

1. Staff Report to Committee of The Whole Re Meeting Date of June 25, 2018 (with attached Skelton Brumwell Report issued and approved by Town Council)



Staff Report

Community Services

Report To: Committee of The Whole
Meeting Date: June 25, 2018
Report Number: CSPW.18.056 REVISED
Subject: Final Lower Whitby Formation ANSI Parks Management
Prepared by: Shawn Everitt, Interim Chief Administrative Officer

A. Recommendations

THAT Council receive Staff Report CSPW.18.056, entitled "Final Lower Whitby Formation ANSI Parks Management"; and

THAT Council receive the Parks Management Plan as presented; and,

THAT Council acknowledge Option 3 "Limited Permitted Access to the ANSI with Protection and Enforcement measures in place" as the approved option; and,

THAT Council approve the Lower Whitby Formation ANSI Parks Management Plan.

B. Overview

This report provides Council the opportunity to consider the options contained in the Draft Parks Management Plan, and to approve the Parks Management Plan for the Lower Whitby Formation Area of Natural and Scientific Interest (ANSI) that will provide staff the guidance and direction to manage, maintain, and enforce the three properties specific to the Parks Management Plan.

C. Background

Since 2008, the Town has owned lands acquired through the dedication of open space within the Peaks Bay East, Peaks Bay West and Neighbourhoods of Delphi developments along the shore of Georgian Bay.

The dedication of lands, the development process, and the Ontario Municipal Board (OMB), implemented the placement of an "H" Holding Symbol on the lands along the waterfront on these three developments. The development and implementation of a Parks Management Plan was a key requirement to the future use and development of the lands and also allowed for the removal of the "H" Holding Symbol from the lands.

Over the past 4 years, the lands along the shore have been the subject of significant concerns on a variety of fronts. Concerns have included, historical use of the lands, encroachments onto

the lands during residential development, continued encroachments both with permit and without, concerns of land use from current developers, significant destruction of vegetation in some cases by a developer, destruction of vegetation suspected by members of the public, unauthorized gatherings for ANSI tours and education and area resident conflicts over use of lands and access to lands. These concerns continue to exist and a recent increase in the removal of shale and fossils has been reported.

At the April 25, 2016 Committee of The Whole meeting, the following resolution was put forth, with Council approving the recommendation at the May 9, 2016 meeting of Council.

THAT Council receive Staff Report CSPW.16.049 entitled "Peaks Bay Holding Block 29 Waterfront";

AND THAT Council direct staff to develop a Parks Management Plan for review by Council in preparation of a zoning Bylaw amendment to remove the "H" Symbol on the Waterfront portion of Block 29, and report back to Council no later than July 2016 with a draft Parks Management Plan;

AND THAT Council direct staff to include in the Parks Management Plan a restoration plan of the Tree Preservation Area for the waterfront of Block 29, the location and design of a secondary pedestrian access for east west waterfront connectivity of Block 29 Waterfront and the proposed level of development including proposed signage and maintenance of the Area of Natural and Scientific Interest of Block 29 waterfront,
CARRIED.

As a result of this recommendation, the Town engaged Skelton Brumwell Consultants to complete a Parks Management Plan that is the subject of this report.

From the Town's perspective, the main focus of the Parks Management Plan, and the process to develop the Parks Management Plan, is to ensure that appropriate management and enforcement is in place and that the permitted and prohibited uses are clearly identified for the security and protection of the ANSI.

The Draft Parks Management Plan places external and personal issues and concerns aside to focus on the primary rationale of ensuring appropriate protection of the ANSI.

A key element and concern of the Parks Management Plan continues to be the pedestrian access from Ellis Drive and pedestrian access in general. Previously, concepts had been presented in 2016 that provided options for consideration. However, at that time, the development and implementation of the Parks Management Plan was a priority to allow the "H" Holding Symbol to be removed to allow and permit development such as a pedestrian access proceeding with the support of the Parks Management Plan.

D. Analysis

The overall analysis is contained in the Draft Parks Management Plan.

The purpose of this report is to highlight for Council and the public the options that Skelton Brumwell Consultants have identified based on the science of the ANSI as well as the planning requirements.

The three options contained in the Draft Parks Management Plan are as follows:

1. Installation of a waterfront trail extension
2. No permitted access to the ANSI
3. Limited permitted access to the ANSI with protection and enforcement measures in place

As outlined in the recommendation, Option 3 has been identified as the preferred option. This option could include rezoning the ANSI and beach area to a "Protected Open Space" zone that would detail permitted and non-permitted uses, the erection of appropriate signage identifying the importance of protecting the ANSI and enforcement measures, as well as landscape features/barriers that will direct pedestrian traffic off of the ANSI area.

In addition, during the public meeting and in a number of subsequent deputations at the June 4, 2018 Committee of The Whole meeting additional questions were raised.

Additional comments were also brought forward at the June 18, 2018 meeting of Council. Town Staff anticipates Mr. Michael Wynia from Skelton Brumwell Consultants will provide information for the June 25, 2018 Committee of The Whole meeting, as timing of releasing this report did not permit inclusion of the information to this report.

The question was raised with regards to a response provided to an area resident from the Ministry of Natural Resources and Forestry (MNRF) that identified the MNRF's position:

"that passive uses (e.g. walking, swimming, windsurfing, surfing, fishing, etc.) do NOT pose potential impact to the integrity or function of the Area of Natural and Scientific Interest. Given the sensitivity of the Area of Natural and Scientific Interest, we do NOT recommend development or non-passive activities that removes or obstructs the bedrock units and that could pose an impact (i.e. construction of shoreline erosion features such as groynes, docks, sea walls, marina facilities, boathouse, anchors/mooring blocks, motorized use, etc.)"

As identified in two of the deputations, there is concern regarding the proposed construction of a fence along the east side of the drainage ditch and pathway that provides public access to the waterfront from Ellis Drive. The recommendation to construct a fence is to direct or funnel pedestrian traffic to an access that the Town wishes pedestrian traffic to take to access the waterfront. There was also the suggestion that appropriate signage could provide that direction of access and responsible use of the lands instead of a fence.

E. The Blue Mountains Strategic Plan

Goal #1: Create Opportunities for Sustainability

Objective #5 Improved Visibility and Local Identity

Goal #2: Engage Our Communities & Partners

Objective #1 Improve External Communication with our Constituents

Objective #3 Strengthen Partnerships

Goal #3: Support Healthy Lifestyles

Objective #1 Promote the Town as a Healthy Community

Objective #3 Manager Growth and Promote Smart Growth

Objective #4 Commit to Sustainability

Goal #4: Promote a Culture of Organizational & Operational Excellence

Objective #3 To Consistently Deliver Excellent Customer Service

Objective #4 To Be a Financially Responsible Organization

Objective #5 Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

Goal #5: Ensure Our Infrastructure is Sustainable

Objective #1 Develop a Long-Term Asset Management Plan for the Maintenance, Renewal and Replacement of Existing Infrastructure

Objective #3 Implement Best Practices in Sustainable Infrastructure

Objective #4 Ensure that Infrastructure is Available to Support Development

F. Environmental Impacts

Appropriate and sustainable use of an ANSI on Town owned lands.

G. Financial Impact

To be determined through capital improvement project as well as enhanced enforcement of area specific By-law.

H. In consultation with

Senior Management Team

Terry Green, Manager of Parks & Trails

By-law Enforcement Staff

The following timeline outlines the process for consideration of the Draft Parks Management Plan:

Date	Staff Report	Meeting
March 29, 2018	Staff Report CSPW.18.35	Committee of The Whole
April 16, 2018	Staff Report CSPW.18.35	Council
May 14, 2018	n/a	Public Meeting
June 4, 2018	CSPW.18.051	Committee of The Whole
June 18, 2018	CSPW.18.051	Council
June 25, 2018	CSPW.18.056	Committee of The Whole
July 9, 2018	CSPW.18.056	Council

Staff Report CSPW.18.35 included notification of public consultation process. Staff Report CSPW.18.051 was a follow up report to the public meeting.

I. Attached

1. Final Draft Delphi Waterfront Management Plan
2. Responses to May14, 2018 Public Meeting
3. Response to Ministry of Natural Resources and Forests Comments and Proposed Access Options

Respectfully submitted,

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Delphi Waterfront Management Plan

Town of The Blue Mountains

P/N 3054 | 2nd Draft March 2018

County of Grey
Town of The Blue Mountains

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Table 1 - Incidental sightings of birds, mammals, and amphibians observed within the study area Delphi Point of the Town of The Blue Mountains.

Appendix A

Public Consultation Documents

1. Public Information Session PowerPoint Presentation
2. Public Survey Questionnaire
3. Summary of Public Feedback
4. Summary of Agency Feedback

**Delphi Waterfront
Management Plan
Town of The Blue Mountains**

P/N 17-3054

2nd Draft March 2018

Part 1 – Management Plan Overview

1.0 Introduction

1.1 The Town of The Blue Mountains

The Town of The Blue Mountains (Town) is located along the scenic southern Georgian Bay shoreline in the County of Grey, southwestern Ontario. The Town is well-known for the visually prominent section of the Niagara Escarpment known as Blue Mountain as well as the rugged and picturesque shoreline of Georgian Bay. Due to its geographic location, nestled between the Niagara Escarpment and south shore of Georgian Bay, the Town serves as a tourist-hub for outdoor recreation activities, and is home to a number of large four-season Resorts. Popular recreational activities, include: skiing, watersport, hiking, and cycling.

The Town was officially formed in 1988 after the amalgamation of the Town of Thornbury and the Township of Collingwood and includes a total landmass of 287 km².

The Town of The Blue Mountains has a current population of approximately 7,025 (Statistics Canada, 2016) and hosts a large population of tourists and seasonal residents throughout the year. The area has undergone steady increase in population over the past 10 years, primarily due to strong growth in the local tourism-based economy. Outdoor recreation is the foundation of tourism industry centered around the parks, trails and beaches of the Town of The Blue Mountains.

Correspondingly, the development, management and growth of recreational and tourism opportunities has been incorporated into the policies of the Town's Strategic Plan and Official Plan. The Town's motto of "Recreation at it's Peak," reflects the Municipalities' commitment to capitalize on the unique natural landscapes and identify of the Town as an outdoor recreation "mecca". Parks, open spaces, shoreline areas, mature forests, and the UNSECO designated Niagara Escarpment form the natural landscape that make the area so desirable for outdoor recreational activities. The wise use, development, and management of these natural and recreational areas requires carefully considered land-use policies and long-term strategic planning.

This park management plan, in addition to others for the Town, strives to balance the development of parkland and open-spaces for public access with maintaining the integrity of significant natural features and their ecological function for present and future generations.

1.2 Delphi Point ANSI (Area of Natural and Scientific Interest)

The Delphi Point ANSI (Area of Natural and Scientific Interest) is a narrow strip of Georgian Bay shoreline, located midway between Thornbury and Collingwood, off of Highway #26 (see Figure 1 – Delphi Point ANSI Location). The Delphi Point ANSI is part of the Lower Whitby Formation and consists of bituminous broken shale that contains a variety of significant invertebrate fossils that are estimated to be 455 million years old. The fossilized shale extending the length of the Delphi Point ANSI is designated as a Provincially Significant Earth Science Area of Natural and Scientific Interest (ANSI) by the Ministry of Natural Resources and Forestry (MNRF). The ANSI is located just to the west of Delphi Point Park – a municipally owned and maintained shoreline park.

As shown in Figure 2 – ANSI Ownership, the Delphi Point ANSI is owned by the Town of The Blue Mountains, three (3) private landowners, and the portions of the shoreline extending north into the lake are owned by the Crown.



Photograph 1: Easterly view of east section of ANSI waterfront at Delphi Point



Photograph 2: Westerly view of east section of ANSI waterfront at Delphi Point



Photograph 3: Westerly view of west section of ANSI at Delphi Point



Photograph 4: Easterly view of west section of ANSI at Delphi Point



Photograph 5: South view of Municipality owned greenspace below west section of ANSI at Delphi Point

The portions of the Delphi Point ANSI that are owned by the Town are sectioned into three pieces of land, separated by parcels of privately owned land. The publicly owned parcels were conveyed to the Town, by the developers of three separate residential subdivisions - Peaks Bay East, Peaks Bay West, and the Neighbourhoods of Delphi as part of an Ontario Municipal Board Decision (OMB) in 2005 (Decision 0727-PL020894) for a re-zoning application and plan of subdivision. The OMB Decision required that the Delphi Point ANSI lands dedicated to the Town, be re-zoned to Public Open Space OS-1h. The By-Law requires that the holding symbol "h", not be removed until:

- a) A Parks Management Plans has been completed and implemented through a Zoning By-Law Amendment in accordance with the Official Plan
- b) Notwithstanding the provisions of Section 25.1 permitted uses, no uses shall be permitted prior to the removal of the "h" symbol in accordance with this Section.

The Town owned lands have not been maintained, nor have they had a formal use determined since the Town acquired the lands in 2010. Since 2010, the adjacent subdivisions (Peaks Bay East, Peaks Bay West, and the Neighbourhoods of Delphi) have undergone residential development and there is now substantial interest in the Town owned waterfront lands from the neighbourhood residents. Specifically, residents have raised concerns regarding potential use of the area, access, long-term protection and management.

1.3 Purpose

The purpose of this Management Plan is to identify and review options for the future use, protection and management of the Town owned Waterfront lands.

This Management Plan has been developed through extensive consultation with agencies (the Town of The Blue Mountains, the MNRF, the County of Grey, the Grey-Sauble Conservation Authority, and the Niagara Escarpment Commission) and the public. Through a comprehensive planning process which included site visits and ecological inventories, a public meeting as well as discussions with various stakeholder, and background research, several specific recommendations were to be identified regarding:

- The appropriate level of use and activities;
- The best options for most effective ownership of the lands;
- Access and connectivity; and,
- The provision of specific management approaches to ensure the long-term protection of the Town owned Delphi Waterfront Lands.

To determine relevant policies and objectives under the ANSI waterfront management plan, the following documents were reviewed:

- Provincial Policy Statement (2014)
- Greenbelt Plan (2017)
- Growth Plan for the Greater Golden Horseshoe (2017)
- Niagara Escarpment Plan (2017)
- County of Grey Official Plan (2013)
- Town of The Blue Mountains Official Plan (2016)
- Town of The Blue Mountains Corporate Strategic Plan (2015)
- (Former) Township of Collingwood Zoning By-law No. 83-40 (1984)
- Lower Whitby Formation ANSI Designation Background Information from the Ministry of Natural Resources and Forestry
- The Town of The Blue Mountains Subdivision Agreement – The Neighbourhoods at Delphi Point Inc. (2010)
- The Town of The Blue Mountains Hours & Code of Conduct – Town Parks & Public Recreational Facilities By-Law No. 2008-44 (2008)
- The Town of The Blue Mountains Tree Preservation Plan By-Law No. 2010-68 (2010)

Part 2 – Background Review

2.0 Delphi Point

2.1 Lower Whitby Formation ANSI Designation

Areas of Natural and Scientific Interest (ANSI) are areas of land and/or water containing natural landscapes or features which have been identified as having life science or earth science (or both) values related to natural heritage protection, scientific study or education. ANSIs can vary in their type, size, and level of significance. There are about 500 ANSI identified across the Province with the Ministry of Natural Resources and Forestry as the Provincial Agency responsible for identification of ANSI areas.

There are two types of ANSIs:

- 1) Life Science ANSIs include significant representative segments of Ontario's biodiversity and natural landscapes including specific types of forest, wetlands native plants etc. They contain relatively undisturbed vegetation and landforms and their associated species and communities.

- 2) Earth Science ANSIs include are geological in nature and consist of some of the most significant representative examples of the bedrock, fossil and landforms in Ontario and include examples of ongoing geological processes

To identify and confirm ANSI in Ontario, the Ministry utilizes a standardized procedure to evaluate the significance of natural landscapes against specific selection criteria. If ANSI candidacy is met, the Ministry will determine representative boundaries that provide appropriate levels of protection for the ANSI. A confirmed ANSI recognizes MNR's interest in and commitment to the conservation of the identified features and values. The best examples of Life Science or Earth Science natural features receive the designation of a Provincially Significant ANSI. ANSIs deemed Provincially Significant receive protection under the Planning Act, Provincial Policy Statement, The Greenbelt Plan, The Oak Ridges Moraine Conservation Plan, as well as the Niagara Escarpment Plan.

As of 1978, the Delphi Point waterfront area has been identified as a Provincially Significant Earth Science ANSI (OMB:10 17 545049300). The shoreline area consists of exposed bedrock of the lower Whitby formation which contains highly fossiliferous shale. The shale bedrock contains a high diversity species and vast number of well preserved fossils (Ontario Parks 1996). The ANSI designation of the waterfront at Delphi Point was issued by the Ministry to prevent further reductions to the fossilized shoreline boundary. According to Ministry reports, damage and reduction to the shoreline was attributed to excessive use and removal by fossil collectors (Ontario Parks, 1996).

2.2 ANSI Protection and Management in Ontario

The identification of the significance of ANSI's is the responsibility of the MNRF – ANSI's can be identified as locally, regionally, or provincially significant. Once an ANSI is identified, MNRF's role is to provide science support, information and advice to landowners, municipalities, Crown agencies and other affected parties, as requested, about the implications of provincially significant ANSIs on land use and resource management decisions. Once confirmed, these values will be considered in land use decisions made for both Crown and private land.

ANSIs play an important role in the protection of Ontario's natural heritage, since they represent some of the best examples of biological communities, natural landforms and environments across Ontario outside of provincial parks and conservation reserves. In addition, ANSIs provide a focus for both public and private sectors to contribute to the protection of Ontario's natural heritage.

The Provincial Policy Statement (PPS) and Natural Heritage Reference Manual provide direction on the protection of Provincially Significant ANSIs. Local planning authorities may choose to

included specific policies and designations regarding in regionally or locally significant ANSIs and their planning policies.

The Natural Heritage Reference Manual (NHRM) requires that implementation of Provincial policy to protect Provincially Significant ANSIs and adjacent lands. The Natural Heritage Reference Manual provides additional guidance on any decision-making that make affect or impact ANSI identified lands. The NHRM states that in order to be consistent with Provincial Policy planning authorities shall protect ANSIs by:

- Not permitting development and site alteration in a significant ANSI unless it has been demonstrated that there will be no negative impacts on the feature or its ecological function; and
- Not permitting development and site alteration on adjacent lands unless the ecological function has been evaluated and it is demonstrated that there will be no negative impacts on the feature or its ecological function.

