

50th Anniversary Milestones Project

Navigating the Legislative Landscape

The physical landscape of Southern Ontario is characterized by stunning, diverse and sensitive natural features such as the Niagara Escarpment and the Oak Ridges Moraine, watersheds and recharge zones and agricultural land, all in close proximity to a population of 9 million. With a projected population growth to 13.5 million in Southern Ontario by 2041, it raises daunting questions: *“Where will they all live? Where will they go to recreate? And where will we get the resources to build all the new houses and roads to accommodate all those people?”* Words like sprawl, smart growth, density, mixed-use development, new urbanism all swirl around the discussions about the future of Southern Ontario. Finding space for the growing population while still maintaining the natural and agricultural heritage of the Southern Ontario landscape is an imperative balance we need to strike. And soon.

In February 2015 the provincial government launched a coordinated review of four plans that impact land use in Southern Ontario. The Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, Greenbelt Plan and the Growth Plan for the Greater Golden Horseshoe provide guidance to a wide range of stakeholders - private citizens, municipal planners, business owners, provincial agencies, farmers, developers and land trusts such as the BTC, to name a few – on how development should proceed in the most populated region of Canada.

For the Bruce Trail Conservancy these pieces of legislation that regulate development for the protection of natural spaces - and in particular the Niagara Escarpment Plan - aren't new to us. **In fact we've been involved for over 50 years not just as subjects of the legislation, but as a vital force influencing that legislation for better protection of the Niagara Escarpment.**

Origins and Influence

Beginning in the late 1950s and early 1960s, groups such as the Bruce Trail Association (now Conservancy) began raising awareness of the importance of retaining the Niagara Escarpment as a natural feature, given the pressures of

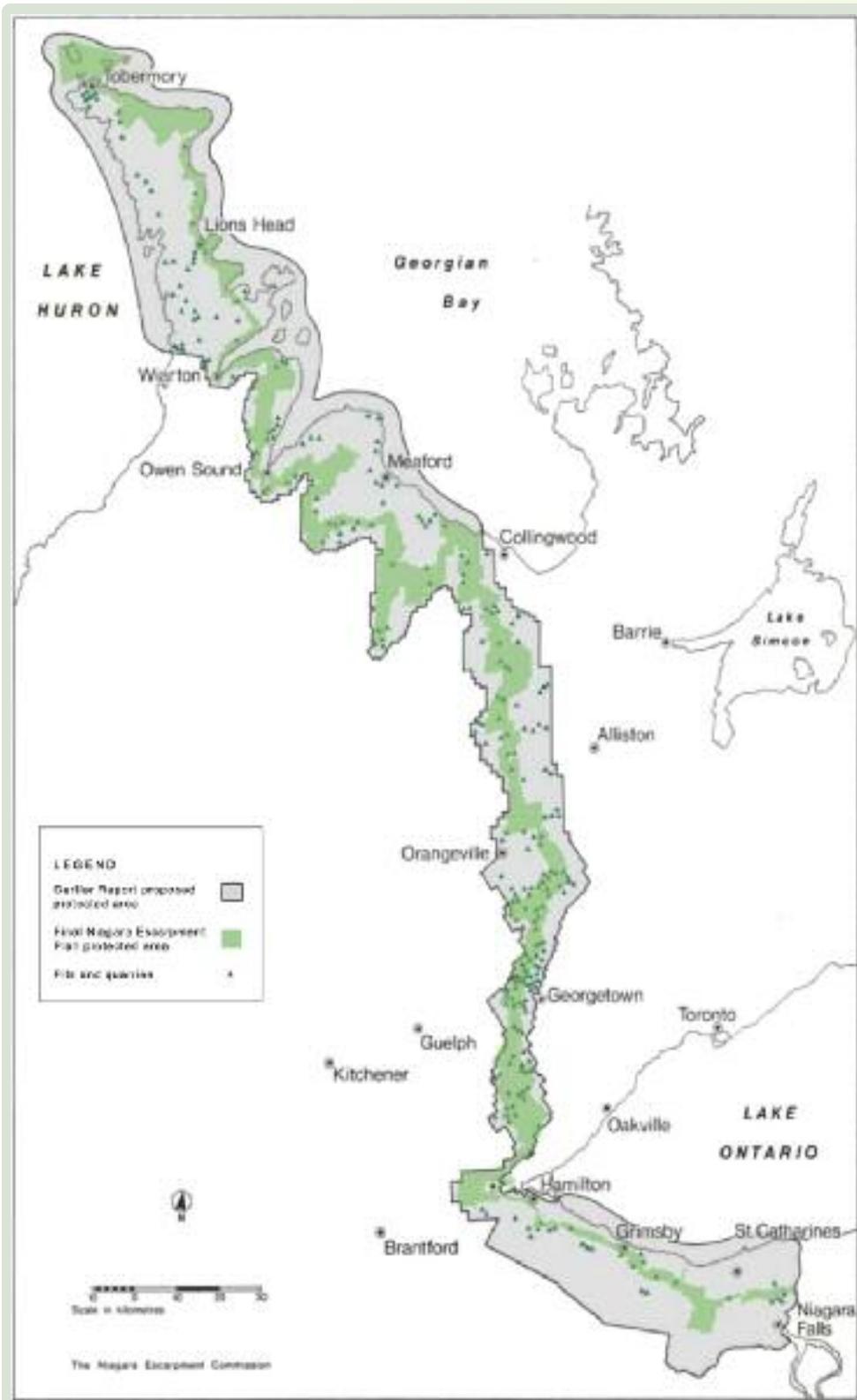
increasing urbanization. The Bruce Trail was conceived by Ray Lowes as a way of raising awareness for the need to protect the Niagara Escarpment.

