



July 27, 2009  
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Senior Policy Advisor  
Ministry of Natural Resources  
Corporate Management Division  
Policy and Planning Coordination Branch  
Land Use and Environmental Planning Section  
300 Water Street, Floor 5  
Peterborough, ON K9J 8M5

**Re: Updated (second edition)  
Natural Heritage Reference Manual:  
Natural Heritage Protection through the  
Provincial Policy Statement (PPS), 2005**

Dear Mr. Pulham,

On behalf of the Ontario Professional Planners Institute (OPPI), we would like to thank the Ministry of Natural Resources for the opportunity to review the draft version of the second edition of the Natural Heritage Reference Manual (NHRM).

OPPI is the recognized voice of the Province's planning profession. Our more than 3,000 members work in government, private practice, universities, and non-profit agencies in the fields of urban and rural development, urban design, environmental planning, transportation, health and social services, heritage conservation, housing, and economic development.

OPPI is committed to creating and fostering healthy communities in Ontario. Launched in 2006, our "Healthy Communities, Sustainable Communities" initiative continues to emphasize the importance of urban design, active transportation and green infrastructure, links between public health and land-use planning and strategies for collaborating on tangible actions for healthier communities. Planners have a pivotal role to play in bringing together multiple partners and disciplines and in engaging their communities about the necessary changes. OPPI members are committed to creating and fostering healthy communities throughout Ontario.

As our “Healthy Communities, Sustainable Communities” initiative continues to unfold, OPPI will work with our Provincial Partners (e.g. Ministry of Municipal Affairs and Housing, Heart and Stroke Foundation of Ontario, Association of Local Public Health Agencies, Ontario Public Health Association) and stakeholders to achieve our goals. The release of two recent papers “A Call to Action: Planning for the Needs for Age-Friendly Communities” (June 18, 2009) and “A Call to Action: Plan for the Needs of Children and Youth” (February 10, 2009) are available through OPPI’s web site.

Of note, we will be releasing this autumn a joint handbook with the Ministry of Municipal Affairs and Housing entitled “Planning by Design: a healthy communities handbook”. The purpose of the handbook is to:

- make the connection between health and the built environment
- ensure various perspectives on health and the built environment are reflected
- share ideas on how places can be planned and designed for healthy, active living and to retain and attract residents, investment and visitors

Our “Healthy Communities, Sustainable Communities” initiative may be impacted by application of this manual. In those areas not identified as natural heritage features (e.g. adjacent lands, linkages and core areas), especially where these lands require restoration in order to provide natural amenity and functions, municipalities and conservation authorities need greater flexibility with respect to permitted uses. Urban settings involve human as well as natural systems. Settlement area residents need opportunities to experience natural environments and for active recreation, especially trail systems that may also be part of the municipal active transportation, park and recreation master plans needed to implement complete communities.

This is especially the case, on those lands having little natural amenity and where investment is required to restore these lands as functioning natural environments. Indeed implementation of these transportation and recreation master plans may be one way in which natural restoration can be achieved.

### **Introduction:**

Ontario’s planning framework, led by the Provincial Policy Statement (PPS), is finally approaching the theme, “Design with Nature”. About *Design with Nature* (Ian McHarg, 1969, Philadelphia), Lewis Mumford wrote in the introduction, “Despite nature’s many earlier warnings, the pollution and destruction of the natural environment has gone on, intensively and

extensively, for the last 300 years, without awakening a sufficient reaction; and while industrialization and urbanization have transformed the human habitat, it is only during the last half century that any systematic effort has been made to determine what constitutes a balanced and self-renewing environment, containing all the ingredients necessary for man's biological prosperity, social cooperation and spiritual stimulation."

Ian McHarg wrote, "Let us accept the proposition that nature is a process, that it is interacting, that it responds to laws, representing values and opportunities for human use with certain limitations and even prohibitions to certain of these."

The new Natural Heritage Resources Manual in tune with their words.

