
Subject: Review of Options – South Niagara Aquifer

Report to: Planning and Economic Development Committee

Report date: Wednesday, February 17, 2021

Recommendations

1. That Report PDS 9-2021 **BE RECEIVED** for information; and
2. That Report PDS 9-2021 **BE CIRCULATED** to the City of Port Colborne, Town of Fort Erie, City of Welland, Township of Wainfleet, Niagara Peninsula Conservation Authority (NPCA), and the Niagara Peninsula Source Protection Committee.

Key Facts

- This report responds to direction given at the December 9, 2020 Planning and Economic Development Committee (PEDC) meeting where staff were requested to prepare a report outline existing policies and options for the protection of the south Niagara aquifer.
- In considering the protection of groundwater resources and drinking water systems in the region there are primarily two pieces of Provincial legislation that need to be reviewed, the *Planning Act, 1990* (Planning Act) and the *Clean Water Act, 2006* (Clean Water Act).
- In Niagara, the NPCA is the Source Protection Authority under the Clean Water Act. The responsibility for source water protection planning is that of the Source Protection Committee (SPC) with staff support from the NPCA. The Province is the approval authority for Source Protection Plans prepared by the SPC.
- Policies included in the Regional Official Plan related to drinking water systems, Intake Protection Zones (IPZs), and Wellhead Protection Areas (WPAs) must be directly informed by the Source Protection Plan (SPP). The Regional Official Plan cannot designate an IPZ or WPA without it first being identified in the SPP by the SPC following a technical evaluation process.
- This report outlines several tools and policies which can protect the south Niagara aquifer, such as provincial policy requirements, official plan policies, zoning by-laws, site alteration by-laws, and Ontario Building Code regulations. The report

however draws the conclusion that the provisions of the Clean Water Act are unlikely to apply to a number of private drinking water wells across a wide geographic area, and the Clean Water Act not the appropriate tool to achieve the desired outcome of protecting the Highly Vulnerable Aquifer (HVA) in south Niagara.

- In 2020, specific actions were taken by Regional Council and the City of Port Colborne City relating to the south Niagara aquifer. In January 2020, PEDC passed a resolution directing staff to include specific policies for the protection of the south Niagara aquifer in the new Niagara Official Plan. At its October 26, 2020 meeting, the Port Colborne City Council passed a resolution directing additional protection of the aquifer including local official plan policies and changes to their zoning by-law.

Financial Considerations

There are no financial implications stemming from this report.

Analysis

Part A – Review of Background Information and Existing Policies

A.1 - Important Terminology Related to Groundwater Resources:

To ensure a common understanding of groundwater resources in the Region the following terminology is used in this report. These terms are based on provincial definitions.

- Key Hydrologic Feature – permanent streams, intermittent streams, inland lakes and their littoral zones, seepage areas and springs, and wetlands (Growth Plan).
- Key Hydrologic Areas – significant groundwater recharge areas, highly vulnerable aquifers, and significant surface water contribution areas that are necessary for the ecological and hydrologic integrity of a watershed (Growth Plan).
- Highly Vulnerable Aquifer (HVA) – aquifers, including lands above the aquifer, on which external sources have or are likely to have a significant adverse effect (Growth Plan).

- Significant Groundwater Recharge Area (SGRA) – an area that has been identified:
 - a) as a significant groundwater recharge area by any body for the purpose of implementing the PPS, 2014;
 - b) as a significant groundwater recharge area in the assessment report required under the Clean Water Act, 2006; or
 - c) as an ecologically significant groundwater recharge area delineated in a subwatershed plan or equivalent in accordance with provincial guidelines

For the purposes of this definition, ecologically significant groundwater recharge areas are areas of land that are responsible for replenishing groundwater systems that directly support sensitive areas like cold water streams and wetlands (Growth Plan).

- Intake Protection Zone (IPZ) – an area as delineated in Schedule H of this Plan and in the Source Protection Plan for the Niagara Peninsula Source Protection Area that surrounds a municipal surface water intake and within which it is desirable to regulate or monitor drinking water threats. Where a conflict in mapping arises, the Source Protection Plan shall prevail (ROP, 2014).
- Wellhead Protection Area (WPA) – an area that is related to a wellhead and within which it is desirable to regulate or monitor drinking water threats (O. Reg. 287/07).

A.2 - Mapping of HVAs and SGRAs in the Region:

To provide context - a map showing the extent of HVAs and SGRAs in the Region is included as **Appendix 1**. The following is a brief description of the sources of the data:

- HVAs are a vulnerable area delineated for the Source Water Protection Assessment Report (Chapter 4 - NPCA, 2010). The HVAs were based largely upon earlier vulnerability mapping completed as part of the 2005 NPCA Groundwater Study. This earlier mapping combined two vulnerability assessment methods: (i) intrinsic susceptibility index (ISI) and (ii) aquifer vulnerability index (AVI).
- SGRAs are also a vulnerable area delineated for the Source Water Protection Assessment Report (Chapters 3 and 4 - NPCA, 2010). The SGRAs are classified as “significant” when they supply more water to an aquifer than the surrounding

area. SGRAs were identified where groundwater is recharged by a factor of 1.15 or more than the average recharge rate for the whole watershed.

A.3 - Role of the Planning Act vs. Role of the Clean Water Act:

In considering the protection of groundwater resources and drinking water systems in the Region there are primarily two pieces of provincial legislation that need to be considered, the Planning Act and the Clean Water Act.

	<i>Planning Act</i>	<i>Clean Water Act</i>
What is it?	The Planning Act sets out the ground rules for land use planning in Ontario. It describes how land uses may be controlled, and who may control them.	The Clean Water Act assists communities with protecting their municipal drinking water supplies at the source.
What tools are available?	Municipal Official Plans (Regional, Local), Zoning By-Laws (Local)	Source Protection Plans, Official Plans and Zoning By-Laws (which have been informed by the SPP)
How is it implemented?	Through a mix of Provincial tools such as the Provincial Policy Statement and Growth Plan, as well as upper and lower tier Official Plans.	Through a Source Protection Plan prepared by the Source Protection Committee and approved by the Province.
Who is primarily responsible?	Regional and Local Planning Departments, Regional and Local Councils.	Source Protection Authority, Risk Management Official.

In addition, there are other pieces of Provincial legislation that can apply on a topic-specific basis, for example: the Ontario Water Resource Act, Safe Drinking Water Act, Aggregate Resource Act, Municipal Act, and Ontario Building Code.

A.3 - Recent Reporting to Planning and Economic Development Committee:

At the January 15, 2020 PEDC meeting, there was a Councillor request for more information on how the Region has been involved in the Port Colborne Quarry project and the Region's obligations under Provincial policies.

In response to that request, PDS 8-2020, dated March 11, 2020 was prepared. PDS 8-2020 includes a discussion on the Region's involvement in the quarry project as well as additional information related to drinking water, source protection, the south Niagara aquifer, and the development of a new comprehensive water resource system (WRS) in the Region. PDS 8-2020 is attached for reference as **Appendix 2**.

A.4 - Provincial Planning Requirements:

There are a number of Provincial planning policies that require municipalities to protect groundwater and other water resources in their jurisdictions. This includes a relatively new Provincial requirement for a comprehensive water resource system (WRS). A WRS is currently being developed and will be implemented in Niagara for the first time as part of the new Niagara Official Plan. Other associated water resources planning policies are being brought into conformance with Provincial requirements through the new Niagara Official Plan project.

The policies of the Provincial Policy Statement (PPS, 2020) related to water resources are included in **Appendix 3**.

The policies of A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan, 2020) related to water resources are included in **Appendix 4**.

