

**Niagara Escarpment Hearing Office**  
Bureau des audiences sur  
l'escarpement du Niagara



**ISSUE DATE:** January 08, 2021

**CASE NO.:** 19-071

**PROCEEDING COMMENCED UNDER** section 25(8) of the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, c. N.2

Appellant:	Armand Pede
Respondent:	Niagara Escarpment Commission
Subject of leave to appeal:	Refusal of a Development Permit Application to construct a dwelling, install a private sewage disposal system and install a shared driveway
Reference No.:	G/R/2018-2019/9097
Property Address/Description:	Part Lot 25, Concession A
Municipality:	Grey Highlands
Upper Tier:	County of Grey
NEHO Case No.:	19-071
NEHO Case Name:	Pede v. Ontario (Niagara Escarpment Commission)

**APPEARANCES:**

**Parties**

**Representative**

Armand Pede	Self-represented
Niagara Escarpment Commission	Brandon Henderson

**Participants**

Joseph Pede	Self-represented
Jack Levett-Fuller	Self-represented
Klaus Rodenkirchen	Self-represented
Victoria Selby	Self-represented
Nicholas and Sue-Anne Smart	Self-represented

**HEARD:** June 8 – 9, 2020 by Teleconference Call  
**ADJUDICATOR(S):** Helen Jackson, Hearing Officer

## **REPORT**

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### **BACKGROUND**

[1] On July 9, 2018, Armand Pede (“Appellant”) submitted a development permit application to the Niagara Escarpment Commission (“NEC”) for his property located at Part Lot 25, Concession A in Grey Highlands (“subject property”).

[2] The proposed development is to construct a new dwelling, construct a shared driveway, and install a private sewage disposal system on a 1.0 hectare (“ha”) (2.5 acre (“ac”)) proposed lot, to be severed from a 1.9 ha (4.8 ac) existing lot. The new lot is intended for the Appellant’s father to build a recreational dwelling. The Appellant intends to keep the 0.9 ha (2.3 ac) retained lot, which has an existing dwelling, sewage disposal system, driveway, and detached garage. The Appellant also has an existing permission for an observatory to be located on the retained lot.

[3] On August 23, 2019, the NEC issued a Notice of Decision to Refuse Development Permit Application G/R/2018-2019/9097. The Appellant appealed this decision to the Niagara Escarpment Hearing Office (“NEHO”) on September 6, 2019.

[4] The NEHO held the first Pre-hearing Conference (“PHC”) in this matter on January 23, 2020, which was continued on April 1, 2020. The PHCs were held by teleconference call. A number of neighbours were granted participant status to this matter, as noted in the Appearances section above.

[5] The hearing was scheduled to be held in-person on June 8 and 9, 2020 in Ravenna, Ontario. Due to the COVID-19 pandemic, the NEHO directed that the in-person hearing be converted to a teleconference call format on the June 8 and 9, 2020 dates previously scheduled.

**Issue**

[6] The NEC's decision to refuse the application provided the following reasons:

1. The proposed development does not conform to the lot creation policies within Part 1.4.4 of the Escarpment Protection Area designation.
2. The proposal is contrary to the Objectives of the Escarpment Protection Area designation and the Purpose of the Niagara Escarpment Plan (2017) ("NEP").
3. The proposed development is not consistent with Section 1.1.4.2 of the Provincial Policy Statement.

[7] The issue before the Hearing Officer is whether the NEC decision to refuse the Application should be confirmed.

**DISCUSSION, ANALYSIS AND FINDINGS****Evidence of the NEC**

[8] Brandon Henderson, Senior Planner with the NEC, was qualified to give expert land use planning evidence specifically as it relates to the NEP and its policies. Mr. Henderson described the background to the application, and the planning analysis that was conducted. He outlined the findings of the staff report and provided his planning opinion in relation to the proposed development on the subject property.

[9] Mr. Henderson noted that, as is normally the case in such a situation, the application was circulated to Municipality of Grey Highlands, County of Grey, Nottawasaga Valley Conservation Authority, Metis Nation of Ontario, and Historic Saugeen Metis.

