
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

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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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.

MEMORANDUM OF UNDERSTANDING

between

The Regional Municipality of Niagara

The Town of Fort Erie

The Town of Grimsby

The Town of Lincoln

The City of Niagara Falls

The Town of Niagara-on-the-Lake

The Town of Pelham

The City of Port Colborne

The City of St. Catharines

The City of Thorold

The Township of Wainfleet

The City of Welland

The Township of West Lincoln

Planning Function and Services in Niagara

March 2019

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Part 1

Preamble

Part 1 – Preamble

1.1 Introduction

The Memorandum of Understanding (MOU) has been prepared for the following thirteen government planning authorities (hereafter referred to as Parties), which operate within a two-tier system in the Niagara Region planning area:

- a) The Council for the Regional Municipality of Niagara (Region); and
- b) The Councils of the Town of Fort Erie, the Town of Grimsby, the Town of Lincoln, the City of Niagara Falls, The Town of Niagara-on-the-Lake, the Town of Pelham, the City of Port Colborne, the City of St. Catharines, the City of Thorold, the Township of Wainfleet, the City of Welland and the Township of West Lincoln (collectively referred to as the “area municipalities”);

The purpose of this MOU is to update and clarify the respective roles and responsibilities of the Parties, as well as to be an instrument of continuously improving service and relationship management. This revised MOU sets the foundation for undertaking transformational changes into the future and confirms the framework within which the Parties will function and provide planning services.

The MOU has been collaboratively developed by the MOU Working Group, a sub-group of the Niagara Area Planners. The MOU has been reviewed, refined and endorsed by the Niagara Area Planners. The MOU was also presented for discussion to the CAOs, Building Officials and Public Works group meetings during January/February 2019.

1.2 Background

In 2007, the Region, area municipalities and NPCA signed a Memorandum of Understanding (2007 MOU) for improving the planning function in Niagara. The primary function 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. The 2007 MOU was reviewed and revised in 2011 and again in 2014.

The 2007 MOU (as amended) succeeded in managing relationships, reducing duplication and effecting continuous improvements. However, significant changes have more recently occurred in Niagara, in terms of legislation, relationships, resources, and growth that have impacted the established roles and responsibilities.

Following discussions at Niagara Area Planners, in September 2017, reports were presented to Regional Council and the NPCA (PDS-43-2017 and CR-92-17 respectively) outlining the need to update the 2007 MOU, as amended, as well as the 2008 Protocol for Plan Review and Technical Clearance between the Niagara Peninsula Conservation Authority and Niagara Region (2008 Protocol).¹

A priority was established for updating the 2008 Protocol due to new directions within the NPCA that required the NPCA and Regional roles to be realigned. This work was undertaken in Fall 2017. The revised Protocol was approved by Regional Council and the NPCA in January 2018 and came into effect upon these approvals.

The 2018 Protocol shifted responsibility for reviewing policy and development applications and providing technical clearance services ensuring compliance with the Regional Official Plan and Provincial legislation to the Region. In addition, the Region also took on responsibility for stormwater management review. A full description of the Region and NPCA's roles and responsibilities are detailed in the 2018 Protocol, which is attached to this MOU as Appendix III, and is to be read in conjunction with the MOU. Following the approval and implementation of the 2018 Protocol, work commenced to update the MOU.

1.3 Goal

The MOU established a goal of having “an integrated and seamless planning system that is embraced and easily understood by Councils, the public, applicants and staff that encourages participation in policy development and application processing.” This goal continues to have relevance; however, it does not address all of the principles of the ideal planning system. To assist the Parties in managing growth and change while protecting the natural environment, agricultural land base and cultural heritage, the goal of this MOU is having:

A Niagara region planning system that is:

- Integrated
- Efficient
- Collaborative

¹ The 2008 Protocol consolidated planning services with respect to the natural environment.

- Proactive
- Solution focused
- Consistent
- Predictable
- Easily understood
- Transparent, and
- Responsive.

1.4 Objectives

This MOU seeks to achieve the following objectives:

- To clarify respective roles and responsibilities with respect to the provision of planning services;
- To deliver timely, accurate, effective and customer-focused planning services;
- To eliminate unnecessary duplication to maximize the utilization of existing resources and technical expertise and, where possible, coordinate efforts;
- To develop transparent, effective, efficient and collaborative processes for policy development;
- To pursue improvements to the planning application processes that achieve good planning, streamlining, predictability and consistency;
- To improve on communications between regional, NPCA and area planners to work together more effectively and efficiently;
- To identify an approach/process to interpret policy thereby ensuring consistency both now and in the future;
- To develop a model that demonstrates how planning services are appropriately resourced and structured;
- To hear and understand the needs and desires of the public;
- To ensure that public aspirations are considered and communicated in the planning process;
- To develop transparent, easily understood processes for community engagement;
- To monitor the performance of this MOU and service delivery;
- To encourage public participation in policy development and development review; and
- To ensure the MOU is embraced and easily understood by Councils, the public, applicants and staff.

1.5 Authority

There are several land use policy planning approvals that rightly are addressed at the Regional Municipality level – these will be retained as expressed in the MOU. However, the Council of the Regional Municipality is empowered by The Planning Act to delegate all or parts of its approval authorities to its Area Municipalities subject to such conditions as the Regional Council deems appropriate. In 1997 and 1999, Regional Council adopted by-laws delegating authority for the approval of subdivisions and consents (respectively) to the local municipal Councils.

In 1996, the Province of Ontario transferred the responsibility to review planning applications for Provincial interests to the Regional Municipality of Niagara on behalf of the Ministry of Municipal Affairs and Housing, Ministry of the Environment, Conservation and Parks, Ministry of Natural Resources and Forestry, Ministry of Tourism, Culture and Sport, and Ministry of Agriculture, Food and Rural Affairs. Matters of provincial interest are identified in the Planning Act S.2 and further defined in Provincial legislation, such as the Growth Plan for the Greater Golden Horseshoe. There is a need to clarify the roles and responsibilities of the Region and area municipalities with respect to some provincial interests, as follows:

- Growth Management: The Region allocates population and employment growth to the area municipalities. The area municipalities distribute population and employment growth within their communities.
- Water and Wastewater Services: The Region is responsible for all connections to the Region's trunks and pipes.
- Urban Design: The Region has an interest in urban design along Regional Roads.
- Natural Heritage and Water Resources: The Region has an interest in Natural Heritage and Water Resources (see Protocol).

While not a party to this MOU, the Region and area municipalities work collaboratively with the NPCA and recognize its authority. The NPCA is an autonomous corporate body established under the Conservation Authorities Act with a mandate, as set out in Section 20 of the Conservation Authorities Act, to establish and undertake programs designed to further the conservation, restoration, development and management of natural resources. NPCA comments are limited to natural environment interests as set out in legislation, regulation and/or delegated authority (as detailed in the 2018 Protocol).

1.6 Jurisdiction

This MOU applies to those lands within the Regional Municipality of Niagara. It is noted that a portion of Grimsby is under the Hamilton Conservation Authority's jurisdiction.

1.7 Definitions:

Complete Application means:

Submission of prescribed requirements under the Planning Act including all application fees, application form and application requirements determined in consultation with the Lead Agency and commenting/review Parties. In addition to the compulsory requirements, supplementary information may also be required. The requirements of a Complete Application will be determined through pre-consultation.

Interests means:

The interests of the Party as defined by its approved plans, policies, programs and delegated authorities, and as further defined within this MOU.

Lead Agency means:

The organization responsible for coordinating the processing of a development application, policy project or environmental assessments;

Lead Agency for Technical Study means:

The organization responsible for the principal review of a technical study(s) ensuring compliance and conformity with related applicable legislation.

Niagara Area Planners means:

A group representing the Parties that collaborate on matters of common interest. This group is comprised of planning and development directors or their designate.

Planning Application Review means:

The review of planning applications (including formal pre-consultation) under the *Planning Act*, the *Niagara Escarpment Planning and Development Act* and the *Environmental Assessment Act*, which may include:

1. The identification of the need for and review of related technical reports (including scoping); and/or
2. The identification of conditions of approval.

Policy Review means:

1. The review of existing or new policy documents, such as stormwater management guidelines, watershed studies, secondary plans and background studies; and/or
2. The identification of the need for and review of related technical reports.

Technical Clearance Review means:

1. The assessment of technical reports submitted by a proponent of development to determine if the reports satisfy the specified requirements; and
2. The clearing of conditions.

Part 2 - Roles and Responsibilities of the Parties

2.1 Policy and Implementation Planning

The Parties agree that successfully meeting the objectives for this MOU will require a collaborative approach to policy and implementation planning. The signatories are committed to developing Niagara and building good communities.

The parties agree to provide comments based on:

- Legislative, regulatory or delegated authority,
- Council approved policies and by-laws,
- Interests that have been identified through this MOU, pre-consultation, terms of reference, complete application requirements, and/or requisite studies.

Specific provisions related to roles and responsibilities are provided in this MOU and Table 1 - Responsibilities by Application Type, Report, Submission.

The Parties agree that a high degree of policy alignment is important in advancing an integrated and consistent planning system. In order to achieve policy alignment, the Parties agree to collaborate and include the following measures for each policy planning project and implementation of projects:

- Pre-consultation with relevant partners, prior to project start-up, identifying areas of common interest,
- Placement of appropriate representation on project steering committees;
- Agreed-to milestone meetings, consultations, and document review;
- Mutually satisfactory review protocols with shared commitment to timeliness; and
- Work collaboratively toward sharing GIS files and data.

Policy Planning

The following are the means by which Policy Planning will be conducted by the Parties for specific types of policy planning projects.

2.1.1 Regional Official Plan and Amendments (ROPAs)

Approval of the Regional Official Plan rests with the Province of Ontario. The Adoption of ROPAs rests with Regional Council. Area Municipalities provide comments based on circulation by the Region. The Niagara Peninsula Conservation Authority (NPCA) comments to Region during circulation.

2.1.2 Area Municipal Comprehensive Official Plans and Non Site-Specific LOPAs

Approval rests with Regional Council. The Area Municipality prepares the Comprehensive Official Plan, collaboratively with direct involvement of Regional Planning and NPCA *prior* to releasing a draft Official Plan for public comment. The NPCA provides comments during circulation.

2.1.3 Area Municipal Site Specific and Policy Specific Official Plan Amendments

For the purposes of this Section, 'site specific' means that the proposal:

- is single application on a single property or multiple contiguous properties under single ownership or control; and
- does not require a Regional Official Plan Amendment or Secondary Plan.

Area Municipality approves and Region provides comments during circulation stage and reviews draft Official Plan Amendment prior to adoption. The NPCA provides comments during circulation stage.

2.1.4 Secondary Plans

Approval rests with the Region, except where deemed exempt as per the Regional Official Plan. The Region will determine whether the Secondary Plan is exempt from Regional approval within the timeframe outlined in Table 2.²

The Area Municipality prepares the Secondary Plan, collaboratively with direct involvement of Regional Planning and NPCA:

- in the development of the Terms of Reference, Scope of Work or Initiation Report
- the review of the draft Secondary Plan policies and mapping/schedules prior to release for public comment

² The MOU Group has identified a need to review and update Regional Official Plan policies with respect to local Official Plan Amendment exemptions, specifically related to Secondary Plans. This item has been included in the Niagara Area Planners' Work Program for Improvements 2019-2022 (attached as Appendix I).

The Region provides comments on the Secondary Plan within the timeframe outlined in Table 2. The NPCA provides comments during circulation.

2.1.5 Community Improvement Plans

Proponent, either Region or Area Municipality, approves the CIP. If Regional funding is provided (subject to Regional budget approvals), proponent municipality prepares the Community Improvement Plan, collaboratively with direct involvement of the Area Municipality, Regional Planning and NPCA:

- in the development of the Terms of Reference, Scope of Work or Initiation Report
- in the development committees pertaining to CIP creation

The Region will review the draft Community Improvement Plan policies and mapping/schedules prior to release for public comment. Non-proponent, Region or Area Municipality comments during circulation. Conversely, the Area Municipality will review draft Regional Community Improvement Plan policies and mapping/schedules prior to release for public comment. The NPCA provides comments during circulation.

2.1.6 Niagara Escarpment Plan Amendments

Approval rests with Province. The Region comments during circulation. The Area Municipality comments during circulation. The NPCA comments during circulation.

2.1.7 Regional Environmental Assessments

Approval rests with Province. The Region adopts. The Area Municipality comments during circulation. The NPCA comments during circulation.

2.1.8 Local Environmental Assessments

Approval rests with Province. The Area Municipality adopts. The Region comments during circulation. The NPCA comments during circulation..

2.1.9 Special Studies

The principal or lead proponent of any special study is the agency that is responsible for adopting. In the event of joint studies, all proponent agencies

adopt. The relevant partners participate in the process via a collaborative framework that is established at the beginning of the study process.

Implementation Planning

The Parties agree that successfully meeting the objectives for this MOU will involve placing responsibility for implementation planning primarily with the Area Municipalities as the legislated/delegated approval authority for such activity.

The following are the means by which Implementation Planning will be conducted by the Parties for specific types of Implementation Planning activities.

2.1.10 Comprehensive Zoning By-laws

Area Municipality approves. The Area municipality prepares the Comprehensive Zoning By-law, collaboratively with direct involvement of Regional Planning and NPCA *prior* to releasing a draft Comprehensive Zoning By-law for public comment. The NPCA comments during circulation.

2.1.11 Zoning By-law Amendments

Area Municipality approves. Based on Table 1 and Section 3.3.4, Region may comment during circulation. The NPCA provides comments upon request by Area Municipality.

2.1.12 Draft Plans of Subdivision

Area Municipality approves. Based on Table 1 and Section 3.3.4, Region comments during circulation of new Draft Plans. The NPCA provides comments upon request by Area Municipality.

