

## Report PDR-PCD-40-14

**To:** Chair Wright and Members of the Planning and Community Development Committee  
**From:** Randy Scherzer, Director of Planning  
**Meeting Date:** November 13, 2014  
**Subject:** **Natural Heritage Peer Reviews**  
**Status:** Recommendation adopted by Committee as presented per Resolution PCD123-14; Endorsed by County Council November 25, 2014 per Resolution CC163-14;

### Recommendation(s)

**WHEREAS the Blue Mountain Watershed Trust Foundation appeared as a deputation to the Planning and Community Development Committee recommending that the County discontinue the use of third party peer reviewers for natural heritage matters and to utilize exclusively conservation authorities and the Niagara Escarpment Commission where applicable for conducting environmental peer reviews;**

**AND WHEREAS the Planning and Community Development Committee directed staff to bring forward a report outlining how peer reviews are used in land use planning applications;**

**NOW THEREFORE BE IT RESOLVED THAT Planning Report PDR-PCD-40-14 be received;**

**AND THAT staff be directed to explore opportunities with the conservation authorities to enter into memorandums of understanding to clarify roles and responsibilities regarding natural heritage matters and the review of natural heritage studies;**

**AND FURTHER THAT in the interim the current review process regarding natural heritage matters associated with land use applications be utilized, including the use of third party peer reviews where deemed appropriate.**

## Background

The Blue Mountains Watershed Trust Foundation appeared as a deputation to the Planning and Community Development Committee and requested that the County discontinue the use of third party environmental peer reviewers and to utilize exclusively the Conservation Authority and the Niagara Escarpment Commission, where applicable, for environmental peer reviews. Following the deputation, Committee directed staff to bring forward a report outlining how peer reviews are used in land use planning applications, noting the positive and negatives of changing the process, the possible resources required to move forward with such a change, and how consistent this would be across the County.

When an application is received, a number of agencies are circulated a copy of the application including all the associated technical studies. For environmental studies, comments are received from conservation authorities, Niagara Escarpment Commission (if the application is within the Niagara Escarpment Plan Area), Ministry of Natural Resources and Forestry and the Ministry of the Environment and Climate Change (if technical comments requested through the Ministry of Municipal Affairs and Housing). County staff also review the application to ensure it is consistent with the natural heritage policies contained in the Provincial Policy Statement and the County Official Plan. The review described above is usually sufficient in determining whether the proposed development is consistent with the natural heritage policies. However, there are infrequent circumstances where third party peer reviews are utilized which are outlined below:

1. Where there is a dispute in comments between a review agency and a developers consultant;
2. Where there are significant concerns or questions raised by review agencies or members of the public;
3. Where County staff deemed it is warranted based on concerns or questions raised by review agencies or members of the public;
4. When requested/recommended by a local municipality.

Third Party peer reviews are beneficial in the above noted circumstances as it provides a scientific based review of the information provided by an applicant to support a development proposal. Peer reviews may recommend that further information be provided to clarify the findings in the report or the peer review may recommend further mitigation measures to address any potential impacts.

If it is determined that a peer review is required, a Request for Quotation is prepared with the assistance of Purchasing staff and bids are received from qualified consultants. This ensures that the cost of the peer review is kept to a minimum and also ensures an

open and transparent process in accordance with the County's Purchasing policy. It should be noted that the cost of the peer review is paid by the developer. A peer review deposit is collected at the time of application submission and if a peer review is required, the funds are drawn from the deposit. Any funds remaining are returned to the developer at the end of the application process.

A peer review of an environmental study is normally conducted by an ecologist or biologist. In some cases, a conservation authority does not have a biologist or ecologist on staff. This would require conservation authorities and/or the County to hire a biologist/ecologist in order to provide a consistent level of technical review across the County. Given the infrequent utilization of third party peer reviews and given the current levels of development, hiring a biologist or ecologist would be difficult to justify at this time. There are also times where the natural heritage issues are quite complex and may require several experts to review the study which can often be provided through a single consulting firm. Night field visits or site visits on the weekend may also be necessary to conduct a peer review and most public agencies do not have the resources to conduct site visits outside of office hours.

Staff discussed this matter with conservation authority staff. Some of the conservation authority staff indicated that it is beneficial in some cases to have a third party peer review. In fact there may be instances where a conservation authority may recommend a third party peer review be conducted if the natural heritage issues are quite complex and to also provide a third perspective on the matter where there is a technical dispute between the review agency and the developer's consultant. Should an application be appealed, the third party peer review can also be used as an expert witness to defend the decision made by the approval authority.

Other conservation authority staff indicated that they have entered into memorandums of understandings with municipalities to provide natural review comments associated with planning applications. For example, Simcoe County has signed a memorandum of understanding with the Nottawasaga Valley Conservation Authority (NVCA) and according to Simcoe County staff this has worked out well for them. It should be noted that the NVCA has a biologist on staff.

County staff recommends that the County explore opportunities to enter into memorandums of understanding with the conservation authorities to help clarify roles and responsibilities associated with natural heritage reviews. The memorandums could specify the level of review that the conservation authority could offer (this may vary depending upon the staff resources available at each conservation authority). The memorandums could outline the specific roles and responsibilities between the County and the conservation authorities regarding natural heritage matters, as well as outline when peer reviews would still be considered. Should Council support moving forward

with exploring these opportunities, staff would have further discussions with the conservation authorities and bring forward a draft memorandum of understanding for Council's consideration.

In the interim, County staff recommend that the current review process be utilized for land use planning applications, including utilizing third party peer reviews when deemed appropriate.

## Financial / Staffing / Legal / Information Technology

### Considerations

At this point there are no financial, staffing, legal or Information Technology considerations. The County collects a peer review deposit when a new application is submitted and if a peer review is deemed to be required, the cost of the peer review is paid by the developer.

### Link to Strategic Goals / Priorities

Action 2.10, under Goal 2 of the County's Strategic Plan requires the continued management of growth and the application of sound land use planning principles. Utilizing third party peer reviews when deemed appropriate to assist in determining whether an application is consistent with natural heritage policies would be considered sound land use planning.

Respectfully submitted by,

Randy Scherzer  
Director of Planning