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LONG-TERM THINKING FOR TODAY'S ISSUES

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October 21, 2019

Ladies and gentlemen,

**Re: ERO # 019-0279 Provincial Policy Statement Review**

The Christian Farmers Federation of Ontario (CFFO) is an Accredited Farm Organization representing the interests of over 4,000 farm families in Ontario who are called to the vocation of farming. CFFO policy promotes economically, socially, and environmentally sustainable farming, advocating that farmers receive fair return for their production and stewardship efforts.

Thank you for the opportunity to comment on the proposed changes to the PPS. We appreciate being included in the webinar briefing and the stakeholder meeting where we were able to gain insights into the changes from MMAH, OMAFRA and MNRF staff. We have furthered our understanding of the changes by engaging with Ontario Nature, the Canadian Environmental Law Association, Ontario Farmland Trust, the Ontario Federation of Agriculture and the National Farmers Union – Ontario. We also took the Provincial Policy Statement (PPS) Review to CFFO members across the province in face-to-face meetings to seek their opinions on your proposals.

Our submission is comprised of a cover letter and two appendices.

- All three components of CFFO's submission are of equal weight and stand together as our submission.
- The seven recommendations included in the letter reflect CFFO's perspective and overarching concerns with the PPS Review's proposals.
- Recommendations are premised on CFFO's fundamental commitment to economically, socially, and environmentally sustainable farming and our collective responsibility for stewardship of all resources.

The 10 recommendations included in the first Appendix provide our key concerns with specific PPS Review proposals and are provided in detail. Our comments that support the 10 recommendations underpin the seven overarching recommendations in the letter. The second Appendix provides brief answers, as requested, to the questions your staff posed to stakeholders in the ERO posting.

## General Concern

Throughout the PPS Review, a fundamental problem rests with the interpretation of the words “may,” “should” and “shall.”

- It is concerning that direction to municipalities is being “watered down” with multiple instances where “shall” is downgraded to “should.”

Furthermore, while the common language usage interpretation of “shall” is that it is equivalent to “must”, in legal terms, wherein consistency of meaning is required, this is not a clear-cut case. If the Province intends all instances of the use of “shall” to mean “must,” then “shall” must be replaced by “must” in all these instances. Otherwise, any party is at liberty to challenge any of these directives and potentially win their right to any action other than the one that the PPS says “shall” be the case.

Those who dispute a municipality’s decision regarding land use could very well use this imprecise meaning as a loophole. To avoid this unintended consequence, and costly dispute processes, all instances of “shall” must be replaced with “must” throughout the document. Furthermore, all cases of “may” and “should” are also open to interpretation and therefore also are meaningless in terms of guidance for municipalities. None of these “should” or “may” directives provide any binding guidance to municipalities at all, and therefore the use of “should” leaves up for grabs any and all alternatives. “Should” could refer to some sort of ethical suggestion but nothing binding legally. What “must” and “must not” be done is important. Imprecise or optional guidance is of little use to municipalities.

### Recommendation:

- In order to avoid unnecessary confusion over what the Province is directing municipalities to do regarding land use, terminology such as “shall,” “may” and “should” must be clarified. Shall must be replaced with “must.”

For all our comments, we assume the Province intends “shall” to be read as “must.”

## PPS Proposals CFFO Supports

CFFO supports all proposals that protect and prioritize the preservation of Ontario’s best farmland. We were pleased to hear MMAH and OMAFRA staff assure stakeholders that the Agricultural System approach is recommended to municipalities and that compliance with Agricultural Impact Assessments (AIA) will be required. We expect that you will require that municipalities must comply with both.

Furthermore, the Agricultural System must be extended beyond the Greater Golden Horseshoe to all of Ontario as quickly as possible with adequate ground-truthing.

Given that the AIA policy document was left in draft form by the former government, it is not possible for us to comment specifically on the adequacy of the AIA requirements. We ask that agricultural groups such as CFFO are called to be involved when your government moves to finalize this policy document.

### Recommendations:

- Involve agricultural stakeholders in finalizing the AIA policy guidelines.
- Extend the Agricultural System mapping to all of Ontario and ground-truth the data.

- Require, via the PPS, that municipalities use the Agricultural System and AIAs.

