



May 21, 2019

Alex McLeod
Natural Resources Conservation Policy Branch
300 Water Street
Peterborough, ON K9J 8M5

Re: Conservation Ontario's Comments on "Focusing conservation authority development permits on the protection of people and property" (ERO# 013-4992)

Dear Mr. McLeod:

Thank you for the opportunity to provide comments on "Focusing conservation authority development permits on the protection of people and property". Conservation Ontario (CO) is the network of Ontario's 36 conservation authorities (CAs). These comments are not intended to limit in any way comments submitted by conservation authorities on this proposal.

Conservation Ontario is pleased that the Government is moving forward with the proposal to update the Section 28 (S.28) regulation made under the *Conservation Authorities Act*. As conservation authorities are the organizations solely responsible for implementing this regulation, it is imperative that CAs be involved as the Government moves forward with drafting of the regulation. This involvement in the drafting of the regulation will ensure administrative efficiency, particularly as it relates to clarity, ease of use and consistency amongst conservation authorities. It is noted that the current proposal lacks sufficient detail to adequately consult with all interested parties, therefore, Conservation Ontario's positioning may change as additional information about the proposal becomes available.

Recommendation #1: THAT CAs be directly consulted with by MNRF on the legislative drafting of the S. 28 Regulation.

This letter includes general comments and a detailed Attachment 1 which provides specific comments on all aspects of the proposal, based on Conservation Ontario's current understanding.

General Comments

Provincial Support Required

This proposal contains a number of "transparency measures" such as requiring CAs to develop, consult on, make publicly available and periodically review internal policies that guide permitting decisions; notify the public of changes to mapped regulated areas such as floodplains or wetlands boundaries; and establish, monitor and report on service delivery standards including requirements and timelines for determination of complete applications and timelines for permit decisions. Conservation Ontario is strongly supportive of these transparency measures, and note that most CAs already employ these best practices. Many early CA policies were developed, in part, based on province-wide policies that were

developed collaboratively between Conservation Ontario and individual conservation authorities, utilizing the CO Section 28 Regulations Committee. If the Ministry wishes to prescribe such matters as the development, consultation requirements, and review period of internal policies, it is recommended that they prepare model guidance for use by CAs in collaboration with Conservation Ontario and other affected stakeholders. To promote consistency amongst the CAs, these model policies should be adopted by reference within the S. 28 regulation and serve as the basis for CA internal policies. Conservation Ontario is prepared to assist with the development of these policies.

Recommendation #2: THAT MNRF in collaboration with CO and other stakeholders, develop model guidance for CA internal policies and that this model guidance be adopted by reference within the S. 28 regulation.

It is further noted that this proposal does not contain a timeframe for enactment of a new S. 28 regulation. Given that proposed legislated amendments to the *Conservation Authorities Act* were included in Bill 108, *More Homes, More Choice Act, 2019* it is assumed that an update to the S. 28 regulation will occur in the near future. As the CAs are not aware of what will exactly be contained within the updated S. 28 (preventing them from commencing new policy development) and no provincial implementation support material has been prepared, it is recommended that the regulation include a two year transition period to update CA policies to be consistent with the Provincial implementation support materials. This is especially pertinent given (potential) additional consultation requirements, coupled with the additional pressure of an in-year provincial funding cut of 50% to the flood management program.

Recommendation #3: THAT the regulation include a two year transition period to update CA policies to be consistent with the Provincial implementation support materials.

Conservation Ontario strongly supports the sub-action item found within A Made-in-Ontario Environment Plan to update technical guidance to protect people and property from flooding and water-related hazards. This provincial technical guidance has not been updated since 2002 and does not reflect current science, land use patterns and the changing climate. In this regard, conservation authorities have staff expertise and experience to actively assist from both policy and technical perspectives and request that they be party to the update. For greater efficiency and certainty for proponents, in addition to supporting land use planning decisions under the Provincial Policy Statement, the updated technical guidance should also serve as technical guidance for permit decisions made under S.28 of the *Conservation Authorities Act*.

