



# Committee Report

<b>To:</b>	Warden Milne and Members of Grey County Council
<b>Committee Date:</b>	February 23, 2023
<b>Subject / Report No:</b>	Natural Heritage Review / PDR-CW-10-23
<b>Title:</b>	Natural Heritage Review Options
<b>Prepared by:</b>	Scott Taylor
<b>Reviewed by:</b>	Randy Scherzer
<b>Lower Tier(s) Affected:</b>	All Municipalities within Grey County
<b>Status:</b>	Recommendation adopted by Committee as presented per Resolution CW42-23; Endorsed by County Council March 9, 2023, per Resolution CC21-23.

## Recommendation

1. That report PDR-CW-10-23 regarding natural heritage review options be received; and
2. That the report be shared with member municipalities and conservation authorities within Grey County for their review; and
3. That staff be directed to proceed with recruitment of a County staff position for natural heritage review of County applications, as funded in 2023 from any year-end surplus from the 2023 Planning Operating budget, application fees, along with funds from the waste management, planning studies, and one-time funding reserves; and
4. That staff prepare an update to the County's Fees and Services By-law to update planning application fees to recoup some of the costs of this new staff position; and
5. That staff utilize consulting services, on an interim basis, for natural heritage review, until such time as a staff member has been hired for this role; and
6. That staff further consult with member municipalities in Grey regarding the possibility of the County providing natural heritage review services on behalf of member municipalities, and following this consultation, should municipalities request the County provide this service, a report will be prepared to provide options for County Council's consideration.

## Executive Summary

Bill 23, the *More Homes Built Faster Act* was passed by the province in late November 2022. One of the key changes in Bill 23, which came into effect on January 1, 2023, was to limit conservation authorities' role in the planning and development review process. Conservation authorities can no longer provide review services for natural heritage on development applications or planning policy matters. Although conservation authorities can no longer provide natural heritage review comments, the Provincial Policy Statement and the County and municipal official plans still require such review, prior to the approval of new development. This report provides background information on natural heritage review, as well as providing some options for County Council to consider to address the gap left by this Bill 23 change. The options for consideration are as follows:

- a) Hire County natural heritage review staff for County and Municipal application review,
- b) Hire a County natural heritage review staff person for County application review only,
- c) Hire a natural heritage review consultant (or consultants) for County and Municipal application review, or
- d) Do nothing at this time.

Staff recommend proceeding with option B at this time. Staff also recommend proceeding with additional consultation with member municipalities on option A, to determine if municipalities want the County to provide this service on their behalf. Option C also represents a possible alternative, should options A or B not be chosen. Staff are not recommending proceeding with option D.

## Background and Discussion

On November 28, 2022, the province passed Bill 23, known as the *More Homes Built Faster Act*. Bill 23 amended several pieces of legislation, many of which impact the development planning application process. Through Bill 23, the province amended the *Conservation Authorities Act* in a few ways, but notably to this report, the province scoped the role of conservation authorities (CAs) when reviewing and commenting on proposals, applications, or other matters related to development and land use planning. More specifically CAs can no longer provide natural heritage comments on matters under the following Acts:

1. *The Aggregate Resources Act*,
2. *The Condominium Act*,
3. *The Drainage Act*,
4. *The Endangered Species Act*,
5. *The Environmental Assessment Act*,
6. *The Environmental Protection Act*,
7. *The Niagara Escarpment Planning and Development Act*,
8. *The Ontario Heritage Act*,
9. *The Ontario Water Resources Act*, and
10. *The Planning Act*.

For the purposes of this report 'natural heritage' means the natural environment including individual features and how those features function together as a whole system.

Notable to Grey County and member municipalities, this means CAs are limited to providing comments on natural hazard matters and will no longer be able to comment on natural heritage

matters when assessing development proposals, applications, or policy/mapping changes.

Previously CAs were mandated to comment on natural hazard matters, but many municipalities had agreements with CAs to also provide comments on natural heritage matters. Prior to Bill 23, changes to the *Conservation Authorities Act* had previously set out mandatory programs (i.e., natural hazard review), and non-mandatory programs (i.e., natural heritage review). For non-mandatory programs, municipalities could request CAs to provide those services via agreement. Particularly for rural and smaller municipalities, including Grey County, having CAs provide these services was essential to the overall planning and development review process. Prior to Bill 23, Grey County staff were in the process of negotiating a memorandum of understanding (MOU) with Grey's four CAs to define their role in providing these non-mandatory programs that the County's planning system relies on. Bill 23 has changed this relationship. CAs will still provide the natural hazard services, but cannot provide natural heritage review and comments for the ten pieces of legislation listed above.

The County provided comments to the province raising concern with respect to this change through staff report PDR-CW-37-22 (linked to in the attachments section of this report). On December 28<sup>th</sup>, 2022, the province notified municipalities and conservation authorities that these Bill 23 changes were being brought into effect on January 1<sup>st</sup>, 2023.

Within Grey County and our nine member municipalities, there are no staff that currently specialize in reviewing natural heritage matters related to development applications. Review of such matters requires a specialized background, likely in ecology or biology or equivalent experience, versus a planning degree. Staff at both the County and municipal levels have relied on CA staff, or in some cases independent peer review consulting services, to review natural heritage matters. The need to hire environmental peer reviewers has been minimal in the past, based on the ability to get these comments from local CA staff.

In preparing this report, County staff discussed these matters with municipal and conservation authority staff, as well as researching what other counties and municipalities outside of Grey are doing. Based on the speed in which these Bill 23 changes came into effect, and the need for consultation with member municipalities and conservation authorities, County staff were not able to include natural heritage review in the 2023 County budget presented to Council. Staff did however flag Bill 23 impacts as a budget risk, as we knew both this report, and future discussions on development charges, would trigger additional budget impacts to the County and member municipalities. Unfortunately, given the January 1<sup>st</sup>, 2023 implementation date, it has not left time for transition, and requires direction from Council relatively soon for either an interim or long-term solution.

This report will provide some background on natural heritage matters, and options for Council to consider for addressing the gap left by CAs no longer being able to provide natural heritage review services.

## Role of Conservation Authorities

Conservation authorities were first established in the 1940's in Ontario, but their role was shaped in large part due to Hurricane Hazel in 1954. First and foremost, CAs exist to prevent flooding and protect public safety. Within Grey County, the CAs provide the hazards lands (also called environmental protection lands) mapping, wherein it's not safe to site new development.

