

## Section I – Items for Board of Directors Action

**TO:** Chair and Members of the Board of Directors  
Meeting #3/20, Friday, April 24, 2020

**FROM:** Laurie Nelson, Director, Policy Planning  
Barbara Montgomery, Legal Counsel

**RE: UPDATE ON PLANNING ACT RELATED MEMORANDUMS OF UNDERSTANDING AND SERVICE LEVEL AGREEMENTS WITH PARTNER MUNICIPALITIES**

---

### KEY ISSUE

To report back on matters related to Toronto and Region Conservation Authority's (TRCA) role under the *Planning Act* when negotiating Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs) with Partner Municipalities in the context of the updated *Conservation Authorities Act* and enabling regulations.

### RECOMMENDATION

**WHEREAS** through Bill 108, the *More Homes, More Choices Act*, the *Planning Act* was amended to streamline development approvals processes and facilitate faster decisions by reducing decision timelines for municipalities and the province;

**THEREFORE, LET IT BE RESOLVED THAT** given the reduced timelines for application review under Bill 108, Toronto and Region Conservation Authority (TRCA) staff be directed when negotiating or updating Memorandums of Understandings (MOUs) and Service Level Agreements (SLAs) dealing with *Planning Act* matters, that agreements include provisions to ensure TRCA can provide comments within the statutory timeframes;

**THAT** such provisions provide a mechanism to ensure official plan policies for complete applications are regularly reviewed to ensure TRCA's requirements are fully reflected; provide for strengthened coordination with TRCA in the municipality's pre-application process; and provide for coordinated representation of municipal and TRCA interests for Local Planning Appeal Tribunal (LPAT) appeals, where feasible;

**THAT** TRCA continues to work with BILD, consultants, development companies and municipal partners on updated TRCA guidelines, that help with the streamlining of applications;

**THAT** TRCA ensure that any fees for services provided to municipalities that are recouped from the taxpayers or service users, be collected in accordance with the *Municipal Act* as well as the *Conservation Authorities Act* and associated regulations; and

**AND FURTHER THAT** the Clerk and Manager, Policy, so advise BILD, the Clerks, the Chief Planning Officials, the Chief Financial Officers, and Legal Counsel of our municipal partners.

## Item 7.8

### BACKGROUND

At Board of Directors Meeting #11/19, held on January 24, 2020, Resolution #A237/19 regarding the "[Update on Memorandums of Understanding and Service Level Agreements with Partner Municipalities](#)" report was approved as follows:

*WHEREAS Toronto and Region Conservation Authority (TRCA) RES.#A121/19, adopted at the June 21, 2019 Board of Directors meeting, directed staff to pursue and execute updated Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs) with its partner municipalities in accordance with the amendments to the Conservation Authorities Act made by Bill 108 and designed to improve accountability and transparency around the work of conservation authorities funded by municipalities;*

*AND WHEREAS the Conservation Authorities Act amendments prompt the need for agreements for non-mandatory programs and services to be negotiated with regional municipalities, City of Toronto and lower tier municipalities as part of the transition plan process following proclamation of the enabling regulations associated with the Bill 108 amendments to the Conservation Authorities Act;*

*AND WHEREAS TRCA delivers a significant amount of value-added services to its partner municipalities that will be further strengthened through SLAs, where formal agreements do not currently exist;*

*AND WHEREAS TRCA staff have held numerous meetings with municipal representatives in our jurisdiction since receiving Board of Directors direction on June 21, 2019;*

*THEREFORE, LET IT BE RESOLVED THAT staff continue to work with partner municipalities to execute updated MOUs and SLAs based on mutually agreed upon services;*

*THAT the Board of Directors representatives in lower tier municipalities request support from their municipal staff in ensuring that consideration is given for TRCA to be relieved from standard purchasing requirements based on their unique expertise and within the scope and mandate of the Conservation Authorities Act (e.g. flood and erosion management) in a manner similar to the City of Toronto and other municipalities in our jurisdiction;*

*THAT staff be directed when negotiating MOUs and SLAs that where there is any conflict between an upper and lower tier municipality for any services related to Planning Act matters, the municipality that is deemed the approval authority under the Planning Act shall prevail;*

*THAT staff report back to the Board of Directors on the progress of these agreements once draft Conservation Authorities Act regulations are released;*

