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Sudbury



Ducks Unlimited Canada
Conserving Canada's Wetlands

April 2, 2012

Via E-mail (minister.mah@ontario.ca) and Regular Mail

The Honourable Kathleen Wynne
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay St
Toronto, ON
M5G 2E5

Dear Minister Wynne:

**Re: Provincial Policy Statement (2005), 5-year Review
Ecojustice File No. 362**

Congratulations on your recent appointment as the Minister of Municipal Affairs and Housing. We are writing today to request a meeting with you to discuss the on-going legislative review and update of the current Provincial Policy Statement 2005 (PPS).

We represent a number of environmental non-government organizations that coordinated submissions of Planning for Sustainability: A Provincial Policy Statement Collaborative and/or are members of the PPS working groups (the General Working Group or the Northern and Rural Working Group) that have been convened by your Ministry. We hope that the opportunity to make use of the diverse expertise available to your Ministry within the working groups is engaged for more than discussion of potential issues and solutions. We would be delighted to work with your Ministry in the review of any draft new or amended policies.

Canadian Environmental Law Association, Ducks Unlimited Canada, Ecojustice Canada, 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. The Planning for Sustainability submission, which was endorsed by 34 organizations and benefitted from discussions in several workshops that were hosted over the summer and early fall of 2010, stressed the following

overarching themes: (1) establish priorities within the provincial policy statement and ensure alignment of related policies; (2) commit to a natural heritage systems based approach to land use planning; (3) engage communities in a meaningful manner; (4) incorporate climate change recommendations; (5) recognize and value green infrastructure and employ fix-it first approach to providing infrastructure; and (6) monitor results using an adaptive management framework. Extensive specific recommendations were also included. Please find the full submission attached for your information.

We respectfully request a meeting with you in the next couple of weeks to discuss the ongoing Provincial Policy Statement review.

Please feel free to contact Anastasia at 416-368-7533 x530 or by email at alintner@ecojustice.ca to arrange a meeting. We appreciate your time and consideration of our request.

Sincerely,

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Canadian Environmental Law Association

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Environment North

c.c. Gord Miller, Environmental Commissioner of Ontario
Dave Thornton, Policy Advisor - Planning & Local Government, Minister's Office, MMAH (Dave.Thornton@ontario.ca)

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Ecojustice, Ontario Nature, Canadian Environmental Law Association, Canadian Institute for Environmental Law and Policy, Ducks Unlimited Canada, Ontario Headwaters Institute, Ontario Smart Growth Network and the Pembina Institute have formed a growing collaborative to present a unified voice for a comprehensive process, including broad public consultation, for the on-going review of the Provincial Policy Statement (PPS) 2005. We applaud the government's commitment to undertake a meaningful, comprehensive review of the PPS 2005 and consider substantive revisions in order to improve Ontario's land use planning system and protect the environment/natural heritage on which we depend.

Our submissions contain both general and specific comments. In the General Themes section, we provide a summary of the general framework for our more detailed comments. The Detailed Comments section follows the section headings of the PPS 2005 for ease of reference. We are providing our submissions pursuant to the notice of policy proposal posted on the *Environmental Bill of Rights* Registry (Number 010-9766). Our submissions are endorsed by:

Brereton Field Naturalists' Club
BurlingtonGreen Environmental Association, Inc.
Canadian Environmental Law Association
Canadian Institute for Environmental Law and Policy
CAUSE (Citizens' Alliance United for a Sustainable Environment)
Citizens Environment Alliance of southwestern Ontario
Coalition for a Livable Sudbury
Coalition on the Niagara Escarpment
Ducks Unlimited Canada
Durham Environment Watch
Earthroots
Ecojustice
Friends of Rural Communities and the Environment (FORCE)
Friends of the Farewell, Courtice, Clarington
Friends of the Greenspace Alliance of Canada's Capital
Friends of the Rouge Watershed
Gravel Watch Ontario
LEAF (Local Enhancement and Appreciation of Forests)
Mono Mulum Citizens' Coalition - (MC)2
Oakvillegreen Conservation Association
Ontario Headwaters Institute
Ontario Nature
Ontario Smart Growth Network
Pembina Institute
Preservation of Agricultural Land Society
Richmond Hill Naturalists
Sierra Club
South Lake Simcoe Naturalists
Sustain Ontario
Sustainable Development Committee of Burlington
The Federation of Urban Neighbourhoods (Ontario)
Toronto Field Naturalists
York Simcoe Naturalists

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GENERAL THEMES

ESTABLISH PRIORITIES WITHIN THE PROVINCIAL POLICY STATEMENT AND ENSURE ALIGNMENT OF RELATED POLICIES

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 must establish a clear hierarchy of priorities and should state that, in the case of conflict, policies that provide more protection to the natural environment or human health must prevail. One example of such a revision would be the banning of aggregate extraction on prime agricultural lands.

To ensure sustainable planning practices and the hierarchy of 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*.

COMMIT TO AN ECOSYSTEM APPROACH TO LAND USE PLANNING

Within this document, a number of recommendations are made to clarify and strengthen the priority of the PPS to plan on an ecologically meaningful scale. It is critical that planning authorities are given a clear directive and guidance from the Province on a number of sustainable planning practices including:

- developing integrated watershed management plans;
- valuing ecosystem goods and services;
- employing the precautionary principle in decision-making; and
- assessing the cumulative impacts of activities.

The Province's environment and associated ecological services underpin the long-term economic prosperity and social well-being of Ontarians. Planning authorities should be required to fully consider the ecological services provided by natural heritage and hydrological features—and their associated economic value—in their decision-making, thereby ensuring ecological integrity for future generations. Given the significant percentage of the landscape owned and managed by private landowners in southern Ontario, it is critical that the PPS recognize and reward good stewardship practices in the province including landowner incentives for conserving natural heritage and protecting hydrological integrity.