### Proposals CFFO Cannot Support

CFFO is opposed to changes that reduce preservation of Ontario's best farmland. This includes all proposals to reduce development intensification and density and allow for expansion of municipal borders, especially outside of a comprehensive review. Our reading of your effective ranking of priorities is the following:

1. Speed all development
2. Promote housing development, jobs, economic development
3. Expand aggregates operations, and do so closer to development areas
4. Prioritize mining and resource identification
5. Provide consideration to prime agricultural and specialty crop land

Such a blunt ranking reflects a lack of regard for managed growth that balances the social, economic and environmental goals preferred by modern society. The focus is on the short run without consideration of long-run needs of society and future generations. But clearly, farmland is a fixed resource and an increasingly valuable part of Ontario's natural capital. Our stock of farmland could be run down without limit with the proposed changes to the PPS.

CFFO also opposes the reduced protection of natural heritage sites and our remaining environmental assets including wetlands that have not yet been designated as significant. CFFO's concerns are not limited to farmland but to all the province's valuable and increasingly scarce endowment of natural resources.

According to the PPS and the proposed changes, the driver of development is population growth. With population growth comes its attendant housing, transit area and employment area growth along with expanding aggregate extraction sites to provide the raw material. Altogether, these growth needs will eventually drive out all other land uses if they go unmanaged. The proposed changes do not manage the growth but instead legitimize development in line with limitless population growth. Because there is no limit to population growth, these proposals will ensure that all farmland and natural heritage lands are developed. Each municipality will grow outwards with each having a clear incentive to capture the land between it and its neighbour. In short, the PPS Review proposals encourage beggar thy neighbour land grabs.

The deletions from section 4.7 (revised to 4.6 and – see Appendix 2) that remove the directive to municipalities to pursue coordinated growth across communities has been deleted from 4.7 and moved to the Preamble. This removes a clear directive to municipalities to coordinate growth and to avoid beggar thy neighbour behaviour. With no other policy protecting the land between municipalities, the PPS is inviting the "Tragedy of the Commons" to Ontario where there is no constraint on over-exploitation of a jointly held resource. In this case, it is "the land between" and specifically foodland and natural heritage lands, that will be over-exploited for development.

If the people of Ontario – voters, taxpayers, all generations (including future generations) – could visualize the projected expansion of municipalities according to population growth projections, the shrinking stock of farmland between municipalities throughout the province would be made clear. It is the government's duty of care to ensure growth is balanced and that all our natural capital is managed for the benefit of all Ontarians

today and into the future. There is no other more powerful, legitimate and appropriate steward of provincial resources than the provincial government.

#### **Recommendations:**

- Develop, and make public, mapping tools that clearly demonstrate the implications of the specific proposed changes to the PPS for the stock of farmland and natural heritage lands as opposed to the 2014 PPS.
- Provide land use maps for alternative growth policy scenarios. For example, with higher density and intensification requirements.
- Demonstrate alternative modelled land use outcomes of using various tools for managing growth and preserving farmland, such as ecosystem service incentives for farmers as well as greenbelts and other such constraints on farmland and natural heritage land loss.

#### **The Policy Opportunity**

Eventually, if your proposals are implemented, scarcity of farmland and environmental assets will accelerate. These proposals provide no impediments to this destiny. But when food security is in crisis, some future government will be called to task, and the brakes will be put on further farmland loss. In the meantime, with your proposed changes to the PPS, some will benefit at the collective cost of others today and in the future.

Your government has the opportunity to better balance growth with smart, forward-thinking urban design leadership. You could be heralded as the most effective steward of resources in a world that is grappling with effective land management challenges continually threatened by unsustainable peri-urban expansion.

Please consider the enormous benefits of placing a higher priority on farmland preservation and seeking to achieve a sustainable triple bottom line growth trajectory in Ontario.

Sincerely,



Clarence Nywening, President  
Christian Farmers Federation of Ontario  
BD

cc: Hon. Doug Ford, MPP, Premier of Ontario  
Hon. Ernie Hardeman, MPP, Minister of Agriculture, Food and Rural Affairs  
Hon. Steve Clark, MPP, Minister of Municipal Affairs and Housing  
Hon. Jeff Yurek, MPP, Minister of Environment, Conservation and Parks  
Hon. John Yakabuski, MPP, Minister of Natural Resources and Forestry  
Hon. Vic Fideli, MPP, Minister of Economic Development, Job Creation and Trade  
Dr. Anne Bell, Director of Conservation and Education, Ontario Nature  
President Keith Currie, Ontario Federation of Agriculture  
President Don Ciparis, National Farmers Union – Ontario  
Cordelia Clarke Julien, Assistant Deputy Minister at the Ontario Growth Secretariat  
Richard Lindgren, Canadian Environmental Law Association  
Kathryn Enders, Executive Director, Ontario Farmland Trust

## APPENDIX 1. Detailed Recommendations

This list details proposed changes to the PPS that clearly reduce protections to farmland. It is worth noting that even if a municipality worked to resist development into greenfields, developers could potentially apply pressure to expand into greenfields, finding support for their actions in the PPS.

