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**Subject:** Regional Official Plan Amendment 15 (ROPA 15) – Recommendation Report

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

**Report date:** Wednesday, September 11, 2019

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## **Recommendations**

1. That Regional Official Plan Amendment No. 15 – exemption policies **BE APPROVED** (attached as Appendix 1 to Report PDS 30-2019);
2. That all parties **BE NOTIFIED** of Regional Council’s decision in accordance with *Planning Act, 1990* requirements;
3. That staff **ISSUE** a declaration of final approval of the Official Plan Amendment 20 days after notice of Council’s decision has been given, provided that no appeals have been filed against the decision;
4. That the new exemption by-law **BE APPROVED** (attached as Appendix 3 to Report PDS 30-2019); and
5. That existing By-law 129-2001 and By-law 43-2002 **BE REPEALED**.

## **Key Facts**

- The purpose of this report is to present Regional Official Plan Amendment No. 15 (ROPA 15) – for approval.
- 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 ROPA 15 policies provide more clarity and certainty to the exemption process for the Region’s local area municipalities.
- A statutory public meeting for the draft Regional Official Plan Amendment was held on March 20, 2019 in accordance with *Planning Act, 1990* requirements. All comments received via circulation and the public meeting have been reviewed and considered in the final ROPA 15.
- Regional Official Plan Amendment No. 15 represents good planning.

- The update to the exemption by-law will implement the intent of ROPA 15.

## **Financial Considerations**

There are no direct financial implications arising from this report. The costs to process and circulate this amendment can be accommodated within the Planning and Development Services base Operating Budget.

## **Analysis**

### *Background and existing policy*

The Region initiated ROPA 15 to clarify the Local Official Plan Amendment (LOPA) exemption policies and process. The existing Regional Official Plan (ROP) policies (s. 14.E.6-4.E.9) are unnecessarily wordy and confusing according to the feedback received from our local area partners. The uncertain direction of the existing policies can limit the opportunity for the Region to collaborate with the local area municipality. In addition, some of the information is out of date.

Regional staff have condensed and simplified the exemption process and wording through ROPA 15. Policy 14.E.6, review timeframes, has been removed in its entirety. Guidance for the review process of LOPAs is detailed in the Memorandum of Understanding and the *Planning Act, 1990* and therefore unneeded in policy.

Existing Policy 14.E.9 is inherent in the planning review process. This policy has also been deleted in its entirety.

### *New Policy*

The new 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 more collaboration between the Region and the local area municipality (LAM). The Region will work with the LAM to identify and address any matters of Regional and Provincial interest. This process will also require the review of 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.

ROPA 15 continues to contain a list of criteria in new 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 a clear Regional mandate and detailed direction on matters of Regional and Provincial interest.

The Region will retain approval authority if there is disagreement on one or more of the criteria listed. However, where a resolution can be reached to 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.

***Planning Policy Review:***

The proposed Regional Official Plan Amendment has been reviewed for alignment with the *Planning Act, 1990*, Provincial Policy Statement and Provincial Plans.

*Planning Act, 1990*

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 and passed exemption by-law 129-2001 in 2001.

*Provincial Policy Statement (PPS), 2014*

The PPS supports improved land use planning and management, contributing to an effective and efficient land use planning system. Policy 1.2.1 requires a coordinated, integrated and comprehensive approach when dealing with planning matters within municipalities, across lower, single and/or upper-tier municipal boundaries, and with other orders of government, agencies and boards.

Through ROPA 15, the Region has streamlined the exemption policy wording and will continue to collaborate with our local municipal partners through the review of local Official Plan Amendments. ROPA 15 is consistent with the PPS.

*Provincial Plans, 2017*

The Growth Plan for the Greater Golden Horseshoe, the Greenbelt Plan and the Niagara Escarpment Plan are all considered through the Region's One Window review approach to planning applications. Any local Official Plan Amendment would need to be reviewed in the context of these Provincial plans, where they are applicable. The ROPA

covers the Provincial interest by ensuring that if Regional or Provincial interest is present, there is ongoing collaboration to satisfactorily address any issues or concerns. If this cannot be addressed, the Region would retain the approval authority. ROPA 15 conforms to the Provincial plans.

