

Section III – Items for the Information of the Board

TO: Chair and Members of the Board of Directors
Friday, March 26, 2021 Meeting

FROM: John MacKenzie, Chief Executive Officer

RE: **DISPERSAL OF FUNERAL ASHES IN WATERCOURSES**

KEY ISSUE

In response to inquiries received by TRCA, to identify appropriate options, in accordance with the requirements of certain faith groups, for the dispersal of funeral ashes in rivers or creeks within TRCA's jurisdiction.

RECOMMENDATION

WHEREAS the dispersal of funeral ashes is occurring on lands owned or managed by TRCA and our municipal partners;

AND WHEREAS, TRCA is limited in our ability to regulate or formalize such practices without support of our municipal partners;

THEREFORE BE IT RESOLVED THAT TRCA continue to support partner municipalities and organizations in the development of appropriate sites and solutions for the environmentally and culturally sensitive dispersal of funeral ashes when requested to do so or when TRCA permissions are required;

AND THAT TRCA recommend that municipal partners consult with TRCA regarding implementing processes or identifying sites related to the dispersal of funeral ashes in creeks and rivers to ensure such practices are carried out in a legally compliant and an environmentally sensitive manner;

AND THAT the TRCA Board of Directors resolve that TRCA lands only be considered for the dispersal of funeral ashes if the request is made to TRCA by a municipality, if required funding resources are provided for both construction and ongoing maintenance of an appropriate facility or site on TRCA lands, and if an appropriate licensing regime and service provider can be identified and developed through appropriate agreements.

BACKGROUND

The dispersal of funeral ashes into rivers, creeks, and other water bodies is a common end-of-life practice for many faith groups. Toronto and Region Conservation Authority (TRCA) is a regulatory body, a significant landowner of greenspace in the Greater Toronto Area (GTA), a resource management agency, and a service provider to municipalities on the management of their own greenspace and watercourses. Therefore, TRCA has an interest in practices surrounding the dispersal of funeral ashes in watercourses, as well as associated practices, such as the leaving of offerings, especially where these activities have the potential to negatively affect these features.

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In 2004, TRCA and Credit Valley Conservation (CVC) began collaborative work to address the issue of religious offerings, such as coconuts, fruit, cloth, coins or jewelry, being deposited in rivers and creeks of Peel Region. Further, as the dispersal of funerary ashes into water is customary for many faith groups, CVC and TRCA also began exploring the issue of, and need for, appropriate sites and guidelines for this practice. As part of this work, TRCA and CVC established a working relationship with the Hindu community in Mississauga to learn more about Hindu practices and in turn, share knowledge about watershed health and potential impacts due to certain practices. As a result of this collaboration, in 2006 CVC, TRCA and the Hindu Federation jointly released a brochure providing information on the impacts of religious offerings to watercourses and providing more sustainable recommendations, such as composting flowers and coconuts instead of leaving them in waterways and donating unsustainable offerings to a local temple. TRCA continued to work with temple leaders to seek opportunities for outreach and education regarding water-based faith activities and the issue of religious offerings in watercourses.

In the Summer of 2007, the then Ministry of Government Services and Consumer Relations (MGSCR – later re-designated the Ministry of Consumer Services) created an inter-agency working group to investigate the uses and practices of dispersing ashes on water and recommend a solution. At the time, working group membership included MGSCR, Ministry of Natural Resources, Ministry of Environment, Environment Canada, Fisheries and Oceans Canada and CVC, who represented Conservation Ontario. As a result of the working group's efforts, the Ministry of Consumer Services stated that funerary ashes could be scattered on occupied and unoccupied Provincial Crown land and Crown land covered by water.

It should be noted that given the sensitive nature of dispersing funerary ashes into watercourses and water bodies, there exist several additional requirements for undertaking these practices. These include a certain level of privacy, securing of permits for any built structures, as well as additional logistical requirements, such as an accessible site and sufficient parking.

