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**Comments and Responses on the Ministry of Natural Resources and Forestry consultation on “**[**Focusing conservation authority development permits on the protection of people and property**](https://ero.ontario.ca/notice/013-4992)**”**

***Posted by Ministry of Natural Resources and Forestry to the Environmental Registry on April 5, 2019 #013-4992***

In April 2019, the Ministry of Natural Resources and Forestry (MNRF) posted the above noted document on the Environmental Registry for comment.

The following details the comments to be formally submitted by the St. Clair Region Conservation Authority (SCRCA) in the response to the above noted posting.

The posting Proposal summary states;

*“We are proposing a regulation that outlines how conservation authorities permit development and other activities for impacts to natural hazards and public safety. The proposed regulation will make rules for development in hazardous areas more consistent to support faster, more predictable and less costly approvals.”*

SCRCA staff are anticipating that a further opportunity for consultation on the S. 28 permitting process will take place through the establishment of the enabling regulations.

The following tables are titled by each of the proposal details with our comments shown underneath and potential details to be considered for the Regulation opposite.

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| **Proposed Changes:**  **Consolidating and harmonizing the existing 36 individual conservation authority-approved regulations into 1 Minister of Natural Resources and Forestry approved regulation** | |
| **Comments** | **Details for Regulation** |
| As noted in the posting, this new regulation will need to be quite flexible to allow for differences in risks posed by flooding and other natural hazards.  As the goal is to ensure consistency across the province, it will be necessary for MNRF to updated or provide additional policy and technical guidelines and implementation support tools to support the natural hazards programs for Conservation Authorities (CAs) to align and base their internal policies upon for greater consistency and modernization.  MNRF should coordinate mandatory training on the new regulation, and provide consistent technical and appropriate financial support to CAs to implement CA regulatory responsibilities on behalf of the Province. | Further flexibility should be provided through additional Schedules to the Regulation.  SCRCA’s Ontario Regulation 171/06 references specific flood events standards, including; the Lake Huron Shoreline Management Plan, the Great Lakes System Flood Levels and Water Related Hazards, and varied Flood Event Standards such as Hurricane Hazel Flood Event Standard, 100 Year Flood Event Standard and the 100 Year Flood Level plus Wave Uprush. |

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| **Proposed Changes:**  **Update definitions for key regulatory terms to better align with other provincial policy, including:**   1. **“Wetland”** 2. **“Watercourse”** 3. **“Pollution”** | |
| **Comments** | **Details for Regulation** |
| Developing more explicit language in the CA Act is needed to support CA’s in their role of reducing risks posed by flooding and other natural hazards and strengthening Ontario’s resiliency to extreme weather events.  Again, as the goal is to ensure consistency across the province, this will also require MNRF to update or provide additional policy and technical guidelines and implementation support tools to support the natural hazards programs for CAs to align and base their internal policies. | **Wetland:** Clearly confirm and outline importance of protecting wetlands to help to reduce flows and store floodwaters, which reduce risk and allow people increased response time to flood events.    In addition, align the definition with that found in the Provincial Policy Statement, 2014.  **Watercourse:** Existing features that contribute to watershed resilience, by preventing and reducing flooding and erosion, need continued protection to ensure there are no impacts to natural hazards or public safety.  **Pollution:** is an important consideration and more explicit language in the regulation is required to outline that factors such as erosion and sedimentation and the release of hazardous substances due to natural hazards (e.g. floods) are priority concerns. |

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| **Proposed Changes:**  **Defining undefined terms including: “interference” and “conservation of land” as consistent with the natural hazard management intent of the regulation** | |
| **Comments** | **Details for Regulation** |
| More explicit language in the CA Act is needed to support CA’s in their role of reducing risks posed by flooding and other natural hazards and strengthening Ontario’s resiliency to extreme weather events.  These definitions should be inclusive to support the role CA’s play in natural hazards, public safety, and climate change.  Again, as the goal is to ensure consistency across the province, this will also require MNRF to update or provide additional policy and technical guidelines and implementation support tools to support the natural hazards programs for CAs to align and base their internal policies.  MNRF should coordinate mandatory training on the new definitions. | SCRCA supports the documentation that Conservation Ontario has provided regarding the interpretation of these definitions.  **Interference:** Any anthropogenic act or instance which hinders, disrupts, degrades or impedes in any way the hydrologic and ecologic function of a wetland or watercourse.  **Conservation of Land**: the protection, management, or restoration of lands within the watershed for the purpose of maintaining or enhancing the ~~natural features and~~ **vegetative cover**, hydrologic and ecological functions within the watershed **for natural hazard management**. |

