That the City of Hamilton supports the proposed Niagara Escarpment Plan (NEP) Amendment 183 10 to add policies for Significant Woodlands to the Niagara Escarpment Plan, subject to consideration of the following suggested changes:

i) modify the introductory paragraph of Part 2.7. New Development Within Wooded Areas-Subsection 4 to read:

“Development and site alteration shall not be permitted within a Significant Woodland, which has been identified using the technical criteria recommended by a municipality and in the absence of such criteria, by the Ministry of Natural Resources, and/or other implementing authorities, such as the Conservation Authority.”
ii) modify the first sentence of paragraph of Part 2.7. New Development Within Wooded Areas—Subsection 6 to read:

“Development and site alteration proposed adjacent to an identified significant woodland requires an Environmental Impact Study to be undertaken to the satisfaction of the Niagara Escarpment Commission in consultation with the applicable implementing authorities.”

iii) modify the second sentence of the “adjacent land” definition to read:

“For the purposes of Policy 2.7.6, adjacent shall be defined by municipal Official Plans or other technical criteria recommended by the Ministry of Natural Resources.”

iv) delete the word “protective” in the term ‘vegetation protective zone’ and replace it with “protection” so the term reads “vegetation protection zone”.

EXECUTIVE SUMMARY

The purpose of this Report is to provide comments to the Niagara Escarpment Commission on proposed NEP Amendment (NEPA) 183 10. The NEPA is proposing to add new policies and definitions to the NEP respecting significant woodlands.

Overall staff are pleased to see the addition of updated environmental features policies and support many of these policies within the Amendment; however staff, suggest some wording changes that more accurately reflect the process and the municipalities’ expertise in significant woodlands. The Niagara Escarpment Commission staff rely on municipal official plans to define the criteria to classify a woodland as significant. In addition, they depend on the municipality to have the applicant undertake an Environmental Impact Statement (EIS). Therefore, for consistency, the NEP policies should defer all requirements for significant woodlands to the municipalities, if they have significant woodland policies. Based on this approach, the following suggested changes to NEPA 183 10 are recommended:

1) to revise the policies to clearly describe which implementing authority (municipality or Ministry of Natural Resources) would be used for the identification of a significant woodland (i.e. criteria), and the adjacent land triggers for an (EIS); and,

2) to revise the term ‘vegetation protective zone’ to “vegetation protection zone”.

Alternatives for Consideration – See Page 6
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: None

Staffing: None

Legal: None

HISTORICAL BACKGROUND (Chronology of events)

The Niagara Escarpment Commission undertakes amendments to the NEP for many reasons, including addition of lands, updating policies through additions, deleting or changes. The Niagara Escarpment Commission has requested comments on the proposed amendment-Significant Woodlands by December 6, 2010.

The purpose of this proposed Amendment is to include new policies and definitions respecting significant woodlands. Other provincial legislation, such as the Greenbelt Plan and the Provincial Policy Statement (PPS), include general policies on significant woodlands. These policies will be applied to all development within the area governed by the NEP. In addition, many municipalities, including Hamilton, have developed more specific criteria for the identification of significant woodlands, prescribing when an EIS is required, as well the buffers (Vegetation Protection Zones) that need to be protected.

Role of the City with Environmental Impact Statements Required for Development Permit Applications

At the present time, the Niagara Escarpment Commission depends on the local municipality, ESAIEG, and the Conservation Authority to review Environmental Impact Statements (EIS) which are submitted in support of a development application in the NEP area. The NEC considers comments from ESAIEG, City staff, and the Conservation Authority when deciding whether to issue a permit and when preparing conditions of approval for NEC applications. In other words, the NEC currently depends on the local expertise of ESAIEG and the Conservation Authority when assessing impacts on NEP natural areas. It is important the NEP policies reflect this existing process.

POLICY IMPLICATIONS

There are no other policies that would be affected by this recommendation, other than the Urban and Rural Official Plans. The Official Plans set out requirements to address significant woodlands. If the NEPA policies are approved without the minor wording changes, the policies will not be as clear as they could be. Furthermore, the “adjacent lands” trigger will be larger than City standards, resulting in additional EIS’s.
RELEVANT CONSULTATION

Staff prepared this report in conjunction with staff from the Planning Division.

ANALYSIS / RATIONALE FOR RECOMMENDATION

City staff support the addition of significant woodlands policies in the NEP, in principle. The proposed policies are consistent with the Greenbelt Plan and the PPS and are similar to those found in the City’s Urban and Rural OP’s. However staff have the following comments and suggested wording changes to ensure a more consistent application of the significant woodland policies in the City of Hamilton for the definition (criteria) of a significant woodland and the triggers (adjacent lands) for the preparation of an EIS.

