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October 12, 2001

Provincial Policy Statement Review Project
Ms. Audrey Bennett, Director
Provincial Planning and Environmental Services Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 14th Floor
Toronto, Ontario
M5G 2E5

Dear Ms. Bennett:

Further to your recent consultation process and efforts to involve key stakeholders in the review of the Provincial Policy Statement (PPS), attached are responses to the Stakeholder Questionnaire and the One Window Questionnaire endorsed by resolution #40/01 at the Conservation Ontario Council meeting on September 24, 2001.

Conservation Ontario acknowledges the PPS policies as a valuable tool in the comprehensive programming delivered by Ontario's 38 Conservation Authorities. The attached recommendations represent a consolidation of comments from the 38 Conservation Authorities and are offered in proactive response to your review of the PPS.

The various roles that Conservation Authorities play in the land use planning system are outlined in the attached *Memorandum of Understanding (MOU) on Procedures to Address Conservation Authority Delegated Responsibility* under "Further CA Roles in Plan Input, Plan Review and Appeals". The breadth of Conservation Authority involvement in the land use planning system provides the expertise and context for the attached comments. For your information, as per the MOU, the One Window Questionnaire has been previously (August 2001) submitted to MNR and is being submitted through this consultation so that you are directly aware of our concerns with the hazards component of the PPS.

Your efforts to review and ultimately to improve the PPS are appreciated. As a result of our consultation, Conservation Ontario concludes that revisions are needed to the PPS. Although we have not included all of the detailed comments received from the Conservation Authorities, we have identified a number of issues, some broad and some specific, that are illustrative examples which justify the need for revisions. We encourage you to undertake revisions using a consultative process and we would be pleased to actively participate in these consultations. Please feel free to contact Bonnie Fox at the address and telephone number provided above or Jeff Brick (Chair, Conservation Ontario Planning Committee) at (519) 451-2800 ext 228, at any time to discuss this matter further.

Sincerely,

Original signed by:

Richard D. Hunter
General Manager
Encl.

PPS Five Year Review

Conservation Ontario Responses to the Stakeholder Questionnaire

Question 1 Do the Principles in the Provincial Policy Statement embody the priorities you think the Province should have in land use planning?		
Ref #	Issue	Recommendation
Q1-1	Conservation authorities strongly support the statement at the end of paragraph 5 in the Preamble that the “wise use and protection of these resources over the long term is a key provincial interest.” Conservation authorities advocate a systems approach to environmental management and we view watershed planning as a means of achieving this. We do see a weakness in the PPS in that it does not clearly link land use planning to watershed planning and it does not fully address the issue of cumulative impacts. We feel that these issues can be addressed by establishing a clear linkage between watershed planning and land use planning and the concern for cumulative impacts in the PPS.	The preamble and the principles should establish a clear linkage between watershed planning and land use planning. The principles should emphasize the importance of the environment and recognize our environment as a finite resource for which we need to understand cumulative effects and long term implications of planning decisions
Q1-2	The Preamble is an important adjunct to the “Principles.” The tone, particularly of the 4 th paragraph (“A healthy economy is vital...”) speaks, in our opinion, to an “economy first” perspective. Conservation Authorities champion the environment. We believe that the principles and the preamble to them need to emphasize the need for balance in the weighing of economic, social and environmental interests. The principles also need to emphasize the need for balance with respect to certain resource utilization policies such as aggregates and agriculture. The Preamble recognizes the existence of “complex inter-relationships among environmental, economic and social factors” but not that these competing interests be reconciled one with the other. Health and safety are referenced. Financial and economic well-being are referenced. Notions of “sustainability” or “healthy communities” or “Smart Growth” are not explicitly referenced.	The 4 th . paragraph (“A healthy economy ...”) of the preamble should be amended. Emphasis should be added to the effect that none of the policies should be read or applied in isolation from any of the other policies in the PPS and that social, economic and environmental considerations will have to be balanced by decision-makers to ensure that “sustainable” or “healthy” or “Smart” communities result from the development process.
Q1-3	There has been concern raised that there is no direction in the principles that provides guidance for those situations when the principles conflict.	It is recommended that the principles of the PPS ensure that interests related to the environment, economy and community are balanced, rather than allow for economic interests to supersede.

Ref #	Issue	Recommendation
Q1-4	Principle #2 states “protecting resources for their economic use and/or environmental benefits;” As a principle we should be protecting resources both for their economic use and for their environmental benefits. In doing so we must balance economic, social and environmental considerations.	It is recommended that Principle #2 be reworded as “protecting resources for their economic use and for their environmental benefits;”
Q1-5	Principle #3 deals with <u>reducing</u> the potential for public cost or risk. It is suggested that <u>avoidance</u> of risk would be a better target to include in this principle.	Principle # 3 should be reworded by replacing “reducing” with “avoiding”

