

TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON FEBRUARY 2, 2016
FROM:	JOHN BRAAM, P.ENG. MANAGING DIRECTOR, ENVIRONMENTAL & ENGINEERING SERVICES AND CITY ENGINEER
SUBJECT	COMMENTS ON ENVIRONMENTAL BILL OF RIGHTS REGISTRY - PROPOSED WASTE FREE ONTARIO ACT AND DRAFT STRATEGY FOR A WASTE FREE ONTARIO: BUILDING THE CIRCULAR ECONOMY

RECOMMENDATION

That, on the recommendation of the Managing Director, Environmental & Engineering Services and City Engineer, with the support of the Director, Environment, Fleet and Solid Waste, the following comments and discussion **BE ENDORSED AND SUBMITTED** to the Ministry of Environment & Climate Change's Environmental Bill of Rights Registry posting (EBR 012-5832) titled Waste Free Ontario Act. The due date for comments is February 29, 2016.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Some relevant reports that can be found at www.london.ca under City Hall (Meetings) include:

- Individual Environmental Assessment Long Term Solid Waste Resource Recovery & Disposal Plans (October 6, 2015 meeting of the Civic Works Committee (CWC), Item #15)
- Waste Diversion – Update on Examination of Residential Organic Waste (Food Scraps) and Next Steps (April 20, 2015 meeting of the CWC, Item #13)
- Preliminary Concept for a London Waste to Resources Innovation Centre (February 3, 2015 meeting of the CWC, Item #4)
- Garbage and Recycling Collection – Status and Potential Next Steps (December 16, 2014 meeting of the CWC, Item #12)
- Interim Waste Diversion Plan (July 21, 2014 meeting of the CWC, Item #18)
- Waste Diversion and Garbage Collection Updates (November 25, 2013 meeting of the CWC, Item #7)
- Comments on Environmental Bill of Rights Registry – Waste Reduction Act and Waste Reduction Strategy (August 19, 2013 meeting of the CWC, Item #4)
- Status Report: Update of Road Map to Maximize Waste Diversion 2.0 (July 22, 2013 meeting of the CWC, Item #14)

STRATEGIC PLAN 2015-2019

The following report supports the Strategic Plan in the areas of waste diversion, waste management planning, financing, climate change mitigation and adaptation, and job creation. Specifically, the potential changes to waste management locally and provincially address three of the four Areas of Focus from the Strategic Plan:

Building a Sustainable City

- Robust infrastructure
- Strong and healthy environment

Growing our Economy

- Diverse & resilient economy
- Local, regional, and global innovation
- Strategic, collaborative partnerships

Leading in Public Service

- Innovative & supportive organizational practices
- Collaborative, engaged leadership
- Excellent service delivery

BACKGROUND

PURPOSE

The purpose of this report is to provide Committee and Council with:

- A summary of the Ministry of Environment & Climate Change (MOECC) proposed Waste Free Ontario (WFO) Act and accompanying Draft Strategy for a Waste Free Ontario: Building the Circular Economy;
- The potential impacts to waste diversion programs in London, and;
- Provide comments on these documents for approval and forwarding to the Environmental Bill of Rights (EBR) Registry.

CONTEXT

On June 6, 2013, Bill 91 was introduced into the provincial Legislature. The government at that time proposed to replace the existing *Waste Diversion Act, 2002* with the proposed Waste Reduction Act (WRA, 2013). The province also proposed a new Waste Reduction Strategy (WRS). Had it passed by the Legislature, the WRA and accompanying WRS would have resulted in significant changes to how recyclables, organics and residential waste (garbage) would be managed in both the municipal (residential) sector and the Industrial, Commercial & Institutional (IC&I) sector in Ontario.

A province-wide consultation process and ongoing dialogue was launched in 2013 and carried into the early part of 2014. However, Bill 91 was pulled from discussion when the provincial election was called in 2014.

On November 26, 2015, Bill 151 was introduced into the provincial Legislature. It is proposed omnibus legislation titled the Waste-Free Ontario (WFO) Act that if passed by the Ontario Legislature, would enact the Resource Recovery and Circular Economy Act 2015 (RRCE 2015), the Waste Diversion Transition Act, 2015 (WDTA 2015) and rescind the *Waste Diversion Act, 2002*. The province is also proposing a new Draft Strategy for a Waste Free Ontario: Building the Circular Economy.

Estimates suggest that the province's waste diversion programs under the current *Waste Diversion Act, 2002* covers only about 15% by weight of the materials in Ontario's total waste stream. This fact has contributed to the result that the overall waste diversion rate for the province has stalled between 20% and 25% in the last decade. It is important to recognize that the waste diversion rate managed by municipalities (residential waste diversion rate) tends to range between 40% and 55% while the institutional, commercial and industrial (IC&I) sector has a diversion rate as low as 12%.

If passed by the Legislature, the WFO Act and accompanying draft Strategy will result in a range of changes on how waste will be handled in Ontario over many years. These changes and proposed direction have the potential to impact most aspects of London's residential waste management system (generally under the responsibility of Municipal Council). It is designed to ultimately impact producers, retailers, suppliers and recycling service providers across the product/package chain. It will also have some influence how IC&I waste is managed by businesses and private waste management companies.

