

April 3, 2020

**BY ONLINE SUBMITTAL ONLY**

Building and Development Branch  
Ministry of Municipal Affairs and Housing  
777 Bay Street, 2<sup>nd</sup> Floor  
Toronto, Ontario M5G 2E5

**Re: Proposed regulation made under Ontario Regulation 332/12 (Building Code)  
made under the Building Code Act, 1992 (ERO #019-1332)**

Thank you for the opportunity to comment on the Ministry of Municipal Affairs and Housing's Environmental Registry (ERO) posting on the proposed amendment to Ontario Regulation 332/12 (Building Code) made under the *Building Code Act, 1992*. The posting provides notice that the government is proposing to amend the applicable law provisions of Ontario Regulation 332/12, the Building Code.

The Toronto and Region Conservation Authority (TRCA) conducts itself in accordance with the objects, powers, roles and responsibilities set out for conservation authorities (CA) under the *Conservation Authorities Act* and the MNR Procedural Manual chapter on CA policies and procedures for plan review and permitting activities, as follows:

- A public commenting body under the *Planning Act* and *Environmental Assessment Act*;
- An agency delegated the responsibility to represent the provincial interest on natural hazards under Section 3.1 of the Provincial Policy Statement;
- A regulatory authority under section 28 of the *Conservation Authorities Act*;
- A service provider to municipal partners and other public agencies;
- A Source Protection Authority under the *Clean Water Act*;
- A resource management agency; and
- A major landowner in the Greater Toronto Area.

In these roles, TRCA works in collaboration with municipalities and stakeholders to protect people and property from flooding and other natural hazards, and to conserve natural resources.

TRCA has an interest in the above noted proposal given that conservation authorities' development regulations under section 28 of the *Conservation Authorities Act* are among the statutes and regulations listed as applicable law under the Building Code, Ontario Regulation 332/12. In addition, conservation authorities are prescribed commenting agencies under the *Planning Act* and *Environmental Assessment Act*, whereby TRCA comments on both development and infrastructure planning and projects traversing TRCA regulated areas. Currently, TRCA is working closely with Metrolinx to provide technical advice on the four priority transit projects referenced in the ERO posting. Accordingly, TRCA also commented on the related ERO posting #019-0614 for a proposed expedited environmental assessment process for the four priority transit projects. A copy of our submission to the Ministry of Environment, Conservation and Parks, dated March 19, 2020 has been enclosed for your reference.

## **Government Proposal Background**

The “New Subway Transit Plan for the GTHA” contains commitments for four priority transit projects: the Ontario Line, Scarborough Subway Extension, Yonge North Subway Extension, and the Eglinton Crosstown West Extension.

In February 2020, the government introduced Bill 171, the proposed “Building Transit Faster Act”, which, if passed, would allow the Lieutenant Governor in Council to designate land as “transit corridor land”. This designation would require development proponents to obtain a corridor development permit for development and construction activities on or near transit corridor land that may also require coordination with subway construction.

In anticipation of Bill 171 becoming law, the Ministry of Municipal Affairs and Housing (MMAH) is proposing to amend the “applicable law” provisions in Ontario Regulation 332/12 (the Building Code) made under the *Building Code Act*, 1992.

## **Government Proposal**

TRCA understands that the current ERO posting is requesting comments on the Ministry of Municipal Affairs’ proposal to amend the Building Code to add to the existing list of “applicable law” needed to be upheld prior to issuance of a municipal building permit. The proposed amendment would require that corridor development permits for new development on or near the transit corridor land are received from the Ministry of Transportation (MTO) prior to a chief building official issuing a municipal building permit.

## **TRCA General Comments**

TRCA supports the government’s approach to focusing development and intensification close to transit and for coordinating development and infrastructure planning. We caution, however, that the intensification of development and infrastructure in these corridors should not come at the expense of other provincial interests, such as public safety from managing natural hazards and achieving more resilient communities by protecting natural heritage systems. As stated in the Provincial Policy Statement (2020), Ontario’s long-term prosperity, environmental health and social well-being depend on reducing the potential for public cost or risk to Ontario’s residents from natural or human-made hazards.

Currently, the Building Code regulation (O. Reg. 332/12) defines “applicable law” to include conservation authorities’ regulations made under section 28 of the *Conservation Authorities Act*. TRCA’s section 28 regulation, along with its commenting roles under the *Planning Act* and Environmental Assessment processes, are crucial for assisting municipal and provincial partners in meeting shared objectives for reducing natural hazard risks and conserving natural resources. Accordingly, the different provincial interests represented in the list of applicable law should have equal weight in development and infrastructure planning.

To this end, TRCA’s role is to ensure development and infrastructure avoid risks posed by natural hazards, mitigates and remediates risk where they must locate within hazards, and that natural resources are conserved to enhance resilience to the impacts of urbanization and climate change. In TRCA’s and municipal partners’ experience, planning for redevelopment and urban revitalization in the complex landscapes of the four priority transit corridors requires innovative solutions for stormwater retrofit, natural hazard mitigation and remediation, as well as ecological restoration to achieve greater resilience, (e.g. Port Lands Flood Protection Initiative and the Ontario Line project per attached letter). These opportunities tend to be greater at the early stages of the development and infrastructure planning processes and when the two processes are coordinated. An example in

TRCA's jurisdiction of where such upfront work and early coordination for redevelopment, transit building, flood remediation and urban revitalization have furthered provincial, municipal and TRCA objectives, is Vaughan Metropolitan Centre within the Black Creek sub-watershed adjacent to the top of the University subway line.

### **TRCA Recommendations**

In order to ensure the protection of people and property from natural hazards and the conservation of natural resources, TRCA recommends that:

- 1) The MTO process to designate transit corridor land be coordinated with MMAH, municipalities and conservation authorities where applicable in the early stages of the planning and/or environmental assessment process in order to avoid increasing the risk of natural hazards (flood and erosion risks) to infrastructure, development or public health and safety.
- 2) Conservation authorities' regulations made under Section 28 of the *Conservation Authorities Act* continue to be "applicable law" under O. Reg. 332/12 (Building Code).

Thank you once again for the opportunity to provide comments on the proposed amendments to Ontario Regulation 332/12 (Building Code) made under the *Building Code Act, 1992*. Should you have any questions, require clarification on any of the above, or wish to meet to discuss our remarks, please contact the undersigned at 416.667.6290 or at [john.mackenzie@trca.ca](mailto:john.mackenzie@trca.ca).

Sincerely,



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

Encl. TRCA Submission to ERO #019-0614, March 19, 2020

### **BY E-MAIL**

cc:

TRCA: Laurie Nelson, Director, Policy Planning  
Sameer Dhalla, Director, Development and Engineering Services