

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

Report to: Chair and Members Economic Development and Planning Committee	Submitted by: Tim McCabe General Manager Planning and Economic Development Department
Date: October 29, 2008	Prepared by: Cathy Plosz (905) 546-2424, Ext. 1231 Tricia Rosa (905) 546-2424, Ext. 1258

SUBJECT: Environmentally Significant Areas Impact Evaluation Group (ESAIEG) - Revisions to the Terms of Reference and Recommendations to Increase Transparency (PED08268) (City Wide)

RECOMMENDATION:

- (a) That the revised Terms of Reference for the Environmentally Significant Areas Impact Evaluation Group (ESAIEG), attached as Appendix "C" to Report PED08268, be approved.
- (b) That the Economic Development and Planning Committee establish an ESAIEG Member Selection Sub-committee, consisting of three members of the Economic Development and Planning Committee with the responsibility of selecting members of ESAIEG, for recommendation to Council and direction to the Clerk's Division.
- (c) That staff be directed to take the following actions to increase the transparency of the Environmental Impact Statement (EIS) review process:
 - (i) Provide a list of Environmental Impact Statement reports with staff contact information on the City of Hamilton's web site, so the public know who to contact to obtain copies of EIS reports; and,

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- (ii) Include the Meeting Notes of ESAIEG meetings on the City of Hamilton web site for each Planning Act application, City project and Environmental Assessment, so this information is publicly available.
- (d) That the existing ESAIEG members continue in their current role and term, on an interim basis, until the ESAIEG Member Selection Sub-committee is established and existing and/or new members are formally considered and approved.

Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The Environmentally Significant Areas Impact Evaluation Group (ESAIEG) is a voluntary technical group, established in 1993 by the former Regional Municipality of Hamilton-Wentworth, to advise the Planning and Economic Development Department on the impacts of development within or adjacent to Environmentally Significant Areas (ESAs). Their mandate is to review Environmental Impact Statements (EIS) and provide advice to Planning Division staff on whether the technical information provided is adequate to address impacts, whether the proposal should proceed, and if so, what mitigation measures are needed.

The purpose of this Report is to:

- Request Council approval for revisions to ESAIEG's Terms of Reference;
- Request that the Economic Development and Planning Committee establish a Sub-committee to select members of ESAIEG;
- Provide recommendations for ways to increase transparency in the EIS review process; and,
- Provide details of the selection process consistent with the standard selection process currently used by the Clerk's Division.

These measures will update the Terms of Reference and member selection process and increase public transparency in the EIS review process to ensure that ESAIEG continues to function in an effective manner.

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BACKGROUND:

What is ESAIEG?

The Environmentally Significant Areas Impact Evaluation Group (ESAIEG) is a voluntary technical group, currently with six members (although ESAIEG is approved for nine members) established to advise the Planning Division on the impacts of development proposed within or adjacent to Environmentally Significant Areas. In addition, ESAIEG's advice is given on policy documents (including, Official Plan Policy review, and revisions to the Natural Heritage System (NHS) mapping) involving environmental issues. All Environmental Impact Statements must be consistent with the Environmental Impact Statement Guidelines adopted by Hamilton City Council in July 2004 (refer to Appendix "A").

In October 1993, the former Region of Hamilton-Wentworth Council approved the Terms of Reference for ESAIEG (refer to Appendix "B"). In December 1993, Regional Council approved the appointment of nine members to the group.

Because of the technical and scientific nature of the committee, academic qualifications are important. As a group, the ESAIEG includes a balance of expertise. Members are drawn from the following disciplines or subject areas:

Biology	Ecology
Zoology/Ornithology	Botany
Hydrology/Hydrogeology	Civil Engineering
Geology/Soil Science	Resource Management
Forestry	Landscape Architecture
Environmental Planning	

ESAIEG's function is extremely valuable to City of Hamilton staff. The group provides volunteer peer review of environmental reports in technical subject areas which may be beyond the expertise of City staff. Many other municipalities in Ontario, including the Cities of Ottawa, Cambridge, and London; and the Regions of Waterloo, Halton, and Niagara have similar environmental advisory groups. ESAIEG is responsible for reviewing and commenting on approximately fifteen EIS reports a year, relating to Planning Act applications.

Current Scope of Activities

Pursuant to the previously approved Terms of Reference (refer to Appendix "B"), ESAIEG, in accordance with the policies in the Regional Official Plan, reviews development proposals and changes in land use in or adjacent to ESAs, as designated in the Official Plan. Specifically, ESAIEG has:

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- Prepared a set of environmental impact statement guidelines (attached as Appendix “A”) for Council adoption setting out the type, level of detail and presentation of information constituting a generic environmental impact statement to help proponents and/or consultants prepare information for consideration;
- Determined whether environmental information submitted with a proposal is sufficient to assess the significance of impacts on the features for which the protected area was designated;
- Assessed the significance of potential environmental impacts of a proposal on the features for which the protection area was designated; and,
- Determined whether or not significant impacts can be effectively mitigated and advise on the measures necessary to protect the features for which the protection area was designated, including whether or not the proposal should be approved.

