

The Corporation of the City of Kawartha Lakes
Planning Advisory Committee Report

Report Number PLAN2020-043

Meeting Date: November 4, 2020

Public Meeting

Title: Source Water Protection Official Plan and Zoning By-law Amendments

Description: Amendment to the City of Kawartha Lakes Official Plan No. 35 (OPA 35) and Amendment to 14 Zoning By-laws to protect vulnerable areas in accordance with the Clean Water Act

Ward Number: All Wards

Author and Title: Anna Kalnina, Planner II

Recommendation(s):

That Report PLAN2020-043, respecting Source Water Protection Official Plan and Zoning By-law Amendments, be received;

That a By-law to implement the proposed Official Plan Amendment, substantially in the form attached as Appendix A to Report PLAN2020-043, be referred to Council for adoption;

That the Zoning By-law Amendment, substantially in the form attached as Appendix B to Report PLAN2020-043, be referred to Council for adoption; and

That the Mayor and Clerk be authorized to execute any documents required by the approval of these applications.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

In 2006, the Clean Water Act established the Source Water Protection Program. The purpose of the Program is to safeguard human health and the environment by protecting existing and future sources of municipal residential drinking water. Protecting water at its source is the first line of defense in a multi-barrier approach that protects drinking water from contamination and overuse.

As part of the Program, multi-stakeholder source protection committees were formed to develop science-based Assessment Reports and Source Protection Plans. Where a Source Protection Plan has taken effect, the Clean Water Act requires that planning matter decisions conform with significant threat policies and have regard to other policies set out in a Source Protection Plan. Furthermore, sections 40(1) and 42 of the Clean Water Act require that municipalities amend their official plans to conform with the applicable Source Protection Plans and modify zoning by-laws as necessary.

The proposed OPA 35 and the proposed amendment to the 14 Zoning By-laws address the requirements of the Clean Water Act.

Rationale:

There are three Source Protection Plans that apply to the geography of the City of Kawartha Lakes: Trent Source Protection Plan, South Georgian Bay Lake Simcoe Source Protection Plan and Ganaraska Source Protection Plan. The Ganaraska Source Protection Plan applies to a small area in the southern part of the City, within which there are no vulnerable areas. Therefore, this report and the proposed amendments consider the two Source Protection Plans that identify and protect vulnerable areas in the City.

Municipalities are required to conform with the requirements in the Source Protection Plans within 5 years of their respective approval dates. The Trent Source Protection Plan was approved on January 1, 2015 and the South Georgian Bay Lake Simcoe Source Protection Plan was approved on July 1, 2015. The City's conformity deadline was January 1, 2020 and July 1, 2020, respectively. With the shifting priorities due to the pandemic, the conformity work associated with the Amendments can now be completed.

Between the two Source Protection Plans, there are 23 key vulnerable areas in the City. The key vulnerable areas have been delineated through the source protection committees' Assessment Reports using technical and scientific information to determine the length of time for specific contaminants to reach a municipal drinking water source if they were released into the environment as a result of a spill or leak. There are two types of key vulnerable areas identified through the proposed amendments: wellhead protection areas (WHPAs) and intake protection zones (IPZs). WHPAs are vulnerable areas delineated around groundwater wells and IPZs are vulnerable areas delineated around surface

water intakes. Additionally, areas in Lindsay and Bobcaygeon are vulnerable to road salt. The proposed amendments identify and protect these areas.

As part of the development of the proposed Amendments, Planning Staff analyzed all of the requirements under the Source Protection Plans identified as a responsibility of a municipality, an approval authority under the Planning Act or various parties. Based on an extensive review of source water protection conformity exercises in adjacent municipalities and discussions with the City's Risk Management Official, Planning Staff tailored the requirements to the City. Applicable requirements were translated into the definitions, policies, zone provisions and schedules proposed for approval (Appendix A and Appendix B).

Provincial Policy Statement, 2020 (PPS)

Section 2.2.1 of the PPS requires that planning authorities protect, improve or restore the quality and quantity of water. One of the ways planning authorities are required to achieve this is through necessary restrictions on development and site alternation to protect all municipal drinking water supplies and designated vulnerable areas. The PPS further requires that planning authorities protect, improve or restore vulnerable surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions.

In accordance with the Source Protection Plans, the proposed Amendments list and prohibit land use activities that would pose a significant threat to drinking water sources. The draft OPA also recommends best management practices to minimize or eliminate significant drinking water threats.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (APTG)

Policy 4.2.1 in APTG directs the City to identify and protect water resource systems that consist of ground water features and areas, surface water features, and hydrologic functions. The proposed Amendments are limited in scope to vulnerable areas, only. However, the proposed policies would support and augment the existing direction in the Official Plan regarding protection of water resource systems.

