
Subject: Statutory Public Meeting for Draft Regional Official Plan Amendment 15 – Exemption Policies

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 20, 2019

Recommendations

1. That Report PDS 5-2019 **BE RECEIVED** for information;
2. That a copy of Report PDS 5-2019 **BE CIRCULATED** to the Local Area Municipalities for information;
3. That the necessary update to the exemption by-law **BE PREPARED** and **PRESENTED** to Council for consideration with the recommendation report for Regional Official Plan Amendment No. 15; and
4. That existing By-law 129-2001 and By-law 43-2002 **BE REPEALED** when the new exemption by-law is passed.

Key Facts

- Section 17(10) and Ontario Regulation 699/98 of the *Planning Act, 1990*, allows Niagara Region to pass a by-law exempting local Official Plan Amendments (LOPAs) from Regional approval.
- The Region passed exemption By-law 129-2001 authorizing the Region of Niagara to exempt minor, site specific LOPAs from Regional approval per Regional Policy Plan Amendment 137. By-law 43-2002 delegates the exemption approval to the Commissioner of Planning and Development Services or his/her delegate. By-laws 129-2001 and 43-2002 are no longer consistent with the needs of the Region and local municipalities.
- The Region has undertaken a review of the existing exemption policies in Section 14.E.6-14.E.9 of the Regional Official Plan. The exemption policies identify the process and circumstances where the Region will exempt local Official Plan Amendments from Regional approval.
- The proposed amendment will modernize these policies and provide better clarity and certainty to the exemption process for the Region's local area municipalities.

- The proposed policy was done in conjunction with an update to the Memorandum of Understanding between the Region and the local area municipalities, which included discussions with the local area planners.

Financial Considerations

There are no direct financial implications arising from this report as the cost to process the Amendment can be accommodated within the Planning and Development Services base Operating Budget.

Analysis

Process

As per the *Planning Act, 1990*, the upper tier municipality is the approval authority for any and all local Official Plan Amendments (LOPAs). However, section 17(10) of the *Act* allows a municipality, with approval from the Minister, to pass a by-law exempting LOPAs from Regional approval. Niagara Region received approval authority from the Minister to pass a by-law to exempt any or all LOPAs per Ontario Regulation 699/98.

Following a process review and consultation with local area partners, the first exemption by-law was passed in 2001 in conjunction with Regional Policy Plan Amendment (RPPA) 137. By-law 129-2001 authorizes the Region of Niagara to exempt minor, site specific LOPAs from Regional approval per RPPA 137 and the exemption approval process in Schedule A to the By-law. The exemption process involves working collaboratively with the local municipality through the process and the review of the LOPA document. This means that the Region has the authority to exemption LOPAs from approval where is deemed to comply with the exemption policy and process. The approval of these amendments would then rest with the local municipal Council.

In 2002, the Region passed By-law 43-2002 to delegate the power to exempt the LOPA to the Commissioner of Planning and Development Services or his/her delegate. This By-law continued to reference the approval process as set out in By-law 129-2001 and the policy of RPPA 137.

Following a process review and consultation with local partners, it was determined that there needed to be differentiation in review and exemption requirements for minor, site specific and comprehensive LOPAs. The Region amended the exemption policies through RPPA 5-2013 to implement this direction. This amendment made minor wording modifications to what was approved through RPPA 137 but largely kept the previously approved wording for minor, site specific amendments. RPPA 5-2013 also added new policy related to exemption of comprehensive LOPAs (i.e. Secondary Plans or where the amendment may have cross boundary impacts). Each policy continued to have criteria outlining where the LOPA would not receive exemption.

Existing Policy and New DRAFT Regional Official Plan Amendment (ROPA)

Appendix 1 contains the DRAFT proposed Exemption ROPA policy for consideration. Appendix 2 contains the current wording of Regional Official Plan (ROP) policies (s. 14.E.6-4.E.9) that would be replaced by the new wording. Feedback from our local partners indicate that the existing policies are unnecessarily wordy and confusing. Some of the information is out of date and the policy direction of the existing 14.E.7 and 14.E.8 can limit the opportunity for the Region to collaborate with the local area municipality.

Regional staff have condensed and simplified the wording through the draft ROPA. Current Policy 14.E.6 has been removed in its entirety. The guidance and timeframe for the review process of LOPAs will be detailed in the updated Memorandum of Understanding (MOU). Also through recent *Planning Act, 1990*, amendments, the Region's review time increased to 210 days with the ability to request extension. This timeline is detailed in the *Act* and should be removed from the Region Official Plan (ROP). Existing Policy 14.E.9 is inherent in the review process so it has also been removed.

The new proposed ROPA Policy 14.E.6 outlines the exemption authority and provides two part direction as to when the LOPA may be exempt:

- Part A is for amendments that are minor, site specific with no issues/concerns related to Regional and Provincial interest. In this case, the exemption can be determined and issued at the pre-consultation stage.
- Part B is for more comprehensive LOPAs (i.e. Secondary Plans) that require continued collaboration between the Region and the local area municipality (LAM). The Region would work with the LAM to identify and address any matters of Regional and Provincial interest and review the draft LOPA or Secondary Plan document to determine that the matters have been satisfactorily addressed. If the Region is satisfied with the policies (or other steps taken to address the issue), the Region can issue the exemption.

The draft ROPA continues to contain a list of criteria in Policy 14.E.7 to outline where the amendment may not be exempt. It combines, summarizes and condenses the list in the previous 14.E.7 and 14.E.8. The intent of this policy is to provide detailed direction on matters of Regional and Provincial interest where the Regional will retain approval authority if there is disagreement on one or more of the criteria listed. However, where a resolution can be reached which will satisfactorily address the matter through policy or other means (i.e. zoning, conditions of draft plan approval), Part B of Policy 14.E.6 would apply. The listed criteria will continue to be a helpful tool for interested external parties in understanding the Region's exemption process.

