

Section I – Items for Board of Directors Action

TO: Chair and Members of the Board of Directors
Friday, June 24, 2022 Meeting

FROM: John MacKenzie, Chief Executive Officer

RE: UPDATE ON MEMORANDUMS OF UNDERSTANDING AND REQUESTED BOARD APPROVAL OF TRCA PROGRESS REPORT
Update on Memorandums of Understanding with partner municipalities

KEY ISSUE

To provide an update to the Board of Directors on work underway to update and develop new Memorandums of Understanding (MOUs) and other agreements with partner municipalities in the context of the updated *Conservation Authorities Act* (CA Act) and regulations, and to obtain Board approval of the first progress report on this work, as required under O.Reg. 687/21, *Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the Act* under the Conservation Authorities Act ("Transition Regulation") and to be submitted to the Ministry of Environment, Conservation and Parks.

RECOMMENDATION:

THAT the update on Memorandums of Understanding and Toronto and Region Conservation Authority (TRCA) progress report, be received;

THAT TRCA's Board of Directors approve this progress report in fulfillment of the first progress report to be submitted to MECP by July 1, 2022, as required by O.Reg. 687/21: *Transition Plans and Agreements for Programs and Services under Section 21.1.2 of the Act*;

AND FURTHER THAT the Clerk and Manager, Policy, circulate this report to TRCA's municipal partners and the Ministry of Environment, Conservation and Parks, in fulfillment of requirements associated with the development and submission of regular progress reports, and that this report also be circulated to Conservation Ontario, neighbouring conservation authorities, the Ministry of Northern Development, Mines, Natural Resources and Forestry, and Ministry of Municipal Affairs and Housing, and partner municipalities.

BACKGROUND

Since 2015, the *Conservation Authorities Act* (CA Act) has been amended three times to provide further clarity and transparency surrounding the programs and services that conservation authorities (CAs) provide and the governance and operations of CAs. These amendments were undertaken through the *Building Better Communities and Conserving Watersheds Act, 2017* (Bill 139), the *More Homes, More Choice Act, 2019* (Bill 108), and the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* (Bill 229). As a result of these amendments to the CA Act, CAs will need to execute Memorandums of Understanding (MOUs) with partner municipalities to govern the funding of municipally requested non-mandatory programs and services, and cost apportioning agreements to govern the funding of other non-mandatory programs and services a CA has determined are advisable to further the purposes of the CA Act. Regular updates have been provided to the Board of

Directors including at the Board of Directors' meetings on February 26, 2021 (RES.#A26/21), June 24, 2021 meeting (RES.#A143/21) and November 19, 2021 meeting (RES.#A224/21).

Finalized CA Act Phase 1 regulations were released by the Ministry of Environment, Conservation and Parks (MECP) on October 1, 2021. A review of the Phase 1 regulations, including the Transition Regulation, and requirements for TRCA under these regulations are outlined in the TRCA report Finalized Phase 1 Regulations Under the Conservation Authorities Act, Environmental Registry of Ontario Posting (ERO #019-2986) (RES.#A211/21), at the Board of Directors meeting held on October 22, 2021, as well as in the update brought forward at the November 19, 2021 Board of Directors meeting (RES.#A224/21).

In accordance with the Transition Regulation, TRCA brought forward a Transition Plan for Board approval at the November 19, 2021 Board of Directors meeting (RES.#A224/21), and a draft inventory of programs and services at the February 25, 2022 Board of Directors meeting (RES.#A8/22). Both the Transition Plan and the draft inventory were circulated to MECP and participating municipalities in accordance with the deadlines set out in the Transition Regulation.

Finalized Phase 2 regulations were released April 20, 2022, which set out requirements associated with the process for conservation authority budgets, the apportionment (formerly referred to as 'levy') to participating municipalities, and the methodology for the determination of the apportionment amounts owed to the conservation authority from participating municipalities, and the public sharing of governance-related information, including the requirement to post high level parent MOUs with municipalities to a conservation authority's website. A detailed update on the Phase 2 regulations is the subject of a separate report to the Board of Directors.

Progress Reports

The Transition Regulation sets out the requirement for conservation authorities to prepare and submit six progress reports to MECP by set deadlines, outlining the following:

- any comments or other feedback submitted by a participating municipality regarding the inventory;
- a summary of any changes that the authority has made to the inventory to address comments or other feedback referred to in clause (a), including the changed inventory and a clear description of the changes between the previous inventory and the changed inventory;
- an update on the progress of negotiations of cost apportioning agreements with the participating municipalities; and
- an outline of any difficulties that the authority is experiencing that might affect the ability of the authority to conclude any cost apportioning agreements with one or more participating municipalities by the transition date.

This Board of Directors report is intended to fulfill the requirement for the submission of the progress report, due July 1, 2022, to MECP.

RATIONALE

Comments or feedback from municipalities regarding the inventory

As of February 28, 2022, TRCA had shared the draft inventory with its participating municipalities (Peel Region, York Region, City of Toronto, Durham Region, Town of Mono and Township of Adjala-Tosorontio), as well as other partner local municipalities within TRCA's jurisdiction.

