

HALTON REGIONAL OFFICIAL PLAN REVIEW BURLINGTON AGRICULTURAL AND RURAL AFFAIRS ADVISORY COMMITTEE FEEDBACK

WHEREAS, City staff will be engaging with Halton Region throughout the Regional Official Plan Review process, and communication and collaboration with the agricultural community at the earliest stages of policy development will be critical in ensuring sensitivity to local context;

NOW THEREFORE BE IT RESOLVED THAT the Burlington Agricultural and Rural Affairs Advisory Committee (BARAAC) requests that Council direct staff to consider the following general recommendations throughout the City's participation in the Regional Official Plan Review process:

- Policies should be streamlined across the City, Region, Province and Conservation Authorities through consistent language and avoidance of unnecessary duplication. Mapping should be ground-truthed, clearly delineated, consistent across all agencies, and accessible to landowners, with clear corresponding policies to convey the implementation priority of the various designations and overlays, particularly in relation to Prime Agricultural Areas and the Natural Heritage System.
- Permitted uses should default to the most permissive applicable Provincial policies and, where more restrictive policies are proposed, a comprehensive study and public engagement process should be undertaken to provide appropriate planning justification and documentation of policy intent.
- Notice to landowners for proposed Official Plan mapping changes should be on an individual basis. Notices should be robust and direct (e.g. direct mail), as local print media is often not available to rural residents. Notices should be accompanied by a plain language explanation of why the changes are occurring and which data are informing the updates. The process for ground-truthing schematic mapping that represents a policy framework, rather than data verified at the site level, should be explained (i.e. refinement of Natural Heritage System or Regulated Area mapping).

WHEREAS, City staff will be submitting a formal response to the five Regional Official Plan Review discussion papers released on July 15, 2020 for a 75-day consultation period, and has engaged with BARAAC to provide feedback in relation to the 'Rural and Agricultural System' and 'Natural Heritage' papers;

NOW THEREFORE BE IT RESOLVED THAT BARAAC requests that also Council direct staff to consider the following detailed recommendations throughout the City's participation in the Regional Official Plan Review process, in addition to the general recommendations provided above, and that these recommendations be circulated to Halton Region as part of the City's submission:

ROPA 38 REVIEW

At a minimum, some review of the ROP performance relative to desired outcome should be undertaken before amendment policies are suggested i.e. a review of policy in terms of achieving positive outcomes for agriculture as compared to just creating policy that meets planning requirements. Other review goals should include: making the amended ROP clearer and more easily interpreted, reducing policy duplication, and to review municipal *implementation*. Another useful review area would be what policies motivates land stewardship?

The current discussion paper does not appear to have considered policy implementation issues, or review on the ground or user impacts of policy options. It also does not recognize or reference the 2019 Regional Council Motion on ROP Designation of Agricultural land.

A conformity exercise vis-a-vis Provincial Policy should not be the focus of the review but should rather be seen as secondary to achieving desired Agricultural and Rural outcomes.

The ROPA 38 “Agricultural System” was developed through the OMB process without appropriate public consultation. The PPS 2020 now clearly defines the **Agricultural System** as

“A system comprised of a group of inter-connected elements that collectively create a viable, thriving agricultural sector. It has two components:

- a) An agricultural land base comprised of *prime agricultural areas*, including *specialty crop areas*, and *rural lands* that together create a continuous productive land base for agriculture; and
- b) An *agri-food network* which includes *infrastructure*, services, and assets important to the viability of the agri-food sector.”

What does “Consideration should be given to adding a “made in Halton” definition mean? What is wrong with this definition that needs to be addressed?

TIMELINE & PUBLIC CONSULTATION PROCESS

The timeline is not adequate to accommodate a complete review and communicate the issues back to the Region with time to resolve them before decisions are made; particularly given that BARAAC would need to review 4 separate discussion papers in order to understand all the policy impacts in Rural Burlington.

There is no outlined opportunity for consultation between discussion paper and drafting of ROPA wording. As we learned in ROPA 38, 75 days for review of policy wording is not enough for Regional Council to have detailed understanding of policy issues before voting.

It is not clear how discussion paper will lead to phase 3 and what, if any, role our input will have.

A 161 Page Technical Background report is linked to the Discussion Paper through the Region’s website. It was created in April 2019, but it is the first time BARAAC has seen this report.

Page 34 and 35 of the discussion paper include incomprehensible mapping including up to 37 “Areas for discussion” and “Areas for Discussion - Candidate areas”. There is no reference as to what is being discussed.

