

November 24, 2022

Hon. Steve Clark  
Minister, Municipal Affairs and Housing  
17th Floor  
777 Bay St.  
Toronto, Ontario M7A 2J3

**RE: Submission in response to Province's proposed changes to the Ontario Wetland Evaluation System (ERO 019-6160)**

Dear Minister Clark

With the recent announcement of changes to natural environment planning in Ontario proposed as part of Bill 23 and the potential implications arising from these changes, we feel the need to add our concerns as consulting ecologists and to provide our perspective; a technical perspective from a firm that has been providing advice on natural heritage planning in Ontario for over 20 years; a perspective that should be considered in the changes proposed through Bill 23.

As an ecological consulting firm, we pride ourselves on taking an objective approach to our work that is founded on scientific principles and best practices. Paired with a team of highly qualified ecologists, this approach establishes a defensible position from which to provide our opinions and give advice to our clients. It is from this position as technical experts in ecology that we provide this submission from a group of ecologists with decades of applied municipal land-use planning and environmental impact management experience in southern Ontario.

We have put this post forward for consideration as well as to provide advice related to proposed changes to the Ontario Wetland Evaluation System that are intended to achieve "more homes built faster" while also "maintaining, restoring, and where possible, improving the diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems" (as paraphrased from section 2.1.2 of the Provincial Policy Statement).

## What are the Key Issues and Concerns?

### 1. MNRF's Role in Administering OWES will be Severely Reduced or Eliminated

MNRF developed the OWES method and has administered it since 1983. It is uncertain if the MNRF will continue to have a role in issuing updates to the OWES manuals and in overseeing the training course and exam which are required for individuals to be deemed qualified practitioners, as this has not been explicitly stated.

That said, the MNRF will no longer review each wetland evaluation produced in the province and will no longer have a jurisdictional role in designating wetlands as 'provincially significant.' MNRF will also no longer be the authority on interpretation of the OWES. Instead, qualified evaluators will use their professional judgement to interpret the OWES and to determine if a wetland is provincially significant or not.

The ERO posting states that the removal of MNRF's role in reviewing and confirming wetland evaluations is to streamline development decisions. This will "better recognize the professional opinion of wetland evaluators and the role of local decision makers (e.g., municipalities)".

#### *Implications*

##### *Loss of MNRF Central Repositories of Completed Wetland Evaluations*

Under the proposed changes, MNRF district offices will no longer be the repositories for completed wetland evaluations, instead storage would be downloaded to the local decision maker (e.g., municipality) receiving the completed evaluation. It is expected that most, if not all, completed evaluations will be received as part of a development planning process, and that they would be stored with their respective planning file. Without central repositories, use of wetland evaluations for land use planning will be more difficult.

##### *Loss of MNRF Wetland Evaluation 'Open File' Approach*

The MNRF will no longer maintain an open file for each wetland evaluation which currently allows new information to be added to the file, and a wetland's score and significance to be determined at a point-in-time without consideration for previous evaluations. Any updates to scoring and significance would require a complete re-evaluation. This places an extra cost burden on the person or organization completing the re-evaluation, as well as the municipality or other decision maker reviewing and commenting on the re-evaluation. Further, undertaking a re-evaluation and reviewing a completed re-evaluation takes time, undermining the goal of the province's proposed changes, which is to reduce bureaucratic complexity and fast-track development applications.

##### *Loss of MNRF Expertise and Access to Information*

Having developed the OWES system and administered it for nearly 40 years, the MNRF has the most experience and is most qualified to review and comment on OWES submissions to determine whether a wetland is provincially significant or not. Further, the MNRF has direct access to natural heritage

information and connections to natural heritage experts. As the OWES uses a scoring system which relies partially on compiling and assessing background and secondary source information (such as species records), this access to information results in more accurate scoring and increases the likelihood that a wetland that *should* qualify as PSW, *does* qualify as PSW. Further, under the proposed changes, the MNRF is no longer be a resource for questions on the interpretation and application of OWES, with these decisions left solely in the hands of evaluators.

### *Loss of the MNRF Wetland Evaluation Approval Process*

Under the current approach, the MNRF reviews and approves wetland evaluations after which they are deemed 'complete.' Under the proposed approach, wetland evaluations will be deemed 'complete' upon submission. This strongly infers that wetland evaluations will no longer require approval by a regulatory agency. Clarity is required on the roles and responsibilities of the municipality or other local decision maker receiving the completed wetland evaluation. If qualified evaluators are solely responsible for determining a wetlands significance and the physical extent of the wetland with no oversight, then this will lead to inconsistency in outcomes and reduce public confidence that the evaluation has been completed under an objective process.

