

Item AUTH7.1

TO: Chair and Members of the Authority
Meeting #9/14, November 28, 2014

FROM: Carolyn Woodland, Director, Planning and Development

RE: **THE LIVING CITY POLICIES FOR PLANNING AND DEVELOPMENT IN THE WATERSHEDS OF THE TORONTO AND REGION CONSERVATION AUTHORITY**

KEY ISSUE

Recommending Authority approval of The Living City Polices for Planning and Development in the Watersheds of the Toronto and Region Conservation Authority.

RECOMMENDATION

WHEREAS Toronto and Region Conservation Authority (TRCA) staff conducted a second and final round of public and stakeholder consultation on The Living City Policies draft document;

AND WHEREAS the document has now been finalized based on staff and stakeholder feedback;

AND WHEREAS the Province's "Policies and Procedures for Conservation Authority Plan Review and Permitting Activities" (2010) states that conservation authority policies be "approved by the conservation authority Board of Directors";

THEREFORE LET IT BE RESOLVED THAT TRCA adopt The Living City Policies for Planning and Development in the Watersheds of the Toronto and Region Conservation Authority to be effective immediately, and to replace the Valley and Stream Corridor Management Program adopted by the Authority in October 1994;

AND FURTHER THAT TRCA's municipal partners, provincial ministries, the Building Industry and Land Development Association, environmental non-governmental agencies, watershed and waterfront interest groups, neighbouring conservation authorities, and aboriginal nations, confederacies and councils be so advised by the CEO's Office.

BACKGROUND

At Authority Meeting #11/13, held on January 31, 2014, Resolution #A236/13 was approved as follows:

WHEREAS Toronto and Region Conservation Authority (TRCA) staff conducted public and stakeholder consultation on The Living City Policies draft document and have revised the draft document based on stakeholder feedback;

AND WHEREAS staff committed to reporting back to the board on the results of public consultation and on revisions to the draft document;

THEREFORE LET IT BE RESOLVED THAT TRCA release a revised draft of The Living City Policies draft document for final public and stakeholder consultation as outlined in this report;

THAT TRCA's municipal partners, provincial ministries, the Building Industry and Land Development Association, environmental non-governmental agencies, watershed and waterfront interest groups, neighbouring conservation authorities, and other stakeholders be so advised by the CEO's Office;

AND FURTHER THAT staff return to the board later in 2014 for formal adoption of The Living City Policies document.

As reflected in the above resolution, the Authority consented to TRCA Planning and Development staff releasing the revised (May 2014) draft of The Living City Policies (LCP) for a second and final round of comments. Since that time, staff have been working to collect, analyze and address comments on the revised draft and to ultimately finalize the document for Authority adoption.

The LCP is issued under the authority of Section 20 of the *Conservation Authorities Act*. Upon the Authority's adoption of the LCP, it will apply to all new applications, matters, or proceedings applicable to TRCA's roles in the planning and development process, submitted to TRCA on or after November 28, 2014. Given that the document is largely a policy expression of current practice and is consistent with the current legislative framework, the LCP will also apply to any active applications, matters or proceedings before TRCA as of November 28, 2014.

The purpose of The Living City Policies is four-fold:

- 1) To guide TRCA review of applications under the *Planning Act* and undertakings subject to the *Environmental Assessment Act* ;
- 2) To provide the basis for approving permit applications under Section 28 of the *Conservation Authorities Act* ;
- 3) To inform TRCA's advocacy role for The Living City and sustainable communities in the planning and development process; and
- 4) To assist and enable TRCA's partners' and stakeholders' contributions to building The Living City.

TRCA Planning and Development staff will be the main implementers of the LCP, with TRCA's Ecology staff as the main source of technical support for their expertise in ecology, hydrology, hydraulics, hydrogeology, fluvial geomorphology and geotechnical reviews. Other TRCA sections such as Research and Development, Watershed Management, Restoration Services, Property Services, Conservation Lands, and Stewardship and Outreach Education may also provide support to Planning and Development staff in this regard.

For municipalities, the LCP provides greater clarity on TRCA's roles in the planning and development process and helps to reinforce the already positive and productive working relationship TRCA has with its member municipalities. Indeed, many policy directions in the LCP are already embedded in recent official plan updates through TRCA's engagement in municipal plan input and plan review work. Municipalities appreciated that the LCP would "provide guidance and a sound basis for understanding the TRCA's role as a commenting agency and the organization's role in promoting the Living City vision." The LCP does not trigger amendments to municipal official plans. Given that municipalities must update their official plans for consistency with the Provincial Policy Statement, TRCA staff appreciate that many of the policy topics in the LCP are also found in the 2014 Provincial Policy Statement, such as climate change in the context of natural hazards, green infrastructure and low impact development. Moreover, as mentioned, the LCP will inform TRCA staff input to future updates to municipal official plans, secondary plans, etc. and the review of development applications.

