



Greater Ottawa Home Builders' Association
Association des constructeurs d'habitations d'Ottawa

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Public Input Coordinator
PD - Resources Planning and Development Policy Branch
Ministry of Natural Resources and Forestry
300 Water Street, 2nd Floor, South tower
Peterborough, ON K9J 3C7

Re: ERO #019-6160 Proposed Updates to the Ontario Wetland Evaluation System

Dear MNRF Representative,

Please accept the below from the Greater Ottawa Home Builders' Association (GOHBA) and its members as a submission to the government's request for feedback on Proposed Updates to the Ontario Wetland Evaluation System (ERO #019-6160).

GOHBA is supportive of the changes proposed, especially in regard to:

- Removal of the overlapping jurisdiction of Conservation Authorities in the determination of PSWs;
- Removal of the wetland complexing approach; this has been a significant barrier to the creation of new communities and in the implementation of efficient infrastructure and housing. The complexing approach has been used to delineate and to protect tiny, isolated areas with limited wetland values or functions;
- The formalization of rules around re-evaluating wetlands and mapping updates;
- The clarification of the relationship of agriculture to wetlands;
- The clarification of when (and by whom) a wetland can be determined to be a provincially significant wetland (PSW).

The introduction of re-evaluation to the Ontario Wetlands Evaluation System is a significant process improvement. Natural changes, climate change, and the effects of human impact and time has had significant impacts on our natural heritage features. We are also supportive of wetland evaluations being considered a point in time assessment, and believe that the opportunity for re-evaluation will develop a firm basis for determining a wetland's value.

We provide comments on the proposals to update the Ontario Wetland Evaluation System (OWES) manuals below, as well as some additional suggestions for review and decision by the provincial government. *Most significantly, it is not clear who the approval authority now is or who will adjudicate a dispute.*

1. Add new guidance related to re-evaluation of wetlands and updates to mapping of evaluated wetland boundaries

GOHBA supports the standardization of wetlands evaluation, as currently each Conservation Authority in Eastern Ontario takes a different approach to non-provincially significant wetland evaluations (non-PSW).

We also welcome clarification that updating mapping of evaluated wetland boundaries may occur at any time. Many municipal staff and others are confused as to when a full wetland evaluation is required as opposed to the need to update the wetland boundaries.

GOHBA also welcomes the acknowledgment that it is the professional opinion of the evaluator to determine the contribution and significance. There are parcels that would likely meet the definition of PSWs following the OWES, but offer limited features and functions. Retention of these lands at the cost of, for example, a functional upland forest, is likely not beneficial for the overall natural environment.

The additional flexibility in setback distances and not protecting marginal wetlands, as defined by OWES but not having any features or functions of note, will be helpful as a proponent's consulting biologist can continue to treat these wetlands with the same care as a PSW, retaining and apply the appropriate protection. The industry is currently successfully applying this approach to areas of Eastern Ontario without a Conservation Authority's oversight.

This provincially focused approach should significantly reduce the need for locally developed guidelines that produce inconsistent requirements and results in local regions.

2. Make changes to better recognize the professional opinion of wetland evaluators and the role of local decision makers (e.g. municipalities)

GOHBA also supports changes to better recognize the role and authority of professional consulting biologists. This is a more beneficial approach than having potential for members of the public, municipal staff, or councillors having significant input in implementation of these measures without the appropriate expertise. Those being referenced as authorities need to, at a minimum, have taken the OWES course.

Applying an objective framework to natural features presents significant challenges on a province-wide basis, whereas relying on a properly trained evaluator with experience in the local context will produce better outcomes and allow for sustainable community development.

In combination with changes proposed with the Conservation Authorities, removing wetland complexing will likely reduce the over-designation as PSW by some evaluators.

Previously, wetland complexes had not been adequately defined by the province, and as such local delineations and interpretations have been inconsistent. Maintaining a focus on wetlands

as discrete entities, rather than complexes should enable a more predictable framework for wetland evaluation.

One outcome of these changes, however, will be to put the onus on the consulting biologists, both as the initial wetland assessor and peer reviewer, to ensure wetlands that have significant features and functions are retained and protected.

This initially will result in greater cost to the Applicant as wetlands parcels that were once part of a complex will now need to be fully evaluated on their own to see if they meet the scoring criteria for a PSW. The evaluation process is detailed, but once a few are done we expect the cost per evaluation will decrease.

Additionally, it is not clear as to who the approval authority is in the case of a dispute as to the evaluation and/or whether the area is to be protected or if it is even PSW. A balanced approach when considering the need for and results of an evaluation needs to be established.

In Ottawa at least, CAs have sometimes performed the role of third party authority in a dispute between a development proponent and the City. It will also be necessary for the government to monitor the situation, and react if municipalities try to establish themselves as wetland authorities instead of professional consulting biologists.

GOHBA requests that the Province clarify that it is the MNRF or the Ontario Land Tribunal to whom a dispute is appealed to.

Additional suggestions for review and decision

A few challenges persist that merit additional consideration. These are generally summarized below, with some specific reference to existing sections in the scoring component of OWES.

3. How the Scoring System Works

While the scoring in the system was developed over a decade through which extensive experience was gained, the proposed modifications, do not fully recognize, for example, that:

- Wetland science has advanced significantly since the scoring approach was developed;
- Some of the underlying technical reports upon which scoring is based have not been updated and are presumed to be less than reliable now (e.g., regional flora documents and status lists developed and held by some municipalities and conservation authorities);
- The current scoring approach still sets a low threshold for the determination of provincial significance (i.e., 600 of a possible 1000 score, or 60%);
- The recognition of the role of wetland origin (e.g., how it was created and is it disturbance based) needs to be considered; and

- The condition (viability and sustainability in relation to landscape conditions and climate change) should also be separately considered.

