

Municipality Of Chatham-Kent

Community Development

Planning Services

To: Chair and Members of the Natural Heritage Committee of the Whole

From: Gabriel Clarke, MES, BA
Manager, Growth & Sustainability

Date: March 14, 2022

Subject: Public Consultation for Woodlot Preservation Options

Recommendation

It is recommended that:

1. Public consultation on woodlot preservation options outlined in this Report be undertaken to support the Natural Heritage Committee of the Whole in its deliberations, including that:
 - a) The woodlot preservation options be posted for public comment period of 30 days at www.letstalkchatham-kent.ca.
 - b) The April 11, 2022 Natural Heritage Committee of the Whole meeting be a public meeting for the purpose of receiving deputations from the public on the woodlot preservation options.
 - c) Section 3.10 (g) – Electronic Meetings – of By-law 113-2020, A By-law to amend Procedure By-law 109-2018 to Extend Electronic Participation in Council Meetings, be suspended for the April 11, 2022 Natural Heritage Committee of the Whole meeting, and that:
 - i. The meeting shall permit public deputations by way of electronic submission received in advance of the meeting; and include direct public participation; meaning the Clerk shall verbally read out the written deputation at the beginning of the meeting; or, members of the public shall present their deputation at the meeting, if present.
 - d) All other deputations rules are in effect, such as:
 - i. All public deputations must be submitted to the Municipal Clerk's office at ckclerk@chatham-kent.ca prior to 3:00 p.m. on April 11, 2022, and shall be provided to members of the Committee in

advance of the meeting if possible; and,

- ii. Deputations will be limited to five minutes maximum (this will be enforce with a time clock on the screen).
- e) The public submissions received through the 30-day public comment period and deputations received at the April 11, 2022 Natural Heritage Committee of the Whole meeting be compiled in a report for the Natural Heritage Committee of the Whole meeting of May 16, 2022, with recommendations for a new draft woodlot preservation framework.

be approved.

Background

At its meeting on February 14, 2022, the Natural Heritage Committee of the Whole (the Committee) received a presentation from Administration that outlined a 4-step sequence of decisions for structuring deliberations on the matter of woodlots located on private properties. Figure 1 provides a simplified representation of the sequence of decisions.

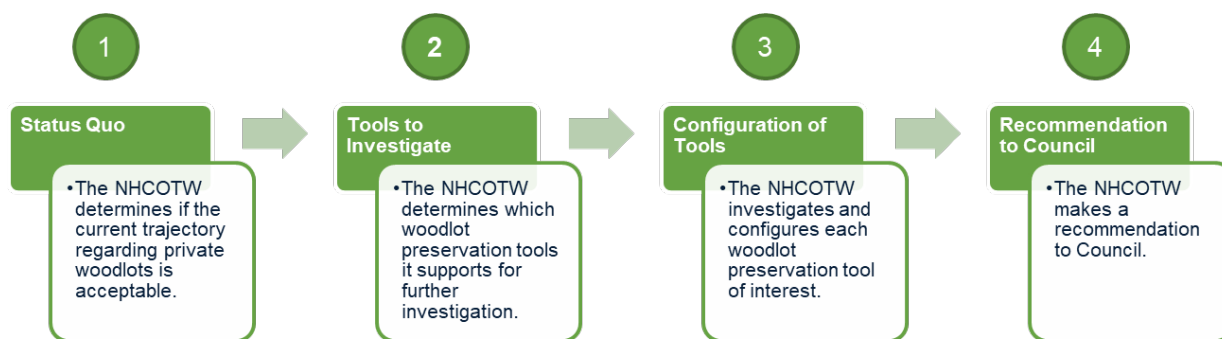


Figure 1: Sequence of Decisions

On February 14, 2022, the Committee made two decisions as it proceeded through the sequence of decisions.

Through the first decision, the Committee supported a departure from the status quo approach concerning privately-owned woodlots in Chatham-Kent and directed that additional community consultations be undertaken.

In the second decision, the Committee supported for the inclusion of the ‘Education, Incentive and Regulation’ tools for further investigation and directed staff to provide details, options and recommendations to the Natural Heritage Committee of the Whole for the Committee’s consideration.

This Report was prepared to fulfill the directions contained in these motions and contains:

1. A process for including additional public consultation to support the remainder of the NHCOTW's deliberations on the matter of privately-owned woodlots.
2. Proposed woodlot preservation options to serve as the basis for the additional public consultations. The options include various configurations for each of the woodlot preservation tools of interest to the Committee along with a suggested configuration that is informed by existing Municipal and Provincial policy, public input, and best management practices.

Comments

Integrating Additional Public Consultation

Throughout the course of its discussions on the matter of privately-owned woodlots, the Committee has underscored the importance of informing the decision making process through public consultation. Since the issue of privately-owned woodlots was taken up by Council in April 2021, input from the public has been received by various means, including through a survey which collected over 1500 responses from the community – of which over 560 responses were received from woodlot owners – along with numerous letters and deputations to Council and the Committee.

On February 14, 2022, the Committee once again reaffirmed its commitment to public consultation by calling for additional public consultation to take place as it proceeds through the remaining steps of the sequence of decisions. Members of the Committee have also expressed a desire to hear directly from members of the public.

In response, Administration have developed a proposed process for integrating additional public consultation into Step 3 of the above-described sequence of decisions that includes:

1. Woodlot preservation options to serve as the basis for additional consultations.
2. A 30 day public commenting period using the www.letstalkchatham-kent.ca platform.
3. A dedicated public meeting at the April 11, 2022 Committee meeting, dedicated to receiving deputations from the public, directly and in writing.

The woodlot preservation options lay out the various ways each woodlot preservation tool might be configured, and also provides a suggested configuration.

Once the Committee has considered the approach to public consultation, the woodlot preservation options will be posted on the www.letstalkchatham-kent.ca platform starting on March 25, 2022 for a period of 30 days to provide the public with an opportunity to provide their views on the material. The April 11, 2022 Committee meeting will be dedicated for receiving deputations from members of the public to share their views on the material as well.

In both cases, people will be generally asked to provide input on:

- Which of the three woodlot preservation tools they support and why.
- How they believe each tool should be configured, and why.

Anyone interested in making a deputation at the April 11, 2022 Committee meeting are invited to provide a written copy of their presentation to the Municipal Clerk's Office prior to 3:00 p.m. on April 11, 2022. Deputations are limited to a maximum of five (5) minutes.

The public input received through these means will be compiled and provided to the Committee at its May 16, 2022 meeting for further deliberation on Step 3 of the sequence of decisions with the benefit of having received additional input from the public on the matter.

Woodlot Preservation Options

As shown in Figure 1 above, the purpose of the third step in the sequence of decisions on privately-owned woodlots is for the Committee to investigate the potential configuration for each of the woodlot preservation tools of interest to the Committee, which at this time includes the Education, Incentive, and Regulation tools. As was discussed on February 14, 2022, the education, incentive and regulatory tools might be structured in a variety of ways, and it is important that these possible configurations be explored and deliberated by the Committee so that each tool is designed in reflection of the Committee's intent. Figure 2 below, shows the parameters that warrant investigation during the woodlot preservation tool configuration stage of the Committee's deliberations.

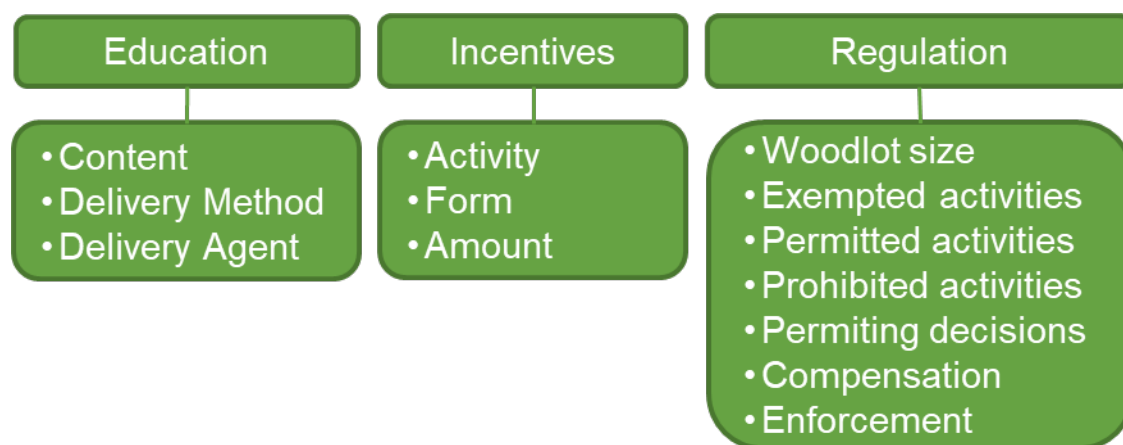


Figure 2: General Parameters for the Woodlot Preservation Tools of interest to the NHCOTW

The contents of Figure 2 form the basis of the Woodlot Preservation Options that has been prepared to support additional public engagement. For each of the three tools of interest to the Committee, the Report lays out the various ways each woodlot

preservation tool might be configured along with a suggested configuration that is based on an analysis of existing Municipal policy, Provincial policy, a review of best management practices and the results previously conducted public engagement.