Adjacent lands are the lands relevant to which impacts must be considered and the compatibility of a development proposal must be addressed. Adjacent lands can vary and depend largely on biophysical features and interactions such as wildlife movement, hydrology, soil conditions, and topography. The Province recommends that adjacent lands are those lands within 120m of a life science ANSI and within 50 metres of an earth science ANSI. The Natural Heritage Reference Manual notes that Earth Science ANSIs are generally less sensitive to development and site alteration than life science ANSIs and therefore have smaller adjacent lands width. The NHRM notes that the evaluation of adjacent lands of earth science ANSI's, should focus on how best to retain the educational, scientific, and interpretive value of the ANSI and assessing the appropriate land use that conserve topography, stratigraphic exposures and other geologically defining features for which the area was identified.

Unlike national, provincial, or municipal parks, provincially significant ANSI's can be entirely privately owned and managed. Some ANSI identified lands in Ontario are held by owned by public agencies, such as municipalities, conservation authorities, or conservation groups (e.g. Nature Conservation of Canada); however, many are located on private land with no public access or management. Although many ANSIs are privately owned the PPS protects these areas through specific development controls. The Delphi Point ANSI is located on a mixture of privately and publicly owned lands.

2.3 Town of The Blue Mountains Parks and Open Space System

The Town of The Blue Mountains is home to a number of municipally maintained parks, trails and beaches, including a number of waterfront parks. A number of these waterfront parks

include public access and amenities such as picnic tables, washrooms, and playgrounds (e.g. Council Beach, Delphi Point Park, Lora Bay Park, Northwinds Beach, and Peasemarsch Beach). Other municipal parks, include greenspace only and no infrastructure or access.

The Official Plan provides direction on the public parkland and open space system in the Town of The Blue Mountains and outlines the parkland and open space objectives of the Town, which are as follows:

- a) *establish and maintain a system of public open space and parkland areas that meets the needs of present and future residents;*
- b) *enhance existing parkland areas wherever possible to respond to changing public needs and preferences;*
- c) *ensure that appropriate amounts and types of parkland, and land along the shoreline and for access thereto, are acquired by the Town through the development process;*
- d) *encourage the dedication and donation of environmentally sensitive lands into public ownership to ensure their continued protection;*
- e) *protect and enhance the public open space and parkland areas in a manner that is consistent with the environmental objectives of this Official Plan;*
- f) *promote the establishment of a continuous linear open space system connecting natural, cultural and recreational land uses within the Town and to surrounding municipalities;*
- g) *coordinate with other public and private agencies in the provision of open space, recreational and cultural facilities;*
- h) *encourage the development of a walking and cycling trail system within the open space system that is accessible to the public utilizing trails, paths, streets, and other public open spaces; and,*
- i) *ensuring that the services, infrastructure, and facilities required to support these uses are in place.*

The Official Plan also contains policies for the dedication and acquisition of land for public recreational purposes as part of the development process.

2.4 Subdivision Agreements & Development

Individual privately-owned lots within Peaks Bay East and Peaks Bay West are subject to the PB Holdings Subdivision Agreement. Likewise, lots within the Neighbourhoods at Delphi are subject to a Neighbourhoods at Delphi Point Inc. Subdivision Agreement.

The agreements were authorized by section 51(26) of the Planning Act and was imposed by the Approval Authority as one of the Conditions. The agreement defines the obligations and duties

of the Developers (P.B. holdings Limited and Neighbourhoods of Delphi Point Inc.) and the Town with respect to each subdivision, development, and servicing of Lands in accordance to the conditions.

2.4.1 Tree Preservation Zone

Subdivisions within the three Subdivision Agreements identified above, including residents of the Delphi Point waterfront, are subjected to a Tree Preservation Plan (TPP; section 2.31). Trees within the developments of The Neighbourhoods of Delphi, Peaks Bay East, and Peaks Bay West (including the ANSI shoreline) fall within a tree preservation zone (TPZ).

Section 2.31 of the Subdivision Agreements between the Developers (Neighbourhoods at Delphi Inc., PB Holdings) and the Corporation of the Town of The Blue Mountains provide requirements of the Developer regarding tree preservation.

The Developer Shall:

- a) *preserve the existing trees and vegetation shown on the Tree Preservation and Landscape Plan to be preserved;*
- b) *install the tree protection fencing shown on the Tree Preservation and Landscape Plan to the satisfaction of the Town prior to the start of any construction activity within a Plan, which fencing shall remain in place until all grading, construction activity of any kind, and Landscape Works within the Plan are completed;*
- c) *not remove any trees or vegetation without the prior written approval of the Town except such trees and vegetation that are diseased or dead or such trees and vegetation that are designated for removal on the Tree Preservation and Landscape Plan;*
- d) *require the Consultant to supervise and approve the installation of the tree protection fencing and ensure that the tree protection fencing remains in place during the entire period of construction activity of any kind within a Plan and that the Consultant will notify the Town that this fencing has been installed in accordance with the Tree Preservation and Landscape Plan;*
- e) *undertake every precaution necessary to prevent damage to existing trees and vegetated areas, include the following:*
 - i. *areas within the tree protection fencing shall remain undisturbed and shall not be used for the storage of surplus soil, debris and building materials or equipment;*
 - ii. *no contaminants will be dumped or flushed where feeder roots of vegetation exist;*
 - iii. *no vegetation or tree limbs shall be removed, pruned or otherwise damaged during the course of construction; and*

- IV. *no rigging cables shall be wrapped around or installed in trees to be preserved.*
- f) *replace, to the satisfaction of the Town, any existing trees and vegetation shown on the Tree Preservation and Landscape Plan to be preserved which are removed without prior written approval of the Town except such trees and vegetation that are diseased or dead;*
- g) *on the sale of any lot, block or unit, reserve such rights as may be necessary to enable the Developer or the Town or their agents to enter on the lot, block or unit at all times to install and maintain the tree protection fencing and replace any existing trees and vegetation removed in contravention to the provisions of this Agreement;*
- h) *shall include in all agreements of purchase and sale for lots, blocks or units within each Plan, the covenant, identified In Schedule "J", in which the purchaser agrees to comply with all of the provisions of this Section 2.31, except Section 2.31 (d);*
- i) *provide Security in an amount shown in Schedule "E" to the Town to ensure compliance with the tree preservation and replacement requirements of this Agreement, which Security may be drawn upon and used up to its full amount in accordance with the provisions of Section 3.2.*

2.4.2 Owner Agreements

An agreement and undertaken of the tree preservation plan by owners of lots within the Peaks Bay East subdivision is described in the Owner Agreement Registered Plan 16M-23, in where each owner shall confirm to Schedule "K" and "J" as well as Section 2.313 of the agreement. Owners in acknowledgement agree to the following:

- 1. *Preserve the existing tree and vegetation shown on the Tree Preservation and Landscape Plan (Drawings TP 1 to TP4)*
- 2. *Not remove any trees or vegetation without the prior written approval of the Town unless designated for removal on the Tree Preservation and Landscape Plan*
- 3. *Undertake every precaution as necessary to prevent damage during the course of construction including by not limited to:*
 - a. *Areas within the tree protection fencing shall remain undisturbed and shall not be used for the storage of surplus soil, debris, and building materials or equipment;*
 - b. *No contaminants will be dumped or flushed where feeder roots of vegetation exist;*
 - c. *No vegetation or tree limbs shall be removed, pruned or otherwise damaged during the course of construction.*

- d. *No rigging cables shall be wrapped around or installed in trees to be preserved.*

Within agreement 16M-23, Owners acknowledge criteria issued by the Niagara Escarpment for “viewing windows” to allow residents the provision to observe waters of Georgian Bay from their respective properties. Criteria for the creation of “viewing windows” include:

- a) *Viewing windows are defined as a specific zone within an individual lot, where understorey clearing and tree limbing is permitted to create an open zone where views to the shore and waters of Nottawasaga Bay may be available*
- b) *The specific location and size of the viewing window zone(s) must be identified on the site plan submitted for approval to the Town of The Blue Mountains.*
- c) *Maximum horizontal extent to viewing window shall be 1/3rd or 33% of the total rear lot frontage. This may occur in one zone or in a number of narrower swaths that do not exceed 1/3 or 33% of the total rear lot.*
- d) *Viewing windows shall not encroach into any side yard Vegetation Protection Zones as set out on the approved subdivision drawings TP-1 through TP-4*
- e) *Maximum limbing height of trees 60mm calliper DBH (Diameter at breast height) and larger shall be no more than 1/3rd of the total height of the tree with the retention of 2/3rd of the crown of the tree in one mass.*
- f) *No healthy trees 60mm calliper DBH and larger can be removed within a viewing window.*
- g) *Trees under 60mm calliper DBH and understorey shrubs may be cleared within the viewing window only.*

2.4.3 Permitted Development – Peaks Bay East

Tree preservation plan requirements (including the set back, and preservation zone) do not apply to Lot 5 of Peaks Bay East due to damage caused by a Tornado in 2009, in where all of the natural vegetation was removed. Areas within the setback and preservation zone are to be replanted to represent a naturalized area, and grading is to occur to allow adequate site drainage on the property. Permitted development in this area is limited to a pedestrian/walkway to the shoreline; the pathway shall be developed using natural materials and native species that match the biodiversity and character of the surrounding area.

2.5 Tree Preservation By-Law

Tree Preservation By-Law (BY-LAW No. 2010-68) prohibits and regulates the destruction or injury of trees in the boundaries of the Town of The Blue Mountains. The by-law came into force in October, 2010.

In accordance to the by-law, a permit must be obtained for the injury or destruction of trees specified within an area of preservation, as referenced, and agreed upon by the Municipality or the County of Grey.

2.6 Fossil Protection

In the Town of The Blue Mountains, fossil protection is dealt with through the utilization of By-Law No. 2008-44, which provides for the management, controls, regulations, maintenance and usage of all parklands, trails, open space properties and other public facilities owned and leased by the Town of The Blue Mountains.

The ANSI is designated under the By-Law as an Environmentally Significant Area and is under public management by the Town of The Blue Mountains. Section 7.5 of the By-law pertaining to Hours and Code of Conduct, Injury and Damage, states that no person shall in any park:

“Destroy or remove any fossiliferous rock specimens”

Similarly, Section 10, states that unless authorized by a permit or otherwise, no person shall encroach upon or take possession of any park by any means whatsoever including;

- a) *The construction, installation or maintenance of any fence, storage shed, retaining wall or other structure of any kind;*
- b) *Keeping of any composting receptacle or pile;*
- c) *Placing of any string, wire, chain, rope or similar material; or,*
- d) *Plantings, of any hedge, tree, shrub or garden on park property thereon.*

3.0 Planning Review

3.1 Provincial Policy Statement

The Ontario Provincial Policy Statement (PPS; 2014) is issued under section three of the Planning Act and provides provincial direction for the efficient use and management of land and infrastructure.

Municipal Official plans in Ontario must be consistent with the policies of the PPS and all Planning Decisions must also be consistent with the policies of the PPS.

Policy 2.1.5 states that:

Development and site alteration shall not be permitted in e) significant areas of natural and scientific interest;

Policy 2.1.8 states that:

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 lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

Because the Delphi Waterfront ANSI is identified as Provincially Significant the policies of the PPS apply to any proposed development in or adjacent to the ANSI.

3.2 County of Grey Official Plan

The Grey County Official Plan (2013) has been prepared for the whole county of Grey, and includes the following municipalities: Chatsworth, Georgian Bluffs, Grey Highlands, Hanover, Meaford, Owen Sound, Southgate, The Blue Mountains, and West Grey. In total, 11 goals endorse the key Mission Statement of the County; two of these goals are relevant to the development of the Management Plan for the Delphi Point ANSI.

Goal 2 of the Official Plan is to provide direction and assistance to municipalities within the county to ensure that environmental, social, public health, and economic considerations are considered and integrated within their planning process during decision-making and development. Goal 3 of the Official Plan is to minimize adverse impacts to the natural environment and to protect significant environmental features. Such features include the water quality of watersheds, archaeological sites, as well as sources of cultural heritage within landscapes.

The goals within the Official plan are further explained as objectives, which are broken down by Physical, Social, Environmental, Economic, and Administrative requirements.

Social objectives (section 1.6.2) encourage preservation, conservation, public accessibility and maintenance of natural, cultural or man-made historical or heritage features in local municipalities. Environmental objectives (section 1.6.3) aim to identify lands with environmental constraints and sensitive features. Once identified, the Plan will establish policies that protect, conserve, and provide ongoing maintenance and enhancement to these areas. Additionally, Environmental objectives will ensure development will not occur on lands with inherent environmental hazards, such as flood susceptibility or erosion.

Land Use Designations

As per Schedule A of the Grey County Official Plan, the land designation of Delphi Point is Recreational Resort Area. Settlement areas under this designation include lands developed to serve public interest by enhancing or adding to recreational and tourism activities provided by the Municipality.

Since the Recreational Resort Settlement Area is located within the Niagara Escarpment Plan boundary, policies for Escarpment Recreation Areas (Section 2.5.2) within the Grey County Official Plan as designated under Schedule A also apply.

Constraint Mapping

As per Appendix B of the Grey County Official Plan, the ANSI and area of Delphi Point are classified as containing Earth Science ANSI and Significant Woodland, respectively.

Development Policies

Significant Woodland Policy 2.8.4 (1) states that:

No development or site alteration may occur within Significant Woodlands or their adjacent lands unless it has been demonstrated through an Environmental Impact Study, as per section 2.8.7 of this Plan, that there will be no negative impacts on the natural features or their ecological functions. The adjacent lands are defined in section 6.19 of this Plan.

Notwithstanding the above, projects undertaken by a Municipality or Conservation Authority may be exempt from the Environmental Impact Study requirements, provided said project is a public work or conservation project.

Natural Function Policy 2.8.6 (3) states that:

No development or site alteration may occur within Areas of Natural and Scientific Interest or their adjacent lands unless it has been demonstrated through an Environmental Impact Study that there will be no negative impacts on the natural features or their ecological functions. The adjacent lands are defined in section 6.19 of this Plan.

In addition, Natural Function Policy 2.8.6. (5) states that:

No development shall be permitted within 30 metres of the banks of a stream, river, lake, or Georgian Bay. Where an Environmental Impact Study prepared in accordance with Section 2.8.6(4) of this Plan concludes setbacks may be reduced and/or where it has been determined by the appropriate Conservation Authority these setbacks may be reduced. Landowners are encouraged to forest the areas within 30 metres of any stream to maintain and improve fish habitat, ecological function of the stream and to increase natural connections.

As identified within Section 2.8, land widths of 50 m are considered adjacent lands from Significant Woodlands and Areas of Natural and Scientific Interest.

3.3 Town of The Blue Mountains Official Plan

The Community vision for the Town of The Blue Mountains is maintained by 14 guiding principals within the Town's Official Plan (Section A1.1). Of the 14 guiding principals, three play a role in the development of the Delphi Point shoreline. The guiding principles are maintained by policies enforced by the Town of The Blue Mountains.

Guiding Principal Two of the Official Plan ensures that land-use planning decisions support and emphasize the town's unique character, including diversity, civic identity, recreational based and rural life style, as well as natural heritage and cultural heritage. In addition, Guiding Principal Six aims to protect natural heritage features and areas, as well as their ecological functions for present and future generations.

Guiding Principal seven encourages the development of a wide range of recreational opportunities for the community that meets the needs of present and future residents. Section D.6.1 of the Official Plan, lists objectives for managing Public Parkland and Open Space. A priority of the official plan's objectives is to ensure that parkland, including shoreline be acquired by the Town through the development process, and that environmentally sensitive lands be conveyed to public ownership to manage the long-term protection and integrity of the environmental function they provide.

Through the acquisition of parkland, the Town hopes to establish a continuous open space system that connects natural, cultural, and recreational land uses both within the Town and to adjacent municipalities under the Leisure Activities Plan (Section D6.2.1). Natural features are to be incorporated into the design of parkland whenever possible and should connect adjacent systems outlined by the Official plan (such as: trail systems, cycling routes, walkways, natural heritage corridors utility corridors; Section D6.3.1).

Land Use Designations

Schedule A of the Town's Official Plan identify the ANSI at Delphi Point as a combination of Residential Resort/Recreational and Major Open Space. In addition, Schedule A consider lands of Delphi Point to be within the Niagara Escarpment Plan Boundary.

Constraint Mapping

Appendix 1 identifies the study area as a Provincially Significant Area of Natural and Scientific Interest natural heritage feature.

Appendix 1 includes a boundary indicating the 100 Year Flood Elevation within constraint mapping of Delphi Point and the ANSI. This boundary represents the 1 % annual chance a flooding event within the subject area is subjected to being equaled or exceeded in any year.

Official Plan mapping for Land Use Designations and Constraint Mapping indicate that the Management Plan area falls within the Niagara Escarpment Plan (NEP) boundary.

Development Policies

Residential/Recreational

Residential/Recreational areas within the Town Official Plan are settlement areas extended along the Georgian Bay shoreline that can accommodate seasonal and permanent residential and recreational functions.

Permitted Uses (Section B3.7.3) within these lands include the construction of:

- *Single detached, semi-detached dwellings, Townhouses, and low-rise multiple units*
- *Accessory apartments*
- *Bed and breakfast establishments*
- *Home occupations*
- *Private home daycare*
- *Golf courses*
- *Recreational lands and/or facilities in appropriate locations (parks, open space, trail uses, equestrian facilities etc.)*

Landscape Analysis Development Policies within Section B3.7.4.3 state that:

Development proposals for a Plan of Subdivision, Plan of Condominium or other large development projects which are subject to site plan approval, shall be accompanied by a landscape analysis, prepared by a qualified professional, to address:

- a) the suitability of the site for development;*
- b) the visual and physical complexities of the site, including areas of natural vegetation;*
- c) the measures proposed to ensure that the visual quality of the area is preserved and enhanced; and,*
- d) the proposed mitigation measures to avoid any adverse visual impacts, in a manner, which is consistent with the intent of this Plan to protect the open landscape character.*

Major Open Space

Area identified as Major Open Space (Section B5.7) are available for use by all residents and non-residents within the Municipality. The Municipality maintains responsibility of these lands to minimize impacts to these areas to ensure residents of the Town have access to well designed parkland systems.

