



November 16, 2016

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Ministry of Natural Resources and Forestry
Policy Division, Natural Resources Conservation Policy Branch
Natural Heritage Section
300 Water Street
Peterborough, Ontario K9J 8M5

Dear Ms. McIntosh:

Re: Conservation Ontario's comments on "A Wetland Conservation Strategy for Ontario 2016-2030" (EBR #012-7675)

Thank you for the opportunity to provide comments on "A Wetland Conservation Strategy for Ontario 2016-2030" (EBR #012-7675). These comments are provided to you on behalf of the Province's 36 Conservation Authorities (CAs) who have significant expertise in wetland conservation, as regulatory bodies under Section 28 of the *Conservation Authorities Act*, as the Province's second largest landowners, through MOUs with their municipalities to provide plan input and review, through their stewardship and outreach activities, and through being facilitators of integrated watershed management. These comments are not intended to limit consideration of comments shared individually by CAs through the Wetland Strategy review process.

Conservation Ontario appreciates the efforts the Province has made to include CAs in the dialogue about this Strategy, including hosting a consultation session on November 2nd. We look forward to future opportunities to discuss proposed improvements to this Strategy and to providing input to any future work plans for implementation of this Strategy.

This letter is arranged by identifying three priority areas for improvement in this Strategy; each priority has a recommendation followed by a Discussion of Conservation Ontario's perspective and, in one case, a Rationale which provides further context. Additional specific comments for improvements to the Strategy are provided in the attachment.

Priority #1: Have One Clear Target to Meet the Mandate of "No Net Loss"

Recommendation: The Strategy should incorporate a NEW target - By 2025, the net loss of all wetlands is halted in Ontario.

Discussion: In 2015 Conservation Ontario (CO) provided comments to the province on "Wetland Conservation In Ontario: A Discussion Paper" (EBR# 012-4464). In those comments, CO outlined a number of concerns relative to the "no net loss" approach, rather than an effort for overall "net gain" in southern Ontario where

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the majority of wetlands have already been lost. Furthermore, it was recommended that the legal authority for “no net loss” and the compensation framework should be established in legislation that would harmonize with all corresponding statutes that seek to regulate/influence wetland conservation.

In terms of implementation for the new target, the Strategy will have to differentiate southern Ontario and the near north, from the far north. At the outset of the document, it is acknowledged that “wetlands are among the most productive and diverse habitats on Earth” and that 72% of the wetlands in southern Ontario have been lost. In addition to land conversion, new threats to wetlands are emerging, including invasive species and climate change. Given the historic loss and the new threats, it is strongly felt that this strategy should promote a ‘net gain’ approach, for wetlands in Ecoregions 5E, 6E and 7E, where historically wetland loss has been greatest. A ‘no net loss’ policy is simply not feasible in areas where wetland loss has been greatest (i.e. southern and near northern Ontario).

A differentiated approach is consistent with the *Provincial Policy Statement* and recognizes the differing land pressures in the southern portion of the Province. Conservation Ontario Council, in our submission on the proposed *Provincial Policy Statement* endorsed that the government consider protecting all wetlands in Ecoregions 5E, 6E and 7E as significant. This approach in the Strategy may assist the Province in ensuring ‘no net loss’ while awaiting evaluation of all wetlands in southern and near northern Ontario.

Rationale: Conservation Authority reviewers expressed a number of concerns with the proposed targets, including questioning if the Strategy as drafted will meet its expressed objectives and whether the proposed targets were sufficiently robust. The proposed Wetland Strategy proposes to measure its success through two overarching targets:

1. By 2025, Ontario’s significant wetlands are identified and conserved to sustain essential ecosystem services.
2. By 2030, the net loss of wetlands is halted in areas where wetland loss has been greatest.

Overall the inter-relationship between target 1 and target 2 is not clear. The first target seems to be focused on a wetland’s level of significance, rather than indicating that all wetlands are identified. The second target seems focused more so on southern Ontario (i.e. where wetland loss has been greatest), whereas this is supposed to be a Provincial Strategy. It is unclear how target 1 supports the achievement of target 2.

Conservation Ontario is supportive of the Province’s efforts to identify and conserve Ontario’s significant wetlands in principle. In order to identify these wetlands, an evaluation of most wetlands in Ontario will be required. If the mandate of the Ministry is to stop the net loss of wetlands, it would be more appropriate to allocate resources to the second target (as expressed in the draft strategy) rather than the first. Differentiating between significant and non-significant wetlands automatically creates a hierarchy of protection, which is contrary to the second target. Concern is also expressed about whether there are sufficient human resources at the Province to achieve this first target and it would not be acceptable to fail at the second target because the first could not be achieved.