Question 2 Do the principles of the Provincial Policy Statement support Smart Growth objectives of promoting and managing growth in ways that sustain a strong economy, build strong communities and promote a healthy environment?		
Ref #	Issue	Recommendation
Q2-1	<p>The Ontario government has launched a Smart Growth initiative. Many of our members have participated in consultation workshops across the Province. A formal submission has been made (October 9, 2001) by Conservation Ontario in response to a provincial request for input. Nationally and internationally other jurisdictions support the principle of “Smart Growth”. The Ontario Professional Planners Institute has this year been sponsoring research on growth management including Smart Growth initiatives. Municipalities such as the City of Ottawa are intending to build “Smart Growth” principles into new Official Plan policies.</p> <p>Overall many of the elements of “Smart Growth” are, we believe, implicit in the PPS and particularly Section 1 “Efficient, Cost-effective Development and Land Use Patterns”. We particularly support those existing policies (1.1.1(e)) that speak to coordinating issues that “cross municipal boundaries” including “ecosystem and watershed related issues”. Ontario’s conservation authorities have a strong track record of providing assistance to our municipal partners and to senior levels of government on ecosystem and watershed related issues both within and across municipal boundaries.</p> <p>Conservation Ontario strongly supports the principle of “Smart Growth”. Natural heritage and water resource requirements must be identified utilizing a systems approach based on a watershed management model as a fundamental basis for planning healthy communities that will support a strong and vibrant economy.</p>	<p>Conservation Ontario strongly supports the principle of “Smart Growth”. We believe many of the principles of “Smart Growth” are already embodied in the PPS. In the event that the Province decides to formally adopt a “Smart Growth” strategy, including policies and financial incentives, the Principles of the Provincial Policy Statement should be amended to explicitly refer to “Smart Growth” and define what that means for Ontario.</p>

Question 3 Has the Provincial Policy Statement been effective in providing decision-makers with direction on provincial interests in land use planning matters?

Ref #	Issue	Recommendation
Q3-1	Conservation Ontario supports the approach adopted by the Provincial Policy Statement (PPS) of a policy led system. Our collective areas of jurisdiction include within them about 90% of the population of Ontario. It is our observation that, overall, the PPS is regarded as clearly articulating the specific areas of “ <i>provincial interest</i> ”. Issues addressed within the PPS generally do include those matters critical to the development of strong communities, healthy environments and a robust economy.	Conservation Ontario supports the policy led system of the PPS.
Q3-2	Protection of regional and local features and functions, even if they are part of a broader scheme to build green networks, is given no assistance under the Provincial Policies. At the OMB the PPS has often been used to undermine them. Protection of the local and regionally significant features and functions should be nested within the Provincial interest.	The policies need to ensure that Provincially significant features and functions are protected and also require the protection of the locally significant supporting features and functions. It must be ensured that local decisions to recognize all elements of a system are not undermined by the Provincial direction.
Q3-3	The interrelationship of natural features and functions and the implications of any disturbance on the whole ecosystem needs to be promoted as opposed to the current "islands of green" Natural Heritage policies. Revisions are needed to adopt a broader systems (watershed) perspective in planning and to remove the current flexibility permitting development if there are "no negative impacts." Our concern is that the “no negative impacts” approach simply provides fodder for consultants and leads to very narrow, site specific battles at the OMB.	The policies need to ensure that planning decisions are directed towards no net environmental loss and that within the existing degraded systems the re-establishment of a healthier system is required.
Q3-4	Conservation authorities are involved with the implementation of the PPS in many ways ranging from direct implementation through the provision of planning services through to conducting research and compiling monitoring data. There is consensus that the PPS is achieving the principles that it sets out however, it is also agreed that this conclusion is intuitive and that factual performance measures need to be developed.	Recommended that performance measures be developed and that the policy statements be evaluated against these measures regularly.

Ref #	Issue	Recommendation
Q3-5	<p>Several conservation authorities have identified a concern with the interpretation of the “have regard to” by planning authorities. It was suggested that a return to “shall be consistent with” should be considered. Since this is a review of the PPS and not the legislation, it was agreed that it was best to work with the existing phrase and recommend changes within the PPS that would assist with addressing the concern.</p> <p>(Cross reference recommendation Q1-2 of natural hazards submission).</p>	<p>Recommended that a point be added to Section IV Implementation/Interpretation of the PPS which outlines the intent of “have regard to.” It is recommended that this point explain the meaning of the term and indicate that if there are no conflicting policy issues, the planning authority should be aiming for consistency with the PPS.</p>
Q3-6	<p>Many conservation authorities noted that the municipalities value their input creating local policies and when judging the merits of site-specific applications. A majority of municipal decisions on applications appear to reflect the intent of provincial policy. It is however noted that some municipalities have Official Plans and Zoning By-laws that predate the PPS and therefore the scope and intent of the PPS is not reflected. (Cross reference recommendation Q7-1 from hazards submission)</p>	<p>That municipalities be encouraged to regularly update their official plans and zoning by-laws. It is also recommended that the importance of updating local planning documents be included in Section IV Implementation / Interpretation.</p>

Question 4 Is the scope and detail of the Provincial Policy Statement appropriate?