Permitted Uses (Section B5.7.3) of land designated as Major Open Space includes:

- a) passive and active recreational uses including essential buildings or structures directly related to the use;*
- b) public parks;*
- c) conservation uses;*
- d) wildlife management;*
- e) interpretive centres; and,*
- f) forestry uses in accordance with good management practices and accessory uses.*

Land Use Policy (a) of Section B5.7.4 states:

It is intended that lands designated Major Open Space be used in accordance with the management plans to be implemented by the body which owns and manages particular parcels.

Natural Heritage Features

The protection of natural heritage features is listed under Section B5 of the Official Plan. The intent of the Official plan is to maintain the ecological integrity of natural heritage features, areas and systems (including wetlands) for present and future generations.

Special Constraint Areas, such as Areas of Natural and Scientific Interest are identified in Section B5.5.1, however development and site alteration of or nearby these features must follow criteria identified within Section B5.2.1.

Under Section B5.2.1 (b):

- b) *Development and site alteration shall not be permitted in:*
 - i) *significant woodlands;*
 - ii) *significant valley lands;*
 - iii) *significant wildlife habitat; and,*
 - iv) *significant areas of natural and scientific interest**unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.*

Further, Section B5.2.1 states that for Earth Science ANSI, development and site alteration shall not be permitted within the boundary of natural heritage features or adjacent lands (50 metres) unless the:

“ecological function of the adjacent lands has been evaluated and it has been demonstrated, through an Environmental Impact Study (EIS), that there will be no negative impact on the natural features or their ecological functions.”

Niagara Escarpment Plan Area

As stated in Section B6 of the Official Plan:

The land use designations and policies of the Niagara Escarpment Plan generally take precedence over local planning documents

Further, Section B6 states:

In the event of a conflict between the policies of the Town’s Official Plan and the policies of the Niagara Escarpment Plan, those of the Niagara Escarpment Plan will prevail, unless the policies of the Town’s Official Plan are more restrictive, then the more restrictive policies will prevail.

3.4 Niagara Escarpment Plan

Niagara Escarpment received national and international recognition as a UNESCO World Heritage Biosphere Reserve in 1990. The recognition was granted because the level of protection provided from land use planning and legislation met the criteria of the United

Nations. The Niagara Escarpment is protected by policies and designations of the Niagara Escarpment Planning and Development Act, and the Niagara Escarpment Plan (NEP). A total of 183,311 hectares ranging from Queenston to Tobermory are protected within the Niagara Escarpment Plan Area.

The Niagara Escarpment Plan (NEP), is a provincial environmental land use planning document that provides directives that protect the Niagara Escarpment Plan Area. The NEP ensures that development occurring within the Niagara Escarpment Plan Area is compatible with the natural environment and preserves the long-term integrity of the Escarpment lands. The protection and management of land use under Part One of the NEP is met under seven distinct designations.

Land Use Designations

Delphi Point falls within the Niagara Escarpment Plan Area (Plan Map 6 – Grey County) and is designated as Escarpment Recreation Area under the NEP (Section 1.8). The NEP acts to minimize negative impacts imposed by recreational development to the Niagara Escarpment. The designation compliments the goals of the Town of The Blue Mountains Official Plan, which encourages tourism and recreation in the surrounding provincial parks, trails, and lakeshore residential areas within the Craighleith-Camperdown region.

While Delphi Point is covered within the NEP, it is not within the area of Development Control Regulations, where a Niagara Escarpment Commission (NEC) Development Permit must be obtained prior to development. As a result, Municipal Zoning is in effect at the waterfront lands of Delphi Point.

However, lands of Delphi Point Municipal Park are classified as Escarpment Access Park and are apart of the Niagara Escarpment Parks and Open Space System (NEPOSS, Section 3.1.4). While the Town does not intend to extend the classifications of Delphi Point Park to the adjacent waterfront lands of Delphi Point, relevant objectives identified of the NEP and NEPOSS are considered in the development of the Management Plan.

Under Section 3.1.4, Objective 1 of the NEP is to:

To protect unique ecological and historic areas.

Additionally, Objective 6 of the NEP states:

To provide adequate public access to the Niagara Escarpment

Further, Section 3.1.1 of the NEP lists the objectives of the NEPOSS. These objectives are:

- 1. To protect the Niagara Escarpment's natural heritage resources and conserve its cultural heritage resources;*
- 2. To provide opportunities for outdoor education and recreation;*
- 6. To protect and enhance the natural environment of the Niagara Escarpment, including the protection of natural heritage and hydrologic features and functions;*
- 7. To support tourism by providing opportunities on public land for discovery and enjoyment by Ontario's residents and visitors;*

Permitted Uses

Permitted Uses (Section 1.8.3) for lands designated by the NEP as Escarpment Recreation Areas include:

- 1. Existing uses.*
- 2. Single dwellings.*
- 3. Secondary dwelling units.*
- 4. In ski centres, facilities such as ski runs, ski lifts, slide rides and toboggan runs that require the Escarpment slope.*
- 5. Commercial development normally associated with a ski centre or a lakeshore residential area, such as marinas, lodges, retail stores and service establishments.*
- 6. Golf courses.*
- 7. Trail activities.*
- 8. Uses permitted in the Parks and Open Space System Master/Management Plans that are not in conflict with the Niagara Escarpment Plan.*
- 9. The Bruce Trail corridor, including the pedestrian footpath and, where necessary, trail-related constructions (e.g., bridges, boardwalks), overnight rest areas and Bruce Trail access points.*
- 10. Nature preserves owned and managed by an approved conservation organization.*
- 11. Billboards.*
- 12. Agricultural uses.*
- 13. Agriculture-related uses and on-farm diversified uses.*
- 14. Agricultural Purposes Only lot (APO lot)*
- 15. Accessory uses (e.g., garage, swimming pools, tennis courts, ponds or signs).*
- 16. Infrastructure.*

Permitted uses within the Escarpment Recreation Area designation are subject to the Development Criteria in Part 2 of the NEP. The development objectives and lot creation policies of this designation, and the requirements of the applicable Official Plans and/or Secondary Plans and, where applicable, Zoning By-Laws that are not in conflict with the NEP.

Development Objectives

Development Objectives 9, 10, and 11 (Section 1.8.5) are relevant for the development of Escarpment Recreation Area at Delphi Point.

Development Objective 9 States:

Growth and development in Escarpment Recreation Areas shall be compatible with and provide for:

- a) the protection of natural heritage features and functions;*
- b) the protection of hydrologic features and functions;*
- d) the conservation of cultural heritage resources, including features of interest to First Nation and Métis communities;*

Development Objective 10 states:

Recreational uses shall be designed to utilize existing site and topographical conditions. Minimum regrading, placement/excavation of fill and vegetation removal are allowed only if they are essential to the use and there are minimal negative impacts on the Escarpment environment.

Lastly, Development Objective 11 states:

Municipalities are encouraged to pass sign by-laws to ensure that community character, open landscape character and scenic resources of the Escarpment are maintained and enhanced.

As stated in Section 1.8.6 of the NEP, as well as in Section B6 of the Town of The Blue Mountains Official Plan (mentioned in Section 3.3 of this document), amendments can be made to existing documents (Official plans, secondary plans, and by-laws) for Escarpment Recreation Areas, as long as no conflicts exist with policies and development criteria provided in the NEP.

3.5 Greenbelt Plan (2017)

The Greenbelt Plan (2017) permanently protects agricultural lands, as well as ecological and hydrological features, and areas and functions within the Greater Golden Horseshoe (GGH) by working with the Oak Ridges Moraine Conservation Plan and the Niagara Escarpment Plan (NEP). Together, the lands within the three plans are protected by a land use planning framework that identifies the limits of urbanization and where developments should occur.

Lands of Delphi Point are designated as Remaining Escarpment Designations (Appendix A) of the Niagara Escarpment Plan Boundary (Schedule 1), and therefore fall within the Greenbelt Plan. As such, the following section of the Greenbelt Plan is referenced.

Section 2.2, Lands within the Niagara Escarpment Plan Area states:

The requirements of the NEP, established under the Niagara Escarpment Planning and Development Act, continue to apply and the Protected Countryside policies do not apply, with the exception of section 3.3.

As noted previously, Section 3.3 of the Greenbelt Plan addresses the creation and maintenance of Parkland, Open Space and Trails within the Greenbelt to provide recreation and tourism to instill appreciation to cultural and natural heritage features.

Parkland, Open Space, and Trail Policies

The following policies of section 3.3.2 of the Greenbelt Plan should be adhered to by The Province, municipalities, conservation authorities, and non-government organizations:

1. Encourage the development of a system of publicly accessible parkland, open space and trails where people can pursue the types of recreational activities envisaged by this Plan, and to support the connectivity of the Natural Heritage System and the achievement of complete communities in settlement areas across the Greenbelt.
2. Encourage the development of a trail plan and a co-ordinated approach to trail planning and development in the Greenbelt to enhance key existing trail networks and to strategically direct more intensive activities away from sensitive landscapes.
3. Promote good stewardship practices for public and private lands within the Greenbelt, including clear demarcation of where public access is permitted.

In addition, policies within Section 3.3.3 should be adhered to by municipalities for lands within the Protected Countryside:

1. *Provide for a full range of publicly accessible, built and natural settings for recreation, including facilities, parklands, open space areas, trails and water-based activities.*
2. *Develop and incorporate strategies (such as community-specific levels of provision) into official plans to guide the adequate provision of municipal recreation facilities, parklands, open space areas and trails.*
3. *Include the following considerations in municipal parks plans and open space strategies:*
 - a) *Providing for open space areas for current and future populations and promoting stewardship of open space areas;*
 - b) *Providing facilities, parklands, open space areas and trails that particularly support an active, healthy community lifestyle;*
 - c) *Identifying key areas or sites for the future development of major facilities that avoid sensitive landscapes;*
 - d) *Identifying and targeting under-serviced areas for improved levels of protection;*
 - e) *Protecting the recreation and tourism values of waterfront areas as a high priority; and*
 - f) *Supporting urban agriculture and other local food initiatives.*
4. *Include the following considerations in municipal trail strategies:*
 - a) *Preserving the continuous integrity of corridors (e.g. abandoned railway rights-of-way and utility corridors);*
 - b) *Planning trails on a cross-boundary basis to enhance interconnectivity where practical;*
 - c) *Incorporating the existing system of parklands and trails where practical;*
 - d) *Restricting trail uses that are inappropriate to the reasonable capacity of the site (notwithstanding the ability to continue existing trails/uses);*
 - e) *Providing for multi-use trail systems which establish a safe system for both motorized and non-motorized uses;*
 - f) *Protecting farmland and supporting and ensuring compatibility with agriculture; and*
 - g) *Ensuring the protection of the key natural heritage features and key hydrologic features and functions of the landscape.*

3.6 The Town of The Blue Mountains Corporate Strategic Plan, 2015 - 2020

The corporate Strategic Plan by the Town of The Blue Mountains identifies key goals to help achieve the needs of the community. The goals within the plan reflect the town's long-term

commitment to continual improvement and sustainability, while maintaining the towns unique features and motto of “recreation at its peak.”

Over the five-year period of the strategic plan, the corporation devised five goals with strategic actions to be implemented by the municipality. One of the five goals involve the management of parks and recreation.

Goal three of the Town of The Blue Mountains Corporate Strategy is to recognize and preserve natural ecological features for future generations. To accomplish this, the Town will make informed and appropriate land use decisions that consider sustainability, to meet the needs of present and future residents.

4.0 Public & Agency Consultation

The following outreach initiatives were undertaken to notify the public, stakeholders, and First Nation’s regarding the development of the Management Plan for the waterfront Earth Science ANSI. More information relating to the public consultation conducted for the Management Plan can be found in Appendix A.

4.1 Public Consultation

4.1.1 Public Notification

Flyers advertising the development of the Management Plan for the waterfront earth science ANSI were sent to residents in May 2017. Flyers provided contact information where inquiries could be made, as well as information on when the first public information session was held.

4.1.2 Public Information Sessions

A public information session was held on June 28, 2017 to notify the public of the development of the Management Plan, discuss concerns regarding the protection of the ANSI, and to gain feedback relating to how the ANSI is currently used by residents. Flyers containing information regarding the public meeting were sent to residents in advance.

Residents included at the meeting included those inhabiting waterfront properties as well as residents of the Town who use the ANSI for recreational purposes. Additional stakeholders in attendance at the meeting included representatives from the Blue Mountain Resorts, as well as from developers for the Neighbourhoods of Delphi, Peaks Bay East, and Peaks Bay West. Feedback from attendees at the public information session was obtained through verbal conversation occurring at the meeting as well as through a survey.

In brief, key results from the attendee feedback and survey indicated:

- The maintenance of the ecological integrity of the ANSI is very important.
- The maintenance of invasive species within the ANSI is very important.
- Access to the ANSI is very important. Access to the ANSI is achieved primarily through Delphi Point Park, or from residential waterfront properties.
- There are alleged incidents of encroachment of private property onto ANSI lands from waterfront residents.

The survey was made available in hard-copy to attendees of the public information session, as well as online. All hard-copy and online survey responses were collected and reviewed by Skelton Brumwell and Associates. Attendees who expressed an interest in receiving information and updates regarding the Management Plan were added to a mailing list.

Sign-in sheets provided at the public information session indicated that representatives from the Ministry of Natural Resources and Forestry (MNRF) and Niagara Escarpment Commission (NEC) did not attend. However, consultation with these groups took place through subsequent correspondence.

4.1.3 Site Meeting with Waterfront Residents

Representatives from Skelton Brumwell and Associates attended a site meeting at the ANSI shoreline with waterfront residents from Peaks Bay East on July 21, 2017 at their request. The meeting was organized by Peaks Bay East residents.

The site meeting was intended to further discuss concerns regarding the protection of the geologic formations within the ANSI adjacent to residential properties, requirements for protection and proper stewardship of the ANSI, private versus private ownership, as well as current risks to the ANSI by residential properties and recreational activities.

4.1.4 Consultation with Blue Mountain Resorts

Representatives from the Blue Mountain Resorts noted that the ANSI lies within Municipality owned greenspace adjacent to resort beach property. While the ANSI and the beach property are not contiguous, further consultation was requested by the Resort in the event that the scope of the Management Plan extends further west to accommodate pedestrian trails and connections to adjacent trail systems.

4.2 Agency Consultation

4.2.1 Site Meeting with Ministry of Natural Resources and Forestry

A site meeting with a District Planner and Geologist from the MNRF took place on August 28, 2017 with representatives from Skelton Brumwell and Associates. The purpose of the meeting was to discuss the significance of the waterfront ANSI, the current state and condition of the

ANSI, as well as stewardship requirements recommended by the MNRF to the Town for the continued protection and maintenance of the ANSI.

The MNRF stated that the site is of National significance due to the rarity and condition of the site.

Based on conditions observed during the site meeting, it was recommended by the MNRF that the protection of the ANSI continue to fall under the responsibility of the Town of The Blue Mountains. Further, the MNRF recommended limited public access be permitted at the waterfront containing the ANSI, to ensure the long-term protection of the geologic formations.

4.2.2 Niagara Escarpment Commission

Email correspondence with a representative from the Niagara Escarpment Commission (NEC) confirmed the designation and development requirements of the study area, discussed earlier in sections 2.2 and 3.4.

It was emphasized during correspondence that consultation with the MNRF and NEC is required throughout the development of the Management Plan. The NEC is required to review and endorse the final draft of plans to ensure conformity with the NEP before review by the MNRF.

4.2.3 Grey Sauble Conservation Authority

Phone and email correspondence with Conservation Authority representatives provided background information regarding the contents of Tree Preservation Plans, past ecological land classification work performed within the study area, as well as the general history of development on the site. This information has been incorporated into the analysis and the recommendations of this report.

4.3 Engagement with Indigenous Communities

Representatives from Skelton Brumwell and Associates Inc reached out to Saugeen Ojibway Nation (SON) community throughout the development of the ANSI Management Plan. While community members were reached, none were available to comment on the content of the Management Plan. Engagement will continue to accommodate any culturally sensitive or additional ecologically significant features within the ANSI.

5.0 Delphi Point Earth Science ANSI Existing Conditions

5.1 Biophysical Setting

5.1.1 Topography

Elevation is consistently 175.8 metres throughout the area of the ANSI. Elevation increases as you move south, towards the north face of the Niagara Escarpment (located approximately 0.84 kilometres south of the ANSI and Georgian Bay). Topographic maps and notes documented from site visits to the ANSI confirm that the topography of the ANSI and area immediately surrounding the study area is relatively flat.

5.1.2 Geology

Formed during the Upper Ordovician, the Whitby Formation sits above limestone and shale (Lindsay Formation) and is found throughout Durham, York, and Simcoe Counties of Southern Ontario. In addition, the formation includes a continuous band extending from north of Lake Ontario to Collingwood and the Nottawasaga Bay (Barker et al. 1983; Hewitt, 1972).

Within this range, the Whitby formation is subdivided into Upper, Middle, and Lower categories. All categories consist of shale, ranging in colour and thickness. Green-grey shales ranging from 36 and 52 metres are typical of the Upper Whitby. The Middle Whitby is brown-grey shale ranging between 5 and 26 metres in thickness. Lastly, the Lower Whitby is the shallowest, ranging between 1.5 to 7 metres thick. The dark brown-black and calcareous shales of the lower Whitby are commonly mixed with raudstones, cannon pyrite, and grey limestone (Barker et al., 1983; Hewitt, 1972).

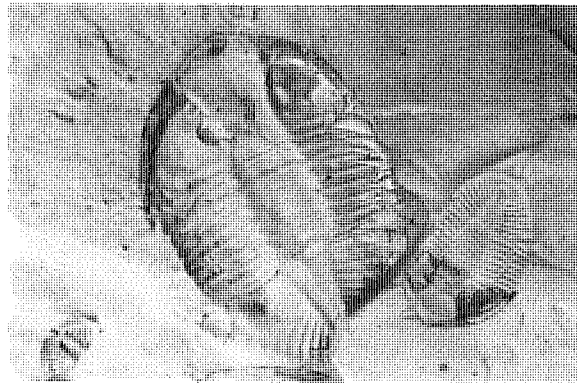
The bedrock of Collingwood, the Town of The Blue Mountains, as well as the waterfront study area of Delphi Point classified under the Lower Whitby Formation, and consists of a dark grey fossiliferous dolostone and bituminous shale (Hewitt, 1972; Verma, 1979; Tuffnell and Ludvigsen, 1984). The bedrock is consistently 10 metres thick throughout the area and is uniformly calcareous. The shale is exposed along the Georgian Bay waterfront of Delphi Point, exposing fossils of the Late Ordovician period (Hewitt, 1972; Verma, 1979; Tuffnell and Ludvigsen, 1984).

