



2022-12-20

The Honourable Steve Clark  
Minister of Municipal Affairs and Housing

Ministry of Municipal Affairs and Housing  
College Park 17th Floor  
777 Bay Street  
Toronto, Ontario  
M7A 2J3

**Via Environmental Registry of Ontario (ERO) Number: 019-5952**

**Re: Region of Waterloo Official Plan Amendment No. 6**

Dear Minister Clark,

WSP has been retained and is acting on behalf of Canadian National Railway (CN). We are pleased to have this opportunity to provide comments on the Region of Waterloo Official Plan Review. On June 10<sup>th</sup>, 2022, WSP provided comments on the Official Plan Review with respect to matters of land use compatibility in relation to rail facilities and sensitive land uses. The comments submitted requested that consideration be given to the inclusion of policy language and definitions that specifically reflect the Provincial Policy Statement, 2020 (PPS), which requires that new development on adjacent lands be compatible with, and supportive of, the long-term viability of the rail corridor, and should be designed to avoid, mitigate or minimize negative impacts on and from the corridor. On August 18, 2022, the Region of Waterloo passed By-law No.22-038 to adopt Amendment No.6 to the Regional Official Plan (ROP), as part of the Region's Official Plan Review, in accordance with the Planning Act. Following adoption, the Region of Waterloo forwarded the Amendment to the Ministry of Municipal Affairs and Housing (MMAH) for approval.

We also recognize that there is growing Provincial emphasis on promoting the movement of people and goods by rail and incorporating greater integration of multimodal transportation and goods movement into land use and transportation system planning. As an example, "*Connecting the GGH: A Transportation Plan for the Greater Golden Horseshoe (February 2002)*" issued by the Ministry of Transportation, has one of the four

inter-related themes “Efficiently Moving Goods.” That same document further outlines a Strategic Goods Movement Network (SGMN) and states the following in Section 4.4:

“Utilize consistent design, engineering, operations, maintenance, and rehabilitation standards across the SGMN corridors, and **protect the corridors from adverse new development that undermines goods movement uses. This will build on best practices and well-established guidelines** such as the “*Freight-Supportive Guidelines*” and the Railway Association of Canada’s “*Guidelines for New Development in Proximity to Railway Operations*”. (Emphasis added)

CN appreciates the importance of housing and the Province’s commitment to providing affordable housing through the More Homes for Everyone Plan. CN understands that there is an established and growing emphasis on providing and creating more affordability in the housing market. CN is concerned with compatibility issues as between rail and residential uses, and in ensuring that proper mitigation of noise, vibration and safety is addressed. Developers across Ontario have an obligation to protect future purchasers and homeowners when it comes to compatibility, and issues related to noise, vibration and safety, and should ensure that purchasers have access to a safe and enjoyable living environment. Mitigation measures must be properly implemented and compatibility between sensitive uses and the rail operations must be addressed.

We respectfully ask that the Ministry take into consideration CN’s comments in reviewing and approving the ROP. Our comment letter to the Region of Waterloo dated June 10<sup>th</sup>, 2022, and follow up letter to the Region dated August 18<sup>th</sup>, 2022 is appended to this letter. The comments include recommended policy language that is intended to ensure that planning for land uses in the vicinity of rail facilities is undertaken in such a way that the economic function and long-term operation of rail systems are protected. The PPS sets out that sensitive land uses be appropriately designed, buffered and/or separated from rail facilities. The comments provided are intended to strengthen the City’s growth management and land use compatibility policies.

Per comments provided to the Region in our initial letter, we request further consideration be given to definitions and policies that specifically reflect the PPS.

We note the importance of including key definitions found directly in the PPS, including the definition of *Rail Facilities*. By incorporating this term into the glossary of the Region of Waterloo’s Official Plan, more clarity will be given with respect to developments surrounding rail lines, facilities, and yards. It is also relevant to note that we requested the definition of *Major Goods Movement Facilities and Corridors* be included as per the PPS and while most of the definition was included, the mention of *Rail Facilities* was not included.