The HRFA has previously submitted a paper on a review of ROPA 38 process and suggested improvements. No changes appear to have been made.

The Halton Agricultural Advisory Committee was not involved in the review process or discussion paper. Given that this is supposed to be Regional Staff’s review and recommendation body for Agricultural policy in Halton, why not?

PRIME AGRICULTURAL AREAS & NHS

There are multiple places in this report and in the Region's communications where Agricultural and Rural areas are presented as separate from the Region's NHS. It is, for example, impossible for the "outcomes of the two topic areas" to have "close alignment" as their goals are primarily divergent. Recognition that the NHS is a constraint layer that restricts many Agricultural and Rural uses and makes public assets out of private land is fundamental in advancing a genuine planning discussion. Further, there should be recognition that it is landowners who have improved NH over time and not Halton's more rigorous mapping and policy. In fact, BARAAC would posit that it is likely that increased NH regulation is now and will continue to discourage landowners from enhancing NH. Finally, it is impossible to review and comment on the Rural and Agricultural discussion paper's goals to "support" Agriculture separate from the "constraint layer" presented in an entirely different document.

Regional Council (Report No. LPS45-18) directed staff to "Provide for the agricultural system as a land use designation", and for "the natural heritage system as an overlay". However, the first discussion question is "Should the updated ROP designate prime agricultural areas with a separate and unique land use designation?".

The Province has allowed the fragmentation of Prime Agricultural Mapping by Key features (from the discussion paper: *"In discussions with the Province, it was agreed that Key Natural Heritage Features of the NHS may be designated."*) The appropriate planning question is, should the ROP designate Key features. Given that not all the Key features should exclude agriculture (i.e. Earth Science ANSIs) and that not all the key features are accurately mapped (and further, that some may change over time).

BARAAC recommends NOT designating Key Features.

Requirements to protect key features of the Natural Heritage System based on the "no negative impact" principle should be implemented in a manner that better mitigates negative impacts to agricultural viability (i.e. land use constraints). Stewardship should be encouraged through additional measures that appropriately recognize the public benefits provided through on-farm protection and enhancement of the Natural Heritage System.

Environmental Impact Assessment (EIA) requirements and guidelines for agricultural uses should be clarified in relation to Provincial policies. Examples/case studies of the types of issues being addressed through EIA requirements would clarify the intent and applicability of Regional policies. A cost/benefit analysis of implementation requirements for the Region, local municipalities and project proponents, is also recommended.

MAPPING OF PRIME AGRICULTURAL AREAS

The mapping section is confusing and it is not clear if it is being discussed for change or if the changes are to be discussed.

A footnote refers to DBH Soil Services Inc being retained to assist in mapping review, but there does not seem to be reference to their actual report.

Are the candidate areas still to be reviewed?

From the discussion paper *"Rationale is required by the Province for any particular area (prime)*

identified that is not brought into Regional mapping.” Where is this rationale?

One of the most urgent needs in this update is a granular understanding of how policies will be implemented ON THE GROUND. If the Region truly wants meaningful feedback, the public needs to be able to locate and delineate areas on properties. With all the Additional Resources provided online, why not include detailed mapping? For example: What are the differences between Provincial and Regional Mapping? What and where are the candidate areas? What is the actual increase in Prime Agricultural Area? Further, maps need not “look busy” digitally as layers can be applied or removed.

AGRICULTURE-RELATED, ON FARM DIVERSIFIED AND AGRI-TOURISM USES

The best way that Regional planning can support Agriculture (the only reason there is NHS to protect incidentally) and avoid deleterious unintended consequences, is to be as PERMISSIVE as possible in applying PPS policy, leaving necessary and justified constraints to local planning (as long as they are not more permissive than OMAFRA guidelines). In Burlington specifically, small, fractured, near-urban farming requires all of these diversification tools to remain viable.

CEMETERIES

The Region should be able to plan for cemeteries as part of the Urban planning, particularly the large commercial ones. Allowing smaller local ones in Rural designation, perhaps as an appropriate urban-rural buffer, is probably ok but not on Prime Agricultural land.

EIA AND AIA GUIDELINES

Environmental Impact Assessment Guidelines were updated mid-summer 2020 but have not been provided and are not discussed here (though they are touched on in the technical background report). Why?

It would be best to make clear where an AIA will be required and most importantly where it will not. For example, a Surplus Farm Dwelling severance application would be considered “development” and could impact Agriculture but should not trigger an AIA. Requiring an AIA for smaller projects is counterproductive and tends to ensure only big projects are applied for. Small renewable energy and other additional on farm uses should be exempt.