[10] The subject property is designated Escarpment Protection Area in the NEP and as such is subject to the applicable policies of the NEP for lands within that designation, along with the general policies of the NEP. Within this designation, single dwellings are a permitted use under Part 1.4.3 of the NEP. Mr. Henderson explained that any new lot must conform to the lot creation policies for lands within the Escarpment Protection Area. In this case, the lot creation policies of Part 1.4.4 of the NEP in effect, are as follows:

1.4.4.1: A lot may be created by severing one original township lot or original township half lot, from another original township lot or original township half lot, provided there have been no previous lots severed from one of the affected original township lots or original township half lots. Such severances shall only occur along the original township lot line.

[11] Mr. Henderson explained that when looking at the lot fabric surrounding the subject property, the Original Township Lot would have been Lot 25, Concession A. The applicable policy of Part 1.4.4.1 would allow for that entire Original Township Lot to be severed from another Original Township Lot, or Half Township Lot, provided there were no previous severances from one of the previously affected lots.

[12] Mr. Henderson went on to say that Part 1.4.4.1 does not permit severances from the Original Township Lot or Original Township Half Lot, only the separation of two distinct Original Township Lots or Original Township Half Lots from one another along their original surveyed boundaries.

[13] However, as has been described in the evidence, prior to the implementation of the NEP, Lot 25, Concession A had already been divided into 23 lots, well in excess of the lot density provisions of Part 1.4.4.1.

[14] Mr. Henderson stated that Part 1.4.4.1 of the NEP is the only applicable policy that would allow for a new building lot within lands designated Escarpment Protection Area. He testified that in the current situation, the lot creation policies do not permit a new building lot at this location because the lot density provisions have already been exceeded.

[15] In his witness statement, Mr. Henderson stated:

In order for the lot creation policy of Part 1.4.4.1 to be met, the applicant would need to demonstrate that the severance would be occurring along the Original 40 ha Township Lot line so that the proposed severance would result in the re-creation of the Original Township Lot as it was originally surveyed. As indicated, this is not occurring, instead, the applicant is proposing to further sever the Original Township Lot which has already been divided into 23 separate lots. The proposed severance conflicts with the lot creation policies of Part 1.4.4 of the NEP.

[16] Mr. Henderson provided in his evidence that he had contacted the Municipality of Grey Highlands (“Municipality”) planning staff who indicated that if the property was not subject to the policies of the NEP, it would be designated as Rural Area. If this application were to be considered by the Municipality, the proposed severance would exceed the lot density requirements of the Rural Area designation; and on that basis, the Municipality’s planning staff would not support the application.

[17] Mr. Henderson noted that if an application does not meet Part 1 of the NEP, then the planning analysis does not normally consider the Development Criteria of Part 2. However, in preparation for this hearing, Mr. Henderson did review the Development Criteria of Part 2.

[18] Part 2.2 provides the General Development Criteria of the NEP. Part 2.2.1 states:

2.2.1: The Escarpment environment shall be protected, restored and where possible enhanced for the long term having regard to single, multiple or successive development that have occurred or are likely to occur.

[19] Mr. Henderson’s opinion was that the proposal conflicts with the lot creation policies of the Escarpment Protection Area, and therefore if the proposal was approved, this could set a precedent for other land owners seeking severances on lots that do not conform to the policies of the NEP. This results in conflict with Part 2.2.1.

[20] He also noted that Part 2.2.7 states that only one single dwelling may be permitted on each lot of record in the Escarpment Protection Area.

[21] Under Part 2.4 (Lot Creation), Mr. Henderson noted that the following is relevant:

#### **2.4 Lot Creation**

The objective is to direct the formation of new lots to those locations that are the least environmentally sensitive.

....

2. New lots to meet residential needs should be created primarily in designated Urban Areas, Minor Urban Centres and Escarpment Recreation Areas.

[22] Mr. Henderson stated that the proposal conflicts with Part 2.4.2 of the NEP, given that the subject property is not within a rural settlement area, but is on lands designated as Escarpment Protection Area by the NEP.

[23] Mr. Henderson referenced the purpose of the NEP and the objectives of the Escarpment Protection Area designation as laid out below:

#### **Purpose**

The purpose of this Plan is to provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment.

#### **1.4.1 Objectives**

1. To maintain and enhance the scenic resources and open landscape character of the Escarpment.
2. To provide a buffer to prominent Escarpment features.
3. To recognize, protect and where possible enhance the natural heritage system associated with the Niagara Escarpment Plan area and protect natural areas of regional significance.
4. To conserve cultural heritage resources, including features and areas of interest to First Nation and Métis communities.
5. To encourage forest management, compatible recreation, conservation and educational activities.
6. To encourage agriculture, and protect agricultural lands and prime agricultural areas.

