



November 23, 2012

Darryl Lyons
Team Lead, Ministry of Municipal Affairs and Housing
Local Government and Planning Policy Division
Provincial Planning Policy Branch
777 Bay Street, Floor 14
Toronto, ON M5G 2E5

Re: Conservation Ontario's Comments on the "Provincial Policy Statement Five Year Review Public Consultation on Draft Policies and the Review Cycle for the Provincial Policy Statement" (EBR #011-7070)

Thank you for the opportunity to provide comment on the "Provincial Policy Statement Five Year Review: Public Consultation on Draft Policies and the Review Cycle for the Provincial Policy Statement" (EBR #011-7070). The following comments on the Draft Provincial Policy Statement (PPS) are submitted for your consideration by Conservation Ontario, which is the network of Ontario's 36 Conservation Authorities (CAs). These comments are not intended to limit your consideration of comments submitted individually by Conservation Authorities.

Conservation Ontario's comments will focus on four main themes: natural hazards, natural heritage, Great Lakes, and aggregates and respond to the five questions posed by the Ministry of Municipal Affairs and Housing (MMAH). As a general comment, Conservation Ontario strongly supports the inclusion of the additional references to climate change and also, encourages the Government to finalize and approve the PPS 2012 at the earliest opportunity.

1. Do the draft policies provide sufficient direction to effectively protect provincial interests in land use planning?

Natural Hazards:

In their review of Section 3: Protecting Public Health and Safety CA staff expressed some concern that this draft PPS resulted in increased ambiguity with regard to effectively protecting provincial interests in land use planning. Specifically, the insertion of the word "generally" into S. 3.0 when speaking about areas where there "is an unacceptable risk to public health or safety" seems to be incongruous and is

not supported. Development should always be directed away from hazards where there are “unacceptable risks”.

CAs were very supportive of the addition at the end of the section “and not create new or aggravate existing hazards” and feel that this will assist in effectively protecting provincial interests. Similarly, the reference to “avoiding or mitigating risks to public health and safety” in S. 1.1.3.4 was likewise supported.

S. 3.1.5 (a) speaks to institutional uses in hazardous lands and sites. CA staff had no major concern with moving a portion of the subsection into the definition section however they recommend further amendments to this section to protect provincial interests. Specifically, it is recommended that this section be amended to read either “an *institutional use*” or “an *institutional use including, but not limited to, those* associated with hospitals, nursing homes, pre-school,...”. This change is recommended as the current wording is too exclusive of similar uses (such as a nursing home v.s. a seniors home) and the definition provides sufficient direction to practitioners to make decisions related to institutional uses.

It is also recommended that at the end of S. 3.1.5 (b) the word “and” be **deleted** and replaced with the word “or”. The list of uses where development shall not be permitted to locate in hazardous lands should be mutually exclusive.

Natural Heritage:

Conservation Authority staff were highly supportive of the new S. 2.1.3 with regard to the requirement to identify *natural heritage systems* in Ecoregions 6E and 7E and the strengthened support for coastal wetlands (see specific comment in Great Lakes section below). Conservation Authorities remain committed to a systems-based natural heritage system, as compared to the rest of S. 2.1.5 which appears to be very feature based. The Province is encouraged to incorporate systems-based natural heritage approaches whenever possible in the PPS.

Given the staggering loss of wetlands in Southern Ontario, Conservation Ontario strongly urges the government to consider protecting all wetlands in Ecoregions 5E, 6E and 7E that are not subject to policy 2.1.4 (b) to protect the provincial interest in land use planning. See further comments on 2.1.4 (b) regarding protection of all coastal wetlands in Great Lakes section below.

New policy 2.1.9 (previously 2.1.7) remains unchanged and indicates that nothing in the natural heritage section is intended to limit the ability of existing agricultural uses to continue. Conservation Authorities are supportive of the agricultural community and feel that this section provides a good representation of the province’s abilities to protect the provincial interest in agriculture in balance with other provincial priorities. In order to maintain that balance, Conservation Ontario recommends keeping the new 2.1.9 in its present state.

Aggregate Resources:

Conservation Authority staff expressed concern with the draft S. 2.5.3.2 as it was felt that this section did not provide sufficient direction to protect all of the province’s interests in land use planning. Based on the interpretation, it appears that this section will allow the destruction of significant wetlands, woodlands, valleylands, wildlife habitat, areas of natural and scientific interest and coastal wetlands for an undisclosed period of time, provided the *ecological functions* will be restored. This section does not take into account the ecological service that will be lost during the time-frame and does not require an

explicit restoration of the ecological features of the site. It is questioned if rehabilitation can maintain ecological functions that existed prior to the removal of features. It is recommended that the Province consider an approach similar to what is contained in S. 4.3.2 (3) of the *Greenbelt Plan* which prohibits aggregate operation in significant wetlands, significant habitat of endangered species and threatened species, and significant woodlands unless the woodland is occupied by young plantation or early successional habitat. It is recommended, at minimum, that this section be amended to include a requirement to restore the ecological features and to limit the timeframe for restoration of the site.

