



MUNICIPALITY OF THAMES CENTRE

REPORT NO. PDS-015-24

TO: Mayor and Members of Council
FROM: Director of Planning & Development Services
MEETING DATE: March 11, 2024
SUBJECT: RENEWABLE ENERGY APPROVALS PROCESS

RECOMMENDATION:

THAT Report No. PDS-015-24 with respect to the “Renewable Energy Approvals Process” be **RECEIVED** for information.

PURPOSE:

The purpose of this report is to provide an overview of the Renewable Energy Approvals Process.

BACKGROUND:

The provincial government has recognized that support from local communities is vital to the construction of new-build energy projects. In 2018, the Green Energy Repeal Act gave powers back to municipalities regarding how land use for renewable energy is regulated and approved in Ontario, including but not limited to restoring municipal siting authority under the Planning Act over new proposed projects. In other words, municipal council support is now required for renewable energy projects on sites situated within their respective municipal boundaries.

COMMENTS:

Through Bill 34, the Province of Ontario repealed the Green Energy Act and amended the Planning Act. These amendments resulted in municipalities having the authority to refuse renewable energy projects within their municipal boundaries.

Under the new statutory provisions an applicant proposing a renewable energy project that requires a zoning by-law amendment has no right of appeal to the Ontario Land Tribunal if refused by a municipality. Section 34 (11.0.7)¹ of the Planning Act states that there is no

¹ 34(11.0.7) No appeal re renewable energy undertakings—Despite subsection (11), there is no appeal in respect of all or any part of an application for an amendment to a by-law if the amendment or part of the amendment proposes to permit a renewable energy undertaking.

right of appeal in respect of all or part of an application for an amendment to a (zoning) by-law if the amendment or part of the amendment proposes to permit a renewable energy project. Note that these new provisions do not apply to an appeal by the Ministry of Municipal Affairs and Housing².

It is our understanding that there are no lands situated within the Municipality of Thames Centre that are zoned to permit a wind farm or other similar renewable energy project. In other words, any renewable energy project being situated in Thames Centre requires a zoning by-law amendment which means that if such amendment is refused, there is no right of appeal by the applicant.

The purpose of Part V.0.1 of the Environmental Protection Act (the "EPA") is to create a "one window renewable energy approval process," intended to streamline the review and approval of renewable energy projects. Projects that obtain a renewable energy approval (the "REA") are exempt from air approval under section 9; waste management approval under section 27; and several approvals under the Ontario Water Resources Act, such as water-taking permits, waterworks approvals, sewage works approvals, plus other permits prescribed by the regulations. Any project that would formerly have required any of these approvals requires a renewable energy approval instead.

The Renewable Energy Approvals Regulation (O. Reg. 359/09) outlines criteria for applicants to acquire a renewable energy approval.

On May 31, 2019, the Ontario government published Ontario Regulation 122/19 – Renewable Energy Approval under Part V.0.1 of the Environmental Protection Act ("O. Reg. 122/19"). O.Reg. 122/19 amended the existing regulation applied to renewable energy projects being O. Reg. 359/09.

The amendments implement by O.Reg. 122/19 " ... *require[s] project developers to submit written confirmation from local municipal authorities indicating that the proposed use of land at the project location is not prohibited by a zoning by-law or zoning order under the provisions of the Planning Act.*"³

The result of the amendments to the approval process means that applicants of a renewable energy project must provide confirmation from the local municipal authority to be eligible to apply for or receive a renewable energy approval.

The required written confirmation must be provided by:

1. The local municipality where the project is located, or
2. each planning board that has jurisdiction in the area, or
3. the Ministry of Municipal Affairs and Housing (MMAH) if the project location is situated in an area without municipal organization or a planning board.

² [Bill 34](#), An Act to repeal the Green Energy Act, 2009 and to amend the Electricity Act, 1998, the Environmental Protection Act, the Planning Act and various other statutes, 1st Reading, 42nd Leg, Ontario, 2018, 2

³ Environmental Registry of Ontario, "Amending the Renewable Energy Approvals Regulation to help restore municipal authority" (11 June 2009) online

These provisions apply to both new renewable energy projects as well as existing projects proposing to expand their facility onto a new parcel of land. The revisions also apply to all applications for renewable energy approvals under review by the Ministry.

O. Reg. 122/19 also provides municipal planning authorities control over the siting of renewable energy projects by requiring applicants seeking a renewable energy approval to obtain municipal confirmation that the renewable energy project is compliant with the Planning Act and also demonstrate that, "...there is demand for the electricity that is proposed to be generated at the renewable energy generation facility."⁴

One further impact of the revisions to REAs was that repeal of sections 50(3)(d.1) and 50(5)(c.1) of the Planning Act and the restoration of subdivision and part-lot control over leases exceeding 21 years or longer. There is also a prohibition on the issuance of a new REAs for projects larger than 500kW unless the project proponent submits documentation demonstrating that there is "demand for the electricity that is proposed to be generated at the renewable energy generation facility." Proof of demand for electricity can be established by submitting the documentation prescribed by O.Reg. 122/19.

The Ministry of Environment, Conservation and Parks (the "MECP") is charged with the responsibility for making decisions with respect to renewable energy projects. The REA process is governed by Part IV of O. Reg. 359/09.

The public meeting requirement set out in section 15 of O.Reg. 359/09 does not apply to certain designated renewable energy projects including a Class 2 wind facility, and other identified renewable energy projects.⁵ A proposed renewable energy project is however required to be posted on the environmental registry and publish notification of the project in the newspaper. Therefore, public consultation for certain designated project does not occur in the form of a public meeting and the only opportunity for public comment is through a posting on the environmental registry and notification through publication of a newspaper notice.

