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December 30, 2022.

Electronic Submission only

ATT: Public Input Coordinator
MNRF - PD - Resources Planning and Development Policy Branch
300 Water Street, 2nd Floor, South tower
Peterborough, ON K9J 3C7
ecologicaloffsetting@ontario.ca

RE: Conserving Ontario's Natural Heritage
Policy – Ecological Offsetting
ERO Posting 019-6161

Please accept this letter and its attachment as the City of Burlington submission on ERO Posting 019-6161. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Simeoni".

Mark Simeoni, MCIP, RPP
Director of Community Planning
Community Planning Department
City of Burlington

Theme: Streamlining Development Approvals Contributor: Policy and Community Primary Associated ERO Postings: Conservation Ontario's Natural Heritage – ERO 019-6161 Notice Type: Policy			
Summary of Changes	Staff Comments/Questions	Guiding Principle (see the Options considered section of the hyperlinked report) (indicate support or concern)	Approaches or alternatives for consideration
<ul style="list-style-type: none"> - Provided as a discussion paper; the process of ecological offsetting in the development process is being advanced by the Province. Offsetting was considered, and implemented, as part of earlier species at risk changes 	<ul style="list-style-type: none"> - As the 'fund' model being suggested in this offsetting policy is similar to the Species at Risk (SAR) Conservation Fund offsetting model, it would be advantageous if the outcomes and results of that program were better known. - It is unclear how an offsetting policy would work in tandem with other, existing, municipal offsetting processes; most notably tree compensation requirements under tree-cutting bylaws. - The Provincial Policy Statement (2020), Provincial Plans, and supporting documentation implement a <i>no negative impact</i> test for natural heritage features. The components of this test are not clearly permissive of off-site compensation. Municipalities and 	<p>Matters of Provincial Interest</p> <ul style="list-style-type: none"> - Concern <p>Impact to ability for municipalities to deliver on a number of listed matters of Provincial Interest including the protection of ecological systems, including natural areas, features and functions.</p> <p>Public Health and Safety</p> <p>Loss to key natural heritage features that help mitigate impacts from natural hazards.</p> <p>Environment, Urban Design and Climate Change</p> <p>Overall net loss to existing natural heritage features and the buffers protecting them.</p>	<ul style="list-style-type: none"> - Clarity should be provided on how an offsetting policy would interact with other offsetting tools that may already be deployed by municipalities and conservation authorities. - If ecological offsetting is to be permitted the requisite updates to the PPS, Provincial plans, and supporting guidance documentation need to be implemented. Specifically, references to <i>no negative impact</i> should be updated to state, at minimum, <i>no <u>net</u> negative impact</i>. - Limit the policy to a single feature (excluding wetlands) as a pilot. Monitor the outcomes, and offsetting projects for a period of time to better understand potential impacts. Of specific interest would be monitoring the average lag time between loss of the selected feature and its successful offsetting, and whether the program results in a net gain in natural heritage.

	other stakeholders are hesitant to implement offsetting until such time that Provincial policy is clarified in this regard.	These features play an important function in mitigating and adapting to the impacts of climate change.	
<ul style="list-style-type: none"> - The discussion paper contemplates broadly: <ul style="list-style-type: none"> - Offset process to be available to <i>all defined key features</i>. The discussion paper specifically references the potential ability to offset <i>wetland</i> and <i>woodland</i> losses. - Baseline assessment of the impacted feature to be the basis for determining appropriate offset; features can be defined using ecological, social, cultural, and/or recreational value. The discussion paper suggests the establishment of <i>offset ratios</i>. - Envisions a central “fund” that compensation could be paid into and used for enhancement projects. - The baseline assessment could establish a level of compensation that would be required to be put into 	<ul style="list-style-type: none"> - It is concerning that offsetting is being generally considered for all key features. Beyond the ecosystem service, social and environmental benefits derived from key features, they are often associated with hazards, both directly and in the context of the mitigation of impacts. - The process of reviewing and agreeing upon baseline assessments is often subjective and time intensive. Likewise, the process for agreeing upon compensation and estimating construction, monitoring and adaptive management costs is also time consuming. Undertaking these processes within legislated timelines per the <i>Planning Act</i> may not be feasible, especially where there is disagreement in assessments or applicable offset ratios. - It is unclear what agency or entity would manage or control the proposed ‘fund’. The discussion paper makes mention of the 	<p>Matters of Provincial Interest – Concern</p> <p>Impact to ability for municipalities to deliver on a number of listed matters of Provincial Interest including the protection of ecological systems, including natural areas, features and functions.</p> <p>Environment, Urban Design and Climate Change - Concern</p> <p>Overall net loss to existing natural heritage features and the buffers protecting them. These features play an important function in mitigating and adapting to the impacts of climate change.</p>	<ul style="list-style-type: none"> - Wetlands and other features associated with natural hazards or involved in the mitigation of hazards should be excluded from offsetting policies. - Greenfield lands should be excluded from offsetting policy as avoidance and mitigation is often, if not always, possible. - Applicants should consider alternative built forms in the assessment of avoidance/mitigation measures, as applicable. - Offset ratios should consider the social value of how equitably natural heritage features can be accessed by the existing and predicted populations of growth areas. I.E., a lost feature in proximity to a Strategic Growth Area (SGA) would have a much higher social value than one lost elsewhere. - Offset ratios should consider the land value of lost natural heritage features through the lens of their <u>proposed</u> land use. - Buffers are key tools in the protection of key features; their consideration in the determination of offset ratios should also be considered. Buffers <u>could</u> have lower offset ratios where the sensitivity of the key feature may be less (i.e. 2:1 for a key feature, 1:1 for key feature buffer).