Furthermore, we have requested that all rail facilities along with their areas of influence (300 metres for a rail line, 100 metres for a rail yard) be included in certain ROP schedules and appendices. It is our opinion that the requested inclusions are an important step toward

avoiding potential land use planning conflicts between Rail Facilities and sensitive land uses.

We note that it is recommended that lands be included as part of the Settlement Area Boundary expansion, as Urban Community Lands, (for example, we note that a Settlement Area Boundary Expansion request, in Appendix H, ref.# S-16 in the Township of Woolwich) specifically the lands located south of the CN rail line, east of Fountain Street, which may be adjacent to CN rail infrastructure. These lands and other lands are adjacent to CN rail facilities, operations and infrastructure therefore development of these lands will need to consider the PPS policies regarding compatibility with the long-term operation and economic viability of the railway functions. The PPS goes further to point out that sensitive land uses should be appropriately designed, buffered and/or separated from rail facilities.

Similarly, we requested the Region take into consideration and/or reconsider the locations of several Planned Major Transit Station Areas (MTSAs) in proximity to rail yards. Several identified MTSAs are in an area where the development of sensitive uses would create conflict or have the potential to create conflict, with existing rail facilities. In particular, the Block Line Station MTSA contains a rail yard. All of the other MTSAs in question are identified on the Endorsed Major Transit Station Area Boundaries as follows: Frederick Station, Kitchener City Hall Station and Mill Station. In lieu of amending to these MTSAs, we suggested that policies be adopted that recognize the existing rail yards. Specifically, the suggestions recommended the strengthening the of the wording of policies in relation to Section 2.D.2 *Major Transit Station Areas Policies*. These suggestions were not incorporated into the ROP.

These suggestions included:

Revise Proposed Policy 2.d.2(c) to read as follows: “provides an appropriate mix of land uses (*subject to other policies of this plan including land use compatibility policies*) that provide for a variety of services and amenities that foster vibrant, transit supportive 15-minute neighbourhoods, and that allows people to take transit, and to meet their daily needs and make most of their trips by walking, cycling, and rolling;”

Revise Proposed Policy 2.D.6 to read as follows: “protect existing significant Regional and local employment uses within Major Transit Station Areas by ensuring land use compatibility where adjacent new development is *proposed in proximity to employment uses and major facilities* achieved. *When developing sensitive land uses in proximity to Major Facilities, Land Use Compatibility will include the assessment of the need for the proposed use and the assessment of alternative locations for the proposed use in addition to assessing the impacts on the employment use and the sensitive land use. A sensitive land use will only be permitted where it can be demonstrated that there is no reasonable alternative for the proposed land use in the local municipality. In addition, municipalities are encouraged to consider non-sensitive transitional land uses;*” and

Revise Proposed Policy 2.D.7 to read as follows with the addition of a new policy “e) *The Station Area Plan must address the Land Use Compatibility requirements of the PPS where sensitive land uses are proposed near major facilities, including identifying the*

*need for the proposed sensitive land use and confirmation that there are no reasonable alternative locations within the municipality for the proposed sensitive land use. The intent is to ensure the long-term protection of the major facility. Transitional land uses are encouraged to buffer the sensitive land use from the employment uses and major facilities.”*

While some policy suggestions were included in the ROP with respect to land use compatibility, Section 4, subsections c), d) and e) of our initial letter to the Region were not reflected. They are critical for inclusion as they underscore the importance of incorporating the Ministry of the Environment, Conservation and Parks (MECP) D-6 Compatibility Between Industrial Facilities Guidelines. This includes the implementation of a 300-metre development setback from a rail yard for new or expanded residential development or other sensitive land uses, with study requirements from other land uses with 300 metres in accordance with the Federation of Canadian Municipalities and the Railway Association of Canada (FCM-RAC) Guidelines.

