

June 17, 2024

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

RE: Niagara Peninsula Conservation Authority's Comments on the "Proposed amendments to development permit exemptions under R.R.O. 1990, Regulation 828 for lands in the Niagara Escarpment Planning Area that is under the area of development control" (ERO #019-8364)

Thank you for the opportunity to comment on the proposed amendments to development permit exemptions under R.R.O. 1990, Regulation 828. The Niagara Peninsula Conservation Authority (NPCA) is one of Ontario's 36 Conservation Authorities (CAs) including one of 7 CAs that have the Niagara Escarpment Plan (NEP) area as part of their jurisdiction. The NPCA welcomes the opportunity to create red-tape reduction and help achieve greater certainty for our organization, residents, visitors and member municipalities. This also includes opportunities to streamline development within the NEP area that does not result in significant environmental impacts or risks associated with natural hazards.

Conservation Authorities as Public Bodies and Landowners

Conservation Authorities are Public Bodies as defined in the NEP and are essential partners to implement the Niagara Escarpment Parks and Open Space System (NEPOSS) objectives and policies as described in Part III of the NEP. Ensuring greater certainty and clarity for the largest landowners within NEPOSS is critical for CAs to operate our conservation areas effectively and efficiently while providing access to greenspace, related infrastructure, and amenities that our residents and visitors demand.

Recent legislative and regulatory changes to the Conservation Authorities Act have clarified mandatory programs and services for all CAs. While many Category 1 services identified by CAs in their transition plans already support NEPOSS objectives through land planning and management efforts, CAs are now required to find alternatives to fund Category 2 & 3 services. This includes services like education programs that are such a critical component of NEPOSS and generally create minimal environmental impact. Greater administrative efficiency and exemptions within Regulation 828 will allow CAs to provide services and amenities at NEPOSS parks with fewer barriers related to permitting and policy. Regulation 828 should reflect the current legislative regime and enhance each Escarpment CA's ability to achieve NEPOSS objectives and deliver cost effective programs and services that so many people crave.

General Modifications to the Regulation

The Ministry of Natural Resources (MNR) should develop guidelines for a self-assessment process like how the DFO processes permits under the Federal Fisheries Act. This would put the onus and responsibility on Public Bodies to assess each project and proactively provide the justification for exemption (e.g. formal project registration and related study completion). As a regulatory authority with a natural hazard mandate, NPCA will review internal capital projects on our lands to ensure they satisfy the tests of Ontario Regulation 41/24 and the

NPCA's policies that guide the review and issuance of work permits. This type of self-assessment would also be appropriate for ensuring exemptions meet the NEP and NEPOSS objectives. The NEC would maintain the ability to audit or inspect the exempted works as necessary.

It is also recommended that the revised Regulation or an implementing process streamline how other Public Bodies or planning authorities are notified of exempted projects to save time and resources. For example, exempted projects can be recorded on a registry that is frequently published by the NEC on their website or through the ERO, or as part of a self-assessment process, Public Bodies must also notify other potentially affected Public Bodies.

Improved Definitions

Quite often implementation of Regulation 828 relies on interpretation of Terms that are generally defined in the NEP or Regulation 828 or may not be defined at all, that in some cases have resulted in inconsistent interpretation and application of current exemptions within the Regulation. Where feasible, Terms within the NEP should be created or modified to adequately support Regulation 828. Otherwise, the Terms need to be clarified within the Regulation itself. Terms that would benefit from updates or new definitions include:

Term	Status	Potential Solution
Development	Defined, however, recommend updates to provide additional clarity and consistency	- For consistency with implementation, could consider updating the definition to be similar to the Provincial Planning Statement, which includes, "creation of a new lot, a change in land use or the construction of buildings and structures" and also identifies what is not included. - Clearly define what is and what is not considered development. For example: - o Events (which are regulated by municipalities under the Municipal Act) that have no negative impact should not be considered development. - o Acquisition of land of any type by a Public Body should not be considered development. - o Fencing (chain link, wrought iron, and wood) that have no negative impact should not be considered development. Similar wording to the exemptions included in Regulation 41/24 (under the Conservation Authorities Act) can provide guidance.
Events	Undefined	- It is recommended that the Regulation specifies that events as delivered by Public Bodies that support NEPOSS objectives should not be considered development (this includes events or programs identified within approved NEPOSS management/master plans) - Those types of activities considered events delivered by Public Bodies should include weddings, fund raising events, private events sanctioned and permitted by the Public Body