Current Provincial Legislation

Land ownership and regulation are the primary factors determining whether the dispersal of funeral ashes is legally permitted; that is, whether the land is privately owned, owned by an agency such as a municipality or regulated by the Crown. That division of regulatory responsibilities and ownership will be dependent on the specific location in question.

The Funeral, Burial and Cremation Services Act (2002, S.O. 2002, c. 33) does not explicitly discuss dispersal of ashes on public or Crown Land, or in watercourses. It does, however, outline the need to obtain permission for burial or dispersal on private lands, with the additional provision that if multiple internments or scatterings are to take place, the landowner must obtain a permit to operate as a cemetery. The Funeral Burial and Cremation Services Act prohibits the internment (i.e., burial) of human remains, including urns (containing ashes) except in a registered and operating cemetery.

The Government of Ontario has provided additional guidance that individuals have the right to: "scatter the remains from cremation or alkaline hydrolysis on Crown land, including land covered by water, if it is unoccupied (for example provincial park, conservation reserve, Great Lakes) and there are no signs or postings that prohibit scattering."

(<https://www.ontario.ca/page/arrange-funeral-burial-cremation-alkaline-hydrolysis-or-scattering>).

In line with that guidance, Ontario Parks allow the scattering of ashes without permission, but does, however, provide the following guidance:

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- Prior to scattering any ashes, individuals should contact park offices to determine a suitable location;
- A day permit is required for park use;
- No offerings may be left at the site; and
- Burial is not permitted (per the Funeral, Burial and Cremation Services Act)

Within the GTA, signage has been erected at Bronte Creek Provincial Park in Oakville advising of the right to disperse ashes on Crown land. However, there is currently no designated site for this activity at the park.

Current Municipal Practices within TRCA's jurisdiction

Generally, the scattering of funeral ashes is not explicitly permitted on municipal lands and many municipalities direct individuals to the Province of Ontario's direction regarding Crown lands. However, many municipalities are also noting an increased demand from the public and from faith groups for accessible options to undertake the dispersal of funeral ashes of loved ones. As such, many municipalities are taking another look at the options they offer for this practice. For example, City of Mississauga staff and TRCA are working together to explore various options to offer closer, more accessible sites for scattering funeral ashes (see "Rationale" section that follows).

Waterfront parks, as well as destination parks throughout the City of Toronto, are heavily used for personal recreational activities like picnicking, walking, running and cycling, as well as for informal and formal organized social and recreational programs and events (when compliant with local public health regulations and municipal permits). There is a need to reduce user conflict along the Lake Ontario waterfront and in other park locations where recreationalists come into contact with the bereaved as they undertake the dispersal of funeral ashes. This has been of particular concern at the boat launch areas at Bluffers Park in Toronto. While the City of Toronto does not currently allow the dispersal of funeral ashes on City property, including in parks, it is expected that new language around the scattering of ashes in City of Toronto parks and greenspace will be considered as part of an update to the City's Parks By-Law.

Other municipalities have elected to create facilities for the explicit purpose of funeral ash dispersal. The City of Pickering, for example, created an accessible path to facilitate access to its beachfront where users can leave religious offerings on and for the dispersal of ashes in Lake Ontario. While the City does not have any by-laws or Council resolutions explicitly allowing the dispersal of funeral ashes, City staff worked with the Devi Mandir Hindu Temple in Pickering to identify a suitable site, the location of which was chosen due to its proximity to parking and the accessibility and privacy it offers. The temple stewards the designated site and ensures that all offerings left are biodegradable and that no offerings are left which may negatively impact the environment. Both City and temple representatives have noted that while the site was created for the local community, many users of the site are now from other municipalities. High water levels on Lake Ontario can also make the site inaccessible and are also causing concerns related to erosion, but overall, the site has been well used for approximately a decade with very minimal public complaints or concerns.

