

Planning Services Department

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To: Mayor and Members of Council
From: Faye Langmaid, Acting Director of Planning Services
Date: August 9, 2019
Subject: **ZONE Clarington – Policies requiring buffers to environmental features**
File: PLN 40

At a meeting on July 24, 2019 Councillor Neal and Councillor Jones requested a memo outlining the policies that require buffers for environmental features. In the context of the draft Zoning By-law, buffers would be the Minimum Vegetation Protection Zone Overlay and the Environmental Review Area Overlay. The draft Zoning By-law can be found on our website at www.clarington.net/zoneclarington.

The chart attached outlines all Provincial, Regional and local policies that relate to the buffers. Links to the documents are provided. The policy term for the Environmental Review Area is minimum area of influence. Staff will provide discussion on these policies in the report responding to #PD-104-19 scheduled for the September 30, 2019 Planning and Development Committee meeting.

Should you have any questions, Amy Burke, Tracey Webster, Carlo Pellarin or I would be happy to respond.



Faye Langmaid
Acting Director of Planning Services

cc: Andrew Allison, CAO
Department Heads
Carlo Pellarin, Manager, Development Review Branch
Amy Burke, Acting Manager, Special Projects Branch
Tracey Webster, Senior Planner, Development Review Branch

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Attachment 1

Section	Policy
Provincial Policy Statement http://www.mah.gov.on.ca/AssetFactory.aspx?did=10463	
2.1.8	Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5 and 2.1.6 unless the ecological function of the adjacent land has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.
Greenbelt Plan http://www.mah.gov.on.ca/Page13783.aspx	
3.2.5.1.	<i>Development or site alteration</i> is not permitted in <i>key hydrologic features</i> and <i>key natural heritage features</i> within the Natural Heritage System, including any associated vegetation protection zone, with the exception of: <ul style="list-style-type: none"> a) Forest, fish and wildlife management; b) Conservation and flood or erosion control projects, but only if they have been demonstrated to be necessary in the public interest and after all alternatives have been considered; or c) Infrastructure, aggregate, recreational, shoreline and existing uses, as described by and subject to the policies of section 4.
3.2.5.4.	In the case of <i>wetlands, seepage areas and springs, fish habitat, permanent and intermittent streams, lakes and significant woodlands</i> , the minimum <i>vegetation protection zone</i> shall be a minimum of 30 metres measured from the outside boundary of the <i>key natural heritage feature</i> or <i>key hydrologic feature</i> .
3.2.5.5.	A proposal for new <i>development or site alteration</i> within 120 metres of a <i>key natural heritage feature</i> within the Natural Heritage System or a <i>key hydrologic feature</i> anywhere within the Protected Countryside requires a natural heritage evaluation or a hydrological evaluation which identifies a <i>vegetation protection zone</i> which:

	<p>a) Is of sufficient width to protect the <i>key natural heritage feature</i> or <i>key hydrologic feature</i> and its functions from the impacts of the proposed change and associated activities that may occur before, during and after construction and, where possible, restore or enhance the feature and/or its function; and</p> <p>b) Is established to achieve and be maintained as <i>natural self-sustaining vegetation</i>.</p>
3.2.5.7.	<p>Notwithstanding section 3.2.5.5, new buildings and structures for <i>agricultural, agriculture-related</i> or <i>on-farm diversified uses</i> are not required to undertake a natural heritage or hydrologic evaluation if a minimum 30 metre <i>vegetation protection zone</i> is provided from a <i>key natural heritage feature</i> or <i>key hydrologic feature</i>. In addition, these uses are exempt from the requirement of establishing a condition of <i>natural self-sustaining vegetation</i> if the land is and will continue to be used for agricultural purposes. However, <i>agricultural, agriculture-related</i> and <i>on-farm diversified uses</i> shall pursue best management practices to protect and/or restore <i>key natural heritage features</i> and <i>key hydrologic features</i> and functions.</p>
Oak Ridges Moraine Conservation Plan http://www.mah.gov.on.ca/Page13788.aspx	
21	<p>(1) For the purposes of this Part,</p> <p>(a) the minimum area of influence that relates to a key natural heritage feature or a key hydrologic feature described in Column 2 of the Table to this Part is the area referred to in the corresponding item in Column 3 of the Table; and</p> <p>(b) the minimum vegetation protection zone that relates to a key natural heritage feature or a key hydrologic feature described in Column 2 of the Table is the area determined in accordance with the corresponding item in Column 4 of the Table.</p> <p>(2) If land falls within more than one key natural heritage feature or key hydrologic feature described in Column 2 of the Table, the minimum area of influence described in Column 3 that is the largest and the vegetation protection zone described in Column 4 that is the largest shall apply with respect to each feature for the purposes of this Plan.</p> <p>(3) With respect to land that is in a Settlement Area on April 22, 2002, any provision referred to in subsection (4)</p>

