

STRENGTH
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UNITY

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November 24th 2022

Hon. Doug Ford
Premier of Ontario
Legislative Building
Queen's Park
Toronto ON M7A 1A1
Tel. 416-325-1941

RE: Proposed Updates to the Ontario Wetland Evaluation System

Dear Mr. Ford,

The Mohawk Council of Kahnawà:ke (MCK) is writing to share our views on Ontario's "Proposed Updates to the Ontario Wetland Evaluation System", "Proposed Updates to the regulation of Development for the Protection of People and Property from Natural Hazards in Ontario" and "Legislative and Regulatory Proposals Affecting Conservation Authorities to Support the Housing Supply Action Plan 3.0" documents posted on the Environmental Registry of Ontario website. We recognize that these are just three of many proposed changes to legislation and regulation impacting Planning and Natural Heritage within Ontario and our comments below are relevant to and interact with these other proposals. As a resource limited community, the sheer volume of proposed changes issued simultaneously overwhelms our capacity to conduct a thorough review of all of the documentation, and certainly does not align with a good faith effort to consult Indigenous communities on these matters that will greatly impact the Traditional Territory of many Indigenous Nations.

The traditional Territory of the Mohawk Nation extends from southern Ontario along Lakes Erie and Ontario, beyond Quebec City along the St. Lawrence River, and south into New York State. Typically, MCK defers to our sister communities of Akwesasne, Tyendinaga, and Six Nations of the Grand River for consultation matters within the jurisdictional boundary of Ontario, however the egregious nature of the proposed modifications to the wetland evaluation system, coupled with other proposals impacting the Green Belt in Ontario, the role of Conservation Authorities, and other legislative changes convinced us that a direct response was required.

The Mohawks of Kahnawà:ke exercise hunting, fishing, and gathering rights within many parts of Ontario, including along the St. Lawrence River, within the Bay of Quinte, along the Grand River and elsewhere within our Traditional Territory. We also hold stewardship rights and responsibilities associated with protecting the biodiversity of all living things within our Territory. In this regard, we are guided by the Ohén:ton Karihwatéhkwen (the words that come before all else); an environmental and spiritual code based on our traditional laws and practices. It encompasses principles that lead us to carefully consider intricate ecological connections that may not be readily apparent when evaluating a

single area, species or activity. The application of the Ohén:ton Karihwatéhkwén serves as an expression of our custodial rights as Onkwehónwe, and demonstrates to all the importance of human responsibility in ensuring that relationships with all living beings are well balanced and all environmental aspects are considered.

Based on our review of the documentation provided, several major concerns with the proposals have been identified:

Elimination of oversight, standardization, and comprehensive record keeping and the downloading of responsibilities to municipalities

The proposed changes eliminate the role of the Ministry of Natural Resources and Forestry in implementing the Ontario Wetland Evaluation System (OWES), instead downloading this responsibility to municipalities.

It is unclear to the MCK how municipalities could be expected to have the necessary resources to appropriately review and approve these evaluations. More significantly, downloading these responsibilities eliminates the 'duty to consult' trigger that a provincial authorization necessitates (the provincial and federal governments are required to consult with Indigenous communities whereas municipalities do not have the same legal obligation). This leaves Indigenous communities with a significantly reduced role in the review and determination of wetland significance within the province. This is an unacceptable result. A mechanism to ensure consultation with Indigenous communities is required.

Similarly, by eliminating the use of wetland evaluations for any purpose beyond municipal planning, Ontario is eliminating a significant repository of information concerning the status of wetlands within Ontario. This data is of significant interest to Indigenous communities as another knowledge source to assess with planning and management of traditional Territories.

Reductionist approach to wetland protection through the elimination of appropriate consideration of wetland complexes

Wetlands are complex systems with extensive surface water and groundwater connections. Understanding these linkages are key to wetland health and preservation. The proposed changes virtually eliminate any consideration of these interactions by removing all wording associated with wetland complexes and narrowly defining a series of wetlands as those within 30 m of one another (versus an existing definition that considers up to a 750 m separation). These wetland complexes can now be re-evaluated as isolated units, with the expected outcome being lower scores and less protection for these features. Eliminating one wetland within a complex will have direct and indirect impacts on other wetlands within the complex and over time, even wetlands that originally maintain a provincial designation will be degraded. Future re-evaluations could then lower their scores as this degradation process continues. The government of Ontario is clearly ignoring the established science around the important interactions between wetlands in their effort to unlock all of Ontario for development.