Ref #	Issue	Recommendation
Q4-1	<p>Conservation Ontario generally supports the policy intent of 2.4.1 of the PPS related to water quality and quantity however, it is our opinion that this policy is not being implemented because there is no clear municipal understanding of how to implement it. Clearly water is a provincial interest and the Provincial Policy needs to provide definitive direction to municipalities. Conservation Ontario recommends that there be standards and guidelines for quality and quantity protection that cover not only reactive development planning but also to proactively address municipal growth planning. We feel that is necessary to undertake this planning in advance of setting growth targets so that new development can be directed to locations where the landscape can sustain it.</p>	<ol style="list-style-type: none"> 1. Add sub-section h) to 1.1.1. as follows: official plans, reviews or major urban expansions must be guided by a <i>watershed plan</i> which provides sufficient detail to protect or enhance both ecological and human health 2. Define <i>watershed plan</i>. We recommend the following definition: Characterizes existing physical and biological features and functions and their interrelationships as well as human influences and establishes performance objectives and provides guidance as to how to protect and enhance ecological and human health within the watershed. Watershed plans are prepared as a precursor in order to provide guidance to the implementation of the Provincial Policy Statement and other planning efforts. 3. Add the following additional sentence to Section 2.4.1: Local implementation will be determined through a <i>watershed plan</i> which will provide objectives and targets for protection and enhancement and guidance for implementation. 4. Revise the current statement in 2.4.1 to refer to “the feature and function of” rather than just referring to the function. It is our opinion that by simply referring to function, the policy can be interpreted as being no net loss and we feel that it would be more preferable for the policy to require protection of the feature as well as the function.

Ref #	Issue	Recommendation
Q4-2	There are policies in the PPS dealing with planning for agriculture uses. There is consensus that the PPS should be expanded to include policy (perhaps including definitions) to deal with nutrient management, intensive agriculture and so on. It is recognized that the proposed Bill 81, and its enacting regulations, will provide some direction in this regard.	Recommended that the agriculture policies of the PPS be responsive to the outcomes of the consultation on Bill 81 and its enacting regulations.

Ref #	Issue	Recommendation
Q4-3	<p>Full municipal services are preferred. That point is clear. Communal systems are the next priority but only if operated by a municipality or via agreement with a municipal / other public body. In practice these are usually “large systems” falling under MOE approval legislation; MOE seems clearly to prefer outright municipal ownership. The ‘partial services’ scenario (particularly where municipal water supply is available) is another area where existing policies are being challenged. The policy seems clear – such scenarios are only acceptable to address failed systems or where there are physical constraints. Circumstances are arising repeatedly where the “physical constraint” is a restricted lot size related to new, <u>not</u> pre-existing, lot creation. This is also leading to conflicts with Section 2.4 “Water Quality and Quantity”.</p> <p>In addition alternate technology such as the use of effluent filters, adoption of aerobic treatment units, peat technology, shallow buried trenches or artificial media filters are challenging assumptions on lot size in rural areas. These technologies are particularly useful in addressing failed system on existing lots of record. With respect to new development, however, the technology affords the opportunity to dramatically change the character of development in rural areas with the possible effect of transforming the countryside into an urban landform on a piece meal basis (see comments on rural lot creation). Industry has been quick to adapt to these new technologies. Government has not been so quick to come forward with Implementation Guidelines on how to safely utilize the technology on a sustainable basis in new development scenarios.</p>	Updated implementation guidelines are necessary to more equivocally address the matter of interpretation of the servicing hierarchy as well as to address the application of new technology in new development scenarios.

Ref #	Issue	Recommendation
Q4-4	<p>In considering the natural heritage of Ontario, the current Provincial Policy Statement provides for a greater level of protection for features south and east of the Canadian Shield than for those considered to be on the Shield (as illustrated by Figure 1 of the document). We have consulted with professional staff in Leeds and Grenville County, at the Cataraqui Region and Rideau Valley C.A.'s , in the City of Ottawa and at the District of Muskoka. All are concerned that this policy does not adequately recognize the ecological value of the Shield, nor does it recognize the increasing development pressure on the natural features and ecological functions of the southern Shield.</p> <p>It is acknowledged that local jurisdictions can adopt more restrictive policies than the minimums suggested by the Province. Nevertheless we believe that the development pressure being experienced is a matter of 'provincial interest' and that it is in the 'provincial interest' to protect or conserve the resource as required. The distinction between the southern portion of the Shield and those areas to its south and east be removed from the Statement <u>or</u> a new boundary line be created to reflect the development pressure. We suggest that natural features and areas which have been evaluated as provincially significant (i.e. ecologically important or unique within the scale of <u>the province</u>), should be protected from incompatible development, whether or not they are south and east of the Canadian Shield. Development and site alteration would thus not be permitted in any significant wetland; development within and adjacent to significant woodlands and valleylands on the Shield would be subject to the same tests as that occurring south and east of the Canadian Shield.</p> <p>The recommended change in policy would provide decision-makers with greater direction in protecting natural heritage on the southern Canadian Shield. In the event that the creation of a new boundary line was the preferred option for dealing with this matter, in Eastern Ontario a suitable boundary might, for instance, be Highway #7 but this does not address the issue within the City of Ottawa where likely the Ottawa River would be the most obvious demarcation line.</p>	<p>In Section 2.3 the references to significance "<i>south and east of the Canadian Shield</i>" should be removed. Sufficient development pressure is occurring in southern portions of the Shield that we believe it is in the provincial interest to ensure that development is subject to more thorough review and analysis. In the event that the reference can not be removed a new line should be established that more appropriately recognizes areas experiencing growth pressure. Resources will have to be committed by the Province to, at minimum, evaluate and classify the wetland areas or to establish an evaluation process.</p>

Question 5 Are the policies in the Provincial Policy Statement clear and understandable?