Contents of Woodlot Preservation Options

- **Education Tool**
 - **Education Parameter 1: Delivery Agent**
 - **Education Parameter 2: Educational Content**
 - **Education Parameter 3: Delivery Method**
- **Incentive Tool**
 - **Incentive Parameter 1: Which Activities should be incentivized?**
 - **Incentive Parameter 2: Form of the Incentive**
 - **Incentive Parameter 3: Amount of the Incentive**
- **Regulation Tool**
 - **Regulation Parameter 1: Woodlot Size**
 - **Regulation Parameter 2: Exempted Activities**
 - **Regulation Parameter 3: Permitted Activities**
 - **Regulation Parameter 4: Restricted or Prohibited Activities**
 - **Regulation Parameter 5: Permit Decisions**
 - **Regulation Parameter 6: Compensation**
 - **Regulation Parameter 7: Enforcement**

A Model for the Education Tool

The education tool involves providing information to the public in support of forest preservation. As the NHCOTW considers the use of educational programming to support of woodlot preservation, the following three parameters require investigation: delivery agent, content, and delivery methods.

Education Parameter 1 – Delivery Agent:

Description:

This parameter identifies the organization that is assigned primary responsibility by the Municipality for delivering forest preservation education programming to the community.

Options:

The delivery of forest preservation educational programming might be assigned to the following organizations:

- The Municipality of Chatham-Kent
- The local Conservation Authorities
- Community groups, community-based associations, and not-for-profit organizations

Best Management Practices:

A review of best management practices revealed that Municipalities, Conservation Authorities and/or community based organizations are variously involved in delivering forest-related education, with varying degrees of involvement and effectiveness. Conservation Authorities were generally found to have the most comprehensive programs, staff and resources dedicated to forest education. Municipal efforts in this area are generally more limited in scope and resources. A wide range of community groups, association and not-for-profit organizations were found to be variously involved in delivering tree and forest-related education in several communities. These tend to operate independently or at arms-length from Municipal or Conservation Authority led efforts.

2021 Survey:

This question was not included in the woodlot survey.

Municipal Policy (Official Plan):

The Chatham-Kent Official Plan is broadly supportive of educational efforts to improve the natural environment. Section 4.2.1 of the plan states that:

“It shall be the objective of Chatham-Kent to: Increase and improve the health of the natural heritage system of Chatham-Kent through protection and enhancement of natural heritage features, ecological functions and natural resources, including air and water, education, conservation and environmental stewardship.”

The Official Plan does not, however contain specific direction on which organization should be assigned primary responsibility for delivering forest preservation educational programming.

Provincial Policy:

The Provincial Policy Statement (PPS) makes a broad commitment to a healthy environment. Part IV of the PPS outlines the Province’s Vision for Ontario’s Land Use Planning System. It states that:

“The long-term prosperity and social well-being of Ontario depends upon planning for strong, sustainable and resilient communities for people of all ages, a clean and healthy environment, and a strong and competitive economy.”

The Conservation Authorities Act supports the delivery of environmentally-focused educational programming by Conservation Authorities.

Suggested Configuration:

It is suggested that the Conservation Authorities be identified as the primary agency for delivering education on forest conservation and enhancement throughout Chatham-Kent.

In Chatham-Kent, the Conservation Authorities are known to be widely respected by the community and currently deliver a variety of environmentally-focused education including education focused on the preservation, enhancement and restoration of woodlots. While the Municipality could take on the role of delivery agent for education on woodlot preservation, specific resources would have to be dedicated to introducing this as a municipal service. Doing so would duplicate the existing efforts of the Conservation Authorities in this area and would be less efficient than if the existing efforts of the Conservation Authorities were bolstered appropriately.

Additional Resource Requirements:

Given their existing efforts and dedicated resources in this area, the suggestion that the local Conservation Authorities deliver forest-related education carries no additional resource requirements.

Education Parameter 2 - Educational Content:

Description:

This parameter identifies the topics or themes that might be included in a forest preservation education program.

Options:

Broadly speaking, topics that support forest and woodlot preservation generally fall under one of the following categories:

- How to maintain healthy woodlots.
- How to enhance woodlots (including tree planting).
- Information on existing local, provincial and federal programs.
- How to manage woodlots for profit.
- Pest management.
- The various benefits of woodlots.
- Information on voluntary mechanisms to preserve woodlots (i.e. conservation easements).
- Carbon credit programs.

Best Management Practices:

A review of best management practices revealed that a wide variety of topics are included in existing forest-related educational programming available in other communities and that these topics fall into the categories listed above. These topics

also form the basis of the educational programming currently delivered in Chatham-Kent by the local Conservation Authorities. A literature review confirmed that the availability of a wide range of information that touch on the entire lifecycle of trees and forests, the various benefits, and potential economic opportunities of forests has the greatest chance of resonating with the diverse needs and interests of the woodlot owner community.

2021 Survey:

The topics listed above were included in the 2021 survey. The table below shows the level of support each topic received.

Table 1: Topics for Forest Education

Topic	Woodlot Survey
How to maintain healthy woodlots	73% Support
How to enhance woodlots	67% Support
Information on existing local, provincial & federal programs	71% Support
How to manage woodlots for profit	47% Support
Pest Management	47% Support
Benefits of woodlots	61% Support
Voluntary mechanisms to preserve woodlots (i.e. conservation easements)	Not included (topic added based on community input)
Carbon Credits	58% Support

Municipal Policy (Official Plan):

The Official Plan does not contain specific direction on the topics to be included as part of a woodlot preservation educational program.

Provincial Policy:

Provincial policy does not contain specific direction on the topics to be included as part of a woodlot preservation educational program.

Suggested Configuration:

It is suggested that the content parameter be configured to include all topics listed above. The inclusion of all options listed above is supported by the review of best management practices, and the survey results. Existing Municipal and Provincial policy are silent in this area. Furthermore, the topics are all included in the existing forestry education program currently delivered by the local Conservation Authorities.

Additional Resource Requirements:

Since the topics listed above are currently included in the existing educational programming of the local Conservation Authorities, the suggestion carries no additional resource requirements.

Education Parameter 3 – Delivery Method:**Description:**

This parameter identifies the methods used to deliver education on forest preservation.

Options:

Education on forests and woodlot preservation can be delivered in one or more of the following ways:

- Paper-based information (i.e. pamphlets, letters, booklets etc.).
- Social-media.
- Website based information.
- Online workshops (i.e. webinars).
- In-person workshops.
- On-site at the woodlot with an expert (i.e. professional forester/arborist).

Best Management Practices:

A review of best management practices revealed that all options listed above are variously employed in other communities to deliver education on forests and woodlot preservation. The use of paper-based means has declined with the advent of digital methods, but remains useful. Social media is somewhat limited by the small amount of information that can be shared, but provides a useful means for promoting other educational efforts (i.e. workshops and webinars) and is particularly effective with younger demographics. Both in-person and online workshops are widely employed to share technical knowledge and skills. Finally, the option of delivering education on-site at the woodlot with an expert in forestry is noted as generally the most effective means to transfer knowledge between a forestry expert and a landowner since it occurs within the specific context of the landowner's woodlot. It is also the most resource intensive option.

2021 Survey: The delivery methods listed above were included in the 2021 survey. The table below shows the level of support each method received.

Table 2: Survey Responses to the Question: "What format(s) should the Municipality use to effectively deliver woodlot preservation education?"

Delivery Method	Woodlot Survey
On-site at the woodlot with an Arborist	64% Support
Website-based	62% Support

In-Person Workshops	48% Support
Webinars	45% Support
Paper-Based	43% Support
Social Media	10% Support

Municipal Policy (Official Plan):

Existing Municipal Policy does not contain specific direction on the methods that should be used to deliver education on forests and woodlot preservation.

Provincial Policy (2020 Provincial Policy Statement):

Existing Provincial policy does not contain specific direction on the methods that should be used to deliver education on forests and woodlot preservation.

Suggested Configuration:

It is suggested that the delivery method parameter be configured to include all methods listed above. The inclusion of all methods listed above in the model is supported by the review of best management practices and the survey results. Existing Municipal and Provincial policy are silent in this area.

Additional Resource Requirements:

The option of delivering education on-site at the woodlot with an arborist requires dedicated staffing resources. The remaining delivery methods are currently employed by the local Conservation Authorities in their education programs and their suggested inclusion should not entail additional resource requirements.

A Model for the Incentive Tool

The Incentive tool involves providing a form of encouragement or reward in support of forests and woodlot preservation. As the Committee considers the use of incentives to support of forests and woodlot preservation, the following three parameters require investigation: the activities to be incentivized, the form of the incentive, and the size of the incentive.

