



**Ontario**  
Home Builders'  
Association

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20 Upjohn Rd., Suite 101 (416) 443-1545  
North York, Ontario Toll Free 1-800-387-0109  
M3B 2V9 Fax: (416) 443-9982  
<http://www.ohba.ca> [info@ohba.ca](mailto:info@ohba.ca)

July 3, 2021

Ministry of the Environment, Conservation and Parks - Environmental Policy Branch  
40 St Clair Avenue West, 10<sup>th</sup> Floor  
Toronto, ON  
M4V1M2

**RE: Draft Land Use Compatibility Guideline (ERO Registry # 019-2785)**

The Ontario Home Builders' Association (OHBA) thanks the Ministry of the Environment, Conservation and Parks for providing an opportunity to share feedback on the proposed land use compatibility guideline (hereafter referred to as the guideline). OHBA is supportive of an empirical and science-based processes to address and mitigate negative impacts of sensitive land uses from major facilities, however what is currently proposed as part of the Ministry's consultation does not meet that objective.

**Procedural Challenges**

The current land use compatibility guideline from the Ministry is meant to address conflicts between existing major facilities and sensitive uses including residential lands. These conflict points typically include odour, noise, dust and other impacts from contaminants where the major facility could potentially have negative impacts on residential dwellings within close proximity of the facility. Applying the existing guideline is done through identifying areas of influence (AOI) and minimum separation distances (MSD) between major facilities and uses within residential areas. Currently, these guidelines are addressed and applied through comprehensive planning decisions as part of a municipality's official plan and/or zoning by-laws. The current process is manageable and predictable given the scope of sensitive land uses. OHBA feels that the proposed guideline would create unnecessary delays in achieving planning approvals.

Further, the draft guideline recommends that municipalities create an official plan schedule identifying AOI from known industries in their municipality. In addition, it recommends that official plans and zoning bylaws may need to be rewritten to address the requirements of the draft guideline and the increased AOI and MSD. OHBA feels that this recommendation would undermine years of municipal planning and the earned approvals of development and housing projects by the industry.

**Land Use Compatibility Studies**

The proposed guideline from the Ministry speaks specifically to any form of planning application. What this means is that from a development application standpoint, a proponent would now be required to complete a land use compatibility study even after receiving zoning approval. This is a significant shift for the development industry and will dramatically impact how developers and builders navigate the building process. The Ministry requirements for compatibility studies and demonstration of need studies are lengthy and overly complex and are called for too late in the development process to be easily accommodated by development proponents. A study process requirement at the site plan stage is much too far into the development process to be effectively incorporated.



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These studies add further layers of complexity on already onerous processes that proponents follow. Further clarity is therefore needed to assess the significant impact these lengthy and costly studies will have on proponents and subsequently on new housing projects and their new homeowners. Finally, the information needed to undertake these studies is difficult for either development proponents or consultants to access, where it is largely held within the Ministry. Again, these requirements would certainly cause planning approval delays which OHBA cannot support.

#### **Nature of AOI and MSD Unclear**

OHBA would note that from a nuisance and impact perspective the proposed AOI and MSD representations seem arbitrary in nature. While the proposed AOI and MSD have increased across the classes of facilities, there is little provided in the consultation document that explicitly details how the proposed new distances were determined and what empirical evidence the Ministry is referencing to determine these distance requirements. These setback measurements will negate the approvals of development projects already zoned for residential development and intensification. The guideline effectively undermines the planning process by overruling the earned zoning that exists and is already present. OHBA finds such an approach unacceptable as the timeliness of providing housing supply will be negatively impacted. OHBA strongly feels that further clarity and justification is needed from the Ministry on these AOI and MSD requirements and how they will be used in the planning process.

#### **Impact on Municipalities & Homeowners**

In preparing an association response, OHBA confirmed with municipalities that the guidelines will have a significant impact on their current and future planning decisions. The guideline and related process will make it increasingly challenging for municipalities to meet their intensification targets outlined in the Provincial Growth Plan and grow in a way that balances the land use needs of residents and businesses. This also places significant burden on smaller municipalities which have minimal staffing, financial resources, and land use planning expertise to navigate these new processes.

What also seems to be left out of this consultation is the impact these proposed changes will have on the thousands of existing residences and homeowners. Their homes would be captured by these proposals and create enormous uncertainty when it comes to alterations, permits and other changes they may wish to undertake on their home and on their property. In this regard, OHBA feels that further discussion, consultation, and clarification is required here.

#### **Conclusion**

Fundamentally, the proposed measures outlined in the consultation do not match up with, coincide, or support the intensification, urban expansion and population growth targets outlined in the Provincial Policy Statement and Provincial Growth Plan. Put simply, these proposed processes do not align with the objectives in the other key planning documents that municipalities and development proponents are already working towards. The processes the Ministry has proposed through this consultation would undermine current approvals and would render thousands of development opportunities difficult to complete despite the proper as of right zoning being in place.



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Just to provide a point of focus, OHBA continues to support the intensification mandate of the Growth Plan, along with the provincial approach to transit-orient communities. With the confirmed federal-provincial and municipally funded Ontario Line transit corridor in Toronto, these guidelines run counter to the shared outcome of housing-related development intended within and around the corridor. OHBA would challenge the Ministry to test these guidelines against this provincially significant project to determine the real impact it will have to the approvals process, from zoning to site plan. It will become clearer to the Ministry after testing these guidelines against a provincial project that this proposed land use compatibility guideline requires much more consultation and analysis before it can be approved.

OHBA encourages the province to organize technical committees immediately, with development proponents and municipalities participating to provide the practical expertise needed to accurately assess the impact of the proposed guideline. With the announced extension to August 6 for this ERO posting, OHBA will be engaging the Ministry for more information and provide an additional submission in the future.