



**City of Kingston
Report to Council
Report Number 19-233**

To: Mayor and Members of Council
From: Lanie Hurdle, Interim Chief Administrative Officer
Resource Staff: Paige Agnew, Director, Planning, Building & Licensing Services
Date of Meeting: October 15, 2019
Subject: CRCA/City of Kingston – Memorandum of Understanding for Plan Input and Review Service Delivery

Executive Summary:

The purpose of this report is to seek Council authorization to enter into a Memorandum of Understanding with the Cataraqui Region Conservation Authority (CRCA) for its provision of plan input and review services to the City of Kingston. These services include the following:

- Reviewing site-specific development applications as an external technical agency and providing comments to the City regarding natural hazards, natural heritage, and water quality and quantity;
- Providing input to the City with respect to natural hazards, natural heritage, and water quality and quantity on the zoning by-law(s), other by-laws and policies, as appropriate, and City-initiated *Planning Act* applications such as those for amendments to the Official Plan or the zoning by-laws; and
- Providing input on the City's Official Plan with respect to natural hazards as part of the Provincial one-window plan review process led by the Ministry of Municipal Affairs.

The *Conservation Authorities Act* permits conservation authorities in Ontario to enter into a Memorandum of Understanding with member municipalities regarding the programs and services provided by the conservation authorities. In the past, the understanding between the CRCA and the City regarding plan input and review services has been confirmed by way of a letter prepared and signed by CRCA staff. The most recent letter from the CRCA regarding its planning service provision to the City is dated August 10, 2011. As part of an update to this letter, the CRCA has requested that the provision of its services be formalized through a Memorandum of Understanding with the City. A draft of the proposed Memorandum of Understanding has been prepared in consultation with staff from Legal Services and is attached in Exhibit A.

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Recommendation:

That Council authorize the Mayor and Clerk to enter into a Memorandum of Understanding with the Cataraqui Region Conservation Authority (CRCA) regarding the plan input and review services provided by CRCA to the City, which is substantially in the form attached as Exhibit A to Report Number 19-233, subject to any amendments approved by the Director of Legal Services.

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Options/Discussion:

Conservation authorities across Ontario are responsible for representing the Provincial interest on natural hazards (flood plain management, hazardous slopes, Great Lakes shorelines, unstable soils and erosion) encompassed by Section 3.1 of the Provincial Policy Statement. Conservation authorities also provide planning advisory services to member municipalities for their review of *Planning Act* applications as external technical agencies on natural hazard and typically on matters relating to natural heritage and water quality and quantity. The *Conservation Authorities Act* permits conservation authorities to enter into a Memorandum of Understanding (MOU) with member municipalities for the provision of programs and services.

The CRCA provides planning and technical advice to its member municipalities, which includes the City of Kingston, on applications made under the *Planning Act* (i.e. minor variances, zoning by-law amendments, plans of subdivision, etc.). These services focus on the natural hazards, natural heritage, and water quality and quantity policies of the Provincial Policy Statement. These services are provided to the municipality on a cost-recovery basis. Fees are directly charged by the CRCA to applicants for the review of applications and supporting technical reports in accordance with the fee schedules that are posted on the CRCA website and updated from time to time. The CRCA has prepared “screening maps” which identifies areas where applications are to be forwarded to the CRCA for review.

The CRCA also reviews and provides comments to the Ministry of Municipal Affairs on municipal Official Plans as part of the Provincial one-window plan review process. In addition, the CRCA provides input to the City with respect to natural hazards, natural heritage, and water quality and quantity on the zoning by-law(s) and other by-laws and policies, as appropriate, and City-initiated *Planning Act* applications such as those for amendments to the Official Plan or the zoning by-laws. The CRCA does not charge the City a fee for these services.

The CRCA has planning service arrangements with its member municipalities that identify the areas of technical expertise on which it will advise the municipalities. In the past, this has been done through a letter from the CRCA to its member municipalities. The most recent letter from the CRCA regarding its planning service provision to the City of Kingston is dated August 10, 2011 and is available on the CRCA’s [website](#). As part of an update to this letter, the CRCA has requested that the provision of these services be formalized through a Memorandum of Understanding with the City which would be signed by the CRCA as well as the City.

