



December 8, 2022



MNRF - PD - Resources Planning and Development Policy Branch  
300 Water Street, 6th Floor, South tower  
Peterborough, ON  
K9J 8M5  
Canada



**Re: South Nation Conservation 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”.



South Nation Conservation (SNC) – one of Ontario’s 36 conservation authorities – is a committed partner of its member municipalities, the development sector, and the province; sharing the goal of increase housing supply in Ontario. We have been supporting sustainable growth in our jurisdiction for more than 75 years.



SNC is pleased that the government is proposing a new regulation governing activities that require a permit under Section 28 of the *Conservation Authorities Act*.



As conservation authorities are the organizations solely responsible for implementing this regulation, it is important that we be involved and consulted in the drafting of the regulation. This involvement will result in administrative efficiency; particularly as it relates to clarity, ease of use, and consistency amongst conservation authorities.



**Recommendation #1: That conservation authorities be consulted by the Ministry of Natural Resources and Forestry on the development of the Section 28 Regulation.**



*Permit exemption for development authorized under the Planning Act*



SNC is concerned with the proposed exemption of development authorized under the *Planning Act* from requiring a permit under the *Conservation Authorities Act* where set out in regulation.



The province recently reaffirmed that the CA mandate includes regulating development in



and near natural hazards to minimize risk. The proposed exemption for certain development from CA regulations has the potential to create a two-tier approach to the protection of people and property. The planning process provides a high-level assessment of natural hazard risks but does not review technical details of design – this is completed during the permit stage. This proposed exemption may put people and their homes at risk.

CA permit exemptions for *Planning Act* approvals will place additional pressure, responsibility, and liability on municipalities and may result in building permits being issued in error, for example. Working beyond political boundaries is essential in the permitting role to consider impacts on upstream and downstream communities. Natural hazards should be considered at both site-specific and watershed levels to ensure safety.

Conservation Authorities were delegated the regulation of development in or near natural hazards as a result of the severe human and economic human losses associated with Hurricane Hazel in 1956. CAs are uniquely positioned to fulfill this role which assists in emergency preparedness and prevents the worst outcomes.

SNC recommends that advice be sought from the multi-stakeholder Conservation Authorities Working Group about development activities that may be suitable for exemption from requiring a permit using existing clauses within the *Conservation Authorities Act*. Careful consideration is required to avoid unintended risk to public safety and property

**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 and property.**

#### *Considering a Range of Solutions*

Bill 23's amendments to the *Conservation Authorities Act* includes the removal of the CA permit tests of "conservation of land" and "pollution". SNC recommends the province retain the tests of "pollution" and "conservation of land" as part of the CA permitting process and that the new Section 28 regulation include definitions that link these tests erosion and sediment controls.

The new definition of "conservation of land" could be constructed to enable a broader range of solutions such as natural channel design, natural bank stabilization for the mitigation of the hazard, and maintaining vegetation on the landscape to reduce erosion and slow flood waters. Tying these definitions to the risk of natural hazards will increase certainty within the approvals process.

SNC is supportive of the proposal to add the terms "unstable soils" and "bedrock" as it further clarifies the CA role in addressing hazards associated with development on karst topography, marine (Leda) clays, and organic soils.



**Recommendation #3: The province should retain the tests of “conservation of land” and “pollution” and draft definitions that tie these tests to the mitigating of natural hazards.**

*Ongoing Support Required*

This proposal contains a number of “Program Service 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 any additional technical details on regulatory requirements, and permit application and review procedures.

SNC is strongly supportive of these transparency measures and note that most CAs already employ these best practices. Many early CA policies were developed, in part, based on province-wide policies that were developed collaboratively between Conservation Ontario and individual CAs.

To encourage consistency amongst the CAs, SNC recommends that Ministry of Natural Resources and Forestry (MNRF) collaborate with Conservation Ontario in preparing updates to Section 28 implementation guidance materials. This model guidance can 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 Section 28 implementation policies.**

SNC notes that this proposal does not contain a timeframe for enactment of a new Section 28 regulation. SNC recommends that implementation of the regulation include a two-year transition period. This is especially pertinent given potential additional local consultation requirements prior to adoption of policies.

**Recommendation #5: That the new Section 28 regulation include a two-year transition period to allow for the update of CA policies and to allow for consistency with provincial implementation support materials.**

CAs and municipalities rely on outdated provincial technical guidance to make decisions from a land use planning and regulatory perspective. This provincial technical guidance was last updated in 2002 and does not reflect current science, land use patterns, and the changing climate.

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 Section 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.**

To promote consistency, transparency and accountability, MNRF should coordinate mandatory training on the new Section 28 regulation. This training should also be recorded for future use of new CA staff. This training should take place prior to promulgation of the new Section 28 regulation.

**Recommendation #7: That MNRF coordinate training on the new S.28 regulation and its provincial implementation support materials.**

Ontario has recently experienced a number of extreme weather events that have threatened people and property. As we adapt to changing weather events, including concentrated periods of heavy rain cells and an increase in impervious surfaces, it may be time to re-evaluate the current flood event standards found within the individual Section 28 regulations. It is therefore recommended 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 #8: That the Province update, as necessary, the Flood Event Standards found within the existing Section 28 regulations based on the best available science and include a factor of safety for climate change.**

## **Conclusion**

Thank you for the opportunity to provide comments on the “Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario”.

SNC remains committed to working with its member municipalities, the development sector, and the province to increase housing supply in Ontario. SNC urges the province to reconvene the multi-stakeholder Conservation Authorities Working Group to collaboratively find solutions to outstanding development review issues. We look forward to ongoing dialogue with the province as they move forward with the promulgation of a new Section 28 regulation.

Should you have any questions about these comments, please do not hesitate to contact me.



SOUTH NATION  
CONSERVATION  
DE LA NATION SUD



Sincerely,

A handwritten signature in blue ink that reads 'Carl Bickerdike'.

Carl Bickerdike  
Chief Administrative Officer  
[cbickerdike@nation.on.ca](mailto:cbickerdike@nation.on.ca)