ENGAGE COMMUNITIES IN A MEANINGFUL MANNER

Too often, community consultation and input appears to be little more than a formality required by the province which is given little weight in local decision-making. The PPS must enshrine an intensive, community led, participatory process in all Official Plan reviews and ensure that the information and recommendations which come from that process are fully considered in approval of the final document. We suggest that citizens be assisted in the development of community led plans for growth, energy, transportation and water. From these plans, clear, measurable targets can

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be established that will address the fundamental components of land use planning and support local food, natural heritage and watershed resource systems. These targets would provide the Province with data that could be incorporated into their overall monitoring framework to assess the efficacy of the PPS.

INCORPORATE CLIMATE CHANGE RECOMMENDATIONS

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 to ensure our land use planning system works to address the impacts of climate change. It is critical that the Province follows the recommendation to:

... prepare a firmly worded policy for inclusion in the Provincial Policy Statement during the upcoming review in 2010 to the effect that all planning authorities, in making decisions, must take into account risks arising from climate change.

The Planning for Sustainability Collaborative recommends that the Province base policies of the PPS on the extensive recommendations of the expert panel in the areas of energy and air quality, transportation, built and green infrastructure and landscape resiliency.

RECOGNIZE AND VALUE GREEN INFRASTRUCTURE AND EMPLOY FIX-IT FIRST APPROACH TO PROVIDING 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.

Furthermore, developing new infrastructure is significantly more expensive, time consuming and resource heavy than fixing existing infrastructure. The Province should follow the lead of progressive jurisdictions that have adopted “Fix-It First” policies, focusing on more efficiently using existing infrastructure.

MONITOR RESULTS USING AN ADAPTIVE MANAGEMENT FRAMEWORK

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, but the lack of a finalized version has led to confusion about how monitoring will actually be done. It is critical that the Province commit to a consistent transparent assessment of how the PPS is working and make clear adjustments to policies that are unclear, ineffective or inadequate during the legislated five year review.

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DETAILED COMMENTS

PARTS I-IV, PREAMBLE, LEGISLATIVE AUTHORITY, HOW TO READ THE PROVINCIAL POLICY STATEMENT, VISION FOR ONTARIO'S LAND USE PLANNING SYSTEM

ISSUE: 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. The section contains a great deal of critical information but remains much too broad and sweeping to fully assist the people of Ontario in understanding and realizing the vision of the document. No priority is given to one land use over another, leading to confusion and difficulty in implementation.

PPS 2005 expressly states the need to consider all policies without prioritization: "It is intended to be read in its entirety and the relevant policies are to be applied to each situation." (PPS 2005, p.1) and "There is no implied priority in the order in which the policies appear." (PPS 2005, p.2).

However, there are a number of policies which speak to potentially competing and conflicting land uses. The PPS should provide clear direction as to how to resolve conflicts among land use policies.

These introductory components should be reviewed and revised in order to ensure alignment with the provincial government's overall goal of promoting vibrant communities and with the general themes described above, 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.

RECOMMENDATION 1: The first section of the PPS should clearly articulate and prioritize the values and principles that must be applied when making land use planning decisions. Establishing a clear goal and hierarchy of priorities will ease ongoing issues with implementation when land uses are in conflict. Include a statement in Part III such as:

None of the policies are to be read in isolation from each other, and 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.

RECOMMENDATION 2: Ensure that the introduction clearly and explicitly sets out the broad vision that will be articulated throughout the document. In Part IV, land use planning must be explicitly linked with integrated watershed management, the assessment of cumulative impacts and a requirement that responses to changing natural hazards (and climate change) focus on the protection of green infrastructure, with engineered solutions being chosen as a final resort.

ISSUE: 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

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more, it is critical that planning be done in the most ecologically responsible manner possible. As a result, watershed planning, full economic assessments of decision making and zoning and an emphasis on green infrastructure over built infrastructure must pre-dominate in this section of the PPS.

In order to provide guidance regarding the provincial priority of healthy communities, we recommend a commitment to an ecosystem approach to land use planning decisions. Establishing appropriate biophysical, temporal, and administrative boundaries for planning purposes is central to the ecosystem approach. Planning according to ecological boundaries, specifically watersheds, rather than political boundaries is necessary for protecting ecological health.

Planning decisions must be a matter of societal choice. Different sectors of society have different interests in and needs from their ecosystem. The planning process should allow for this local input. Regardless, a universal goal must be the conservation of ecosystem structure and function in order to preserve ecosystem services. Ecosystem services are fundamental to our wellbeing, as they provide the resources and processes upon which our survival depends, such as flood and drought protection, water purification and plant pollination. If the integrity of the ecosystem is compromised, then these “services” can be interrupted at great cost to humankind.

Although single land use changes will likely not be enough to undermine the ecosystem’s resiliency, planning decisions can collectively cause death by a thousand cuts. The key to restoring the ecosystem and preventing future harm is to assess the cumulative environmental effects of land use decisions.

Monitoring is also a crucial part of having accurate information. Only through careful environmental monitoring compared against baseline information can we understand long-term changes in the ecosystem. Once this information is collected, the planning regime must be adaptable and flexible in order to respond to the information collected.

RECOMMENDATION 3: Revise Part IV, to read *Vision for Healthy Communities in Ontario* to make healthy communities the first priority of policy-led land use planning in Ontario. Ensure the section clearly outlines the values and a commitment to an ecosystem approach to establishing healthy communities and lays the groundwork for the following policy guidelines.