The purpose of this report is to seek Council authorization to enter into a Memorandum of Understanding with the CRCA for its provision of plan input and review services to the City of Kingston for applications made under the *Planning Act*.

A draft of the proposed Memorandum of Understanding has been prepared in consultation with staff from Legal Services and reviewed with CRCA staff (Exhibit A). The draft speaks to the following items:

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- the scope of the CRCA's plan review and input services;
- the types of applications typically reviewed by the CRCA;
- the screening areas that will be used to identify which applications are to be forwarded to CRCA for review;
- guiding legislation and policy documents that will be considered by CRCA staff;
- timelines for providing comments; and
- CRCA fees for service delivery.

The term of the Memorandum of Understanding is proposed to be three years, commencing on the date on which the document is executed by the City. The Memorandum of Understanding may be extended for additional three-year periods, on the same terms and conditions at the discretion of the CRCA and the City. It is proposed that upon the expiry of each three-year term, both parties will review the terms of the Memorandum of Understanding to clarify responsibilities, improve working relationships and to identify areas for efficiencies, as required.

Existing Policy/By-Law:

Conservation Authorities Act
Planning Act
Provincial Policy Statement
City of Kingston Official Plan
City of Kingston Zoning By-Laws

Notice Provisions:

Not applicable

Accessibility Considerations:

Not applicable

Financial Considerations:

The CRCA's plan review service for site-specific development applications is provided on a full cost-recovery basis through the collection of fees that are paid directly to the CRCA by applicants. The CRCA does not charge fees for its input on City-initiated *Planning Act* applications, municipal by-laws or other planning documents.

Contacts:

Sukriti Agarwal, Acting Planning Initiatives Manager 613-546-4291 extension 3217

Other City of Kingston Staff Consulted:

Jenna Morley, Associate Legal Counsel, Legal Services

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Exhibits Attached:

Exhibit A Draft Cataraqui Region Conservation Authority/City of Kingston Memorandum of Understanding

**Memorandum of Understanding (“MOU”) – Plan Input and Review Service
Delivery**

The MOU, dated as of the ____ day of _____, 2019

Between:

Cataraqui Region Conservation Authority

(the “CRCA”)

and

The Corporation of the City of Kingston

(the “municipality”)

The CRCA and the municipality (“the parties”) agree as follows:

Purpose

- (1) In accordance with Section 21.1.1(1) of the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, this MOU describes the plan input and review services provided by CRCA to the municipality under the *Planning Act*. These services focus on the natural hazards, natural heritage and water quality and quantity aspects of the Provincial Policy Statement. This MOU supersedes and replaces all previous plan input and review service delivery agreements between CRCA and the municipality.

General

- (2) Approach

CRCA and the municipality will work together using a solutions-oriented approach that supports sound planning and environmental outcomes for local communities and applicants, along with efficient service delivery.

- (3) Reference Documents

CRCA will refer to the most current version of the following documents when providing plan input and review services, as applicable:

- a) Provincial Policy Statement;
- b) Provincial technical guidelines;
- c) municipal Official Plan, zoning by-law(s), site plan control by-law and all other applicable municipal by-laws;

- d) municipal standards, guidelines, policy documents and programs endorsed by City Council;
- e) Cataraqui Source Protection Plan (under the *Clean Water Act*);
- f) CRCA Environmental Planning Policies;
- g) CRCA Guidelines for Implementing Ontario Regulation 148/06;
- h) All other applicable legislation and best available information.

Plan Input

(4) Scope

“Plan input” describes the written comments provided by CRCA on the municipal Official Plan, Official Plan amendments, zoning by-law(s), site plan control by-law, other by-laws and policies, and supporting studies.