Notwithstanding the above paragraph, an update to the Ontario Wetland Evaluation System (OWES) to expedite the identification of significant wetlands is appreciated. As alluded to, over the years MNRF has reduced their role in conducting wetland evaluations and shifted the responsibility to proponents. Some CAs have taken on the task of proactively updating wetland evaluations for their municipalities, however there are resource constraints for some of these CAs for continuing, and other CAs for taking on, such evaluation programs. There is currently a gap in wetland conservation because not all wetlands have been evaluated and there is no policy requirement to do so. Any additional training required for Conservation Authority staff in regard to OWES or an equivalent protocol should become a provincially funded priority as CAs are key agencies

in the implementation of wetland evaluation, mapping and regulatory protection. Conservation Halton played a significant role in the field testing of the first edition of OWES in the early 1980s. Conservation Authorities are prepared to assist the Ministry in their implementation of this review.

Overall, it is felt that target 1 actually represents an action item for the support of an off-setting program, rather than an overall target for this Strategy. As the identification of Ontario's significant wetlands would require potentially that *all* wetlands be mapped and evaluated in Ontario details about how this identification would be undertaken (or prioritized) should be provided.

CA reviewers equally expressed concern about the Province's target that there will be 'no net loss' by 2030. With no new policy tools to address wetland loss proposed through this strategy, this target essentially creates 14 years in which wetland loss can continue. The proposed timelines are too far off and it also appears that further wetland loss is to be tolerated outside those areas of the Province where wetland loss has been the greatest (i.e. southern Ontario).

It is also noted that "no net loss" is defined as "balancing wetland loss with mitigation and restoration efforts, so that the total area of wetlands does not decrease, but remains constant or increases". Wetland area is only one consideration in overall wetland health. While the strategy may aim to prevent a decrease in wetland area by 2030 in certain parts of the province, this does not equate to maintaining wetland function. In a framework of wetland compensation, replacing wetlands at a 1:1 or even a 1:2 does not take into account the lag time to gain wetland function back, resulting in an overall decrease in biodiversity and ecosystem function. Care will be required to avoid having many small wetlands in the landscape replaced with one larger one, as this consolidation does not always ensure that all of the habitat functions and other ecosystem services are maintained and appropriately distributed on the landscape and in watersheds. For example, a coastal wetland's function of protecting the shoreline from erosion or improving water quality cannot be compensated by creation of a headwater wetland. Equally, while it is acknowledged that "wetland losses in the south should not be compensated for by gains in the north" care must be given to ensure that overall wetland cover within a region is not shifted, with areas of greatest growth pressure having the least amount of wetland cover and those areas where growth pressures are weaker, being the recipient of numerous wetland compensation projects. With this in mind, more robust parameters beyond 'total wetland area' must be used to monitor the success of this Strategy and ideally compensation assessments should be done on a watershed basis ensuring ecosystem functions and services are maintained.

Priority #2: Recognize Conservation Authorities as Important Partners in the Implementation of this Strategy; including the Regulatory Role

Recommendations:

Incorporate more references to Conservation Authorities' roles throughout the document

Revise Table 1A description of *Conservation Authorities Act (CAA)* Regulations (p.10) and delete the Note found within "Wetlands Defined in Ontario's Municipal Land Use Planning Policy" (p.33)

Identify legislative/policy/guideline support and clarification for the CAA as a priority action under "Towards Implementation" and provide enforcement provisions (e.g. stop work orders) under the CAA to enable efficient and effective protection of wetlands

Discussion: Conservation Authorities (CAs) are integral to the realization of Ontario's wetland agenda. While CAs receive some note within this document, there is scarce reference to the important work that they are currently undertaking to conserve wetlands, regardless of their provincial status. The Strategy should further highlight the role CAs play in the implementation of the strategic directions, (awareness, knowledge,

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partnership and policy). As well, the term “towards implementation” is misleading; as many of the actions are currently being implemented locally by CAs.

While it is acknowledged that this is a province-wide strategy and Conservation Authorities have been established in a limited geographic area, it is important to recognize that the watersheds where CAs exist coincide with 90% of the population of Ontario. Equally, it can be argued that the watersheds where CAs have been established are also the areas where greatest wetland loss has occurred historically. It is therefore considered necessary to acknowledge CAs as important partners in the implementation of this Strategy.

As described in our September, 2015 submission, CO supports the need to strengthen policy as it relates to wetland conservation. Section 28 Regulations are a complementary tool to support the implementation of wetland planning policies and can fill the gap for those activities that can cause wetland destruction and may not be subject to Planning Act applications, (e.g. site alteration and fill placement). The gaps in Ontario’s current wetland policy framework have created loop holes for wetland destruction. As the *Conservation Authorities Act* (CAA) is currently under review, it is strongly recommended that Province support a harmonization of definitions of wetlands to address current legislative and policy inconsistencies and gaps. The CAA should be acknowledged in the Wetland Strategy as an action under the goal of developing policy approaches and improving policy tools to conserve, restore and enhance the quality of Ontario’s wetlands. The CAA should be reviewed with a lens to determine how it can support the Ministry’s mandate for ‘no net loss’ of wetlands and it should be identified as an immediate priority in the Province’s Wetland Strategy for future public policy debate.