ISSUE: In addition to employing a provincially led municipal land use planning regime, Ontario has also streamlined the mechanism for assessing whether a provincial interest is triggered in planning through the use of a one-window approach and with the Ministry of Municipal Affairs and Housing as the one-window. This streamlining should be assessed to determine whether it has achieved all of its purposes. The Ministry of Municipal Affairs and Housing may not be best situated to assess whether a provincial interest is implicated regarding policies that are outside MMAH expertise. During the review, in addition to considering the performance of the PPS 2005, the effectiveness of the one-window approach should be analyzed.

RECOMMENDATION 4: Review the effectiveness of the one-window approach to ensure that the goals in establishing the streamlining have been achieved.

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PART V, 1.0 BUILDING STRONG COMMUNITIES

ISSUE: The policies as they exist now are very land use and finance based, rather than reflecting the communities that Ontarians wish to live in. This entire section should be reviewed and revised with an aim to reflect an ecosystem approach. In order to do that, a fundamental shift in how communities are understood is needed, moving from a model based on growth at all costs, to one based on sustainability. We need to shift from planning for economic development to planning for people. As such, we suggest a change in the title for this section which clearly signals the purpose of the policies contained therein.

RECOMMENDATION 5: Change section title to *Building Complete Communities* to align with employing an ecosystem approach and prioritizing for human health and environmental protection in all PPS policies.

RECOMMENDATION 6: Policies which undermine integrated community planning in favour of growth planning should be abandoned. For example, there have been conflicts between growth plans and water and energy planning, which point to the lack of integration and lack of a truly robust accounting of underlying availability of the resources to support communities. Any growth planning must respect local ecological limits.

ISSUE: Although it was the intent to create measurable indicators for performance monitoring, the establishment of such indicators and monitoring has been delayed. In addition, although much of the existing water and energy policy language in the PPS 2005 is very good, it does not necessarily manifest in local planning documents (Official Plans, etc.). There is a need for timely evaluation and adaptive management to optimize the effectiveness of PPS policies. In order to evaluate effectiveness, there needs to be clear, measurable targets (for intensification, etc.) that are regionally based to reflect distinct sustainability planning challenges of urban, rural and northern communities.

RECOMMENDATION 7: Commit to a process to create measurable targets and require municipal reporting regarding how they are achieving consistency with the Provincial Policy Statement. 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, for example, intensification; and
- b) applying adaptive management as a means of optimizing performance of PPS policies.

1.1 MANAGING AND DIRECTING LAND USE

ISSUE: In settlement areas, we agree with policies that are aimed at compact and mixed use development (for example 1.1.3.2, 1.1.3.4) and that require intensification and redevelopment to be in accordance with Sections 2 and 3 (1.1.3.3). We recommend that there be a further strengthening of these policies to take into account the ecological reality in which the settlement areas are located.

For example, in determining where to prioritize growth, the direction should be to do so through conservation, efficiency and green infrastructure opportunities that currently exist, allowing growth to be focused where the capacity is available rather than building new physical infrastructure. In order to determine the opportunities, communities will need to take into account

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(for example), water, storm water and wastewater on a watershed basis. And, the need to consider the opportunities on a watershed basis as a first priority should be reflected in the criteria for allowing boundary expansion (1.1.3.9).

Although it currently requires that expansion be directed in accordance with Sections 2 and 3, this policy for expansion does not capture the need to ensure that growth does not exceed the ability of the natural system to accommodate the boundary expansion. Although the policies recommend that municipalities set targets for intensification and redevelopment (1.1.3.5), performance related to this target setting and implementation is not monitored. In some areas (the Greater Golden Horseshoe for example) there are provincial targets that are to be considered the minimum.

RECOMMENDATION 8: Determine where to prioritize growth through conservation, efficiency and green infrastructure opportunities, which take into account ecological reality. We recommend that there be a commitment to set targets as outlined above (see Recommendation 7).

ISSUE: Integrated watershed management (IWM) is an emerging field that seeks to capture natural heritage and water resource system planning, permitting, management, monitoring, and public engagement in a comprehensive manner. To date, IWM has been identified as an area of priority action by both the Canadian Council of Ministers of the Environment and the Council of the Federation. More recently, the 2009/2010 annual report of the Environmental Commissioner of Ontario made the recommendation that the province amend the PPS to require IWM planning.

Given the fundamental importance of collaborative natural heritage and water resource system management in Ontario, it is critical that the building of strong communities be based on the sound decision-making that can best be provided through integrated watershed management.

RECOMMENDATION 9: Support the recommendations of the Environmental Commissioner of Ontario and Conservation Ontario by amending 1.0 to include the following: *planning authorities shall support and implement integrated watershed management planning to connect local, regional, and provincial scale natural heritage, water resource, urban, rural and agricultural systems.*

ISSUE: The only mention of climate change in the PPS 2005 is in relation to determinants for land use patterns in settlement areas (1.1.3.2 re. the need for densities/mixed use to "minimize negative impacts to air quality and climate change, and promote energy efficiency in accordance with policy 1.8"). In *Adapting to Climate Change in Ontario: Report of the Expert Panel on Climate Change Adaptation* (November 2009), there are a series of recommendations as to how climate resiliency should be incorporated into our land use planning system (see section 2.3.4 Land Use Planning, and associated recommendations, pp.61-63). Most importantly, we support Recommendation 39, which states:

The Ministry of Municipal Affairs and Housing, in collaboration with other ministries, should prepare firmly worded policy for inclusion in the Provincial Policy Statement during the upcoming review in 2010 to the effect that all planning authorities, in making decisions, must take into account risks arising from climate change. Further, the Ministry of Municipal Affairs and Housing should consult with planning authorities, the research community, and professional engineers and

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planners in preparation for issuing guidelines regarding the implementation of the policy.*

RECOMMENDATION 10: In conducting the PPS Review, the Ministry of Municipal Affairs and Housing should consider the recommendations related to land use planning made by the Ontario government's Expert Panel on Climate Change Adaptation.

