

December 22, 2022

MNRF- PD – Resources Planning and Development Policy Branch
300 Water Street, 2nd Floor, South Tower
Peterborough, ON K9J 8M5

Re: GSCA comments on the “Proposed Updates to the Regulation of Development for the Protection of People and Property from Natural Hazards in Ontario” (ERO # 019-2927)

To Whom it May Concern:

Grey Sauble Conservation Authority would like to thank you for the opportunity to provide comments on “Proposed Updates to the Regulation of Development for the Protection of People and Property from Natural Hazards in Ontario”. GSCA has reviewed the information provided in ERO posting #19-2927 and we offer the following general comments below followed by specific comments in table format.

Overall, GSCA is supportive of the government moving forward with the proposal to update the Section 28 (S.28) regulation made under the *Conservation Authorities Act*. Given that conservation authorities are responsible for administering the regulation, it is extremely important for CAs to be involved in the process to renew this regulation. CAs know the existing regulations better than any other organization and as a collective, we can identify areas where the draft regulation is inefficient, unclear, or inconsistent.

Recommendation #1: THAT CAs be directly consulted by MNRF on the development of the S. 28 Regulation.

General Comments

Exemption of Development Authorized Under the Planning Act

The regulatory proposal consultation guideline includes specific discussion points related to improved coordination between Conservation Authorities Act regulations and municipal planning approvals. We agree that there is some overlap with respect to these approvals in some cases. However, the planning process typically does not get into the level of technical detail that is required at the permitting stage. As such, we caution the approach to providing regulatory exemption where development is authorized under the Planning Act. There are concerns that broad level exemptions associated with Planning Act approvals will put life and property at risk, which is contrary to the core mandate of CAs. There is also concern with the ability for municipalities to be responsible with the extra burden this would place on them.

GSCA is of the opinion that the multi-stakeholder Conservation Authorities Working Group would be an appropriate means of discussing development activities that may be suitable for exemption from requiring a permit.

Member Municipalities

Municipality of Arran-Elderslie, Town of the Blue Mountains, Township of Chatsworth, Township of Georgian Bluffs, Municipality of Grey Highlands, Municipality of Meaford, City of Owen Sound, Town of South Bruce Peninsula

Recommendation #2: THAT advice be sought from the multi-stakeholder Conservation Authorities Working Group about which development activities may be suitable for exemption to avoid unintended risk to public safety, properties, or natural hazards.

Considering a Range of Solutions

It is important to have flexible solutions within our toolbox when addressing natural hazards given their connection to natural systems. If we solely focus on the natural hazard component, there is the concern that the solutions to manage natural hazards will focus on hard engineering solutions and will be missing important elements to ensure healthy landscapes across the province.

Recommendation #3: THAT the regulations should be designed to ensure that a range of solutions to manage natural hazards can be employed.

Ongoing Support Required

The consultation guideline indicates a number of program delivery standards, including requiring CAs to develop, consult on, make publicly available and periodically review a policy that includes details about complete application requirements, timelines for decisions, and additional technical details on regulatory requirements and permit application and review procedures. GSCA and other CAs have been working with Conservation Ontario already on service delivery standards. To ensure consistency and limit administrative burden in this respect, it is recommended that the Ministry coordinate with Conservation Ontario on the guidance they have produced to serve as the basis for CA internal policies and assist with an expedient transition to implementing the new regulatory framework.

Recommendation #4: THAT MNRF staff participate in and support Conservation Ontario in developing model guidance for CA internal policies.

There is an administrative exercise in implementing a new regulation. This includes staff training, updating policies, materials available for the public, and other tasks. As a new regulation hasn't been provided at this time and the consultation guideline does not include any details on a timeline for implementation, we recommend a transition period be considered. Furthermore, MNRF should take the lead on coordinating training on the new Section 28 regulation and provincial implementation support materials.

Recommendation #5: THAT the regulation include a transition period to update CA policies to be consistent with the Provincial implementation support materials and MNRF should take the lead on coordinating training.