5.1.3 Fossils

As identified by Verma (1979), the fossils found at Delphi point are similar to those identified within the surrounding Craighleith area. Fossils embedded within the shale waterfront are approximately 445 million years old and represent aquatic marine animals which inhabited a warm shallow sea present in the area during the Paleozoic and Mesozoic periods.

Trilobites (arthropods) are the most abundant fossils found along the waterfront; the dominant trilobite species present include *Pseudogygites* and *Triathrus* (Verma, 1979; Tuffnell and

Ludvigsen, 1994). In addition, the waterfront contains three species each of Nautiloids (*Endoceras proteiforme*, *Geisonoceras tenuistriatum* & *Spytoceras bilineatum*) and Gastropods (*Hormoroma genera*), as well as four species of Graptolites (primarily *Climacograptus*), five species of Pelecypods (genus *Ctenodonta*), and seventeen species of Brachiopods (Verma, 1979).



Photograph 6: Trilobite fossils in exposed bedrock within Delphi Point ANSI.

5.1.4 Soil

Soils found within the study area belong to the Brighton Series, and are classified as grey-brown podzolic. The sandy soils, developed on lime sands, are well sorted and stone free. Within the study area a shallow overburden exists. The composition of podzolic soils consist of 7.5 centimetres of dark grey sand loams which fall above 25 – 30 centimetres of yellow-brown sand, 5 - 7.5 centimetres of red-brown sandy loam and grey calcareous sand, respectively (Gillespie and Richards, 1954).

Unlike adjacent areas, relatively no overburden exists along the Delphi waterfront and ANSI. Continuous wave action from Georgian Bay prevent the settlement of Brighton sands on the shoreline and expose a shelf of shale bedrock.

While the inland shallow soils are well drained, high volumes of surface water run-off can lead to ponding in areas.

5.1.5 Hydrology

Delphi Point and surrounding areas fall within the Southwest Georgian Bay Watershed, regulated by the Grey-Sauble Conservation Authority (Grey-Sauble Conservation Authority, 2013).

A review of well water records within the study area indicate the presence of groundwater at approximately 6 metres. Fresh water acquired from shallow wells within the study area are used for residential purposes (Ministry of Environment and Climate Change, 2017).

Surface and ground water flow north, following downward sloping topography to drain into Georgian Bay. The elevation decreases approximately 200 metres from the southward laying Niagara Escarpment to the waterfront area (Grey County Topographic Maps, 2017).

The Indian Brook River and its associated tributaries are the nearest natural watercourse to the study area (approximately 6 kilometres North-West of the Delphi Waterfront; Grey-Sauble Conservation Authority, 2013). While this river system has low riparian forest cover, results from the latest watershed report card indicate high surface water quality (Grey-Sauble Conservation Authority, 2013).

Three small recognized watercourses within the study area assist with the diversion of surface water run-off (watercourses 25, 26, and 27).

The watercourses are located similarly to three storm water drainage easements (one located on each end, as well as middle of the study area), which divert surface water run-off from Highway 26 and from neighbouring residential subdivisions northward to Georgian Bay (Grey-Sauble Conservation Authority Regulations Mapping, 2017). Restoration of the pavement surfaces and drainage of storm water catchment systems within and adjacent to the study area was last completed in 2016 (The Town of The Blue Mountains, 2016).



Photograph 7: Stormwater drainage culvert at Delphi Point in east Section of ANSI.



Photograph 8: Waterfront Residents of Peaks Bay East at Delphi Point

5.1.6 Shoreline Water Levels

To ensure the safety of ships navigating through the great lakes, a Chart Datum elevation reference is assigned to monitor shoreline water levels. For non-tidal systems like the Great Lakes, Chart Datum reference elevations are determined using The International Great Lakes Datum 1985 reference system. A Chart Datum is chosen to reflect the lowest safe water depth that provides optimal continuity for navigation within a body of water. The water level should rarely fall below the Chart Datum reference point (Fisheries and Oceans, 2017).

For Lake Huron-Michigan, the Chart Datum has been set at 176.0 metres. For safety, the preferred guideline dictates that the daily water level should not fall below 0.2 metres of the Chart Datum reference point during navigation (175.8 metres for Lake Huron-Michigan; Fisheries and Oceans, 2017a & b).

Seasonal fluctuations in water levels are normal; the annual range in shoreline water level is between 0.28 metres – 0.51 metres (Fisheries and Oceans, 2017a). Low shore line water levels observed during winter months are considered typical. The majority of precipitation during colder seasons are contained as snow and ice.

During late spring, summer, and fall seasons, water levels rise in the great lakes due the increased collection of surface water run-off during periods of increased precipitation and seasonal snow melt (Fisheries and Oceans, 2017a).

Over the past 25 years, average annual water levels for Lake Huron-Michigan have not fallen below an elevation of 175.8 metres. As of 2013, there has been an increasing trend in annual average water levels for the Lake Huron-Michigan shoreline. Aerial photographs of Delphi Point provide further evidence of increasing water levels of Georgian Bay. Greater sections of the shale bedrock shoreline are exposed in photographs taken in 2006 and 2009, versus photos taken in 2014 and 2017. Cropped versions of aerial photographs for these years can be reviewed below:



Grey County Maps (2006). Delphi Point, The Town of The Blue Mountains. 17 T 549156.45, 4931882, scale 1: 18,056. MNR Grey County, 2006. <https://geo.grey.ca> [October 14, 2017]



Google earth V 7.3.0.3832. (May 8, 2009). Delphi Point, The Town of The Blue Mountains. 44° 32' 25.04" N, 80° 22' 39.49" W, Eye alt 9193 feet. CNES/Airbus 2017. <http://www.earth.google.com> [October 14, 2017]



Google earth V 7.3.0.3832. October 22, 2014). Delphi Point, The Town of The Blue Mountains. 44° 32' 25.04" N, 80° 22' 39.49" W, Eye alt 9193 feet. DigitalGlobe 2017. <http://www.earth.google.com> [October 14, 2017]



Microsoft Bing Maps. (2017). Delphi Point, The Town of The Blue Mountains. 44° 32' 25.04" N, 80° 22' 39.49" W, Eye alt 9193 feet. DigitalGlobe 2017. <https://www.bing.com/maps/aerial> [October 14, 2017]

5.2 Flora and Fauna Inventories

An inventory of the flora and fauna was completed within the ANSI.

The Ecological Land Classification System (ELC) was used to determine the composition of plant communities within the study area (Lee et al., 1998). The ELC system identifies communities within areas based the plant species and an area's physical characteristics. Keys utilized by the ELC consider the soil type, texture, and moisture content, in addition to what species are present, the amount of canopy cover and understory growth, site condition, level of disturbance and seasonal changes.

During multiple site visits, lists of vascular plant species present were identified to aid in designation of ELC ecosites, determine if rare or species at risk are present and to identify the presence of invasive and exotic species that may threaten the ecological integrity of the ANSI.

In addition, wandering transect surveys for birds were performed. The wandering transects took place in the breeding season, and accounted for residents and migratory species. All species identified by sight or sound during the survey were documented by experienced biologists. Wandering transect survey took place on June 14th and July 7th, 2017 and encompassed all habitats included within the study area.

No additional surveys were performed to determine the presence of mammal, reptile, amphibian or fish species within the study area, however incidental sightings, including tracks, calls, and scat, were recorded during all site visits.

In addition to conducting multiple site visits to identify seasonal changes to species communities, the following resources were consulted prior to site visits to ensure ecosite classifications were accurate for the study area:

- Review of historic aerial photographs
- Review of previous reports for the surrounding area, including Craigeith provincial park and Delphi Point Park
- Review of data present under the Natural Heritage Information Center, Ministry of Natural Resources and Forestry
- Review of data presented by interactive maps under the Department of Fisheries and Oceans and Ministry of Natural History and Forestry
- Review of soil, geology and topography of the study area available in maps completed by the Ministry of Natural Resources and Forestry

5.2.1 Vegetation Communities (ELC)

ELC classifies vegetation communities using alpha-numeric habitat codes; each code has a unique habitat description. The ecosites and corresponding codes identified for the study area by the ecological land classification system available for review in Figure 3, include the following:

Great Lakes Costal Meadow Marsh Ecosite; Graminoid Coastal Meadow Marsh Type (MAM4-1) - The shale shoreline, including ANSI is best represented as a coastal meadow marsh. This area contains species tolerant of intermittent and prolonged flooding. Emergent hydrophobic macrophytes are the primary vegetation within this ecosite, rushes and reeds are the dominant vegetation and coverage is sparse According to Lee et al., (1998), this ecosite represents the wetland – terrestrial interface. Coastal species were observed during site visits, which included Kalm's St. John's Wort (*Hypericum kalmianum*), Kalm's Lobelia (*Lobelia kalmia*), Ohio Goldenrod (*Solidago ohionensis*), Prairie Loosestrife (*Lysomachia quadifolia* along with other wetland species such as Cattail (*Typha latifolia*), Rattlesnake Manna Grass (*Glyceria canadensis*), Hard-Stemmed Bullrush (*Schoenoplectus acutus*), Common Ninebark (*Physocarpus opulifolius*), and Speckled Alder (*Alnus incana*).

Anthropogenic – Represents land disturbed by anthropogenic (i.e. human) causes and use. Site visits to Delphi Point, as well as responses from public surveys indicated that there are incidences of alleged encroachments onto the ANSI from private waterfront properties.

These encroachments, including the construction of private gardens, infrastructure supporting watersport equipment and recreational use, induce anthropogenic transformations to the vegetation communities within the waterfront and exclude native species. While incidences of encroachment were observed and mapped in Figure 3, further examination is required by the Town to confirm the extent of the impact to the ANSI.

5.2.2 Vegetation Survey Results

While the exposed shale shoreline offers little strata to support the growth of vascular plants and trees, there are areas within and surrounding Delphi Point that provide habitat for vegetation communities.

Plant species were observed and identified over three site visits. Site visits took place in spring, summer and fall seasons to accommodate the peak growth of different plant species and to ensure a complete species list was created for the area.

Non-Native Species

Exotic species were observed within the ANSI; however, the life history, current density, and distribution of these plants do not impose significant risks to the integrity of the ANSI or habitat surrounding the study area. The majority of these species identified consist of garden plants commonly grown in residential areas; the spread of these species is confined areas abutting residences and anthropogenically disturbed areas. Additional exotic plant species identified within the ANSI and surrounding study area include: sweet pea (*Lathyrus odoratus*), lily of the valley (*Convallaria majalis*) and common vetch (*Vicia sativa*).

Invasive Species

Of the 1200 alien plant species in Ontario, 121 are considered invasive. Invasive species are categorized by the degree at which they dominate habitats against native species. Invasive plant species requiring management within the ANSI study area include Purple Loosestrife (*Lythrum salicaria*) and Common Reeds (*Phragmites*; *Phragmites australis*).

Purple Loosestrife and Common Reeds are known to persist in shoreline and wet environments. When unmanaged, the two species dominate all areas within habitats prohibiting growth of native species. The impacts of these species are well known.

Common reeds are classified as restrictive species under the section 4 of the Invasive Species Act (2015). Under section 8, no person shall bring common reeds into provincial parks or conservation reserves. It is also prohibited to release restricted invasive species in Ontario under section 8 of the Act.

While both Common Reeds and Purple Loosestrife were observed within the ANSI, the overall density and coverage of growth for these species was low. Limited substrate is available within the exposed shale shoreline, inhibiting the growth of all plants. Vegetation growth may increase in this area overtime, as water levels increase and detritus is permitted to cover the exposed shale.

5.2.3 Wildlife and Wildlife Habitat

Bird Species

As described previously, a wandering transect survey was performed on June 14 and July 7, 2017 to identify resident bird species within the ANSI and immediate surrounding study area. During the survey, all species, as well as the numbers of each seen and heard by surveyors were

recorded. To maximize the number of species identified, the transect included all habitats found within the study area.

In total, 32 species of birds were identified within the study area. A list of all species can be reviewed in Table 1. The species identified are commonly associated with open, semi-open aquatic habitats as well as canopy habitats and forest edges identified earlier by the Ecological Land Classification system (ELC).

The most abundant species found throughout the open shoreline and ANSI study area include ring-billed gulls (*Larus delawarensis*) and spotted sandpipers (*Actitis macularius*). The sparse vegetation on the shale bedrock shoreline provides limited nesting habitat for ground nesting shorebirds. Both shore bird species identified on site are known to feed within open waters along shorelines, such as those found within the study area.

Species frequently noted in semi-open shrub land surrounding the ANSI include red-winged blackbirds (*Agelaius phoeniceus*), song sparrows (*Melospiza melodia*), american goldfinches (*Spinus tristis*), and killdeer (*Charadrius vociferous*). The open shrub habitat, including rock and driftwood debris, provide good habitat for low-nesting and ground nesting species. Vegetation included within this habitat (millet, thistles, goldenrod) also provide food for the species listed above (with the exception of insectivorous killdeer).

Avian Species at Risk

While the majority of birds identified on the study are commonly found throughout Southern Ontario, two of the species documented during the wandering transect (bald eagles and barn swallows) are currently listed under the Ontario Endangered Species Act (2007). The Committee on the Status of Species at Risk in Ontario (COSSARO), identify bald eagles and barn swallows as of Special Concern and Threatened, respectively (Schedules 4 and 3, O.Reg 230/08, 2007).

As a species of Special Concern, bald eagles (*Haliaeetus leucocephalus*) are not considered endangered or threatened. However, if a combination of identified threats persists, the species is at risk of becoming threatened or endangered. Special Concern listed species and their habitats do not receive protection but are monitored by recovery plans developed by the Ministry of Natural Resources and Forestry to prevent further population decline.

During the wandering transect survey, adult bald eagles were seen perched in mature trees along the shoreline of the study area. While the shoreline of the study area offers feeding habitat for bald eagles, surveyors noted that no breeding behaviours were observed by the birds, and no nests were seen within the study area at Delphi Point or in the surrounding areas, nor is nesting habitat present in the ANSI.

As a Threatened Species, barn swallows (*Hirundo rustica*) are at risk of becoming endangered if identified threats to the species continue. Threatened species are protected from harm and harassment, and damage or destruction to their habitats is prohibited. Multiple barn swallows were seen feeding throughout the ANSI and open shrub habitat of the study area, however no nests or breeding behaviour were observed during surveys of the site, nor is any nesting habitat available.

Mammals

Fresh white-tailed deer (*Odocoileus virginianus*) and raccoon (*Ursus lotor*) tracks were observed in the municipality owned greenspace adjacent to the ANSI and shoreline.

Additional mammal species, such as eastern cotton tail, skunk, opossum, are also likely species found in the study area due to their prevalence/success in urbanized areas and recreational. None of the species identified or suspected to inhabit the study are listed under the Ontario Endangered Species Act.

Amphibians

Calls of green frogs (*Rana clamitans*) were heard during the wandering transect survey within the municipality owned greenspace adjacent to the ANSI waterfront. In addition, a single American toad (*Anaxyrus americanus*) was observed within the same habitat. Neither species observed is listed under the Species at Risk Act or the Ontario Endangered Species Act.

Reptiles

Two observations were made for the Eastern Gartersnake (*Thamnophis sirtalis sirtalis*) within the study area during site visits, the open canopy and wood debris within the municipality owned greenspace and the ANSI provides good habitat for basking and nesting snakes. Previous natural heritage reports by the Ministry of Natural Resources and Forestry indicated that eastern milk snakes (*Lampropeltis Triangulum*) have been documented within the study area (last observed in June, 1995). This species of snake is listed as of Special Concern under the Endangered Species Act.

Fish

No fish species were observed along shallow waters of the shale shoreline in Georgian Bay; the exposed bedrock immediate shoreline does not contain detritus or vegetation to provide good fish habitat. A review of the Department of Fisheries and Oceans Aquatic Species at Risk

mapping (2014) and Ministry of Natural Resources and Forestry Natural History Topographic Maps indicated that no species at risk have been previously documented along the Delphi Point shoreline. In addition, features had not been logged within the area for sport Fishing on the Ministry of Natural Resources and Forestry Fish-Online Interactive Map.

5.2.4 Conclusions

The findings of the desktop literature review and site surveys indicate that the waterfront study area at Delphi Point, containing the earth science ANSI, does not contain significant habitat for plant or animal species at risk. No plant species at risk were documented at Delphi Point. While bird and snake species at risk have been observed within and surrounding the ANSI, there are few areas within the shale shoreline that provide significant breeding or feeding habitat.

Invasive species present within and surrounding the ANSI include two restricted species (Common Reed and Purple Loosestrife). While the exposed shale provides limited opportunities for vascular plant species to grow, long-term ongoing maintenance will be provided by the Town to prevent encroachment of these species at Delphi Point. Initiatives may also include the maintenance of additional alien plant species present within the study area.

5.2.5 Existing Anthropogenic Features

The subsequent features are present within the study area and provide the following functions and restrictions:

- Seven waterfront residential properties are currently located adjacent to the shoreline. One of these properties is located between the Neighbourhoods of Delphi and Peaks Bay West; This property owns the adjoining section of waterfront and corresponding ANSI area within the property boundary. Six additional waterfront residences are located within Peaks Bay East.
- Gardens, recreational sporting equipment, and private yard materials and possessions have been alleged to encroach onto ANSI limits from waterfront residents, however further confirmation regarding all encroachment allegations be required.
- Drainage channels divert storm water from Highway 26, residential areas, roads, and parking lots into Georgian bay. Three channels are located on both east and west boundaries, as well as in the middle of the study area. These drainage culverts cross the ANSI on the path to Georgian Bay.
- Delphi Point Park is located directly east of the study area and contains a section of ANSI available for public access. The park provides the public with a parking lot and trails for

public recreation and access to Georgian bay. The park has been made accessible under the Accessibility for Ontarians with Disabilities Act, 2005 (AODA).

6.0 Current Access to Delphi Point

6.1 Vehicular Access

No vehicular access is provided to the public at Delphi Point. Parking is only available to the public at Delphi Point Park.

6.2 Trail Access

Existing Trails

Official public access does not exist along the shoreline of Delphi Point; however, the study area and ANSI are utilized frequently by Delphi residents as a walking trail.

Shoreline and ANSI access is achieved primarily through Delphi Point Park (796401 Grey County Rd 19, The Blue Mountains, ON L9Y 0N8). Located along highway 26, Delphi Point Park provides parking, facilities, and maintained city trails through a naturalized woodlot and picnic areas. Trails within the park also provide access to the waterfront and shale shoreline of the ANSI.

