

Project No. 2310-1

October 2, 2023

Office of the City Clerk
Vaughan City Hall
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Delivered by email to clerks@vaughan.ca

Re: *Vaughan Official Plan Review*
File PL-9550-16: Part A Official Plan Amendment – City-Wide
Canadian National Railway – MacMillan Yard Considerations

We are the planning consultants to the Canadian National Railway (“CN”) with respect to the CN MacMillan Yard (the “MacMillan Yard” or the “Yard”) and other CN infrastructure throughout the City of Vaughan.

We understand that the City is undertaking an update of the Vaughan Official Plan (2010) in two parts. This letter is related to the draft Part A Official Plan Amendment (“Part A OPA”) only, which deals solely with conformity to Provincial and Regional policy and Provincial legislation. We have reviewed the draft Part A OPA policies and updated Schedules and we are writing to express our concern with respect to potential land use compatibility issues related to the operations of the MacMillan Yard.

The following summarizes CN’s concerns regarding the draft Part A OPA. In general, CN is concerned that the revised policies do not implement the “needs and alternatives” test established in the Provincial Policy Statement (2020), when addressing land use compatibility. In addition, CN is concerned that the wording regarding *strategic growth areas* encourages intensification without addressing the limitations on *strategic growth areas* in proximity to employment areas and major facilities.

Background

On behalf of CN, Dentons Canada LLP previously provided comments regarding the YROP 2022, including on June 29, and October 6, 2022. On behalf of CN, Bousfields Inc. provided comments dated September 25, 2023 regarding the City-initiated OPA (By-law 141-2023) to implement policies for Protected Major Transit Station Areas (“PMTSA”) which was adopted by City Council at its meeting on September 26, 2023 and is currently awaiting approval from York Region.

As you are aware, the MacMillan Yard is an industrial rail yard which operates 24 hours a day and is of national economic importance, with over one million rail cars processed per year. When the Yard opened in 1965, there was little development in the surrounding area and the current concerns with respect to land use compatibility have arisen as a result of urban growth and development that has introduced sensitive uses in proximity to the Yard.

Of note, CN lands and operations are federally regulated through the Canadian Transport Agency (“CTA”). The Guidelines for New Development in Proximity to Railway Operations of the Federation of Canadian Municipalities and the Railway Association of Canada (“FCM/RAC Guidelines”) recommend that sensitive uses be setback 300 metres from a freight rail yard. Land use compatibility matters are also addressed through the *Ministry of the Environment, Conservation and Parks D-Series Guidelines* (“D-Series Guidelines”), which provide that Class III industrial facilities, such as the MacMillan Yard, have a potential influence area (i.e., areas within which adverse effects may be experienced) of 1,000 metres, and a recommended minimum separation distance to “sensitive land uses” of 300 metres. Further, the Provincial Policy Statement (2020) includes policies which require the demonstration of needs and alternatives when designating lands for a sensitive land use in proximity to major facilities.

The nature of the operations at the MacMillan Yard, and its associated noise and other emissions, are incompatible with sensitive land uses, and CN objects generally to sensitive land uses within 300 m of the MacMillan Yard, and insists that appropriate mitigation studies (i.e., noise, odour, and other contaminants) and appropriate mitigation measures be implemented for any other development containing sensitive uses within the 1000 m area of influence of MacMillan Yard. In this regard, CN is involved in the appeal of the City of Vaughan Comprehensive Zoning By-law 001-2021, and other planning processes in the City.

Comments

Strategic Growth Areas

We are concerned that the policies that support growth and a mix of uses within *strategic growth areas* do not address potential land use compatibility or proximity to employment areas and major facilities.

In this regard, we request the policies be modified as outlined below:

1. The preamble in Section 2.2.5 (Strategic Growth Areas) should be revised to include reference to land use compatibility with nearby employment areas and major facilities, and clarify that not all *strategic growth areas* are appropriate for mixed-use intensification with sensitive land uses.
2. We request that the draft Part A OPA be amended to add policies applying to all *strategic growth areas*, including adding the following new policies after the preamble in Section 2.2.5:

It is the policy of Council:

2.2.5.1 That the introduction of sensitive land uses within a *strategic growth area* in proximity to major facilities can only occur where the land use compatibility requirements of the Provincial Policy Statement have been met, including demonstrating the need for the proposed use and that there are no reasonable alternative locations for the *sensitive land use* in the municipality. This is to ensure the long-term protection of employment uses in the City.

2.2.5.2 That employment growth is an important component of intensification, and that employment/non-sensitive land uses are encouraged within *strategic growth areas*.

2.2.5.3 That secondary plans or other equivalent comprehensive planning studies and/or development contemplated within *strategic growth areas* address the strategic placement of non-sensitive land uses as an appropriate buffer to employment uses within or in proximity of the strategic growth area.