Further to the above paragraph, the definition of wetland should be updated to reflect the more frequently used definition in the Provincial Policy Statement. The province is encouraged to ensure the term is consistently defined in all provincial legislation, regulation, and guidance documents; and that, there is clarity amongst all Ontarians as to what should be, or should not be, considered a wetland. Moreover, there are outstanding questions related to the definition and interpretations of the terms ‘conservation of land’ and ‘interference in any way’ as they relate to Section 28 of the CAA. MNRF should work with CO and CAs, in consultation with others, to provide a clear interpretation of ‘conservation of land’ and ‘interference in any way’ through a Section 40 “Definitions” Regulation under the CAA.

Further to the above paragraph, the ‘Note’ on page 33 of the draft Strategy should be removed. While it has been explained that this note was placed into the Strategy to address concerns related to the *Oak Ridges Moraine Conservation Act*, it could be construed to be referring to the *Conservation Authorities Act* and it is therefore not supported. The note contradicts our support for a consistent wetland definition and basically supports a narrowing of the definition of wetland for specific regulatory purposes (i.e. “it is not intended to be a comprehensive definition of a wetland”). With few regulatory tools at the Province’s disposal to achieve ‘no net loss’ of wetlands these tools should be reviewed in the context of the mandate for ‘no net loss’ and there should be a public policy discussion in this regard. Conservation Ontario encourages a review and discussion of the additional wording that is included in the regulatory definition of wetland under the CAA and whether it serves the mandate of ‘no net loss’.

Similarly, the Strategy should reflect the current and full regulatory scope for wetlands under the *Conservation Authorities Act* (CAA). Specifically, Table 1A references Section 28’s Link to Wetland Conservation and Management as being “Regulates development in and around wetlands for effects on the control of natural hazards (e.g. flooding), as well as activities that may interfere with a wetland”. As per Section 28 of the CAA and Ontario Regulation 97/04, Conservation Authorities regulate development in or around wetlands where, in the opinion of the Authority, the control of flooding, erosion, dynamic beaches, pollution or conservation of land may be affected. Conservation Authorities also regulate interference in any way with a wetland. It is preferred that this Table be revised to reflect the full regulatory scope of the CAA.

Notwithstanding Conservation Ontario's strong support for education on the value of wetlands and stewardship initiatives, an important piece of wetland protection in Ontario is compliance with regulations. This document does not adequately address the compliance role associated with protecting wetlands. Although administering a Provincial regulation, the costs to go through the court system and prosecute violations are borne by the individual CAs. This system is cost prohibitive for CAs and as a result not all infractions can be appropriately addressed. We know if wetland protection is not adequately enforced, then people will continue to fill in, destroy and adversely impact wetlands. If the Province is committed to wetland protection, the enforcement gaps identified by CO through the review of the CAA must be addressed. These include modernizing the compliance provisions of the CAA to provide CAs with current enforcement tools - e.g. ability to issue stop work orders, set and increased fines, stronger penalties, and, mandatory remediation requirements (or, if not possible, compensation requirements).

Priority #3: Be More Specific About the Purpose and Goals of this Strategy

Recommendation: Revise the Draft Strategy to Include Clear Priorities, Timelines, and Definitions

Discussion: Overall, the success of this strategy is mired by a lack of specificity. For example, the Strategy should more explicitly identify which actions will be undertaken by the Province and which will be led by others. Identifying each stakeholders' role and responsibility will help to facilitate future monitoring and reporting, and ensure accountability.

In the Executive Summary the Strategy indicates that "The intent of the Strategy is to establish a common focus and path forward, so that greater success can be achieved in a more efficient and effective manner". There are several high-level statements like this made throughout the document, but no critical analysis is undertaken to provide detail about what that means. Given that the statement implies that the efforts over the past 30 years have not been successful, efficient or effective, further effort should have been given to identifying current policy gaps (i.e. the *Conservation Authorities Act*), addressing those gaps, and basing this present Strategy on a variety of different actions beyond a continuation of the previous efforts.

For the actions that are identified, and including the addition of the *Conservation Authorities Act* as a priority (see discussion under Priority #2 in this letter), a clear sequencing of events and priorities should be provided. Timelines, responsibilities and benchmarks should be attached to the actions to ensure that we are on track. The Strategy identifies that "progress will be monitored and assessed on a five-year time frame" but it does not identify what the Strategy will be assessed on, particularly since there are no goals until 2025.

There is some discussion in this Strategy about 'significant' wetlands and the use of this term should be consistent with the PPS 2014 definition of 'significant' wetlands and then different terminology used where something different is intended. It is recognized that the evaluation system (OWES) that helps to determine significance of a wetland is proposed to be under review as part of the Strategy and it will be an evolving term.

The lack of clarity in the interpretation of the two targets as described in the draft Strategy has been discussed under Priority #1 in this letter. Overall, additional clarifying language is required for "where wetland loss has been the greatest" and as described, it is recommended that the Province use the delineation in the *Provincial Policy Statement* as a starting point.