The implementation timeframe is staged and is currently envisioned to take about 4 to 5 years (see Appendix A). The regulations will identify the designated materials being targeted but it is currently estimated it will be about 30% by weight of the materials currently handled by municipalities. If organics are added in by regulation, the amount would increase towards 70% by weight.

The proposed WFO Act and draft Strategy has a strong vision to divert more waste resources from landfill to the benefit of the Ontario economy and environment. MOECC highlights that “The proposed legislation is intended to enable a shift to a circular economy which would increase resource recovery and waste reduction in Ontario.”

Since the WFO ACT and draft Strategy were made public, waste management and other organizations across the province have been reviewing and establishing their positions. City staff is actively involved in several of these organizations:

- Association of Municipalities of Ontario (AMO) – City staff sit on the Waste Management Task Force of AMO (combination of elected officials and municipal staff).
- Regional Public Works Commissioners of Ontario (RPWCO) – City staff sit on the main committee and the Solid Waste Subcommittee.
- Ontario Waste Management Association (OWMA) – City staff sit on the Board of Directors.
- Municipal Waste Association (MWA) and Recycling Council of Ontario (RCO) – receiving updates and comments via general membership.

As of January 22, 2016, City staff has been involved in two public consultation sessions with MOECC staff. In addition, RPWCO, AMO and MWA have started technical reviews.

Comments on the WFO Act and draft Strategy through the Environmental Bill of Rights Registry are due by February 29, 2016.

DISCUSSION

This section is divided into 3 parts:

PART A Overview of Waste Free Ontario Act and Draft Strategy for a Waste Free Ontario: Building the Circular Economy (Appendix A)

PART B How the Waste Free Ontario Act and Draft Strategy for a Waste Free Ontario: Building the Circular Economy will Likely Affect London

PART C EBR Comments on Waste Free Ontario Act and Draft Strategy for a Waste Free Ontario: Building the Circular Economy

PART A - Overview of Waste Free Ontario Act and Draft Strategy for a Waste Free Ontario: Building the Circular Economy (Appendix A)

The MOECC has made it very clear in the WFO Act and the draft Strategy that full producer responsibility is the intention of the proposed direction:

The province intends to replace the Waste Diversion Act, 2002 with a new producer responsibility framework that makes producers environmentally accountable and financially responsible for their products and packaging at end of life. The proposed legislation, if passed, would expand to full producer responsibility.

The proposed legislation is an outcomes-based approach where producers of products and packaging would bear full responsibility for resource recovery and reducing waste associated with products and packaging (page 15, MOECC Draft Strategy).

The WFO Act, 2015 is high-level enabling legislation. The majority of the details on how waste diversion services will be funded and delivered will be determined later via regulation after much consultation. An overview of the Act is contained in Appendix A. The draft legislation is comprised of two proposed Acts:

- Resource Recovery and Circular Economy Act, 2015 (RRCE) which sets overarching provincial direction and establishes a full producer responsibility regime for products and packaging.
- Waste Diversion Transition Act, 2015 (WDTA) to replace the Waste Diversion Act (2002) to help ensure a smooth transition of existing programs to the new full producer responsibility regime.

A 35 page Strategy document has also been released for comments. Contained in Appendix A is an overview of this document.

PART B - How the Waste Free Ontario Act and Draft Strategy for a Waste Free Ontario: Building the Circular Economy will Likely Affect London

Waste diversion for materials generated by single family and multi-family households has been a Municipal Council responsibility for about 30 years. In many cases, the City of London must follow a series of regulations prescribed by the province. In other cases, Municipal Council has implemented its own policies to increase waste diversion. Jurisdiction for waste diversion in the IC&I sector has always been with the Provincial Government.

Identified on the table below is an overview of waste diversion programs that are regulated by the Provincial Government including how financing works. Also identified is the current role that City staff have through Municipal Council.

Waste Diversion Program	2014 City Responsibility (including approximate percentage of residential waste stream managed, by weight)	2014 WDO Funded Program Costs			Net Operating Cost ^(c) to London Taxpayers
		Program Cost ^(a) After Revenue and Direct EPR ^(b)	% of Program Costs Covered by (EPR) Producers	Cost to City Including Amortized Capital Costs	
Blue Box Recycling	<ul style="list-style-type: none"> • 25% by weight • Comprehensive delivery with contracted services for collection, processing, and marketing of recyclables • Program promotion, customer service and public reporting 	\$6,300,000	48%	\$3,300,000	\$1,200,000
Municipal Hazardous & Special Waste (MHSW)	<ul style="list-style-type: none"> • 1% by weight • Operate comprehensive drop-off depot • Program promotion, customer service and public reporting • Ban collection at the curb 	\$400,000	50%	\$200,000	\$200,000 ^(d)
Used Tires	<ul style="list-style-type: none"> • 1.5% by weight • Operate basic drop-off depots • Program promotion, customer service and public reporting • Ban collection at the curb 	Minimal (not broken out in budget)	Payment to City based on quantity collected	\$0	(\$150,000)

Waste Diversion Program	2014 City Responsibility (including approximate percentage of residential waste stream managed, by weight)	2014 WDO Funded Program Costs			Net Operating Cost ^(c) to London Taxpayers
		Program Cost ^(a) After Revenue and Direct EPR ^(b)	% of Program Costs Covered by (EPR) Producers	Cost to City Including Amortized Capital Costs	
Electronics	<ul style="list-style-type: none"> • 2% by weight • Operate basic drop-off depot locations • Program promotion, customer service and public reporting • Ban collection at the curb 	Minimal (not broken out in budget)	Payment to City based on quantity collected	\$0	(\$10,000)

(a) Includes annual amortization capital cost (e.g., \$1,200,000 for Manning Drive MRF), indirect overhead, etc.

