

April 25, 2019

BY E-MAIL ONLY (realtypolicybranch@ontario.ca)

Corporate Coordination Help Desk
483 University Ave.
Toronto, ON M7A 1N3

Dear Sir/Madam:

**Re: Response to Request for Comments
Proposed Amendments to General Regulation 334 Under the Environmental Assessment
Act to Support the Efficient Disposal of Government Property
(ERO #013-4845)**

Thank you for the opportunity to comment on the Ministry of Government and Consumer Services (MGCS) circulation proposal for amending Regulation 334 to exempt disposition or severance of property from the *Environmental Assessment Act* requirements, and to reflect these changes in the Public Work Class Environmental Assessment. Toronto and Region Conservation Authority (TRCA) has an ongoing interest in this process given our experience and roles as:

- A regulator under Section 28 of the *Conservation Authorities Act*;
- A public commenting body under the *Planning Act* and the *Environmental Assessment Act*;
- A resource management agency operating on a local watershed basis;
- A body with delegated authority in plan review to represent the provincial interest for natural hazards;
- One of the largest landowners (18,000 hectares) in the Toronto Region; and
- A source protection authority (SPA) under the *Clean Water Act*.

It is our understanding that if the proposed amendments to Regulation 334 are approved, then environmental assessments would not be required for any future dispositions or severances of government property being carried out by or on behalf of the Minister of Government and Consumer Services. "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. We understand that following a disposition or severance any changes in use proposed for a property would be the responsibility of the new land owner. That landowner would be responsible for meeting any related planning and regulatory obligations including meeting the Provincial Policy Statement, official plans, and conservation authority regulations. If approved, the proposed amendments would become effective, at the earliest, on the date of approval, or at the latest, on July 1, 2019.

TRCA has reviewed the proposed legislative changes, and offers the following comments.

TRCA staff engage closely with Infrastructure Ontario staff and potential land purchasers in their due diligence process for the sale of provincially-owned land. This process is triggered through the *Environmental Assessment Act*. Through that process we assist with identifying natural hazards and provincially significant natural heritage systems on the lands, either through a quick clearance process or a more detailed evaluation. The purpose of this is to ensure that natural hazards and provincially significant natural heritage systems on those lands remain in public control to ensure public safety and for the benefit of future generations.

Transferring this due diligence process on to the buyer of the land, in our experience, results in a much longer and challenging development approval process in later stages, as the new landowner may or may not be aware up front of their legal obligations through the *Planning Act* and *Conservation Authorities Act*. By removing the process of screening a specific site with TRCA or municipal staff, Infrastructure Ontario (IO) may also be unaware of the natural hazard and natural heritage constraints on its lands contemplated for sale and ultimately for development, and the sale of the land may be at cross purposes with other provincial objectives. 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. We also note that the current process includes consultation with Indigenous communities and greater clarity is required on how such requirements of the Crown will be met with these proposed changes.

The currently public process of conducting up front due diligence increases certainty for the prospective private purchaser of the land and/or the conservation authority or public body that may be the recipient of the lands at the end of the disposition and planning approval process. TRCA has had countless experiences where due diligence has led to more timely and informed decisions (Seaton, Rouge Park, east Markham, etc.).

TRCA recommends that municipalities and CAs should be notified of a proposed severance and/or disposition by the Province, so the CA and municipality can continue to identify constraints early in the planning process, speed up the development approvals process and ensure certainty to prospective purchasers as they prepare plans and 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.

TRCA further recommends that there 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 certain land sales or severances may be exempt from this 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 IO, Conservation Ontario, TRCA, and other CAs with IO-managed lands, as such a process would provide certainty for IO and all involved in ongoing asset management.

Thank you once again for the opportunity to provide comments on this important initiative. Should you have any questions, require clarification, or wish to meet to discuss any of the above remarks, please contact the undersigned at 416.661.6290 or at john.mackenzie@trca.on.ca or Laurie Nelson, Interim Director, Policy Planning at 416.661.6600 ext. 5281 or at laurie.nelson@trca.on.ca.

Sincerely,

John MacKenzie, M.Sc.(Pl.), MCIP, RPP
Chief Executive Officer

BY E-MAIL

cc:

TRCA:

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