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Date: 2021/06/30

To: Ministry of the Environment, Conservation and Parks

From: Jason Bevan, Director, City Planning Strategies

**Subject: Response to Draft Land Use Compatibility Guidelines – ERO 019-2785**

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### **Background**

The Ministry of the Environment, Conservation and Parks (MECP) has developed a draft Land Use Compatibility Guideline (Guideline) to assist planning authorities and proponents of development in planning with matters related to land use compatibility, which protects the long-term viability of major facilities while avoiding, or if avoidance is not possible, minimizing and mitigating adverse effects to the surrounding community.

The primary purpose of the proposed Guideline is to support the implementation of the Provincial Policy Statement 2020 (PPS, 2020) issued under Section 3 of the *Planning Act*, including policies 1.2.6.1, 1.2.6.2, 1.3.2.2 and 1.3.2.3 related to land use compatibility. It also supports land use compatibility-related policies in provincial plans, including those in A Place to Grow: A Growth Plan for the Greater Golden Horseshoe (A Place to Grow).

The Guideline will be applied when municipalities are incorporating land use compatibility policies and principles into various land use planning tools under the *Planning Act* and other legislation.

A 60-day public consultation period on the Guideline was provided between May 4, 2021 and July 3, 2021 to gather feedback on proposed changes.

### **Summary of Changes and Staff Comments**

#### **1- Establishing an Approach and a Guiding Hierarchy to Assessing Land Use Compatibilities**

Given Mississauga's built-up nature, separation of incompatible uses may not always be achievable. Staff welcome the added certainty provided through the proposed "Guiding Hierarchy" and the overall approach, which offers a decision-making framework for where avoidance of incompatible land uses through adequate separation should be achieved, or if avoidance is not possible, minimizing and mitigating adverse effects.

Additionally, Staff support establishing a strong link between the Guideline and Provincial Policies and Plans such the Provincial Policy Statement (PPS, 2020). This elevates the status of the Guideline in supporting the planning process throughout the different stages including during appeals at the Local Planning Appeal Tribunal.

## **2- Changes to the Applicability of Guideline under the *Planning Act***

Current Land Use Compatibility Guideline Series (D6-series) only apply to changes to the use of the land through an Official Plan Amendment (OPA) or the Zoning By-Law (ZBA). The proposed Guideline would apply to all *Planning Act* approvals including:

- OP and OP amendments (OPAs);
- Secondary plans;
- Community planning permit systems;
- Zoning by-laws and zoning by-law amendments;
- Plans of subdivision or condominium;
- Consents;
- Minor variances; and
- Site plan control and other planning approvals.

The Guideline is also intended to apply when the use of the land does not change but the intensity of the use does, and if an approval under the *Planning Act* is required. This change creates additional requirements for studies including potentially Demonstration of Need and Compatibility Assessments.

Mississauga staff are supportive of the added requirements which allow the City to better protect its residents' health and safety against adverse effects, especially in dense areas such as Major Transit Station Areas (MTSAs) where small changes to the scale of an industrial operation or a sensitive use can have significant effects on the surrounding community.

It is important, however, to highlight the impact of added studies and compatibility requirements on the processing time and on resources needed for these approvals.

## **3- New Area of Influence and Minimum Separation Distance Definitions and Ranges**

The proposed Guideline increases the size of Areas of Influence (AOIs) and Minimum Separation Distances (MSDs) of most industrial operations, which, in an urbanised setting such as Mississauga, will make avoidance harder and make the requirement for compatibility studies inevitable. While this change will ensure compatibility is assessed in a more comprehensive manner (especially when dealing with the cumulative impact of larger industrial clusters), it may significantly affect processing times for these types of planning approvals.

## **4- New Requirement for “Demonstration of Need”**

A Demonstration of Need is required to be carried out by a proponent of a sensitive land use when:

- A new sensitive land use is proposed within a major facility's AOI and mitigation measures would be needed to ensure no adverse effects or potential impacts; or

- A new sensitive land use is proposed within a major facility's MSD (regardless of whether mitigation measures are assessed to be needed or not).

The Demonstration of Need is a planning and compatibility study that proponents of development, as described above, must provide to the City to justify the need for the proposal. The study must include, in addition to compatibility and planning justification for the proposed site, additional compatibility and planning justification for at least two alternate sites and indicate why they would not be chosen.

The Guideline indicates that the planning authority must only permit the proposal if they are satisfied that there is an identified need and sound planning rationale for the proposed use in that location, and that alternative locations or areas for the proposed use have been evaluated and there are no reasonable alternative locations or areas.

Staff recognize the need for such studies especially in areas such as MTSAs, where sensitive uses may have to locate in proximity to transit and other amenities but within an MSD of an industrial use. However, a qualitative planning rationale should not supersede a quantitative assessment of adverse effects especially in cases where there are no satisfactory mitigation measures. Further, staff highlight the need for more guidance on the evaluation of applications and alternate sites using an unbiased process.

Additionally, for a two-tier planning authority, staff find it unclear how the Demonstration of Need would apply to larger area official plan amendments, secondary plan areas, MTSAs and especially areas within MTSAs that may be candidates for future employment conversion per Place to Grow Policy 2.2.5.10.

## **5- Clarification for At-Receptor Mitigation**

Section 3.3 of the Guideline notes that at-receptor mitigation is not recognized by MECP to mitigate odour and dust impacts. It appears at-receptor mitigation is recognized by the MECP for indoor air quality such as those listed under Section 3.3 like fixed windows, air intakes away from odour sources, carbon filters, strategic air intake locations; but these are also common measures to control dust and odour. Due to the conflicting nature of information within this section, staff recommend clarification to avoid confusion when requiring and reviewing assessments.

## **6- Matters Related to Transition and Next Steps**

Staff note that there has not been any guidance provided on requirements and timelines for transitioning from the current D-Series to the proposed Guideline. This is critical given the proposed updates to processes, classes and area sizes, the new Demonstration of Need requirement, and the need for updated Official Plan policies. Ministry staff are asked to take into consideration currently underway Official Plan and Municipal Comprehensive Reviews when releasing the final Guideline in order to allow for the implementation of appropriate policy modifications.

If you have any questions or require additional information, please contact Amina Menkad, Planner at (905) 615-3200 ext. 5545.

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Jason Bevan, Director, City Planning Strategies

cc. Leadership Team  
Ben Phillips, Manager, Official Plan Review  
Katherine Morton, Manager, Planning Strategies  
Andra Maxwell, City Solicitor