A.5 - Existing Regional Official Plan Policies:

Although the requirements for a comprehensive WRS are new, there are policies in the existing Regional Official Plan (ROP, 2014) related to water resources (both surface and groundwater). For example Policy 7.A.2.1 a) states that:

"Development and site alteration shall only be permitted if it will not have negative impacts, including cross-jurisdictional and cross-watershed impacts, on the quantity and quality of surface and groundwater"

The policies of the ROP are generally triggered when there is a proposed change in land use requiring an approval under the Planning Act (e.g. Official Plan Amendment,

Zoning By-Law Amendment, Draft Plan of Subdivision, Site Plan, etc.). For other forms of development and site alteration, other mechanisms apply, such as the Ontario Building Code and site alteration by-laws. The Region does not have a site alteration by-law; this is an area of local jurisdiction.

The complete policies of Section 7.A.2 'Water Resources' of the ROP, 2014 are included in **Appendix 5**.

A.6 - In-Effect Council Resolution:

At the January 15, 2020 PEDC meeting, the following resolution was adopted:

*“That staff **BE DIRECTED** to consider the highly vulnerable aquifer as an important, vital source of water to our rural residents in Niagara from Wainfleet, through Port Colborne to Fort Erie and ensure specific Official Plan policies are developed to reflect the importance and subsequent protection of this water source.”*

As directed, staff will include policies in the new Official Plan related to the HVA in south Niagara. The specific wording of these policies will be developed as Staff move forward with the Natural Environment Work Program and related Niagara Watershed Plan projects.

A.7 - Natural Environment Work Program and Niagara Watershed Plan Project:

The Natural Environment Work Program is the project that is being undertaken to identify and protect regional natural systems through the new Niagara Official Plan. Natural systems to be developed include a natural heritage system (NHS) and a water resource system (WRS). The WRS will include both groundwater and surface water features and areas.

Additional information regarding the Natural Environment Work Program can be found on the website for the new Official Plan:

<https://www.niagararegion.ca/projects/rural-and-natural-systems/default.aspx>

One of the three background reports that was completed for Natural Environment Work Program was the Watershed Planning Discussion Paper. This report identified the need for a watershed plan to be completed to inform various aspects of the new Niagara Official Plan (including the development of the WRS). To meet this need, a Consultant

team has been retained and a project to prepare a Niagara Watershed Plan (NWP) is underway. NPCA staff are involved in the project.

The NWP is being prepared in accordance with Provincial requirements, including direction that the new comprehensive water resource system be informed by watershed planning. The consideration of the south Niagara aquifer was identified as an important issue during the project kick-off phase.

A.8 - Source Water Protection Planning:

Source water protection planning is the process in which communities identify potential risks to local water quality and water supply and create a plan to reduce or eliminate the risks. Source water protection planning is undertaken based on a process prescribed by the Clean Water Act and its regulations.

In Niagara, the NPCA is the Source Protection Authority under the Clean Water Act. The program is administered by the Source Protection Committee (SPC) and staff support from the NPCA. Through the SPC, municipalities work to identify, assess and address risks to drinking water within their municipal Intake Protection Zones (IPZs) and Wellhead Protection Areas (WPAs).

Once risks and threats are identified through the Source Protection Plan, municipalities are responsible to develop and implement policies to reduce risks posed by activities located in areas under their jurisdiction. This could include requiring individual property owners to take action on significant drinking water threats located within IPZs and WPAs. In Niagara, this work has been completed and source protection policies are included in Section 7.E of the existing Regional Official Plan (ROP, 2014). These policies were subsequently included in local zoning by-laws. Policies in the Regional Official Plan must be directly informed by the Niagara Source Protection Plan, including the identification of IPZs (there are no municipal well water supplies in Niagara, and therefore no WPAs have been identified).

Schedule H of the ROP, 2014 – Source Water Protection is included as **Appendix 6**.

Additional information regarding drinking water source protection in Niagara can be found here: <http://www.sourceprotection-niagara.ca/>

In general, source water protection planning is a process that is undertaken in regards to municipal drinking water systems. In Niagara, all municipal drinking water is from

surface/lake-based sources. Within the Clean Water Act and O. Reg. 287/07 there is a very limited ability for other (i.e. non-municipal) drinking water systems to be evaluated and considered as part of the program. These provisions apply in circumstances where:

- there is a cluster of six or more private wells or intakes,
- the system is located in a settlement area, or
- the private residence is a designated facility or public facility as defined in O. Reg. 170/03 of the Safe Drinking Water Act.

The geographic area of what constitutes a 'cluster' is not defined in the Clean Water Act or its regulations, however, it is interpreted to be a concentration of systems in a small geographic area. A resolution from the Local Municipality is required for the Source Protection Committee to initiate the process to add a system to the Source Protection Plan. A technical evaluation process is required to support that process. The Province is the decision-making authority for the Source Protection Plan and any proposed changes.

A document entitled "Drinking Water Source Protection Primer: For Municipal Councillors" is included as **Appendix 7**.

A.9 - Provincial Direction Regarding the Implementation of Clean Water Act:

The Province does not maintain a guidance document for adding 'other systems' to source protection plans through the use of municipal resolution. However, the Province has advised that this is possible, subject to the criteria set out in the Clean Water Act and its regulations (as outlined above).

In considering this approach, the Province encourages municipalities to first look at how they can use other tools such as the Planning Act, Municipal Act, and Ontario Building Code to protect vulnerable sources of drinking water.

The Province further recommends that municipalities should encourage landowners to take steps to protect their own private wells by ensuring that their septic systems are functioning properly, and any on-site sources of contamination such as fuel oil tanks and pesticides, are properly stored and managed.

A.10 - Case Study – Trout Creek:

Trout Creek is a community in the Municipality of Powassan, ON, located near North Bay. The entire community is served by private drinking water and septic systems. Trout

Creek is understood to be the only community in Ontario that has attempted to add a 'cluster' of private drinking water wells into their jurisdiction's Source Protection Plan (SPP).

The experience in Trout Creek began with the municipality passing a resolution for the cluster of private drinking water wells to be included in the SPP. A technical evaluation process was undertaken, the system characterized, and threats identified. Based on the threats identified, numerous mitigation measures and policies were recommended including the mandatory inspections of private septic systems, a comprehensive risk management program to be implemented by the municipality, and other prohibitions.

Once the scope of the restrictions, and associated costs were understood and realized by the cluster residents and the municipality, a resolution was passed revoking the earlier resolution, and the process to include the cluster of wells was abandoned. The process took over 5 years and the community was not added to the SPP.

A.11 - Other Municipal Tools:

As noted above, there are other tools that can be used to protect vulnerable sources of drinking water and other sensitive groundwater resources. Some of these are as follows.

- Site Alteration By-Laws – are enacted under the Municipal Act and regulate the removal of topsoil, the placing or dumping of fill and the alteration of the grade of land in areas of the municipality. A component of a site alteration by-law can be to ensure that surface and groundwater quality is maintained. Site alteration by-laws are an area of local municipal jurisdiction.
- Zoning By-Law – like official plans, zoning by-laws are enacted under the Planning Act. An official plan sets out a municipality's general policies for future land use. Zoning by-laws are legal instruments that regulate the use of land and day-to-day administration. They contain specific planning requirements and are law within the municipality where they are enacted. A zoning by-law controls how land may be used and where buildings and other structures can be located. Zoning by-laws are an area of local municipal jurisdiction.
- Development Approval Process - through implementing Regional Official Plan policies, conditions of approval may be requested by Regional staff requiring that a property owner submit a hydrogeological assessment for certain development

applications located in an HVA (e.g. plan of subdivision, multiple lot severances and/or proposed residential lot(s) under 1 ha, etc.)

- Building Permits – are issued under the Building Code Act. A building permit is necessary to construct, renovate, demolish or change the use of a building. A Building Permit under Part 8 of the Building Code is also required for work regarding the installation, alteration, extension or repair of an on-site sewage or septic system. Building Code enforcement, including issuing building permits, is generally carried out by municipal building departments. In Niagara, in the case of on-site sewage or septic systems under Part 8 of the Code, issuing permits and enforcement is the responsibility of the Region in most local municipalities, while others (Welland, Wainfleet and West Lincoln) carry out the program internally.