*AND FURTHER THAT the Clerk and Manager, Policy, so advise municipal partners.*

Further to the above, staff were directed to report back to the February 7, 2020 Executive Committee meeting on the potential implementation of the following proposed amendments to Resolution #A237/19:

## Item 7.8

*Resolution #A238/19 (Amendment 1): THAT with Planning Act matters, given the reduced timelines for application reviews under Bill 108, if staff are unable to meet review timelines as needed by the upper or lower tier municipality as applicable, that the MOUs and SLAs include clauses whereby TRCA not be held liable for any ramifications with terms such as “opt out” clauses at the Parties discretion.*

*Resolution # A239/19 (Amendment 2): THAT staff ensure that any fees for services provided to municipalities that are recouped from the taxpayers or service users, be collected in accordance with the Municipal Act as well as the Conservation Authorities Act.*

This report was deferred to the March, (and subsequently the April), meeting of the Board of Directors in order to allow for sufficient review of the implications of the proposed amendments by TRCA’s Legal Counsel and senior staff and the state of emergency declared by the Province.

### **RATIONALE**

Toronto and Region Conservation Authority (TRCA) provides technical support to its municipal partners through Memorandums of Understanding and Service Level Agreements in implementing the natural heritage, natural hazard and water resource policies of municipal and provincial plans. In working with approval authorities, along with private and public proponents, TRCA supports comprehensive planning to ensure development and infrastructure are adequately set back and protected from natural hazards and environmentally sensitive areas. In addition to our role as an agency delegated the responsibility to represent the provincial interest on natural hazards under Section 3.1 of the Provincial Policy Statement (PPS), TRCA achieves these goals in the following capacities:

- A public commenting body under the *Planning Act* and *Environmental Assessment Act*;
- A regulatory authority under section 28 of the *Conservation Authorities Act*;
- A Source Protection Authority under the *Clean Water Act*;
- A service provider to our municipal partners;
- A watershed-based resource management agency; and
- A landowner, being second only to the Province in amount of land ownership in TRCA watersheds.

In these roles, consistent with the Province’s “Policies and Procedures for Conservation Authority Plan Review and Permitting Activities”, TRCA works in collaboration with municipalities and stakeholders to protect people and property from flooding and other natural hazards and to conserve natural resources.

### **Resolution #A238/19 (Amendment 1)**

TRCA recognizes the importance of certainty, efficiency, transparency and accountability in the development review process, so that quality housing supply and supporting infrastructure can be brought to market in a timely and environmentally sustainable manner. TRCA’s past and ongoing efforts to increase operational efficiencies, streamline processes and enhance customer service, which collectively aim to support and contribute to provincial priorities to streamline the planning and development approvals process, were outlined in a [report](#) to the Board of Directors on March 29, 2019. Since that time, staff have been working closely with our municipal partners, the development community, (BILD, individual development companies, consultants and proponents) and Conservation Ontario to continue these efforts.

## Item 7.8

Through Bill 108, the *More Homes, More Choices Act*, the *Planning Act* was amended to streamline development approvals processes and facilitate faster decisions by reducing decision timelines for municipalities and the province to 120 days for official plans and amendments, 90 days for zoning by-laws and amendments (except where there is a concurrent official plan amendment) and 120 days for plans of subdivision. In our submission to the Province when these amendments were proposed, TRCA advised that it would be a significant challenge to meet these proposed timelines without, requiring complete information early in the planning process. TRCA finds that when efforts to compile all required information to make decisions are done well and made early, it leads to innovative more sustainable and approvable urban designs that result in shorter review times, more timely approvals by TRCA and by others, and cost reductions in the short and long term for all stakeholders. This collaborative approach, which includes the provision of high quality information in appropriate formats at the front end of the development process, also helps to avoid appeals to the Local Planning Appeal Tribunal (LPAT) thus avoiding delays, costs and uncertainty associated with these appeals processes. Accordingly, TRCA recommended the shortening of timelines be coupled with mandatory or strengthened requirements for pre-consultation and the upfront submission of complete applications with all supporting technical studies to enable timely municipal and agency reviews. A similar recommendation was made by TRCA in response to the recent review of the Provincial Policy Statement (PPS). These recommendations were unfortunately not addressed in the legislation but TRCA continues to advocate for, and work with BILD, consulting companies, and developers to stress the importance of the approach.

