

Section II – Items for Executive Action

TO: Chair and Members of the Executive Committee
Friday, February 11, 2022 Meeting

FROM: John MacKenzie, Chief Executive Officer

RE: **TRCA DRAFT COMMENTS TO ENVIRONMENTAL REGISTRY OF ONTARIO POSTING (ERO #019-4610) – REGULATORY AND POLICY PROPOSALS (PHASE 2) UNDER THE CONSERVATION AUTHORITIES ACT**

KEY ISSUE

Toronto and Region Conservation Authority (TRCA) draft comments to the Environmental Registry of Ontario (ERO) on the Ministry of Environment, Conservation and Parks (MECP) posting of a [“REGULATORY AND POLICY PROPOSAL CONSULTATION GUIDE: Regulations regarding Municipal Levies, Conservation Authority Budget Process, Transparency, and Provincial Policy for the Charging of Fees by Conservation Authorities”](#), Phase 2 Regulatory and Policy Proposals under the *Conservation Authorities Act*.

RECOMMENDATION

WHEREAS on January 26, 2022, the Ministry of Environment, Conservation and Parks (MECP) posted a “REGULATORY AND POLICY PROPOSAL CONSULTATION GUIDE: Regulations regarding Municipal Levies, Conservation Authority Budget Process, Transparency, and Provincial Policy for the Charging of Fees by Conservation Authorities” for public comment on the Environmental Registry of Ontario (ERO);

AND WHEREAS THE ERO imposes a deadline of February 25, 2022 for submission of comments on Phase 2 of the MECP’s regulatory and policy proposals under the *Conservation Authorities Act*;

THEREFORE, LET IT BE RESOLVED THAT Toronto and Region Conservation Authority (TRCA) draft comments to ERO #019-4610 be endorsed with any comments from the Executive Committee of the Board of Directors to inform the final submission to the ERO;

AND FURTHER THAT staff report back to the Board of Directors on February 25, 2022, with TRCA’s final ERO submission for information and with any further recommendations based on planned discussions with MECP staff;

AND FURTHER THAT the Chief Financial and Operating Officer, so advise TRCA’s partner municipalities, the Ministry of Environment, Conservation and Parks, and Conservation Ontario.

BACKGROUND

On January 26, 2022, MECP posted on the [ERO](#) a “REGULATORY AND POLICY PROPOSAL CONSULTATION GUIDE: Regulations regarding Municipal Levies, Conservation Authority Budget Process, Transparency, and Provincial Policy for the Charging of Fees by Conservation Authorities” for a 30-day public commenting period ending February 25, 2022. 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 and any associated policies. The Guide does not include draft regulations. The proposal is predominantly financial and administrative in nature and focused on:

- the municipal levy;

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- the budget process;
- the scope of the classes of programs and services that the Minister approves for conservation authorities (CAs) to charge fees; and
- requirements to increase transparency of CA operations.

As indicated in the ERO posting, the overall proposed approach for the regulatory and policy proposals is intended to:

- build on what is already working between CAs and municipalities
- build in flexibility where possible
- avoid being overly prescriptive
- recognize differing circumstances at the local level for budget processes due to the range in participating municipalities across CAs and varying revenue streams
- recognize that participating municipalities and CAs have established local budget processes designed to meet the needs of their municipalities

The proposals described in the Ministry's Guide for consultation are to support development of the following:

1. LGIC (Lieutenant Governor in Council) regulation governing the apportionment by conservation authorities of their capital costs and operating expenses to be paid by their participating municipalities through municipal levies, as well as related conservation authority budgetary matters, including requirements that conservation authorities distribute their draft and final budgets to relevant municipalities and make them publicly available – i.e., "Municipal Levies Regulation".
2. Minister's regulation governing the determination by a conservation authority of costs owed by specified municipalities for the authority's mandatory programs and services under the Clean Water Act, 2006, and the Lake Simcoe Protection Act, 2008 – i.e., "Minister's regulation for determining amounts owed by specified municipalities".
3. Minister's published list of classes of programs and services in respect of which a conservation authority may charge a user fee.
4. Complementary regulations to increase transparency of authority operations.

Until the levy regulations and policy proposals are finalized and in effect and the associated legislative provisions proclaimed into force, conservation authorities and municipalities will continue to follow current levy and budgeting processes, as well as the current list of eligible user fees set out in provincial policy. The schedule of timing for the effective date of these proposed regulations and provincial policy is proposed to align with municipal and conservation authority calendar year budget cycles, beginning January 1, 2023. This would ensure that conservation authority 2024 budgets and levy processes would follow the updated regulations, and conservation authorities would have the necessary time to satisfy the legislative requirements following the Minister's publication of the list of classes of programs and services for which an authority may charge a user fee.

MECP hosted webinars focused for conservation authorities and Conservation Ontario on February 2, 2022, as well as general webinars on February 4th and 10th, to provide an overview of the proposals and answer any questions. TRCA staff attended these webinars.

RATIONALE

TRCA's draft submission to the ERO posting, including recommendations to inform the development of the enabling CA Act regulations for Phase 2 of MECP's regulatory proposal, is provided in Attachment 1. TRCA is very supportive of regulations that advance transparent governance processes. The Consultation Guide outlines many governance best practices and processes that are reflective and aligned with those of TRCA, including website disclosures pertaining to user fees, financial statements, budgets, bylaws, as well as meeting agendas and minutes. However, there are a few key areas within the Guide related to proposals 1, 3 and 4 noted above that pose an unintentional detrimental or operational impact to TRCA and our municipal partners. As such, staff have highlighted these unintended negative impacts in the attached draft response with recommendations to address these concerns in the development of the final draft regulations. At a high level, some of the well intended proposed changes could negatively impact our current value-added role as an independent organization which successfully leverages municipal funding to garner additional funds from senior levels of government, industry, and philanthropic partners for shared municipal/TRCA projects. In addition, there is a risk that the regulations, if not carefully crafted to recognize what is already working well, will introduce additional processes and procedures that would unintentionally disrupt and negatively impact the well-established, TRCA Board and municipally supported budget process in our jurisdiction. These concerns are outlined in detail in Attachment 1.

This report is being circulated to all members of the Board of Directors to provide an opportunity for feedback and input into the final ERO submission planned immediately following the Executive Committee recognizing timing noting that the final ERO submission and any additional recommendations informed by discussions with MECP staff will be brought forward to the Board of Directors on February 25, 2022 for information and any required endorsement.

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 7 – Build partnerships and new business models

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

DETAILS OF WORK TO BE DONE

Staff are undertaking the following next steps:

- Advancing and protecting TRCA interests through Senior Leadership Team representatives' role on the Conservation Authorities Working Group
- Attending MECP stakeholder consultation webinars (CAs, municipalities, etc.)
- Finalizing TRCA's submission to MECP in response to the ERO posting on the Consultation Guide based on input received from the Executive Committee/Board of Directors and integrated with recommendations from senior staff and legal counsel to

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- inform the development of the proposed regulations and provincial policy
- Reporting back on the status of planned discussions with MECP staff regarding the final ERO submission at the Board of Directors meeting on February 25, 2022
- Bringing forward any additional recommendations or an updated submission for endorsement and submission to the ERO, at the February 25, 2022, Board of Directors meeting, if required

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Date: February 2, 2022

Attachments: 1

Attachment 1: Draft TRCA Submission to ERO #019-4610