Trails within Delphi Point Park connect to the Georgian Trail through the Len Gerter Memorial Loree Forest (managed by the Ontario Ministry of Natural Resources and Forestry). The Georgian trail extends from the east end of Collingwood's Harborview Park western to Meaford Harbour along highway 26. The Georgian trail connects several public recreational areas, including Northwinds Beach, Craigeith Provincial Park, as well as Bayview Park.

Waterfront Residents

Access is also achieved by Delphi lakeshore residents who own properties backing onto the shoreline and ANSI.

6.3 Trail Options

The following access points and options for connectivity were reviewed for the purpose of exploring potential waterfront trails within the ANSI.

Access options

- Access to the east side of the ANSI is currently achieved through existing trails and shoreline areas of Delphi Point Park.
- Conditions of the Subdivision Agreements and owner agreements within the Tree Preservation plan (TPP) for residents of Peaks Bay East do not apply to Lot 5; a drainage easement is located immediately west of the property boundary of Lot 5. Visitors can access the east section of ANSI north of Peaks Bay East by foot by following the municipality drainage easement north to shoreline.
- Access for visitors to the west end of the ANSI could be achieved through municipality owned greenspace north of the Neighbourhoods of Delphi.

Connectivity

- The east end of the ANSI can connect to the Georgian Trail through Delphi Point Park. Delphi Point Park trails are already connected to the Georgian trail through Len Gerter Memorial Loree Forest.
- The west end of the ANSI could potentially connect to the Georgian Trail through municipality owned greenspace adjacent to the Neighbourhoods of Delphi (same as access point). Signs and signalling will be required at the entry point of the Georgian trail to notify visitors of the connection; highway 26 lies between access/connecting points.

No options exist to connect the east and west sections of ANSI, currently separated by privately owned lands.

7.0 Encroachment of Private Property

As mentioned previously in section 5.2.1, there are alleged incidents of encroachment from private waterfront properties onto the Delphi Point ANSI shoreline owned by the Municipality. Property lines of the Town's waterfront lands are designated as the High-Water Mark. Since no deed for the property is available for review, it is assumed that property boundaries of the Town will vary with fluctuating water levels of the lake. In most cases the ANSI falls below the High-Water Mark onto Town owned lands. Observed alleged encroachments of landscaping include the construction of gardens, and placement of infrastructure for private recreational use and access to Georgian Bay.

The encroachments violate the agreed to development conditions and requirements including restrictions on title to adjacent private lands. The encroachments also violate planning requirements and relevant by-laws intended to protect the environmental features as well as control activities on public lands. Unauthorized use of, and alterations to, municipal lands create serious liabilities and legal concerns for the municipality and it is therefore recommended that the municipality take steps to fully enforce the existing requirements including the removal of any unauthorized works and restoration of site conditions.

Part 3 – Management Plan Requirements

8.0 Opportunities for Delphi Point

To determine appropriate actions for the long-term management of the ANSI, a list of potential uses for Delphi Point Park were developed using information collected from the literature review of planning policies, natural history, field surveys, as well as from feedback collected from the public and agencies.

8.1 Potential Alternatives

The following potential options for the management of Delphi Point and the ANSI were determined through the assessment of goals and objectives of the Town's Official Plan and Corporate Strategy, Policies within the Niagara Escarpment Plan, Grey County Official Plan, and Provincial Policy. In addition, conditions which would negatively impact the valuable fossils of the ANSI were considered to arrive at the following three alternatives to a management approach for the ANSI:

1. Installation of a Waterfront Trail Extension
2. No Permitted Access to the ANSI
3. Limited Permitted Access to the ANSI ("as is" scenario)

The table below examines each of the proposed alternatives, providing a brief description, a list of requirements for each, as well as an assessment of pros and cons.

1.0 Installation of a Waterfront Trail

Description

An extension of recreational trail should be constructed to permit public access to the ANSI shoreline. Access to the east end of the trail would be achieved through the parking lot and existing trail system at Delphi Point Park. However, no access could be provided to the ANSI on the west end, where publicly owned greenspace and ANSI are separated by privately owned land.

Interpretive signs, facilities, and boardwalks would be provided to the trail to encourage use, promote education and appreciation of the fossils, and to ensure accessibility standards are met.

Requirements:

- Installation of a boardwalk to keep visitors above the broken shale to improve accessibility and reduce incidences of slipping in wet weather.
- Access points and development of adjacent municipal land may be required to achieve connectivity to east and west ends of the ANSI.
- Installation of trash cans and implementation of regular maintenance. Maintenance schedule should match existing schedule to that of Delphi Point Park.
- Maintenance required for removal of noxious and invasive species – maintenance schedule should match that of Delphi Point Park.
- Installation of signs for interpretation and education to inform public of valuable ANSI fossils.
- Installation of signs for By-Laws to notify and warn visitors of By-Laws that protect fossils and vegetation.

Pros:

- Adheres to goals in the town official plan, corporate strategy, and the NEP
 - Provides additional recreational activities for public
 - Provides additional public access to the waterfront
 - Promotes education and appreciation to ANSI fossils
- Can be easily connected to existing trails – broaden network of trails offered by the Town of The Blue Mountains

Cons:

- Increased risk to visitors due to high water levels and uneven and flooded shale
- Increased risk of damage to ANSI due to promoted access and high visitor traffic, poaching of fossils, and construction of boardwalk on ANSI
- Increased resources and staff required for maintenance of waste, vegetation removal, repairs of board walk.
- Limited access in Winter due to ice and snow – increased safety risk to visitors
- Temporary construction on waterfront will occur near residential homes causing temporary disruption and inconvenience, and may impact the ANSI

2.0 No Permitted Access to the ANSI

No access to the shoreline would be permitted by the public to provide maximum protection to the ANSI and the valuable fossils.

Requirements:

- Enforcement and monitoring to ensure restrictions are met by public.
- Regular maintenance for the removal of invasive species within the ANSI.
- Required online species inventory and special access request for fossil research.
- Restrict all public access including current direct access from adjacent lots.

Pros:

- Protects ANSI from most, if not all damage from visitors, and waterfront residents
- Traffic within ANSI will be far less than promoted access
- Provides limited education and research opportunities for researchers

Cons:

- Reduces trails available to public – goes against goals and objectives of the Town's Official Plan and Corporate Strategy
- Reduces ability to educate and inform public/visitors of rare fossils
- Inhibits waterfront residents from accessing Georgian Bay from their properties
- Will require significant enforcement efforts on an ongoing basis

3.0 Limited Permitted Access with Protection and Enforcement Measures

Limited permitted public access would be available to the ANSI; however, no signs would encourage or advertise access to the ANSI by the public. The public would be able to access the shale shoreline when water levels are low. In addition, no facilities, waste receptacles, or maintenance would be provided at the shoreline; facilities would remain accessible at Delphi Point Park. Interpretive signs would be made available to the public to promote education and appreciation. Signs would also inform visitors of protection and enforcement measures in place by listing relevant By-Laws that protect the fossils and vegetation.

Requirements

- No access signs will be provided to discourage access to the ANSI.
- No trails or boardwalks will be built along waterfront.
- No waste receptacles, facilities, or maintenance will be provided along the shoreline.
- No new access points will be provided.
- Signs will be installed to educate and inform residents and visitors of valuable fossils.
- Required online species inventory and special access request for fossil research.

Pros:

- Meets requirements of Town Official Plan and Corporate Strategy
- Requires little resources for upkeep and maintenance
- Allows public to access lands and Georgian Bay
- Provides educational opportunities to public and researchers
- Allows waterfront residents to access Georgian Bay from their properties
- Low impact of walking without trail or boardwalk will not negatively impact ANSI
- Traffic to ANSI will be far lower than promoted public access

Cons:

- Visitors may be at risk due to high water levels, slippery bedrock – Access for emergency vehicles is only available at Delphi Point Park - some signage may be required to warn of potential hazards
- Trail is not officially connected to existing trail network systems in the Town and the Niagara Escarpment
- ANSI fossils are subjected to some damage and negative impacts due to public access and unauthorized removal

8.2 Common Recommendations

Regardless of the management option selected, to common recommendations have been identified as follows:

- The ANSI should remain under the public ownership and management of the Town to ensure its long-term protection;
- Municipal investigation of alleged property encroachments and appropriate enforcement action to remove encroachments and restore the lands;
- Regular monitoring and enforcement of development restrictions and conditions as well as Town By-Laws; and
- Regular maintenance/removal of invasive species.

These recommendations are made with respect to:

- proper protection of the ANSI and shoreline environment;
- appropriate management of public lands; and
- Municipal liability management.

8.3 Conclusions

The information obtained within Part 2 of the Management Plan as well as analysis of potential options for management present three primary findings:

1. Fossils within ANSI are valuable and require protection.
2. There are safety concerns for providing public access to the Delphi Point shoreline and ANSI due to increasing lake levels within Georgian Bay.
3. Allegations of the encroachment of private property onto the ANSI requires confirmation and enforcement action by the Town to protect the ANSI and limit municipal liabilities.

As such, the Management Plan should focus its efforts to develop actions in accordance to option three, which offers "Limited Permitted Access with Protection and Enforcement Measures in Place".

Due to the value and fragility of the ANSI fossils, use of the area should be restricted: No one should be permitted to walk within the ANSI. However, goals and objectives identified by the Town, as well as existing agreements in place with waterfront residents currently warrant access to the waterfront. If access is limited to residents of Delphi Point, the level of traffic imposed to the ANSI will be far less than that of a promoted public access scenario under Option 2.

9.0 Implementation

Following the community vision and guiding principals of the Official Plan for the Town of The Blue Mountains, the Delphi Point ANSI Management Plan should set out a goal and corresponding objectives that protect the natural environment, provide appropriate public access to recreational lands, and limit municipal liabilities.

9.1 Goal

To provide protection to the ANSI, ensuring the long-term integrity of fossil formations for the future generations in the Town of The Blue Mountains while at the same time providing an appropriate level of public access and control of municipal liabilities.

9.2 Objectives

There are two appropriate primary objectives for the use and management of the Delphi Point shoreline and ANSI in the context of this goal. These objectives are set out with the intent of

ensuring the protection of natural features, and providing education opportunities and heritage appreciation.

9.2.1 Protection of Natural Features

To reduce negative impacts to the shale shoreline containing fossil formations and provide limited appropriate access.

This objective would be achieved by the following actions:

- Protection of the ANSI should be strengthened and enforced through the amendment of existing municipality by-laws.
 - By-laws should specifically offer protection to the fossils and ANSI area, prohibiting access and damage to shale, as well as prohibiting the removal of fossil specimens.
- Public access to the shoreline should remain limited to reduce negative impacts to fossils within the earth science ANSI.
 - Limited access to the shoreline will reduce physical damage to shale occurring from frequent visits.
 - Reducing public access to the ANSI will also prevent further reductions to fossil abundance through removal.
- No development should be permitted to support public recreation to the shoreline, as the construction of infrastructure will likely will impose negative effects to the ANSI.
- Management strategies should be implemented to reduce impacts to the ANSI from the encroachment of invasive species at the Delphi Point.
- The ANSI should remain under the public ownership and management of the Town to ensure its long-term protection;
- Municipal investigation of alleged property encroachments and appropriate enforcement action to remove encroachments and restore the lands;
- Regular monitoring and enforcement of development restrictions and conditions as well as Town By-Laws; and
- Regular maintenance/removal of invasive species.

9.2.2 Education/Heritage Appreciation

To provide information regarding the unique geologic formations of the ANSI and encourage an appreciation for the *sensitive natural heritage* of the Town of The Blue Mountains.

This objective would be achieved by the following actions:

- Resources pertaining to the species richness and species diversity of fossils (Museum specimen archives, digitized information, etc.) should be provided to researchers.
- Information regarding the ANSI should be made accessible to the public by the Town.
 - Data and information should include natural history pertaining to the ANSI, as well as policies ensuring their protection.
 - Information should be available on interpretive signs installed at the ANSI, adjoining to Delphi Point Park.
 - Information should be available in digital formats for review offsite and should be made accessible on the Town's website.
- Permits from the Town should be provided to researchers and school groups requesting access to the ANSI upon notification and approval.
 - Access should only be permitted when external resources and fossil information provided do not accommodate the needs of the study.

9.3 Priorities

To most effectively achieve the stated goal and objectives a series of priorities are set out below.

1. Protection of the ANSI should be strengthened through an amendment to existing sections of By-Law No. 2008-44 to specifically protect fossils within the ANSI from removal and other negative impacts.
2. Notifying residents of the Town of The Blue Mountains of the limited access recommendation. Primary groups of people involved in the consultation process (waterfront residents at Delphi Point, as well as other community members who provided their contact information) should receive notices regarding the Town's decision. Information should also be posted on the Town of The Blue Mountains Website, and notices should be advertised within public newspapers.

3. Investigation of alleged encroachments onto municipal property and appropriate enforcement action and restoration to protect the ANSI and associated shoreline environment and to limit municipal liabilities.
4. Implement a schedule for the management of invasive species at Delphi Point. The schedule should include seasonal monitoring for purple loosestrife and common reeds, as well as the periodic removal of invasive species if required. This initiative should also provide the public and waterfront residents with information regarding the identification and removal of invasive species to increase awareness, reporting, as well as reduce the encroachment of garden plants from neighbouring plots within the ANSI.
5. Provide for appropriate education and appreciation of the ANSI. This should be established through creating resources for public use, such as species inventory lists, references to museum samples and options for school groups to attend supervised visits to the ANSI. These resources should be managed by the Town of The Blue Mountains and should be advertised on the Town's website.
6. Placement of signs within the boundaries of the ANSI to educate and notify visitors of access limitations and applicable by-laws. Signs installed should identify the boundary of the ANSI and should identify which species of fossils are present. Signs should also identify what by-laws are in place to prohibit damaging activities to the ANSI and removal of fossils to the notify visitors of potential hazards present at the shoreline. Signs should also warn visitors of potential shoreline hazards and encourage responsible use of public lands and respect for adjacent private property.

Further information regarding implementation of the goal, objectives and priorities recommended by the management plan are set out in the following sections of the report (Sections 11 to 15).

10.0 Protection of the ANSI

The two municipal By-Laws are in force within the Town of The Blue Mountains and place restrictions on activity within the area of the ANSI.

10.1 Enforcement

10.1.1 Fossil Protection

Once necessary amendments to the current By-Law (No. 2008-44) are made by the Town, the Director shall enforce prohibitions under Section 2.5 by undertaking the following actions:

- Post signage of the regulation where applicable, to provide warnings, or restrictions to the public regarding the use of or permitted activities within the park, trail, or open space.
- Accept the submission of applications for restricted activity under the by-law. Applications are to be approved by Council.

Under By-law No. 2008-44, police officers, provincial offences officers, municipal law enforcement officers, or any employees of the municipality designated by the Director are authorized to inform any person of the provisions of this by-law.

To ensure the long-term protection of fossils, additional signage will be placed at the borders of the ANSI to warn visitors of restrictions to activities occurring within the area. In addition, frequent and regular monitoring of the ANSI will occur to ensure public adherence to the By-Law.

10.1.2 Tree Preservation

Additional protection of the ANSI can be provided through continued enforcement of the Tree Preservation By-Law (BY-LAW No. 2010-68), including regular monitoring and inspection of the ANSI by Municipality staff.

Under the By-law, an officer may carry out an inspection on any land to which this By-Law applies, once producing a certificate of designation. If a person is found guilty of an offence and is found liable upon conviction, the following fines are applicable:

First conviction: \$10,000.00 or \$1,000.00 per tree

Second conviction: \$20,000.00 or \$2,500.00 per tree

Once convicted, the court may order the charged person to replant or have trees replanted, as well as provide any required silviculture treatment to the area under inspection.

10.2 Restricted Access to the Waterfront and ANSI

The existing trail along the drainage course, adjacent to the west side of Delphi Point Park provides limited access to the waterfront, which should be enhanced. The development of a trail/path is permitted in this area through the existing tree preservation zone because of previous damages cause to vegetation within Lot 5 by a tornado in 2009. Natural materials should be used in the construction of the pathway to match the Town's character and existing

biodiversity present at the shoreline. Planting of native species will occur at the opening of the trail at the waterfront to prohibit access to the protected area.

The pathway/trail originates at Ellis Drive and terminates at the headwall of the subgrade drainage course. Currently, the grade from Ellis Drive to the top of the headwall is ~3%, which is acceptable under the AODA as an accessible trail. Informal access to the shoreline exists on the west and east sides of this trail. The western access is achieved through users crossing the open drainage course, while the eastern access provides a subtler grade to the waterfront. As access through the drainage course should be dissuaded, access should be improved to the east. This access is currently ~12% grade and of a surface that is not accessible under the AODA.

Waypoint signs will be installed at each end of the trail. Signage requirements of the *Illustrated Technical Guide to the Accessibility Standard of the Design of Public Spaces* (2014) should be implemented by the Town. These requirements state that the sign notify users of the trail surface, trail widths, and average and maximum slopes to assist trail users in deciding if the trail is appropriate for their needs.

Given the erosive nature of the shoreline, as well as the ecological and cultural significance, the maintenance of an AODA compliant trail access to the shoreline area is not advisable. AODA compliant access should be provided to the headwall and improvements should be made to this area to provide a viewing platform. Signage should be provided at wayfinding points 1 and 2 that provide detail about

- The slopes and surface conditions that will be encountered;
- The trail linkage opportunities in each direction;
- Approximate distances to the next trail intersection; and
- Information about the ANSI.

A cross-section of the proposed pathway along the drainage easement can be reviewed in Figure 4. No public parking is permitted on Ellis Drive to access the proposed pathway along the drainage easement; this information will be included in Waypoint signs.

Further, Figure 5 contains an additional cross-section which describes public access to the waterfront areas adjacent to the ANSI at different shoreline levels. To ensure public safety, no access will be permitted to the shoreline during periods of snow, ice, or high water. Permitted and cautionary access will be available to the public during dry periods or periods of low water, respectively. The public is to use the shoreline at their own risk; caution should always be taken by visitors to the shoreline due to the sharp, slippery, broken shale.

11.0 Education and Public Outreach

11.1 ANSI Research Opportunities

To support future research on the ANSI, the Town of The Blue Mountains should create a catalog of existing geologic formations in collections at the Royal Ontario Museum. In addition, a repository should be made to provide researchers with information regarding each fossil type found within the ANSI, as well as information of where examples of each fossil type are located in museum collections. With proper notification and approval, the Town should provide visiting researchers permits to access the shoreline to perform studies on the ANSI and fossils.