### **Our Approach:**

We reviewed the Natural Resource Heritage Manual (NHRM) from two perspectives:

- how will it help with planning for a municipality; and
- how will it help make a development proposal work – get a development proposal through approvals efficiently?

Further, we considered how the NHRM may be read and applied by municipalities and Conservation Authorities (CAs) in the context of these two perspectives. We must be aware that a great many municipalities in Ontario have established protocols with their CAs for the provision of natural heritage commenting and plan input and review services. This reality receives only very limited recognition in the Manual.

We need to be more aware about how CAs will work with the NHRM. The recommendations and comments provided to municipalities by their CAs largely frame the planning recommendations made by municipal staff about planning applications to their councils.

One key complaint: The NHRM appears to posit natural heritage system planning rather than integrating natural heritage systems (and their features and functions) into land use planning. On this point the manual misses the key point – the need to design with nature.

The Ministry of Natural Resources (MNR) appears to also assume that municipalities, CAs, and developers do not have access to professional planners capable of applying the NHRM. There are many qualified planners who are employed by or serve as consultants to municipalities, the private sector and CAs who can apply the NHRM.

### **Introductions to Specific Comments:**

OPPI was represented during the 2007 focus group exercise. Our representatives are pleased to see that many of the suggestions made have been incorporated.

One of the areas of improvement of this document over the 2007 version is that it uses much more appropriate wording to indicate the discretion that municipalities should have, in that huge area between the "musts" of Sec. 2.1 and the best-practice ideals set out in the manual. The flip side is there is so much discretion that many municipalities may not be able to handle it.

The state of the art as envisioned by the Manual is not that far from the reality in a few of our best-practice municipalities. These best-practice municipalities tend to be big (most often upper-tiers) and have substantial development, which is what provides the money to make the ideal workable for both public and private sector.

Once we get to the rest of the province, and especially slower-growth municipalities and even higher-growth lower-tiers that are mostly rural, we fear most municipalities will end up doing one of two things: they will simply put everything over onto the NHRM and their policy will be that all applicants follow the manual to the letter (without of course being permitted to exercise any discretion on their own), or they will flounder around and develop no policy beyond the PPS Section 2.1 "musts" (which are already in most official plans), and by doing so put an extreme precautionary onus on applicants.

The end result will be that in many municipalities, applicants will either be forced by policy, or by their own caution and a lack of municipal direction, to conduct full Environmental Impact Studies (EISs) on far too many, or even all, applications, and otherwise to exceed the efforts that should be appropriate and reasonable to individual situations. This will result from a lack of municipal direction in those many areas where the municipality has discretion, even though the NHRM makes clear that such discretionary direction is entirely appropriate.

We felt in 2007, and still feel, that absent a municipality developing a full-fledged, comprehensive natural heritage system in advance, the onus may become that every applicant undertake an exhaustive, one-off consideration of natural heritage. This is a matter of Provincial importance and we believe the Ministry needs to address this in the NHRM.

About CAs, MNR needs to recognize the significant role played by CAs in providing to their member municipalities interpretations and comments upon natural heritage matters for consistency with the PPS. This role flows not only from CA statutory mandates and traditional interests, but also from the increasingly widespread practice of municipalities to contract with their local CA to provide all natural heritage advisory services. This needs to be noted in the NHRM. In most instances south of the Shield, the first go-to, 'one-stop-shopping' place for natural heritage planning information is now the local CA, not an MNR district office. One indicator of this is that there are now far more registered professional planners working at CAs than for MNR.

CAs often are more willing to provide good base mapping of features than are MNR district offices. Most municipalities and developers are aware of the linkages CAs have with MNR and correctly believe that CAs provide comments that incorporate MNR information. The NHRM does not acknowledge this fact. MNR needs to acknowledge this fact and strengthen the information flow and relationships among its district offices and the CAs.