### Abbreviations:

Provincial Policy Statement 2014: PPS 2014

Provincial Policy Statement Review – Proposed Policies: proposed PPS 2019

#### 1. Vague language in matters of growth area development

In many cases, the word “shall” used in PPS 2014 has been softened to “should” in the proposed PPS 2019. For example, section 1.1.3.6 and 1.1.3.7 of PPS 2014, which require municipalities to employ efficient land use and to meet intensification targets for growth areas, are reduced to mere suggestions under the proposed PPS 2019. The result will be decreased impediments to expanding development into greenfields.

**Recommendation:** Reject changes of the word “shall” in PPS 2014 to “should” in corresponding sections of proposed PPS 2019. Ideally, use the word “must” instead.

#### 2. Loosened requirements for comprehensive reviews

Comprehensive reviews are an important element in land use planning. Changes to the proposed PPS 2019, however, dilute their efficacy and threaten a further loss of farmland.

Firstly, omissions and additions to section 1.1.3.8 in the proposed PPS 2019, as compared with the same section in PPS 2014, jeopardize the likelihood that these vital reviews will be conducted in appropriate situations in future. Secondly, the introduction of section 1.1.3.9 to the proposed PPS 2019 allows for adjustments of settlement area boundaries outside of a comprehensive review.

As a result of these changes, there will be little impetus for municipalities to give due process for considering the implications of lost farmland. Here again, farmland has the lowest priority in decisions.

**Recommendation:** Delete the addition of 1.1.3.9 to the proposed PPS 2019 and remove changes to 1.1.3.8 pending consultation with rural and agricultural stakeholders and Ontarians more broadly concerning the value they place on retaining farmland.

#### 3. Lot Creation and Adjustments

Notably, Section 2.3.4 of the proposed PPS 2019, dealing with lot creation and adjustments remains unchanged. Lot Creation and Adjustments is a noted concern among farming and rural residents.

**Recommendation:** Planning authorities should be required to use the Agricultural Systems approach where it makes sense and if there are changes planned for 2.3.4 there needs to be consultation with farming and rural groups and residents.

#### 4. Rehabilitation of farmland and natural heritage land used for aggregate extraction

The PPS 2014 already allows for aggregates extraction in prime agricultural areas on the premise of future rehabilitation. The facts, however, are that rehabilitation seldom occurs: land is rarely returned to its original form; inspection and enforcement are inadequate; and the removal of large quantities of rock and gravel change the conditions (hydrology, soils) that support crops, plants and wildlife. Therefore, the premise is without merit.

While we do need stone, sand and gravel for everything from homes to roads to subway tunnels, there are better places from which to extract these resources than our most precious and vulnerable natural areas and prime agricultural land.

Nonetheless, section 2.4.4.1 in the proposed PPS 2019 continues to allow aggregates extraction to *override* protections for prime agricultural land on the faulty premise of future rehabilitation. Promised future rehabilitation (notably without any proper enforcement framework) is no reassurance against long-term and frequently permanent loss of these features.

**Recommendation:** Remove section 2.4.4.1 from proposed PPS 2019 which allows aggregates extraction to override protections for prime agricultural land on the faulty premise of future rehabilitation.

#### 5. Primacy of aggregate resources over farmland and natural heritage protections

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 offer even more preferential treatment to aggregates extraction, circumventing the current protections offered in policies 2.1.5, 2.1.6 and 2.17.

Section 2.5.2.1 in the proposed PPS 2019 places top priority on aggregate resources over and above farmland. According to this section, the need for aggregates does not have to be demonstrated, and priority is placed on extracting aggregates close to use sites. This allowance directly conflicts with farming. The reality, given the history and statistics, is that remediation is never complete or even feasible (please see Ontario Nature's submission to this ERO posting for detailed references). A more nuanced approach to the cost of aggregate extraction may demonstrate that the extra cost of extraction further north could offset the value of the farmland preserved – that is, the extra cost of trucking aggregates would reflect the value of preserving farmland and natural assets. Either developers or taxpayers could pay the cost, which is ultimately a public value. Developers, of course, will pass extra costs on to home buyers to the extent that the market will bear higher new home prices.