Thank you once again for the opportunity to comment on "A Wetland Conservation Strategy for Ontario 2016-2030" (EBR #012-7675) and for hosting an engagement session with CAs. Conservation Ontario looks forward to continued dialogue with the Province on this initiative and would be pleased to provide input to future work plans for implementation. Conservation Ontario notes that the Strategy requires adequate funding and

resources for MNRF to successfully lead and champion implementation; there are a couple of suggestions in the Attachment. Should you have any questions regarding the above comments, please contact Leslie Rich (Policy and Planning Officer) at ext 226 or myself at extension 223.

Sincerely,



Bonnie Fox
Manager, Policy and Planning



Leslie Rich
Policy and Planning Officer

c.c.: CAOs, All Conservation Authorities
Environmental Commissioner of Ontario

Attachment 1

Specific Comments

Introduction

This section identifies a 2015-2030 timeline to improve wetland conservation and to address 'no net loss'. Further to the point above about specificity, it should be clarified at what point in this timeline that changes (i.e. building strong and effective wetland policies) will be made to ensure the achievement of these goals. Also, what are the mechanisms (e.g. municipal policies) that will be used to accomplish this Strategy?

Ontario's Wetlands

Due to the focus on wetland function within the Strategy, the hydrological influences and requirements of wetlands should be included in the descriptions of the various types of wetlands found on page 3. For example,

- Swamps have variable water tables that fluctuate 1-2m from the surface throughout the year and the water table typically falls below the surface, which allows for the growth of woody vegetation.
- Marshes often have shallow water levels that fluctuate.
- Bog water levels are relatively stable and are mainly dependent on precipitation for water.
- Fens have both surface and groundwater movement through them.

The role of wetlands in sequestering carbon is acknowledged. Similarly, the threat of climate change to wetlands should also be acknowledged. For example, while "high water levels in peatlands limit oxidation, thereby minimizing the release of carbon dioxide" it should also be noted that methane releases increase if the water table is above the surface. Increasing temperature also raises the rate of chemical redox reactions resulting in an increased rate of decomposition, especially within peatlands.

Figure 1

It is recommended that this figure be expanded to full-page size to allow for finer detail to be seen. A separate or revised map which more clearly illustrates which land classes are wetlands would be helpful.

The Critical Functions of Ontario's Wetlands

The reference to ecosystem valuation is supported. It may also be appropriate to include a statement that connects the cost/benefits of restoration and re-construction of wetlands that can provide these ecosystem services. As wetland creation and restoration are important components of the Strategy, the connection between the financial costs of wetland ecosystem services is important. Adopting a provincial standard in valuation of wetlands as green infrastructure would be useful. Many practitioners currently employ a suite of tools to do this work, however it would be useful to have some guidance on what is acceptable practice.

Current Status and Threats

This section acknowledges that land conversion is the primary cause of wetland loss in Ontario however all of the additional threats can also be linked to land conversion. Changes in wetland hydrology are an enormous threat/stressor, which should be acknowledged. Even if a wetland is protected in the landscape, other activities on the landscape can change the hydroperiod of a wetland, causing it to degrade or disappear. This Strategy is a good place to start the public education and awareness process about impacts to the hydroperiod.

Land conversion can take many forms, including agriculture. With prices of land being high and supply limited, and it no longer being cost-prohibitive to clear and drain wetlands, there is pressure to develop or convert lands to generate revenues. This document should more clearly explain how the agricultural sector can

conserve wetlands and the Strategy should focus more on options to work with the agricultural community to, in balance, conserve wetlands while supporting normal farming practices.

Conservation Ontario appreciates the reference to and description of cumulative effects. The very nature of wetlands makes them particularly susceptible to additional stresses and the cumulative effects of development can result in significant loss of wetland habitat and function. Development located both within 'adjacent lands', and beyond, can alter wetland hydrology by impacting the surface and/or ground water catchments of wetlands. There is insufficient monitoring information on long-term development impacts and success of various mitigation techniques.

Given that this strategy is supposed to be moving towards 'no net loss', the description of cumulative effects (here and in the glossary) should be modified to include both positive and negative. Positive effects could include upstream improvements for a downstream wetland, restoration of wetlands over one area to enhance the amount of wetland cover, and a better technical understanding of Ontario's wetlands leading to improved conservation efforts.

It is also recommended that Provincial guidance be developed to assess the cumulative effects on wetlands within a watershed. This will be particularly important should the Province decide to move forward on an offsetting policy.

Invasive Species and Wetlands

Conservation Ontario is equally concerned about the impact of invasive species on our wetlands. As such, it is recommended that one of the actions to combat invasive species will be the development of better methods to manage invasive species in wet habitats. In Conservation Ontario's comments on the proposed *Regulation of invasive species under the Ontario Invasive Species Act, 2015* it was noted that until such time as there is a safe and effective (and financially affordable) mechanism recommended for the control of Phragmites, any orders by an inspector to force the control, removal or eradication of the species should not be issued. Caution was noted about the use of Glyphosate in drinking water vulnerable areas.