Rural and other homeowners with private sewage or septic systems are also wastewater treatment system operators and need to take this role seriously. A regular maintenance schedule along with proactive care is the best strategy to lifelong system functionality and optimizing the system's performance. A homeowner's guide to a healthy sewage (septic) system can be found at the Ontario Onsite Wastewater Association's website and at the following link:

<https://www.oowa.org/homeowner-resources/>

A.13 - City of Port Colborne October 26, 2020 Resolution:

On October 26, 2020 the City of Port Colborne passed a resolution stating:

"That Council recognizes the Aquifer as identified in Schedule B3 of the Official Plan as a source water for the rural residents of the City; and

That the Director of Planning and Development be directed to amend the Official Plan to include the Aquifer such that the Aquifer receives the same consideration and protection from susceptible threats of contamination or adverse impact as the intake protection zones (IPZ-1 and IPZ-2); and

That the Region of Niagara, Township of Wainfleet, City of Welland, Town of Fort Erie and Niagara Peninsula Conservation Authority be notified of the City's action and be requested to pursue similar updates to their municipal planning documents in order to protect the aquifer."

Region staff understand the above-captioned resolution to be direction to Staff. Region staff do not interpret the resolution as being an official resolution from City of Port Colborne Council requesting an addition be made to the Source Protection Plan.

In response for the resolutions request for updates to be made to Regional planning document - Regional Planning staff note we are already developing a comprehensive WRS for the Region as part of the new Niagara Official Plan. The WRS will include specific policies in regards to the south Niagara HVA in accordance with the January 15, 2020 PEDC resolution.

A copy of the October 26, 2020 City of Port Colborne resolution is included as **Appendix 8**.

A.14 - Ongoing City of Port Colborne Initiative:

Region Planning staff understand the City of Port Colborne is considering a Local Official Plan Amendment and Zoning By-Law Amendment for additional protection of the aquifer and private drinking water systems in response to the October 26, 2020 resolution. Region Planning staff have had ongoing discussions with City Planning staff regarding that initiative in preparation of this report.

Part B - Analysis of Information Reviewed

The proceeding sections provide an overview of the protection of water resources, drinking water, and drinking water systems from the perspectives of the Planning Act and Clean Water Act, as follows:

B.1 - Planning Act:

- There are policies in the Provincial Policy Statement (PPS, 2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan, 2020) for the protection of water resources including key hydrologic features and key hydrologic areas. The policies are in effect now, and must be considered by Regional and Local Planning staff in making recommendations and Regional and Local Councils when making decisions. Regional planning policies will be brought into conformance through the ongoing work to prepare the new Niagara Official Plan.

- There are policies within the existing Regional Official Plan (ROP, 2014) that require the protection of water resources, including a restriction on site alteration and development that would cause a negative impact on water quality.
- On January 15, 2020, PEDC passed a resolution directing staff to include specific policies for the protection of the south Niagara aquifer. This direction is being incorporated as part of the Natural Environment Work Program, Niagara Watershed Plan, and Niagara Official Plan projects. The specific wording of the policies will be developed as Regional staff move these projects to completion.
- On October 26, 2020, the City of Port Colborne passed a resolution directing additional protection of the aquifer including official plan and zoning by-law policies that provide the same level of consideration and protection as Intake Protection Zones in the City. As a local planning document, the Port Colborne Official Plan may include more specific and detailed policies, provided that they do not conflict with Provincial or Regional policy. Similarly, zoning by-laws are a local document that provide for the day-to-day regulation of land use controls.
- Policies included in the Regional Official Plan related to drinking water systems, Intake Protection Zones, and Wellhead Protection Areas must be directly informed by the Source Protection Plan, and the work of the Source Protection Committee. The Regional Official Plan cannot designate an Intake Protection Zones or Wellhead Protection Areas without it first being identified in the Source Protection Plan following a technical evaluation process and acceptance by the Province.

B.2 - Clean Water Act:

- Intake Protection Zone (IPZs) is the terminology used to describe an area around a surface water intake. Wellhead Protection Area (WPAs) is the terminology used in regards to groundwater wells. IPZs and WPAs are identified through a technical evaluation process.
- The Clean Water Act generally applies to municipal drinking water systems, with a very limited ability to apply to other systems based on criteria set out in the Act and its regulations. Other systems generally apply to clusters of private wells or other private systems for designated facilities.
- Once a property has been identified as being within an IPZ or WPA there will be restriction on existing and proposed land uses or activities that are considered

“significant threats”, including potentially existing or new agricultural uses.

Restrictions can range from risk management to outright prohibitions. The nature of the restrictions and associated land use planning policies would be identified based on the specific characteristics of the area, existing land uses, vulnerability of the system and potential threats. This work would be completed through the technical evaluation process.

- In Niagara, the NPCA is the Source Protection Authority. The responsibility for source water protection planning is that of the Source Protection Committee, with staff support from the NPCA. The Province is the approval authority for Source Protection Plans. Municipalities would be responsible for undertaking and funding technical evaluations in support of requested changes to the Source Protection Plans.

Part C - Summary of Options

- There are existing Provincial policies requiring the protection of key hydrologic features, key hydrologic areas, and other water resources. Provincial direction also requires the identification of a water resources systems (WRS). In addition, the January 15, 2020 staff direction requires the identification of specific policies for the south Niagara aquifer. All of these requirements are being considered as part of the Natural Environment Work Program and Niagara Watershed Plan projects, and will be addressed as part of the Niagara Official Plan. Additional direction to Regional Planning Staff to complete this work is not required.
- There are a range of other mechanisms and existing tools for the protection of groundwater resources that should be used as available and where appropriate such as zoning by-laws, site alteration by-laws, and the provisions of the Ontario Building Code. Regional Council should support and encourage the most appropriate mechanisms for the protection of ground water resources.
- Regional Council should continue to encourage private land owners to take all necessary steps to maintain and protect any private drinking water systems on their properties. Niagara Region Public Health has information on well maintenance for residential settings available on their website at:

<https://www.niagararegion.ca/living/water/cistern-maintenance.aspx>

- Although an October 26, 2020 resolution was made by City of Port Colborne Council and was forwarded to the NPCA as the Source Protection Authority

under the Clean Water Act, Regional staff do not interpret this as being an official resolution to add a system to the Source Protection Plan. Should the City of Port Colborne, or other Local Council, pass a resolution requesting that private drinking water wells in south Niagara be considered as part of the Source Protection Planning program, Regional Council could choose to pass a resolution in support. As this would be a unique situation, it is expected that the Source Protection Committee would need to consult with the Province on resolution and the proposed approach. The completion of the required technical evaluation process, including costs, would be the responsibility of the municipality.

Following a resolution by a Local Council and consultation with the Province, a technical evaluation process would be undertaken to accurately characterize the systems, identify the threats, and recommend appropriate mitigation and policies. A technical evaluation of this type would need to be completed by a comprehensive Consultant team. This type of technical evaluation is beyond the scope of the Region's Natural Environment Work Program or Niagara Watershed Plan projects. The completion of the technical studies that would need to be completed, including costs, would be the responsibility of the municipality.

However, Regional Planning staff are of the opinion that the provisions of the Clean Water Act are unlikely to apply to a number of private drinking water wells across a wide geographic area, and are not the appropriate mechanisms to achieve the desired outcome of protecting the Highly Vulnerable Aquifer in south Niagara.

There are more appropriate mechanisms and existing tools at the Local and Regional level for the protection of groundwater resources that should be used. These include official plan policies, zoning by-laws, site alteration by-laws, and Ontario Building Code regulations. The use of these tools should be prioritized and supported.

Alternatives Reviewed

As this report is for information, alternatives are not applicable.

