



November 22, 2022

Public Input Coordinator  
MNR - PD - Resources Planning and Development Policy Branch  
300 Water Street, 2nd Floor, South tower  
Peterborough, ON  
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Canada

To the MNR Public Input Coordinator,

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

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### Comments

#### **Land Use Rationale**

The proposed changes to the OWES contradict the recent history of land use policy with regards to the preservation of significant natural heritage features, including wetlands. The revisions to the OWES are proposed "to support More Homes Built Faster: Ontario's Housing Supply Action Plan 2022-23". It remains unclear how this proposal supports the development of more homes, given that wetlands cover only 6.8% of the land base in southern Ontario (Ducks Unlimited Canada 2010) and have flood risks and unstable soils which are unsuitable for development without expensive soil reclamation and fill works.

The revisions to the protocol appear to have been initiated in response to a need to increase the amount of available land for development to address the housing crisis; however, there appears to be no documentation to support the conversion of wetlands as a viable solution to address the housing crisis. Similarly, there appears to be no demonstration of need for development land so pressing to justify de-regulation and reclamation of wetlands to accommodate required housing. The NVCA supports science-based revisions to the technical aspects of the OWES; however, the proposed changes do not appear to be supported by a scientific rationale.

Indeed, OWES evaluators have concerns and recommendations related to necessary updates to the OWES protocol, but not to the effect of the proposed changes. It is unclear whether the more recent editors of OWES 3.2, MNR's

Biodiversity Policy Section or the Wetland Evaluation Technical Team provided input to the proposed changes, or whether any peer-review of the proposed changes was undertaken. Information related to the authorship of these proposed changes and the specific problems that were identified to be resolved through this update should have been provided to support the rationale for proposed changes to the OWES.

### **Scoring**

At its base function, the OWES is a biological inventory scoring system based on threshold in multiple categories. In the proposed changes, a number of available points have been removed, but the score thresholds for a wetland to be deemed Provincially Significant are unchanged. This has the effect of removing opportunities for scoring in order to make the total score for Provincial Significance challenging, if not impossible, to attain. The proposed revisions indicate an intent to alter the status of currently protected wetlands by opening existing evaluations for scoring under a new system which is designed to be exceedingly difficult to achieve PSW status. The proposed scoring detail sheets are the foundation of the wetland evaluation and have not been provided for consultation, which is a significant omission in this ERO consultation.

### **Complexing**

The NVCA does not support the broad removal of wetland complexing from the OWES protocol. Removal of the concept of "complexing" wetlands ignores the inherent function of wetlands as habitat loci for plants and wildlife which are connected through natural linkages that serve as stepping stones. In the NVCA watershed, 32 of 33 PSWs are complexes. As a result of the proposed changes to the OWES, 97% of the PSWs within the NVCA watershed could be "re-opened" and may be re-evaluated to non-PSW status based solely on the revised protocol, with no changes to the characteristics of the wetland itself.

Wetland complexes are a key component of evaluation and consistent with the national Canadian Wetland Evaluation System. Most wetlands in Ontario are complexes. There is no scientific basis for removal of the complexing of wetland features, as the literature and current Ontario land use planning policy overwhelmingly supports the protection of natural linkages between wetlands. Maintaining hydrologic connections and upland areas between wetland units is a foundational principal of ecological conservation. To remove the inherent value of these linkages and consider wetland polygons in a piecemeal fashion is not a science-based change that the NVCA can support.

Wetland complexes are of particular importance to the NVCA, as many of the wetlands we protect are complexed. The Silver Creek and Wasaga Beach Provincially Significant Wetlands abutting the shoreline and along connecting channels/tributaries are complexed, and provide recreational and flood attenuation values to tens of thousands of residents and visitors in Collingwood and Wasaga Beach. Should these wetlands lose their status as Provincially Significant through re-evaluation under the revised OWES system, the impacts on the local communities in these settlements would be negative and potentially hazardous.

NVCA staff caution the potential for multiple, cumulative negative impacts such as flooding, local drainage problems and loss of critical wildlife habitat downstream in the NVCA watershed. Communities such as Collingwood and Wasaga Beach would be expected to be most affected by these impacts.

### **Species at Risk**

The revisions to the OWES removes Endangered/Threatened species habitat metrics. Significant impacts could occur in the NVCA watershed as a result of this change; for example, the eastern hog-nosed snake (Threatened) which uses a mosaic of reproductive, feeding and hibernation habitat associated with parts of the Wasaga Beach PSW complex. If the individual habitat polygons are no longer complexed together and considered Provincially Significant, protection of all of the habitats required to support the life cycle of this species may be compromised.

