
From: Catherine Rose, MCIP, RPP
Chief Planner

Subject: City Initiated Official Plan Amendment: Ecosystem Compensation
Proposed Amendment 35 to the Pickering Official Plan
File: OPA 19-003/P

1. Purpose of this Report

The purpose of this report is to provide information on a City initiated official plan amendment application. This report contains background information on the current Official Plan and the purpose of the proposed amendment.

This report is intended to assist members of the public and other interested stakeholders to understand the proposal. The Planning & Development Committee will hear public delegations on the application, ask questions of clarification, and identify any planning matters. This report is to be received, and no decision is to be made at this time. Staff will bring forward a recommendation report for consideration by the Planning & Development Committee upon completion of a review of the comments received and revisions to the amendment where appropriate.

2. Background

There is a strong policy framework in Ontario to protect and expand the natural heritage system. The *Planning Act* identifies the protection of ecological systems, including natural areas, features and functions as a matter of Provincial interest. Similarly, the Provincial Policy Statement requires that the long term ecological function and biodiversity of natural heritage systems should be maintained, restored or enhanced where possible.

Municipalities and other agencies protect these systems through various processes. Regional and local official plans designate lands as natural heritage systems where development is generally not permissible. Municipalities may also pass Tree Protection By-laws to further regulate natural heritage system lands and/or the destruction of individual trees, and to establish penalties for unlawful removal of trees in the areas covered by the by-laws. Additionally, municipalities may establish compensation protocols to calculate a value for the lost feature, function, or area, and require the value to be used towards enhancing the natural heritage system in a nearby location.

The Toronto and Region Conservation Authority (TRCA) is one of the City's partner agencies that plays a strong role in protecting and enhancing the natural heritage system through its regulatory authority, land stewardship, and as a commenting agency on development applications. The Conservation Authorities and municipalities have been continuously working together to reduce the losses to the natural heritage system through the promotion of best practices, strengthening environmental policies, education programs, and compensation requirements.

In spite of the strong policy framework, and the efforts and initiatives from the City and TRCA to protect, restore, or enhance the natural heritage system, losses to the natural heritage system and features continue to occur due to unavoidable losses associated with urbanization and infrastructure expansion. These losses may become even more apparent due to impacts associated with climate change. For example, there may be more insect and disease outbreaks, or increased tree stress may affect forest growth.

In November 2014, TRCA adopted their Living City Policies. These policies, among other matters, introduced stronger policy direction regarding "compensation", defining it in the context of conservation and land use planning, as "the replacement of lost/altered ecosystem services or ecological functions". The Living Cities policies also recommended that after all other options for protection, minimization and mitigation have been exhausted, and where no other federal, provincial and municipal requirements exist to protect a natural heritage feature being impacted by development or infrastructure, that compensation for the loss of ecosystem services be provided. Ultimately, the main objective of collecting compensation is to secure funds to replant trees and/or restore ecosystem functions, such as wetland or meadow restoration.

Although compensation has been partially successful in restoring natural heritage systems and ecological functions, TRCA recognized that there have been various challenges in its application, such as the lack of consistent standards and transparency, and the lack of direction on selecting sites for ecological restoration. Subsequently, TRCA, over a period of approximately three years, developed a Guideline for Determining Ecosystem Compensation, which included consultation with key stakeholders, the building industry, and municipalities. The Guideline provides direction for compensation in a consistent and transparent manner, after it has been decided through a planning, environmental assessment and/or permit process, that the impact on a natural heritage feature cannot be avoided, minimized or mitigated. In June 2018, the TRCA Board endorsed the Guideline and directed TRCA staff to work with municipalities and public agencies to implement it, recognizing their distinct regulatory frameworks.

In April 2019, Council received Report PLN 07-19 regarding TRCA's Guideline for Determining Ecosystem Compensation. To ensure consistent application of the Guideline and coordination with the City's current compensation practices, City Council, on April 23, 2019, authorized staff to initiate an amendment to the Pickering Official Plan to introduce policies that address ecosystem loss and compensation due to development impacts, where all options for protection have been exhausted, on a city-wide basis.

Council's resolution with respect to Report PLN 07-19 also included authorization to staff to develop a memorandum of understanding in consultation with TRCA regarding the administration and collection of the fees and technical guidance regarding the interpretation and calculation of compensation in terms of the Guideline. Staff will be addressing the memorandum of understanding through a separate process. This report deals with the proposed official plan amendment.

3. Why is this amendment being proposed?

Although the principle of compensation is already embedded in the Pickering Official Plan, the current policies regarding compensation are specific to only infrastructure expansions, certain urban neighbourhoods and certain natural heritage features, and do not directly address ecosystem loss and compensation due to development impacts, on a City-wide basis. Nonetheless, policy 2.5.a) of the Plan states that critical ecological functions and components should be protected from inappropriate human uses and activities.

The City works with TRCA and the development industry to seek favorable outcomes where critical ecological functions and components cannot be protected through the unavoidable loss of key natural heritage or key hydrologic features due to development or infrastructure impacts. Yet, the absence of City-wide policies in relation to ecosystem loss and compensation leaves a policy void. This void can hamper the City and TRCA's efforts to achieve shared objectives for a connected and robust natural heritage system and to reach a satisfactory level of compensation to provide meaningful replacement or enhancement of natural heritage features.

A more complete policy framework on ecosystem loss and compensation will create a level playing field and a greater degree of consistency for all development proposals in the City, irrespective of the geographic area in the City or the type of natural feature impacted. Embedding the principle of ecosystem compensation (where all options for protection have been exhausted) in the Pickering Official Plan will provide a stronger basis for collaboration between parties and to achieve consistent and transparent approach to compensation through the implementation of approved development proposals.