1.2 COORDINATION

ISSUE: We agree that there needs to be a "coordinated, integrated and comprehensive approach" in planning (1.2.1). In fact, we support the building of our communities based on visionary community plans that integrate every aspect of interaction with natural resource use.

RECOMMENDATION 11: Strengthen an integrated approach to planning by requiring visionary community plans from which all implementation occurs. We recommend that natural resource conservation opportunities (including water, stormwater, wastewater, energy and waste) be explored and incorporated (1.2.1 and 1.2.2) in community plans.

ISSUE: An engaged local community, where there is a meaningful role for the public in planning for their community, rather than treating public consultations as the last item to "tick-off" on the list for development approval, would minimize future land use planning conflicts. There needs to be an intensive, community-based, participatory process for establishing the overarching sustainability vision (beyond land use planning into other aspects of the local community), which is then operationalized in the next Official Plan review. There should be public consultation much earlier in the process, such that citizens' concerns are heard and incorporated into the design - not given token consideration once the design has already been done.

For larger projects, municipalities should be required to hold charettes. The current required public meetings are confrontational by nature and do not produce the best results. The term charette has come to be used to describe an intensive process that engages stakeholders with a multidisciplinary team in designing a community plan (see, for example, the description of the Sustainable Greenfield Charette which was completed by the UBC Design Centre for Sustainability[†]). There should be specific strategies for engaging marginalized citizens in planning decisions that will affect them; they are rarely involved in the current process. Notification should be made accessible and easy to understand. The PPS requirement for public notification in the local print media provides a template municipalities must follow. This template uses technical language that is very difficult for most people to understand. Wider notification should be expanded for larger projects with a wider impact. And, there must be a robust role for other community planning exercise integration (capital, infrastructure, etc) and, as with the planning being done under the *Clean Water Act*, there should be primacy to the community plan which is then to be incorporated into the Official Plan.

* Expert Panel on Climate Change, *Adapting to Climate Change in Ontario: Report of the Expert Panel on Climate Change Adaptation* (November 2009), p.62; available at <http://www.ene.gov.on.ca/publications/7300e.pdf>

[†] available at: http://www.dcs.sala.ubc.ca/sustainable_greenfield.htm

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RECOMMENDATION 12: Ensure meaningful community engagement in local planning by providing guidance to municipalities. Enshrine community-based local vision and goal setting and ensure that the PPS and accompanying legislation (such as the *Clean Water Act*) support the implementation of the community vision through Official Plans.

1.3 EMPLOYMENT AREAS

ISSUE: The promotion of economic development through creation of segregated employment lands is not consistent with provincial direction regarding our transformation toward a green economy. These policies should be reviewed within the green jobs envisioning: "soft path" jobs, which are skills based, such as in planning and services; allowing for mixed use rather than segregation; green infrastructure, water conservation and efficiency innovation and promotion. Currently, there is the ability to establish a home office; however, there is limited ability to advertise and promote the goods/services provided.

RECOMMENDATION 13: Reconsider the need for employment areas.

1.4 HOUSING

ISSUE: The current policy direction regarding housing is primarily market based, with requirements that municipalities look at measures to mix income levels within residential developments. Affordable housing must be defined in a manner that ensures housing is provided a rate that is substantially below that available in the local market for equivalent new housing units. This policy direction should be preserved and expanded to consider the housing types, specifically to encourage innovative and healthy buildings and neighbourhoods that use green infrastructure, are innovative with respect to water and energy conservation, ensure healthy buildings, are created using non-toxic materials, and support urban agriculture (and associated activities such as greenhouses and composting).

RECOMMENDATION 14: Housing policies should be expanded to encourage natural resource conservation, urban agriculture, healthy buildings and enhance planning for affordability.

1.5 PUBLIC SPACES, PARKS AND OPEN SPACE

ISSUE: Public spaces, parks and open space policies are relatively weak. There is room to be more innovative. There should be public spaces that demonstrate water and energy conservation, addressing issues such as light pollution while ensuring an appropriate balance among needs for light (recreation and safety).

RECOMMENDATION 15: Review and revise public space, parks and open space policies to ensure promotion of water, food growing and energy conservation.

1.6 INFRASTRUCTURE AND PUBLIC SERVICE FACILITIES

ISSUE: Policies which support integration and direction for more efficient use of existing infrastructure should be kept and emphasized (first part of 1.6.1, 1.6.2). To the extent possible, we should be striving to ensure that green infrastructure is the foundation for dwellings in built up communities, rather than continuing to rely primarily on traditional infrastructure. We agree that there should be optimization of current infrastructure before considering new traditional

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infrastructure. We should prioritize optimization of current infrastructure, prior to any discussion regarding new infrastructure. "Projected needs" should be determined through using conservation and demand management approach (1.6.1). New infrastructure should only be considered after all other ways to accommodate projected needs are exhausted.

In order to prevent sprawl, Oregon and Maryland have adopted Fix-it-First policies that do not permit infrastructure expansion beyond the boundaries of settlement areas, do not permit low density development in settlement areas, increased taxes in suburban areas to prevent sprawling employment areas, stricter zoning requirements to force office buildings to locate near transit rather than near highways.

RECOMMENDATION 16: Integrate land use planning for water, food, stormwater, sewage, waste, and energy; and use existing infrastructure more efficiently. Look to Fix-It First policies in other jurisdictions for examples of successful policies that increase efficient use of existing infrastructure. Infrastructure planning should fully consider the environmental and economic values of green infrastructure and protect and enhance green infrastructure to the fullest extent possible.