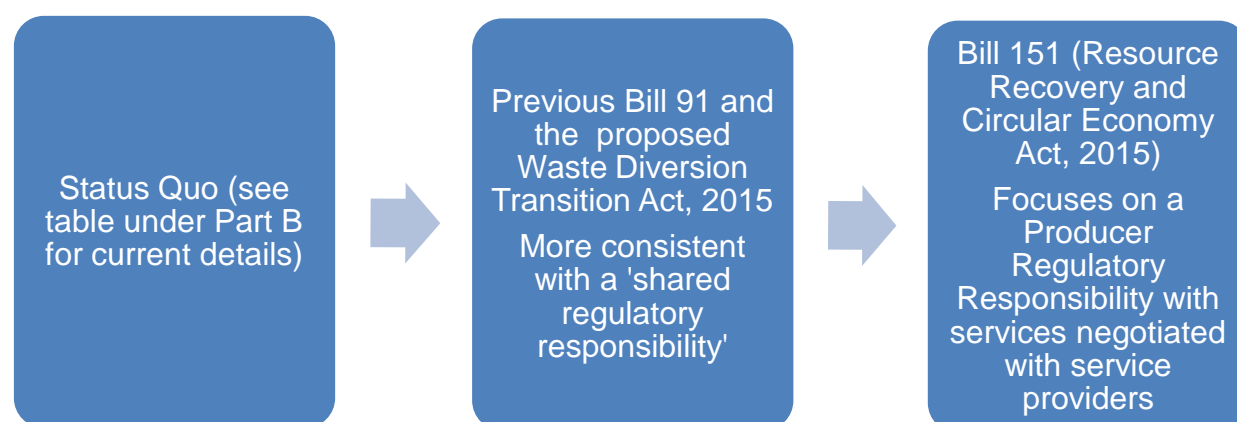
(b) 'Direct EPR' refers to payments made by Producers that cover program costs without being paid to the City of London.

(c) Excludes annual amortization capital cost, indirect overhead, etc. Includes net revenue (profit) from providing service to other municipalities.

(d) Includes cost to manage materials received at the HSW Depot that are not part of the MHSW program.

Waste Diversion Programs in London - Operations

Currently the proposed WFO Act and draft Strategy does not prescribe a municipal role once fully implemented. This is different than the current legislation that municipalities operate under whereby certain waste diversion actions are mandatory for municipalities. It is also fundamentally different than what was proposed two years ago under Bill 91, the last round of province-wide consultations on these matters. In general, the following illustration captures the proposed policy frameworks that have involved municipalities in the last two years.



The proposed legislation identifies the need for waste diversion and reduction targets and outcomes for owners and manufacturers of products (i.e., producers) for which they would be responsible for achieving. It is likely that existing municipal recycling systems and infrastructure and related integrated systems will be used by producers at different levels to achieve these targets and objectives. The level and types of activities between producers, municipalities and contractors will not be prescribed in the legislation; rather it will be negotiated.

There are potential risks to London in the new producer responsibility regime that some producers could look for options to manage their packaging or products that might not include City diversion programs and infrastructure. Details on specific potential relationships between producers, municipalities and contractors have not been examined and will not be established until the province establishes a regulation. This regulation and the development of potential relationships will be a high priority for all municipalities in 2016 and beyond.

As noted, under the WFO Act and draft Strategy regime producers will assume all responsibility for collection, processing and marketing of Blue Box materials and MHSW. Given London's Regional Material Recovery Facility's (Regional MRF) location and capabilities it is likely to play an increased role in processing recyclable materials and other compatible materials. It should be noted however the decision as to how the role it would eventually play would be based on a negotiation with producers and London.

The RRCE 2015 will establish the Resource Productivity & Recovery Authority (Authority) to replace Waste Diversion Ontario (WDO). The role of the Authority and the province with respect to major recycling infrastructure is not clear at this time. For example, if the London MRF is not used by the producers for residential recyclables from the Blue Box program, it is not clear how the residual value of a potentially 'stranded asset' would be addressed.

It is key that London continues to provide responsive and cost effective recycling systems that meet and exceed the needs of our customers and the expectations of producers. This has been demonstrated in the last 18 months on three occasions:

- PWC audit of recycling processes in the summer of 2014. Reported to the Audit Committee and Civic Works Committee in late 2014.
- Customer satisfaction survey in June 2015. Eighty-nine percent (89%) are satisfied with recycling services including 54% being very satisfied.
- Waste Diversion Ontario (WDO) 2015/2016 audit of recycling system performance and financial accounting for 2014. The audit resulted in minor adjustments representing about 1% of net costs and within acceptable limits established by WDO.

