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## **Comments on the June 2004 Provincial Policy Statement: Draft Policies**

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The Pembina Institute  
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**I. Introduction**

The Pembina Institute for Appropriate Development (PIAD) is a national, independent not-for profit environmental research and education organization, with offices in Ottawa, Toronto, Edmonton, Calgary, Vancouver and Drayton Valley, Alberta.

The Institute has taken a strong interest in issues related to the environmental, economic and social sustainability of urban communities in Ontario over the two years, publishing three major reports, *Smart Growth in Ontario: The Promise vs. Provincial Performance* (February 2003); *Building Sustainable Urban Communities in Ontario: Overcoming the Barriers* (December 2003), and *Towards Implementation? Building Sustainable Urban Communities in Ontario* (July 2004).

The Pembina Institute welcomes government's initiative to overhaul the Provincial Policy Statement (PPS) made under the *Planning Act*. The existing policy statement, adopted in 1996, has failed to provide adequate policy direction to planning authorities, provincial agencies and the Ontario Municipal Board. In fact, the provisions of the current PPS have been identified as major factors in the dominance of sprawling urban development patterns in southern Ontario over the past few years.<sup>1</sup>

**II. Key Themes for the Reform of the PPS.**

In the course of its work on urban sustainability issues, the Institute has identified five key themes which it believes should guide the revision of the PPS. These are as follows.

- 1. The containment urban sprawl.** Urban sprawl has emerged as a major environmental, economic and social problem, particularly southern Ontario, and the adverse consequences of the continuation of current development patterns are well documented.<sup>2</sup>

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<sup>1</sup> See, for example, L.Pim and J.Ornoy, *A Smart Future for Ontario: How to Protect Nature and Curb Urban Sprawl in Your Community* (Toronto: Federation of Ontario Naturalists, 2002), pg.29.

<sup>2</sup> See, for example, IBI Group in association with Dillon Consulting Limited *Toronto-Related Region Futures Study Interim Report: Implications of Business-as-Usual Development* (Toronto: Neptis Foundation, August 2002).

Sprawl should be contained by accommodating population and economic growth through the intensification and redevelopment of existing urban settlement areas to greatest extent possible, rather than through greenfields development.

- 2. The promotion of attractive, compact mixed-use urban development.** Public acceptance of changing development patterns will depend on the establishment of communities with a strong sense of place and identity and for which non-automobile based transportation modes for both local and longer distance travel are viable and attractive options. This can be achieved through a mix of residential and employment land uses, good connectivity (both transportation and greenspace), ensuring human scale development (buildings, blocks and roads), and the location of public services, businesses and institutions within walking distances of residences. Good urban design will also be critical in overcoming resistance to redevelopment/intensification/infill in existing communities. Intensification projects need to be appropriate to the scale and character of the surrounding community.<sup>3</sup>
- 3. The protection of prime agricultural, natural heritage and source water lands from urbanization and other inappropriate forms of development.** In addition to preserving the agricultural and ecological functions of these lands, their protection can function an urban containment boundary in key areas of the province subject to intense urbanization pressures, particularly the Golden Horseshoe region.
- 4. Ensuring that infrastructure development occurs in ways that support redevelopment and intensification over sprawl.** The location of infrastructure, provided by both local and senior levels of government can have major impacts on the location and form of new urban development and the viability infill and redevelopment initiatives. Provincial policy should direct infrastructure in support of improving the environmental, social and economic sustainability of existing settlement areas, and their ability to support additional development, as opposed to facilitating greenfields development.
- 5. The adoption of a rational and balanced approach to conflicts between non-renewable resource development and other land uses.** Non-renewable resource development should not be given prima facie priority over other potential land uses, particularly where prime agricultural lands, source waters and ecologically significant areas may be affected. Consideration also needs to be given the potential impact of changes in urban development patterns that the revised PPS is intended to prompt on future demand for mineral aggregate in particular.

These themes should be reflected in the vision statement forming Part IV of the PPS. In particular, the second paragraph of the vision statement should emphasize the long-term environmental, social and economic sustainability and well-being of communities, rather than simply the management of “growth.”

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<sup>3</sup> See D.Porter, *Making Smart Growth Work* (Washington, D.C.: The Urban Land Institute, 2002), pp.19-20, 132.

Paragraph three of the vision statement, regarding resources, should simply reference the “management and use” of resources. The word “wise” should be deleted from this phrase in the paragraph, as “wise use” of natural resources is a highly value laden term, and one which may not reflect the perspectives of all Ontarians.

### **III. General Comments on the Revised PPS**

The first three of these themes: the containment of urban sprawl; promotion of compact, mixed use development; the protection of prime agricultural, natural heritage and source water lands are strongly referenced in the revised PPS. Unfortunately, in general the draft PPS fails to deliver sufficiently detailed and specific direction to make sure these themes are translated into implementation.