NORTH ALDERSHOT

While there is some agriculture still taking place in the area the planning framework is very complicated. Given the timeline and lack of resources, BARAAC has not reviewed this discussion paper.

REGIONAL NATURAL HERITAGE SYSTEM

The discussion paper seems to make the conformity with the growth plan into a very complex issue. The reality is the complexity comes from trying to alter it to fit a Regional agenda that is proving to be unworkable in implementation. Using an overlay approach for NHS in the rural area (can be designations in Urban) is standard planning and is already done for Greenbelt NHS.

There are 3 options presented for implementation. If they all implement the NHS as an overlay the main issue becomes which overlay. There is not enough information to evaluate this. It would depend on how similar the respective policies are. On the other hand, if as option 1 might be stating (and it is unclear in the other 2), the intent is to keep the RNHS as a designation with an additional NHS overlays this will cause problems for the rural area and adds needless complexity.

The “precautionary principal” is introduced. This is not likely to work well for agriculture. There needs to be a more balanced approach and not just for agriculture but all normal rural uses. The precautionary principal should not be explicitly included in the ROP. In all cases it is better to set out the required criteria in detail, so it is clear to all.

Buffers and Vegetative Protection Zones are referenced along with a document produced by the Region. Quote “The Region has developed a working document called the “Framework for Regional Natural Heritage System Buffer Width Refinements for Area-Specific Planning””. This document has not been reviewed. There does not appear to be any advantage for the rural area in changes to the ROP for buffers accept as follows.

Completely absent from the discussion papers is the concept of buffers on buffers. In the rural area it is not uncommon for a landowner to buffer a NH feature because they feel it is a good idea, as part of a conservation initiative, or as requirement through the regulatory process. Over time these buffers become incorporated in NH designation and the landowner finds themselves wanting to change something but now having to provide a new buffer from the old buffer. This should be included as an issue.

Modified Option 2 Proposal

As in Figure 10 (page 24) of the Region's Rural and Agricultural Discussion Paper, Prime Agricultural Area is a designation, as are Rural areas.

However, rather than Key Features being a designation, we apply a "made in Halton" approach, creating a subset of Key Features called Protected Areas.

Protected Areas become a designation and are protected from ALL development activity, including Agricultural and Rural development activity.

Key Features (in their entirety) are then included in NHS as an overlay; a single system where all NHS is equally important (a recognized problem with the original option 2 proposal).

This modified option implements Agricultural and Rural designations that enable all provincially permitted uses except in Protected Areas, where the primary criteria is sensitive environment that should be excluded from normal agricultural and rural uses. Not all Key Features constrain or should constrain these normal uses. An example would be an Earth Science ANSI. In this option, Protected Areas would not include Earth Science ANSI's, but could include, in contrast, provincially significant wetlands.

The secondary criteria for inclusion as a Protected Area, would be that it is clearly delineated and mapped in a way that can be implemented. For example, Provincially Significant Wetland mapped by the Province could be included, while aerial photo interpretation of tableland woodlands might not be implementable.

This option provides clarity surrounding permitted uses, keeping in mind those permitted uses are still constrained by Conservation Authority and the Niagara Escarpment Commission.

Under this modified option, the NHS overlay, including Key Features, would protect the entire Rural area from more extensive development, i.e. those that require a Planning Act application. Under a Planning Act application an EIA and AIA can be required and those studies would delineate the NHS boundaries. It is important to note that: building permits are not development under the planning act, the Region's policies on scoping and waiving EIA's should remain, and that it would be appropriate to explicitly exempt some minor planning act applications such as a Minor Variance or Surplus Farm Dwelling Severance.

This option would also propose the formation of a working group (such as HAAC, along with BARAAC and local planning staff) to create a "test" and review what should be included or excluded from the Protected Areas; ie should be protected from permitted Agricultural and Rural uses and can be clearly delineated and mapped.