While the proposed changes acknowledge the presence of Provincially Significant species, there will be a negative impact of removal on scoring associated Reproductive Habitat and Migration, Feeding or Hibernation Habitat for SAR. Presence of SAR can currently score up to 400 points for one species; whereas the new metric would require presence of over sixty SAR to score the same amount of points.

The removal of scoring for habitats that support direct life cycle functions of SAR, as opposed to the proposed tally score, will make it near impossible for a wetland to achieve a score of over 200 in the Special Features component. NVCA staff do not support the removal of scoring for Reproductive Habitat and Migration, Feeding or Hibernation Habitat for SAR as proposed. Wetlands which provide habitat that directly supports life cycle processes of SAR should be recognized through higher associated scores.

### **Conflicts**

The NVCA identifies a number of conflicts with the proposed changes to the OWES which do not appear to have been considered. The indirect consequences of the

proposal which have the effect of reducing protection for wetlands may contravene the Federal *Migratory Birds Convention Act* (1994) which protects the habitat and nesting grounds for multiple migratory bird species with wetland affinity.

OWES Section 2.8 considering the Aboriginal and Cultural Values of wetland resources should be revised and expanded in the spirit of Truth and Reconciliation. The current evaluation method relies on evaluators reporting traditional ecological uses which is not inclusive to Indigenous communities. The OWES protocol should require direct consultation with Indigenous communities and allow Indigenous Peoples to report and score their own values and cultural uses of specific wetlands. Cultural values associated with County Forests should also be recognized and incorporated into the revised OWES Manual.

Ontario's *Endangered Species Act* is written to protect the habitat of Threatened and Endangered species, but in application the *Act* is permissive with no comprehensive mapping of SAR habitat across the province. PSWs in their current form serve as simple and effective mechanisms to delineate sensitive or important ecological landscapes for wetland SAR across land use planning and regulatory agencies. If the proposed revisions to OWES are passed, there appears to be no mechanism to accurately delineate and protect wetland habitats of SAR.

Conservation Authorities regulate wetlands and the delegation of decision-making powers to municipalities to designate PSWs has the potential to create conflict between municipalities and the Conservation Authorities that serve them. Municipalities do not typically employ staff ecologists CAs are relied upon to provide peer review and expert advice on matters related to wetlands. In the Nottawasaga Valley watershed, municipalities have neither capacity nor expertise in environmental planning and ecology to fulfill their proposed roles.

The revisions to OWES aim to shift decision making power to municipalities, yet it removes latitude for municipalities to "determine that some of these 'other' wetlands are significant on a local scale and ... decide to protect them." If municipalities are to be the approval authority for Significant Wetland Features, they should be able to designate **any** feature they determine to be locally significant.

### **Data Availability**

From the proposed revisions, it appears that provincially, regionally and locally rare species data will have relevance, though there are significant changes to data sources and no access to MNR data/expertise in the proposed OWES. Data access is critical to many of the OWES components. NVCA has concerns that species lists

may not be comprehensive, timely or consistently available to wetland evaluators. Concerns are also raised that if no MNRF tracking of provincially, regionally and locally rare species data is being completed, there will be no species data to inform the lists that may or may not be available from time to time. Given that MNRF is no longer an available data source, who will determine or approve level of significance?

### **OWES Evaluators**

OWES Evaluators have historically acted as liaison between the applicant or municipality and the MNRF as the approval authority for PSWs, working to ensure wetland evaluations were completed in accordance with the OWES and to a professional standard. Under the proposed OWES, submissions by OWES evaluators retained by development applicants have a **direct pecuniary conflict of interest** in providing favourable wetland evaluations for their clients.

Removal of the ability for OWES Evaluators to gather information on inaccessible properties via remote sensing and visual observations is impractical and will severely limit wetland evaluators from doing their job. While the NVCA recognizes the rights of property owners to privacy and use of their lands, wetland evaluation must consider the landscape scale and adjacent lands. Review of aerial imagery and roadside observations should be permitted in OWES evaluations. Certain limitations, such as the use of only publicly-available information may be an appropriate compromise to address landowner concerns.

### **Cost Burden for Municipal Partners**

By shifting the OWES approval to the evaluator and the municipality, the proposed changes open the evaluation process to a considerable **risk of biased evaluations** with the MNRF and Conservation Authorities removed as objective peer reviewers to wetland evaluation submissions. It appears that evaluation of many metrics is determined through review of Significant Wildlife Habitat (SWH) mapping/review of data/criteria associated with SWH Schedules. None of the NVCA municipalities currently have SWH mapping. It is unclear whether wetland evaluations would be required to undertake fulsome in-season SWH habitat surveys using appropriate/standard protocols to inform scores, or who is responsible for reviewing and approving SWH. If the decision maker is to be the municipality, it is assumed that they would be responsible for retaining consultants or entering into agreements with the Conservation Authorities to undertake SWH mapping and evaluations in accordance with the Criteria Schedules.

