

Section III – Items for the Information of the Board

TO: Chair and Members of the Board of Directors
Friday, June 25, 2021 Meeting

FROM: John MacKenzie, Chief Executive Officer

RE: UPDATE ON MEMORANDUMS OF UNDERSTANDING AND SERVICE LEVEL AGREEMENTS WITH MUNICIPALITIES

KEY ISSUE

To provide an update to Toronto and Region Conservation Authority's (TRCA) Board of Directors on work underway to advance Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs) with partner municipalities in the context of the updated *Conservation Authorities Act* (CA Act) and consultation regarding upcoming Ministry of Environment, Conservation and Parks and Ministry of Natural Resources and Forestry regulations.

RECOMMENDATION

IT IS RECOMMENDED THAT this progress report be received;

THAT TRCA staff report back to the Board of Directors on the progress of Memorandums of Understanding and Service Level Agreements once *Conservation Authorities Act* regulations are released;

AND FURTHER THAT the Clerk and Manager, Policy, circulate this report to TRCA's municipal partners, and the Province, including the Ministry of Environment, Conservation and Parks, Ministry of Natural Resources and Forestry, and Ministry of Municipal Affairs and Housing.

BACKGROUND

Since 2015, the *Conservation Authorities Act* (CA Act) has been amended multiple times to introduce measures that provide further clarity and transparency surrounding the various types of services that conservation authorities provide to, and on behalf of, municipalities. These amendments were undertaken through the *Building Better Communities and Conserving Watersheds Act, 2017* (Bill 139) in 2017, the *More Homes, More Choice Act* (Bill 108) in 2019, and the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* (Bill 229) in 2020. As a result of these amendments to the CA Act, conservation authorities will need to execute Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs) with partner municipalities in order to deliver services deemed to be non-mandatory.

As directed by the Board of Directors at [Board of Directors Meeting #11/19](#) held on January 24, 2020 (Resolution #A237/19), [Board of Directors meeting #3/20](#), held on April 24, 2020 (Resolution #A31/20), and [Board of Directors Meeting #6/20](#) held on September 25, 2020, TRCA staff have undertaken discussions with municipal partners to develop and execute MOUs and SLAs. A full description of related Board resolutions, and the most recent update on MOU discussions, at can be found in Item [12.7 \(Update on Municipal Memorandums of Understanding and Service Level Agreements\)](#) from Board of Directors meeting #1/21 (February 26, 2021).

Staff also provided updates on amendments to the [Conservation Authorities Act](#) and *Planning*

Item 8.1

Act through Schedule 6 of [Bill 229](#) from December 8, 2020 and the Province's [announcement of the formation of a Conservation Authorities Working Group](#) from December 16, 2020. TRCA has representation on the Working Group, with additional representation from other conservation authorities (CAs), Conservation Ontario, the Association of Municipalities of Ontario, and municipal, development and agriculture sectors.

On May 13, 2021, the Ministry of Environment, Conservation and Parks (MECP) posted on the [Environmental Registry of Ontario](#) a "REGULATORY PROPOSAL CONSULTATION GUIDE: Regulations Defining Core Mandate and Improving Governance, Oversight and Accountability of Conservation Authorities" for a 45-day public commenting period ending June 27, 2021. The purpose of the Consultation Guide is to provide a description of the proposed regulations and solicit feedback that will be considered by the Ministry when developing the proposed regulations. The Guide does not include draft regulations. This first phase of the Ministry's process is focused on the proposed regulations related to:

- the mandatory programs and services to be delivered by conservation authorities;
- the proposed agreements with participating municipalities to fund non-mandatory programs and services through a municipal levy;
- the transition period to establish those agreements;
- the requirement to establish 'community' advisory boards; and
- the Minister's section 29 regulation relating to conservation authority operation and management of lands owned by the authority.

The Consultation Guide lays out a proposed requirement for conservation authorities to establish a Transition Plan that includes the following requirements:

- An inventory of programs and services to be completed, including identifying which of the authority's non-mandatory programs and services will require agreements with participating municipalities to continue financing (in whole or in part) through the municipal levy.
- Consultation with participating municipalities on the inventory undertaken to ensure they agree with the authority's classification of its programs and services.
- List of steps set out by the authority to be taken to enter into any agreements with participating municipalities for funding of authority determined programs and services.
- That these transition materials be provided to the Minister.

In response to the ERO posting, TRCA posted a [news release](#) on our website on May 18, 2021 and also brought forward [a report](#) (Item 8.4, Regulatory Proposals (Phase 1) Under the Conservation Authorities Act, Environmental Registry of Ontario Posting (ERO #019-2986) at the Board of Directors meeting held on May 28, 2021 on the Consultation Guide and potential implications, as well as solicited input from Board members on TRCA's proposed ERO submission.