Exemption by-law

In order to properly align this Regional Official Plan Amendment, the existing exemption By-law 129-2001 and 43-2002 will be repealed and replaced by a new exemption by-law that reflects the updated policy and Memorandum of Understanding process. Information on the Memorandum of Understanding is contained in Report PDS 4-2019.

Conclusion

The exemption policies are being updated to better reflect the working relationship between the Region and the LAMs. It continues to support strong collaboration between the LAMs and the Region and provides more clarity and consistency in reviewing LOPAs.

Following the public meeting, Regional staff will review comments presented at the public meeting, as well as any agency comments received through circulation. A recommendation report will be presented for consideration when finalized.

Alternatives Reviewed

The *Planning Act, 1990*, requires that a public meeting be held for all amendments to municipal Official Plans. Appropriate notice has been provided for this statutory public meeting.

Relationship to Council Strategic Priorities

This report support Council's strategic areas for fostering innovation, investment, and entrepreneurship and doing business differently.

Other Pertinent Reports

N/A

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Appendices

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APPENDIX 1 – DRAFT Regional Official Plan Amendment

DRAFT Amendment XX To The Official Plan for the Niagara Planning Area

Text Changes

The Official Plan for the Niagara Planning Area is amended as follows:

Part I – Modifications to Existing Policies

1. Policy 14.E.6, 14.E.7, 14.E.8 and 14.E.9 are deleted and replaced with the following:

14.E.6 The Commissioner of Planning and Development Services, or his/her designate, shall determine and issue an exemption from Regional approval for a local Official Plan Amendment (OPA) where:

a) It is determined through pre-consultation that the draft OPA is of local significance, is consistent, conforms to, or does not conflict with Provincial Policy and Plans, and is in conformity with the Regional Official Plan; or,

b) Matters of Regional and Provincial interest are present and, through a collaborative process between the Region and the local municipality, it is determined that the OPA has identified and satisfactorily addressed these matters. In the case of a Secondary Plan, the Region shall review the draft Secondary Plan policy set and mapping prior to determining exemption.

14.E.7 A local OPA shall not be exempt from Regional approval if any of the following cannot be addressed to Region's satisfaction:

- i. conformity with the Regional Official Plan;
- ii. consistency with the Provincial Policy Statement and/or conformity with Provincial Plans;
- iii. significant impacts relating to the Regional Master Servicing Plan and/or Transportation Master Plan;
- iv. directly affects Regional capital forecasts; or
- v. cross-boundary impacts or impacts on any adjacent municipality."

APPENDIX 2 – Existing Regional Official Plan Exemption Policies 14.E.6 – 14.E.9

Policy 14.E.6

The following decision-making targets shall be used in the review of local Official Plans and Amendments:

Table 14-1: Decision Making Target Timeframes	
Request	Timeframe
A request for exemption from Regional approval as per this Plan	10 days to respond to request by municipality
A regionally significant local Official Plan or Official Plan Amendment	180 days after submission to the Region to process with decision by Regional Council

Policy 14.E.7

Policy amendments to local Official Plans that are in conformity with the Regional Official Plan may be exempt from Regional approval where they are of local significance and no Regional interest is adversely affected. Applications for a policy amendment to local Official Plans with Regional interests, where a collaborative process has been undertaken between the Region and the Local Municipality, including policies (i) and (ii) below, have been addressed through pre-consultation and review of the draft Local Amendment may also be exempt. Amendments impacting any one of the following areas are not eligible for exemption:

- i. Applications directly and substantially affecting Regional servicing infrastructure: i.e. streets, water, and wastewater;
- ii. Applications that substantially change Regional capital forecasts;
- iii. Urban boundary expansions;
- iv. Applications to convert employment areas and lands that have the potential for adversely affecting the viability of an employment area;
- v. Major applications that will adversely affect Regional traffic flows;
- vi. Major secondary plans;
- vii. Retail applications of Regional scale which have a market area extending two or more municipalities;
- viii. Applications that are not consistent with the Provincial Policy Statement or the Growth Plan for the Greater Golden Horseshoe;
- ix. Applications with cross-boundary impacts.

Within Designated Greenfield areas a major secondary plan constitutes an area of 25 hectares or more.

Policy 14.E.8

Site specific amendments to local Official Plans shall be subject to the following policy. The *Region* as the approval authority for local Official Plans may exempt some local Official Plan amendments involving land use designation changes from Regional approval. Local Official Plan amendments to be considered for exemption will be of local interest only, not extensive or comprehensive in nature and not involving a change to the municipality's urban area boundaries. Only those amendments which satisfy the following criteria are eligible for exemption:

- i. The amendment must be site specific and/or minor in size and nature,
- ii. The amendment conforms to the Regional Official Plan and is consistent with the Provincial Policy Statement,
- iii. The amendment does not impact on any adjacent municipality or conflict with the Niagara Escarpment Plan, and does not require new Regional financing or servicing,
- iv. The amendment complies with the Region's financial and servicing strategy,
- v. The amendment incorporates any concerns or modifications recommended by the Region to address Regional or Provincial concerns, and
- vi. Any subsequent changes made to the local Official Plan amendment by the local Council in adopting the amendment do not conflict with the Regional Official Plan or previous requirements by the *Region*.

Policy 14.E.9

Decisions of Local Official Plan Amendments must be in conformity with the Regional Official Plan. The policies of the Regional Official Plan continue to apply after adoption and approval of the Local Official Plan."