[24] In Mr. Henderson's opinion, allowing for additional severances beyond what the lot creation policies of the Escarpment Protection Area would allow results in the lot fabric becoming smaller, and may introduce challenges relating to long-term sustainability. He raised concern that additional severances can result in the continuous natural environment being further fragmented as additional dwellings and structures are built. As well, he stated that severances can result in the loss of natural areas as these lands are built upon to accommodate new development, or key natural heritage features are prevented from expanding due to their proximity to existing structures.

[25] Mr. Henderson stated that he reviewed the application in relation to the 2014 Provincial Policy Statement ("PPS"). Section 1.1.4.2 of the 2014 PPS states: "in rural areas, rural settlement areas shall be the focus of growth and development and their vitality and regeneration should be promoted". Changes to the PPS came into effect on May 1, 2020. In the 2020 PPS, this section is changed to: "in rural areas, rural settlement areas shall be the focus of growth and development and their vitality and regeneration **shall be** promoted" (emphasis added). Mr. Henderson provided his opinion that the change to the 2020 PPS makes this section of the PPS more stringent.

[26] Mr. Henderson noted that the PPS directs growth and new development to rural settlement areas for many reasons, notably because they can appropriately accommodate more servicing requirements of new lots. In his opinion, the proposal does not meet Section 1.1.4.2 of the 2020 PPS since the property is not located within a rural settlement area.

[27] In response to Mr. Pede's concerns regarding the nearby aggregate operations; Mr. Henderson stated that the aggregate operations do not factor into his review of Mr. Pede's proposed development, nor does the existence of the aggregate operation render the policies of the NEP inert.

[28] In summary, Mr. Henderson stated that the proposed severance results in development that is beyond the lot density provisions of the NEP and therefore does not

conform to the lot creation policies of Part 1.4.4 of the Escarpment Protection Area designation. The subject property is not within a rural settlement area, and therefore, the proposed severance is not consistent with Section 1.1.4.2 of the 2020 PPS. Additionally, the proposal conflicts with the purpose of the Niagara Escarpment Plan (2017) and the objectives of the Escarpment Area designation.

### **Evidence of the Appellant**

[29] Armand Pede explained that the objective for this severance is to construct a separate dwelling for his parents and his sister. He stated that his parents visit often, and it would be wonderful to have them nearby. Mr. Pede disputed the contention by some neighbours that the severance is for financial gain; rather, he stated it is to have a separate dwelling for his extended family.

[30] Mr. Pede is of the view that since his lot is one of the largest in the subdivision, a severance would not diminish the subdivision. He noted that the entire lot would be occupied by the same people as it currently is, being Mr. Pede and his extended family. He stated that whether there are one or two dwellings on the land, the population density would remain the same.

[31] Mr. Pede contends that concerns related to an increase in traffic, pollution, bus trips, dust, and noise are not valid, as there would be no change to the use of the property. The same people who currently use the property now, being himself and his extended family, would be the same people using it post-severance.

[32] Mr. Pede noted that over the past seven years, he has significantly improved the overall condition of both the house and property, and there have been no complaints from any neighbours.

[33] Mr. Pede described his requested severance as merely an imaginary line that would divide the land. He contends that there would be no impact to the escarpment, scenic resources, or open landscape character in any manner whatsoever. Because



his lot is bordered by large trees, he stated that the proposed construction would be hidden.

[34] Mr. Pede noted that the western and southern portions of the lot are woodland and wetland areas, and these would not be affected since the proposed dwelling is to be located on a clear section of land on the eastern portion of the lot.

[35] He stated that agricultural land will not be affected, or damaged, and cultural heritage resources are not infringed upon whatsoever.

[36] Mr. Pede is of the view that because of the open space on his lot where the proposed new house can be built, his lot is particularly well suited for a severance. He compared his lot to other surrounding properties, and stated that most of those are approximately three acres in size and are heavily wooded; whereas, his lot is about five acres and has open space for an additional dwelling. In his view, the conditions of the other properties make it impossible for future severances to occur since there is no option to do anything with the land. He stated: "vast amounts of trees cannot be cut down and no other structures could be built since many of the current homes are situated centrally on their lots".

