
DATE: June 19, 2018

REPORT TITLE: **NORTH WEST BRAMPTON SHALE RESOURCES POLICY REVIEW
STUDY CONCLUSIONS**

FROM: Janette Smith, Commissioner of Public Works

RECOMMENDATION

That staff be directed to prepare a draft amendment to the Regional Official Plan to delete the shale protection policies and High Potential Mineral Aggregate Resource Area mapping within the North West Brampton Policy Area on all lands west of Mississauga Road excluding that portion outside the Regional Urban Boundary within the Greenbelt Plan Area to implement the recommendations of the North West Brampton Policy Area Review Study Report (the “Study Report”), prepared by Meridian Planning Consultants and as further outlined in the report of the Commissioner of Public Works, titled “North West Brampton Shale Resources Policy Review Study Conclusions”;

And further, that staff report back to Regional Council in early 2019 for direction to initiate formal consultation on the amendment in accordance with the *Planning Act*;

And further, that staff be directed to continue stakeholder consultations with the Province, brick industry representatives and interested landowners in the North West Brampton Policy Area in advance of reporting back to Regional Council with a recommended draft Regional Official Plan Amendment for statutory consultation under the *Planning Act*;

And further, that a copy of the subject report be forwarded to the Ministry of Municipal Affairs, Ministry of Natural Resources and Forestry, the Cities of Brampton and Mississauga, and the Town of Caledon.

REPORT HIGHLIGHTS

- The North West Brampton Policy Area Review Study has been completed by Meridian Planning and concludes that although shale resources in North West Brampton are provincially significant and accessible, the feasibility of extracting shale from the study area is remote due to land assembly and land cost constraints.
- The shale protection policy review requirements of the Regional Official Plan have been comprehensively addressed, and Meridian Planning Consultants have advised that it would be in the public interest for shale protection to be removed.
- The Study Report concluded there would be significant implications to the Region’s growth management and infrastructure planning programs if shale resource protection policies are not removed.

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- The recommendations to remove shale protection would result in the release of all lands inside the Regional Urban Boundary in the Heritage Heights Secondary Plan Area for urban development.
- If shale protection continues, the planned population and employment growth within Heritage Heights would need to be accommodated elsewhere in the Region, along with associated servicing costs.
- Removal of shale protection and release of the lands for urban development do not result in financial implications to the Region's infrastructure programs as development would proceed in accordance with planned improvements.
- Partial shale protection options were considered and were determined to have the highest potential infrastructure cost implications, as new infrastructure would be required in new areas to accommodate growth displaced by shale protection in addition to the servicing that would continue to be needed in North West Brampton.
- Regional staff is recommending an amendment to the Regional Official Plan to implement the study report's recommendations.
- Next steps include the preparation of a draft amendment to implement the study report recommendation be brought before Regional Council in early 2019 to seek approval to commence the formal Regional Official Plan Amendment consultation process under the *Planning Act*.

DISCUSSION

1. Background

The Region of Peel is undertaking a policy review to determine if revisions to the North West Brampton shale protection policies in the Regional Official Plan are appropriate and whether shale protection should continue or be removed, in whole or in part, in order to permit urban development to proceed. A final draft study report titled "North West Brampton Policy Area Review Study Report" ("the Study Report") has been completed to assist in determining the proposed policy direction. The Study Report is available from the Office of the Regional Clerk for viewing and on the Region of Peel Planning webpage.

