



Nickel District Conservation Authority
401 – 199 rue Larch Street
Sudbury, ON P3E 5P9
705-674-5249
ConservationSudbury.ca

December 30, 2022

MNRF - PD - Resources Planning and Development Policy Branch
300 Water Street, 2nd Floor, South Tower
Peterborough, ON K9J 8M5
(submitted online through the ERO website)

Re: Comments on “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:

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.” Conservation Sudbury (also known as Nickel District Conservation Authority) is one of Ontario's 36 conservation authorities delivering programs and services primarily within its sole member municipality, the City of Greater Sudbury. Conservation Sudbury is committed to collaborating with the City and the development sector to assist the Province in meeting its housing supply goals.

Conservation Sudbury is highly supportive of the comments submitted by Conservation Ontario; this submission is meant to supply additional detail in some key areas.

General comments:

1. There are several unproclaimed sections of the CA Act that reference the issuance of “permits” rather than issuance of “permission.” Conservation authorities sometimes issue written permission for development within the regulated area of a hazard or feature for certain low-risk activities. The regulation should be drafted in such a way to ensure that, should those sections of the Act become proclaimed at a future date, permissions can continue to be granted without the requirement for a full permit. The regulation must remain flexible enough to allow a conservation authority to determine what activities and under what situations a full permit would not be required. In many cases this type of permission saves time and money for all parties i.e., applicant, CA, municipality.

Recommendation #1: Ensure that the regulation allows flexibility to individual conservation authorities to determine the form of permission (formal permit vs. another valid form of permission).

2. The term “pollution” has recently been removed as a matter to be considered in permit decision (*test*) by conservation authorities. We recognize that the term pollution may be too broad for the test of pollution that is typically applied by conservation authorities. The term “pollution” is typically applied to the loss of sediment from the site, as a result of erosion.

Recommendation #2: We strongly urge the Minister to clarify that the test of “erosion” includes the erosion of soils during development, its transport and deposition of sediment. This is not to be confused with the risk posed by the Erosion Hazard that is dealt with at length in the MNRF’s technical guidelines.

3. Support is required for drafting policies or to amend existing conservation authority policies to align with the new regulation or in some cases draft new policies. Smaller conservation authorities often do not have internal capacity to draft policy.

Recommendation #3: That the Minister provides support in drafting new policies, either by drafting policies jointly with Conservation Ontario (as was done after the changes in 2006), or by providing financial support so that smaller conservation authorities can have the necessary resources for drafting policy.

4. Recent changes to the *Conservation Authorities Act* have reduced the timeframe after which an applicant may appeal the failure of the conservation authority to issue a permit to the Ontario Land Tribunal from 120 days to 90 days. It is important to note that site visits are a critical part of the permit application review process. These can typically only be completed during the snow-free season, when features and hazards (such as wetlands, banks of watercourses, etc.) are visible. In Northern Ontario, snow cover can prohibit effective site visits between October and March. It is unreasonable and irresponsible to expect conservation authority staff to conduct meaningful site visits when snow cover is prohibitive. Often, for small scale development proposals, staff are able to identify features on site without the need for the landowner to hire a qualified consultant, thereby saving time and money. If CA staff are required to make a decision in winter without the benefit of a site visit, site-specific professional delineation of hazards and features will always be required as part of a complete application.

Recommendation #4: That the regulation include a provision allowing decisions to be postponed beyond 90 days when site visits are required prior to issuing permission, and when snow cover does not allow for site visits to occur.

Comments specific to the ERO posting 019-2927:

5. Re. Exemption of Development Authorized Under the *Planning Act*
 - Need to recognize that impacts of the hazard can extend beyond the hazard itself. For example, construction of structures adjacent to erosion hazards must confirm that the structure remains structurally sound if erosion extends to the extent predicted.
 - We have concerns regarding the enforcement of conservation authorities’ conditions to draft approval and within site plan control agreements. Municipalities do not always have the technical expertise to ensure that conditions are met or to ensure that any deviations from the plans are acceptable and safe from the hazards. A mechanism must be in place to ensure that conservation authorities are circulated and provided opportunity to confirm that conditions have been addressed, and to compel developers to make changes to bring the site into compliance where the development does not comply with conditions.

- We cautiously propose that exemptions may be appropriate for Site Plan Control Agreements where development is not proposed within a hazard.
- We have provided detailed comments on this topic in our submission to posting 019-6141.

Recommendation #5: That the Minister undertakes thorough consultation with conservation authorities and municipalities in drafting regulations to support these exemptions.

6. Re. Providing increased flexibility for an authority to issue a permit up to its maximum length of validity, and issue extensions as necessary.
 - We are supportive of facilitating extensions provided in cases where no legislative, regulatory or policy changes have occurred since the time a permit was originally issued.

Recommendation 6: Extension requests must satisfy the standards in place at the time of request.

7. Re. Mapping of Areas
 - Detailed studies are required to accurately map features, associated hazards, and regulated areas as they exist on the landscape. These studies are costly and time consuming. The per capita cost is especially high for conservation authorities that manage large, sparsely populated jurisdictions.
 - Consideration should be given that mapping updates may be required to reflect anticipated changes to the Technical Guidelines.
 - It is especially challenging to identify erosion hazards limits, and additional supports should be given for this work.

Recommendation #7: That the Minister provides support for the mapping of regulated features and for the determination of hazard limits to reflect the new Technical Guidelines.

Recommendation #8: That the regulation continues to include a clause that if there is a conflict between the description of regulated areas and the areas as shown on the maps, the description of areas prevails.

Thank you for the opportunity to provide comment on these proposed new regulation, and early consultation on proposed permit exemptions for development approved through the *Planning Act*. It is strongly recommended that the Minister reconvenes the multi-stakeholder Conservation Authorities Working Group. Failing that, the Minister should collaborate with Conservation Ontario on behalf of all conservation authorities to work through outstanding issues related to development review while not jeopardizing public health and safety or the environment.

Should this letter require any clarification, please contact me at 705-674-5249 ext. 203.

Sincerely,



Carl Jorgensen
General Manager