CA jurisdictional boundaries do not follow municipal boundaries, but are defined instead by watershed boundaries, a more meaningful boundary for environmental planning purposes. Grey has four CAs with jurisdiction in the County; Grey Sauble Conservation Authority (GSCA), Saugeen Valley Conservation Authority (SVCA), Grand River Conservation Authority (GRCA), and Nottawasaga Valley Conservation Authority (NVCA).

The role of CAs has evolved over time, and their services and staffing levels vary across the province. Some CAs across Ontario have taken on additional services within their watersheds. With climate change, and as Ontario experiences more extreme weather events, CAs evolving role has been crucial to not only protecting public health and safety (i.e., natural hazards), but also ensuring the long-term health of our natural environment (i.e., natural heritage).

Previously, some of these natural heritage review functions were captured by staff at the Ministry of Natural Resources and Forestry (MNRF) and/or the Ministry of the Environment, Conservation, and Parks (MECP). However, the role of these two ministries in the development review process has been reduced over the last several years. Whereas County staff used to be able to get comments from MNRF on natural heritage matters related to development applications; that is no longer the case. Species at risk matters are now the purview of the MECP. Many landowners and environmental consultants have reported difficulty in getting timely advice from MECP on species at risk matters. For these reasons, the County and member municipalities have relied more heavily on conservation authority staff to provide natural heritage review comments (pre-Bill 23).

County staff would further note that matters of natural hazard and natural heritage are not mutually exclusive. For example, the Saugeen River may be a flooding hazard, but will also provide habitat to plants and animals, and is considered significant valleylands within the natural heritage policy framework. As noted in staff report PDR-CW-37-22, staff see inefficiencies in now having separate bodies review natural hazard and natural heritage matters.

It is important to note that post-Bill 23 CAs will still be involved in reviewing development applications and policy proposals. Although that review will be limited to natural hazard review, and not natural heritage review, it will still require CAs to be circulated, provide comments, visit properties, and collect fees for their review. At this stage it is not anticipated that we will see a significant reduction in the CA staff time or fees, based on the fact that they will still have a similar amount of work for natural hazard review, but they will not be including natural heritage comments in their letters/reports. It is further worth noting that province has frozen CAs abilities to modify their fees in 2023. One CA did note that a modest reduction in fees may be considered, based on their redefined role, once the freeze on fee modifications has been lifted.

Finally, it's also worth noting that CAs provide an objective third party opinion that was trusted by many members of the public (whether for natural hazard or natural heritage purposes). In instances where a developer has hired a consultant to study the anticipated environmental impacts of a development, the public can sometimes be mistrustful of those recommendations, for fear of bias. In some cases, members of the public have even questioned municipal objectivity given the potential tax revenue stemming from a development. As a result, having 'sign-off' from a CA often carried weight with concerned neighbours that the development had been properly reviewed and vetted. County Council has received correspondence in the past from citizens groups asking for CAs to peer review all applications which had natural heritage elements, as the CAs provided valuable independent advice. Others have criticized CAs in the

past for being ‘too protective’ or for delaying development projects. While staff can understand the frustrations of a landowner wishing to develop, staff see great value in the services that CAs provide.

## What is natural heritage?

Within Ontario we have a top-down planning system, whereby the province sets the legislation and planning policy which counties and municipalities must follow. Under section 2 of the *Planning Act* the province sets out matters of provincial interest, which municipalities shall have regard to in carrying out their responsibilities under the Act. It’s notable that the very first matter of provincial interest is: “(a) the protection of ecological systems, including natural areas, features and functions;”.

Section 3 of the Act provides the ability for the province to pass policy statements “on matters relating to municipal planning that in the opinion of the Minister are of provincial interest.” All municipal planning decisions shall be consistent with these policy statements. It is under this legislative framework which the province issues the Provincial Policy Statement (PPS). The PPS was last updated in 2020 and is currently under review (see staff report PDR-CW-01-23 linked to in the Attachments section of this report). Staff are not aware of when an updated PPS will be finalized, following the current review.

Section 2.1 of the PPS requires that municipalities protect natural heritage features and areas for the long-term. The PPS goes on to list and define the following natural heritage features:

1. significant wetlands including significant coastal wetlands,
2. significant woodlands,
3. significant valleylands,
4. significant wildlife habitat,
5. significant areas of natural and scientific interest (ANSIs),
6. fish habitat, and
7. habitat of endangered and threatened species.

Some areas of the province are not required to protect all seven of the above-listed features. However southern Ontario, including Grey County, is required to protect all the above.

Collectively the seven features listed above make up the majority of the ‘natural heritage system’, which the PPS requires municipalities to identify and protect. While the province provides definitions for each of the above seven features, the province only provides detailed mapping for items 1, 5, and 6. Some mapping is available for items 4 and 7, but it is not all encompassing and some of it is not publicly available.

It’s also worth noting that for items 6 and 7 above, there is also federal and provincial legislation governing the protection of these features.

In 2014 the province updated the PPS to require municipalities to plan for and protect natural heritage systems, versus just protecting the seven features listed in section 2.1 noted above. As a result, in 2017 the County completed Green in Grey, the [County’s Natural Heritage Systems Study](#). The findings of this study were then incorporated into the 2019 approval of Recolour Grey (the County Official Plan).

## Why do we protect natural heritage?

In Grey County we protect our natural heritage systems, not just because we're required to do so by the province, but because it's the right thing to do. Although much of our economy is based on a growth mindset, it cannot be growth at all costs. We, as present generations of Grey County residents, enjoy a high quality of life with functioning (and beautiful) natural areas based on decisions that were made by generations that preceded us. We in turn have an obligation to be stewards to care for the lands that we will pass onto future generations.

We also know there are both financial as well as human health and safety reasons for why we protect our natural systems. Improper unplanned development can lead to greater risks with respect to the following:

- natural hazards (e.g., flooding, erosion, unstable slopes),
- climate change impacts (e.g., increased greenhouse gas emissions and lack of resiliency with respect to extreme weather events),
- loss of biodiversity, habitat, and species,
- impacts on physical and mental health (i.e., the health and mental health benefits of having access to nature are continuing to be researched and new benefits are regularly being discovered), and
- loss of economic opportunity, tourism, and the ability to attract people and businesses to Grey (i.e., Grey's natural environment is not only a selling point to visitors and residents, but it also directly impacts the bottom line of many existing businesses and entrepreneurs).