### NVCA Recommendations

1. NVCA requests that the Province provide a clear statement of the planning and regulatory mechanisms which remain to preserve wetland features, as the current ERO postings indicate there are to be few.
2. The Province should undertake a formal, professional assessment process to determine that there is a need to convert wetlands and other natural heritage features to development lands to address the housing crisis.
3. Existing PSW Complex designations should not be open to re-evaluation under the proposed OWES protocol. These features could be open for boundary delineation refinements, but their status and protections as Provincially Significant should not be altered.
4. Wetlands should be permitted to be complexed.
5. The term "connecting channels" must be clearly defined. "Channel" in this context could include: groundwater, a surface water feature, watercourse, drainage ditch, drainage pipe or storm sewer.
6. An objective, scientifically-based agency should be appointed to oversee quality control and objective assessment of OWES evaluations if the MNR is to be removed as the data source and decision-maker.
7. Training sessions for current OWES-Certified Wetland Evaluators should also be provided to ensure the protocols, once revised, are understood.
8. Review of aerial imagery and roadside observations should be permitted in OWES evaluations in accordance with current OWES practices.
9. Municipalities should be empowered to designate Locally-Significant features if they are empowered to designate Provincially-Significant Wetlands and Natural Heritage Features.
10. Sources for OWES evaluation data on provincially, regionally and locally rare species must be known and accessible. MNR should remain as a lead agency for, species data as well as fish and wildlife management information. Data held by MNR should be fully available to the public as a data source.
11. Instead of removing important and scientifically-established metrics of assessment, the Province ought to consider altering the score thresholds for Provincial Significance if the aim of the proposal is to alter what the Province considers Significant.
12. The Province should provide a fulsome, detailed posting for commenting which includes the entire suite of proposed changes tracked within a copy of the current OWES 3.3 (2014) Manual, including the Wetland Evaluation Data and Scoring Record and showing all proposed retained and edited sections.

13. The province must identify a mechanism to ensure that the approval authority for OWES evaluations can make un-biased, science-based decisions on the designation of Significant Wetland features.

### Closure

When considered as a whole, the proposed changes to Ontario Wetland Evaluation System (OWES) indicate a dramatic shift away from protection of wetlands in the Province of Ontario. The NVCA supports science-based revisions to the technical aspects of the OWES; however, the proposed changes do not have a scientific rationale. The revised OWES appears to ensure that no new Provincially Significant Wetlands (PSWs) are delineated and that the majority of existing PSWs have protections removed through re-evaluation under the current proposed protocol.

The proposed revisions to the OWES will remove the concept of “complexing” wetlands. As a result of the proposed changes to the OWES, 97% of the PSWs within the NVCA watershed could be “re-opened” for development and may be re-evaluated to non-PSW status based solely on the revised protocol.

There will be a significant impact of removal on scoring associated Reproductive Habitat and Migration, Feeding or Hibernation Habitat for SAR. The removal of scoring for habitats that support direct life cycle functions of SAR will make it impossible for most wetlands to achieve a score to qualify as a PSW.

The delegation of decision-making powers to municipalities to designate PSWs has the potential to create conflict between municipalities and the Conservation Authorities. In the Nottawasaga Valley watershed, municipalities have neither capacity nor expertise in environmental planning and ecology to fulfill their proposed roles. The costs related to delegating these responsibilities would be a burden for which many smaller municipalities would not have funds allocated.

The changes to OWES would remove oversight by a scientifically-based, objective agency such as the MNR which will have negative implications for the quality, objectivity and reliability of wetland evaluations completed under the proposed system.

The NVCA would welcome an opportunity to provide further consultation on proposed changes to the OWES to update and streamline to process of wetland evaluations to preform effectively for all users of the system. As frontline regulators of wetlands, Conservation Authorities have the experience and technical expertise to work with the Province to ensure evaluation protocols are effective, timely and

reasonable. We would be pleased to liaise with Ministry staff to further discuss our concerns and recommendations.

Respectfully submitted,

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Doug Hevenor  
NVCA Chief Administrative Officer

A handwritten signature in blue ink, appearing to be 'E. Perry', written in a cursive style.

Emma Perry  
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Ontario Wetland Evaluation System Certified Evaluator

A handwritten signature in blue ink, appearing to be 'D. Featherstone', written in a cursive style.

Dave Featherstone  
NVCA Senior Ecologist  
Ontario Wetland Evaluation System Certified Evaluator



## References

Ducks Unlimited Canada (2010). Final Report – Southern Ontario Wetland Conversion Analysis.