ANALYSIS/RATIONALE:

Revisions to the Terms of Reference

The Terms of Reference for ESAIEG (attached as Appendix “B”) was originally approved in 1993 by the Council of the Region of Hamilton-Wentworth, and has not been updated since this time. Staff recommends that an update to the Terms of Reference include changes to the length of Council term, the member selection process, consecutive terms of ESAIEG members, and references to the former Region of Hamilton-Wentworth. These proposed changes (refer to Appendix “C”) include:

- In the existing Terms of Reference (Appendix “B”), ESAIEG members are interviewed and selected by staff and recommended for appointment to the Economic Development and Planning Committee. The proposed new member selection process involves the selection of members by a Sub-committee of the Economic Development and Planning Committee and appointed to ESAIEG by Council;
- No specific limitation on the number of terms for members is being proposed. This is recommended because members with the required technical expertise are difficult to find. For example, there are a limited number of local people with expertise in specialized areas like botany and karst geology available and willing to serve on ESAIEG. If members wish to continue serving on ESAIEG for more than two consecutive terms of Council, this should be considered by the ESAIEG Member Selection Sub-committee;

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- Updating references to City Departments from Regional Departments; and,
- Stating that the term of ESAIEG is four years (not three) to reflect the recent changes to the length of Council term, pursuant to the Municipal Act.

Therefore, in order to improve the transparency of ESAIEG, and provide consistency in the appointment of volunteer members to City of Hamilton committees, Planning staff recommends the modifications identified/highlighted in Appendix “C”.

Appointment of New ESAIEG Members

Pursuant to the approved 1993 Terms of Reference (refer to Appendix “B”):

“The Planning and Development Department will advertise for expressions of interest from community members who would be willing to volunteer for appointment to ESAIEG...the Planning and Development Department will recommend, to the Economic Development and Planning Committee, individuals suitable for appointment as members...”

Staff is proposing to change the process used to appoint ESAIEG members to ensure that the City is accountable and transparent in its selection of members. New members would be selected through the process used by the Clerk’s Division for Volunteer Advisory Committees (and reflected in the changes shown in Appendix “C”). The new process will require that a Sub-committee of the Economic Development and Planning Committee be responsible for selecting ESAIEG members, for Council approval, rather than staff. The proposed process will be more open, structured, and transparent than the previous process where staff interviewed and selected ESAIEG members, subject to the final approval of Economic Development and Planning Committee.

This process reflects ESAIEG’s mandate, as it is comprised of volunteers who advise staff, but do not make recommendations directly to Council. New ESAIEG members would be selected using the following process:

1. At the beginning of the new term of Council, three members of the Economic Development and Planning Committee will be selected for the ESAIEG Member Selection Sub-committee. This process is being recommended for approval part way through a current term of Council (see Recommendation b)). In the interim, staff recommends that the ESAIEG Member Selection Sub-committee be established immediately upon Council approval. Following the next Municipal elections and a new term of Council, a new ESAIEG Member Selection Sub-committee could be established and follow the updated process, as presented in this report.

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2. The Clerk's Division will then advertise for new ESAIEG members.
3. The ESAIEG Member Selection Sub-committee will review the applications received and short list applicants for interviews.
4. The ESAIEG Member Selection Sub-committee of the Economic Development and Planning Committee will interview candidates.
5. The ESAIEG Member Selection Sub-committee will recommend new ESAIEG members to Council.

This process is recommended because it will provide increased public transparency and openness to the member selection process for ESAIEG. Instead of the current situation where staff interview and recommend candidates, elected officials (through a Sub-committee of Council) will be responsible.

If this new member selection process is approved, staff anticipates that the ESAIEG Member Selection Sub-committee process can be established at the beginning of 2009. Once the process and Sub-committee are established, any new ESAIEG members will have to undergo the new selection process. There are currently six members on the ESAIEG committee that should continue in their role until such time as the Sub-committee has been established and the selection process can occur.

Increased Transparency and Public Involvement

The function that ESAIEG provides in peer reviewing EIS reports is extremely valuable to the City, and it is important to keep their mandate focused. ESAIEG is a strictly technical committee consisting of volunteers providing advice to Planning Division staff. As an advisory group to staff, ESAIEG meetings differ from Public Meetings. They are not formal Public Meetings or Public Forums. Staff incorporates ESAIEG's advice on technical matters (along with that of agencies such as Conservation Authorities, other staff, and consultants) into detailed Reports to the Economic Development and Planning Committee on development proposals. ESAIEG does not make decisions. In most cases, the final recommendation(s) are provided to the Economic Development and Planning Committee and require that the Planning Act applicants implement ESAIEG's recommendations under Council direction.

Concern has been raised over the fact that the development proponent/property owner for a Planning Act application is given access to ESAIEG at their meetings, but the general public (who may oppose the land use change) are not. If the public has technical information and data on the natural features and functions of the site, they are welcome to present this at an ESAIEG meeting. ESAIEG will review technical information (e.g. biophysical data, inventories, field observations) provided by citizens, but other planning issues (e.g. traffic, safe movement of pedestrians, intensification) are

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more appropriately dealt with through the planning process (i.e. public input at Economic Development and Planning Committee meetings). If the information is not related to the natural features or ecological functions of the site, it is not within ESAIEG's mandate to review or comment on it.

ALTERNATIVES FOR CONSIDERATION:

ESAIEG Terms of Reference

There is currently one option proposed for the ESAIEG Terms of Reference, which is to "do nothing". That is, maintain the approved Terms of Reference, which was developed by the Regional Municipality of Hamilton-Wentworth and approved by Council in 1993.