Sewage and Water (1.6.4) policies will need to be revised to ensure consistency with provincial direction as in Bill 72 (the proposed Water Opportunities and Water Conservation Act). In particular, water conservation and efficiency, green infrastructure and the inclusion of stormwater will need to be addressed.

RECOMMENDATION 17: Review and revise sewage and water policies to promote green infrastructure, water conservation and efficiency.

1.6.5 TRANSPORTATION SYSTEMS and 1.6.6 TRANSPORTATION INFRASTRUCTURE CORRIDORS

ISSUE: Transportation can no longer be focused on highway expansions and an ever increasing network of highway corridors. Fragmentation of communities, decreased air quality, deterioration of individual health and climate change must all be considered when transportation models are introduced at a local, regional or provincial scale. It is critical, therefore, that the PPS prioritize sustainable transportation over all other forms.

RECOMMENDATION 18: Add requirements to prioritize transportation modes and, within planning processes, require a demonstration of how this prioritization has been met. The priorities are: (1) demand reduction, (2) active transportation, (3) transit, (4) personal vehicles (i.e. automobile).

ISSUE: It is crucial that our planning for transportation systems and infrastructure corridors take into account cumulative impacts and are aligned with the province's air quality and climate change goals.

RECOMMENDATION 19: Add requirement to ensure that the increases in greenhouse gas emission from new or expanded road and highway projects are calculated and measured in the context of the cumulative emissions of existing provincial roads and highways -- and that the province's air

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quality and climate change goals are integrated into and respected in transportation planning decisions.

ISSUE: For transportation systems, ensure that the focus is on efficient use of existing transportation infrastructure over building new infrastructure including planned highways by strengthening policies under subsections 1.6.5 and 1.6.6.

RECOMMENDATION 20: Amend 1.6.5.1 to change “should” to “shall”.

RECOMMENDATION 21: Amend 1.6.5.2 to prioritize the efficient use of existing infrastructure over the use of planned infrastructure. This is particularly relevant in regards to highway development. Recognize sprawl developments and corresponding travel behaviour as being detrimental to highways meant to function as good movement corridors. Amend 1.6.6.2 to specifically cite that this includes reducing the ability of highways intended to improve goods movement to meet this purpose as a result of increased congestion stemming from sprawl type developments.

RECOMMENDATION 22: Amend 1.6.5.3 into two separate entries:

1. 1.6.5.3a Connectivity within and among transportation systems should be maintained and improved. Specifically cross-jurisdictional transit connections should be improved.
2. 1.6.5.3b Connectivity within and among transportation modes should be maintained and improved. Specific attention should be made to improving transit-transit, transit-active and transit-auto connections to encourage more energy efficient transportation.

RECOMMENDATION 23: Stronger support of active transportation is required. Add requirement to ensure that the cumulative impacts of new road and highway projects are calculated and measured against existing provincial transportation emissions and that the province’s climate change goals are integrated into and respected in transportation planning decisions. Amend 1.6.5.4 to include support for active transportation such as walking and biking. Strengthen the language by changing “land use pattern ...should be promoted” to “shall be promoted”.

ISSUE: Policy 1.6.6.4 requires "consideration" for significant natural resources, this language should be strengthened to ensure planning for transportation and infrastructure avoids natural heritage systems in order to protect and restore the natural environment. As mentioned in Recommendation 16, there should be a clear focus on and using existing infrastructure more effectively as a priority to considering new infrastructure.

RECOMMENDATION 24: Strengthen language in 1.6.6.4, which currently requires that significant resources only need “consideration”. Require demonstration that there will be no negative impacts on natural features, ecological functions and prime agricultural areas.

1.6.8 WASTE MANAGEMENT

ISSUE: Waste management should support the provincial direction toward zero waste. Medium and large scale community composting facilities/infrastructure should be supported.

RECOMMENDATION 25: Ensure planning for waste management supports zero waste goals through composting and other means.

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1.7 LONG TERM ECONOMIC PROSPERITY

ISSUE: Prosperity should reflect provincial direction toward encouraging transformation to a green economy and should include quality of life (not simply economic prosperity).

RECOMMENDATION 26: Expand definition of prosperity.

1.8 ENERGY AND AIR QUALITY

ISSUE: The policies related to energy and air quality (1.8) make no mention whatsoever of climate change. Policies should promote decentralized energy systems, such as district energy (1.8.3). Planning should pursue opportunities for conservation, efficiency and renewable energy (rather than incorporating retroactively). Conservation is more cost effective than building new energy sources.

RECOMMENDATION 27: Community integrated planning should promote energy conservation and decentralized energy systems, and include projected changes in greenhouse gas emissions.

PART V, 2.0 WISE USE AND MANAGEMENT OF RESOURCES

As a key step towards integrated watershed management planning (Recommendation 9) Section 2 of the PPS should be restructured, starting with a new section called “Natural Systems” devoted to recognizing and supporting the full integration of planning (by planning authorities and conservation authorities) for the conservation of water and natural heritage, as one comprehensive process. The Greenbelt Plan can serve as an example of policy that clearly reflects the protection of both terrestrial and hydrological systems.

RECOMMENDATION 28: Re-name section 2.1 and 2.2, respectively, as *Natural Heritage System* and *Water Resource System*.

2.0 PREAMBLE

In 2010, the second edition of the Natural Heritage Reference Manual (NHRM) was 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.

RECOMMENDATION 29: Amend the PPS so that MNR’s Natural Heritage Reference Manual is 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 in their planning documents eg. Official plans.

