



April 20, 2020

BY EMAIL ONLY (john.ballantine@ontario.ca)

John Ballantine
Municipal Finance Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 13th Floor
Toronto, Ontario M7A 2J3

Dear Mr. Ballantine:

Re: Proposed regulatory matters pertaining to community benefits authority under the Planning Act, the Development Charges Act, and the Building Code Act (ERO #019-1406)

Thank you for the opportunity to comment on the Ministry of Municipal Affairs and Housing's Environmental Registry (ERO) posting on the proposed regulatory matters pertaining to community benefits authority under the *Planning Act*, the *Development Charges Act*, and the *Building Code Act*.

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 MNRF 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.

Government Proposal Background

TRCA understands the government's current regulatory proposal follows an earlier 2019 solicitation for public feedback on proposed components of a new community benefits charge authority. The first consultation was in June 2019 ("Proposed new regulation pertaining to the community benefits authority under the *Planning Act*", ERO #019-0183).

Government Proposal

The current proposal outlines additional matters for public input to inform the further development of the community benefits charge authority and regulation under the *Planning Act*. The changes made by the *More Homes, More Choice Act, 2019* will mean that municipalities will have two primary

funding streams to pay for the increased need for services due to new development. It should be noted that the community benefits charge authority has not yet been proclaimed and is not in effect at this time.

The first, development charges, are a mechanism for municipalities to pay for the capital costs of infrastructure associated with new development. The government is also seeking feedback in this proposal on changes to the types of services that could be funded through development charges, and the proposal is to include certain community services such as public libraries, parks development (other than acquiring land for parks) and recreational facilities.

The second, new community benefits charge, would complement development charges by giving municipalities the flexibility to fund growth-related capital infrastructure costs of other community services, for example, acquiring land for parks, supporting affordable housing or building child care facilities needed due to growth.

A municipality could establish their own community benefits charge by-law to collect funds for the community services. For parkland acquisition, the municipality may either establish a by-law or, if no by-law is established, use the dedication rate stipulated in the *Planning Act*. Specifically related to parkland acquisition, if both a developer and municipality agree, a developer could provide land for parks (rather than a payment). The agreed-upon value attributed to the in-kind parkland contribution would be applied toward the community benefits charge payable.

To implement the new community benefits charge authority, the Province is seeking feedback on the following regulatory matters under the *Planning Act*, the *Development Charges Act* and the *Building Code Act*.

- The required content of a community benefits charge strategy, which must be prepared prior to a municipality passing a community benefits charge by-law and identify the items a municipality intends to fund through community benefits charges;
- The services eligible to be funded through development charges, including:
 - Public libraries, including library materials for circulation, reference or information purposes
 - Long-term care
 - Parks development, such as playgrounds, splash pads, equipment and other park amenities (but not the acquisition of land for parks)
 - Public health
 - Recreation, such as community recreation centres and arenas;
- The percentage of land value for determining a maximum community benefits charge;
- The timeline to transition to the new community benefits charge regime, proposed to be one year after the date the proposed community benefits charge regulation comes into effect;
- Notice requirements for community benefits charge by-laws;
- The minimum interest rate for community benefits charge refunds where a by-law has been successfully appealed; and

- Amendments to the list of applicable law under the Building Code to ensure payment of community benefits charges prior to the issuance of building permits.

General Comments

TRCA offers comments specific to the aspect of the government's proposal to identify facilities, services and matters to be funded under community benefits charges prescribed through regulation under the *Planning Act*, and to prescribe through regulation additional services to be funded under the *Development Charges Act*.

Harmonizing Terminology

Metrolinx, municipalities and other infrastructure providers, with which TRCA works in its roles as technical advisor and regulator, have established specialized terminology for types of community benefits. For instance, the terms "community benefits" and "public realm benefits" are commonly used together, with the following definitions:

- **Community benefits:** Project based benefits that provide measurable economic benefits to the local community.
- **Public realm benefits:** Provision of support for local opportunities for social and environmental improvements.

It may permit for an easier transition for local public agencies and stakeholders if the Province were to use these terms and their definitions as above in its regulation. This can be done through amending the proposed regulation to include community and public realm benefits, a requirement to develop community and public realm benefits strategies prior to enacting a related by-law, etc.

Public realm benefits for environmental improvements are of particular interest to TRCA given our mandate to conserve natural resources and ensure the protection of people and property from the risk of natural hazards. In the context of infrastructure projects carried out by Metrolinx and others, social improvements associated with public realm benefits may include provision of services to conservation areas (such as extending a water main into a conservation area), trails, interpretive signage and others. Environmental improvements might be ecological restoration and wildlife crossings for road and rail infrastructure.

