

Ponoka County

North-West Ponoka Area Structure Plan

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Conclusion

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1 Purpose of this area structure plan

This area structure plan addresses a problem of conflicting land uses in part of Ponoka County lying north-west of the Town of Ponoka, where increasing the number of confined feeding operations (CFOs) may be incompatible with other existing and future land uses.

As shown on Map 1, the study area covers about 88,000 acres bounded by Highway 2, Highway 53, Highway 792, and Highway 611.

2 Intermunicipal Considerations

In its municipal development plan (MDP), the County commits to consulting the Town of Ponoka before approving any development within two miles of the municipal boundary. Similarly, the recently adopted intermunicipal development plan with the County of Wetaskiwin sets a one mile referral area along the municipal boundary. Copies of this draft document have therefore been sent to both municipalities, and their replies will be taken into account in the final version.

Some of the land under consideration once formed part of the Sharphead Indian Reserve. The reserve was surrendered many years ago. There are no land claims in the area, so it does not appear to be necessary to consult the responsible federal department.

3 Provincial policies

Activities such as crop spraying, manure spreading, late night working, and moving farm equipment on narrow roads can create conflicts between farmers and non-farm people. The Agricultural Operations Practices Act (AOPA) attempts to deal with this by saying that

2(1) *A person who carries on an agricultural operation and who, in respect of that operation, does not contravene*

(a) *the land use bylaw of the municipality or Metis settlement in which the agricultural operations is carried on,*

(b) *the regulations or an approval, registration, or authorization, or*

(c) *the generally accepted agricultural practice*

is not liable to any person in an action in nuisance resulting from the agricultural operation and is not to be prevented by injunction or other order of a court from carrying on the agricultural operation because it causes or creates a nuisance.

A similar policy is written into the County's MDP:

People who choose to live in rural areas must expect to live with the normal sights and sounds and smells of country life. As a general principle, the County will support any producer who is using generally accepted practices and is threatened with a nuisance lawsuit.

(Policy 1.1)

4 Municipal policies

Ponoka County's MDP says that

The future of Ponoka County lies with a strong farm economy, and Council will do whatever is necessary to support farming as an industry and as a way of life. Other land uses will be allowed only if they are compatible with farming and a clean environment. (Section on development priorities)

But it goes on to say that

There is a strong demand for rural residential parcels, and the County is willing to meet this demand provided that it does not damage agriculture or the environment, or impede the logical and economic growth of urban areas. (Policy 4)

In order to reduce conflicts with agriculture, and to minimize the cost of maintaining roads and other municipal services, Council believes it is better to concentrate most multi-lot subdivisions in a few well-defined areas, leaving the rest of the county primarily agricultural. (Policy 4.1)

This policy of separating multi-lot acreages from farm operations works well, but multi-lot acreages are not the only form of non-farm residences. Although there is no automatic right to subdivision (MDP Policy 1.3), Ponoka, like most counties, normally allows one residential lot to be subdivided out of any quarter section provided this does not conflict with existing agricultural operations in the area (MDP policy 3.1). These "first parcel out" subdivisions are very common around the Town of Ponoka.

The study area is home to 26 CFOs having approvals or registrations under the AOPA. These operations are shown on Map 2. The map does not include operations smaller than the AOPA threshold.

To quote the MDP again:

The County encourages CFOs as a way of adding value to grain crops, and providing more employment and income per acre of land. However, the environment and the rights of neighbours must be protected. (Policy 2.1)

Within the study area, the issue is that there are so many CFOs and so many residences that any increase could lead to conflict. The purpose of this plan is to propose policies to minimize that conflict.

5 Multi-lot residential development

The County's MDP reserves good soil for agriculture, and allows multi-lot residential subdivisions only on poorer land. The cut-off is normally a farmland assessment rating (FAR) of over 30%, but for simplicity this document uses the Canada Land Inventory (CLI) system. The County's policy for each soil class may be summarized as follows:

- Class 1, 2, and 3 soils are normally reserved for agriculture.