11.2 Signage and Interpretive Features

As mentioned previously (under section 10), the integrity of fossils and preservation of vegetation should be enforced through Municipal By-Laws and other legal avenues related to management of public lands.

To ensure that the public acts within the requirements of the By-Laws, additional signage should be posted along the borders of the ANSI and access areas notifying visitors that the removal of fossils and vegetation from the ANSI is prohibited. Signs should also identify the broken shale areas, and request visitors to stay off shale to reduce damage to the valuable fossils and avoid potential shoreline hazards such as the broken shale, slippery rocks, flooding and wave action.

Since limited access should be provided and no new trails should be constructed in the ANSI shoreline, no signs should be installed to direct public access to the area adjacent to the private lots west of the current park boundary.

To accomplish the educational objectives outlined by this plan, interpretive signs should be installed at the borders of the ANSI near Delphi Point Park to inform the public of the types of fossils present in the shale shoreline. Interpretive signs should contain samples of each fossil species, which should allow visitors to observe pristine examples of specimens without entering and disturbing the ANSI.

A total of three signs should be installed at the ANSI: one interpretive sign for educational purposes and two signs notifying the public of Municipal By-Laws and potential site hazards.

11.3 Online Information

Additional web pages on the Town of The Blue Mountains website should be created to provide information to the public regarding the natural history of the ANSI, as well as policies ensuring their protection. Natural history information included on the town website should include

downloadable PDFs of Geology and Fossil information from Craigleith Provincial Park (subject to permission from the MNRF).

11.4 Permits for Research and Educational Visits

With proper notification, the Town should approve and provide permits that allow supervised visits to the ANSI for researchers, school groups, or clubs. For certain circumstances, visits should be supervised by knowledgeable municipal staff.

12.0 Safety/Liability

The safety of residents and visitors is the primary concern of the Town of The Blue Mountains.

Increasing lakeshore levels and seasonal flooding at the shoreline cause shale to become slippery. Since stable walking conditions are inconsistent within the shale shoreline at Delphi Point, no additional trails or access should be provided to the ANSI. Current public trails to the ANSI should not exceed the boundaries of Delphi Point Park; emergency responders should have close access to the ANSI shoreline through the Delphi Point Park parking lot. Signage should contain appropriate information to inform visitors of potential hazards.

13.0 Accessibility

Accessibility enables persons with disabilities to use facilities and areas without assistance. Due to the conditions of the subject lands and recommended limited access, no accessibility should be offered within the boundaries of the ANSI at Delphi Point. Partial access to the ANSI (including wheelchair access to trails, picnic tables, and washrooms) is currently offered through infrastructure at Delphi Point Park. In addition, the design and development of the second access trail along the drainage easement should accommodate wheelchair access. This is sufficient to meet accessibility requirements related to public access to this feature.

14.0 Maintenance

14.1 Waste Management

In an effort to reduce access to the ANSI, no waste receptacles should be added to Delphi Point. Waste management operators should not be required to frequently walk within the ANSI to retrieve waste. By reducing the frequency of required visits, valuable fossils within the ANSI should be subjected to less damage. Visitors to Delphi Point can appropriately and adequately dispose of trash at receptacles available at Delphi Point Park.

14.2 Facility Maintenance and Repair

No facilities should be provided to the ANSI, as access to Delphi Point should be limited. By removing the need to maintenance facilities, fewer negative impacts will be imposed onto the valuable fossils since less traffic and equipment will be required to visit Delphi Point.

14.3 Vandalism

Since access to the site should be limited and no facilities should be provided to Delphi Point, vandalism is not anticipated to be a major problem at the ANSI. The proposed limited private access to the lands will assist in control of vandalism by promoting an appropriate level of public monitoring of activities on the lands.

14.4 Invasive Species Management

Invasive species do not pose an immediate threat to the ANSI, as the current density and distribution of species observed was low. The sparse distribution of these plants can be attributed to low levels of substrate available on the exposed shale shoreline. As water levels of Georgian Bay continue to increase and periodically cover the exposed bedrock, it is expected that detritus will settle and form larger areas of substrate for invasive species to colonize.

The ANSI and surrounding area should be monitored every three years to document changes in vegetation coverage. If the coverage and density of vegetation increases, removal strategies should be implemented by the Town.

Monitoring and removal initiatives should be coordinated to follow those currently existing for Delphi Point Park. To implement monitoring strategies, staff should be required to inspect the ANSI and mark the presence of any invasive species.

Requirements for removal strategies should depend on the density and cover of invasive species within the ANSI. In general, budgets should consider the costs required to hire trained staff, clothing and personal protective equipment (gloves, boots, glasses), opaque garbage bags, and basic gardening tools (trowels and shovels).

To reduce potential negative impacts to the ANSI, and prevent spills of chemicals to Georgian Bay, only low-impact mechanical removal strategies will be used to eliminate invasive and alien plant species. Best Management Practises (BMPs) for the management of Invasive Species have been developed by the Ontario Invasive Plant Council and are recommended by the Ministry of Environment and Climate Change.

Purple Loosestrife

Individual Purple Loosestrife plants can be removed by pulling or digging. Plants must be removed gently, without breaking the taproot to discourage re-sprouting. Removal strategies for Purple Loosestrife should take place during summer before plants go to seed. Removed plants should be placed in tightly sealed opaque black plastic garbage bags. Plants collected in bags should be left in the sun for one to three weeks in direct sunlight to ensure all plant material has died. Dead plant material can be added to regular compost or landfill (Warne, 2016).

Common Reed (Phragmites)

While labour intensive, Common Reeds (Phragmites) can be removed by hand-pulling. This method is most effective when plants are less than two years old and found in loose soils. During removal, all portions of the rhizomes must be removed from the ground. All pulled plant parts should be contained in sealed, thick plastic bags; sealed bags should be left in the sun to kill all viable seeds and rhizomes. Dead plant material can be burned or sent to appropriate municipal disposal locations. All clothing should be cleaned on-site to avoid accidentally transporting seeds of Common Reeds (OMNRF, 2011).

As deemed necessary, additional alien plant species found growing on the ANSI will be extracted and disposed of during regular scheduled monitoring and removal. The methods used to remove alien plant species will be similar to those used for Purple Loosestrife and Common Reeds.

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Figures

Figure 1 – Delphi Point ANSI Location

Figure 2 – ANSI Ownership

Figure 3 – Ecosite Map of ANSI and Surrounding Area

Figure 4 – Peaks Bay East Waterfront Access Figure

Tables

Table 1 - Incidental sightings of birds, mammals, and amphibians observed within the study area Delphi Point of the Town of The Blue Mountains.

Appendix A

Public Consultation Documents

1. Public Information Session PowerPoint Presentation
2. Public Survey Questionnaire
3. Summary of Public Feedback
4. Summary of Agency Feedback

2. Email from Liz Saunders dated July 13, 2018 confirming Approval of Parks Management Plan

From: Liz Saunders <lisaunders@thebluemountains.ca>
Date: July 13, 2018 at 9:50:11 AM EDT
Cc: Shawn Everitt <severitt@thebluemountains.ca>, "Ryan R. Gibbons" <rgibbons@thebluemountains.ca>, Sarah Merrifield <smerrifield@thebluemountains.ca>
Subject: Delphi Waterfront Update

Good morning,

Please be advised that, as a follow up to the approval of the Delphi Waterfront Parks Management Plan on July 9, 2018, the works including signage and limiting access to the ASNI areas is being completed under the direction of the Town.

Park Lawn has been contracted by the Town to complete this work.

Please note that, at this point, there will be no construction of fencing through this process.

If you have any questions or concerns, please let me know.

Liz Saunders B.E.S
Administrative Assistant for Community Services
The Town of The Blue Mountains
32 Mill Street, P.O. Box 310
Thornbury, ON N0H 2P0
Phone: 519-599-3131 Extension: 254
Fax: 519-599-7723
lisaunders@thebluemountains.ca



Please consider the environment before printing this e-mail

3. August 7, 2018 Letter from Terry Green,
Manager of Parks and Trails, to Area
Resident



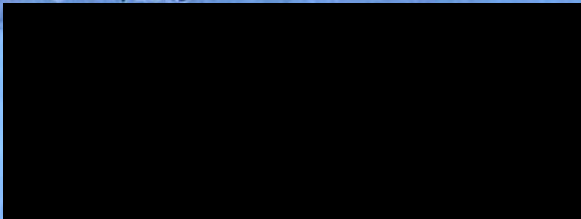
Town of The Blue Mountains

32 Mill Street
Box 310
THORNBURY, ON N0H 2P0
www.thebluemountains.ca

OFFICE OF: Terry Green
Manager of Parks and Trails
Email: parkstrails@thebluemountains.ca
Phone: 519-599-3131 Ext 353

BY MAIL

August 7, 2018



RE: Lower Whitby ANSI Parks Management Plan Update

Dear [REDACTED]

This letter is to provide an update to residents regarding the Parks Management Plan for the Area of Natural and Scientific Interest (ANSI) of the Lower Whitby formation.

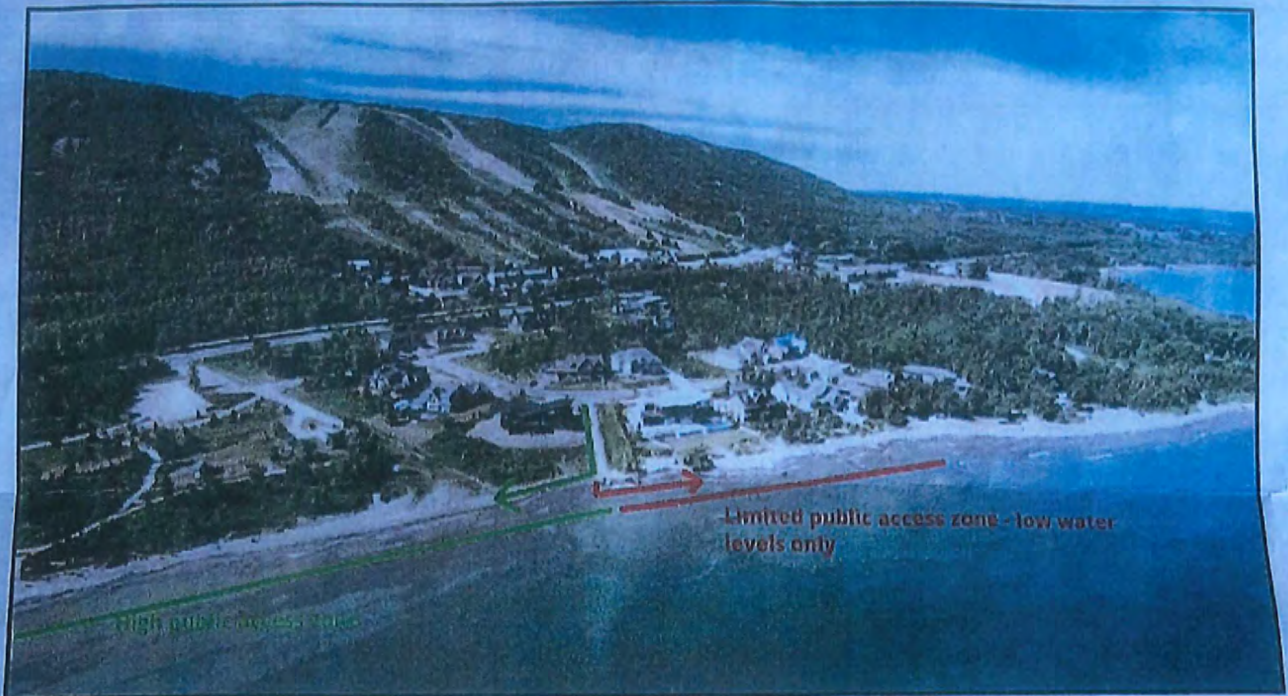
The Town of The Blue Mountains has contracted Parklawn Landscaping to install plantings (native sumacs and dogwoods) and stones to help protect the tree preservation zones, ANSI and identify access to the water. The access point is referenced in Figure 1 on the back side of this letter.

Additionally, signs will be installed identifying the presence of poison ivy and that "no person shall remove or destroy any fossiliferous rock specimens".

Maintenance work may also be taking place on drainage ditches in the area.

Additional information, including the approved Staff report which outlines the Park Management Plan, can be accessed on the Town's website, www.thebluemountains.ca. To access these materials, hover over "Town Hall" on the homepage and select "Department Directory". From there, select "Community Services" which will take you to the Community Services Department page. By choosing "Community Services Projects" you will be able to access Delphi Waterfront Park Management Plan related documents, including Staff Report **CSPW.18.056 Final Lower Whitby Formation ANSI Parks Management Revised** which appends the Park Management Plan. The project page is also available at the following hyperlink: <https://www.thebluemountains.ca/community-services-projects.cfm>.

Figure 1 Overview of Access Point



Please do not hesitate to contact the undersigned if you have any questions or concerns.

Respectfully,

[Redacted Signature]
Terry Green
Manager of Parks and Trails
parkstrails@thebluemountains.ca
519-599-3131 Ext 353

Cc: Shawn Everitt, Interim Chief Administrative Officer
Ryan Gibbons, Acting Director of Community Services, Manager of Harbour and Cemetery

4. Section 2.31 of the Subdivision Agreement entered into between the Town and the Developer with attached Schedule "J"

- (c) lay topsoil to a minimum depth of 100 millimeters, unless otherwise shown on the Accepted Plans, on all boulevards and on the front, side and rear yards of each of the lots or part lots or blocks or units on each Plan and place sod on all boulevards, except for paved or planted areas, prior to the occupancy of any buildings or structures.
- (d) provide Security in the amount shown in Schedule "E" to the Town to ensure compliance with the landscaping requirements of this Agreement, which Security may be drawn upon and used up to its full amount in accordance with the provisions of Section 9.2.

2.31 Tree Preservation

The Developer shall, until Final Acceptance:

- (a) preserve the existing trees and vegetation shown on the Tree Preservation and Landscape Plan to be preserved;
- (b) install the tree protection fencing shown on the Tree Preservation and Landscape Plan to the satisfaction of the Town prior to the start of any construction activity within a Plan, which fencing shall remain in place until all grading, construction activity of any kind, and Landscape Works within the Plan are completed;
- (c) not remove any trees or vegetation without the prior written approval of the Town except such trees and vegetation that are diseased or dead or such trees and vegetation that are designated for removal on the Tree Preservation and Landscape Plan;
- (d) require the Consultant to supervise and approve the installation of the tree protection fencing and ensure that the tree protection fencing remains in place during the entire period of construction activity of any kind within a Plan and that the Consultant will notify the Town that this fencing has been installed in accordance with the Tree Preservation and Landscape Plan;
- (e) undertake every precaution necessary to prevent damage to existing trees and vegetated areas, include the following:
 - (i) areas within the tree protection fencing shall remain undisturbed and shall not be used for the storage of surplus soil, debris and building materials or equipment;
 - (ii) no contaminants will be dumped or flushed where feeder roots of vegetation exist;
 - (iii) no vegetation or tree limbs shall be removed, pruned or otherwise damaged during the course of construction; and
 - (iv) no rigging cables shall be wrapped around or installed in trees to be preserved.
- (f) replace, to the satisfaction of the Town, any existing trees and vegetation shown on the Tree Preservation and Landscape Plan to be preserved which are removed without prior written approval of the Town except such trees and vegetation that are diseased or dead;
- (g) on the sale of any lot, block or unit, reserve such rights as may be necessary to enable the Developer or the Town or their agents to enter on the lot, block or unit at all times to install and maintain the tree protection fencing and replace any existing trees and vegetation removed in contravention to the provisions of this Agreement.

- (h) shall include in all agreements of purchase and sale for lots, blocks or units within each Plan, the covenant, identified in Schedule "J", in which the purchaser agrees to comply with all of the provisions of this Section 2.31, except Section 2.31(d).
- (i) provide Security in an amount shown in Schedule "E" to the Town to ensure compliance with the tree preservation and replacement requirements of this Agreement, which Security may be drawn upon and used up to its full amount in accordance with the provisions of Section 9.2.

2.32 Boulevards and Vacant Lots and Blocks

The Developer shall:

- (a) at all times prior to Final Acceptance keep all the boulevards of Highways within or abutting a Plan free and clear of all materials and obstructions; and
- (b) carry out continuous maintenance to the satisfaction of the Town on all vacant lots or blocks within each Plan. Such maintenance will include weed control, biannual spraying, grass and weed cutting to maintain a height not exceeding 250 millimeters, cleanliness of the lot, block or unit by removal of debris and maintenance of approved drainage through grading when required by the Town.

GENERAL CONDITIONS

2.33 Existing Services

The Developer shall repair any damage to any existing municipal (including the County) services, works or facilities, whether assumed by the Town or otherwise and whether within a Plan or external thereto, caused by the installation and maintenance of the Works required by this Agreement or otherwise caused by the development of the Lands. Without limiting the generality of the foregoing or limiting the liability of the Developer, should there be a breach of this provision, the Developer shall repair the existing municipal services upon being given Notice by the Town to do so. A failure by the Developer to repair or rectify such damage to existing municipal services constitutes a Default.

2.34 Limited Means of Access

The Developer agrees that all construction traffic shall enter and leave the Lands using only the Highways, Private Roads and other access points approved by the Town for this use. The Developer shall, when required by the Town, install barricades at the end of other Highways and Private Roads providing access to the Lands to prevent these Highways and Private Roads from being used for construction traffic. The Developer shall maintain these barricades in place until the Town instructs the Developer to remove them.

2.35 Inspection by Town

The Town may inspect the installation of the Works and shall have the power to stop any work or direct the Consultant to stop any work in the event that in its opinion the work is not being performed in accordance with the requirements of this Agreement or being performed a manner that may result in a completed installation or construction that would not be satisfactory to the Town.