The approved Terms of Reference (Appendix "B") provides clear direction to ESAIEG members as it relates to the required Scope of Activities; however, the process is not consistent with the current volunteer selection process used by the Clerk's Division and does not currently provide increased transparency to the public. An update to the approved Terms of Reference is required. The "do nothing" approach is, therefore, not preferred.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial and Legal

There are no financial or legal implications associated with the recommendations in this Report. ESAIEG currently has an adequate budget allowance, provided for within the Planning and Economic Development Department budget, to cover member expenses such as mileage and meeting expenses. No additional expenses will result from adopting the staff recommendations in this Report.

Staffing

The options outlined for increasing transparency will require additional staff time to prepare an ESAIEG web page, regularly update information on the web page (list of EIS reports and ESAIEG recommendations from the meeting notes), and prepare the annual report. These additional duties can be accommodated using existing staff (ESAIEG Coordinator) in the Community Planning and Design Section.

POLICIES AFFECTING PROPOSAL:

The former Region of Hamilton-Wentworth Official Plan provides for a process where land use changes proposed within or adjacent to Environmentally Significant Areas or Provincially Significant Wetlands will be referred to ESAIEG for review (Policy C-1.2.2 (b)). Policies also state that ESAIEG may provide input on Environmental Assessments

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(Policy C.1.2.2 (f)) and Committee of Adjustment and severance applications (Policy C.1.2.3). The Council approved Rural Hamilton Official Plan (Policy F.3.2.1.6) refers to ESAIEG's mandate to review EIS and other technical reports. The new Urban Official Plan, due to be completed in June 2009, will also contain similar policies on ESAIEG's mandate.

Implementing the recommended actions to increase transparency of the EIS review process will ensure that ESAIEG and the City's EIS review process will continue to function in an effective manner.

RELEVANT CONSULTATION:

In preparing this report, input was received from Development Planning Section staff, Clerk's Division staff, and members of ESAIEG.

CITY STRATEGIC COMMITMENT:

By evaluating the "Triple Bottom Line", (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. Yes No

The public are involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. Yes No

Ecological function and the natural heritage system are protected.

Economic Well-Being is enhanced. Yes No

Hamilton's high-quality environmental amenities are maintained and enhanced.

Does the option you are recommending create value across all three bottom lines?

Yes No

An improved process to review environmental reports will increase public participation, enhance protection of natural areas, and contribute to a healthy, sustainable economy.

Do the options you are recommending make Hamilton a City of choice for high performance public servants? Yes No

The creation of a respectful, desirable and supportive workplace.

:CP/TR

Attachs. (3)

ENVIRONMENTAL IMPACT STATEMENT (EIS) GUIDELINES

July 2004

City of Hamilton

These Guidelines describe the purpose, and information requirements for preparing an **Environmental Impact Statement (EIS)**. These Guidelines have been prepared to help those individuals, agencies and environmental consultants who will be involved with preparing Environmental Impact Statements in the City of Hamilton.

These Guidelines were developed by City of Hamilton Planning Staff and the **Environmentally Significant Areas Impact Evaluation Group (ESAIEG)**. They were adopted by Hamilton City Council in July 2004.

N.B. These Guidelines are general. On a case by case basis, Planning staff or ESAIEG may reduce the scope of an EIS and/or give more precise technical guidance regarding the type of information or level of research effort to be included in an EIS.

1. WHAT IS AN ENVIRONMENTAL IMPACT STATEMENT? WHAT IS ITS PURPOSE?

1.1. Definition

An Environmental Impact Statement is a study that assesses the potential impact of a development proposal within or adjacent to an **Environmentally Significant Area (ESA)** by a qualified expert, usually an environmental consultant or ecologist. An EIS provides an objective technical assessment of a development proposal that explains if and to what extent the proposed development might reasonably be expected to impact the biological and physical characteristics and functions of an area and recommends mitigation measures.

1.2 Purpose

An EIS serves several purposes. The EIS allows the applicant to create a development plan that avoids negative environmental impacts by maintaining the significant natural features and functions of the ESA. The recommendations provided in an EIS can influence the design of the development proposal. The EIS identifies environmental constraints and opportunities associated with a site, establishes limits of development, and recommends appropriate setbacks to avoid adversely impacting the significant features and functions for which the ESA was designated. For this reason, **work on the EIS should begin early in the development process (before a final site design has been prepared or development application submitted)**, when there is the greatest opportunity to design in harmony with the natural environment.

City of Hamilton Planning and Development staff and other agencies (such as Conservation Authorities) consider the information and recommendations from an EIS when evaluating a development proposal. The Environmentally Significant Areas Impact Evaluation Group (ESAIEG) is a group of technical experts who volunteer their time to review and comment on EIS reports. The information and expert opinions in an EIS assist staff in determining whether the proposal complies with municipal and Provincial policy and in making a recommendation to accept, modify, or refuse a proposal. Completion of an EIS does not necessarily mean that the application will be approved.

Finally, the EIS also provides information of long term value to the landowner. Much of the information about the property will be useful for site planning, design work or identifying construction constraints. Likewise, knowledge of environmental features can support individual stewardship efforts, such as landscaping with native species or protection of wildlife habitat.