	<p>prevails, to the extent of any conflict, over clause (1) (b) and subsection (2).</p> <p>(4) Subsection (3) applies with respect to a provision of the applicable official plan or zoning by-laws, as the case may be, that is adopted on the basis of,</p> <p>(a) environmental studies; or</p> <p>(b) infrastructure planning including, without limitation, environmental assessments, infrastructure servicing studies and master environmental servicing studies.</p> <p>(See Attachment 2 for the Table)</p>
22 (2)	<p>All development and site alteration with respect to land within a key natural heritage feature or the related minimum vegetation protection zone is prohibited, except the following:</p> <ol style="list-style-type: none"> 1. Forest, fish, and wildlife management. 2. Conservation and flood or erosion control projects, but only if they have been demonstrated to be necessary in the public interest after all alternatives have been considered. 3. Development of infrastructure in accordance with the requirements set out in section 41. 4. Low-intensity recreational uses as described in section 37. 5. Any development and site alteration in Countryside Areas or Settlement Areas that is within the habitat of an endangered or threatened species, but only if, <ol style="list-style-type: none"> i. it is not prohibited under the <i>Endangered Species Act, 2007</i> and it complies with any requirements or restrictions under that Act, and ii. it is not within any other key natural heritage feature or the related minimum vegetation protection zone. 6. Agricultural uses other than uses associated with on-farm buildings and structures, but only with respect to land in the minimum vegetation protection zone related to a key natural heritage feature and not in the key natural heritage feature itself.

22 (3)	An application for development or site alteration with respect to land within the minimum area of influence that relates to a key natural heritage feature, but outside the key natural heritage feature itself and the related minimum vegetation protection zone, shall be accompanied by a natural heritage evaluation under section 23.
22 (4)	Despite subsection (3), a natural heritage evaluation is not required in the case of an application relating to the construction of a new building or structure in the minimum area of influence of a key natural heritage feature if the proposed building or structure is for agricultural uses, agriculture-related uses or on-farm diversified uses and is located a minimum of 30 metres from the key natural heritage feature.
22 (5)	Any agricultural uses, agriculture-related uses or on-farm diversified uses that are carried out in the minimum area of influence that relates to a key natural heritage feature shall be carried out in accordance with best management practices to protect or restore key natural heritage features and related ecological functions.
26 (2)	<p>All development and site alteration with respect to land within a key hydrologic feature or the related minimum vegetation protection zone is prohibited, except the following:</p> <ol style="list-style-type: none"> 1. Forest, fish, and wildlife management. 2. Conservation and flood or erosion control projects, but only if they are determined to be necessary in the public interest after all alternatives have been considered. 3. Development of infrastructure in accordance with the requirements set out in section 41. 4. Low-intensity recreational uses as described in section 37. 5. Agricultural uses other than uses associated with on-farm buildings and structures, but only with respect to land in the minimum vegetation protection zone related to a key hydrologic feature and not in the key hydrologic feature itself.
26 (3)	An application for development or site alteration with respect to land within the minimum area of influence that relates to a key hydrologic feature, but outside the key hydrologic

	feature itself and the related minimum vegetation protection zone, shall be accompanied by a hydrological evaluation under subsection (4).
Region of Durham Official Plan https://www.durham.ca/en/doing-business/resources/Documents/PlanningandDevelopment/Official-Plan/2017-Durham-Regional-Official-Plan-Consolidation.pdf	
2.3.14	<p>The general location of <i>key natural heritage</i> and/or <i>hydrologic features</i> are shown on Schedule 'B' – Map 'B1'. The individual features and their associated <i>vegetation protection zones</i> are to be identified and shown in more detail in area municipal official plans and zoning by-laws.</p> <p>The location and extent of <i>key natural heritage</i> and/or <i>hydrologic features</i> may be further confirmed through appropriate studies such as a <i>watershed plan</i> or an environmental impact study in accordance with Policy 2.3.43.</p>
2.3.15	<p><i>Development</i> or <i>site alteration</i> is not permitted in <i>key natural heritage</i> and/or <i>hydrologic features</i>, including any associated <i>vegetation protection zone</i>, with the exception of:</p> <ul style="list-style-type: none"> a) forest, fish and wildlife management; b) conservation and flood or erosion control projects demonstrated to be necessary in the public interest and after all alternatives have been considered; c) infrastructure, subject to the policies of the Greenbelt Plan and this Plan; d) minor recreational uses such as trails, footbridges and picnic facilities, and existing uses; e) agriculture, in accordance with Policies 2.3.18 and 14.5.4; or f) aggregate extraction, in accordance with Policies 9D.2.9 and 9D.2.10.
2.3.16	<p>Within Urban Areas and Rural Settlements, the vegetative protection zone shall be determined through an environmental impact study, in accordance with Policy 2.3.43. The scope of the environmental impact study for any <i>development</i> or <i>site alteration</i> shall be determined in accordance with the Council approved EIS Guideline.</p>

