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ENVIRONMENTAL ASSESSMENT REFORM

The Solid Waste Management Committee recommends the recommendations contained in the following report, March 7, 2007, from the Commissioner of Transportation and Works, be replaced with the following recommendations:

- 1. The Solid Waste Management Committee and Regional Council receive and endorse the attached letter submitted by staff to the provincial Ministry of the Environment's Environmental Bill of Rights posting pertaining to the "Environmental Assessment process requirements for certain waste management sites", with the understanding that the reference to "landfill mining" on page 3, paragraph 1 of the attached letter, apply to open and active landfill sites and not to closed landfill sites.**
- 2. The Regional Clerk forward a copy of the Committee's recommendations 1, 2 and 3 and the attached letter to Ontario's Minister of the Environment, all local Members of Provincial Parliament, the Association of Municipalities of Ontario and the local municipalities.**
- 3. The Minister of the Environment give consideration to providing regulations enforcing strict timeframes and fees.**

1. RECOMMENDATIONS

It is recommended that:

- 1. The Solid Waste Management Committee and Regional Council receive and endorse the attached letter submitted by staff to the provincial Ministry of the Environment's Environmental Bill of Rights posting pertaining to the "Environmental Assessment process requirements for certain waste management sites."**
- 2. The Regional Clerk forward a copy of this report and the attached letter to Ontario's Minister of the Environment, all local Members of Provincial Parliament, the Association of Municipalities of Ontario and the local municipalities.**

2. PURPOSE

The purpose of this report is to:

- Update Regional Council on the proposed changes to the provincial Environmental Assessment process for certain waste management facilities.
- Submit and receive endorsement from Council on the letter developed by Solid Waste Management branch staff in response to the Environmental Bill of Rights posting pertaining to the “Environmental Assessment process requirements for certain waste management sites.”

3. BACKGROUND

The Environmental Assessment Act was last revised in 1996. Since that time, a number of process related issues have plagued proponents in both the public and private sectors. In response to these challenges, the Ministry of the Environment established an Environmental Assessment Advisory Panel in April 2004. The Advisory Panel submitted its findings to the Minister of the Environment in March 2005.

In June 2005, the Association of Municipalities of Ontario (AMO) and the Association of Municipal Recycling Coordinators (AMRC) issued a position paper representing the municipal perspective on the Environmental Assessment Advisory Panel’s Report of March 2005.

In March 2006, the Association of Municipalities of Ontario, Association of Municipal Recycling Coordinators and the Municipal Waste Integration Network issued a letter to the Minister of the Environment reaffirming their position on the importance of reforming the Environmental Assessment process for waste management infrastructure.

In June 2006, the Minister announced an action plan to implement Environmental Assessment improvements. Throughout the course of 2006, a number of stakeholder consultations were held by the Ministry of the Environment to discuss the topic of reforming the Environmental Assessment process. York Region staff participated in these consultations. Each consultation included approximately 30 stakeholders from a number of provincial Ministries, municipal government, private industry and Non-Government Organizations.

4. ANALYSIS AND OPTIONS

4.1 Proposed Environmental Assessment Act- Waste Management Projects

On December 7, 2006, a proposal was published on the Environmental Bill of Rights registry for comment, proposing to revise and improve the Environmental Assessment process for waste management sites. The purpose of the proposal is to create a new regulation with an incorporated guide under the Environmental Assessment Act to designate activities of specific types of waste disposal sites in Ontario as subject to the Act and to provide a streamlined environmental assessment process. The proposal works to ensure that activities relating to certain waste disposal sites will undergo a level of review and assessment that is commensurate with the type, size and potential environmental impacts of that project. This approach is similar to that used by the energy sector in Ontario.

The proposed process will provide for a streamlined review of activities related to waste disposal sites with known environmental impacts and standard mitigation measures. Activities with characteristics which require a greater level of assessment will be subject to an appropriate level of consideration. The proposed regulation deals with activities at waste disposal sites through three approaches: Individual Environmental Assessment, Environmental Screening, and Exemption.

4.1.1 Individual Environmental Assessment

Certain waste management activities and sites are designated subject to the Environmental Assessment Act. Activities with potential significant impacts or large scale projects will have to conduct Individual Environmental Assessments. Examples of these include activities such as:

- The establishment of a landfill/dump with capacity greater than 100 000 cubic metres.
- The establishment of a thermal treatment facility that does not convert waste into a useable form of energy.

4.1.2 Environmental Screening

Projects that are covered under the proposed screening process include those with predictable environmental impacts that can be readily mitigated through standard measures. These include:

- The establishment or modification of a thermal treatment facility that converts waste to energy.
- The construction or modification of a mid sized landfill (less than 100 000 cubic metres).