Ref #	Issue	Recommendation
Q5-1	<p>One of the PPS principles is "managing change and promoting efficient, cost effective development and land use patterns which stimulate economic growth and protect the environment and public health". Policy 2.2.3 Mineral Aggregates does not place an emphasis on protecting the natural environment. The primary focus is clearly to protect the aggregate resource. Concerns related to environmental impact are only dealt with from the perspective of how these may "preclude or hinder" the expansion or continued use of aggregate, rather than any recognized concern about protecting the environment from aggregate related land uses (e.g. aggregate expansion within a provincially significant wetland).</p>	<p>We recommend that mineral aggregates be subject to the same policy constraints as other land uses. A policy under 2.2.3 similar to the existing Policy 1.1.1f) is required. Policy 1.1.1.f) states: "Development and land use patterns which may cause environmental or public health and safety concerns will be avoided."</p>
Q5-2	<p>Section 1.1.1 of the Statement recommends the use of cost-effective development patterns that direct growth to urban areas and rural settlement areas (i.e. cities, towns, villages and hamlets). Despite this policy, it is observed, certainly in Eastern Ontario, that the predominantly rural municipalities are approving many severances outside of settlement areas. We are therefore observing year-round occupancy of new development on private lanes in recreational lake areas, the fragmentation of the rural agricultural landscape, and strip development along rural roads. Water quality impacts can be expected as the duration of occupancy on lakefronts increases.</p>	<p>Clarification of the Provincial intent and appropriate reinforcement should be outlined in the PPS. This may involve defining "other rural land uses" (Section 1.1.1. b)).</p> <p>Outputs associated with the new Municipal Report Card will be of significant assistance from an implementation perspective as it will quantify the precise annual level of lot creation within and outside settlement areas.</p>

Question 6 Are the policies being implemented successfully at the local level?

Ref #	Issue	Recommendation
Q6-1	Ongoing training support for stakeholders was identified by many conservation authorities as an issue.	MMAH be encouraged to provide continued training to the various stakeholders involved with PPS implementation.
Q6-2	Many conservation authorities identified a concern that there is a lack of funding for the completion of the necessary comprehensive technical studies to properly identify the extent areas to be addressed in local planning documents. The preferred approach involves identification of the areas on a systems basis and the inclusion of defensible mapping information and supporting policy in the comprehensive planning documents of the municipality. The difficulty is that municipalities and conservation authorities often do not have the financial resources to do the technical studies and as a result, the extent of the natural hazard and natural heritage areas is poorly defined, or not defined, and the protection is limited to policy. It is possible to meet the intent of the PPS without the technical studies however, the resulting policy framework tends to be reactive and the costs for individual technical assessment will soon exceed the cost of one comprehensive study. The comprehensive natural hazards and natural heritage studies would be captured by our recommendation that <i>watershed plans</i> be required as a precursor to land use planning as discussed in Q4-1 of this table. (Cross reference recommendation Q8-2 from hazards submission).	That the Province be encouraged to provide more support for municipalities and conservation authorities to undertake comprehensive technical studies to determine the extent of natural hazard and natural heritage areas (preferably covered in a more integrated fashion through a <i>watershed plan</i>) at the front end of the planning process. Conservation Ontario continues to encourage the Province to develop mechanisms for sustainable funding of <i>watershed plans</i> as a major source of information to guide planning decisions.
Q6-3	Many conservation authority responses encouraged the ongoing development of technical manuals, implementation manuals and other educational materials to support the PPS. These tools are critical for the continued success of the PPS and conservation authorities should be more involved in the identification of technical, training and education needs and the development of products to support these needs. (Cross reference recommendation Q8-1 from hazards submission).	That the Province continue to develop technical manuals and other training and education materials to support the implementation of the PPS and that the Province involve Conservation Ontario in assessing what is needed and in assisting in the preparation of the materials.
Q6-4	The previous submission prepared for natural hazards recommended that a preamble be added to Policy 3.1. (Cross recommendation Q1-1 from hazards submission). Preambles for each section would provide additional information throughout the PPS and assist with interpretation. These preambles could essentially be goal statements for the various sections.	That a preamble be added to each section of the PPS to assist with interpretation.

Question7 Are there policies that are no longer needed?

Ref #	Issue	Recommendation
Q7-1	No policies were identified.	

**PPS Five Year Review
 Conservation Ontario Responses to the One Window Questionnaire
 re: Section 3.1 “Natural Hazards”**