2. WHEN IS AN ENVIRONMENTAL IMPACT STATEMENT REQUIRED?

2.1 What Types of Development Applications Require an EIS?

An EIS may be required when there is a proposed change in land use, which is defined in the Official Plan as:

- Official Plan amendments
- Zoning by-law amendments
- Niagara Escarpment Plan amendment or development permits
- Parkway Belt West Plan amendments or development permits
- Subdivisions
- Severances
- Variances

2.2 Land Use Changes In or Adjacent to Environmentally Significant Areas

The Official Plan identifies 81 natural areas throughout the City of Hamilton as ESAs. Based on criteria defined and listed in the Nature Counts Inventory (2003), the Official Plan, and the best available scientific evidence, each of these areas contain natural physical or biological features of significance at the local level. (See Map No. 4 in the Official Plan)

An EIS is required when there is a reasonable expectation that proposed changes in land use in, or adjacent to, ESAs may adversely affect any of the features or functions that are the basis for the area's designation.

Proposals “adjacent to” ESAs are proposals on land abutting the ESA, or proposals which may otherwise be expected to impact ecological features and functions which are integral to the significance of the ESA.

Rather than providing a set distance to define “adjacent”, planning staff are responsible for making this determination. Staff consider a number of factors, such as the nature of the development proposal (e.g. a quarry operation will have greater impacts than a severance for a single family residence), the sensitivity of the ESA (habitat, species), and the nature of the surrounding landscape.

2.3 Land Use Changes in Provincially Significant Wetlands and Habitat of Threatened and Endangered Species

Where portions of the ESAs overlap Provincially Significant Wetland Areas or significant portions of the habitat of threatened and endangered species, the Provincial Policy Statement does not permit any form of development. For proposals on land within 120 metres of a wetland or within 50 metres of the significant portion of the habitat of a

threatened or endangered species, an EIS must be prepared in accordance with Provincial Guidelines and the Official Plan. In addition, the City requires the EIS to completely address the criteria forming the basis for designation of the ESA.

2.4 Environmental Assessments

When an undertaking is in an ESA and also requires Ministry of Environment approval under the Environmental Assessment Act, the documentation and assessment of impacts prepared by the proponent for the EA will be considered as meeting the Official Plan policy requirement for preparing an EIS.

3. WHAT ARE THE CONTENTS OF AN ENVIRONMENTAL IMPACT STATEMENT?

For the purposes of an EIS the environment is considered to be the biological and physical environment. The “environment” under consideration will not generally include social or economic factors. Exceptions may occur when the biological or physical features of an ESA are of significance for educational and scientific reasons or are the basis for recreational activities or resource utilization.

This document outlines the requirements for an EIS. A study may be scoped to focus on particular issues where there has been a comprehensive environmental study, watershed plan, or the development or anticipated impacts may be minor in nature. Scoping is done by the City in consultation with the Conservation Authority and the applicant. A scoped report will still include the components listed below, however the detail required may be modified.

An EIS:

- describes the proposal;
- describes the surrounding environment;
- identifies and assesses the impacts of the proposal on the environment and the significant features and functions of the *ESA*, **as set out in the 2003 Nature Counts site summaries**;
- Uses the unaltered ESA boundary, **as shown in the Official Plan**, Map No. 4 as the basis of the evaluation.
- identifies positive effects of the proposal such as enhancement and/or restoration of significant features;
- evaluates the feasibility of alternative mitigation measures or techniques and the ability of such measures to prevent or minimize impacts; and,
- makes recommendations on the advisability of proceeding with the proposal, appropriate mitigation measures, changes to the proposal, and monitoring plan if necessary.

3.1 DESCRIBING THE PROPOSAL

The proposal and the property must be described, including:

- a) what is proposed;
- b) the purpose of the proposal;
- c) the timing of construction/development;
- d) the existing land use and activities on-site;
- e) a general site location map, showing main roads;
- f) a site plan, if necessary, (at an appropriate scale) with dimensions, showing the location of building(s), septic areas, grade changes, driveways, etc.;
- g) a recent air photo map of the subject site at a scale of approximately 1:2000 identifying:
 - the limits of the *ESA* from the Official Plan;
 - Areas of Natural And Scientific Interest (ANSI) as defined by the Ontario Ministry of Natural Resources and the affected Conservation Authority;
 - vegetation communities, based on OMNR Ecological Land Classification for Southern Ontario;
 - Provincially Significant Wetlands (PSW) and their classification, as well as other wetland areas as defined by the Ontario Ministry of Natural Resources and the Conservation Authority;
 - permanent and intermittent water features such as, headwaters, rivers, streams, lakes and ponds, springs, and seeps;
 - registered flood or fill lines as defined by the Conservation Authority; and,
- h) activities associated with the proposal which may have an environmental impact (e.g. work on stream banks, tree-cutting, removal of vegetation, earth-moving, excavation and post-construction activities).
- i) Other development applications known to be in progress in the area which would affect the natural heritage features.

3.2 DESCRIBING THE SURROUNDING ENVIRONMENT (Biophysical Inventory)

The description of the surrounding environment will be completed through a biophysical inventory. Three levels of investigation may be used for any feature to be described. In increasing degree of thoroughness, these are:

- secondary sources (compiling information from existing documents);
- limited field inventory; or,
- detailed field inventory.

The EIS should explain and justify the level of investigation undertaken, unless specific direction has been received from the Planning and Development Department.

Particular attention should be paid to those features of the ESA identified as significant in the 2003 Nature Counts Project report. The biophysical inventory should address the significance of the features in the area studied and the importance of those features to the ESA as a whole. The locations of any significant species or features should be mapped in detail.

The Planning and Development Department and the relevant Conservation Authority can help in identifying the availability of secondary sources and should be consulted by the landowner. For example, site summaries from the 2003 Nature Counts Project are available from the Planning and Development Department. The Conservation Authorities and other government and non-government organizations may have additional information on particular areas. The Hamilton Conservation Authority is the depository for the Natural Heritage Database, which is updated annually. Information can be obtained by contacting the Ecologist at (905) 525-2181.

