

DATE: April 8, 2015

REPORT TITLE: **PROVINCIAL CONSULTATION ON AGRICULTURAL POLICY GUIDELINES**

FROM: Lorraine Graham-Watson, Commissioner of Corporate Services

RECOMMENDATION

That the response to the Ministry of Agriculture, Food and Rural Affairs (OMAFRA), regarding the Draft Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas, as outlined in the report of the Commissioner of Corporate Services, titled "Provincial Consultation on Agricultural Policy Guidelines", be approved;

And further, that the response to OMAFRA, regarding the proposed revisions to the Minimum Distance Separation Formulae (MDS Formulae) and Implementation Guidelines, as outlined in the subject report, be approved;

And further, that the subject report be forwarded to OMAFRA, the cities of Mississauga and Brampton, and the Town of Caledon, as the Region of Peel's response to the provincial consultations on the guidelines.

REPORT HIGHLIGHTS

- The Province has released The Guidelines on Permitted Uses in Prime Agricultural Areas ("Guidelines") for comment.
- The proposed Guidelines will improve consistency and support the protection and viability of the agricultural sector through planning policy.
- Additionally, the Province has proposed changes to the MDS Formulae and Implementation Guidelines to improve interpretation and implementation of the setback guidelines for livestock operations and non-farm uses and have responded to Regional requests for clearer guidance and flexibility for minor variances.

DISCUSSION

1. Purpose

The purpose of this report is to request Regional Council's endorsement of comments in response to OMAFRA's draft Guidelines on Permitted Uses in Ontario's Prime Agricultural

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Areas (Guidelines). The Guidelines have been circulated for review, and comments are due by May 13, 2015.

Additionally, this report seeks Regional Council's endorsement of comments in response to OMAFRA's Environmental Bill of Rights posting 012-3526 regarding the Minimum Distance Separation Formulae and Implementation Guidelines. Comments on the revised MDS Formulae are requested by May 20, 2015.

2. Background

The agricultural sector within the Region of Peel is a recognized and valued contributor to the economy and cultural heritage of the Region. As in many communities in the Greater Toronto Area, agriculture continues to face growth and development pressures and is affected by both urban and rural non-farm land uses, as these forms of development can restrict agricultural potential and farm development. The initiatives by OMAFRA to update and develop guidelines are welcome, provided that the guidelines support consistency and appropriate flexibility to enable the farming sector to adapt and evolve.

3. Draft Guidelines on Permitted Uses in Prime Agricultural Areas

The draft Guidelines for permitted uses in prime agricultural areas and the revised MDS Formulae and Implementation Guidelines are initiatives intended to help municipalities, farmers and others interpret and implement policies in the Provincial Policy Statement 2014 (PPS). A summary of each document is provided below.

a) Overview of Draft Guidelines

Recent revisions to the PPS clarified permissions for agricultural uses in prime agricultural areas and provided policy that supports economic opportunities while meeting the objective of maintaining the land base for agriculture. The Guidelines are intended to provide assistance to all stakeholders, municipalities and decision makers who will interpret and apply the policies of the PPS on uses that are permitted in prime agricultural areas. They are intended to complement the PPS policies by providing guidance on:

- agricultural, agriculture-related and on-farm diversified uses;
- removal of land for new and expanding settlement areas and limited non-residential uses; and
- mitigation of impacts from new or expanding non-agricultural uses.

The draft Guidelines are available for review on the OMAFRA webpage, at www.omafra.gov.on.ca/english/landuse/permitteduses.htm.

The Guidelines discuss each of the permitted land uses in detail, providing guidance and interpretation of the intended application of related PPS policies and their inclusion in municipal planning policies, bylaws and permitting processes.

The Guidelines are neither regulations nor standards, but instead provide best practices and expanded guidance for policy implementation consistent with the PPS. Municipalities are encouraged to meet or exceed the objectives set out in the PPS,

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through their own criteria for permitted uses in official plans and zoning bylaws, reflecting local standards and circumstances, while ensuring that local policies do not conflict with the PPS.

b) Proposed Staff Response to Guidelines

The Guidelines provide comprehensive and valuable guidance for the interpretation and implementation of the agricultural policies in the PPS, and address many of the policy interpretation issues identified during the development and release of the PPS.

Provincial criteria for “agriculture-related uses” (e.g. farm-related commercial or industrial), and “on-farm diversified” uses (e.g. agri-tourism or home occupations) have been developed with direction provided on the appropriate context in which these agriculture supporting uses can be introduced. The direction provided to municipalities for regulating on-farm diversified uses, utilizing planning tools such as lot coverage in the zoning bylaw, provides clarification and changes municipal regulation of these uses away from activity based criteria that are more difficult to regulate and enforce (e.g. specifying local food content in goods and services).

The Guidelines clarify the interpretation of value-retaining uses as permitted agricultural uses; and value-added uses as either agriculture-related or on-farm diversified uses. The addition of the opportunity for value retaining in addition to value added uses broadens opportunities for agricultural economic development.

Additionally, guidance for the accommodation of on-farm workers is discussed, as an agricultural use in prime agricultural areas. The explanation of the policy provides assistance in clarifying how farm worker housing can be permitted.

The comprehensive guidance on conducting agricultural impact assessments (AIA) is beneficial but can be improved in the Guidelines by providing model terms of reference for use by municipalities and clarifying that AIA requirements may be scoped for situations when a full AIA is not required.

The general intent and content of the Guidelines are supported by Regional staff as they provide a better foundation for improved interpretation and consistent application of the policies for permitted agricultural uses. Regional staff will be recommending revisions to the Regional Official Plan to be consistent with the new PPS policies as part of the current Peel 2041 five year review.