If development is not properly sited or mitigated there could be impacts on our health, economy, and public safety.

It's worth noting the Grey County's recently approved [Going Green in Grey Climate Change Action Plan](#) recognizes the importance of nature-based solutions as a key mechanism for the County to be able to meet our greenhouse gas reduction targets in the coming years.

Figure 1 below shows the high-level benefits of proper planning for our natural systems versus a more fragmented approach. There are countless other benefits and interconnections between our natural systems and built environment, but for the sake of brevity these will not all be explored in this report.



*Figure 1: Fragmented Landscapes vs. Connected Landscapes*

(Source: [South Nation Conservation](#))

## How do we protect our natural heritage in Grey County?

The provincial direction for natural heritage protection gets implemented by municipalities in their official plans and zoning by-laws. In Grey County, our County Official Plan maps the following features:

- a) significant wetlands and coastal wetlands,
- b) other wetlands,
- c) significant woodlands,
- d) significant valleylands,
- e) ANSIs (earth and life science),
- f) fish habitat,
- g) core areas, and
- h) linkages.

Member municipalities in Grey would then include this mapping in their official plans, and in some cases in their zoning by-laws, though not all environmental features are required to be included in the zoning by-law.

Mapping is not provided in the County Plan for habitat of endangered and threatened species and significant wildlife habitat for a few reasons.

- (i) Some of that mapping is not public data for fear of people poaching or disturbing endangered species or their habitat,
- (ii) This data is subject to change as new species get added and removed from the threatened and endangered species lists, and
- (iii) This information has not all been mapped given the size and changing nature of Ontario, as well as the percentage of lands in private ownership.

The County has developed its own mapping for significant woodlands, significant valleylands, core areas, and linkages, based on provincial and local criteria.

Core areas are the County’s largest pockets of significant natural features and represent the best areas for interior species habitat and natural function in the County. Grey County is home to some of the largest Core Areas remaining in Southwestern Ontario. Cores Areas are crucial to the environmental health of the County and represent an opportunity for conservation. Within Core Areas, the County places a priority on environmental protection. Core Areas largely overlap portions of other significant natural features including Provincially Significant Wetlands, Areas of Natural and Scientific Interest, Other Wetlands, Significant Woodlands, Significant Valleylands, Habitat of Endangered and Threatened species, Hazard lands, and Fish Habitat.

Linkages are identified to provide connectivity between Core Areas and establish a connected natural environmental system. They support natural processes that are necessary to maintain biological diversity, natural functions, viable populations of indigenous species, and ecosystems. Linkages are identified based on several factors including using the areas of greatest natural cover (terrestrial and/or aquatic, as well as areas of deep interior habitat), while focusing on the shortest distance between Core Areas.

It’s further noteworthy that it’s not just the natural features themselves that require protection under the PPS, but also the adjacent lands. For example, if someone was proposing development within a natural feature, or within the adjacent lands, it may trigger the need for an environmental impact study (EIS). Although adjacent lands distances are not defined in the PPS, they are defined in the province’s Natural Heritage Reference Manual. The County then implements those distances in the County Official Plan, which are currently defined as per Table 1 below:

<b>Natural Feature</b>	<b>Adjacent Land Width</b>
Habitat of threatened / endangered species	120 metres
Provincially significant wetlands / coastal wetlands	120 metres
Other wetlands	30 metres
Fish habitat	120 metres
Significant woodlands	120 metres
Significant valleylands	120 metres
Significant wildlife habitat	120 metres
Significant ANSI – earth science	50 metres



Significant ANSI – life science	120 metres
Core areas	120 metres
Linkages	Not applicable

***Table 1: Natural Features and Adjacent Lands***

Further to Table 1 above, it is worth noting that other sections of the County Plan speak to a 30-metre setback to watercourses.

Once mapping or policy is included in an official plan or zoning by-law, these documents provide prohibitions on development in certain natural heritage areas. In other natural heritage areas, the documents require an EIS to be completed to determine the potential impacts and recommend mitigation measures to preserve the ecological function of the features. An EIS is completed and paid for by the proponent looking to undertake the development, whether it's a private developer, or a public body (in the case of a public body proposing development). An EIS can be required for large developments (i.e., a 300-home plan of subdivision) or for smaller developments (i.e., a single consent application). The findings of an EIS inform any approvals for a development, which may include the following:

- requiring that some areas of the site are left undeveloped,
- enhancing or rehabilitating natural features on-site, or
- mitigation measures and setbacks to natural features.

The completion of an EIS can be both lengthy and costly as it can require field work in spring, summer, and fall. In some cases, the need to complete an EIS can be waived under the following circumstances:

1. the development is very minor in nature,
2. a building envelope is determined on-site which will have little or no impact on the natural heritage feature, or
3. where it's determined that an EIS would serve no practical purpose given the location of the development and surrounding off-site conditions.

With respect to item 3 above, let's consider a hypothetical example in Map 1 below. The green on the map is the significant woodlands, and the red property is being considered for development. The proposed development site is less than 120 metres away from the significant woodlands, therefore based on the PPS and the County Plan an EIS should be required. However, there are already streets and houses in between the woodland and the proposed development site. As a result, the completion of an EIS may serve little purpose, given the development that has already occurred in closer proximity to the woodland.



### *Map 1: Hypothetical Example of Waiving an EIS*

Pre-Bill 23, in Grey County CAs were integral in several stages in the development process as follows:

- a) Determining if an EIS is required or if it could be waived,
- b) If an EIS is determined to be required, determining the scope of the EIS to be completed, and
- c) Once an application with an EIS is received, reviewing the EIS to determine the impacts on the natural environment and determine if provincial and local policies have been adequately addressed.

Items (a) – (c) above are crucial to the planning process in Grey, given the amount of mapped and unmapped natural heritage features we have in the County. While the hypothetical example above in Map 1 is straightforward, and likely does not require an expert to determine if an EIS is required; for many other development sites it would not be as easy to make that determination. Having a qualified individual that can in some cases waive an EIS, identify a building envelope on-site, or scope an EIS, can have major impacts on development in the County. The CA role here has saved residents and developers thousands of dollars and significantly sped up the development process where (a) or (b) above were applicable. It's also worth noting that the CA provide an objective third party opinion which was generally trusted by the public. Although individual landowners and/or or developers may at times disagree with the recommendations of a CA, it does allow for either to ask further questions related to natural hazard or natural heritage and get answers, often without any additional fees.

