June 18, 2021

VIA EMAIL: mecp.landpolicy@ontario.ca

Mr. Sanjay Coelho

Senior Policy Analyst

Ministry of Environment, Conservation and Parks – Environmental Policy Branch

40 St. Clair Ave. W. Floor 10

Toronto, ON M4V 1M2

Dear Mr. Coelho:

**Re: Proposed Land Use Compatibility Guideline**

 **Environmental Registry Number 019-2785**

The Niagara Escarpment Commission (NEC) has reviewed the draft Land Use Compatibility Guideline (Guideline) proposed by the Ministry of the Environment, Conservation and Parks (MECP). The NEC is an agency of the Government of Ontario, responsible for implementing the Niagara Escarpment Plan (NEP). The Purpose of the plan is to provide for the maintenance of the Niagara Escarpment and its surrounding lands as a continuous natural environment, and to ensure that only development that is compatible with the natural environment occurs. As stated in the draft document, the Guideline is to be applied to achieve and maintain land use compatibility between major facilities and sensitive land uses, and is applicable to the Purpose and Objectives of the NEP. Therefore, as the primary planning authority in the NEP area, the NEC has the following comments:

It should be noted that the current D-6 guideline for compatibility between Industrial Facilities refers to section 9 of the *Niagara Escarpment Planning and Development Act* (NEPDA) which sets out what the NEP may contain in terms of policy. Included in that list of contents is “policies designed to ensure compatibility of development by the private sector” . However, any reference to the NEPDA or the NEC as a planning authority is absent from the proposed Guideline. Therefore, the proposal could be improved by making the Guideline applicable to planning approvals under the NEPDA and recognizing the NEC as an applicable planning authority. Many of the major facilities listed in Table 1 of the draft document, such as Aggregate Operations, Landfills and Dumps, are existing or are permitted in their respective land use designations, as outlined in the NEP. Such development would require a Development Permit issued by the NEC, prior to any municipal planning approval under the *Planning Act*. Considerations with respect to land use compatibility are made at the Development Permit stage, therefore the Guideline should apply within the NEP Area. This would be consistent with the purpose of the Guideline to support the land use compatibility-related policies in provincial plans such as the NEP. Recognizing the planning authority role of the NEC, would further enhance guidance for proponents, municipalities and other planning authorities utilizing the Guideline in the NEP area. Additionally, the primary goal of the Guideline is to support the implementation of the Provincial Policy Statement (PPS), however, the NEP takes precedence over the policies of the PPS to the extent of any conflict. Therefore, making the Guideline applicable to the NEP and NEC would further facilitate direction provided in the relevant provincial plans and documents. It would also support municipalities in their role under the *Planning Act*, as outlined in Objective 7 of the NEP which is to support them in the exercise of the planning functions that they have. Section 4 of the Guideline, Implementation and Planning Tools contemplates different planning tools, “under the Planning Act and other legislation” that could be used to assess compatibility. Development Permits under the NEPDA could be added as a planning instrument, in addition to the *Planning Act* tools already listed.

Furthermore, acknowledging the relationship between land use compatibility and natural heritage systems would bridge the gap between this document and the related policies of provincial plans such as the NEP, the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan. This would also be consistent with policies 2.1.2 and 2.1.8 of the PPS, giving consideration to the impacts incompatible land use can have on natural heritage features and their ecological functions. Documents such as the Natural Heritage Reference Manual for Natural Heritage Policies of the PPS, 2005, should also be referenced. This document, created by the Ministry of Natural Resources and Forestry (MNRF), provides guidance on adjacent lands width for considering potential negative impacts on PPS natural heritage features such as significant wetlands and woodlands. These recommended widths would work in unison with the Area of Influence (AOI) and Minimum Separation Distance (MSD) recommendations provided in the Guideline, when conducting Environmental Impact Studies (EIS) and Compatibility Studies. This would be consistent with the Guideline in considering adverse effects, which in its definition includes, “the impairment of the quality of the natural environment for any use that can be made of it”. This recommendation for the proposed Guideline would further enhance it as a document for good environmental planning.

These comments were presented to the Niagara Escarpment Commission on June 17, 2021 and were endorsed by the Commission. We appreciate the opportunity to comment on this proposal. Should you require additional information, please contact Nancy Mott, Senior Strategic Advisor at 289-839-0106 or nancy.mott@ontario.ca.

Yours truly,

Debbie Ramsay, MCIP, RPP

Director

Niagara Escarpment Commission

NM/RS