Conservation Ontario notes that CAs and municipalities rely on outdated provincial technical guidance to make decisions from a land use planning and regulatory perspective. This provincial technical guidance has not been updated since 2002 and does not reflect current science, land use patterns and the changing climate. In this regard, conservation authorities, municipalities and the development sector have staff expertise and experience to guide the renewal of these documents under provincial leadership. For greater efficiency and certainty for proponents, in addition to supporting land use planning decisions under the Provincial Policy Statement, the updated technical guidance should also serve as technical guidance for permit decisions made under S.28 of the *Conservation Authorities Act*.

Recommendation #6: THAT the Province work with CAs, municipalities and the development sector to update technical guidance to protect people and property from flooding and water-related hazards to support land use planning decisions under the Provincial Policy Statement and permit decisions under S. 28 of the *Conservation Authorities Act*.

Ontario has recently experienced a number of extreme weather events that have threatened people and property, including homes, businesses and infrastructure as a result of flooding. As we adapt to changing weather events, including concentrated periods of heavy precipitation within isolated storm cells and an increase in impervious surfaces, it may be time to re-evaluate the current flood event standards found within the individual S. 28 regulations. It is therefore recommended that the Province undertake a review of the current flood event standards and update them

based on the best available science, including observed flooding. This update to the standards should include provisions to consider climate change from a regulatory perspective.

Recommendation #7: THAT the Province update, as necessary, the Flood Event Standards found within the existing S. 28 regulations based on the best available science and including a factor of safety for climate change.

We thank you for the consideration of GSCA's comments and we look forward to more information regarding these proposed changes.

Sincerely,



Mac Plewes
Manager of Environmental Planning
Grey Sauble Conservation Authority

1 Attachment

GSCA's Detailed Comments on the "Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario"

ATTACHMENT 1

Grey Sauble Conservation Authority’s Detailed Comments on the “Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario” (ERO #019-2927)

Proposed Changes	Response	Potential Details for the Regulation
The Ministry of Natural Resources and Forestry is proposing to replace the existing regulations with a single, new regulation that will apply across all 36 conservation authorities.	GSCA is supportive of the proposal to consolidate and harmonize the existing 36 individual conservation authority regulations into one Minister of Natural Resources and Forestry approved regulation.	The updated regulation should reflect local conditions for each CA. GSCA for example uses two flood event standards. The regional (Timmins) is applied for all watersheds except for the Sauble River watershed, which uses the 100-year. There are other nuances within our regulation such as post-glacial shorelines (Nipissing Ridge and Algonquin Ridge) and this should be specifically identified in the regulation.
Updating the definition of “watercourse”.	There are concerns that there are some watercourses on the landscape which have a large drainage area but would not meet the new criteria to be considered a watercourse. Further clarification and examples should be provided as to what is intended to be a watercourse and what is not based on the new definition.	Criteria / technical guidelines will be required to assist as we update our regulatory mapping. Implementation support materials will be required to assist with consistency in implementation of the regulations.
Updating the “other areas” in which the prohibitions on development apply to within 30 m of all wetlands	No comment	
Streamlining approvals for low-risk activities	GSCA is generally supportive of streamlining where risk to public safety, properties and natural hazards is negligible. The guidance suggests a registration process for streamlining. More details are needed on the registration process and how it can be consistently applied across all CAs. With respect to the square footage reference for non-habitable accessory structures, this could be increased to 15 square metres to be consistent with building code exemptions.	The ability to register an activity will require provincial investment to enable CAs to create online registration systems.
Development Activity – proposed to be the same as the definition currently set out in the Act for “development”	No comment	