1. Subsection 4- Part 2.7-New Development Within Wooded Areas

Based on the staff report, (See Appendix “A”) it is our understanding the Niagara Escarpment Commission will be relying on the significant woodland criteria from municipal OP’s since municipalities have undertaken substantial environmental evaluation to establish appropriate criteria. The introduction section of Policy 2.7.4 is confusing and staff recommends some slight wording changes to reflect what criteria the Niagara Escarpment Commission will use for processing applications:

**Proposed wording from NEP Amendment (Policy 2.7.4)**

Development and site alteration shall not be permitted within a significant woodland, as identified and/or approved by the Niagara Escarpment Commission using the most up to date technical criteria recommended by the Ministry of Natural Resources, in consultation with the municipality, and/or implementing authorities including the Ministry of Natural Resources, and the Conservation Authority.

**Recommended changes by staff**

Development and site alteration shall not be permitted within a significant woodland, which has been as identified and/or approved by the Niagara Escarpment Commission using the most up to date technical criteria recommended by a municipality and in the absence of such criteria by the Ministry of Natural Resources, in consultation with the municipality, and/or implementing authorities, including the Ministry of Natural Resources, and such as the Conservation Authority.

2. Subsection 6- Part 2.7-New Development within Wooded Areas

Since the Niagara Escarpment Commission staff is depending on the City’s woodland criteria, then there should be an equally consistent approach to when an EIS is required. Both the Rural and Urban OP’s identify that an EIS is required within
50 m of a dripline of a significant woodland; where as the proposed NEPA policy does not establish where the measurement should be taken from. (i.e. dripline base of the trunk etc.) The requirement to undertake an EIS within 120 m of a significant woodland is considerably larger than the City requirement of 50 m. The NEPA proposes to apply the MNR standards to adjacent lands. An increase of 70 m may have a significant impact on significant woodlands which are located within the urban designations of the NEP or adjacent areas outside the jurisdiction of the NEP.

In addition, the proposed Niagara Escarpment Commission’s staff report suggests the vegetation protection zones (vpz) should be 30 m wide but this width should be more accurately determined through an EIS. Staff agree with this approach; however, the NEP policies should recognize minimum vpz’s where they exist in municipal OP’s. The City’s OP contains specific minimum vegetation protection zones which are 15 m in the urban and 30 m in the rural areas; reducing the minimum setback maybe considered but only through an EIS

Proposed wording from NEP Amendment (Policy 2.7.6)
Development and site alteration proposed within 120 metres of an identified significant woodland requires an Environmental Impact Study to be undertaken to the satisfaction of the Niagara Escarpment Commission in consultation with the applicable implementing authorities.

Adjacent Lands- For the purposes of Policy 2.7.4, adjacent lands are those lands within a minimum of a 120 metres of a significant woodland. (second sentence).

Recommended changes by planning staff
Development and site alteration proposed within 120 metres of adjacent to an identified significant woodland requires an Environmental Impact Study to be undertaken to the satisfaction of the Niagara Escarpment Commission in consultation with the applicable implementing authorities.

Adjacent Lands- For the purposes of Policy 2.7.4 2.7.6, adjacent lands shall be defined by municipal Official Plans or other technical criteria recommended by the Ministry of Natural Resources. are those lands within a minimum of a 120 metres of a significant woodland.

3. Definition and Size of Vegetation Protective Zone

The Greenbelt Plan and the City’s Urban and Rural OP’s uses similar terms-“vegetation protection zone”. The definition of vegetation protection zones in the Urban OP differs slightly from the Rural OP since the term has been adapted to urban situations.
The introduction of a new term in the NEP an that is different in terminology but similar in effect is confusing. Staff suggest the definition be renamed to vegetation protection zones not vegetation protective zones.

4. Next Steps

It is our understanding NEC will receive formal comments from interested parties and may make changes to the amendment before posting it on the Environmental Bill of Rights.

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<th>ALTERNATIVES FOR CONSIDERATION:</th>
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<td>(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)</td>
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Council does not have to support the recommended changes to the NEPA recommended by staff.

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<tr>
<th>CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)</th>
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**Environmental Stewardship**

- Natural resources are protected and enhanced
- Aspiring to the highest environmental standards

**Healthy Community**

- Plan and manage the built environment

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<th>APPENDICES / SCHEDULES</th>
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<td>Appendix “A” Niagara Escarpment Commission Staff Report on Significant Woodlands</td>
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JHE/ra