The EIS should discuss the significance of the entire ESA as well as the portion of the ESA affected by the application.

The biophysical inventory will identify the following:

- a) physical and hydrologic features, including:
 - soil types by texture/grain size (e.g. clay, silt sand) and drainage characteristics;
 - overburden and bedrock geology;
 - areas of high water table;
 - areas of groundwater recharge and discharge;
 - locations and usage of wells;
 - drainage patterns, basin boundaries and watercourses;
 - existing erosion sites; and,
 - areas of shallow soil.

- b) biological features, including:
 - a description of ecological communities identified **during the appropriate season(s)** * to the Vegetation Type level described according to the most recent version of the Ontario Ministry of Natural Resources Ecological Land Classification System for Southern Ontario. an assessment of the condition of the vegetation community, with reference to successional state, degree of disturbance, and the extent of invasive plant species.

 - the location and status of wildlife species and their habitat including birds, mammals, reptiles, fish, amphibians and butterflies, and the location and relative abundance of uncommon, rare, threatened, vulnerable or endangered species at the national, provincial, and regional scale according to the 2003 *Nature Counts Project* report.

 - an inventory of species occurring in the study area, including:

- vegetation in spring (May-early June) and summer/fall (July to September) using commonly acceptable sampling and recording methods;
- breeding birds (late May to early July) using Ontario Breeding Bird Atlas protocols;
- herpetofauna (amphibian breeding from early spring to summer) and later incidental sightings using commonly accepted survey protocols (OMMP);
- mammals – incidental sightings or signs;
- fish and aquatic organisms, using commonly accepted sampling methods. The location of aquatic habitat and fish communities, including spawning grounds, nursery, rearing, food supply, and migration areas of all intermittent and permanent streams and water bodies. Sampling should be carried out when fish and water are most likely to be present for intermittent streams (April-June).
- lepidoptera –incidental sightings (spring-fall) including adult and larval stages.
- locations should be provided as NAD83 UTM co-ordinates for all plant and animal species that are listed as uncommon or rare within Hamilton or are considered Vulnerable, Threatened, or Endangered. An estimate of abundance for rare and VTE species should also be provided.

***Note:** The timing of species surveys is critical and therefore the most appropriate season for specific surveys should be identified. In certain situations consideration of an EIS may be delayed pending the completion of an appropriate seasonal survey. If biological inventory work is conducted outside of the normal season or only during one season, reasons must be given to justify this.

c) landscape features, indicating where ecologically functional natural linkages and potential linkages are located within the Natural Heritage System. There should be a description and analysis of the existing ecosystem both within the subject site and as it relates to the larger regional ecosystem, including, but not limited to the following:

- the location of the subject lands in relation to components of the Natural Heritage System, as defined in the Official Plan
- Locally significant natural areas, as defined in the Official Plan
- Ecologically functional natural linkages and potential linkages, as shown in the Natural Heritage System in the Official Plan
- Significant Wildlife Habitat and Functions as identified in OMNR 2000 Significant Wildlife Habitat Technical Guide (e.g. migration staging areas, deer yards, snake hibernacula, wintering habitat)

- d) the area studied for each of the above elements.

The area requiring study may be different for the various environmental and ecological elements. The reasoning behind the choice of study areas and the seasons or times of year of the study should be explained in the EIS. For example, where downstream impacts might be expected, the study area for aquatic habitat should extend downstream.

3.3 IDENTIFYING AND ASSESSING THE IMPACTS OF THE PROPOSAL

Impact assessment will describe the significance of any adverse or positive effects of the proposal on the features of the ESA identified in the biophysical inventory, and should include:

- a. describe the sensitivity of the features and functions of the ESA and how the development proposal could affect them;
- b. impacts should be discussed in terms of area and likely duration;
- c. direct on-site effects (e.g. clearing, grubbing, grading, encroachment, fragmentation or elimination of habitat, removal of trees, enhancement and/or restoration of significant features);
- d. indirect effects (e.g. sediment transported downstream, diversion of water flows, ponding, changes in volume of surface runoff);
- e. effects on the significant characteristics of the whole ESA (e.g. loss of habitat, edge effect, change in habitat – relate to the criteria for which the area was identified as an ESA);
- f. short-term and long-term effects;
- g. secondary effects (e.g. changes to the aesthetic qualities or the educational value of the area, obstructions of greenway connections, effects on adjacent natural areas); and,
- h. cumulative effects. Provide an assessment of the apparent impacts of previous development applications or land use activities on the identified environmental features and functions, including trails, dumping, excavation and fill, and introduced plant species.

3.4 AVOIDING IMPACTS and EVALUATING ALTERNATIVE MITIGATION MEASURES

Avoiding negative impacts is preferred over mitigation. Ways of avoiding impacts should be listed and evaluated, including modifying the basic proposal. Where adverse impacts are unavoidable, a range of mitigation measures to reduce or minimize significant impacts should be evaluated. Examples include site plan modifications, improved construction practices, storm water management, or relocation of the development. The relative effectiveness of implementing these measures should be estimated and the extent of any remaining impacts discussed.

This section should include the following:

- an analysis of buffers and setbacks that are relevant to the potential impacts of the proposed development and the ESA features to be protected;
- describe any proposed compensation for impacts that cannot be mitigated (e.g. fragmented habitat), or restoration plans for disturbed areas;
- describe the mitigation measures proposed to eliminate or reduce impacts.