Proposed Changes	Response	Potential Details for the Regulation
No proposed change to the definition of hazardous land	GSCA supports the maintenance of the existing definition however the regulatory limit around hazardous lands should include an allowance to reflect a factor of safety associated with the mapping of hazardous land (e.g., leda clay, karst, etc.). Should also be inclusive of steep slopes not associated with a valley or watercourse.	Include an allowance around hazardous lands within the regulation.
No proposed change to the definition of wetland.	The current definition is problematic and can be challenging to demonstrate especially in a compliance situation. Conservation Ontario's comments have provided a recommendation for the wetland definition to be consistent with the definition in the PPS. Ultimately, we encourage a flexible definition.	
Requiring CAs to request any information or studies needed prior to the confirmation of a complete application	Generally agree, however there may be instances where further studies are needed that were not initially foreseen prior to the application being deemed complete. This could be based on site level review that happens after the application has been deemed complete or a technical study identifying the need for additional study.	
Limiting the site-specific conditions a CA may attach to a permit to focus on matters dealing with natural hazards and public safety.	No comment	
Permits can be issued for a maximum period of up to 60 months (5 years).	GSCA is supportive of these proposed amendments. Extension requests must meet current application standards in order for them to be re-issued. Consideration could be given to removing 2.2.2. b (no extension has been granted previously) and c (setting out reasons why the permit extension is required) as a requirement for an extension to reduce regulatory burden. Renewal requests should be assessed based on their technical merit.	Extension requests must meet current application standards in order for the permit to be re-issued.
CAs will be required to develop, consult on, make publicly available a policy for service delivery standards along with or service standards.	CAs have already been working with Conservation Ontario with respect to program service delivery standards. As such, when developing the parameters of this requirement, it is recommended that the MNRF consider the Conservation Ontario "Client Service Standards for Conservation Authority	Recommend that the requirements are consistent with the CO Client Service and Streamlining Initiative.

Proposed Changes	Response	Potential Details for the Regulation
	<p>Plan and Permit Review” as the basis for these requirements.</p> <p>There are opportunities to improve the complete application process and improve the quality of technical submissions to achieve faster approvals. Technical guidelines and checklists are important for this purpose and are outlined as a best practice in CO’s Client Service and Streamlining Initiative.</p> <p>A transition period is required to enable CAs to update their policies.</p>	
Mapping of Areas	<p>GSCA already has digital mapping available publicly online and at our office for viewing upon request. This requirement should indicate if digital is sufficient.</p> <p>The guideline indicates that text based approach to the regulation will continue and this is a positive. Mapping is important but given the complexities and dynamic nature of natural hazards having a technical description as the basis helps provide clarity.</p>	Recommend that the requirements are consistent with the CO “Procedure for Updating Section 28 Mapping: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulations”.
<p>Pre-consultation on permit applications</p> <p>“Under section 21.1 of the Act, it would be specified that either a conservation authority or a permit applicant may request pre-consultation prior to the submission of a permit applications in order to confirm requirements for a complete application for the activity in question”.</p>	<p>Pre-consultation is an important step in the permitting process. As it isn’t formally recognized currently in the legislation this is a positive step and should assist applicants and CAs in clarifying the pre-consultation process. It should clarify if a project proponent submits a permit application prior to any discussion with the CA that the CA can still request pre-consultation.</p> <p>Conservation Ontario has produced a guideline for pre-consultation and we recommend this be considered for best practices with respect to pre-consultation on planning and permit applications.</p>	Consider the best practices identified through the Conservation Ontario “Guideline for Conservation Authority Pre-Consultation (Planning and Permitting Applications)”.
For Discussion: Improved coordination between Conservation Authorities Act regulations and municipal planning approvals.	<p>Q - In which municipalities should the exemption apply? How should this be determined?</p> <p>A – Municipalities with internal engineering departments would be potential candidates.</p>	

Proposed Changes	Response	Potential Details for the Regulation
	<p>Q – Which Planning Act authorizations should be required for the exemption to apply?</p> <p>A – This should be limited to new plan of subdivision or condo only. Other applications may lack sufficient details to override the permitting process.</p> <p>Q – Should a municipality be subject to any requirements or conditions where this type of exemption is in place?</p> <p>A – Conditions limiting length of approval, CA supports and has cleared all relevant conditions through the planning process. Municipality to ensure development proceeds with approved plans and that CA’s have no liability in this respect.</p> <p>Q – Are there any regulated activities to which this exemption shouldn’t apply?</p> <p>A – activities related to “alterations or interference” should not be exempt. Any activities within a hazard area should not be exempt.</p>	