ISSUE: In Section 3.4.5 of the NHRM, agricultural areas are recognized as “important areas for developing natural heritage systems, particularly in fragmented landscapes”. Recognition is given

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to the practice used by municipalities of overlaying a natural heritage system on top of a working landscape where permitted uses from section 2.3 can still occur.

It is critical that agricultural lands be recognized within the PPS as a potential component of natural heritage systems.

RECOMMENDATION 30: Amend the PPS (Sec. 2.1) to clarify that agricultural lands can constitute an important component of a natural heritage system.

2.1 NATURAL HERITAGE

ISSUE: Though the PPS 2005 contains significant improvements over its predecessor by enabling holistic, systems based planning, there is still need for improvement and clarification. The natural heritage section of the PPS falls short of adequately protecting Ontario's rich diversity of natural features 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.

In November 2009, *Adapting to Climate Change in Ontario: Report of the Expert Panel on Climate Change Adaptation* made the following recommendation:

Policies and strategic plans should recognize that natural adaptation of species and ecosystems to climate change can be promoted by fostering healthy, resilient, unstressed populations and environments free from pollution and endangered species.

In order to fulfill this recommendation and ensure that communities in Ontario make wise, long-term planning decisions that will both protect their natural heritage now and in the future, it is necessary to strengthen 2.1.1.

RECOMMENDATION 31: Amend 2.1.1 to read: *Natural heritage and water resource systems shall be protected for the long term.*

RECOMMENDATION 32: Amend 2.1.2 to read: *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...*

ISSUE: Though wetlands play a significant role in the ecological function of natural heritage and hydrological systems in southern Ontario through water storage and filtration, carbon sequestration and habitat provision (to name only a few examples), wetland loss is extensive and continuing at an astonishing rate in the region. It is critical, therefore, that the PPS further strengthen its wetland protection policies.

As well, given the specific and general habitat protection now required with the passing of the *Endangered Species Act* (ESA) in 2007, it is necessary to revise the definition of *significant habitat of*

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endangered and threatened species to include general and regulated habitat as defined under that Act.

RECOMMENDATION 33: 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 5E, 6E and 7E should be protected from development and site alteration.

RECOMMENDATION 34: Amend the definition of significant habitat in 6.0 to read: “...*in regard to the habitat of endangered and threatened species, means the habitat, as defined under the Endangered Species Act 2007...*”

ISSUE: The provision that development and site alteration are permitted in significant natural heritage features and adjacent lands as long as “no negative impacts” occur is problematic. Municipal studies assessing the long term, cumulative impacts of development on natural areas are lacking. Instead, studies are narrowly focused on the natural heritage feature with no assessment of the overall impact of the proposed activity on the entire natural heritage and hydrological system. As a result, though the actual natural feature may be protected, its ecological function may deteriorate over time.

Given the lack of resources to undertake exhaustive systemic studies at a municipal level, it is necessary to exercise the precautionary principle to ensure that no unintended damage is done through development or site alteration.

The United Nations Convention on Biodiversity describes the precautionary principle by saying that where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat. This principle is used as the basis for other acts in Ontario, such as the *Endangered Species Act*, and must be integrated into the PPS to ensure land use decisions are made carefully.

The incredible difficulty in determining negative impacts through environmental impact assessments commissioned by the municipalities must be acknowledged and an allowance for municipalities to exercise caution through the precautionary principle must be given.

Further, the definitions of “development” and “site alteration” do not include activities that create or maintain infrastructure that are subject to other provincial legislation. This omission allows the routing of transit and transportation corridors, transmission lines, sewage systems and other potentially destructive projects through areas where development is otherwise prohibited.

Finally, the PPS 2005 fails to provide specific protection for regionally and locally significant features, which potentially weakens the ability of municipalities to restrict or prohibit development in these features. Despite the fact that alvars, tallgrass prairies and savannahs provide habitat for species with extremely restricted habitat requirements, none of these habitats are afforded protection under the PPS.

The State of Ontario’s Biodiversity Report in 2010 clearly illustrated the significant lack of protection for Ontario’s rare habitats. Only 21 percent of Ontario’s alvars and 54 percent of our prairie and savannah habitat is currently protected. Given the significance of these habitats for

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increasingly imperiled species such as at risk plants and grassland birds, it is critical that these ecosystems be included in section 2.1.4.

RECOMMENDATION 35: The precautionary principle must be used as the basis for decision making in land use planning. Amend 2.1.4 to read:

Development and site alteration shall not be permitted...unless it has been demonstrated that there will be no negative impacts on the natural and hydrological system or their ecological function. In the absence of full scientific certainty, the precautionary principle will be applied.

RECOMMENDATION 36: Define the precautionary principle in 6.0 as the following:

Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation

RECOMMENDATION 37: Amend the definition of "development" and "site alteration" in 6.0 to include all infrastructure projects such that these undertakings are subject to the same restrictions or prohibitions as other development and site alteration activities under the PPS 2005.

RECOMMENDATION 38: Amend 2.1.4 to include:

- a. regionally and locally significant features, and
- b. rare and imperiled habitat of alvars, tallgrass prairies, and savannahs.

2.2 WATER

ISSUE: Though the requirement that planning authorities use the watershed as the ecologically meaningful scale for planning is a valuable component of the PPS 2005, the lack of a direct requirement to prepare watershed and/or sub-watershed plans has led to inconsistencies in how planning decisions are made. Too often, Official Plans are approved in the absence of local watershed plans. The PPS must explicitly require, therefore, that watershed or sub-watershed plans become a component of Official Plans.

RECOMMENDATION 39: Amend 2.2.1 to require watershed and/or sub-watershed plans be completed and incorporated into land use planning documents, to ensure key components are used as the basis for planning decisions.