3.5 MONITORING PLAN

The purpose of monitoring is to measure impacts over time. Monitoring allows the Planning and Development Department, through development agreements, to require changes to site conditions if environmental effects exceed predicted levels, or if negative effects occur that were not previously identified. It also provides a means to ensure that the proponent has implemented all mitigation measures, as required in the development agreement.

Monitoring may be required where:

- there is uncertainty as to the effectiveness of established mitigation measures to avoid negative impacts;
- new and untested mitigation measures are used;
- there are some long-term operations associated with a development that could facilitate some future or on-going refinement to the mitigation strategy.

Monitoring programs may be established as a condition of approval and may be required for pre-construction, construction, or post-construction phases. Details of the monitoring plan will be specific to the development proposal and will be determined by staff and ESAIEG when reviewing the EIS. Monitoring plans are mostly intended for large scale developments, to avoid long term negative impacts. Not all proposals will require a Monitoring Plan.

3.6 RECOMMENDATIONS and CONCLUSIONS

Based on this evaluation, the EIS will outline methods or preferred measures to avoid or mitigate negative impacts. Positive changes and enhancements to the ESA should also be suggested. These proposals should be as specific as possible and presented in an appropriate form, such as:

- a) a modification to the concept plan or site plan;
- b) a construction requirement or constraint;
- c) an integral component of detailed designs or site plans, e.g.:
 - surface water/stormwater management plan;
 - erosion control plan;
 - tree protection plan;
 - rehabilitation/landscape management plan;
 - wildlife management plan;
 - appropriate buffers/setbacks; or,

- other environmental protection measures.

Recommendations should outline how the proposal can maintain or enhance ecological functions of the natural area and include the following issues:

- should the proposal proceed as planned;
- should the proposal be revised to eliminate or reduce impacts;
- mitigation measures required and;
- development conditions, including a monitoring plan.

Recommendations should also be included for long term management, conservation, enhancement, and monitoring of significant environmental features and functions on the subject property or adjoining lands.

3.7 FORMAT AND SUBMISSION OF THE EIS

A summary of the EIA and all the recommendations it contains is helpful. **10 copies of the EIS should be submitted to Planning and Development Department staff.**

The species/communities list prepared as part of the biophysical inventory should also be submitted in electronic format. Species lists should be coded consistently with the 2003 Nature Counts Inventory, and should include the dates of fieldwork. Appendices to the EIS should provide a bibliography of literature cited and the qualifications of the study team.

4. WHAT IS THE PROCEDURE?

The process outlined below is designed to allow for timely and efficient review of development applications in and adjacent to ESAs by focussing on early consultation to identify issues and requirements. **The EIS must be prepared in the early stages of a proposal's consideration by the municipality. Since one purpose of an EIS is to guide the design of a development proposal from an environmental perspective, an EIS cannot be dealt with as an afterthought.**

1. It is strongly advised that the applicant meet with City Planning and Development staff to discuss the feasibility of the development concept and the requirements for the EIS (level of study detail required, issues to be addressed, timing of field work). Planning staff can also direct the applicant to resources. This early meeting provides guidance for the applicant that can minimize the time and cost of preparing the EIS.
2. The proponent retains a qualified consultant to prepare the EIS. When it is completed, the proponent submits 10 copies to the Planning & Development Department. Staff will review the EIS to ensure it is complete before submitting it to ESAIEG. Staff will also circulate the EIS to appropriate agencies for their review. **Please note that the City and individual agencies may refuse to review an EIS that does not fulfil the requirements in these Guidelines.**

3. ESAIEG reviews the EIS at their monthly ESAIEG meeting. The applicant will be asked to attend this meeting and make a presentation to the group. A site visit is also scheduled for this time. Staff record and review ESAIEG recommendations and advise the applicant on whether additional information is required.
4. If necessary, the applicant will then prepare the revised, final EIS based on ESAIEG and staff comments.
5. The recommendations from the final approved version of the EIS will be incorporated into development agreements between the City and the applicant or implemented through revisions to zoning.

Other Procedural Notes:

If a development proposal is significantly revised after the approval of an EIS, an updated study may be required.

It is the responsibility of the applicant to retain qualified consultants, which may include biologists, hydrogeologists, environmental planners, ecologists, landscape architects, arborists, or engineers.

TERMS OF REFERENCE
City of Hamilton
Environmentally Significant Areas Impact Evaluation Group (ESAIEG)

Mandate

The Environmentally Significant Areas Impact Evaluation Group (ESAIEG) is a voluntary technical committee established to advise the Planning and Development Department on the impacts of development within or abutting Environmentally Significant Areas (ESAs).

Scope of Activities

To perform its mandate, ESAIEG will, in accordance with the policies in the Official Plan, review proposals requiring a change in use, or an intensification in use, in or abutting ESAs as designated in the Official Plan. Specifically, ESAIEG will:

- prepare a set of environmental impact statement guidelines for Council adoption setting out the type, level of detail and presentation of information constituting a generic environmental impact statement to help proponents and/or consultants prepare information for consideration;
- determine whether information submitted with a proposal is sufficient to assess the significance of impacts on the features for which the protection area was designated;
- assess the significance of potential environmental impacts of a proposal on the features for which the protection area was designated; and,
- determine whether or not significant impacts can be effectively mitigated and advise on the measures necessary to protect the features for which the protection area was designated, including whether or not the proposal should be approved.