There are, for example, a number of places where clear tests need to be established, through the PPS, to ensure that these directions are followed, but where such tests are not articulated or it is left up to the affected municipalities to establish their own tests. Examples of these situations include the following:

- Where there is a need to move into designated growth areas of settlement areas (i.e. exhaustion of intensification and redevelopment opportunities (s.1.1.1.2.)).
- Where there is a need to expand settlement areas to accommodate employment and housing (s.1.2.3. and s.1.4.2.). Targets for intensification and redevelopment that would be important factors in determinations of the need to develop designated growth areas and expand settlement areas are left to upper tier municipalities (s.1.3.3.b). A similar approach is taken to the establishment of density targets for Transit corridors (1.3.3.c)
- Where there are “no reasonable alternative locations” to develop instead of prime agricultural areas (s.1.1.1.4. and s.2.3.5.1.)
- Where of minimum targets are to be established for “affordable housing” (s.1.4.4.) (This is left to be defined by planning authorities)
- Where there is a need for new infrastructure (s.1.5.2.)
- Where “significant concentrations of new development” would trigger tests for the alteration of settlement area boundaries in rural areas (s.1.1.2.5)

In other jurisdictions, senior levels of government have taken a more direct role in establishing targets and tests related to redevelopment and urban expansion. The United Kingdom, for example, has established a target that 60 per cent of additional homes be constructed on previously developed land, required that all local authorities undertake urban capacity studies to identify the full potential for using previously developed land and conversions, and set minimum density requirements for new housing developments.<sup>4</sup> The State of New South Wales, Australia has set a target for Sydney Metropolitan Area

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<sup>4</sup> See Office of the Deputy Prime Minister, *Sustainable Communities, Building for the Future* (London: ODPM, February 2001), pp.38-40.

of 60 to 70 per cent of development occurring in established areas, such as centres and corridors, over the next 15 to 20 years.<sup>5</sup>

Urban containment boundaries have been widely adopted in the United States as a mechanism to contain urban sprawl. In some cases, such as Oregon, Washington and Tennessee, such boundaries are explicitly required by the state government, while in others, such as Maryland, they are implicitly encouraged. There is also a long tradition of the adoption of such boundaries by local governments in many states, notably California.<sup>6</sup> US experience with the use of containment boundaries and greenbelts indicates that these tools are more effective in containing urban sprawl when they are enacted at the state or regional level, rather than at the local or municipal level. In particular, the establishment of boundaries by higher levels of government reduces the likelihood of the relocation of development outwards to ‘leapfrog’ or satellite developments.<sup>7</sup>

British Columbia has taken a somewhat different approach to these issues. When the Agricultural Land Reserve (ALR) system was first established in 1976, it was not explicitly intended to contain urban sprawl. However, the ALR is now credited as one of the most important tools for slowing urban sprawl, and promoting more creative and compact development forms in the BC, particularly in the Lower Mainland.<sup>8</sup>

Local governments and other authorities are not permitted to allow non-farm use of ALR lands, and lands are not permitted to be removed from the ALR “for development.” Rather, land can only be removed from the ALR if it cannot be used for agricultural purposes.<sup>9</sup> Decisions regarding the addition or removal of lands from the ALR are made by an Agricultural Land Commission.

In the context of the projections of the impacts of ‘business as usual’ sprawling development patterns in Ontario,<sup>10</sup> particularly in the golden horseshoe region, the province needs to consider a similarly more directive approach in the Provincial Policy Statement. In fact, the Ontario government’s own Growth Plan for the Greater Golden Horseshoe references the need for provincially established infill and intensification targets.<sup>11</sup>

Both the revised PPS and *Places to Grow* imply that the province is taking a more active role in planning than it has in the past. As a consequence, the province needs to provide guidance and support to municipalities in addition to policy direction. Provincial support and guidance is particularly needed in such areas as assessing urban capacity for

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<sup>5</sup> See *Sydney Metropolitan Strategy: Ministerial Directions Paper* (Sydney, AU: Department of Infrastructure, Planning and Natural Resources, May 2004), pg.15.

<sup>6</sup> On US experience with urban containment boundaries see R.Pendall, J.Martin and William Fulton, *Holding the Line: Urban Containment in the United States* (Washington: Brookings Institution Center on Urban and Metropolitan Policy, August 2002).

<sup>7</sup> Pendall, Martin and Fulton, *Holding the Line*, pg.37.

<sup>8</sup> On the ALR see [http://www.smartgrowth.bc.ca/index.cfm?Group\\_ID=3381](http://www.smartgrowth.bc.ca/index.cfm?Group_ID=3381).

<sup>9</sup> See the *Agricultural Land Reserve Act*, [www.alc.gov.bc.ca/legislation/Act/index.htm](http://www.alc.gov.bc.ca/legislation/Act/index.htm).

<sup>10</sup> See IBI Group in association with Dillon Consulting Limited, *Toronto-Related Region Futures Study*.

<sup>11</sup> *Places to Grow*, pg.22.

redevelopment, projecting future housing needs and employment trends, identifying and protecting source water and natural heritage lands, and the development and use of alternative development standards.

#### **IV. Specific Comments on the Revised PPS**

##### **1. Containing Urban Sprawl (ss.1.1, 1.2 and 1.4)**

The PPS should to set a clear hierarchy of priorities for the provision of employment opportunities and housing in urban and urbanizing areas of:

- First, maximizing the potential for redevelopment of existing urban areas<sup>12</sup> through brownfields and greyfields redevelopment, infill, and intensification.
- Second, if sufficient development capacity cannot be provided in this way, then permit development of undeveloped designated growth areas within settlement areas; and
- Third, consideration of expansions of settlement areas.