Relationship to Council Strategic Priorities

This report was prepared in response to staff direction given at the December 9, 2020 Planning and Economic Development Committee.

Other Pertinent Reports

- PDS 8-2020 Overview of Regional Involvement in Port Colborne Quarry Proposal

Prepared by:

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Recommended by:

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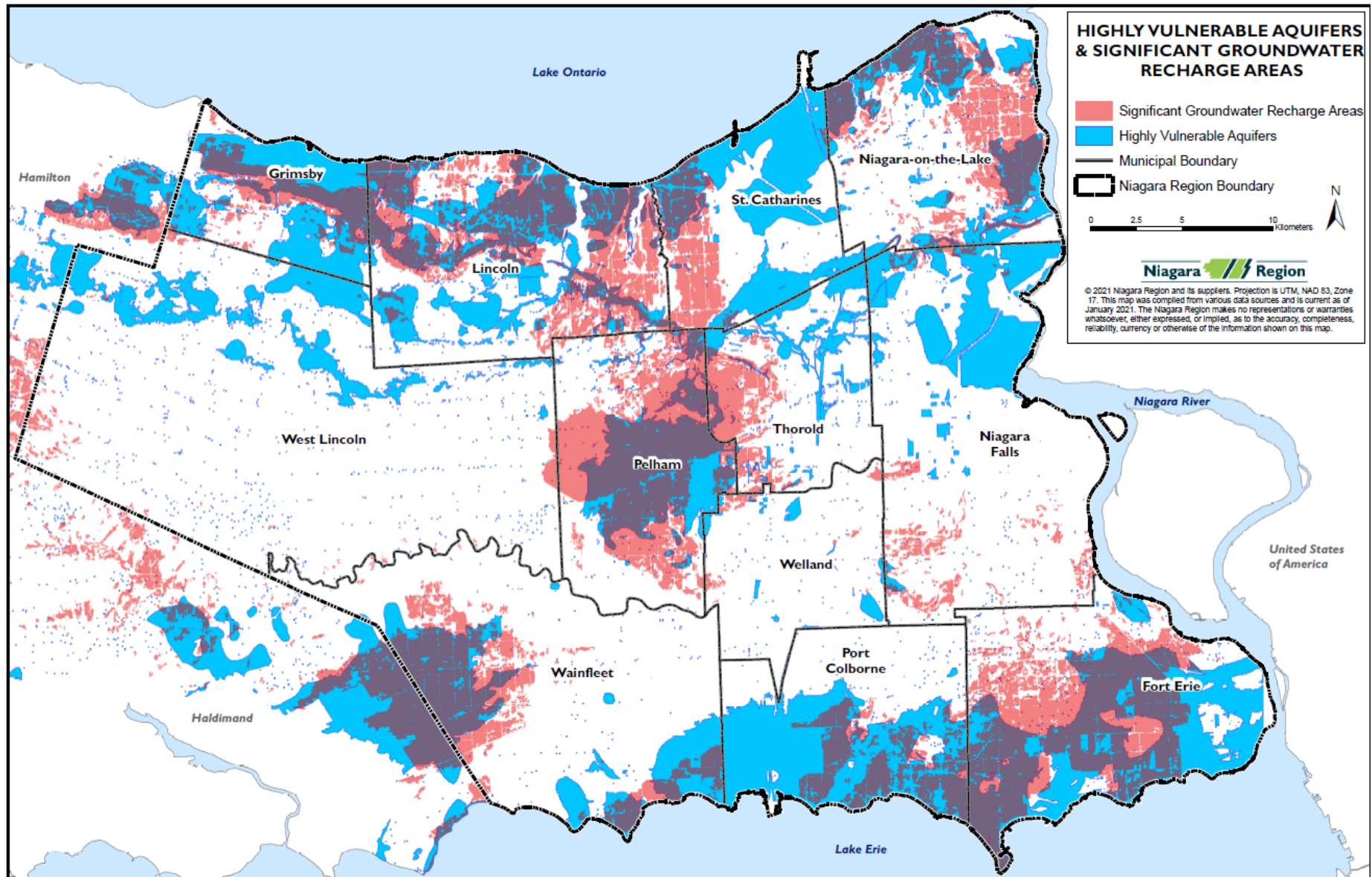
Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Erik Acs, MCIP, RPP, Manager, Community Planning and Dan Aquilina, MCIP, RPP, CPT, Director of Planning and Development - City of Port Colborne, with input from Phill Lambert, P.Eng, Director of Infrastructure Planning & Development Engineering, Pat Busnello, MCIP, RPP, Acting Director of Development Planning, Thomas Proks, P.Geo, Source Water Protection Coordinator - Niagara Peninsula Conservation Authority, David Ellingwood, Supervisor, Source Water Protection - North Bay-Mattawa Conservation Authority, and reviewed by Isaiah Banach, Acting Director, Community and Long Range Planning.

Appendices

Appendix 1	Map showing the extent of HVAs and SGRAs in the Region
Appendix 2	PDS 8-2020 Overview of Regional Involvement in Port Colborne Quarry Proposal (March 11, 2020)
Appendix 3	Policies of the Provincial Policy Statement (PPS, 2020) related to Water Resources
Appendix 4	Policies of A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan, 2020) related to Water Resources
Appendix 5	Policies in the existing Regional Official Plan (ROP, 2014) related to Water Resources
Appendix 6	Schedule H of the Existing Regional Official Plan (ROP, 2014) – Source Water Protection
Appendix 7	Drinking Water Source Protection Primer: For Municipal Councillors
Appendix 8	October 26, 2020 City of Port Colborne Resolution



Subject: Overview of Regional Involvement in Port Colborne Quarry Proposal

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 11, 2020

Recommendations

1. That Report PDS 8-2020 **BE RECEIVED** for information

Key Facts

- The purpose of this report is to respond to a request for information that was made at the Planning and Economic Development Committee meeting on January 15, 2020.
- Information was requested regarding the Region's involvement in the Port Colborne Quarry proposal and any action taken as part of the Region's obligations under Provincial policies.

Financial Considerations

The cost of preparing this report was accommodated within the approved 2020 Operating Budget.

Analysis

At the Planning and Economic Development Committee on January 15, 2020, Council requested information: *"respecting how much the Region has been engaged in the Port Colborne quarry proposal and any action taken as part of the Region's obligations under Provincial policies"*.

To date, Region staff's involvement has included providing information, advice, and formal comments related to a range of issues including:

1. Long-term planning/redevelopment of the quarry lands
2. Interpretation of aggregate definitions and policies
3. A provincial ANSI designation
4. The City of Port Colborne Site Alteration By-Law

5. The role of Regional Public Health in the protection of private drinking water systems
6. Source water protection planning
7. The implementation of O. Reg. 153/04
8. The identification of a water resource system in the new Niagara Official Plan

1. Long-Term Planning / Redevelopment of the Quarry Lands

Region planning staff have participated in periodic discussions over the past several years regarding the long-term redevelopment of the Port Colborne Quarry lands. This has included the potential for employment uses in the area and the need to ensure an appropriate interaction with surrounding land uses. Region planning staff provided comments on a proposed zoning by-law amendment and official plan amendment in December 2016. Discussions have included Port Colborne planning staff as well as the owner of the quarry lands. The position of Region planning staff continues to be that a secondary planning process would be the appropriate mechanism to ensure the development of a long-term comprehensive plan. To support the secondary planning process a range of environmental and water resource studies could potentially be required.

2. Interpretation of Aggregate Definitions and Policy

In March 2019, Region planning staff were contacted by planning staff at the City of Port Colborne to provide support in the interpretation of aggregate definitions and policy as it related to the City's zoning by-law and the Port Colborne Quarry Lands.

As the definitions were the implementation of provincial policy and direction, Region planning staff reached out to the Ministry and Municipal Affairs and Housing (MMAH) for support. A clarification on the definition was provided to the City as requested.