ESAIEG shall prepare an annual, year end, activity report documenting the work of the group. This report may include comments on problems or concerns the ESAIEG has experienced in assisting with the implementation of Regional policies concerning environmental protection areas.

Referral of Applications

ESAIEG will have applications referred by the Planning and Development Department.

Processing of Applications

Once the application has been referred, Planning staff will contact the applicant and pass on the standard set of guidelines describing the information ESAIEG requires. The proposal will be placed on the next ESAIEG agenda. Once the

applicant submits the required report, staff will bring it, and other relevant information, before the ESAIEG for consideration. ESAIEG will be expected to make a recommendation at this point. Three types of recommendation are possible:

- approval if the impacts are insignificant;
- conditional approval if the impacts can be mitigated; or,
- denial if the impacts cannot be mitigated.

In unusual circumstances, ESAIEG can table the proposal pending more information.

Number of Members

The ESAIEG shall consist of nine members. Five members are required for quorum.

Additional Experts

In some cases, the specialized knowledge or expertise needed to determine the significance of impacts may not be possessed by the members themselves. Also, well-qualified experts may be willing to volunteer advice, but may not be available to attend regular meetings. To ensure that a complete range of expert opinion is available to ESAIEG, the evaluation group may call on outside experts, as necessary.

Term of Appointment

Members will be appointed for three year terms consistent with the term of Council. A maximum of two consecutive terms will allow for renewal of members. At the discretion of the committee, non-attendance at more than three consecutive meetings will be sufficient grounds for replacement.

Officers

The evaluation group will elect a Chairperson annually, at least one meeting after the new members are appointed. Availability is a critical qualification for a Chairperson since preparation time is required before meetings. A vice-chairperson should be elected to run meetings in the absence of the chairperson.

Conflict of Interest

Conflicts of interest must be disclosed by members concerning any matter which comes before ESAIEG and must be recorded in the minutes. Any member may raise the question of a conflict of interest and the member in questions must satisfy the group that no conflict exists. The Chairperson may determine a conflict exists and so declare. Where a conflict exists, a member must not take part in any discussions, make any motions, or vote on any resolution of the group pertaining to the issue.

Staff Support

Staff from the Planning and Development Department will act as the "ESAIEG Coordinator" and will be in attendance at all meetings. Preparation of minutes, agenda, and other matters will follow City of Hamilton practice.

Timing and content of Meetings

Meetings will be open to the public and held as the need arises.

Operating Budget

ESAIEG's operating budget will be administered by the Planning and Development Department and be reviewed annually in consultation with ESAIEG. The operating budget will cover new member advertising, mileage reimbursement, and meeting costs.

Qualifications for Appointment

Potential members must meet specific criteria regarding qualifications, experience, and availability. People who work as consultants or with public agencies may be appointed to the advisory committee. Members will not be selected to represent an organizational perspective, but rather for their ability to provide objective expert judgement. A high level of technical expertise shall be required among members.

The Planning and Development Department will advertise for expressions of interest from community members who would be willing to volunteer for appointment to the ESAIEG. Using the following criteria, the Planning and Development Department will recommend, to the Economic development and Planning Committee, individuals suitable for appointment as members or ex Officio members:

Academic Qualifications

Because of the technical nature of the committee, academic qualifications are important. Individuals with a diversity of training will be viewed favourably. As a group, the ESAIEG should include a balance of expertise and thus, annual appointments may favour disciplines where representation is weak. Members will be drawn from the following disciplines or subject areas:

Biology	Ecology
Zoology/Ornithology	Botany
Limnology	Hydrology/Hydrogeology
Geology/Soil Science	Civil Engineering
Forestry	Resource Management
Environmental Planning	Landscape Architecture

Practical Work Experience

The number of years a person has worked in a field will be considered and preference given to experienced individuals. Competence may also be demonstrated by publication of academic materials. Individuals who have exercised high levels of responsibility through their work experience or project management activities will be preferred. Members should also be comfortable working in small groups and be willing to achieve consensus.

Knowledge of Municipal Government and Agency Roles

It would be an asset for members to possess general knowledge of applicable legislation, the role for municipal government in resource management, and Provincial agency policies regarding resource protection.

Availability

Members should be able to attend a majority, if not all, meetings. Occasional day time site visits may be required. Members will need to read and consider information in preparation for meetings and should be able to be contacted during the day in order for meetings to be arranged. Ex Officio members should meet knowledge, experience, and academic criteria, but not necessarily all availability criteria.

Municipal Representation

Residency is not a critical factor but where other factors are equal residents will be preferred. As a group, the ESAIEG should include members who have some perspective on natural resource protection issues in both urban and rural settings.

Revised
TERMS OF REFERENCE
City of Hamilton
Environmentally Significant Areas Impact Evaluation Group (ESAIEG)

Mandate

The Environmentally Significant Areas Impact Evaluation Group (ESAIEG) is a voluntary technical committee established to advise the **Planning and Economic Development Department** on the impacts of development within or abutting Environmentally Significant Areas (ESAs) **and Core Areas in the Natural Heritage System.**

Scope of Activities

To perform its mandate, ESAIEG will, in accordance with the policies in the Official Plan, review proposals requiring a change in use, or an intensification in use, in or abutting ESAs **or Core Areas in the Natural Heritage System** as designated in the Official Plan. Specifically, ESAIEG will:

- prepare and periodically update a set of Environmental Impact Statement Guidelines for Council adoption setting out the type, level of detail and presentation of information constituting a generic environmental impact statement to help proponents and/or consultants prepare information for consideration;
- determine whether information submitted with a proposal is sufficient to assess the significance of impacts on the features for which the protection area was designated;
- assess the significance of potential environmental impacts of a proposal on the features for which the protection area was designated; and,
- determine whether or not significant impacts can be effectively mitigated and advise on the measures necessary to protect the features for which the protection area was designated, including whether or not the proposal should be approved.