Incentive Parameter 1: Which Activities should be incentivized?

Description:

This Parameter identifies the kinds of activities that might be encouraged with an incentive.

Options:

When it comes to forests and woodlots, incentives might be applied to one or both of the following areas:

- a. The preservation of existing forests and woodlots
- b. The expansion of tree cover

Best Management Practices:

A review of best management practices revealed that existing incentive programs focused on both forest preservation and the expansion of tree cover are available in other communities and in Chatham-Kent as well.

The existing incentive programs focused on forest preservation are available across the province and include the FFE¹, MFTIP² and CLTIP³ programs. No municipality was found to be implementing a separate forest preservation incentive program. Instead, Municipalities with an interest in preserving existing forests employ various forms of forest conservation by-laws to achieve this objective.

The FFE Program applies a 100% property tax exemption for every one acre of forest for every ten acres of farmland to a maximum of 30 acres. Participation data in the FFE program is not shared by MPAC. However, automatic enrollment in the FFE program means that all qualifying forested areas throughout Chatham-Kent are currently enrolled in the program.

The MFTIP program applies 25% of the tax rate set for residential properties on forested lands of 9.88 acres or more when the forest has been voluntarily classified by the landowner as “Managed Forest”. In Chatham-Kent, 36 properties representing 1093 acres of forest are currently enrolled in MFTIP. However, with the regular agricultural tax rate set at 22% of residential, Chatham-Kent forests on farms enrolled in MFTIP incur higher property taxes than forests that are not enrolled in MFTIP.

The CLTIP program applies a 100% property tax exemption for portions of a property that feature one or more provincially significant natural features. Eligible lands for CLTIP include those owned by individuals, Conservation Authorities and not-for-profit organizations. In Chatham-Kent 8 properties representing 860 acres of various natural areas including wetlands, tall grass prairies and forests are enrolled in the CLTIP. A scan of participants reveal that current participation in CLTIP is limited to the local

¹ FFE Refers to the Farm Forestry Exemption Program currently delivered by the Municipal Property Assessment Corporation which is automatically applied to all qualifying properties

² MFTIP refers to the Managed Forestry Tax Incentive Program currently delivered by the Government of Ontario on a voluntary basis.

³ CLTIP refers to the Conservation Lands Tax Incentive Program currently delivered by the Government of Ontario on a voluntary basis.

Conservation Authorities and environmental not-for-profit organizations and that no private landowner is currently enrolled in CLTIP.

The best management practices review revealed that existing incentive programs focused on the expansion of tree cover available in other communities include the Alternative Land Use Services (ALUS⁴) program and subsidized tree planting programs. The ALUS program is delivered across Chatham-Kent by the LTVCA and subsidized tree planting programs are offered by both local Conservation Authorities in Chatham-Kent.

ALUS is a voluntary stewardship program that applies to marginally productive areas of the agricultural landscape. The ALUS program focuses on stewardship projects that enhance, expand or create new natural features including trees and forest cover. Participants in the Chatham-Kent ALUS Program obtain a grant that covers 50% of project establishment costs and an annual payment of \$175 per acre for stewardship project areas. The annual payment recognizes the costs incurred by the landowner for dedicating portions of their lands for stewardship. ALUS was introduced in Chatham-Kent in 2018. In 2019-2020, 56 local properties representing 77 acres of various natural areas have been established through ALUS.

The local Conservation Authorities have been running subsidized tree planting programs for many years. Between 2014 and 2021, the LTVCA planted 543,000 seedlings across 906 acres.

2021 Survey:

The survey conducted in 2021 revealed a high degree of support amongst the community for incentivizing the preservation of existing woodlots. The survey did not contain a question on incentives for expanding tree cover.

Table 3: Survey Results to the Question: "Should CK incentivize woodlot preservation?"

Option	Participants with Forests on their properties	Participants without Forests on their properties
The Preservation of Existing Woodlots	69.6% support	72.4% support
The Expansion of Tree Cover	Not Included	Not Included

⁴ ALUS refers to the Alternative Land Use Services Program currently delivered by the Lower Thames Valley Conservation Authority. Additional information on all four existing programs can be found here: <https://pub-chatham-kent.escribemeetings.com/filestream.ashx?DocumentId=4461>

Municipal Policy (CKPlan 2035):

The environmental sustainability section of [CKPlan 2035](#) calls for the implementation of strategies to “help everyone become stewards”.

Provincial Policy (Conservation Authorities Act):

The Conservation Authorities Act supports the delivery of environmental stewardship programming by Conservation Authorities.

Suggested Configuration:

It is suggested that the focus be on employing incentives to encourage the expansion of tree cover in Chatham-Kent. It is also suggested that the existing subsidized tree planting programs and ALUS programs that currently available to the community be augmented appropriately so that duplication might be avoided.

Although survey participants did express support for the introduction of a forest preservation incentive, the implementation of such an incentive program is not supported by the best management practices review which found no existing municipally-funded forest preservation incentive program beyond those offered by the Province and through MPAC. Instead, Municipalities with an interest in the preservation of existing forests were found to employ their regulatory powers in this regard.

Additional Resource Requirements:

The inclusion of focusing incentives on tree cover expansion does not specifically entail additional resource requirements given the existence of ALUS and subsidized tree planting programs.

Incentive Parameter 2: Form of the Incentive

Description: This parameter identifies the form that the incentive might take. It should be noted that although the recommendation on Parameter 1 is to limit incentives to the expansion of tree canopy only, the option of directing incentives towards forest preservation is included in this section for discussion purposes.

Options:

Incentives generally take one of the following three forms

- a. Non-Monetary (i.e. awards, signage).
- b. Monetary – tax break.
- c. Monetary – cash payments, grants, or subsidies.

Best Management Practices:

A review of best management practices revealed the following:

- a. The use of tax breaks are limited to the MFTIP, CLTIP and FFE incentive programs focused on forest preservation.
- b. The use of non-monetary incentives are widespread.
- c. The use of monetary incentives in the forms of cash payments, grants or subsidies are employed to incentivize the expansion of tree canopy.

Each of these points is discussed in more detail below.

As was previously mentioned, the existing programs focused on forest preservation are available across the province and include the FFE, MFTIP and CLTIP programs. Each of these provides participants with various tax breaks in recognition of the space that natural features take on the landscape. By discounting the amount of property taxes paid on a natural feature, the tax break provides the landowner with an encouragement to retain the natural feature.

Non-monetary incentives are usually provided in the form of awards and signage, are available in most communities and generally recognize notable efforts by landowners to enhance the environment. Conservation Authorities and not-for-profit organizations are most active in this area. In Chatham-Kent, both local Conservation Authorities run their own stewardship awards programs.

The use of cash payments, landowner grants and subsidies are employed in various communities to encourage the restoration, enhancement or creation of environmental habitats.

The most common application of subsidy-based incentives is for tree planting, where landowners in various communities are able obtain discounted or free trees along with free or discounted tree planting services. This service is usually offered by local Conservation Authorities, although Wellington County does run their own municipal tree nursery to provide subsidized trees to residents. In Chatham-Kent, both local Conservation Authorities currently provide subsidized tree planting programs to interested landowners. Local demand for tree planting programs routinely surpasses available resources.

The most common application of grant and cash payment-based incentives across Ontario is through the ALUS program. ALUS is currently available in the communities of Elgin, Grey-Bruce, Lambton, Middlesex, Norfolk, Peterborough, Eastern Ontario (within the geographical areas of Raisin Region and South Nation Conservation Authorities) and here in Chatham-Kent. Funding for ALUS is generated through numerous sources including the Federal government, the Provincial government, charitable foundations, not-for-profit agencies and private donations. ALUS communities are supported by www.alus.ca a national not-for-profit organization dedicated to supporting the implementation of ALUS in communities across Canada.

Through ALUS, landowners are able to access two forms of funding: the first is a grant that helps cover a portion of costs of establishing stewardship projects and the second is an annual payment that mirrors local land rental rates for the acres dedicated towards stewardship. ALUS projects target areas of marginal agricultural productivity and hard to farm areas.

The ALUS project establishment grant acknowledges the investment that is required from a landowner to undertake environmental improvement activities on their lands. The annual payment component of ALUS acknowledges that environmental enhancement stewardship activities on the productive agricultural landscape tend to decrease the amount of land that would otherwise be available for agricultural purposes, even when this involves marginally and hard to farm areas. The annual payment also provides a signal that the production of ecosystem services generated by stewardship are valued by society. In Chatham-Kent, the annual payment is currently set at \$175 per acre annually. The ALUS program is delivered across Chatham-Kent by the Lower Thames Valley Conservation Authority. Local demand for ALUS routinely surpasses available resources.

2021 Survey:

The survey conducted in 2021 included a question on the form participants believed that an incentive focused woodlot preservation should take. The survey did not include a question on the form participants believe that an incentive focused on the expansion of tree cover should take.

