

DRAFT

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Ladies and gentlemen,

Re: ERO # 019-0279 Provincial Policy Statement Review

Thank you for the opportunity to comment on the proposed changes to the Provincial Policy Statement (PPS). We, the undersigned organizations, believe that contrary to the government's stated intent many of the proposed changes to the PPS will diminish protections for the natural environment and farmland across Ontario. Overall, the proposed changes do not present a balanced approach to land use planning and they unduly favour aggregates extraction and development over other provincial interests, in particular natural heritage and agriculture.

Achieving the provincial goal of enhancing the quality of life for all Ontarians (PPS Preamble, p.1) requires policy direction that will protect and restore the lands and waters that sustain us and that will direct development to suitable areas. With that goal in mind, we outline below our concerns and recommendations.

1. Aggregates extraction should not override protections for significant natural heritage and prime agricultural land.

The PPS has long been faulted for giving preference to aggregates extraction over protection of water resources, wetlands, woodlands, wildlife habitat and prime farmland. Unfortunately, the proposed revisions include a significant change that would further prejudice other values and offer even more preferential treatment to aggregates extraction. This would occur through circumvention of the current protections offered in policies 2.1.5, 2.1.6 and 2.17.

The proposed new policy 2.5.2.2 would permit aggregates extraction in all significant natural features currently protected under the PPS: i.e., provincially significant wetlands (except in southern Ontario), provincially significant woodlands, valleylands and wildlife habitat, significant Areas of Natural and Scientific Interest, fish habitat and the habitat of threatened and endangered species. It would apply across Ontario, except in the Greenbelt.

The rationale for the proposed amendment rests on the assumption that natural areas destroyed by pits or quarries will eventually be rehabilitated, as required by law. However, it fails to acknowledge that aggregates operations are often open for decades, or that legal requirements to rehabilitate sites are often poorly enforced and routinely ignored. It also fails to account for the loss of significant and/or at-risk animals, plants and their habitats in the meantime - and likely permanently, as sites are rarely returned to their original state.

The poor record of rehabilitation of aggregates operations has been thoroughly covered in past reports of the Environmental Commissioner of Ontario which have revealed that:

- Aggregates operations are often open for decades.¹ For example, most existing quarries in the Greenbelt are more than 50 years old.²
- Most operators are not conducting progressive or final rehabilitation as required.³
- Rehabilitation rates for end-of-use pits and quarries remain low, leaving long-term damage by not returning sites to useful land uses.⁴
- Land is rarely returned to its original form through rehabilitation.⁵
- The inspection and enforcement of rehabilitation standards are often inadequate.⁶

In light of the evidence, the premise upon which the proposal rests, that “long-term rehabilitation can demonstrate no negative impacts on the natural features or their ecological functions,” has no merit. There is no fixed term to aggregates licences. They are open-ended, so that pits and quarries often remain open for decades. Consequently, rehabilitation may not occur for many, many years— if it ever occurs. The loss of natural heritage features and prime farmland would be long-term, and likely permanent. In fact, there are thousands of abandoned pits and quarries in Ontario that have yet to be rehabilitated. The time lag allowed for rehabilitation and before the need to demonstrate “no negative impacts” means in effect that new aggregate operations would be permitted to occur in sensitive sites despite lack of proof of future rehabilitation success.

Further, the science of rehabilitation is far from perfect. For this reason, as is widely recognized in the field of ecological restoration, rehabilitation should never be used as an excuse to destroy high-value landscape features. In this case, removing huge quantities of rock and gravel results in permanent changes to hydrology and soils, and thus to the conditions which support crops and plant and animal life. Humans are simply unable to fully recover the biodiversity and agricultural values and ecological functions that are lost when aggregates extraction proceeds. For example, bogs, swamps and older forests take hundreds of years to develop. They support a complex interplay of vegetation, wildlife and soils with many plant species dependent on symbiotic relationships with soil fungi. There is also the

¹ Environmental Commissioner of Ontario, *Environmental Protection Report 2017*, p. 174.

<http://docs.assets.eco.on.ca/reports/environmental-protection/2017/Good-Choices-Bad-Choices.pdf#page=166> ; Environmental Commissioner of Ontario, *Environmental Protection Report 2018*, p. 15.

