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CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

Updated Submission to Ministry of Municipal Affairs and Housing Planning for Sustainability: A Provincial Policy Statement Collaborative

June 12, 2012

Introduction

This document outlines Planning for Sustainability's key recommendations for the ongoing review of the 2005 Provincial Policy Statement (PPS). These priority recommendations have been based on our original submission in October 2010 and have been shaped by the ongoing review process.

Planning for Sustainability: A Provincial Policy Statement Collaborative came together in early 2010 to coordinate submissions during the PPS 5-year Review. In early 2012, our Collaborative was expanded to include additional environmental non-government organizations that are members of the Ministry of Municipal Affairs and Housing's PPS working groups (the General Working Group or the Northern and Rural Working Group). We hope that the opportunity to make use of the diverse expertise available to the Ministry within the working groups is engaged for more than discussion of potential issues and solutions. We would be delighted to work with the Ministry in the review of any draft new or amended policies.

Canadian Environmental Law Association, Ducks Unlimited Canada, Ecojustice Canada, Environment North, Ontario Headwaters Institute, Ontario Nature, and Coalition for a Livable Sudbury applaud the Ontario government's continuing commitment to land use planning reform, aimed at providing clear direction to support local governments in respect of promoting vibrant, healthy communities, while protecting our natural environment and resources, and supporting a greener economy. In a process such as the PPS 5-year Review, that is intricate and iterative, we understand the evolution of principles and priorities.

Our own thoughts, collectively and individually, have been shaped during this process. While we maintain the detailed comments and recommendations from our 2010 submission, we provide the following summary version of the need for an enhanced vision and our highest priorities.

Overall Priorities

We urge that the next version of the PPS address the following in a comprehensive manner.

- A. Articulate a clear vision for healthy communities and a healthy landscape
- B. Commit to a systems-based approach to natural heritage protection/restoration and water resource management
- C. Support planning for healthy communities and community engagement
- D. Recognize and value green infrastructure
- E. Commit to cumulative impact monitoring and adaptive management

In addition to our overall priorities, we must also urge that the PPS acknowledge the role of land use planning in the mitigation of climate change impacts. In the PPS 2005, the only mention of climate change is included with negative impacts for air quality. In *Adapting to Climate Change in Ontario: Report of the Expert Panel on Climate Change Adaptation* (November 2009), there are a series of recommendations that are aimed at ensuring our land use planning system works to address the impacts of climate change. We suggest that key to assuring the ability to adapt to the impacts of climate is to revise the Provincial Policy Statement in ways that integrate our land use planning decisions in a manner that ensures ecosystem integrity and resilience. As such, although we do not make specific reference to climate change adaptation, our Priority Recommendations are motivated by the reality of climate change impacts and intend to address how we adapt to climate change over time.

Priority Recommendations

Below we make specific recommendations regarding amendments to existing policies, as well as specific wording for proposed new policies. In all instances, proposed additions to existing policies and new policies are underlined and proposed deletions from existing policies denoted with strikethrough.

A. Articulate a clear vision for healthy communities and a healthy landscape

The introductory parts of the Provincial Policy Statement (PPS) 2005– Preamble (Part I), Legislative Authority (Part II), How to Read the Provincial Policy Statement (Part III) and Vision for Ontario's Land Use Planning System (Part IV) – speak to the purpose, goals and objectives of the provincial interest in land use planning. These introductory components should be reviewed and revised in order to ensure alignment with the provincial government's overall goal of promoting vibrant communities, while protecting our natural environment and resources, and supporting a greener economy. The provincial interest in land use planning in Ontario should reflect this overall goal.

The Provincial Policy Statement (PPS) 2005 directs users to read and consider each section of the document simultaneously while making land use planning decisions. The complexity and breadth of these policies makes this direction extremely difficult to follow, as conflict between requirements often occurs. The PPS should provide more explicit guidance to decision-makers on how to resolve planning matters where conflicting/competing policies come into play.