The Regional Official Plan (Official Plan) identifies the North West Brampton Urban Development Area within the Urban System. The policies of the Regional Official Plan require the City of Brampton to designate all lands west of Mississauga Road as a policy area known as the North West Brampton Policy Area ("the Policy Area") to provide for the protection of the area for shale extraction while recognizing that the long-term use of these lands will be for urban purposes (see Appendix I). Amendments to the Policy Area boundary and policies were prohibited for a period of at least 10 years following approval of the policy by the Ontario Municipal Board on December 8, 2006.

a) Study Scope

On June 9, 2016, Regional Council approved terms of reference to commence the policy review study following expiry of the 10-year moratorium. In December 2016, Meridian Planning Consultants (Meridian) were hired to undertake the review and provide an analysis of the implications of continued shale resource protection and an opinion on whether the Regional Official Plan policies that apply to the Policy Area should be retained or deleted in whole or in part. Components of the study have included:

- the delineation of shale resources within the study area;

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- a technical review to assess the quality, quantity, and accessibility of shale resources;
- a summary of the current Provincial, Regional and City of Brampton policy context;
- an economic analysis of the factors that would apply to a decision to continue shale protection in whole or in part; and
- an analysis of the impact to the Region's and City's growth management planning within North West Brampton in relation to accommodating planned growth to 2031 and 2041.

A copy of the relevant policy providing direction for the study in section 5.3.4.2.2 f) v) of the Regional Official Plan is available on the Region of Peel Planning website.

The study has advanced to a stage of reporting final draft study results to Regional Council for direction to complete consultation with stakeholders and then report back to Regional Council on a recommended amendment to the Regional Official Plan.

b) Planning in Heritage Heights/ Planning for Complete Communities

The shale protection policy framework for the Policy Area impacts the overall planning for the Heritage Heights secondary planning area. The Heritage Heights study area includes lands that overlap with the shale protection area (see Appendix II). To accommodate the growth forecasted to 2031, the City of Brampton Official Plan allocates a residential target of 43,000 persons and employment target of 20,000 jobs to the Heritage Heights Secondary Plan Area. On October 26, 2017, Regional Council endorsed a proposed allocation of population and employment for the Region to 2041 for consultation purposes as part of the current five-year review of the Regional Official Plan (Peel 2041) and a preliminary land budget which allocates additional growth to Heritage Heights to accommodate projected growth in the City of Brampton.

The proposed GTA West Corridor was a key component of the planning for Heritage Heights and a key input into the transportation network to support growth to 2041. The corridor protection area overlaps with the shale protection boundary as shown in Appendix III. The current status of the corridor will need to be reviewed and will require further review of the transportation assumptions that formed the transportation component of the integrated Growth Management Strategy.

As the Region and City continues to study and plan for this area, a determination of shale protection in North West Brampton is required to provide greater certainty for the planning of growth. This determination of shale protection has implications to the Region's Growth Management Program, which is comprehensively evaluating infrastructure, financial and community planning objectives of future growth scenarios in Peel and the final approval of growth allocations to 2041 in the Regional Official Plan.

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c) Stakeholder Consultations

The project team consulted with landowners who have an interest in North West Brampton, representatives of the brick industry, including Brampton Brick Limited, the Province, the City of Brampton, the City of Mississauga and the Town of Caledon (through the Planning Technical Advisory Committee). Relevant background information and an understanding of the positions of the stakeholders in relation to the study findings were requested. A summary of stakeholder comments received is found on the Region of Peel Planning Website.

As a result of these initial consultations, the Province has requested additional time to review material and an additional meeting with Regional staff prior to providing comments on the study.

2. Overview of Key Findings

The following section provides a summary of the key findings that are presented in the Study Report.

a) Location and Significance of Shale Resources in Peel Region

The first phase of work involved undertaking a review of the location of shale resources. Updated shale resource mapping was obtained from the Province and used to identify shale protection scenarios, including full protection with no change to the Policy Area, full protection up to 15m (49 feet) of overburden, partial protection up to 8 meters of overburden (net of major constraints), and full removal of shale protection (see Appendix IV). These scenarios were used to evaluate implications with respect to growth, infrastructure costs, and community planning objectives while considering Provincial, Regional and City of Brampton policy requirements.