<https://docs.assets.eco.on.ca/reports/environmental-protection/2018/Back-to-Basics-Volume4-Ch1.pdf#page=12>

² Environmental Commissioner of Ontario, *Annual Report 2006–2007*, p. 46.

<https://media.assets.eco.on.ca/archive/2015/03/2006-07-AR.pdf#page=46>

³ ECO, 2006 - 2007, p. 46.

⁴ ECO, 2017, p. 174.

⁵ ECO, 2017, p. 174.

⁶ ECO, 2018, p. 15, ECO, 2017, p. 181.

basic question of what happens to wildlife that is dependent on the forests and wetlands that have been lost to the gravel or quarry. They will perish long before a young planted wetland or forest is supposedly re-created on the quarry or gravel pit floor.

Recommendation 1: Remove proposed new policy 2.5.2.2 which would allow aggregates extraction to override the protection of the significant and at-risk natural heritage features.

The current PPS already allows for aggregates extraction in prime agricultural areas on the premise of future rehabilitation. For the reasons listed above (rehabilitation seldom occurs; land is rarely returned to its original form; inspection and enforcement are inadequate; removal of large quantities of rock and gravel changes the conditions (hydrology, soils) that support crops, plants and wildlife) the premise is without merit. We concur with [agricultural organizations] that this section should be removed.

Recommendation 2: Remove current policy 2.4.4.1 which allows aggregates extraction to override protections for prime agricultural land on the faulty premise of future rehabilitation.

Yes, Ontarians need stone, sand and gravel, for everything from homes to roads to subway tunnels. But there are better places from which to extract these resources than our most precious and vulnerable natural areas and prime agricultural land. Promised future rehabilitation (without a proper enforcement framework) must not be used as a smoke screen for the long-term and frequently permanent loss of these features.

2. Current requirements for compact development, efficient use of infrastructure, integrated land use planning and achieving intensification and redevelopment targets should be retained.

Several proposed changes to the PPS would remove requirements intended to curb urban sprawl and support well-planned, efficient land use. In each of the following cases, the government is proposing to remove the word “shall” and replace it with “should” (change underlined) eliminating any obligation for municipalities to implement the policy:

1.1.3.6 New development taking place in designated growth areas should occur adjacent to the existing built-up area and should have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.

1.1.3.7 Planning authorities should establish and implement phasing policies to ensure:

- a) that specified targets for intensification and redevelopment are achieved prior to, or concurrent with, new development within designated growth areas; and
- b) the orderly progression of development within designated growth areas and the timely provision of the infrastructure and public service facilities required to meet current and projected needs.

1.6.7.2 Efficient use should be made of existing and planned infrastructure, including through the use of transportation demand management strategies, where feasible.

Further, the following requirement to integrate transportation and land use planning has been removed in its entirety:

1.6.7.5 Transportation and land use considerations shall be integrated at all stages of the planning process.

Finally, the proposed amendments would remove the following requirements to apply the policies of Section 2 (Wise Use and Management of Resources) and Section 3 (Protecting Public Health and Safety) when directing intensification and redevelopment and expanding settlement boundaries:

1.1.3.3 (last paragraph) Intensification and redevelopment shall be directed in accordance with the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.

1.1.3.8 (last paragraph) In determining the most appropriate direction for expansions to the boundaries of settlement areas or the identification of a settlement area by a planning authority, a planning authority shall apply the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.

All of these current requirements support a consistent, province-wide approach to land use planning that prioritizes liveability, efficiency, affordability and environmental protection. They are crucial to “direct[ing] development to suitable areas” (proposed amendment, Preamble), i.e., away from natural areas and farmland. Removing them opens the door to poorly planned, inefficient development, and thus runs contrary to the following key elements of the Vision (p. 7):

Efficient development patterns optimize the use of land, resources and public investment in infrastructure and public service facilities

Taking action to conserve land and resources avoids the need for costly remedial measures to correct problems and supports economic and environmental principles.

Long-term prosperity, human and environmental health and social wellbeing should take precedence over short-term considerations.

