

<b>To:</b>	Warden Milne and Members of Grey County Council
<b>Committee Date:</b>	April 25, 2024
<b>Subject / Report No:</b>	PDR-CW-19-24
<b>Title:</b>	Ecological Offsetting Policy
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<b>Reviewed by:</b>	Stephanie Lacey-Avon, Liz Buckton, and Scott Taylor
<b>Lower Tier(s) Affected:</b>	All nine member municipalities in Grey County
<b>Status:</b>	

## Recommendation

1. That report PDR-CW-19-24 regarding the development of an ecological offsetting policy be received; and
2. That staff be directed to develop an ecological offsetting policy for County Council's consideration, following consultation with member municipalities, conservation authorities, Indigenous communities, the building and development industry, the Niagara Escarpment Commission, and the public.

## Executive Summary

Public consultations have consistently shown that residents and visitors place a very high value on Grey County's natural areas. As Grey County grows and develops, there can be pressure and negative impacts on natural heritage features. An ecological offsetting policy would allow for environmental impacts incurred in one area, e.g., to a significant woodland to be compensated for in equal or greater ecological value elsewhere, either on the same property, or another site. Ecological offsetting is considered the last step under the mitigation hierarchy of avoid, minimize, mitigate, then offset (i.e., offsetting is only used where it is not feasible or practical to avoid, minimize, or mitigate impacts on natural features). Should Council direct staff to develop this policy for Council's consideration, it would include consultation with member municipalities, conservation authorities, Indigenous communities, the building and development industry, the Niagara Escarpment Commission, and the public. Following initial consultation, staff would bring back a summary of what we heard as part of the consultations and identify a draft policy for Council's consideration.

# Background and Discussion

Grey County and its member municipalities are growing. With this growth, and the local impacts of a changing climate, our natural heritage system and overall ecosystem health is under increasing stress.

Environmental conservation in both urban and rural settings is difficult to achieve when there is high demand for growth, infrastructure, recreational spaces, and resource uses such as agriculture and aggregates. This is further complicated by an increased presence of invasive species, drought-like conditions, more variable weather events, and wildfire threats.

Other recent changes, such as the removal of the natural heritage review function by conservation authorities (CAs) via Bill 23, have impacted the ability to balance the protection of the natural environment with the ability to develop and grow. The province still requires municipalities to protect significant natural heritage features and systems, as per the Provincial Policy Statement (PPS). In response to the Bill 23 changes, the County hired two planning ecologists to provide natural heritage review services for the County and member municipalities. Report PDR-CW-10-23 Natural Heritage Review Options and its Addendum provide details on the importance of protecting the natural environment, and this Bill 23 change. These two reports have been linked to in the Attachments section of this report.

To explore additional options that would help protect and preserve natural heritage systems in Grey, Official Plan Amendment (OPA) 11 added the following ecological offsetting wording to section 7 of Recolour Grey.

*“The County, local municipalities and/or conservation authorities having jurisdiction within Grey, may choose to develop and use ecological/ecosystem offsetting (also called biodiversity offsetting) policies or procedures for private land development proposals and/or public infrastructure undertakings. Consideration for offsetting may only be applicable where it is consistent with the appropriate legislation, regulations and supporting policies and guidelines (Provincial Policy Statement, Provincial Plans, Official Plans, Forest Management Plans, Forest Management By-laws, Tree-Cutting By-laws, etc.).*

*Offsetting must follow the mitigation hierarchy of Avoid, Minimize, Mitigate, then Offset. It should only be applied after a detailed analysis has determined that avoidance, minimization, and mitigation of loss is not possible or feasible. This tool shall not replace or negate the requirements of other legislation applicable to impacts to species or ecosystems at the municipal, regional, provincial, or federal levels. Protection, and ideally restoration and improvements of existing natural systems remains the primary goal of natural heritage systems planning (as per Section 2.1 of the PPS).*

*Offsetting policies or procedures should target an ecological (net) gain. Where determined to not be feasible, they should ensure no-net-loss and fully replace the same level of lost ecosystem structure and function in proximity to where the loss occurs.*

*Where other compensation or offsetting programs exist (i.e., tree cutting by-laws that speak to tree replacement planting or funds), efforts shall be made to coordinate the separate processes to limit duplication. All programs of this nature should offer a comprehensive approach to restoring unavoidable losses.”*

Note this portion of OPA 11 is in force and effect and was not appealed.

This staff report seeks direction from Council to develop an ecological offsetting policy for the County. Should Council direct staff to develop this policy for Council's consideration, it would include consultation with member municipalities, conservation authorities, Indigenous communities, the building and development industry, the Niagara Escarpment Commission, and the public.

## What is Ecological Offsetting?

In practice, ecological offsetting is where environmental impacts are incurred in one area, e.g., to a significant woodland and compensated for in equal or greater ecological value elsewhere, either on the same property, or another site. This concept aims to achieve 'no net loss' and strives to promote overall 'net gains' of natural features within the broader ecosystem. Ecological offsetting is considered the last step under the mitigation hierarchy of avoid, minimize, mitigate, then offset (i.e., offsetting is only used where it is not feasible or practical to avoid, minimize, or mitigate impacts on natural features).