We ask that new or expanded residential development or other sensitive land uses not be permitted within 300 metres of a rail yard. CN's preference would be that, where sensitive land uses are contemplated to be expanded or introduced within 300 metres of a freight rail yard, a local Official Plan Amendment be required. Study requirements for other land uses within 300 metres should be completed in accordance with the FCM-RAC Guidelines and MECP D-6 Guidelines.

In addition, all residential development of other sensitive land uses located between 300 metres and 1 kilometre from a rail yard should be required to undertake land use compatibility studies, to the satisfaction of the Municipality and the appropriate railway operator commenting agency.

Other concerns that were not addressed in the ROP included discouraging sensitive land uses in the vicinity of the freight rail yards in the Region of Waterloo and ensuring matters of noise, air quality, vibration and safety are appropriately addressed, per Section 3 of our original letter. We ask that the following policy language be included to address development requirements in proximity to rail facilities:

- Evaluating, prioritizing and securing grade separation of railways and major roads, in cooperation with Transport Canada and the railways;
- Development in proximity to rail facilities shall be developed in accordance with the Guidelines for New Development in Proximity to Railway Operations prepared by the Federation of Canadian Municipalities and the Railway Association of Canada;
- Ensuring that noise, air quality, vibration and safety issues are addressed for development adjacent and in proximity to rail facilities;

- Sensitive land uses will not be encouraged adjacent or in proximity to rail facilities;
- All proposed residential or other sensitive use development within 300 metres of a railway right-of-way and 1000 metres of a rail yard will be required to undertake noise studies, to the satisfaction of the Municipality in consultation with the appropriate railway and shall undertake appropriate measures to mitigate any adverse effects from noise that were identified. All available options, including alternative site layouts and/or attenuation measures, will be thoroughly investigated and implemented to ensure appropriate sound levels are achieved;
- All proposed development within 75 metres of a railway right-of-way will be required to undertake vibration studies, to the satisfaction of the Municipality, in consultation with the appropriate railway operator, and shall undertake appropriate measures to mitigate any adverse effects from vibration that were identified;
- All proposed building setbacks shall be per the FCM-RAC Guidelines. As a general guideline, buildings shall be setback 30 metres with an appropriate berm abutting the rail right-of-way. Reduced setbacks can be considered in certain circumstances dependant on the proposed use and in conjunction with additional study and alternative safety measures, to the satisfaction of the Municipality in consultation with the appropriate railway operator;
- All proposed development adjacent to railways shall ensure that appropriate safety measures such as setbacks, berms, crash walls and security fencing are provided, to the satisfaction of the Municipality in consultation with the appropriate railway operator. Where applicable, the Municipality will ensure that sightline requirements of Transport Canada and the railways are addressed; and
- Implementation and maintenance of any required rail noise, vibration, air quality and safety impact mitigation measures, along with any required notices on title such as warning clauses and/or environmental easements, will be secured through appropriate legal mechanisms, to the satisfaction of the Municipality and the appropriate railway operator.

## **Conclusion**

CN requests that MMAH amend the adopted policies to include specific references to provincial land use compatibility policies, as outlined above.

Thank you again for your consideration of this letter and review of the Region of Waterloo Official Plan Amendment. We look forward to continuing to work with MMAH and the Region of Waterloo to ensure that this important industry is properly managed by the Province's land use framework. Please do not hesitate to contact me if you have any questions.



Yours very truly.

**WSP CANADA INC.**

*C. B. John-Baptiste*

Chad B. John-Baptiste, MCIP, RPP  
Director, Planning – Ontario

Enc: Letter to Region of Waterloo, June 10<sup>th</sup>, 2022

Copy: Katarzyna Sliwa, Dentons  
Eric Harvey, CN Rail



2022-08-16

Brenna MacKinnon  
Manager, Development Planning  
Community Planning Division

Region of Waterloo  
150 Frederick St.  
Kitchener, Ontario  
N2G 4J3

Via email: [BMackinnon@regionofwaterloo.ca](mailto:BMackinnon@regionofwaterloo.ca)

**Re: Regional Official Plan Review**

Dear Ms. MacKinnon,

Thank you for including our previous correspondence of June 10, 2022, in the Agenda Package for June 29, 2022, Planning and Works Committee of Council and we appreciate the opportunity to fully participate in the Region of Waterloo Official Plan Review process.