Further, to ensure sustainable planning practices priorities are upheld in land use matters beyond the scope of the PPS, it is critical that the Province take all necessary steps to ensure that PPS policies are integrated and applied when decisions affecting planning matters are being made under provincial statutes other than the *Planning Act*.

To address this, we recommend the following addition to the end of paragraph 2, Part III (PPS 2005, top of p.2):

None of the policies of the Provincial Policy Statement are to be read in isolation from each other. 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.

B. Commit to a systems-based approach to natural heritage protection/restoration and water resource management

The natural heritage section of the PPS falls short of adequately protecting Ontario's rich diversity of natural systems (including key features and areas) in a comprehensive and systematic manner, largely due to the lack of a requirement for the protection of natural heritage and hydrological systems. This is particularly troubling in light of the need for intact functioning ecosystems that are necessary to adapt to the projected impact of climate change. The following specific changes are needed to ensure a commitment to a systems-based approach.

- Add "heritage" between "natural" and "features and areas" and include "natural heritage systems" and "water resource systems" to the long term protection of section 2.1.1:

2.1.1 Natural *heritage features and areas*, *natural heritage systems*, and *water resource systems* shall be protected for the long term.

- Replace "should" with "shall" in section 2.1.2:

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, ~~should~~ 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*.

- Add a definition “Water resource system” to section 6.0:

Water resource system: means an overall system made up of the *surface water features* and *groundwater features* and their *ecological functions* within an identified watershed or subwatershed.

Further, given the loss of 72% of wetlands south and east of the Canadian Shield, with losses exceeding 90% in some areas, all remaining wetlands and their ecological functions in Ecoregions 6E and 7E should be protected from development and site alteration. For provincially significant wetlands (PSWs) in Ecoregion 5E, current level of protection in the PPS must be maintained. All coastal wetlands must be protected in Ecoregions 5E, 6E and 7E.

- Delete “significant”, “5E” and “and” in b), delete “significant” and replace “.” with “; and” in c), and add “d) *significant wetlands* in Ecoregion 5E” to section 2.1.3:

2.1.3 *Development* and *site alteration* shall not be permitted in:

- a) *significant* habitat of *endangered species* and *threatened species*;
- b) ~~*significant*~~ *wetlands* in Ecoregions ~~5E~~, 6E and 7E; ~~and~~
- c) ~~*significant*~~ *coastal wetlands*; ~~and~~
- d) *significant wetlands* in Ecoregion 5E.

Finally, as we indicated in our 2010 Submission, the second edition of the Natural Heritage Reference Manual (NHRM) has already been finalized after a significant collaborative effort between many stakeholders. Given the incredible depth and breadth of guidance for implementing natural heritage policies, and for addressing the role of agricultural lands within a natural heritage system contained within the NHRM, it is critical that municipalities be directed to refer to the manual when interpreting and implementing the requirements of section 2.0. We recommend that the Ministry of Natural Resources’ Natural Heritage Reference Manual be cited in the preamble to section 2.0 to ensure that planning authorities are required to consider the guidance in the manual when developing and implementing natural heritage policies.

C. Support planning for healthy communities and community engagement

Integration of community planning processes with land-use planning is imperative as communities and the province pursue multiple objectives. The PPS should direct that planning be conducted in an integrated manner. Accordingly we recommend the following specific amendments to the PPS Coordination section 1.2.1.

- Delete “and” at the end of item e), change “.” to “;” at the end of item f), and add the following at the items to section 1.2.1:

g) energy use, energy conservation, and community energy planning;

h) water, stormwater and wastewater use, water conservation, and source water and Great Lakes water protection;

i) transportation types, prioritization of active transportation, and transportation corridors;

j) waste reduction and materials management; and

k) greenhouse gas reduction activities.