- Class 4 and 5 soils may be considered for non-farm use, including multi-lot residential subdivisions.
- Class 6 and organic (muskeg) soils are generally unsuitable for residential development because of steep slopes, high water table, or flood risk.

Map 3 shows the CLI soil ratings in the study area. Most of the land is rated Class 1 to 3, which means it is protected for agricultural use. There is a small area of Class 4 soil near Crestomere, but it is along a creek valley, and is probably not suitable for residences. Most Class 5 soils are either in the river valley, and prone to flooding, or have a high water table; only a small area north of Crestomere may be suitable for residences.

County policies, as expressed in the MDP, therefore make it clear that new multi-lot residential subdivisions are unlikely to be approved in the study area. The only exception might be small subdivisions overlooking the Battle River valley, where spectacular views over the valley may justify a small loss of agricultural land. This possibility is recognized in the MDP on Map 3 and in Policy 1.15. Such development would of course not be allowed if it were

situated closer to a confined feeding operation, intensive livestock operation, or manure storage facility than the minimum distance separation established in AOPA, or would materially interfere in an existing agricultural operation or its proposed expansion...
(Land use bylaw, section 617)

In summary, it seems unlikely that an expansion of multi-lot acreage subdivisions will significantly impact existing or future CFOs in the study area.

6 Single lot residential development

Map 4, which is based on County assessment records, shows every residence (both farm and non-farm) in the study area. In total there are 266.

Regulations under AOPA mandate a minimum distance separation (MDS) between a CFO and a third-party residence. The actual distance depends on the type of operation and the number of affected third-party residences. For the sake of illustration, Map 4 shows a 450 metre MDS from each residence. That is approximately the distance required between a 400 cow dairy and a single third-party residence. Beyond this is a grey circle extending out 800 metres from the residence. This is the smallest distance from a proposed CFO which qualifies a landowner as an "affected party" under section 21 of AOPA.

The highest density of residences is in Township 43 Range 26 east of the Battle River. Here there are 75 residences. There are another ten vacant residential lots which are also likely to have residences in the foreseeable future. Additionally, proximity to Ponoka makes it likely that there will be more "first parcels out". Further away from Ponoka the density of development decreases, and there are sizeable areas more than 800 metres from a residence where a new CFO could be sited.

7 Three possible courses of action

In order to reduce future conflicts between residences and CFOs, the County can adopt one of three possible strategies. The first strategy is to do nothing. This means that

- the approval or refusal of new CFOs in the study area will be entirely under AOPA rules, and
- approval or refusal of new residential subdivisions will be governed by the present County rules.

The second strategy is for the County to say

- this is an agricultural area,
- CFOs operating in accordance with AOPA rules are welcome, and
- conflicts with other land uses will be minimized by keeping non-farm land uses out of the area. This can be done through amendments to the MDP and land use bylaw, notably by restricting "first parcel out" subdivisions.

The third strategy is to say that

- proximity to the Town of Ponoka and Highway 2 creates a high demand for non-farm residences in this area,
- there are already so many non-farm land uses that restricting their growth will not reduce the potential conflict with CFOs, and
- most of the municipality is open to new CFOs, so limiting their growth here will not seriously harm the growth of the industry.

The first strategy, to do nothing, is rejected. It will lead to more CFOs, more non-farm residences, and more conflict between the two land uses. It is better to set policies now to avoid a larger conflict in the future.

The second strategy, limiting new residential development in the area, means that the owners of presently un-subdivided quarter sections will lose their right to create a "first parcel out". There are 408 such quarters in the study area, and 74 in T43 R 26 alone. Farmers will lose the ability to sell the house and yard when they retire, or to create a separate lot for an adult child.

This plan recommends the third strategy. Based on present concentrations of CFOs and third-party residences, no new CFOs should be allowed in the highly developed area west of Highway 2, north of Highway 53, east of the Battle River, and south of a line one to two miles south of the Menaik Road. This area, covering slightly over 20,000 acres, is shown on Map 5.