<p>the 'fund'. Compensation would have to consider construction, monitoring, and adaptive management.</p> <ul style="list-style-type: none"> - Projects funded by the 'fund' would have to be within the same watershed, unless offsets outside the watershed provide a greater conservation outcome. 	<p>watershed as where offsetting projects should be carried out suggesting that an agency of the Province would administer the fund. This approach may have had merit for the Species at Risk (SAR) Conservation Fund, as SAR are within the purview of MECP. Many of the key natural heritage features that could be eligible for offsetting through the development process are defined, and often maintained, by municipalities. As such municipalities should be the ones to determine levels of compensation required and have control over any fund to ensure losses are offset locally. Otherwise, the process will result in 'winners' and 'losers' when it comes to natural heritage and ecosystem services.</p> <ul style="list-style-type: none"> - Typically, conservation authorities (CAs) lead or are key stakeholders in ecological offsetting/enhancement/restoration projects. Aspects of Bill 23 have reduced CAs involvement in the planning act process. Had this not been the case CAs would represent the logical candidate to administer an offsetting fund. 		<ul style="list-style-type: none"> - Clarity is sought regarding the scope of the proposed offsetting policy. Will municipalities be required to implement their own Offsetting policies or is a Provincial regulation envisioned? - Clarity is sought regarding the responsibility of the proposed 'fund' in the funding model. - There is no support for a model where the municipality is responsible for the offsetting agreement through the development process but has no control over the in-lieu funds. It is highly concerning that losses to the City's natural heritage system could be compensated for elsewhere in the Province.
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	<p>Some CAs already implement an ecological offsetting policy.</p> <ul style="list-style-type: none"> - <i>Buffers</i> to key natural heritage features commonly form part of natural heritage systems. It is also not possible to remove a key feature without also removing its buffer. It is unclear if this policy will be applicable to the assigned buffers or just delineated features itself. In many cases the <i>buffer</i> is a provincial requirement (vegetation protection zone, regulatory wetland setback). 		
<ul style="list-style-type: none"> - In the creation of an offsetting policy the Province proposes to utilize the following principles <ul style="list-style-type: none"> - Net Gain – goal is to offset lost features at a rate greater than the loss. - Avoidance first - offsetting to be last step after consideration of avoidance and mitigation - Informed – utilize latest available information including traditional knowledge - Transparency and accountability – policy should incorporate provisions for oversight, 	<ul style="list-style-type: none"> - All guiding principles listed would be supported for the creation of a policy aimed at ecological offsetting. - The establishment of a fund applicants can pay into is not an approach that would achieve those listed principles. - Inevitably the use of a ‘fund’ model leads to inequity in access to natural heritage, and increase in tensions between other land uses, notably, agriculture. <ul style="list-style-type: none"> - Applicants are more likely to suggest that avoidance and mitigation are not feasible as first steps. - Rarely are losses to urban area natural heritage features 	<p>Complete Communities – Concern.</p> <p>Natural heritage features and systems form important aspects of communities. How they are accessed and interacted with, as well as the benefits they bring, may be different depending on the land use context. Offsetting losses to urban area features to rural areas does not often represent an equitable outcome and should be avoided.</p>	<ul style="list-style-type: none"> - Offset ratios should consider the social value of how equitably natural heritage features can be accessed by the existing and predicted populations of growth areas. I.E., a lost feature in proximity to a SGA would have a much higher social value than one lost elsewhere. - The policy should consider establishing a reasonable test for avoidance and mitigation as first principles. - The policy should include ‘Equity and Accessibility’ as a principle from which it is created.

<p>tracking, and public reporting.</p> <ul style="list-style-type: none">- Limits to offsets – some features with specific attribute may be ineligible for offsetting.	<p>offset in the urban area, and almost never within Strategic Growth Areas (SGAs). This reality will lead to less equitable access to natural heritage in areas where the most population growth is predicted. This does not support the creation of healthy, accessible, or complete communities.</p> <ul style="list-style-type: none">- Additional losses to natural heritage in urban areas will result in a similar loss to the associated ecosystem services such as stormwater retention. This loss will be in areas that are likely to increase in impervious cover due to intensification and redevelopment.- Typically, the result of offsetting policies is that losses to the urban natural heritage system are offset to rural areas, which often comes at the expense of prime agricultural lands, or rural lands that could otherwise support the agricultural industry.		
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