The transition legislation identifies the need to establish a dispute resolution process for disputes between an industry funding organization (representing producers) and a municipality with respect to payments to the municipality under a waste diversion program. This would be done through the Authority. It would appear that the transition period would last about 4 to 5 years. This is the only legislative role municipalities have in the WDTA 2015. It is unclear what mechanisms will exist for municipalities to resolve disputes and other items under the full rollout of the legislation (RRCE 2015).

Within the proposed WFO Act and draft Strategy, the province appears to be taking a very action oriented role in waste diversion. This proposed level of involvement has not been experienced since the early 1990s. However, it is unclear how much provincial responsibility will be passed to the Authority. In addition, the province has provided little insight of how it will fulfill its proposed mandate including how it will transition from the existing regulatory and operating practice relationship it has with municipalities (e.g., Ontario Regulation 101/94, Recycling and Composting of Municipal Waste). The province may not fully appreciate or be aware of the level of municipal and community effort that has developed over 30 years to deliver waste diversion systems.

There is significant uncertainty in the final direction that the legislation will take due to this being left for the regulations define. It is our understanding that the province recognizes some/many of the challenges ahead and has highlighted that collaboration will be key:

The province recognizes the need to maintain an approach that considers and respects the relative roles and responsibilities of different parties and the success of existing efforts (page 28, MOECC Draft Strategy).

A good example of the roles of different parties is this one. Under the proposed WFO Act and draft Strategy regime, the City will not be reimbursed for the cost associated with collection and disposal of designated recyclable materials that end up in the garbage or the cost of dealing with litter created by these same materials. For example, in London 35% (by weight) of the designated containers for recycling from curbside households end up in garbage as does 20% of the paper products/packaging.

Some of the proposals brought forward in the government's proposed strategy could have impacts on the City of London. Disposal bans, generator requirements, additional requirements for data reporting, tracking, promotion and education requirements could all place additional costs on the City.

For example, the City may be required to implement, enforce and monitor disposal bans on some designated materials. The enforcement of disposal bans can be very difficult therefore significant care and understanding must go into their establishment. London and municipalities with close proximity to the United States, where cheaper landfill rates are available, can face greater challenges than those further from the border. The City's role is unclear in this regard including how (if) funding would be provided.

It is unclear why the province has reduced its emphasis in the draft Strategy with respect to recyclables and other materials from the IC&I sector. As noted, the estimated diversion rate is about 12% in this sector. This sector is currently regulated by the province. The IC&I sector represents the greatest opportunities for economic benefit, job creation and environmental benefit in Ontario versus the residential sector.

The challenges in the IC&I sector are generally known. The stagnation of waste diversion in the IC&I sector is due to a combination of low disposal costs, fluctuating commodity markets, lack of producer participation, lack of monitoring and enforcement, and the long-term confidence that the private sector needs to build infrastructure.

The role of organics in the draft Strategy is addressed by proposing to develop an Organics Action Plan steered by a stakeholder working group. The draft Strategy envisions developing a plan to address organic wastes throughout the supply chain (i.e. not only post-consumer organics, but pre-consumer as well). Given the unique considerations inherent to organic wastes and the likely extensive consultation required, the development of an action plan may be a long term initiative and may not have any immediate impact on London.

It is important to note that increased rates of waste diversion and resource recovery will have local, regional, national and global environmental benefits. For example, as noted by MOECC in 2013, "Recycling uses less energy, produces fewer greenhouse gas (GHG) emissions (e.g., in 2007 our diversion programs avoided 2.2 million tonnes of GHG emissions annually) and has less environmental impact than the extraction of raw materials" (MOECC, Waste Reduction Strategy, 2013).

If the legislation is approved, it allows the province to make policy statements with respect to resource recovery and waste management. London would have to ensure that its Official Plan (OP) is consistent with the province's resource recovery and waste reduction policy statements that apply to the municipality and may need to amend the OP, if necessary, to achieve consistency.

Similarly, no later than three years after an amendment comes into effect, London will need to amend the zoning by-laws that are in effect that relate to resource recovery or waste reduction to ensure conformity with the OP.

The draft Strategy highlights that the future role of waste diversion and resource recovery will have an impact on the need for disposal facilities in Ontario. MOECC will be actively involved in determining the right balance for waste disposal. It is unclear in the draft Strategy how this is different than the current processes and prescriptive requirements under the provincial *Environmental Assessment Act*, *Environmental Protection Act* and the *Ontario Water Resources Act*. For example, the *Environmental Assessment Act* for waste disposal facilities is already one of the most rigorous processes in North America for obtaining the necessary approvals. The draft Strategy recognizes the need for landfill space and suggests there should be fewer landfills serving larger areas.

Waste Diversion Programs in London - Funding

The City would benefit financially from the proposed WFO Act and draft Strategy as two existing programs – Blue Box and MHSW - will receive more funding. It is possible that funding could increase between \$1.2 million and \$3.3 million, the later if all current amortized capital costs are funded. Alternatively, these same amounts may be paid directly by the producers rather than flow through the municipality.

During the transition period to full implementation, existing systems will be maintained and it is likely that municipal programs diverting designated materials will receive compensation at or above current levels (e.g., there is a mechanism for the Minister to increase producer's funding of the Blue Box program beyond the current 50% funding cap). Any improvement in funding will be a benefit to London taxpayers. The current funding cap has been problematic in both definition and application. The WDTA 2015 language has not improved this situation at this time.