Question 1 Are the provincial land use planning interests which are related to your Ministry’s (CA’s) mandate being adequately addressed or protected through the Provincial Policy Statement, including linkages to Smart Growth? If they are not, please identify the interests affected and explain.		
Ref #	Issue	Recommendation
Q1-1	Several conservation authorities suggested that there should be a preamble which states that a preventative approach is preferred and that engineering should be the last alternative to be considered. In addition, the preamble needs to state that applying a safety factor to the hazardous lands and sites should be considered given climate changes etc. which may not rely on historic events to determine the hazardous lands and sites in the future.	That a preamble be added to Section 3.1 of the PPS and that this preamble emphasize that the preventative approach is preferred and that engineering solutions should only be used as a last alternative.
Q1-2	Several conservation authorities have identified a concern with the interpretation of the “have regard to” by planning authorities. It was suggested that a return to “shall be consistent with” should be considered. Since this is a review of the PPS and not the legislation, it was agreed that it was best to work with the existing phrase and recommend changes within the PPS that would assist with addressing the concern.	That a point be added to Section IV Implementation/Interpretation of the PPS which outlines the intent of “have regard to.” It is recommended that this point explain the meaning of the term and indicate that if there are no conflicting policy issues, the planning authority should be aiming for consistency with the PPS. It is felt that this interpretation information needs to be right in the PPS.
Q1-3	Several conservation authorities raised concerns with the access provisions of the PPS. A major concern relates to the requirement for safe access for vehicles and people and that the policy outlined in Section 3.1.3 d) does not appear to apply to lands that are outside of the hazard, such as a flood plain, but the flood plain must be crossed to reach the property. This issue does pose a significant risk and it should be addressed clearly in policy. It was felt that the best way to address this would be to prohibit development in areas that are not accessible and this would be achieved by adding an additional point to Section 3.1.2.	That the PPS be amended by adding a point d) to Section 3.1.2 which states the following: d) lands that are rendered inaccessible by people and vehicles as the result of a hazard process in the area.

Ref #	Issue	Recommendation
Q1-4	<p>Several conservation authorities raised concern with hazards from steep slopes that are associated with geological features. Wording should be added to the <i>hazardous sites</i> definition which would specifically include natural steep slopes and other hazardous processes. Clarification of what constitutes a steep slope would also need to be included. With the revised definition of <i>hazardous sites</i>, the following natural hazards would be covered:</p> <p>a) steep slopes on the Oak Ridges Moraine - presently fill regulated by the Ganaraska watershed</p> <p>b) Lake Iroquois shoreline steep slopes - Central Lake Ontario</p> <p>c) sink holes - Ausable Bayfield watershed</p>	<p>That the definition of <i>hazardous sites</i> be revised to include additional natural hazards. The recommended wording is as follows:</p> <p>Hazardous sites means property or lands that could be unsafe for <i>development</i> and <i>site alteration</i> due to naturally occurring hazards. These may include unstable soils (sensitive marine clays [leda], organic soils), unstable bedrock (karst topography), naturally occurring steep slopes (generally steeper than 3 horizontal: 1 vertical or otherwise unstable) or other hazardous processes.</p>

Question 2 Are any technical revisions to the PPS required (revisions which do not constitute changes in the policies but instead would be a clarification or further articulation of the policies)?		
Ref #	Issue	Recommendation
Q2-1	<p>Many conservation authorities indicated that comprehensive technical studies are the preferred method of defining the extent of hazard areas however, there is concern that the PPS does not provide enough encouragement for them to be completed. We are suggesting that wording encouraging comprehensive technical studies be added in a preamble to Section 3.1.</p>	<p>That the following wording be added to a preamble for Section 3.1 of the PPS: Development proponents and planning authorities are encouraged to identify natural hazard areas on a systems basis through the completion of technical studies. Without the benefit of comprehensive technical studies, more conservative assumptions may be required in the determination of the extent of a natural hazard.</p>

Ref #	Issue	Recommendation
Q2-2	Policy 3.1.2 of the PPS reads “Except as provided in Policy 3.1.2, <i>development</i> and <i>site alteration</i> may be permitted.....” Based on experience over the past five years of implementation, many conservation authorities have found this wording to be confusing. We are recommending that this sentence be reworded.	It is recommended that the first sentence of Policy 3.1.2 of the PPS be changed from “Except as provided in Policy 3.1.2, <i>development</i> and <i>site alteration</i> may be permitted.....” to “Except as prohibited in Policy 3.1.2, <i>development</i> and <i>site alteration</i> may be permitted.....”
Q2-3	Concern has been raised that the term “adverse environmental impacts” in Section 3.1.3 c) of the PPS is not defined. Use of the terms “adverse effects” and “negative impacts,” both of which are defined in the PPS, were considered. The term “adverse effects” as defined in the PPS provides the desired result.	That Section 3.1.3 c) of the PPS be revised by replacing “adverse environmental impacts” with “ <i>adverse effects</i> .”
Q2-4	Concern was raised by conservation authorities that point 5 in Section IV Implementation/ Interpretation of the PPS conflicts with the latter part of the definition of <i>development</i> that is provided in the glossary as it relates to infrastructure. For clarity the latter part of the definition of development should be removed.	That the definition of development be revised as follows: <i>Development</i> means the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the <u>Planning Act</u> (remove “but does not include activities that create or maintain <i>infrastructure</i> authorized under an environmental assessment process; or works subject to the <u>Drainage Act</u> ”)

Question 3 Are there any emerging issues related to your Ministry's (CA's) mandate, or any areas of provincial interest, which require provincial land use planning policy direction that is not already addressed through the PPS?

Ref #	Issue	Recommendation
Q3-1	Many conservation authorities identified climate change as an emerging issue. The concern is that hazard management is done on a risk management basis with probabilities calculated to determine the appropriate level of risk for society. If the conditions that are used to calculate the risk change, the implementation framework must be able to change in response. The PPS can only anticipate that the area affected by hazards may change and provide commentary on this possibility. The selection of appropriate criteria to be used to identify the land effected is a matter to be addressed through technical guidelines and implementation guidelines.	That a revision to the PPS to address the possibility of changing conditions which define the extent of hazard lands be considered. It is also recommended that the factors used to define the area effected by hazards be regularly reviewed and that if warranted, they be changed.