The results of the survey question on what survey participants believe to be an appropriate form for an incentive focused the preservation of woodlots only is provided here for information.

Table 4: Survey Results for the Form an Incentive Focused on Forest Preservation Should Take

	Cash Payment	Tax Break	Non-Monetary
Participants with Forested Lands	22.7%	70.8%	6.5%
Participants without forested lands	8.6%	77.8%	13.5%
Overall	13.9%	75.2%	10.9%

Municipal Policy:

Existing Municipal Policy does not contain specific direction on the form that forest incentive programs should take. The 2014 Natural Heritage Implementation Strategy document contains a section discussing the merits of ALUS as an effective mechanism for encouraging activities that enhance the environment.

Provincial Policy:

Provincial Policy does not contain specific direction on the form(s) that forest incentive programs should take.

Suggested Configuration:

It is suggested that the ALUS program continue to take the form of a monetary cash payment and that subsidized tree planting programs continue to be delivered as a monetary subsidy. Employing these forms is consistent with the best management practices review, existing Municipal Policy and a scan of existing programs which have identified the ALUS and subsidized tree planting programs as effective forms to encourage environmental enhancements on privately-held agricultural properties.

Although the introduction of an incentive program focused on woodlot preservation is not suggested per previous parameter, if the Committee wishes to pursue this option it is suggested that a woodlot preservation incentive take the form of a tax break as this form is consistent with the best management practices review.

Additional Resource Requirements:

Employing incentives in the form of a monetary cash payment, grant or subsidy to encourage activities that expand tree cover does not have a direct impact on resources. However the amount or size of incentives that might be offered do have direct resource implications. This is discussed in the next section below.

Incentive Parameter 3: Amount of the IncentiveDescription:

This parameter identifies the amount or size of the incentive that would be offered. With tree planting subsidies, the question focuses on the per-unit cost of trees. With a program such as ALUS, the questions revolve around the amount of the establishment payment and the annual payment.

It is again worth noting that the suggestions from the previous two parameters are to employ the monetary form of cash payments, grants and subsidies to encourage the expansion of tree canopy through ALUS and subsidized tree planting programs. Although the option of employing tax breaks to incentivize forest preservation is not suggested, it is included here for discussion purposes.

Options:

For tree planting programs, options at the lower end of the subsidy spectrum include charging landowners a per-unit fee that is equivalent to the bulk costs of tree seedlings. This has the effect of passing any volume discounts on to the landowner which lowers the cost of the program but also somewhat limits the appeal of the incentive. Options on

the higher end of the subsidy spectrum include providing seedlings to landowners free of charge.

For stewardship programs that employ the ALUS model, options at the lower end of the subsidy spectrum for project establishment might include requiring the landowner to cover the majority of project establishment costs, and to subsidize 100% of project establishment costs on the other end of the subsidy spectrum. With regards to the annual payment component of ALUS, options on the lower end might include a nominal annual per-acre payment or could include an annual payment that is 100% equivalent to local land rental rates on the higher end. However, the annual payment should not surpass local land rental rates as this risks providing an economic incentive to retire productive agricultural lands that are best applied to the production of food and fiber. Ultimately, with lower incentive amounts the costs of incentive program are lowered but so is the level of encouragement. Incentives that are set too high lead to high implementation costs and decreased efficiency. It is therefore important to align the amount of incentives with the desired level of encouragement and available resources.

Best Management Practices:

The best management practices revealed that operating both subsidized tree planting programs and ALUS provides an enhanced ability for communities to incentivize tree canopy expansion activities compared to communities that only offer one program.

Subsidized tree planting programs are demonstrably effective with landowners whose motivations span beyond the economics of stewardship and may include environmental and/or legacy considerations. However, the absence of an annual payment means that subsidized tree planting programs do not address the “cost of land” upon which tree planting activities occur, which can significantly limit the appeal of this form of incentive with certain landowners. On the other hand, the annual payment component of the ALUS program addresses the “cost of land” issue and is an effective incentive for delivering stewardship projects where competing economic pressures are an important consideration for landowners. In this sense, both programs serve to complement one another and together can offer the right level of encouragement to a greater diversity of landowners and if only one program is offered. The key is to ensure that the incentives provided by each program are set at the right levels.

Funding Levels for Subsidized Tree Planting Programs:

The best management practices review revealed that Conservation Authorities across Ontario operate a variety of tree planting programs. These programs provide landowners with a range of tree planting services which can include low cost seedlings, more mature trees, advisory services, and maintenance programs. The amount of funding provided to landowners varies, and can range from providing at-cost seedlings to covering up to 90% of the overall tree planting and establishment costs. As part of its Green Legacy Program, Wellington County operates two municipally-run tree nurseries and provides free trees annually to qualifying landowners for planting on private property on a first come first served basis.

In Chatham-Kent, the Lower Thames Valley Conservation authority provides trees to landowners at a cost ranging from \$1.44 - \$1.77 per tree and requires that landowners enter into a 15 year conservation retention agreement. Given the results of the program which has led to the planting of over 500,000 trees across 900+ acres over 8 years, it is reasonable to suggest that the existing costing structure strikes the balance between program cost and landowner encouragement.

Funding Levels for the Alternative Land Use Services Program:

In each ALUS community across Canada, local delivery of the program is overseen by a Partnership Advisory Committee (PAC) whose membership is structured to include a majority of local producers to ensure that local agricultural priorities and conditions are reflected in decision making. The PACs are fundamental to the governance of local ALUS programs and make decisions on a host of issues, such as determining priority focus areas, evaluating individual stewardship project proposals and setting the funding rates for annual payments and project establishment. In Chatham-Kent, the ALUS PAC – which is composed of 11 voting members including 8 local producers – has set the rate for annual payments at \$175 per acre annually and the project establishment grant to cover 50% of stewardship project establishment costs.

The funding structure employed by ALUS Chatham-Kent for project establishment is consistent with the 50% rate set in ALUS communities across Canada, but the annual payment of \$175 per acre annually that is available in Chatham-Kent is considerably higher than annual payments available in most other ALUS communities and is reflective of the high cost and high productive potential of the local agricultural land base. Given that the rates available in the Chatham-Kent ALUS program have been set by the PAC which includes a majority of local agricultural producers, it is reasonable to suggest that the existing costing structure strikes a balance between program cost and landowner encouragement.

Funding Levels for Woodlot Preservation Tax Relief Programs (included for discussion purposes)

The following table was prepared to provide a costing estimate for a tax break incentive program focused on the preservation of existing woodlots. However, as was previously mentioned the introduction of such a program is not supported by best management practices. As is shown in the table below, the cost of a 100% tax break incentive covering all remaining forests within Chatham-Kent would add over \$700,000 in costs to the tax base and provide landowners with average relief of \$32.60/acre, which though not insignificant, is unlikely to fully address the economic considerations that have driven the majority of clear cutting activities to date.

Table 5: Cost Estimate for a 100% Property Tax Incentive Program for Existing Forests

Amount of Forest Cover Remaining in Chatham-Kent excluding First	Average Amount of Annual taxes Collected for Productive	Total Cost of a 100% Tax Break Incentive Program
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Nations and Provincial Parks	Agricultural Land Across Chatham-Kent	focused on Existing Woodlots
21,495 acres⁵	\$32.60 per acre annually	\$700,737 annually

2021 Survey

The 2021 survey included a question that asked participants if they were prepared to pay more in taxes to support forests and woodlot preservation in Chatham-Kent. The results are provided below and are segmented in two ways: firstly between participants whose properties feature forested areas and those without and secondly between rural residents and urban residents.

Table 6: Survey Results on Willingness to Pay More in Taxes to Fund Forest Preservation

	Totally Support	Slightly Support	Neutral	Slightly Oppose	Totally Oppose
Participants with Forests	23.4%	10.4%	14.6%	7%	44.5%
Participants without forests	30.4%	20.2%	18.5%	8%	22.9%
Rural Participants	23.6%	14%	15.1%	8.1%	39.2%
Urban Participants	33.7%	20.6%	20%	7.1%	18.7%
Overall	27.7%	16.4%	17.2%	7.6%	31.2%

The overall results reveal that 44.1% of respondents voiced some degree of support for the statement, 38.8% expressed some degree of opposition and almost 1 in 5 expressed a neutral stance. Owners of forested lands were significantly more opposed to the statement than their non-forest owning counterparts. Urban participants expressed a greater willingness to pay more in taxes to support forest preservation than rural participants.

Municipal Policy:

Existing Municipal Policy does not contain specific direction on setting incentive amounts for forest incentives. The 2014 Natural Heritage Implementation Strategy document contains a section on the merits of the ALUS program.

⁵ <https://pub-chatham-kent.escribemeetings.com/filestream.ashx?DocumentId=3427>

Provincial Policy:

Provincial Policy does not contain specific direction on incentive amounts that should be employed as part of a forest incentive program.