***Input on the ROPA:***

*Statutory Public Meeting*

The *Planning Act, 1990*, requires that a statutory public meeting be held for all amendments to municipal Official Plans. A public meeting was held on March 20, 2019 to present a draft of ROPA 15 to Planning and Economic Development Committee and receive comments from the public. The Notice of Public Meeting was advertised on February 27, 2019 in Niagara This Week newspapers having general circulation across the Region. No comments were received from the public before or at the Public Meeting.

The Notice of Public Meeting and a request for comments was also sent to the list of prescribed bodies and agencies having interest on February 20, 2019. All comments received have been reviewed and considered prior to finalizing ROPA 15. Generally, ROPA 15 has been well received.

*Agency Comments*

The draft ROPA 15 policy was presented at the Area Planners meeting on January 25, 2019. Feedback was received from our local partners and refinements made to clarify the intent of the policy. Following the formal circulation of the draft ROPA 15 policy on February 20, 2019, Grimsby, Lincoln, Niagara Falls and Welland have provided correspondence indicating no objections.

The Town of Fort Erie, Niagara Escarpment Commission and two Regional departments provided comments on the draft policies. These comments were reviewed and changes made where appropriate. A table of all comments and staff's response has been included as Appendix 3.

The Ministry of Municipal Affairs and Housing provided comments related to employment conversion. At the time the comments were provided, the Growth Plan was proposed for amendment, which has now come in to force. The Ministry suggested the Region consider the potential implications of employment conversions as they were not specifically mentioned in policy 14.E.7. Staff have reviewed the ROPA 15 policy, the policies of the Regional Official Plan and the policies of the now updated 2019 Growth Plan related to employment conversion. Staff opine that employment areas are captured and adequately protected based on the definition of *employment area* in the Official Plan. Any proposed conversion within employment areas will require action by

the Region in a collaborative process with the local municipality. ROPA 15 does not change the need to meet Regional policy and Growth Plan requirements when considering an employment conversion.

### ***Exemption by-law***

In order to properly align ROPA 15, the existing exemption By-law 129-2001 and 43-2002 will be repealed and replaced. The new exemption by-law combines the two previous by-laws and reflects both ROPA 15 policy direction and Memorandum of Understanding.

### ***Conclusion***

The new exemption policies better reflect the working relationship between the Region and the local area municipalities. It continues to support strong collaboration and an improved working relationship. It provides more clarity on the Regional mandate and consistency to the Regional review process for local Official Plan Amendments. ROPA 15 is good planning.

### **Alternatives Reviewed**

Alternative 1 – Council could choose not to adopt the Regional Official Plan Amendment. This course of action is not favourable as the ROPA supports a better working relationship with our local area partners and provides more clarity and certainty to the exemption process.

Alternative 2 – Council could choose to modify and approve the Regional Official Plan Amendment. The modification would need to demonstrate consistency and conformity with the Regional and Provincial policy.

### **Relationship to Council Strategic Priorities**

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

### **Other Pertinent Reports**

- Statutory Public Meeting for Draft Regional Official Plan Amendment 15 – Exemption Policies – PDS 5-2019

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**Prepared by:**

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Planning and Development Services

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**Recommended by:**

Rino Mostacci, MCIP, RPP  
Commissioner  
Planning and Development Services

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**Submitted by:**

Ron Tripp, P.Eng.  
Acting, Chief Administrative Officer

*This report was prepared in consultation with Isaiah Banach, Manager of Long Range Planning.*

**Appendices**

Appendix 1	Regional Official Plan Amendment No. 15	Page 7
Appendix 2	Comment Table on ROPA 15	Page 12
Appendix 3	Updated Exemption By-law	Page 14

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Authorization Reference:

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO PROVIDE FOR THE ADOPTION OF AMENDMENT 15  
TO THE OFFICIAL PLAN FOR THE NIAGARA PLANNING AREA  
TO IMPLEMENT THE REVISED EXEMPTION  
POLICIES AFFECTING ALL LOCAL MUNICIPALITIES

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WHEREAS subsection 22 of the *Planning Act, 1990* states when the requirements of subsections (15) to (21), as appropriate, have been met and Council is satisfied that the plan as prepared is suitable for adoption,

WHEREAS it is deemed appropriate to further amend the Official Plan as adopted by Regional Council for the Niagara Planning Area,

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the text attached hereto is hereby approved as Amendment 15 to the Official Plan for the Niagara Planning Area.
2. That the Regional Clerk is hereby authorized and directed to give notice of Council's adoption in accordance with Section 17(23) of the *Planning Act, 1990*.
3. That this By-law shall come into force and take effect on the day after the last day of appeal provided no appeals have been received.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

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Authorization Reference:

Passed: <date>

**Amendment No. 15  
To The Official Plan  
for the Niagara Planning Area**

**PART “A” – THE PREAMBLE**

The preamble provides an explanation of the Amendment including the purpose, location, background, and basis of the policies and implementation, but does not form part of this Amendment.

- Title and Components
- Purpose of the Amendment
- Location of the Amendment
- Background
- Basis for the Amendment
- Implementation

**PART “B” – THE AMENDMENT**

The Amendment describes the modifications to the text of Official Plan for the Niagara Planning Area, which constitute Official Plan Amendment No. 15.

**PART “C” – THE APPENDICES**

The Appendices provide information regarding public participation and agency comments relevant to the Amendment, but do not form part of this Amendment.



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Authorization Reference:

## **PART "A" - THE PREAMBLE**

### TITLE AND COMPONENTS:

This document, when approved in accordance with Section 17 of the *Planning Act, 1990*, shall be known as Amendment 15 to the Official Plan of the Niagara Planning Area. Part "A" – The Preamble, contains background information and does not constitute part of this Amendment. Part "B" – The Amendment constitutes Amendment 15 to the Official Plan of the Niagara Planning Area. Part "C" – The Appendices, does not constitute part of the Amendment. These Appendices contain information related to public involvement and agency comments associated with the Amendment.

### PURPOSE OF THE AMENDMENT:

The purpose of this Amendment is to amend the exemption policies within the Niagara Region Official Plan to provide clarity to the exemption process for our local municipal partners.

### LOCATION OF THE AMENDMENT:

The amendment affects all local municipalities.

### BACKGROUND

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.

The Region is now updating both Regional policy and the exemption by-law to better reflect the process for exemption, allow enhanced collaboration and clarify the Regional and Provincial interest in the local Official Plan Amendment process.

### BASIS FOR THE AMENDMENT:

- a) The Amendment was the subject of a Public Meeting held under the *Planning Act, 1990* on March 20, 2019. Public and agency comments were addressed as part of the preparation of this Amendment.

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Authorization Reference:

- b) The Amendment will support continued collaboration between stakeholders as well as enhance clarity to the exemption process.
- c) Based on the Region's review of the *Planning Act, 1990*, the Provincial Policy Statement, the Provincial plans, the Regional Official Plan, and public and agency consultation, Regional staff is of the opinion that the Amendment is consistent with Provincial and Regional policies and plans and, therefore, represents good planning.

IMPLEMENTATION:

Section 14, Implementation of the Official Plan for the Niagara Planning Area, shall apply where applicable.

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Authorization Reference:

## **PART "B" – THE AMENDMENT**

### **Amendment 15 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, as applicable, 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 the 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."