With respect to item (c), this has also been a critical role which has aided in the long-term protection of the natural environment in Grey. Although we work with some excellent natural heritage consultants in Grey, their clients are in many cases private developers. When one's client may be looking to maximize profit, then the recommendations may lean towards a more

liberal interpretation of the policies. However, where we have a qualified public body reviewing that same development proposal, they may lean towards a more protective interpretation of the policies. This is not unique to the review of an EIS; staff encounter this same issue with engineering and other fields. For example, where a developer is required to complete a traffic impact study (TIS) to make recommendations on whether public road infrastructure upgrades are needed by their client to support the proposed development, the privately initiated TIS often recommends minimal, or no upgrades being needed. When the County's own Transportation Services staff review that same TIS, they may recommend that additional upgrades are required. In this hypothetical TIS example, the two experts would then meet, and a final recommendation would be made (often a compromise between the private consultant and the public authority's positions). Having a qualified individual, at a public body, review an EIS is critical to implementing the natural heritage policies and mapping which the province requires from municipalities. Having the review by a public authority helps provide a balanced approach to the protection of our natural heritage.

## *Options for Natural Heritage Review Post Bill 23: Municipal Comments*

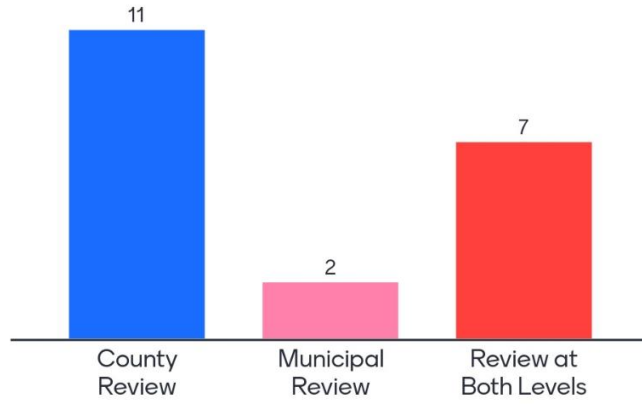
Following Bill 23's passing, County staff met individually with staff from each municipality to discuss planning efficiencies and the impacts of both Bill 23 and Bill 109 (also passed in 2022). These meetings were held with municipal planners, or those responsible for processing development applications (where a municipality does not have a planner on staff) at each municipality in late December 2022 and early January 2023. One of the key questions was whether municipal staff have any solutions for addressing the gap left by CAs no longer being involved in natural heritage review. Municipal staff noted that they were not planning on including a new staff role in their respective 2023 budgets. Municipalities indicated that if the County could not offer this service, they may need to look at retaining consultants to complete this work. Most municipalities indicated that the level of natural heritage review in their municipality alone would not justify a new full time staff position. There were reservations about going the consulting route based on the following reasons:

- a) the lack of consulting reviewers in the area,
- b) concerns about potential conflict of interest (i.e., a consulting firm already being engaged by developer 'x' in another municipality and therefore not able to review work from that developer in the municipality they're under contract to),
- c) costs associated with this review, and
- d) the timeliness of getting comments back and resolving any natural heritage questions or concerns.

At a municipal planning/development staff level, there was support for the County pursuing a solution to fill this gap on behalf of both the County and member municipalities.

On February 3<sup>rd</sup>, 2023, County staff met with municipal CAOs and planners to discuss this matter further. While not all CAOs and planners were in attendance, all nine member municipalities had at least one representative in attendance (note: some municipalities had multiple representatives in attendance). The options outlined in this report were presented at the February 3<sup>rd</sup> meeting and the feedback from that meeting was as follows, shown in Figures 2 – 4 below.

## Would you prefer natural heritage review at the County or Municipal level?

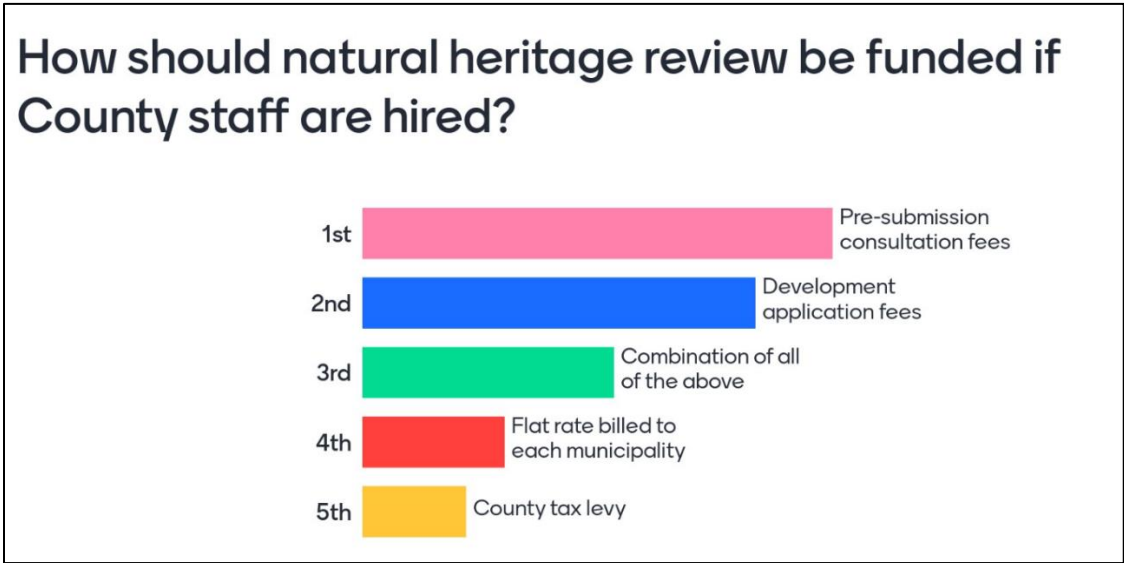


*Figure 2: Municipal versus County Natural Heritage Review Poll Results*

## What option should County staff recommend to County Council for natural heritage review?



*Figure 3: Staff versus Consultants Natural Heritage Review Poll Results*



*Figure 4: Natural Heritage Review Funding Methods Poll Results*

Other comments received at the meeting on February 3<sup>rd</sup> noted the following, along with a County staff response below.