Current Practices on TRCA Lands

Dispersal or scattering of funeral ashes is not currently explicitly sanctioned on TRCA lands. Rather, historical TRCA Board of Directors resolutions focus more so on continued partnership with, and outreach to, faith groups on environmentally responsible and culturally sensitive practices and options. TRCA Board of Directors resolutions also commit to assist our local

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municipalities in identifying locations for religious offerings and dispersal of ashes, when requested to do so (RES. #B120/09, Executive Committee Meeting #7/09 held on September 11, 2009).

Other Conservation Authorities have taken a similar approach. For example, the CVC Board of Directors has taken the position that the scattering of ashes on CVC owned land is not permitted (#69/14, CVC Board of Directors, July 4, 2014).

RATIONALE

Overseeing the location and activity of scattering funeral ashes does not fall within TRCA's mandated responsibilities. This service falls more appropriately within the jurisdiction of those agencies responsible for cemeteries and other end of life institutions, namely municipalities and faith-based organizations, or even private companies such as cemetery groups. As such, staff recommend that this activity is not an appropriate use of TRCA lands. However, TRCA would consider a request by a partner municipality subject to a detailed review and upon completion of an agreement as outlined in more detail below.

TRCA Support for Municipalities

However, in partnership with municipalities or in our role as technical reviewers and resource managers TRCA can play an important advisory role with respect to the selection of appropriate sites along watercourses within the jurisdiction, as well as potentially play a support role on a fee-for-service basis in the planning, design and construction of infrastructure along watercourses. As well, TRCA continues to play a regulatory role for any activities within a TRCA regulated area under s.28 of the Conservation Authorities Act, that would propose alterations to a watercourse. Regardless of the agency overseeing the dispersal of funeral ashes, the following considerations, and associated costs, should be kept in mind in site selection along watercourses for the purposes of scattering funeral ashes:

- There must be evidence there is no negative impact on the watercourse. This may be through investigatory studies, ongoing monitoring, or added restoration to mitigate potential impacts or create an added benefit to the aquatic system;
- To mitigate environmental risks and where it is culturally appropriate, it may be advisable to consider alternatives to direct input into a watercourse, such as a treatment wetland. However, such an option would need to be discussed with the potential user groups of such a site to ensure appropriateness for the faith groups that may utilize the facility;
- Provided there is no negative impact, infrastructure to minimize damage to shoreline should be considered, such as a modified fishing node;
- Archaeological sites along watercourses should be considered to prevent the contamination of those sites; and
- Cultural and accessibility, both in general and for people with mobility issues, considerations for the location and of the appropriateness of the site must be considered. Outreach to the community requesting a site should be carried out.
- Given the sensitive nature of dispersing the funeral ashes of loved ones, an appropriate agency or organization with appropriate experience should administer the customer services aspects of this work.
- That the organization is in compliance with the *Funeral, Burial and Cremation Services Act, 2002*, including ensuring the site is designated as a cemetery and the relevant organization is licensed as a cemetery operator.

If a municipality approached TRCA to explore the possibility of dispersing funeral ashes on one or more of TRCA's properties, several pieces of work would need to be undertaken. TRCA

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would need to retain legal counsel with experience in this area to advise on compliance, both by TRCA and any potential operators of such services on TRCA land. TRCA staff would also need to identify appropriate sites where the regular dispersal of funeral ashes would have minimal property use and ecological impacts and potentially set limits on the number of dispersals allowed annually, as well as establish a monitoring program for the site. It is also recommended that either a municipality or appropriate organization (such as an end-of-life service provider) be retained to provide all services required for the bereaved related to the dispersal of ashes of their loved ones.

To provide additional clarity regarding roles and responsibilities, a review of the management agreements for the lands owned by TRCA and managed by partner municipalities could also be undertaken to add more specific language regarding the dispersal of ashes. This could be incorporated into a more fulsome TRCA policy regarding end-of-life commemorations or activities on TRCA-owned lands that are managed by a partner municipality, a faith-based organization or an organization involved in end of life services. If such activities were to be considered, it is critical that all costs, including both capital costs for infrastructure or facility development and background studies, as well as ongoing operating and monitoring costs, be funded by a municipality or appropriate agency.

