

Item 10.2.

Section III – Items for Board of Directors Information

TO: Chair and Members of the Board of Directors
Meeting #5/19, Friday, June 07, 2019

FROM: John MacKenzie, Chief Executive Officer

RE: **TRCA COMMENTS TO ENVIRONMENTAL REGISTRY OF ONTARIO (ERO)
Modernizing Ontario's Environmental Assessment Program –
Environmental Assessment Act (ERO # 013-5102)
Discussion Paper: Modernizing Ontario's Environmental Assessment
Program (ERO #013-5101)
Bill 108, Schedule 6 (Amendments to Environmental Assessment Act)**

KEY ISSUE

Toronto and Region Conservation Authority (TRCA) comments on the Government of Ontario's proposed amendments to the *Environmental Assessment Act, 2010*.

RECOMMENDATION

WHEREAS the Province of Ontario has posted the proposed amendments to the Environmental Assessment Act, 2010, for public comment on the Environmental Registry of Ontario (ERO);

AND WHEREAS TRCA staff submitted comments to the Province in response to the ERO postings by the May 25, 2019 deadline;

THEREFORE LET IT BE RESOLVED THAT the Toronto and Region Conservation Authority (TRCA) staff report and comments on the Ontario government's proposed amendments to the Environmental Assessment Act, 2010 be received;

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

BACKGROUND

On April 25, 2019, the Ministry of the Environment, Conservation and Parks (MECP) released a [proposed amendment to the Environmental Assessment Act, 2010](#), on the Environmental Registry of Ontario (ERO), due May 25, 2019. Accompanying this posting is [a separate one containing a review document](#), *Modernizing Ontario's Environmental Assessment Program: Discussion Paper*, comments for which are also due May 25, 2019. The ERO postings did not include the proposed written amendments to the Act. On May 2, 2019, the government introduced Bill 108, the *More Homes, More Choice Act*, as part of the Province's Housing Supply Action Plan of the same name. Bill 108 is an Act to amend several provincial statutes, including the EA Act. Schedule 6 of Bill 108 contains proposed legislative amendments to the EA Act.

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The Province has stated that the proposed amendments to the *Environmental Assessment Act* (EA Act) involve the following:

- Focus on higher-risk projects by exempting low-risk activities (e.g. snow plowing and de-icing operations, constructing roadside parks and adding bike lanes) from class EAs;
- Ensure timeliness and certainty for the review of requests to the Minister asking for a higher level of assessment on a project (i.e. “bump-up”), specifically by:
 - Clearly defining on which matters bump-ups can be requested, including matters related to Aboriginal or treaty rights and other matters of provincial importance as prescribed;
 - Authorizing the creation of a regulation that would prescribe limits on when the Minister must make decisions on requests, and deadlines for requesting a bump-up to provide transparency for all involved in the process;
 - Ensuring that Ontarians are given priority over other interests by limiting bump-up requests to only those that live in Ontario; and
 - Clarifying the Minister’s authority to reconsider an approval of a project and ask for additional information on an individual environmental assessment, if deemed appropriate.

RATIONALE

Through service level agreements with municipalities, and other public infrastructure providers (e.g., Metrolinx, Enbridge Gas Distribution), TRCA provides technical advice during the completion of various EAs, as well as at later stages of detailed design and construction under our regulatory role. Where a Crown agency is exempt from the regulatory requirements of the CA Act, TRCA has service agreements in place with select agencies to offer review and comment on a voluntary basis; uptake on voluntary review highlights the need for provincial infrastructure to be protected from natural hazards, including flooding and erosion.

TRCA’s “The Living City Policies” (2014) directs staff participating in the review of applications under the EA Act and the Planning Act, to ensure that the applicant and municipal planning authority are aware of TRCA permitting requirements under our CA Act regulation, where applicable; and further, our staff assist in the coordination of these applications to avoid ambiguity, conflict and unnecessary delay or duplication in the process.

As a major landowner and close working partner with our member municipalities, TRCA is also a proponent or co-proponent of several remediation and infrastructure-related projects, in which the processes set out in the Conservation Ontario Class Environmental Assessment for Remedial Flood and Erosion Control Projects document (CO Class EA) and/or the Municipal Class EA document are followed. As a landowner, the CO Class EA allows TRCA to undertake remedial flood and erosion control projects without applying for formal approval under the EA Act, on condition that the planning and design process in the document is followed, and that all necessary federal and provincial approvals are obtained. Examples of current TRCA projects under the CO Class EA are erosion protection works along the Scarborough Bluffs and other sections of the Lake Ontario shoreline, as well as joint CA-municipal Class EA undertakings for flood remediation to facilitate urban renewal, e.g. Downtown Brampton flood protection EA.

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The proposed amendments to enhance existing Class EAs by enabling exemptions for low-risk activities aligns well with the objectives of current TRCA-CO discussions and plans to update the CO Class EA. The discussions are contemplating a major amendment to the CO document for developing classes of undertakings and establishing exemptions based on screening criteria in the CO Class EA.

With TRCA's diverse roles and experience in mind, TRCA submitted comments to the Province organized by the Discussion Paper questions and then the government's summary of the amendments to the EA Act under Bill 108. The key messages from TRCA comments are as follows:

- **TRCA is supportive of streamlining opportunities for the EA process and has the expertise and experience to partner with stakeholders to assist the government and contribute to realizing efficiencies, especially where multiple approval processes apply.**
- **As a reviewer, TRCA routinely collaborates with other approval agencies in its roles as a service provider, public commenting body and regulator. As a landowner and proponent of CO Class EAs and as a co-proponent of Municipal Class EAs, TRCA works regularly with its municipal partners to reduce duplication and delay.**
- **The principle of ensuring a robust assessment of environmental, social and economic considerations and public consultation processes, appropriately scoped for project scale and location, should be maintained with any proposed amendments or process changes.**

TRCA's full submission to the Province on the EA Act can be found in Attachment 1.

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

Strategy 8 – Gather and share the best sustainability knowledge

Strategy 12 – Facilitate a region-wide approach to sustainability

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.

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DETAILS OF WORK TO BE DONE

TRCA has relayed the message to the Province that we would be pleased to discuss opportunities for enhancing certainty and efficiencies in the infrastructure review process while maintaining the objectives of the EA process. We understand that the Ministry will be consulting on regulations that are developed as a result of changes to the EA Act, and will be hosting webinars for Indigenous communities and organizations, as well as stakeholder groups. We have asked that the government convey the details of these engagement sessions to TRCA as applicable. Staff will continue to brief the Board on other legislative changes that result from this circulation.

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Attachments: 1

Attachment 1: TRCA EA Act Review Comments, May 24, 2019