
Subject: Environmental Planning Function Overview

Report to: Planning and Economic Development Committee

Report date: Wednesday, February 20, 2019

Recommendations

1. That Report PDS 2-2019 **BE RECEIVED** for information; and,
2. That a copy of Report PDS 2-2019 **BE CIRCULATED** to the Local Area Municipalities, Niagara Peninsula Conservation Authority (NPCA), and the Niagara Home Builders Association.

Key Facts

- The purpose of this report is to outline the roles and responsibilities of the Region for the delivery of environmental planning services versus those of the NPCA.
- The Region is responsible for review of planning applications, secondary plans, and studies to ensure compliance with Regional Official Plan and Provincial policies related to the natural environment.
- As per the Protocol for Planning Services between the Regional Municipality of Niagara (the Region) and the Niagara Peninsula Conservation Authority (NPCA) (first approved in 2008 and updated in 2011, 2014 and 2018), the NPCA assumed responsibility for environmental planning reviews on the Region's behalf until 2018, after which the NPCA returned the responsibility to the Region.
- The NPCA continues to be responsible for review of planning applications in NPCA-regulated areas in accordance with the Conservation Authorities Act and Ontario Regulation 155/06, as well as interpretation and enforcement of the Niagara Region Tree and Forest Conservation Bylaw.

Financial Considerations

Financial costs resulting from the Region resuming responsibility for review of natural environmental matters can be accommodated through the proposed 2019 Operating Budget. The proposed budget includes a Regional fee for environmental review of planning applications taking effect in April 2019.

Analysis

Background

In 2007, the Niagara Region, Local Area Municipalities, and NPCA signed a Memorandum of Understanding (MOU) which transferred to the NPCA the responsibility for review of all planning applications (e.g., Draft Plans of Subdivision or Condominium, Official Plan or Zoning Bylaw Amendments, Consents/Boundary Adjustments, etc.) with respect to natural heritage interests and stormwater management. As outlined in the MOU and subsequent *Protocol for Planning Services between the Region and the NPCA* (2008), the NPCA agreed to ensure applications were compliant with all Regional Official Plan and relevant Provincial policies related to the natural environment. This transfer of review responsibility from the Region to the NPCA was premised on a consolidated 'one window' approach since the NPCA is also involved in planning application reviews pursuant to the *Conservation Authorities Act* and Ontario Regulation 155/06: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses. Funding was provided to the NPCA to support this increased role.

In September 2017, the NPCA informed Niagara Region that it would no longer take on the responsibility for planning application and stormwater management reviews from a Regional and Provincial natural heritage perspective. The *Protocol for Planning Services between the Region and the NPCA* was updated to reflect this change in consultation with the Local Area Municipalities Working Group (Area Planners) and the Niagara Home Builders Association. The Updated Protocol was approved by Council in January 2018 (Appendix 1) and a transition plan was implemented, including the use of consulting services until operationalization of the Regional Environmental Planning team in mid- 2018.

Key Policy Considerations

The 2014 Provincial Policy Statement (PPS) contains overall policy direction for the protection and management of natural heritage and water resources, as well as other Provincial interests. The Growth Plan for the Greater Golden Horseshoe (2017), together with the Greenbelt Plan (2017) and the Niagara Escarpment Plan (2017), builds on the PPS to identify where future growth should occur and what must be protected. Through Official Plans, Zoning Bylaws and other tools, Niagara Region and its Local Area Municipalities are responsible for ensuring local planning decisions are consistent with all Provincial and Regional policies.

According to Provincial and Regional policies, development or site alteration is not permitted within features referred to in the Regional Official Plan as Environmental Protection Areas (EPA). Subject to the findings of an Environmental Impact Study (EIS), development or site alteration is permitted on lands adjacent to EPAs and within or

adjacent to features referred to in the Regional Official Plan as Environmental Conservation Areas (ECA).

The Core Natural Heritage System (NHS) in Niagara Region consists of EPA and ECA features, plus the Water Resources System and potential natural heritage corridors connecting these features. The Core NHS is generally shown on Regional Official Plan Schedule C and internal Geographic Information Systems (GIS) mapping. However, the boundaries may be defined more precisely, or additional areas identified, through an EIS or other studies required through the planning process.

EIS Guidelines

The Region's EIS Guidelines (PDS 8-2018) outline the EIS process, requirements, and criteria by which the EIS requirements may be waived for small scale developments. Administrative updates are planned to reflect changing Provincial legislation, and provide clarifications and additional checklists. It is anticipated that the updated guidelines will be circulated to the Planning and Economic Development Committee for information purposes in mid-2019.