[37] To support this position, Mr. Pede noted that his dwelling is dwarfed by much larger homes nearby, which are built on lots much smaller than his. Mr. Pede noted that the proposed new home is to have a modest footprint of 110 square metres ("sq m"), which he stated would have little impact to the environment, in comparison to the many very large houses in the vicinity. For mitigation to view, Mr. Pede proposed that a bungalow form of dwelling could be built.

[38] Mr. Pede noted that the area contains 44 lots, and there is opposition to his proposal by only owners of four of those lots, which he takes as minimal opposition. He supposed that if any other owners would want to sever their lots, they would have

voiced support to his plan. Since they have not, he posits that there are no other desires for severance.

[39] Mr. Pede's view is that the proposed dwelling will not impact the local water supply. He noted the nearby quarries and bottling plant "consume infinitely more water than a meagre two-person dwelling ever can".

[40] Furthermore, he states that since the same occupants that use his existing home would be the same ones using the new proposed dwelling, the net increase in water or septic usage would be zero.

[41] Mr. Pede alleges that his proposal would bolster the economy, providing the municipality with more taxes and available funds to carry out its services, which is in line with s. 1.7.1 of the PPS, as provided below:

- s. 1.7.1 Long-term economic prosperity should be supported by:
  - a) promoting opportunities for economic development and community investment-readiness;
  - b) encouraging residential uses ...

[42] Mr. Pede looks to s. 2.2 Secondary Dwelling Units section of the NEP under Part 2. In his view, these policies support the proposal, as follows:

2.2.11.: The following provisions apply to secondary dwelling units:

- a) a single secondary dwelling unit may be permitted on an existing lot of record;
- b) notwithstanding the above, a secondary dwelling unit shall not be permitted on an existing lot of record where there is more than one single dwelling, including any dwelling approved under Part 2.2.7 of this Plan;
- c) the secondary dwelling unit shall be contained entirely within a single dwelling or in an addition to a single dwelling and shall not be permitted in a detached accessory facility;
- d) the floor area of a secondary dwelling unit shall be subordinate in size to the single dwelling;

[43] Further, Mr. Pede looks to the Lot Creation policies of Part 2.4 of the NEP, in support of the proposal, as follows:

2.4.5.: New lots must:

- a) maintain and enhance the existing community character and/or open landscape character of the Escarpment; and
- b) protect and enhance existing natural heritage and hydrologic features and functions.

.....

2.4.15: Where more than one single dwelling exists on the same lot, a new lot may be created for the additional dwelling(s) provided that:

- a) neither the dwelling on the new lot nor the dwelling(s) to be retained were approved on the basis that they would be for temporary use or as a dwelling unit accessory to agriculture;
- b) all the dwellings on the property are existing uses as defined in this plan and have received approval from the municipality;
- c) both the dwelling on the new lot and the dwelling retained are of a reasonable standard for habitation and have been used as a dwelling unit within the year before making application to sever;
- d) severance of the existing dwelling does not conflict with Part 2.4.18 below; and
- e) a new lot is not to be created for a mobile or portable dwelling unit.

2.4.16.: Where more than one single dwelling exists on a lot and where an additional lot could be severed from the existing lot in accordance with the Lot Creation policies of the applicable designation, any severance permitted must contain one of the two single dwellings and the two single dwellings will be treated as two lots for the purposes of determining entitlement for future severances from the existing lot.

[44] Mr. Pede stated that by his interpretation, sections 2.4.15 and 2.4.16 of the NEP permit the proposed construction and future severance.

[45] Mr. Pede noted that the impacts of his proposed severance are inconsequential in comparison to the immense impacts of the nearby quarries, as these quarries “run contrary to the fundamental principles concerning preserving the Niagara Escarpment, which my proposal does not do. To assert that the preservation of geographical and

geological features must stand above all else, yet allow the complete opposite to occur on a colossal scale, shows utter disregard to such an ideal, one which my proposal respects in every way.”

### **Evidence of the Participants**

[46] The participants provided written statements and elaborated upon their respective positions during the hearing. The following summarizes each participant’s position in this matter.

#### **Joseph Pede**

[47] Joseph Pede is the father of Armand Pede, the Appellant and owner of the subject property. The severed lot is intended for Mr. Joseph Pede to acquire in order to build a recreational dwelling for his wife and extended family. Mr. Joseph Pede supports the application, and noted that his son’s existing dwelling is modest in comparison to others, and the property is large and can accommodate a severance.

