

Planning Act Amendments
June 6, 2024

George McKibbin

Changes of interest to CAH where air quality is concerned

- 1) No third party appeals
- 2) Amendments to the definition of “specified person”
- 3) The use of 300 metres to qualify an appeal by a “specified person”
- 4) Where amendments to an official plan or zoning bylaw are made, if you are a landowner and your lands are covered by the amendment, you can appeal

Why is the restriction of third party appeals of interest to CAH?

In my experience as a land use planner:

1. Legitimate appeals will not be able to be made with this restriction
2. In general third party appeals improve decisions, consequently the quality of decision making will suffer.

Why are the amendments to the Planning Act definition of “*specified persons*” of interest?

1. Specified persons are able to appeal official plan and zoning bylaw approvals.
2. There are six additional “specified persons” added to the definition.
3. Three new “specified persons” are: Aggregate Resource Act licensees; holders of environmental compliance approvals within an area of employment; registered activities under the Environmental Activity and Sector Registry if any portion of their lands are within an employment area.
4. These three licensees can appeal any planning act approval on lands or portion of lands within 300 metres of the licensee.
5. It creates a situation where an individual who owns land within or overlapping 300 metres of a licensee can’t appeal the planning approvals that created the quarry or industry that require an environmental compliance approval but those uses can appeal any subsequent approvals on the individual’s land.

Where did the “300 metre” dimension come from?

The D 6 Land Use Compatibility Guidelines

300 metres is a minimum separation distance between sensitive uses and heavy industry

The minimum was to be used only after detailed air noise and odour reports were prepared, reviewed and accepted that confirmed a larger separation distance wasn't needed

Circa 2020, MECP reviewed and prepared draft land use compatibility guideline to replace the D 6 Guidelines

Minimum separation distances for heavy industry were enlarged selected heavy industries whose emissions were more problematic

The D 6 review was withdrawn

The D 6 Guidelines continue to apply

So what?

Land use compatibility in Planning Act decisions need to be coordinated with approvals under the Environmental Protection Act to properly address air quality

Last, if a landowner's property is within the area in which an official plan or zoning bylaw amendment applies, the landowner can appeal.

Questions and thanks!