As stated in our previous letter, which is appended to this letter, we request further consideration be given to including policies that specifically reflect the Provincial Policy Statement, 2020 (PPS). We note that lands are being recommended to be part of the Settlement Area Boundary expansion as Urban Community Lands, (for example, we note that a Settlement Area Boundary Expansion request, in Appendix H, ref.# S-16 in the Township of Woolwich) specifically, the lands located south of the CN rail line, east of Fountain Street, which may be adjacent to CN rail infrastructure. As these lands and similarly other lands adjacent to CN rail facilities, operations and infrastructure are located throughout the Region, the development of these lands will need to consider the PPS policy around compatibility with the long-term operation and economic viability of the railway functions. The PPS goes further to point out that sensitive land uses be appropriately designed, buffered and/or separated from rail facilities.

It is our opinion that the Region plays a guiding role for the local municipalities by directing policy. We recommend that the Region provide policies associated with the land use

100 Commerce Valley Drive West  
Thornhill, ON  
Canada L3T 0A1

T: +1 905 882-1100  
F: +1 905 882-0055  
[wsp.com](http://wsp.com)



compatibility as stated in the PPS and supported by the Ministry of Environment, Conservation and Parks, D-6 Compatibility between Industrial Facilities Guidelines (D-6 Guidelines) be included in the Region's Draft Official Plan and specific policies to direct local municipalities to include similar policies in their Official Plans.

We would also appreciate understanding how policy requests such as those we have proposed will be addressed and whether the Region is preparing a policy comment and response table that will be made public.

We note that policies have been included in the Region's Draft Official Plan that addresses land use compatibility, adverse effects, noise, and appropriate transition between sensitive land use with employment areas and regarding planned Major Transit Station Area (MTSAs). It is our opinion to include specific policies associated with rail facilities, operations, and infrastructure as separate policy directions.

We would like to thank you again for the opportunity to participate in the Regional Official Plan Review. We look forward to continuing to work with the Region throughout this process to ensure that this important industry is protected in the land use framework in Ontario. Please forward all future documents to [proximity@cn.ca](mailto:proximity@cn.ca) and the undersigned.

Thank your time and we look forward to receiving further information on this initiative.

Yours very truly.

**WSP CANADA INC.**

A handwritten signature in black ink that reads 'C.B. John-Baptiste'.

Chad B. John-Baptiste, MCIP, RPP

Director, Planning – Ontario

Attachment: June 10, 2022, WSP letter

Copy: Eric Harvey, CN Rail





2022-06-10

Brenna MacKinnon  
Manager, Development Planning  
Community Planning Division

Region of Waterloo  
150 Frederick St.  
Kitchener, Ontario  
N2G 4J3

Via email : [BMackinnon@regionofwaterloo.ca](mailto:BMackinnon@regionofwaterloo.ca)

**Re: Regional Official Plan Review**

Dear Ms. MacKinnon,

We are pleased to have the opportunity to participate in Regional Official Plan Review. It is our understanding that the Region released its Draft Policies on Major Transit Station Areas, Regional Employment Areas and Housing Policies. We understand that comments on these draft policies are currently being received to be provided to Staff and Council.

We recognize and understand there is growing Provincial emphasis on promoting the movement of people and goods by rail and incorporating greater integration of multimodal transportation and goods movement into land use and transportation system planning. Our comments focus on policies and/or infrastructure initiatives as they related to existing and/or future CN Rail facilities, operations and infrastructure. Specifically, the Provincial Policy Statement, 2020 (PPS) requires that new development on adjacent lands be compatible with, and supportive of, the long-term purposes of the corridor and should be designed to avoid, mitigate or minimize negative impacts on and from the corridor.