**1. Send all applications to the Ministry of Natural Resources and Forestry (MNR).**

**Staff Response:** Although in the past staff would receive regular responses from MNR on development applications, this is no longer the case. Furthermore, some of these responsibilities no longer rest with MNR. Staff do not see this as a viable option moving forward, as noted earlier in this report.

**2. Have CA staff members start their own professional consulting company.**

**Staff Response:** Should CA staff members start their own firm, they would be required to go through the County’s competitive bidding process, just like any other professional consultant bidding on a project. Option C below covers hiring a consultant for natural heritage review.

While not in the exact spirit of this comment, staff did inquire if the County could contract out natural heritage review services to the CA as a third party contractor, and were told by CA staff that this was not feasible.

**3. Bring the CA back.**

**Staff Response:** The province has clearly spelled out their position through Bill 23. Given the specificity and immediacy of Bill 23, staff do not see this as a viable option moving forward.

**4. Use third party peer reviews paid for by the developer with a short, templated agreement, and hold securities until complete. This is best done by a limited number of consultants so there is some consistency.**

**Staff Response:** This would appear to generally align with option C, as spelled out in this report. A Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis is included as Table 3 later in this report. Staff agree with the comment about ensuring consistency.

**5. There needs to be some consistency in the comments and recommendations in the event of having third party reviews for the County and municipalities. In house staff would allow for that consistency.**

**Staff Response:** Staff agree with respect to needing consistency moving forward.

**6. The changes to the PPS may eliminate the need for natural heritage review.**

**Staff Response:** This appears to be a speculative comment. While staff have yet to see a revised PPS, staff do not anticipate the elimination of the natural heritage provisions of the PPS. That said, the natural heritage provisions could be scoped or amended further. Staff would also note that the PPS represents the minimum standards, and that the County would have the option of continuing to ensure protections for natural heritage features, even if the PPS standards were reduced.

**7. The County should hire two staff members to undertake this review.**

**Staff Response:** Staff noted that we have not yet had any discussions with County Council, and nor is there allocated money in the 2023 budget for this purpose. Staff noted that a report would be presented to County Council with a series of options for their consideration.

County staff have spoken with other planning departments outside of Grey with respect to how they will be addressing this gap. Some already had a biologist or ecologist on staff and are therefore not impacted. However, a number noted that they are still assessing the matter at the County and municipal levels to see how best to address the situation. Some (e.g., Bruce County) have taken interim solutions such as retaining a consultant, until a longer-term solution can be determined.

*Options for Natural Heritage Review Post Bill 23: Conservation Authority Input*

County staff have also been in discussion with our four CAs that have jurisdiction in Grey. The majority of Grey County is served by two CAs; namely GSCA and SVCA. GSCA staff have noted that on average they review between 500 – 600 applications per year across their entire watershed (i.e., Grey and Bruce). GSCA staff estimated that it would take approximately two full time employees to cover the natural heritage review function in Grey and Bruce. SVCA staff provided the information in Table 2 below, with respect to their application review in Grey County.

<b>Year</b>	<b>Total Applications in Grey</b>	<b>Applications with Natural Heritage Review Components</b>
2022	152	132
2021	206	163
2020	148	131

2019	166	161
2018	159	148

***Table 2: Planning Applications in the SVCA Watershed in Grey County***

(Table 2 Source: SVCA staff)

In assessing the above, staff compared it to Grey’s own internal application processing numbers, to factor in the applications processed by the GRCA and NVCA. The County reviewed between 500 – 600 applications (i.e., consents, minor variances, development permits, site plans, zoning amendments, subdivisions, official plan amendments, and pre-circulation applications) each year in 2021 and 2022. It is important to note that not all applications require natural heritage review, and of those that require review not all of the above would require a unique review (e.g., if a landowner applied for two consent applications and a zoning amendment that would count as three applications, but would only take one review as the reviewer would look at all three applications under the same review).

Staff have developed the following options for Council’s consideration. Following the discussion of the four options, staff have developed a summary table with a SWOT analysis of the options for easier comparative review.

**Options A or B – Hire County Natural Heritage Review Staff for Municipal and County Application Review, or just for County Application Review**

Should County Council see merit in filling this gap at the County level, then Council could consider hiring natural heritage review staff at the County level to fill this gap left by CAs no longer being able to review natural heritage matters. Option A would see the County filling this role for both County and municipal application review (i.e., consents, minor variances, development permits, site plans, zoning amendments, subdivisions, official plan amendments, and pre-circulation applications). Option B would have the County only filling this role for County application review (i.e., subdivisions, official plan amendments, and County pre-circulation applications).

Based on the preliminary feedback from municipalities, staff are recommending proceeding with option B, and consulting further with municipalities on option A. County staff would note that the consultation with member municipalities to date has been at the staff level, and that we have not had discussions with municipal councils. While there was support from municipal planning and development staff for the County filling this role, County staff would note that at the broader meeting with municipal CAOs, as well as planning and development staff, there were some votes for both municipal and County natural heritage review. Any references to ‘municipal opinions’ could be subject to change, should a municipal council seek another option. For the purposes of this discussion, County staff have considered Option A to include the County filling this role on behalf of all nine member municipalities, but would note that there is still the possibility that a municipality could seek another option here (i.e., potentially leaving the County filling the role on behalf of the County and some member municipal municipalities).

Some counties in Ontario already have a similar position on staff. Based on the information collected, as well as information from CAs, a position of this nature would appear to fall at a grade 10 in the County's current non-union salary grid. It's estimated that hiring a grade 10 employee would cost approximately \$101,000 annually (including salary, pension, benefits, etc.). Additionally, equipment (i.e., laptop, screens, etc.), training, and travel expenses would also need to be calculated. The job qualifications listed include a university degree, or college diploma with certifications. Education in biology, ecology, or a related field, were common to the job descriptions surveyed. Some required varying levels of job experience, based on the seniority of the position. County staff have job descriptions from other municipalities and CAs on which we could base a new job description.

Based on the information supplied to date, it is estimated that it would require two full time employees to fill this role if the role is to cover both Grey County and municipal applications (option A). Should some municipalities in Grey fill this role at the municipal level, then it may require less natural heritage staff at the County level. As part of option A, staff could investigate hiring either two equivalent positions, or one junior role and one senior role to fill this gap. If the role were only to assess Grey County applications (option B), then one full time employee would suffice.