The PPS needs to set up a series of clear tests for each step. These should in incorporated into s.1.1. of the PPS. Consistent with the emphasis on maximizing opportunities for redevelopment and infill and discouraging greenfields development, particularly outside of currently designated settlement areas, the overall approach should emphasize the availability of development capacity rather than simply “land” to accommodate future needs.

Before the development of unurbanized designated growth areas of settlement areas can proceed, the municipality should be required to demonstrate consideration of the full potential for intensification, redevelopment, including brownfields, greyfields and transit corridors within the existing urban area of the municipality. This would include:

- The completion and incorporation into estimates of development capacity of an urban capacity study as per the requirements in the UK to investigate the potential for redevelopment in the existing urban area for housing and employment uses.
- The incorporation into estimates of development capacity of an infill/redevelopment target established by the province (not upper tier municipalities as proposed in 1.3.3.b). This target may vary from region to region, but in areas of the province subject to urbanization pressures, the redevelopment target should be 70 per cent of new development, as is the case in the Sydney Metropolitan Strategy.<sup>13</sup> The development capacity estimate should also include provincially established density targets for transit corridors (not municipally established as per 1.3.3.c)

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<sup>12</sup> i.e. areas that have already been urbanized.

<sup>13</sup> Note that the Golden Horseshoe Growth Plan suggests a 40% intensification target as the test for expansion. *Places to Grow*, pg.21. The United Kingdom has a housing redevelopment target of 60%.

- The impact on development capacity of a minimum density requirement as per the UK (e.g. 30 dwellings per ha) for expansions beyond the existing urban area and for transit corridors. This will help to ensure the efficient use of land, support the viability of transit services, and the provision of public services and commercial establishments within walking distance of residences in new developments.
- The demonstration of the environmental capacity to support the projected growth, particularly in terms of the sustainability of required water takings and accommodation within the relevant watershed based source water protection plan.<sup>14</sup>
- Consideration of the availability development capacity via redevelopment within the regional market area, not just the individual municipality proposing development.

Proposals for expansions of the settlement area should only be permitted at the time of a review/revision of the relevant Official Plan initiated under s.26 of the *Planning Act*.<sup>15</sup> Proposals for the expansion of the settlement area should be required to demonstrate that future employment and housing needs cannot be met, considering urban capacity for redevelopment, development of designated growth areas, including the potential for development beyond the minimum densities established by the province, and development capacity, including redevelopment potential, on a regional (as opposed to regional market area) basis.

Proposals for settlement area expansions should be subject to an external, independent review to ensure full consideration of alternative options. A specific application should be required to the province, and a hearing conducted by the Ontario Municipal Board, prior to the granting of settlement area expansions.

Expansions into designated growth areas should not be permitted to occur until<sup>16</sup>

- The necessary infrastructure is approved under the *Environmental Assessment Act* and other relevant legislation, and a plan for the staging, financing and provision of infrastructure is in place.<sup>17</sup>
- A transportation infrastructure and demand management plan is in place to reduce the need for motorized journeys
- Planning and protection of natural heritage systems and resources is in place.

In all cases, specialty croplands and prime agricultural areas (see part IV.3) should be protected from urban development and inclusion in settlement areas. The protection of these lands would be consistent with British Columbia's ALR model.

The provisions of the PPS regarding the maintenance of minimum supplies of lands for 10 years of residential growth (s.1.4.1.a)) and serviced land for a 3-year supply of

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<sup>14</sup> These tests are drawn from *Places to Grow*, pg.21.

<sup>15</sup> S.26 of the Planning Act currently only requires that a review be considered every five years, but does not require that a review take place, or set a minimum time period between reviews.

<sup>16</sup> These tests are drawn from *Places to Grow*, pg.21.

<sup>17</sup> From 1995 *Comprehensive Policy Statement*, Policy B.8.c)iii).



housing (s.1.4.1.b)), have been widely criticized as compelling municipalities to facilitate urban sprawl.<sup>18</sup>

These provisions should be modified to place a greater emphasis on the capacity of municipalities to accommodate future needs through a combination of redevelopment, infill, intensification and new development, rather than simply requiring them to maintain a continuously expanding supply of raw land for development. Such an approach would also be more consistent with the direction of Bill 26, the *Strong Communities Act*, in giving communities greater discretion about whether they wish to extend their settlement areas.

The time horizon for accommodation of housing needs should be grounded on the availability of capacity to accommodate these needs, based on the utilization of capacity identified through urban capacity studies, and designated growth areas, rather than a fixed time frame. This would remove some of incentives to sprawl and speculation provided by the current and proposed policies (1.4.1.a). Similarly, the requirement for 3 years of serviceable land for new residential development should be removed or modified (s.1.4.1.b).