3. Provincial ANSI Designation

In March 2019, Region planning staff were contacted by planning staff at the City of Port Colborne regarding a provincially-identified ANSI (area of natural and scientific interest) within Pit 1 of the Port Colborne quarry.

Region planning staff completed research into the matter which lead to contacting staff at several provincial ministries, including the Senior Conservation Geologist at the

Province. The original earth science inventory checklist from 1980 was provided to Port Colborne planning staff to provide the requested information.

4. City of Port Colborne Site Alteration By-Law

The Municipal Act identifies that the preparation and implementation of Site Alteration By-Laws are a local responsibility. It is Region planning staff's understanding that a site alteration permit application has been made to the City for the Pit 1 lands. The Ministry of Environment, Conservation, and Parks (MECP) provided comments related to that application. It is Region staff's understanding that discussion around this site alteration permit have triggered the City to consider updates to its Site Alteration By-Law. It is our understanding that a site alteration permit has not been granted, and that the City has not yet passed a new by-law.

The Region does not have a Site Alteration By-Law. Because the proposed filling of Pit 1 does not require Planning Act approval, the policies of the Regional Official Plan are not triggered.

5. Role of Regional Public Health in the Protection of Private Drinking Water

Over the course of mid-2019, Niagara Region Public Health received several inquiries regarding the role of the department in the protection of groundwater as it related to private drinking water wells (in reference to the proposed filling of Pit 1). There were inquiries from both local residents and Councillors. It was advised that Niagara Region Public Health did not have a role in permitting and would only become involved if a contamination of groundwater was detected. Niagara Region Public Health will continue to provide support if there are questions on any potential health impacts.

6. Source Water Protection Planning

Source water protection is a process for the protection of municipal drinking water sources (i.e. not individual private wells). In Niagara, all municipal drinking water is lake-based. In November 2019, Region planning staff met with Councillor Butters regarding the protection of drinking water in south Niagara. As a follow-up to that meeting, Region planning staff had a detailed discussion with Source Water Protection Coordinator (an NPCA staff person) to learn more. Councillor Butters was provided follow-up information and a point of contact for the source water protection program.

7. O. Reg. 153/04 – Environmental Protection Act: Records of Site Condition

In March 2019, Region planning staff had discussions with staff at the Ministry of Environment, Conservation, and Parks (MECP) regarding O. Reg 153/04 as it pertains to the proposed filling of Pit 1. At that time it was confirmed by MECP that O. Reg. 153/04 only applies if there is a change to a more sensitive use, which is not being triggered by the proposed filling of Pit 1. MECP staff advised that the Excess Soil Best Management Practices document should be followed, and that land owners need to ensure that filling does not cause adverse effects.

8. The New Niagara Official Plan

A relatively new direction from the Province is the requirement for Municipalities to identify and protect a water resource system. A water resource system, including groundwater resources will be identified in the new Niagara Official Plan. Over the past several months Region planning staff have had numerous discussion with Councillors and members of the public regarding ground water resources in south Niagara. This has included discussions at PEDC, public information centres, and other events attended by Region planning staff.

Alternatives Reviewed

Not applicable – this report is in response to a request for information

Other Pertinent Reports

None

Prepared by:

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Recommended by:

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Planning and Development Services

Submitted by:

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

This report was prepared in consultation with Erik Acs, MCIP, RPP, Manager, Community Planning, Pat Busnello, MCIP, RPP, Manager, Development Planning, Phill Lambert, P. Eng, Director, Infrastructure Planning & Development Engineering, and Anthony Habjan, MEd, B.A.,B.A.Sc., C.P.H.I.(C), Manager Environmental Health, and reviewed by Doug Giles, Director, Community and Long Range Planning.

Appendix 3 – PDS 9-2021

Excerpt from Provincial Policy Statement (PPS, 2020)

2.2 Water

2.2.1 Planning authorities shall protect, improve or restore the *quality and quantity of water* by:

- a) using the *watershed* as the ecologically meaningful scale for integrated and long-term planning, which can be a foundation for considering cumulative impacts of development;
- b) minimizing potential *negative impacts*, including cross-jurisdictional and cross-*watershed* impacts;
- c) evaluating and preparing for the *impacts of a changing climate* to water resource systems at the watershed level;
- d) identifying water resource systems consisting of *ground water features, hydrologic functions, natural heritage features and areas*, and *surface water features* including shoreline areas, which are necessary for the ecological and hydrological integrity of the *watershed*;
- e) maintaining linkages and related functions among *ground water features, hydrologic functions, natural heritage features and areas*, and *surface water features* including shoreline areas;
- f) implementing necessary restrictions on *development* and *site alteration* to:
 - 1. protect all municipal drinking water supplies and *designated vulnerable areas*; and
 - 2. protect, improve or restore *vulnerable* surface and ground water, *sensitive surface water features* and *sensitive ground water features*, and their *hydrologic functions*;
- g) planning for efficient and sustainable use of water resources, through practices for water conservation and sustaining water quality;
- h) ensuring consideration of environmental lake capacity, where applicable; and
- i) ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces.

2.2.2 *Development* and *site alteration* shall be restricted in or near *sensitive surface water features* and *sensitive ground water features* such that these features and their related *hydrologic functions* will be protected, improved or restored.

Mitigative measures and/or alternative development approaches may be required in order to protect, improve or restore *sensitive surface water features, sensitive ground water features*, and their *hydrologic functions*.

Appendix 4 – PDS 9-2021

Excerpt from A Place to Grow: Growth Plan for the Greater Golden Horseshow (Growth Plan, 2020)

4.2.1 Water Resource Systems

1. Upper-and single-tier municipalities, partnering with lower-tier municipalities and conservation authorities as appropriate, will ensure that *watershed planning* is undertaken to support a comprehensive, integrated, and long-term approach to the protection, enhancement, or restoration of the *quality and quantity of water* within a *watershed*.
2. *Water resource systems* will be identified to provide for the long-term protection of *key hydrologic features*, *key hydrologic areas*, and their functions.
3. *Watershed planning* or equivalent will inform:
 - a) the identification of *water resource systems*;
 - b) the protection, enhancement, or restoration of the *quality and quantity of water*;
 - c) decisions on allocation of growth; and
 - d) planning for water, wastewater, and stormwater *infrastructure*.
4. Planning for large-scale *development* in *designated greenfield areas*, including secondary plans, will be informed by a *subwatershed plan* or equivalent.
5. Municipalities will consider the Great Lakes Strategy, the targets and goals of the Great Lakes Protection Act, 2015, and any applicable Great Lakes agreements as part of *watershed planning* and coastal or waterfront planning initiatives.

4.2.3 Key Hydrologic Features, Key Hydrologic Areas and Key Natural Heritage Features

1. Outside of *settlement areas*, *development* or *site alteration* is not permitted in *key natural heritage features* that are part of the *Natural Heritage System for the Growth Plan* or in *key hydrologic features*, except for:
 - a) forest, fish, and wildlife management;
 - b) conservation and flood or erosion control projects, but only if they have been demonstrated to be necessary in the public interest and after all alternatives have been considered;
 - c) activities that create or maintain infrastructure authorized under an environmental assessment process;
 - d) mineral aggregate operations and wayside pits and quarries;

- e) expansions to existing buildings and structures, accessory structures and uses, and conversions of legally existing uses which bring the use more into conformity with this Plan, subject to demonstration that the use does not expand into the *key hydrologic feature* or *key natural heritage feature* or *vegetative protection zone* unless there is no other alternative, in which case any expansion will be limited in scope and kept within close geographical proximity to the existing structure;
 - f) expansions or alterations to existing buildings and structures for *agricultural uses, agriculture-related uses, or on-farm diversified uses* and expansions to existing residential dwellings if it is demonstrated that:
 - i. there is no alternative, and the expansion or alteration in the feature is minimized and, in the *vegetation protection zone*, is directed away from the feature to the maximum extent possible; and
 - ii. the impact of the expansion or alteration on the feature and its functions is minimized and mitigated to the maximum extent possible; and
 - g) small-scale structures for recreational uses, including boardwalks, footbridges, fences, docks, and picnic facilities, if measures are taken to minimize the number of such structures and their *negative impacts*.
2. Outside of *settlement areas*, proposals for large-scale *development* proceeding by way of plan of subdivision, vacant land plan of condominium or site plan may be permitted within a *key hydrologic area* where it is demonstrated that the *hydrologic functions*, including the *quality and quantity of water*, of these areas will be protected and, where possible, enhanced or restored through:
- a) the identification of planning, design, and construction practices and techniques;
 - b) meeting other criteria and direction set out in the applicable *watershed planning or subwatershed plans*;
 - c) and meeting any applicable provincial standards, guidelines, and procedures.