Suggested Configuration:

It is suggested that the existing incentive amounts currently employed for the subsidized tree planting and ALUS programs be retained. Furthermore, it is suggested that additional public consultation in this area focus specifically on the community's willingness to allocate additional funding towards each of these two programs, so that the NHCOTW might consider this question with the benefit of input from the community.

Additional Resource Requirements:

Any changes to Municipal financial resource requirements are tied to any changes that might be made in Municipal funding contributions towards each of the subsidized tree planting and ALUS programs. For reference, in 2021, a 1% increase in tax rate constituted an increase of \$1,624,000 in municipal revenue. It should be noted that the Lower Thames Valley Conservation Authority has existing dedicated staffing capacity for administering the ALUS and subsidized tree planting programs.

A Model for the Regulation Tool

The Regulation tool involves the introduction of rules in support of forest preservation that outline acceptable activities along with penalties and enforcement to discourage undesirable actions. As the Committee considers the use of regulations to support forest preservation, the following seven parameters require investigation: woodlot size, exempted activities, permitting activities, restricted or prohibited activities, permit decisions, compensation, and enforcement.

Regulation Parameter 1: Woodlot Size

Description:

This parameter identifies the woodlot size that would serve as the functional unit for a regulation and trigger the regulatory process. Currently, the temporary clear cutting bylaw employs a functional unit of 0.2 hectares, meaning that all forested areas that are equal to or larger than 0.2 hectares are subject to the regulations of the Bylaw.

Options:

The table below provides a list of various woodlot size options that might be employed as the functional unit for a forest regulation in Chatham-Kent and shows the total number of properties with forests that would be affected, the total number of existing forested acres that would be captured and the percentage of forest cover this would represent.

Table 7: Existing Forests Captured by Various Woodlot Sizes in Chatham-Kent

Functional Area Unit (ha)	# of Properties Affected	Total Ha Captured	% of Forested Area Captured
0.1	3462	8,313.92	99.16
0.2	2868	8,228.61	98.14
0.3	2589	8,159.23	97.32
0.4	2414	8,097.90	96.58
0.5	2253	8,025.30	95.72
0.6	2084	7,933.04	94.62
0.7	1938	7,838.56	93.49
0.8	1827	7,755.13	92.50
0.9	1730	7,672.85	91.51
1	1638	7,585.31	90.47
1.5	1354	7,232.43	86.26
2	1135	6,855.17	81.76
2.5	955	6,453.81	76.97
3	835	6,124.16	73.04
5	490	4,800.72	57.26
7	292	3,630.86	43.31
10	159	2,518.75	30.04

Best Management Practices Review:

In order to help inform the NHCOTW's investigation of the regulation tool, a review of existing forest conservation bylaws from other communities in southern Ontario was completed. The review included the Counties of Elgin, Huron, Lambton and Middlesex. The table below provides an overview of the various woodlot sizes that currently serve as the functional unit for these existing bylaws.

Table 8: Woodlot Size in Existing Forest Conservation Bylaws

Community	Functional Unit
Elgin County	0.2 hectares (0.5 acres)
Huron County	0.2 hectares (0.5 acres)
Lambton County	0.2 hectares (0.5 acres)
Middlesex County	1.0 Hectares

The Counties of Elgin, Huron and Lambton employ 0.2 hectares as the functional unit for their forest conservation bylaws, meaning that any forest clearing activity covering

0.2 hectares or more is regulated. Middlesex County employs 1.0 hectares as their functional unit in their forest conservation bylaw.

2021 Survey

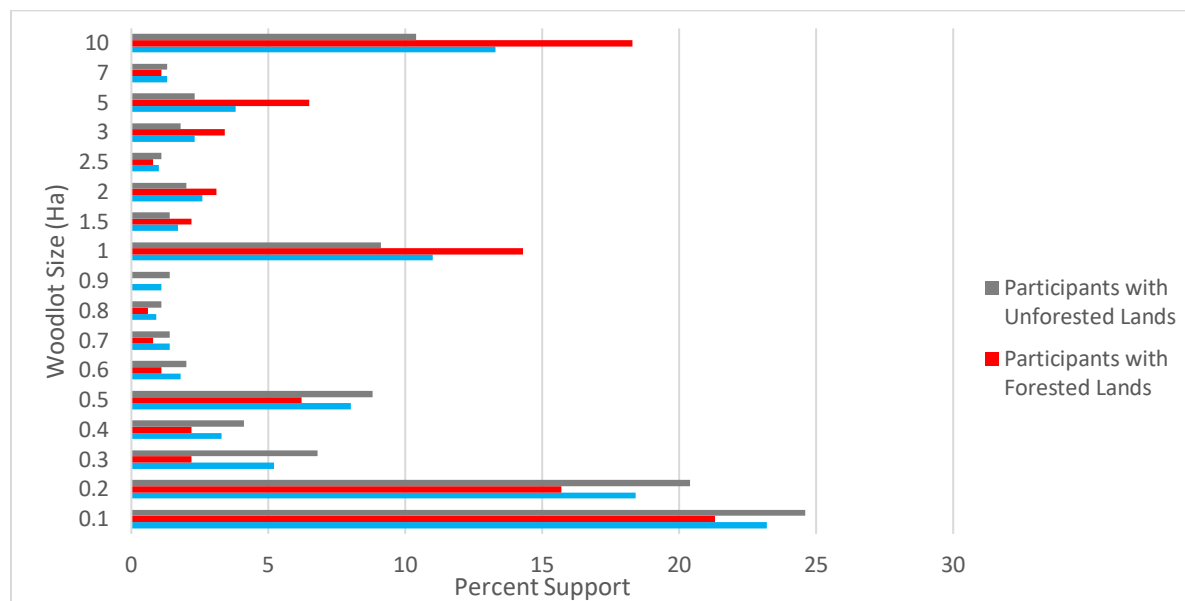


Figure 3: Results of the 2021 Survey to the Question: If a permanent By-law is implemented by Council, what minimum size of forest should it apply to?

The results of the 2021 survey are concentrated on the top, middle and bottom ends of the options provided, with the highest degree of support expressed for the two options at the lower end (0.1 [0.25 acres] and 0.2 Hectares [0.5 acres]). Notably, a higher proportion of participants with forested lands chose the highest woodlot size option (10 hectares) than participants with unforested lands, who in comparison, tended to be more supportive of the options on the lower end.

Municipal Policy (Official Plan)

Section 4.3.2 of Chatham-Kent's Official Plan states that:

"All woodlands 2 hectare in size or larger are considered significant woodlands in Chatham-Kent."

And that:

"Woodlands greater than 0.5 hectares and less than 2.0 hectares in size are considered candidate significant woodlands."

Provincial Policy:

The Ontario Municipal Act, 2001 provides tree-cutting bylaw powers to municipalities in Ontario. Sections 135 to 140 of the Ontario Municipal Act, 2001, specifically deal with Municipal tree-cutting bylaws.

Suggested Configuration:

It is suggested that the woodlot size parameter be set within the range of 0.5 hectares, and 2.0 hectares and that this range be further narrowed by the NHCOTW with additional input from the public. Although the best management practices review found 0.5 hectares to be greater in area than what is in place in other communities and that no Municipality currently employs a functional unit of 2.0 hectares, the recommended range is in alignment with existing Municipal policy which declares all woodlots equal or greater than 2.0 hectares to be significant, and that woodlots between 0.5 ha and 1.99 hectares may be significant based on further evaluation. The recommended range is in alignment with Provincial policy which guides municipalities to a woodlot size that is based on local conditions. In addition, a review of the data contained in Table 7 found that the recommended range captures the majority of existing forest area. Finally, opinions collected in the survey conducted in 2021 were concentrated on the low, middle and high ends of the spectrum, which suggests that an approach that bridges the gap between extremes is likely to constitute an area of acceptable compromise.

Additional Resource Requirements:

As a general rule, a smaller size woodlot would increase the number of woodlots that fall within the scope of the bylaw, which would increase the amount of resources needed to properly implement the bylaw.

Regulation Parameter 2: Exempted Activities

Description:

This parameter identifies the kinds of tree cutting activities that might be exempted from the scope of a By-law. Provincial policy lists a number of activities that must be exempted from municipal forest conservation bylaws. Municipalities are also able to add additional exemptions to address local priorities.

Options:

The following provides an overview of activities that might be exempted by municipalities from local forest conservation By-laws. All Provincially mandated exemptions must be included in local forest conservation By-laws and are listed in the provincial policy section below.

Options for activities that might be exempted from local forest conservation By-laws include:

- Harvesting wood for unspecified personal uses. Municipalities might state that trees cut for unspecified personal uses by landowners are exempted from the scope of local bylaws. Limits are applied to this type of exemption such as preventing the sale of trees, ensuring that the number of trees cut does not affect tree density required to qualify the wooded area under the bylaw, specifying the number of trees that might be cut per year and/or specifying the volume of wood that might be harvested annually.
- Harvesting wood for fuel. Municipalities might state that trees cut for use as heating fuel are exempted from the scope of local bylaws. As with the above, limits are applied to this exemption.
- Harvesting wood for personal construction and/or woodworking purposes. As with the above, limits are applied to this exemption.