Reflecting these directions, the provision should be re-worded such that:

1.4.1. “Planning authorities shall:

- a) Review their capacity to accommodate future housing needs when 75 per cent<sup>19</sup> of their capacity to accommodate new housing development, including opportunities for intensification and redevelopment, identified through urban capacity studies and in designated growth areas, as incorporated into their most recent official plan, is utilized.”
- b) Maintain lands suitably zoned and available for intensification, redevelopment, or new development in accordance with their official plan.”

The long-term planning horizon of up to 20 years (1.2.3.a) should be retained, but the purpose of long range planning should be ensuring and promoting community economic, environmental and social sustainability and well-being, as opposed to simply accommodating growth.

Consistent with the provisions of Bill 26,<sup>20</sup> the PPS should provide that municipalities are not required to expand their settlement areas or establish new urban settlement areas, where it is determined that it is unnecessary to ensure and promote community economic,

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<sup>18</sup> See, for example, Pim and Ornoy, *A Smart Future for Ontario: How to Protect Nature and Curb Urban Sprawl in Your Community* pg.29.

<sup>19</sup> A 75%-80% capacity utilization is the generally accepted trigger for a review of development capacity among BC municipalities.

<sup>20</sup> Bill 26, *The Strong Communities Act*, 2003, s.7.

environmental and social sustainability and well-being through the development of an Official Plan or review of an Official Plan initiated under s.26 of the *Planning Act*.

The province needs to provide guidance to municipalities on the projection of both housing and employment needs, and the conduct of urban capacity studies.

### **Rural Areas (s.1.1.2)**

The definition of “rural” areas (s.1.1.2.1) includes a number of key terms that are not defined, including “management and use of natural resources,” “resource-based recreational activities,” “limited residential development,” and “other rural land uses.” These terms could be interpreted to encompass a wide range of activities, including limited access “lifestyle communities,” racetracks, and golf courses, which may carry with them significant planning, public service facility, infrastructure, and natural heritage and source water implications.

Each of these terms needs to be defined, and tests established to determine where development proposals may have significant implications with respect to public service facilities, infrastructure, natural heritage and source water protection. In such cases, development should only be permitted where it has been determined, through an official plan review initiated under s.26 of the *Planning Act*, that the proposed development will not place an undue strain on public service facilities and infrastructure, and will not adversely affect natural heritage and source water protection.

Similarly, the term “significant concentrations of new development” in rural areas (1.1.2.5), which would trigger the tests for the alteration of the boundaries of settlement areas, is not defined. A definition of this term should be provided.

Scattered development (s.1.1.2.3) should not be permitted (not just “discouraged”).

## **2. Promote attractive, compact mixed-use urban development (s1.2)**

S.1.2.3b) of the PPS addresses the issue of densities and the land-use mix. This section should reflect smart growth principles regarding community and urban form. In particular, a section 1.2.3 b)5 regarding urban form, should be added. This should draw a number of key points regarding urban form and design forward from s.1.6.1, where they currently have a secondary and long-term status. These points would include:

- Maintaining and improving the vitality of downtowns and main streets (from policy 1.6.1b). The location of public service facilities (e.g. provincial institutions, health care and educational facilities, offices, etc) should support this goal,<sup>21</sup> and
- Planning public streets, facilities and spaces to meet needs of pedestrians, and facilitate pedestrian and non-motorized movement (from 1.6.1g).

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<sup>21</sup> From *Places to Grow*, pg.17.

These design goals should be cross-referenced to policy 2.6.1, requiring the conservation of significant build heritage and cultural heritage landscapes. The provisions should also incorporate the community design and enhancement concepts proposed by the Conservation Council of Ontario, including ease of access to community centres, health, retail, and educational services, and recreational and cultural activities.<sup>22</sup>

In addition, the section should incorporate targets for housing/employment mix (1.2.3.b4iv) to promote mixed-use development. The City of Ottawa's Official Plan, for example, incorporates a target of 1.3 jobs per household.<sup>23</sup> A provision emphasizing the desirability of design that provides for high levels of connectivity, allowing direct travel by motorized and non-motorized means via roads, sidewalks, and paths and ensuring the connectivity of greenspaces, should be included as well.

A provision regarding the form of intensification and redevelopment projects should also be added, referencing the need for such projects to consider the scale and character of existing communities. This will be important in addressing potential local concerns that intensification and redevelopment may mean inappropriate development.<sup>24</sup> This would not exclude development that is more dense than the surrounding neighbourhood, but would imply that highrise re-development may not be appropriate in a neighbourhood consisting primarily of single family or semi-detached housing, while townhouse, or low-rise apartments and condominiums may be accepted.

Section 1.2.3.b)4 largely deals with transportation systems. The section needs to incorporate the overall goal expressed in 1.5.5.1.d of reducing the need for and length of motorized journeys, and creating viable and attractive choices of public transit and other non-motorized transportation modes.

Section 1.2.3 d) needs to specifically reference and support the utilization of Alternative Development Standards, define these standards and provide examples. Similarly the province should provide guidance regarding development standards that are supportive of residential intensification and redevelopment (1.4.4.d).

Minimum targets for affordable housing should be identified by the province under section 1.4.4.a), rather than by "planning authorities." Affordable housing needs to be defined at the level of 30 per cent of gross income of the lowest 30 per cent of regional income distribution, and with a target of 30 per cent of all new dwellings, as per the 1995 PPS.

