



City of  
**Peterborough**

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**TO: Members of Planning Committee**

**FROM: Ken Hetherington, Manager, Planning Division**

**MEETING DATE: May 22, 2012**

**SUBJECT: Report PLPD12-027  
Source Water Protection Plan  
Information Report**

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## **PURPOSE**

A report providing an update on the Source Water Protection planning initiative and recommending that further comments be provided regarding the *Draft* Proposed Source Protection Plan.

## **RECOMMENDATIONS**

That Council approve the recommendation outlined in Report PLPD12-027, dated May 22, 2012 of the Manager, Planning Division, as follows:

- a) That Report PLPD12-027 be received for information.
- b) That staff be directed to communicate comments from the City on the Draft Proposed Trent Source Protection Plan attached as Exhibit C to Report PLPD12-027, to the Source Water Protection Committee.

## BUDGET AND FINANCIAL IMPLICATIONS

No budget or financial implications would result from the decision to approve the above recommendation. It is anticipated that there will be financial implications in the future if and when the proposed draft policies are implemented.

In response to the comments received from pre-consultation on the policies, the Source Water Protection Committee (SPC) is having a business case prepared to determine the potential cost of implementation. The SPC is planning on sending the business case to the Minister of Environment late June 2012 along with comments requesting funding from the province for implementation. The cost implications of these policies to each municipality will differ as widely as the variety of drinking water scenarios. Peterborough may anticipate new costs that would be attributed to defending changes to land use, perhaps compensation to land owners, their share of a Risk Management Official including their time to defend Risk Management Plans should they be challenged.

## BACKGROUND & UPDATE

The purpose of the source protection initiative is to produce a strategic plan containing policies that will eliminate or reduce the risk of threats to drinking water. Drinking water threats are activities that could pose a risk to the quality of water that is used as a source of drinking water. The policies within the Plan intend to address the risks associated with lands located within the Intake Protection Zones illustrated on the Map attached to this report (PLPD12-027) as Exhibit A. According to the Assessment Report approved by the Minister of the Environment (MOE), there are a total of 60 significant drinking water threats identified on 26 properties located within the Intake Protection Zones 1 and 2 as listed on the table insert on Exhibit A attached to this report (PLPD12-027).

On October 17, 2011 Peterborough City Council received a presentation and Report PLPD11-070 – Source Water Protection Update on the Draft policies that were prepared to advance the initiative. Subsequently on October 24, 2011, Council provided comments to the Source Water Protection Committee (SPC) on the draft policies by means of Report PLPD11-070A. A copy of the letter containing the comments sent to the SPC is attached to this report (PLPD12-027) as Exhibit B.

Since October, the SPC reviewed the comments received from all municipalities within the Source Protection Region and considered further input



***New Signs at Nassau Bridge***

from the Source Water Municipal Working Groups. As a multi-stakeholder committee, the SPC has completed the Draft Policies and assembled them as the *Draft Proposed Source Protection Plan* available at:

[http://www.trentsourceprotection.on.ca/theplanningprocess/sourceprotectionplan/pdf/Draft\\_TrentSPP\\_Plan-web.pdf](http://www.trentsourceprotection.on.ca/theplanningprocess/sourceprotectionplan/pdf/Draft_TrentSPP_Plan-web.pdf)

The Document has been released for public circulation since March 19, 2012. The Committee has advertised and conducted a series of open houses in various locations within the Region between April 10 and April 18, 2012 in order to present the plan and invite further comments on the revisions to the draft policies within the plan. Comments that were received by the end of April 23, 2012 were considered once again by the Source Water Protection Committee before finalization of the Plan. The Source Protection Plan will be subject to a second round of consultation and input between June 27, 2012 and July 27, 2012. Comments received by the SPC before July 27, 2012 in response to the second round of consultation will be appended to the Plan and sent to the Ministry of Environment on August 20, 2012.

## **CHANGES TO DRAFT POLICIES:**

The SPC has prepared a *Draft Proposed Source Water Protection Plan Explanatory Document* that is available at:

[http://www.trentsourceprotection.on.ca/theplanningprocess/sourceprotectionplan/pdf/DraftSPP\\_Explanatory\\_web.pdf](http://www.trentsourceprotection.on.ca/theplanningprocess/sourceprotectionplan/pdf/DraftSPP_Explanatory_web.pdf)

The purpose of the document is to offer an explanation of the rationale for any changes made or not made to the policies by the SPC, in response to the comments received from the pre-consultation on the policies.

