



Committee Report

To: Warden Janice Jackson
Members of the Planning and Development Committee

From: Mark Paoli
Director of Planning and Development

Date: June 17, 2021

Re: Proposed New Land Use Compatibility Guideline

Staff Recommendation:

That the “Proposed New Land Use Compatibility Guideline” report be forwarded to the Ministry of Environment, Conservation and Parks as the County of Bruce’s comments on the [Environmental Registry of Ontario posting #019-2785](#).

Background:

Among the functions of land use planning are siting and sizing land use activities to support development of complete communities while avoiding conflicts between land uses. Separation of industrial activities from sensitive uses such as dwellings is one of the most historically significant planning functions and remains relevant to this day.

The province provides direction through the Provincial Policy Statement (PPS 2020) to avoid conflicts between major facilities and land uses, with guidance provided through technical documents and guidelines. The province is proposing updates to a number of land use compatibility guidelines that are intended to help avoid, minimize, and mitigate potential adverse effects from odour, noise, dust and other contaminants.

The objectives are to protect employment areas (currently planned and for long-term growth needs) from incompatible uses, and prevent adverse impacts to existing or planned sensitive uses from new or expanding major facilities.

The registry posting identifies some key highlights for the guidelines:

- Revisions to ‘Area of influence’ (AOI) distances associated with specific types or classes of facilities; studies are typically required within an AOI.
- Revised ‘minimum separation distances’ (MSD) for types and classes of major facilities. These distances would come into play during policy and zoning updates and for individual applications.
- Requirements for compatibility studies for new or expanding major facilities or sensitive land uses within an area of influence or minimum separation distance.

- Direction that planning authorities should not allow sensitive uses within the MSD of a major facility except in rare circumstances.
- Requiring demonstration of the need and potential alternative locations for sensitive land uses if they require mitigation within the AOI and/or are within the MSD of a major facility.
- More details on contents of compatibility assessments and demonstrations of need and additional guidance and links for compatibility studies and need assessments.
- 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.

Analysis

Updates to the D-series guidelines, including greater clarity on the application of information requirements, are necessary given the general transfer of responsibility for determining requirements and supporting information from the Province to local land use authorities. Comments below relate to application of the guideline to the typically smaller and rural scale of land use activities that are most common in Bruce County.

Determining Application of the Guideline.

One of the challenges related to the guidelines relates to how planning authorities should determine a “major facility” from other, presumably “minor” facilities where application of the guideline may be impractical and unnecessary. “Major Facilities” are defined in the PPS (2020) as “Facilities which may require separation from sensitive land uses, including but not limited to: airports, manufacturing uses, transportation infrastructure and corridors, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities” (PPS).

The existing and proposed guidelines use types of use to describe land use activities and classes of use to evaluate characteristics of activities to determine the anticipated area of influence in which studies are required and to assign minimum separation distances.

The table below illustrates two examples of “manufacturing” facility descriptions from the guideline:

Select Major Facility	Description of Major Facility	AOI & Class	Minimum Separation Distance
Meat and Meat Product Processes	Slaughterhouses and rendering facilities, Meat byproduct processing, Production of foods using fats or oils, Cooking oil production	1,500m Class 4	500m
Metal and Glass Parts Manufacturing	Manufacturing steel parts, Foundries, Metal stamping, Manufacturing glass or fiber glass auto parts	600m Class 2	300m

Impacts of Minimum Separation Distances

Greater separation distances make sense for larger facilities; however, application of minimum separation distances to any facilities matching the descriptions would likely prevent their location on most industrial lands in settlement areas within Bruce County, as many of these areas do not have the land base to support extensive separation distances. Appendix ‘A’ outlines the land base for existing employment areas in all of Bruce County’s settlement areas. Where minimum separation distances cannot be met, extensive studies may be required, or manufacturing and production facilities may not be able to locate in settlement areas, impairing development of complete communities and economic opportunities; or settlement areas may need to be expanded significantly in order to accommodate buffer areas which could lead to increased servicing costs and impacts to surrounding farmland.

Minimum separation distances may also impair ability to locate uses within farm clusters as part of on-farm diversified uses, if these farm clusters are located near to farm building clusters on adjacent lots.

We would recommend that the province consider whether minimum separation distances, and/or associated study requirements to support reductions in minimum separation distances, are appropriate for land uses that meet the land use descriptions but have minimal to no impact and so would be “Class 1” uses per the Table in Appendix ‘B.’