While invasive species are a cause of wetland degradation, this proposed Strategy focuses more so on policies for wetland protection. Wetlands full of Phragmites still offer many ecosystem services, and therefore should not be considered "lost" and/or with little function. This attitude may open the door for removal of the wetland through decisions made in the land use planning process. A better tactic would be to minimize disturbance to wetlands through long-term protection of structure and functions, as invasive species thrive in degraded ecosystems.

Table 1A: Policy instruments that guide wetland conservation and management in Ontario

Conservation Ontario provided amendments to this table in the cover letter. In addition to correcting information about CAs' regulatory role, the role CAs play as environment planners and promoters of Integrated Watershed Management (IWM) should be outlined.

Both the *Planning Act* and *Provincial Policy Statement, 2014* sections should reference that wetlands can also be part of the natural heritage systems that are required to be identified. The identification of these systems are an opportunity as they will facilitate wetland conservation within these systems, and identify key areas for wetlands to be created and restored as a means of linking natural heritage features together.

Table 1B: Policy instruments that guide wetland conservation and management in Ontario

For the *Environmental Assessment Act* (EA Act) the table notes a requirement to "... **compensate** where avoidance is not possible", however this language is not used in the Act. CAs indicate that they have had difficulty getting compensation or offsetting for loss of features outside of what is covered by the federal *Fisheries Act*. The direct loss of significant wetlands happens most often with linear infrastructure that is subject to the EA Act. The linear nature of these projects means avoidance is often not possible. It is further

noted that, as the definition of development in the PPS does not include infrastructure that falls under an EA process, the PPS and corresponding Official Plan policies are not available as tools for wetland protection either.

International Cooperation for Wetland Conservation

The text should highlight that the North American Wetlands Conservation Act is a U.S. federal piece of legislation. This section could focus on examples of regional U.S.-Canada partnerships that identify priority areas for restoration and rehabilitation of natural habitats, for example, Western Lake Erie Watersheds Priority Natural Area (in conjunction with Detroit River International Wildlife Refuge). This U.S. example provides funding to protect, restore and manage wetlands. Funding comes from fines, penalties and fuel excise tax. It is suggested that Ontario look at similar opportunities to establish a fund to deliver this Wetland Strategy.

Partners in Wetland Conservation

Conservation Ontario appreciates the acknowledgement of CAs' commitment to conducting stewardship projects both on public and private lands. Overall, this section falls quite short with regard to the full-range of activities that CAs and other partners are undertaking on behalf of the Province to conserve wetlands. As described in the cover letter, the Province should examine a new partnership model with the Conservation Authorities regarding wetland conservation.

A Wetland Conservation Strategy for Ontario- Purpose

As described in the cover letter, Conservation Ontario would prefer a stronger target which stops the net loss of wetlands as articulated in the Mandate Letters. The Province is reminded that the mandate letter also included "a review of Ontario's broad wetland conservation framework and identification of opportunities to strengthen policies". More focus could be directed to these two endeavours. The same loose language utilized in the Executive Summary appears in this section as well, including reference to achieving "greater success in wetland conservation...in a more efficient and effective manner". The purpose indicates that this Strategy provides a conceptual framework while simultaneously indicating that the Strategy is operating in the existing legislative, policy and strategic framework which is confusing to the reader.

The current policy framework is fragmented, complex and not effective enough in conserving Ontario's wetlands. There are legislative and policy gaps resulting in development within wetlands. Terms, definitions, implementation instruments and technical guidelines need to be further harmonized or coordinated between policy and legislation. Conservation Ontario urges the Province to address those gaps, as the current policy framework has obviously not met its targets in wetland conservation.

Guiding Principles

Overall, it is felt that this Strategy should promote a 'net gain' approach, rather than a 'no net loss' in areas where wetland loss has been greatest. As previously noted, this Strategy makes a division between provincially significant wetlands and all other wetlands; this is not encouraged. Utilizing this hierarchical approach, particularly in southern Ontario, will work against the purpose of the Strategy i.e. 'no net loss' of wetlands.

As the conservation of wetland hydrology is so important, it should form part of the guiding principles for this Strategy. The guiding principle should acknowledge that wetlands are complex systems that rely on inputs outside their defined vegetation footprints and that the protection of these inputs is critical to the retention of wetlands throughout the landscape.

#3. Given that MNRF intends to develop an offsetting policy, the strategy should prioritize research and the development of guidelines around the identification of essential wetland inputs as well as restoration strategies for different types of wetlands as one of the key action items. An offsetting policy needs to recognize that wetland restoration science is still very rudimentary. Therefore, the development of this science through pilot projects, research grants and the crafting of guidelines needs to be a priority to enable the

success of the offsetting policy.

#4. CAs would support the use of the 'precautionary principle' rather than a 'precautionary approach' as the former is typically considered stronger than the latter.

#5. Conservation Authority staff have concern with the use of the word "encouraged" as it has been their experience through the PPS that encouragement for planning authorities to go beyond the minimum is rarely successful. The cost to defend policies that go beyond Provincial minimums are preventing those policies from being adopted. It is suggested that the principle be amended to state that the "Protection of provincially significant wetlands is a priority as well as facilitating the conservation of all wetlands". While this amendment would be an improvement, it is questionable whether this principle will lead to successfully achieving 'no net loss' of wetlands (see further explanation in the cover letter).