The following is a summary of the more significant modifications to the policies focusing on those policies that may pertain to Peterborough considering the map and table of threats attached to this report (PLPD12-027) as Exhibit A. After a brief description of the change to each policy, the summary includes a comment on the “Effect” of the policy as it exists to date. For a more comprehensive description and rationale for any change to the policy it is recommended that the reader refer to the Explanatory Document cited above.

### **5.1 General Policies**

#### **5.1.6 Policy G-6: Risk Management Plans – General Provisions**

*The policy was revised to offer more specific time lines on dates for implementing Risk Management Plans and the authority of the Risk Management Official regarding any flexibility regarding the compliance dates.*

**Effect:** The Policy now clarifies the discretionary authority that rests with the Risk Management Official regarding any flexibility with compliance dates.

#### 5.1.7 Policy G-7: Restricted Land Uses

*Municipalities will be required to circulate the Risk Management Official applications made under the Planning Act and Building Code that would pertain to land located within areas where activities would be significant threats.*

Effect: Municipal staff will have to make a point of circulating Planning and Building Applications to the Risk Management Official for comment.

### 5.2 Sewage:

#### Policy S-1 Reporting on Mandatory Septic Inspections

*Inspection of on site septic systems regulated under the OBC that are located where they are a significant threat is now a legislated requirement of the Municipality.*

*The Proposed Policy now requires that a copy of the report to the SPA on the number and location of inspected systems also be provided to the municipality where the inspection program has been delegated to another agency such as the Health Board.*

Effect: The Municipality may have to arrange for new reporting requirements with the Health Unit as the delegated septic system inspection authority.

#### 5.2.5 Policy S-5 Requirements for Future On-Site Sewage Systems

*The policy addressed the requirement of municipalities to identify standards for septic system performance, the inspection and approval authority and arrangement for reporting expectations.*

Effect: The Municipality will have to arrange the new reporting requirements with the Health Unit as the delegated septic system inspection authority.

#### 5.2.8 Policy S-8 Sewage System or Sewage Works – Discharge of Untreated Storm Water from a Storm Water Retention Pond - No Change.

*The SPC acknowledged that the MOE may add or modify conditions to existing environmental compliance approvals to manage sewage systems that are threats to drinking water. The SPC acknowledged that some changes may have financial implications for holders of such approvals. New or updated conditions for approval of such facilities remain at the discretion of the MOE.*

Effect: Any changes to conditions for approval of a Storm Water Management pond located within an Intake Protection Zone by the MOE will remain at the discretion of the MOE. (The Water Street Pond)

### 5.3 Agriculture

#### 5.3.1 Policy A-1: Existing Agricultural Activities Not Subject to Prescribed Instruments

Separation of activities that are and are not subject to the Nutrient Management Act.

*The policy will now allow access of the Nutrient Management Instruments to the Risk Management Official.*

5.3.2 Policy A-2: Existing Agricultural Activities Subject to the Nutrient Management Act  
Policy A-3: Existing Agricultural Activities Subject to the Pesticides Act  
*Managing and handling of fertilizer and livestock grazing are activities removed from this policy as they will be subject to Risk Management Plans under Policy A-1.*

*Policy relies on Nutrient Management Act requirements to review Nutrient Management Plans. The Risk Management Official will be made aware of the results of the review by the Ministry of the Environment.*

5.3.3 Policy A-4: Prohibition of Future Agricultural Activities  
*Agricultural Activities are prohibited in the IPZ-1. Beyond IPZ-1, new agricultural activities could be permitted provided they are managed through an approved Risk Management Plan.*

5.3.4 Policy A-5: Agricultural Warehousing Standards Association Certification Handling and Storage of Pesticides  
*Policy now requires Risk management plans for handling and storage of pesticides not within the mandate of the Agricultural Warehousing Association Certification.*

Effects: While there are 19 properties identified as potentially being affected by policies that pertain to agricultural source material, most of them are located beyond the jurisdiction of the City. The City has already commented on the concern with the lack of jurisdictional authority to ensure implementation of policies on land located beyond the limits of one municipality to protect sources of drinking water located within another municipality.