2.1.13 Plans of Condominium

Area Municipality approves. The Region comments during circulation, for vacant land condominiums and for conversions of rental housing to condominiums, based on Table 1 and Section 3.3.4. The NPCA provides comments upon request by Area Municipality.

2.1.14 Consents

Area Municipality approves. Based on Table 1 and Section 3.3.4, Region may comment during circulation. The NPCA provides comments upon request by Area Municipality.

2.1.15 Minor Variances

Area Municipality approves. Based on Table 1 and Section 3.3.4, Region may comment during circulation. The NPCA provides comments upon request by Area Municipality.

2.1.16 Site Plan Control

Area Municipality approves. Based on Table 1 and Section 3.3.4, Region may comment during circulation. The NPCA provides comments upon request by Area Municipality.

2.1.17 Niagara Escarpment Development

Region provides comments, upon circulation. The Area Municipality provides comments, upon circulation. The NPCA provides comments, upon circulation.

2.2 Roles and Responsibilities with Respect to Environmental Features

2.2.1 This MOU gives overall direction for the coordinated review of development applications, policy planning and environmental assessments. For purposes of clarity with respect to environmental features, the NPCA reviews development applications, policy and environmental assessments, in accordance with the Conservation Ontario MOU with the Province to ensure consistency with Conservation Authority Regulation, NPCA Board adopted Policies and Section 3.1. Natural Hazards of the Provincial Policy Statement (except Section 3.1.8). This may include providing comments directly to MMAH as part of the provincial one window process. Through the approved 2018 Protocol the NPCA agreed to copy the Region and area municipality on all correspondence.

2.2.2 The approved 2018 Protocol identifies the roles and responsibilities of the Region and NPCA in Ontario's Land Use Planning System with respect to environmental matters. The 2018 Protocol (as may be amended) is to be read concurrent with this MOU.

2.2.3 The Region agrees to prepare and maintain, with the assistance of the NPCA and Area Municipalities, a Natural Environment Information Map for the lands within its jurisdiction.³ This map shall define the Region, Area Municipalities and NPCA geographic areas of interest in the Natural Environment including the following features and required buffers:

- All streams and watercourses;
- Environmental designations and Policies in the Regional Official Plan
- Lake Ontario and Lake Erie Shoreline;
- Regulated Areas under Section 28 of the Conservation Authorities Act; and
- Mapping of Natural Heritage Features and Areas as defined by the Provincial Policy Statement, Greenbelt Plan, and any other Provincial Policy Document.

³ This statement recognizes that a portion of Grimsby is under Hamilton Conservation Authority jurisdiction with respect to natural hazards.

Part 3 – Development Application Review Processes

3.1 General

The Parties agree that the timely, efficient and predictable review of development applications is paramount to encouraging well planned, affordable development in the region. Part 3 – Development Application Review Processes identifies segments of the development review process that benefit from clarification and agreement.

3.2 Preliminary Review

A preliminary review occurs prior to Pre-consultation. Its purpose is to gather information and is typically part of a developer's due diligence. Preliminary discussions about a potential development application benefit the applicant by supplying early information about the land, process and possible issues. An important part of a preliminary review is providing direction on the Pre-Consultation Process. In particular, the applicant needs to understand what information is required by the parties prior to pre-consultation and any fees.

3.3 Pre-Consultation

Pre-consultation is a requirement for most Planning Act Applications. It requires specific actions by the applicant and each of the Parties with an *interest* in the development. After pre-consultation the applicant should have a clear understanding of the documentation required to submit a Complete Application (Section 3.4) as well as preliminary comments regarding whether the proposal will be supported by the Region and the Area Municipalities

3.3.1 Required Information⁴

Prior to scheduling a pre-consultation meeting, the Lead Agency will determine which Parties should attend the meeting and require specific information from the applicant to provide to the attending Parties in order that the Parties may complete an initial review. The required information will vary depending on the type of application, but generally includes:

- A completed Pre-consultation Request Form, including permission to enter property,
- The required fee (if applicable),
- Preliminary Plans showing the following:
 - Location of existing and proposed land uses, buildings and structures;

⁴ The MOU Group has identified an issue with respect to the consistency in the information circulated for preparation of a pre-consultation meeting. The lack of information diminishes the benefits of pre-consultation. Standardization of forms and required information would help in this regard. This item has been included in the Niagara Area Planners' Work Program for Improvements 2019-2022 (attached as Appendix I).

- Location of significant features on the site and adjacent to the site (i.e. wetlands, hazard lands, watercourses, woodlands, wells, septic tanks, etc.);
- Existing and proposed lot fabric (as appropriate); and
- Proposed development concept, including setbacks from lot lines and significant features.

3.3.2 Circulation/Timelines

Refer to Table 2 for circulation/timelines. If the circulated information is incomplete and/or the timeline is not met, the commenting agencies may request in writing the rescheduling of the pre-consultation meeting to offer better service and outline of study requirements.

Commenting agencies may conduct site visits prior to the date of the pre-consultation meeting, where time permits, to inform discussion at the meeting regarding the scoping of required studies.

3.3.3 Required Studies and Scoping of Studies⁵

The Terms of Reference, or the minimum requirements for each of the required studies will be discussed during the pre-consultation process. The objectives and parameters of the studies will be agreed to prior to them being undertaken in accordance with the Local and Regional Official Plans as well as accompanying guidelines.

The following is agreed to with respect to requesting and scoping studies:

- When determining the need for a study or plan, the Party requiring the study shall scope the study by identifying the specific necessary information. In addition, the Party requesting the study may offer to review the Terms of Reference.
- When more than one Party requests the same study, it is essential that a collaborative approach for scoping and Terms of Reference review occurs to ensure that all matters are addressed, and the applicant understands the requirements.
- For clarity, the NPCA has a role in scoping Environment Impact Studies (EIS) and reviewing the Terms of Reference for EIS and similar reports where natural hazards (as defined in the 2018 Protocol) and NPCA Regulation/Policy are required to be addressed.

⁵ The MOU Group has identified the need for standardized Terms of Reference for required studies. Standardization would help in scoping studies as well as ensure consistency. This need has been included on the Niagara Area Planners' Work Program for Improvements 2019-2022 (see Appendix I).

- In the event that one or more studies have been undertaken prior to pre-consultation, the Parties retain the right to require revisions to ensure that the studies are completed in accordance with requirements.
- All required studies shall be prepared and signed by a qualified professional.
- The Province has downloaded the responsibility to determine the need for an Archeological Study to the Region. Where an approved Archeological Master Plan has been incorporated into a Local Official Plan, this responsibility, as well as any related clearance of condition(s), will fall to the Lead Agency.

3.3.4 Exemption from Application Review by the Region⁶

All development applications are circulated to the Region for review, except where the Region has determined through pre-consultation that the development proposal is exempt from further circulation and review. Examples include, but are not limited to:

1. Zoning By-law Amendment applications for “Agricultural Purposes Only” required as a condition of consent
2. Zoning By-law Amendment, Consent, Minor Variance and Site Plan applications where:
 - The application is not situated on a Regional road, easement or facility, or as determined at the pre-consultation meeting,
 - The Region has indicated during the pre-consultation process that there are no Provincial or Regional interests, and
 - The application received by the area municipality is the same as reviewed at pre-consultation.
3. Zoning By-law Amendment applications as a condition of consent, where Provincial and Regional interests have been dealt with through the consent application.
4. Draft Plans of Condominium, Site Plan and Part Lot Control applications where:
 - Provincial and Regional interests have been dealt with through a previous or concurrent development review process, provided no changes have been made to the application which effects Provincial or Regional interests

⁶ The MOU Group has identified the need for a standardized letter to be provided at a pre-consultation meeting that acknowledges the potential for exemption from further review on the part of a Party. This need has been included on the Niagara Area Planners’ Work Program for Improvements 2019-2022 (see Appendix I).

3.3.5 Fees

Each of the parties to the pre-consultation shall identify the fees required for application review, including the identification of additional costs should a peer review of a technical study be required.

The Parties agree not to charge each other fees for applications processed under the Planning Act.

3.3.6 Incentives

Each of the Parties to the pre-Consultation will endeavor to identify financial incentive programs, if any, that the project may be eligible for. Incentives available from either the Region or Area Municipality are subject to both program changes and budget approvals. As such, incentives identified at pre-Consultation may not be available at time of construction.

3.4 Complete Applications

3.4.1 Submission Requirements⁷

The requirements of a Complete Application are determined during pre-consultation and provided in writing to the applicant by the Lead Agency in consultation with the commenting agencies.

The Lead Agency will review the application submission to ensure all required materials (forms, fees, plans, studies, etc.), as requested by all commenting agencies, are provided, and deem the application complete or not.

3.4.2 Circulation and Development Application Review Timelines

The Planning Act and related Regulations identify statutory timelines for the review of Complete Applications by the Lead Agency. In order to ensure the statutory timelines are met, the Parties agree that the commenting agencies, as identified in Table 1 – Responsibilities by Application Type, Report, Submission, shall use best efforts to complete the review of all

⁷ In addition to the information prescribed in *Planning Act Regulations*, the *Planning Act* also provides that the applicant may also be required to provide additional information provided the Municipality's Official Plan contains a provision related to the requirements. All of these requirements are identified during the pre-consultation process.

applications in accordance with the timelines identified in Table 2 – Non-statutory Development Application Review Timelines.

3.5 Application Review and Commenting

3.5.1 The Parties agree, where possible, to streamline commenting methods by using standardized wording in emails, forms, letters, conditions of approval etc.

3.5.2 When a concern and/or condition of approval is not supported by the Lead Agency, the Lead Agency shall inform the commenting agency and initiate discussions to resolve the issue.

In the case of multiple applications for the same land, the Lead Agency shall use the greater of the timelines.

Revisions to applications during the review process may result in the review period being extended depending on the complexity of the revisions and the need for revised studies.

When new issues arise from the analysis of studies during application review which results in the need for additional information or study, addendums to the study may be required and additional review time may be required to review any addendums.

3.6 Other

3.6.1 Extensions of Draft Plan Approval

The Parties agree that the request for an extension to a draft approved Plan of Subdivision or Condominium be received, with the required review fee, and circulated for comment by the Area Municipality, not the applicant.⁸

3.6.2 Modifications to Conditions of Draft Plan Approval

The Parties agree that the request for a modification to a draft approved Plan of Subdivision or Condominium be received, with the required review fee, and circulated for comment by the Area Municipality, not the applicant.

⁸ The MOU Group has identified the possibility of exemption for a request for extension to a draft approved Plan of Subdivision or Condominium by the Region and NPCA. This idea has been included on the Niagara Area Planners' Work Program for Improvements 2019-2022 (see Appendix I).

3.6.3 Clearance of Conditions of Draft Plan Approval

The Parties agree that the request for formal clearance of conditions of Draft Plan of Subdivision or Condominium be received and circulated by the Area Municipality, not the applicant. The Area Municipality is also responsible for circulating a copy of the draft agreement. The applicant's submissions shall include the following:

- the required review fee
- a letter from the applicant which outlines how each Regional condition has been met, accompanied by the necessary supporting documents⁹

3.6.4 Support Services

The Region may offer support services to the Area Municipalities on a fee for service basis. These services are identified in Appendix II – Support Services - Niagara Region, and may be modified on the advisement of the Region without amendment to this MOU.

3.6.5 Applications for New or Expanded Mineral Aggregate Operations

For applications for new or expanded mineral aggregate operations a Joint Agency Review Team (JART) process will be considered. The JART is a streamlined process that allows for the coordination of applications and sharing of resources and expertise, while maintaining independent decision-making authority.

⁹ The Region will continue to review submissions related to individual conditions prior to receiving the formal request for clearance

Part 4 - Managing Relationships with Other Governments on Planning Matters

4.1 Provincial Interest

When a planning matter arises in terms of Provincial interest and the administration of same, area municipalities will channel their concerns through the Regional Municipality with the expectation that the Regional Municipality will facilitate/coordinate an understanding between Provincial authorities and local interests.

4.2 Federal Interest

When a planning matter arises in terms of Federal interest and the administration of same, area municipalities will channel their concerns through the Regional Municipality with the expectation that the Regional Municipality will facilitate/coordinate an understanding between Federal authorities and local interests.

4.3 Other Governments

When significant planning matters arise from the efforts and activities of neighbouring municipalities, such as the City of Hamilton and the County of Haldimand in Ontario and Erie and Niagara Counties in Western New York, the signatories will present a unified and singular position with coordination being provided by the Region.

Part 5 - Continuous Improvement Efforts

5.1 Working Groups

As part of this MOU, the Parties have committed to undertaking continuous improvement efforts and agree that the Niagara Area Planners establish a working team or teams to determine and implement, as feasible, best practices in policy planning and development application review.

5.2 Work Program for Improvements

As a result of the Development Industry Round Table meeting, MOU Group discussions and other consultations, several areas for improvement were identified. The MOU has been revised to address many of those improvements. Suggested improvements which require research, analysis or amendments to policy prior to implementation have been included in Appendix I - Niagara Area Planners' Work Program for Improvements 2019-2022.

5.3 Training Opportunities

The Parties agree to assess opportunities to jointly/collaboratively train staff on matters pertaining to improving service efficiencies. The Parties agree to assess opportunities to jointly/collaboratively educate staff on related and pertinent topics, such as changing legislation. Where feasible, education/training will be offered to members of the development industry and consultants to develop common understandings planning matters.

Interested parties may explore opportunities related to cross-training Staff through secondment and job-shadowing, in addition to sharing of resources.

Part 6 - MOU Terms and Implementation

6.1 Duration and Review

This MOU shall remain in effect until such time as replaced by an updated MOU (if any). A mandatory review shall occur a minimum of every 5 years to:

- reflect any changing policies or programs at the provincial, watershed, or regional level, and
- assess its effectiveness, relevance and appropriateness with respect to the affected parties.