Best Management Practices Review:

The table below provides an overview of tree cutting activities that are exempted from forest conservation bylaws in other communities.

Table 9: Exempted Activities in Existing Forest Conservation Bylaws

Community	Exemption	Limit(s)
Elgin County	Unspecified Personal Uses	<ul style="list-style-type: none"> - Requires the submission of a Notice of Intent (NOI) to the Municipality - Maximum of 20 trees - Excludes timber sales - Cannot reduce tree density below what is defined as a woodlot in the bylaw
Huron County	Unspecified personal uses	<ul style="list-style-type: none"> - Excludes timber sales - Cannot reduce tree density below what is defined as a woodlot in the bylaw
Lambton County	Unspecified Personal Use	<ul style="list-style-type: none"> - Excludes timber sales - Cannot reduce tree density below what is defined as a woodlot in the bylaw - Must own land for 2 years prior to first harvest
Middlesex County	Unspecified Personal Use	<ul style="list-style-type: none"> - Excludes timber sales - Must own land for 2 years prior to first harvest

2021 Survey:

The survey conducted in 2021 asked participants to provide input on the following question: “What activities should be exempted from a By-Law? – Select all that apply”

Table 10: Survey Results to the question “What activities should be exempted from a By-Law? – Select all that apply”

	Harvesting for Personal Fuel (Heating)	Harvesting for Personal Construction / Woodworking
Participants with Forested areas on their properties	81.3%	65.2%
Participants without forested areas on their properties	74.2%	49.1%
Overall	78.9%	56.8%

The survey results reveal that support for exempting the harvest of trees for use as heating fuel and for construction/woodworking purposes is higher with participants that have forested areas on their properties and lower with survey participants who do not have forests on their properties.

Municipal Policy:

Existing municipal policy does not contain specific direction on activities that should be exempted from a forest conservation bylaw.

Provincial Policy:

Provincial Legislation (Section 135-12 of the Ontario Municipal Act) requires that municipal forest conservation bylaws include the following exemptions:

- Tree removal undertaken by Municipalities and local boards
- Tree removal undertaken during the execution of Normal Farm Practices (*Farming and Food Production Protection Act*)
- Tree removal required for construction or maintenance of electrical transmission or distribution systems (*Electricity Act*)
- Tree removal required for surveying (*Surveyors Act*)
- Tree removal related to licensed pits & quarries (*Aggregate Resource Act*)
- Tree removal related to an approved site plan, subdivision, consent, or development permit (*Planning Act*)

Provincial legislation (Section 135 of the Ontario Municipal Act) allows municipalities to determine additional locally appropriate exemptions.

Suggested Configuration:

It is suggested that the exempted activities parameter be set to exempt tree cutting for unspecified personal uses with the limitation that this exclude timber sales and that tree density cannot be reduced to less than what is defined as a woodlot. No additional restrictions are recommended. This recommendation is in line with provincial policy and is informed by the best management practices review and the sentiments expressed by participants with forested areas on their properties in the survey conducted in 2021. The alternative options of exempting tree cutting activities for personal use based on the intended use of the harvested timber (i.e. fuel, construction, woodworking etc.), are not supported by the best management practices review.

Additional Resource Requirements:

As a general rule, the more activities that are exempted from the bylaw, the lower the amount of resources that would be needed to administer the bylaw, with the caveat that exempted activities might nonetheless lead to investigations to ensure that exemptions are being carried out in accordance with any limits imposed upon them.

Regulation Parameter 3: Permitted Activities

Description:

This parameter identifies the kinds of tree cutting activities that would fall within the scope of a municipal permitting process.

Options:

There are two kinds of tree cutting activities that might fall within the scope of the municipal forest conservation bylaw permitting process. These include:

- Selective harvesting, which means the selective cutting of certain trees within a forested area that are selected based on some form of criteria that is designed to maintain the overall integrity and health of the forested area. Criteria for tree selection might include minimum tree diameter or tree selection based on “good forestry practices” as defined in the Forestry Act and interpreted by a forestry professional.
- Clear cutting, which means the elimination of all trees and other forms of vegetation from a forested area in order to clear the land.

Best Management Practices:

The table below shows the kinds of activities that fall within the scope of the permitting processes of existing bylaws from other communities:

Table 11: Tree Cutting Activities included in the Bylaws from Other Communities

Municipality	Selective harvesting	Clear cutting
Elgin County	Included	Included (environmental impact study required)
Huron County	Included	Not-included (disallowed)
Lambton County	Included	Included
Middlesex County	Included	Included

The existing forest conservation bylaw in the County of Huron limits the permitting process to selective harvesting, which has the effect of disallowing clear cutting activities that are not otherwise exempted by Provincial legislation (i.e. Normal Farming Practices). In the Counties of Elgin, Huron, and Middlesex a process is in place where landowners can request a clear-cutting permit. Elgin requires that replacement trees be planted at a rate of 1750 trees per hectare as a condition of clear-cutting permit approvals.

2021 Survey:

The Survey conducted in 2021 contained the following question: “What tree removal activities should a bylaw contemplate with a municipally-issued permit? – Select all that apply”

Table 12: Survey Results to the question “What tree removal activities should a bylaw contemplate with a municipally-issued permit? – Select all that apply”

	Selective Harvesting	Clear Cutting
Participants with Forested areas	43%	39.7%
Participants without forested areas	51.5%	43.6%
Overall	49.5%	42.6%

The survey results reveal that the selective harvesting option garnered more support among participants than the clear cutting option, although neither option received clear support from the majority of participants

Municipal Policy (Official Plan):

Existing municipal policy does not contain specific direction on the kinds of tree cutting activities that should be included within the scope of a municipal permitting process.

Provincial Legislation (Ontario Municipal Act):

Section 135 (5) of the Ontario Municipal Act requires that municipal Forest Conservation bylaws be structured to “have regard to good forestry practices as defined in the *Forestry Act*”. This means that while forest conservation bylaws cannot prohibit the kinds of tree cutting activities included within the definition of “good forestry practices” (such as selective harvesting), a permitting process might nevertheless be introduced to ensure that any proposed tree cutting is done in accordance with good forestry principles. It should be noted that clear cutting is not considered a good forestry practice in the *Forestry Act* which means that municipalities are not obligated to allow clear cutting activities to occur, though they may choose to.

Suggested Configuration:

It is suggested that the permitted activities parameter be set to include selective harvesting and clear-cutting and that the additional public consultation focus on determining the community’s opinions regarding the clear cutting option. The best management practices review showed that the majority of communities include a permitting process for landowners wishing to undertake clear cutting activities. However, the lack of existing municipal policy in this area in Chatham-Kent and the absence of a clear consensus on this issue in the results of 2021 survey suggest that additional input from the community might be useful to help the Committee with a decision in this regard.

Additional Resource Requirements:

There are no direct resource implications associated with this parameter.

Regulation Parameter 4: Restricted or Prohibited Activities

Description: This parameter identifies the kinds of tree cutting activities that might be restricted or prohibited in a forest conservation a By-law.

Options:

Provincial legislation allows municipalities to pass forest conservation bylaws to regulate and/or prohibit the destruction or injuring of trees. In this regard, Municipalities have a fairly wide latitude to determine conditions under which certain kinds of tree cutting activities might be exempted, permitted, restricted or outright prohibited. Whereas a prohibition effectively disallows a certain tree cutting activity, a restriction has the effect of discouraging certain tree kinds of cutting activities without disallowing them completely through measures that might include increasing the rigor of the permit application process and/or increasing the level of due diligence required on the part of landowners wanting to undertake these activities.

Restrictions or prohibitions on tree cutting activities are generally targeted to specific areas, such as

- Steep slopes.
- Environmentally Significant Areas (variously defined).

Best Management Practices:

A review of best management practices found that certain tree cutting activities are restricted or prohibited in existing forest conservation bylaws in other communities. Table 13 below provides an overview.

Table 13: Restricted or Prohibited Activities in Forest Conservation Bylaws from Other Communities

Community	Steep slopes	Environmentally Significant Areas
Elgin County	Applications for tree cutting on identified steep slopes require a separate slope permit which may include submission of a geotechnical slope stability assessment prepared by a professional engineer	Restricted to selective harvesting
Huron County	Not mentioned	Not mentioned
Lambton County	Not mentioned	Applications for tree cutting in identified sensitive natural areas require an evaluation of ecological significance that demonstrates no significant harm (effectively restricts cutting to low impact selective harvesting)
Middlesex County	Not mentioned	Not mentioned

Elgin County's forest conservation bylaw allows applications to be received for clear cutting activities except if the area is identified as environmentally significant, where applications are restricted to selective harvesting. Elgin also requires that an additional steep slope permit be obtained for tree cutting activities on identified steeply sloped lands to prevent slope failures resulting from tree removal. The Counties of Huron and Middlesex do not have specific provisions for steep slopes or environmentally significant areas. Lambton does not contain a provision for steep slopes, but does require the submission of an ecological significance assessment spanning 4 months for tree cutting applications in identified sensitive natural areas.