2.3 AGRICULTURE

ISSUE: The PPS 2005 fails to recognize the range of economic, social, environmental and health benefits that accrue from agricultural lands and sustainable agricultural practices. Ontario's agricultural landscape provides much more than safe food, fuel and fibre. It also benefits all Ontarians through the natural heritage and biodiversity it provides. Sustainable agricultural practices are a key component of ensuring the natural heritage systems in this province continue to function and thrive. Despite these benefits and practices, prime agricultural areas continue to be lost to due to unchecked 'greenfield' development and conversion to other uses.

RECOMMENDATION 40: Stronger PPS policies (Sec 2.3.5 and 2.5.4) are needed to reduce loss of prime agricultural areas due to settlement area expansions and aggregate operations. Furthermore, aggregate sites on prime agricultural land must be rehabilitated so that substantially the same acreage and soil capability for agriculture as had been present before extraction is restored.

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ISSUE: Given the significant percentage of the landscape owned and managed by farmers in southern Ontario, it is critical that the Province recognize and reward the good stewardship practices that have been adopted by farmers and other rural land owners/managers. These practices provide benefits to all Ontarians.

RECOMMENDATION 41: The province should develop a comprehensive program that acknowledges the benefits all Ontarians receive from farmers and rural land managers for their environmentally beneficial practices. This program should include both financial and technical assistance to assist farmers and other rural landowners/managers to maintain and/or enhance ecologically and hydrologically important features on their land.

ISSUE: The Ontario Professional Planners Institute has noted the importance of planning for food systems to ensure the viability of agriculture in healthy communities. The PPS should reflect the importance of planning to promote food systems in prime agricultural areas that strengthen the local and regional economy, enhance the viability of agriculture in the area, and are ecologically sustainable.

RECOMMENDATION 42: Add the following paragraph to policy 2.3.3.1:
Proposed new secondary uses and agriculture-related uses shall promote food systems that strengthen the local and regional economy, enhance the viability of agriculture in the area, and are ecologically sustainable.

ISSUE: It has been difficult for land trusts to purchase property zoned as agricultural due to rural severances clauses that don't allow outbuildings to be sectioned off, despite the fact that it is often high value conservation land.

RECOMMENDATION 43: Add the following new sub-clause to policy 2.3.4.1, which identifies criteria to permit lot creation in prime agricultural areas:
conservation severances and conservation easements required for the long-term protection of natural heritage features and areas, surface water features or ground water features that have been identified pursuant to policy 2.1.

2.5 MINERAL AND AGGREGATE RESOURCES

ISSUE: Although the PPS 2005 recognizes that protecting natural heritage is necessary for Ontario's long term prosperity, environmental health and well-being, natural heritage is not always accorded value equal to that placed on other provincial interests.

Specifically, aggregate extraction receives extraordinary priority over all other interests, since no demonstration of need is required when considering pit and quarry applications. The requirement to ensure aggregate is available as close to market as possible has led to incredible pressure in municipalities in the Greater Golden Horseshoe (GGH) and the lack of requirement for recycling or reusing aggregate has resulted in few operators developing a sustainable aggregate policy to guide their operations. As well, the allowance for aggregate extraction on prime agricultural land continues to damage and destroy areas that should be used for food production and the provisions of ecosystem services.

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The PPS 2005 also refers to the “interim nature” of aggregate extraction, a misleading term that ignores the long-term environmental damage that this activity causes. Finally, with no clear emphasis on end use and rehabilitation, pits and quarries are often left open for years on end, disrupting the ecological function of natural heritage features and systems.

Policy 2.5 of the PPS should be amended to achieve a more sustainable balance of aggregates extraction with other land uses by:

- requiring that the need for virgin mineral aggregate resources be demonstrated, given the priority on recovered and recycled aggregates;
- removing the requirement that mineral aggregate resources be made available as close to markets as possible;
- requiring provincial and regional provision for the recovery and recycling of aggregate resources to ensure conservation;
- removing language that suggests that aggregate extraction is an interim land use;
- prohibiting aggregate extraction on prime agricultural lands; and,
- strengthening wording to ensure that adequate progressive and final rehabilitation takes place within a reasonable period of time determined in consultation with the host municipality.

RECOMMENDATION 44: Amend policy 2.5.2.1 to read as follows:

2.5.2.1 Demonstration of need for virgin mineral aggregate resources shall be required prior to any new or expanded extraction of mineral aggregate resources. Aggregate producers shall be required to provide information on the suitability of alternatives to meet demands.

Prior to any new or expanded extraction of mineral aggregate resources, any sources of recovered or recycled mineral aggregate resources shall be considered to ensure the conservation of mineral aggregate resources.

Municipalities shall accommodate aggregate recycling facilities where appropriate.

RECOMMENDATION 45: Amend policy 2.5.3.1 to read as follows:

2.5.3.1 Progressive and final rehabilitation shall be required to accommodate subsequent land uses and promote land use compatibility, Final rehabilitation shall take surrounding land use and approved land use designations into consideration, and maintain and add ecological services wherever possible.

Measures shall be put in place to monitor progressive and final rehabilitation and ensure that they are carried out within a reasonable period of time determined in consultation with the host municipality. Measures should include the posting of a rehabilitation security deposit to be returned only when rehabilitation has been judged to be sufficient.

RECOMMENDATION 46: Amend policy 2.5.4.1 to read as follows:

2.5.4.1 Extraction of mineral aggregate resources shall not be permitted on prime agricultural land.

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PART V, 4.0 IMPLEMENTATION AND INTERPRETATION

ISSUE: Providing guidance for the proper implementation and interpretation of the PPS is of equal importance to ensuring strong and consistent content within. There are three key issues that must be clarified in this section to ensure the municipalities are able to implement the policies of the PPS in a way that remains true to the overall vision.