In accordance with provincial guidance for conservation authority policies, the LCP requires Authority approval. Staff, however, acknowledge that municipal council endorsements are welcome as an added layer of support for implementing the policies in the document. In the final round of consultation on the LCP (May 2014 version), some municipalities took a staff report on the document to their Council as an information item (i.e., Township of Uxbridge, the City of Markham, as well as York, Peel, and Durham regions).

The LCP consists of eight sections, a glossary, references and appendices. The following is an outline of the sections in the document:

- 1. Introduction**
Purpose, scope, updates, applicability, guidelines, and how to read this document
- 2. The Toronto Region**
A jurisdictional and biophysical overview of TRCA's watersheds, and their issues, challenges and opportunities.
- 3. Legislative Foundation**
An overview of TRCA's mandate as outlined in legislation, regulation, and agreements
- 4. TRCA History and Evolution to The Living City**
The evolution and adaptation of TRCA's roles and responsibilities over time and looking ahead.
- 5. The Living City**
The Living City vision, mission, strategic objectives, and the corresponding principles for planning and development
- 6. Paths to Achieving The Living City: Policies for Sustainable Communities**
Policies for TRCA's advocacy role in the process of building sustainable communities; recommendations for TRCA's work with its partners and to approval authorities.
- 7. Policies for Environmental Planning**
Policies for TRCA's role as a public commenting body, resource management agency, service provider and landowner under the *Planning Act* and the *Environmental Assessment Act* ; this chapter also includes policies for TRCA's delegated role under the *Planning Act* to represent the provincial interest in natural hazards.
- 8. Policies for the Administration of the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation**
Policies for TRCA's regulatory review and permit approval process.

Glossary - Definitions of terms used in the document

References - Sources used in the development of the document

Appendix A – Illustrative Examples of the Natural System

Appendix B - Municipal Official Plan Policies for Approved Special Policy Areas and Two Zone Areas

Appendix C - Defining the Limit of Regulated Areas

Appendix D - Illustrative Examples of Additions to Existing Buildings within the Flood Hazard

Stakeholder Consultation 2014

In addition to having the LCP posted for review and comment on TRCA's website since January 2013, staff offered another avenue for stakeholder and public input by holding an "open house" on the LCP, hosted at Black Creek Pioneer Village on May 21, 2014. Staff gave brief presentations on the LCP in afternoon and evening sessions. The sessions were well advertised, with notices in all of the GTA local newspapers, in the front section of the Toronto Star and on TRCA's website. Attendees were primarily consultants; questions were largely those of clarification on TRCA, municipal, provincial and federal roles in the planning and development process.

Fifteen of the 18 municipalities circulated on the May 2014 LCP submitted written comments to TRCA staff. Similar to the last round of comments, the feedback was very positive with several municipalities stating that the document satisfactorily articulates TRCA's role in the planning and development process, and will enhance an already beneficial working relationship between TRCA and its municipal partners. All of the municipalities, as well as the Ministry of Natural Resources and Forestry (MNR) and the Niagara Escarpment Commission, stated that they appreciated that TRCA was able to address most of their comments through revisions to the January 2013 draft document, or by providing a rationale for the text remaining the same; this was done in a chart that contained all of the comments and the corresponding TRCA responses. The chart was released through email to all stakeholders and posted on the TRCA website, accompanied by a "track changes" version of the revised May 2014 LCP. Similarly, a link is being provided to all stakeholders that contains the full list of the written comments provided to TRCA on the May 2014 LCP, along with TRCA's corresponding responses.

Municipalities

A few municipalities had some new comments on this second draft of the LCP, or in some cases were not satisfied as to how TRCA proposed to address a number of their initial comments. Following is a synopsis of some of the more frequently made comments from municipalities and a summary of TRCA's responses.