It is worth noting that the need for two full time employees is a best estimate given the information before us. There may be the need for additional staff resources in the future, but staff are recommending two staff at this time for option A. As noted earlier, if some municipalities in Grey were to fill this role at the municipal level, rather than the County providing this service, then it may require less County natural heritage review staff. Staff are reasonably certain that one full time employee would suffice for option B.

Staff anticipate that this role (or roles) would spend a fair amount of time in the field, particularly in the non-winter months, so travel costs would need to be factored in. This requirement for field work would also likely eliminate the possibility of these roles being filled by someone working remotely outside of Grey County (unless they still lived in fairly close proximity to the County).

Should Council choose option A to fill both County and municipal application review, then the positions could be funded through the following proposed options.

1. An update to the County's Fees and Services By-law to increase County planning application fees,
2. For municipal applications, require the collection of a review fee paid by applicants,
3. Apportion out a percentage of the staff time to each municipality which would be paid by the municipalities and then recouped at the municipal level (i.e., municipalities may choose to increase their own application fees to recoup that cost), or
4. Recoup a portion of the expenses as part of the County levy (following the 2023 budget year).

The County has not included money in its 2023 budget for this purpose, and as such any 2023 expenses are recommended to be drawn from application fee increases and reserves (see the Financial and Resource Implications section of this report for more detail).

Item 1 above is recommended i.e., if these staff are supporting development application review, then their salaries should be recouped at least in part by the application fees. As part of item 1, the County may wish to consider charging a fee at the pre-submission consultation stage (i.e.,



to consider waiving or scoping the need for an EIS). The County currently has no pre-submission consultation fees, but some of our member municipalities charge for this service. It's highly unlikely that the County would see full cost recovery even if the County fees were increased, as such some combination of items 2 – 4 will also be required. County staff can consult further with municipal staff to see if they have a preference between options 2 and 3, however based on the survey results from February 3<sup>rd</sup> (see Figure 4 above) it appears that application fee increases ranked higher than a flat rate billed to municipalities.

There is precedent for item 3, as our County Information Technology (IT) staff currently offer Geographic Information Systems (GIS) services to six of our nine member municipalities. In that relationship, each member municipality pays a flat fee for 'x' hours of GIS service each year. Item 3 may be preferable to County Finance and Planning staff, as billing County application review for hundreds of applications per year, could become burdensome.

With respect to item 4, that may be heavier initially, as it will take time to update the fees and services by-law. Furthermore, depending on the billing relationship with our member municipalities, it may take time for money to get remitted to the County, or billing may not be feasible in the current year, if municipalities have already passed their 2023 budgets.

It's also noteworthy that the County and member municipalities are unlikely to be able to collect additional application fees for applications which are already in process, for which fees have already been paid.

County staff chatted with one organization that was looking at application fee increases, in part to justify the hiring of a planning ecologist. As part of that exercise, they estimated that they could recoup ~40% of the costs through application fees alone. In that scenario the planning ecologist would not be doing the sole review, and would be supported by other technical staff as well.

Should Council choose option B it's anticipated to be funded via items 1 and 4 above, following 2023.

Further to the comments received by municipal staff, County staff believe that option A would provide the greatest consistency of review across the County. Option A also provides the best opportunity for data collection and knowledge retention over time. Option B would allow County applications to be consistent with one another, but could mean inconsistent standards at the County and municipal levels. This option could also result in duplicative services where a natural heritage review was being conducted at both the County and municipal levels for developments that had corresponding applications at both levels. To avoid this, County staff could work with municipal staff to have one natural heritage reviewer take the lead, where a development had applications at both levels.

Staff have heard from developers in the past that a consistent level of review is desirable, and some found it difficult to work between the four CAs having jurisdiction in Grey, as some had differing expectations on what was required for a development. To put it more simply, why should the standards for the protection of significant woodlands be any different in one municipality versus another.

It's worth noting that several municipalities noted that they would not have enough demand to hire a staff person for natural heritage review for municipal applications only. If the County were

not to hire any staff for municipal application review, it may require that municipalities hire a consultant, which could result in greater costs, less consistency, and limited data/knowledge retention.

Having natural heritage expertise on-staff could also benefit other County roles and departments such as the following:

- forestry and trails, e.g., assessing minor exemption applications under the Forest Management By-law,
- climate change, e.g., assisting with the nature-based solutions,
- Transportation Services, e.g., assisting with siting new County facilities which may require some level of environmental investigation, and/or
- investigating County or municipal surplus lands that may be suitable for future affordable housing opportunities.

County staff recommend option B as the preferred option at this time. Staff also recommend further consultation with member municipalities on option A. Should municipalities seek the County to fill this natural heritage role on their behalf, an additional staff report will be prepared for County Council with options for their consideration. Staff would note that alongside option B, it will likely be necessary to retain a consultant in the interim, until such time as a staff person can be hired. Municipalities may also seek to fill this gap via consulting services on an interim basis, until there has been further consultation on option A.

### **Option C – Hire a Natural Heritage Review Consultant (or consultants) for County and Municipal Application Review**

Option C requires hiring a consultant or roster of consultants to fill this role. If the County were to go this route, it could be for County application review only or could also include municipal application review. Purchasing staff have noted that a request for proposals (RFP) could be issued for County applications, or the County could consider issuing a joint RFP for County and municipal applications, to include any municipalities that wish to sign on to the RFP. A billing arrangement could be worked out with the consultant(s) such that any County application billing would go to Grey, and any municipal billing would go to the member municipality.

In one sense, this would function similarly to how Grey currently manages a third-party peer reviewer. In the case of an environmental peer review (pre-Bill 23 changes), the County goes out to a request for quotations (RFQ) and then a peer reviewer is hired. That peer reviewer is paid by the County, but the County recoups these costs by billing the proponent. Where there are joint County and municipal applications, the County coordinates this peer review on behalf of both parties, such that two peer reviews (at the County and municipal levels) are not done for the same application. Peer review costs vary by application, but the County has seen costs of \$6,000 - \$12,000 on some recent peer reviews, depending on the level of 'back-and-forth' between the peer reviewer and the proponent's consultants. On a municipal application with no corresponding County application, any peer reviews would be left to the municipality. Under the pre-Bill 23 model, the County did not engage this environmental expertise at a pre-submission consultation level, it's only done (if needed) as a peer review service for County applications that have been submitted and circulated.