## **5.4 Fuel Handling and Storage**

5.4.2 Policy F-2 Prohibition of Future Handling and Storage of Fuel  
*While the Policy relies on Section 57 of the Clean Water Act, 2006 to prohibit future fuel storage on lands where the activity would be a significant drinking water threat, the policy was relaxed to allow fuel storage tanks associated with emergency back up generators or pumping systems.*

Effect: This policy would have implications on lands located within the Intake Protection Zones contemplating activities that would involve the storage of fuel in the future.

## **5.5 Road Salt**

5.5.1 Policy R-1: Existing and Future Road Salt Application  
Policy R-2: Existing and Future Road Salt Application (MTO)  
*The Risk Management Officer will review all salt management plans including the MTO's Plans for compliance.*

5.5.2 Policy R-3: Monitoring of Sodium and Chloride  
*Policies require the municipality to monitor trends for sodium and chloride within raw water.*

**5.5.3 Policy R-4: Recommended Research for Road Salt Alternatives**

*The policy has been revised to recommend the goal of using alternative technologies that would reduce the use of road salt while maintaining road safety.*

**5.5.4 Policy R-5: Future Construction of Roads and Impervious Surfaces**

*The Policy refers generally to the “approval authority” rather than the municipality.*

**5.5.6 Policy R-7: Prohibition of Future Handling and Storage of Road Salt**

*A land use policy was added to support the prohibition of locating a road salt storage facility in a vulnerable area.*

Effects: The policy will require risk management plans for the application of road salt to those roadways located within Intake Protection Zones. The Plan will require approval by the Risk Management Official. Cross jurisdictional authority remains an issue.

**5.12 Local Threats**

**5.12.1 Policy L-1 Landscaping that Promotes the Congregation of Waterfowl**

*It is required that signage be posted indicating that the congregation of waterfowl can have a negative impact on water quality. A by-law will be required to prohibit the feeding of waterfowl referring specifically to municipally owned parks and mown areas.*

*A water fowl management plan will be required to be implemented within 5 years and the installation of the signs will be required within one year.*

Effect: This policy will apply to lands located within the Intake Protection Zone 1 owned by the Peterborough Utilities Service Incorporated.

**RESPONSE:**

The Source Water Protection Committee has and will continue to fulfill its mandate in developing a plan intended to apply an additional level of protection for sources of municipal drinking water. The Committee responded to comments received that fell within its mandate in further refining the policies that are contained within the Plan.

The comments provided by the City on the draft policies back in October 2011 (attached to this report (PLPD12-027) as Exhibit B), were relatively high level comments concerned more with the reality of implementation and the costs to do so than with the detailed wording of the policies themselves. As a result, it may be noted that most of the changes to the policies cited above are more technical in nature and do not respond directly to the comments regarding the implementation costs largely because that issue lies beyond the mandate of the SPC.

In response to the comments received from Peterborough and many other municipalities in the Region concerning the cost of implementing the Plan, the SPC is in the process of developing a business case to provide an estimate of the costs that may

be involved. The SPC intends to send the business case to the province along with the expressed request for the province to cover the new costs for implementing the Source Protection Plan. At this point in the process, any comments received will be appended to the Source Protection Plan and sent to the Province at the end of August, 2012. Staff is therefore recommending that the comments regarding the costs for implementation be resubmitted to emphasize the concerns that remain outstanding and to support the efforts of the SPC towards responding to the issue of implementation costs. A Draft letter reiterating the comments is attached to the Report PLPD12-027 as Exhibit C.

## SUMMARY

Staff is providing this information as an update on the Source Water Protection Initiative that has now produced the *Draft* Proposed Source Protection Plan and the Explanatory Document that responds to the input received from the pre-circulation of Draft Policies. It is requested that Council receive the material contained in this report for consideration and direct staff to provide comments attached to this Report PLPD12-027 as Exhibit C. The Draft letter restates the concerns cited in the City's original comments to the SPC regarding the anticipated costs to implement the Source Protection Plan and may include any additional comments offered by Planning Committee. It can be expected that the comments that would be provided to the SPC between June 27, 2012 and July 27, 2012 will be appended to the Draft Source Protection Plan and submitted to the MOE by August 20, 2012.