The mandatory review shall be coordinated by the Region, undertaken by the MOU technical review team and overseen by the Niagara Area Planners.

The MOU may be reviewed at any time before the mandatory review if there are matters that need to be addressed. Based on a review by the MOU technical review team, changes considered minor in nature may not require Regional or local Council approvals. This MOU will be reviewed and amended concurrent with the new Regional Official Plan.

The Appendices are intended to be independent of the MOU and may be reviewed and amended, as necessary.

6.2 Overlapping Mandate

There will be occasions when the responsibilities of the Parties overlap. On those occasions, the Parties shall work together to provide consistent and sound comments. This will be accomplished by maintaining open dialogue and a good working relationship.

6.3 Conflict

Where there is conflict between new (changing) legislation and this MOU, new legislation will take precedence.

Where there is a conflict between an Official Plan, the NPCA Regulation and/or Board adopted policies, the Regulation shall take precedence.

Where there are conflicts, Regional, NPCA and local municipal staff will work together to resolve the issue. If all efforts fail to resolve a policy conflict, a decision will be made by the approval authority, as per Table 1.

6.4 Information Sharing / Open Data

Any information or data sources generated by the Province, NPCA or Region, or generated through municipal or watershed studies will be shared, where possible.

6.5 Fees

Fees for pre-consultation, planning review and technical clearance services will be set independently by the Parties.

All development application fees will be collected by the Area municipalities and remitted to the Region and NPCA upon circulation of a complete application, except for Regional Official Plan amendment applications.

The Region and Municipality will collect the NPCA fee for applications to amend the Region's Official Plan and remit any fees collected upon circulation of the application to the NPCA.

The NPCA will be responsible for collecting any further processing, approvals and/or Final Clearance Fees, if required.

The NPCA and Region will provide the area municipalities with an approved schedule of fees and updates.

6.6 Effective Date

This MOU will take effect on the last date signed by the Parties to this MOU.

Part 7 - Tables

Table 1 - Responsibilities by Application Type, Report, Submission

Application Type	Lead Agency	Commenting Agencies	Responsibility for Final Approval	Mandated Approval Authority
Application Type				
Regional Official Plan and updating Amendments (under Sect. 26 Planning Act)	Region	Local NPCA Province	MMAH	Planning Act S. 17 and s. 26
Regional Official Plan Amendments (other than above)	Region	Local NPCA Province	Region	Planning Act S.22
Local Official Plan, updating Amendments to Local Official Plans, Secondary Plans and other non-exempt Local Official Plan Amendments ¹⁰	Local	Region NPCA	Region	Planning Act, Regional Official Plan
Exempt Local Official Plan Amendments and Secondary Plans ¹¹	Local	Region NPCA	Local	O.Reg 699/98, Planning Act, Regional Official Plan
Zoning By-Law/Amendments	Local	Region NPCA	Local	Planning Act S. 34
Minor Variance/Permissions	Local	Region NPCA	Local	Planning Act S. 45
Draft Plans of Subdivision	Local	Region NPCA	Local	Planning Act S.51 and Regional By-laws ¹²
Draft Plan of Condominium	Local	Region NPCA	Local	Planning Act S. 51 and Regional By-laws ¹³
Consent/Boundary Adjustments	Local	Region NPCA	Local	Planning Act S. 53 and Regional By-laws ¹⁴

¹⁰ Regional Official Plan Policies 14.E.7 and 14.E.8 identify criteria under which approval of Local Official Plan Amendments may be delegated to the local Council for approval.

¹¹ Regional Official Plan Policies 14.E.7 and 14.E.8 identify criteria under which approval of Local Official Plan Amendments may be delegated to the local Council for approval. Ontario Regulation 699/98 and Regional By-laws 129-2001 and 43-2001.

¹² Delegation Authority By-laws 8620-97, 8763-97, 8760-97, 8819-97, 8764-97, 8793-97, 8792-97, 8807-97, 8761-97, 8884-97, 8619-97, 8762-97.

¹³ Delegation Authority By-laws 8620-97, 8763-97, 8760-97, 8819-97, 8764-97, 8793-97, 8792-97, 8807-97, 8761-97, 8884-97, 8619-97, 8762-97

¹⁴ Delegation Authority By-laws 179-1999, 180-1999, 181-199, 182-1999, 183-1999, 184-1999, 185-1999, 186-1999, 187-1999, 188-1999, 124-1999.

Application Type	Lead Agency	Commenting Agencies	Responsibility for Final Approval	Mandated Approval Authority
Part Lot Control	Local	Region NPCA	Local	Planning Act S. 50 and Reg. By-laws ¹⁵
Site Plan	Local	Region, NPCA	Local	Planning Act S. 41
NEC Applications: Amendments and Permits ¹⁶	NEC	Local, Region NPCA	NEC	Niagara Escarpment and Development Act
Aggregate License	MNRF Region	Local, Region NPCA	MNRF	Aggregate Resources Act S.11
Environmental Assessments	Local/Region /Province	Local, Region NPCA	Local/ Region/ Province	Environmental Assessment Act
Reports / Submissions		Commenting Agencies	Prepared to the Satisfaction of:	Mandated Approval Authority
<i>EIS in a NPCA Regulated Area</i>		Region Local	NPCA	O. Reg. 155/06, PPS, Regional Official Plan
<i>EIS outside Settlement Area¹⁷</i>		NPCA Local	Region	Regional Official Plan
<i>EIS inside Settlement Area^{18,19}</i>		NPCA Region	Local	Regional Official Plan
Watershed Studies		Region	Local NPCA	Region
Sub-Watershed Studies		Local	Region NPCA	Local
Technical Reports for Natural Hazard Identification		Local Region	NPCA	PPS, Conservation Act S. 28
Regional Master Servicing Plans		Local NPCA	Region	Regional Official Plan
Regional Stormwater Master Plan/Guidelines		Local NPCA	Region	Regional Official Plan
Regional Transportation Plans		Local NPCA	Region	Regional Official Plan
Local Master Servicing Plans		Region NPCA	Local	Planning Act, Local Official Plan

¹⁵ Delegation Authority By-laws 8620-97, 8763-97, 8760-97, 8819-97, 8764-97, 8793-97, 8792-97, 8807-97, 8761-97, 8884-97, 8619-97, 8762-97.

¹⁶ The Niagara Escarpment Commission is not a party to this MOU.

¹⁷ Notwithstanding the EIS is outside the Settlement Area, if the EIS includes a NPCA Regulated Area, the NPCA shall be the Lead and responsible for Final Approval of the EIS for the regulated features.

¹⁸ Notwithstanding the EIS is within the Settlement Area, if the EIS includes a NPCA Regulated Area, the NPCA shall be the Lead and responsible for Final Approval of the EIS for the regulated features.

¹⁹ Where an area municipality does not have in-house expertise to review an EIS, the area municipality may require a peer review.

Application Type	Lead Agency	Commenting Agencies	Responsibility for Final Approval	Mandated Approval Authority
Local Stormwater Master Plan/Guidelines		Region NPCA	Local	Planning Act, Local Official Plan
Local Transportation Plans		Region NPCA	Local	Planning Act, Local Official Plan

Table 2 - Non-Statutory Development Application Review Timelines

Application Type	Pre-Consultation	Target for Comments After Circulation of a Complete Application
Site specific Regional Official Plan Amendment	Commenting agencies to receive required information/plans a min. of 7 calendar days prior to pre-consultation.	Parties to provide comments within 20 calendar days
Secondary Plan (Local Official Plan Amendment)	Same as above	For draft Secondary Plans policies and mapping/schedules, within 30 - 45 calendar days the Region shall: a) indicate whether or not the Secondary Plan is exempt from Regional approval; and b) provide comments
Other Comprehensive Local Official Plan Amendment	Same as above	As determined in consultation with the area municipality
Site specific Local Official Plan Amendment	Same as above	Parties to provide comments within 20 calendar days
Comprehensive zoning by-law	Same as above	Parties to provide comments within 30 - 45 calendar days
Site specific zoning by-law amendment (including Holding Provision)	Same as above	Parties to provide comments within 20 calendar days
Draft plans of subdivision or condominium	Same as above	Parties to provide comments within 30 - 45 calendar days
Modifications to Draft Approved Subdivision and Condominium	Same as above	Parties to provide comments within 30 - 45 calendar days
Consent	Same as above	Parties to provide comments within 10 calendar days in urban areas and within 14 calendar days in rural areas (on private services).

Application Type	Pre-Consultation	Target for Comments After Circulation of a Complete Application
Minor Variance	Same as above	Parties to provide comments within 10 calendar days.
Site Plan	Same as above	Parties to provide comments within 20 calendar days
Extension of draft Approval	N/A	Parties to provide comments within 10 calendar days
Clearance of Conditions	N/A	Parties to provide comments within 15 calendar days
Niagara Escarpment Development Permit	N/A	Parties to provide comments within 30 calendar days
Niagara Escarpment Plan Amendment	N/A	Parties to provide comments within 60 calendar days

Notes for Table 2

1. To convene a pre-consultation meeting, the lead agency must have enough information from the applicant for the parties to complete an initial analysis and provide advice, including but not limited to advice on requirements for a Complete Application.
2. All due dates are from the time of receipt by the commenting parties and are for applications deemed complete as determined by the parties as part of pre-consultation.
3. Studies that require peer review may require an additional 30-60 day review period.
4. Revisions to Plans of Subdivision or Condominium during the review process may result in the review period being extended depending on the complexity of the revisions and the need for revised studies.
5. When new issues arise from the analysis of studies or required consultation during application review which results in the need for additional information or study, additional review time may be required.

Part 8 - Endorsement and Signature Pages

Regional Municipality of Niagara

Date of Regional Council endorsement: _____

CAO Signature: _____

Town of Fort Erie

Date of Town Council endorsement: _____

CAO Signature: _____

Town of Grimsby

Date of Town Council endorsement: _____

CAO Signature: _____

Town of Lincoln

Date of Town Council endorsement: _____

CAO Signature: _____

City of Niagara Falls

Date of City Council endorsement: _____

CAO Signature: _____

Town of Niagara-on-the-Lake

Date of Town Council endorsement: _____

CAO Signature: _____

Town of Pelham

Date of Town Council endorsement: _____

CAO Signature: _____

City of Port Colborne

Date of City Council endorsement: _____

CAO Signature: _____

City of St. Catharines

Date of City Council endorsement:

CAO Signature:

City of Thorold

Date of City Council endorsement:

CAO Signature:

Township of Wainfleet

Date of Township Council endorsement:

CAO Signature:

City of Welland

Date of City Council endorsement:

CAO Signature:

Township of West Lincoln

Date of Township Council endorsement:

CAO Signature:

Part 9 – Appendices

Appendix I - Niagara Area Planners' Work Program 2019-2022

1. Review the issues related to the package of information circulated for preparation of a pre-consultation meeting, as this impacts the ability to prepare and provide comprehensive information to the applicant and others. It is expected that an update to the standard forms (e.g. Pre-consultation Request Form) and required information would help in this regard.
2. Prepare standardized terms of reference for studies (for example: planning justification, noise, air quality, etc.). Standardization would aid in the scoping of studies, as well as, ensure consistency.
3. In addition to the standardized checklist, prepare a standardized letter to be provided at a pre-consultation meeting that acknowledges the potential for exemption from further regional review.
4. Review the possibility of regional exemption for an extension request for a draft approved Plan of Subdivision or Condominium.
5. Prepare standardized guidelines or terms of reference for the preparation of Secondary Plans to ensure Secondary Plans across the region are comprehensive, consistent and timely.
6. Investigate the implementation of a portal where an application can be tracked in order that a developer/consultant can understand the rate of movement.
7. Hold education programs, in consultation with the development industry, on topics including, but not limited to:
 - “The Business of Development – Understanding Development Performa”,
 - Customer Service related to Development (“Race to Register”).
8. Review the issues identified by the Development Industry related to securities, including but not limited to standardization and release of securities.
9. Formulate a collaborative multiyear policy planning program for Niagara that addresses:
 - Conformity of the Regional Official Plan to Provincial plans and policies;
 - Conformity of Local Official Plans to the Regional Official Plan;

- Timely update of Comprehensive Zoning By-laws to conform to Local Official Plans;
 - Harmonization of Regional and Local Official Plan policies and Conservation Authority regulations and policies, where possible; and
 - Alignment of guidelines and protocol between the Parties, such as guidelines that set out requirements for preparation of a Secondary Plan; and
10. Continued efforts to streamline the development review process, as it relates to Provincial, NPCA and regional/local interests.
11. Modifications to Regional Official Plan policies 14.E.6, 14.E.7, 14.E.8, 14.E.9 with respect to exemption policies (e.g., Secondary Plans).

Appendix II

Support Services - Niagara Region

From time to time, the area municipalities may require support. The Region may provide support services to the MOU parties on a fee for service basis in the following areas:

Urban Design

EIS Review

Noise Study Review

Appendix III

Protocol for Planning Services Between the Regional Municipality of Niagara and the Niagara Peninsula conservation Authority, approved January 2018



Engaging Niagara's Development Industry: Improving the MOU & Development Approvals Process (DAP)

November 19th, 2018



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INTRODUCTION & METHODOLOGY

Introduction: Engaging the Development industry as Partners to Improve the MOU/DAP

In October, 2018, the Region of Niagara engaged Performance Concepts Consulting and Dillon Consulting to execute a facilitated consultation program with members of Niagara's development community. The focus of the consultation program was twofold:

- To identify improvement issues/opportunities concerning the “who does what” Memorandum of Understanding (the MOU) that informs and shapes the execution of Niagara's two-tier municipal development approvals process (DAP);
- To identify specific technical/operational improvement opportunities across DAP that do not fit within the broader parameters of the MOU.