Recommendation 3: Retain the requirements in policies 1.1.3.3, 1.1.3.6, 1.1.3.7, 1.1.3.8, 1.6.7.2 and 1.6.7.5 that support compact development, the achievement of intensification and redevelopment targets, the efficient use of existing and planned infrastructure and integrated land use planning.

To the same end, i.e., to direct development to suitable areas and support efficiency and environmental protection, we support the addition of the proposed new policy 1.6.8.5: “The co-location of linear infrastructure should be promoted, where appropriate.” However, given the importance of this planning approach, it should be made a clear requirement by changing the wording “should” to “shall.”

Recommendation 4: Proceed with the inclusion of the new policy 1.6.8.5, but make it a clear directive by changing “should” to “shall” so that it reads: “The co-location of linear infrastructure shall be promoted, where appropriate.”

3. Settlement area boundary adjustments should only be permitted as part of a Municipal Comprehensive Review.

Proposed policy 1.1.3.9 would allow municipalities to permit adjustments to settlement boundaries outside the Municipal Comprehensive Review. We strongly oppose this proposal as it undermines long-term planning and reverts to an ad hoc approach to planning whereby municipalities are forced to respond quickly and inconsistently to specific development proposals as they arise rather than basing these key decisions on comprehensive reviews that include accurate population and employment projections.

Recommendation 5: Remove proposed policy 1.1.3.9 which would allow settlement boundary adjustments outside the Municipal Comprehensive Review.

For similar reasons, we oppose the proposed policy 1.3.2.5 which would allow designated employment areas to be converted to a designation that permits other uses outside a Municipal Comprehensive Review. This proposal again undermines long-term planning based on comprehensive reviews of population and employment projections and paves the way for ad hoc sprawl development.

Recommendation 6: Remove proposed policy 1.3.2.5 which would allow the conversion of employment lands to a designation that permits non-employment uses outside the Municipal Comprehensive Review.

4. Protections for wetlands must be retained or enhanced.

Wetlands are vital to maintaining water supply and water quality and to enhancing landscape resilience in an era of climate change. They play a critical role in flood attenuation and contribute to climate change resiliency and mitigation. They also provide habitat for many of the province's most imperiled plants and animals. A 2009 study commissioned by the Ministry of Natural Resources estimated that the ecosystem services provided by wetlands in southern Ontario alone were over \$51,614,795,000 per year. According to the authors, ecosystem services such as these "are the foundation of human well-being and they also represent a significant part of the total economic value of our landscape and economy." (p. 1).⁷

South and east of the Canadian Shield (Ecoregions 6E and 7E), at least 72% of wetlands have been lost to development - with losses exceeding 90% in some areas. We are therefore very concerned about the new proposed policy 2.1.10, which is permissively and vaguely worded and invites an ad hoc approach to wetland management across the province:

2.1.10 Municipalities may choose to manage wetlands not subject to policy 2.1.4 and 2.1.5, in accordance with guidelines developed by the Province.

The PPS should provide clear direction regarding the protection and restoration of wetlands, in keeping with the Government of Ontario's stated intent to halt wetland loss and achieve a net gain in wetland

⁷ Spatial Informatics Group, Austin Troy & Ken Bagstad, (2009). *Estimating Ecosystem Services in Southern Ontario*, commissioned by the Southern Region Planning Unit of the Ontario Ministry of Natural Resources.

area and function where wetland loss has been greatest.⁸ The vague wording “manage” is inappropriate. It is our understanding that proposed policy 2.1.10 is intended to open the door to wetland offsetting in wetlands that have not been deemed to be provincially significant. If that’s the case, then the PPS must clearly state the purpose and parameters for this policy, including requirements to:

- Achieve net gain in wetland area, quality and function;
- Set clear limits to offsetting, taking into account the type, location, vulnerability and irreplaceability of wetlands as well as their cultural significance to Indigenous peoples;
- Implement the mitigation sequence, which positions offsetting as a last resort after first avoiding and then minimizing negative impacts.

Details about implementation can be left to guidelines, but considering the numerous benefits provided by wetlands and the high level of risk that comes with offsetting, the PPS must provide clear direction.

