

Items for the Information of the Regional Watershed Alliance

TO: Chair and Members of the Regional Watershed Alliance Meeting #2/20, Wednesday, May 20, 2020

FROM: Laurie Nelson, Director, Policy Planning

RE: SUMMARY OF 2020 TRCA POLICY CONSULTATION SUBMISSIONS AND RECENT PROVINCIAL POLICY INITIATIVES

KEY ISSUE

Summary of Toronto and Region Conservation Authority (TRCA) policy consultation submissions on federal and provincial initiatives to date in 2020, and a summary of other recent policy initiatives relevant to TRCA interests, for the information of the Regional Watershed Alliance.

RECOMMENDATION

WHEREAS to date in 2020, the Province of Ontario has posted several legislative, regulatory and policy initiatives on the Environmental Registry of Ontario (ERO) relevant to Toronto and Region Conservation Authority's (TRCA) interests;

WHEREAS the federal government requests comments on federal policy initiatives and technical guidance documents relevant to TRCA interests from time to time;

WHEREAS TRCA staff have submitted several letter responses to provincial and federal governments' requests and are in the process of responding to other government proposals not yet due;

AND WHEREAS other various provincial initiatives relevant to TRCA interests have recently been introduced;

IT IS RECOMMENDED THAT TRCA staff report on a summary of completed TRCA policy submissions and TRCA work-in-progress submissions, and other provincial policy initiatives to date in 2020, be received.

BACKGROUND

Since January 1, 2020, the Province of Ontario released for consultation a number of legislative, policy, and regulatory proposals of interest to TRCA, the majority of which were posted on the Environmental Registry of Ontario (ERO). The policy team within the TRCA Policy Planning division are primarily responsible for leading internal reviews of government proposals on a range of matters relevant to TRCA interests. Examples of these proposals in 2020 have been the Ministry of Environment, Conservation and Parks' online Conservation Authorities Survey and Environmental Registry of Ontario (ERO) postings on such topics as priority transit projects and invasive species.

The TRCA review process typically involves circulating the government's posted materials to staff with experience in the subject matter, facilitating interdivisional dialogue, coordinating comments with Conservation Ontario and other conservation authorities (CAs) where applicable, conducting additional research and analysis as needed, and drafting a response letter that synthesizes staff comments and recommendations. Staff may also attend any

Item 7.1

available training, webinars or consultation sessions to learn more about the proposal and have preliminary questions addressed by provincial staff. All TRCA provincial policy submissions, regardless of whether they are reported to the Board of Directors, are vetted through senior staff and signed by the Chief Executive Officer prior to submittal to ensure alignment with corporate strategic priorities and objectives.

By engaging staff from different divisions within the organization, TRCA's responses integrate the expertise and multi-disciplinary perspectives of TRCA's teams. Staff reviewing and providing comments range from development and infrastructure planning and permitting, ecology, water resources engineering, and hydrogeology, to watershed planning, research and knowledge management, climate change, ecological restoration and others, depending on the scope of the proposal. Submissions are informed by the successes and challenges staff experience in their day-to-day work with municipalities, proponents and other stakeholders, and emphasize shared provincial, municipal and TRCA objectives and priorities.

RATIONALE

The outcomes of provincial government initiatives can have implications on TRCA's day-to-day work in multiple roles as a resource management agency, a regulator, a public commenting body with delegated authority to represent the provincial interest for natural hazards, and landowner, in a region experiencing significant growth and associated land use and environmental challenges. Therefore, it is important for TRCA to provide input on government proposals in order to encourage federal and provincial initiatives to align with and support TRCA objectives and interests.

The policy work to respond to consultations is also important for strengthening relationships and coordination between TRCA and provincial and municipal partners. Provincial government proposals are commonly based on the themes of streamlining and finding efficiencies to stimulate and expedite business activities such as major plans and projects. It is vital for TRCA to highlight its expertise, experience and shared provincial and municipal objectives and issues, to demonstrate TRCA's valuable role in achieving efficiencies and effectiveness that support environmentally responsible and sustainable community building.