The Performance Concepts/Dillon team worked closely with the Region's new Development Industry Consultant; a staff position created in 2018 with the express purpose of liaising with the development industry, the 12 local municipalities and the NPCA to improve DAP execution and manage the relationship between the industry and local government regulators. The Development Industry Consultant position is imbedded within the Region's Planning & Development Services business unit. The position is occupied by Jon Whyte, a former leader in the Niagara development industry with high credibility among industry and local government DAP participants.


This report sets out the consultation program undertaken by Performance Concepts/Dillon. The report also documents the development industry feedback concerning improvements to the MOU and the overall DAP model in Niagara. Finally, the report sets out specific recommendations and a prioritized action plan to improve the MOU and re-engineer a more effective, predictable and timely DAP service delivery model.

Methodology Components of Development Industry Consultation:

1. Performance Concepts/Dillon review of Niagara MOU evolution/history and substantive issues informing the improvement dialogue.



2. Discussions with Region staff to gain their perspective on the issues associated with the MOU & the overall DAP model in Niagara.



3. Structured interviews/discussions with a small sample of development industry leaders & their professional consultants; with interviews designed to set the scene for an October 24th industry-wide workshop.



4. Preparation & execution of the October 24th half-day industry-wide workshop; featuring 30+ participants in 3 breakout sessions organized around a restructured MOU and DAP improvement areas.



5. A briefing session/roundtable discussion with senior Planning staff from the Region and the 12 local municipalities. The briefing/roundtable was focussed on industry observations/ideas offered at the October 24th workshop, as well as go-forward improvement opportunities that could feature Region/local municipal/industry collaboration.

Evidence Based Input to Achieve MOU/DAP Improvements

Development industry interviews to identify culture, process and IT toolkit issues/opportunities



Performance Concepts/Dillon team's expert input to inform consultation model & substantive recommendations



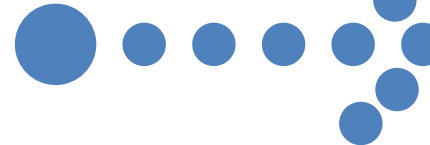
Mentimeter interactive polling evidence to establish "short list" of industry MOU/DAP improvement priorities



Region/local municipal expertise to inform go-forward improvement action plan re. MOU and DAP process pinch points



Evidence-Informed Findings Re. MOU + DAP Improvement Opportunities



Recommendations to Achieve MOU/DAP Improvements

DEVELOPMENT INDUSTRY OBSERVATIONS/FINDINGS RE. MOU & DAP PERFORMANCE IMPROVEMENT

Development Industry Observations/Findings Emerging from October 24th Workshop:

The half-day October 24th workshop provided significant insights around the current performance of the Niagara development approvals model.

The agenda for the workshops was structured as follows:

Workshop Agenda

	Welcome and Introductions
10:00 to 10:30	Brief Overview of The MOU <i>A brief presentation to provide context on the MOU history and current status</i>
10:30 to 12:30	Discussion on Improvement Opportunities (Break Out Session) In small groups we will discuss the following 3 questions: <i>A. What suggestions to do you have to help signatories continue to meet MOU objectives?</i> <i>B. Where are the opportunities to improve consistency and predictability in the DAP?</i> <i>C. Where are the process/resourcing pinch points in the DAP that need to be addressed?</i>
12:30 to 1:15	Lunch will be provided
1:15 to 1:45	Towards a DAP Change Work Plan <i>We will discuss what improvements should be priority</i>
1:45 to 2:00	Next Steps and Closing

The agenda breakout sessions created a two-track discussion; a first track focused on the MOU and a second track focused on the overall performance of DAP in terms of consistency/predictability and process execution pinch points. The appendix to this report includes the workbook for the October 24th workshop; a tool designed to structure and inform the breakout session discussions.

Engaging the Niagara Development Community Re. MOU + DAP

As part of the development industry workshop's afternoon priority setting exercise, the online polling tool, Mentimeter was used to gauge participant opinion in an objective way. Using their smart phones, participants were able to provide their input anonymously to questions asked and see the results unfold on-screen. Three polling formats were used:

- Word cloud – Participants were asked to provide their thoughts on what is going well. One-2 word responses formed a word cloud participants could observe as it developed.
- Scaling – The key ideas raised by participants in break-out sessions was entered into the Mentimeter tool and participants were asked to rank what was most important on a 1-5 scale of agree to disagree:
 - What is most important from the perspective of culture?
 - What is most important from the perspective of consistency?
 - What is most important from the perspective of removing road blocks?
- Open ended responses – To conclude the session, participants were asked “What are the top 2 things you think need to be fixed?” The purpose of this question was to establish improvement priorities.

The Mentimeter participant feedback has been utilized by the Performance Concepts/Dillon team to inform our go-forward improvement recommendations around the MOU and the broader DAP model in Niagara. The complete Mentimeter results are presented in the Appendix to this report.

MOU Update & Restructuring: Industry Observations/Performance Improvement Ideas

The Niagara MOU was drafted in July 2006 and updated in 2014 following meetings with planners and the development industry to identify areas for improvement. Signed by the Region, twelve local municipalities and the Niagara Peninsula Conservation Authority, the MOU includes the following sections:

- Part 1: Preamble – This section introduces the MOU and sets the context related to its goal and objectives.
- Part 2: Roles and Responsibilities of Signatories for Policy Planning and Implementation Planning – This section goes through each policy and implementation planning activity and sets out specific roles.
- Part 3: Consolidation of the Review of Planning Applications as they Relate to the Natural Environment – This section speaks specifically to the role of the NPCA in leading a streamlined one-window natural environment review.
- Part 4: Managing Relationships with Other Governments – This section speaks to the role of the Region in liaising with other levels of government and sets out topics for continuous improvement.
- Part 5: MOU Duration and Formal Review – This section sets up the formal review and dispute resolution process.

Industry representatives brought forward the following observations/advice concerning MOU improvement for consideration by the Region and the local municipalities:

- MOU should address the value of the “pre pre-consultation talk” between the applicant and the Region/local municipality re. the vision of the proposed project. From the point of vision-consensus moving forward, there should be a shared commitment to move the project through DAP in a timely/predictable fashion. It is not clear if/when (during the DAP process) “the talk” is actually happening. It is problematic when the genuine municipal senior staff “deciders” are not in the room for “the talk”, as opposed to junior planning staff

Engaging the Niagara Development Community Re. MOU + DAP

not in a position to commit to navigating the project through DAP. The need for a transparent shared commitment to high quality projects is especially relevant during public meeting processes.

- The MOU could speak to a “best practice” approach to pre-consultation; premised on successful pre-consultation case studies recommended by the industry.
- The MOU should mandate Region/local municipality processing time targets for each core DAP application category. An MOU commitment to target timeframe should endorse a “timeframe range” for the major component steps in the overall DAP process for each core application category. The MOU could include a municipal “best efforts” commitment to meet an overall timeframe “target range” 9 times out of 10 within each core application category.
- The MOU could endorse a one-window DAP processing model in each Niagara municipality. This organization design preference would see all Planning/Engineering staff regularly involved in DAP positioned within a single business unit whose leadership is committed to timely and high-quality execution of application review and approvals. **One Window reduces internal silos...**
- The MOU could recognize the value of delegated approvals to staff by Council for appropriate DAP categories such as Site Plan approval.
- The MOU could recognize the potential value of the Region delegating carefully scoped approval functions to local municipalities in order to streamline approvals.

Streamlining DAP Beyond the MOU: Industry Observations/Performance Improvement Ideas

High Level Observation: Significant Degree of 2-tier Complexity in Niagara Without DAP Standardization

DAP execution in Niagara involves the Region, 12 local municipalities, the NPCA and occasionally the Niagara Escarpment Commission. The Niagara DAP “conveyor belt” that moves any given development application forward through a regulatory review process to a final approval is in reality an assortment of 12 distinct local municipal conveyor belts. According to industry participants in the workshop, Niagara’s 12 DAP conveyor belts represent a daunting logistics challenge to applicants and their consultants. The 12 conveyor belts are not standardized, processing timeframes vary widely, and staff cultures are not necessarily as client-focused as the industry would expect given the economic benefits/employment value-added associated with their projects. In comparison, Halton Region’s DAP consists of 4 local municipal conveyor belts, Peel Region’s DAP features 3 local municipal conveyor belts, and the single-tier City of Hamilton has a single DAP process conveyor belt for each category of development application. The Niagara development industry emphasized the need to improve predictability, process standardization and overall timeliness of Niagara’s 12 DAP conveyor belts in order to remain competitive with the logistically less challenging DAP processes in Hamilton and the west GTA Regions.

High Level Observation: DAP Cultural Divide Between “Client-Driven Partnership” versus “Impartial Regulatory Process”

The existence of a cultural divide between the development industry and the Niagara municipalities was evident during the workshop. The industry considers itself to be the client of the municipalities; bringing significant economic and employment benefits to Niagara. The industry feels that municipal DAP officials often consider themselves to be representing the public interest by opposing or restricting valuable development projects.

The Performance Concepts/Dillon team notes there need not be a zero-sum game around municipal culture when executing DAP. Applicants can receive timely, consistently executed review feedback from municipal officials - who can balance the economic benefits of new development with a responsible due diligence review of projects that protects the public interest in balanced community building. The industry is factually correct in noting that DAP regulators need to produce timely approvals that support an affordable and diverse housing stock for Niagara; a key source of competitive advantage vis-à-vis the rest of the Golden Horseshoe municipalities. Win-win relationships between industry applicants and municipal regulators are possible and indeed necessary.

The cultural divide can be reduced/eliminated by the industry and municipal staff across Niagara participating together in process improvement projects; especially when these projects build trust and a professional appreciation of the business and regulatory priorities/pressures faced by each side of the DAP partnership.

Towards Optimal Pre-consultation & Timely Designation of a “Complete Application”

Development industry participants in all 3 breakout groups at the October 24th workshop noted that pre-consultation was not delivering the full range of expected benefits envisioned by municipalities – guidance and certainty around technical submission requirements for a complete application. The industry notes that municipal staff are coming to pre-consultation meetings without being technically prepared, nor having undertaken a site visit. The absence of “decider” senior Planning staff at pre-consultation is a concern. Industry representatives contend Staff do not always provide specific terms of reference for required studies, and fail to scope or waive studies as appropriate for non-contentious projects. A timely pre-consultation checklist of requirements is preferred to a delayed formal pre-consultation letter. Industry representatives cited numerous examples of technical requirements being added to the “complete application” checklist well after the pre-consultation meeting. A couple of Niagara local municipalities that commit a definitive schedule for application review (at the pre-consultation stage) were acknowledged with approval by the industry. The industry strongly supports pre-consultation in principle, and is interested in working with Niagara municipalities to refine pre-consultation in order to generate the full range of expected benefits.

Designation of a “complete application” by the municipality processing the application is a critical DAP process step. The question of whether technical studies should be provided/reviewed by staff before or after a “complete application” designation is a matter of interpretation and debate among planners and development industry stakeholders across the province. This issue is important because the “complete application” designation turns on the legislated timeframe clock for “no decision” appeals to the new LPAT, that has replaced the OMB. Workshop participants indicated that a Niagara-wide consistent approach to deeming an application is appropriate for local municipalities and the Region.

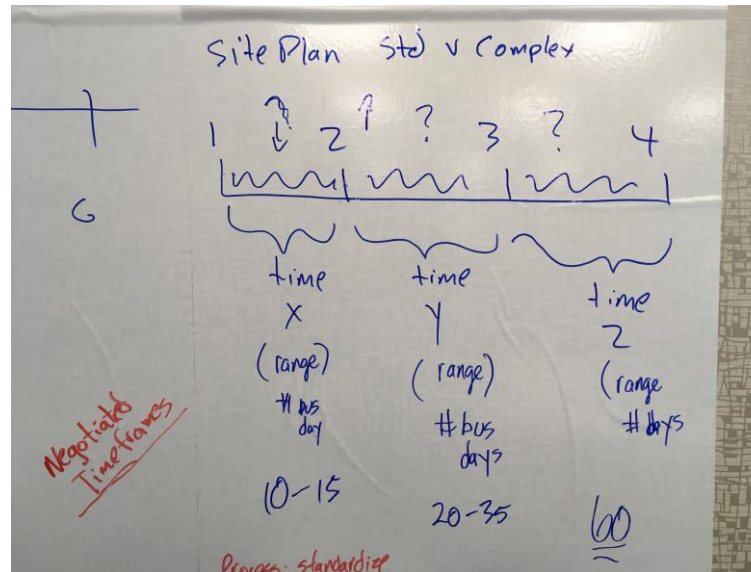
DAP Timeframe Targets & Importance of a Predictable Application Processing Schedule

Consistency and predictability of application processing is an over-riding concern of the industry. Development project financing by banks/lenders is contingent on the application progressing in a timely fashion through a number of DAP milestones on the way to building permit issuance. DAP “conveyor belt” processing delays can, and do, cause genuine cash flow hardship for development firms with finite financial resources. The industry supports the design/development of timeframe targets for core DAP application categories. The figure below (a Site Plan example) captures the essential design requirements for targets. Targets should address the # of processing business days when the municipality is in control of the file. Targets should address each core processing milestones (numbered 1-4 in the figure below). When the file is returned to the applicant for submission corrections/refinements the timeframe clock turns off. The clock turns back on when the applicant re-submits the necessary information. Currently there are no commonly agreed to timeframe targets across Niagara for processing core DAP application categories such as Site Plan. This reality means there are either no municipal timeframe targets or as many as 12 different local municipal timeframe targets. The industry believes this absence of consistency/predictability is a central problem in a Region with 12 local municipal DAP conveyor belts. Like the local municipalities, the Region does not have transparent processing timeframe targets for its roles in DAP application review.

The industry is supportive of transparent DAP timeframe reporting via an online public portal. This portal would report on the progress of active applications in each local municipality (versus timeframe targets). The portal would categorize application processing status as “green light” for on-time, “yellow light” for minor delays versus targets, or “red light” for major delays. The comparative status of any/all applications’ DAP milestone progress (across the 12 Niagara local municipalities) would be available, as would the process pinch point agency for “yellow light” or “red light” delayed applications.

