



Chief Executive Officer

## MEMORANDUM

DATE: December 16, 2022

TO: Municipal Leadership in TRCA's Jurisdiction

FROM: John MacKenzie, Chief Executive Officer

RE: TRCA's Interim Update on Implications of Bill 23 Conservation Authorities Act Amendments

Further to the passing of Bill 23, the [More Homes Built Faster Act](#), 2022 on November 28, 2022, we wish to provide this interim update on implementation of the further amendments to the [Conservation Authorities Act](#) and what this means for TRCA programs and services for our municipal partners.

The focus of this interim update is on development and infrastructure plan review and permitting functions that have been part of Bill 23 changes, as well as other programs and services provided through agreements with municipalities:

### Plan Review

There is no change to the current review and commenting functions under the Planning Act and Environmental Assessment Act for natural hazard matters, including where such review and comment is pursuant to Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs). Planning application review and commenting for natural hazards is a mandatory program and service under [Ontario Regulation 686/21](#). There has been no change to the requirement for municipalities to circulate applications to conservation authorities in accordance with the regulations under the Planning Act, and existing screening procedures continue to apply to such circulations. Our existing plan is to continue work with your staff to update our existing Plan Review MOUs. We anticipate reaching out early in the new year to continue to move the Plan Review MOU work forward with the goal of further streamlining our shared processes to support municipal efforts to meet timelines established by the Province.

The scoping of some aspects of non-mandatory review and commenting for certain applications, proposals and other matters that are made under prescribed acts (e.g., Planning Act, Environmental Assessment Act, other acts as may be prescribed), does not become operative until such time as the Minister of Natural Resources and Forestry issues an enabling regulation identifying those acts. We continue to work internally and with external contacts to interpret the impacts of the new provisions on the non-mandatory review and commenting functions of conservation authorities.

Effective January 1, 2023, Ontario Land Tribunal (OLT) appeals of land use planning decisions and party status requests under the Planning Act by conservation authorities, in their capacity as public bodies, will be limited to matters that relate to natural hazard policies in any policy statements issued under the Planning Act. This new provision does not impact OLT appeals where a conservation authority obtained party status prior to January 1, 2023. TRCA has always coordinated with its municipal partners in respect of OLT appeals, with TRCA taking a supporting role to municipalities in respect of natural heritage matters and leading its own case in respect of natural hazard matters.

## Permits

Until the new Section 28 and Section 28.1 provisions come into force and [Ontario Regulation 166/06](#) is repealed, it is business as usual for permitting. When the amendments come into force, which we anticipate may occur at some point in 2023, the tests of “pollution” and “conservation of land” for the issuance of a permit will be replaced with “unstable soil or bedrock”. Those new tests have already come into force for permits related to Minister’s Zoning Orders (MZO) and Community Infrastructure and Housing Accelerator Orders (CIHAOs), as have new provisions enabling the Minister by regulation to limit conditions to be applied to permits for MZO and CIHAO development projects.

Conservation authority permits remain applicable law in respect of building permit applications, and municipal building officials should continue to refer applicants for development proposals within CA Act regulated areas to TRCA.

The new subsection 28(4.1), being the clause to exempt permits for certain regulated areas in certain municipalities where there are certain Planning Act approvals, will not become operative until a regulation or regulations are made to prescribe activities, areas of municipalities and types of authorizations under the Planning Act that qualify for the exemption. We note that any exemption is subject to such terms and conditions as may be prescribed in those regulations. We recognize some municipal partners are concerned about potential liability from this exemption. At this time, absent further information on the specific exemptions that may be proposed, we can only focus on ensuring that conservation authority input through the planning process is fully and comprehensively addressed in any municipal approvals.

## Other Conservation Authority Programs and Services Provided Through MOUs/Agreements

The recent legislative changes through Bill 23 do not affect other TRCA programs and services. As you are aware, TRCA provides a wide variety of programs and services that further the conservation, restoration, development, and management of natural resources in watersheds across its jurisdiction. These programs and services include but are not limited to trail planning and construction, riverine and shoreline rehabilitation works, restoration planting, community education and outreach, advancing joint projects including environmental assessments and the design and delivery of capital projects for and with our municipal and agency partners. Establishing MOUs with municipalities where they are not already in place for the delivery of these municipally requested services, as well as other agreements for provision of other non-mandatory services to provincial agencies and infrastructure providers remains a requirement under the CA Act and associated regulations. We are continuing to work with our municipal and agency partners to formalize these arrangements through MOUs and agreements where they currently do not exist. For a status update on this work, please refer to the [staff report](#) and [attachment](#) that went to TRCA’s Board of Directors on November 10, 2022.

## Next Steps

TRCA, Conservation Ontario and other partner organizations will, consistent with requests from other organizations including the Association of Municipalities Ontario, and the Building Industry and Land Development Association (BILD), continue to advocate for the Province to reconvene the multi-sectoral Conservation Authority Working Group, that TRCA is part of, to review and provide input on draft enabling regulations prior to their finalization. As more information becomes available in the new year, we will provide a further update setting out in more detail our understanding of the provincial direction and implications to our work.

Our discussions with municipalities, government agencies, stakeholders and the public have confirmed the vital role of TRCA in planning and infrastructure reviews. In the interim, TRCA will continue to provide timely and quality delivery of all TRCA mandatory and non-mandatory programs and services in accordance with the CA Act as amended. We look forward to continuing to work closely with you and your staff on implementation issues arising from these changes.

For more information or if there are more specific questions on the above, please reach out to:

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