Staff at the Ministry of Environment, Conservation and Parks, Ministry of Natural Resources and Forestry, Ministry of Municipal Affairs and Housing and other provincial agencies sometimes reach out to TRCA for information and advice, in recognition of TRCA's expertise in watershed science and depth of on-the-ground experience in development and infrastructure planning and detailed design. For example, TRCA staff led a tour of flood vulnerable areas and successfully completed and in-process flood remediation projects in TRCA's jurisdiction, provided a comprehensive presentation on flood risk management and the roles of CAs, and submitted a letter of recommendations to inform the report by Ontario's Special Advisor on Flooding.

Summary of Responses

Due to the volume and limited timeline of consultations established through the ERO process, only TRCA submissions on major initiatives (e.g. amendments to CA Act, Provincial Planning Act and Plans) are reported to the Board of Directors or Executive Committee prior to, or coincident with, submission to the respective ministry. In Table 1 below is a list of provincial policy consultations for which TRCA completed and submitted responses between January 1, 2020 to date, with links to the proposals.

Recognizing that Regional Watershed Alliance members may have an interest in TRCA's submissions, all completed 2020 TRCA letter responses from Table 1 are contained in the

Item 7.1

attachments to this report.

Table 1, 2020 TRCA Policy Consultation Submissions to the ERO Completed to Date

Proposal Name	Proposal Summary	Submission Date
<p>1. Amendment to the Record of Site Condition (Brownfields) Regulation related to the Requirement to Sample Ground Water (ERO #019-0987) Link: https://ero.ontario.ca/notice/019-0987</p>	<p>The Ministry of the Environment, Conservation and Parks (MECP) is proposing changes to O. Reg. 153/04 that would provide flexibility for a qualified person (a licensed professional engineer or geoscientist) to exercise professional judgement regarding the need for groundwater testing where there is no soil and under key conditions.</p>	<p>January 13, 2020 Refer to Attachment 1</p>
<p>2. Proposal to amend Ontario Regulation 454/96 (Construction) to provide alternative regulatory approval requirements for repairs to existing low hazard wetland dams (ERO #019-1060) Link: https://ero.ontario.ca/notice/019-1060</p>	<p>The Ministry of Natural Resources and Forestry (MNRF) is proposing an amendment to provide an alternative, optional rules-in-regulation approach to dam owners, to repair existing low hazard wetland dams without obtaining approval under Section 16 of the <i>Lakes and Rivers Improvement Act</i>, if they meet the requirements in the regulation.</p>	<p>January 17, 2020 Refer to Attachment 2</p>
<p>3. Drainage Act Discussion Paper (ERO #019-1187) Link: https://ero.ontario.ca/notice/019-1187</p>	<p>The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) is proposing changes to the <i>Drainage Act</i> that would reduce burden, streamline approvals and address stakeholder concerns while maintaining environmental standards.</p>	<p>February 18, 2020 Refer to Attachment 3</p>
<p>4. Proposed regulations for how the Environmental Assessment process will apply to four priority transit projects in the Greater Toronto and Hamilton Area (ERO #019-0614) Link: https://ero.ontario.ca/notice/019-0614</p>	<p>MECP is proposing regulations to modify the existing environmental assessment process for four priority transit projects in the Greater Toronto and Hamilton Area. The regulations will help get transit constructed quickly, economically and transparently while maintaining environmental oversight.</p>	<p>March 19, 2020 Refer to Attachment 4</p>
<p>5. Proposed regulation made under Ontario Regulation 332/12 (Building Code) made under the Building Code Act, 1992 (ERO #109-1332) Link: https://ero.ontario.ca/notice/019-1332</p>	<p>The Ministry of Municipal Affairs and Housing (MMAH) is proposing to amend the applicable law provisions of Ontario Regulation 332/12, (Building Code), in relation to building permits located on or near the designated transit corridor land as identified in an Order in Council to be brought forward by the Minister of Transportation under the <i>Building Transit Faster Act, 2020</i> (if passed).</p>	<p>April 3, 2020 Refer to Attachment 5</p>