Reducing Risk in Redevelopment Scenarios

Currently, the *Development Charges Act* allows municipalities to apply Area-Specific Development Charges for flood remediation purposes, (e.g., Vaughan's Black Creek Renewal and Urban Revitalization project). TRCA suggests that the same type of risk reduction work be included as an option under community benefits charges. This would enable conservation authorities and municipalities to fund projects that would remediate and mitigate existing urban centres situated within historic flood and erosion prone areas (including those near transit), ensuring public safety from natural hazard risks, as part of comprehensive redevelopment and community revitalization.

Trails

In TRCA's experience trail funding is routinely not accounted for during the land use planning review and approvals process, yet trails offer a vital connection to nature in the city and can contribute to active, healthy lifestyles. Funds used to maintain and expand trails in TRCA's jurisdiction serve to provide active transportation access to greenspace, conservation areas, neighbourhoods, employment lands, transit and mobility hubs. As an important public service, trails should be added to the list of services for which development and community benefit charges may be imposed. Incorporating mechanisms for trail funding into early stages of development planning will enable more opportunities for trail creation and the associated benefits that accrue to communities.

TRCA's Trail Strategy for the Greater Toronto Region (Trail Strategy) sets out the direction for TRCA to work with its partners towards achieving the vision of "a complete regional trail network in greenspace and along the Lake Ontario shoreline that connects our growing communities to nature, to culture, and to each other, contributing to active living and enhancing our conservation legacy." The Trail Strategy serves as a framework to protect potential trail alignments for a network from the Oak Ridges Moraine, through the valleys of the nine watersheds within TRCA's jurisdiction and along the Lake Ontario shoreline. The complete Greater Toronto Region Trail Network includes 520 km of existing trails, along with 480 km of proposed trails as outlined in the Trail Strategy. Further supporting these regional trail alignments, are the local trails which provide connections between the network and the communities they benefit. To assist and support our municipal partners, TRCA's Trail Strategy could inform the development of a municipal community benefits charge strategy, which is required prior to the passing of the associated by-law.

Parkland vs. Natural Areas

As a resource management agency, TRCA believes it will be important for the proposed regulation to differentiate between parkland (which may be acquired through community benefits charges or developed/enhanced through development charges) and natural features, natural hazards and their associated buffers. Therefore, the regulations should ensure that parks acquired or enhanced through community benefits charges and development charges, respectively, avoid natural features, natural hazards and their associated buffers.

Land Dedication

TRCA also requests that the Province clearly communicate to municipalities that the provisions of community benefits by-laws should not negate the ability for conservation authorities and municipalities to acquire natural features, natural hazards and their associated buffers through mechanisms apart from the community benefits charges. Currently, CAs and municipalities may acquire these areas through planning review processes. Limiting the ability of CAs and municipalities to exercise existing land acquisition options due to the imposition of a community benefits by-law may have a detrimental impact on initiatives to streamline development.

TRCA Recommendations

In order to support municipalities in ensuring adequate provision of community facilities and services related to growth, and to continue to ensure the protection of people and property from natural hazards and the conservation of natural resources, TRCA recommends the following:

- 1) That the Province adopt language in its regulation consistent with the language commonly used by Metrolinx and other infrastructure providers, namely, community benefits and public realm benefits using the definitions provided in this letter.
- 2) That the Province include in the proposed regulation charge provisions for both community benefits and public realm benefits.
- 3) That new or updated natural hazard remediation and mitigation, (e.g. flood protection infrastructure and erosion hazard mitigation), be added to the list of services for which community benefits charges may be imposed.
- 4) That the proposed regulation clearly differentiates between parkland (which may be acquired through community benefits charges or developed/enhanced through development charges) and natural features, natural hazards and their associated buffers.

- 5) That the Province ensure it is clearly communicated that community benefits by-laws be written and applied such that CAs and municipalities may continue to acquire natural features, natural hazards and their associated buffers through mechanisms other than the community benefits charges.
- 6) That trails be added to the list of services for which development and community benefit charges may be imposed.

Thank you once again for the opportunity to provide comments on the proposed regulatory matters pertaining to community benefits authority under the *Planning Act*, the *Development Charges Act*, and the *Building Code Act*. 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.

Sincerely,

<Original signed by>

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

BY E-MAIL

cc:

TRCA: Laurie Nelson, Director, Policy Planning
Sameer Dhalla, Director, Development and Engineering Services
Moranne McDonnell, Director, Restoration and Infrastructure