Submitted by,

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Ken Hetherington  
Manager, Planning Division

Prepared by,

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Richard Straka  
Planner, Policy & Research

Concurred with,

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Malcolm Hunt, Director  
Planning & Development Services

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Attachments:

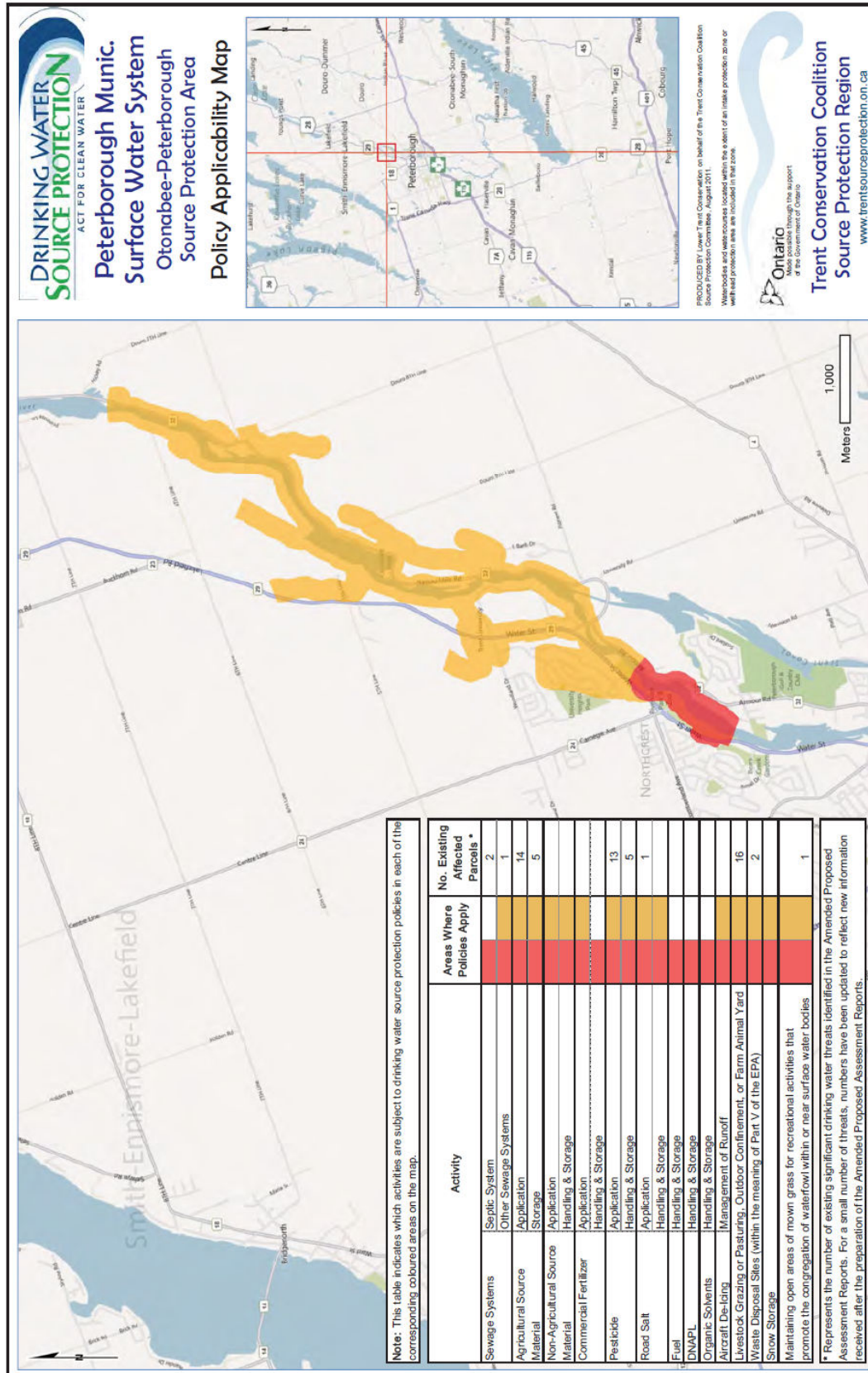
Exhibit “A” – Map of Peterborough System Intake Protection Zones 1 and 2

Exhibit “B” – October 31, 2011 Comments to Source Water Protection Committee

Exhibit “C” – *Draft* Letter reiterating comments to Source Water Protection Committee



EXHIBIT A  
PAGE 1 OF 1



Trent Assessment Report Map Reference: 4-8

Policy Applicability Map

**EXHIBIT B**



City of  
**Peterborough**

500 George Street North Peterborough Ontario, K9H 3R9

**Malcolm Hunt, MCIP RPP,**  
**Director, Planning & Development Services**  
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**October 31, 2011**