2.3.17	<p>Outside of Urban Areas and Rural Settlements, an environmental impact study, in accordance with Policy 2.3.43, shall be required for any <i>development</i> or <i>site alteration</i> within 120 metres of a <i>key natural heritage</i> or <i>hydrologic feature</i> to identify a <i>vegetation protection zone</i> which:</p> <ul style="list-style-type: none"> a) is of sufficient width to protect the feature and its functions from the impacts of the proposed change and associated activities that may occur before, during, and after, construction; b) where possible, will restore or enhance the feature and/or its function; and c) will maintain natural self-sustaining vegetation. <p>The <i>vegetation protection zone</i> for <i>wetlands, seepage areas and springs, fish habitat, permanent and intermittent streams, lakes, and significant woodlands</i>, shall be a minimum of 30 metres wide, measured from the outside boundary of the feature.</p>
2.3.18	<p>Notwithstanding any other policies of this Plan to the contrary, new buildings and structures used for agriculture within the Greenbelt Natural Heritage System must provide a 30 metre <i>vegetation protection zone</i> from a <i>key natural heritage</i> or <i>hydrologic feature</i>. This <i>vegetation protection zone</i> may consist of natural self-sustaining vegetation or agricultural crops if the land is, and will continue to be, used for agricultural purposes. However, best management practices should be pursued to protect and/or restore <i>key hydrologic features</i> and <i>functions</i>.</p>
10B.2.6	<p><i>Development</i> and <i>site alteration</i> shall be prohibited within <i>key natural heritage features</i> and hydrologically sensitive features and their related minimum <i>vegetation protection zone</i> as identified by the Table in Part III of the Oak Ridges Moraine Conservation Plan. In accordance with the policies of the Oak Ridges Moraine Conservation Plan, conservation and resource management, transportation, infrastructure and utilities and low-intensity recreational uses may be permitted. Within the portion of the Uxbridge Urban Area that falls within the Oak Ridges Moraine, the required minimum <i>vegetation protection zone</i> identified in an environmental impact study shall prevail.</p>

10B.2.7	<p>An environmental impact study, in accordance with Policy 2.3.43, shall include a natural heritage evaluation and/or a hydrological evaluation, as detailed in the Oak Ridges Moraine Conservation Plan where new <i>development</i> or <i>site alteration</i> is proposed within the minimum area of influence surrounding a <i>key natural heritage feature</i> and/or a hydrologically sensitive feature as identified by the Table in Part III of the Oak Ridges Moraine Conservation Plan. This evaluation shall:</p> <ul style="list-style-type: none"> a) demonstrate that the <i>development</i> and <i>site alteration</i> applied for will have no adverse effects on the features and functions of the <i>key natural heritage feature</i> and/or the hydrologically sensitive feature; b) identify planning, design and construction practices that will maintain and, where possible, improve or restore the health, diversity and size of the <i>key natural heritage feature</i> and/or hydrologically sensitive feature; c) in the case of an application relating to land in a Natural Core Area, Natural Linkage Area or Countryside Area, demonstrate how <i>connectivity</i> within and between <i>key natural heritage features</i> and, hydrologically sensitive features will be maintained and improved during and after construction; d) determine whether the minimum <i>vegetation protection zone</i> is sufficient to protect the features and its functions and if not, specify whether a greater protection zone is necessary; and e) ensure compliance with the requirements of the Department of Fisheries and Oceans Canada where <i>fish habitat</i> is of concern. <p>An environmental impact statement may result in a minimum <i>vegetation protection zone</i> greater than that specified in the Table in Part III of the Oak Ridges Moraine Conservation Plan.</p>
10B.2.9	<p>No new <i>agricultural uses</i> and/or <i>agriculture-related uses</i> shall be permitted within a <i>key natural heritage feature</i> and/or a hydrologically sensitive feature and their associated minimum <i>vegetation protection zone</i>.</p>
10B.2.11	<p>The general location of <i>Areas of Natural and Scientific Interest</i> (earth science) are shown on Schedule 'B' – Map 'B1', Greenbelt Natural Heritage System & Key Natural</p>