Multi-lot residential subdivisions have a larger MDS than single lots, so in order to protect the existing CFOs, County will not approve any new multi-lot subdivisions in the exclusion zone,

except possibly small clusters of view lots overlooking the Battle River and well away from existing CFOs.

Under this strategy, all existing CFOs can continue, and can expand under AOPA rules. A number of large operations which are not yet recognized by the NRCB can also continue, resume operations if they have temporarily ceased, and expand under AOPA rules. Additionally, smaller intensive animal operations existing on the date this ASP is adopted, and which are not now defined as CFOs, will be allowed to expand and become CFOs subject only to AOPA rules.

These existing and expanded CFOs will be protected by the County's land use bylaw, which does not allow new third-party residences which are

situated closer to a confined feeding operation, intensive livestock operation, or manure storage facility than the minimum distance separation established in AOPA, or would materially interfere in an existing agricultural operation or its proposed expansion...
(Land use bylaw, section 617)

8 Jurisdictional issues

Municipalities have no jurisdiction over confined feeding operations. However, AOPA requires that approvals must have "no inconsistency with the municipal development plan land use provisions" (AOPA, section 22(1)).

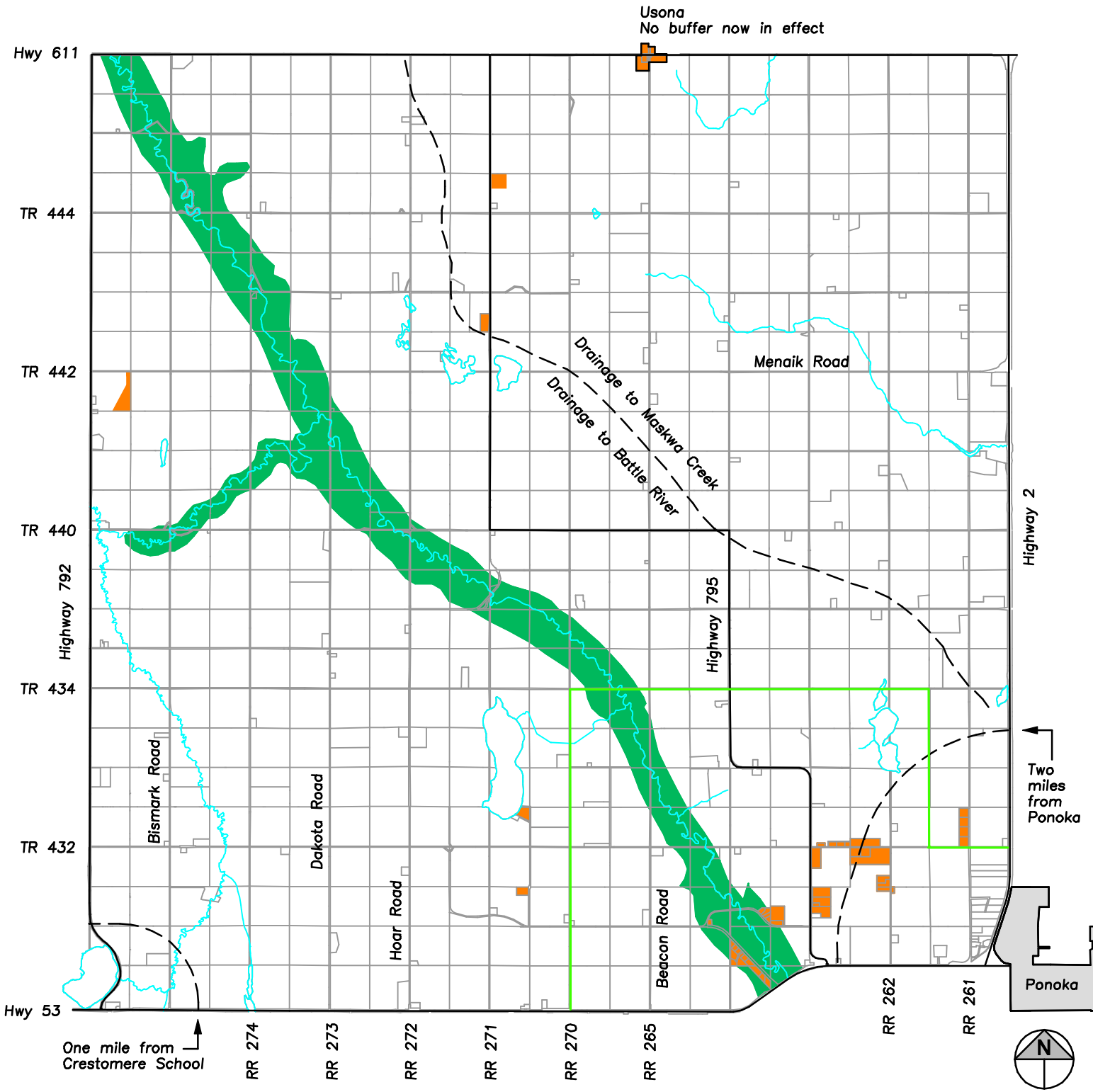
The County will therefore trigger section 22 of AOPA by amending its MDP to define a CFO exclusion zone as described above and shown on Map 5.