The Developer agrees that the Town, its employees, agents and contractors or any other authorized persons may enter upon the Lands and inspect the installation of any Works, but such inspection shall in no way relieve the Developer from its responsibility to inspect the said installation itself. If the installation of the Works is not, in the opinion of the Town being carried out in accordance with the provisions of this Agreement or in accordance with accepted engineering or landscaping practices, the Town may issue instructions to the Developer and/or to the Consultants to take such steps as may be deemed necessary to procure compliance with the provisions of this Agreement. Such instructions may be

SCHEDULE "J"

**This schedule forms part of a Development Agreement between P. B. HOLDINGS
LIMITED and
THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS**

RESTRICTIVE COVENANTS

The Developer covenants and agrees that the following paragraphs which form part of this Agreement will be registered separately against the title to the Lands within the Plan as restrictive covenants running with the lands, it being the intention of these paragraphs that the said following covenants shall run with the Lands and applies to subsequent owners, successors or assigns:

The terms Engineer, Final Acceptance, Overall Grading Plan, Lot Grading Plan, Final Lot Grading Certificate, CBO, Final Inspection and Town Lands shall have the meanings ascribed to them in the Development Agreement for Registered Plan 16M-**, registered as Instrument Number ***** (the "Development Agreement"), the term Plan means Registered Plan 16M-**, the term Owner used in these restrictive covenants means the registered owner, from time to time, of a lot, block or unit on the Plan and Town means The Corporation of the Town of The Blue Mountains.

Drainage

After Final Acceptance, no Owner shall make an application for a building permit for a lot or block on the Plan until the Owner has, at the Owner's expense, retained an Engineer to prepare and provide to the Town a Lot Grading Plan and a Final Lot Grading Certificate for the lot or block. A building permit will not be issued until the Town accepts the Lot Grading Plan and a Final Inspection will not be made by the CBO until the Consultant has provided the Final Lot Grading Certificate to the CBO.

No Owner of any lot or block shall alter the grading or change the elevation or contour of the land shown on the Overall Grading Plan and the Lot Grading Plans accepted by the Town or alter or interfere with the grading and drainage levels and patterns as accepted by the Town with respect to the said lots except in accordance with an amended Lot Grading Plan accepted by the Town. Without limiting the generality of the foregoing, no Owner of any part of any lot or block shall alter, fill, fence, stop up or allow to become clogged or fall into a state of disrepair, any rear or side yard drainage depression or swale, catch basin or other drainage channel, facility or installation, as such alteration or other action as stated above may cause a failure of the drainage system in the area which will result in civil liability. Owners of lots will agree to indemnify and save the Town completely harmless from all actions, causes of action, suits, claims and demands whatsoever which may arise directly or indirectly, by reason of such alteration or other action as stated above.

No Owner shall be entitled to connect roof leaders to the foundation drain collector or to the weeping tile. Roof leaders shall be required to discharge onto the lots, with the use of concrete splash pads such that the side lot swales will drain the runoff to the road or to the rear of the lots. Underground cisterns to allow capture and reuse of rainwater may be permitted with the prior approval of the Town.

Tree Preservation

No Owner shall clear any vegetation from any lot on the Plan unless they have first obtained Site Plan Approval from the Town and entered into a site Plan Agreement with the Town, in a form satisfactory to the Town, for the development of their Lot that shall include strict adherence the Tree Preservation Plan as contained in the Development Agreement.

No owner shall remove the monuments shown on Lots 1-5, 6 (waterfront side only), 8, 16-24 of Phase 1 and Lots 1 & 2, 10, 13 & 14, 16 of Phase 2 of the Draft Plan that delineate the limits of their property and the public open space lands, nor shall they remove any vegetation from the Town Lands without the written consent of the Town.

General Restrictive Covenant Provisions

The burden of these restrictive covenants shall be annexed to and run with the title to each lot, block or unit on the Plan and the benefit of these restrictive covenants shall be annexed to and run with each and every part of the lands on the Plan owned by the Town and the Town lands abutting the Plan with the intention that these restrictive covenants shall be binding on the Developer and each of its successors in title, from time to time, to each lot, block or unit on the Plan, in perpetuity.

Partial Invalidity

The invalidity in whole or in part of any of these restrictive covenants shall not affect the validity of the other restrictive covenants or remaining portion of these restrictive covenants herein contained.

Note – The final wording of these Restrictive Covenants shall be approved by the Town prior to Final Approval.

5. Sample Portion of Agreement of Purchase and sale entered into between the Developer and Area Residents – Restrictive Covenants

RESTRICTIVE COVENANTS

Restrictive Covenants

In these Restrictive Covenants, the terms Engineer, Final Acceptance, Overall Grading Plan, Lot Grading Plan, Final Lot Grading Certificate, CBO, Final Inspection and Town Lands shall have the meanings ascribed to them in the Development Agreement for Registered Plan 16M²³, registered as Instrument Number CN 12312 (the "Development Agreement"), the term Plan means Registered Plan 16M²³, the term Owner means the registered owner, from time to time, of a lot, block or unit on the Plan and the owner's successors in title and Town means The Corporation of the Town of The Blue Mountains.

The Owner covenants that the following paragraphs which form part of the Development Agreement It has entered into with The Corporation of the Town of the Blue Mountains will be registered against the title to the lands within the Plan of Subdivision as restrictive covenants running with the lands, it being the intention of these paragraphs that the following covenants shall run with the lands.

Drainage

After Final Acceptance, no Owner shall make an application for a building permit for a lot or block on the Plan until the Owner has, at the Owner's expense, retained an Engineer to prepare and provide to the Town a Lot Grading Plan and a Final Lot Grading Certificate for the lot or block. A building permit will not be issued until the Town accepts the Lot Grading Plan and a Final Inspection will not be made by the CBO until the Consultant has provided the Final Lot Grading Certificate to the CBO.

No Owner of any lot or block shall alter the grading or change the elevation or contour of the land shown on the Overall Grading Plan and the Lot Grading Plans accepted by the Town or alter or interfere with the grading and drainage levels and patterns as accepted by the Town with respect to the said lots except in accordance with an amended Lot Grading Plan accepted by the Town. Without limiting the generality of the foregoing, no Owner of any part of any lot or block shall alter, fill, fence, stop up or allow to become clogged or fall into a state of disrepair, any rear or side yard drainage depression or swale, catch basin or other drainage channel, facility or installation, as such alteration or other action as stated above may cause a failure of the drainage system in the area which will result in civil liability. Owners of lots will agree to indemnify and save the Town completely harmless from all actions, causes of action, suits, claims and demands whatsoever which may arise directly or indirectly, by reason of such alteration or other action as stated above.

No Owner shall be entitled to connect roof leaders to the foundation drain collector or to the weeping tile. Roof leaders shall be required to discharge onto the lots, with the use of concrete splash pads such that the side lot swales will drain the runoff to the road or to the rear of the lots. Underground cisterns to allow capture and reuse of rainwater may be permitted with the prior approval of the Town.

Tree Preservation

No Owner shall clear any vegetation from any lot on the Plan unless they have first obtained Site Plan Approval from the Town and entered into a Site Plan Agreement with the Town, in a form satisfactory to the Town, for the

development of their lot that shall include strict adherence the Tree Preservation Plan as contained in the Development Agreement.

No owner shall remove the monuments shown on Lots 1-5, 6 (waterfront side only), 8, 16-24 shown on the Plan that delineate the limits of their property and the public open space lands, nor shall they remove any vegetation from the Town Lands without the written consent of the Town.

General Restrictive Covenant Provisions

The burden of these restrictive covenants shall be annexed to and run with the title to each lot, block or unit on the Plan and the benefit of these restrictive covenants shall be annexed to and run with each and every part of the lands on the Plan owned by the Town and the Town lands abutting the Plan with the intention that these restrictive covenants shall be binding on the Owner and each of its successors in title, from time to time, to each lot, block or unit on the Plan, in perpetuity.

Partial Invalidity

The invalidity in whole or in part of any of these restrictive covenants shall not affect the validity of the other restrictive covenants or remaining portion of these restrictive covenants herein contained.

Definition of Successors

Wherever in these restrictions, reference is made to the successors of the Owner, it shall mean the successors in title, the owner and owners for the time being, of the Lands owned by the Transferor.

SCHEDULE A
RESTRICTIVE COVENANTS

DEFINITIONS

In these restrictive covenants, the following words and expressions shall have the following meanings:

- (a) "Authorities" mean any town, municipality, county, commission board, bureau, branch, agency, regulating authority or other authority whatsoever having or purporting to have jurisdiction over the Lands.
- (b) "County" means the County of Grey, Ontario.
- (c) "Covenants" mean collectively, the restrictions, covenants and obligations set out herein.
- (d) "Lands" means all of the Lots within the development known as the Peaks Bay Subdivision/The Residences of Peaks Bay" being Lots 1 to 24, both inclusive, on Plan 16M-23, in the Town of the Blue Mountains, in the County of Grey.
- (e) "PB Holdings" means PB Holdings Limited and its successors and assigns.
- (f) "Lots" means Lots 1 to 24, both inclusive on Plan 16M-23, in the Town of the Blue Mountains in the County of Grey and "Lot" means any of such Lots;
- (g) "Owners" mean collectively the owners of the Lots from time to time and "Owner" means any one of such Owners.
- (h) "Plans of Subdivision" mean Plan 16M-23, in the Town of the Blue Mountains, in the County of Grey.
- (i) "Services" means utilities and other improvements including streets, sidewalks, curbs, water, sanitary and storm sewer, gas, electricity, public lighting, telephone and cable.
- (j) "Town" means The Corporation of the Town of The Blue Mountains, located in the County of Grey, Ontario.
- (k) "Transferee" means, with respect to a Lot the owner or owners thereof from time to time.
- (l) "Transferor" means the transferor from time to time of any Lot.
- (m) "Vendor" means PB Holdings Limited and its successors and assigns.
- (n) "Purchaser" means the purchaser of any lot from time to time.

2. GENERAL

(a) Lands:

- i) Subject to the time limitation as hereinafter set out, the Covenants set out herein shall be annexed to and shall run with the Lands and every part thereof.
- ii) The Covenants shall also be appurtenant to and be for the benefit of each and every part of the Lands, the intention being that each owner of any Lot(s) shall be able to enforce the said Covenants against any other Owner from time to time, the intention being that the Covenants shall constitute a building scheme within the lands.

(b) Term:

The Covenants set out herein shall be in force until the date (the "Expiry Date") which is the earlier of:

- i) forty (40) years following the date of registration of the last of the Plans of Subdivision; and,
- ii) the date on which the Owners shall unanimously agree by written memorandum to cancel the Covenants, provided a minimum period of twenty (20) years has lapsed since the date of registration of the last of the Plans of Subdivision.

2

(c) **Covenant to Observe Restrictions:**

Each Transferee covenants and agrees on behalf of himself and his successors in title with PB Holdings, the Transferor and with all other Owners from time to time that the Transferee and his successors in title from time to time will observe and comply with each of the Covenants set out herein and that no development or renovation of the Lands or any part thereof owned by him will occur in breach of or in violation of or contrary to the fair meaning of the Covenants herein set forth.

3. **ARCHITECTURAL CONTROL FEATURES AND PLANS**

- (i) **Architectural Control Features:** All restrictions, including restrictions on minimum and maximum square footages of dwellings, Vendor approval of all design plans of dwellings and elevation and site locations as set out on Schedule "B" including without limitation restrictions on fencing and placement of garages, easements, encroachment agreements, agreements, conditions or covenants that run with the land, and subject to all rights, licenses and easements now registered or to be registered hereafter or required pursuant to the provisions of the subdivision agreement, or draft plan approval, for the supply and installation of telephone services, electricity, storm sewers, water, television including any agreements for the installation and maintenance of any public or other service, including, without limitation, telephone, hydro, gas, sewer, water, coaxial cable T.V. facilities, and such other services to or for the benefit of the Lot and/or any adjacent or neighbouring properties, or which may be required by the Vendor, or any owner(s) of adjacent or neighbouring properties, and/or which may be required by the Vendor and/or any owner(s) of adjacent or neighbouring properties for servicing and access for servicing to or from such properties including, without limitation, easements, rights-of-way and/or agreement for access, service, support, amenities, cost sharing and the like for and with adjacent or neighbouring property owners and others as may be required by the Vendor to service the Purchased Lot and do not materially and adversely affect the Purchaser's use of the Purchased Lot. The Purchaser shall sign a covenant on closing to comply with all provisions of this section and the architectural control features and obtain and provide to the Vendor a similar covenant from any successive owner of the Property. The vendor may register such covenants on title prior to closing as restrictive covenants and the purchaser agrees to accept title subject to same.
- (ii) The Purchaser, hereby covenants and agrees that Purchaser shall cause "Commencement of Construction of an Approved Single Family Residence" on the Lot in accordance with Purchaser's Plans and Specifications of the Approved Single Family Residence within four (4) years from the date of closing hereof. The Vendor shall establish an Architectural Review Board (hereinafter called "ARB") to review all of Purchaser's Plans and Specifications to determine if the Plans and Specifications satisfy the criteria the ARB establishes from time to time as to design, landscaping, fencing, elevations, exterior facades, building materials, minimum and maximum dwelling size, bulk, height and setbacks and design and in accordance with the architectural control schedule appended hereto as Schedule "B". All decisions of the ARB shall be final and binding as to whether to grant approval to Purchaser's Plans and Specifications or to require amendments or modifications thereto as a precondition of granting approval. All requests submitted for ARB approval shall be accompanied by a complete and detailed set of the proposed Purchaser's Plans and Specifications. The Purchaser covenants not to apply for any building permit until such time as Purchaser's Plans and Specifications have received ARB approval and any applications for a building permit and construction upon the Lot shall only be in accordance with ARB approved plans and specifications. Provided, following receipt of ARB approval, Purchaser further covenants not to amend or alter the Purchaser's Plans and Specifications or on site construction of the dwelling house without having first received ARB approval to any such amendments or alterations in accordance with all the preceding provisions of this paragraph and Schedule "B". All construction on the Lot shall be undertaken and completed within the building envelope on the Lot.
- (iii) As used in this Agreement, "Commencement of Construction of an Approved Single Family Residence" shall mean the receipt by Purchaser of:
 - (a) Written approval of the Vendor's Architectural Review Board (hereinafter "ARB") of Purchaser's Plans and Specifications

- (b) Building Permit from Town of the Blue Mountains for such Approved Single Family Residence; together with
- (c) Substantial commencement of construction of the Approved Single Family Residence.
- (iv) Purchaser shall diligently and in good faith undertake and continue construction so as to complete the Approved Single Family Residences in accordance with the Approved Plans and Specifications.

4. RIGHT OF ENTRY

Notwithstanding the Purchaser occupying the Purchased Lot or the closing of this transaction and the delivery of title to the Purchased Lot to the Purchaser, the Vendor or any person authorized by it shall be entitled at all reasonable times and upon reasonable prior notice to the Purchaser to enter the Purchased Lot for the purposes of facilitating the installation of any utilities or services required pursuant to the Plan of Subdivision or subdivision agreement, or for the correction of any surface drainage problems and/or to make inspections or to do any work or repairs therein or thereon, including the rectification of any initial and apparent defects in materials or workmanship in connection with the completion, rectification or servicing of any installations in the Purchased Lot or any other Lot or the Plan of Subdivision.

5. PURCHASER'S COVENANTS

The Purchaser acknowledges, agrees and covenants that:

- (a) the Purchaser will not object nor oppose any amendments to or any change in the zoning and/or site plan requirements, or oppose any other applications by the Vendor its assigns or related companies to any governmental authorities relating to or affecting the development of this Plan of Subdivision or any adjacent lands owned by the Vendor or companies related to or associated with the Vendor;
- (b) the Purchaser further agrees not to object to, whether directly or indirectly through representation, whether before the primary approval agency or any Governmental Authorities or appeal or reference to, and not in any way impede or delay the process of obtaining any site plan amendments, building plans, building permits, draft plan of Plan of Subdivision variance or rezoning applications, official plan amendments brought by the Vendor, its successors and assigns or related companies, with regard to any approval(s) of present or future use(s) of adjacent or neighbouring properties or any portion thereof;
- (c) the Purchaser covenants to obtain a building permit and commence construction of the Purchaser's intended dwelling house upon the Lot within four (4) years from the date of closing herein, failing which the Vendor shall have the option, at Vendor's sole discretion to deliver written notification to the Purchaser of Vendor's intention to repurchase the Property at the same price as set forth herein in Section 1, less applicable G.S.T. and less Vendor's reasonable costs, legal and otherwise on account of exercising this option to repurchase, and less applicable Land Transfer Taxes. Provided on closing, the Vendor and the Purchaser shall enter into an option to purchase agreement in the form as prepared by Vendor's solicitors, reflecting the terms and conditions of this paragraph and which option to purchase may be registered against the title to the Property on closing at the option of the Vendor.

6. ACKNOWLEDGEMENTS

The purchaser acknowledges that:

It is anticipated by the Vendor that in connection with the Vendor's application to the appropriate governmental authorities for Plan of Subdivision approval certain requirements shall be imposed upon the Vendor by the Ministry of Environment of the Province of Ontario and other Governmental Authorities having jurisdiction in these matters (the "Ministry"). These requirements (the "Requirements") usually relate to warning provisions to be given to purchasers in connection with environmental concerns of the Ministry, specifically the anticipated Requirements for this subdivision and identified in the Vendor's disclosure material for this Plan of Subdivision are warnings relating to noise levels, water usage limitations, requirements or instructions, sewage requirements or instructions, the proximity to major streets or roads, surface and ground water drainage and similar matters. Accordingly, the Purchaser covenants and agrees that: (1) on either the Closing Date, as determined by the Vendor, the Purchaser shall execute any and all documents required by the Vendor acknowledging, inter alia, that the Purchaser is aware of the Requirements; and (2) if the Vendor is required to incorporate the Requirements into the final transfer or a registration on title to the Purchased Lot the Purchaser shall accept the same, without in any way affecting this transaction;

7. DEVELOPMENT STANDARDS

- (a) Purchaser will acquire the Lot in "as is" condition. The cost of all improvements on the Lot shall be borne exclusively by the Purchaser. The Purchaser shall be solely responsible for obtaining all governmental approvals necessary for construction of a Residence on the Lot and all appurtenances thereto, including, without limitation, issuance of building permits.
- (b) Purchaser will grade the Lot to meet the drainage requirements of the Lot and in accordance with the overall drainage plan and system set forth in any subdivision or site plan agreement registered against the title to the Lot. Purchaser shall have thirty (30) days, after notification from Vendor, to correct any grading deficiencies that do not meet the requirements of this paragraph. If Purchaser does not correct grading deficiencies within such thirty (30) day period, then Vendor shall have the right, but not the obligation to enter upon the Lot and to correct any grading deficiencies that do not meet the requirements of this paragraph at the cost and expense of Purchaser, and Purchaser will promptly reimburse Vendor, as applicable, for any and all such costs and expenses incurred, plus interest at the maximum legal rate until paid.
- (c) Vendor having met the required engineering standards for subdivision approval shall have no obligation for any deficiency in the Lot drainage system and Purchaser shall indemnify and hold Vendor harmless from any claims relating thereto.