The public notice requirements are set out in section 15 of O.Reg. 359/09. There is an exemption from the public meeting consultation requirements but no exemption for the notice of the proposal to engage in the project or posting on the environmental registry as set out above (the "Notice").

The Notice shall be distributed on two separate days in a newspaper with general circulation in the municipality where the project is situated, posted on the proponent's website, sent to every landowner located within 120 metres of the project location if the project is in respect of a renewable generation facility other than a Class 3, 4, 5 wind

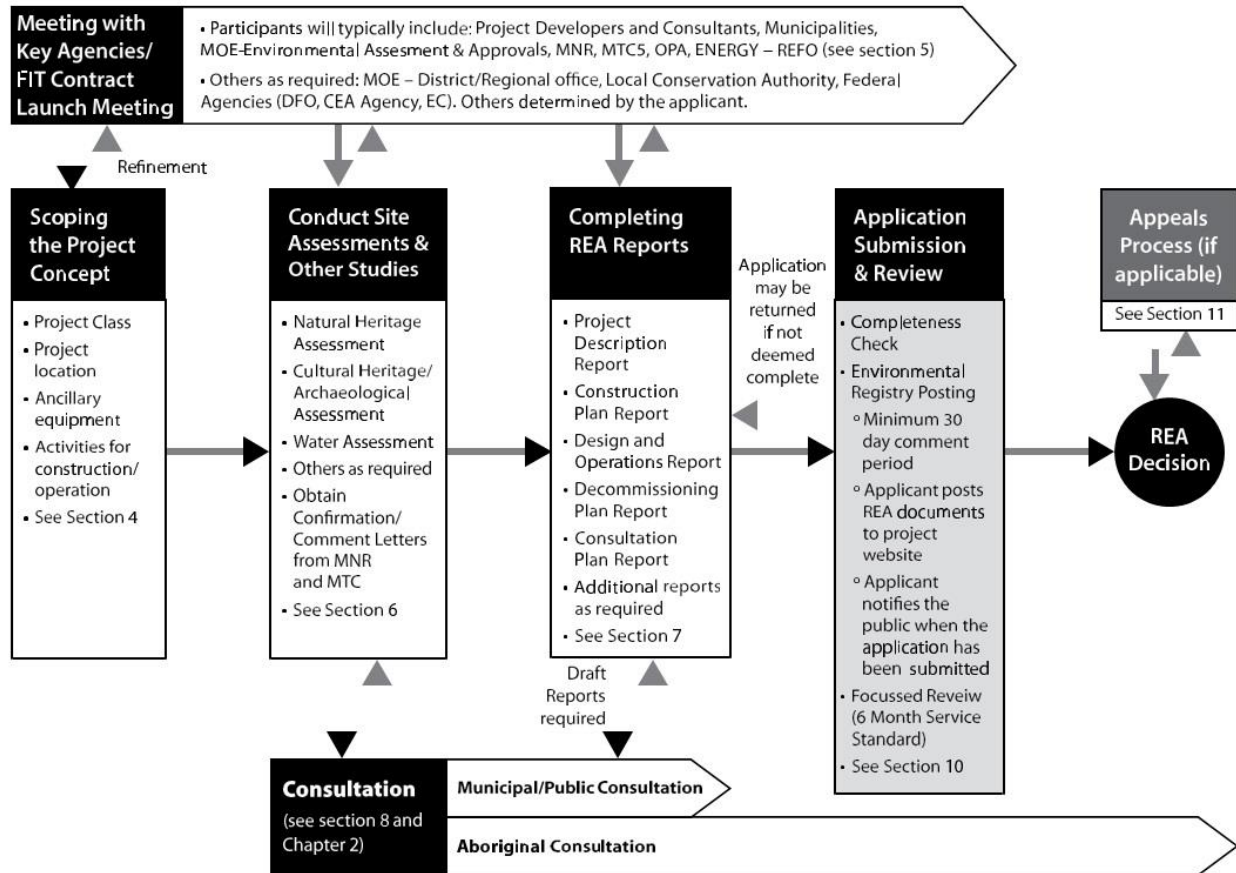
⁴ Environmental Protection Act, R.S.O. 1990, c. E.19, section 57.2(1)

⁵ Section 15(1) states that "A person who proposes to engage in a renewable energy project shall distribute, (a) notice of the proposal to engage in the project; and (b) notices of the location and time of at least two public meetings to be held for the purpose of conducting consultations of the project."

Section 15(2) states "Clause (1)(B) does not apply with respect to a proposal to engage in a renewable energy project in respect of, (a) a Class 2 wind facility; (b) a Class 1 or 2 anaerobic digestion facility; (c) a Class 1 thermal treatment facility, if the generating unit of the facility is located on a farm operation; or (d) a Class 2 thermal treatment facility."

facility. If the project is a class 3, 4, 5 wind facility then notice is sent to every landowner located with 550 metres of the project location and the clerk of the Municipality; among others listed in section 15(6) 5. of O. Reg. 359/09.

A diagram generally of the renewable energy process is set out below:



FINANCIAL IMPLICATIONS:

None.

STRATEGIC PLAN LINK

Pillar: *Community Communications & Engagement*

Goal: *Increase communications between the municipality (Council and Staff) and the public*

CONSULTATION:

Legal Counsel
 Chief Administrative Officer

ATTACHMENTS:

None.

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