2021 Survey:

The 2021 survey included one question for each of the options mentioned above.

Survey Question: “Should tree removal on steep slopes be prohibited?”

Table 14: Survey Results to the Question “Should tree removal on steep slopes be prohibited?”

	Do Not Prohibit	Geotechnical study	Always Prohibit
Participants with Forested Areas	33.3%	42.6%	24.1%
Participants without Forested Areas	17.2%	59.8%	23%
Overall	23.1%	53.2%	23.8%

Just over half the survey participants supported the inclusion of a geotechnical study for tree cutting permit applications on steeply sloped lands. Participants with forested areas on their properties were less supportive of restricting cutting on steep slopes.

Survey Question: “Should tree removal in environmentally significant lands be prohibited?”

Table 15: Survey Results to the Question: “Should tree removal in environmentally significant lands be prohibited?”

	Do Not Prohibit	Environmental Impact Assessment	Always Prohibit
Participants with Forested Areas	41.5%	31.6%	33%
Participants without Forested Areas	18.2%	35.3%	46.6%
Overall	26.7%	32.1%	41.3%

Overall, the “always prohibit” option garnered just over 40% of the votes. The “do not prohibit” option received the most support amongst participants with forested areas whereas the “always prohibit” option was most popular among those owners of non-forested lands.

Municipal Policy:

Section 4.3.2 of the Chatham-Kent Official Plan identifies the components that make up the Municipality’s Natural Heritage System. These include:

- Significant Wetlands and Significant Coastal Wetlands.
- Habitats of Endangered or Threatened Species.
- Aquatic Species at Risk.

- Lands adjacent to Significant Wetlands and Significant Coastal Wetlands.
- Locally Significant Wetlands.
- Coastal Wetlands.
- Fish Habitat.
- Significant Woodlands.
- Candidate Significant Wetlands.
- Significant Areas of Natural and Scientific Interest.
- Wildlife Habitat.
- Significant Valleylands.
- Environmentally Significant Areas.
- Natural Corridors and Linkages.
- Defined Flood or Erosion Constraint Areas.
- Shoreline Hazard Lands.
- Wellhead Protection Areas.

Provincial Policy (Endangered Species Act):

The Endangered Species Act, 2007 is a law of general application that is binding on everyone in the province of Ontario, and applies to both private and public lands. The Act prohibits the killing, harming, harassing, possessing, buying, selling, trading, leasing or transporting species listed as threatened, endangered or extirpated under the Act. The ESA also prohibits damaging or destroying habitat of endangered and threatened species, which might apply to certain tree removal activities. Landowners should consult with the Ministry of Environment, Conservation and Parks prior to the commencement of relevant activities to ensure compliance with the Act. Failure to do so may result in fines of up to \$250,000 for individuals and \$1,000,000 for corporations.

Suggested Configuration:

This parameter determines if additional scrutiny or restrictions are desirable depending on where a tree cutting activity is proposed to occur.

If regulation parameter 3 is configured to support the inclusion of a permitting process for clear-cutting activities as is suggested above, a subsequent decision would be to determine whether clear-cutting might be contemplated anywhere in Chatham-Kent or perhaps restricted in certain places, as with how Elgin and Lambton have configured their forest conservation bylaws. In Elgin, a separate permitting process is implemented for applications to cut on steep slopes and tree cutting is limited to selective harvesting in environmentally significant areas. In the case of Lambton, the requirement to complete an evaluation of environmental significance for tree cutting applications in areas of natural significance adds a due diligence step which is interpreted to have the effect of limiting tree cutting in areas of natural significance to low impact selective cutting.

If on the other hand, the Committee decides to configure Regulation Parameter 3 to disallow clear-cutting activities as is the case in Huron County, it is suggested that this parameter be configured with no additional restrictions on steep slopes or

environmentally significant areas as any permitted tree cutting activities across Chatham-Kent would effectively be limited to selective harvesting using good forestry practices, which ensures the continued ecological integrity of all areas, including more environmentally sensitive ones. This approach is employed by Huron County.

Therefore, it is ultimately suggested that this parameter be configured subsequent to the configuration of parameter 3 and referred to the public for additional consultation in the following manner:

Question: Parameter 3: Should clear-cutting be disallowed in a forest conservation Bylaw?

- Yes: clear-cutting should be disallowed.
- No: a permitting process should be put in place for those wanting to undertake clear-cutting activities.

Question Parameter 4: if clear-cutting is not disallowed in a forest conservation Bylaw, should clear cutting be allowed to occur anywhere or should it be limited in certain places?

- No restrictions or prohibitions: Allow clear-cutting to occur anywhere.
- Restrict or prohibit clear-cutting in steeply sloped areas.
- Restrict or Prohibit clear-cutting in Environmentally Significant Areas.

Additional Resource Requirements:

There are no direct resource implications associated with this parameter.

Regulation Parameter 5: Permit Decisions

Description: This parameter identifies who is responsible for reviewing tree cutting permit applications received under a forest conservation bylaw.

Options:

A variety of options exist for assigning decision making responsibilities regarding tree cutting applications received under a forest conservations.

For example, options for decision making bodies might include qualified staff, Council, or an appointed committee.

In addition, all applications might be reviewed by a single decision making body (i.e. appointed committee), or split based on some form of criteria to more than one decision-making body (i.e. staff for selective harvesting, Council for clear-cutting).

Best Management Practices:

A review of best management practices found that a variety of decision making processes are employed for evaluating tree cutting applications received under forest conservation bylaws in other communities.

Table 16: Decision-Making Processes in Place in Other Communities with Forest Conservation Bylaws

Community	Staff	Council	Appointed Committee
Elgin County	Selective harvesting Clear cutting for tree stands less than 1 hectare	Clear cutting for tree stands 1 hectare or larger	
Huron County	Selective Harvesting		
Lambton County	Selective harvesting		Clear cutting
Middlesex County	Selective harvesting	Clear cutting	

In all cases, staff are granted authority to process applications for selective harvesting activities. With regards to applications for clear-cutting activities, those municipalities that provide permits for this activity (Elgin, Lambton, and Middlesex) employ an application review process that refers the decision to Council or a Committee appointed by Council.

2021 Survey:

The survey conducted in 2021 contained the following question: “Who should make the decision when a permit under a woodlot preservation bylaw is received?”

Table 17: Survey Results to the Question: “Who should make the decision when an application for a tree-cutting permit is received?”

	Council for all applications	Council for complex applications, staff for simple applications	Qualified Staff for all applications	Appointed Committee
Participants with Forested areas	6.2%	18.8%	43.8%	31.2%

Participants without forested areas	9.6%	25.7%	35.4%	29.3%
Overall	8.3%	23.7%	38.1%	30%

The results reveal an identical ranking of options between participants with forested areas on their properties, those without, and overall. In each case, qualified staff came in first, an appointed committee came second, a mix of Council and staff came in third place, and Council for all applications received the lowest level of support.

Municipal Policy (Official Plan):

Existing municipal policy does not contain direction on who should be responsible for reviewing tree cutting permit applications.

Provincial Policy (Ontario Municipal Act):

Existing Provincial policy does not contain direction on who should be responsible for reviewing tree cutting permit applications.

Suggested Configuration:

It is suggested that the permit decision parameter be set to refer applications for selective harvesting to qualified staff and applications for clear-cutting to Council. Despite the fact that this recommendation differs slightly from the results of the survey – where this option came in third place – this suggestion is in line with the best management practices review which found that all applications for selective harvesting received under existing bylaws in place are referred to qualified staff for review and that applications for clear cutting are processed through a transparent public process that either includes Council or an appointed committee of Council. Another consideration that supports this recommendation is that the act of clear cutting a forested area has the functional effect of permanently altering the use of the land from a forest use to a non-forested use, which is in many ways analogous to the impact that planning applications have on the landscape in so far as development permanently alters the use of land. Given this similarity, it stands to reason that a similarly public decision making process involving Council would be appropriate.

Additional Resource Requirements:

Assigning responsibility to staff for reviewing applications for selective harvesting activities lowers the burden that would otherwise be placed on Council if Council was otherwise responsible for reviewing all applications for permits.

Regulation Parameter 6: Compensation

Description:

This parameter identifies whether some form of compensation might be required as a condition for receiving a permit to cut trees under a forest conservation bylaw.

Options:

Provincial legislation enables municipalities to impose conditions on permits issued under a forest conservation bylaws. One such condition might involve requiring that some form of compensation be provided by landowners wishing to obtain tree cutting permits. Broadly speaking, compensation might be requested in one of two forms:

- Replacement tree planting activities.
- Payment to fund tree planting activities.