Need for DAP Timeframe Targets

Rough workshop sketch diagram covers the basics...# business days to actually move through each processing milestone (1-4) should be monitored against a range-defined targets (x/y/z). Currently there are no common commitments across Niagara re. processing timeframe targets.



Beyond the design/implementation of timeframe targets for each core DAP application category, the industry is strongly supportive of processing timeframe schedules for each individual application. These application-specific schedules should include a predictable/standard number of public consultation check-in points across; with the same number of check-in points across all the applications in a given DAP category. In this scheduling approach, no application will face unpredictable/non-standard delays due to political/public resistance associated with additional meetings.

Critical Importance of Improving the Back-end of DAP (Engineering Review to Registration)

Draft plan approval of a sub-division application may encompass a relatively large number of future lots. A number of economic factors will determine an applicant's decision on when/how many lots to bring forward for the "back-end DAP" detailed engineering review/development agreement production/registration process. The timeliness of the "back-end DAP" process is critical for applicants, who have made the business decision to proceed as quickly as possible to obtain a building permit and initiate construction. For the Region and local municipalities, the workload associated with the post-draft plan back-end of DAP is challenging. A 200-unit draft plan of sub-division approval may well generate 4 repeat cycles (e.g. 50 units each) of the back-end DAP process. The race-to-registration is in fact the most critical DAP process component for applicants, since lots/houses can be pre-sold with committed closing dates after draft plan approval. Process deficiencies or resourcing shortages in the post-draft plan race-to-registration can cause serious disruptions to the applicant's business model; including legal risks if closing dates are unduly delayed. Predictable municipal timeframes are critical, especially since the Region and the local municipality are both involved in detailed engineering drawings review.

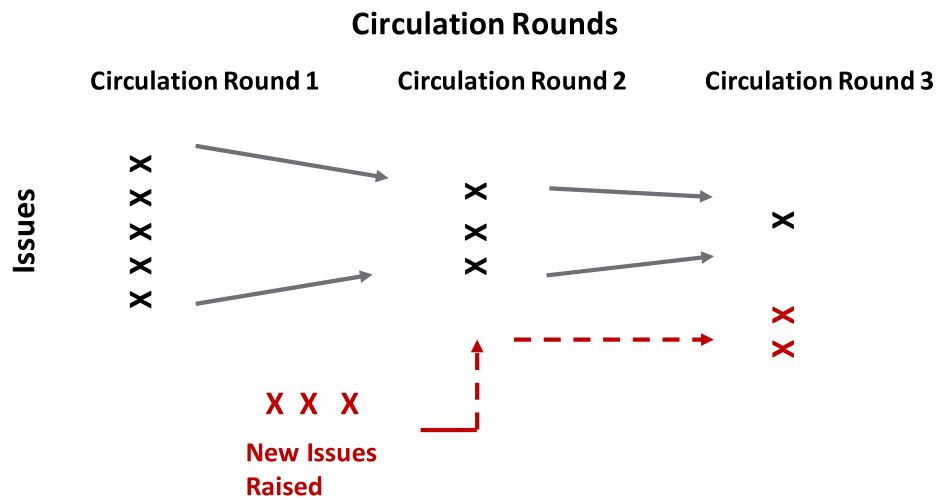
Workshop participants have noted that the higher performing local municipalities in Niagara place the "back end of DAP" processing responsibility with engineering staff as opposed to planning staff. Engineering staff are seen to possess strong logistics skills and the substantive technical expertise needed to move the file forward through engineering drawings reviews, financial securities calculations, and final registration detail. In some cases, these engineering staff operate within a one window organization structure devoted to timely application processing. Development participants have noted these staff are often in short supply and face workload capacity challenges given the volume of back-end DAP review cycles per draft plan approval. Development industry workshop participants strongly support a consistent/predictable engineering-led "back-end DAP" process; consistently executed across all Niagara municipalities.

Improving Efficiency of DAP Technical Circulations to Achieve Technical Approvals

The ideal technical circulation process identifies any/all technical deficiencies in the initial review of the submitted application package. Technical comments are consolidated by the file planner, reviewed for internal consistency, and then provided to the applicant for action/re-submission. Subsequent rounds of technical review ensure the original technical issues are resolved prior to application approval being granted. However, industry representatives report that new technical issues are often raised after the original round of review has already been completed. According to the industry, the net result is a “dribs and drabs” ad-hoc introduction of technical concerns during subsequent review cycles, and an unfairly stretched timeline for completing the overall series of reviews.

Performance Concepts notes that this “dribs and drabs” problem is cited by development industry representatives across the Golden Horseshoe and Ottawa as a near-universal DAP process execution problem. A possible remedy is the production of a consolidated memo of technical issues requiring remedy at the end of the initial circulation. This memo would require municipal staff to ensure any cross-disciplinary discrepancies among staff are resolved prior to the applicant receiving comments. This would free up applicants from the onerous task they now face of trying to resolve these technical discrepancies themselves amongst agencies or internal municipal business units.

Technical Circulation “Drips & Drabs” Problem



Eliminating DAP Process/Resourcing Pinch Points

Workshop participants noted that the most serious DAP pinch points occur during the post-draft plan race-to-registration. Examples of back-end Dap pinch points include the following:

- The number of required engineering drawing review cycles are a concern.
- The MOE approvals were also noted as a significant process delay. Having MOE approvals delegated to a Regional and/or a local municipal PEng. could reduce the MOE delay. This delegation occurs in numerous municipalities across the Golden Horseshoe and Ottawa.
- Relatively minor technical issues that delay construction across the winter season; creating major timeframe pinch points and significant cash flow burdens. Later-in-the-season technical issues must be resolved more quickly. A municipal cultural problem at its root.
- The real-estate final steps around registration are often slow/delayed because planning staff are not always knowledgeable about the detailed requirements.
- Development agreement design/production features an excessive number of conditions that are often redundant or unnecessary. Condition standardization/consolidation is desirable.
- Resourcing shortages versus workload causes slowdowns. Engineering fees should be used to fund the necessary staff to deal with the “volumes multiplier” challenge of multiples bundles of a single draft plan’s approved units proceeding through registration.

Pinch points are also caused by culture issues. Phone calls/e-mails should receive a response within a 24-hour customer service standard timeframe. Technical processing issues can often be resolved/negotiated verbally, without rigid written “must do” correspondence. This type of “correspondence first” rules driven culture reduces flexibility to resolve problems and causes undue delays. Talk-first as opposed to write-first problem-solving is the preferred path of development participants in the workshop.

The Role of the Regional & Local Municipality File Planners as System Navigators

DAP is a complex horizontal service delivery channel involving multiple agencies, Region business units and local municipal business units. The complexity requires a system navigator or “Sherpa” to work with the applicant to achieve timely approvals versus transparent target timeframes. The DAP “Sherpa” is typically the file planner at the Region and/or the local municipality. The file planner must be more than a paper pusher. The file planner must resolve process pinch points, and secure consensus around any contentious technical issues. File planners must also ensure conformity with policy requirements, and manage the public consultation process in a fair/balanced fashion. Development industry workshop participants note that planners do not receive logistics training in file/project management as part of their academic preparations (which is devoted to policy/theory and technical land use matters). Workshop participants contend that file planners in Niagara are not executing the necessary project management discipline to delivery timely DAP processing. This discipline would require them to “crack the whip” with internal colleagues and other agencies when file processing timelines are lagging. Municipal DAP workflow software solutions are often not implemented at the required level of detail to support the file planner is meeting mandated timeframes; some internal DAP business units may not be populating this software at all (e.g. Engineering staff working outside a One Window org structure). Industry workshop participants have noted the challenge faced by file planners is also cultural; they are not convinced that planners truly understand the business/cash flow implications of delays in DAP processing versus the targeted timeframe for a project. Additional training (beyond academic/professional planner certifications) for file planners could/should include MBA-type project management and logistics training.

LOCAL MUNICIPALITY FEEDBACK RE. DEVELOPMENT INDUSTRY OBSERVATIONS/FINDINGS

Local Municipality Feedback Re. Development Industry Observations/Findings:

Following the October 24th development industry workshop, Performance Concepts/Dillon met November 2nd with staff from the Region and the 12 local municipalities to brief them on the feedback/advice offered by the development industry participants. The Region and local municipal staff engaged in active listening and provided a number of noteworthy observations:

- Many of the DAP process execution challenges in Niagara have been raised by development industry representatives in the GTA and other parts of the province. These challenges, for the most part, do not come as a surprise to Region and municipal staff.
- Niagara features a relatively large group of local municipalities (for the population served). Therefore, it is not unexpected for there to be diverse approaches to DAP application review and processing. DAP standardization must be balanced against unique local circumstances and conditions.
- There is widespread support for MOU updates and improvements that will move Niagara closer to a transparent “who does what” delineation of responsibilities in the two-tier Niagara development approvals system created by the Province.
- Continuous improvement opportunities for DAP (beyond the MOU) should be actively pursued in cooperation with the development industry. These continuous improvement opportunities should address issues associated with Region/local municipality performance, as well as opportunities to improve the quality/consistency of development application submissions from applicants.
- Support for creation of DAP process improvement teams composed of Region/local municipal/industry representatives to address high priority DAP process issues and pinch points.

GO-FORWARD RECOMMENDATIONS TO IMPROVE MOU + DAP PERFORMANCE ACROSS NIAGARA

Go-forward Recommendations to Improve MOU + DAP Performance Across Niagara:

1. MOU Improvement Recommendations

Based on the workshop with the development industry, it is recommended that the following be considered as opportunities to strengthen the existing MOU.

Make it Top of Mind

Given the expressed desire by both the development industry and Region/local municipal staff to make improvements and to build-in more understanding and consistency in the way policy and implementation planning is done in Niagara the following specific suggestions are offered as ways to make the MOU a regular top of mind reference document:

- Consider including context on an overall Vision for Niagara Region and positioning the MOU as an important tool to implement the Regional and local Strategic Plans, Official Plans, and other key guiding documents. This would support the importance of the MOU in achieving the desired future in Niagara Region.
- Add clarity to the MOU on the important roles of all participants involved in achieving an effective system including regional and local planning staff, regional and local engineering staff, elected officials and the development industry. This would set the stage for improved understanding of the working relationships between all involved.
- Include a visual/infographic that provides a picture of how the MOU fosters an integrated and seamless planning system. An “at a glance” infographic could provide a reference tool that could be valuable in keeping the MOU commitments top of mind.
- Make the MOU part of the on-boarding process for new staff involved in policy and implementation planning work. New members of local and regional planning and engineering teams should be introduced to the MOU and see it as their guide book on what working together looks like in Niagara Region.

Engaging the Niagara Development Community Re. MOU + DAP

- Take the opportunity that the recent municipal election offers to increase all Niagara Councils' awareness of the MOU. With a number of new members across various Councils, the MOU update could present an opportunity for ongoing education related to planning and development issues across the Niagara.

Include a Clear and Collaborative Process Commitment in MOU

Clarity and consistency were expressed as strong desires from those participating in the development industry workshop. Discussion with the municipal planners identified that with a two-tiered system and 12 unique local municipalities it is unrealistic to expect that the development process will be the same in every Niagara location. While executing identical DAP processes across 12 municipalities is not realistic, nor even desirable, the MOU can be a vehicle to commit to a common DAP streamlining initiative that is clear and collaborative, as well as respectful of the different roles of development proponent and regulator. The following recommendations could be reflected generally in the MOU; with specifics to be worked out as part of the proposed DAP improvement workshop series.

- Include commentary in the MOU on how local and regional staff will work in collaboration with the development industry to achieve desirable development outcomes. This could include elements of a customer service commitment or service delivery standards on the part of municipalities and quality expectations for applications.
- Consider including processing time or ranges of times that all parties could work toward and/or a process for developing application specific schedules collaboratively with applicants.
- Consider including a mechanism/framework for measuring time frames so that all parties are accountable to their commitments.

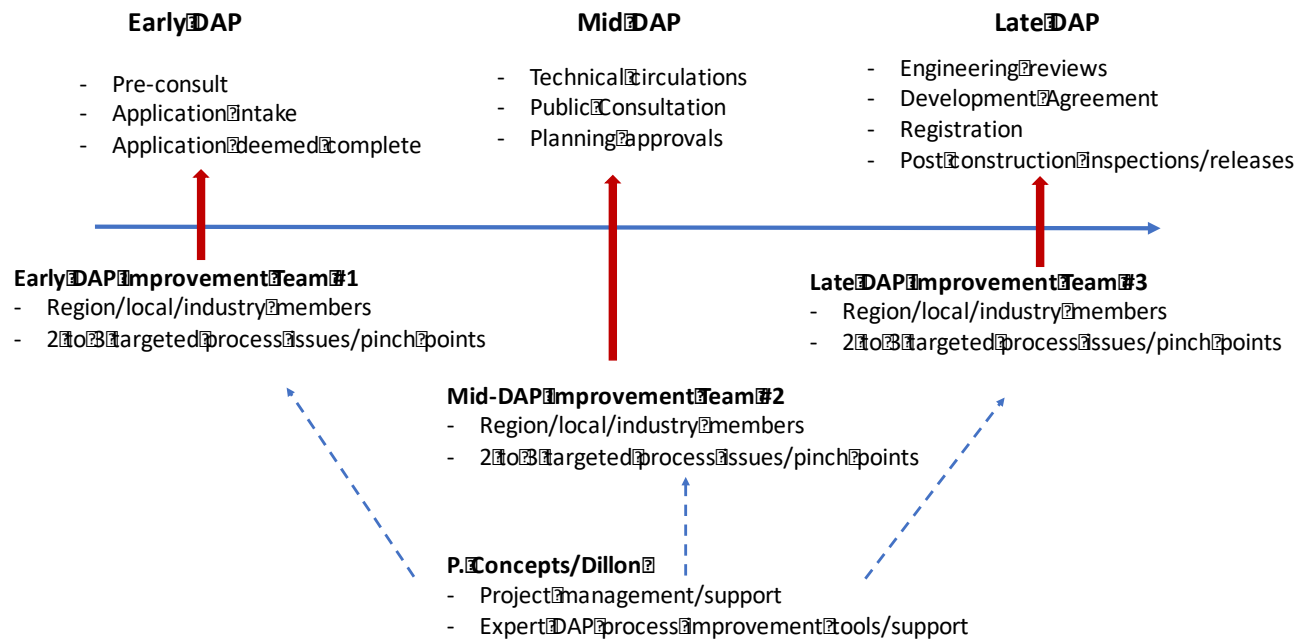
Focus on Continuous Improvement in MOU

It is understood that a Process Improvement Team including representatives from the Region, local municipalities and the development industry worked together following the 2014 MOU update to learn from each other and make improvements. The 2014 MOU lists some of the topics that were part of the improvement discussions. This type of ongoing collaborative effort is an important part of continuous improvement. It is recommended that a framework and process for continuous improvement be embedded strongly in the MOU such that there is an explicit commitment to maintain a culture of municipalities and development industry applicants learning from each other and improving the process of working together on development issues and applications in Niagara. An MOU commitment to adopt/promote continuous improvement should include a mechanism/scorecard that measures and reports results based improvements. Some of the topics/issues for continuous improvement discussion have already come out of the October 24th development industry workshop and the November 2nd discussion with local planners (as discussed in this report). Other continuous improvement actions/ideas may arise on an ongoing basis.

