

August 6, 2021

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

****Submitted Electronically****

**RE: Environmental Registry of Ontario Postings - Proposed Updates to the D-Series Guidelines
ERO 019-2785 – Land Use Compatibility Guidelines
ERO 019-2972 – Modernizing Environmental Compliance Practices
ERO 019-2768 – Guideline to Address Odour Mixtures in Ontario**

Please accept this letter as the City of Barrie comprehensive response to the Environmental Register of Ontario (ERO) proposals to update the Ministry's D-Series Guidelines including ERO 019-2785 – Land Use Compatibility Guideline, ERO 019-2972 – Modernizing Environmental Compliance Practices, and ERO 019-2768 – Guideline to Address Odour Mixtures in Ontario.

The notices were posted on May 4, 2021, for a 94-day review with the comment period ending on August 6, 2021. City staff have undertaken a review of the proposals and provide the following comments and concerns.

ERO 019-2785 – LAND USE COMPATIBILITY GUIDELINE

Generally, staff are supportive of the consolidation of the land use compatibility guidelines into one comprehensive and updated document to provide clear direction to planning authorities and proponents in reviewing development proposals. This guideline is of particular importance as the City is currently undertaking its Municipal Comprehensive Review (MCR) to plan for intensification in the Major Transit Station Areas (MTSA) and the Urban Growth Centre (UGC) along with accommodating population and employment targets to 2051. An MTSA is the area surrounding any existing or planned higher order transit station within a settlement area and are generally defined as an area within an approximate 500 to 800 metres radius of a transit station, representing a 10-minute walk.

Of particular concern is the potential impact that the guidelines may have on the planned growth of the City's urban centre. The City of Barrie's wastewater treatment facility is located within the urban core and will require a future expansion to accommodate projected population growth. A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 (Growth Plan), as amended, directs growth the urban growth centres (Policy 2.2.3.1).

The 500 metres Minimum Separation Distance (MSD) and the 1250 metre Area of Influence (AOI) offsets from the wastewater treatment facility are depicted in Appendix 'A' as attached. The map illustrates the potential affect to the existing UGC and the proposed UGC/Allendale MTSA under consideration as part of the City's MCR and Official Plan

Update. Given that separation of incompatible land uses is the preferred approach to avoiding land use compatibility issues under the proposed guidelines, clarification is requested on how this would be achieved given the policies of the Growth Plan requires growth to be directed to the Urban Growth Centres.

Select Major Facility	Description of Major Facility	AOI & Class	Minimum Separation Distance
Municipal and private communal wastewater facilities (small)	Facilities with a rated capacity less than 25,000 cubic metres per day	300m Class 1	100m
Municipal and private communal wastewater facilities (large)	Facilities with a rated capacity more than 25,000 cubic metres per day	1,250m Class 4	500m

The Ministry should confirm that the proposed land use compatibility framework does not prohibit the expansion or alteration of the existing wastewater treatment facility when sensitive land uses exist or are proposed to exist within the MSD. Additionally, it should be confirmed that the proposed guidelines would not prohibit development of residential or other potentially sensitive land uses within the AOI or MSD of the existing wastewater treatment plan as doing so would negatively impact the City’s achievement of the aforementioned Growth Plan policies and population and employment growth targets for 2051. Further clarification should be provided on mitigation options in applying the AOI and MSD in similar situations where avoidance cannot be achieved as a result of other Provincial planning policies.

Additional questions and concerns are noted below:

1. The term “sensitive land use” is consistent with the Provincial Policy Statement 2020 (PPS). For the purposes of the guidelines, additional clarity on examples of sensitive land uses would be helpful. A chart/table with a list of uses would ensure consistency in applying the guidelines and would also provide guidance for the private sector in site selection. Additional clarification on natural features and areas and lands zoned or designated for Environmental Protection purposes should be considered.
2. It is noted in the draft guideline that Official Plans and Zoning By-laws will need to be updated to address compatibility. It is suggested that the requirements to be included in municipal planning documents be further clarified particularly related to the mapping of Areas of Influence (AOI) and Minimum Separation Distance (MSD) for private sector facilities. As part of implementation of the guidelines into planning documents, further consideration should be given to the difference between public (municipal, provincial, or federal) facilities/infrastructure and private sector facilities which are both included in the definition of “major facilities”. Alternative mapping solutions for private facilities could include appendices to planning documents or a comprehensive Ministry GIS database layer that could be updated without amendment. Municipalities can continue to use the guidelines as a reference tool when comprehensively planning their communities, evaluating public and private sector proposals, and determining study requirements.
3. It is suggested that the requirement for the Demonstration of Need study be eliminated. If the requirement remains, please provide a Terms of Reference that would assist municipalities and proponents in the preparation of the study.
4. Will the guidelines be phased or have implementation policies to allow planning authorities to develop policies for AOI and MSD for the major facilities within their municipality? What are the transition provisions for applications already in going through planning approvals?
5. With the additional separation distances and study requirements proposed, the updated guidelines may result in unplanned delays to strategic municipal infrastructure projects or to private sector residential or employment proposals.