RATIONALE

Staff have been undertaking discussions with partner municipalities since June 2019, with discussions increasing in frequency and productivity over the last year. The productivity of MOU/SLA discussions has been supported by the resources developed by staff and described in the Board reports noted above. TRCA staff are also undertaking regular reviews and updates of the resources that have been developed. This includes updating the template MOU and SLA

Item 8.1

that were developed as municipal preferences and other considerations emerge, as well as undertaking a regular review of the detailed list of TRCA services every few months to ensure that it continues to reflect the breadth of TRCA services and expertise. In addition, new resources are being developed. Letter Agreement templates lay out the expected structure and content of a Letter Agreement, which would be appended to the SLA for each service, program or project that TRCA undertakes on behalf of a municipality. Several different versions of the Letter Agreement templates are being developed to reflect the different types of work that TRCA could undertake along with associated details that would need to be included in any agreements. TRCA staff have also developed presentation templates for meetings with municipalities and other internal and external stakeholders in order to share the rationale for developing MOU/SLAs, the MOU/SLA agreement structure, TRCA service areas, and other considerations.

TRCA continues to participate in the Province's Conservation Authority Working Group. Based on TRCA's direct experience with developing MOUs with partner municipalities, staff have provided input related to the principles on which MOUs and SLAs could be based and the mandatory programs and services that conservation authorities would be required to provide. TRCA is encouraged that the direction laid out in the Consultation Guide, including for both the MOU Transition Plan and the development and execution of MOUs and SLAs themselves, aligns with the approach that TRCA has been taking in both discussions with partner municipalities and in the development of MOU-related resources. In many cases, TRCA is already meeting or exceeding many of the potential requirements of CAs, including having multi-stakeholder advisory committees to TRCA's Board (such as the Regional Watershed Alliance), already delivering mandatory CA services, and undertaking MOUs, SLAs and/or other agreements for the delivery of other individual services, programs and/or projects for municipalities.

Since the last update to the Board of Directors on the MOU-SLA process (Meeting #1/21, February 26, 2021), discussions with many partner municipalities have continued to progress (**Attachment 1**). This progress includes the following:

- Beyond initial discussions and/or meetings have been undertaken with all municipalities within TRCA's jurisdiction, TRCA resources have been distributed to all municipalities, including template MOUs and SLAs and the detailed list of TRCA services, at a minimum.
- Discussions on MOUs and SLAs have progressed to a more detailed stage with many municipalities. These detailed discussions include municipal staff reviewing TRCA's list of services, considering which services they currently utilize or might utilize, and reviewing any additional considerations, both internally and with TRCA staff. These detailed discussions may also include municipalities reviewing the template MOU and SLA with their legal counsel and/or conferring with their procurement/purchasing staff to understand any limitations and whether amendments may be required to current municipal procurement mechanisms.
- The execution of MOUs and/or MOUs moving to an advanced stage of development or approval. This includes where an MOU and the associated list of services has been drafted and is under review.
- Where relevant, staff have undertaken some joint meetings with municipal staff and neighbouring conservation authorities in order to better coordinate the development of MOUs and SLAs to ensure consistent services across a municipal jurisdiction.

Item 8.1

While most municipalities do want to, and continue to, work with TRCA to identify services of interest and to develop and review an MOU and SLA(s) with TRCA, many municipalities also continue to prefer to wait until the regulations are released to finalize and execute MOUs. TRCA staff continue to work with partner municipalities to move the MOUs and SLAs forward to an advanced stage so that they can easily be brought forward for endorsement. TRCA staff are also reviewing the Provincial requirements for an MOU Transition Plan and will build upon the MOU resources and work already undertaken in order to meet the December 31, 2021 deadline proposed by the Province in the current ERO posting.

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

There is no immediate financial impact due to carrying out the recommendations above. The process of undertaking agreements with municipalities related to non-mandatory municipal programs and services provided by TRCA under the amended *Conservation Authorities Act*, as well as with other external organizations, is expected to have positive financial impacts for TRCA based on the interest from most municipalities in providing funding and or jointly seeking funding for a selection of TRCA service areas that support areas of need for the municipalities in question and shared municipal and TRCA interests.

DETAILS OF WORK TO BE DONE

- Continue to communicate implications of the Consultation Guide to TRCA Board of Directors, municipal partners and relevant stakeholders, as well as information related to the enabling regulations, once released;
- Continue to meet with municipal partners in order to continue development and execution of MOUs based on municipal preferences and needs;
- Continue working with municipalities, where required, to address any potential procurement policy approvals or required by-law amendments to support updated MOUs and SLAs;
- Continue working with neighbouring Conservation Authorities in order to coordinate MOU development;
- Develop the Provincially required MOU Transition Plan, and bring the Plan to the TRCA Board of Directors in Q4 2021 for approval; and
- Update existing, and finalize new MOUs and SLAs, as appropriate.

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Attachment 1: Municipal MOU/SLA Status Progress Table