4.2.4 Lands Adjacent to Key Hydrologic Features and Key Natural Heritage Features

1. Outside settlement areas, a proposal for new development or site alteration within 120 metres of a key natural heritage feature within the Natural Heritage System for the Growth Plan or a key hydrologic feature will require a natural heritage evaluation or hydrologic evaluation that identifies a vegetation protection zone, which:
- a) is of sufficient width to protect the key natural heritage feature or key hydrologic feature and its functions from the impacts of the proposed change;
 - b) is established to achieve and be maintained as natural self-sustaining vegetation; and

- c) for key hydrologic features, fish habitat, and significant woodlands, is no less than 30 metres measured from the outside boundary of the key natural heritage feature or key hydrologic feature.
- 1.
- 2. Evaluations undertaken in accordance with policy 4.2.4.1 will identify any additional restrictions to be applied before, during, and after *development* to protect the *hydrologic functions* and *ecological functions* of the feature.
- 3. *Development* or *site alteration* is not permitted in the *vegetation protection zone*, with the exception of that described in policy 4.2.3.1 or shoreline *development* as permitted in accordance with policy 4.2.4.5.
- 4. Notwithstanding policies 4.2.4.1, 4.2.4.2 and 4.2.4.3:
 - a) a natural heritage or hydrologic evaluation will not be required for a proposal for development or site alteration on a site where the only key natural heritage feature is the habitat of endangered species and threatened species;
 - b) new buildings and structures for agricultural uses, agriculture-related uses, or on-farm diversified uses will not be required to undertake a natural heritage or hydrologic evaluation if a minimum 30 metre vegetation protection zone is provided from a key natural heritage feature or key hydrologic feature; and
 - c) uses permitted in accordance with policy 4.2.4.4 b):
 - iii. are exempt from the requirement of establishing a condition of natural self-sustaining vegetation if the land is, and will continue to be, used for agricultural purposes; and
 - iv. will pursue best management practices to protect and restore key natural heritage features, key hydrologic features, and their functions.
- 5. Outside of *settlement areas*, in developed shoreline areas of inland lakes that are designated or zoned for concentrations of *development* as of July1, 2017, infill *development*, *redevelopment* and resort *development* is permitted, subject to municipal and agency planning and regulatory requirements, if the *development* will:
 - a) be integrated with existing or proposed parks and trails, and will not constrain ongoing or planned stewardship and remediation efforts;
 - b) restore, to the maximum extent possible, the ecological features and functions in developed shoreline areas; and
 - c) in the case of redevelopment and resort development:
 - i. establish, or increase the extent and width of, a *vegetation protection zone* along the shoreline to a minimum of 30 metres;
 - ii. increase the extent of fish habitat in the littoral zone;
 - iii. be planned, designed, and constructed to protect hydrologic functions, minimize erosion, and avoid or mitigate sedimentation and the introduction of nutrient or other pollutants into the lake;

- iv. exclude shoreline structures that will impede the natural flow of water or exacerbate algae concerns along the shoreline;
- v. enhance the ability of native plants and animals to use the shoreline as both wildlife habitat and a movement corridor;
- vi. use lot-level stormwater controls to reduce Stormwater runoff volumes and pollutant loadings;
- vii. use natural shoreline treatments, where practical, for shoreline stabilization, erosion control, or protection;
- viii. meet other criteria and direction set out in applicable watershed planning and subwatershed plans;
- ix. be serviced by sewage works which reduce nutrient inputs to groundwater and the lake from baseline levels; and
- x. x. demonstrate available capacity in the receiving water body based on inputs from existing and approved development.

Appendix 5 – PDS 9-2021

Excerpt from the Existing Regional Official Plan (ROP, 2014)

7.A.2 Water Resources

Objectives

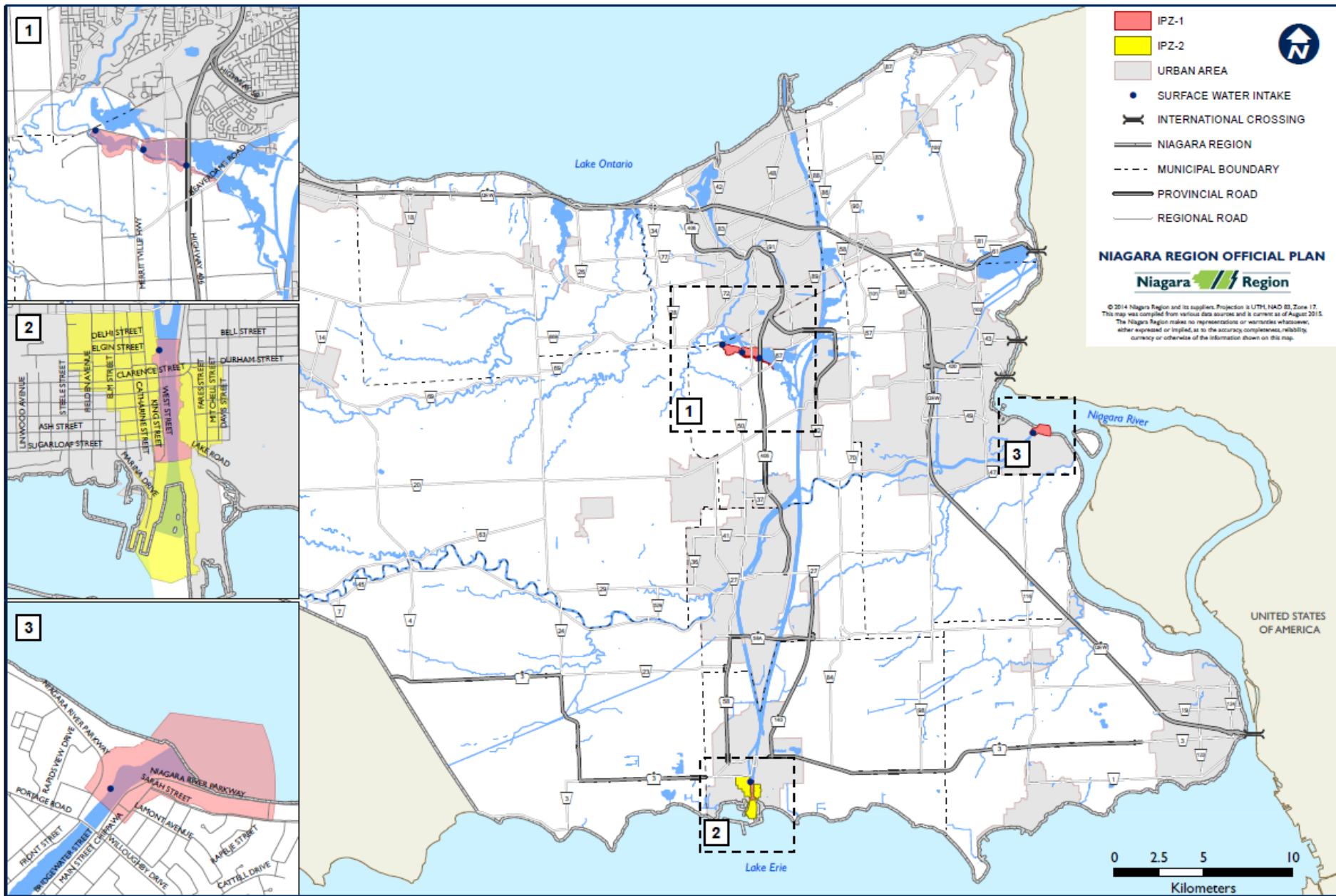
- Objective 7.A.2.A To protect, improve or restore the quantity and quality of ground and surface water resources.
- Objective 7.A.2.B To maintain or restore natural stream form and flow characteristics in the region's watercourses.