9 Consistency with section 633 of the MGA

The Municipal Government Act requires area structure plans to set out the expected population density and major transportation routes in the plan area. This makes sense in an urban setting, where schools and parks must be provided, road alignments pre-planned, and underground utilities sized to meet expected needs. It is not practical in an agricultural area. Densities are set by the County's policies on subdivision, there is an existing road system, and farms and residences will have individual wells and sewer systems. Similarly, no sequence of development is proposed; this will be governed by the actions of landowners operating in a free market.

10 Conclusion

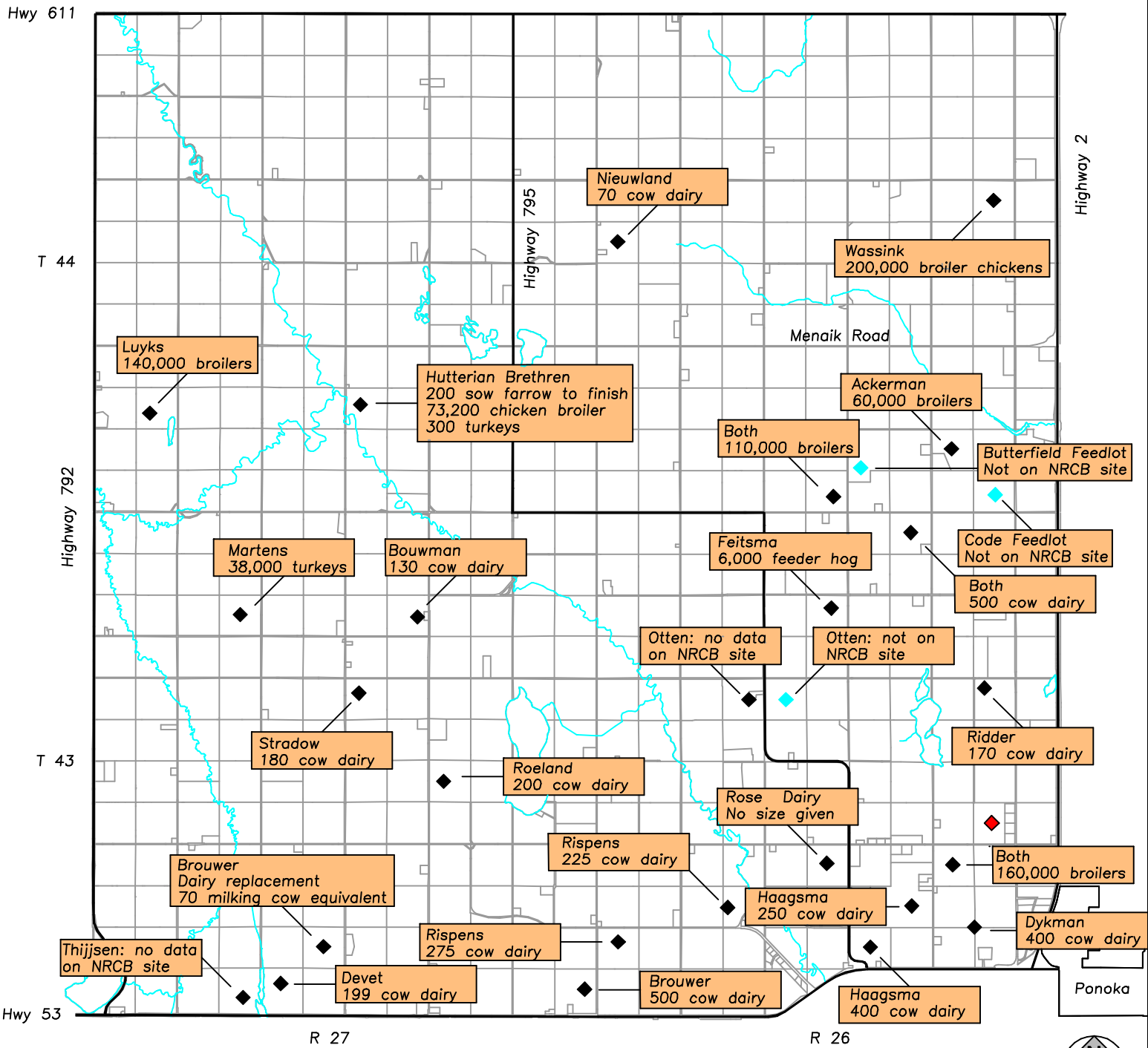
The policies set out in this area structure plan, when incorporated into the County's MDP and land use bylaw, will allow all existing land uses, including CFOs, to continue in the study area, and to expand in accordance with AOPA rules, but will direct large new livestock operations out of the potential conflict area into other parts of the municipality. Even after these limitations most of the four township study area, and well over half of Ponoka County, will remain open to new confined feeding operations.



**Ponoka County
Area Structure Plan
North-West Ponoka
Map 1
Study Area**

- Valley of the Battle River and tributary defined by CLI Class 5t and 6t soils
- CR zoning and other residential clusters
- Boundary of surrendered Sharpehead IR
- CFO exclusion zones set by MDP