Item 7.1

<p>6. Seeking information on invasive species and carriers under the Ontario Invasive Species Act, 2015 (ERO #019-1162) Link: https://ero.ontario.ca/notice/019-1162</p>	<p>MNR is seeking information on 13 species and one carrier for possible regulation under the <i>Invasive Species Act</i>. The information collected in response to this proposal will help support the Ministry in determining whether to develop a future regulation.</p>	<p>April 14, 2020</p> <p>Refer to Attachment 6</p>
<p>7. Developing Prevention and Response Plans for European water chestnut and water soldier under the Invasive Species Act, 2015 (ERO #109-1163) Link: https://ero.ontario.ca/notice/019-1163</p>	<p>MNR is proposing Prevention and Response Plans for European water chestnut and water soldier which are prohibited invasive species under Ontario's <i>Invasive Species Act</i>. The Prevention and Response Plans will support monitoring, controlling, and eradication of these invasive plants.</p>	<p>April 14, 2020</p> <p>Refer to Attachment 7</p>

In Table 2 below is a list of provincial policy consultations for which TRCA staff are in the process of developing responses as their due dates are in the latter part of April or in May 2020; the list also contains links to the proposals.

Table 2, 2020 TRCA Policy Consultation Submissions Pending to the ERO

ERO Posting	Proposal summary	Due date
<p>1. Proposed regulatory matters pertaining to community benefits authority under the Planning Act, the Development Charges Act, and the Building Code Act (ERO #109-1406) Link: https://ero.ontario.ca/notice/019-1406</p>	<p>MMAH proposes Regulatory Matters Pertaining to Community Benefits Authority Under the <i>Planning Act</i>, the <i>Development Charges Act</i>, and the <i>Building Code Act</i></p>	<p>April 20, 2020</p>
<p>2. Early Access to Land for Environmental Studies on Transmission Projects (ERO #019-1371) Link: https://ero.ontario.ca/notice/019-1371</p>	<p>The Ministry of Energy, Northern Development and Mines is proposing to give the Ontario Energy Board the authority to grant, under specific circumstances, earlier access to land to electricity transmission project proponents for the purpose of conducting preliminary environmental studies prior to applying for Leave to Construct.</p>	<p>April 30, 2020 (Preliminary comments in separate report to the Board, April 24, 2020)</p>
<p>3. Proposal to identify and protect a corridor of land for future electricity infrastructure in the Greater Toronto Area (ERO #019-1503)</p>	<p>The Ministry of Energy, Northern Development and Mines seeks to identify and preserve a corridor of land in the Northwest Greater Toronto Area (GTA) for future electricity transmission infrastructure so we can support growth in Halton, Peel and York regions.</p>	<p>May 7, 2020 (Preliminary comments in separate report to the Board, April 24, 2020)</p>

Item 7.1

<p>Link: https://ero.ontario.ca/notice/019-1503</p>	<p>We are seeking feedback on a proposed narrowed study area, as well as input on the guiding principles we will consider in conducting the study.</p>	
<p>4. Proposed amendments to Ontario Regulation 244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act (ERO #019-1303)</p> <p>Link: https://ero.ontario.ca/notice/019-1303</p>	<p>The Ministry of Natural Resources and Forestry proposes changes to Ontario Regulation 244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act.</p>	<p>May 15, 2020</p>
<p>5. New Statement of Environmental Values for Ministry of Infrastructure (ERO #019-1536)</p> <p>Link: https://ero.ontario.ca/notice/019-1536</p>	<p>The Ministry of Infrastructure is proposing a new Statement of Environmental Values in order to reflect the changes in its structure and mandate, as well as to acknowledge the priority of addressing climate change.</p>	<p>May 25, 2020</p>

Other Policy Submissions and Updates

Also provided for the information of the Regional Watershed Alliance, are the following summaries of recent non-ERO provincial policy initiatives and other policy consultations related to TRCA interests within early 2020.

Ontario Conservation Authorities Survey

Following the provincial multi-stakeholder consultation as [reported](#) to the Executive Committee and Board, on February 14, 2020, the Ministry of Environment, Conservation and Parks issued an [on-line survey](#) to the public (survey closed March 13, 2020) that solicited input on:

- which programs and services should be mandatory within the following:
 - managing natural hazards,
 - conservation and management of CA-owned/controlled lands
 - drinking water source protection
- the conservation authority model as it relates to:
 - transparency
 - permitting
 - oversight
 - CA board composition, and
 - key partnerships and collaborations.

