



HEALTHY COMMUNITIES • SUSTAINABLE COMMUNITIES

October 28, 2015

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Program Advisor
Ministry of Natural Resources and Forestry
Policy Division
Natural Resources Conservation Policy Branch
Natural Heritage Section
300 Water Street
Peterborough ON K9J 8M5

**Wetlands Discussion Paper
EBR Registry Number 012-4464**

Dear Ms. Zeran,

On behalf of the Ontario Professional Planners Institute (OPPI), I am submitting the Institute's response with regards to the Province's "Wetland Conservation in Ontario" Discussion Paper (EBR Registry Number 012-4464).

OPPI is the recognized voice of the Province's planning profession. Our more than 4,000 members work in government, private practice, universities, and not-for-profit agencies in the fields of urban and rural development, community design, environmental planning, transportation, health, social services, heritage conservation, housing, and economic development. Members meet quality practice requirements and are accountable to OPPI and the public to practice ethically and to abide by a Professional Code of Practice. Only Full Members are authorized by the Ontario Professional Planners Institute Act, 1994, to use the title "Registered Professional Planner" (or "RPP").

In preparing our response, we have considered the questions put forward in the Discussion Paper. We would like to also take this opportunity to highlight the following recent submissions that OPPI has provided. These reinforce a number of the comments within this submission:

- Coordinated Provincial Plan Review (EBR #12-3256)
- Climate Change Discussion Paper (EBR #0123452)
- Conservation Authorities Act Review (EBR #012-4509)

Copies of these comments can be downloaded at: www.ontarioplanners.ca/Policy. We concur with the Discussion Paper that wetland loss over time, particularly in southern Ontario, is a serious issue and we recognize the ecosystem and other services provided by wetlands and the need for protection, conservation and enhancement of wetland features and functions.

Our comments are intended to encourage changes to the legislation and the regulatory framework that would:

- Place additional priority on and identify opportunities for wetland protection, conservation, remediation and creation.
- Streamline, simplify and coordinate the numerous legislative and policy schemes that affect wetlands.
- Provide for enhanced partnerships, knowledge and research to enable ongoing refinements to improve the effectiveness of wetland policy.
- Encourage informed consideration of the issues related to “no net loss”, “net gain” and compensation from a land use planning perspective.

Our response to the Discussion Paper questions:

1. Do you think there are current challenges related to wetland conservation in Ontario? If so, what are the challenges?

- Given the scale of wetland loss indicated in the Discussion Paper for parts of southern Ontario, the strategy for the most severely affected areas should be “net gain”, including wetland creation and restoration, rather than “no net loss”.
- A greater priority for wetlands has the potential to also require a realignment of the relative levels of policy protection for agriculture and aggregates and to affect the flexibility available to plan compact communities.
- Land use planning requirements for wetland protection and conservation are less stringent for infrastructure than they are for development. While a degree of latitude may be warranted for linear infrastructure, there is greater discretion to avoid natural heritage features, such as wetlands, when locating site-based infrastructure and the land use planning framework does not reflect this fact.
- Legislation, policy and regulation protecting wetlands need to be complementary and coordinated. At present, zoning by-laws, conservation authority regulations and environmental assessment requirements, for example, are contradictory or do not mesh well, and do not necessarily bring the full range of wetland benefits into consideration.
- More research and guidelines are required to assess and minimize development and infrastructure impacts on wetlands, particularly in urbanizing settings.
- A large portion of land conversion from wetlands has taken place in the agricultural sector. Such conversion is outside of the scope of the land use planning system. While Conservation Authorities may have the ability to prevent conversion through regulations under Section 28 of the Conservation Authorities Act, a number of submissions to the EBR posting for the review of that legislation (including OPPI’s) argue for greater enforcement powers under these regulations.
- Reductions in Ministry of Natural Resources and Forestry (MNRF) funding and staffing have implications on the Ministry’s ability to carry out the wetland

program. When there are not sufficient Ministry wetland evaluators or time to complete full evaluations, planning applications and any follow up appeals to the Ontario Municipal Board (OMB) suffer from incomplete knowledge and poorly based recommendations.

- Inaccuracy of wetland mapping has been found when plotting Provincially Sensitive Wetland (PSW) zones. Improvement in the efficiency of the process to address obvious errors, such as building flexibility provisions into official plan policies and zoning by-laws, is needed.

2. Three priority areas of focus for wetland conservation in Ontario are proposed: strengthen policy, encourage partnership and improve knowledge. What do you think of these three focus areas? Do you have other ideas for additional focus areas?

We agree with the three priority areas, with the following caveat:

- “Strengthen policy” should include harmonization and streamlining of the complex and overlapping legislative, policy and regulatory framework that affect wetlands, including provisions under the Planning Act, the Environmental Assessment Act, the Conservation Authorities Act, the Endangered Species Act and the legislation and policies relating to the Provincial plans and the Great Lakes Strategy. This does not mean reducing the level of protection afforded to features in protected areas, such as the Oak Ridges Moraine, but instead, using terminology and applying policy in a more consistent and understandable way. We look forward to seeing how this is reflected in the ongoing harmonized review of the Provincial Plans.

3. Considering the three priority areas of focus, what are some actions and activities that government, organizations, and individuals could take to improve wetland conservation in Ontario? What partnerships should the Ontario government explore to stop wetland loss?

- Potential actions and activities include remediation and restoration of wetlands, including banking of non-productive agricultural land for wetland restoration.
- Increasing the opportunity for wetland creation in the rehabilitation of pits and quarries.
- The relationship between conservation authorities and provincial ministries including MNRF, MOECC and MMAH should be strengthened.

Strengthening Policy:

- There should be increased support for land tax incentives to protect wetlands and to encourage conservation and the creation or reinstatement of wetland features.