Impact on Local, Regional and Ontario Businesses

The financial impact to Ontario businesses and importers of products and packages will be dependent on how the regulations are written for each specific designated material. It is worth noting that many Ontario businesses have expressed support for the proposed changes. The largest concern will likely come from small businesses which have in the past typically been excluded from the requirements.

It is important to note that the cost of recycling is to be placed in the retail price of the products and packages. How much of an increase is not known as businesses also need to remain competitive. Depending on the product or package, the consumer (not taxpayer) will pay for none, some or all of the increase. These funds will be used to pay for the costs of recycling programs. What is paramount in these discussions is that we must balance various interests: municipal, provincial, business, taxpayers and consumers and fully recognize that the Ontario and Canadian economy has not fully recovered and some areas of our business community remain fragile.

Equally important is to recognize the potential economic benefits (local, regional, national) from increased rates of waste diversion and resource recovery. MOECC notes in its 2013 Waste Reduction Strategy that:

Recycling creates new jobs, fosters innovation, conserves resources and reduces environmental impacts. The province recognizes that there are significant economic, environmental and innovative opportunities to increase recycling. In particular:

- *7 jobs are created for every 1,000 tonnes of waste recycled.*
- *Recycling creates 10 times more jobs than disposal.*
- *The market value of waste that are currently landfilled in Canada is estimated at over \$1 billion annually.*
- *The waste management sector currently contributes annually over \$3 billion to GDP and \$300 million in capital expenditures (MOE: Waste Reduction Strategy, 2013).*

There are local private sector waste diversion companies that may play an increased role in processing additional recyclables and/or establishing new facilities in London or southwestern Ontario. In addition, local manufacturers and the agricultural community may benefit from a supply of secondary materials as feedstock.

It is also worth noting that recycling of construction & demolition (C&D) waste is silent in the WFO Act and draft Strategy. City staff are surprised by this as C&D recycling is well-established in some parts of Ontario, notably London.

It is likely that during the development of the Organics Action Plan, the province would consider the established voluntary initiatives already in place by municipalities and the private sector. Several London companies that manage organics are likely to be supportive of the development of an Organics Action Plan. However, a prolonged timeframe is unlikely to be supported.

Economic Development Opportunities for London and Region

The WFO Act and draft Strategy, if implemented, may also provide opportunities for business investment to utilize and manufacture new products from a sustainable stream of feedstocks. London staff have been examining a number of opportunities prior to the WFO Act and the draft Strategy being released and, with the release, opportunities have increased. Areas that are being explored at different levels of examination are:

- Advanced electronics processing
- Tire recycling
- Plastics washing, pelletizing and/or extruding
- Mattress deconstruction and recycling
- Carpet deconstruction and recycling
- Refuse derived fuel pellets and related energy recovery opportunities
- Recyclable materials from un-serviced small and medium sized businesses
- Value-added opportunities to increase market value of materials

These areas will continue to be examined by London staff.

PART C – EBR Comments on Waste Free Ontario Act and Draft Strategy for a Waste Free Ontario: Building the Circular Economy

Comments in this section are specific to these items:

- Resource Recovery and Circular Economy Act, 2015 (RRCE, 2015) as Schedule 1 within the WFO Act.
 - Waste Diversion Transition Act, 2015 (WDTA, 2015) as Schedule 2 within the WFO Act.
 - Draft Strategy for a Waste Free Ontario: Building the Circular Economy (draft Strategy)
1. The City of London supports a long-term vision of a circular economy with zero waste and zero greenhouse gas emissions from the waste sector and where all resources, organic and non-organic, are used and reused productively, maximizing their potential and reintegrating recovered materials back into the economy. It has demonstrated this support most recently through a community engagement process in 2014 called; Road Map 2.0: The Road to Increased Resource Recovery and Zero Waste.
 2. The City of London supports a sustainable resource recovery and waste management system that wisely balances environmental responsibilities, financial requirements and is socially acceptability for all participants (e.g., consumers, generators, collectors, processors, municipalities, producers, regulators).
 3. The City of London supports the increasing role for producer responsibility for the products and packages producers' create. This role includes financial, social and environmental responsibility.
 4. The City of London acknowledges that with increasing producer responsibility, producers must be provided a much greater say in how its products and packages are managed. In many cases, the producers are best positioned for the lead role and need to demonstrate the leadership with few constraints.
 5. The City of London does not support the lack of clarity and/or the general re-alignment and/or removal of municipal responsibility throughout the Resource Recovery and Circular Economy Act, 2015 (RRCE, 2015) and the draft Strategy. The draft Strategy largely ignores the integrated nature of waste (curbside collection of Blue Box materials are integrated with collection schedules for garbage, Green Bin and yard materials); municipal presence and responsibility at the curb and other public properties; existing municipal promotion and awareness; complaint resolution mechanisms; and a successful track record by municipalities in recycling operations, management and logistics dating back over 30 years in Ontario.