TRCA's response to the survey was informed by previously Board endorsed TRCA submissions and recommended that the Province:

- include watershed planning and the management and conservation of natural resources within the scope of the regulations for mandatory programs and services:
 - managing natural hazards,

Item 7.1

- conservation and management of CA-owned/controlled lands, and
 - drinking water source protection.
- ensure that the programs and services of the CAs maintain their watershed focus and allow for the flexibility of including programs and services important to local circumstances
- add a clause of indemnification or statutory immunity to the CA Act for the good faith operation of essential flood and erosion control infrastructure and programming
- proclaim un-proclaimed sections of the CA Act associated with better deterrents to non-compliance with section 28 permitting regulations
- update the section 29 provisions for enforcement and compliance on authority owned or controlled lands to be consistent with the protections afforded under the *Provincial Parks and Conservation Reserves Act*.
- increase provincial funding to support authorities and cooperation between all levels of government to maximize opportunities presented by federal funding programs
- leverage the role of CAs in the land use planning and environmental protection process (*Planning Act, Environmental Assessment Act, CA Act, Clean Water Act*) and expertise of CAs in natural resource management to support implementation of provincial and municipal priorities
- base fees for programs and services on the principle of full cost recovery, including direct/indirect costs, rather than prescribe in regulations; furthermore, CAs be permitted to increase fees subject to a transparent process with stakeholders and approval by the Board of Directors, allowing fees for programs and services to keep pace with inflation, cost of living and ensure financial sustainability
- provide at least 18 months of transition timing to allow for the development of Memorandums of Understanding and that aligns with budget timelines
- include experts from conservation authorities, staff of the Ministries of Natural Resources and Forestry, Environment Conservation and Parks as well as Municipal Affairs and Housing, and municipalities when developing the draft regulations

The Province has reported on the survey website that over 2,200 comments were submitted and that a summary of the online results will be posted on the website in the coming months. It should also be noted that several municipalities within TRCA's jurisdiction, (and across the Province), passed Council resolutions of support for the valuable work of conservation authorities for submission to the Province. The timing of next steps and any amendments to the Act or release of the regulations remains unknown at this time, but the Ministry has advised that it will keep Conservation Ontario apprised.

Provincial Policy Statement 2020

The [Provincial Policy Statement](#) (PPS 2020) was released on February 28, 2020 and comes into effect on May 1, 2020, replacing the PPS 2014. TRCA previously [reported](#) to the Board and submitted comments to the Province on the proposed version of the PPS in 2019.

TRCA is generally supportive of several amendments made in the PPS 2020, including a statement in Section 3.0 Protecting Public Health and Safety that directly supports the role of CAs in mitigating natural hazard risks, including risks associated with climate change impacts, and supports collaborative work among CAs, the Province, and planning authorities in achieving this goal. The PPS is more action-oriented with the phrase "shall prepare for the impacts of a changing climate" added to various policies throughout the PPS. TRCA appreciates the recognition in policy that evaluating and preparing for the impacts of a changing climate to water resource systems is best done at a watershed level.

Item 7.1

Further provincial guidance to support policy implementation was identified in TRCA's previous comments and remains applicable. This includes how preparation for the impacts of a changing climate will be implemented through planning and development and what climate projections should be used as a standard across the province. Similarly, TRCA supports policies that have been strengthened to require Indigenous consultation and engagement but further direction on the execution of this process is required.

Section 3.1.1 in Natural Hazards has been amended to reference provincial guidance to direct development in the context of natural hazards and states that the guidance will be "amended from time to time." There is an urgent need to have the technical guidance updated to reflect current technology and approaches, particularly within the urban context, so as not to be a barrier for innovative solutions.

