



To: Asana Farshchi
Province of Ontario, Environmental Registry of Ontario (ERO)
Ministry of Municipal Affairs and Housing
ERO #025-1181
Ministry Reference Number #26-OP-255436

From: Nicholas Godfrey
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Subject: **Town of Fort Erie**
Instrument Type: Approval of A Municipality's Official Plan
Official Plan Transition Policies

On September 5th, 2025, the Ministry of Municipal Affairs and Housing received for a decision the Town of Fort Erie's proposed new official plan (By-law 78-2025), which was adopted by the Town's municipal council on August 25th, 2025.

On October 24th, the Province posted the Official Plan from the Town of Fort Erie for a public review and comment on the ERO. The purpose of the proposed plan is to achieve consistency and conformity with provincial policies and plans, and to establish goals, objectives and direction guiding growth and development in the Town to the 2051 planning horizon.

The new Official Plan, once approved, will replace the existing plan, which came into effect in November 2011.

It is understood that the Ministry will review the submitted plan for consistency and conformity with applicable provincial land use policies and plans. The Ministry has stated that all feedback received will be considered before presenting any potential modifications to the Minister of Municipal Affairs and Housing for a decision in accordance with section 17 of the *Planning Act*.

Upper Canada Consultants have considered the Town's adopted Official Plan and make the following recommendations based upon our history and experience with urban planning and development within the Niagara area.



COMMENTS

Transition Policies

The proposed changes to the Town of Fort Erie Official Plan do not include transition policies, particularly as it relates to development applications that are in process. Transition policies provide guidance to policy interpretation for applications that were deemed complete under existing policies, and which would still be under municipal review during the transition to the new Plan.

This is a change from the policies under the Niagara Official Plan, which is currently in effect, and which the new Town of Fort Erie Official Plan is meant to incorporate and implement within their update. For reference, the Region’s transition policies are below in **Table 1**:

Region of Niagara

7.12.2	Plan Conformity
7.12.2.1	All planning decisions shall conform to the Provincial plans and shall be consistent with the Provincial Policy Statement, 2020, subject to applicable provincial transition provisions, unless this Plan explicitly states otherwise.
7.12.2.2	Legally existing land uses that conform with in-force Local official plans, zoning by-laws and Ministerial Zoning Orders, at the time this Plan is approved, are permitted to continue to the extent provided for in the Local official plans and zoning by-laws and Ministerial approvals.
7.12.2.3	Development applications which have not been deemed complete by the date of this Plan’s approval shall be subject to the policies of this Plan.
7.12.2.4	Notwithstanding Policy 7.12.2.3, the transitional policies in Section 3.1 associated with the natural environment system shall apply.
7.12.2.5	Development applications deemed complete prior to the date of this Plan’s approval shall be permitted to be processed, and a decision made under the Local and Regional Official Plan policies, as well as Provincial policies that existed when the application was deemed complete.
	7.12.2.6 A decision on an application to amend this Plan deemed complete prior to provincial approval of this Plan is exempt from Section 22(2.1) of the Planning Act.
	7.12.2.7 In accordance with Section 22(2.2) of the Planning Act, an application to amend this Plan to establish a new or expanded mineral aggregate operation is allowed to be submitted before the second anniversary of the first day that this Plan came into effect.

Region of Niagara

3.1.30.4	Ongoing and Approved Secondary Plans
3.1.30.4.1	Where a secondary plan has been approved after July 1, 2012, those portions that are not subject to a draft approved plan of subdivision or plan of condominium shall be approved in accordance with the approved mapping and policies of the secondary plan.



3.1.30.4.2	Where a secondary plan was approved prior to July 1, 2012, those portions that are not subject to a draft approved plan of subdivision or plan of condominium shall be subject to the mapping and policies of this plan. Conformance with the mapping and policies of this Plan be done through an update to the secondary plan or through the approval of individual plans of subdivision or plans of condominium, as determined appropriate by the Local Area Municipality.
3.1.30.4.3	For secondary plans in process, the mapping and policies of this Plan shall be considered in the work program and Local official plan amendment, to the satisfaction of the Region.

The Region's transition policies ensured there was fairness and consistency regarding the review and approval of applications deemed complete prior to the adoption of the new plan.

It is recommended that similar policies be included within the Fort Erie Official Plan to provide clarity and consistency for applications that have been deemed complete and are underdoing land use approvals and that the Minister modify the plan to include transition policy provisions as part of Ministerial approval. This is recommended for several reasons. First, transition policies help manage the impact of new or changed Official Plan policies, and ensure that lawful uses existing before the changes were adopted can continue while the new policies are phased in.

Second, the process of preparing a development application, particularly for complex projects, requires significant time and financial investment from an applicant. These costs can include hiring consultants, completing technical studies, and public consultation. Many of the studies required as part of a complete submission take time to prepare, and are sensitive to changes in policies that were not available for review or contemplation at the time of their preparation.

Third, the developable areas within the Secondary Plan areas were established through a prior, legislated consultation process. The absence of transition policies introduces uncertainty regarding future growth, potentially compromising the ability of these areas to meet their projected growth targets.

Finally, transition policies help provide stability, by offering clarity and predictability for applications that are already being processed, and removing legal uncertainty and associated costs for both the Town and applicants.

A case study for reference in Niagara is the Town of Pelham. They have incorporated transition policies within their draft Official Plan update. These are available for reference in **Table 2**:



Town of Pelham

1.3.4	Transition Policies
1.3.4.1	To ensure a smooth transition to the policy framework of this Official Plan concerning applications made under the previous Official Plan of the Town of Pelham, the following transition policies shall apply:
1.3.4.2	Development applications submitted and deemed complete through a Planning Act application before Provincial approval of this Plan and subsequent development applications implementing such development applications (e.g. a site plan application within a larger plan of subdivision) shall be reviewed under policies of the 2012 Town of Pelham Official Plan.
1.3.4.3	Where a development application was submitted and deemed complete before Provincial approval, but the applicant wishes to leverage the policies of this Official Plan, it shall be understood that all remaining portions of the development and subsequent applications will then be reviewed under the guidelines of this Plan. For any Official Plan Amendments to the 2012 Official Plan that have cleared appeals prior to Ministerial approval of this Plan, the Town will modify this plan to incorporate such amendments.

The Town of Pelham’s proposed policies are a positive precedent for Fort Erie’s OP, as they provide guidance to ensure that there is a smooth transition between applications deemed complete under existing policies.

It is recommended that the Town of Fort Erie's Official Plan maintain procedural fairness and provide certainty by incorporating clear transition policies. This will ensure consistent direction for staff and applicants regarding applications deemed complete under the existing framework, preventing the review of plans against policies that were not in effect at the time of submission.

It is our opinion that this request will facilitate appropriate forms of development that will contribute to the achievement of community goals and additional housing supply and forms. This request is considered to be in the public interest and represents good planning, therefore, should be approved by the Province.

Prepared and recommended by:

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