#### **Jack Levett-Fuller**

[48] Mr. Levett-Fuller is opposed to the requested severance. He noted that he purchased his property with the understanding that there would be no severances in the area. He is concerned that granting this application would result in an undesirable precedent.

#### **Klaus Rodenkirchen**

[49] Mr. Rodenkirchen testified on behalf of himself and his wife, Gina. He agreed with the concern that granting a severance in this case would set an unwanted precedent. He also stated that financial gain would accrue to Mr. Armand Pede by virtue of permission for a second lot; whether or not that is the intent.

**Victoria Selby**

[50] Ms. Selby stated that she bought her lot in 1989. She indicated that she bought her lot for the tranquility offered by the large lots and noted that when she first moved to the area, there was very little traffic and abundant wildlife. She opposes the increase in density that would occur with a severance. She is also concerned that if this severance is permitted, there could be requests for many others, given the large number of lots in the immediate vicinity. She noted that the proposed new home will be directly opposite her home.

**Nicholas and Sue Ann Smart**

[51] Mr. Smart spoke on behalf of himself and his wife in opposition to the request. He bought his lot in 2015 and built in 2019, after having conducted the necessary environmental studies. He has a young family. He reiterated the comments of other participants that the policies of the NEP should be adhered to, in order to limit impacts to the environment. He noted that the severance requested by Mr. Pede would have consequences in perpetuity.

**Analysis and Findings**

[52] The Hearing Officer understands the Appellant's desire to provide for an additional dwelling on his large lot to accommodate his extended family. In order to accomplish this, the Appellant wishes to sever his lot to allow for a second dwelling to be built. Nonetheless, for development to be permitted on the subject property, which is on lands designated as Escarpment Protection Area, the proposed development must meet the applicable provisions of the NEP. As is described in the evidence, if a proposed new lot cannot meet any of the applicable sections of Part 1.4.4 of the NEP, then the proposed lot is not permitted by the 2017 NEP.

[53] The following excerpt from the Introduction to the NEP puts into perspective the importance of the Niagara Escarpment within the landscape of Ontario:

The particular combination of geological and ecological features along the Niagara Escarpment results in a landscape unequalled in Canada. The natural areas found across the Niagara Escarpment act to clean the air, provide drinking water and support recreational activities that benefit public health and overall quality of life, as well as helping to address and mitigate the effects of climate change. In addition, the region's cultural heritage, including First Nations and Métis and European presence, is visible on the Escarpment landscape. These resources need to be protected over the long term to ensure that the connection to our shared past is maintained and that quality of life is not diminished as growth takes place.

.....

The Niagara Escarpment Planning and Development Act established a planning process to ensure that the area would be protected. From this emerged the Niagara Escarpment Plan (this Plan), which serves as a framework of objectives and policies to strike a balance between development, protection and the enjoyment of this important landform feature and the resources it supports.

[54] The Hearing Officer looks to the following excerpt of the NEP for guidance in interpreting the Plan:

The Provincial Policy Statement provides overall policy directions on matters of provincial interest related to land use and development in Ontario and applies throughout the Niagara Escarpment Plan Area. Decisions made by municipalities, planning boards, the Province, or a commission or agency of the government (including the Niagara Escarpment Commission) must be consistent with the Provincial Policy Statement.

The Niagara Escarpment Plan builds upon the policy foundation provided by the Provincial Policy Statement and provides additional land use planning policies for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment and to ensure that only such development occurs as is compatible with that natural environment. The Niagara Escarpment Plan is to be read in conjunction with the Provincial Policy Statement but shall take precedence over the policies of the Provincial Policy Statement to the extent of any conflict. Where the Niagara Escarpment Plan is silent on policies contained within the Provincial Policy Statement, the policies of the Provincial Policy Statement continue to apply, where relevant.

.....

#### **How to Read This Plan**

The Niagara Escarpment Plan is composed of a purpose statement and objectives, three parts, five appendices and Maps 1-10, all of which constitute

policies of this Plan. The Niagara Escarpment Plan was originally approved on June 12, 1985 and was revised as a result of reviews that were initiated in 1990, 1999, and 2015.

**Part 1:** This section contains land use policies that include the interpretation of Plan boundaries, the land use designations and the policies governing Plan amendments.

Seven land use designations explain how land shall be used throughout the area of the Niagara Escarpment Plan. Objectives are outlined, followed by the criteria applied in land use mapping and permitted uses and lot creation policies are stated.