The Study Report confirmed that Queenston shale resources in North West Brampton are provincially significant and that the area is one of the few remaining accessible shale resource areas in Ontario for brick making. The study further concluded that long term production of brick making from Queenston shale to supply the Ontario market beyond current licenced supplies and reserves would require additional shale licences to be issued. Additional information regarding shale resources and brick manufacturing in North West Brampton and Southern Ontario is provided in the Study Report.

b) Shale Licences in the Region of Peel

The Regional Official Plan policy framework intentionally facilitated an opportunity for shale extraction in North West Brampton by ensuring the shale protection policies would remain in place for a 10-year minimum. During this time period (2006-2018) one application for a quarry licence was filed by Brampton Brick Limited (Norval Quarry); however, this application was appealed and then withdrawn by Brampton Brick Limited in April 2018. Brampton Brick Limited sought to establish a quarry in Norval, within the Greenbelt Plan boundary, immediately adjacent to the Regional Urban Boundary. No quarry applications were made within the urban portion of the Policy Area and no sites have been acquired for the purposes of making an application for a new licence prior to or during the 10-year moratorium period.

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Minutes of settlement reached between the City of Brampton and Brampton Brick Limited state that the parties agreed to allow the existing planning framework for shale protection applicable to the Brampton Brick lands within the Greenbelt to continue to remain in place until such time as the lands may be considered for other uses. These minutes are available on the Region of Peel Planning website.

c) Growth Management in Peel Region

In 2006, Regional Official Plan Amendment 15 extended the Regional Urban Boundary to include all the lands in North West Brampton and amended the planning horizon for North West Brampton to 2031. The Region is currently undertaking the Peel 2041 Regional Official Plan Review to bring the Official Plan into conformity with the Growth Plan 2017. In order to efficiently manage growth, all of the lands within the Policy Area have been planned to accommodate additional residential and employment allocation to 2041 to facilitate the planning of Heritage Heights.

The North West Brampton Shale Resources Policy Review included an evaluation of infrastructure and community planning implications of retaining full shale protection, providing partial protection of shale resources, and providing full removal of shale protection. The evaluation of protection scenarios was considered along with the feasibility of shale extraction as an interim use in advance of urban development. Study results indicate there are significant growth management, community planning and infrastructure servicing implications of continuing either full or partial shale protection policies in North West Brampton. Details of the planning, economic and infrastructure cost implications are provided in the Study Report.

d) Conformity with Provincial Plans and Policies

The province has clarified that the Provincial Policy Statement, 2014 is to be read in its entirety with all relevant policies being applied. When more than one policy is relevant, municipal councils are required to consider all relevant policies to understand how they work together, and with respect to North West Brampton, how to ensure that the policy direction to protect a provincially significant shale resource is balanced against policy direction requiring municipalities to provide sufficient land to accommodate growth.

The relevant policies in the Provincial Policy Statement, 2014 and the Growth Plan, 2017 apply in the consideration of whether shale protection should continue or be released in whole or in part.

A detailed analysis of the relevant policies applicable to aggregate resources in the Provincial Policy Statement, 2014 and the policy context in the Growth Plan, 2017, the Regional Official Plan and the City of Brampton Official Plan is provided in the Study Report.

e) Study Conclusion

The study findings by Meridian concluded that the Policy Area lands are appropriate for urban development and that full urbanization of the Northwest Brampton Urban Development Area serves a greater long-term public interest than protecting the lands for shale extraction. The Study Report concluded:

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- The Policy Area lands have been approved to accommodate growth to 2031 and are currently being planned to accommodate additional population and employment to 2041 in accordance with policy direction in the Provincial Policy Statement and Growth Plan;
- If the Policy Area lands were not included as development lands, new greenfield areas, along with associated servicing costs, would be needed;
- Servicing cost implications of shale protection scenarios vary and are potentially significant based on an economic analysis of impacts;
- Servicing cost implications are potentially most significant for the full and partial shale protection scenarios;
- Extending urban development in Heritage Heights is logical and aligns with significant planned community, infrastructure and institutional investments;
- The feasibility of extracting shale resources from lands in the urban portion of the Policy Area is very remote and would require land assembly and acquisition costs that would be uneconomical for a shale quarry;
- No quarry applications were made within the urban portion of the Policy Area and no sites have been acquired for the purposes of making an application for a new licence prior to or during the 10-year moratorium period; and
- The removal of lands from the urban boundary would not be consistent with previous decisions to include the lands in the urban boundary and would be unprecedented in Ontario.