Ideally, protection, restoration and improvements of existing natural systems remains the primary goal of natural heritage systems planning (as per Section 2.1 of the PPS). Offsetting is not to be used by decision-makers to justify the removal of features, especially for those features that are difficult or impossible to replicate due to their complexity, vulnerability, and sensitivity (e.g., bogs and fens). Offsetting for these complex and sensitive features is unlikely to replace the functions lost, nor demonstrate a no net loss. Furthermore, not all environmental features are eligible for offsetting. In some cases, protection is paramount, and offsetting will not be permitted, e.g., some endangered species habitat or provincially significant wetlands. There are however some instances where the province uses an ecological offsetting approach, such as a permitting process to remove a Butternut tree (an endangered species) in exchange for planting Butternut trees elsewhere.

## Purpose of an Offsetting Policy

The intention of formalizing an ecological offsetting policy is to create standardized criteria for offsetting proposals. Establishing a consistent, defensible policy is critical to successful implementation and public support for this work.

To create the policy, natural features must be assigned a standardized value, and natural feature losses must be quantified on a project-specific basis. Natural features are quantified based on their ecological value, where the quantity and quality of features / functions, landscape context of development and offset sites, associated ecosystem services, and social and economic values are considered. For example, a wetland feature may be assigned a high ecological rating, which would have a corresponding monetary value required to establish a similar wetland feature elsewhere (either on the subject lands or on another selected property).

Offsetting may take the form of a cash-in-lieu payment, or having the proponent re-establish or rehabilitate a feature elsewhere. It could involve a public authority managing projects e.g., a municipality or a conservation authority, or it may involve working with existing groups such as Alternative Land Use Services (ALUS), Ducks Unlimited, or other conservation organizations (e.g., a conservation land trust).

Prior to Bill 23, some CAs were early adopters and leaders in ecological offsetting; however, others were more hesitant to pursue this policy framework. Of the four CAs with regulatory areas in Grey County, Nottawasaga Valley Conservation Authority (NVCA) is the only CA that has formalized an approach to ecological offsetting. NVCA developed a guideline that aims to ensure further losses of regulated wetlands within the NVCA watershed are highly limited and, where appropriate, met with equal or greater gains in area, value, and function. Like many other CAs, and some municipalities, NVCA has historically accepted informal offsetting as a mitigation measure for wetland loss on an ad hoc basis. NVCA's offsetting policy formalizes wetland offsetting (and the associated hazard lands/floodplain) and is conducted using standardized criteria and metrics and can be considered by meeting the tests of regulation under the *Conservation Authorities Act*.

The two figures below show examples of wetland creation projects in Canada that establish a corridor between natural heritage features and provide habitat for wildlife. These wetlands continue to function alongside productive agricultural fields and are good examples of projects that demonstrate the ability to create productive wetlands in proximity to different land use types and could qualify as an offsetting project. Other offsetting projects could include planting woodlands, buffering watercourses, or rehabilitation of an existing compromised natural feature.



*Figure 1. Nutrient management pond constructed by Ducks Unlimited Canada on a dairy farm*



*Figure 2. Huronview Wetland Project constructed by Ausable Bayfield Conservation*

It is however important to note that any potential offsetting policy is not meant to take quality productive farmland out of production, in exchange for allowing development in settlement areas. Lands to be used for the restoration or re-establishment of natural features, will need to consider farming and other resource uses, and should prioritize strengthening existing natural features or connections between said features.

### Ecological Offsetting Policy Opportunities

Impacts on natural heritage features are most often inevitable for larger developments (e.g., subdivisions, gravel pits, etc.). Some opportunities expressed in favour of ecological offsetting include the following:

- provides a means to achieve no net loss and strive for net gains of biodiversity in relation to natural cover, species numbers, habitat, and ecosystem function,
- achieves important conservation gains by integrating the true environmental and social costs of biodiversity loss into planning decisions,
- sets clear requirements and restrictions for developers through the planning process including replacement ratios, and features which are not being considered for removal such as provincially significant wetlands, significant valleylands, endangered species habitat, etc.,
- improves application review processes for natural heritage protection considerations,
- provides opportunities within settlement areas for features to be removed and re-established in more appropriate areas for long-term protection and overall enhancement

of local natural heritage systems, providing a justified approach for balancing natural heritage protection and economic growth, and

- supports corporate goals such as climate change action, economic development, tourism and culture, healthy communities, forest management, etc.