2. Development Approvals Process (DAP) Improvement Recommendations Beyond the MOU

Create an Ongoing Continuous Improvement Model Featuring Development Industry Participation

The following figure sets out a recommended process/model for DAP continuous improvement.



Three DAP continuous improvement teams should be created, with a designated team assigned to each of early/mid/late DAP process phases. Each of the continuous improvement teams would feature dedicated staff resources from the Region, a selected sub-set of 3-4 local municipalities, and 2-3 development industry representatives. The teams would target 2-3 process pinch points/improvement opportunities for

analysis and process re-engineering/streamlining. The targeted pinch points/issues for investigation can be universal across all DAP application categories or specific to a particular DAP application category (e.g. Site Plan). Organization design and IT tool solutions should be considered in combination with process re-engineering. Performance Concepts/Dillon would support all three teams via overall project management and advice re. process improvement tools/techniques.

The three improvement teams would work on the first round of 2-3 selected DAP issues/pinch points for a 3-month period. The Mentimeter interactive polling results from the October 24th Workshop should inform each improvement team's selection of targeted issues/pinch points. At the conclusion of each team's 3-month reviews, findings should be reported to a Steering Committee of senior staff from the Region/12 local municipalities for approval and implementation directions. Team recommendations would not be strictly binding on any of the participant municipalities, but good faith around willingness-to-implement would be assumed. Two additional 3-month cycles of continuous improvement work by each team would continue be executed during 2019. The overall exercise would then be subjected to a value-for-money "stress testing" review to determine whether/how to move forward with a more permanent model.

The recommended continuous improvement model should be finalized and resourced staffed in early/mid Q1 2019. The DAP issues/pinch points for review should be finalized by the end of Q1. The first three continuous improvement reviews should be executed in Q2 2019.

APPENDIX 1 – MENTIMETER INTERACTIVE POLLING RESULTS RE. MOU/DAP IMPROVEMENT PRIORITIES

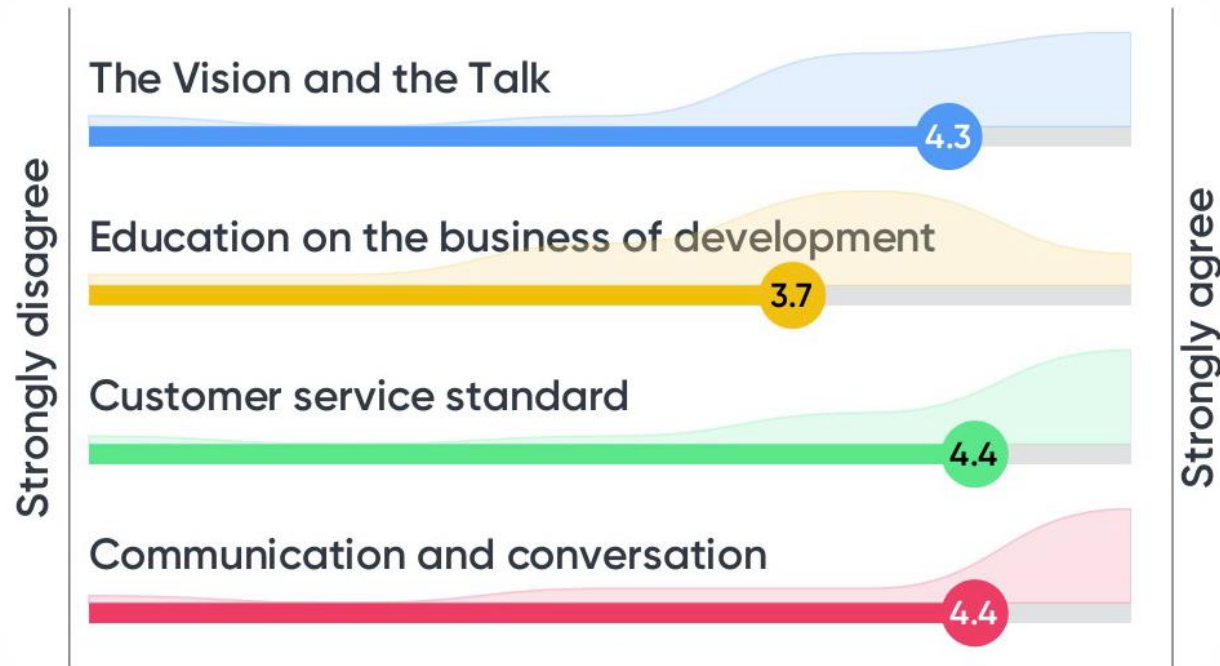
Tell us about what has been working right...

Mentimeter



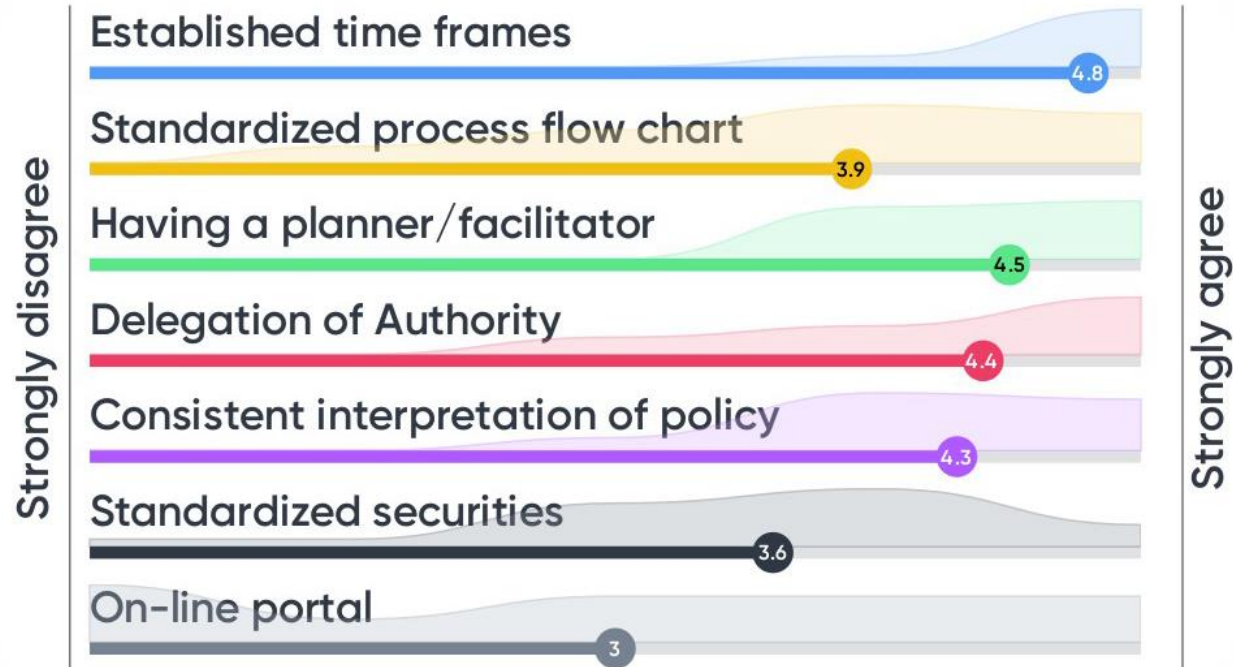
Whats most important - Culture

Mentimeter



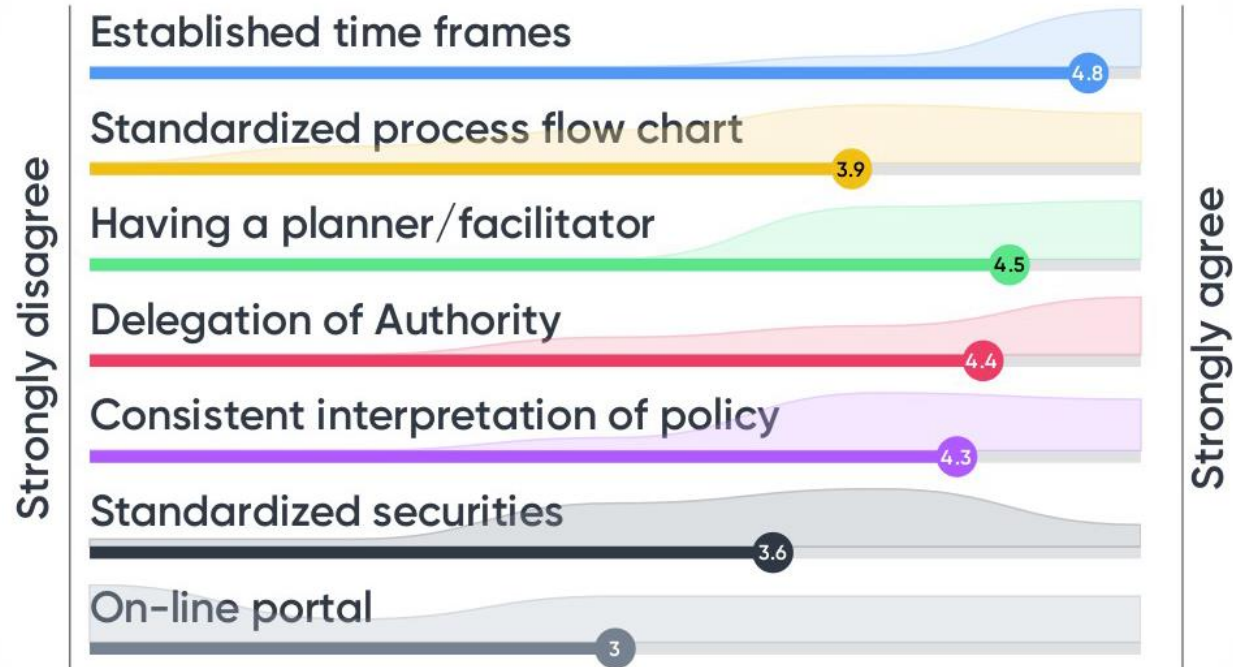
Whats most important - Consistency

Mentimeter



Whats most important - Consistency

Mentimeter



Whats most important - Choke Points

Mentimeter



What are the top 2 things you think should be fixed?

Mentimeter

1.) Culture Change 2.)
Standardized check list

communication and
accountability.

1. Timelines 2. Working with the
developer not against

Response times ie. calling
back Dribs and Drabs

consistency in approach
across region timing of
apptocaks incl. back end
registration

planning culture - need great
emphasis on servicing the
client accountability

broader interpretation of
policy

- pre consultation- on same page with staff and
process involved to get to end goal and buy in -
accountability on timelines

Predictable schedule Go/no
go determination as early as
possible

What are the top 2 things you think should be fixed?

Mentimeter

Customer service training with response targets and having a planner that is a facilitator or project manager, main person pushing the file and problem solving.

1) Delegation of authority 2) clear timeline and guidelines

Effective communication - pick up the phone.
Reasonable Timelines for providing comment.

Willingness to collaborate/ not be rigid on rules and process.
Be nimble Respect for timeframes

Consistency with all agencies involved in the process
Customer service

1) delegation of authorities 2) clear timeline and guideline

Stick to a schedule be responsible to answer questions be pro active communicate

Terminate NPCA and control priorities Have a facilitator review applications to reduce the number of conditions and meet deadlines

1. I want to have a meeting with staff before I get a requirement in writing that may cause a blockage 1. The development industry should provide input into policies affecting development

What are the top 2 things you think should be fixed?

 Mentimeter

Accountability and experience of staff.

Transparency - there should be open sharing of information and processing status.

Planners need to be proactive planners need to solve problems not just identify them stick to time lines

Protocol

For Planning Services

Between

the Regional Municipality of Niagara (The Region)

And

the Niagara Peninsula Conservation Authority (NPCA)

January 2018

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Appendix B - Excerpt from the Provincial Policy Statement 2014 – Conservation Responsibility for Natural Hazards

Appendix C - Excerpt from the Ontario Regulation 155/06 Niagara Peninsula Conservation Authority: Regulation of Development, Interface with Wetlands and Alterations to Shorelines and Watercourses

1.0 Basis

In 2007, the Niagara Region, local area municipalities and NPCA signed a Memorandum of Understanding (“MOU”) for improving the planning function in Niagara with the ultimate goal of having *“an integrated and seamless planning system that is embraced and easily understood by Councils, the public, applicants and staff that encourages participation in policy development and application processing.”*

Part 3 of the MOU - *Consolidation of the Review of Planning Applications as they Relate to the Natural Environment* - assigned to the NPCA certain responsibilities as part of its review of development applications¹ and proposed policy, and providing technical clearance services with respect to compliance with the Regional Official Plan and Provincial Policies and Plans. Specifics of this assignment of function were detailed in the *Protocol for Plan Review and Technical Clearance* (“Protocol”) between the Region and NPCA, which was approved in 2008.

