



SUBJECT: City of Burlington Submission - Land Use Compatibility Guidelines

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-33-21

Wards Affected: All

File Numbers: 145-25

Date to Committee: June 8, 2021

Date to Council: June 22, 2021

Recommendation:

Direct the Director of Community Planning to prepare a submission on the land use compatibility guidelines along with comments, if any, on the odour guideline and compliance policy by the comment submission deadline of July 3, 2021.

PURPOSE:

To provide Council with information on a set of postings on the Environmental Registry of Ontario (ERO) related to strengthening the Provincial environmental compliance approach.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth
- Support sustainable infrastructure and a resilient environment

Background and Discussion:

1.0 Strengthening our environmental compliance approach

On May 4, 2021 the Ministry of the Environment, Conservation and Parks posted a notice for information purposes to highlight a series of initiatives being proposed to strengthen enforcement tools that hold polluters accountable and create consistent

guidelines to prevent and address noise and odour issues. The notice links to four separate compliance initiatives being proposed:

1. Land use compatibility guideline (D-Series) ([ERO 019-2785](#))
2. Odour guideline ([ERO 019-2768](#))
3. Compliance policy ([ERO 019-2972](#))
4. Administrative monetary penalties (no posting on the ERO)

A 60 day public comment period began on May 4, 2021 and ends on July 3, 2021. Given this short commenting period staff are providing this report in the interim to advise Council of the consultation opportunity and to seek direction to prepare a response. It is expected that the City's response will focus primarily on the draft Land Use Compatibility Guidelines posting given that this guideline specifically provides guidance to municipalities on land use compatibility as part of land use planning decisions under the *Planning Act*. Staff will review the Odour Guideline and the Compliance Policy and provide comments, if necessary. For the purposes of this report the discussion below is focused on the draft Land Use Compatibility Guideline.

2.0 Draft Land Use Compatibility Guideline (D-Series)

The Province is proposing an updated Land Use Compatibility Guideline (the Guideline) to help municipalities plan sensitive land uses and major facilities. The proposal includes updates to a number of D-series guidelines for municipalities to use when making land use planning decisions.

The Guideline implements the PPS, 2020 which includes a number of policies related to land use compatibility, and supports land use compatibility-related policies in A Place to Grow. The Land Use Compatibility guideline provides guidance on a wide range of considerations including when a compatibility study would be required and guidance on assessing potential adverse effects to sensitive land uses and impacts to major facilities focused on noise, dust and odour.

The proposal details note that this work follows through on the Province's Made-in-Ontario Environment Plan commitment to update ministry guidelines to help municipalities avoid the impact of conflicting land uses. It is expected that by supporting

“land use planning decisions that address land use compatibility would reduce minor noise, odour and dust incidents requiring ministry attention, allowing the ministry to focus its resources on higher-risk incidents. In the long term it would help support jobs across the province by providing industrial facilities with more certainty for long term, uninterrupted operations.”

The proposed DRAFT Land Use Compatibility Guideline replaces a number of D-series guidelines and is divided into three sections:

- Part A – Overview and Policy Context
- Part B- Assessing Land Use Compatibility
- Part C – Incorporating Land Use Compatibility into Planning Tools

The goal of the proposed guideline is to reduce land use compatibility issues resulting from new sensitive land use in proximity to major facilities and would inform and clarify to municipalities when compatibility studies and mitigation measures are required to prevent or reduce any adverse effects. The ERO posting lists the following as highlights:

- area of influence (AOI) distances associated with specific types and classes of major facilities where adverse effects on sensitive land uses are moderately likely to occur (these distances have been revised from current guidelines based on newer Ministry compliance data)
- minimum separation distances (MSD) associated with specific types and classes of major facilities where adverse effects on sensitive land uses are highly likely to occur (these distances have been revised from current guidelines based on newer Ministry compliance data)
- that a compatibility study is required for a new or expanding major facility or a new or expanding sensitive land use proposed in an AOI or MSD, to determine appropriate setbacks and mitigation measures
- that planning authorities should not allow sensitive uses within the MSD of a major facility except in rare circumstances
- that a demonstration of need assessment, as required under the Provincial Policy Statement, 2020 (PPS) to assess whether alternate preferred locations exist in the municipality for that proposed land use, is required for a sensitive land use proposed within the AOI of a major facility where mitigation measures are required and where a sensitive land use is proposed within the MSD of a major facility
- contents of compatibility studies and demonstrations of need, and additional direction and links to technical guidance to assist with the preparation of both
- guidance on how to incorporate land use compatibility policies and concepts into official plans and as part of approvals under the *Planning Act*
- examples of mitigation measures that may help to reduce impacts, as demonstrated in a compatibility study, and discussion on integrating these mitigation measures as legal requirements
- guidance on planning for land use compatibility in areas of infill and intensification
- helpful links and information on other guidance that may apply in relation to specific types of facilities
- guidance specifically related to land use on or near landfills and dumps, and on assessing methane hazards from landfill sites

As noted above, Staff have initiated the review of the materials posted for comment and have not completed a comprehensive list of key themes for the submission. In advance of the full submission, Staff expect the following issues among others will be considered in the staff submission:

- Review guidance on how to classify a Major Facility with an assigned AOI and MSD, as well as how to classify a Major Facility with no facility specific AOI and MSD;
- Reviewing guidance related to assessing land use compatibility, including Area of Influence, and Minimum Separation Distance, (assigned select major facility types) assigned or otherwise, and specifically the changes proposed from existing guidelines;
- Reviewing guidance about compatibility studies;
- Reviewing guidance for key planning tools for addressing land use compatibility;
- Reviewing land use compatibility mitigation measures, including but not limited to, effectiveness and limitations of mitigation measures.
- Challenges related to land use compatibility considerations for Infill and Intensification Scenarios, such as Major Transit Station Areas;
- Reviewing guidance on the direction within Minimum Separation Distance as it relates to sensitive land uses; and,
- Transition and implementation considerations.

3.0 Submission

Given the limited consultation period it will not be possible for staff to provide the submission to Council for approval in advance of the July 3, 2021 deadline. Staff will prepare and submit the City's comments and provide a copy of the City's submission in a Council Information Package.

Strategy/process

Given the limited consultation period the preparation of a joint submission by the Halton Area Planning Partnership is not possible.

Options Considered

None.

Financial Matters:

Not applicable.

Total Financial Impact

Not applicable.

Source of Funding

Not applicable

Other Resource Impacts

Staff from Community Planning, Capital Works and other City Departments will work together to prepare the submission.

Climate Implications

Not applicable.

Engagement Matters:

Given the short time frame for comments only limited consultation will be possible. An interdepartmental group has been established to work together to provide comments primarily on the land use compatibility guideline.

Staff will work closely with staff from Halton Region and any Halton municipalities considering the guideline or intending to prepare submissions to the Province. This will provide an opportunity to discuss common themes and concerns.

The Ministry of the Environment, Conservation and Parks has also offered a series of webinars for municipal staff. A number of City staff have registered to attend which will provide an opportunity to receive more detailed background on the proposal.

As with all posting on the Environmental Registry, members of the public can submit comments to the Province.

Conclusion:

The Province has initiated a consultation on land use compatibility guideline. City of Burlington staff comments will be prepared in advance of the submission deadline and are expected to highlight any areas of concern related to the proposal.

Respectfully submitted,

Kyle Plas, MCIP, RPP

Acting Manager of Development and Design

905-335-7600 ext 7824

Cary Clark, P.Eng

Manager of Development and Stormwater Engineering

905-335-7600 ext 7672

Alison Enns, MCIP, RPP

Manager of Policy and Community

905-335-7600 ext 7787

Notifications:

Curt Benson, Region of Halton

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.