TRCA's work with City of Mississauga

TRCA's work with the City of Mississauga is an example of how TRCA can support municipal partners in identifying options and considerations for sites to scatter funeral ashes in watercourses. In June 2019, local Councillors and TRCA Board Members requested that TRCA examine appropriate sites and processes to facilitate the dispersal of funeral ashes in accordance with the faith requirements of the Hindu community. Such a site would be non-denominational and could be utilized by various groups.

Through the latter half of 2019, TRCA staff met with City of Mississauga Parks and Forestry ("City") staff to discuss and identify opportunities for appropriate sites for the dispersal of funeral ashes in watercourses within TRCA's jurisdiction. City staff are determining both longer-term and shorter-term options for appropriate sites.

TRCA staff worked with City staff to determine risks due to the proposed dispersal of funeral ashes, including examining risks from a source water protection perspective, as well as risks to water quality and aquatic habitat. TRCA also reached out to the Ministry of Environment, Conservation and Parks regarding this proposal. Ministry staff did not raise any concerns about the dispersal of funeral ashes in the creek. In all such cases, TRCA staff recommend that baseline and ongoing monitoring of the watercourse be undertaken to ensure that no damage or impairments to water quality or aquatic habitat occur. Concerns related to the dispersal of offerings that may impact water quality or aquatic habitat, such as coconuts, other fruit, coins, jewelry or other objects, could be dealt with through the City's By-Law Enforcement staff and through ongoing education efforts by both the City and TRCA. TRCA Archaeology staff should also review any proposed sites to confirm that there are no archaeological sites at risk registered along associated stretches and that there is no risk of impacting or contaminating archaeological sites. If a site is selected, it is also recommended that TRCA and City staff review any restoration work that has been completed or is proposed for the site to ensure no impacts. Selected sites should also be identified to minimize future archaeological contamination from burial uses.

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TRCA staff will continue to work with the City to support environmentally and culturally appropriate practices related to dispersing funeral ashes in watercourses, and will provide similar support, as requested, to partner municipalities, as well as continuing to play an ongoing regulatory role.

TRCA's work with faith-based organizations

In addition to supporting the City of Mississauga in this initiative, TRCA has also worked with other organizations to facilitate and provide guidance on the creation of appropriate sites for the dispersal of funeral ashes. For example, TRCA has worked with the Ontario Khalsa Darbar on proposed landscaping construction that the organization will undertake in order to create a site on Etobicoke Creek for the dispersal of funeral ashes. A permit was issued by TRCA in May 2020 for Ontario Khalsa Darbar to commence this work, with a member of the TRCA Board of Directors speaking at the launch of construction at this site.

TRCA has also worked with faith-based organizations on educational materials and initiatives related to the leaving of offerings in creeks and rivers, such as the brochure mentioned above, which was developed with the Hindu Federation and CVC, as well as undertaking outreach activities in Hindu temples.

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

TRCA has provided assistance to the City of Mississauga in recent discussions by facilitating high-level guidance and coordination with relevant TRCA staff through account 101-03. If municipalities or other organizations require more in-depth work from TRCA, including monitoring, in-depth stakeholder engagement, or design, restoration or project management work, it is expected that this would be conducted on a fee-for-service basis via an existing or expanded Memorandum of Understanding or Service Level Agreement.

DETAILS OF WORK TO BE DONE

TRCA will continue to support municipalities, such as the City of Mississauga, through providing guidance on best practices and considerations and potentially engagement with relevant faith groups, where the work aligns with TRCA's mandate. TRCA may also provide fee-for-service work that can include: providing detailed advice; aquatic monitoring; design, restoration and/or project management services for sites or facilities adjacent to watercourses; and/or more in-depth education and engagement with stakeholders. TRCA will continue to provide plan review services for relevant projects and sites that require TRCA permits.

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