

May 23, 2019

Client Services and Permissions Branch
135 St. Clair Avenue West , 1st Floor
Toronto, ON, M4V 1P5
Canada

Attention: Sharifa Wyndham-Nguyen

RE: Discussion paper: Modernizing Ontario's Environmental Assessment Program, 013-5102

Walker Environmental Group Inc. (Walker Environmental) is pleased to submit our comments and recommendations regarding the *Discussion paper: Modernizing Ontario's Environmental Assessment Program, 013-5102* to the Ministry of the Environment, Conservation and Parks (MECP). Walker Environmental maintains a long-term view that balances social, environmental and economic priorities and is generally supportive the MECP's initiative to modernize the provincial Environmental Assessment process

Walker Environmental has over 40 years of successfully building and safely operating waste management and resource recovery infrastructure in Ontario. We own and operate large regional waste disposal sites which have undergone Environmental Assessments in accordance with the *Environmental Assessment Act* including;

- East Landfill, Niagara Falls – Individual EA approved with site in operation in 1982
- South Landfill, Niagara Falls – Individual EA, approved 2006
- Atlas Landfill Remediation Project, Welland – Environmental Screening Review, approved 2010
- Southwestern Landfill Proposal, Zorra – Individual EA, in-progress

We believe the EA, which was first enacted in 1975, and continually updated, remains an effective tool for considering potential environmental effects associated with infrastructure projects. The last significant update to the EA act was 2006, making the MECP's decision to modernize the EA timely and appropriate. Some elements of the current process have become inefficient and lack the regulatory certainty that is crucial for private businesses seeking to invest in Ontario.

Walker recognizes the environmental challenges facing Ontario, including the protection of air, land and water, reduction of greenhouse gas emissions, and preparation for climate change. We have developed an enterprise based upon these overall priorities. In fact, our motto is "The environment is our business, and our business is the environment". Our longevity in business, over 140 years, and continued growth suggests that this is the right approach. Walker Environmental appreciates the opportunity to provide input and share our experiences in relation to these objectives. If you would like to have further discussions on any of the topics addressed in these comments, please contact me directly.

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Duplication

Developing large scale infrastructure in Ontario currently requires a multitude of approvals from several authorities that range from Federal, Provincial, and Municipal governments, to local agencies. Engagement and consultation with Indigenous Peoples is often required as well.

Until the Province is able to fully transition to a circular economy, safe and reliable landfill disposal is necessary to protect the air, water, and land for Ontarians. It is through this lens that Walker Environmental believes that large regional landfills are critical provincial infrastructure which protect public health. The current approval process for large waste disposal facilities can take between 8-12+ years from commencement to operation of the facility.

One of the contributing factors for these onerous timelines is that the approvals processes often overlap or require work to be completed in a sequential order (i.e., one process can't start until another is complete). As an example, the EA process for a large regional waste disposal facility requires EAA, EPA, (Part V and Section 9), OWRA, Planning Act approval administered through local municipalities (zoning, site plan approval), etc. The layers of approvals between various branches and levels of government lack coordination, which translates to uncertainty for proponents, extended timelines and potential for these approval processes to either duplicate or conflict with each other.

Example: Walker Environmental is currently going through an Individual EA process for a new waste disposal facility in Southwestern Ontario, and can draw on its recent experience with Official Plan Amendment 197 and the County of Oxford. Oxford County attempted to amend its Official Plan specifically to include additional tests for the municipality's approval of new waste disposal sites that in several respects duplicated and conflicted with the Province's regulatory tests. Walker was obliged to expend considerable additional time and cost in the midst of preparing its EA to object to the Ontario Municipal Board and, following a hearing, have OPA 197 further amended to prevent the municipality from having authority over matters already within the mandate of the Province under the Environmental Assessment Act.

We ask the province to simplify the approvals process, thereby creating regulatory certainty and attract investment in Ontario through the following recommendation.

Recommendation #1 – A more efficient approvals process

Allow applicants to proceed with approvals in parallel, where reasonable, with the EA, rather than sequentially. An example would be EA & EPA applications.

