

## Section III – Items for the Information of the Board

**TO:** Chair and Members of the Board of Directors  
Friday, March 24, 2023 Meeting

**FROM:** John MacKenzie, Chief Executive Officer

**RE: UPDATE AND PROGRESS REPORT ON MUNICIPAL MEMORANDUMS OF UNDERSTANDING**  
Update on Memorandums of Understanding with participating and partner municipalities

---

### KEY ISSUE

To provide an update to Toronto and Region Conservation Authority's (TRCA) Board of Directors on work underway to update and develop new Memorandums of Understanding (MOUs) and other agreements with participating and partner municipalities in the context of the updated Conservation Authorities Act (CA Act) and regulations, and to obtain Board approval of the fourth 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"), to be submitted to the Province.

### RECOMMENDATION:

**THAT the update on MOU's and TRCA progress report, be received;**

**THAT TRCA's Board of Directors approve this progress report in fulfillment of the fourth progress report to be submitted to the Province by January 1, 2023, 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, the Ministry of Natural Resources and Forestry (MNR) and Ministry of Environment, Conservation and Parks (MECP), 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, and the Ministry of Municipal Affairs and Housing (MMAH).**

### BACKGROUND

Since 2015, the CA Act has been amended several 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), the Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020 (Bill 229) and the More Homes Built Faster Act, 2022 (Bill 23). As a result of these amendments to the CA Act,

## Item 9.1

conservation authorities will need to execute MOUs with partner municipalities to govern the funding of municipally requested non-mandatory programs and services, and cost apportioning agreements to govern the funding by a participating municipality 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 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 the MECP and participating municipalities in accordance with the deadlines set out in the Transition Regulation. TRCA has been soliciting input and comments from participating municipalities on the draft inventory, including comments on how TRCA programs and services have been categorized and on the structure and content of the inventory itself.

Finalized Phase 2 regulations were released on 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, 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 was brought forward at the June 24, 2022 Board of Directors meeting (RES.#A84/22).

Thus far, TRCA has submitted three of the six required MOU progress reports all within the timelines required by the Transition Regulation. These progress reports were brought forward as part of the quarterly MOU updates brought to the June 24, 2022 Board of Directors meeting (RES.#A79/22), the September 23, 2022 Board of Directors meeting (RES.#113/22), and the November 10, 2022 Board of Directors meeting (RES.#A176/22). The current Board of Directors report is intended to fulfill the requirement for the submission of the fourth MOU progress report to MNRF, due April 1, 2023.

TRCA was also advised on August 30, 2022 that through new Orders-In-Council made pursuant to the Executive Council Act, the MNRF has been designated as the Ministry responsible for administering the Conservation Authorities Act, rather than the MECP.

## Item 9.1

TRCA will continue to provide MOU progress reports to both the MNRF and MECP during this transition until we are advised by the Province that the transition is complete.

On October 25, 2022, the Province introduced Bill 23, the More Homes Built Faster Act, 2022 (Bill 23). In addition, related legislative, regulatory, policy proposals and initiatives to help the government achieve its goal of building 1.5 million homes over the next ten years were posted for comment on the Environmental Registry of Ontario (ERO). Bill 23 received Royal Assent on November 28, 2022 and it amended several Acts in addition to the CA Act, including the Planning Act, City of Toronto Act, Municipal Act, Development Charges Act and Ontario Land Tribunal Act.

Bill 23 included changes to the CA Act to impose restrictions on non-mandatory review and commenting for certain applications, proposals and other matters that are made under prescribed acts (e.g., Planning Act, Environmental Assessment Act, per O. Reg. 596/22). TRCA responses on the ERO to Bill 23 were brought to the January 13, 2023 Board of Directors meeting (RES.#A22/23).

The recent legislative changes through Bill 23 do not affect other TRCA programs and services. TRCA provides a wide variety of programs and services that further the conservation, restoration, development, and management of natural resources in watersheds across its jurisdiction. Establishing MOUs with municipalities where they are not already in place for the delivery of municipally requested services, as well as other agreements for provision of other non-mandatory services to provincial agencies and infrastructure providers remains a requirement under the CA Act and associated regulations.

### **RATIONALE**

#### Comments or feedback from municipalities regarding the inventory

As of July 25, 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, 2022 and February 28, 2023, 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
- Town of Ajax
- Township of Adjala-Tosorontio
- Town of Mono
- City of Brampton
- Town of Caledon
- City of Mississauga
- King Township
- City of Markham

## Item 9.1

- City of Vaughan
- 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 MOUs and agreements can continue while the new MOUs are being prepared.

Thus far, the draft inventory of programs and services has been well received by municipalities within TRCA's jurisdiction and the following discussions on the inventory have taken place:

- York Region staff met with TRCA staff on September 16, 2022, to request clarification on certain program areas, including which components of the program areas fell under Category 1, 2, or 3. TRCA provided clarification to the satisfaction of York Region staff and will provide information on any similar follow-up questions. York Region staff brought forward further questions on any impacts to TRCA services due to Bill 23, which TRCA has addressed. TRCA continues to meet regularly with York Region staff to develop the MOU and bring it to Council for approval.
- Region of Peel staff provided written comments, questions, and requests for clarification on certain program areas, including which components of the program areas fell under Category 1, 2, or 3, on September 26, 2022. TRCA staff have reviewed the questions, compiled and shared the rationale for service and program classification. As a result of these communications, minor adjustments will be made to the forthcoming finalized inventory on how certain program areas are classified. TRCA continues to meet regularly with Peel Region staff to develop the MOU and bring it to Council for approval.
- Durham Region staff met with TRCA staff on July 18, 2022 to discuss questions on the inventory of programs and services. TRCA has provided formal written responses. The Region has received inventories from all five CAs within their boundaries, compared them and will be meeting the other CAs to determine a consistent approach. After the introduction of Bill 23, the Region requested time to review the new legislation and determine any impacts on the development of MOUs with all CAs within their jurisdiction. TRCA has a meeting scheduled for March 9, 2023 to discuss ongoing work towards the development of an MOU with Durham Region.
- City of Toronto staff requested clarification on the Transition Plan and the classification, cost and funding sources of program areas to be included in the inventory on October 13, 2022. TRCA staff are integrating City of Toronto comments into an updated inventory of programs and services, which, once finished, will be sent to the City for their review. TRCA staff have regularly scheduled discussions with the City Manager's Office to ensure City of Toronto needs and comments are captured in the forthcoming revised inventory and MOU.

## Item 9.1

TRCA will continue to schedule follow up meetings to obtain any additional feedback on the inventory, and to provide responses and clarifications, where needed.

### Summary of changes made to the inventory to address municipal comments

TRCA staff are updating the programs and services inventory based on feedback from participating municipalities and based on informational webinars held by MECP and MNRF. A revised and finalized inventory of programs and services will be brought forward as part of a future MOU Progress Report later in 2023.

### 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 of Directors, which included the third MOU progress report submitted to MECP and MNRF, on November 10, 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. TRCA is also coordinating this work with other conservation authorities that share municipal jurisdictions with TRCA. A summary of the status of municipal MOUs and work to move them forward can be found in **Attachment 1**.

### Difficulties experienced in developing agreements by the required 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 within provincially required timeframes.

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 participating and partner municipalities to develop and execute MOUs in 2023. 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 municipalities within our jurisdiction to develop advanced drafts of MOUs that can now be finalized based on the Phase 2 regulations.

TRCA staff encountered some delays in the development and execution of MOUs due to the October 2022 municipal elections, which delayed agreements from being brought forward to, and approved by, Councils. TRCA staff continued to work with municipal staff through the election and post-election process to undertake the background work required prior to bringing the agreements forward for Council approval.

A major challenge that TRCA has encountered in meeting the January 1, 2024 deadline for municipal agreements is related to the tabling and approval of Bill 23. Both municipal and CA staff were required to divert considerable staff time and resources to analyzing and responding to Bill 23, including assessing impacts to municipal and CA processes, roles, and responsibilities. Bill 23 also created significant uncertainty for municipalities with respect to Category 2 and 3 programs and service due to the addition of subsection (1.1) under sections 21.1.1(1) and 21.1.2(1) of the CA Act. TRCA has worked diligently

## Item 9.1

to understand and communicate implications of Bill 23 and CA services to municipalities. This urgent diversion of staff attention and time, as well as the associated uncertainty regarding which municipally-requested services CAs can provide to municipalities, resulted in many participating and partner municipalities pausing work on MOUs as they sought to understand and respond to implications. Work on MOUs is beginning to resume in 2023 but the delays introduced by Bill 23 may impact TRCA's ability to execute required MOUs by the January 1, 2024 deadline. Any further legislation that may be introduced by the Province in 2023 may have similar impacts of further delaying the execution of MOUs. Staff will continue to re-assess whether an extension request may be required in future 2023 reports to the Board based on the status of MOU approvals across our jurisdiction at that time.

### Additional updates

TRCA continues to work closely with adjoining CAs and CAs that share municipal jurisdictions with TRCA in order to coordinate the MOU process as much as possible, and to facilitate a consistent level of service across municipal jurisdictions. Some participating municipalities within TRCA's jurisdictions, as well as participating municipalities and associated lower tier partner municipalities, have also engaged in meetings with each other to share information, processes and their understanding of the MOU process. TRCA anticipates that this will help provide some consistency in the MOU process and associated content across our jurisdiction.

While TRCA does not anticipate the need to enter into cost apportioning agreements with participating municipalities for Category 3 programs and services, TRCA is also developing Category 3 MOUs and an agreement framework with non-municipal partner agencies and organizations, as indicated by the Provincial and municipal agencies listed in Attachment 1. In addition, TRCA is also exploring MOUs with key post-secondary institutions and school boards with which TRCA regularly collaborates or provides programming or services.

### **Relationship to TRCA's 2022-2034 Strategic Plan**

This report supports the following Pillars and Outcomes set forth in TRCA's 2023-2034 Strategic Plan:

#### **Pillar 4 Service Excellence:**

4.2 Provide and manage an efficient and adaptable organization

#### **Pillar 4 Service Excellence:**

4.3 Responsive relationships and a trusted brand with a reputation for excellence

### **FINANCIAL DETAILS**

There is no immediate financial impact due to carrying out the recommendations above. However, it should be noted that this undertaking 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

## Item 9.1

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 and MNR staff.

### **DETAILS OF WORK TO BE DONE**

Staff will continue to bring forward quarterly MOU update reports to the Board of Directors and, in order 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 the Province. Staff will ensure that MOU 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:

- 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.

**Report prepared by: Victoria Kramkowski, Johanna Kyte**

**Emails: victoria.kramkowski@trca.ca; johanna.kyte@trca.ca**

**For Information contact: Victoria Kramkowski, (647) 920-1632; Johanna Kyte, (647) 426-4565**

**Emails: victoria.kramkowski@trca.ca; johanna.kyte@trca.ca**

**Date: March 2, 2023**

**Attachments: 1**

Attachment 1: Municipal MOU Status Progress Table (March 24, 2023)