It is our opinion, supported by the PPS and the Ministry of Environment, Conservation and Parks (MECP) D-6 Compatibility between Industrial Facilities Guidelines (D-G Guidelines), that planning for land uses in the vicinity of *rail facilities* be undertaken in such a way that the economic function and long-term operation of rail systems is protected. Provincial

100 Commerce Valley Drive West  
Thornhill, ON  
Canada L3T 0A1

T: +1 905 882-1100  
F: +1 905 882-0055  
[wsp.com](http://wsp.com)

policy sets out that sensitive land uses be appropriately designed, buffered and/or separated from rail facilities.

Additional provincial guidance regarding land use compatibility between industrial and sensitive land uses is provided in the D-6 Guidelines. It is our opinion that rail yards are considered a major facility as per the PPS and would be classified by the D-6 Guidelines as Class III Industrial Facilities because of their scale, the possible adverse effects from the facility, and continuous operation. Per Section 1.2.6 of the PPS, major facilities and sensitive land uses should be planned and developed to **avoid** (emphasis added) and where avoidance is not possible, to minimize and mitigate potential adverse effects from odour, noise and other contaminants. Sensitive uses should only be located in proximity to the major facility and only when the need for the use is established and when there no reasonable alternative locations for the proposed use. Moreover, the D-6 Guidelines recommend that **no incompatible development** (emphasis added) should occur within 300 metres of a Class III industrial facility. Further to the provincial policy test above, a feasibility analysis is required for any proposed sensitive land use within 1 kilometer of a Class III industrial facility. The Province of Ontario, through the Ministry of Transportation, has issued Freight-Supportive Guidelines that also speak to the need for appropriate land uses around freight facilities.

It is our position that the Region of Waterloo needs to incorporate policies that reflect the PPS and provide direction in the Regional Official Plan to ensure a consistent approach to implementation across municipalities.

CN owns the Huron Park Rail Yard Facility and Victoria Street Rail Yard Facility and various main line rights-of-way throughout the Region. These facilities are important to the Regional, Provincial and National economy. As such, the current and future operations of these facilities need to be protected from encroachment by sensitive land uses per Provincial Policy.

### **About CN Rail, Railway Noise and other Adverse Effects**

CN Rail is a federally regulated railway company, and is governed by various federal legislation, including the *Canada Transportation Act* (CTA) and the *Railway Safety Act* (RSA), among others. The CTA requires federally regulated railway companies to only make such noise and vibration as is reasonable. The test of reasonableness under the CTA takes into consideration the railway company's operational requirements and its level of service obligation under the Act, as well as the area where the construction or operation takes place. In its decisions the Canadian Transportation Agency has concluded that municipalities have a responsibility to assess compatibility issues before approving housing developments in proximity to railway rights-of-way. The CTA also commented that where a municipality approves the development, it has a responsibility to ensure that the necessary mitigation measures are implemented. One example of such a decision is Decision No. 69-R-2014, dated February 27, 2014.

It is important to understand that there is no specific decibel limit for CN operations contained in federal guidelines related to the construction or operation of rail facilities.

Those federal guidelines clearly state that, while the Agency may take provincial and municipal noise and vibration guidelines into account in its deliberations, the Agency is not bound by those guidelines.

Note that certain noises from a freight rail yard are stationary noise sources per the MECP Noise Guideline (NPC-300). In addition, the NPC-300 Class 4 area classification does not benefit federally regulated land uses, as they are not subject to provincial regulation (see above) and as such should not be considered the default approach for noise mitigation.

The Rail Proximity Guidelines are available at the following link: <https://www.proximityissues.ca/>

Of note, there are also the Guidelines for the Resolution of Complaints Over Railway Noise, which are available at the following link: <https://otc-cta.gc.ca/eng/publication/guidelines-resolution-complaints-over-railway-noise-and-vibration/>

## **Preliminary Comments and Concerns**

In the Region of Waterloo, CN operates multiple facilities that are an important component of the overall passenger and freight rail network in Canada. As such, any policies in the proposed Regional Official Plan are requested to incorporate reference to CN Rails infrastructure and the guidelines referenced above.

