

### Section I – Items for Board of Directors Action

**TO:** Chair and Members of the Board of Directors  
Friday, September 22, 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 sixth and final 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 MOUs and TRCA progress report, be received;**

**THAT TRCA's Board of Directors approve this progress report in fulfillment of the sixth and final progress report to be submitted to the Province by October 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;**

**THAT Board of Directors members work with the leadership of their municipalities to move MOUs forward to Council for approval and execution in advance of January 1, 2024 deadline, if not already completed;**

**AND FURTHER THAT the Clerk and Manager, Policy, circulate this report to TRCA's municipal partners, the Ministry of Natural Resources and Forestry (MNR), 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

## Item 12.2

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, 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), November 19, 2021 meeting (RES.#A224/21), March 23, 2023 (RES.#A52/23).

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. An updated inventory that incorporated input from participating municipalities, as well as based on informational webinars held by MECP and MNR, was approved at the June 23, 2023 Board of Directors meeting (RES.#A 115/23) and was circulated to MNR as well as to participating municipalities.

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).

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

Thus far, TRCA has submitted five 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 to the June 24, 2022 (RES.#A79/22), the September 23, 2022 (RES.#113/22), the November 10, 2022

## Item 12.2

(RES.#A176/22), the March 23, 2023 (RES.#A52/23), and the June 23, 2023 (RES.#A 115/23) Board of Directors meetings. The current Board of Directors report is intended to fulfill the requirement for the submission of the sixth and final MOU progress report to MNRF, due October 1, 2023.

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 for initial comments on the draft inventory. Based on these comments, and on informational webinars held by MECP and MNRF, TRCA updated and received Board of Director approval on the inventory on June 23, 2023 (RES.#A 115/23). This updated inventory was shared with participating municipalities to help inform MOU discussions.

Between January 1, 2022 and September 1, 2023, TRCA has had, and continues to have, 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
- Township of Adjala-Tosorontio

## Item 12.2

- Town of Mono
- City of Brampton
- Town of Caledon
- City of Mississauga
- King Township
- City of Markham
- City of Vaughan
- Town of Stouffville
- Town of Ajax
- 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 finalized.

Thus far, the updated draft inventory of programs and services (approved June 23, 2023) has been well received by municipalities within TRCA's jurisdiction. In general, municipal staff have appreciated seeing their input incorporated into the inventory, particularly related to requests for the provision of additional context when components of services and programs fall into more than one category.

The following discussions on the inventory have taken place since the last progress report was submitted:

- York Region and TRCA staff continue to meet on a monthly basis to move forward execution of the MOU. A mutually agreed-upon and finalized version of the MOU has been provided to York Region staff and York staff are working towards approval of the MOU at the September 14, 2023 Committee of the Whole meeting, followed by tentative approval at the September 28, 2023 Regional Council meeting.
- TRCA continues to meet regularly with Peel Region staff to develop the MOU and bring it to Council for approval. The MOU is tentatively scheduled to be brought to October 26, 2023 Regional Council meeting for approval.
- On June 8, 2023 Durham Region staff provided further written comments on the MOU template. TRCA staff are preparing an updated MOU to address the Region's comments and concerns with the inventory have already been addressed.
- TRCA staff have prepared an updated inventory and MOU to address City of Toronto comments. TRCA staff continue discussions with the City Manager's Office to ensure City of Toronto needs and comments are captured in the forthcoming revised inventory and MOU.

TRCA will continue to schedule follow-up meetings with both participating and partner municipalities to continue to develop and move MOUs forward to Council approval, as needed.

## Item 12.2

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

TRCA staff updated the programs and services draft inventory based on feedback from participating municipalities and based on informational webinars held by MECP and MNRF. This updated inventory was shared in the fifth MOU Progress Report (Dated June 23, 2023, RES.#A 115/23), which outlines the additions and updates included. A final inventory of programs and services will be shared with MNRF by the January 31, 2024 deadline set out in the Transition Regulation.

### 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 fifth MOU progress report submitted to MNRF, on June 23, 2023, 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.

The Transition Regulation sets 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 is working 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.

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 programs and service due to the addition of subsection Sections 21.1.1(1.1) of the CA Act, which restricts conservation authorities from providing natural heritage conformity comments on behalf of municipalities when reviewing development applications. TRCA has worked with its municipal partners to clarify roles and responsibilities resulting from the Bill 23 amendments restricting Planning Act review and commenting on behalf of 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

## Item 12.2

participating and partner municipalities pausing work on MOUs as they sought to understand and respond to implications. Work on MOUs has resumed 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 do not anticipate the need for any extension request. The prescribed criteria for requesting an extension is that additional time is required to conclude a cost apportioning agreement for any Category 3 programs to be included in the levy after the transition date, or to wind down a particular Category 3 program that will no longer be provided after the transition date.

TRCA's ability to enter into an MOU with Peel Region may also be impacted by the *Hazel McCallion Act*, which sets a deadline of January 1, 2025 for the dissolution of Peel Region. TRCA is still required to enter into an MOU where Category 2 programs or services are included in the levy for the 2024 budget year and will make every effort to execute an MOU by January 1, 2024. However, it is recognized that Peel Region staff will have competing work items during this transition, which may impact TRCA's ability to execute an MOU. Furthermore, while still uncertain, it could be expected that the City of Brampton, City of Mississauga, and Town of Caledon will assume the role of participating municipalities upon the dissolution or potentially revised structure of Peel Region, which will necessitate new participating municipality MOUs with those municipalities in addition to the MOU's that are already in place or in-progress. TRCA, in coordination with CVCA, and HRCA will continue to submit information and meet with the Transition Board that has been appointed by the Province to ensure they are aware of our work related to CA Act requirements and the programs, projects and services being advanced by CA's in the Region of Peel to inform their work.

### 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. In addition, TRCA is also exploring new or updated MOUs with key post-secondary institutions and school boards with which TRCA regularly collaborates or provides programming or services.

### **Relationship to TRCA's 2023-2034 Strategic Plan**

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

## Item 12.2

### **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 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 MNRF staff.

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

TRCA staff will continue to work with municipal staff to develop MOUs and move them forward to Council approval and execution. TRCA staff are focusing on meetings with senior staff and Board members from municipalities including Mississauga, Caledon, Ajax, Vaughan, Durham, and Toronto to help achieve Committee and Council dates for consideration of MOU approval within the next two months. While this current report fulfills the final MOU progress report required by the Province, TRCA staff plan to bring an additional Board report forward at the end of 2023 to summarize the completion of any outstanding MOUs still requiring approval. Staff will also submit the final programs and services inventory to MNRF in accordance with the January 2024 deadline.

**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: September 6, 2023**

**Attachments: 1**

Attachment 1: Municipal MOU Status Progress Table (September 22, 2023)