Question 4 Are there any policies in the PPS which may no longer be necessary to ensure the protection of provincial interests?

Ref #	Issue	Recommendation
Q4-1	The existing natural hazards policy framework of the PPS is necessary as a minimum.	That the current policy framework of the PPS related to hazards be considered as a minimum and that changes resulting from this five year review build on the current framework.

Question 5 Have any policies in the PPS been difficult to implement or are you aware of any aspects of the PPS which have been a problem for your Ministry (CA) or others?

Ref #	Issue	Recommendation
Q5-1	Conservation authorities identified concerns with the application of the PPS to existing lots of record. While it is recognized that Regulations enacted under the Conservation Authorities Act provide a means to react to applications for development on existing lots of record, there needs to be affirmation at the Provincial level that the responsibility and accountability lies with the municipal approval agencies. The PPS should provide the direction needed for municipalities to proactively prevent development that would introduce new risks to life and property. Additionally, we note that this modification will also be beneficial when applying Natural Heritage Policies.	That Section IV Implementation/Interpretation include a point about how the PPS policies relate to existing lots of record. Specifically, the Province should be advising that the application of these policies may result in sterilization of existing lots of record.

Question 6 Has the process of balancing competing land use planning interests within the framework of the provincial planning policies been working effectively?

Ref #	Issue	Recommendation
Q6-1	No recommendations provided related to this question.	

Question7 Is your Ministry (CA) satisfied that the policies in the PPS are being effectively implemented through municipal planning policies and through land use planning decisions?		
Ref #	Issue	Recommendation
Q7-1	Many conservation authorities noted that the municipalities value their input regarding natural hazards when creating local policies and when judging the merits of site-specific applications. A majority of municipal decisions on applications involving natural hazards appear to reflect the intent of provincial policy. It is however noted that some municipalities have Official Plans and Zoning By-laws that predate the PPS and therefore the scope and intent of the PPS is not reflected. This causes difficulty with existing lots of record (cross reference recommendation Q5-1).	That municipalities be encouraged to regularly update their official plans and zoning by-laws. It is also recommended that the importance of updating local planning documents be included in Section IV Implementation / Interpretation.

Question 8 Is there a need for any education, training, written educational materials or other similar type of initiatives to improve the effective implementation of the PPS? Please specify.		
Ref #	Issue	Recommendation
Q8-1	Many conservation authority responses encouraged the ongoing development of technical manuals, implementation manuals and other educational materials to support the PPS. These tools are critical for the continued success of the PPS and conservation authorities should be more involved in the identification of technical, training and education needs and the development of products to support these needs.	That the Province continue to develop technical manuals and other training and education materials to support the implementation of the PPS and that the Province involve Conservation Ontario in assessing what is needed and assisting in the preparation of the materials.

Ref #	Issue	Recommendation
Q8-2	<p>Many conservation authorities identified a concern that there is a lack of funding for the completion of the necessary comprehensive technical studies to properly identify the extent of hazard areas to be addressed in local planning documents. The preferred approach involves identification of the hazard areas on a systems basis and the inclusion of defensible mapping information and supporting policy in the comprehensive planning documents of the municipality. The difficulty is that municipalities and conservation authorities often do not have the financial resources to do the technical studies and as a result, the extent of the hazard areas is poorly defined, or not defined, and the protection is limited to policy. It is possible to meet the intent of the PPS without the technical studies however, the resulting policy framework tends to be reactive and the costs for individual technical assessment of hazards will soon exceed the cost of one comprehensive study.</p>	<p>That the Province be encouraged to provide more support for municipalities and conservation authorities to undertake comprehensive technical studies to determine the extent of hazard areas at the front end of the planning process.</p>

Question 9 Does your Ministry (CA) recommend any changes to the PPS which are not addressed through the preceding questions?		
Ref #	Issue	Recommendation
Q9-1	No recommendations provided related to this question.	

**CONSERVATION ONTARIO,
MINISTRY OF NATURAL RESOURCES &
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING**

**MEMORANDUM OF UNDERSTANDING ON PROCEDURES TO
ADDRESS CONSERVATION AUTHORITY
DELEGATED RESPONSIBILITY**

PURPOSE OF THE MOU

The MOU defines the roles and relationships between Conservation Authorities (CAs), the Ministry of Natural Resources (MNR), and the Ministry of Municipal Affairs and Housing (MMAH) in planning for implementation of CA delegated responsibilities under the Provincial One Window Planning System.

BENEFITS TO SIGNATORY PARTIES

It is beneficial for all parties to enter into this agreement because it clarifies the roles of CAs and the unique status of CAs in relationship to the Provincial One Window Planning System.

DELEGATED RESPONSIBILITY FOR NATURAL HAZARDS

CAs were delegated natural hazard responsibilities by the Minister of Natural Resources. A copy of the delegation letter is attached. This letter (dated April 1995) went to all CAs and summarizes delegations from the MNR including flood plain management, hazardous slopes, Great Lakes shorelines, unstable soils and erosion which are now encompassed by Section 3.1 "Natural Hazards" of the Provincial Policy Statement (1997). In this delegated role, the CA is responsible for representing the "Provincial Interest" on these matters in planning exercises where the Province is not involved.

