



County of Simcoe
Solid Waste Management
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Sanjay Coelho
Ministry of the Environment, Conservation and Parks - Environmental Policy Branch
40 St Clair Avenue West, Floor 10
Toronto, ON M4V1M2

Dear Mr. Coelho,

Please accept the following comments with respect to the Land Use Compatibility Guideline (ERO 019-2785) on behalf of the County of Simcoe.

The below comments are separated into major headings for ease of reference.

New Major Facilities

The Draft Land Use Compatibility (LUC) Guidelines make it increasingly difficult to site new waste management facilities. As stated in the "State of Waste in Ontario: Landfill Report" by the Ontario Waste Management Association, the Province of Ontario has landfill capacity to 2036. Restrictions related to the Minimum Separation Distances (MSD) for major facilities or a prohibition on sensitive land uses on properties adjacent to a landfill, constrains municipalities who are looking to responsibly manage their waste. While it is understood that there is a need to prevent conflict or potential adverse effects to neighbouring property owners, there is also a great need for infrastructure to serve the population in a province that will soon be unable to manage its own waste.

The Provincial Policy Statement (PPS) states that 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. The LUC Guideline outlines that if a sensitive land use is within an MSD of a proposed major facility then the necessary mitigation measures would be required to be implemented such that there is no adverse effect on the sensitive land use. If this is not possible then the planning authority is not to permit the new development. The definition of "no adverse effects" includes the loss or enjoyment of the "normal use" of property. Siting any major facility within the geographic boundaries of the County of Simcoe such that there be no adverse effect on sensitive land uses at the property line of that sensitive land use is will be very difficult given the Minimum Separation Distances proposed in the guideline. For instance, as the County grows we may be required to establish another Transfer Station to properly service residents in South Simcoe. Finding a property that does not contain a sensitive land use within 400 metres of this major facility will prove to be extremely difficult, if not impossible. We suggest that the requirement to have no adverse effect on sensitive land uses within the MSD be re-evaluated in line with minimizing and mitigating adverse effects as per the Provincial Policy Statement.

Areas of Influence

Composting Facilities are listed as requiring a 1,500 metre "Area of Influence". The "Guideline to Address Odour Mixtures in Ontario" separates leaf and yard waste composting from composting other waste and classifies them differently. Leaf and Yard Waste composting setback distances for odour

are listed as 500 m. Through experience operating multiple leaf and yard waste composting facilities the County believes that a 1.5 km Area of Influence is excessive. The most significant adverse effect to sensitive receptors in our experience would likely be odour and the corresponding guideline establishes a setback distance of 500 m.

For landfills the AOI is to be determined individually for each site. The County of Simcoe has 35 landfills. Of these there are three that are active and include transfer stations, five closed landfills with a transfer station and five that are leaf and yard waste composting facilities. It would be an enormous and very costly exercise for the County Planning Department to have to hire and supervise individual consultants to undertake odour, noise, dust, groundwater and methane gas studies in order to determine the appropriate AOI for each facility.

The County currently uses the 500 metre D4 Assessment Area Guidelines for most of our sites. If there is a development which triggers a planning approval, then the proponent is required to complete a D4 Study. Increasing the area to include an AOI greater than 500 metres would, in our opinion, unnecessarily capture a significantly greater number of properties for which owners would be required to complete these studies. It would be reasonable, of course to require such a study when a new and larger sensitive use (e.g. a new subdivision) is planned close to an existing major facility. However, an existing individual home owner should not be required to complete these types of studies, outside of the 500m MSD, particularly for small changes to their property such as establishing an accessory structure. As well, establishing an AOI which requires a compatibility study would not only put considerable expense on an individual homeowner but may also affect property values. The LUC Guideline should separate requirements for smaller development that complement existing land uses near major facilities as opposed to new land uses proposed for properties within an AOI.

According to the proposed Guidelines, a new planned sensitive land use within an AOI will be required to submit a Land Use Compatibility Study as part of its *Planning Act* application. If the study identifies any potential adverse impacts, whether or not they can be mitigated as is the test under the PPS 2020, an applicant will be required to undertake a "Demonstration of Need" study. The County is concerned about the burden this poses for not only Planning Act applicants, but also the impact on County planning staff time. This will require time and effort to process these additional elements for each development application within an AOI. County staff recommend that the proposed requirement for the Demonstration of Need study be optional, at the discretion of the County on a case-by-case basis.

The D4 Guideline identifies land use beyond 500 metres which must be taken into account when there are potentially significant impacts. The County has already established Contaminant Attenuation Zones ("CAZs") when there exist significant groundwater effects from leachate on properties surrounding our landfills. Considering major impacts are addressed through the CAZ requirements, it would most likely be an unnecessary additional requirement to compatibility assessments.