### **Long –Term Prosperity (1.6)**

As noted earlier, a number of elements of this section of the PPS should be incorporated into section 1.2. dealing with the development patterns and urban form.

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<sup>22</sup> See Conservation Council of Ontario, *Community Design and Enhancement*, August 2004.

<sup>23</sup> City of Ottawa, *Official Plan*, May 2003, section 2.2.3. Managing Growth within the Urban Area.

<sup>24</sup> Porter, *Making Smart Growth Work*, pp.19-20, 132.

Policy 1.6.1. c) references the maintenance of a range and choice of “employment lands.” This is also referenced in *Places to Grow*.<sup>25</sup> Employment lands should be a defined term.

The PPS needs to encourage the same principles of mixed use, transit serviceability and compact form that it follows with respect to housing lands. Employment land sprawl, characterized by single use, low density, big blocks (a.k.a. “superblocks”), large low-rise commercial and warehouse/light industrial buildings, with extensive surface parking and poor transit service has become increasingly prevalent throughout Ontario.<sup>26</sup> Such development patterns present the same sorts of challenges in terms of the loss of agricultural, natural heritage and source water lands, transportation congestion, air quality and infrastructure costs, as residential sprawl.

In fact, while there is evidence of changes in the form of new residential development in urbanizing areas of the province over the past few years, there is little or no evidence of change in the design of employment land areas to reflect smart growth principles. Low density employment land development patterns have also emerged in commercial brownfield and greyfield infill projects in existing urban areas.<sup>27</sup>

In light of these considerations the PPS should set a minimum standard for new non-heavy industrial employment land development along the lines of the “compact suburban business district” as defined by the Urban Land Institute in the table reproduced below.<sup>28</sup> The redevelopment and intensification of existing low-density business districts along these lines should also be promoted, including the incorporation of mixed uses, creation of pedestrian friendly places, and transit serviceable densities.

The housing and employment potential of such development forms for existing and future employment lands should be incorporated into the urban capacity studies proposed to be required in relation to the use of designated development areas, and settlement area expansions.

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<sup>25</sup> *Places to Grow*, pg.24.

<sup>26</sup> Defined by the characteristics of “fragmented” and “disbursed” suburban business districts in the table below adopted from G.Booth, B.Leonard and M.Pawlukiewicz, *Ten Principles for Reinventing American’s Suburban Business Districts* (Washington, D.C.: Urban Land Institute, 2002).

<sup>27</sup> The recent industrial land redevelopments into big box store malls in Leaside and Scarborough (GM Lands) are examples of this.

<sup>28</sup> See Booth, Leonard and Pawlukiewicz, *Ten Principles for Reinventing American’s Suburban Business Districts*.

Attributes	Central Business District	Compact Suburban Business District	Fragmented Suburban Business District	Dispersed Suburban Business District
Development density	High	Medium	Low	Very low
Floor/area ratio	5.0 and above	2.5 and above	0.5 to 2.5	Up to 0.5
Building coverage	75 percent or more of lot area	50 percent or more of lot area	25 to 50 percent of lot area	Up to 25 percent of lot area
Lot area	Less than one acre	Less than one acre	Greater than one acre	Generally exceeds ten acres
Street layout	Grid	Grid	Superblock	Superblock
Land value	Very High	High	Medium	Low
Spatial separation between buildings	Very low	Low	High	Very high
Buildings dominate space?	Yes, buildings built to street alignment	Yes, buildings built to street alignment	No, buildings set back from road and separated by surface parking lots	No, buildings set back from road; often one to two stories in height in campus/park setting
Parking cost	Subject to charge	Subject to charge	Free	Free
Dominant parking type	Garages (restricted access)	Garages (restricted access)	Surface parking (restricted access)	Surface parking (unrestricted access)
Quality of transit service	Citywide, frequent	District-centric, less frequent	Local, infrequent	Local, very infrequent
Pedestrian orientation and quality of public domain	Very strong, encourages pedestrian activity	Strong, encourages pedestrian activity	Weak, often no pedestrian linkages; encourages patrons to drive to adjoining developments	Very weak, developments far apart and not within walking distance
Dependence on cars for access	Low	Moderate	High	Very high
Choice in mode of transit	Very good	Good	Poor	Very poor
Examples	Downtown, Washington, D.C.	Rosslyn, Arlington County, Virginia	Tysons Corner, Fairfax County, Virginia	College Boulevard-Overland Park, Kansas City, Kansas

Source: Geoffrey Booth, Urban Land Institute, 2001.

### Alternative Energy Systems (1.6.1.d)

The Pembina Institute strongly supports the provision of opportunities for the generation and use of alternative energy systems, and encourages the completion of land-use planning guidelines for the establishment of such facilities.<sup>29</sup>

The PPS should also incorporate a section promoting energy efficiency and conservation in building and development design, and supporting energy efficient infrastructure options, such as district heating and cooling systems.

The direction to provide for the generation and use of alternative energy systems, and support energy conservation and efficient should be given greater prominence in the PPS, being placed in their own section under a separate heading (e.g. 1.7. Energy Conservation and Efficiency and Alternative Energy Systems).