Figure 3: A Wetland Conservation Strategy for Ontario 2016-2030 Framework

Conservation Ontario is supportive of the Province revising the timelines for the achievement of the targets as described in the cover letter. It is suggested that measurable (quantitative) outcomes and goals are needed as part of the Strategy, including restoration targets. This would include a five year analysis on whether or not the Strategy's target(s) have been met.

Landscape Level Planning for Wetlands

The watershed context in landscape level planning for wetlands should be a key consideration in determining the appropriate areas for offsetting projects; watershed-based planning should be explicitly included.

Strategic Direction – Awareness – Goals and Outcomes

Conservation Ontario is supportive of a goal which includes raising awareness and appreciation for Ontario's wetlands. The goal of this strategic direction should reference protecting wetlands and the outcome should be action oriented through referencing its relationship to the target.

Overall the actions appear to be outlining existing programs. There is an opportunity to present unique initiatives being developed and delivered by a variety of organizations that are meeting the identified goal and outcome for Awareness. The variety of organizations and the unique initiatives include other non-government, internationally supported, CA or municipally-led programs on watershed management, restoration techniques and strategic directions on funding and restoration priorities.

It is recommended that the province support investigations of the role wetlands play in climate change mitigation and adaptation and to communicate and enhance awareness about the benefits. This investigation should include the potential for wetlands to be included as offset projects under the province's cap and trade program. Any evidence based information to support this could positively influence the conservation and restoration of wetlands by private landowners.

Strategic Direction – Knowledge

In moving forward on the goal of increasing knowledge, the Province is encouraged to work closely with CAs to harness their local knowledge and experience where it comes to wetland conservation. CAs are also prepared to assist in the development of new tools to evaluate and monitor wetland function, identify ecosystem services, supporting research in the role that wetlands play in improving water quality and quantity and establishing a framework for determining province-wide priority areas for conservation and restoration.

Of note, there is no specific action to identify wetlands in areas where loss has been the greatest. Inclusion of this action would help to fulfill the first overarching target provided in the draft Strategy should it be retained against our recommendation in the cover letter.

In order to support an offsetting program, the Province should also commit to supporting research in this area, including determining appropriate ratios for offsetting impacts of wetland function and diversity.

Wetland technical guidelines for plan review and offsetting are still an outstanding piece of information which must be tackled as part of a comprehensive wetland strategy. The creation of these guidelines should form part of the actions.

Strategic Direction – Partnership

This strategic direction presents an opportunity to highlight the role CAs play in wetland protection. This section should encourage the Province to partner with CAs in their compliance roles and to share resources in enforcement matters where appropriate.

CAs are supportive of the first action, which is to “clarify roles and responsibilities of various agencies involved in wetland conservation” and are eager to participate in those important discussions.

Strategic Direction – Policy

Conservation Ontario is very supportive of the action to “integrate a clear and consistent definition of wetlands across policy”. Through their submission on the *Conservation Authorities Act* review, detailed information has been provided outlining the merits of a consistent definition of wetlands in all Provincial policies. Conservation Ontario is also supportive of strengthening the “provincial level guidance for integrating wetland values in Environmental Impact Statements”. As outlined in Priority #2 of this response, CO requests that the Province also identify the review of the *Conservation Authorities Act* as an action under this strategic direction.

The Strategy refers to applying a ‘no net loss’ policy for areas where wetland loss has been greatest. Recognizing the inconsistency of inventories, mapping and assessment of wetlands across Ontario, it may be difficult to accurately identify where wetland loss has been the greatest – beyond those areas under increasing pressures from land conversion in southern Ontario. One area of policy that is not addressed specifically in this section is how and what provincially endorsed wetland evaluation and wetland ecosystem inventory techniques and methodologies are ‘endorsed’ by the province for a variety of purposes or, as in the case of the Ontario Wetland Evaluation System (OWES) manual, for the explicit purpose of evaluating wetlands for provincial significance for *Planning Act* applications. The use of the Ecological Land Classification (ELC) is also identified as a requirement for certain *Planning Act* applications using the Environmental Impact Studies (EIS) as a framework. The Conservation Authority permit review process uses a different suite of terms and steps to confirm whether a ‘development’ application can be approved subject to the application meeting the 5 tests. The province should establish clear technical methodologies for assessing wetlands across different pieces of legislation and policies so there is transparency and clarity in processes. A consistent wetland definition across policy is extremely important as well.

As part of this policy review, the province should recognize through a policy approach wetlands that have been evaluated through provincially endorsed and approved processes and apply those wetland designations to other provincial processes. For example, a wetland that has been identified as provincially significant through a Renewable Energy Approvals process does not automatically receive the same level of provincial protection through the provincial *Environmental Assessment Act* or the *Planning Act*. A municipal planning authority that is updating its Official Plan will not have the information available to them about the significance of the wetland in these two other provincial processes. The province should require the updating of ‘provincially endorsed’ wetlands into a centralized database to be used by all provincial endeavors and processes (i.e., LIO).

