

A Discussion Paper on Setbacks from Wetlands to Guide Council Decision-Making on Land Use Planning Policy

Contents

Introduction.....	2
A History of Provincial Policy: Where the 120 Metres Came From	2
Municipal Approaches and the 2024 Legislative Change	3
Clarifying the Confusion: 120 Metres versus 30 Metres.....	4
Implications for Municipalities and the Path Forward	5
Conclusion	6
Next Steps	6

Introduction

Wetlands are among Ontario's most valuable natural heritage features, providing critical ecological functions such as flood attenuation, water filtration, groundwater recharge, habitat, and carbon storage. For decades, provincial and municipal planning frameworks have sought to manage development pressures around wetlands by establishing "setbacks" or "adjacent lands" areas where additional scrutiny is required. These buffers are not simply arbitrary distances; they reflect an understanding that the ecological influence of a wetland extends well beyond its visible boundary. With the Province's recent amendments to the Conservation Authorities Act and the introduction of Ontario Regulation 41/24 in April 2024, the approach to wetland setbacks has shifted. This paper reviews the origins of the 120-metre standard, how municipalities have historically implemented it, the implications of recent policy changes, and the path forward for municipalities like Grey Highlands.

A History of Provincial Policy: Where the 120 Metres Came From

The concept of "adjacent lands" around wetlands first appeared in the 1996 Provincial Policy Statement (PPS), Ontario's first PPS issued under the *Planning Act*. "Adjacent lands" were defined as

"those lands, contiguous to a specific natural heritage feature or area, where it is likely that development or site alteration would have a negative impact on the feature or area. The extent of the adjacent lands may be recommended by the Province or based on municipal approaches which achieve the same objectives".

The natural heritage policies were set out in Section 2.3 of the PPS. Policy 2.3.2 provided that:

"Development and site alteration may be permitted on adjacent lands to a) and b) if it has been demonstrated that there will be no negative impacts on the natural features or on the ecological functions for which the area is identified."

This framework was carried forward and refined in the 2005 PPS, which emphasized that the ecological function of adjacent lands must be evaluated and that proposals must demonstrate there would be no negative impact on the feature or its functions. Although the wording evolved, the core definition of adjacent lands remained consistent.

It is worth noting that the PPS itself did not prescribe specific distances for adjacent lands. Instead, the Province directed municipalities and proponents to consult the technical companion document — the Natural Heritage Reference Manual (NHRM) — for guidance. The NHRM was prepared and published by the Ontario Ministry of Natural Resources as the Province's technical manual to assist in implementing PPS natural heritage policies. It has long been treated by practitioners as the authoritative reference for "screening distances" and Environmental Impact Study (EIS) triggers.

The second edition of the NHRM (2005), and its update in 2010, provide a table of recommended adjacent land widths. These screening distances identify when an EIS would normally be required to demonstrate no negative impacts on the features or its ecological functions. They include:

Significant Habitat of Endangered and Threatened Species	120 m
Significant Wetlands and Significant Coastal Wetlands	120 m
Significant Woodlands	120 m
Significant Wildlife Habitat	120 m
Significant Areas of Natural and Scientific Interest – Life Science	120 m
Significant Areas of Natural and Scientific Interest – Earth Science	50 m
Fish Habitat	Inland lake trout (at capacity) on the Canadian Shield 300 m All other 120 m

These distances were never intended as rigid “no-build setbacks” in zoning by-laws but as screening tools. If development were proposed within these ranges, an EIS would normally be required to evaluate the potential impacts and determine whether ecological functions could be maintained. Municipalities were given the ability to adopt different adjacent lands widths in their own Official Plans or zoning by-laws, but any reduction from the provincial defaults was expected to be supported by comprehensive technical evidence showing no negative impacts.

The choice of 120 metres in particular was not arbitrary. OMNR relied on a broad body of ecological research from the 1980s through the early 2000s documenting how wetlands and their dependent species are influenced well beyond the visible wetland edge. Studies on amphibians demonstrated that frogs and salamanders routinely migrate 100–300 m into uplands from breeding pools. Turtle research showed that nesting and foraging commonly occurred 30–275 m away from wetland margins. Forest bird studies documented edge effects and increased predation up to 200 m from wetland or woodland edges. Hydrological and soil research demonstrated that nutrient cycling and water-table dynamics extend well outside wetland boundaries. Environment Canada’s guidance (*How Much Habitat is Enough?*, 2013) and synthesis work by researchers like Semlitsch and Bodie consistently reinforced that 30 m buffers were inadequate, while 100–200 m protection zones were more realistic for maintaining ecological function. Against this scientific backdrop, the 120 m distance was adopted as a precautionary, province-wide default — large enough to capture most edge effects and species requirements, yet practical as a uniform trigger for requiring further study.