6. Does the reference to municipal and private communal wastewater facilities (small) include pumping stations?
7. Compatibility studies should be prepared for the proponent by qualified individuals with experience in preparing technical assessments. Should the minimum qualification be stated? Appendix B.5 Qualified Individuals outlines the requirements.
8. It is noted in the document that planning authorities can facilitate discussions between the proponents of development and existing property owners/operators. Is this an appropriate role for the planning authority to be responsible for as part of a private sector application?
9. An adverse effect can be dust. If dust occurs during construction, will the proponent need to demonstrate the mitigation measures during this phase of development, similar to ESC measures?
10. Are there monitoring requirements for mitigation measures (i.e., At-Source, Operational) to ensure that they are effective?
11. Where at-receptor mitigation is used, it is recommended that warning clauses or notices on title be registered to inform future buyers of the potential adverse effects and the need to maintain the mitigation. Who is responsible for the enforcement of this?
12. Section 3.7 - When mitigation is required, the document states: "The legal requirements must apply to the person responsible for implementation and any costs (if applicable), and if necessary, ensure maintenance for any required mitigation measures in the long-term. Typically, legal requirements would be addressed through agreements and conditions applied directly on a given land use planning approval". Who will monitor this? Who will be responsible for developing this agreement and tracking it? Is there standard language that should be used in the agreement?
13. Will there be any impacts to existing structures/land uses within AOI or MSD of known historic waste sites (Landfills) found in Appendix D?
14. Section 7.2 – Will there any documentation or Ministry contacts/support available for municipalities to help navigate and determine the 'Case-by-Case' AOI?
15. The document uses the terms *Minimum Separation Distance* and *Minimum Distance Separation* interchangeably. One term should be selected for consistency.

ERO 019-2972 - MODERNIZING ENVIRONMENTAL COMPLIANCE PRACTICES

The City does not support many of the suggested delegated responsibilities that have been proposed. Odour and noise complaints are often a result of private property actions, which municipalities have limited authority for enforcement. The City supports the current jurisdiction of the Ministry as the governing body for these complaints.

Compliance Policy Document

1. As it appears that this document identifies the downloading of enforcement for noise, odour and dust complaints. Will there be funding provided to municipalities for additional staff resources to implement the delegated responsibilities?
2. Will there be a phased approach for the implementation of incidents being delegated to municipalities or the appropriate agency? (i.e., municipal by-laws may need to be amended)
3. Will the municipality or appropriate agency be required to generate reports or need to provide follow up to the Ministry regarding the incidents that are delegated to the appropriate agency?
4. Will the municipality or appropriate agency be required to track all incidents?
5. Municipalities typically only deal with public property concerns when incidents associated with air quality (odour) concerns. With the proposed Compliance Policy, how are municipalities to deal with odour complaints on private property and will direction be provided by the Ministry if this is delegated to the municipal level?

Draft Referral Tool Document

1. The table notes that a municipality could respond to odour complaints associated with someone applying roof tar. This process does not require a permit from the City. How would municipalities be aware of this work being conducted? How would municipalities respond and what authority would they have for enforcement?
2. The table notes that municipalities would respond to drainage and rain runoff on private property. The City does not support this.
3. The table also notes that municipalities would be responsible for responding to highway traffic noise complaints. The City does not support this as this it is beyond the control of the City.
4. The table notes that municipalities would respond to drips from vehicles anywhere on the ground. The City does not support this as these situations tend to be on private residential property where municipal enforcement powers are limited under the *Municipal Act*. Where would the municipality generate the authority to order the clean up on private property? What is the liability if a municipality does not act right away, and a spill continues?

ERO 019-2768 – GUIDELINE TO ADDRESS ODOUR MIXTURES

1. The posting notes that odour will now be better addressed through the land use planning authorities and that planning authorities may require studies as part of an application for a major facility defined under the PPS. Will funding resources and training be provided to municipalities to be able to implement this? Further, clarification is required on how this aligns with ECA applications. The documents should clearly outline the intended roles and responsibilities of the planning approval authority. The guidance speaks to keeping these documents updated as operations occur. Who is responsible for compliance and enforcement?
2. A phased approach should be provided to allow for Official Plans and internal processes to be updated to reflect the new requirements (Compatibility Studies, Best Management Practices Plan or Odour Technology Benchmarking Report).
3. Guidance should be provided on how to deal with applications that are in the approvals process and do not meet the minimum separation distances.
4. The City supports the proposed proactive approach of requesting information on proposed odour mixtures as part of the Air Emissions ECA application process.

Thank you for your time and consideration of our comments on the proposed updates to the D-Series Guidelines. If there are any questions or concerns, please feel free to contact the undersigned.

Sincerely,



Tiffany Thompson, RPP
Manager of Growth and Development

cc: Andrea Miller, RPP, General Manager of Infrastructure and Growth Management
Michelle Banfield, RPP, Director of Development Services
Sandra Brunet, Manager of Business Performance and Environmental Sustainability
Stephanie Zoschke, Supervisor Environmental Compliance (Acting)
Katie Thompson, Risk Management Official

Attachment: Appendix 'A' – City of Barrie Wastewater Treatment Facility with AOI and MSD Buffers

Appendix 'A' – City of Barrie Wastewater Treatment Facility with AOI and MSD Buffers



Legend

- WwTF_Polygon_Buffer_1250
- WwTF_Polygon_Buffer500
- WwTF_Polygon
- OP Update Growth_Management_Areas
GrowthManagementAreas
- MTSA 1 (Allandale)
- Urban Growth Centre (UGC)
- Official Plan - Schedule I - Urban Growth Centre