- Additional support is required to enable enforcement of wetland protection measures by municipalities and conservation authorities.

Encouraging Partnerships:

- Provincial ministries, including the Ministry of the Environment and Climate Change (MOECC), MNR and Ministry of Municipal Affairs and Housing (MMAH), need to work more closely together with municipalities and conservation authorities to give effect to wetland protection and conservation. Province-level actions would include providing for data collection and research and higher-level policies that can be adapted and applied at the local level. This could, in part, be undertaken under the province's pending climate change strategy.
- As mentioned on page 14 of the Discussion Paper, the Wetland Drain project is an important example of how individual farmers successfully approached other farmers about the benefits of wetlands to their drains. While this is not strictly a planning-related project, it provides an example of how a well-considered provincial initiative can conserve wetlands through cooperation rather than regulation.

Improving Knowledge:

- Improved understanding of surface and ground water in relation to wetlands is required so that protective measures can be more closely tailored to local circumstances and the specifics of proposed development and any associated green infrastructure, to provide greater assurance of long-term protection.
- Further research is required in relation to the potential effects of climate change on wetland ecology and services – hopefully the pending climate change strategy will give some direction in this regard.

4. What do you think about Ontario's current wetland policy framework? Can it be improved? Can it be made more effective? If so, how?

- As noted above, the current carte blanche for infrastructure development in wetlands under the Provincial Policy Statement (PPS) should be modified. Infrastructure development should be required to meet some thresholds. The threshold should be lower for essential linear infrastructure that must cross wetlands (all alternatives considered, extent of crossing minimized, impact minimized, need for and practicability of wetland replacement, etc.). It could be higher for non-linear infrastructure (e.g., no negative impact). This will need to be reflected in Environment Assessment (EA) Codes of Practice, Class EAs and other guidance material. As an example of current practice, we note that the 2006 Ministry of Transportation (MTO) Environmental Standards and Practices User Guide for wetlands contemplates replacement of lost wetland areas either on-site or in other areas, but indicates little opportunity for meaningful compensation within the right-of-way, and limited success for replacement in other areas (Table 5.2.1).

5. Should targets be considered to help achieve wetland conservation in Ontario? If so, what form should these targets take?

- Target would be beneficial both in stimulating action and in measuring success. Numerical targets tailored directly to local circumstances (as an example, Nova Scotia has a 2:1 compensation ratio) would be desirable. Targets should build on the watershed and sub-watershed planning process, and should include a monitoring and reporting component.

6. The Ontario government is considering approaches to achieve no net loss of wetlands.

a.) What do you think of the establishment of a mitigation/compensation hierarchy to achieve no net loss? Are there other approaches?

b.) What tools (e.g., policy) could be used to implement approaches to achieve no net loss?

c.) What might the role of government, partners, private landowners and others be if no net loss approaches are implemented?

d.) Should no net loss approaches be applied uniformly across Ontario? Or, only where the risk of wetland loss is greatest?

- A great deal revolves around whether displacement of wetland by development or infrastructure (or both) is “unavoidable”, and the meaning of this term as applied to particular localities and circumstances.
- Compensation should not be considered under any circumstances with respect to PSWs, with the following exceptions. Consideration of compensation beyond those exceptions would be completely at odds with longstanding Provincial policy.
 - To mitigate impacts of infrastructure development in PSWs, to the extent that continues to be permitted (see our comments earlier in this submission.)
 - Possibly, to mitigate development impacts in PSWs in the northern ecoregions subject to the no-negative-impact test under the PPS. If permitted, such compensation should be subject to a much higher test than for infrastructure or non-PSW wetlands, neither of which are subject to the no-negative-impact test. Compensation for northern PSWs should only be permitted within the context of the PPS, analogous to where compensation is already indicated as a mitigation measure under the no-negative-impact test (i.e., significant woodlands in the Natural Heritage Reference Manual).
- The Province could play a useful role by providing guidance on how compensation might be accomplished in the above permissible circumstances, as well as with respect to non-provincially significant wetlands. There should be no change to the PPS, except possibly with respect to infrastructure, as suggested earlier in this submission.

Guidance should be provided through the Natural Heritage Reference Manual.

- With respect to non-PSW wetlands, all guidance should be advisory only: it should be left up to individual municipalities' Official Plans whether they wish to "no-touch" them as some do now (with encouragement but not direction from the PPS), allow compensation, have a no-negative-impact test and not permit compensation, etc. The purpose of guidance should be simply to say, "Should you wish to allow compensation, here is a scheme you can use if you wish". However, compensation should not be permitted in unevaluated wetlands, until they have been evaluated and it has been determined whether or not they are PSWs.
- Where it is contemplated, compensation should generally be in the same locality or watershed as the wetland displacement, be based on an ecosystem approach, and be developed through an open and transparent process. Exceptions to the "same locality" approach could be made where a local solution is not feasible or there are opportunities to undertake compensation in a more distant location where there has been greater loss, and where this can be achieved within a natural heritage system framework and with the prospect of net gain rather than no net loss.

7. Do you have any additional suggestions for improving wetland conservation?

- A framework for developing municipal natural heritage systems studies that incorporates measures to identify marginal lands for wetland restoration/enhancement and perhaps banking opportunities (priority areas).

OPPI supports the Province's efforts to improve and enhance wetland protection and conservation. We welcome the opportunity to meet with you and your staff to discuss our submission and answer any questions. Please feel free to contact me at (416) 668-8469 or by email at l.ryan@ontarioplanners.ca.

Sincerely,



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Ontario Professional Planners Institute

Copy: Hon. Ted McMeekin, Minister of Municipal Affairs and Housing