Demolition	Undefined	- It is recommended that the Regulation clarifies what is considered demolition and when it should be exempt from a development permit Such as: - o Demolition, in part or in whole, of structures on lands owned or managed by Public Bodies - o Activity being completed in support of NEPOSS objectives, enhancement of NEPOSS system and completion of the Bruce Trail - Demolition can include Heritage structures as listed or designated by the local planning authority so long as appropriate permits are obtained
Building Size	Defined, however, recommend updates to support NEPOSS objectives	- Size related to Institutional Uses is identified in S.2.2.9 of the NEP but a revision is necessary to help Public Bodies operate NEPOSS lands and achieve NEPOSS objectives - o Create a definition within the regulation to enable larger structures in NEPOSS parks that help achieve NEPOSS objectives or mandate of Public Body
Maintenance	Undefined	- Create a consistent definition that applies to Public Bodies managing NEPOSS parks as S.5.17 of the Regulation relies heavily on an undefined term - o S. 5.17 should include a definition or clear description of “maintenance” or “improvement of existing infrastructure” that supports NEPOSS objectives. - o Should allow for repair of land, infrastructure and facilities to an improved state of repair (i.e. not just to the original condition)
Restoration	Undefined	- A definition of restoration activities in the context of operating NEPOSS should include - o Restoration of lands previously not in a natural state - o Restoration of lands to improve environmental condition. - Such restoration activities within an operating NEPOSS should be considered exempt from a development permit.
Environmental Management	Undefined	- The ERO posting identifies “environmental management activities” that could be exempt to include “certain projects” carried out by government or non-government conservation organizations. It is recommended that “certain projects” completed by Public Bodies that are exempt be much more specific and exhaustive if included within revised Regulation - o See below for more detail on suggested exemption list.
Infrastructure Activities	Undefined	- Should include traditional types of infrastructure such as roads as well as green infrastructure consistent with NEPOSS objectives and parks (e.g. charging stations, innovative water/wastewater servicing).
Commercial Uses	Undefined	- Needs definition specific to Public Bodies and operation of NEPOSS parks or as needed to achieve NEPOSS objectives.

		- S.3.1.6.3 of NEP includes an incomplete definition of such uses that are present or could be present in NEPOSS parks - Consider commercial uses that are ancillary to the primary use of a facility (e.g. education, office space) and are supportive of NEPOSS objectives (e.g. events, food services, weddings, receptions, meeting and community spaces, etc.).
Health and Safety or Emergency Works Project	Undefined	- Work that is for the express purpose of mitigating a health and safety issue should be allowed to proceed without a Development Permit in order to implement measures in a timely manner. - Such works should include: safety railings, safety fencing, work that would otherwise require a Development Permit if the work were needed to immediately secure a structure and prevent further damage.

Suggested Exemptions

NPCA staff see benefits to updating Regulation 828 to provide additional clarity on exempted activities that apply to Public Bodies. Specifically, modifications that would make it easier for CAs and other Public Bodies to undertake works necessary to achieve our mandate and NEPOSS objectives would be highly beneficial. Providing a more robust list of exemptions will also assist NEC staff with prioritizing other projects that require significant attention (e.g. subdivision or aggregate applications). It is also important to note that many of the revised or new exemptions suggested below will allow Conservation Authorities the ability to fund programs while reducing our reliance on levies from member municipalities.

NPCA staff also suggest that through the Management Plan and NEPOSS planning process, specific exemptions consistent with Regulation 828 should be identified for specific classifications and zones. This would allow conservation authorities to proceed with implementing the NEC endorsed management plans with clear certainty on when development permits would and would not be required, while achieving their management priorities and NEPOSS objectives.