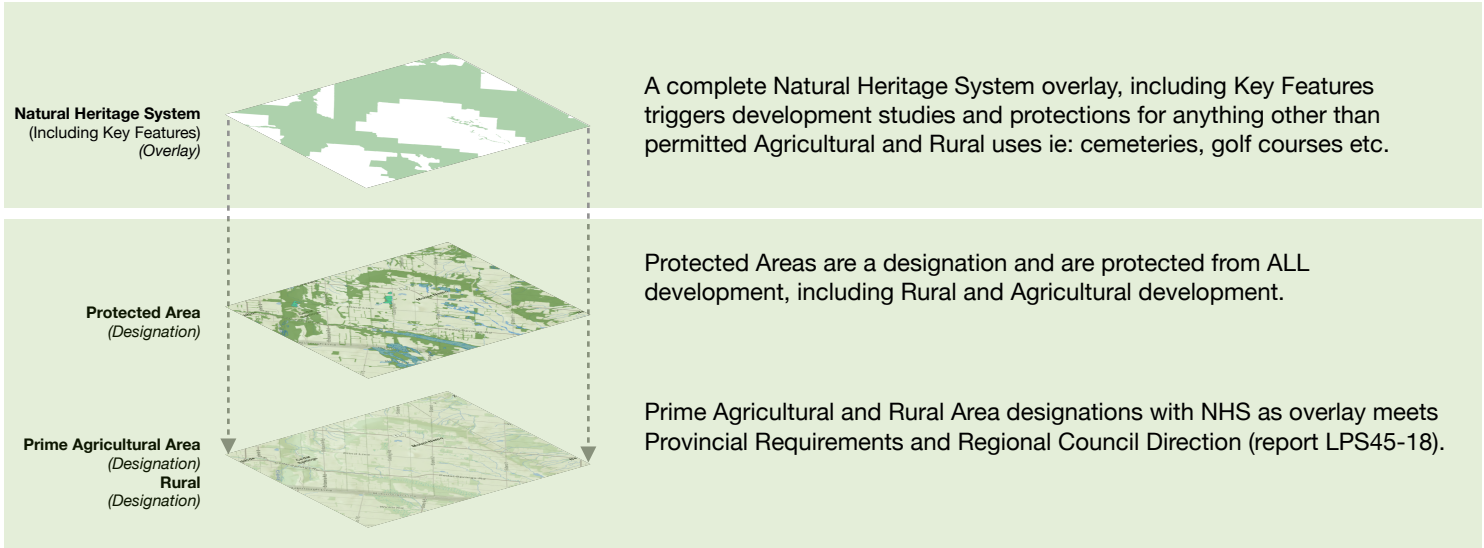
In this way, a landowner would be able to access a map of their property that explicitly determined where they may engage in permitted uses, and where they may not. If a landowner wanted to develop outside of the scope of permitted uses, the NHS overlay would be fully fleshed out through the required studies.

It is important to note that this option would allow the Municipality and Region to study, “capture” and protect (from non-Agricultural or Rural development) a more fulsome Natural Heritage System as it evolves, and on ALL properties in the rural area - rather than trying to delineate an NHS system that is temporally and geographically narrow.

This modified option will also NEVER punish a landowner for their own stewardship as there is no *potential* to punish good behaviour (ie expanding woodlands) by constraining permitted uses on their own property - a MAJOR unintended consequence of unclear/undelineated mapping.

BARAAC Proposal: Prime Agricultural Area, Rural Area and Protected Areas are designated, with complete Natural Heritage System, including Key Features as overlay. Protected Areas are protected from all development and are clearly mapped and delineated, NHS protections are triggered by Planning Act Applications.

Modified Option 2 Mapping Concept



Modified Option 2 Problems Resolved



Map User Friendliness:

- Clear, delineated and mapped property designations with established data. Property owner understands exactly where they may engage in permitted uses, therefore **fully implementable**
- Where Prime Agricultural Areas and NHS Key Features are not mutually exclusive, creating mapping chaos, Protected Areas and Prime Agricultural and Rural Areas would be mutually exclusive land use designations
- Overlay protections and studies triggered upon Planning Act Application with some small exemptions ie: Minor Variance or Surplus Farm Dwelling Severance
- Mapped Protected Areas encourage stewardship: eliminate landowner fear that contributing to NHS may limit future property use
- Identifies a *complete* NHS system with Key Features, Linkages, Enhancements and Buffers as a separate layer (eliminates the two tiers proposed in other options)

Policy Application:

- **Balanced** and clear approach that protects both Agriculture and NHS as systems without cumbersome “prohibition with exemption” model. Protected Areas protected from ALL development
- Not all Key Features constrain or should constrain Rural and Agricultural permitted uses. In this option, Protected Areas can exclude things like Earth Science ANSI's, but could include provincially significant wetlands
- Protected Areas (determined by working group) provides a “Made in Halton” solution with Provincial Conformity as a necessary but secondary focus
- Does not limit NHS geographically or temporally; Planning Act Applications require study of NHS (through EIA's and/or AIA's) on ALL rural/agricultural properties, therefore capturing any new or unknown environmental or agricultural public assets.