Under the current approach, MNRF makes the final determination on provincial significance. The removal of MNRF's role in designating provincially significant wetlands will result in a loss of consistency on wetland designations. Qualified evaluators will be solely responsible for determining a wetland's significance. This introduces uncertainty and inconsistency into the process which does not align with one of the province's two stated goals for the proposed changes, namely, to "provide greater certainty and clarity related to how significant wetlands are assessed and identified."

## **2. The Completion of Wetland Evaluations will Shift from Regulatory Agencies to the Private Sector**

Currently, wetland evaluations are primarily completed by the MNRF and Conservation Authorities and are used for planning at a provincial, municipal, and watershed scale, including the review of development proposals. This is a proactive approach that feeds into land use planning at all levels of government. For example, it informs natural heritage system planning at the municipal and watershed level, informs land acquisition activities, secondary plan development, and built infrastructure planning.

Under the proposed changes, wetland evaluations will shift from being primarily completed by regulatory agencies for land use planning, to a process driven by development proposals with wetland evaluations completed by environmental consultants. Though not explicitly stated, given the scope of changes to OWES that largely remove MNRF's role in administering it, and given the reframing of the OWES as primarily a tool for municipalities to review development applications (per page 4 of proposed revisions), we expect MNRF staff will no longer undertake new wetland evaluations or re-evaluations. Likewise, given proposed changes to the *Conservation Authorities Act*

aimed at restricting the role of Conservation Authorities to their 'core mandate', we anticipate that they may no longer undertake new wetland evaluations or re-evaluations.

### *Implications*

#### *Cost Shifting to Development Proponents*

Under the proposed changes to OWES and other proposed changes under Bill 23, we anticipate that the completion of wetland evaluations will largely shift from regulatory agencies (primarily MNRF and conservation authorities) to development proponents. These effectively shifts the costs for completing wetland evaluations to development proponents.

#### *Loss of Coordinated Jurisdictional Wetland Knowledge*

Under the proposed changes, wetlands will primarily be evaluated as part of the development approvals process. Therefore, wetlands will generally be studied on a property-specific basis without the ability to collect data for an entire wetland that may span multiple properties. Currently, where wetland evaluations are completed by the MNRF or a conservation authority, wetlands are often assessed over multiple adjacent properties which results in more complete wetland data, for a larger area, and with potential cost efficiencies (i.e., lower cost per each evaluated wetland). A planned, strategic approach to wetland data collection and evaluation results in a more accurate evaluation of the wetland and better informs jurisdictional land use planning than uncoordinated individual wetland evaluations.

#### *Loss of Consistency in Evaluating Wetlands and Determining Significance*

Under the proposed changes, based on our assessment, the completion of wetland evaluations is likely to shift from regulatory agencies to environmental consultants engaged by development proponents. As there will not be consistency in the person or company conducting the evaluations, or any apparent approval process for the completed evaluations, the quality of the wetland evaluations will vary, and correspondingly, scoring to determine provincial significance will vary. Private industry consultants may not have the same resources, expertise or ability to undertake a thorough background and secondary source review to locate species records and other information that could increase the total wetland score. This directly contravenes one of the province's two stated goals for the proposed changes, namely, the proposed changes are to "provide greater certainty and clarity related to how significant wetlands are assessed and identified."

#### *Loss of MNRF and Conservation Authority Oversight of Wetland Boundary Delineation*

Under the proposed changes to OWES and the Conservation Authorities Act under Bill 23, the MNRF and conservation authorities will no longer have jurisdiction to verify wetland boundaries that have been delineated by qualified evaluators. Mapping the outer boundary of wetlands will be the responsibility of the qualified evaluator (as the evaluation will be deemed "complete" upon submission). Furthermore, it is unclear if the approving municipality will have the ability from a planning jurisdiction perspective to review wetland evaluations. Moreover, most municipalities, in

particular lower-tier municipalities, lack the expertise to review and approve an Environmental Impact Study that includes a wetland evaluation/re-evaluation.