Great Lakes:

Success in implementation of Ontario's Draft Great Lakes Strategy requires complementary indications of provincial interest in the PPS and Conservation Ontario is strongly supportive of the inclusion of the specific Great Lakes references including:

- 1.2.1 (e) which speaks to the need for a coordinated, integrated and comprehensive approach when dealing with planning matters within and across municipalities and with other levels of government, agencies and boards including: ecosystem, shoreline, watershed and Great Lakes related issues
- Section 2 Natural Heritage preamble which speaks to maintaining biodiversity and protecting the health of the Great Lakes
- 4.1.1 which recognizes agreements related to the protection of the Great Lakes

Additionally, Conservation Ontario is strongly supportive of the following sections as further support of protection of the Great Lakes and the Strategy:

- Inclusion of the concept of protecting coastal wetlands in 2.1 Natural Heritage policies
- 2.2.1 (a) inclusion of reference to watersheds as the ecologically meaningful scale for integrated and long-term planning, which can be a foundation for considering cumulative impacts of development
- Inclusion of new policies for planning for stormwater management (1.6.5.7) under Section 1.6 "Infrastructure and Public Service Facilities" and inclusion of a new policy (1.6.2) that encourages green infrastructure approaches

There is much evidence that biodiversity is achieved through the protection of a connected natural heritage system and the natural heritage policies as indicated above are still feature based. A shift to natural heritage systems emphasis would further protect the health of the Great Lakes. From a feature-based perspective, it is unclear why the islands in Lake Huron and the St. Marys River are excluded from S. 2.1.5 (b) and (c) and how those clauses will effectively protect provincial interests in land use planning.

The historic loss of southern Ontario's coastal wetlands post-European settlement is conservatively estimated at 80%. Development, the impacts of climate change, water level variability and biological pressures (e.g. invasive *Phragmites*) all contribute to the cumulative and continuing incremental loss of coastal wetlands and therefore all coastal wetlands should be considered significant, whether evaluated or not. Given the pressures facing coastal wetlands, Conservation Ontario requests that the Province go further in the protection of all coastal wetlands and amend section 2.1.4 (b) **by removing the reference to "significant"** in order to adequately protect the provincial interest.

2. Are there additional land use planning matters that require provincial policy direction and which are not included?

Natural Hazards:

Additional provincial policy direction is required for *Special Policy Areas*. It is recommended that S. 3.1.4 (a) be amended to include **“No new development, intensification of development or site alteration is permitted within a *Special Policy Area* unless it conforms with the policies approved for use in the designated *Special Policy Area*”** at the end. This would clarify that all changes to policies (not just site specific policy or boundary) are subject to provincial approval.

3. Do you foresee any implementation challenges with the draft policies?

Natural Hazards:

Conservation Authority staff are highly supportive of the inclusion of S. 3.1.3 which requires planning authorities to consider the potential impacts of climate change. Conservation Authority expertise in the subject area varies quite widely, and there was concern expressed that this clause may result in uneven application across the province unless additional provincial guidance is provided.

As per the comments in #1, Conservation Authority staff are very concerned with the inclusion of the word **“generally”** in S. 3. It was felt that that word weakened the statement and may lead to implementation challenges should a CA recommend that development be directed away from those areas. It is recommended that this word be **removed**.

The definition of *two zone concept* (S. 3.1.6) may infer that the floodway is the only hazardous area to public health and safety. While it is understood that this definition is attempting to convey that there are two elements in the two zone, it is recommended that the first sentence in the definition be **deleted** or that the definition of two zone from the “Technical Guide River & Stream Systems: Flooding Hazard Limit” be utilized. The definition needs to clearly articulate the risks so that implementation issues do not arise.

The intent of S. 3.1.7 is not clear to all CA staff. This section should be revised to clarify if it is germane to only two zones. It is also recommended that this section be amended to clarify that institutional uses are not permitted in the two zone, otherwise inconsistent implementation of this policy may occur.

Natural Heritage:

CA staff felt that the implementation of the PPS would be augmented by making reference to the technical guidance available. The appropriate wording could be adapted from the inside cover of the 2005 PPS to read, “Technical guidance may be available to assist planning authorities and decision-makers with implementing the policies of the Provincial Policy Statement”. This general statement could be located in Section 4.0 Implementation and Interpretation. This enables a cross reference from the provincial guidance documents that indicate that they are intended to support implementation of the PPS.