Regional staff has prepared additional comments in Appendix I on technical matters related to the Guidelines to be submitted as part of the Region of Peel consultation response.

4. Draft Minimum Distance Separation Formulae and Implementation Guidelines

a) Overview of Draft Guidelines

A five year review of the MDS Formulae was initiated by OMAFRA in 2012. In developing the guidelines OMAFRA staff has conducted focused consultations with

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technical users, municipal staff, elected officials and agricultural organizations. The revised MDS Formulae, now referenced as the MDS Document, is intended to supplement, clarify and provide technical guidance for the implementation of minimum distance separation policies as provided for in the PPS.

The MDS Formulae is a land use planning tool developed to prevent land use conflicts and minimize nuisance complaints from odour. The MDS Formulae is used to determine a recommended separation distance between livestock facilities and other land uses. Within rural lands and prime agricultural areas, the PPS requires that new land uses and new or expanding livestock facilities comply with the MDS Formulae. MDS setbacks are also applied when considering settlement area expansions in areas where livestock operations are permitted.

The following are highlights of key changes proposed by the Ministry:

- improved guidance on MDS policies to be included in municipal planning documents (e.g. applying MDS to existing lots of record);
- clarification that MDS setbacks are not required in settlement areas;
- clarification that MDS setbacks for agriculture-related uses and on-farm diversified uses are applied at the discretion of the municipality;
- improved guidance for reducing MDS setbacks; and
- new web-based software for calculating setbacks.

Municipalities are required to include policies in their official plans and zoning by-laws so that MDS setbacks are implemented in accordance with provincial policy direction. The Region's Official Plan currently provides general direction for implementation of MDS requirements in conformity with provincial policy. As MDS requirements are related to the regulation of land uses, implementation of the MDS Formulae is focused at the area municipal level.

b) Proposed Staff Response to the Guidelines

In 2014, the Region and Town of Caledon completed a review of the MDS Formulae and provided recommendations that were endorsed by Regional Council for submission in anticipation of the provincial consultation. The recommendations endorsed by Council are attached as Appendix II and a full copy of the report is available online at <http://www.peelregion.ca/planning/paawg/lear-mds.htm>.

An assessment of the revised MDS Document in relation to the Region's three key recommendations is provided below. Detailed staff responses including technical comments on the draft MDS Document for submission to OMAFRA are included in Appendix III.

i) Guidance on how to apply and interpret the MDS Formulae

Overall, updated guidance in the draft MDS Document improves the explanation of MDS requirements and further clarifies how municipalities should reference MDS in their official plans and zoning by-laws.

Regional staff is recommending further clarification in the MDS Document that policies in regional official plans should provide direction for more detailed implementation at the local level so as not to duplicate or involve regional planning in

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local land use planning matters. Subject to provincial clarification, policy revisions to the Regional Official Plan, if needed, would be minor and for the purposes of updating definitions or clarifying roles and responsibilities at the regional and local level.

Given the technical complexity of MDS, additional detailed and ongoing training and implementation supports should be provided by OMAFRA for municipal staff including on-line training aids and more formal instruction based education.

ii) Flexibility for existing livestock operations in proximity to settlement areas

The guidance related to how municipalities may consider reductions of MDS setbacks in limited situations is improved. As the intent of MDS policies is to reduce odour conflicts, OMAFRA does not support or encourage reductions to MDS setbacks, but recognizes that in some site-specific circumstances, it may be appropriate for a municipality to consider reduced setbacks through a minor variance or other planning approval. Assessment criteria when considering a reduced setback are provided recognizing that it is a municipal responsibility to meet the intent of the MDS policy. Emphasis continues to be placed on compliance with setback distances and assigning responsibility to the local municipality to determine if a reduction to a MDS setback is appropriate in the circumstance.

iii) Setbacks for outdoor recreational uses (e.g. golf courses)

The proposed MDS guideline has not revised definitions for low and high intensity recreational uses or their classification as Type A or B land uses, which dictate how MDS setbacks are calculated for outdoor recreational uses. However, improved guidance on the reduction of MDS setbacks provides the option for municipalities to consider limited setback reductions in site specific situations provided the intent of the MDS policy is met such as exempting setbacks for out of play areas on golf courses or other outdoor recreational uses.

5. Next Steps

Region of Peel staff will send a copy of this staff report and the attachments to OMAFRA for consideration. Staff will continue to consult with local agricultural stakeholders including the Peel Agricultural Advisory Working Group on the draft guidelines and will forward additional comments reflecting the input of the local agricultural community to assist the Ministry in the final drafting of the guidelines. The Peel Agricultural Advisory Working Group members have been advised of the Ministry's initiatives and have been requested to provide comments to staff.

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CONCLUSION

Regional staff has undertaken a thorough review of the proposed guidelines for agriculture related to the PPS. In preparing this response, regional staff has consulted with the area municipalities and have incorporated comments received. Staff recommend that this report be sent to OMAFRA as the Region of Peel's response to the provincial consultations on the guidelines.



Lorraine Graham-Watson, Commissioner of Corporate Services

Approved for Submission:



D. Szwarc, Chief Administrative Officer

APPENDICES

1. Appendix I - Detailed Comments on Permitted Uses
2. Appendix II - MHBC MDS Report
3. Appendix III - Detailed Comments on MDS Formulae

For further information regarding this report, please contact Arvin Prasad at extension 4251 or via email at Arvin.prasad@peelreggion.ca

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