**Recommendation:** Remove this statement in its entirety from section 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.

The proposed new policy 2.5.2.2 opens the door to aggregates extraction in 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. Our recommendation is in line with Ontario Nature's on this point.

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

#### 6. Balancing the province's long-run needs

Although there are no proposed changes to section 2.5.4.1 in proposed PPS 2019, this section demonstrates that agricultural lands have the lowest priority in the PPS. This premise should be reconsidered and revised in light of the facts: aggregate sites are long lived, remediation efforts have not been successful, and prime agricultural land is in short supply while aggregate resources are not in short supply further north.

**Recommendation:** Relative scarcity of the best available agricultural land versus aggregate resources should dictate whether agricultural land should be lost to aggregate extraction. A revision to the foundational principle of 2.5.4.1 is required to better balance provincial short and long-run needs.

#### 7. Protections for Natural Heritage Sites

Section 2.5.2.2 in both the PPS 2014 and the proposed PPS 2019 decree that any extraction project must take measures to minimize social, economic and environmental impacts. An addendum to this section in the proposed PPS 2019, however, allows for extraction to natural heritage features outside the Greenbelt, provided there will not be negative ecological impacts. Given it has not been demonstrated that there could be rehabilitation to original ecological conditions, the change is meaningless. Our recommendation is in line with Ontario Nature's on this point.

**Recommendation:** Remove the addition to 2.5.2.2 since full remediation is not possible.

#### 8. Ministerial authority

Section 4.5, in both documents, provides undefined and unlimited discretion to the Minister of Municipal Affairs and Housing. Assigning unbounded Ministerial discretion over municipal development in this manner means that the Minister could supersede the PPS and municipal Official Plans. This clause opens the risk of negative provincial-level political input into local land use planning.

**Recommendation:** Remove section 4.5.

#### 9. Loosened policy restrictions

Several important passages found in sections 4.7–4.13 of PPS 2014 have migrated away from a vital portion of the PPS – “Part V: Policy” – and are instead located in arguably less binding sections of the document, including the “Preamble” and “Part III: How to Read the Provincial Policy Statement.”

For example, section 4.7 in PPS 2014 deals with the importance of Official Plans as vehicles for implementing the PPS. The proposed PPS 2019 repeats the language of PPS 2014, section 4.7 exactly, with a notable exception. The following instructions have been moved from this section of the proposed PPS 2019 and incorporated into the Preamble:

Official plans should also coordinate cross-boundary matters to complement the actions of other planning authorities and promote mutually beneficial solutions. Official plans shall provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.

However, the resulting vagueness regarding coordination of municipalities is problematic and may increase the risk of the Tragedy of the Commons in the loss of surrounding farmland, as noted in the above letter.

Similar concerns exist for section 4.8–4.13 of the PPS 2014.

**Recommendation:** Retain policies 4.7–4.13 as written in PPS 2014, where they are clearly understood to provide direction on implementation and key municipal duties. Directions for coordinated municipal planning need clarification to be effective.

## Appendix 2

### Responses to Questions MMAH Posed to Stakeholders

With reference to the questions you posed to stakeholders, our brief responses are included below.

1. Do the proposed policies effectively support goals related to increasing housing supply, creating and maintaining jobs, and red tape reduction while continuing to protect the environment, farmland, and public health and safety?
  - A. Yes, the proposals support goals for housing supply, etc. Nothing in the proposals, however, adds to environmental and farmland protections, and many changes actually *reduce* protections, especially with changes in wording from “shall” to “should.”
2. Do the proposed policies strike the right balance? Why or why not?
  - A. No, as explained in the body of our letter, development is ranked highest and farmland preservation ranked lowest with no indication of an attempt to balance the triple bottom line in the interests of long-run sustainability and wellbeing.
3. How do these policies take into consideration the views of Ontario communities?
  - A. Unknown, since this was not addressed or demonstrated. A survey could be designed to elicit community preferences by outlining the long-run land use consequences of the proposals and alternative scenarios.
4. Are there any other policy changes that are needed to support key priorities for housing, job creation, and streamlining of development approvals?
  - A. Not according to this government’s priorities, promises and goals, although there is no clear priority for affordability, which has been called for repeatedly by Ontarians, and which also was promised by your government.
5. Are there other tools that are needed to help implement the proposed policies?
  - A. No, the proposals will do the maximum to encourage development; however, this is not in the best interests of either the current or the long-run wellbeing of Ontarians.