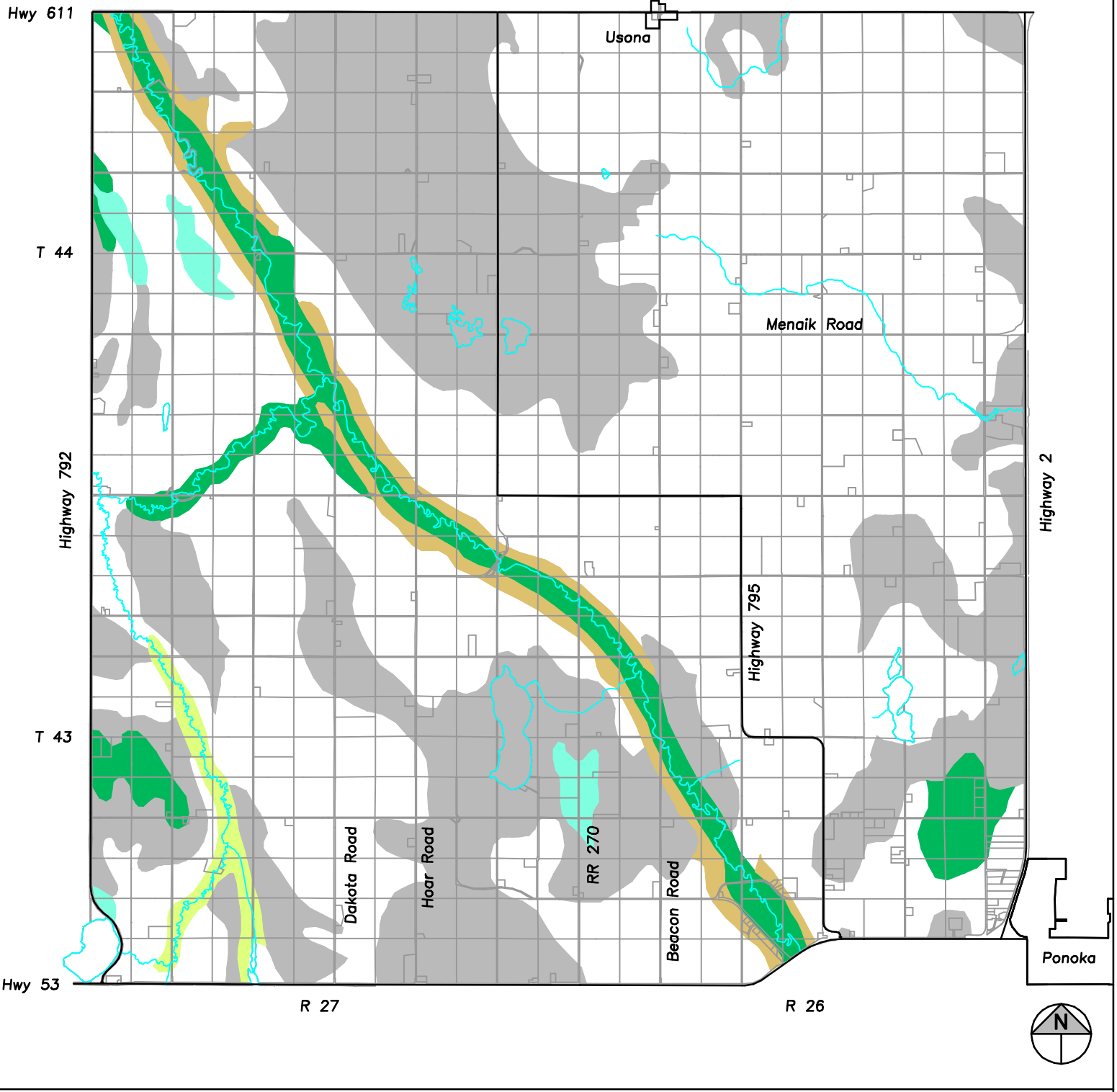
Map dated 3 October 2018



**Ponoka County
Area Structure Plan
North-West Ponoka
Map 2
Confined Feeding Operations**

- ◆ Confined feeding operations listed on NRCB web site
 - ◆ Confined feeding operations not listed on NRCB site
 - ◆ 120 cow dairy recently refused
- Smaller animal operations are not shown