The province is also encouraged to make the definition of concepts consistent between the PPS and other provincial plans for ease of implementation. For example, the Greenbelt Plan also references an “Agricultural System” as well as a “Natural System”. These definitions should be coordinated whenever possible.

Great Lakes:

Notwithstanding the above stated support (see #1 for details) for protecting the health of the Great Lakes, CA staff indicate that there is inadequate policy direction and confusion with existing definitions in the PPS in Section 2, which could result in implementation challenges with the draft PPS.

For example, Section 2.1.2 makes reference to surface water features which by definition only includes inland lakes since the PPS defines the Great Lakes St. Lawrence River system separately for purposes of the Natural Hazards section (3.1). It is recommended that “**and the Great Lakes-St. Lawrence River system**” be added as one of the linkages to be recognized in S.2.1.2.

It is understood that inclusion of reference to “surface water features including shoreline areas” in the Water policies (s.2.2) is intended to support protection of the Great Lakes, however, it does not have that effect as currently drafted. Surface water features only include ‘inland lakes’ by definition and it is unclear as to how ‘shoreline areas’ differ from “the associated riparian lands” referenced in the definition of surface water feature. To ensure that the reference to shoreline areas relates to protection of Great Lakes, it is recommended that the following amendment be made to s.2.2.1(c) and (d): “surface water features **and shoreline areas of the Great Lakes-St. Lawrence River system**”.

Finally, CA staff CA staff felt that there were significant implementation challenges as it relates to aspects of the new policy for planning for stormwater management (1.6.5.7) under Section 1.6 “Infrastructure and Public Service Facilities” and the existing policy 2.2.1 (g). Of specific concern is the language related to ‘maintaining or increasing the extent of vegetative and pervious surfaces’. In an urbanizing context, staff are unclear as to how the extent of pervious surfaces could be maintained or increased given that the land use is likely converting from an agricultural use (close to 100% pervious) to an urban use (often close to 80-90% impervious). While staff agree that efforts should be made to minimize changes in water balance, it would seemingly not be possible to increase nor maintain the vegetative and pervious surfaces in this context. It is suggested that the term “**maximizing**” vegetative and pervious surfaces would be more accurate.

4. Is additional support material needed to help implement the Provincial Policy Statement?

Natural Hazards:

As per the comments in #3, Conservation Authority staff would require support material in order to equitably apply S. 3.1.3. It is requested that the Province ensure that the technical guidance to support the implementation of the PPS is as up-to-date as possible. Some technical guidelines (e.g. Natural Hazards) in use have not received a detailed review since the 1980s or 1990s and must now be updated to keep pace with the current policy regime and advancing science. When updating the technical guidelines additional support material will be needed to implement the Special Policy Areas provisions.

Natural Heritage:

As per the comments in #3, making a reference to the technical guides which support the implementation of the PPS will also be helpful. This addition would be valuable because it would recognize the status of these documents, which are sometimes questioned in OMB hearings.

Great Lakes (and Stormwater Management Planning):

Further to new policies 1.6.5.7 and 1.6.2 which Conservation Ontario strongly support, the Stormwater Management Planning and Design Manual should be updated to incorporate the most current practices in Low Impact Development (LID).

5. Do you think that the legislated Provincial Policy Statement review cycle should be extended from the current 5-year period?

Conservation Authority staff feel that the current five year review period is appropriate. The five year period provides sufficient time to work through policy implementation and to identify any ineffective policies. Additionally, the five year review period allows the MMAH to address existing or emerging land use issues in a timely manner.

The five year review period is reasonable and is similar to other planning document update timelines. Once the opportunity for consultation is taken into account, the five year review period generally translates into an eight year period. Should the MMAH consider extending the five year review cycle, Conservation Ontario requests that the government allow for minor amendments between review cycles and commit to having the process completed within the prescribed time period (i.e. a 10 year review cycle would translate into a new PPS every 10 years).

Thank you for the opportunity to comment on Draft Policies and the Review Cycle for the Provincial Policy Statement. We look forward to continuing our dialogue with you to resolve our concerns, particularly around the proposed amendments to S. 3 Protecting Public Health and Safety. Conservation Ontario strongly supports that the Province complete the amendments to the PPS as soon as possible.

If you have any questions regarding these comments, please contact Bonnie Fox at extension 223 or Leslie Rich at extension 228.

Sincerely,



Bonnie Fox, CAE
Manager, Policy and Planning



Leslie Rich, MCIP, RPP
Policy and Planning Officer

c.c. Conservation Authority GMs/CAOs
Peter Hulsman, Manager- Land & Water Services Section, MNR
Jennifer Keyes, Manager- Great Lakes and Water Policy Section, MNR
Wendy Ren, Manager-Land Use Policy Section, MOE