## Ecological Offsetting Policy Challenges

Developing and implementing an ecological offsetting policy will not be easy. Challenges typically associated with ecological offsetting include the following:

- limits to what can be offset as there are situations where residual impacts cannot be fully compensated for by ecological offsetting because of the irreplaceability or vulnerability of the biodiversity affected; and there is no guarantee the feature will function as anticipated,
- undermines existing protections in place if offsetting is poorly implemented and enforced, for example applicants may wish to proceed directly to offsetting as their preferred approach, without utilizing the hierarchy of avoid, minimize, and mitigate. This could have the effect of negatively influencing public outlook and opinion of ecological offsetting,
- lacks explicit policy direction and implementation guidance from provincial legislation and policy,
- challenges identifying and incorporating the cultural values and perspectives of indigenous communities,
- imposes difficulties related to finding appropriate sites/properties that could accommodate ecological offsetting e.g., there may be instances where offsetting may not be possible on the proposed development site, and other property(ies) would be required. It can also be difficult to 'tie' one site to another i.e., to approve the alteration of a natural feature on site 'A', in exchange for re-establishing a feature on site 'B',
- enhances administrative requirements by the governing body (for example, ensuring the full cost of the offsetting project is calculated accurately so that sufficient funds can be secured from the proponent when the offsetting project plan is agreed upon), and
- increases monitoring and maintenance responsibility post development for the development community, the County, or others for the features on a designated site that were implemented through an ecological offsetting process.

## Ecological Offsetting and Alignment with County Strategic Goals

Grey County has endorsed a strong commitment to environmental sustainability in several recent strategies and policies, including but not limited to the following:

1. Recolour Grey,
2. Natural Heritage Systems Study,
3. Going Green In Grey, Climate Change Action Plan,
4. Tri-County Green Development Standards (currently under development),
5. Economic Development, Tourism and Culture Master Plan,
6. Recreational Trails Master Plan,
7. Forest Management Plan, and
8. Forest Management By-law (currently under review).

Ecological offsetting would serve as a tool to further support the environmental and stewardship efforts of the County. Principles of ecological offsetting may also be incorporated into existing projects, such as the review of the County's Forest Management By-law (e.g., requiring re-planting plans for some types of tree-clearing requests, as was volunteered through a recent minor exemption application).

## Next Steps

Staff do not yet have all the answers for how an ecological offsetting process will work or be implemented at the County. However, prior to investigating further, or starting to draft a policy, and consulting with relevant parties, staff are seeking direction from Council.

In absence of an offsetting policy and procedure, planning staff are often challenged to uphold requirements of the Provincial Policy Statement, Grey County Official Plan, and local official plans with respect to protection of natural heritage features and systems. Staff wish to find a balance between protecting the natural environment and allowing for growth. The implementation of an ecological offsetting policy could provide a clearer path forward for developers and the planning ecologists, ensuring a way to achieve no negative impacts to heritage features and their ecological functions. As it stands today, the County is seeing natural feature alteration and removal, with little recourse to ask for offsetting.

If the County does pursue an ecological offsetting policy, offsetting would likely only be applicable to certain types of planning applications, such as the following:

- plans of subdivision or condominium,
- official plan amendments, and
- larger zoning by-law amendments, such those associated with a requested approval for a pit or quarry under the *Aggregate Resources Act*.

Offsetting is generally not applicable to the following scenarios:

- those requiring 'minor' *Planning Act* approvals, such as applications for a minor variance or consent,
- scenarios where relevant provincial/federal policy or legislation would prohibit development, e.g., provincially significant wetlands, watercourses with fish habitat, endangered species habitat, and
- as-of-right permissions in a zoning by-law.

Ecological offsetting is an accepted approach, within certain parameters, and is often requested by developers when natural features are proposed for alteration. It aims to ensure the policy test of 'no negative impact' can be met through ensuring 'no net-losses' of a natural feature and ecological functions.

Creating this policy and procedure would entail consultation with member municipalities, conservation authorities, local Indigenous populations, the Niagara Escarpment commission, and the public to develop. Staff want to emphasize that this tool would only be used, following the application of the mitigation hierarchy being: avoid, minimize, mitigate, then offset.

Should this recommendation be supported, County staff will proceed with initial consultations on what an ecological policy and procedure could look like for Grey County. Staff would then then



bring back a report summarizing what we heard as part of the consultations as well as a draft policy and procedure for Council's consideration. Creating an offsetting policy would allow the County to have a roadmap for considering offsetting requests and allow for a formal means of pursuing offsetting where the alteration of natural features with no offsetting has historically occurred.

## Legislated Requirements

Under the *Planning Act*, *Conservation Authorities Act*, *Endangered Species Act*, *Niagara Escarpment Planning and Development Act*, etc. there are requirements that aim to protect and conserve natural heritage features and functions during the planning and development process.

## Financial and Resource Implications

Development of an ecological offsetting policy would be completed by staff, without the need for additional funds beyond what is included in the approved 2024 budget. Once a policy has been drafted, staff will identify any further financial or resource implications associated with the implementation of said policy.

## Relevant Consultation

- ☒ Internal: Planning, Deputy CAO/CAO, Climate Change
  - ☒ Contribution to Climate Change Action Plan Targets (see commentary throughout the report)
- ☒ External: For a future ecological offsetting policy consultation would be recommended with member municipalities, conservation authorities, Indigenous communities, the building and development industry, the Niagara Escarpment Commission, and the public.

## Appendices and Attachments

NVCA Ecological Offsetting Protocol - Achieving Net Gains through Ecological Offsetting

[Natural Heritage Review Options Report PDR-CW-10-23](#)

[Addendum to PDR-CW-10-23 Natural Heritage Review Options Update](#)