



November 30, 2023

Public Input Coordinator
MNRF – RPD PB – Natural Heritage Section
300 Water St., 2nd Floor South
Peterborough, ON K9J 3C7

RE: Conservation Ontario’s Comments on the “Proposed amendments to the Niagara Escarpment Planning and Development Act” (ERO# 019-7696)

Thank you for the opportunity to comment on the “Proposed amendments to *the Niagara Escarpment Planning and Development Act*” (*NEPDA*). Conservation Ontario represents Ontario’s 36 Conservation Authorities (CAs). These comments are not intended to limit the consideration of comments shared individually by CAs.

It is Conservation Ontario’s understanding that, through Bill 139, the *Less Red Tape, More Common Sense Act, 2023*, the Ministry of Natural Resources and Forestry (MNRF) is proposing amendments to the *NEPDA*. Conservation Ontario offers comments on the following aspects of the MNRF’s proposal: (1) Expanding the Minister’s regulation-making powers to allow broader exemptions for low-risk activities, and (2) Broadening the range of Niagara Escarpment Commission (NEC) staff compliance tools and powers.

Expanding the Minister’s regulation-making powers to allow broader exemptions for low-risk activities.

ERO# 019-7696 indicates a proposal to “expand the Minister’s regulation-making powers to allow broader exemptions for low-risk activities where standard conditions would provide appropriate mitigation in regulation”. It is noted that subsection 23(c) of the *NEPDA* currently provides the regulation-making authority to exempt any class or classes of development from the requirement of obtaining a development permit under the Act, and specific exemptions are included under O. Reg. 828 under the Act. Conservation Ontario requests clarity on the expansion of these powers, given that no legislative amendments are proposed to this effect in Bill 139. If exemptions are broadened, Conservation Ontario requests an opportunity to review a detailed list of proposed activities for exemption, prior to finalization. Where development activities may be exempt under the *NEPDA*, proponents must be aware of other applicable legislation, permits and approvals that may be required for their project, including permission under Section 28 of the *Conservation Authorities Act (CAA)*. Under Section 28 of the *CAA*, CAs may require permission for development, alteration, or interference activities in a regulated area to protect people and property from the risks of natural hazards, including flooding and erosion hazards. The MNRF is encouraged to

communicate this requirement to proponents to ensure that all other applicable approvals related to the development works can be obtained prior to construction, which will help to improve service delivery and reduce potential delays.

Broadening the range of compliance tools and powers to provide NEC staff greater abilities to inspect and address non-compliant development activities.

It is Conservation Ontario's understanding that amendments are proposed to Section 28 of the *NEPDA* to facilitate efficient exchange of information between NEC staff and other types of enforcement personnel, which would include CA provincial offences officers designated under the *CAA*. Conservation Ontario is supportive of the proposed amendments, particularly with respect to the exchange of information between NEC staff and other enforcement agencies. CA officers regularly collaborate with NEC enforcement staff for development and site alterations proposed within *NEPDA* and *CA* regulated areas, including violations affecting both the *NEPDA* and *CAA*. Formalizing this process would expedite review of development applications under both pieces of legislation, including processing offences.

Furthermore, in accordance with Schedule 11 of Bill 139, a new *NEPDA* Section 28.0.1 is proposed making it an offence to knowingly make a false statement in an application or in any other document required to be submitted under the *NEPDA* or knowingly making a false or misleading statement to an enforcement officer or otherwise obstructing them. Conservation Ontario acknowledges the proposed amendment would be effective for encouraging clients and alleged offenders to fully cooperate in application and enforcement process.

Given the *NEPDA* and the *CAA* are both valued pieces of environmental legislation, we ask the Ministry to consider amending the *CAA* with similar administration and enforcement tools mentioned above. Specifically, the Ministry has not indicated the *CAA* would be amended to facilitate efficient exchange of information between CA staff and other types of enforcement personnel, nor is it proposed the *CAA* would be amended with similar legislation indicated in proposed *NEPDA* Section 28.0.1 above. This recommendation would improve compliance, assist officers with appropriately collecting statements, and clarify the roles and responsibilities of persons making statements under the *CAA*.

Thank you for the opportunity to review and provide comments on the "Proposal to amend the Niagara Escarpment Planning and Development Act". Should you have any questions regarding the comments in this letter please feel free to contact the undersigned.

Sincerely,

Brandi Walter

Brandi Walter

Policy and Planning Liaison

c.c. CAOs, All Niagara Escarpment Conservation Authorities

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