We note the following high-level comments with the proposed Regional Official Plan and particularly regarding the planned Major Transit Station Area (MTSA) policies:

### **1. Long-term Protection of Rail Corridors**

We suggest the Regional Official Plan acknowledge the importance of rail infrastructure and recognize its critical role in long-term economic growth as a means of efficient and effective movement of goods and people. Regional Official Plan policy direction is needed to ensure the continued viability and ultimate capacity of the rail corridors and yards are protected; and, to contain policies that identify and support strategic infrastructure improvements such as targeted grade separations.

### **2. Include a definition for Major Facilities, Major Goods Movement Facilities and Corridors, Rail Facilities and Sensitive Land Uses.**

There is currently no existing or proposed definition for Major Facilities and Rail Facilities in the Regional Official Plan. We recommend that the definitions of Major Facilities found in the PPS be included in the Regional Official Plan.

*Major facilities: means 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.*

*Rail facilities: means rail corridors, rail sidings, train stations, inter-modal facilities, rail yards and associated uses, including designated lands for future rail facilities.*

The current Regional Official Plan contains a definition for Sensitive Land Uses. However, the definition does not match the definition contained in the PPS, and it does not specifically address Major Facilities. As such, we recommend that the definition of Sensitive Land Uses in the Regional Official Plan be updated to match the PPS.

*Sensitive land uses: means buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities.*

We note that while the definition for major goods movement facilities has been added, rail facilities have been excluded. We request that the definition be updated as follows:

*Major goods movement facilities and corridors: means transportation facilities and corridors associated with the inter- and intra-provincial movement of goods. Examples include: inter-modal facilities, ports, airports, rail facilities, truck terminals, freight corridors, freight facilities, and haul routes and primary transportation corridors used for the movement of goods. Approaches that are freight supportive may be recommended in guidelines developed by the Province or based on municipal approaches that achieve the same objectives.*

### **3. Add rail facilities and influence areas to a schedule.**

We recommend identifying rail facilities and the areas of influence (300 metres for a rail line, 1 km for a rail yard) in a schedule of the Regional Official Plan. Identifying their boundaries will reduce the uncertainty for planning and developing sensitive land uses, and it will help to identify and avoid land use conflicts in those areas.

### **4. Review and/or reconsider the locations of several Planned MTSA in proximity to rail yards. In lieu, adopt policies that recognize the existing rail yards.**

Several identified MTSA are in areas that would create conflict, or have the potential to create conflict, with existing rail facilities. In particular, the Block Line Station MTSA contains a rail yard.

While the geographic points for the MTSA below are more than 300 metres from the rail yards, the 800-metre area around those points would be within the area set out by provincial guidelines (i.e. 1 Km from a Class III Facility). The MTSA's in question are identified on the Endorsed Major Transit Station Area Boundaries as follows:

- Block Line Station
- Frederick Station
- Kitchener City Hall Station
- Mill Station

The PPS requires that sensitive land uses be planned and developed to avoid any potential adverse effects, and land uses must be planned to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures. The PPS outlines a test to demonstrate the situation in which avoidance is not possible, and this requires demonstrating that alternative locations have been evaluated and that it was found that there are no reasonable alternative locations, amongst other matters.

It is our opinion that the proposed Regional Official Plan does not speak to the importance of land use compatibility in the context of MTSA's in general and specifically the MTSA's noted above, therefore the policies should be modified accordingly. The 800-metre walk shed of these MTSA's intersects the 300-metre area around the Huron Park Rail Yard Facility and Victoria Rail Yard Facility, which would create the types conflicts that the PPS directs to avoid.

Where avoidance is not possible, we suggest, with respect to the above noted MTSA's, that the proposed Regional Official Plan contain policies discouraging the development of sensitive land uses within the 300-metre area around the Huron Park Rail Yard Facility and Victoria Park Rail Yard Facility.