Further, it is recommended that the Regulation be reorganized to create a subsection that applies specifically to all Public Bodies as defined in the NEP. Or, at a minimum, a Section within the Regulation that applies solely to conservation authorities, while other Public Bodies (e.g. municipalities and Bruce Trail Conservancy) have their own dedicated sections. The proposed section related to conservation authorities should include the following exemptions:

- Any activities approved within a NEPOSS Master/Management plan are exempt for 10 years with options to renew exemption for further 5 years if completed through periodic review of master/management plan (version of the old S.5.41).
- The maintenance of lands, buildings and structures under the jurisdiction of a conservation authority, the establishment of hiking or cross-country ski trails and the erection of signs for the purposes of property identification or interpretative or recreational information on lands owned by a conservation authority (old S.5.17;). This is subject to improved definitions as suggested above, otherwise this

exemption should be rewritten to be far more inclusive of a variety of activities conducted by Public Bodies within NEPOSS parks.

- All acquisitions completed by Public Bodies, regardless of them being conservation severances or directly adjacent to existing NEPOSS properties and provided they do not create additional, new development (i.e. new development lots that are not already permissible through existing policy). This also includes land acquisition within Prime Agricultural areas (see ‘Other Activities’ section of the ERO proposal).
- All dispositions within NEPOSS parks related to essential infrastructure projects undertaken by municipalities and provincial or Federal agencies in accordance with an Environmental Assessment or equivalent process (e.g. Planning Act approval).
- Infrastructure projects related to conservation area management and operations (including communication infrastructure, fiber optics, etc.).
- Green infrastructure development and Low Impact Development projects.
- Demolition of structures related to activities that meet the objectives of NEPOSS.
- Parking areas and related amenities (including washroom facilities – temporary or otherwise) that support NEPOSS objectives and provide greater access to greenspace.
- Events that are supported by Master/management plans or NEPOSS objectives (and as may be detailed in a new definition of Events).
- Exemptions for health and safety related projects (e.g. stream bank erosion at St. Johns CA; creating a parking lot for Cheltenham Badlands; trail barriers/fences on slopes; boardwalks and bridges to secure sensitive areas).
- Maintenance to existing infrastructure even if the footprint is expanded to accommodate the maintenance works. Perhaps expansions to existing infrastructure for maintenance purposes could be limited to a certain percentage of the existing footprint.
- Signage and entrance features (e.g. kiosks, wayfinding signage, washrooms) to provide safe access to greenspace.
- Trail development (new development or decommissioning), including supporting health and safety measures (e.g., fencing, accessible boardwalks, etc.) regardless of it being a Bruce Trail route or not.
- Conservation-related education activities that support NEPOSS objectives and CA programming.
- Exemptions should consider setting exemption limits for the size of structures. For example, under Ontario Regulation 41/23, there are exceptions for accessory structure 15 sq. m. or less.
- Forestry and vegetation management activities completed by Public Bodies as outlined in a Master/Management Plan and/or identified within prescribed management documents such as Managed Forest Tax Incentive Program (MFTIP) plans. This includes appropriate prescribed management activities within Areas of Natural and Scientific Interest (ANSI's), and activities that generate ancillary revenues due to sale of forest products.

Over the past few years, NPCA and NEC staff have established monthly agency coordination meetings to discuss NEP development permit files and related NPCA reviews, and conservation area capital projects. These coordination meetings have been very beneficial to identify agency concerns, study requirements and possible NEC exemptions. It is recommended that this type of best practice be offered to other Public Bodies to assist with the streamlined review and approval of NEC development permits in coordination with other agency approvals.

Thank you for the opportunity to provide comments and recommendations for revisions to Regulation 828. We would welcome the opportunity to participate in a working group to develop the new regulation and recommended self-assessment process.

Should you have any questions regarding the comments in this letter please feel free to contact Eric Baldin, Manager, Land Planning at 905-788-3135, ext. 283, or ebaldin@npca.ca.

Sincerely,



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