4. What is being proposed?

The proposed amendment will introduce revisions to Pickering's Ecological System policies in Chapter 2 – The Planning Framework and to Chapter 16 – Development Review of the Pickering Official Plan. Recognizing that the City has a Tree Removal Compensation Fee policy for individual tree loss, this proposed amendment seeks to expand the local policy framework to a more robust approach to address the loss of ecosystem functions in addition to individual tree loss. More specifically, the key changes proposed to the Official Plan text will:

- expand the requirement for restoration and rehabilitation of degraded and damaged ecosystems, to also include the option of ecosystem compensation due to development impacts (where all options for protection have been exhausted), through the implementation of approved development applications.

- require proponents of development applications to include recommendations regarding compensation where all options for the protection of the ecosystem (e.g., mitigation or remediation) have been exhausted, through Environmental Reports.

The proposed amendment, including the text of the proposed revised policies, is contained in Appendix I. Appendix I also includes the purpose and basis for the amendment. The proposed amendment applies City-wide.

5. Who has been notified of this Public Meeting to consider the proposed amendment?

The proposed amendment was prepared in consultation with the City's Engineering Services department. The proposed amendment has been circulated to the Region of Durham and other prescribed agencies for their comment.

In addition, the notice was posted on the City's website, and an advertisement appeared in the local newspaper for two consecutive weeks on May 29, 2019 and June 5, 2019.

6. Procedural Information

6.1 General

- written comments regarding this proposal should be directed to the City Development Department
- oral comments may be made at the Public Information Meeting
- all comments received will be noted and used as input to a Planning Report prepared by the City Development Department for a subsequent meeting of Council or a Committee of Council
- any member of the public who wishes to reserve the option to appeal Council's decision must provide comments to the City before Council adopts any by-law for this proposal
- any member of the public who wishes to be notified of Council's decision regarding this proposal must request such in writing to the City Clerk

6.2 Official Plan Amendment Approval Authority

- the Region of Durham may exempt certain local official plan amendments from Regional approval if such applications are determined to be locally significant, and do not exhibit matters of Regional and/or Provincial interest
- at this time, the Region has not yet determined whether this official plan amendment application is exempt from Regional Approval

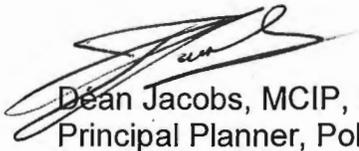
7. What are the Next Steps

Following the public meeting, all comments received either through the public meeting or through written submissions, will be considered by Planning Staff in its review and analysis of the proposed amendment. At such time as input from the public, agencies and departments have been received and assessed, a recommendation report will be brought forward to the Planning & Development Committee for consideration.

Appendix

Appendix I Proposed Amendment 35 to the Pickering Official Plan

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Date of Report: May 22, 2019

Approved/Endorsed By:



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City Initiated Official Plan Amendment

Ecosystem Compensation

Proposed Amendment 35 to the Pickering Official Plan

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Proposed Amendment 35 to the Pickering Official Plan

Purpose: The purpose of this Amendment is to add new policies to and change existing policies in the Pickering Official Plan with regard to ecosystem loss and compensation.

Location: The Amendment applies City-wide.

Basis: There is a strong policy framework in Ontario to protect and expand the natural heritage system. The *Planning Act* identifies the protection of ecological systems, including natural areas, features and functions as a matter of Provincial interest. Similarly, the Provincial Policy Statement requires that the long term ecological function and biodiversity of natural heritage systems should be maintained, restored or enhanced where possible.

The natural heritage system and features are still being compromised or lost through development and the effects of climate change.

Embedding the principle of ecosystem compensation (where all options for protection have been exhausted) in the Pickering Official Plan will provide a stronger basis for collaboration between parties and to achieve consistent and transparent approach to compensation through the implementation of approved development proposals.

The compensation will enable the replanting, restoration and/or enhancement of the natural heritage system.

Amendment: The Pickering Official Plan is hereby amended by:

1. Revising Section 2.5, Ecological System, in Chapter 2 – The Planning Framework, by adding a new subsection (d) to read as follows, and renumbering the subsequent subsections accordingly:

“2.5 City Council will endeavour to,

(a) to (c) ...;

(d) require compensation for the loss of ecosystem functions due to development impacts, after all other options for protection, minimization and mitigation have been exhausted, in accordance with the relevant conservation authority’s guideline for determining ecosystem compensation, with the exception of tree removal that falls under the purview of the City’s Tree Removal Compensation Fee, where applicable;”

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2. Revising Section 16.10, Environmental Report Contents, in Chapter 16 – Development Review, by revising subsection (h) to read as follows:

“16.10 City Council shall require that the Environmental Report submitted in accordance with Section 16.8 include at least the following,

(a) to (g)...

(h) where potential negative effects are unavoidable, recommendations regarding the actions necessary to mitigate or remedy the negative effect; which, as a last resort, may include the payment of compensation to the City for the loss of ecosystem functions, of which the cost is to be determined in accordance with the applicable conservation authority’s guideline for determining ecosystem loss and/or the City’s Tree Removal Compensation Fee; and

....”

Implementation: The provisions set forth in the City of Pickering Official Plan, as amended, regarding the implementation of the Plan shall apply in regard to this Amendment. In light of the numerous components of the Official Plan that are being revised concurrently, the numbering of the policy sections in this amendment is subject to change in accordance with the sequencing of approvals.

Interpretation: The provisions set forth in the City of Pickering Official Plan as amended, regarding the interpretation of the Plan shall apply in regard to this Amendment, except as revised by this amendment.

Cross Reference:
OPA 19-003/P
City Initiated