Early Bruce Trail President and UWO Professor Cyler Hauch was connected to John Robarts' government of the day. He, Ray Lowes and other Bruce Trail pioneers petitioned the province for action. This grassroots persistence, along with other events of the day (including the visible and visceral blasting of the Escarpment “gap” north of Milton) combined to form a “perfect storm” of awareness for the Niagara Escarpment and recognition of the need for its protection.



Philip Gosling
measuring the
Trail in 1962

Photo: BTC Archives



In 1967 the provincial government appointed an Escarpment Study Group headed by Professor L.O. Gertler to research the effects of urban, mining and recreational development on the Niagara Escarpment. The *Natural Escarpment Study Conservation and Recreation Report*, 1968, known simply (and famously) as the “Gertler Report”, made recommendations to protect the Niagara Escarpment through land acquisition by government, land use

In 2006 the BTC honoured Professor Len Gertler for his monumental work and influence on Niagara Escarpment protection by posthumously awarding him the Calypso Orchid Environmental Award.

regulation on private lands, restrictions on pits and quarries and development of a parks system.

The Report was bold. One of the chief recommendations was that 36,000 hectares (90,000 acres) of Escarpment land be purchased by the government and persevered as park-land; the estimated cost at the time was \$31.5 million. Contrast that to today’s

50th Anniversary Milestones Project

estimate to secure the Bruce Trail's Conservation Corridor: roughly 25,000 acres at an estimated cost of \$70 to \$85 million in today's prices.

By 1972 the province and conservation authorities had purchased only 9,000 hectares for \$6.6 million, while many other parts of the Escarpment had been acquired by developers. Undaunted and perhaps motivated by this apparent lack of progress in preserving the land, public concern for the Escarpment continued to grow. In May 1972, under Premier Bill Davis, a task force was appointed to consider how to implement the recommendations of the Gertler Report.



The 2007 photo shows the Honourable William Grenville Davis (left), Premier of Ontario from 1971 to 1985 - celebrated for his groundbreaking work in protecting the Niagara Escarpment by creating the Niagara Escarpment Plan - and BTC Executive Director Beth Gilhespy holding a Premier's Plaque, awarded to the BTA by Mr. Davis in 1975 to honour the BTA's work in enhancing quality of life in the Province - BTC past President Bob Ellison (right)

Niagara Escarpment Planning Legislation Creation and Reaction

In 1973 the *Niagara Escarpment Planning and Development Act* was issued, the purpose of which was "to provide for the maintenance of the Niagara Escarpment and the land in its vicinity as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment."

