

Municipal Powers to Protect Wetlands



Clean Air Partnership, “Municipal Implications and Options Related to Ontario’s Wetland Protection System”

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Canadian
Environmental Law
Association
EQUITY. JUSTICE. HEALTH.

Photo: Linda Pim

cela.ca

Canadian Environmental Law Association (CELA)



Photo: Kelly Mathews

- Specialty legal aid clinic dedicated to environmental equity, justice, and health
- Founded in 1970, funded by Legal Aid Ontario since 1978
- CELA provides free legal services relating to environmental justice in Ontario, including representing qualifying low-income and vulnerable communities in the courts and before tribunals. CELA also provides free summary advice to the public and engages in legal education and law reform initiatives.



Canadian Environmental Law Foundation



Photo: Ghislain Tillard

- Key initiatives include:
 - Canadian Environmental Law Archives
 - Annual fellowship for one aspiring environmental lawyer,
 - Access to Justice for Northern Communities Initiative.
- The Foundation also supports ongoing education and outreach efforts to promote public participation in environmental decision-making.

Planning Act

- S.1.1(f) - A purpose of the Act is to recognize the decision-making authority and accountability of municipal councils
- S. 2 - Provincial interests include:
 - (a) The protection of ecological systems, including natural areas, features and functions
 - (s) The mitigation of greenhouse gas emissions and adaptation to a changing climate.

Planning Act

- Section 16 of the *Planning Act* authorizes the creation of municipal Official Plans
- Plans shall be consistent with the Provincial Policy Statement (s.3(5)(a) of *Planning Act*)
- S.16(14) of *Planning Act*:
An official plan shall contain policies that identify goals, objectives and actions to mitigate greenhouse gas emissions and to provide for adaptation to a changing climate, including through increasing resiliency.

Provincial Policy Statement



Photo: Ajman Ladher

- Provincial Policy Statement currently under review, [ERO 019-6813](#)
- Deadline for comments is June 5, 2023
- Proposal for new Provincial Policy Statement would replace current PPS and Growth Plans



Provincial Policy Statement

- Proposal has been posted without natural heritage provisions
- [ERO 019-6161](#) - discussion paper on new natural heritage “offset” policy for wetlands, woodlands and other natural wildlife habitat
 - Closed for comment on December 30, 2022



Provincial Policy Statement, 2020

- Wetlands Policies in PPS, 2020
 - 2.1.4 Development and site alteration shall not be permitted in:
 - a) significant wetlands in Ecoregions 5E, 6E and 7E (Southern Ontario),
 - b) significant coastal wetlands
- Changes to the Ontario Wetland Evaluation System are very important because of PPS protection for wetlands that are “significant”

Provincial Policy Statement, 2020

- Wetlands Policies in PPS, 2020
 - 2.1.5 Development and site alteration shall not be permitted in:
 - a) Significant wetlands in the Canadian Shield north of Ecoregions 5E, 6E, and 7E;
 - f) Coastal wetlands in Ecoregions 5E, 6E and 7E that are not subject to policy 2.1.4(b)

unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.



Provincial Policy Statement

- 1.8.1 Planning authorities shall support ... preparing for the impacts of a changing climate through land use and development patterns which:
 - f) promote design and orientation which maximizes energy efficiency and conservation, and considers the mitigating effects of vegetation and green infrastructure; and
 - g) maximize vegetation within settlement areas, where feasible.



Planning Act - Zoning By-Laws

3.2 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures within any defined area or areas,

- i. that is a significant wildlife habitat, wetland, woodland, ravine, valley or area of natural and scientific interest,
- ii. that is a significant corridor or shoreline of a lake, river or stream, or
- iii. that is a significant natural corridor, feature or area.



Planning Act - Zoning By-Laws

- Municipalities may still deem local features worthy of protection
- Ontario Wetland Evaluation System amendments deleted section on “locally important wetlands” in Appendix 1
- Municipal decisions to protect local wetlands could be challenged at the Ontario Land Tribunal

Minister's Zoning Orders



Photo: Fe de Leon

- MZO prevails over a local zoning by-law or OP
- MZOs are not required to be consistent with the *PPS*



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