<sup>29</sup> See M. Winfield et al., *Power for the Future: Towards a Sustainable Electricity System for Ontario* (Toronto: The Pembina Institute and Canadian Environmental Law Association, May 2004), recommendation 18.

### **3. The protection of prime agricultural, ecologically significant and source water lands from urbanization and other inappropriate forms of development**

#### **Agricultural Lands (s.2.3)**

As noted in sections IV.1 and IV.5, the Pembina Institute believes that prime agricultural areas should be fully protected from urban development, inappropriate rural development, and irremediable aggregate resource development. The emphasis on the protection of these areas reflects the considerations that only five per cent of Canada's total land base is considered prime agricultural lands, and that these lands are heavily concentrated in regions of southern Ontario that are subject to intense urbanization pressures.<sup>30</sup>

Prime agricultural areas should be defined in section 2.3.1. as areas where there are significant specialty crop areas, and significant concentrations of Canada Land Inventory Class 1, 2 and 3 soils (as opposed to where specialty crop areas and Class 1, 2, and 3 soils "predominate)."

Prime agricultural areas should be defined to include areas where there is significant potential agriculture on class 1, 2 and 3 soils, rather than only those areas that are already in production. Similarly, specialty crop areas should be defined as where specialty crops may be grown, as opposed to where they are "predominantly" grown.

Consistent with the BC ALR model, lands should only be permitted to be removed from prime agricultural areas if the land in question cannot be used for agricultural purposes.

#### **Natural Heritage Lands (s.2.1)**

The Pembina Institute has reviewed the Ontario Nature's comments on the natural heritage (s.2.1) aspects of the proposed PPS, and endorses Ontario Nature's conclusions and recommendations.

#### **Source Water Lands (s.2.2)**

The Pembina Institute has reviewed the Canadian Environmental Law Association's (CELA) comments on the water (s.2.2.) aspects of the PPS, and endorses CELA's conclusions and recommendations.

The Pembina Institute highlights the need for much stronger linkages between land-use planning and source water protection, and has highlighted this gap in the province's source water protection initiatives.<sup>31</sup>

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<sup>30</sup> See *Places to Grow*, p.43.

<sup>31</sup> See, for example, M.Winfield, *Towards Implementation? Building Sustainable Urban Communities in Ontario* (Ottawa: The Pembina Institute, 2004), Table 7.

In particular, the PPS should incorporate much stronger protections for source water than those contained in the June 2004 proposals. The language of the 1995 Policy Statement, prohibiting (not “restricting”) development that will negatively impact groundwater recharge areas, head-waters and aquifers that have been identified as sensitive, and in significant ravine, valley river and stream corridors provides a good basis for provisions for the PPS in this regard.<sup>32</sup>

In addition, to ensure the integration of land-use planning with the watershed based source water protection planning process under the province’s proposed source water protection legislation,<sup>33</sup> the PPS should incorporate a provision that “development that is inconsistent with the relevant watershed based source water protection plan, will not be permitted.” Similarly, development that is identified as a “water risk” under the proposed *Source Water Protection Act* should not be permitted.

#### **4. Ensure infrastructure development occurs in ways that support redevelopment and intensification over sprawl (s.1.5)**

The PPS should emphasize the development of infrastructure to support the redevelopment of existing settlement areas before the extension of infrastructure to support undeveloped priority growth areas. Planning, approval and development of transportation and sewer and water infrastructure extensions beyond existing developed urban settlement areas should only be permitted if the tests for expansion of the settlement area, proposed in section IV.1. of this submission, are met, and the development in designated growth areas that the infrastructure is to serve is approved.

##### **Transportation Infrastructure (s.1.5.5)**

The provincial policy statement should give priority to energy efficient, low emission travel, such as walking, bicycling, and public transit.<sup>34</sup> Land-use patterns, density and the mix of uses need to ensure that these are viable and attractive transportation choices.

The PPS should require that transportation systems be designed to ensure the protection of the environment, including the reduction of emissions of smog precursors and greenhouse gases, and of noise and runoff. The Pembina Institute has reviewed the Sierra Legal Defense Fund’s (SLDF) comments on the addition of provisions to the PPS regarding the reduction of emission of smog precursors and greenhouse gases and endorses SLDF’s conclusions and recommendations.

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<sup>32</sup> See Ministry of Municipal Affairs, *Comprehensive Set of Policy Statements* (Toronto: Queen’s Printer, 1994), Policy A, ss.1.1. and 1.2.

<sup>33</sup> See EBR Posting AA04E0002, The Drinking Water Source Protection Act, June 23, 2004.

<sup>34</sup> As per the 1995 PPS, Policy E2.

## **Sewage and water Systems (1.5.4.)**

### 1.5.4.2. Sewage and Water Services in Settlement Areas

Planning for sewage and water systems should be undertaken so that settlement areas will be serviced by municipal services. This should be required rather than being a “preferred form”.

### 1.5.4.3. Private Communal services

Tests need to be defined for where municipal services “cannot be provided,” and what constitutes “suitable site conditions for private communal systems.” The use of private communal and non-communal sewerage and water services should not be permitted to service new developments in settlement areas.