Best Management Practices Review:

All of the municipalities included in the best management practices review have a section in their forest conservation bylaws that mentions the ability of the municipality to impose conditions on any permits issued by the municipality. However, only the Municipality of Elgin specifically states that the Municipality has a No-Net-Loss policy in place which requires a 1:1 tree planting replacement condition at a rate of 1750 trees per hectare, meaning that landowners are required to replace every hectare of forest they plan to clear cut with a hectare of newly planted trees at a density of 1750 trees per hectare.

2021 Survey:

The following question was included in the survey: “Should a bylaw require compensation to the Municipality as part of permit approval and in what form should the compensation be?”

Table 18: Survey Results to the Question: “Should a bylaw require compensation to the Municipality as part of permit approval and in what form should the compensation be?”

	Yes, Payment to Municipality for Tree Planting	Yes, Tree Planting by Applicant	Yes, Choice of Payment or Tree Planting	No.
Participants with Forested Areas	15.2%	14.4%	20.1%	50.3%
Participants without Forested Areas	35%	20.3	25.1	19.5%
Overall	27.3%	18.3%	23.3%	31.2%

The survey results reveal a strong divergence of results between survey participants with forested areas on their properties participants and those without. Whereas a slight majority of participants with forested areas voted to not require any compensation, more than 80% of participants without forested areas on their properties indicated support for one of the compensation options.

Municipal Policy (Official Plan):

Existing Official Plan policy does not contain specific direction on applying compensation requirements to permits issued through a forest conservation bylaw. However, somewhat of a precedent exists in the Municipality's development standards which requires that developers fund the planting of one street tree for every residential unit approved for construction.

Provincial Policy (Ontario Municipal Act):

Section 135-7-b of the Ontario Municipal Act empowers municipalities to "impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees."

Suggested Configuration:

It is suggested that compensation parameter be set to not require compensation as a condition of permit approval. This recommendation is in line with the best management practices review which found a majority of municipalities do not require specific forms of compensation as a condition of permit approval, and aligns with the sentiments of survey participants with forested areas on their properties who were significantly less supportive of any compensation requirements and who would be most affected by this. In addition, the suggestion to focus incentives towards tree canopy expansion activities provides a voluntary means by which tree planting activities might be encouraged with those who may be inclined to do so without unduly burdening those who may not.

Additional Resource Requirements:

A requirement for compensation to be provided would lead to a higher administrative resource burden than if compensation is not required. However, requiring compensation, particularly in the form of payments, would lead to additional resources being made available to the municipality for tree planting activities.

Regulation Parameter 7: Enforcement

Description:

This parameter identifies:

- a. The persons responsible for enforcing forest conservation bylaws
- b. The penalty regime employed to deter bylaw violations.

Options:

With regards to persons responsible for enforcing a forest conservation bylaw, Municipalities might assign this responsibility to regular bylaw enforcement staff or personnel with specific qualifications in forestry.

With regards to a penalty regime, municipalities might employ a penalty structure that employs a general range or a list that prescribes specific penalties for specific offences.

Best Management Practices:

All municipalities included in the best management practices review have assigned enforcement responsibilities to a forestry professional. This finding is consistent with internal discussions with staff from Building Development Services which underscored the benefit of having specialty forestry expertise to assist landowners with bylaw interpretation, application and compliance, to conduct investigations, determine instances of non-compliance, and apply appropriate enforcement measures.

Table 19 shows the penalty structure that is employed by the Municipalities included in the best management practices review.

Table 19: Penalty Regimes Employed in Other Communities with Forest Conservation Bylaws

Municipality	Penalties	Clause that may require tree replanting upon conviction?
Elgin	First conviction, max fine of \$10,000 or \$1,000 per tree, whichever is greater; Subsequent conviction, Max fine of \$25,000 or \$2,500 per tree, whichever is greater.	Yes
Huron	Individual - First conviction, max fine of \$10,000 or \$1,000 per tree, whichever is greater; Individual - Subsequent conviction, max fine of \$25,000 or \$2,500 per tree, whichever is greater. Corporation – first conviction – Max fine of \$50,000.00 or \$5000.00 per tree, whichever is greater Corporation – Subsequent conviction – Max fine of \$100,000.00 or \$10,000.00 per tree, whichever is greater	Yes

Lambton	Max fine of \$100,000.00 or \$10,000.00 per tree, whichever is greater.	Yes
Middlesex	First conviction, max fine of \$10,000 or \$1,000 per tree, whichever is greater; Subsequent conviction, Max fine of \$25,000 or \$2,500 per tree, whichever is greater.	Yes

All municipalities included in the best management practices review employ a general range for fines as opposed to a list of specific fines corresponding to specific offences. All municipalities also contain a clause providing the court with the option to require tree replanting upon a conviction.

2021 Survey:

The survey conducted in 2021 contained the following question related to enforcement “Do you support the hiring of trained personnel to appropriately administer a forest conservation bylaw?”

Table 20: Survey Response to the Question: “Do you support the hiring of trained personnel to appropriately administer a forest conservation bylaw?”

	Totally Support	Slightly Support	Neutral	Slightly Oppose	Totally Oppose
Participants with Forested Areas	30.1%	10.9%	12.3%	7.0%	39.8%
Participants without Forested Areas	45%	22.4%	12.6%	4.5%	15.5%
Overall	39.4%	17.9%	12.7%	5.3%	24.7%

The survey results reveal that the majority participants expressed a moderate or high level of support for hiring dedicated staff for administer a forest conservation bylaw. Support for hiring dedicated staff was notably higher with participants that do not have forested areas on their properties than with participants whose properties feature forested areas.

Municipal Policy (Official Plan):

Existing Municipal policy does not contain specific direction on enforcement related to a forest conservation bylaw.

Provincial Policy:

Section 429 of the Ontario Municipal Act allows municipalities to establish a system of fines for offenses under a bylaw.

Suggested Configuration:

It is suggested that enforcement responsibilities be assigned to a professional expert in forestry. This suggestion is in line with the best management practices review which found that all municipalities assign enforcement responsibilities to forestry professionals rather than bylaw officers that do not have specialized expertise in forestry. Additional staffing resources would be required to fill this need, but the survey conducted in 2021 revealed that the community is largely supportive of doing so. With regards to the penalty regime, it is recommended that a general fine structure be employed as opposed to a list of specific offenses and corresponding penalties, which is consistent with the best management practices review.

With regards to setting fine amounts no suggestion is currently proposed in this regard, as the best management practices review revealed that a wide range of fines are employed in different communities, and neither municipal policy, provincial policy or the 2021 survey provide sufficient direction in this regard. In order to be useful, fines have to be set at a sufficient level to have enough of a dissuasive effect to not be considered merely as a “cost of doing business”. From this lens, it appears that the fine amounts employed by the Counties Elgin and Middlesex might be somewhat low within the local context of Chatham-Kent given the high productive potential and high cost of agricultural land locally, and that the fine structure employed by the County of Lambton might have more of a desired effect. Ultimately, however, the question of fine amounts set in a forest conservation bylaw is a specific issue related to the mechanics of implementation that might be best considered once the desirability of implementing a bylaw is determined and other parameters are set by the NHCOTW, and therefore, the suggestion at this time is to postpone a decision on this specific matter.

Additional Resource Requirements:

It is estimated that proper administration of a permanent forest conservation Bylaw would require an additional full time staff member with a professional expertise in forestry. The Municipality’s existing by-law enforcement service area was under-resourced prior to the implementation of the temporary bylaw and the introduction of a permanent bylaw would add a permanent increase in staffing needs to what is already a strained service area.

Areas of Strategic Focus and Critical Success Factors

The recommendation in this report supports the following areas of strategic focus:

☐ Economic Prosperity:

Chatham-Kent is an innovative and thriving community with a diversified economy

☐ A Healthy and Safe Community:

Chatham-Kent is a healthy and safe community with sustainable population growth

☐ People and Culture:

Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community

☒ Environmental Sustainability:

Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendation in this report supports the following critical success factors:

☐ Financial Sustainability:

The Corporation of the Municipality of Chatham-Kent is financially sustainable

☒ Open, Transparent and Effective Governance:

The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership

☐ Has the potential to support all areas of strategic focus & critical success factors

☐ Neutral issues (does not support negatively or positively)

Consultation

The Clerk and EMT were consulted on the recommendation in the report.

Financial Implications

There is no financial implication resulting from the recommendation.

sPrepared by:



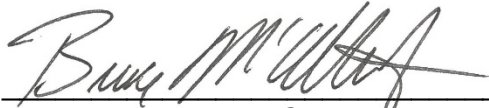
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Reviewed by:



Ryan Jacques, MCIP, RPP
Director, Planning Services

Reviewed by:

A handwritten signature in dark ink, appearing to read 'Bruce McAllister', is written over a horizontal line.

Bruce McAllister, MCIP, RPP
General Manager, Community Development

Attachment: none

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