The final PPS, 2020 excluded policies that appeared in the proposed version of the PPS. The ability for municipalities to "manage" wetlands that are not provincially significant and a proposal to "fast track" certain applications were removed. TRCA previously advocated for the further refinement and definition of the wetlands-related policy, and for the definition of applications that are considered priority for "fast tracking" as well as the process for achieving this fast tracking. On a positive note, the policy permitting aggregate extraction in natural heritage features was removed.

PPS Part IV states that a key provincial interest is the wise use and management of the Province's natural heritage resources, water resources, including the Great Lakes, agricultural resources, mineral resources, and cultural heritage and archaeological resources. However, the PPS, 2020 removed direction in PPS, 2014 that intensification and redevelopment shall be directed in accordance with the policies in Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety. As well, PPS, 2020 removed direction that a planning authority shall apply the policies of Section 2 and Section 3 in determining the most appropriate direction for expansions to the boundaries of settlement areas or the identification of a settlement area. While these statements have been deleted from the PPS 2020 and it would be preferred that they remain, within TRCA's jurisdiction, the policies of Section 2 and Section 3 of the PPS remain applicable to any adjustments or expansions to the boundaries of settlement areas under the more specific provisions of A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019).

Other TRCA recommendations that were not addressed in PPS:

- recognition in policy or Preamble of the need for complete applications that demonstrate consistency with the PPS in order to achieve the Province's goal to streamline and fast-track priority applications to increase the housing supply (Note: this would have also addressed the reduced application review times under the *Planning Act* and appeals to the LPAT);
- to not weaken various existing policies through wording changes from "shall" to "should";
- to maintain the current policy wording that "Planning for stormwater management shall not increase risks to human health and safety and property damage" instead of "mitigate the risks"; and
- minor wording edits in various policies to strengthen protection and enhancement of the natural heritage system and the water resources system, and to protect life and property from natural hazards.

Item 7.1

Ontario's Flooding Strategy

On March 9, 2020, the Province released "[Protecting People and Property: Ontario's Flooding Strategy](#)". The Strategy renews the Province's commitment to protecting people and property by strengthening preparedness for flooding. To help achieve this goal, the Strategy outlines steps to be taken by Ontario over the next several years and actions designed to address and build upon the [recommendations identified by Ontario's Special Advisor on Flooding](#).

The Strategy outlines five priority areas, supported by a set of actions and activities, which complement TRCA's existing flood risk reduction activities, namely:

1. Understand Flood Risks
2. Strengthen Governance of Flood Risks
3. Enhance Flood Preparedness
4. Enhance Flood Response and Recovery
5. Invest in Flood Risk Reduction

Also noted in the Strategy: "The Province is committed to working with municipalities, the federal government, homeowners, conservation authorities, industry and Indigenous communities to advance the actions contained within this Strategy." TRCA staff will be attending a webinar presentation by the Ministry of Natural Resources and Forestry on April 23, 2020 that will provide an overview of the Strategy and potential next steps being considered. TRCA looks forward to contributing our experience and expertise to assist the Ministry in achieving the goals and objectives outlined in the Strategy.

Federal consultation – Canada's Changing Climate

On March 30, 2020, TRCA submitted comments to Natural Resource Canada (NRCan) on the Ontario chapter draft report of the Regional Perspectives volume in [Canada in a Changing Climate: Advancing our Knowledge for Action](#). This report is part of a national scale assessment being coordinated by NRCan to examine how Canada's climate is changing, the impacts of these changes, and how we are adapting to reduce climate change risks. The Ontario chapter seeks to enhance understanding of climate change impacts in the Ontario context, document adaptation progress across the province, and increase awareness of the relevance of climate change and the need for timely action.

TRCA's review effort was led by the Research and Knowledge Management team. Comments and recommendations advocated for:

- Greater recognition of watershed planning as a key tool for evaluating and preparing for the impacts of climate, in alignment with Ontario's Provincial Policy Statement;
- Expansion of local and regional examples of climate change adaptation to highlight the leadership demonstrated by conservation authorities, municipalities, and other regional/local organizations across Ontario;
- Increased integration of urban forest planning and management, including the opportunity to include green infrastructure in municipal asset management plans;
- Greater emphasis on the need for provincial technical guidance to support implementation of provincial policies for how to prepare for the impacts of a changing climate. This includes guidance on how to account for and integrate climate change into flood plain mapping and development and infrastructure planning and design, and
- Highlighting the need to address climate change adaptation in the urban context where already stressed natural systems are under mounting pressure from redevelopment and intensification. It should be emphasized that these scenarios require innovative solutions for stormwater retrofit, natural hazard mitigation and remediation, as well as ecological restoration to achieve greater resilience.