(5) Official Plans and Official Plan Amendments

- a) Conservation Authorities are the designated lead for representing the provincial interest with respect to natural hazards matters in municipal Official Plans and for Official Plan amendments. CRCA will provide plan input to the municipality and to the relevant approval authority (e.g. Ontario Ministry of Municipal Affairs) for Official Plan updates and to the municipality for Official Plan amendments.
- b) In this context, the Ontario Ministry of Natural Resources and Forestry is the lead agency for natural heritage matters, and the Ontario Ministry of the Environment, Conservation and Parks is the lead agency for water quality and quantity matters. CRCA may provide comment on these topics as they relate to watershed planning and plan review roles.
- c) CRCA will not charge a fee for the services described in subsections a) and b) above.

(6) Other Planning Documents

CRCA will provide plan input to the municipality regarding the zoning by-law(s), site plan control by-law, other by-laws and policies, and supporting studies with respect to natural hazards, natural heritage, water quality and water quantity matters. CRCA will not charge a fee for this service.

Plan Review

(7) Scope

“Plan review” describes the written comments provided by CRCA to the municipality about site-specific applications made under the *Planning Act*.

(8) Circulation of Applications

a) Screening

The municipality will screen development applications received under the *Planning Act* and will forward to CRCA for plan review those applications which require the review and comment of CRCA, using the following screening guidelines:

- (i) Applications within areas identified on the Screening Map attached as Schedule “A” shall be forwarded to CRCA for plan review;
- (ii) Applications within the adjacent lands to natural heritage features as defined by the Natural Heritage Reference Manual (2010) shall be forwarded to CRCA for plan review, and
- (iii) All applications for Plan of Condominium, Plan of Subdivisions and Site Plan Control shall be forwarded to CRCA for plan review.

The parties may determine that a circulated application described in subsections (i) - (iii) above does not require review by CRCA. The parties acknowledge that the areas identified on the Screening Map are generally defined. The municipality will use its best judgement in interpreting the Screening Map but will not be held responsible for any interpretation of the Screening Map which may result in applications forwarded or not forwarded to CRCA for review.

b) Correspondence

The municipality will provide application materials to CRCA via a digital platform known as the Development and Services Hub (DASH). CRCA will provide comments to the municipality in a digital format through the DASH system.

(9) Review Fees

CRCA provides plan review services to the municipality on a cost-recovery basis. Fees are charged to applicants for the review of applications and supporting technical reports in accordance with the fee schedules that are posted on the CRCA website and updated from time to time.

CRCA is responsible for the collection of fees and the municipality is not required to delay the processing of any applications because the CRCA fee has not been paid.

(10) Pre-Consultation

The municipality requires pre-consultation on certain proposals prior to making a formal application to the municipality. CRCA is invited to participate in the pre-consultation process and will endeavour to be involved in such pre-consultation process to identify issues and solutions early in the development approvals process.

(11) Comment Period

CRCA will provide written comments to the municipality in a timely manner, normally within the Technical Review deadline specified in the Development and Services Hub (DASH). When this is not feasible, CRCA will notify the municipality as soon as possible, indicate the anticipated timing of response, and use reasonable efforts to respond within such anticipated timeframe.

(12) Ontario Regulation 148/06

Ontario Regulation 148/06: *Cataraqui Region Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses* under the *Conservation Authorities Act* is administered by CRCA within the municipality. CRCA comments will reference the implementation guidelines for the regulation when commenting on planning matters, as applicable.

(13) Appeals

CRCA may appeal *Planning Act* decisions to the relevant decision-making body. CRCA staff may be called as witnesses by the municipality or other parties in appeals and CRCA will make provisions to attend hearings to support the municipality with the review of development applications outlined in this MOU, at no cost to the municipality. CRCA may have legal representation at hearings.

(14) MOU

The term of this MOU shall be three years, commencing on the date on which this MOU is executed by the municipality. This MOU may be extended for additional three-year periods, on the same terms and conditions as contained herein, at the discretion of CRCA and the municipality. Upon the expiry of each three-year term, the parties shall review the terms of this MOU to clarify

responsibilities, improve working relationships, and to identify areas for efficiencies, as required. Either party may agree to terminate the MOU by providing 90 days' notice of their intention to do so. This MOU shall be posted on the CRCA website for public access.