Jim Hunt, Chairman  
Trent Conservation Coalition  
Source Protection Committee

**Attention: Mr Hunt**

Dear Mr Hunt:

**Re:           Response to Pre-consultation**  
**Draft Polices Source Water Protection**

City Council received the Notice of Pre-consultation inviting comments on the Draft Polices being developed to protect sources of municipal drinking water. The Draft Polices were considered and City Council is providing the following comments in response to the polices as they have been developed to date:

**Comments Regarding the Draft Policies:**

**General:**

- The City is concerned with the Province imposing generic polices that may provide an additional level of protection for municipal drinking water that is not required in the case of the City of Peterborough. The result of the proposed policies will be an additional level of protection that may be necessary in other municipalities, but will result in an increase cost to the City with no significant improvement to the safety of drinking water in Peterborough. The City is requesting that the province pay for the cost of implementing the additional level of protection that it has determined to be required to protect municipal drinking water systems permitted in Ontario.

- The City is concerned with implementation of policies that cross jurisdictional boundaries. While the City appreciates the attempt to preserve local autonomy regarding land use decision making, the City is concerned with the downloading of costs that may result in requiring an urban municipality to address rural land use problems that have been allowed to exist within an adjacent municipal jurisdiction. In addition, it is unclear how one municipality responsible for its water quality will ensure another municipality addresses matters under its jurisdiction.

**Land Use:**

- Once the Source Protection Plan is finally approved by the Ministry of Environment, the City will be responsible for updating the Official Plan and Zoning By-law as necessary to implement the plan. There may be a period of time during which the City's Official Plan policies are being updated that property owners may wish to engage in activities that are subject to the new Provincial Policies and will challenge the municipality's position on such activities. The City is concerned with cost that may be incurred as its position based on the policy direction may be initially tested in the court system. The City is requesting that the Province be prepared to fund the costs to municipalities should they become engaged in defending their position under such circumstances.
- Some policies affecting land use will require City-initiated amendments to the Official Plan and Zoning by-law. The City is concerned that such policy and zoning by-law amendments will be subject to appeals to the OMB by land owners seeking compensation for a change to their zoned rights. The City is asking the Province to be prepared to respond to such appeals providing support to municipalities' efforts toward implementing the policies and defending appeals at the OMB.
- It is anticipated that there may be costs to the City concerning compensation to land owners where rights to land use are being affected by new policies. The City is requesting the Province be prepared to compensate property owners that would suffer a loss of rights to land use as a result of policy implementation.

**Risk Management Plans:**

- Some policies may require Risk Management Plans to address mitigation measures for certain activities. It is anticipated that the City will have to appoint a Risk Management Official. The initial work load of a RMO may be significant but it will likely diminish over time. Depending on the number of activities that may require policies that call for on Risk Management Plans, there may not be the requirement of a RMO on a fulltime basis. There may not only be costs for the service of such a person but also costs in terms of staff time for negotiating a shared use agreement between authorities that would required the services of the RMO.
- The cost of a RMO is uncertain. Municipalities could elect to share the services and costs of such a person who may be permanently employed by the City, the Health

Unit or by the Conservation Authority. Shared use agreements for the services of the RMO will have to be reviewed and renegotiated from time to time.

- It can be expected that the cost of a Risk Management Plan could vary significantly from property to property. The cost may be based on what would be involved depending on a review of proposed and existing activities in relation to how the activity may already be managed by existing instruments in place or how the activity is proposed to be carried out. For this reason it is difficult to comment on this policy requirement depending on whether the cost of preparation of a specific Risk Management Plan is to be borne by the proponent of an activity or not.

It is acknowledged that municipal staff will be required to devote time to a new area of business associated with this initiative and while this is expected as responsibilities change, the new costs associated with risks and compensation to property owners should be borne by the Province.

Thank you for the opportunity to provide comments on the Draft Policies prepared for the Source Water Protection Plan. Should you have any questions regarding these comments, please contact the City of Peterborough's Planning Division at 705 742-7777 ext 1880.