The screening process is a proponent driven, self-assessment process designed to be completed much faster than an individual Environmental Assessment. The requirements under the screening process include: public consultation, project planning, and an assessment of the overall environmental advantages and disadvantages of the project.

Upon completion of a Screening Report, the proponent is responsible for publishing a Notice of Study Completion followed by a 60 day review period. During the comment period, a request to elevate the project to the Individual Environmental Assessment process can be made. If, at the end of the review period no elevation requests are received, or if any requests are resolved without elevation, the proponent will have completed the process and can proceed with the project.

4.1.3 Exemption

The draft Regulation is not intended to capture the activities of all types of waste disposal sites. There are activities related to some types of sites that are not designated by this Regulation, and therefore, are not subject to the Environmental Assessment Act. These activities are those that have historically demonstrated to have minimal environmental impact. Sites that fall into the exemption criteria include some recycling and transfer station sites, i.e., essential components of every waste management system for which predictable impacts can be readily addressed.

4.2 York Region's Position

The proposed changes do not directly impact the status of any Solid Waste Management projects currently underway within York Region, including the Durham/York Residual Waste Environmental Assessment Study, an initiative proceeding as an Individual Environmental Assessment with Durham Region as a co-proponent.

Solid Waste Management staff have identified five key issues of concern that should be changed in the proposed Regulation. These include:

- Approvals Process and Criteria
- Stakeholder Definition
- Public Consultation
- Bump-Up/Elevation Requests
- Landfill Mining

4.2.1 Approval Process and Criteria

Historically, approvals from the Ministry have not been timely or transparent. The approvals process outlined in the draft regulation fails to identify the method of evaluation to be used by the Ministry. York Region staff recommend that quantifiable “pass/fail” decision making factors be established for the Ministry to assess study completion and remove the appearance of subjectivity. The Ministry also needs to ensure that they have the appropriate staff resources and expertise to review project documents.

4.2.2 Stakeholder Definition

Staff recommend that the definition of “stakeholder” be revised so that the opinions of a neighbour to a proposed project are recognized with more significance than that of a Non-Government Organization or individual that does not reside within the anticipated area of impact. Special interest groups from across the province have prevented the development of facilities that will benefit the community at large. These groups should

not be allowed to derail the Environmental Assessment process at the expense of communities in which they do not reside.

4.2.3 Public Consultation

Capturing the views of the general public is an important component of the Environmental Assessment process. Mechanisms for obtaining and incorporating these views requires improvement. Staff recommend that the Ministry encourage proponents to obtain balanced input by moving beyond public meetings and open houses and including methods such as public opinion surveys. This issue was partially addressed in the Ministry's Draft Code of Practice "*Consultation in Ontario's Environmental Assessment Process*", posted on the Environmental Bill of Rights Registry (#PA06E0009) on October 31, 2006.

4.2.4 Bump-Up/Elevation Requests

Past experience within the Environmental Assessment process has resulted in many projects being "held up" by lengthy requests for additional studies and information. Under the revised process, staff recommend that requesters be given a set amount of time to remove their requests to ensure that proponents can demonstrate that they are timely addressing all requests.

4.2.5 Landfill Mining

The process of extracting reusable or recyclable materials from an existing landfill fails to be addressed in the Draft Regulation. Landfill mining is beneficial because it can remediate active or problem sites, and extend the life span of existing landfills. Siting waste management facilities is difficult, and prolonging the lifespan of existing facilities can be beneficial if supported by the community.

Overall, staff are supportive of the Ministry's goal of improving the environmental assessment process for waste management sites. The challenge will be in moving away from the "business-as-usual" approach that includes an under resourced and unresponsive regulatory framework and moving towards a model that supports the broader public interest.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this response. Reform of the Environmental Assessment process is expected to benefit the Region through reduced approvals costs when undertaking activities subject to Environmental Assessment approval.

6. LOCAL MUNICIPAL IMPACT

The local municipalities are not directly responsible for the establishment of waste management infrastructure. It is recommended, however, that they review this report and associated letter, and provide comments directly to the Ministry of the Environment. The Ministry's consultation papers are open to comment from all levels of government and the public. Timely approval of waste management infrastructure ensures that we have the facilities required to meet our waste diversion goals, and prevents service disruptions.

7. CONCLUSION

To further influence the Province of Ontario's policy making process, it is necessary for Regional staff to represent York's position when comments are solicited. The policy issues relating to Environmental Assessment reform represent a move by the Ministry towards a greater level of certainty within the approvals process. It is recommended for these reasons, that Council endorse and support staff's position regarding the Environmental Assessment process requirements for certain waste management sites.

For more information on this report contact Kelly Spitzig, Policy and Planning Coordinator of the Solid Waste Management Branch at extension 5785 in the Transportation and Works Department.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)