Map dated 14 October 2018

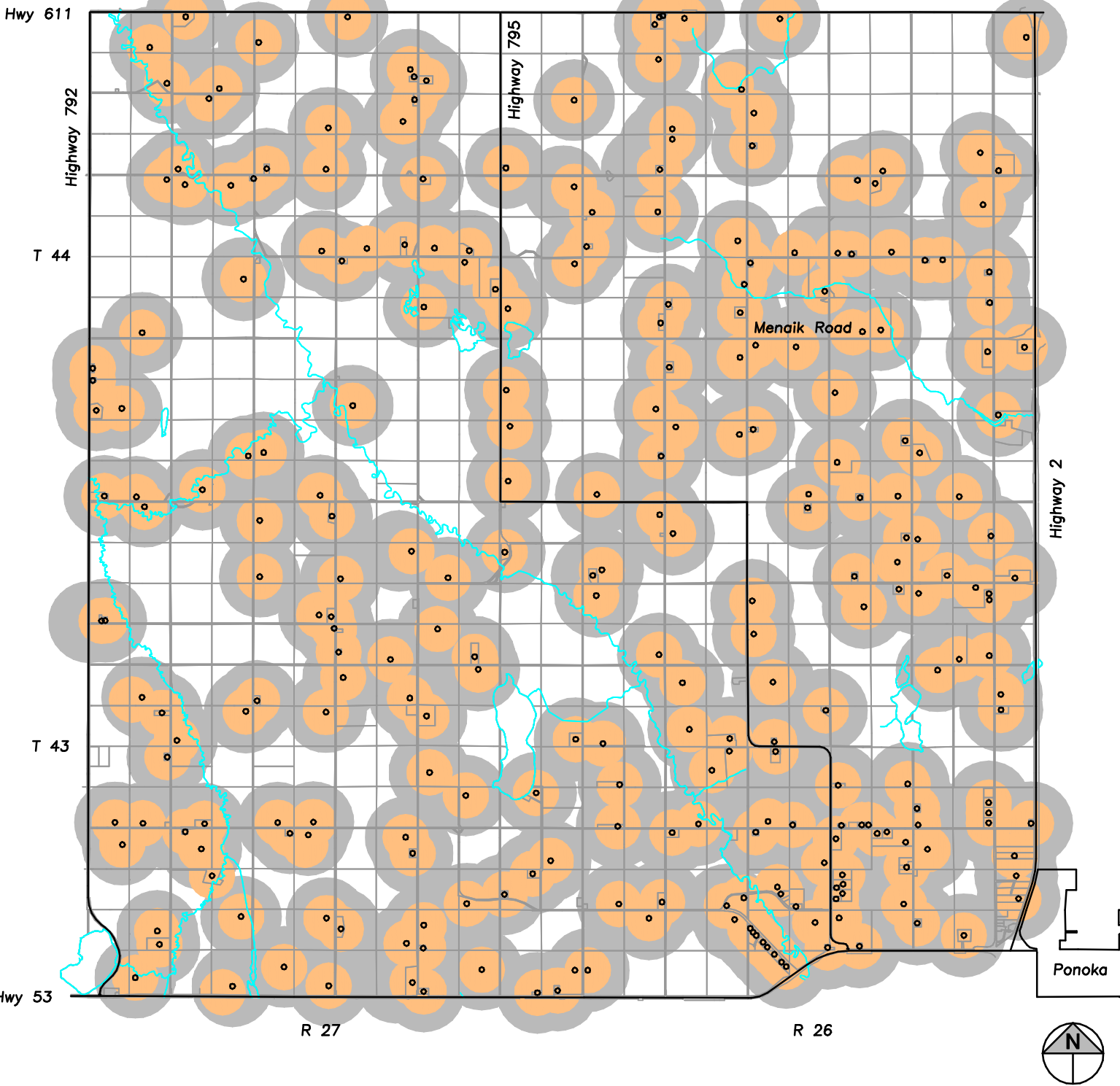


**Ponoka County
Area Structure Plan
North-West Ponoka
Map 3
CLI Soil Ratings**

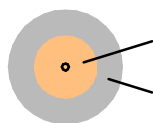
Map dated 3 October 2018

CLI Soil Ratings

	Class 1 and 2	} Normally reserved for agriculture
	Class 3	
	Class 4	} May be considered for residential subdivision
	Class 5	
	Class 6	} Not normally suitable for residential subdivision
	Organic	