4. Young Wetland Features and Resilience

The intention of OWES was to recognize important wetlands that contribute substantially to various water quality, quantity, wildlife habitat and recreational functions as opposed to areas that are wet. The term marsh is rather vaguely applied in practice. Instead, in urbanizing areas, many existing wetlands and complexes were defined to include small and low functioning marsh features with disturbance origins in that the wetlands were not naturally occurring but rather the product of improper or poorly maintained drainage or are merely wet areas. This approach to wetland delineation perpetuated problems in recognizing truly significant PSWs and in the ability to allow such PSW features to be retained in a changing landscape.

The recognition of disturbance origin situations degraded the credibility of the OWES and created substantial failed investments of resources. A few examples of wet areas erroneously included in existing wetlands and used to increase scoring are wet areas that:

- Have developed on fallow agricultural lands and other disturbed soils;
- Are leaking old irrigation systems, golf course and farm ponds;
- Occur in old industrial land use depressions (e.g., oil/gas well pads);
- Are in areas where natural drainage has been impeded intentionally or inadvertently.

5. Recommended Scoring Changes

Over time, as relevant supporting technical materials and literature are updated, further changes to OWES and the scoring approach are expected. However, in the immediate term, there are a few areas where scoring needs to be changed, as follows:

1 Biological Component

1.1.2 Wetland Type

Marshes and wet areas should only be weighted with the x15 factor when they are greater than 5 ha in size

1.2.2 Vegetation Communities

The maximum point cap would more reasonably 30 points

1.3_Size (Biological Component)

The determination of size should exclude small, low functioning marsh communities or wet areas

4.0 Special Features Component

4.1_Rarity

The marsh component of the wetland rarity table should specifically exclude small, low functioning marsh communities or wet areas

4.1.2 Species

This component is often the trigger for the determination of provincial significance, regardless of the details, source and quality of observations (was the observation verified or merely a report by an unqualified person). Lowering the scoring for each species to 50 points while maintaining a cumulative cap of 150 points would be a more reasonable approach. This aspect also overlaps with the intention of the Endangered Species Act, 2007.

4.1.2.3 and 4.1.2.4 Provincially Significant Animal and Plant Species

The definition of provincial rarity for this scoring section requires clarification and further consideration.

- For example, should provincial rarity be equated with S1 and S2 ranks?
- Is the NHIC updated and maintained in a current condition that can be depended upon for the accurate representation of the relatively more common (S3 vulnerable) species?

There are no maximum scores for these components of the OWES. Reasonable maximum total point scores would be more appropriate and would reflect uncertainty regarding the accuracy and currency of data (e.g., 100 points)

4.1.2.5 and 4.1.2.6 Regionally and Locally Significant Species

Lack of updates to the identification of regionally and locally significant species and the continued use of those species in an uncapped, unrestricted way remains problematic. Current lists are outdated and do not represent the best science. A provincially significant wetland should not be defined in anything but a minor complementary way by features listed as locally or regionally rare. The assignment of scores for these features needs to be capped and reduced.

A cumulative cap of 25 points would reflect the uncertainty regarding this component of wetlands.

6. There is a Need for Offsetting Policies within a Mitigation Hierarchy

Competing land uses will continue to be one of the most challenging issues to address moving forward. The development of a proactive Offsetting Policy will allow for improved development of sustainable complete communities that promote conservation, while allowing for practical, replicable, and implementable environmental outcomes.

Offsetting should follow conventions for mitigation and offsetting by following a clearly established hierarchical approach. A mitigation hierarchy or sequence offers a framework for managing environmental risk and potential impact on natural heritage features, while supporting informed decision making. It is an internationally recognized stepwise approach to

prevent or limit the negative impacts of human activity. The mitigation hierarchy has four steps: avoid, minimize, mitigate and compensate. Compensation approaches include offsetting. The mitigation sequence is intended to be applied in a stepwise fashion. Offsetting should only be considered when the requirements for avoidance, minimization and mitigation have been met.

However, as Ontario continues to grow and develop at an unprecedented rate, there is a need to recognize that offsetting or compensation will be required for some projects where mitigation and minimization of impacts to natural features is not possible.

Comments on Specific Items

7. Before a wetland evaluation can be deemed to be complete, landowners subject to a wetland evaluation need to be notified by the municipality – this should not be an optional or possible rule. Landowners need to know when an evaluation or re-evaluation is initiated and when comment opportunities are available.

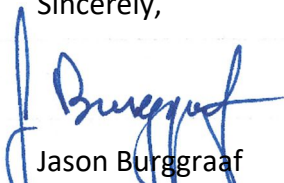
GOHBA requests that the OWES be revised to state that owners *'shall be notified'*

8. The concept of “Closely grouped wetlands” function together as one, needs to be better defined. The definition should exclude any features that have recent historic disturbance origins (e.g., old farm ponds, naturalized golf course irrigation and aesthetic ponds).
9. Limits of Wetlands That Follow Meandering Streams should be updated with more current and appropriate stream definition language (e.g., stream tributaries or reaches).

Thank you for the opportunity to provide comments on this issue.

We are pleased to answer questions or provide further information as requested.

Sincerely,



Jason Burggraaf
Executive Director