**Part 2:** This section contains Development Criteria that determine how a proposed development (i.e., a permitted use) should be carried out.

Parts 1 and 2 should be read in conjunction with each other.

If you are proposing a development in the area of the Niagara Escarpment Plan, you should:

- Determine which land use designation applies to your land by referring to the appropriate map in the Maps 1 to 9 of this Plan;
- Determine whether your proposed development is a permitted use in that designation, by referring to Part 1 of this Plan; and
- Consult the Development Criteria in Part 2 prior to applying for planning permission to proceed with your development.

[55] The Hearing Officer notes that as is described above, Part 1 sets out the land use designations and how land within each designation is to be used.

[56] Mr. Pede has provided his understanding of how the NEP should be interpreted so that his application can be approved, however, his interpretation of the application of the NEP to his proposed development is flawed. Mr. Pede has selected policies that, in his view, support his proposal but has not considered the application of the NEP as a whole. Specifically, Mr. Pede's interpretation of the NEP does not take into account the lot creation criteria applicable to Escarpment Protection Area designation under 1.4.4 of the NEP, which govern the subject lands. Consequently, he has relied on Part 2 policies which, as submitted by Mr. Henderson, would only be relevant to the application if the proposed severance was permitted by Part 1. Since, as explained below, the proposed severance is not permitted by Part 1, the sections he selected do not apply to his

application. He has provided no substantive or expert planning evidence to support his contention that the development meets the provisions of the NEP.

[57] The uncontroverted expert planning evidence provided by Mr. Henderson is that the proposed severance does not conform with the policies provided in Part 1 of the NEP for the subject property. As described in the evidence, the Original Township Lot has already been severed into 23 checkerboard lots, which is well beyond the density permitted for lands in this designation.

[58] The Hearing Officer accepts and agrees with the evidence provided by Mr. Henderson and finds that the proposed development does not conform to the lot creation policies of Part 1.4.4 of the Escarpment Protection Area designation. The Hearing Officer finds that no further severance can be permitted according to the evidence provided in this hearing.

[59] The Hearing Officer accepts Mr. Henderson's opinion that new lots within the Escarpment can have significant impacts on the natural environment. These may be due to additional impacts in terms of water servicing and septic treatment as well as site alteration and accessory uses, which can impact the character of the area. On the basis of this evidence, the Hearing Officer finds that to permit the requested development does not accord with the purpose of the NEP, which is to maintain the Escarpment and land in its vicinity substantially as a continuous natural environment and to ensure only such development occurs as is compatible with that natural environment. The Hearing Officer finds that the proposed development is contrary to the objectives of the Escarpment Protection Area, particularly the maintenance and enhancement of the scenic resources and open landscape character of the Escarpment.



[60] The Hearing Officer accepts Mr. Henderson's opinion that the proposed severance is not consistent with section 1.1.4.2 of the 2020 PPS.

[61] The Hearing Officer also agrees with the concern raised by the NEC and the neighbours that granting a severance that does not meet the lot creation policies of the NEP could set a precedent for neighbouring property owners and could have substantial negative impacts on the Niagara Escarpment. Notwithstanding Mr. Pede's assurances that the severance is solely for the use of his extended family, either of the severed or retained lot may be sold in the future.

### **Conclusion**

[62] The Hearing Officer agrees with the NEC's decision to refuse the application and finds that:

1. The proposed development does not conform to the lot creation policies within Part 1.4.4 of the Escarpment Protection Area designation.
2. The proposal is contrary to the Objectives of the Escarpment Protection Area designation and the Purpose of the Niagara Escarpment Plan (2017) ("NEP").
3. The proposed development is not consistent with Section 1.1.4.2 of the Provincial Policy Statement.

[63] The Hearing Officer finds that the NEC decision to refuse the Application should be confirmed.

**DECISION**

[64] The NEC's decision of August 23, 2019 to refuse the application is confirmed pursuant to s. 25(12) of the *Niagara Escarpment Planning and Development Act*. The appeal is dismissed.

*NEC Decision Confirmed  
Appeal Dismissed*

*"Helen Jackson"*

HELEN JACKSON  
HEARING OFFICER

If there is an attachment referred to in this document,  
please visit [www.olt.gov.on.ca](http://www.olt.gov.on.ca) to view the attachment in PDF format.

**Niagara Escarpment Hearing Office  
Environmental Review Tribunal**

A constituent tribunal of Ontario Land Tribunals

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248