The MOU was reviewed and revised in 2011 and again in 2014. The Protocol has not been updated since its inception in 2008.

The MOU and Protocol have succeeded in managing relationships, reducing duplication and effecting continuous improvements. Since that time changes have occurred in Niagara in terms of legislation, relationships, resources, and growth that have impacted the established roles and responsibilities, particularly with respect to the review of environmental matters.

Through this revised Protocol, the NPCA and the Region will establish a new framework within which the NPCA will provide specified updated services to the Region.

This 2018 Protocol is intended to replace in its entirety the 2008 Protocol. Subsequent to the approval of the 2018 Protocol, the MOU will be updated to incorporate the approved revised functions and other aspects of the planning program in Niagara Region.

This Protocol has been prepared for the Niagara Region and NPCA by an Area Planners MOU Working Group consisting of senior representatives from Niagara Region, NPCA and local municipalities.

2.0 Purpose

The purpose of this Protocol is to:

- Redefine, clarify and set out a new Protocol within which the NPCA will provide specified planning application, policy and technical review services to the Region;
- Identify the respective roles and responsibilities of the NPCA and the Region in Ontario’s Land Use Planning System with respect to environmental matters;
- Provide direction for consistent and streamlined circulation and review procedures for all applications under the *Planning Act*, *Environmental Assessment Act*, and *Niagara Escarpment Planning and Development Act*;
- Reinforce the positive relationship between the NPCA and the Region;
- Allow the NPCA and Region to focus on provincially mandated responsibilities, and
- Provide increased decision making autonomy.

¹ Including *Planning Act*, *Niagara Escarpment and Development Act* applications, and *Environmental Assessments*

3.0 Definitions

3.1 Planning Application Review means:

- The review of planning applications (including formal preconsultation) under the *Planning Act, the Niagara Escarpment Planning, and Development Act and the Environmental Assessment Act*;
- The identification of the need for and review of related technical reports (including scoping); and
- The identification of conditions of approval.

3.2 Policy Review means:

- The review of existing or new policy documents, including but not limited to stormwater management guidelines, watershed studies, secondary plans and background studies; and
- The identification of the need for and review of related technical reports.

3.3 Technical Clearance Review means:

- The assessment of technical reports submitted by a proponent of development to determine if the reports satisfy the specified requirements; and
- The clearing of conditions.

3.4 Lead Agency means:

- The organization responsible for the principal review of an environmental feature located within or in proximity to land subject to a planning application to ensure compliance and conformity with all applicable legislation and regulations; and
- The organization responsible for the principal review of proposed policies, studies, guidelines or Environmental Assessments as they relate to environmental features to ensure compliance and conformity with all applicable legislation and regulations.

3.5 Environment Feature means:

- All of the environmental features identified in the first column of Table 1 of this Protocol.

3.6 Natural Hazards means:

- Those environmental features identified in Table 1 of this Protocol as natural hazards and/or identified in the 2014 Provincial Policy Statement Section 3.1.

4.0 Principles

This Protocol is based upon the following principles:

1. Adoption of improvements to the planning application processes which results in streamlining and consistency.
2. Direction that interpreting policy is the responsibility of the organization writing and approving that policy unless delegated by the approving authority.
3. Continuing cooperation between the NPCA and the Region.
4. Effective communication and collaboration.
5. Effective, proactive planning².
6. Effective leveraging of resources to deliver planning application, policy and technical clearance reviews.
7. Eliminate overlap in planning application review processes to the extent possible.

5.0 Jurisdiction

This Protocol applies to those lands within the Regional Municipality of Niagara.

² Proactive planning refers to preparing new or updating existing comprehensive studies and guidelines that assist in the early identification of issues and the need for additional study, and include, but are not limited to, watershed and sub-watershed planning, stormwater guidelines, master servicing plans, updates to Schedule C of the Regional Official Plan, etc.

6.0 Roles and Responsibilities

6.1 NPCA

- 6.1.1 The NPCA, through the *Memorandum of Understanding between Conservation Ontario, the Ministry of Municipal Affairs and Housing and the Ministry of Natural Resources and Forestry*, is responsible for providing the Provincial interest comments on policy documents and development applications related to natural hazards (Section 3.1 of the Provincial Policy Statement except Section 3.1.8). See Appendices A and B. Specifically, the NPCA will provide planning application, policy and technical clearance reviews to ensure consistency with the Provincial Policy Statement related to flooding hazards, erosion hazards, dynamic beach hazards, unstable soils and unstable bedrock. This function is not impacted by this Protocol.
- 6.1.2 The NPCA has legislated responsibilities under the *Conservation Authorities Act* (see Appendix C) and will continue to provide planning application and technical clearance reviews pursuant to the NPCA Regulation, as administered through Board approved policies. This function is not impacted by this Protocol.
- 6.1.3 The NPCA will provide the services as identified in Table 1, Table 2 and Table 3.
- 6.1.4 The NPCA will review Region-initiated studies and projects, pursuant to the NPCA Regulation, as administered through Board approved policies, and to the Memorandum of Understanding between the Province and the Conservation Authorities, as a commenting agency without fee to the Region.
- 6.1.5 The NPCA will provide comments on Environmental Assessments pursuant to the NPCA Regulation, as administered through Board approved policies, and pursuant to the Memorandum of Understanding between the Province and the Conservation Authorities.
- 6.1.6 The NPCA will actively participate in formal pre-consultation meetings with developers and landowners when environmental features identified in Table 1 (when the NPCA is the Lead Agency) have potential to be impacted. To help ensure a consistent planning application review and a coordinated message, the NPCA and Region, together with the local municipality, will participate in pre-consultation meetings at the same time with the proponents. The NPCA will work to scope the complete application requirements related to environmental matters prior to the preconsultation meeting. Should the NPCA determine that no environmental features (where the NPCA is identified as the Lead Agency as shown in Table 1) will be impacted, the NPCA will notify the approving authority and may not attend the pre-consultation meeting.
- 6.1.7 The NPCA will scope Environment Impact Studies (EIS) and review the Terms of Reference (ToR) for EIS and similar reports to ensure *natural hazards* and NPCA Regulation/Policy are addressed.
- 6.1.8 Where the NPCA is identified as the Lead Agency on Table 1, the NPCA will provide Technical Clearance on the EIS with respect to those environmental features only.
- 6.1.9 The NPCA will copy the Region on all responses to requests for comment on development planning, technical clearance and policy matters.
- 6.1.10 Nothing in this Protocol shall limit the NPCA from independently appealing a decision or lack of a decision to the Ontario Municipal Board (OMB) or other tribunal. The NPCA will provide notice of an appeal to the Region and local municipality at the time of appeal.
- 6.1.11 The NPCA will provide the Region with its Regulatory Screening Map and provide regular updates.

6.2 Niagara Region

- 6.2.1 The Region will provide planning application review and technical clearance services as identified in Tables 1, 2 and 3, to ensure consistency with the Regional Official Plan, Provincial Policies, Provincial Plans, the Provincial Policy Statement (except Section 3.1 Natural Hazards policies 3.1.1 to 3.1.7), and matters of Provincial Interest.
- 6.2.2 The Region shall circulate to the NPCA for planning application review and/or technical clearance, all Regionally led planning applications, studies or Environmental Assessments that are located in or adjacent to a NPCA property or within a regulated feature/area.
- 6.2.3 The Region in its review of *Planning Act* and *Escarpment Planning and Development Act* applications and *Environmental Assessments* will comment on stormwater management, as identified in Table 3, in accordance with MOECC Stormwater Management Guidelines as well as the NPCA Stormwater Management Guidelines until such time as new stormwater management guidelines are approved by the Region.
- 6.2.4 The Region will review NPCA-initiated studies and projects without fee to the NPCA.
- 6.2.5 The Region will actively participate in formal preconsultation meetings with developers and landowners. To help ensure a consistent planning application review and a coordinated message, the NPCA and Region, together with the local municipality, will participate in preconsultation at the same time with the proponents.
- 6.2.6 Prior to a formal pre-consultation meeting, the Region will work to scope the complete application requirements related to environmental features by identifying environmental features that will be need to be addressed in an Environment Impact Study³ (EIS). Where the NPCA, Region and/or local municipality have identified interests, the Lead Agency (see Table 2) will consult with those parties on the review of the EIS Terms of Reference.
- 6.2.7 Where the Region is identified as the Lead Agency on Table 1, the Region will provide Technical Clearance on EIS with respect to those environmental features.
- 6.2.8 Nothing in this Protocol shall limit the Niagara Region from independently appealing a decision or lack of a decision to the Ontario Municipal Board (OMB) or other tribunal.
- 6.2.9 The Region will be responsible for preparation and maintenance of a comprehensive natural environment screening map, incorporating the NPCA Regulatory screening map as provided and updated by the NPCA.

7.0 Coordination of Environmental Comments on Development Applications

The MOU, as may be revised, gives overall directions for the coordination of development applications, policy and Environmental Assessments review. For the purposes of clarity with respect to environmental features, the NPCA will review the following list of applications in accordance with the Conservation Ontario MOU with the Province and ensure that they are consistent with the NPCA Regulation, NPCA Board adopted Policies and Section 3.1. Natural Hazards of the Provincial Policy Statement (except Section 3.1.8). This may include providing comments directly to MMAH as part of the provincial one window process. The NPCA will copy the Region and local municipality on all correspondence.

- Regional Official Plan and Amendments
- Local Official Plans and Amendments

³ Includes characterisation reports, natural heritage systems reports and other environmental reports.

- Zoning By-laws and Amendments
- Subdivisions/Condominiums
- Environmental Assessments
- Other Development Applications including: Site Plan, Consents, Minor Variances and NEC Development Permits

8.0 Protocol Terms and Implementation

The Region and NPCA agree to the following:

8.1 Monitoring and Cancellation

This Protocol will be reviewed and amended concurrent with the Memorandum of Understanding between the local municipalities, NPCA and Region to:

- Reflect any changing policies or programs at the provincial, watershed, or regional level, and
- Assess its effectiveness, relevance and appropriateness with respect to the affected parties.

8.2 Transition of Responsibilities

When a complete⁴ development application, Notice of Commencement for an Environmental Assessment (EA) or major study (such as a Secondary Plan) has been received by the NPCA from a local area municipality or the Region prior to the effective date of this Protocol, the NPCA will continue to review the application consistent with the NPCA's roles and responsibilities identified in the 2008 Protocol in accordance with a matrix of open files to be prepared by the Region and NPCA, after which the files will transition to the 2018 Protocol provisions and the Region will assume responsibility.

In an effort to continue the timely reviews of development applications, EAs and major studies during the transition period, the NPCA may support the Region by providing expertise as needed on a fee for service basis; alternatively the Region may hire consultants as necessary.

8.3 Overlapping Mandate

There will be occasions when the responsibilities of the NPCA and the Region overlap. On those occasions, both parties shall work together to provide consistent and sound comments. This will be accomplished by maintaining open dialogue and a good working relationship.

8.4 Conflict

- a) Where this Protocol is in conflict with the 2014 MOU, this Protocol will take precedence.
- b) Where there is conflict between new (changing) legislation and this Protocol, new legislation will take precedence.
- c) Subject to paragraph (d) below, where there is a conflict between the Region's Official Plan, the NPCA Regulation and/or Board adopted policies, the Regulation shall take precedence.

⁴ As determined by the approving authority generally as identified through pre-consultation and shown on the Pre-consultation Form/Letter.

- d) Where there are policy conflicts only, Regional, NPCA and local municipal staffs will work together to resolve the issue. If all efforts fail to resolve a policy conflict, a decision will be made by the approval authority, as per Table 2.

8.5 Streamlining

Further streamlining of the planning review process, as it relates to Provincial, NPCA and regional/local interests, is encouraged.

8.6 Information Sharing / Open Data

Any information or data sources generated by the Province, NPCA or Region, or generated through municipal or watershed studies will be shared, where possible.

8.7 Fees

- a) The Region will collect the NPCA Fee for applications to amend the Region's Official Plan and remit any fees collected upon circulation of the application to the NPCA; fees for planning review and technical clearance services will be set by the NPCA;
- b) The NPCA will be responsible for collecting any further processing, approvals and/or Final Clearance Fees, if required; and,
- c) The NPCA will provide the Region and the local municipalities with an approved schedule of fees and updates.

8.8 Effective Date

This Protocol will take effect on the last date signed by the parties to this Protocol.

Date of Regional Council approval _____.

Date of NPCA Board approval _____.

Table 1: Responsibilities for Planning Application Review with Respect to Environmental Features

Environmental Features	Lead Agency	Mandate Authority	Planning Application and Policy Review Agency	Technical Clearance Review
Natural Hazards ⁵				
Flooding Hazards, Floodways and Floodplains	NPCA	PPS Section 3.1, MOU with Province, O. Reg. 155/06	NPCA	NPCA
Dynamic Beach and Erosion Hazards	NPCA	PPS Section 3.1, MOU with Province, O. Reg. 155/06	NPCA	NPCA
Hazardous Lands and Hazardous Sites	NPCA	PPS Section 3.1, MOU with Province, O. Reg. 155/06	NPCA	NPCA
Riverine Hazards	NPCA	PPS Section 3.1, MOU with Province, O. Reg. 155/06	NPCA	NPCA
Regulated Watercourses	NPCA	PPS Section 3.1, MOU with Province, O. Reg. 155/06	NPCA	NPCA
Wildland Fires	Region	PPS Section 3.1.8	Region	Region
Natural Heritage				
Wetlands	NPCA/Region	O. Reg. 155/06 PPS Section 2.1, ROP	NPCA/Region	NPCA/Region
Habitat of Endangered and Threatened Species	MNRF	Endangered Species Act (Federal and Provincial), ROP	Region	MNRF
Significant Woodlands	Region	PPS Section 2.1, ROP	Region	Region
Significant Wildlife Habitat	Region	PPS Section 2.1, ROP	Region	Region

⁵ For the purposes of this document reference to PPS Section 3.1 includes Policies 3.1.1 to 3.1.7 only.