ESAIEG shall prepare an annual, year end activity report documenting the work of the group. This report may include comments by ESAIEG members on policy issues or concerns experienced in assisting with the implementation of **City** policies related to environmental protection areas.

Referral of Applications

ESAIEG will have applications referred **to the group** by the **Planning and Economic Development Department.**

Processing of Applications

Once the application has been referred, Planning staff will contact the applicant and pass on the **Council-approved Environmental Impact Statement Guidelines** describing the information ESAIEG requires. Once the applicant submits the required report, staff will bring it, and other relevant information, before ESAIEG for consideration. ESAIEG will be expected to make a recommendation **to staff** at this point. Three types of recommendation are possible:

- approval if the impacts are insignificant;
- conditional approval if the impacts can be mitigated; or,
- denial if the impacts cannot be mitigated.

In unusual circumstances, ESAIEG can table the proposal pending more information.

Number of Members

The ESAIEG shall consist of nine members. Five members are required for quorum.

Additional Experts

In some cases, the specialized knowledge or expertise needed to determine the significance of impacts may not be possessed by the members themselves. Also, well-qualified experts may be willing to volunteer advice, but may not be available to attend regular meetings. To ensure that a complete range of expert opinion is available to ESAIEG, the evaluation group may call on outside experts, as necessary.

Term of Appointment

Members will be appointed for **four-year terms** consistent with the term of Council. At the discretion of the committee, non-attendance at more than three consecutive meetings will be sufficient grounds for replacement.

Officers

ESAIEG will elect a Chairperson annually, at least one meeting after the new members are appointed. Availability is a critical qualification for a Chairperson. A vice-chairperson should be elected to run meetings in the absence of the Chairperson.

Conflict of Interest

Conflicts of interest must be disclosed by members concerning any matter which comes before ESAIEG and must be recorded in the **meeting notes**. Any member may raise the question of a conflict of interest and the member in question must satisfy the group that no conflict exists. The Chairperson may determine a conflict exists and so declare. Where a conflict exists, a member must not take part in any discussions, make any motions, or vote on any resolution of the group pertaining to the issue.

Staff Support

Staff from the **Planning and Economic Development Department** will act as the "ESAIEG Coordinator" and will be in attendance at all meetings. Preparation of **meeting notes**, agenda, and other matters will follow City of Hamilton practice.

Timing and content of Meetings

Meetings will be open to the public and held as the need arises. **Generally, ESAIEG meetings are held on the second Thursday evening of every month.**

Operating Budget

ESAIEG's operating budget will be administered by the **Planning and Economic Development Department** and be reviewed annually in consultation with ESAIEG. The operating budget will cover new member advertising, mileage reimbursement, and meeting costs.

Qualifications for Appointment

Potential members must meet specific criteria regarding qualifications, experience, and availability. People who work as consultants or with public agencies may be appointed to the advisory committee. Members will not be selected to represent an organizational perspective, but rather for their ability to provide objective expert judgement. A high level of technical expertise shall be required among members.

The **Planning and Economic Development Department** will advertise for expressions of interest from community members who would be willing to volunteer for appointment to the ESAIEG. **An ESAIEG Member Selection Sub-Committee will be established, consisting of three members of the Economic Development and Planning Committee. This Sub-Committee will be responsible for interviewing ESAIEG candidates and recommending new members to Council. Using the following criteria, the Sub-Committee will recommend, to the Economic Development and Planning Committee, individuals suitable for appointment as members or Ex Officio members:**

Academic Qualifications

Because of the technical nature of the committee, academic qualifications are important. Individuals with a diversity of training will be viewed favourably. As a group, the ESAIEG should include a balance of expertise and thus, appointments may favour disciplines where representation is weak. Members will be drawn from the following disciplines or subject areas:

Biology	Ecology
Zoology/Ornithology	Botany
Limnology	Hydrology/Hydrogeology
Geology/Soil Science	Civil Engineering

Forestry Resource Management
Environmental Planning Landscape Architecture

Practical Work Experience

The number of years a person has worked in a field will be considered and preference given to experienced individuals. Competence may also be demonstrated by publication of academic materials. Individuals who have exercised high levels of responsibility through their work experience or project management activities will be preferred. Members should also be comfortable working in small groups and be willing to achieve consensus.

Knowledge of Municipal Government and Agency Roles

It would be an asset for members to possess general knowledge of applicable legislation, the role of municipal government in resource management, and Provincial agency policies regarding resource protection.

Availability

Members should be able to attend a majority, if not all, meetings. Occasional day time site visits may be required. Members will need to read and consider information in preparation for meetings and should be able to be contacted during the day in order for meetings to be arranged. Ex Officio members should meet knowledge, experience, and academic criteria, but not necessarily all availability criteria.

Municipal Representation

Residency is not a critical factor but where other factors are equal, residents will be preferred. As a group, ESAIEG should include members who have some perspective on natural resource protection issues in both urban and rural settings.

October, 2008