One of the key reasons CAs are able to provide better planning assistance about natural heritage matters is the fact they are not constrained by the bureaucracy of the provincial "one-window" service as are MNR district offices. Municipalities, CAs and planning consultants working on behalf of both are often better equipped in the review and balancing of interests within the context of a given issue, especially once they have un-filtered information at hand.

We have some specific comments on the NHRM text, as follows:

- Page 7: Does the proactive planning for wetlands need to be compared to the CAs' regulatory authority over identified Provincially Significant Wetlands (PSWs)? Should there not be an acknowledgement of the protective role given to CAs for wetlands (both PSWs and other wetlands) under their regulations pursuant to the *Conservation Authorities Act*?
- Page 8: About Policy 2.1.7 providing for the continuation of existing agricultural uses – that there would be limited circumstances for requiring a *Planning Act* application for a new agricultural use – doesn't this raise the question that the NHRM needs to provide guidance about the application of CAs' regulatory authority and whether that authority needs to be consistent with the PPS? Many new agricultural activities may require permits from CAs but not approvals under the *Planning Act*.
- Page 13: Is there a possibility that the discussion about Natural

Heritage Systems is introducing confusion? The policy direction is provided by the PPS, not by a natural heritage system or natural heritage system plans. A natural heritage system plan needs to be consistent with the PPS. Such a plan details how PPS natural heritage policies will be implemented within the area to which the plan applies.

- Page 14: Is there some text missing from the last half of the first paragraph on this page? Could this paragraph benefit from editing to make its meaning clearer?

- Page 14: "Potential" is very subjective and becomes operative by future, wide-ranging influences through varying time periods. Can the NHRM provide measurable parameters for evaluating "potential"? Some of the "Potential Development Impacts and Mitigation" provided in Appendix C could be cross-referenced here.

- Page 32: Paragraph 4 is an example of our concern about overly restrictive policies being applied in those portions of natural heritage systems that are outside natural heritage features and those portions of their adjacent lands where no negative impact has not been demonstrated. To reflect the fact that these linkage/restoration areas must perform some functions as part of the human as well as the natural systems of greenfield communities, we would like to see this paragraph rewritten to allow municipalities more discretion.

- Page 38: Unchanged from 2007, the significant extension in recommended adjacent lands remains a flashpoint. There is very little in the changes from the 1997 to the 2007 PPS that provides solid policy justification for this change. Sections 4.4 and 17 of the NHRM provide some justification on the basis of evolving science, practice, and experience, but given the sweeping effect of this expansion, not enough. Without more justification, these provisions could discredit the otherwise laudable PPS Section 2.1 policies with landowners and applicants. The onus should be on MNR to more thoroughly demonstrate the necessity for this, more clearly put forward alternatives, etc., or alternatively, to reduce the extent of the increases in adjacent lands distances. In addition, would not Table 7 benefit from cross-references to the pages where adjacent land areas for specific features are described in more detail? For example, the 120 metre adjacent lands for significant woodlands should be cross-referenced to pages 62 and 63 where some justification is provided. (More about pages 62 and 63 later.)

- Page 38: We note also on this page that the first of a number of references to the Lakeshore Capacity Assessment Handbook. The Handbook

exists only in draft, unapproved form, and given the incredibly long process of developing that document, there is every likelihood the NHRM will be approved long before the Handbook.

- Page 39: "Tailoring Adjacent Lands to the Situation" wherein it is stated, "A planning authority may choose to tailor its requirements regarding the scale and level of effort for an adjacent lands study to take into account existing development, existing land use entitlements and the existing land use fabric. ..." This point needs strengthening both in the context of adjacent lands and for probable and potential corridor or linkage areas. There is a danger that too much EIS work may be imposed on too many applications. Discussion about the differences between comprehensive and scoped EISs is suggested and the NHRM should provide examples of where scoped EISs are sufficient and where comprehensive EISs are required. Some of the themes in Appendix C.2 "Site Specific Assessment Planning Tools" should be brought forward to page 39.

