



August 6, 2021

Sanjay Coelho
Environmental Policy Branch
Ministry of the Environment, Conservation and Parks
40 St. Clair Ave. West - Floor 10
Toronto, ON M4V 1M2

Dear Mr. Coelho,

**Re: Municipality of Clarington Comments
Proposed Land Use Compatibility Guidelines (ERO Number 019-2785)**

On July 2, 2021, the Municipality of Clarington submitted comments to the Environmental Registry of Ontario (ERO) in response to the proposed updated Land Use Compatibility Guidelines (LUC Guidelines) issued by the Ministry of the Environment, Conservation and Parks (MECP). After our submission was made, an extension of the comment period to August 6, 2021 was announced. We greatly appreciate the additional time provided to review the proposal and are pleased to submit the following additional comments.

Appendix E - Land Use on or Near Landfills and Dumps

Further clarification is needed on the application of Appendix E. A couple of instances of conflicting direction are noted. For instance, the first paragraph does not indicate that Appendix E applies to proposed development on existing landfills, whereas this is stated in the second paragraph. In addition, Appendix E section 1 requires that this additional guidance be considered when any land use is proposed within the Area of Influence (AOI) of a landfill, whereas section 7.2 is specific to sensitive land uses (only) proposed near a landfill.

Clarification is requested on whether the application of Appendix E to proposals near a historical, closed landfill or dump has an expiration date. For development on a landfill site, approval from the Minister is only required for 25 years after the landfill has closed. Are landfills and dumps that have been closed more than 25 years still considered a "major facility" to which the LUC Guidelines apply?

The AOI for a landfill or dump site, open or closed, is to be determined on a case-by-case basis. More guidance is requested. Stating that an AOI for a landfill or dump is to be determined when a proposed development is "near" a landfill or dump site provides flexibility but is subjective and open to interpretation. While the Municipality appreciates that potential impacts can vary with each landfill site, if the Municipality is to conduct an assessment on every known landfill and dump site in the area in order to define each site's AOI, funding from the Province to retain technical experts to complete this work and to keep it up to date will be needed. Alternatively, the Province should work with

landfill and dump site owners to carry out the determination of site-specific AOIs and provide this information to the local planning authorities. To this end, clarification on who is responsible for undertaking the AOI study is needed.

Appendix E points to resources to assist in determining the AOI for open and closed landfills and dumps. Of the 24 known landfill and dump sites in Clarington, only one has an active Environmental Compliance Approval. The vast majority are historical sites that have limited or no available information and had Certificates of Approval with very few conditions, if at all. Training and instruction from the MECP on how to determine the AOI where very minimal information is available will support municipal understanding and consistent application of land use compatibility requirements near landfills and dumps.

The Municipality does not support this transfer of responsibility for determining when and what technical studies Proponents should complete to evaluate the presence and potential impact of any adverse effects or health and safety, and any necessary protective measures from development near landfills and dumps. Municipalities do not have the technical expertise to assess a landfill or dump site and determine which specific potential environmental and/or health and safety impacts require further evaluation by proponents for nearby development.

Key Planning Tools

Part C of the LUC Guideline outlines a range of approaches to implement the guidance provided and improve land use compatibility using tools under the *Planning Act*. More guidance is needed for some of the proposed approaches, as follows:

- The proposed approaches to impose property-specific zoning or to use holding by-laws appear to assume that every application for a major facility requires a zoning by-law amendment, which is often not the case.
- An interim-control by-law may not be an appropriate tool for a site-specific application. An interim control by-law is typically used to restrict the development of lands within an area while a municipality completes a study or reviews land use policies. It is not typically something imposed in relation to a specific development. Further, the *Planning Act* does not allow for a municipality to apply an interim control by-law on lands for three years where there had previously been one. If a site wanted to intensify in that time, this tool would be unavailable.
- The last bullet under addressing compatibility through zoning mentions using “other mechanisms” and would benefit from further elaboration or examples of the mechanisms that could be considered.

The Municipality of Clarington appreciates the MECP's efforts to update and consolidate the approach to identifying and assessing land use compatibility for sensitive land uses and major facilities. We hope that the comments provided in this letter and our original submission on July 2, 2021 contribute to refining and bringing greater clarity to the proposed updated guidelines. Should you have any questions on our submissions, please contact Amy Burke, Senior Planner – Special Projects Branch at 905-623-3379 Ext. 2423 or aburke@clarington.net.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Windle".

Ryan Windle, Director
Planning and Development Services
Municipality of Clarington
/tg

Cc: Mayor and Members of Council
Andy Allison, CAO
Faye Langmaid, Manager of Special Projects
Amy Burke, Senior Planner