### **3. Changes to Wetland Complexing and Species at Risk Scoring Will Result in a Reduction in the Number of Wetlands Designated as Provincially Significant, Leaving Most Wetlands Without protection**

Under the proposed changes, evaluators will no longer have the option to evaluate individual wetlands as a 'wetland complex' (i.e., as a group). Further, individual wetlands that are currently part of a wetland complex can be re-evaluated and rescored on a stand-alone basis. If the individual wetland does not meet the scoring threshold to be provincially significant on its own, then it will be 'downgraded' to a wetland without provincial significance (a.k.a., a non-PSW).

Under the proposed changes, special scoring for habitat of Species at Risk will be eliminated.

#### *Implications*

##### *Loss of Wetlands Through Development Approvals*

Under existing Ontario legislation at the provincial, regional and municipal levels, provincially significant wetlands are prohibited from development and site alteration. The de-listing of some PSWs will remove protection for these wetlands and have an impact on the water resources system, and more broadly the natural environment system. Currently, PSWs are protected under the PPS and all wetlands are protected in accordance with the Growth Plan for the Greater Golden Horseshoe and the Greenbelt Plan. However, non-PSWs are not protected by the PPS, and non-PSWs outside of the Growth Plan area, including within settlement areas, may not be protected by upper or lower tier municipal official plans which do not include policies that protect non-PSW wetlands. Many municipalities have omitted policies protecting non-PSW wetlands from their official plans to minimize overlap with conservation authority policies and regulations for non-PSWs. With the updates to the Conservation Authorities Act removing wetlands from the regulations under CA jurisdiction (unless they are considered a flood hazard), this leaves non-PSW wetlands without protection. This may lead to a loss in wetland area, and the important function wetlands play from an ecosystem services perspective, as well as habitat for wildlife that supports biodiversity and other important ecological functions.

*Wetland loss will be most pronounced in southern Ontario where wetland cover is lowest.*

Wetland loss will be greatest in southern Ontario where existing the Province has directed growth due to a desire for more homes in these areas and where jobs are more abundant. Southern Ontario has seen the greatest loss of wetlands due to historical clearing for agriculture and development of cities and associated infrastructure. The remaining wetlands in southern Ontario are generally small, and where identified as PSW are part of wetland complexes. Thus, southern Ontario will see the greatest wetland loss to development pressure.

### *Reductions to Land within Natural Environment Systems*

Over the past two decades natural heritage planning in Ontario has moved from a feature-based approach for identification and protection, to a systems-based approach that recognizes the important interdependencies and landscape-level interactions that form a robust and resilient natural heritage system and the need to maintain and create connections (i.e., linkages). More recently the Provincial Policy Statement (2014 and 2020) has required municipalities to identify a natural heritage system, and moreover, the province identified a natural heritage system for the Greater Golden Horseshoe with associated policies to protect, restore, and enhance natural heritage systems. In addition, the PPS requires the identification of a water resource system that consists of wetlands (including PSWs) and that the quality and quantity of water be protected using the watershed as the ecologically meaningful scale for integrated and long-term planning. Collectively, the natural heritage system (which includes PSWs) and the water resource system can be considered the natural environment system. PSWs are provided with a high-level of protection through the PPS where development is prohibited. Loss of their PSW designation may result in their removal from a jurisdiction’s natural heritage system (either directly, if a given natural heritage system only protects wetlands that are provincially significant, or indirectly, as wetlands that lose their PSW status may subsequently be lost to development), thus resulting in a loss of resiliency for the natural environment system as a whole.

### *Increased Costs to Approval Authorities for Development Review and Land Use Planning*

Increased costs to approval authorities, particularly lower-tier municipalities, are expected if the proposed changes are passed.

Wetland evaluations/re-evaluations will be completed on potential development properties where there are individual wetlands that are currently part of provincially significant wetland complexes. These will be submitted to lower tier municipalities as part of the development approvals process. As wetland complexes are ‘broken up’ and re-evaluated, land information mapping will require updating at the lower tier, upper tier, watershed, and provincial levels to reflect the removal of wetlands from wetland complexes, and the designation of the re-evaluated wetlands (i.e., provincially significant or not).

Additional staffing levels and expertise will be required, especially as the province has also proposed to eliminate the option for municipalities to have Memorandums of Understanding (MOUs) with conservation authorities to assist with the natural heritage component of development reviews. It is anticipated there will be increased pressure on planning departments and GIS departments, with resultant increases in costs to municipalities.

