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**Subject:** Memorandum of Understanding for Planning Function and Services between Niagara Region and Local Area Municipalities

**Report to:** Planning and Economic Development Committee

**Report date:** Wednesday, March 20, 2019

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## Recommendations

1. That the updated Memorandum of Understanding (MOU) for Planning Function and Services between the Regional Municipality of Niagara and the Local Area Municipalities dated March 2019, attached to this report as Appendix I, **BE CIRCULATED** to the Local Area Municipalities for review and approval; and
2. That subsequent to the approvals by the Local Area Municipalities that the MOU **BE BROUGHT FORWARD** to Regional Council for approval with direction that the Regional Chief Administrative Officer (CAO) **BE AUTHORIZED** to sign the MOU.

## Key Facts

- The purpose of this report is to provide information to Committee and Council regarding the proposed updated MOU, and to recommend circulation of the MOU to the local area municipalities for review and approval prior to Regional Council approval.
- This MOU is between the Region and the Local Area Municipalities. However, the Niagara Peninsula Conservation Authority (NPCA) participated in the Working Group that updated the document.
- In September 2017, staff informed Regional Council of the immediate need to update two important and related documents dealing with planning function and services (roles and responsibilities) in Niagara:
  1. The 2007 Memorandum of Understanding (as amended) between the Local Area Municipalities, the Niagara Peninsula Conservation Authority and Niagara Region (MOU); and
  2. The 2008 Protocol for Plan Review and Technical Clearance between the Niagara Peninsula Conservation Authority and Niagara Region.
- The revised Protocol was approved by Regional Council and the NPCA in January 2018 (attached to the MOU as Appendix III).

- Subsequent to the Protocol approval, work commenced to update the 2007 MOU to:
  - clarify the respective roles and responsibilities of the Region and the Local Area Municipalities,
  - be an instrument of continuously improving service and relationship management
  - incorporate directions on: new legislation, growth, process changes, and planning resources.
- The MOU Working Group, a sub-group of the Niagara Area Planners, met on several occasions to determine the direction and content of the MOU. The MOU Working Group determined that the MOU required a major update rather than the fine-tuning that occurred in 2010 and 2014.
- A working session with development industry stakeholders was held on October 24, 2018, to discuss the MOU and opportunities to improve the development approvals process. Parts 3 and 5 of the MOU address many of those comments (see Appendix II).
- The MOU was also circulated for discussion to the CAOs, Niagara Area Planners, Building Officials and Public Works groups during January and February 2019.
- This revised MOU sets the foundation for undertaking transformational changes into the future and confirms the framework within which the Region and local area municipalities will function and provide planning services in Niagara.

## **Financial Considerations**

There are no financial impacts to the Region as a result of the updated MOU.

## **Analysis**

### Background

In 2007, the Niagara Region, local area municipalities and NPCA signed a MOU for improving the planning function in Niagara. The primary function of the MOU was to be a relationship management tool with a focus on the respective roles and responsibilities of the signing parties for policy planning and the review of development applications.

In 2008, the Protocol for Plan Review and Technical Clearance between the Niagara Peninsula Conservation Authority and Niagara Region was approved. This document

detailed the transfer of responsibilities to the NPCA related to environmental matters identified in the MOU.

The MOU was updated in 2011, and again, in 2014.

The MOU and Protocol have succeeded as tools, and are relied upon to manage relationships, reduce duplication and effect continuous improvements. However, significant changes have occurred in Niagara over the past few years in terms of legislation, process changes, relationships, resources and growth that needed to be incorporated into these documents to ensure continued success.

In September 2017, staff informed Regional Council that the MOU and Protocol required updating. Work commenced to update the MOU to:

- confirm the framework (roles and responsibilities) within which the Region and local area municipalities will function and provide planning services,
- be a leading instrument of continuously improving service and relationship management,
- integrate the recommendations of the Protocol with respect to new Regional responsibilities,
- include directions on fairly new matters, such as: pre-consultation meetings, review exemptions, complete applications, commenting timelines, urban design, and
- recognize new legislation, process changes, relationships, resources and growth.

#### Key Changes and Actions in the MOU

The following are the key changes and actions found in the MOU:

1. **Parties to the MOU** - The NPCA is no longer a party to the MOU. The integration of the approved 2018 Protocol into the MOU permits the MOU to be focused on the regional and local area municipal roles and responsibilities.
2. **New Goals and Objectives** – The goal of the 2007 MOU did not address all of the principles of the ideal planning system. To assist the Region and local area municipalities in managing growth and change, the goal of this MOU is having: A Niagara region planning system that is:
  - Integrated
  - Efficient
  - Collaborative
  - Proactive
  - Solution focused
  - Consistent

- Predictable
- Easily understood
- Transparent, and
- Responsive.