Since its introduction in 1996, the definition of *adjacent lands* and the associated policies have remained stable. The “120-metre rule” is not a municipal setback in the zoning sense, but a provincial screening distance — designed to ensure that development adjacent to wetlands and other significant natural heritage features is subject to technical review before approvals are granted.

Municipal Approaches and the 2024 Legislative Change

For decades, Conservation Authorities (CAs) played a pivotal role in supporting municipalities with natural heritage review. While municipalities were responsible for implementing the Provincial Policy Statement (PPS) through their planning approvals, CAs exercised complementary authority under

section 28 of the *Conservation Authorities Act*. Through permitting powers and watershed-scale expertise, CAs evaluated development proposals in and around wetlands, provided technical input on Environmental Impact Studies (EISs), and helped ensure that proposals within 120 metres of significant wetlands were reviewed not only for compliance with the PPS but also for their impacts on hydrology, erosion, flooding, and ecological function. In this way, CAs became an essential partner to local governments: municipalities could rely on their ecological and engineering expertise to assess adjacent lands and to apply a precautionary lens to sensitive features.

Until 2024, many Conservation Authority regulations extended permitting jurisdiction up to 120 metres around provincially significant wetlands (and 30 metres around other wetlands), paralleling the adjacent lands screening distance in the PPS and NHRM. This overlap with municipal planning frameworks created a dual layer of review. A landowner seeking to build within 120 metres of a wetland typically required both a planning approval from the municipality (with an EIS) and a permit from the CA, ensuring comprehensive oversight.

This system was fundamentally altered in April 2024, when the province revoked the 36 separate Conservation Authority regulations and replaced them with a single province-wide regulation — Ontario Regulation 41/24: Prohibited Activities, Exemptions and Permits. Under this new framework, the regulated area around all wetlands is standardized to 30 metres, regardless of their size, classification, or provincial significance. Conservation Authorities are now limited to regulating within this 30-metre band, and their mandate is narrowed to natural hazard considerations such as flooding, erosion, slope stability, and dynamic beaches. Broader ecological impacts — such as wildlife habitat loss or degradation of water quality — were deliberately removed from CA decision-making.

The result is a striking divergence between planning policy and regulatory authority. The PPS and NHRM continue to require evaluation of development within 120 metres of significant wetlands, while Conservation Authorities can now only regulate activity within 30 metres. This leaves municipalities as the primary — and in many cases, the only — authority responsible for reviewing impacts in the 30–120 metre zone. For municipalities like Grey Highlands, this legislative change means they can no longer rely on Conservation Authorities for the same level of ecological review in adjacent lands. What was once a shared responsibility is now more firmly municipal, with implications for planning policies, staff expertise, and the balance between growth management and environmental protection.

Clarifying the Confusion: 120 Metres versus 30 Metres

Since the 2024 legislative changes, there has been widespread confusion about whether municipal setbacks from provincially significant wetlands should be reduced from 120 metres to 30 metres to align with provincial direction. This reflects a common misunderstanding, as the new *Conservation Authorities Act* regulation establishes a 30-metre regulated area for permitting purposes, but the Provincial Planning Statement continues to refer to the Natural Heritage Reference Manual, which suggests a 120-metre adjacent lands screening distance.

The 30-metre standard comes from the new Ontario Regulation 41/24, which replaced all Conservation Authority regulations as of April 2024. Under this regulation, all wetlands are regulated

by Conservation Authorities only to a distance of 30 metres, and only for the purpose of addressing natural hazards such as flooding and erosion. Conservation Authorities no longer have jurisdiction to regulate within 120 metres of PSWs or to require permits based on ecological impacts.

By contrast, the Provincial Planning Statement (2024), which municipalities must implement through their Official Plans and zoning by-laws, continues to require that development and site alteration within 120 metres of significant wetlands be carefully evaluated through the adjacent lands policies. This 120-metre distance originates in the Natural Heritage Reference Manual and has been consistently applied in planning since the first PPS in 1996. It remains a core requirement of provincial policy, and municipalities must ensure their planning documents reflect it.

In other words, the 120 metres remains the provincial planning standard that governs whether an Environmental Impact Study is required before development may be considered. The 30 metres is only the regulatory limit of Conservation Authority permitting authority. These are two distinct frameworks: one rooted in planning policy under the *Planning Act*, and the other in hazard regulation under the *Conservation Authorities Act*.