Notices

- (15) Any notice to be given pursuant to this MOU shall, unless otherwise specified in this MOU, be delivered or sent by pre-paid courier, registered letter or electronic transmission to the parties as follows:

To CRCA at:

1641 Perth Road, P.O. Box 160
Glenburnie, Ontario K0H 1S0
Attention: Supervisor, Development Review
Email: info@crca.ca

To the municipality at:

216 Ontario Street
Kingston, Ontario K7K 6C7
Attention: Director, Planning, Building & Licensing Services
Email: pagnew@cityofkingston.ca

or to any other address, or person that the party designates. Any notice, if delivered personally, is deemed to have been given when actually received, if transmitted electronically before 4:00 p.m. on a Business Day, defined below, is deemed to have been given on that Business Day, and if transmitted electronically after 4:00 p.m. on a Business Day, is deemed to have been given on the next Business Day. For the purposes of this Section, "Business Day" means every day except Saturdays, Sundays and statutory and civic holidays in the Province of Ontario.

General

- (16) CRCA shall provide the services described in this MOU independently and shall not be deemed to be an employee of the municipality for any purpose.

The parties have executed the MOU on the dates set out below.

Authorized Signing Officer

Cataraqui Region Conservation Authority

by:

Date

Geoff Rae, MBA P.Eng

General Manager

The Corporation of the City of Kingston

by:

Date

Bryan Paterson

Mayor

John Bolognone

City Clerk

Screening Map for the Circulation of Planning Act Applications to the CRCA - City of Kingston

Circulate

- CRCA Properties
- All applications, includes adjacent lands.
- Applications circulated based on the discretion of Planners.
- Applications for Site Plan Approval, including Stormwater Management review.
- Selected applications as per note 3.

Feature	Adjacent Lands
	Circulate to CRCA at Discretion of Planners
ANSI	50m
Flood Lines	15m
ESA	30m 120m
EPA Designation	0m 0m
Watercourses	30m 120m
Waterbodies	30m 120m
Significant Wetlands	120m
Other Wetlands	30m
Significant Woodlands	50m 120m

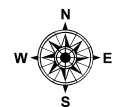
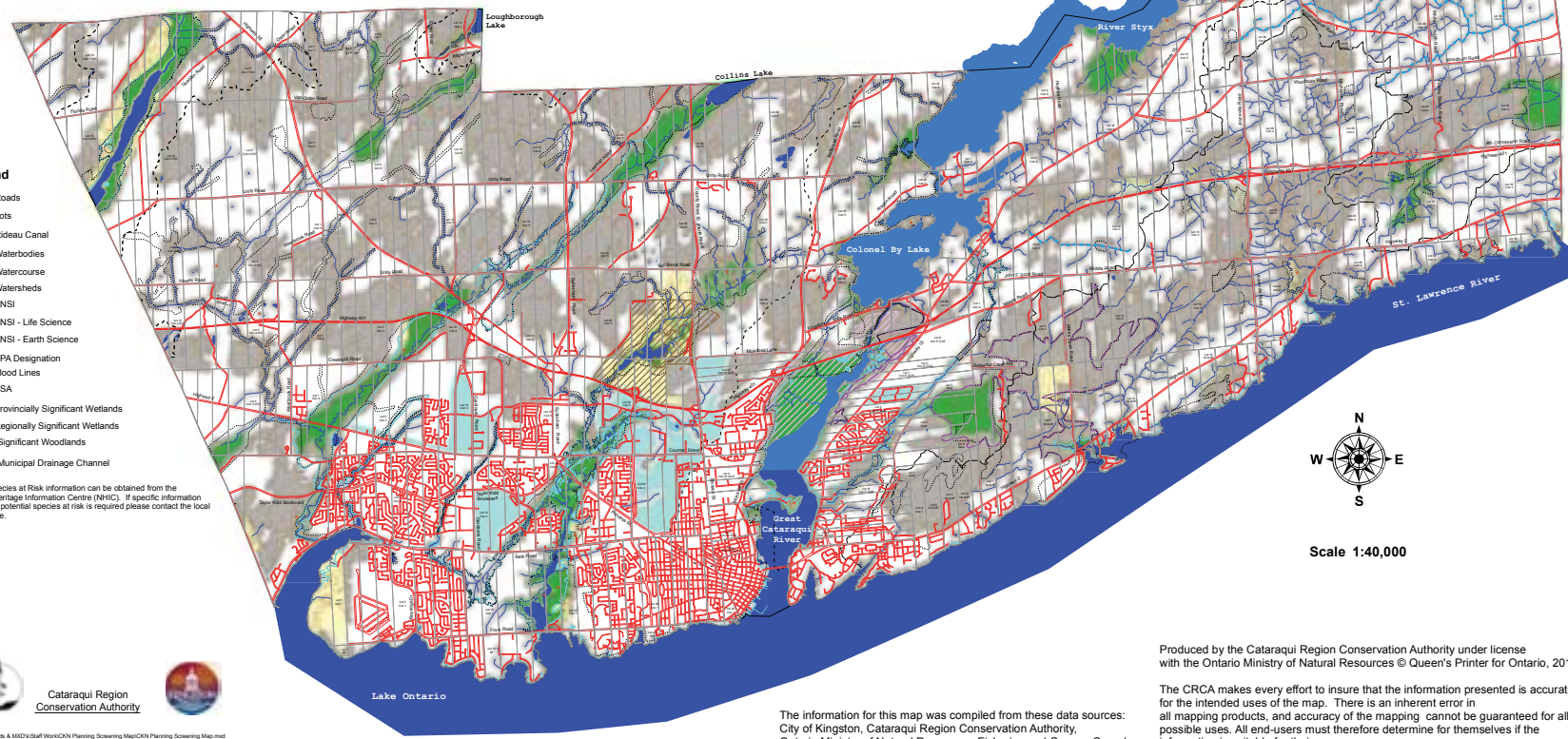
Notes:

1. This map is intended as a reference for the City and CRCA staff when considering the circulation of applications made under the Planning Act. For additional information, please contact the CRCA at 613-546-4228.
2. Areas shown on this map are approximate and should not be used for detailed scaling. The map is not intended to reflect all of the natural heritage features and functions, areas subject to flooding and erosion, or water resources in the City of Kingston.
3. Additional Planning Act applications, for sites that may or may not be located with the grey 'circulate' area on the map, shall be circulated to the CRCA for review and comment as follows:
 - all applications in the vicinity of CRCA properties, in accordance with the regulations made pursuant to the Planning Act;
 - all plans of subdivision, with the following exception: where a master drainage plan has been approved by the City of Kingston and the CRCA and there are no other items of conservation interest, then the Conservation Authority will generally only review applications for Draft Plan Approval.
4. Applications along the Rideau Canal shall also be circulated to the Parks Canada - Rideau Canal Office in Smith Falls for review, as part of the Rideau Waterfront Development Team.
5. All proposed revisions to this map shall be reviewed jointly by the City of Kingston and the CRCA. Additional criteria and/or locations of interest may be identified in the future, and locations may also be removed.

Legend

- Roads
- Lots
- Rideau Canal
- Waterbodies
- Watercourse
- Watersheds
- ANSI
- ANSI - Life Science
- ANSI - Earth Science
- EPA Designation
- Flood Lines
- ESA
- Provincially Significant Wetlands
- Regionally Significant Wetlands
- Significant Woodlands
- Municipal Drainage Channel

Note: Species at Risk information can be obtained from the Natural Heritage Information Centre (NHIC). If specific information regarding potential species at risk is required please contact the local MNR office.



Scale 1:40,000



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The CRCA makes every effort to insure that the information presented is accurate for the intended uses of the map. There is an inherent error in all mapping products, and accuracy of the mapping cannot be guaranteed for all possible uses. All end-users must therefore determine for themselves if the information is suitable for their purposes.

The information for this map was compiled from these data sources: City of Kingston, Cataraqi Region Conservation Authority, Ontario Ministry of Natural Resources, Fisheries and Oceans Canada.

V:\Projects & M22\Staff\mrc\CDN Planning Screening Map\CDN Planning Screening Map.mxd
May 6, 2011