Suggested Policy Language is as follows:

Revise Proposed Policy 2.d.2(c) to read as follows: "provides an appropriate mix of land uses (*subject to other policies of this plan including land use compatibility policies*) that provide for a variety of services and amenities that foster vibrant, transit supportive 15-minute neighbourhoods, and that allows people to take transit, and to meet their daily needs and make most of their trips by walking, cycling, and rolling;"

Revise Proposed Policy 2.D.6 to read as follows: "protect existing significant Regional and local employment uses within Major Transit Station Areas by ensuring land use compatibility where ~~adjacent~~ new development is *proposed in proximity to employment uses and major facilities-achieved*. *When developing sensitive land uses in proximity to Major Facilities, Land Use Compatibility will*

*include the assessment of the need for the proposed use and the assessment of alternative locations for the proposed use in addition to assessing the impacts on the employment use and the sensitive land use. A sensitive land use will only be permitted where it can be demonstrated that there is no reasonable alternative for the proposed land use in the local municipality. In addition, municipalities are encouraged to consider non-sensitive transitional land uses; and,”*

Revise Proposed Policy 2.D.7 to read as follows with the addition of a new policy “e) *The Station Area Plan must address the Land Use Compatibility requirements of the PPS where sensitive land uses are proposed near major facilities, including identifying the need for the proposed sensitive land use and confirmation that there are no reasonable alternative locations within the municipality for the proposed sensitive land use. The intent is to ensure the long-term protection of the major facility. Transitional land uses are encouraged to buffer the sensitive land use from the employment uses and major facilities.*”

**5. Policy direction should clarify that new developments would be required to meet the PPS requirements for land use compatibility with respect to major facilities.**

The PPS requires that sensitive land uses be developed in a way that avoids or mitigates the adverse effects of odour, noise, and other contaminants. To further strengthen the Regional Official Plan’s conformity with these policies in the PPS, we recommend that Section 2.G.10 of the Regional Official Plan and related policies be updated and/or amended by adding the below policies to ensure that new developments are required to meet the PPS requirements for land use compatibility:

- a) *“Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures and the Ministry of the Environment, Conservation and Parks guidelines. (PPS 1.2.6.1) as amended”*
- b) *“Where avoidance is not possible in accordance with the policy above, planning authorities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures:*
  - a. *there is an identified need for the proposed use;*

- b. alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations;
  - c. adverse effects to the proposed sensitive land use are minimized and mitigated; and
  - d. potential impacts to industrial, manufacturing or other uses are minimized and mitigated. (PPS 1.2.6.2)"
- c) Requiring that the planning and development of a sensitive land use near or adjacent to a major facility be done in accordance with the PPS and provincial guidelines, standards and procedures. CN Rail considers Freight Rail Yards to be Class 3 Industrial Use as per the MECP D-Series Guidelines.
- d) New or expanded residential development or other sensitive land uses will not be permitted within 300 metres of a rail yard. A local Official Plan Amendment shall be required to introduce or expand a sensitive land use within 300 metres of a freight rail yard. Study requirements for other land uses within 300 metres are to be completed in accordance with the Federation of Canadian Municipalities and the Railway Association of Canada (FCM-RAC) Guidelines and the MECP D-6 Guidelines.
- e) All residential development or other sensitive land uses located between 300 m and 1000 m of a rail yard will be required to undertake land use compatibility studies, to the satisfaction of the Municipality and the appropriate railway, to support the feasibility of development and, if feasible, shall undertake appropriate measures to mitigate any adverse effects that were identified.