Under the Act, the Niagara Escarpment Commission was formed, with the task of preparing a plan the more than 1 million acre Escarpment Planning Area. Their proposed Niagara Escarpment Plan (NEP) – which defined the area in which planning restrictions would be imposed - was presented in draft in 1977 for input and comments.

Reaction to the proposed NEP – seen by some as restricting the rights of landowners (private citizens, aggregate companies, developers, farmers, etc.) - was one of widespread and bitter opposition. The backlash against the Bruce Trail – just one element mentioned in the NEP - was swift: between 1978 and 1980 more than 168 landowners withdrew permission, resulting in extended stretches of the Bruce Trail being relegated to roads or closed altogether. Nevertheless Bruce Trail members and volunteers remained on the front lines in the late 1970s and early 1980s, attending hearings and providing compelling testimony for the importance of the Bruce Trail and the need for its support within the new legislation.

Re-establishment landowner good will was regained to some degree by modifications to the Government's proposal (including a drastic reduction in the area under regulation) and a great deal of hard work by the local Bruce Trail volunteers to assuage the fears of landowners along the route. But the suspicion lingers. Even today some landowners and members of the public mistakenly believe the BTC to be part of the NEC or some other government agency, and still treat our Trail and our good intentions with suspicion or even hostility.

The BTC and the Niagara Escarpment Plan Today

The Niagara Escarpment Plan (NEP) was finally approved in 1985. It's an important piece of legislation for the Bruce Trail Conservancy and for the protection of the Niagara Escarpment. But even with this legislation in place, the NEP

"The Niagara Escarpment Plan outlines land use designations, development criteria and related permitted uses, including farming, forestry and mineral resource extraction. It also provides the framework for a string of 141 Niagara Escarpment Parks and Open Spaces (NEPOSS) linked by the Bruce Trail, Canada's oldest and longest continuous footpath."

NEC web page

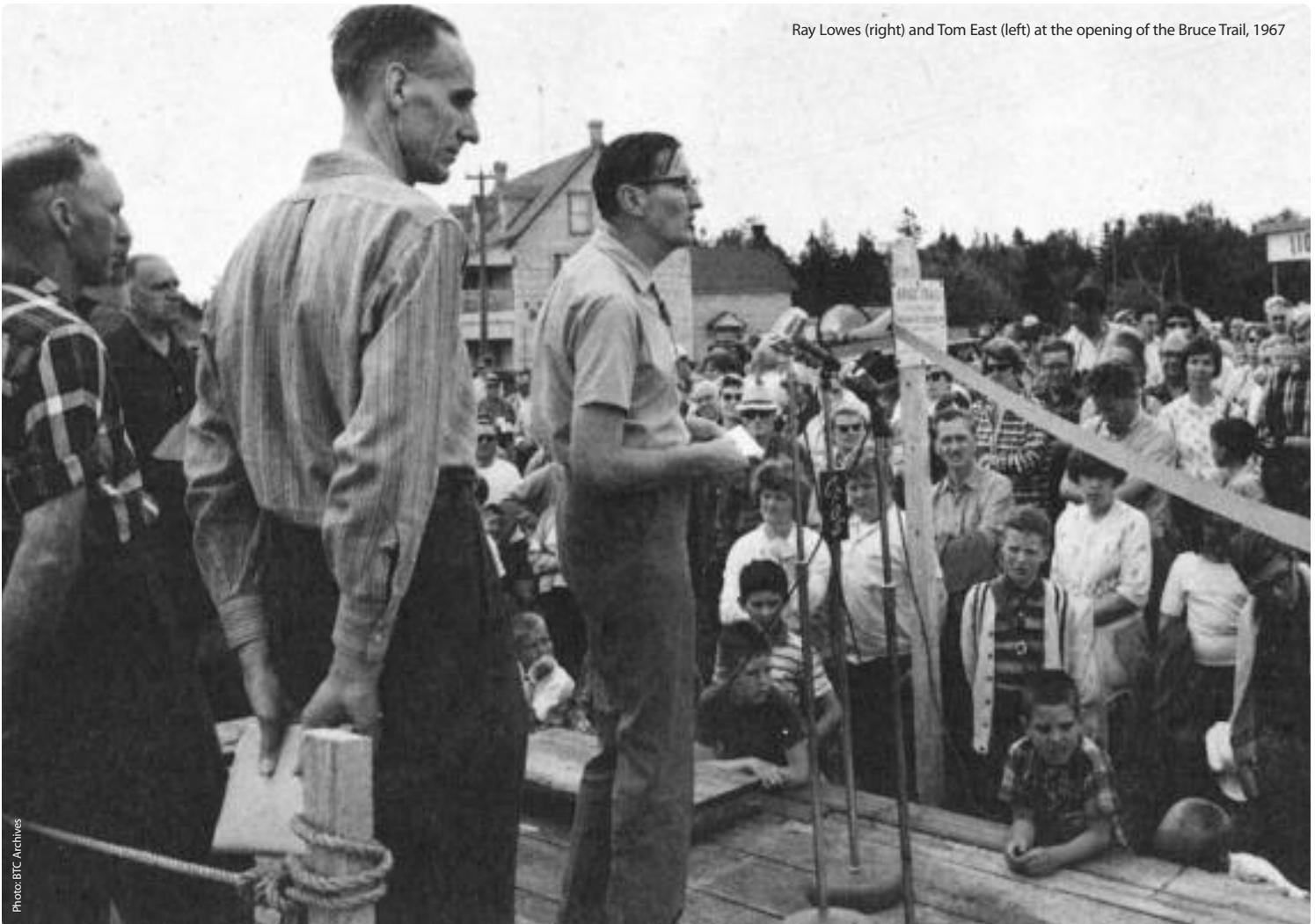
only regulates planning and development on the Escarpment: where buildings can be located, whether lots can be severed, restrictions on quarries. It doesn't actually prohibit development on the Escarpment, and it doesn't guarantee public access along the Bruce Trail's Optimum Route. The NEP and related legislation is also vulnerable to public opposition and the changing governments. Hence the BTC's mission, as acquisition of land by conservation groups including the BTC is the most effective way of permanently protecting land along the Escarpment – for ecosystem preservation and for the Bruce Trail.