Staff have considered the issue of how MOUs and SLAs can respond to the challenge of reduced timelines for application review under the *Planning Act*. Staff recommend MOUs and SLAs include clauses to ensure TRCA can provide its comments within the statutory timeframes. In cases where TRCA staff are unable to meet review timelines and complete applications as a means of streamlining for reasons, including but not limited to, missing or lack of required information, comments should be provided as soon thereafter as possible. Clauses within the MOUs and SLAs should also address these situations to ensure that TRCA's legislated and provincially delegated and regulatory interests are addressed. Municipalities and approval authorities rely on TRCA's technical advice to ensure decisions on planning applications conform to official plans and are consistent with the PPS. It is therefore recommended that given the reduced timelines for application review under Bill 108, MOUs and SLAs dealing with *Planning Act* matters shall ensure TRCA can provide comments within the statutory timeframes by including provisions that:

- Provide a mechanism to ensure official plan policies for complete applications are regularly reviewed to ensure TRCA's requirements are fully reflected;
- Provide for strengthened coordination with TRCA in the municipality's pre-application process; and
- Provide for coordinated representation of municipal and TRCA interests for LPAT appeals, where feasible.

### **Resolution # A239/19 (Amendment 2):**

TRCA supports a cost recovery approach to setting its fees, consistent with the *Municipal Act* and the *Planning Act*. Under the *Municipal Act*, municipalities may enact bylaws to impose fees and charges for services or activities, or for the use of its property including property under its control. Generally, such fees and charges are determined on a cost recovery basis, as there must be a reasonable relationship between the fee or charge and the cost to deliver the service. Similarly, under the *Planning Act* municipalities may establish fees for the processing of planning applications, designed to meet only the anticipated cost in respect of the processing of

## Item 7.8

each type of application.

In a similar fashion to municipal partners, TRCA assesses fees for services to recover the costs of delivering the services. Currently, TRCA follows the Ministry of Natural Resources and Forestry (MNR) Policies and Procedures for Charging of Conservation Authority Fees and TRCA's Planning, Permitting and Environmental Assessment Fees Policy/Guideline 2009, approved at Authority Meeting #10/09, held on January 8, 2010, Resolution #232/09. In 2011, the Authority directed staff to achieve full cost recovery for eligible planning and development services. TRCA reached 100% cost recovery in 2015 and have maintained it since that time. Fee schedules have been approved by the Board of Directors on a biannual basis. A base fee adjustment for cost of living has been applied for every two years, in addition to the provision of a comprehensive level of service /cost recovery assessment. Prior to seeking Board approval of the fee schedules, it has been TRCA's practice to consult with members of BILD on the proposed fee schedules and cost recovery assessment.

Pursuant to the Bill 139 amendments to the *Conservation Authorities Act* in 2017, which are not yet in force, the Minister may determine classes of programs and services in respect of which a conservation authority may charge a fee, and enact regulations respecting the amounts of fees that may be charged for a program or service, including the manner in which fees are calculated. If no amount is prescribed, the fee is the amount determined by the authority. Subject to the *Conservation Authorities Act* and any new enabling regulations, TRCA will continue to establish its fee schedules based on the principle of cost recovery consistent with current provincial MNR procedures and TRCA policy.

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

This report supports the following strategy set forth in the TRCA 2013-2022 Strategic Plan:  
**Strategy 7 – Build partnerships and new business models**

### **FINANCIAL DETAILS**

Staff are engaged in this legislative review, MOU/SLA, and policy analysis work per the normal course of duty with funding support provided by TRCA's participating municipalities to account 120-12.

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

TRCA staff will communicate to the Board of Directors, municipal partners and relevant stakeholders, once known, information related to the draft enabling regulations under the *Conservation Authorities Act*. Staff will continue to meet with municipal partners and seek opportunities to ensure TRCA's requirements are fully reflected as part of a complete application under the *Planning Act* and to strengthen coordination with TRCA in the municipal pre-application process in an effort to meet the reduced timelines for application review under Bill 108.

**Report prepared by: Laurie Nelson, extension 5281; Barbara Montgomery, extension 5682**

**Emails: [laurie.nelson@trca.ca](mailto:laurie.nelson@trca.ca), [barbara.montgomery@trca.ca](mailto:barbara.montgomery@trca.ca)**

**For Information contact: Laurie Nelson, extension 5281; Barbara Montgomery, extension 5682**

**Emails: [laurie.nelson@trca.ca](mailto:laurie.nelson@trca.ca), [barbara.montgomery@trca.ca](mailto:barbara.montgomery@trca.ca)**

**Date: March 20, 2020**