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| **Proposed Changes:**  **Reduce regulatory restrictions between 30m and 120m of a wetland and where a hydrological connection has been severed** | |
| **Comments** | **Details for Regulation** |
| With Climate Change impacts SCRCA understands that the more unpredictable and forceful flooding patterns we see today are the ‘new normal’.  Wetlands play an important role to help reduce flows and store floodwaters, which reduce risk and allow people greater response time to flooding emergencies.  SCRCA recognizes that the magnitude of potential impacts to the hydrologic function of a wetland is based on scope/scale/details of a proposed development. Therefore, SCRCA already reduces the requirements for permit applications (taken as regulatory restrictions) between 30m and 120m, as appropriate based on the specific details of the development proposal (i.e. low risk activities that would not impact the hydrologic function or public safety). | Ontario Regulation 171/06, Section 2. (1) (d) and (e) states;    (d) wetlands; or  (e) other areas where development could interfere with the hydrologic function of a wetland, including areas within 120 metres of all provincially significant wetlands, and areas within 30 metres of all other wetlands. O. Reg. 171/06, s. 2 (1); O. Reg. 83/13, s. 1 (1-3).  Further clarification and/or inclusion of a further clause that allows a modification of the extent of the regulated area where hydrologic connection has been properly assessed and it is demonstrated that hydrological connection has been severed, is recommended. |

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| **Proposed Changes:**  **Exempt low-risk development activities from requiring a permit including certain alterations and repairs to existing municipal drains subject to the Drainage Act provided they are undertaken in accordance with the Drainage Act and Conservation Authorities Act Protocol** | |
| **Comments** | **Details for Regulation** |
| A large percentage of watercourses in the SCRCA watershed are Municipal Drains.  Drainage works have the potential to impact flood control in the SCRCA watershed, and it is essential that CAs be notified of the proposed work in advance for proper screening to help the Municipality ensure works do not increase risks posed by flooding and other natural hazards.  SCRCA utilizes the DART Protocol as its written permission (permit) and this has streamlined review. | If exemptions were contemplated, there is the need to provide clear direction that an exemption is only provided for works that would not increase risk posed by flooding or other natural hazards (i.e. differentiation between DART Standard Compliance Requirements within regulated wetlands limits vs. outside of regulated wetland limits). |

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| **Proposed Changes:**  **Allow conservation authorities to further exempt low-risk development activities from requiring a permit provided in accordance with conservation authority policies** | |
| **Comments** | **Details for Regulation** |
| A CA permit is a technical review/assessment and the regulation covers a range of natural hazards. The natural hazards in a CA’s jurisdiction and the extent of the activities (i.e. scale and scope) contribute to the assessment of risk and the ability to be flexible. A risk management framework should be applied on a watershed jurisdiction basis and resultant outcomes will vary accordingly.  To this effect, MNRF should provide consistent technical and financial support to CAs to consistently implement CA regulatory responsibilities.  Implementation requirements need to be in place, and could include;   * Current and reliable regulation maps to avoid enforcement issues; * Provincial investment to update components of the natural hazard maps is necessary (e.g. floodplain and wetland mapping). | Include a section that would allow CAs to further exempt low-risk development activities from requiring a permit, provided that development is in accordance with CA policies.  This proposal should only apply where there is current technical information and mapping that would allow a conservation authority to develop possible exemption policies based on the hazards and development pressures found within their watershed. |

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| **Proposed Changes:**  **Require conservation authorities to develop, consult on, make publicly available and periodically review internal policies that guide permitting decisions** | |
| **Comments** | **Details for Regulation** |
| SCRCA strongly supports and is committed to this requirement as it contributes to the overall transparency and accountability of the S. 28 regulatory program.  To ensure greater consistency across the province, it is recommended that the MNRF should provide implementation support materials for CAs to base their internal policies upon.  Additional resources will be required in order to meet any additional legislative administrative responsibilities as well as best management practices to ensure a consistent approach. |  |