Using the property boundary of a sensitive land use as the requirement does not consider that for many properties, while the property size is significant, the actual portion of the property that is being used for the sensitive land use is much smaller. The LUC Guideline allows the measurement of the major facility to be taken from the actual source of adverse effects. The sensitive property boundary should be measured similarly, from the actual boundary of the sensitive land use and not from the property line.

Minimum Separation Distance

The current D4 guideline measures the 500 metre assessment area as that area of 500 metres surrounding the site and measured from the fill area. The County has mapped this area on its landfills so that only those properties within the 500 metre assessment area are required to complete a D4 Assessment. The LUC Guideline now indicates that fill areas should not be used for the purposes of

measuring separation distances. The new requirement is that a minimum of a buffer area should be measured from the periphery of the site. The County notes that an increase of even 30 metres will result in significantly more residents being required to complete a compatibility study. This is an expense that they would not have had previously.

It is noted in the guideline that whether an AOI is required for a particular landfill must be determined on a case by case basis. However the AOI may not be less than the MSD. In the current D4 Guideline, the D4 Assessment Area can be reduced through appropriate studies and thus may coincide with the actual influence area. The County has already completed studies for several of our landfills to reduce the assessment area to the actual area of influence. These studies have been approved by the MECP Local District Office. Should this guideline be set, the work already completed and agreed to by the MECP would be thrown away. The County has many closed landfill sites that are quite small and would not have an area of influence of even 500 m.

The guideline states that Planning Authorities must not consider Planning Act applications for sensitive land uses on adjoining property. The majority of our sites do have sensitive land uses on adjoining properties. Should any of these property owners want to build a structure that requires planning approval this guideline states that they will be prohibited from doing so. This is a major and unfair constraint on these property owners.

Mitigation

The D4 Guideline establishes the requirement of minimizing adverse effects. The new land use compatibility guideline states that a compatibility study must identify mitigation measures to ensure that there will be no adverse effects post-mitigation. The majority of County landfills have sensitive land uses within 500 metres of the property boundary. While the County tries to minimize adverse effects on these uses, our fear is that the existing use of these properties does not meet and may not be able to meet the criteria of "no adverse effects". Where a residential property requires a planning approval under the Planning Act, the Guideline states that any mitigation measures required through the compatibility assessment would be the responsibility of the proponent. We do not believe this is a fair requirement for local property owners who may only wish to construct an accessory building on their existing residential property. The guideline does not consider that some of the existing sites have co-existed with sensitive land uses with little to no complaints. A small change to an existing property should not result in what might be thousands of dollars spent on marginally impactful mitigation measures in order to meet the requirement of "no adverse effect".

AOI/MSDs Delineated in Official Plans

In the current D4 Guidelines, the D4 Assessment Area for landfills may be reduced through appropriate studies that delineate the actual influence area. As discussed, the County has completed studies for many County-owned landfills to reduce the assessment area to be the actual area of influence. It is proposed in the new Guidelines that official plans should designate areas with existing or planned landfills/transfer stations and identify the associated AOIs and MSDs for these facilities on a land use schedule. This will be a difficult and complex exercise as the needs of the County and the operations of existing facilities change regularly through differing needs dictated by growth and Provincial regulation. It is strongly suggested that more flexibility be provided in this requirement so that an OPA is not required for what could be minor changes to the County's waste management system over time.

In summary the County has the below comments/recommendations regarding the Land Use Compatibility Guideline:

- Re-evaluate the requirement for no adverse effects on sensitive land uses within the MSD and be in line with the Provincial Policy Statement which includes minimizing and mitigating adverse effects
- Establish separate AOI's for leaf and yard waste composting and composting other than leaf and yard waste
- Require a LUC study for properties within the MSD however for properties beyond the MSD but within the AOI, separate requirements for smaller development that complements existing land uses surrounding major facilities compared to new land uses proposed for properties within an AOI.
- The Demonstration of Need study be required on a case-by-case basis and at the discretion of the County.
- Not require components of a land use compatibility assessment if a CAZ already exists on the property for the adverse effect.
- The sensitive property boundary should be measured from the actual boundary of the sensitive land use and not from the property line.
- Allow the reduction of an MSD to less than 500 m as a result of appropriate studies completed by qualified professionals.
- Allow minor development on a case by case basis for property owners of adjoining properties where sensitive land use already exists.
- The guideline should consider existing sensitive land uses that would be newly identified within an AOI/MSD of an existing facility and should evaluate the necessity of mitigation measures on a case-by-case basis considering any previous complaints on the property.
- Remove the requirement for OPA's to identify the AOI's and MSD's in the Official Plan for the County.

Thank you for the opportunity to provide comments on the Land Use Compatibility Guideline.

Sincerely,



Rob McCullough
Director, Solid Waste Management



David Parks
Director, Planning, Economic Development and Transportation