Item 7.1

Bill 189 – Amendments to Planning Act and Development Charges Act

On April 14, 2020, the Ontario Government passed Bill 189, the [Coronavirus \(COVID-19\) Support and Protection Act](#), which amended a number of Acts including the *Planning Act* and *Development Charges Act* resulting in the following:

- *Planning Act* amendments that came into force on April 14, 2020, authorize the Minister of Municipal Affairs and Housing to create regulations in connection with a declared emergency to govern specified timelines associated with land use planning matters.
- Ontario Regulation 149/20 under the *Planning Act*, which came into force on April 15, 2020. Prior to the release of the regulation, the Ministry of Municipal Affairs and Housing advised municipalities that the intent is to allow for suspension of specified timelines associated with land use planning matters that could be applied retroactively to the date that an emergency was declared.
- It should be noted that municipalities and planning boards can still make decisions on land use planning matters during the period of suspended timelines, through virtual channels, pursuant to the *Municipal Emergency Act, 2020*, which permits members of a municipal council or local board to participate electronically in a meeting and be counted in determining whether a quorum of members is present.
- A new section 9.2 of the *Development Charges Act, 1997*, would allow any development charge by-laws that were set to expire on or after March 17, 2020 to remain in force until six months after the termination of the emergency, in an effort to give municipalities time to replace them.
- Interim-control by-laws that were in effect on March 17, 2020 and were not repealed before April 15, 2020, and would expire before the emergency terminates, are deemed to remain in effect for a specified period after the emergency. Interim control by-laws in effect on March 17, 2020 that would not expire before the emergency terminates are deemed to remain in effect after they would otherwise expire for a specified period.

TRCA's office has been closed to the public due to the COVID situation, our Infrastructure and Development Planning and Permit staff and Technical Review staff continue to operate remotely to maintain business continuity and service delivery to support municipalities, stakeholders and the public. Staff are available by telephone and email for clients and able to assist with electronic planning and permit submissions. Staff also participate in conference call and/or virtual meeting with municipalities, agencies, development industry and consultants.

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

Item 7.1

funding is proposed to support the policy analysis work associated with the preparation of these comments.

DETAILS OF WORK TO BE DONE

TRCA staff will continue to monitor the Environmental Registry of Ontario and the Province of Ontario News' Website to ensure TRCA is aware of, and where appropriate participates and comments on, legislative, regulatory, policy and guidance initiatives affecting TRCA interests. In particular, staff are waiting for the Province to launch consultation on the draft regulations under the amended *Conservation Authorities Act* and potentially further amendments to the Act.

Staff will keep the Regional Watershed Alliance informed of TRCA submissions at regular intervals and will monitor the outcomes of future decision notices, and report on the implications of legislative, regulatory and policy initiatives as appropriate. Staff will also update TRCA policies and procedures as required and facilitate training to reflect legislative and policy changes affecting TRCA.

Report prepared by: Mary-Ann Burns, extension 5763, Jessica Murray, extension 6437

Emails: maryann.burns@trca.ca, jessica.murray@trca.ca

For Information contact: Mary-Ann Burns, extension 5763, Laurie Nelson, extension 5281

Emails: maryann.burns@trca.ca, laurie.nelson@trca.ca

Date: April 24, 2020

Attachments: 7

Attachment 1: TRCA Submission to ERO#019-0987

Attachment 2: TRCA Submission to ERO#019-1060

Attachment 3: TRCA Submission to ERO#019-1187

Attachment 4: TRCA Submission to ERO#019-0614

Attachment 5: TRCA Submission to ERO#019-1332

Attachment 6: TRCA Submission to ERO#019-1162

Attachment 7: TRCA Submission to ERO#019-1163
