

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

**TO:** Chair and Members of the Board of Directors  
Meeting #4/19, Friday, April 26, 2019

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

**RE:** **TRCA DRAFT COMMENTS TO ENVIRONMENTAL REGISTRY OF ONTARIO (ERO) PROPOSED AMENDMENTS TO GENERAL REGULATION 334 UNDER THE ENVIRONMENTAL ASSESSMENT ACT TO SUPPORT THE EFFICIENT DISPOSAL OF GOVERNMENT PROPERTY (ERO #013-4845)**

---

#### KEY ISSUE

Toronto and Region Conservation Authority (TRCA) draft comments on the Government of Ontario's proposed amendments to General Regulation 334 under the *Environmental Assessment Act* to exempt the disposal or severance of government-owned property from the requirements of the Public Work Class Environmental Assessment process.

#### RECOMMENDATION

**WHEREAS the Province of Ontario has posted the proposed amendments to Regulation 334 under the Environmental Assessment Act, for public comment on the Environmental Registry of Ontario (ERO);**

**AND WHEREAS the ERO imposes a May 2, 2019 deadline for submission of comments to the Province;**

**THEREFORE LET IT BE RESOLVED THAT the Toronto and Region Conservation Authority (TRCA) staff report and draft comments on the Ontario government's proposed amendments to General Regulation 334 under the *Environmental Assessment Act*, be received and that any comments from the Board of Directors be considered in informing TRCA's final ERO submission;**

**AND FURTHER THAT Infrastructure Ontario, municipal partners and Conservation Ontario be so advised.**

#### BACKGROUND

On March 18, 2019, the Ministry of Government and Consumer Services (MGCS) released a proposed amendment to General Regulation 334 under the *Environmental Assessment Act*, on the Environmental Registry of Ontario (ERO), due May 2, 2019. The [ERO posting](#) does not include the proposed written amendments to the Regulation. This request for comments is further to the Province's direction to reduce regulatory burden and red tape, and introduce streamlining measures by eliminating duplication of tasks, in this case regarding the disposition or severance of government property. "Disposition" refers to the sale or lease of all or part of a property, or the granting of an easement, resulting in a change of ownership or the granting of an interest in the property from one party to another. "Severance" refers to the division of a property into more than one lot. The government's intention is also to be consistent with the exemption of government land severances from typical notification and approval requirements under the *Planning Act*, which is nullified in part due to the current requirements for consultation related to land disposition contained within the 334 Regulation.

## Item 8.10.

A class environmental assessment sets out the process for a “class” or group of activities under the *Environmental Assessment Act*. The current process outlines requirements surrounding contacting other agencies and seeking a request from, or the consent of, the local municipality before disposing of or severing property for sale to a third party. If the proposed changes to General Regulation 334 are approved, the Public Work Class Environmental Assessment would no longer apply to dispositions or severances of government property, and the future owner of the property or long term lease that has been subject to the disposition would be responsible for meeting any related environmental obligations. The Province through MGCS would propose changes to update the Public Work Class Environmental Assessment to reflect these changes.

### **RATIONALE**

TRCA has an ongoing interest in the amendments proposed, given our roles as a resource management agency, a regulator under Section 28 of the *Conservation Authorities Act*, a public commenting body under the *Planning Act* and the *Environmental Assessment Act*, and as a landowner. TRCA has many years of experience working through this regulation and its precursors on major government initiatives including Seaton Land Exchange, Rouge Park transfers and numerous provincial dispositions. TRCA has the following draft recommendations to inform the ERO. TRCA's full draft comments supporting these recommendations are detailed in Attachment 1:

- **The Class EA process currently provides the only opportunity to identify site constraints, and to properly study and conduct due diligence on lands that should be conveyed to a public body, such as a CA or municipality, before provincial lands are posted for sale to private buyers. This process of conducting up front due diligence increases certainty for the prospective purchaser of the land and the CA or public body that may be the recipient of the lands at the end of the disposition and planning process. TRCA has had countless experiences where upfront due diligence by the province to fulfill the Class EA requirements has led to more timely and informed decisions (Seaton, Rouge Park, East Markham including Box Grove etc.).**
- **Municipalities and CAs should be notified of a proposed severance and/or disposition by the Province, so the CA and municipality can identify constraints early in the planning process, speed up the development approvals process and ensure certainty to prospective purchasers as they prepare plans and undertake development pro formas. While it may not be necessary to continue to use the current Class EA process for these purposes, there should continue to be a process for ensuring the appropriate due diligence (e.g. archaeological, environmental site assessments, land surveys, etc.) is completed prior to the disposition of public lands. Furthermore, the current Class EA process for land disposition builds in an Indigenous Consultation component and it is unclear how such requirements of the Crown will be met with these changes if public lands are being conveyed to other entities.**
- **There should continue to be a process where the natural hazard and provincially significant natural heritage system portion of lands to be sold are retained in some form of public ownership, whether provincial, CA, or municipal. There may certain situations where land sales or severances may be exempt from this**

## Item 8.10.

process, such as when a *Planning Act* approval or an *Environmental Assessment Act* approval has already taken place. TRCA would be amenable to participating in further discussions, which may involve Infrastructure Ontario (IO), Conservation Ontario, TRCA, and other CAs with IO-managed lands in their jurisdiction, as such a process would provide certainty for IO and all involved in ongoing asset management.

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

This report supports the following strategies set forth in the TRCA 2013-2022 Strategic Plan:

**Strategy 2 – Manage our regional water resources for current and future generations**

**Strategy 3 – Rethink greenspace to maximize its value**

**Strategy 4 – Create complete communities that integrate nature and the built environment**

**Strategy 7 – Build partnerships and new business models**

### **FINANCIAL DETAILS**

Staff are engaged in this policy analysis work per the normal course of duty, with funding support provided by TRCA's participating municipalities to account 120-12. No additional funding is proposed to support the policy analysis work associated with the preparation of these comments.

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

Upon endorsement by the Board of Directors, and recognizing any input received on the staff comments, the attached draft comment letter will be updated and submitted as TRCA's official comments to the ERO. Staff will continue to brief the Board on other legislative changes that result from this circulation.

**Report prepared by: Daniel Brent, extension 5774; Mary-Ann Burns, extension 5763**

**Emails: [daniel.brent@trca.on.ca](mailto:daniel.brent@trca.on.ca); [mary-ann.burns@trca.on.ca](mailto:mary-ann.burns@trca.on.ca)**

**For Information contact: Mary-Ann Burns, extension 5763**

**Emails: [laurie.nelson@trca.on.ca](mailto:laurie.nelson@trca.on.ca)**

**Date: April 22, 2019**

**Attachments: 1**