In rural areas, private communal systems should not be permitted for new developments of more than 5 lots or private residences. Private non-communal systems (i.e. septic systems) should be limited to single lots or private residences, with appropriate site conditions. The term “other rural land uses” in policy 1.1.2.1. needs to be defined to understand the scope of activities that may be included in this category.

### 1.5.4.4. Partial Services

Partial sewage and water services should not be permitted for new developments in settlement areas, including infilling or rounding out of existing development (b). Full service should be required for new developments in settlement areas.

## **Transportation and Infrastructure Corridors (s.1.5.6)**

### 1.5.6.1. Corridors and Rights of Way

Guidance is required regarding the definition of “current and projected needs” for transportation and infrastructure facilities. In particular, the determination of such needs should be tied back to meeting the tests for the need for the utilization of designated growth areas beyond existing settlement areas, and extensions of settlement areas outlined in section IV.1 of this submission. The definition of current and projected needs should include consideration of need for infrastructure to support redevelopment in existing settlement areas.

### 1.5.6.2. Protection of Identified Corridors

Protection should be limited to corridors that have been “approved” not merely “identified,” under the relevant provincial legislation, including the *Environmental*



*Assessment Act*. This will ensure that appropriate consideration is given to the need for additional corridors, and the availability of alternatives. It would also be consistent with the PPS's overall direction (1.5.2.) to ensure the full use of existing infrastructure before developing new infrastructure.

### **Waste Management (1.5.8)**

The PPS should incorporate the province's stated goal of 60 per cent waste diversion from disposal by 2008.<sup>35</sup>

## **5. A rational and balanced approach to conflicts between non-renewable resource development and other land uses**

The section 2 of the PPS should be entitled "Use and Management of Resources." The word "wise" should be deleted from the title of the section, as "wise use" of resources is a heavily value laden phrase, which may not reflect the views of all Ontario residents.

The government's own Growth Management Plan for the golden horseshoe highlights the need to "achieve a balance between mineral resource extraction and the protection of natural heritage features and functions."<sup>36</sup> The PPS, as proposed, does not achieve such a balance. Rather it continues to give prima facie priority to non-renewable resource extraction over other potential land uses. Such an approach is not supportive of rational decision-making regarding land-use.

### **Minerals and Petroleum (2.4)**

#### **2.4.2. Protection of Long-Term Supply**

The protections provided by section 2.4.2.1 should be limited to the continuation of existing mining and petroleum resource operations. The expansion of existing extraction operations, and development in or adjacent to known mineral deposits and petroleum resources, should be subject to the s.2.4.2.2.b) test of which land use will best serve the long-term public interest.

#### **2.4.3. Rehabilitation and Extraction in Prime Agricultural Areas**

This section needs to recognize that full rehabilitation will likely not be possible, particularly for mineral extraction activities.

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<sup>35</sup> See Ministry of the Environment, *Ontario's 60% Waste Diversion Goal: A Discussion Paper* June 11, 2004.

<sup>36</sup> *Places to Grow*, pg.46.

This has significant implications for Policy 2.4.4.1., permitting mineral and petroleum extraction in prime agricultural areas, conditional on rehabilitation. Extraction should only be permitted where rehabilitation to prime agricultural uses can be achieved.

### **Mineral Aggregate (2.5)**

This section of the proposed PPS again raises the question of the appropriate role of non-renewable resource extraction relative to other potential land uses.

The proposed policy reflects a long-term approach to attempting to ensure access to low-cost aggregate in southern Ontario. Unfortunately, this approach, which has been in place since the early 1970's, was originally designed to support forms of urban development that would now be recognized as urban sprawl.<sup>37</sup>

The provisions of the PPS regarding mineral aggregates need to recognize the issue raised by policy 2.4.2.2.b) of the possibility of other potential land uses and developments that may serve a greater long-term public interest.

The proposed policy is also based on the assumption that there is no option but to extract more and more aggregate to support development. The Province's own growth management plan for the golden horseshoe region, on the other hand, recognizes the potential to reduce demand for aggregate through the adoption of more compact urban forms and more efficient use of infrastructure, and through the reuse and recycling of materials.<sup>38</sup> Other jurisdictions also pursue policies intended to promote the reuse and recycling of materials as substitutes for newly extracted aggregate.<sup>39</sup>

In this context, the Pembina Institute makes the following recommendations on the proposed policy 2.5.

#### s. 2.5.2.1. Aggregate and other land uses.

The 2<sup>nd</sup> paragraph (Demonstration of need...) of this section should be deleted, as it is inconsistent with the need to balance aggregate extraction with other land uses, and undermines the goal of promoting the conservation and efficient use of aggregate resources expressed in the Golden Horseshoe Growth Plan.<sup>40</sup>

Instead, proponents of new or expanded extraction operations should be required to demonstrate the need for such operations, and the lack of alternatives for the establishment of such operations on natural or cultural heritage, prime agricultural, and source water lands.

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<sup>37</sup> See C.Chambers (Faculty of Environmental Studies, York University) "Pits, Politics and Peripheralization: Case Studies of the Towns of Caledon and Erin," paper delivered at the American Association of Geographers Annual Meeting, March 2003.