The Study Report's conclusions are based on a comprehensive consideration of relevant policies in the Provincial Policy Statement, 2014, Growth Plan 2017, Region of Peel Official Plan and City of Brampton Official Plan. An appropriate consideration and balancing of the policy direction for community planning and aggregates has been addressed through the study review. The study findings, planning opinion and recommendation to remove shale protection have fully addressed the factors to be considered in accordance with policy 5.3.4.2.2 f) v) of the Regional Official Plan:

- The issuance of a licence or filing of an application under the *Aggregate Resources Act*;
- The assessment of population and employment forecasts in the Region of Peel and City of Brampton; and
- The relevant provincial policies which are in effect.

The Study Report has therefore completed the review requirements of the Regional Official Plan.

3. Proposed Direction

a) Regional Official Plan Amendment

Based on the study findings staff recommends amending the Regional Official Plan as summarized below.

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1. Remove Shale Protection Policies

It is recommended that shale protection policies be deleted on all lands west of Mississauga Road within the North West Brampton Policy Area excluding that portion outside the Regional Urban Boundary within the Greenbelt Plan Area. The revisions to remove the shale protection policies would release the lands for urban development and allow the completion of planning approvals necessary to permit urban development to proceed in accordance with staging and phasing acceptable to the City and Region.

2. Amend Schedule C to the Regional Official Plan

The implementation of the recommendations to release lands for urban development will require a corresponding amendment to Schedule C in the Regional Official Plan to remove the identification of High Potential Mineral Aggregate Resource Area on all lands west of Mississauga Road excluding that portion outside the Regional Urban Boundary within the Greenbelt Plan Area.

3. Maintain the Identification of the North West Brampton Policy Area

Staff also recommends that consideration be given to retaining the Policy Area on all lands west of Mississauga Road for the purposes of maintaining the existing policy which permits the extraction of shale to occur without an amendment to the Brampton Official Plan. The policy continues to be relevant to the implementation of provincial policy direction for shale resources. Policies permitting shale extraction to proceed without an amendment to the Brampton Official Plan would continue to be subject to policies included in the Brampton Official Plan governing the rezoning of the lands for mineral extraction in the City's zoning by-law, and subject to the approval requirements and the issuance of a licence under the *Aggregate Resources Act*.

During consultation on the study findings, some landowners in North West Brampton indicated a preference that the exemption from the requirement of an official plan amendment for shale extraction not be retained in the urban portion of the Policy Area. Regional staff will be consulting with Provincial staff and following those consultations will further consider the need to include the exemption policy in the drafting of the recommended amendment.

Staff will continue to engage Provincial staff, local municipal staff, stakeholders and landowners on the draft amendment as outlined in the staff report prior to reporting to Regional Council and will report back on any comments received.

Staff proposes that the Regional Official Plan Amendment to the Policy Area be processed as a Regionally-initiated amendment in accordance with Section 17 of the *Planning Act*.

b) Private Amendments to Remove the North West Brampton Policy Area Shale Protection In Heritage Heights

The Heritage Heights Landowners Group and Osmington Inc. have filed Regional and Local Official Plan Amendment applications to request removal of the shale protection

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policies from their properties. Regional staff has provided comments that the applications are premature and incomplete as they have not included a comprehensive review of the North West Brampton Policy Area policies as required in the Regional Official Plan. The requests for removal of shale protection are being considered and will be addressed through the North West Brampton Policy Area study process. A summary of the status of these applications is provided in Appendix V.