This role does not extend to other portions of the PPS unless specifically delegated or assigned in writing by the Province.

ROLES AND RESPONSIBILITIES

Ministry of Natural Resources

- a) MNR retains the provincial responsibility for the development of flood, erosion and hazard land management policies, programs and standards on behalf of the province pursuant to the *Ministry of Natural Resources Act*.
- b) Where no conservation authorities exist, MNR provides technical support to the Ministry of Municipal Affairs and Housing on matters related to Section 3.1 of the Provincial Policy Statement in accordance with the “Protocol Framework – One Window Plan Input, Review and Appeals”.
- c) MNR, in conjunction with MMAH, co-ordinates the provincial review of applications for Special Policy Area approval under Section 3.1 of the PPS.

Ministry of Municipal Affairs and Housing

- a) MMAH coordinates provincial input, review and approval of policy documents, and development proposals and appeals to the Ontario Municipal Board in accordance with the “Protocol Framework One Window Plan Input Review and Appeals”.
- b) Where appropriate, MMAH will consult conservation authorities as part of its review of policy documents and development proposals to seek input on whether there was “regard to” Section 3.1 of the PPS.
- c) Where there may be a potential conflict regarding a Conservation Authority’s comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the affected ministries and the Conservation Authority so that a single integrated position can be reached.
- d) Where appropriate, MMAH will initiate or support appeals to the OMB on planning matters where there is an issue as to whether there was “regard to” Section 3.1 of the PPS.
- e) MMAH, in conjunction with MNR, coordinates the provincial review of application for Special Policy Area approval under Section 3.1 of the PPS.

Conservation Authorities (CAs)

- a) The CAs will review policy documents and development proposals processed under the *Planning Act* to ensure that the application has appropriate regard to Section 3.1 of the PPS.
- b) Upon request from MMAH, CAs will provide comments directly to MMAH on planning matters related to Section 3.1 of the PPS as part of the provincial one window review process.
- c) Where there may be a potential conflict regarding a Conservation Authority's comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the affected ministries and the Conservation Authority so that a single integrated position can be reached.
- d) CAs will apprise MMAH of planning matters where there is an issue as to whether there has been "regard to" Section 3.1 of the PPS to determine whether or not direct involvement by the province is required.
- e) Where appropriate, CAs will initiate an appeal to the OMB to address planning matters where there is an issue as to whether there has been "regard to" Section 3.1 of the PPS is at issue. CAs may request MMAH to support the appeal.
- f) CAs will participate in provincial review of applications for Special Policy Area approval.
- g) CAs will work with MMAH, to develop screening and streamlining procedures that eliminate unnecessary delays and duplication of effort.

FURTHER CA ROLES IN PLAN INPUT, PLAN REVIEW AND APPEALS

CAs also undertake further roles in planning under which they may provide plan input or plan review comments or make appeals.

1. Watershed Based Resource Management Agency

CAs are corporate bodies created by the province at the request of two or more municipalities in accordance with the requirements of the *Conservation Authorities Act (CA Act)*. Section 20 of the *CA Act* provides the mandate for an Authority to offer a broad resources management program. Section 21 of the *CA Act* provides the mandate to have watershed-based resource management programs and/or policies that are approved by the Board of Directors.

CAs operating under the authority of the *CA Act*, and in conjunction with municipalities, develop business plans, watershed plans and natural resource management plans within their jurisdictions (watersheds). These plans may recommend specific approaches to land use and resource planning and management that should be incorporated into municipal planning documents and related development applications in order to be implemented. CAs may become involved in the review of municipal planning documents (e.g., Official Plans (OPs), zoning by-laws) and development applications under the *Planning Act* to ensure that program interests developed and defined under Section 20 and 21 of the *CA Act* are addressed in land use decisions made by municipal planning authorities. In this role, the CA is responsible to represent its program and policy interests as a watershed-based resource management agency.

2. Planning Advisory Service to Municipalities

The provision of planning advisory services to municipalities is implemented through a service agreement with participating municipalities or as part of a CAs approved program activity (i.e., service provided through existing levy). Under a service agreement, a Board-approved fee schedule is used and these fee schedules are coordinated between CAs that “share” a participating municipality. The “Policies and Procedures for the Charging of CA Fees” (MNR, June 13, 1997) identifies “plan review” activities as being eligible for charging CA administrative fees.

The CA is essentially set up as a technical advisor to municipalities. The agreements cover the Authority’s areas of technical expertise, e.g., natural hazards and other resource management programs. The provision of planning advisory services for the review of *Planning Act* applications is a means of implementing a comprehensive resource management program on a watershed basis.

In this role, the CA is responsible to provide advice on the interpretation of the Provincial Policy Statement (PPS) under the terms of its planning advisory service agreement with the municipality. Beyond those for Section 3.1 “Natural Hazards” where CAs have

delegated responsibility, these comments should not be construed by any party as representing the provincial position.

3. CAs as Landowner

CAs are landowners and as such, may become involved in the planning process as a proponent or adjacent landowner. Planning Service Agreements with municipalities have anticipated that this may lead to a conflict with our advisory role and this is addressed by establishing a mechanism for either party to identify a conflict and implement an alternative review mechanism.