3. Policy 2.2.8.2 outlines criteria for how growth within strategic growth areas will be prioritized. We request that the following criterion (f) be added:

f) the long-term protection of employment uses within or in proximity to the *strategic growth area* has been demonstrated and that there are no adverse effects on the proposed *sensitive land use* or impacts on the employment use.”

Employment Areas

4. With respect to the updated Employment Areas policies in Section 2.2.4, we request that additional language be added to specifically address the land use compatibility policies of the PPS, and to acknowledge the land use compatibility matters related to the Yard.

We request that the following new policies be added after 2.2.4.11 (i.e. new 2.2.4.12 and 2.2.4.13):

2.2.4.12 That the long-term protection of employment facilities has been addressed per the land use compatibility requirements of the Provincial Policy Statement, including the demonstration of needs and alternatives when designating lands for a *sensitive land use* in proximity to major facilities.

2.2.4.13 That *major facilities* be protected from incompatible *sensitive land uses*.

5. With respect to the updated policies related to Directing Economic Activity (Section 5.1.2), we request that draft Policy 5.1.2.3(c) be revised to read:

(c) ensuring land use compatibility between *major facilities* and uses within or in vicinity of Employment Areas and by demonstrating that the requirements of the Provincial Policy Statement have been met, including demonstrating the need for the proposed use and that there are no reasonable alternative locations for the *sensitive land use* in the municipality, and by undertaking the studies identified in Policy 5.2.1.2.

6. We request the following changes to Policy 5.2.1.2, as follows:

To protect Vaughan's manufacturing, industrial and warehousing sectors from potential impacts, any development or redevelopment of lands for more sensitive land uses within a **minimum of** 500 metres of an Employment Area, will be required to undertake appropriate environmental studies...

7. With respect to the updated policies in Section 9.2.2.10(c) (Land Use – General Employment) and 9.2.2.11(d) (Land Use – Prestige Employment) that state that the permitted uses listed are subject to land use compatibility policies in subsection 5.2.1 of this Plan, we request that all land use designations in Section 9.2.2 be updated to reference the amended land use compatibility policy in 5.1.2.3(c) noted above.

Air Quality

8. In addition to the D-series Guidelines, CN facilities and operations are also subject to federal requirements. We request that draft Policy 3.7.1.9 be updated as indicated in **red** below:

3.7.1.9 That major facilities and sensitive land uses will be planned and developed in accordance with *all applicable guidelines and regulations including but not limited to the Province's D-series environmental land use planning guides to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants on nearby sensitive land uses.*

Goods Movement

9. Given the importance of the Yard, CN should be consulted as a key stakeholder and should be included in discussions regarding the goods movement network. We request that draft Policy 4.4.2.2 include the revisions indicated **red** as follows:

4.4.2.2 To work with **transport companies and railways**, neighbouring municipalities, York Region, Metrolinx, the Province and other agencies as appropriate to develop a goods movement network that integrates with Provincial, Regional, and Municipal plans

10. We request that Policy 4.4.1.5 include the additions/removals indicated in **red** and in **blue** as follows:

4.4.1.5 To protect rail *infrastructure* from encroaching **adjacent** development that may impede operations due to ~~noise or environmental~~ **land use compatibility** concerns. Specifically, development **adjacent in proximity** to a railway right-of-way, **facility, or yard** shall **provide**:

a) **provide** appropriate land use compatibility **for major facilities**, as may be set out in Ministry of Environment Land Use Compatibility guidelines, **and demonstrate that the requirements of the Provincial Policy Statement have been met, including demonstrating the need for the proposed use and that there are no reasonable alternative locations for the sensitive land use in the municipality;**

b) **minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, to ensure the long-term operational and economic viability of major facilities in accordance with federal and provincial guidelines, standards and procedures and the Ministry of the Environment, Conservation and Parks guidelines appropriate** ~~noise and vibration levels for the adjacent development, as may be set out in Ministry of Environment guidelines on noise and vibration;~~

c) **appropriate mitigation measures may include** separation distances and/or safety barriers, as may be prescribed by Provincial **or federal** guidelines or railway operators.

11. We request that the following policy be added in Section 4.4.1 (Enhancing Rail Transportation) after Policy 4.4.1.5 (i.e. new Policy 4.4.1.6):

“To require local municipalities to plan for and develop employment and non-sensitive land uses near and adjacent to major goods movement facilities and corridors, that are major facilities, to serve as a transitional buffer with sensitive uses to ensure land use compatibility.”

CN may provide further comments in advance of the adoption of the Part A OPA, which we understand is scheduled for November 2023. CN would also welcome the opportunity to meet with City Staff to discuss the comments and concerns noted above and to ensure that the Part A OPA appropriately considers the existence of the MacMillan Yard and CN rail operations in the City.

We appreciate your consideration. Should you require any additional information, please do not hesitate to contact Anna Wynveen or the undersigned.

Yours very truly,
Bousfields Inc.



Emma West, MCIP, RPP