Pre-Bill 23 the County and/or member municipalities would sometimes need to hire a peer reviewer where there were specific scenarios which exceeded the ability of CA staff to review, or sometimes where there was disagreement between CA staff and a proponent's ecologist, a peer reviewer would be used as a further outside opinion. Should the County hire natural heritage review staff there could still be limited times when a peer review is necessary.

If the County were to proceed with a consultant, it could be funded via the following methods:

1. An update to the County's Fees and Services By-law to increase County planning application fees,
2. Recoup part of the expenses through the County levy, or
3. Bill applicants directly like the current peer review model.

Item 3 would be more burdensome for County Finance and Planning staff, and would also create extra work at the municipal level for municipal applications.

County staff see this as a viable option; however, it may be difficult to;

- i) manage costs at either the County or municipal levels,
- ii) avoid conflicts of interest,
- iii) ensure timely service delivery, and
- iv) retain knowledge and collect data over time.

With respect to item (i), the current peer review model using consultants has been criticized in the past by developers, based on; costs, concerns over timeliness, and there being little incentive for a peer reviewer to sign-off on a development (i.e., in theory, if a peer reviewer raises concerns with a development, then they get more billable hours). Option C would avoid the need for the County to be paying for pension, benefits, and equipment costs. However, with respect to the costs comment from landowners and developers, staff acknowledge that recent costs of \$6,000 - \$12,000 add to the overall development costs. If staff were to experience similar costs on all applications needing natural heritage review, it would prove to be cumulatively more costly than having in-house staff (either the costs to developers or the costs to the County/municipalities depending on the funding model).

Staff understand some of the potential criticisms on timeliness and incentives to sign-off. However, in defense of our past peer reviewers, County staff would note that we have worked with highly professional consultants, and staff have been satisfied with the services provided.

Regarding items (ii) and (iii), going the consulting route also 'opens the door' to lack of timely availability and/or the potential for conflict of interest. The County and member municipalities attempt to process development applications in a timely fashion. The need for this timely review has been underscored by recent legislative changes that establish monetary penalties for application processing which exceeds certain timeframes. If the County were to hire a consultant or roster of consultants, then there could be instances where the consultant has limited ability to review the matter in a timely fashion (i.e., the County or member municipalities would be competing against other clients for the consultant's services). This risk could lead to the need to return application fees, where applications were not processed in the required timeframe. Another concern is that given the limited number of local consultants, then there could be conflicts of interest if a consultant is already working with a developer elsewhere and therefore cannot complete the review services for Grey. Going with a roster of consultants may

minimize the potential availability or conflict of interest concerns. There are some Grey County municipalities that currently use a roster system for other consulting services. Some have reported that this system has worked well, and others have noted that even with a roster sometimes they have little to no availability to review municipal projects.

Option C may be more difficult to administer at the pre-submission consultation stage (i.e., to consider waiving or scoping the need for an EIS), unless the County were to start charging a fee for pre-submission consultation requests. The County currently has no pre-submission consultation fees. Not having natural heritage review at the pre-submission consultation level could lead to delays in the development process (i.e., developers may need to complete an EIS that otherwise could've been scoped or waived), which would be contrary to some of the recent planning efficiencies that planning staff have been working on at the County and municipal levels. As noted earlier in this report, the need for efficient processing of development at all stages, from pre-submission consultation, through to development application review is crucial based on the Bill 109 and Bill 23 changes to the *Planning Act*.

County staff are only recommending option C if options A or B are not chosen. As noted above, option C may be needed in the interim even if options A or B are chosen, until such time as staff can be hired to fill this role.

## **Option D – Do Nothing at this Time**

The County has the option of doing nothing at this time and recommending that municipalities consider taking on natural heritage review. This option is generally not recommended for the following reasons:

1. Planning legislation and policy still require County and municipal decisions to consider natural heritage matters,
2. Based on the consultations to date, there's no certainty that this role could or would be absorbed by our nine member municipalities,
3. It may lead to inconsistent review standards across the County,
4. It could lead to delays in the development review process,
5. It could lead to the need for the completion of more environmental impact studies, in situations where a qualified staff member may have otherwise waived or scoped the need for such a study,
6. It would be more difficult to retain knowledge or collect data at the County or municipal level, or
7. It could lead to challenges to the County's decisions or loss of environmental features or integrity.

County staff are not recommending proceeding with option D.

## ***SWOT Analysis Summary of Options A – D***

Table 3 below provides a Strengths, Weaknesses, Threats, and Opportunities (SWOT) analysis summary of the four options.