Accordingly, a zoning by-law that reduced the adjacent lands requirement for PSWs from 120 metres to 30 metres would not align with provincial policy. Instead, it would place the municipality at risk of being inconsistent with the Provincial Planning Statement. The municipality's obligation remains clear: planning approvals must continue to apply the 120-metre screening distance, even though Conservation Authorities can now only regulate activity within 30 metres.

Implications for Municipalities and the Path Forward

The Province's decision to narrow Conservation Authority jurisdiction has consequences for municipalities. While Conservation Authorities no longer regulate within 120 metres of wetlands, this does not reduce municipal responsibilities under the Provincial Planning Statement (PPS), which continues to require evaluation of adjacent lands. In practice, this means that municipalities are now the front line for reviewing development proposals between 30 metres and 120 metres of wetlands, an area once overseen jointly with Conservation Authorities.

Importantly, the legislative change has not resulted in lower costs for municipalities. Conservation Authority levies are not expected to decline, despite the reduction in their regulatory role. At the same time, municipalities are left to shoulder more responsibility for environmental review, often without the in-house technical expertise or staff capacity to assess ecological studies. This dynamic risks both duplication and gaps: developers still face fees and permitting requirements, but municipalities may not have the benefit of Conservation Authority expertise unless they trigger a planning application that prompts County review.

In Grey Highlands, this situation is particularly relevant. Discussions with Grey County staff have confirmed that the County is prepared to continue reviewing development applications within the 120 metres of wetlands, provided that a planning application is triggered. This presents an opportunity for the municipality to maintain oversight without adding to local staffing or consultant costs.

To ensure this oversight occurs consistently, the recommended approach is to apply a holding provision in the zoning by-law to all lands identified as “adjacent lands” under the PPS and Natural Heritage Reference Manual. This would mean that development within 120 metres of a significant wetland could not proceed without the removal of the holding symbol, which in turn would require the submission of a planning application. By structuring the by-law in this way, Grey Highlands can align with provincial policy, ensure County involvement in technical review, and avoid assuming additional resource burdens at the municipal level.

This approach recognizes the reality of the 2024 legislative changes: Conservation Authorities are no longer positioned to provide broad ecological oversight, but municipalities remain bound by the PPS. By integrating a holding provision tied to adjacent lands, Grey Highlands can meet its policy obligations, protect wetlands, and maintain an efficient review process without added costs to the municipality. This approach not only responds to the 2024 changes, but also ensures that Grey Highlands’ new Zoning By-law remains consistent with the County Official Plan and the Provincial Planning Statement.

Conclusion

Wetlands are among the most sensitive and valuable natural heritage features in Ontario, and their protection has long depended on a combination of provincial policy direction, municipal planning tools, and Conservation Authority expertise. The 120-metre adjacent lands standard, rooted in the PPS and supported by decades of ecological research, remains the benchmark for ensuring that development near wetlands is carefully reviewed. The Province’s 2024 reforms to the *Conservation Authorities Act*, however, have shifted the regulatory landscape: while Conservation Authorities are now limited to a 30-metre hazard-based permitting jurisdiction, municipalities remain responsible for implementing the 120-metre standard through their planning documents.

This divergence places greater responsibility on municipalities to safeguard wetlands and adjacent lands. Although Conservation Authority levies will not decline, their reduced role leaves municipalities to manage more of the environmental review burden. For Grey Highlands, the recommended solution is to apply a holding provision across all adjacent lands. This approach ensures that development within 120 metres of significant wetlands cannot proceed without an appropriate planning application, thereby triggering County review and retaining ecological oversight without imposing additional resource demands on municipal staff.

By adopting this approach, Grey Highlands can reconcile the differences between planning policy and regulatory authority, continue to align with the Provincial Planning Statement, and uphold its commitment to protecting wetlands as vital ecological assets. In doing so, the municipality not only addresses the immediate implications of the 2024 legislative changes but also establishes a proactive framework for balancing environmental stewardship with responsible growth.

Next Steps

To implement the approach outlined in this paper, the Zoning By-law mapping will be updated to apply a holding provision (H) to all lands located within 120 metres of provincially significant

wetlands. This holding symbol will require that any proposed development within this buffer undergo review through a planning application process before the holding provision is removed. In practice, this will ensure that the County continues to review Environmental Impact Studies and provide technical oversight, maintaining consistency with the Provincial Planning Statement while avoiding additional staff or resource demands for Grey Highlands.