SCHEDULE B

**BUILDING & OTHER RESTRICTIONS APPLICABLE TO
THE RESIDENCES OF PEAKS BAY**

Whereas, it is the intention of the developer, PB Management Group Inc (hereinafter referred to as PBM) to establish a community of homes consistent with the beauty and natural environment in which the development is set;

And whereas, in order to retain the inherent qualities of the development, it is in the interest of the developer and future land owners to have restrictions governing the location and nature of the structures, existing and finished grades, driveways, parking areas and entrance culverts on municipal roads, including but not limited to the appearance of the property in general;

And whereas, it is desirable, in the interest of both the Vendor and subsequent lot purchasers, to maintain property values and to minimize the likelihood of any material nuisance, the following restrictions are set forth to apply to the subject lands as hereinafter set out.

1. No building, as such, is defined in the Ontario Building Code Act 1974, as amended, shall be erected or constructed on any lot in this Registered Plan until:
 - (A) the design, external materials, finishes and location thereof and a site plan showing all existing and finished grades, driveways, parking areas and entrance culverts on municipal roads, including construction details of the end protection of such culverts, have been approved by the grantor (upon receipt of an application fee of (\$150) as being compatible with the natural topography, landscape and the preservation of the natural and built amenities of the development and the adjacent lands, and additionally as in compliance with the Zoning By-law applicable to the subject lot)
 - (B) all relevant conditions of the development agreement registered on title of the lot and required to be complied with prior to commencement of erection or construction have been complied with; and
 - (C) a permit has been issued by the Chief Building Official for The Town of The Blue Mountains to allow the erection or construction of the building including all relevant service systems appurtenant thereto.
2. Building and plot plans for the proposed dwelling to be erected or constructed on each lot shall be submitted to PBM for architectural review and written approval of exterior colour, material and design before construction commences and in order to ensure compatible development throughout the community, the proposed building will conform to the following guidelines:
 - (A) The design and size of the building envelope must provide for an appropriate site of the structure within the limitation of the lot and having regard to proximity of neighbours, natural features, appearance, lines of site, setbacks and landscaping.
 - (B) No house will have more than a two car garage facing the road allowance and the garage must be attached to the home unless otherwise approved.
 - (C) Any detached garage, if approved, shall be complementary to the main dwelling in terms of design, quality, materials and colours.
 - (D) The exterior cladding of the structure shall be of natural materials such as, wood siding, stone, logs, specialty brick, or a combination thereof. For example, all brick homes better suited to urban development will not be approved however; specialty brick integrated into a design consistent with the development objectives may be approved.
 - (E) Shingle, colour and style, are to be a design and colour consistent with a "natural" appearance.
 - (F) Architectural design of the home will be consistent with the objective of creating a community of homes compatible with the natural environment setting of the property.

3. Drawings in accordance with all applicable requirements of the subdivision agreement and providing sufficient information for review and approval, drawn to scale appropriate in the circumstances, shall be submitted to each authority from whom an approval is required in clause 1 and in all changes thereto that may be required in order to grant an approval, shall be made and incorporated into the working drawings from which the work shall then be constructed. One copy of the approval drawing shall be provided to each approving authority as a matter of record.
4. The purchaser shall keep the lot in a clean, healthful and safe condition and maintained in accordance with municipal by-laws and in such a state that it will not be a nuisance to other property owners in the development. The purchaser shall not allow front yard or any unsightly storage and will ensure that the grounds do not become overgrown with weeds.
5. The purchaser shall ensure that all construction debris and supplies are maintained in a manner that does not interfere with the quiet enjoyment of the other property owners. Any debris is to be contained so as not to leave the property in an unsightly or dangerous manner and is to be disposed of in a prompt and sanitary fashion.
6. All buildings, driveways, parking areas, lot grading, site development and entrance culverts shall be constructed and maintained exactly in accordance with all approvals required in relation thereto.
7. All electric, telephone and cable television wires on the lot originating from connections to Public property or utility easements shall be underground from such connections to the building or structure they serve.
8. The exterior of each building, including all finishing materials and finishes and site grading, shall be completed as approved within twelve (12) months of the date of the commencement of the construction of the building on the site.
9. No sign shall be displayed to public view except a sign of not more than 1.5 sq. meters identifying the premises or in relation to the construction thereof, or advertising the property for sale or rent or prohibiting trespass or dumping on the lands. This restriction shall not apply to signs erected by the grantor for the purposes of marketing the development.
10. No lot owner shall obstruct, cause, permit or maintain the obstruction of any drainage ditch, swale or culvert, whether on his own lands or on the public lands adjacent to the lot which he owns.
11. Landscaping will be in accordance with the site plan as approved, and shall not negatively impact the drainage plan of the development or the drainage of other lots in the development. It is expected that the landscaping will be of a quality that is in keeping with the high standards of construction within the development. A tree conservation and planting plan must be submitted for N.E.C. and Municipal approval.
12. Tree and grass or appropriate ground cover as required in the approved lot plan will be planted within 3 months of the start of suitable weather following occupancy, or 18 months from the commencement of the excavation, whichever comes first.
13. No fence, structure, outbuilding, satellite receiver, antenna or like obstruction will be permitted between the front building line and the street.

13. No fence, structure, outbuilding, satellite receiver, antenna or like obstruction will be permitted between the front building line and the street.

14. There will be no storage of recreational vehicles, boats, watercraft, snowmobiles, aircraft and trailers of any kind, such that they would be visible from the street.
15. Satellite dishes and equipment are not to be visible from the front yard of the property and should not exceed 36 inches in diameter. All utility meters and boxes shall be discreetly located on walls perpendicular to the street.
16. Air Conditioning condensing units shall not be located in the front yard of any dwelling. If such a unit is to be located on a flanking wall, it is to be screened with landscaping.
17. These restrictions may be enforced by PBM against the lot owner and all costs of such enforcement resulting from any action to enforce compliance shall be borne by the lot owner and in default of payment within 30 days of demand, may be registered as a lien on title against the owner's land and/or collected by legal proceedings against the said lot owner.
18. The authority and powers given to PBM in these restrictions and the right of enforcement thereunder may be assigned by PBM to a bona fide association of property owners representing all of the lot owners in The Residences of Peaks Bay Development and comprised of at least 40% of the subject lot owners. The restrictions herein shall be binding upon and enure to the benefit of said lands for a period of 10 years and shall be binding on the grantees, their heirs, executors, administrators, successors and assigns.
19. Provided always, that notwithstanding anything herein contained, the grantor shall have the right and power by instrument or instruments in writing from time to time, to waive, alter or modify any of the *restrictions in their application to the lot or any particular part of the lot* being burdened by these restrictions. No consent of the owner of the lot shall be required to allow the registration of any such instrument and the local Land Registrar shall be authorized to amend the registered title to the lot in accordance with any such instrument so registered.

6. Email Correspondence from Bryan Pearce of March 31, 2014, with relevant attached provisions of the Subdivision Agreement between the Town and the Developer

From: Bryan Pearce [<mailto:bpearce@thebluemountains.ca>]
Sent: March-31-14 4:44 PM
To: Brad Abbott
Cc: [REDACTED]
Subject: [REDACTED]

Hi Brad,

Yes Landmark's OALA has been in touch with me. Plantings are required within these areas as contemplated under the Subdivision Agreement. Preservation Zones will eventually naturally regenerate and function as intended (natural buffer to escarpment and visual screening from public viewpoints).

NEC suggests that the plantings are to be of native species, bare root or small saplings, hand planted to reduce disturbance and promote natural regeneration. Reference can be made to the list of species on the tree preservation plan when considering replacement plantings.

Outside the preservation zone and viewing windows, consideration of larger trees to buffer the building form should be considered to enhance the objectives noted above.

I hope this information helps... Joél, let me know if you need anything further.

Regards,

Bryan Pearce, HBA, CPT, MCIP, RPP
Planner, Planning & Building Services Department
Town of The Blue Mountains
32 Mill Street, Thornbury, Ontario N0H 2P0
• Telephone: (519)599-3131 x269 • Toll-Free: (888)258-6867 • Facsimile: (519)599-7723 •
• Email: bpearce@thebluemountains.ca • Website: www.thebluemountains.ca •

From: Bryan Pearce [<mailto:bpearce@thebluemountains.ca>]

Sent: March-31-14 4:20 PM

To: [REDACTED]

Cc: Bryan Pearce

Subject: RE: Lot [REDACTED], Plan 16M-23 - Landscaping Discussions

Hi [REDACTED]

Owners are obligated to comply with the subdivision agreement. Here are the provisions (ss. 2.31 of the agreement below) as it relates to tree preservation, as noted in the recitals under the Undertaking I sent you earlier. Preservation Zones will eventually naturally regenerate and function as intended (natural buffer to escarpment and visual screening from public viewpoints).

2.31 Tree Preservation

The Developer shall, until Final Acceptance:

- (a) preserve the existing trees and vegetation shown on the Tree Preservation and Landscape Plan to be preserved;
- (b) install the tree protection fencing shown on the Tree Preservation and Landscape Plan to the satisfaction of the Town prior to the start of any construction activity within a Plan, which fencing shall remain in place until all grading, construction activity of any kind, and Landscape Works within the Plan are completed;
- (c) not remove any trees or vegetation without the prior written approval of the Town except such trees and vegetation that are diseased or dead or such trees and vegetation that are designated for removal on the Tree Preservation and Landscape Plan;
- (d) require the Consultant to supervise and approve the installation of the tree protection fencing and ensure that the tree protection fencing remains in place during the entire period of construction activity of any kind within a Plan and that the Consultant will notify the Town that this fencing has been installed in accordance with the Tree Preservation and Landscape Plan;
- (e) undertake every precaution necessary to prevent damage to existing trees and vegetated areas, include the following:
 - (i) areas within the tree protection fencing shall remain undisturbed and shall not be used for the storage of surplus soil, debris and building materials or equipment;
 - (ii) no contaminants will be dumped or flushed where feeder roots of vegetation exist;
 - (iii) no vegetation or tree limbs shall be removed, pruned or otherwise damaged during the course of construction; and
 - (iv) no rigging cables shall be wrapped around or installed in trees to be preserved.
- (f) replace, to the satisfaction of the Town, any existing trees and vegetation shown on the Tree Preservation and Landscape Plan to be preserved which are removed without prior written approval of the Town except such trees and vegetation that are diseased or dead;
- (g) on the sale of any lot, block or unit, reserve such rights as may be necessary to enable the Developer or the Town or their agents to enter on the lot, block or unit at all times to install and maintain the tree protection fencing and replace any existing trees and vegetation removed in contravention to the provisions of this Agreement.

- (h) shall include in all agreements of purchase and sale for lots, blocks or units within each Plan, the covenant, identified in Schedule "J", in which the purchaser agrees to comply with all of the provisions of this Section 2.31, except Section 2.31(d).
- (i) provide Security in an amount shown in Schedule "E" to the Town to ensure compliance with the tree preservation and replacement requirements of this Agreement, which Security may be drawn upon and used up to its full amount in accordance with the provisions of Section 9.2.

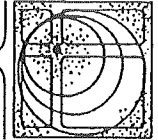
Regards,

Bryan Pearce, HBA, CPT, MCIP, RPP
 Planner, Planning & Building Services Department
 Town of The Blue Mountains
 32 Mill Street, Thornbury, Ontario N0H 2P0
 • Telephone: (519)599-3131 x269 • Toll-Free: (888)258-6867 • Facsimile: (519)599-7723 •
 • Email: bpearce@thebluemountains.ca • Website: www.thebluemountains.ca •

7. John D. Bell Associates Ltd. Letter of August 18, 2016, with attached diagram.

JOHN D. BELL ASSOCIATES LTD.

Landscape Architecture, Urban Design, Site Planning



Marc Anthony Venere

August 18, 2016

Dear Sir,

As per your request we are writing this letter to clarify what the designated Tree Preservation Zones represent. In particular reference to Block 29 in Peaks Bay. As part of the draft plan conditions drafted by the Town of Blue Mountain, our firm was retained to conduct a Tree Inventory and prepare a Tree Preservation Plan. This was done and adopted by the municipality.

The Tree Preservation zones represent areas where no removal of vegetation is permitted and defines the extent of the Limit of Development. The Tree Preservation Plan shows in general the extent of preservation, and at the time of construction, the limit or extent is defined in more detail through an onsite layout. This layout is often associated with the erosion control silt fencing.

For Block 29, the Tree Preservation Zone extended 5 m within the property lines of Lots 1 through to Lot 6, in recognition of the sensitive ecological shoreline environment present. This was established through the development terms set by the Niagara Escarpment Commission and the Grey Suable Conservation Authority. Selective Pruning within this preservation zone is permitted to provide filtered views of the lake as per the site plan guidelines. This process is to be done under the supervision of the Landscape Architect. For Lot 5 the tree preservation plan shows the limit of preservation extending out 1.6m at the north east corner of the property line and 9.75m north from the property line along Block 29. The preservation limit along the east property line indicated that a cedar 6m in ht was identified to be preserved and incorporated into the drainage channel design. That is the reason for the 1.6m offset from the property line. See the attached Diagram of this area in a large scale taken from the original Tree Preservation Plan for reference.

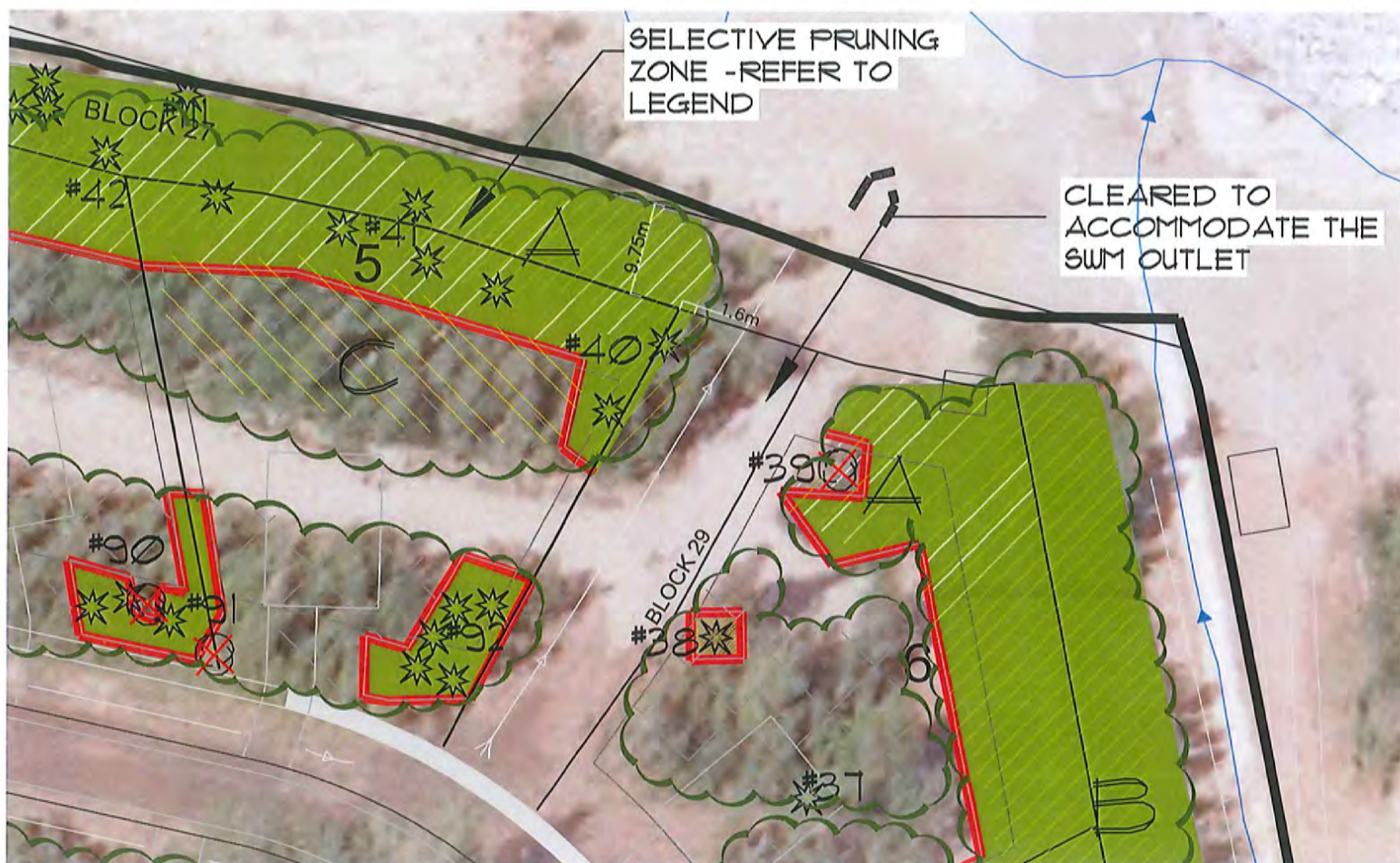
As you are aware, the tornado that occurred on August 20, 2009 destroyed a vast amount of vegetation throughout this particular site. A revised Tree Inventory / Preservation Plan was never commissioned to reflect the new existing conditions.

It has therefore been a priority on our behalf to preserve what has been left and to encourage Vegetative Shoreline Restoration wherever possible.

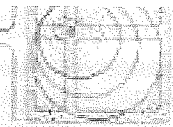
I trust this explanation has helped in clarifying your concerns.

Regards,

John D Bell
BLArch, O.A.L.A C.S.L.A

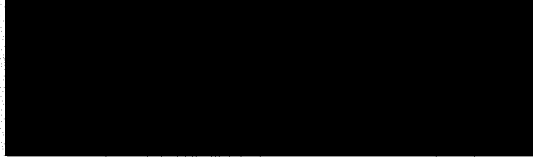


8. John D. Bell Associates Ltd. Letter of
September 27, 2018.



September 27, 2018

To: Marc Anthony Venere



Dear Sir:

Further to my letter dated August 18, 2016. I am again writing this letter to confirm that the tree preservation zone in question includes all of Block 29. Block 29 encompasses the shoreline from lot 1 through to lot 5. This area is designated as open space and is not to be touched and allowed to naturally regenerate itself. Protection and restoration of naturalized plantings within the private lands abutting block 29 is encouraged.

I trust that this clarifies your concerns. If you have any further questions do not hesitate to call to discuss.

Yours truly



John D. Bell
B.L.Arch. O.A.L.A. C.S.L.A.