



September 9, 2010

Ms. Doris Dumais
Director, Approvals Program
Environmental Assessment and Approvals Branch
Ministry of the Environment
12 A Floor, 25 St. Clair Ave. W.,
Toronto, ON M4V1L5

Re: Land Use Compatibility Guidelines D1 through D6

Dear Ms. Dumais,

Recently George McKibbin, Director of Policy Development, Ontario Professional Planners Institute (OPPI), spoke to Robert Ryan regarding the review of the D1 through D6 Land Use Compatibility Guidelines. Mr. Ryan suggested we inform the Ministry of the Institute's concerns.

OPPI recommended the land use compatibility guidelines be reviewed and modernized in its first Healthy Communities Call to Action in 2007. Planners have long played a pivotal role in bringing together multiple partners and disciplines and in engaging their communities about the necessary changes. OPPI members are committed to creating and fostering healthy communities throughout Ontario and will play a key role in the implementation of many of the policies contained in the land use compatibility guidelines.

The D1 through D6 Land Use Compatibility Guidelines have been in place since the 1970s. These Guidelines supplement the Ministry of the Environment's air, noise and odour approvals under the Environmental Protection and Ontario Water Resources Acts. The guidelines status was changed from Provincial Policy to Guidelines in the early 1990s. Otherwise their substance has not changed significantly. In our opinion, effective land use compatibility policies are important and the Institute welcomes the Ministry's review effort.

Our review concerns about the land use compatibility guidelines address the following matters:

1. Approvals that are exempt from Planning Act approvals;
2. Ontario Regulation 419 and alternative standard setting;
3. The modernization of environmental approvals; and
4. Waste Diversion.

Approvals that are exempt from Planning Act Approvals:

Increasingly decision making under other Provincial legislation involves the use of planning instruments such as official plans and zoning by-laws (i.e., the Environmental Protection Act) or makes decisions on matters that are exempted from Planning Act jurisdictions (i.e. the Nutrient Management and Green Energy Acts) or involves the preparation of plans that may require Planning Act approvals during implementation (i.e., energy and water conservation plans under the Green Energy Act and Bill 72, the Water Opportunities Act). In these circumstances, there needs to be better co-ordination where land use compatibility is an issue so municipal planning decisions can be made that are mutually supportive.

The Green Energy Act regulation that addresses wind turbines approvals also requires prescribed buffers where sensitive uses exist. However, there is nothing in place that requires municipal planning decisions to respect the buffers where decisions on the location of new sensitive uses are concerned. The land use compatibility guidelines should provide policy direction on how these various legislative approvals are to be supported by municipal planning decisions.

Ontario Regulation 419 and Alternative Standard Setting:

Ontario Regulation 419 (Environmental Protection Act) provides for alternative standards for air contaminants that mean prescribed regulatory standards for air emissions won't be achieved at the property boundary. This will have implications for the planning of sensitive uses within surrounding communities. Greater attention needs to be placed on co-ordination between these processes and the land use compatibility guidelines.

Many emitters may rely upon alternative standard setting to address compliance. Where the point of impingement is located off site, land use compatibility becomes a very important planning issue. Policies may be required to address sensitive uses.

For example, either sensitive uses should be restricted in areas where standards are exceeded; or the approvals should not be issued if the uses already exist; or provisions should be made to remove sensitive uses from areas where the regulated standard is exceeded.

In addition to these general considerations, there are specific planning concerns that should also be addressed:

1. Cumulative effects are not considered where air contaminants are addressed in Ontario Regulation 419. Nor are cumulative effects addressed in the studies required to address the D1 and D6 Guidelines where land use compatibility is addressed.
2. Alternative standards setting provided for in Ontario Regulation 419 is essentially a modeling effort. While on site modeling may be utilized to address various emissions on site and observed monitoring on the

- plant, there is no procedure in place to address cumulative or monitored results off site.
3. While suspended particulate is addressed in selected circumstances in Ontario Regulation 419, respirable particulate (PM 1.0 and PM 2.5 and smaller) isn't addressed specifically. PM 1.0 is identified as a toxic substance in the Canadian Environmental Protection Act. In our opinion, it should be addressed.
 4. Air emissions associated with vehicular traffic is not addressed by the land use compatibility guidelines even though there is substantial public health risks documenting the health risks among residents living close to heavily travelled 400 series highways and major arterial streets.

The matters should be considered and addressed, where required, in the review of the land use compatibility guidelines.

The Modernization of Environmental Approvals:

Bill 68 and the modernization of environmental approvals under the Ontario Water Resources and Environmental Protection Acts may result in a self-directed approvals process for approvals involving low risks. Where sensitive uses are involved or planning instruments such as the municipal zoning by-law in self-directed approvals, we recommend that the land use compatibility guidelines include policy setting out how these approvals will be coordinated with Planning Act decisions.

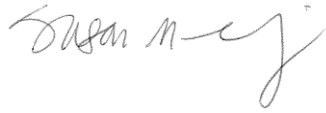
We understand that sensitive uses and zoning by-laws will be used to assess potential risk and the efficacy of the two approval streams within the modernization proposals. Our concern is the planning instruments are properly interpreted on the one hand and that municipal decision making support their use in environmental permitting on the other. These matters should be considered and addressed where possible in revised land use compatibility guidelines.

Waste Diversion:

Recent Provincial initiatives involving increasing waste diversion may involve increasing the available infrastructure required to process and reuse materials, especially construction and road materials. For example, where aggregate recycling is involved, additional facilities will be required, each possibly having various approval requirements under the Environmental Protection Act. Land use compatibility will also be an additional consideration where the recycling of aggregate products is a concern. These situations should also be addressed in the review of the guidelines.

We would welcome an opportunity to meet with you and your staff to further discuss our submission. To schedule a meeting or for further information, please contact Loretta Ryan, MCIP, RPP, Manager, Policy and Communications at (416) 483-1873, ext. 226 or by e-mail at policy@ontarioplanners.on.ca

Sincerely,

A handwritten signature in cursive script that reads "Sue Cumming".

Sue Cumming, MCIP, RPP
President
Ontario Professional Planners Institute