**Ponoka County
Area Structure Plan
North-West Ponoka
Map 4
Residences**

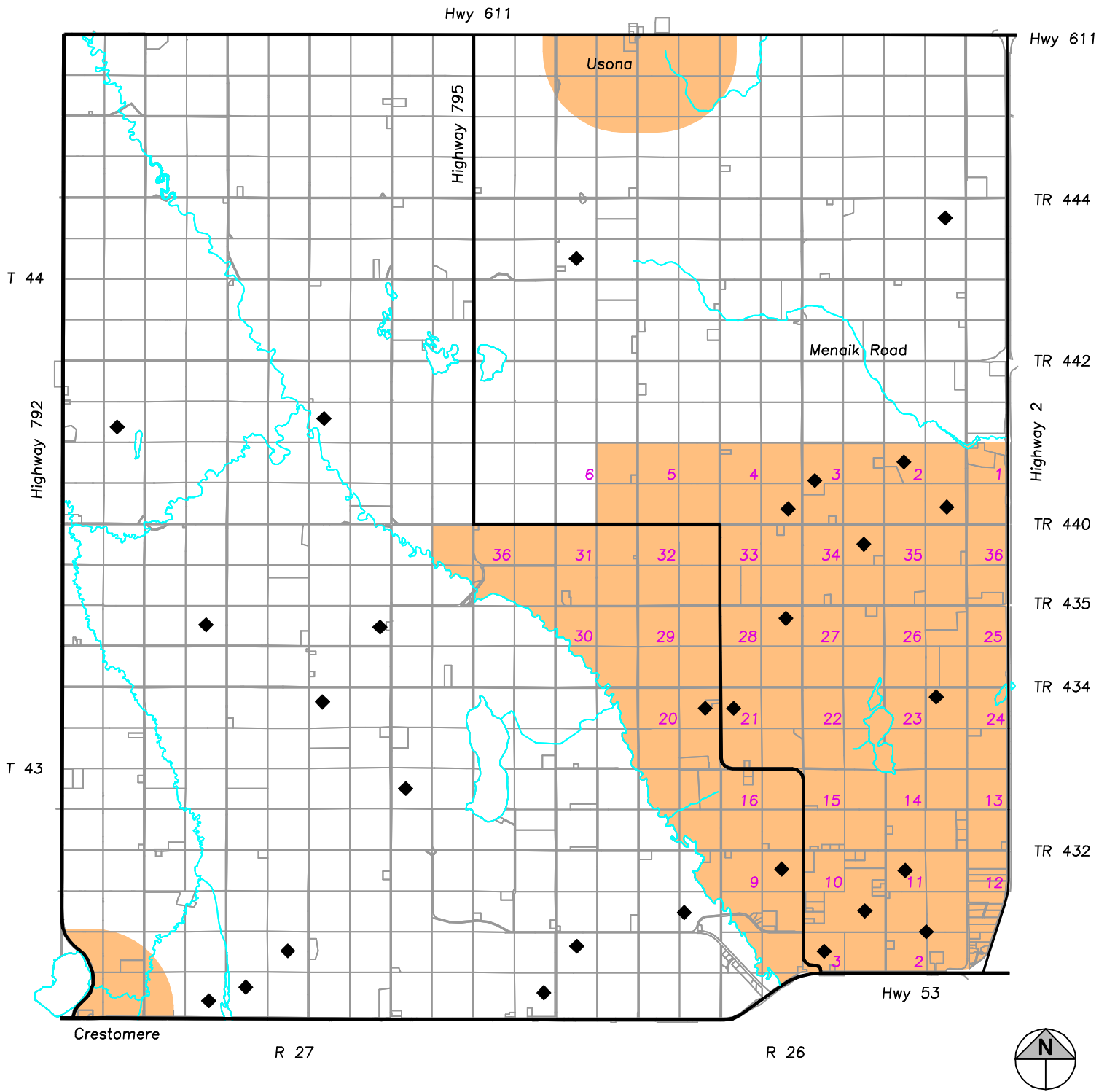


Land within 450m of a residence
(MDS from a 400 cow dairy to an isolated residence)

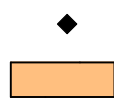
Land within 800m of a residence
(distance triggering "affected party" status under AOPA)

Source: County assessment data base

Map dated 3 October 2018



**Ponoka County
Area Structure Plan
North-West Ponoka
Map 5
CFO Exclusion Zone**



Existing CFOs

No new CFOS (as defined in the text) will be allowed in these areas

New CFOs are allowed in all other areas subject only to AOPA rules