6. The City of London recommends that the province review the proposed RRCE 2015 and determine where a legislative role for municipalities should be specifically listed which harnesses the benefits of the current powers assigned to municipalities through the Municipal Act and other legislation, the benefits of local government accountability and transparency to taxpayers and consumers, and the increased legislative requirements proposed for producers. This action would ensure that municipalities continue to operate in a consistent manner and continue to provide a collaborative leadership role in environmental and financial sustainability for all Ontarians and businesses.
7. The City of London strongly encourages that the province make available additional background details, environmental impact (benefit) data and financial data to support the changes contemplated in the draft Strategy. The draft Strategy is light on details that support and provide evidence that these changes will have the intended outcomes at an affordable price for consumers, taxpayers and businesses. The draft Strategy should contain more financial and other impact details to support major changes in direction. Data of this nature is essential to decision-makers and those being impacted. Part of the analysis would be a clear indication of what the current waste diversion system costs and the environmental impact (benefit). Comparisons to the existing system provide an excellent indication of how significant the changes have to be to achieve the outcome and what financial and human resources will be required.
8. The City of London strongly encourages the province to renew its working relationship with Ontario municipalities with respect to waste diversion if it wishes to take a significant role as contemplated in the draft Strategy. Since the early 1990s, the province has had limited direct involvement in implementing waste diversion policy, performance review of waste diversion programs, environmental impacts of waste diversion programs and the economic benefits of waste diversion systems. This work has been largely undertaken by municipalities, associations containing municipal membership and industry. This would be the ideal time for the province to prepare its implementation plans in full recognition of the regulated and policy roles it has assigned to municipalities over the last 30 years. It is imperative that duplication be avoided, transparency and accountability remain high and that challenges and opportunities be understood including the potential for unintended consequences.
9. The City of London does not support the reduced emphasis in the draft Strategy for the diversion of more IC&I materials and the potential synergies with the diversion of residential materials. The province has not addressed what is clearly a major issue; the IC&I sector sends over 80% of its materials to disposal facilities.
10. The City of London recommends that the draft Strategy include information and discussion on the diversion of construction and demolition (C&D) waste materials as designated materials as they represent a significant portion of the waste generated in Ontario.
11. The City of London generally supports the Waste Diversion Transition Act, 2015 (WDTA, 2015) as it reflects both the challenges and opportunities that lie ahead for all parties.
12. The City of London recommends that municipalities have a provincially directed or legislated role with the province and the proposed Authority in the transition of waste diversion programs to ensure that programming, operational matters, policy changes and other key transition details are done in cooperation and collaboration with municipalities and in the best interest of taxpayers.
13. The City of London recommends that during the transition period timely reviews and pauses occur to identify and assess the impacts or potential impacts. This could result in a shorter or a longer transition period for designated materials. Fundamental in the transition phase should be the understanding that a new balance of responsibilities and actions could occur that represent an ideal outcome for the province, consumers, taxpayers, businesses, municipalities and the environment. The transition period must be used to gather further evidence and details to ensure

that regulations are in the best interest of all parties as successful waste diversion programs have numerous participants.

14. The City of London recommends that the Association of Municipalities of Ontario (AMO), representing over 444 municipalities and the Regional Public Works Commissioners of Ontario (RPWCO) participate directly in a working group with the province to ensure that the province has timely access to waste diversion information and operational experience.
15. The City of London supports the work being done by the Association of Municipalities of Ontario (AMO) to represent the best interest of municipalities and all their taxpayers (e.g., citizens, businesses) and recommends that AMO, supported by municipal staff, have a provincially directed or legislated role with the province and the proposed Authority in upcoming discussions, assessments, program design and implementation.
16. The City of London acknowledges that the success of the proposed RRCE 2015 and the WDTA 2015 will depend on the regulations to support them and how these regulations are implemented. These regulations will need to set rigorous service levels to provide accessibility and convenience for residents to divert designated materials and recycling targets. The province needs to ensure municipalities are fully engaged in this consultation. Currently it is difficult for municipalities to provide more detailed comments as the proposed legislation and draft Strategy are very high level.
17. The City of London notes that RRCE 2015, WDTA 2015 and the draft Strategy have numerous positive aspects. It is imperative that further discussion examine the costs and benefits of key actions. Consequences and unintended consequences must be better understood. At the same time, this must not be used as an excuse for not moving to more sustainable, cost effective and environmentally sound approaches of waste diversion and waste management.
18. The City of London notes that municipalities across Ontario have demonstrated their commitment to waste diversion with an impressive waste diversion rate of between 40% and 55%. This has come with a tremendous amount of work with our citizens, contractors, the province and producers. This operational know how and proven experience must be tapped into by the province for both the future residential diversion system and advancing the low diversion rate of 12% in the IC&I sector.
19. The City of London supports the development of an Organics Action Plan noting that is key that the Action Plan and potential regulations stay flexible enough to permit all technologies that maximize waste diversion and reduce greenhouse gases and look at multiple end products including compost, energy, biochar and other value added end products.
20. The City of London recommends early in the transition period, the province produce peer reviewed assessments of extended producer responsibility programs (EPR) in other jurisdictions from an operational perspective. What has worked? What has not? When has a change just shifted versus actually been proven to be better? Under what conditions will another system work in a different jurisdiction? etc.
21. The City of London recommends that the province immediately start a process to address the transboundary flow of garbage and resources to the United States as this may be a very difficult challenge to resolve and sufficient time will be required. Estimates suggest between 3 and 4 million tonnes are shipped outside of Ontario annually, or about 25% to 30% of Ontario's garbage and resources.
22. The City of London recommends that the province increase its activities and investment in waste diversion and waste management research and pilot projects. The actions required to make the draft Strategy a reality require more programs, facilities and technologies, some of which are not proven on the scale being contemplated.