Option	Strengths	Weaknesses	Opportunities	Threats
<p>A</p> <p>Hire County staff for County and Municipal Application Review</p>	<ul style="list-style-type: none"> <li>Provides the most cost-effective form of natural heritage review for County and municipal applications.</li> <li>Provides consistent in-house review of natural heritage for County and municipal applications.</li> <li>Supports our member municipalities who may not have the demand for a similar staff position on their own.</li> <li>Allows the County the greatest ability to retain institutional knowledge and data collection.</li> <li>Permits timely pre-submission consultation and application natural heritage review for all applications.</li> <li>Provides an objective public body review of development applications and environmental impact studies.</li> <li>Would eliminate the potential for County and municipal natural heritage review differences of opinions.</li> </ul>	<ul style="list-style-type: none"> <li>Would require an update to the County's Fees &amp; Services By-law.</li> <li>New staff would not be funded entirely through development application fees and therefore could add to the County and possibly municipal-levy requirements.</li> <li>In some instances, it may still require the need for an outside peer reviewer.</li> </ul>	<ul style="list-style-type: none"> <li>May allow for natural heritage support of other County portfolios or roles such as forestry, trails, climate change, etc.</li> </ul>	<ul style="list-style-type: none"> <li>May require increased Planning and Finance staff time for billing and collection of municipal fees.</li> <li>Should development applications increase or decrease significantly, it may lead to the County being over or under-staffed.</li> <li>Should municipalities choose to add natural heritage review functions at the municipal level through staff or a consultant, it may mean less demand for County services.</li> <li>May also require updates to municipal fees &amp; services by-laws.</li> </ul>
<p>B</p> <p>Hire County staff for County Application Review Only</p>	<ul style="list-style-type: none"> <li>Provides the most cost-effective form of natural heritage review for County applications only.</li> <li>Provides consistent in-house review of natural heritage for County applications only.</li> <li>Allows for the County some ability for institutional knowledge retention and data collection only for County applications.</li> <li>Permits both pre-submission consultation and application natural heritage review for County applications only.</li> <li>Provides an objective public body review of County development applications and environmental impact studies.</li> </ul>	<ul style="list-style-type: none"> <li>Would require an update to the County's Fees &amp; Services By-law.</li> <li>Could lead to inefficiencies in joint applications where there may be a County and a municipal natural heritage review.</li> <li>New staff would not be funded entirely through development application fees and therefore would add to the County-levy requirements.</li> <li>In some instances, it may still require the need for an outside peer review.</li> <li>Would lead to municipalities having to find their own natural heritage review solutions.</li> <li>Would be less ability to retain data and institutional knowledge across the County.</li> </ul>	<ul style="list-style-type: none"> <li>May allow for natural heritage support of other County portfolios or roles such as forestry, trails, climate change, etc.</li> <li>County and municipal staff could coordinate natural heritage review with one staff member or consultant taking the lead in instances where there is a development with applications at both levels.</li> </ul>	<ul style="list-style-type: none"> <li>May also require updates to municipal fees &amp; services by-laws.</li> <li>May result in increased costs for joint applications if both County and municipal natural heritage reviewers are reviewing an application.</li> <li>Potential disagreements between County and municipal natural heritage reviewers, where there is a development with applications at both levels.</li> <li>May lead to inconsistencies in natural heritage review across the County.</li> </ul>
<p>C</p> <p>Hire a Consultant (or Consultants) for County and Municipal Application Review</p>	<ul style="list-style-type: none"> <li>Would allow the County and municipalities to retain an expert or team of experts with natural heritage review experience.</li> <li>Provides an objective third party review of development applications and environmental impact studies.</li> </ul>	<ul style="list-style-type: none"> <li>Could result in costlier review services to developers, landowners, member municipalities, and the County.</li> <li>Could result in delays to the development review process (i.e., County or municipalities could be competing with the other clients of that consultant).</li> <li>Could see lengthier reviews and accusations that the peer reviewer is 'dragging out' the process.</li> <li>Allows the County much less ability to retain institutional knowledge and data collection.</li> </ul>	<ul style="list-style-type: none"> <li>May allow the County or member municipalities to be nimbler in reaction to significant increases or decreases in development inquiries and natural heritage review.</li> </ul>	<ul style="list-style-type: none"> <li>Concerns over managing the total billable hours needed for natural heritage review, which may mean more total costs to the County, developer, or landowner requiring review.</li> <li>May lead to inconsistencies in natural heritage review across the County.</li> <li>Could result in conflicts of interest between the County's reviewer and proponent's experts.</li> <li>Could result in the return of application fees, if application review is not conducted in a timely fashion.</li> </ul>
<p>D</p>	<ul style="list-style-type: none"> <li>None that staff are aware of.</li> </ul>	<ul style="list-style-type: none"> <li>This role may not be absorbed by member municipalities.</li> <li>Delays in the development review process.</li> </ul>	<ul style="list-style-type: none"> <li>None that staff are aware of.</li> </ul>	<ul style="list-style-type: none"> <li>The <i>Planning Act</i>, PPS, and County/municipal official plans all require natural heritage protection,</li> </ul>

Do Nothing at this Time		<ul style="list-style-type: none"> <li>• May require the completion of more environmental impact studies for landowners and developers.</li> <li>• More difficult to retain knowledge or track data at the County or municipal level.</li> </ul>		<p>which if this role is not filled could lead to uninformed recommendations and decision making.</p> <ul style="list-style-type: none"> <li>• Challenges to the County's decisions or loss of environmental features or integrity.</li> <li>• Inconsistent review standards across the County.</li> </ul>
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*Table 3: SWOT Analysis of the Four Options*

## Legal and Legislated Requirements

Under the *Planning Act*, the County is required to (a) have regard for matters of provincial interest, and (b) make decisions that are consistent with the Provincial Policy Statement. The protection of the natural ecological systems is a matter of provincial interest and is also encapsulated in the PPS.

## Financial and Resource Implications

The financial and resource implications have been broadly covered in the discussion of options in the body of this report.

Preliminarily, it is estimated that the cost of options A or B is up to \$202,000 and \$101,000 respectively annually (for salaries, pension, benefits), but exclusive of equipment, training, or travel costs. Staff would note that the actual costs for 2023 would be pro-rated, given that any hiring would occur part-way through the year.

As noted earlier in the report, options A, B, or C, could prove costlier in 2023 than in future years, based on; (a) the lag time it will take to increase fees, and (b) the need to review applications already in process for which the fees have already been paid. As this was not included in the 2023 budget, staff proposes that this be funded from any surplus realized at year-end in the 2023 Planning Operating budget as well as funding from the waste management, planning studies, and one-time funding reserves, offset by funds that will be recouped from increased application fees (following a Fees and Services By-law update).

Following 2023, staff recommend options A or B would be funded from a mixture of increased application fees, billing to member municipalities (option A only), and through increased levy requirements. Option C is anticipated to largely be funded from application fee increases and/or direct billing to proponents, but will likely also have some levy requirements.

Interim consulting fees would be billed to developers on a cost recovery basis to the extent feasible, and any additional funds would be drawn from the above-noted reserves and increased application fees.

Should Council choose to proceed with options A, B, or C, staff will prepare a Fees and Services By-law update for Council's consideration. Should option A be chosen (either now or at a later date), staff will consult further with Finance and municipal staff on the best way to recoup municipal review costs.

Option D comes with no immediate costs to the County at this time, but could result in additional costs if the County's decisions are challenged based on uninformed recommendations. This option may also result in proponents undertaking additional environmental impact studies, where the appropriate expertise does not exist to waive, or scope said studies.

## Relevant Consultation

- Internal: CAO/Deputy CAO, Finance, Legal Services, Human Resources, and Planning
- External: Member municipalities within Grey, Conservation Authorities having jurisdiction

in Grey, and other county and municipal planning departments in Ontario

## Appendices and Attachments

[PDR-CW-37-22 Comments on Bill 23 More Homes Built Faster Act](#)

[PDR-CW-01-23 Comments on Review of Growth Plan and PPS](#)