Wetlands play a crucial role in improving water quality, absorbing rainfall and moderating river flows, and as spawning and feeding areas for fish and wildlife. The inevitable loss of wetland protections and subsequently wetlands associated with these changes will reduce water quality, impact fish and reduce biodiversity. The Mohawks of Kahnawà:ke rely on wetland habitats in Ontario both in the direct exercise of rights within our traditional Territory and also indirectly to enhance water quality in the St. Lawrence River including as it passes alongside our community.

Removal of existing significant weighting for habitat for threatened and endangered species

The proposed changes eliminate very significant scoring for breeding and use by threatened and endangered species (up to 250 points / endangered species breeding in a habitat). Instead, threatened and endangered species are grouped with 'provincially tracked species' and receive far lower weight in the scoring system. Given a score over 600 is considered provincially significant, this change alone will likely eliminate provincially significant status for many of Ontario's wetlands. This is critically important given the biodiversity crisis globally, which includes many species at risk found within southern Ontario in particular. Reducing these weightings is a grave error, particularly without any compensating reduction in the overall score required to qualify as a provincially significant wetland.

While MCK believes that the existing OWES approach may be overly prescriptive and does not sufficiently consider the full intrinsic value of wetlands and ecosystems as a whole as highlighted above through the Ohén:ton Karihwatéhkwén, this proposed change removes the scientific basis for this scoring element in favour of a political agenda, with biodiversity loss the inevitable result.

Elimination of the designations of Local or Regionally Significant Wetlands

Another significant change to the OWES is the elimination of Local or Regionally Significant Wetlands. These make up a significant portion of the protected wetlands currently in Ontario and their elimination represents another example of the provincial governments intention to develop regardless of the cost. One rationale for a regionally significant wetland designation is the use of the wetland by Indigenous land users. Eliminating this provision is another example of Ontario's disrespect and disregard for Indigenous Peoples and will directly impact the exercise of rights on traditional Territory.

Removal of "bonus scoring" for use of wetlands by Indigenous hunters

In the existing OWES, bonus points are allotted for areas that are used by Indigenous hunters. While the overall OWES document requires additional enhancements to better recognize the role of Indigenous communities in stewardship of their Territories, the proposed changes eliminate the only two specific references to Indigenous Peoples within the document.

A revision to the OWES system must more directly consider the role of Indigenous Peoples in the stewardship of natural heritage. Explicit consultation with impacted Nations must be added as a requirement of the evaluation, particularly if Ontario maintains its position of downloading its duty to consult to the municipalities. Similarly, the use of wetlands by Indigenous land users must be more

heavily weighted in the evaluation process, not eliminated. Impacts of the potential loss of wetlands that are being used must be considered and accommodated to the satisfaction of the impacted users. Vague guidance suggesting evaluators may reach out to Indigenous communities are insufficient to meet the obligations of the government and must be strengthened in consultation with Onkwehonwe.

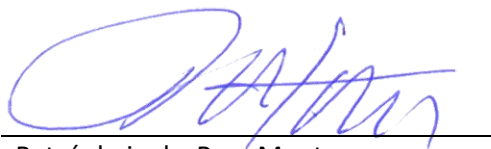
Conclusion

The proposed changes are unacceptable to the MCK as they will significantly reduce wetland and other natural heritage protections in the province leading to the elimination of many of these critically important features. They also reduce the level of consultation required with Indigenous communities in the wetland evaluation process. The roles of wetlands in enhancing flood protection, ground water recharge, water quality, erosion control, and as habitat for wildlife including many at risk and culturally significant species are well-known, and indeed have been outlined within the OWES document. Ignoring the valuable benefits of wetlands and other natural heritage features will lead to significant additional costs in the future and are not the answer to eliminating housing shortages.

Particularly at a time when the government of Canada is working on ambitious conservation goals (25 % of lands by 2025, 30 % of lands by 2030), it is disheartening to see Ontario moving in the opposite direction. In this era of significant biodiversity loss and climate change, natural heritage features are ever more critical as refuges for wildlife including migratory species, and to shelter our communities from the impacts of increased storms, drought, pollution, and other extremes.

Prior to moving forward with any of these changes, the MCK requires direct consultation with the government of Ontario in order to respond to our concerns raised above, and to discuss how the proposals can be modified to prevent the devastation of wetlands and other natural habitats in Ontario. Please contact Nathalie Murray at Nathalie.Murray@mck.ca for scheduling purposes.

In Peace and Friendship,



Ratsénhaienhs Ross Montour,
Lead Portfolio Chief
Mohawk Council of Kahnawà:ke

Cc: David Piccini, Minister of Environment, Conservation and Parks
Steve Clark, Minister of Municipal Affairs and Housing
Graydon Smith, Minister of Natural Resources and Forestry