23. The City of London recommends that the province take an independent look at waste conversion technologies (e.g., gasification, pyrolysis, gas phase reduction, other mechanical-biological treatment, etc.) to determine where advanced technologies have a place in greenhouse gas reduction and waste diversion. These technologies do not 'burn' materials and must not be classified with incineration.
24. The City of London recommends that the province use the Blue Box Cost Arbitration decision for 2014 as the basis for 2015 payments and the starting point for the discussion as part of the WDTA 2015. Based on all the resource time, financial payments and legal participation, the Arbitrator's decision was a very accountable and transparent process. It is imperative that this rigorous analysis of Blue Box recycling costs be used again rather than spending time and resources for another arbitration.
25. The City of London recommends that the province establish in the WDTA 2015 specific percentages for Blue Box payments directly to municipalities based on the net cost of recycling. For example, 2016 (50% payment of net recycling costs) with subsequent years including defined percentages. During this period municipalities and their contractors would continue to use and implement best practices for recycling.
26. The City of London recommends the province establish a regulation under the WDTA 2015 to address the impacts of new products and packages that are problematic for recycling systems including increased costs. During the transition period, these additional costs should not be paid for by municipalities.
27. The City of London recommends that the province establish a financial policy that addresses the residual value of unused (redundant) municipal waste diversion infrastructure that was built to assist municipalities in meeting the requirements of regulations imposed by the province.
28. The City of London recommends the province require that producer responsibility be extended to designated materials that are not diverted or reduced, to include the designated products and packaging that are landfilled, become litter, or end up in the organics stream (e.g. green bin program) and that municipalities be compensated for these services.
29. The City of London recommends that the province establish a financial policy that directs a portion of the fines imposed on producers for missing targets to municipalities as the impact of missing a target will impact local waste management programs. Currently municipalities are not entitled to unredeemed deposits on alcohol beverage containers that end up in the recycling system.
30. The City of London recommends that the province, industry and municipalities develop incentive-based support programs for products and packages that contain recyclable or organic materials through procurement policies and other economic mechanisms.
31. The City of London recommends that the province ensures that Ontario's Cap & Trade Program links directly to waste diversion and resource recovery efforts by recognizing and encouraging activities in the waste management sector that drive emission reductions.

ACKNOWLEDGEMENTS

This report was prepared with the assistance of Jana Corby, Solid Waste Planning Coordinator and Wesley Abbott, Division Manager, Solid Waste Management.

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Appendix A Overview of Waste Free Ontario Act and Draft Strategy for a Waste Free Ontario: Building the Circular Economy

APPENDIX A

PART A - Overview of Waste Free Ontario Act and Draft Strategy for a Waste Free Ontario: Building the Circular Economy

Estimates suggest that the province's waste diversion programs under the current *Waste Diversion Act, 2002* covers only about 15% by weight of the materials in Ontario's total waste stream. This fact has contributed to the result that the overall waste diversion rate for the province has stalled between 20% and 25% in the last decade. It is important to recognize that the waste diversion rate managed by municipalities (residential waste diversion rate) tends to range between 40% and 55% while the institutional, commercial and industrial (IC&I) sector has a diversion rate as low as 12%.

Bill 151, called the Waste Free Ontario Act, 2015 includes two Acts, the Resource Recovery and Circular Economy Act (RRCE 2015) and the Waste Diversion Transition Act (WDTA 2015). The WDTA 2015 is best described as a transitional phase effecting a number of current programs and will begin in late 2016.

Use this link to the MOECC Environmental Bill of Rights (EBR) Registry:

[EBR Policy Proposal: Proposed legislation Waste-Free Ontario Act \(012-5832\)](#)

The draft Strategy for a Waste Free Ontario: Building the Circular Economy can be found here:

[EBR Policy Proposal: Proposed Strategy for a Waste-Free Ontario: Building the Circular Economy \(012-5834\)](#)

Key elements of the new waste diversion legislation include:

- Provincial Strategy – The province will develop a waste management strategy to act as overarching statutory policy, which will require review at least every 10 years. The first being the Draft Strategy for a Waste Free Ontario which was released for consultation as part of the legislative review process. Details on how a new system will work will be written in regulations to be posted on the Environmental Registry after the draft legislation is passed.
- Provincial Interest and Policy Statements – The RRCE 2015 structure is similar to the Planning Act which enables the government to provide clear direction and help guide decision making.
- Full Extended Producer Responsibility (EPR) – The current stewardship programs (e.g., Blue Box, Electronics, Tires, Municipal Hazardous and Special Waste) will be transitioned to an individual producer responsibility approach. Government will set outcomes/targets for existing and new diversion programs. Producers (and other 'responsible persons' such as product brand owners and first importers), will bear full responsibility, both financially and physically, for meeting these goals aimed at recovering resources and reducing waste associated with their products and packaging. Producers would have flexibility in how outcomes are met and may fulfil their obligations either collectively or individually. Producers would not be able to transfer their liability. The outcomes/target may include recovery targets, accessibility, and promotion and education. Roles and responsibilities are stated clearly.
- Creation of the Resource Productivity & Recovery Authority (Authority) – The Authority will replace Waste Diversion Ontario (WDO), established under the *Waste Diversion Act, 2002*. The Authority will function as a data clearinghouse, to monitor and enforce the new regulation and penalties for non-compliance.
- Province will Set Rules – Province would designate materials, set outcomes/targets (by material) and oversee the Authority.