	Heritage and Hydrologic Features. These features may be identified and shown in more detail in area municipal official plans and zoning by-laws. An application for <i>development</i> or <i>site alteration</i> with respect to land in an <i>Area of Natural and Scientific Interest</i> (earth science) or the related minimum area of influence shall be accompanied by an earth science heritage evaluation as outlined in the Oak Ridges Moraine Conservation Plan.
Clarington Official Plan https://www.clarington.net/en/do-business/resources/Official-Plan/Clarington-Official-Plan.pdf	
3.4.8	<p><i>Development</i> and <i>site alteration</i> with respect to land within a <i>natural heritage feature</i> and/or a <i>hydrologically sensitive feature</i> or within its <i>vegetation protection zone</i> is prohibited, except the following:</p> <ul style="list-style-type: none"> a) Forest, fish and wildlife management; b) Conservation and flood or erosion control projects, but only if they have been demonstrated to be necessary in the public interest after all alternatives have been considered; c) Transportation, <i>infrastructure</i> and <i>utilities</i>, but only if the need for the project has been demonstrated by an Environmental Assessment, there is no reasonable alternative, and it is supported by a project specific Environmental Impact Study; and d) <i>Low intensity recreation</i>.
3.4.14	<p>Table 3-1 identifies the minimum <i>vegetation protection zone</i> and the minimum area of influence of identified <i>natural heritage system</i> features.</p> <p>(See Attachment 3 for the Table)</p>
3.4.15	An Environmental Impact Study, a Natural Heritage Evaluation and/or Hydrological Evaluation shall be undertaken for any <i>development</i> or <i>site alteration</i> proposed within the minimum area of influence of any <i>natural heritage feature</i> and/or <i>hydrological sensitive feature</i> identified in Section 3.4.2, 3.4.3 or 3.4.11 but outside the feature itself and the related minimum <i>vegetation protection zone</i> identified in Table 3-1 of this Plan.
3.4.16	The Environmental Impact Study, Natural Heritage Evaluation and/or Hydrological Evaluation required in Section 3.4.15 shall determine the vegetation protection zone based on the sensitivity of the features and ecological

	functions of the natural heritage system but in no case will the vegetation protection zone be less than the minimum vegetation protection zone identified in Table 3-1 of this Plan.
3.4.17	<p>Notwithstanding Section 3.4.15, and the Minimum <i>Vegetation Protection Zone</i> identified in the Urban or Rural Settlement Areas on Table 3-1, the following may apply:</p> <ul style="list-style-type: none"> e) Where a <i>significant woodlands</i> is not associated with and/or <i>adjacent</i> to a <i>hydrologically sensitive feature</i> the minimum <i>vegetation protection zone</i> may be reduced to 10 metres; f) Where an in-fill <i>lot</i> is proposed, surrounding development setbacks shall be considered and a reduced minimum <i>vegetation protection zone</i> may be considered; g) In <i>Greenfield Areas</i>, the Minimum <i>Vegetation Protection Zone</i> may be modified only as a result of physical constraints of the <i>site</i>; and h) Any modification to the minimum <i>vegetation protection zone</i> provided for in this Section must be supported by the Environmental Impact Study, and provided there is no net loss on the total area of the <i>Vegetation Protection Zone</i>.
3.4.18	Notwithstanding Section 3.4.15, the preparation of an Environmental Impact Study, Natural Heritage Evaluation and/or Hydrological Evaluation is not required for an <i>agricultural use</i> , agriculture related use, or on-farm diversified use building or structure located within 120 metres of a <i>natural heritage feature</i> or <i>hydrologically sensitive feature</i> , provided the features and their functions are protected from the impacts of the proposed building or structure and provided the building or structure is located outside of the <i>natural heritage system</i> and the minimum <i>vegetation protection zone</i> .
14.4.3	The extent of the Environmental Protection Area designation includes a 30 metre vegetation protection zone from the natural heritage system and hydrologically sensitive features outside of Urban and Rural Settlement Areas.