Niagara Region Roles and Responsibilities

As per the Protocol (Appendix 1), the Region is responsible for review of planning applications and technical clearance services related to the above-listed EPA and ECA natural heritage features. In addition, the Region is also responsible for water resources, including the protection of both groundwater and surface water features, sensitive areas, and stormwater management. Generally, the Region's Environmental Planning team involvement in planning applications includes:

- Participation in pre-consultation meetings as required, including identification of EIS triggers or alternatives to reduce EIS or other study requirements;
- Site visit(s), EIS scoping and Terms of Reference approval;
- Review and comment on EIS/EIS Addendums; and
- Clearance of conditions.

Regional Official Plan policies currently state that within Settlement Areas (urban boundaries), the local municipality must be satisfied with the EIS, in consultation with the Region and NPCA. Outside Settlement Areas, the Region must be satisfied with the EIS, in consultation with the local municipality and NPCA.

With respect to Species at Risk (SAR) (i.e., endangered or threatened species), Regional staff currently require sign-off on the development application from the Ministry of Natural Resources and Forestry (MNRF) when the EIS identifies the potential for impacts to SAR habitat.

Stormwater management responsibilities (Appendix 1) are currently conducted through Infrastructure Planning and Development Engineering within the Planning and Development Services Department.

NPCA Roles and Responsibilities

As per the 2001 MOU between Conservation Ontario, the Ministry of Natural Resources and Forestry (formerly the Ministry of Natural Resources), and the Ministry of Municipal Affairs and Housing, the NPCA continues to be responsible for Provincial policy interests related to natural hazards as outlined in Section 3.1 of the PPS. In addition, the NPCA is also responsible for planning application, policy and technical clearance reviews related to regulated watercourses and wetlands in accordance with the *Conservation Authorities Act* and Ontario Regulation 155/06.

The NPCA Policy Document (November 2018) provides the policies for administration of NPCA's mandate under Ontario Regulation 155/06 and its delegated roles and responsibilities within the planning and approvals process.

NPCA planning application review responsibilities overlap with those of the Region when development or site alteration is proposed within or adjacent to wetlands, or when a natural heritage feature is also regulated by the NPCA (e.g., significant valleylands that provide wildlife habitat and linkage functions are also susceptible to erosion and flooding, a regulated watercourse provides fish habitat, etc.). Where there may be policy conflicts between the Regional Official Plan and the NPCA Regulation and/or Board adopted policies, currently the NPCA Regulation takes precedence.

Niagara Region Tree and Forest Conservation Bylaw

The NPCA has administered and enforced the Niagara Region Tree and Forest Conservation Bylaw on the Region's behalf since August 1, 2008. The Bylaw currently requires that a Good Forestry Practices permit be obtained prior to any commercial tree harvesting or non-commercial removals in EPAs or designated Natural Areas under the Niagara Escarpment Plan. Its overarching purpose is to prohibit the clearing of woodland, with the following key exceptions:

- To remove dead or hazard trees;
- To remove diseased trees as per a Forest Management Plan;
- For municipal purposes, by a municipality;
- For agricultural purposes, with conditions;
- In accordance with a Tree Saving Plan approved as part of a development project; or
- Where a building permit has been issued by a local municipality.

The Bylaw was last updated in 2008. As such, updates are planned to reflect changing Provincial legislation, better align the Bylaw with current Niagara Region Official Plan policies, and provide enhanced processes for administration and enforcement. It is anticipated that the Bylaw will be updated through a public consultation process, inclusive of Local Area Municipality representatives and agency stakeholders. It is anticipated that an information report regarding the proposed Bylaw update program will be presented to Planning and Economic Development Committee by mid-2019.

Alternatives Reviewed

Delivery of environmental planning services is obligatory pursuant to the *Ontario Planning Act* (1990), Provincial Policy Statement (2014) and other legislation. No alternatives were reviewed as this report is for information purposes only.

Relationship to Council Strategic Priorities

Doing Business Differently was a strategic priority of Regional Council. Updates to the Protocol will improve the delivery of planning services across the region and provide more certainty and clarity for current and future property owners and investors.

Other Pertinent Reports

- PDS 8-2018 – Environmental Impact Study Guidelines – Administrative Update (March 7, 2018)
- PDS 2-2018 – Protocol for Planning Services Between the Regional Municipality of Niagara (The Region) and the Niagara Peninsula Conservation Authority (January 10, 2018)
- PDS 49-2017 – MOU Planning Services in Niagara (November 8, 2017)

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Appendices

Appendix 1 Protocol for Planning Services Between the Regional Municipality of Niagara (The Region) and the Niagara Peninsula Conservation Authority (January 2018)