**6. Policy direction should clarify that new developments would be required to meet the PPS requirements for the long-term protection of Rail Facilities**

The policies proposed below are recommended to be included in the proposed Regional Official Plan to address development requirements in proximity to rail facilities:

- a) Evaluating, prioritizing and securing grade separation of railways and major roads, in cooperation with Transport Canada and the railways;
- b) Development in proximity to rail facilities shall be developed in accordance with the Guidelines for New Development in Proximity to Railway Operations prepared BY the Federation of Canadian Municipalities and the Railway Association of Canada;

- c) Ensuring that noise, air quality, vibration and safety issues are addressed for development adjacent and in proximity to rail facilities;
- d) Sensitive land uses will not be encouraged adjacent or in proximity to rail facilities;
- e) All proposed residential or other sensitive use development within 300 metres of a railway right-of-way and 1000 metres of a rail yard will be required to undertake noise studies, to the satisfaction of the Municipality in consultation with the appropriate railway and shall undertake appropriate measures to mitigate any adverse effects from noise that were identified. All available options, including alternative site layouts and/or attenuation measures, will be thoroughly investigated and implemented to ensure appropriate sound levels are achieved;
- f) All proposed development within 75 metres of a railway right-of-way will be required to undertake vibration studies, to the satisfaction of the Municipality, in consultation with the appropriate railway, and shall undertake appropriate measures to mitigate any adverse effects from vibration that were identified;
- g) All proposed building setbacks shall be per the Federation of Canadian Municipalities and Railway Association of Canada Guidelines. As a general guideline, buildings shall be setback 30 metres with an appropriate berm abutting the rail right-of-way. Reduced setbacks can be considered in certain circumstances dependant on the proposed use and in conjunction with additional study and alternative safety measures, to the satisfaction of the Municipality in consultation with the appropriate railway;
- h) All proposed development adjacent to railways shall ensure that appropriate safety measures such as setbacks, berms, crash walls and security fencing are provided, to the satisfaction of the Municipality in consultation with the appropriate railway. Where applicable, the Municipality will ensure that sightline requirements of Transport Canada and the railways are addressed; and
- i) Implementation and maintenance of any required rail noise, vibration, air quality and safety impact mitigation measures, along with any required notices on title such as warning clauses and/or environmental easements, will be secured through appropriate legal mechanisms, to the satisfaction of the Municipality and the appropriate railway.



**7. Amend policies to clearly identify that sensitive land uses may be prohibited where land use compatibility cannot be achieved, even in Major Transit Station Areas.**

The proposed Regional Official Plan does contain policies addressing the use of non-sensitive land uses as a transitional buffer to employment uses. The proposed Regional Official Plan is not clear that the PPS requirements with respect to major facilities will be addressed and that there will be circumstances where sensitive land uses will not be permitted. As such, we recommend the following policies to be added:

Revised new integration policy as follows: "The Region supports the integration of Regional employment areas with non employment uses within Major Transit Station Areas. Where Regional employment areas are located within a Major Transit Station Area as delineated on Map X, this Plan recognizes the multiple role and function of these Major Transit Station Areas as Strategic Growth Areas and the location of important employment uses. Area Municipalities will plan for these areas by providing appropriate transition and buffering measures between the Regional employment area and adjacent mixed use areas to address land use compatibility in a manner that protects the planned function of employment uses. *Where the employment use is a major facility, the PPS requirements for development in proximity to a major facility must be addressed, including determining that there is no reasonable alternative location for the proposed sensitive land uses. In addition, to protect the long term function of the employment use, sensitive land uses in appropriate circumstances will be prohibited.*"

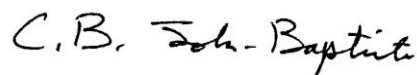
**Conclusion**

We would like to thank you again for the opportunity to participate in the Regional Official Plan Review. We look forward to continuing to work with the Region throughout this process to ensure that this important industry is protected in the land use framework in Ontario. Please forward all future documents to [proximity@cn.ca](mailto:proximity@cn.ca) and the undersigned.

Thank your time and we look forward to receiving further information on this initiative.

Yours very truly.

**WSP CANADA INC.**



Chad B. John-Baptiste, MCIP, RPP

Director, Planning – Ontario

Copy: Eric Harvey, CN Rail