Under the current provincial policy regime, it would be useful to have a provincially approved template for Wetland Environmental Impact Studies (EIS) that would guide implementation under the PPS, CAA, and the

Environmental Assessment Act. It is acknowledged that the scoping of Environmental Impact Studies (EIS) requirements will need to take into account the current limitations of science with respect to determining small scale hydrologic/hydrogeologic changes and it is further noted that research in methodologies to address hydrologic/hydrogeologic impacts to wetlands is needed. A valuable resource for development of a provincially approved template for Wetland Environmental Impact Studies is “Recommendations for Conducting Wetland Environmental Impact Studies (EIS) for Section 28 Regulations Permissions” (Beacon Environmental, Dec 2010).

Comments Related to All Goals, Outcomes and Actions

As identified in Priority #3, this document should include a performance measurement process (including timelines) for each of the goals and actions to determine over time if they are actually achieving desired outcomes. The five year review period should be utilized to see how successful these goals and actions have been at actually protecting wetlands. Landscape-level studies should be conducted at regular intervals to understand how wetlands are functioning, quantify the net loss/gain and to prioritize the protection of wetlands in areas that have been most seriously impacted. This information could then be shared with other partners, including CAs, to prioritize protection (securement, restoration, stewardship) strategies and to identify areas where off-setting may/may not occur.

Wetlands Defined in Ontario’s Municipal Land Use Planning Policy

As previously identified, there are several mapping tools available and in use for wetland delineation. It is recommended that whenever OWES is mentioned in the document, that it is clear that OWES is both a mapping and evaluation tool. Some municipalities have been providing protection to ‘locally significant wetlands’ through their Official Plan policies. This approach may be one option for the Province to consider when defining ‘significant’.

Conservation Authority staff have a lot of experience when it comes to on-the-ground implementation of OWES and are eager to provide feedback to the Province on an update to OWES or an equivalent.

As described in the cover letter (Priority #2), Conservation Ontario is not supportive of the Note at the end of this section and requests that this note be removed from the Strategy.

Restoring Wetlands Using the Drainage Act

It is beneficial that this document is highlighting the good practices that can be undertaken to restore wetlands using the *Drainage Act*. The Province should also consider highlighting the work undertaken in partnership with the Maitland Valley Conservation Authority on the Scott and Garvey Glen Drains.

Unfortunately, drainage and wetlands do not always happily co-exist. The Province is reminded that work through the Drainage Act and Regulations Team (DART) has been stalled as a result of a lack of public policy work on terms defined and undefined in the *Conservation Authorities Act* (see details under Priority #2 in the cover letter). In the interim, CAs are tasked with balancing their regulatory responsibilities in the face of new petitions for municipal drains which may have a negative impact on wetland functions. Further policy work on the intersection between the *Drainage Act* and the *Conservation Authorities Act* should be an action under the ‘Strategic Direction – Policy’ section.

Finally, many of the negative impacts to wetland hydrology from drainage occur outside of the *Drainage Act*, including work undertaken through tile drainage. The Province should consider how future tile drainage will be addressed in the context of the Province’s Wetland Strategy.

Monitoring Success

As indicated in the cover letter, Conservation Ontario is not supportive of the two targets as identified. The two targets appear to be discrete and the proposed timelines are too far off; tolerating continuing wetland loss. The Strategy proposes to report on its success every five years, however none of the proposed actions have timelines associated with them making this difficult to report on. This section mentions reporting on the

“total area and condition of wetlands in the province”, but does not provide any detail about how the “condition” of wetlands would be determined; guidance would be required.

The Province also commits “to developing a comprehensive performance measurement framework”. It is our expectation that the development of this framework will be undertaken through consultation with stakeholders, including Conservation Authorities. The Province is encouraged to consider the use of Watershed Report Cards, as a means to determine wetland changes and at least a partial assessment of the effectiveness of this Strategy where 90% of Ontario’s population resides.

Towards Implementation

1) Improving Ontario’s Wetland Inventory and Mapping

Conservation Ontario is supportive of this action, particularly in the context of helping “focus conservation, restoration and wetland monitoring programs” to achieve a ‘net gain’ of wetlands in areas of the Province where wetland loss has been greatest. An important step in updating Ontario’s wetland inventory and mapping would be formalizing the partnership between CAs and MNRF as many CAs have undertaken wetland mapping exercises which could be incorporated into Provincial data sets. Currently this is being done on an ad hoc basis.

One important step in this process, not clearly identified, is an update to OWES or an equivalent system to facilitate future wetland identification exercises. The formation of a multi-stakeholder advisory committee is suggested to ensure that the updates to the wetland inventory takes advantage of the technical expertise and knowledge that is housed in organizations outside of the Provincial government, including CAs.

2) Developing policy approaches and tools to prevent the net loss of wetlands in Ontario

Conservation Ontario is appreciative of the commitment of the Province to work with CAs and other stakeholders to develop policy approaches and tools to prevent the net loss of its wetlands. CO also appreciates the recognition that offsetting should look at both qualitative and quantitative impacts. CAs believe that Ontario needs to reestablish and enhance wetlands, especially in southern and near northern Ontario where the majority of wetlands have already been lost.