(Note: This chart does not include policies from the Growth Plan for the Greater Golden Horseshoe)

Attachment 2 - Oak Ridges Moraine Table

TABLE

Key Natural Heritage Features, Key Hydrologic Features and Areas of Natural and Scientific Interest (Earth Science): Minimum Areas of Influence and Minimum Vegetation Protection Zones

Column 1	Column 2	Column 3	Column 4
Item	Feature	Minimum Area of Influence (21)	Minimum Vegetation Protection Zone (21, 23, 26(4), 30 (12))
1.	Wetlands	All land within 120 metres of any part of feature	All land within 30 metres of any part of feature, subject to clause 23 (1) (d) if a natural heritage evaluation is required
2.	Habitat of endangered and threatened species	None	None
3.	Fish habitat	All land within 120 metres of any part of feature	All land within 30 metres of any part of feature, subject to clause 23 (1) (d) if a natural heritage evaluation is required
4.	Areas of natural and scientific interest (life science)	All land within 120 metres of any part of feature	As determined by a natural heritage evaluation carried out under section 23
5.	Areas of natural and scientific interest (earth science)	All land within 50 metres of any part of feature	As determined by an earth science heritage evaluation carried out under subsection 30 (12)
6.	Significant valleylands	All land within 120 metres of stable top of bank	All land within 30 metres of stable top of bank, subject to clause 23 (1) (d) if a natural heritage evaluation is required
7.	Significant woodlands	All land within 120 metres of any part of feature	All land within 30 metres of the tree canopy drip line of the outermost trees within the woodland, subject to clause 23(1)(d) if a natural heritage evaluation is required
8.	Significant wildlife habitat	All land within 120 metres of any part of feature	As determined by a natural heritage evaluation carried out under section 23
9.	Sand barrens, savannahs and tallgrass prairies	All land within 120 metres of any part of feature	All land within 30 metres of any part of feature, subject to clause 23 (1) (d) if a natural heritage evaluation is required
10.	Kettle lakes	All land within 120 metres of the surface catchment area	All land within the surface catchment area or within 30 metres of any part of feature, whichever is greater, subject to clause 26 (4) (c) if a hydrological evaluation is required
11.	Permanent and intermittent streams	All land within 120 metres of meander belt	All land within 30 metres of meander belt, subject to clause 26 (4) (c) and subsection 26 (5) if a hydrological evaluation is required
12.	Seepage areas and springs	All land within 120 metres of any part of feature	All land within 30 metres of any part of feature, subject to clause 26 (4) (c) and subsection 26 (5) if a hydrological evaluation is required

Attachment 3 - Clarington Official Plan

Table 3-1 Minimum Areas Of Influence and Minimum <i>Vegetation Protection Zones</i>			
<i>Natural Heritage System Features</i>	Within Urban and Rural Settlement Areas Minimum Vegetation Protection Zone	Outside of Urban and Rural Settlement Areas Minimum Vegetation Protection Zone	Minimum Area of Influence
<i>Wetlands</i>	30 metres	All land within 30 metres of: <ul style="list-style-type: none"> • the outermost extent of the natural heritage feature • the stable top of bank for <i>Valleylands</i> • the dripline of the outermost tree within the <i>woodland</i> • <i>meander belt</i> 	All land within 120 metres of: <ul style="list-style-type: none"> • any part of the natural heritage feature • stable top of bank for <i>Valleylands</i> • <i>meander belt</i>
<i>Fish habitat and riparian corridors</i>	15 metres		
<i>Valleylands</i>			
<i>Significant woodlands</i>			
<i>Watercourses</i>			
<i>Seepage areas and springs</i>			
<i>Habitat of endangered species and threatened species</i>	As determined by an Environmental Impact Study or a Natural Heritage Evaluation in accordance with Provincial and Federal requirements.		
<i>Areas of natural and scientific interest (life science)</i>			
<i>Wildlife habitat</i>			
Rare Vegetation Communities including; <i>Sand barrens, Savannahs and tallgrass prairies</i>			
<i>Areas of Natural and Scientific Interest (earth science)</i>	As determined by an Earth Science Heritage Evaluation		

Table 3-1			
Minimum Areas Of Influence and Minimum <i>Vegetation Protection Zones</i>			
<i>Natural Heritage System Features</i>	Within Urban and Rural Settlement Areas Minimum Vegetation Protection Zone	Outside of Urban and Rural Settlement Areas Minimum Vegetation Protection Zone	Minimum Area of Influence
Beach/Bluff	As determined by a Geotechnical Evaluation and/or a Slope Stability Assessment		