Natural Heritage System Planning

One of the main themes from municipal comments in the initial round of comments in 2013 was the desire for the LCP to more clearly state that municipalities are the decision makers in the planning process and that the municipal official plan prevails, especially with respect to defining the boundaries of the natural heritage system. In response, the January 2013 LCP was revised to state this legislative distinction more clearly through text boxes and modifications to the planning policies in chapters 6 and 7. While most municipalities felt that these enhancements contained in the May 2014 version provided the appropriate recognition of responsibilities, some others requested additional emphasis to make this message even more prominent, particularly in the chapter 7 planning policies. TRCA staff directed these commenters to the enhanced text boxes and preambles which state that, "Ultimately, the limits of the Natural System adjacent to development are finalized by the municipality through the planning approval process." It was also pointed out to these municipalities that the chapter 7 policies of the LCP clearly set out all of the factors under consideration when determining the boundaries of the natural heritage system, which first includes municipal official plan policies and schedules. This stands with the caveat that TRCA is in no way limited in exercising its rights under the *Planning Act*, the *Conservation Authorities Act*, or any other applicable legislation to independently appeal or advocate any position on a planning decision to the Ontario Municipal Board, as outlined in Memorandums of Understanding with municipalities.

Policy Phraseology

Another comment made by some municipalities was that the phrase "It is the policy of TRCA" was not sufficient to identify and clearly distinguish the specific policies that are intended to provide a *recommendation* to approval authorities, and to ensure that the approach in the preamble (that explains TRCA's role relative to the decision making role of municipalities) is clearly recognized in the policies. These commenters suggested that the phrase be revised to, "It is the policy of TRCA to *recommend* to approval authorities." Staff's response to this comment was that the phrase "to recommend" is already in some of the policies in the LCP where appropriate. In addition, the LCP's use of the phrase "It is the policy of TRCA" is appropriate since this is TRCA's policy document, to be adopted by TRCA's board. Further, the general nature of the phrase, "It is the policy of TRCA" is intentional, given that for many policies in the section 6 advocacy chapter and the section 7 planning chapter, there are inherent, one, two or more of TRCA's roles, i.e., public commenting body, resource management agency, service provider, delegated provincial interest, landowner. The legislative basis for each of these roles is described in Chapter 3 of the LCP.

TRCA Compensation Protocol and Valley and Stream Corridor Crossings Guideline

Another municipal issue that was raised again in this second round of comments was the status of TRCA's Compensation Protocol. York, Durham and Peel regions all commented that they were eager to consult on TRCA's draft Compensation Protocol. Staff acknowledged these comments and noted that the compensation policies in the LCP are general and do not refer specifically to the Protocol since it is not yet complete. Staff also removed the sections in the policy preamble that refer to the Protocol to be consistent with this approach. This is similar to the LCP's treatment of the policies for road crossings of valley and stream corridors. The TRCA technical guideline for crossings is not yet complete and so neither the policies nor the preambles refer to it directly, but rather, reflect current practice for these types of projects. As well, TRCA staff confirm that there will be municipal consultation on both the Compensation Protocol and the Crossings guideline.

Province

Provincial bodies commenting in this second round of consultation were the Ministry of Natural Resources and Forestry and the Niagara Escarpment Commission. Both agencies were supportive of the document and made only minor comments for clarification in wording where provincial matters are referenced in the preambles and the policies. MNRF said in their comments: "Great job over all! Very thorough. It looks like a lot of work was done in pulling this together." Similarly, the NEC stated: "Overall, the document is well-organized and easy-to-read. We commend TRCA staff on the efforts made in preparing the LCP."

BILD

Planning and Development staff introduced the May 2014 version of the LCP to the Building Industry and Land Development Association (BILD) at a meeting held on May 8, 2014 to indicate how staff addressed their comments on the first draft. The meeting was generally positive and BILD has not submitted any further written comments. Staff have kept BILD informed about the progress of the document.

ENGOS

No environmental non-government organizations commented in this round of consultation.

Conservation Authorities

The Credit Valley Conservation Authority commented that the LCP should provide greater flexibility in its definition of headwater drainage features to reflect the flexibility that is in the technical document on these features, shared jointly by the two conservation authorities (CAs). TRCA staff responded that a slight modification to the definition, which would provide this flexibility, is appropriate as it reflects current practice for both CAs.

Aboriginal Communities

Two of the contacts on TRCA's circulation list of nations, confederacies and councils responded to notices about the LCP. The Mississaugas of the New Credit said that they would like to review the material, but did not submit written or verbal comments. Subsequent to this, TRCA staff had the opportunity in a meeting with the Mississaugas of the New Credit to provide them with a high level overview of the document. The Huron-Wendat requested funding from TRCA in order to do their review and did not submit written or verbal comments. TRCA could not grant the funding request, however, staff offered the alternatives of a webinar and a conference call for the Huron-Wendat to learn more about the project. TRCA has developed Engagement Guidelines to foster relationships with Aboriginal communities, which is being circulated in draft to the nations, confederacies and councils whose interests within TRCA watersheds may be affected by TRCA projects.