Recommendation #4: THAT the Province work with CAs to update technical guidance to protect people and property from flooding and water-related hazards to support land use planning decisions under the Provincial Policy Statement and permit decisions under S. 28 of the *Conservation Authorities Act*.

To promote consistency, transparency and accountability, MNRF should also coordinate mandatory training on the new S.28 regulation and its implementation policy. This training should also be recorded for future use of new CA staff. This training should take place prior to promulgation of the new S. 28 regulation.

Recommendation #5: THAT MNRF should coordinate mandatory training on the new S.28 regulation and its Provincial implementation support materials.

Wetlands

Conservation Ontario is cautiously supportive of the proposal to reduce regulatory restrictions between 30m and 120m of a wetland and where a hydrological connection has been severed. It is understood that “where a hydrological connection has been severed” refers to areas where the potential hydrologic function has already been assessed, e.g. areas included in recent plans of subdivision.

Extreme weather events, such as flooding, have the potential to threaten our homes, businesses and infrastructure. Wetlands play an important role to help reduce flows and store floodwaters, which reduces risk and allows people greater response time to flooding emergencies. In addition, impacts to a wetland’s hydrology can result in local flooding. It is recognized that the potential impacts to the hydrologic function of a wetland is based on the scope and scale of the proposed development. Therefore, many CAs already reduce the regulatory requirements for permit applications between 30 m and 120 m, based on their Board approved policies and on the specific details of the development proposal (i.e. low risk activities that are outside of other hazards and would not impact the hydrologic function of the wetland or public safety).

It may be reasonable to reduce the regulatory restrictions between 30 m and 120 m of a wetland and where a hydrological connection has been severed, but only in a manner that maintains the protection of hydrology and that is administratively efficient and effective. It is recommended that, the MNRF in conjunction with Conservation Ontario, evaluate the types of development taking place beyond 30 m from a wetland that can interfere with the hydrologic function of a wetland and continue to regulate those activities. A potential list of these large-scale, high risk activities are included in Attachment 1.

Instructions on how to reduce regulatory restrictions between 30 m and 120 m of a wetland and where a hydrological connection has been severed should be provided through Provincial implementation support materials. Technical guidelines for assessing potential impacts to wetlands should be incorporated into the updated natural hazard guidelines.

Recommendation #6: THAT the Province, through the S. 28 Regulation, continue to regulate high risk activities taking place between 30 m and 120 m of a wetland that could interfere with its hydrologic function.

Flood Event Standards

Ontario has recently experienced a number of extreme weather events that have threatened people and property, including homes, businesses and infrastructure as a result of flooding. As we adapt to changing weather events, including concentrated periods of heavy precipitation within isolated storm cells and an increase in impervious surfaces, it may be time to re-evaluate the current flood event standards found within the individual S. 28 regulations. It is therefore recommended that the Province undertake a review of the current flood event standards and update them based on the best available science, including observed flooding. This update to the standards should include provisions to consider climate change from a regulatory perspective.

Recommendation #7: THAT the Province update, as necessary, the Flood Event Standards found within the existing S. 28 regulations based on the best available science and including a factor of safety for climate change.

More detailed comments on individual portions of the proposal are found within Attachment 1. Conservation Ontario looks forward to working closely with the Province on this update to the S. 28 regulation, made under the *Conservation Authorities Act*. Conservation Ontario is also prepared to assist with the implementation support materials and updates to technical guidelines which will be necessary to focus conservation authority development permits on the protection of people and property. Should you have any questions about this letter, please contact me at extension 226.

Sincerely,

A handwritten signature in black ink that reads "Leslie Rich". The signature is written in a cursive, flowing style.

Leslie Rich, RPP
Policy and Planning Liaison

1 Attachment

c.c. All CA CAOs/GMs
Carolyn O'Neill, MECP

Conservation Ontario

120 Bayview Parkway, Newmarket ON L3Y 3W3

Tel: 905.895.0716 Email: info@conservationontario.ca

www.conservationontario.ca