The new objectives identify what needs to be done to achieve the new goal, and include new directions, such as:

- to develop a model that demonstrates how planning services are appropriately resourced and structured
- to deliver timely, accurate, effective and customer-focused planning services;
- to pursue improvements to the planning application processes that achieve good planning, streamlining, predictability and consistency;
- to eliminate unnecessary duplication to maximize the utilization of existing resources and technical expertise and, where possible, coordinate efforts; and
- to monitor the performance of this MOU and service delivery.

3. **Regional and Local Area Municipality Interests** – The MOU now identifies specific Regional interests in planning matters through the provincial transfer of responsibilities with respect to growth management, water and wastewater services and urban design (Section 1.5).

All Parties agree to provide planning comments based on:

- legislative, regulatory or delegated authority,
- council approved policies and by-laws,
- interests that have been identified through pre-consultation, terms of reference, complete application requirements, and/or requisite studies.

4. **Roles and Responsibilities** – Roles and responsibilities are provided in table format for ease of reference and clarity. Table 1 identifies responsibilities by application type, report and submission, and Table 2 identifies responsibilities on the complex matter of stormwater management review by area of interest.
5. **Development Application Review Process** – To address comments regarding consistency, timing and fairness from the Development Industry stakeholders, as well as issues identified by the MOU Working Group, a major new section, Part 3 – Development Application Review Process, has been added to the MOU.

The MOU now recognizes the need for timely and prescribed information to be provided to staff, prior to the pre-consultation meeting, thus ensuring staff has sufficient time and basic facts about the proposal to research, complete a site

visit and provide comprehensive comments (see Section 3.3 Pre-consultation and Table 2 - Non-Statutory Development Application Review Timelines).

Table 2 also includes timing targets for review comments after circulation of a complete application.

Importantly, the MOU now permits applications that have been deemed to have no regional interest during pre-consultation to be exempt from further regional review (Section 3.3.4).

The MOU also recognizes the importance of incentives and the need to identify eligibility at the pre-consultation stage (Section 3.3.6).

6. **Continuous Improvement Efforts** - Similar to the 2007 MOU, this MOU commits to undertaking continuous improvement, and agrees that the Niagara Area Planners will establish a working team or teams to determine and implement, as feasible, best practices in policy planning and development application review. Part 9 – Continuous Improvement Efforts, and Appendix I – Niagara Area Planners’ Work Program 2019-2022 identify new actions to address many of the improvements suggested at the Development Industry Round Table meeting, MOU Group discussions and other consultations.

### MOU Consultation

On October 24, 2018, a working session was held with Development Industry stakeholders, facilitated by Performance Concepts and Dillon Consulting, to discuss the MOU and opportunities to improve the development approvals process. A summary report was prepared on the results entitled “Improving Niagara’s MOU & Development Approvals Process”, (attached as Appendix II). Parts 3 and 5 of the MOU address many of the findings.

In addition to presenting the MOU to Area Planners for comment, the MOU was also circulated for discussion to the CAOs, Building Officials and Public Works groups during meetings in January and February 2019.

### **Alternatives Reviewed**

A review of comparable-purposed MOUs from across the Province has been undertaken to understand the practices of other two-tier municipalities. No common standard was determined.

## **Relationship to Council Strategic Priorities**

Doing Business Differently is a strategic priority of Regional Council. Revising the MOU will improve the delivery of planning services across the region and provided more certainty and clarity for current and future property owners and investors.

## **Other Pertinent Reports**

- Report PDS 2-2018 - Protocol for Planning Services Between the Regional Municipality of Niagara and the Niagara Peninsula Conservation Authority – January 10, 2018
- Report PDS-49-2017 – MOU Planning Services in Niagara – November 8, 2017
- Report PDS-43-2017 – Review and Update of the 2007 Memorandum of Understanding (MOU) between the Local Area Municipalities, Niagara Peninsula Conservation Authority and Niagara Region, and the 2008 Protocol for Plan Review and Technical Clearance between the Niagara Peninsula Conservation Authority (NPCA) and Niagara Region – September 15, 2017
- Memorandum PDS-C 4-2014 – Local Area Municipal Response to the 2014 Update to the Memorandum of Understanding for improving the Planning Function in Niagara – May 14, 2014
- Report PW 1-2014 Building Relationships, 2014 Update to the Memorandum of Understanding for Improving the Planning Function in Niagara – January 7, 2014
- Report PPW 10-2007 Memorandum of Understanding – Planning System in Niagara

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*This report was reviewed by Doug Giles, Director of Community and Long Range Planning.*

## **Appendices**

- Appendix I** Memorandum of Understanding for Planning Function and Services between Niagara Region and Local Area Municipalities, dated March 2019.
- Appendix II** Improving Niagara's MOU & Development Approvals Process, dated November 2, 2018.
- Appendix III** Protocol for Planning Services between the Regional Municipality of Niagara and the Niagara Peninsula Conservation Authority.