## **What are the Cumulative Implications to Natural Environment Planning?**

The proposed changes to OWES and other proposed changes under Bill 23 have numerous implications to natural environment planning. It should be recognized that changes to other legislation (e.g., the Conservation Authorities Act and the Planning Act) have an interactive additive

implication as it relates to the identification and protection of wetlands which are not being discussed here. The following implications are directly related to proposed changes to OWES, with consideration to other changes under Bill 23.

*Lower Tier Municipalities Will Have More Planning Authority, More Responsibility, and More Staffing Pressures*

Under the proposed *Planning Act* changes (ERO#019-6163) the province has proposed specifically to remove upper tier municipalities from the planning policy and development approvals process. Moreover, under ERO#019-6141 it has proposed to restrict the current role conservation authorities have in development review under the *Planning Act* to matters within their “core mandate as currently set out in the Mandatory Programs and Services regulation (O. Reg. 686/21, made under the *Conservation Authorities Act*”. As such, lower tier municipalities in larger urban areas of southern Ontario will have more responsibility for review and approval of development within their jurisdiction.

However, the planning departments of lower tier municipalities will experience staff pressures. They will be expected to have more expertise in-house and will not be able to rely on local conservation authorities for comments on development applications (though conservation authorities will still have a commenting role on matters within their ‘core mandate’). Moreover, they will now be expected to review and comment on wetland evaluations which will require expertise and a probable investment in staff training and hiring of more staff. Wetland evaluations are complex and their review is time consuming. Many planning departments are already experiencing staffing issues from a barrage of macro-pressures (e.g., retirements, Covid-19) and are ‘at-capacity’.

Due to these pressures on lower tier municipalities, they will need to identify ways to manage an increased case load. This may mean some combination of a) accepting less development applications (i.e., refusing incomplete applications) b) reducing non-planning budgets to redirect these funds to planning departments c) hiring additional planning staff, requiring planning staff to work longer hours, and/or outsourcing development reviews, and/or d) increasing property taxes.

## Suggestions for Consideration

- Prior to making revisions to OWES, the Province should engage in more consultation with a range of experts in ecology, hydrology, hydrogeology and water resource engineering. The consultation should include experts from conservation authorities, municipalities and the consulting industry to ensure a range of voices from different agencies and sectors are heard.
- Wetland complexing should not be removed from OWES. There is strong scientific justification for using complexing to include individual wetland units within a PSW complex. No scientific rationale has been provided to justify the removal of complexing from OWES.
- If the MNRF will no longer administer OWES, Conservation Authorities should be given the authority to completed and review wetland evaluations to ensure consistency and efficiency in the review process that can support the goal of achieving more homes “faster”.



- Special Feature scoring for habitat of Endangered and Threatened species should not be removed from OWES. Wetlands are one of the most threatened habitats in the Province which in turn means those species that rely on wetlands include threatened and endangered species (i.e., Species at Risk). It is imperative that wetlands which support Species at Risk are deemed as PSWs which can aid the Province in protecting Species at Risk and their habitats.
- If the proposed changes to OWES is carried forward by the Province, the Provincial Policy Statement should be updated to include 'wetlands' (i.e., all non-PSW wetlands in addition to PSWs) as a natural heritage feature and area in addition to a component of the water resource system. All wetlands, including those in urban/settlement areas, should be protected from development, unless through an environmental study it can be demonstrated there will be no negative impact to the feature and associated ecological functions.

## Concluding Statements

Natural environment systems, and in particular wetlands, should not be seen an obstacle to affordable housing. In fact, effective integration of the natural environment in urban areas is needed for southern Ontario communities to remain healthy and resilient as the impacts from climate change become more evident.

We believe that there are opportunities to revise OWES that incorporates a science-based defensible approach while improving other aspects of the planning process that ensures the expertise and resources are available to review and approve wetland evaluations. Moreover, any changes to OWES or other aspects of natural environment planning cannot move forward in a way that puts the natural environment systems at risk and undermines the progress that has been made over the past 40 years. We are confident that such opportunities can be identified through fulsome engagement with a range of experts in land use and natural environment planning. We hope the Province takes our comments into consideration and would reach out to us for further engagement to find opportunities to improve the natural environment planning framework and processes that can achieve the goals of protecting the natural environment while building more homes faster.

Sincerely,



Kristen Harrison  
Principal, Ecologist



Sal Spitale  
Principal, Ecologist