Environmental Features	Lead Agency	Mandate Authority	Planning Application and Policy Review Agency	Technical Clearance Review
Significant Valleylands	Region	PPS Section 2.1, ROP	Region	Region
Significant ANSIs (life and earth)	Region	PPS Section 2.1, ROP	Region	Region
Fish Habitat	DFO	Fisheries Act, PPS Section 2.1, ROP	Region	DFO
Water Resource				
Vulnerable Groundwater Areas	Region	PPS Section 2.2, ROP	Region	Region
Groundwater Features	Region	PPS Section 2.2, ROP	Region	Region
Stormwater Management	Region	PPS Section 2.2, ROP	Region / Local	Region
Key Hydrologic Features	Region	Provincial Plans, ROP	Region	Region
Sensitive Water Features	Region	PPS Section 2.2, ROP	Region	Region
Significant Groundwater Recharge Areas	Region	Provincial Plans, ROP	Region	Region
Significant Surface Water Contribution Areas	Region	Provincial Plans, ROP	Region	Region
Intake Protection Zones/Vulnerable Surface Water Features	Local	Clean Water Act 2006 PPS Section 2.2, ROP	Region /Local	N/A

Acronyms from Table 1

DFO – Depart of Fisheries and Oceans

NEC – Niagara Escarpment Commission

O. Reg. 155/06 - Provincial Legislation with respect to the Niagara Peninsula Conservation Authority: Regulation of Development, Interference with wetlands and Alteration to Shorelines and Watercourses.

PPS - Provincial Policy Statement 2014

ROP – Regional Official Plan

Table 2: Implementation Responsibilities

Processes / Reports / Submissions	Lead Agency	Responsibility for Final Approval
Application Processes		
Regional Official Plan/Amendments	Region	Region
Local Official Plan/Amendments	Local	Local / Region ⁶
Zoning By-Law/Amendments	Local	Local
Draft Plans of Subdivision	Local	Local
Site Plan	Local	Local
Draft Plan of Condominium	Local	Local
Minor Variance/Permissions	Local	Local
Consent/Boundary Adjustments	Local	Local
NEC Applications	NEC	NEC
Building Permits	Local	Local
Aggregate Licence	Local / Region / MNRF	MNRF
Environmental Assessments	Local / Region / Province	Local / Region / Province
Reports / Studies		
EIS in a NPCA Regulated Area	NPCA	NPCA
EIS outside Settlement Area ⁷	Region	Region
EIS inside Settlement Area ⁸	Local	Local
Watershed Studies	Region	Region
Subwatershed Studies	Local	Local
Technical Reports for Natural Hazard Identification	NPCA	NPCA
Regional Master Servicing Plans	Region	Region
Regional Stormwater Guidelines	Region	Region

Notes for Table 2:

- (i) The responsibility for the Review of Environmental Features is as noted in Table 1
- (ii) The responsibility for Technical Clearance of Environmental Features is as noted in Table 1

⁶ Regional Official Plan Policies 14.E.7 and 14.E.8 identify criteria under which approval of Local Official Plan Amendment amendments may be delegated to the local Council for approval.

⁷ Notwithstanding the EIS is outside the Settlement Area, if the EIS includes a NPCA Regulated Area, the NPCA shall be the Lead and responsible for Final Approval of the EIS for the regulated features.

⁸ Notwithstanding the EIS is within the Settlement Area, if the EIS includes a NPCA Regulated Area, the NPCA shall be the Lead and responsible for Final Approval of the EIS for the regulated features.

Table 3: Responsibilities for Stormwater Management Review with Respect to Area of Interest

Area of Interest	NPCA	Region	MOECC	Local
Determination of need for Stormwater Report – Quality and Quantity		✓		✓
Review of Stormwater Report		✓	✓	✓
Location of Facility with Respect to Vision of Area				✓
Location of Facility with Respect to Natural Hazards	✓			
Location of Facility with Respect to Functionality		*		✓
Confirmation of Drainage Areas		*		✓
Sizing of Facility with Respect to Quality, Erosion and Quantity Controls, including Release Rates and Settling Calculations		✓		✓
Other Potential Impacts on Receiving Watercourse (e.g. thermal, water balance, etc)		✓		
Outlet Structure and Spillway Design		✓	✓	✓
Outlet to Watercourse (if necessary)	✓		✓	
Safety – Side Slopes, Grating, Grading, Emergency Access		✓		✓
Landscaping/Re-vegetation				✓
Long Term Maintenance			✓	✓
Major and Minor Flow Conveyance (internal to subdivision)				✓
Hydraulic Gradeline Analysis of Storm Sewer and Outlet				✓

*The Region will be involved in instances where the drainage of a Regional Road may be impacted.

Appendix A - Excerpt from the Memorandum of Understanding on Procedures to Address Conservation Authority Delegated Responsibility

Conservation Ontario, Ministry of Natural Resources & Ministry of Municipal Affairs and Housing

Memorandum of Understanding on Procedures to Address Conservation Authority Delegated Responsibility

2001

Purpose of the MOU

The MOU defines the roles and relationships between Conservation Authorities (CAs), the Ministry of Natural Resources (MNR), and the Ministry of Municipal Affairs and Housing (MMAH) in planning for implementation of CA delegated responsibilities under the Provincial One Window Planning System...

Roles and Responsibilities

Conservation Authorities (CAs)

- a) The CAs will review policy documents and development proposals processed under the Planning Act to ensure that the application has appropriate regard to Section 3.1 of the PPS. [see Appendix C]
- b) Upon request from MMAH, CAs will provide comments directly to MMAH on planning matters related to Section 3.1 of the PPS as part of the provincial one window review process.
- c) Where there may be a potential conflict regarding a Conservation Authority's comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the affected ministries and the Conservation Authority so that a single integrated position can be reached.
- d) CAs will apprise MMAH of planning matters where there is an issue as to whether there has been "regard to" Section 3.1 of the PPS to determine whether or not direct involvement by the province is required.
- e) Where appropriate, CAs will initiate an appeal to the OMB to address planning matters where there is an issue as to whether there has been "regard to" Section 3.1 of the PPS is at issue. CAs may request MMAH to support the appeal.
- f) CAs will participate in provincial review of applications for Special Policy Area approval.
- g) CAs will work with MMAH, to develop screening and streamlining procedures that eliminate unnecessary delays and duplication of effort.

Appendix B - Excerpt from the Provincial Policy Statement 2014 – Conservation Responsibility for Natural Hazards

3.1 Natural Hazards

3.1.1 Development shall generally be directed to areas outside of:

- a. hazardous lands adjacent to the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes which are impacted by flooding hazards, erosion hazards and/or dynamic beach hazards;
- b. hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards; and
- c. hazardous sites.

3.1.2 *Development and site alteration* shall not be permitted within:

- a. the dynamic beach hazard;
- b. defined portions of the flooding hazard along connecting channels (the St. Marys, St. Clair, Detroit, Niagara and St. Lawrence Rivers);
- c. areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard; and
- d. a floodway regardless of whether the area of inundation contains high points of land not subject to flooding.

3.1.3 Planning authorities shall consider the potential impacts of climate change that may increase the risk associated with natural hazards.

3.1.4 Despite policy 3.1.2, *development and site alteration* may be permitted in certain areas associated with the *flooding hazard along river, stream and small inland lake systems*:

- a. in those exceptional situations where a *Special Policy Area* has been approved. The designation of a *Special Policy Area*, and any change or modification to the official plan policies, land use designations or boundaries applying to *Special Policy Area* lands, must be approved by the Ministers of Municipal Affairs and Housing and Natural Resources prior to the approval authority approving such changes or modifications; or
- b. where the *development* is limited to uses which by their nature must locate within the *floodway*, including flood and/or erosion control works or minor additions or passive non-structural uses which do not affect flood flows.

3.1.5 *Development* shall not be permitted to locate in *hazardous lands* and *hazardous sites* where the use is:

- a. an *institutional use* including hospitals, long-term care homes, retirement homes, pre-schools, school nurseries, day cares and schools;
- b. an *essential emergency service* such as that provided by fire, police and ambulance stations and electrical substations; or
- c. uses associated with the disposal, manufacture, treatment or storage of *hazardous substances*.

3.1.6 Where the *two zone concept* for *flood plains* is applied, *development* and *site alteration* may be permitted in the *flood fringe*, subject to appropriate floodproofing to the *flooding hazard* elevation or another *flooding hazard* standard approved by the Minister of Natural Resources.

3.1.7 Further to policy 3.1.6, and except as prohibited in policies 3.1.2 and 3.1.5, *development* and *site alteration* may be permitted in those portions of *hazardous lands* and *hazardous sites* where the effects and risk to public safety are minor, could be mitigated in accordance with provincial standards, and where all of the following are demonstrated and achieved:

- a. development and site alteration is carried out in accordance with floodproofing standards, protection works standards, and access standards;
- b. vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies;
- c. new hazards are not created and existing hazards are not aggravated; and
- d. no adverse environmental impacts will result.⁹

3.1.8 *Development* shall generally be directed to areas outside of lands that are unsafe for *development* due to the presence of *hazardous forest types for wildland fire*.

Development may however be permitted in lands with hazardous forest types for wildland fire where the risk is mitigated in accordance with wildland fire assessment and mitigation standards.¹⁰

⁹ Policy 3.1.7 of the PPS was added to the PPS in 2014, and was not part of the Memorandum of Understanding on Procedure to Address Conservation Authority Delegated Responsibility in 2001 between Conservation Ontario, Ministry of Natural Resources & Ministry of Municipal Affairs and Housing. However, Policy 3.1.7 provides clarity to Policies 3.1.2 and 3.1.5 and therefore could be considered part of the NPCA mandate.

¹⁰ Policy 3.1.8 of the PPS was added to the PPS in 2014, and was not part of the Memorandum of Understanding on Procedures to Address Conservation Authority Delegated Responsibility in 2001 between Conservation Ontario, Ministry of Natural Resources & Ministry of Municipal Affairs and Housing. As wildland fire is a new hazard, it should not be considered part of the NPCA mandate unless the Province gives further direction on this matter.

Appendix C - Excerpt from the Ontario Regulation 155/06 Niagara Peninsula Conservation Authority: Regulation of Development, Interface with Wetlands and Alterations to Shorelines and Watercourses

Development prohibited

2. (1) Subject to section 3, no person shall undertake development or permit another person to undertake development in or on the areas within the jurisdiction of the Authority that are,

(a) adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beaches, including the area from the furthest offshore extent of the Authority's boundary to the furthest landward extent of the aggregate of the following distances:

(i) the 100 year flood level, plus the appropriate allowance for wave uprush shown in the most recent document entitled "Lake Ontario Shoreline Management Plan" available at the head office of the Authority,

(ii) the 100 year flood level, plus the appropriate allowance for wave uprush shown in the most recent document entitled "Lake Erie Shoreline Management Plan" available at the head office of the Authority,

(iii) the predicted long term stable slope projected from the existing stable toe of the slope or from the predicted location of the toe of the slope as that location may have shifted as a result of shoreline erosion over a 100-year period,

(iv) where a dynamic beach is associated with the waterfront lands, the appropriate allowance inland to accommodate dynamic beach movement shown in the most recent document entitled "Lake Ontario Shoreline Management Plan" available at the head office of the Authority, and

(v) where a dynamic beach is associated with the waterfront lands, the appropriate allowance inland to accommodate dynamic beach movement shown in the most recent document entitled "Lake Erie Shoreline Management Plan" available at the head office of the Authority;

(b) river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined in accordance with the following rules:

(i) where the river or stream valley is apparent and has stable slopes, the valley extends from the stable top of bank, plus 15 metres, to a similar point on the opposite side,

(ii) where the river or stream valley is apparent and has unstable slopes, the valley extends from the predicted long term stable slope projected from the existing stable

slope or, if the toe of the slope is unstable, from the predicted location of the toe of the slope as a result of stream erosion over a projected 100-year period, plus 15 metres, to a similar point on the opposite side,

(iii) where the river or stream valley is not apparent, the valley extends the greater of,

(A) the distance from a point outside the edge of the maximum extent of the flood plain under the applicable flood event standard, to a similar point on the opposite side, and

(B) the distance of a predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood standard, to a similar point on the opposite side;

(c) hazardous lands;

(d) wetlands; or

(e) other areas where development could interfere with the hydrologic function of a wetland, including areas up to 120 metres of all provincially significant wetlands and wetlands greater than 2 hectares in size, and areas within 30 metres of wetlands less than 2 hectares in size. O. Reg. 155/06, s. 2 (1); O. Reg. 71/13, s. 1 (1-3).

(2) All areas within the jurisdiction of the Authority that are described in subsection (1) are delineated as the "Regulation Limit" shown on a series of maps filed at the head office of the Authority under the map title "Ontario Regulation 97/04: Regulation for Development, Interference with Wetlands and Alterations to Shorelines and Watercourses". O. Reg. 71/13, s. 1 (4).

(3) If there is a conflict between the description of areas in subsection (1) and the areas as shown on the series of maps referred to in subsection (2), the description of areas in subsection (1) prevails. O. Reg. 71/13, s. 1 (4).