Yours truly,

Malcolm Hunt, MCIP RPP  
Director, Planning & Development Services

## EXHIBIT C



City of  
**Peterborough**

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# DRAFT

Jim Hunt, Chairman  
Trent Conservation Coalition  
Source Protection Committee

**Attention: Mr Hunt**

Dear Mr Hunt:

**Re: Response to Draft Proposed  
Source Water Protection Plan**

In response to the invitation for comments on the Draft Proposed Source Water Protection Plan, City Council has considered the plan and is providing the following comments to the Source Protection Committee at this time expecting them to be appended to the Report when it is forwarded to the Province for approval:

### **Comments Regarding the Draft Policies:**

#### **General:**

- The City is concerned with the Province imposing generic policies that may provide an additional level of protection for municipal drinking water that is not required in the case of the City of Peterborough. The result of the proposed policies will be an additional level of protection that may be necessary in other municipalities, but will

result in an increase cost to the City with no significant improvement to the safety of drinking water in Peterborough. The City is requesting that the province pay for the cost of implementing the additional level of protection that it has determined to be required to protect municipal drinking water systems permitted in Ontario.

- The City is concerned with implementation of policies that cross jurisdictional boundaries. While the City appreciates the attempt to preserve local autonomy regarding land use decision making, the City is concerned with the downloading of costs that may result in requiring an urban municipality to address rural land use problems that have been allowed to exist within an adjacent municipal jurisdiction. It is unclear how one municipality responsible for protecting its source of drinking water will ensure another municipality addresses matters under its jurisdiction.

### **Land Use:**

- Once the Source Protection Plan is finally approved by the Ministry of Environment, the City will be responsible for updating the Official Plan and Zoning By-law as necessary to implement the plan. There may be a period of time during which the City's Official Plan policies are being updated that property owners may wish to engage in activities that are subject to the new Provincial Policies and will challenge the municipality's position on such activities. The City is concerned with cost that may be incurred as its position based on the policy direction may be initially tested in the court system. The City is requesting that the Province be prepared to fund the costs to municipalities should they become engaged in defending their position under such circumstances.
- Some policies affecting land use will require City-initiated amendments to the Official Plan and Zoning by-law. The City is concerned that such policy and zoning by-law amendments will be subject to appeals to the OMB by land owners seeking compensation for a change to their zoned rights. The City is asking the Province to be prepared to respond to such appeals providing support to municipalities' efforts toward implementing the policies and defending appeals at the OMB.
- It is anticipated that there may be costs to the City concerning compensation to land owners where rights to land use are being affected by new policies. The City is requesting the Province be prepared to compensate property owners that would suffer a loss of rights to land use as a result of policy implementation.

### **Risk Management Plans:**

- Some policies may require Risk Management Plans to address mitigation measures for certain activities. It is anticipated that the City will have to appoint a Risk Management Official the cost of which is uncertain. The initial work load of a RMO may be significant but it will likely diminish over time. Depending on the number of activities that may require policies that call for on Risk Management Plans, there may not be the requirement of a RMO on a fulltime basis. Municipalities could elect

to share the services and costs of such a person who may be permanently employed by the City, the Health Unit or by the Conservation Authority. There may not only be costs for the service of such an R.M.O. but also costs in terms of staff time for negotiating a shared use agreement between authorities that would have to be reviewed and renegotiated from time to time.

- It can be expected that the cost of a Risk Management Plan could vary significantly from property to property. The cost may be based on what would be involved depending on a review of proposed and existing activities in relation to how the activity may already be managed by existing instruments in place or how the activity is proposed to be carried out. It is also possible that the requirement for, or the design of a Risk Management Plan may be challenged by a land owner. It would be difficult to predict the cost in terms of time required of a Risk Management Official to defend the requirements of a Risk Management Plan should it be appealed to the Environmental Review Tribunal. For these reasons it is difficult to comment on this policy requirement also depending on whether the cost of preparation of a specific Risk Management Plan is to be borne by the proponent of an activity or not.

It is acknowledged that municipal staff will be required to devote time to a new area of business associated with this initiative and while this is expected as responsibilities change, the new costs associated with risks and compensation to property owners should be borne by the Province.

It is understood that the Source Water Protection Committee is developing a business case in attempt to estimate some of the costs for implementing of the S.P.P. The City of Peterborough appreciates the initiative in response to the comments provided on the policies in general and supports the SPC's effort in communicating concerns regarding the cost of implementing the plan to the Ministry of the Environment.

The opportunity to provide comments on Source Water Protection Plan is appreciated. Should you have any questions regarding these comments, please contact the City of Peterborough's Planning Division at 705 742-7777 ext 1880.

Yours truly,

Malcolm Hunt, MCIP RPP  
Director, Planning & Development Services