- Page 45: The upper diamond in Figure 6 should contain a cross-reference to page 46 to help with the question, "How is probability for E&T species occurrences determined?"

- Page 63: In the discussion about lands adjacent to significant woodlots, would not the NHRM benefit from a better cross reference to section 17? Which references in section 17 are particularly applicable? Or better, this section could be improved if the factors being considered in justifying the 120 metre adjacent land area were listed in this section.

- Page 71: The Figure Title and number are missing.

- Page 81: Section 11.0, Fish Habitat is a major improvement over the earlier versions. Tables 8 and 9 are helpful.

- Page 87: Is not the manner in which adjacent lands are addressed for fish habitat a good template for how adjacent lands in all cases should be addressed?

- Page 91: Chapter 12 is a good addition to the NHRM. The theme in Section 12.3 should be made much stronger to stress the connection between new information concerning significant areas and features being recognized and applied by means of 5-year official plan reviews or site-specific official plan amendments. In this context, the NHRM needs to deal with Section 6(2) of the *Planning Act* that is the quid pro quo to the "consistent with" requirements of Section 3(5). When MNR makes a new determination about the significance of something, that determination

should not be taken as “in place” or “accepted” until it is tested through a planning review wherein affected landowners and others have a fair opportunity to dispute or modify the determination and how the determination gets applied on the landscape. This discussion should also be linked to the NHRM’s discussion about the last sentence of the PPS’s definition for *significant*: “While some significant resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation.”

- Page 92: We recognize that Table 12 is no more than a list of possible planning approaches municipalities may use. We are concerned, however, that in light of our general comments above about how many municipalities may actually use the document, Table 12 will be interpreted in a more prescriptive way than intended. We are particularly concerned that the last row on p. 92 will be interpreted such that permitted land uses will be very restrictive throughout natural heritage systems, without any discretion as to natural heritage feature type, whether inside or outside natural heritage features, or whether urban, greenfield development, or rural.

- Page 102: Somewhere in Section 13, the NHRM would benefit from prominent text that compares comprehensive with scoped assessments. We believe the NHRM advises elsewhere that in some circumstances a simple letter that provides conclusions of no impact would suffice as an assessment. The notion that all applications that are adjacent to natural heritage features require EISs should be dispelled.

- Page 149: Section A.1 would benefit from a stronger emphasis placed upon a systems/comprehensive approach that has been a cornerstone of planning for many years. Key should be the provision of ecological principles that can be integrated into land use planning – similar to the approach suggested by Ian McHarg in his *Design with Nature*. Other references that could be used in editing this section are Benton MacKaye, *The New Exploration – A Philosophy of Regional Planning* and Bruce Hendler, *Caring for the Land*.

- Page 150: The NHRM appears to posit natural heritage system planning rather than integrating natural heritage systems (and their features and functions) into land use planning. On this point the manual misses a key point – the need to design with nature.

- Pages 150, 151, 152 would benefit from editing to correct syntax and tense issues.

- Page 150: The reference to “representation” should be cross-

referenced to representation discussion in the section about Areas of Natural and Scientific Interest (ANSI).

- Page 152: Is there some text missing toward the end of the first full paragraph? This paragraph would benefit from editing to make the meaning clear.

- Page 152: In the discussion about fragmentation – second last paragraph – a sentence is needed to clarify that most fragmentation has occurred outside of contemporary planning processes; it has occurred historically.

- Page 157: Regarding the second paragraph: While it is acknowledged understanding of linkages and corridors (and their functions) is evolving as more work is done, this manual should provide best practice guidelines as they are currently known.

- Page 158: The discussion of linkage/corridor attributes leads to a conclusion that available corridors in southwestern Ontario must be of limited or minimal functional value. The second paragraph on page 159 picks up this theme. Perhaps this section would benefit from editing to better link the main points and thoughts.