Oak Ridges Moraine Conservation Plan, 2017 (ORMCP)

Of the 23 vulnerable areas in the City, 3 are within the ORMCP. Section 42 of the ORMCP requires that the Official Plan contain policies that establish WHPAs. There are differences in how WHPAs are described and delineated in the Trent Assessment Reports from the ORMCP requirements in policy 42.(2).

Section 39(4) of the Clean Water Act, provides that where there is a conflict between a provision in the source protection plan and a provision in a plan or policy, including the ORMCP, the provision that provides the greatest protection to the drinking water source prevails. In this case, both, the Trent Assessment

Report and ORMCP identify a zone of contribution up to 25 years to protect these areas from significant threat to the municipal drinking water, human health and the environment.

The proposed Amendments apply the methodology from the Trent Assessment Report to all vulnerable areas in the City to ensure consistency in definitions and approach across the City. Staff are of the opinion that the Trent Assessment Report maintains the intent of the ORMCP, and relies on the most recent, scientific information available to the City.

City of Kawartha Lakes Official Plan, 2012 (OP)

The OP currently has policies in section 3.4 referred to as Wellhead Protection Zones. The Schedule "C" delineates Wellhead Protections Zones in accordance with the best available data in 2004. The existing policies and mapping with respect to vulnerable areas are incomplete and outdated, and are proposed to be deleted and replaced with new objectives, goals and current policy and mapping as described in Appendix A. The policies are categorized into prohibited uses and exemptions, sewage systems and facilities, waste disposal, transport pathways, road salt, stormwater management facilities, stewardship, monitoring, and definitions.

Zoning By-laws

The vulnerable areas in the City fall within 14 of the City's 19 Zoning By-laws. The proposed Amendment is intended to implement the companion OPA 35, and includes new definitions, general provisions and the addition of an overlay on the Schedules that identifies vulnerable areas in the corresponding Zoning By-laws. The area within the overlay would be prohibited from establishing land uses and activities that are considered a future significant drinking water threat in accordance with the Source Protection Plans, unless a Risk Management Official determines otherwise in accordance with Section 59 of the Clean Water Act. The proposed overlay does not change the underlying existing Zoning and is not intended to prohibit standard volumes of dense non aqueous phase liquids (i.e. paint stripper, varnish, aerosols, pharmaceuticals, etc.) used for personal or domestic activities.

Other Alternatives Considered:

In addition to the proposed Amendments, there are additional planning tools that could further support the objectives of the Source Protection Plans:

- Through Site Plan Approval process, the City could require management of impervious surfaces and landscaping; and
- Place a Holding Provision on properties in vulnerable areas.

Financial/Operation Impacts:

There are no financial/operational considerations unless Council's decision is appealed to the Local Planning Appeal Tribunal. In the event of an appeal, there would be costs. However, in accordance with the Planning Act s.17(36.4), there are appeal limitations to a part of an official plan that identifies an area as being within the boundary of a vulnerable area.

Relationship of Recommendation(s) to the 2020-2023 Strategic Plan:

The Council Adopted Strategic Plan identifies four Strategic Priorities:

- A Vibrant and Growing Economy
- An Exceptional Quality of Life
- A Healthy Environment
- Good Government

The proposed Amendments directly align with a healthy environment, as they meet the goal of protecting and enhancing water quality by creating policy and by-law framework for continued protection of municipal drinking water sources.

The proposed Amendments also align with a good government, as they meet the goal of increasing efficiency and effectiveness of service delivery by incorporating and streamlining applicable requirements into the City's policies and by-laws.

Consultations:

City Staff collaborated with the Risk Management Official at Kawartha Conservation in developing the proposed Amendments.

The proposed Amendments were circulated for comments to the City's Environmental Services, Engineering, Public Works, Building Division, Economic Development, Municipal Law Enforcement, all Conservation Authorities with jurisdiction in the City, and the Ministry of Municipal Affairs and Housing.

Public Notice was issued in regional Newspaper publications and the draft Amendments are available on the Planning page of the City's website for broader consultation.

All comments received have been considered and incorporated into the draft Amendments as appropriate.

Attachments:

Appendix A – Proposed Official Plan Amendment No. 35



Appendix A - Draft
OPA 35.pdf

Appendix B – Proposed Zoning By-law Amendment



Appendix B - Draft
ZBA.pdf

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Department File: D00-99-003