The values of healthy communities are numerous. Healthy communities support local food systems; protect, restore and integrate ecosystems; promote connectivity with nature and neighbours; prioritize active transportation; employ soft path approaches to energy and water use; and are sustained by an engaged, informed and inspired citizenry. To accomplish all these tasks and more, it is critical that planning be done in the most ecologically responsible manner possible. Accordingly we recommend the following specific amendments to the PPS Infrastructure section 1.6.1.

- Add “as well as with planning for food systems, water systems, energy systems, waste systems and transportation systems,” to the second paragraph of section 1.6.1:

Planning for *infrastructure* and *public service facilities* shall be integrated with planning for growth, as well as with planning for food systems, water systems, energy systems, waste systems and transportation systems, so that these are available to meet current and projected needs.

D. Recognize and value green infrastructure

Green infrastructure offers potentially innovative and inexpensive opportunities for providing multiple benefits to particular challenges (for example, rain water harvesting systems can decrease stormwater runoff and reduce the burden on treatment of stormwater and on our water sources). These innovative solutions are often overlooked in favour of traditional approaches to providing infrastructure. The Province should support and develop models which rely on green infrastructure. In particular, the ecological goods and services provided by our natural heritage systems should be incorporated into decision making regarding land use. Further, land use decisions should be made in a manner that ensures hydrological integrity.

- Replace “ensuring stormwater management practices minimize” with “implementing practices that manage”, add “thermal impacts” after “stormwater volumes”, delete “and” before “contaminant loads”, replace “and maintain or increase the extent of vegetative and pervious surfaces” with “and impacts to erosion such that there will be

no negative impacts to downstream ecological functions and hydrologic function” in g) of section 2.2.1:

g) implementing practices that manage ensuring stormwater management practices minimize stormwater volumes, thermal impacts, and contaminant loads, and impacts to erosion such that there will be no negative impacts to downstream ecological functions and hydrologic function and maintain or increase the extent of vegetative and pervious surfaces.

- Add the following new paragraph to 2.2.1:

h) ensuring, wherever possible, the implementation of:

1. A hierarchy of source, lot-level, conveyance and end-of-pipe controls.

2. Innovative stormwater management measures with appropriate monitoring and evaluation, performance indicators and contingency measures.

- Replace “be restricted” with “not be permitted” and add “unless it can be demonstrated that” before “such that these features ...” in section 2.2.2:

2.2.2 Development and site alteration shall be restricted not be permitted in or near sensitive surface water features and sensitive ground water features unless it can be demonstrated that such that these features and their related *hydrologic functions* will be protected, improved or restored.

E. Commit to cumulative impact monitoring and adaptive management

As municipalities are charged with the large task of implementing the PPS, it is critical that the Province fully embrace the requirement of monitoring the results of that implementation at a local, regional and provincial scale. The draft PPS monitoring framework for the PPS 2005 indicated that the Province was willing to act on the legislated requirement to monitor the PPS; however, the Province has not yet articulated how various agencies might collect and share information. We further recommend that Ontario commit to cumulative impact monitoring (an example is the Cumulative Impact Monitoring Program of the Northwest Territories¹) in order to integrate the collection of data, as well as the development and assessment of metrics that will be the basis of sound decisions for adaptive management, not only for the PPS, but also for other strategic initiatives.

We recommend that the Ministry of Municipal Affairs and Housing commit to a process to create measurable targets and require municipal reporting regarding how they are achieving

¹ Aboriginal Affairs and Northern Development Canada. 2010. Cumulative Impact Monitoring Program. <http://www.aadnc-aandc.gc.ca/eng/1100100023828> (accessed 12 June 2012)

consistency with the Provincial Policy Statement. In particular we recommend that the Ministry of Municipal Affairs and Housing commit to:

a) a process, with deadlines, for coming up with regionally meaningful targets for the PPS including, but not limited to, intensification;

b) promoting a provincial, multi-agency direction for cumulative impact monitoring; and

c) application of adaptive management as a means of optimizing performance of PPS policies.