce Trail Conservancy or its agents). This is acceptable to the NEF as long as the “persons” have the appropriate certification and/or are representing an appropriate organization, such as the BTC, and as long as future regulations detailing how this will be implemented allow for exemptions only where there is minimal environmental impact.

The NEF brings to MNR’s attention Recommendation 15 from the Auditor General of Ontario’s Value-for-Money Audit titled “Conserving the Niagara Escarpment (November 2022):

“So that only compatible development occurs on the Niagara Escarpment, as required by the Niagara Escarpment Planning and Development Act, and so that the Commission is effectively and efficiently implementing the Niagara Escarpment Plan, we recommend that the Ministry of Natural Resources and Forestry, in collaboration with the Niagara Escarpment Commission, review and update Regulation 828 (Development within the Development Control Area) to modernize which activities are exempted from requiring a development permit.”

The Ministry’s response to Recommendation 15 was as follows:

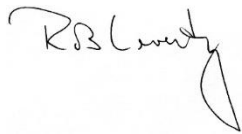
“The Ministry agrees with the Auditor General’s recommendation and will work with the Niagara Escarpment Commission to review Regulation 828 and modernize which activities are exempted from requiring a development permit.”

Although the NEF recognizes that Bill 139 pertains to proposed amendments to the *NEPDA* rather than to Reg. 828 under the *NEPDA*, it is unclear what progress has been made to meet the Auditor General’s Recommendation 15 regarding modernizing Reg. 828 itself. The NEF recommends steps be taken to address this.

- (4) Proposed clause 27.1(1) regarding enforcement officers: The NEF supports the expansion of who can be an enforcement officer under the *NEPDA*. For example, in certain instances, it will be helpful if municipal bylaw officers and conservation officers employed by conservation authorities can be enforcement officers under the *NEPDA* whereas under the current Act, they cannot.
- (5) Proposed clause 28 (1) to (7) on powers of entry to property and buildings: The NEF supports these amendments that enhance powers of entry in order to enforce the provisions of the *NEPDA*.

Thank you for the opportunity to comment on the proposed amendments to the *Niagara Escarpment Planning and Development Act*. If you have any questions about this submission, please contact us at the email address above.

Sincerely,

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.

Rob Leverty

President

c.c. Director, Niagara Escarpment Commission