FINANCIAL IMPLICATIONS

The staff recommendation to amend the Regional Official Plan in order to fully remove the shale protection policies do not result in financial implications to the Region's infrastructure capital program.

RISK ASSESSMENT

The North West Brampton Policy Shale Resources Policy Review has comprehensively assessed the risks associated with continued full and partial shale protection scenarios in North West Brampton. If shale protection were to continue in North West Brampton indefinitely or beyond current planning horizons to 2031 or 2041, a significant amount of population and employment growth would need to be accommodated elsewhere and most likely in new greenfield areas that would impose new servicing costs in addition to the servicing costs that would continue to be required in North West Brampton if partial protection options were implemented. Further analysis based on the financial assessment of infrastructure costs implications is provided in the study report.

The Province has not finalized its position on shale protection but has requested that the Region consider some level of shale protection in North West Brampton. Since staff are proposing a policy direction that fully removes shale protection, there is a risk that the Province may appeal a decision by Council to the Local Planning Appeals Tribunal. A Regional Council decision to adopt an amendment to the Regional Official Plan is potentially open to appeal by any party that has provided comments to the Region prior to adoption of the amendment.

CONCLUSION

Based on the study findings, staff recommends that the current shale protection policies be removed from the lands within the urban portion of the North West Brampton Policy Area. As a result, urban development will be permitted to proceed unencumbered in accordance with the City of Brampton's secondary planning process. The recommended amendments to the shale protection policy framework satisfies the greater long-term public interest as opposed to protecting the lands for shale extraction.

Regional staff have considered the recent Minutes of Settlement that were entered into between the City of Brampton and Brampton Brick Limited in regard to the Norval Quarry Ontario Municipal Board Appeal. While these minutes do not bind the Region, staff has been mindful of the policy direction established. Staff are satisfied that the proposed Regional Official Plan policy direction does not interfere with the City of Brampton's ability to implement this settlement agreement.

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Staff will continue to engage Provincial staff, local municipal staff, and stakeholders on the draft Regional Official Plan amendment as outlined in the staff report prior to reporting to Council and will report back with a recommended amendment and seek authorization for statutory consultation under the *Planning Act*.



Janette Smith, Commissioner of Public Works

Approved for Submission:



D. Szwarc, Chief Administrative Officer

APPENDICES

- Appendix I - Map of the North West Brampton Policy Area
- Appendix II – Map of the Heritage Heights Planning Area
- Appendix III - Areas of Interest Impacted by GTA West Corridor Environmental Assessment Study and Northwest GTA Corridor Identification Study
- Appendix IV - Shale Protection Scenarios
 - Scenario 1 - Partial Protection up to 8m (Net Major Constraints)
 - Scenario 2 - Full Protection (Status Quo)
 - Scenario 3 - Protection Up to 15m of Drift Thickness in the Area of Interest
 - Scenario 4 - Full Removal of Shale Protection
- Appendix V - Applications for Official Plan Amendments to Remove Shale Protection Policies

The following further information is available on the Region of Peel Planning website:

1. Excerpts of the Regional Official Plan Policy 5.3.4.2.2 f) v)
2. Provincial Policy Statement, 2014 - Applicable Mineral Aggregate Resources
3. North West Brampton Policy Area Review Study Report (Draft Report), 2018
4. Fiscal Impact Assessment: North West Brampton Shale Policy Review, 2018
5. Summary of Stakeholder Consultations
6. Minutes of Settlement between Brampton Brick Ltd. and City of Brampton

For further information regarding this report, please contact Adrian Smith, Acting Director, extension 4047, Adrian.smith@peelregion.ca.

Authored By: Gail Anderson, RPP, Principal Planner and Mark Head, RPP, Manager, Research and Analysis Team

Reviewed in the workflow by:
Financial Support Unit