By adopting a goal of ‘net gain’ where compensation is being applied it is more likely that in effect “no net loss” will be achieved. Ontario should strive for ‘net gain’ of wetlands as there are always losses of biodiversity, ecosystem complexity, maturity, and function when you replace a naturally formed wetland with a created wetland. A “net gain” policy should only be considered for the replacement of small, non-significant wetlands and generally should not undermine the strong protections in place for provincially significant wetlands.

CAs support a mitigation hierarchy, as long as the hierarchy emphasizes avoidance and reserves the option of compensation for unique situations that are in the public interest. It is paramount that the focus continues to be on the protection of existing wetlands as opposed to compensation for lost features and/or functions to accommodate development. Compensation should be a last resort and it should be required for any residual impacts, without a requirement to demonstrate that they are “significant”. To account for uncertainties in dealing with complex ecosystems like wetlands, the province should require a minimum compensation ratio of 2:1 to ensure ‘no net loss’ and preferably higher to achieve a ‘net gain’.

CO is also supportive that the draft Strategy recognizes that there are some types of wetlands and functions that cannot be compensated for (e.g. bogs, fens, and the Great Lakes coastal marshes). These types of wetlands must be clearly identified as off-limits to any consideration of compensation, particularly in southern and near northern Ontario where these features are exceedingly rare to begin with. Even the replacement of swamps is questionable because of the length of time (decades to centuries) needed to reestablish the biodiversity which was previously present and to restore comparable ecological function.

Should the Province proceed with an offsetting approach, clear and consistent policies and guidelines are needed to support implementation. In order to develop these, a long term funded program for monitoring of wetlands created as part of a compensation strategy is required. A review timeframe will be required (e.g. 5-10 years) and, if it is discovered that compensation efforts fall short or fail to achieve a “no net loss” of wetland area, function or quality, there needs to be a clear process that holds the proponent responsible to address residual impacts. Additionally, if it generally appears that compensation efforts are failing, it should trigger a reassessment of the policy direction that led to the negative outcomes.

Moreover, managing compliance and financial securities required to implement this policy are a challenge to even well-funded and prepared regulatory agencies. For example, Fisheries and Oceans Canada often had trouble achieving a like-for-like replacement of fish habitat, and even at a 2:1 ratio this habitat replacement was rarely truly effective. Funding and training of CA staff would be required in this regard. Outside of *Planning Act* approvals, offsetting is a regulatory challenge for CAs as typical permissions are issued for 2 years or 5 years when, in the opinion of the Authority Board, the work cannot reasonably be completed within 24 months. Should a wetland compensation project fail after the expiration of a CA permit, the CA would have no legal recourse. The Province is cautioned about seeing this as a panacea as many proponents would be alarmed at the costs and timelines required to build new wetlands and demonstrate their viability over the long-term.

Notwithstanding the above noted constraints, Toronto and Region Conservation Authority currently has biodiversity and ecosystem services compensation projects underway and generally Conservation Authorities are eager to participate with the Province in the development of an offsetting policy.

3) Improving guidance for evaluating significance of wetlands

Conservation Authorities are supportive of an update to OWES (or equivalent). Page 41 of the Strategy notes that the current system is used to “regulate wetlands under the *Conservation Authorities Act*” and this should be clarified; both in this Strategy and in any updates to the OWES manual. While some CAs’ regulations do differentiate between provincially significant wetlands (PSW) and other wetlands, it should be noted that a wetland does not need to be a PSW to be regulated. Evaluation of wetlands generally should have an increased focus on their hydrologic function. Additionally, CA staff trained in OWES could be allowed to update the Provincial designations through a provincial partnership agreement.

As previously described, CA staff should form part of a committee dedicated to the update of OWES. CA staff would appreciate an update including an evaluation of wetland function, particularly if this is the tool that Province will use as part of their offsetting program.

Glossary

CA staff recommend including the following definitions: Ecological Land Classification (ELC), development, infrastructure, site alteration, significant, wetland, and hydroperiod.

As previously described, CA reviewers have concerns with the proposed definition of ‘no net loss’ and its narrow, area-focused scope. It is felt that the definition of the “precautionary approach” is incomplete as it does not describe how the decision is reached (or modified) in those circumstances where there are threats of serious or irreversible damage; as noted earlier, ‘precautionary principle’ is preferred.

The definition of Great Lakes Coastal Wetland appears to be a minor modification from the PPS’ “coastal wetland” definition. CA staff require clarification on this definition as it indicates that any wetland on a connecting channel to the Great Lakes within two 2 kilometres *as the crow flies* would be considered a Great Lakes Coastal Wetland. Should it be the Province’s intention that the PPS definition should also be applied “as the crow flies” it is important that this information be distributed to municipalities and Conservation Authorities. Having two different definitions, one in the PPS and one in the Wetland Strategy is not supported.