4. Regulatory Responsibilities

a) *CA Act* Regulations

In participating in the review of development applications under the *Planning Act*, CAs will (i) ensure that the applicant and municipal planning authority are aware of the Section 28 regulations and requirements under the *CA Act*, and, (ii) assist in the coordination of applications under the *Planning Act* and the *CA Act* to eliminate unnecessary delay or duplication in the process.

b) Other Delegated or Assigned Regulatory/Approval Responsibility

Federal and provincial ministries and municipalities often enter agreements to transfer regulatory/approval responsibilities to individual CAs (e.g., Section 35 Fisheries Act/DFO; Ontario Building Code/septic tank approvals). In carrying out these responsibilities and in participating in the review of development applications under the *Planning Act*, CAs will (i) ensure that the applicant and municipality are aware of the requirements under these other pieces of legislation and how they may affect the application; and, (ii) assist in the coordination of applications under the *Planning Act* and those other Acts to eliminate unnecessary delays or duplication in the process.

CANCELLATION OR REVIEW OF THE MOU

The terms and conditions of this MOU can be cancelled within 90 days upon written notice from any of the signing parties. In any event, this document should be reviewed at least once every two years to assess its effectiveness, its relevance and its appropriateness in the context the needs of the affected parties. "Ed. Note: 90 days is to provide time for the parties to reach a resolution other than cancellation".

**MEMORANDUM OF UNDERSTANDING ON PROCEDURES TO ADDRESS
CONSERVATION AUTHORITY DELEGATED RESPONSIBILITY**

I hereby agree to support the provisions contained in this Memorandum of Understanding as an appropriate statement of the roles and responsibilities of relevant Ministries and Conservation Authorities in the implementation of the Provincial Policy Statement.

Jan 19, 2001: Original signed by

David de Launay
Director
Lands and Waters Branch
Ministry of Natural Resources

Date

Feb 12, 2001: Original signed by

Audrey Bennett
A/Director
Provincial Planning and Environmental Services Branch
Ministry of Municipal Affairs and Housing

Date

Jan 01, 2001: Original signed by

R.D. Hunter
General Manager
Conservation Ontario

Date



Ministry of Natural Resources

APR 19 1995

95-01252-MIN

Mr. Donald Hocking
Chair
Upper Thames River Conservation Authority
R.R. #6
London, Ontario
N6A 4C1.

Dear Mr. Hocking:

This letter is with regard to the responsibilities of Conservation Authorities in commenting on development proposals.

The Government of Ontario is continuing to move forward on reforms promoting greater local involvement in decision-making, streamlining of municipal planning and other approval processes, and improved environmental protection. Ontario's Conservation Authorities continue to be important partners in this process.

In 1983, Conservation Authorities were delegated commenting responsibility on flood plain management matters. This was followed in 1988 by a similar delegation of commenting responsibility for matters related to flooding, erosion, and dynamic beaches along the shorelines of the Great Lakes-St. Lawrence River system.

At present, the Ministry and Conservation Authorities continue to independently review and provide input to municipalities and the Ministry of Municipal Affairs on development matters related to riverine erosion, slope, and soil instability. Although Authorities and the Ministry share similar objectives, this overlap and duplication of efforts have occasionally led to differences in comments which, in turn, have sometimes resulted in confusion, delays and expense for development proponents. As part of the current Planning Reform initiative, there is an opportunity to clarify the roles and responsibilities related to these important hazard management issues.

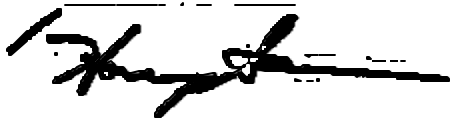
Through their flood plain, watershed and Great Lakes-St. Lawrence River shoreline management planning initiatives, Conservation Authorities have made good progress in streamlining approval processes and strengthening provincial-municipal partnerships. By extension, I believe that it would be appropriate to recognize the well-developed expertise and capabilities of Conservation Authorities in the evaluation of riverine erosion, slope and soil instability matters and to formally confirm Conservation Authorities as the lead commenting agency. This would result in further streamlining of approval processes, the promotion of environmentally sound development, and the provision of an economic stimulus for the province.

As of March 29, 1995, Conservation Authorities, where they exist, will have sole commenting responsibilities on development proposed in areas subject to riverine erosion, slope instability and soil instability, such as in areas of high water tables, organic or peat soils, and leda, or sensitive marine clay soils. Implementation of this policy by authorities would continue to be eligible for provincial grant. Where Conservation Authorities exist, I have asked Ministry staff to focus their comments on all other matters of direct interest and concern to the Ministry. Where Conservation Authorities do not exist, the Ministry will continue its commenting role on these matters.

The Ministry of Natural Resources will continue as lead administrative Ministry having overall Government responsibility for hazard management policies and programs. In this regard, the Ministry will continue to provide leadership, policy direction and advisory assistance to the Conservation Authorities.

Your continued participation in the delivery of this important component of the overall provincial hazard management program will serve to strengthen the partnership between the Ministry and the Conservation Authorities.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Howard Hampton", written over a horizontal line.

Howard Hampton
Minister