First, though the current “consistency” test is preferable to the “have regard for” test previously set out in the *Planning Act*, is less rigorous than the “shall conform/shall not conflict” test set out in subsection 3(5)(b) of the Act in relation to provincial plans (i.e., Greenbelt Plan, Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, etc.). Policy 4.9 of the PPS 2005 provides that provincial plans take precedence over PPS policies. The “conformity” test is also found other provincial statutes (i.e. sections 40-43 of the *Clean Water Act*; sections 7-8 of the *Lake Simcoe Protection Act*; section 13 of the *Ontario Planning and Development Act*, etc.).

It is necessary to strengthen this language to ensure that the vision of the PPS is applied to decisions that do not fall under its immediate purview.

RECOMMENDATION 47: Subsection 3(5)(a) of the *Planning Act* should be amended to ensure that all planning-related decisions by municipal councils, local boards, planning boards, Crown ministries, and provincial agencies, boards and commissions (including the Ontario Municipal Board) “**shall conform, or shall not conflict,**” with policies set out in the PPS.

RECOMMENDATION 48: The Ontario government should 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* (i.e., infrastructure decisions under the *Environmental Assessment Act*).

ISSUE: Finally, PPS policies are typically considered and applied when land use planning decisions are being made under the *Planning Act* (i.e., official plans, zoning by-laws, plans of subdivision, etc.). However, the legal effect of the PPS is generally uncertain under other provincial statutes where key decisions are also being made in relation to planning/development matters (i.e., infrastructure decisions in individual EAs, Class EAs, or sectoral regulatory exemptions under the *Environmental Assessment Act*).

This problem is compounded by the fact that these other laws often contain “paramountcy” clauses which provide that the statute prevails over other legislation in cases of conflict (i.e., section 71 of the *Planning Act*; section 20 of the *Places to Grow Act*; section 14 of the *Niagara Escarpment Planning and Development Act*; section 8 of the *Oak Ridges Moraine Conservation Act*; section 179 of the *Environmental Protection Act*; section 14 of the *Ontario Planning and Development Act*; sections 66 and 73 of the *Aggregate Resources Act*; section 128 of the *Ontario Energy Board Act*; section 166 of the *Safe Drinking Water Act*, etc.).

The existence of numerous paramountcy provisions can result in considerable debate and uncertainty as to which legislative regime prevails where two or more statutes apply to the same matter, and where there may be operative conflict between the competing regimes.

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RECOMMENDATION 49: The PPS should be amended to prioritize the protective policies which are aimed at ensuring ecological sustainability and safeguarding human health and safety, as follows: *"If there is a potential conflict between general or specific policies in relation to a planning matter, the policy that provides more protection to the natural environment and/or human health prevails and shall be applied to the planning matter."*

PART V, 6.0 DEFINITIONS

Sustainability should be reflected in the use of terms throughout the PPS. New definitions will need to be added. As well, many definitions will need to be amended. We make the following recommendations related to specific definitions.

RECOMMENDATION 50: Include the following definitions for "complete communities", "community infrastructure", "conservation easements", "conservation severances", "food system", and "green infrastructure".

Complete Communities

Complete communities meet people's needs for daily living throughout an entire lifetime by providing convenient access to an appropriate mix of jobs, local services, a full range of housing, and *community infrastructure* including *affordable* housing, schools, recreation and open space for their residents. Convenient access to public transportation and options for safe, non-motorized travel is also provided.

From: Growth Plan for the Greater Golden Horseshoe, 2006 (at 41)

Community Infrastructure

Community infrastructure refers to lands, buildings, and structures that support the quality of life for people and communities by providing public services for health, education, recreation, socio-cultural activities, security and safety, and *affordable* housing.

From: Growth Plan for the Greater Golden Horseshoe, 2006 (at 41)

Conservation Easement

Conservation easement means a legally enforceable agreement between a landowner and a public agency or a qualified land protection organization (including a land trust) for the purpose of achieving long term environmental protection.

Conservation Severance

Conservation severance means a severance for a lot creation or lot adjustment that are required by a public agency or a qualified land protection organization (including a land trust) for the purpose of achieving long term environmental protection.

Food System

Food system means the flow of food products from production, through processing, distribution, consumption, and the management of wastes, and associated processes.

Green Infrastructure

Green infrastructure means ecological processes or structures, whether natural or engineered, that process, capture, and direct water, stormwater, and wastewater in a similar manner to grey

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infrastructure, yet have multiple ancillary societal benefits. Green Infrastructure functions on a site specific scale (servicing specific areas), and on a regional scale as an interconnected network of spaces. Green infrastructure includes: urban forests, natural areas, greenways, streams and riparian zones, meadows and agricultural lands; green roofs and green walls; parks, gardens and landscaped areas, community gardens, and other green open spaces; rain gardens, bio-swales, engineered wetlands and storm water ponds. Green infrastructure also includes soil, in volumes and qualities adequate to sustain leafy green infrastructure and absorb water, as well as technologies like porous paving, rain barrels, cisterns and structural soils

From: Canadian Environmental Law Association and Ecojustice Canada, Submissions to the Standing Committee on General Government Regarding Bill 72, October 14, 2010.

RECOMMENDATION 51: *Revise the definition of significant habitat to read: "...in regard to the habitat of endangered and threatened species, means the habitat, as defined under the Endangered Species Act 2007..."*

RECOMMENDATION 52: Define the precautionary principle as the following:

Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation

RECOMMENDATION 53: Amend the definition of "development" and "site alteration" to include all infrastructure projects such that these undertakings are subject to the same restrictions or prohibitions as other development and site alteration activities under the PPS 2005.