Opportunity to define and promote development of ‘Minor’ facilities

An alternative recommendation is to consider defining ‘minor’ facilities where potential offsite impacts are known and can be readily mitigated using site design and building design and equipment that is designed to meet certain noise or air quality specifications. This would be consistent with approaches currently applied through the provincial Environmental Activity Sector Registry (EASR).

Consideration for infilling within a Minimum Separation Distance / Area of Influence

Smaller settlement areas with existing ‘major facilities’ may have several existing sensitive receptors within the MSD or AOI. Updating policies to remove potential for new sensitive receptors in these areas may leave lands underutilized or indicate a transition of these existing neighbourhoods to other types of commercial uses which may not have their own provincial setbacks but may not be a good fit for that area of those communities. For

consideration, The Province's Minimum Distance Separation Guidelines which are focused on odour from livestock facilities permit new sensitive land uses like houses that do not meet MDS setbacks to livestock facilities where there are 4 or more existing sensitive uses between the new house and the facility. Although not entirely analogous, there may be merit to considering these opportunities to manage new land uses in neighbourhoods where conflicts (such as they are) are already established.

Regulation of Aggregate Activities

Aggregate Extraction uses are regulated under the Aggregate Resources Act, with study requirements that apply where extraction is within a minimum distance of sensitive receptors; for example, noise studies are required for extraction or processing within 150m of a 'sensitive receptor' and noise and blasting studies required for quarries within 500m of a 'sensitive receptor.'

Currently the County Official Plan requires gravel pit setbacks of 125m and 215 metres for a quarry to a dwelling (unless less is justified).

The proposed guideline focuses on preventing new sensitive uses near pits and quarries, establishes an Area of Influence of 1000m for aggregate extraction that has 'Class 3' impacts, and a minimum separation distance of 500m for new sensitive uses (like houses) near any Aggregate Extraction facilities. These criteria would apply to sensitive uses (like dwellings) that require a planning Act approval.

Currently the Official Plan prohibits consent applications for residential or similar uses (except for surplus farm dwellings or existing uses) within 500 metres of a Mineral Resource Area, regardless of whether it is licensed for extraction. The Plan and zoning by-laws do not generally prohibit someone from constructing a dwelling on an existing lot of record in proximity to an existing pit or quarry, as the use exists and its impacts should be considered by the person establishing the use. Zoning amendments to establish pits and quarries typically apply only to the subject lands, and do not introduce new regulations to other properties surrounding the use.

Full implementation of the guideline through updated plans and by-laws could see a 500m setback for new sensitive uses from any new pit or quarry regardless of scale, whereas notice is only issued to properties within 120m and a pit can be as near as 150m from an existing dwelling without requirement for noise studies. Bruce County recommends that the province consider opportunities to consider scale of operations and the public concerns that may arise from approaches that appear to be unbalanced.

Closed Landfill Sites

Current guidelines establish a 500 metre distance for many land uses from closed landfill sites, with studies required if development would be located closer. While the intent of separation distances is good, non-operating sites may need additional criteria, as it appears that the new MSD is 500 metres, and the AOI is determined on a case-by-case basis beyond that. Updating plans and by-laws to include a 500m MSD may impact permitted uses in larger portions of settlement areas that have already been evaluated with respect to leachate or methane gas migration.

Cannabis Production

The proposed guidelines include details for consideration of indoor cannabis cultivation facilities in settlement areas and all cannabis processing facilities, which are an emerging issue discussed in the Plan the Bruce: Agriculture Interim report. Approaches to classifying the use to determine area of influence, and minimum separation distances for these cannabis-related activities are consistent with the approach for chemical plants, cement plants, and refineries. This represents a significant change in availability for these facilities to locate in, or existing facilities to expand, in some of our settlement areas, and could impact future possibilities for a facility recently approved in Walkerton.

Summary

The Guidelines appear to be well-intentioned from the perspective of setting out to avoid creating land use conflicts. They may be effective in newly planned high-growth areas where significant areas can be designated for land uses of different sensitivities. However if implemented as intended, rural Municipalities may find less flexibility to locate industrial uses in industrial areas, and many existing major facilities in settlement areas may have greater difficulty expanding or changing their operations, including additional applications, compatibility studies, peer reviews, and risks of appeal.

Bruce County encourages the province to consider greater definition and streamlining of low-impact manufacturing facilities, opportunities for management of change for existing uses, and the broader impacts of these regulations on rural communities.

Financial/Staffing/Legal/IT Considerations:

Implementation of the guidelines, if approved by the province, would be considered through the development of the new County Official Plan.