<sup>38</sup> See *Places to Grow*, pg46.

<sup>39</sup> See, for example, Office of the Deputy Prime Minister (UK) *Controlling Environmental Effects: Recycled and Secondary Aggregate*.

<sup>40</sup> *Places to Grow*, pg.46.

#### s.2.5.2.4. Aggregate pit expansion and development high aggregate potential areas

Consistent with the recommended approach to section 2.4.2.2., the reference to the expansion of mineral aggregate operations should be removed from this section, limiting the protection to “continued use.” The reference to the continuation of operations without Official Plan Amendment, rezoning or development permit should be removed.

#### 2.5.3. Rehabilitation

The reference to the “interim nature of extraction” in s.2.5.3.1. should be removed as, as is acknowledged in policy 2.5.4.1., some impacts of aggregate extraction are not remediable, particularly where extraction takes place below the water table.

#### 2.5.4. Extraction in Prime Agricultural Areas.

Extraction in prime agricultural areas should only be permitted where rehabilitation of the site will be carried out where by the same areas and same soil quality for agriculture are restored. The exemptions from rehabilitation requirements on prime agricultural lands should be deleted.

#### 2.5.5. Wayside Pits.

2.5.5.1. There is no obvious rationale for providing an exemption from approvals for wayside pits used on public authority contracts. The exemption should be removed for this reason.

In the alternative, if the exemption is retained, the key tests of the need for an official plan amendment, rezoning, or development permit (areas of “existing development” or determination of “particular environmental sensitivity”) need to be defined. In addition, limitations should be placed on the scale and length of operation of such operations. The rehabilitation of such sites to accommodate previous uses should be required.

### **6. Protecting Public Health and Safety**

The Pembina Institute has reviewed the Canadian Environmental Law Association’s comments on the Natural Hazard (3.1) and Human-Made Hazard (3.2) sections of the PPS and endorses CELA’s conclusions and recommendations.

## **V. Implementation and Interpretation**

Implementation policy 3, granting the Minister the authority to take into account other considerations in making decisions regarding the implementation of the PPS, should be deleted. The province’s planning policy direction with respect to sustainable communities, environmental protection and economic vitality should be provided fully

through the PPS. In general, the *Planning Act*, as amended through Bill 26, the proposed *Strong Communities Act*, provides sufficient tools and processes for the declaration of provincial interests in planning where extraordinary circumstances arise.

In the event that section 3 is retained, it should be redrafted to define the specific circumstances under which the Minister might exercise the authority provided by section 3, and also to define what the “other considerations” that the minister might take into account might be.

The inclusion of section 10, which will require the Province, in consultation with municipalities, to identify performance indicators for measuring the effectiveness and implementation of the PPS is a welcome and long-overdue step. The province should commit to clear time frames for the development of performance indicators and monitoring the implementation of the PPS.

## **VI. Conclusions**

The Pembina Institute welcomes the government’s initiative to revise the Provincial Policy Statement made under the *Planning Act*. The revision of the PPS is essential to the achievement of the government’s goals of containing urban sprawl, protecting prime agricultural, natural heritage and source water lands and promoting more sustainable urban development patterns. The government’s proposed revisions to the PPS are, for the most part, supportive of these directions. However, much greater specific direction and detail needs to be provided to planning authorities, if development patterns in the areas of the province subject to intense urbanization pressures are actually to be changed in more sustainable directions.

The establishment of stringent tests for the utilization of designated growth areas, and expansions of settlement areas will be particularly important to the containment of urban sprawl. At the same time, the PPS needs to give stronger direction regarding the form of both new and infill development, promoting compact, mixed use development forms for which public transit and non-motorized transportation modes are viable and attractive options, providing housing that addresses the full range of social needs. In the case of redevelopment, sensitivity to issues of the scale and context of existing communities will be critical to obtaining community acceptance.

The proposed PPS should incorporate a separate section, supporting the provision of opportunities for the generation and use of alternative energy systems, and promoting energy efficiency and conservation in building and development design.

The provisions of the proposed PPS regarding the protection of prime agricultural lands, natural heritage areas and source waters need to be significantly strengthened. At the same time, the proposed PPS provisions regarding non-renewable resource extraction need to provide a much better balance between resource extraction and other competing land uses that are also important to the public interest, such as the protection of prime agricultural, natural heritage and source water lands.

Both the revised PPS and *Places to Grow* imply that the province is taking a more active role in planning than it has in the past. As a consequence, the province needs to provide guidance and support to municipalities in addition to policy direction. Provincial support and guidance is particularly needed in such areas as assessing urban capacity for redevelopment, projecting future housing needs and employment trends, identifying and protecting source water and natural heritage lands, and the development and use of alternative development standards.

### **Consultation Process**

In light of the importance of the revised PPS, particularly in the context of the proposed Bill 26 amendments to the *Planning Act*, the Pembina Institute recommends that the next draft of the revised PPS be placed on the *Environmental Bill of Rights* registry for a public comment period of not less than thirty days, prior to its finalization and adoption.

The Pembina Institute would be pleased to respond to questions or comments regarding its proposals regarding the revision of the PPS.

### **For more information contact:**

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