- Page 159: regarding habitat diversity/complexity, this section ends with the sentence, “A variety of techniques is available for assessing habitat and/or vegetation community diversity.” Can the manual not indicate where these techniques are provided? Should there be some discussion about the principles of “Maycock’s matrix” here?

- Page 162: Section A.3 Checklist. The checklist is appropriate for large areas; for developing OP policies and schedules. It is clumsy if used for specific subject sites. A distinction and comparison between broad NHS work (policy development focus) and site specific EIS work should be provided.

- Page 167: A.4 Comprehensive Approach: The manual should make it clear that modeling and CAD approaches to delineating features and functions can be very misleading. Without knowing about the “garbage in” how can we be sure that the “garbage out” is valuable?

- Page 167: The very last sentence on this page: “For example, MNR has proposed that the desired future state of natural heritage systems in that part of Ontario south of the Precambrian Shield be represented by the following vision statement for Natural Heritage Systems ` ... will effectively

conserve biodiversity, including composition structure and function, and support a high quality of life in Southern Ontario.” Is this not a key statement? Should this not be in the introduction as a key thought to keep in mind when implementing PPS natural heritage policies? Why is this key point buried within Appendix A on pages 167 and 168?

- Page 173: The first sentence on this page reads, “Planning authorities should be aware that not all information is of equal quality. Therefore planning authorities have a duty to affirm the information acquired from the above sources.” This sentence relates to the comment made about page 167 and the NHRM should make it clear that this applies to municipalities, CAs and proponents equally.

- Page 173: We are concerned that NHRM places an emphasis upon “modeling using readily available conservation planning software is a good tool for analyzing data.” What is the source of this software? Is the available software been proven to be appropriate within the Ontario context? Should not the NHRM comment about these concerns? Perhaps there should be a listing of software that has been shown to be appropriate in the Ontario context? Will the NHRM suggest that proponents and municipalities can have data inputted into and run on such software at MNR district offices, or better still, be provided direct access to it under appropriate conditions?

- Page 177: Section B.1 Significant Habitat of Threatened and Endangered Species. Is MNR reluctant to have the NHRM reference the geographical search tool available on the NHIC web site as a quick means of screening for T&E species locations and probable habitat? If MNR is reluctant, then is MNR prepared to say the NHIC web site should not be relied upon? Shouldn’t the NHRM provide data sharing recommendations so that EISs that come across occurrences of endangered and threatened species are provided to MNR to keep the NHIC web site up-to-date?

- Page 179: Section B.3 Significant Woodlands: The following comment applies to all tables in the Appendices that provide recommended criteria for evaluating significance: should the NHRM indicate whether one criterion fulfills a test of ‘significance’? In the alternative, should there not be an indication of how many criteria should be considered to fulfill the test of significance? These questions are important. As a comparison, the City of London, the County of Oxford and the County of Middlesex each have evaluation criteria in their respective natural heritage documents for determining significance and each provides direction about which criteria are critical in the determination of “significance”.

- Pages 182, 183, 184 and 185: There is not enough in this table about Significant Valleylands that justifies a 120-metre adjacent area. Further, this table does not make a connection between the delineation of a valleyland and how valleylands are already delineated by CAs' regulatory limits prescribed under their regulations.
- Page 186: This table about Fish Habitat needs to note that CAs set regulatory limits constraining development along all watercourses. The CAs do much more than "further conservation ..." and "regulate floodplain management ..."

**Conclusion:**

OPPI members working in municipalities, Conservation Authorities, the consulting community and elsewhere in the private sector, will be closely involved in the application of the manual and have a strong resource of expertise to address its implementation.

We hope these comments are helpful. These comments are not meant to be critical but are intended to add to the major improvements made to the NHRM thus far. The Institute will be pleased to be involved in any further consultation efforts to develop and refine this manual. For further information or to schedule a meeting, please contact Loretta Ryan, MCIP, RPP, Manager, Policy and Communications at 416-483-1873, x226.

Yours truly,



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