Policies

- Policy 7.A.2.1 Development and site alteration shall only be permitted if it will not have negative impacts, including cross-jurisdictional and cross-watershed impacts, on:
- a) The quantity and quality of surface and ground water;
 - b) The functions of ground water recharge and discharge areas, aquifers and headwaters;
 - c) The natural hydrologic characteristics of watercourses such as base flow;
 - d) Surface or ground water resources adversely impacting on natural features or ecological functions of the Core Natural Heritage System or its components;
 - e) Natural drainage systems, stream forms and shorelines; and
 - f) Flooding or erosion.
- Policy 7.A.2.2 Development and site alteration shall be restricted in the vicinity of vulnerable surface and ground water features of importance to municipal water supplies so that the safety and quality of municipal drinking water will be protected or improved.
- Policy 7.A.2.3 As watershed and ground water studies identify surface and ground water features, hydrologic functions and natural heritage features and areas necessary for the ecological and hydrologic integrity of Niagara's watersheds, the Region shall consider appropriate amendments to this Plan.

- Policy 7.A.2.4 Efficient and sustainable use of water resources shall be promoted, including practices to conserve water and protect or enhance water quality.
- Policy 7.A.2.5 Combined sewer overflows and sewage treatment plant bypasses have significant environmental impacts. The elimination of sewer overflows and bypasses shall be a Regional priority.
- Policy 7.A.2.6 A stormwater management plan and a sediment and erosion control plan prepared and signed by a qualified engineer may be required with a development application depending on:
- a) The scale and nature of the proposal; and
 - b) Site-specific environmental conditions.
- A stormwater management plan shall be required with an application for development or site alteration in the Unique Agricultural Areas.
- Stormwater management plans shall be prepared in accordance with Policy 7.A.2.1, with the Ontario Ministry of the Environment Stormwater Management Planning and Design Manual 2003 or its successor, and with watershed and/or environmental planning studies for the area.
- A stormwater management plan and a sediment and erosion control plan shall not be required for a new mineral aggregate operation or an expansion to an existing operation where these matters are adequately addressed through studies prepared to meet the requirements of the Aggregate Resources Act.
- Policy 7.A.2.7 A stormwater management plan submitted with an application for development shall demonstrate that the proposal will minimize vegetation removal, grading and soil compaction, erosion and sedimentation, and impervious services as well as meeting the requirements of Policy 7.A.2.6. Stormwater management facilities shall not be constructed in Core Natural Heritage Areas, Fish Habitat, key hydrologic features, or in required vegetation protection zones in the Unique Agricultural Areas unless permitted under Chapter 7.B of this Plan.
- Policy 7.A.2.8 Prior to any planning approvals, new development applications requiring a Provincial Permit to Take Water shall satisfy the Region that the water taking will not have negative impacts on natural ecosystems or the quality and quantity of water to meet existing and planned uses.

- Policy 7.A.2.9 Development and site alteration shall not have significant adverse impacts on ground water quality or quantity. In areas where development and site alteration could significantly affect ground water quality or quantity the Region shall require further review of potential impacts.
- Policy 7.A.2.10 The Region shall oppose the transfer of water outside the Great Lakes Basin.
- Policy 7.A.2.11 The Region recognizes the importance of municipal drains for drainage of agricultural lands and, in some areas, for conveying irrigation water. The Region supports design, construction and maintenance of Requisition and Petition Drains authorized under the Drainage Act in accordance with Best Management Practices to avoid significant detrimental effects on farmland, water resources, natural areas and fish and wildlife habitat and encourages local municipalities to include policies in their official plans to achieve this.





Drinking Water Source Protection Primer: For Municipal Councillors

Your community relies on safe, sustainable drinking water. Protecting the water at its source is an important first step in the drinking water safety net.

Ontario has a comprehensive Drinking Water Source Protection Program to ensure sources of municipal drinking water are protected now and into the future. Under this program, local source protection plans developed under the *Clean Water Act, 2006*, are in place. These plans contain policies that protect municipal drinking water sources (water found in lakes, rivers and groundwater aquifers) from contamination and overuse.

Meet your statutory standard of care responsibilities

Source protection plans require municipalities to implement policies to protect the source water for their drinking water systems. The *Safe Drinking Water Act, 2002*, includes a statutory standard of care (section 19) for individuals with oversight responsibilities for municipal drinking water systems, including municipal councillors.

This standard ensures that you are practicing due diligence to protect public health when making decisions that could affect drinking water. This includes a consideration of the source water characteristics as well as the risks posed to it.



Learn more at: ontario.ca/page/taking-care-your-drinking-water-guide-members-municipal-councils.

Ensure source protection planning is in place

New regulation 205/18 has been established under the *Safe Drinking Water Act, 2002*, to ensure that source protection planning is in place for new and changing municipal systems, before treated drinking water is provided to the public. The



regulation came into effect on July 1, 2018. Municipal residential drinking water system owners are now responsible for ensuring that vulnerable areas are delineated and vulnerability scores are identified before they apply for a drinking water works permit. Source protection plans must also be amended and approved prior to the treated water being supplied to the public.

Notify your local conservation authority immediately, when planning changes to your drinking water systems, or planning for a new well/intake or a new system.

Provincial Policy Statement

Municipalities and other planning authorities must follow the Provincial Policy Statement. Section 2.2.1 mandates planning authorities to protect, improve or restore the quality and quantity of water. This includes protecting vulnerable areas associated with drinking water sources.

Be informed

- **Your constituents** may come to you with questions about the source of their drinking water supply. Find out how drinking water source protection benefits your region, and the cost of the protection. Know how many municipal wells/surface water intakes there are, where they are located, and who they serve in your municipality. Determine these with help from your municipal staff and local conservation authority.
- **Municipalities** are responsible for implementing more than half of the policies found in source protection plans. Many of these policies are legally binding.

Review the source protection plan for your area to find out what policies are to be implemented within your municipality and what actions are being taken to protect drinking water vulnerable areas.

- Understand how **source protection plan policies** can impact building requirements. Development applications and planning or building permits may be flagged at a municipality for land use planning policies. These applications or permits often need to be reviewed by the local risk management official (RMO) before they can be submitted to the municipality. Proposed activities may require a risk management plan, or in some cases are prohibited.
- When a **risk management plan** is needed, a risk management official works with the landowners/renters to develop a plan that contains measures to protect drinking water sources. A risk management plan is only required when a property is in a vulnerable area and the activity being undertaken poses a significant level risk to drinking water sources.
- **Sewage systems** identified under the *Clean Water Act* as causing significant level risks to drinking water sources, are subject to mandatory inspections through the *Building Code Act, 1992*.
- The Drinking Water Source Protection Program does not include **individual private wells**. A private well owner needs to regularly sample their water to test its quality, and properly maintain their well to protect water sources.

For more on source protection planning, visit protectingwatermatters.ca.



What's a vulnerable area?

Drinking water source protection is based on science. Local scientific data was used to create maps that show drinking water vulnerable areas. In these areas, we need to pay attention to activities causing contamination and overuse of our municipal drinking water sources.

To find out if a property is located in a drinking water vulnerable area, search the Source Protection Information Atlas at ontario.ca/page/source-protection.