Recommendation 7: Either remove proposed policy 2.1.10 or clearly state that the purpose is to maintain, restore and where possible enhance wetlands, and include clear requirements to:

- **Achieve net gain in wetland area, quality and function;**
- **Set clear limits to offsetting, taking into account the type, location, vulnerability and irreplaceability of wetlands as well as their cultural significance to Indigenous peoples;**
- **Implement the mitigation sequence, which positions offsetting as a last resort after first avoiding and then minimizing negative impacts.**

It should be noted that proposed policy 2.1.10 would apply to most wetlands in Ontario, as the majority of wetlands have not yet been evaluated for significance. (Even in southern Ontario, where wetland loss has been greatest, only about 60% of wetlands have been evaluated.) Wetlands that have not yet been evaluated should not be open to offsetting. Rather, in the absence of an assessment of significance having been made, the highest level of protection should apply, i.e., unevaluated wetlands should be off limits to development and offsetting.

Recommendation 8: Either remove proposed policy 2.1.10 or clearly state that in the absence of an evaluation of significance, all unevaluated wetlands will be deemed to be significant and therefore off limits to development and offsetting.

5. Address implementation of proposed climate change directives.

We fully support the proposed amendments that recognize the need to adapt and respond to the impacts of climate change (Part IV, Vision, fifth paragraph; Part V, 1.1.1 i) and that require municipalities to prepare for these impacts with respect to:

- infrastructure and public service facilities (section 1.6.1);
- sewage and water services (section 1.6.6.1 b);
- stormwater management (section 1.6.6.7 c);
- regarding water resource systems (section 2.2.1 c); and

⁸ Ontario Ministry of Natural Resources and Forestry. 2017. A Wetland Conservation Strategy for Ontario 2017–2030. Queen’s Printer for Ontario. Toronto, ON, p. iii. https://files.ontario.ca/mnr_17-075_wetlandstrategy_final_en-accessible.pdf

- natural hazards (section 3.1.3)

Recommendation 9: Proceed with amendments to the Vision and proposed policies 1.1.1 i), 1.6.1, 1.6.6.1 b) and c), 2.2.1 c) and 3.1.3 which acknowledge the urgency of and direct municipalities to prepare for the impacts of climate change.

The PPS should be further amended, however, to support implementation of these proposed changes. To begin, protections for wetlands and other natural heritage features should be enhanced, given their significant role in attenuating the impacts of climate change, including flooding.

Recommendation 10: Recognizing the critical role of natural features and systems in attenuating the impacts of climate change, amend policies 2.1.2, 2.1.4 and 2.1.5 to enhance the protection of wetlands, woodlands and natural heritage systems as follows:

- **Protect all coastal wetlands and all provincially significant wetlands province-wide by amending section 2.1.5 a) and f) to include all significant wetlands and coastal wetlands.**
- **Protect all provincially significant woodlands in Ecoregions 6E and 7E by adding them to the list of features in section 2.1.4 which strictly prohibits development and site alteration.**
- **Require municipalities to maintain, restore or improve the diversity, connectivity and ecological function of natural features and systems by replacing the word “should” with “shall” in section 2.1.2 so that it reads:**

2.1.2 The diversity and connectivity of natural features in an area, and the long term ecological function and biodiversity of natural heritage and water resource systems, shall be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

Further, fast-tracking of development applications should be allowed only for projects not situated on hazardous lands and which meet floodproofing standards and are designed to support the achievement of greenhouse gas emissions targets.

Recommendation 11: Either remove policy 4.7 or revise it so that it reads:

4.7 Planning authorities shall take action to support increased housing supply and facilitate a timely and streamlined process for development projects not situated on hazardous lands which meet floodproofing standards and support achievement of greenhouse gas emissions targets by:

- a) identifying and fast-tracking priority applications which support housing and job-related growth and development; and**
- b) reduce the time needed to process residential and priority applications to the extent practical.**

Finally, in recognition of the urgency of preparing for and addressing climate change impacts, clearly establish the primacy of policies that protect human health and the environment in Part III of the PPS.