When considering a 'one-window' approach, ensure sufficient oversight by other Provincial authorities and other Ministries such as MMAH to ensure that Provincial interests under the Provincial Policy Statement and Planning Act are protected and conflicts with other approval authorities are managed through 'one-window'.

Timeliness

When the *Environmental Assessment Act* was updated to include the provision for the Terms of Reference component of the process, this created an interim approval step. There was, and continues to be, support for this new approval stage in the EA, but, in the interest of providing certainty for proponents, a 12 week review and decision timeline was included in regulation for the ToR, along with a 30-week timeframe for a decision on the EA itself. Initially, the Ministry was successful in meeting these regulated timeframes, as we experienced with our South Landfill EA approval in 2006, demonstrating that the government is capable of making the EA process more manageable for proponents. That sort of certainty encouraged us (and others) to continue to invest in Ontario.

However, we now once again find ourselves in a position where these regulated timelines are rarely met, as acknowledged by the MECP.

While the Discussion Paper states that the average approval time for a ToR is 272 days (almost 40 weeks), our experience is that this process can take much longer. Walker Environmental's recent Southwestern Landfill ToR took approximately 107 weeks to review, not including the 2 years it took to prepare and submit the ToR. It is our understanding that ToRs submitted at the same time for smaller landfills had similar timelines.

We ask the MECP to focus its efforts on meeting its regulated timelines, as the projects that are required to undergo the EA process are often large investments. The uncertainty around timelines creates regulatory insecurity and investment risk, which can deter companies from deploying capital in Ontario and helping Ontario build modern and efficient infrastructure.

Recommendation #2 – Reducing uncertainty for businesses

The MECP can support private sector investment in Ontario infrastructure by committing to and meeting its own regulated timelines for review and decision on the ToR and EA.

The MECP can consider similar service standards on other approvals processes in Ontario, specifically EPA Part V and Section 9 approvals.

Standardize the Terms of Reference

Projects that are subject to individual EA's are often similar in nature (i.e., waste disposal facilities). Although projects will have unique characteristics, these projects typically use similar approaches and include standard studies such as water, air, noise, ecology, and traffic assessments during the assessment stage of the process.

The use of sector-based or standard project-type Terms or Reference would create efficiencies, provide certainty for stakeholders and allow a more efficient government review process.

Recommendation #3 – A standardized, systematic and efficient approach

We ask the MECP to consider adopting standard project-type ToR requirements that set the minimum requirements for studies and consultation, to be carried out in accordance within the guidelines that are currently set out in the Codes of Practice.

We ask MECP to allow for supplementary commitments in the ToR to accommodate project specific requirements, at the proponent's discretion, such as:

- Scoping where reasonable and appropriate (i.e., Alternatives To)
- Additional technical studies depending on the nature of the project or location
- Additional consultation as appropriate

Consultation Process

Walker Environmental has been a strong proponent of building relationships within the communities it serves. Throughout the Southwestern EA process, for instance, Walker Environmental has continually raised the bar in its consultation with the local community as well as with Indigenous Peoples.

We ask MECP to recognize that consultation is a process, not an outcome. While we seek to meet the needs of community members, we ask the MECP to understand that consultation will not necessarily resolve differing views on a project or appeasing 100% of the people. Experience dictates that there will be instances where requiring a proponent to go back and carry out additional consultation will not achieve consensus while making that process less efficient. The MECP must be prepared to make to a decision if a reasonable level of consultation has been conducted.

Recommendation #4 – Recognize consultation as a process, not an outcome

In cases where an undertaking is contentious, and where the proponent has carried out a reasonable degree of consultation in accordance with the Codes of Practice, the Ministry should accept and acknowledge that consensus is not possible and proceed to make a decision based on the planning and scientific evidence.

Digital Submissions

Walker Environmental is fully supportive of modernizing the EA process through digital submissions. Transitioning from printing paper copies of submissions to digital aligns with the Environment Plan, and reduces the amount of waste generated within the Province. We would be pleased to work with MECP to digitalize submissions through our current EA in Southwestern Ontario.