<b>Origin of comment</b>	<b>Comment</b>	<b>Response</b>
City of Welland	No objection to the revisions	Noted
City of Niagara Falls	No objections	Noted
Town of Grimsby	No objection to the revisions	Noted
Town of Lincoln	Supportive of the revisions	Noted
Enbridge Gas Inc.	No objections	Noted
Niagara Escarpment Commission (NEC)	Requested Policy 14.E.6 a) and b) add consultation with the Niagara Escarpment Commission or applicable provincial planning authority.	Change not made. If lands are within the Niagara Escarpment Plan area, the application will be circulated to the NEC for review and comment per the requirements of the <i>Planning Act</i> . The Region would also recognize the Provincial interest and work collaboratively with the local municipality prior to determining if exemption can be issued.
Niagara Region – Development Services	Minor wording suggestions	Changes made
Town of Fort Erie	Notes concern with the Policy 14.E.7 in relation to Secondary Plans.	Policy 14.E.7 represents the list of Regional and Provincial interest. The policy enables continued collaboration to address any of these matters to the Region’s satisfaction. Where a resolution can be reached which will satisfactorily address the matter through policy or other means (for example holding provisions for an associated zoning amendment or conditions of draft plan approval for an associated draft plan of subdivision), exemption could be issued. Policy 14.E.6 b) indicates that the Region would

		work collaboratively with the local municipality for comprehensive amendments such as Secondary Plans.
Niagara Region - Enterprise Resource Mgmt Services	Request for clarification on the criterion in 14.E.7 which speaks to directly affecting Regional capital and confirmation that other Departments are reviewing prior to issuing exemption.	This criterion relates to comprehensive local Official Plan Amendments such as Secondary Plans or large scale developments. As part of these applications, the consultant/applicant would prepare and submit traffic studies and servicing/infrastructure studies that would be reviewed by our Development Engineering and Transportation staff to assess if it aligns with the Region's Master Servicing Plan and Transportation Master Plan, as well as if any required upgrades have been identified in the capital budget. Staff would identify any major issues through review of these studies to discuss further with the local municipality and applicant to make adjustments, where required.
Ministry of Municipal Affairs	Generally supportive of the exemption policies. MMA notes consideration to the impact of Amendment 1 of the Growth Plan on the proposed changes to the process for employment conversion. The comments reference triggering a Regional Official Plan Amendment.	As noted in the report, an employment conversion would follow the collaborative review process. Employment areas which fits the definition in the Official Plan would need to meet the Region's requirements and the 2019 Growth Plan requirements to be considered for conversion.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO AUTHORIZE THE EXEMPTION OF LOCAL OFFICIAL PLAN AMENDMENTS AND TO DELEGATE THE EXEMPTION OF LOCAL OFFICIAL PLAN AMENDMENTS AND TO REPEAL BY-LAW 129-2001 AND BY-LAW 43-2002

WHEREAS The Minister of Municipal Affairs and Housing pursuant to Ontario Regulation 699/98 has authorized the Regional Municipality of Niagara to pass a by-law exempting any or all proposed Official Plan Amendments from Regional approval;

WHEREAS The Council of the Regional Municipality of Niagara may pass a by-law under Section 17(10) and 17(11) of The Planning Act, R.S.O. 1990, c. P.13, as amended, allowing Council to exempt any or all local Official Plan Amendments from Regional approval; and

WHEREAS The Council of the Regional Municipality of Niagara may pass a by-law under Section 17.1(1) to delegate the authority to approve amendments to Official Plans to the Commissioner of Planning and Development Services or his/her delegate.

NOW THEREFORE the Council of the Regional Municipality of Niagara enacts as follows:

1. That Regional Council may exempt any or all local Official Plan Amendments from Regional approval as set out in the Regional Official Plan and in accordance with the Memorandum of Understanding between the Region and the local area municipalities, as amended from time to time.
2. That the authority of Regional Council to exempt any or all local Official Plan Amendments from Regional approval is hereby delegated to the Commissioner of Planning and Development Services for the Regional Municipality of Niagara or his/her delegate, as set out in the Regional Official Plan and in accordance with the Memorandum of Understanding between the Region and the local area municipalities, as amended from time to time.
3. That By-law 129-2001 and By-law 43-2002 are hereby repealed.
4. That this by-law shall come into force and effect on the day upon which it is passed.

Bill <>

Authorization Reference:

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

Passed: <date>