Interdepartmental Consultation:

Staff discussed the guidelines with Grey County Planning Staff to gain insight into potential impacts across the region.

Link to Strategic Goals and Elements:

Goal 5: Eliminate our own red tape:

Item E. focus on the internal and external customer / client needs first

Goal 7: Stimulate and reward innovation and economic development:

Item A. Streamline and simplify our Planning Processes (Official Plan, Zoning By-law)

Goal 9: Coordinated, Concerted effort to advance our agenda:

Item B. Politicians and staff lobby associations and government in support of local policy needs.

Report Author:

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Departmental Approval:

Mark Paoli
Director of Planning and Development

Approved for Submission:

Sandra Datars Bere
Chief Administrative Officer

Appendix: Gross and Net Vacant Employment Land Supply In Bruce County Settlement Areas

(Source: Plan The Bruce: Good Growth Interim Report)

Figure 3-6
Bruce County
Gross and Net Vacant Employment Land Supply

Municipality	Urban Community Area	Vacant Designated Employment Land Supply (Hectares)					
		Total Land Area (A)	Environmental Constraints Adjustment ¹ (B)	Total Gross Land Area Adjusted for Environmental Constraints (C)	Adjustment for Roads and Other Internal Infrastructure ² (D)	Net Developable Employment Land Supply (E = A-B-D)	Percentage of Net Vacant Employment Land Supply
Arran-Elderslie	Chesley	13	0	13	1	12	4%
	Tara	0	0	0	0	0	0%
Brockton	Walkerton	32	3	29	4	26	8%
Huron-Kinloss	Lucknow	0	0	0	0	0	0%
	Ripley	6	0	6	1	5	1%
Kincardine	Kincardine	71	23	48	7	41	13%
	Lakeshore	258	17	241	36	205	63%
South Bruce	Formosa	2	0	2	0	2	1%
	Mildmay	6	0	6	1	5	2%
	Teeswater	4	4	0	0	0	0%
South Bruce Peninsula	SBP - Urban	9	0	9	1	8	2%
Saugeen Shores	SS - Urban	14	0	14	4	10	3%
Northern Bruce Peninsula	Tobermory	12	0	12	2	10	3%
Grand Total		428	48	381	57	324	100%

Source: Derived from Bruce County GIS Data by Watson & Associates Economists Ltd. 2020

Note: Based on gross land area with takeouts in accordance with the Growth Plan, 2020

¹Reflects environmental take-out of vacant employment lands encroached by environmentally sensitive lands identified as Natural Resources/Environment in the Official Plan Layers provided by the County

²Downward adjustment of 15% of the gross area (after environmental takeouts) has been applied to account for internal infrastructure on parcels greater than 1 ha in size

Appendix: Table for classifying major facilities

(source: Proposed Land Use Compatibility Guidelines)

Table 3 – Characteristics for classifying major facilities.

	CLASS 1	CLASS 2	CLASS 3	CLASS 4	CLASS 5
IMPACTS					
Noise	Sound is not audible off property	Sound occasionally audible off property	Sound frequently audible off property		
Vibration	No ground borne vibration on plant property	Possible ground-borne vibration, but cannot be perceived off property	Ground-borne vibration can frequently be perceived off property		
Dust (Point Source)	Infrequent and not intense	Frequent and occasionally intense	Persistent and/or intense		

	CLASS 1	CLASS 2	CLASS 3	CLASS 4	CLASS 5
Dust (Fugitive Emissions)	Low probability of fugitive emissions	Moderate probability of fugitive emissions	High probability of fugitive emissions		
Odour	Infrequent and not offensive	Frequent and occasionally offensive	Persistent and/or usually offensive		
SCALE OF OPERATION					
Scale of Production	Small scale plant	Medium level of production allowed	Large production levels		
Outside Storage	Minimal storage	Outside storage permitted	Outside storage of raw and finished products		
Process	Self-contained plant or building	Outdoor storage of low to moderate amounts of wastes or materials	Outdoor storage of large amounts of wastes or materials		
Process Outputs	Produces/stores a packaged product	Periodic outputs of minor annoyance	Frequent outputs of major annoyances		
Hours of Operation	Daytime operations only	Shift operations permitted at times	Daily or 24 hour shift operations permitted		
On-site Movement	Infrequent movement of products and/or heavy trucks	Frequent movement of products and/or heavy trucks with the majority of movements during daytime hours	Continuous movement of products by heavy trucks and rail cars including at night		