There are four types of vulnerable areas:

1. Wellhead protection areas (WHPAs)

are areas around municipal wells where the groundwater is travelling toward that well when the well is being pumped. These areas should be protected from risks to the quality and quantity of the drinking water source.

2. Intake protection zones (IPZs) are areas of land and water around surface water intakes that should be protected from risks to the quality and quantity of the drinking water source.

3. Significant groundwater recharge areas (SGRAs) are areas where a relatively high percentage of precipitation seeps into the ground to help maintain the water level in an aquifer that supplies a community or private residence with drinking water.

4. Highly vulnerable aquifers (HVs) are areas that are particularly susceptible to contamination based on factors such as the aquifer depth underground, the soil types, soil permeability and other characteristics of the surrounding soil or rock.

If a water quality issue is identified by source protection committees under the *Clean Water Act*, issue contributing areas (ICAs) can be delineated within the vulnerable areas. Examples of issues identified in Ontario include nitrate and sodium. Mandatory policies apply within issue contributing areas in order to ensure that the source water quality is protected or improved.

Know the threats to drinking water sources

The *Clean Water Act* identifies activities that could pose a threat to drinking water sources under certain circumstances. These threat activities may be significant, moderate or low level risks. Identified threats include:

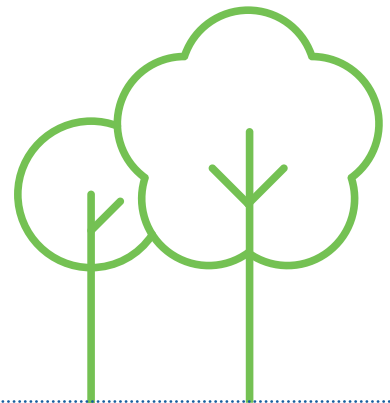
- Application, handling and storage of agricultural source material (such as manure), non-agricultural source material (such as biosolids), commercial fertilizer, and pesticides.
- Handling and storage of fuel, dense non-aqueous phase liquids (DNAPLs*), and organic solvents.
- Management of aircraft de-icing chemical runoff.
- Land used for livestock grazing or pasturing, outdoor confinement areas, and farm-animal yards.
- Application, handling and storage of road salt, and storage of snow.
- The establishment, operation and maintenance of systems that collect, store, transmit, treat or dispose of sewage (such as septic systems and sewage treatment plants, stormwater management facilities).
- The establishment, operation and maintenance of waste disposal sites (such as landfills).
- Activities that take water from a water body without returning the water to the same water body.
- An activity that reduces the recharge of an aquifer.
- The establishment and operation of a liquid hydrocarbon pipeline (added in April 2018, through an amendment to the *Clean Water Act*).

**DNAPLs, or dense non-aqueous phase liquids, are a particularly hazardous group of substances that are heavier than water and are difficult to remove once they contaminate a water source.*



Have you seen this Drinking Water Protection Zone sign?

These signs are appearing across Ontario to raise awareness about the vulnerability of our municipal drinking water sources. Governments at the local and provincial level are placing signs along roadways where a pollution spill could have a negative impact on our drinking water sources.



120 Bayview Pkwy
Newmarket, ON L3Y 3W3
905-895-0716

DRINKING WATER
SOURCE PROTECTION
Our Actions Matter



CITY OF PORT COLBORNE

Municipal Offices
66 Charlotte Street
Port Colborne, Ontario
L3K 3C8
www.portcolborne.ca

Corporate Services Department, Clerk's Division

November 5, 2020

Ann-Marie Norio

Regional Clerk, Niagara Region
1815 Sir Isaac Brock Way
Thorold, ON L2V 4T7

Sent via E-mail

Dear Ms. Norio:

Re: Resolution – Designating the Vulnerable Aquifer Schedule B of Official Plan as a Source Water for Rural Residents of Port Colborne

Please be advised that, at its meeting of October 26, 2020, the Council of The Corporation of the City of Port Colborne resolved as follows:

That Council recognizes the Aquifer as identified in Schedule B3 of the Official Plan as a source water for the rural residents of the City; and

That the Director of Planning and Development be directed to amend the Official Plan to include the Aquifer such that the Aquifer receives the same consideration and protection from susceptible threats of contamination or adverse impact as the intake protection zones (IPZ-1 and IPZ-2); and

That the Region of Niagara, Township of Wainfleet, City of Welland, Town of Fort Erie and Niagara Peninsula Conservation Authority be notified of the City's action and be requested to pursue similar updates to their municipal planning documents in order to protect the aquifer.

A copy of the above noted resolution is enclosed for your reference. Your favourable consideration of this request is respectfully requested.

Sincerely,

Amber LaPointe
City Clerk

Encl.

ec: Township of Wainfleet, City of Welland, Town of Fort Erie, and Niagara Peninsula Conservation Authority



Memorandum

To: Mayor Steele and Members of Council

From: Councillor Harry Wells

Date: October 26, 2020

Re: **Designating the Vulnerable Aquifer Schedule B3 of Official Plan as a source water for rural residents of Port Colborne**

The City has received a significant number of requests from citizens urging and pleading the decision makers for the City to protect the vulnerable aquifer identified in Schedule B3 of the City's Official Plan (OP). The rural community of Port Colborne and other settlements in Ontario and New York state depend on this same aquifer to supply them their everyday need for fresh consumable water.

We are surrounded by high quality fresh water and because of this many of us take it for granted until we turn on the tap and no water comes out or the water that does come out is not suitable for consumption. A mere 0.014% of all water on Earth is both fresh and easily accessible with 97% of the remaining water being saline, and a little less than 3% being difficult to access. We are so fortunate to have this quality and quantity of fresh water and we as decision makers for the City are accountable to make the appropriate decision to protect it. This Council has to take the lead in acknowledging that water is a scarce and precious resource and that protecting the quality of the aquifer is a necessity, not an option.

The Provincial Policy Statement (PPS) calls for the protection of resources, public health and safety, and the quality of the natural environment. The policies of the PPS represent minimum standards and the PPS recognizes and expects Planning authorities and decision-makers to go beyond these minimum standards to address matters of importance to their community, as long as doing so does not conflict with any policy of the PPS. The policies of the PPS are expected to be complemented by City generated policies and plans regarding matters of interest to the City such as protecting the Aquifer.

The Clean Water Act regulates the municipal drinking water system and addresses Intake Protection Zones and *recognizes that the people of Ontario are entitled to expect their drinking water to be safe*. The Niagara Peninsula Source Protection Plan, and the City's OP and Zoning By-law (ZBL) establish levels of protection for identified intake protection zones for the City's urban drinking water system but, presently there are no policies for private water supply for rural residents. The issue being the Aquifer is not

privately owned and is accessible to the public. The current Regional Official Plan calls on the City to develop and adopt Local Official Plans and Secondary Plans containing more detailed environmental policies in conformity with Provincial and Regional policies and Plans.

The City is responsible for its local water distribution network and local sewer collection system so it should also be responsible for protecting the City's rural source of water the Aquifer. The *Niagara Peninsula Conservation Authority's*, Niagara Drinking Water Source Protection Plan States "We all need and deserve safe drinking water and, in this regard, it is in everyone's interest to ensure that our drinking water is safe and secure".

I am requesting that Council approve the following motion;

That Council recognizes the Aquifer as identified in Schedule B3 of the Official Plan as a source water for the rural residents of the City; and

That the Director of Planning and Development be directed to amend the Official Plan to include the Aquifer such that the Aquifer receives the same consideration and protection from susceptible threats of contamination or adverse impact as the intake protection zones (IPZ-1 and IPZ-2); and

That the Region of Niagara, Township of Wainfleet, and Town of Fort Erie be notified of the City's action and be requested to pursue similar updates to their municipal planning documents in order to protect the aquifer.

Thank you for your consideration,

Harry Wells
Ward 4 Councillor