Recommendation 12: Add the following statement (underlined) to paragraph 2, Part III, How to Read the Provincial Policy Statement, so that it reads:

The Provincial Policy Statement is more than a set of individual policies. It is to be read in its entirety and the relevant policies are to be applied to each situation. When more than one policy is relevant, a decision-maker should consider all of the relevant policies to understand how they work together. The language of each policy, including the Implementation and Interpretation policies, will assist decision-makers in understanding how the policies are to be implemented. In situations where there is a conflict with respect to a matter relating to the natural environment or human health, the policy that provides more protection to the natural environment and/or human health prevails.

6. Retain key sections guiding implementation and interpretation in Section 4.

There are many proposed amendments to Section 4, Implementation and Interpretation, that would remove substantive policies and procedural directives, in some cases moving them to the Preamble or Section III (How to Read). These include:

4.9 The policies of this Provincial Policy Statement represent minimum standards. This Provincial Policy Statement does not prevent planning authorities and decision-makers from going beyond the minimum standards established in specific policies, unless doing so would conflict with any policy of this Provincial Policy Statement.

4.10 A wide range of legislation, regulations, policies, and plans may apply to decisions with respect to Planning Act applications. In some cases, a Planning Act proposal may also require approval under other legislation or regulation, and policies and plans issued under other legislation may also apply.

4.11 In addition to land use approvals under the Planning Act, infrastructure may also require approval under other legislation and regulations. An environmental assessment process may be applied to new infrastructure and modifications to existing infrastructure under applicable legislation. There may be circumstances where land use approvals under the Planning Act may be integrated with approvals under other legislation, for example, integrating the planning processes and approvals under the Environmental Assessment Act and the Planning Act, provided the intent and requirements of both Acts are met.

4.12 Provincial plans shall be read in conjunction with this Provincial Policy Statement and take precedence over policies in this Provincial Policy Statement to the extent of any conflict, except where legislation establishing provincial plans provides otherwise. Examples of these are plans created under the Niagara Escarpment Planning and Development Act, the Ontario Planning and Development Act, 1994, the Oak Ridges Moraine Conservation Act, 2001, the Greenbelt Act, 2005 and the Places to Grow Act, 2005.

4.13 Within the Great Lakes - St. Lawrence River Basin, there may be circumstances where planning authorities should consider agreements related to the protection or restoration of the Great Lakes - St. Lawrence River Basin. Examples of these agreements include Great Lakes agreements between

Ontario and Canada, between Ontario, Quebec and the Great Lakes States of the United States of America, and between Canada and the United States of America.

We question the proposal to move these policies to other sections of the PPS, as in so doing it may send the wrong signal to municipal decision-makers who will be implementing the PPS and may believe that these policies have been downgraded in status and importance. The Preamble, for example, may be considered only to provide colour or context to the policies and may not be taken seriously or complied with.

Recommendation 13: Retain current policies 4.9 – 4.13 in Section 4, where they are clearly understood to provide direction on implementation and key municipal duties.

7. Aggregates companies should be required to demonstrate need.

As noted above, the PPS is already heavily weighted in favour of the aggregates industry: it requires municipalities to protect aggregates resources for long-term use and explicitly prevents them from requiring companies to demonstrate a need for their products. Given the challenge of balancing provincial priorities, the explicit rejection of any requirement to assess or demonstrate need when considering pit and quarry applications (2.5.2.1) is unacceptable.

Recommendation 14: Remove this statement in its entirety from policy 2.5.2.1 : “Demonstration of need for mineral aggregate resources, including any type of supply/demand analysis, shall not be required, notwithstanding the availability, designation or licensing for extraction of mineral aggregate resources locally or elsewhere.” Instead, require that a demand/supply analysis be undertaken to provide satisfactory evidence that there is a demonstrable public need for the proposed extraction.

Concluding remarks

All amendments to the PPS must be evaluated in light of the urgent need to respond effectively to climate change and the ongoing and accelerating loss of biodiversity⁹ here and around the world. As noted in the PPS Vision statement (Part IV), the long-term prosperity and well-being of Ontarians requires planning for sustainability and resilience. Impact studies and policies which protect the natural areas and farmland upon which we all depend are integral to achieving the Vision.

Thank you for attention. We trust that our comments and recommendations will be carefully considered in finalizing amendments to the PPS.

Yours sincerely,

⁹ 2019 Report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. <https://www.ipbes.net/news/Media-Release-Global-Assessment>