Between January 1 and June 1 2022, TRCA has had formal meetings with the following municipalities within our jurisdiction to present the draft inventory and to move forward MOU discussions with municipalities within our jurisdiction:

- Region of Peel
- York Region
- City of Toronto
- Region of Durham (July 18 scheduled)
- City of Brampton
- Town of Caledon
- King Township
- City of Markham
- Town of Whitchurch-Stouffville
- City of Pickering
- Township of Uxbridge

In addition, a number of less formal discussions have occurred between TRCA and municipal staff across the jurisdiction to ensure necessary work under existing MOU's and agreements can continue while the new MOUs are being prepared.

Thus far, discussions have been focused on sharing the inventory, the classification of various service areas and program areas within Category 1, 2 and/or 3, the rationale for classifications, and next steps for moving forward MOUs. TRCA is working on scheduling follow up meetings, particularly with participating municipalities, to obtain feedback on the inventory after municipal staff have reviewed and discussed the inventory internally.

Summary of changes made to the inventory to address municipal comments

TRCA is expecting feedback from participating and partner municipalities on the draft inventory and is scheduling meetings to obtain comments. Any changes made to the inventory pending further discussion with municipalities will be noted in future progress reports.

Update on cost apportioning agreements

TRCA does not anticipate a need to enter into cost apportioning agreements under Section 21.1.2 of the CA Act. Since the last update to the Board on February 25, 2022, TRCA has continued to work with participating and partner municipalities to develop and execute MOUs and other agreements for municipally requested programs and services under Section 21.1.1 of the CA Act. A summary of the status of municipal agreements and work to move them forward can be found in **Attachment 1**.

Difficulties experienced in developing agreements by transition date

TRCA has taken a proactive response to developing required agreements with municipalities. As such, most municipalities within TRCA's jurisdiction are well acquainted with the need for developing agreements for municipally requested services.

While the Phase 1 CA Act regulations have set out a deadline of January 1, 2024, for the execution of cost apportioning agreements with participating municipalities under Section 21.1.2 of the CA Act, TRCA is also applying this deadline to the development and execution of MOUs and other agreements under Section 21.1.1 and shall work with partner municipalities to develop and execute MOUs in 2022. This is due to the benefits of entering into these agreements, the requirements of the budget process, as well as the fact that TRCA and municipal staff have already collaborated with many partner municipalities to develop advanced

drafts of MOUs that can now be finalized based on the newly released Phase 2 regulations.

The primary challenge that staff foresee regarding execution of municipal agreements are the municipal elections planned for October 2022, which may result in a delay of some agreements being approved by new Councils. In addition, some high growth municipalities have indicated they have higher priorities for this term of Council that must be accomplished prior to dedicating municipal staff resources into MOU development. Others have questioned the need to expedite MOU development when existing agreements and fee for service work is proceeding well. However, TRCA staff plan to continue to work with municipal staff, where municipal staff are willing, throughout the election to undertake the background work required prior to bringing the agreements forward for Council approval to execute MOUs in early 2023.

Additional updates

As a follow up to the release of the finalized Phase 2 regulations, TRCA drafted and circulated a communication to municipalities within our jurisdiction providing an update on the Phase 2 regulations and noting the importance of moving forward MOU development and execution now that all associated regulations are finalized.

Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategy set forth in the TRCA 2013-2022 Strategic Plan:
Strategy 7 – Build partnerships and new business models

FINANCIAL DETAILS

There is no immediate financial impact due to carrying out the recommendations above. However, it should be noted that this worthwhile effort is involving significant time from staff in all divisions across the organization along with municipal partners. The process of undertaking agreements with municipalities related to municipally requested programs and services provided by TRCA under the amended *Conservation Authorities Act*, as well as with other external organizations, is expected to have positive financial impacts for TRCA based on the interest from most municipalities in providing funding and or jointly seeking funding for a selection of TRCA service areas that support areas of need for the municipalities in question and shared municipal and TRCA interests. However, the addition of new process, reporting and municipal approval requirements by the Province in the Phase 2 regulations may unintentionally result in additional staff time for TRCA and its municipal partners and result in budget approval delays. TRCA has emphasized these matters of concern to our municipal funding partners and neighbouring conservation authorities through input on the Phase 2 regulations and through discussions with MECP staff.

DETAILS OF WORK TO BE DONE

Staff will continue to bring forward quarterly MOU-SLA update reports to the Board and to comply with the requirements of the Phase 1 regulations, will continue to ensure that the content of the Board reports align with the Progress Reports required by MECP. Staff will ensure that MOU-SLA update reports are brought forward to the Board according to timelines that align with the following Progress Report deadlines set out in the Phase 1 regulations:

- October 1, 2022 (Expected Board reporting – September 2022)
- January 1, 2023 (Expected Board reporting – November 2022)
- April 1, 2023 (Expected Board reporting – March 2023)
- July 1, 2023 (Expected Board reporting – June 2023)
- October 1, 2023 (Expected Board reporting – September 2023)

TRCA staff will also continue to carry out discussions and MOU development with both participating municipalities and other partner municipalities in accordance with the timelines set out in TRCA's Transition Plan.

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Attachments: 1

Attachment 1: Municipal MOU Status Progress Table (June 24, 2022)