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| **Proposed Changes:**  **Require conservation authorities to notify the public of changes to mapped regulated areas such as floodplains or wetland boundaries** | |
| **Comments** | **Details for Regulation** |
| SCRCA supports this recommendation.  The requirement for public notification should differentiate between;   * Already completed changes (e.g. MNRF Wetland PSW); * Proposed changes (e.g. Floodplain Mapping Study Update); and, * the scale and scope of changes;   Further requirements should be considered in terms of the goal for consistency, and faster more predictable and less costly approvals. Technical and financial support should be provided appropriately. | Conservation Ontario Council endorsed the *“Procedure for Updating Section 28 Mapping: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulations”* which could form the basis for these notification requirements.  The regulation should be maintained as a “text based” regulation and not a “mapped based” regulation, to ensure a consistent approach. |

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| **Proposed Changes:**  **Require conservation authorities to establish, monitor and report on service delivery standards including requirements and timelines for determination of complete applications and timelines for permit decisions** | |
| **Comments** | **Details for Regulation** |
| SCRCA is committed to providing good client services and implementing best management practices as per the MNRF 2010 Policies & Procedures for CA Plan Review and Permitting Activities.  SCRCA currently reports on timelines for permit decisions as described in the *“Policies and Procedures for Conservation Authority Plan Review and Permitting Activities”* to our Board of Directors at each meeting.  Conservation Ontario is currently proposing and has under review *“Client Service Standards for Conservation Authority Plan and Permit Review”*.  The SCRCA supports a review and update of these standards in order to address streamlining and consistency concerns. Improved definitions (such as complete application) and training opportunities would support the desired improvement.  CO proposed *“Client Service Standards for Conservation Authority Plan and Permit Review”* outlines opportunities to improve the complete application process and improve the quality of technical submissions to achieve faster approvals. | Recommend that the requirements are consistent with the CO Client Service and Streamlining Initiative. |

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| **Proposed Changes:**  **The proposed changes will also provide the business sector with a clear and consistent regulatory environment in which to operate and will help to make approval processes faster, more predictable and less costly.** | |
| **Comments** | **Details for Regulation** |
| Conservation Ontario Council recently endorsed the Client Service and Streamlining Initiative with these goals in mind, with the important note that these goals should only come while **not jeopardizing public health and safety or the environment in the process.**  The SCRCA is already under-way with many of the activities associated with CO’s and this initiative. SCRCA facilitates pre-consultation will applicants to ensure application process proceeds as smoothly as possible, in an efficient manner.  SCRCA concurs with CO and believes the key to faster approval processes is through better quality submissions by the applicants, and adequate technical review of the hazards.  Policy support from the Province and updating technical guidance documents to the level and scope required of the business sector is a key first step. |  |

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| **Proposed Changes:**  **As more extreme weather events occur that threaten our homes, businesses and infrastructure, it is important to ensure conservation authorities deliver on their core mandate for protecting people and property from flooding and other natural hazards. Improving the efficiency and effectiveness of these regulations is critical component of this government’s strategy for strengthening Ontario’s resiliency to extreme weather events.** | |
| **Comments** | **Details for Regulation** |
| SCRCA strongly supports CO messaging on utilizing S. 28 as one tool to address adapting to a changing climate. As part of the update to the S. 28 regulation, it is recommended that the Province include specific elements to address extreme weather events, including:   * + Updating the technical guidelines to provide provincial direction on how to include climate change considerations. These guidelines should support CA decision-making for both planning and permitting functions;   + Standards and requirements to mitigate the impacts of climate change and provide for adaptation to a changing climate, including through increasing resiliency;   Ensuring that the definition of “conservation of land” ties to the CA role in mitigating and adapting to climate change impacts. | Including standards and requirements to mitigate the impacts of climate change and provide for adaptation to a changing climate, including through increasing resiliency. |

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| **Proposed Changes:**  **Once established, the Province is also proposing to bring into force un-proclaimed sections of the Conservation Authorities Act associated with conservation authority permitting decisions and regulatory enforcement.** | |
| **Comments** | **Details for Regulation** |
| SCRCA supports the proposed enactment of “Part VII – Enforcement and Offences” section of the *Conservation Authorities Act.*  Increased funding should be provided to CAs in order to prosecute offenders more fairly and effectively to meet Provincial objectives. | Acknowledgement that the implementation any exemptions could put an unfunded compliance burden on Conservation Authorities. |