Legal Counsel

Staff circulated the draft LCP to TRCA's legal counsel, who has had extensive experience working with conservation authorities and representing TRCA at the Ontario Municipal Board and Mining and Lands Commissioner hearings. The outcome of the review was some minor adjustments to the document to enhance clarity around the intent the policies.

TRCA Staff

Planning and Development staff also conducted another round of internal review of the LCP in the last several months with TRCA Planning and Development staff and TRCA ecologists, engineers and hydrogeologists involved in plan and permit review. Both the Planning and Development staff and the technical staff were advised to “test” the draft policies by referring to them in their daily work. This resulted in helpful comments from staff to make minor modifications to wording in some of the preambles and policies to more closely reflect current practice, updated legislation and new technical information. Additional diagrams and photos with labels were also added to the LCP to further illustrate the intent of the policies.

DETAILS OF THE WORK TO BE DONE

Overall, this final round of consultation on the LCP did not necessitate any major changes to the document from its previous iteration. A “track changes” version of the LCP dated November 2014 will be made available on TRCA’s website, which will show that the changes that have been made are minor. The LCP will become effective upon the Authority’s approval and staff training on the document will commence shortly after. Staff training will emphasize:

- 1) The LCP is largely the policy expression of current practice.
- 2) Staff letters to approval authorities should reflect the structure of the LCP where staff must indicate in which capacity comments are being made, e.g., resource management agency, service provider, public commenting body, delegated provincial interest, regulator or landowner.
- 3) TRCA’s approved technical guidelines and checklists support the policies of the LCP and should be used to guide TRCA and municipal staff from a technical perspective, and should be used by proponents and their consultants to assist in preparation and review of development and infrastructure proposals.

For those who request it, information sessions on the LCP, through webinars and/or conference calls to further describe the project and its implementation, can be provided by TRCA Planning and Development staff. Any future updates to the policies of the LCP will be done with the appropriate public notice, stakeholder consultation, and TRCA board approval.

FINANCIAL DETAILS

Conservation authorities have a legislated and mandated responsibility under the *Conservation Authorities Act* to have board approved policies. Funding for this project and its implementation is part of the regular planning and development divisional budgeting process.

SUMMARY

In consultation with staff, municipalities, provincial bodies and other stakeholders, TRCA has completed a policy document to replace the Valley and Stream Corridor Management Program (VSCMP). The VSCMP has been a highly regarded document in the field of environmental planning by TRCA and its partners. The document’s ecosystem approach to watershed planning was leading-edge for its time and influenced municipal and provincial policy. Referenced in numerous decisions, the VSCMP has stood up well before the Ontario Municipal Board and the Mining and Lands Commissioner. Although the LCP will supersede the VSCMP, it encapsulates the VSCMP’s valuable foundation of principles and policy intent.

The LCP is consistent with the Leadership and Enabling Strategies from TRCA's 10-Year Strategic Plan, in particular, to manage our regional water resources for current and future generations, to create complete communities that integrate nature and the built environment, and, to facilitate a region wide approach to sustainability. Above all, the LCP espouses the Strategic Plan's principle that natural systems provide fundamental and irreplaceable benefits that are vital to human health and well-being, and as such, the LCP promotes that nature must be a foremost consideration in city-building.

Staff are pleased to be bringing The Living City Policies for Planning and Development in the Watersheds of Toronto and Region Conservation Authority to the Authority for approval. The long but rewarding process to consult on and finalize the document has resulted in a comprehensive and clear product that will serve well TRCA and all stakeholders in the planning and development process for the next 10 years. Incorporating the latest science from watershed plans and based on a 60-year history of watershed monitoring, the LCP implements innovative, risk-reducing strategies for flood plain and stormwater management, and a systems approach to natural heritage protection and enhancement. The current provincial policy directions for urban redevelopment and intensification, and the potential impacts of climate change, make TRCA's work with its partners in protecting life, property and habitat that much more important. Staff anticipate that the LCP will play a critical role in helping TRCA and its partners achieve The Living City vision for a new kind of community, where human settlement can flourish forever as part of nature's beauty and diversity.

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