The NEP helps us do this. **The NEP establishes the *Niagara Escarpment Parks and Open Spaces System***

(NEPOSS), which mandates that there is to be a secured route for the Bruce Trail across lands within NEPOSS, with priority for provincial funding. The NEP also allows conservation groups such as the BTC to take severances of land for the purpose of conservation. The Bruce Trail as a pedestrian footpath is a permitted use in all of the NEP zoning designations, including the most restrictive ("Escarpment Natural").

Challenges and Next Steps

While the Niagara Escarpment Plan has been supportive in advancing the mission of the BTC there is room for improvement. The 2015 *Coordinated Review* is our opportunity to



Ray Lowes (right) and Tom East (left) at the opening of the Bruce Trail, 1967

Photo: BTC Archives

50th Anniversary Milestones Project

once again provide input to the legislation to achieve our goal of conservation and public access.

In March 2015 we issued a call to action to our members and volunteers, asking for their help in supporting the BTC's position in the Coordinated Review of the four land use plans by attending the public meetings. In May we also asked you to write to the Review Panel indicating your support for the BTC. We asked you to deliver three key messages:

- **Funding:** The land securement funding once ascribed to the Niagara Escarpment needs to be re-instated.
- **Conservation Severances:** A more efficient process for severing land for conservation purposes needs to be created.
- **Access:** The continuance of the Bruce Trail through NEPOSS land is essential to maintain the engagement of the public in preservation and conservation of the Niagara Escarpment. We need definitive language within the Niagara Escarpment Plan that our Trail can continue

to pass through public lands along our Optimum Route.

The response to our call to action has been outstanding. Dozens of our members and volunteers have attended the public meetings, written letters of support for the BTC to the Province, and engaged others in a discussion over the importance of the BTC's work.

Navigating the legislative landscape – like navigating the Bruce Trail itself – has been long, challenging and rewarding. We were there in the 1960s, successfully petitioning the government for more recognition and protection of the Niagara Escarpment. We continued our support for the Escarpment and the Bruce Trail through the rocky years of Niagara Escarpment Plan development in the 1970s and 1980s. And today we continue to play a role in influencing legislation that will result in a more protected Niagara Escarpment and Bruce Trail. •