- Municipalities as Service Providers – Municipalities could continue to provide services to producers to assist them to fulfil their obligations and would have to negotiate a fair price for these services. There is no legislative role for municipalities in the new legislation.
- Transition of Existing Programs – The WDTA 2015 will replace the *Waste Diversion Act, 2002* to enable a transition to the new legislation. It will transition the wind-up of the existing waste diversion programs and their Industry Funding Organizations (e.g. Stewardship Ontario, Ontario Tire Stewardship, Ontario Electronic Stewardship). Extensive consultation would take place with stakeholders. Tires, WEEE and MHSW are proposed to transition in the first 2-3 years and Blue Box after 4 years of the new legislation. After the wind-up of existing programs, the WDTA will be repealed. Changes to Ontario Regulation 101/94 to remove requirements for municipalities to collect materials at the curb will be part of Blue Box consultation.
- The Minister has power to increase Blue Box funding to greater than 50% during transition period.

The following additional details are from MOECC Technical Briefing, Fall 2015 (Consultation Paper), pages 6 and 7.

Key Policy Areas of the Proposed Resource Recovery and Circular Economy Act:
Provincial Interest and Policy Statements <ul style="list-style-type: none"> • Establishes an overarching provincial interest in resource recovery and waste reduction and enables the government to issue policy statements to provide further direction on implementing the provincial interest.
Strategy <ul style="list-style-type: none"> • Requires the development of a Strategy for a Waste-Free Ontario: Building the Circular Economy – a roadmap for achieving Ontario's goals.
Resource Productivity and Recovery Authority <ul style="list-style-type: none"> • Overhauls Waste Diversion Ontario to become the Resource Productivity and Recovery Authority, a non-Crown oversight body with new objects, powers, and compliance and enforcement tools with enhanced oversight and accountability.
Responsibility for Products and Packaging <ul style="list-style-type: none"> • Establishes a new outcomes-based regime where producers would be responsible for their products and packaging and be accountable for recovering resources and reducing waste associated with these materials.
Compliance and Enforcement <ul style="list-style-type: none"> • Provides a full suite of tools to carry-out compliance and enforcement of the Act, including orders and administrative penalties, and identifies what constitutes an offence for the purposes of prosecution.

Key Policy Areas of the Proposed Waste Diversion Transition Act (WDTA)
Resource Productivity and Recovery Authority <ul style="list-style-type: none"> • Provides new and continued duties and powers of the Authority under the WDTA. • Provides for the Authority to oversee the existing programs and their transition to the new regime.
Waste Diversion Programs <ul style="list-style-type: none"> • Sets out the provisions to continue and wind up the existing waste diversion programs.
Industry Funding Organizations (IFOs), Programs Operations, and Stewardship Fees <ul style="list-style-type: none"> • Provides responsibilities and governance structure of the IFOs; includes making rules for existing waste diversion programs and developing wind up plans. • Requires stewards (producers) to pay fees to IFOs based on rules set by IFOs.
Compliance and Enforcement <ul style="list-style-type: none"> • Provides scoped compliance and enforcement tools for the Authority subject to provisions set in the Act and regulation.

Key elements of the draft strategy

The proposed legislative framework includes a Draft Strategy for a Waste Free Ontario: Building the Circular Economy to support Ontario in moving to higher levels of waste diversion and resource recovery and supporting its overall goals. The key elements include:

- Use of Other Legislative Mechanisms – to drive outcomes, including green procurement, disposal bans, and recycling standards, and mechanisms to better collect data and information. The first provincial policy statement is to be developed within the first year.
- Organic Waste Action Plan – Focus on developing an organics action plan, to divert more organics from landfill, including potential disposal bans. (London will need to continue to move forward on addressing organics in the waste stream.)
- Landfill Review – Acknowledgement of Ontario’s deficit of landfill capacity but it notes that the province would carefully consider the need and location of new landfills to ensure proposals for new or expanded capacity continue to undergo rigorous review to protect adjacent communities.
- Consultation on Transition Concerns – Proposes extensive consultation with all stakeholders about transition concerns such as stranded assets. This includes how assets such as London’s MRF would be handled.
- Stimulate Markets – Sustainable end-markets will be developed for recovered materials and supported with environmental standards and best practices in green procurement.
- Promotion and Education – To help people reduce, reuse and recycle more, the province will build on existing education programs.

The following additional details are from MOECC Technical Briefing, Fall 2015 (Consultation Paper), pages 19 to 22.

Draft Strategy for a Waste-Free Ontario: Building the Circular Economy

The draft strategy outlines the parameters of the conversation that the province will have with the public and stakeholders. The final strategy will be released once all consultation and reviews have been completed.

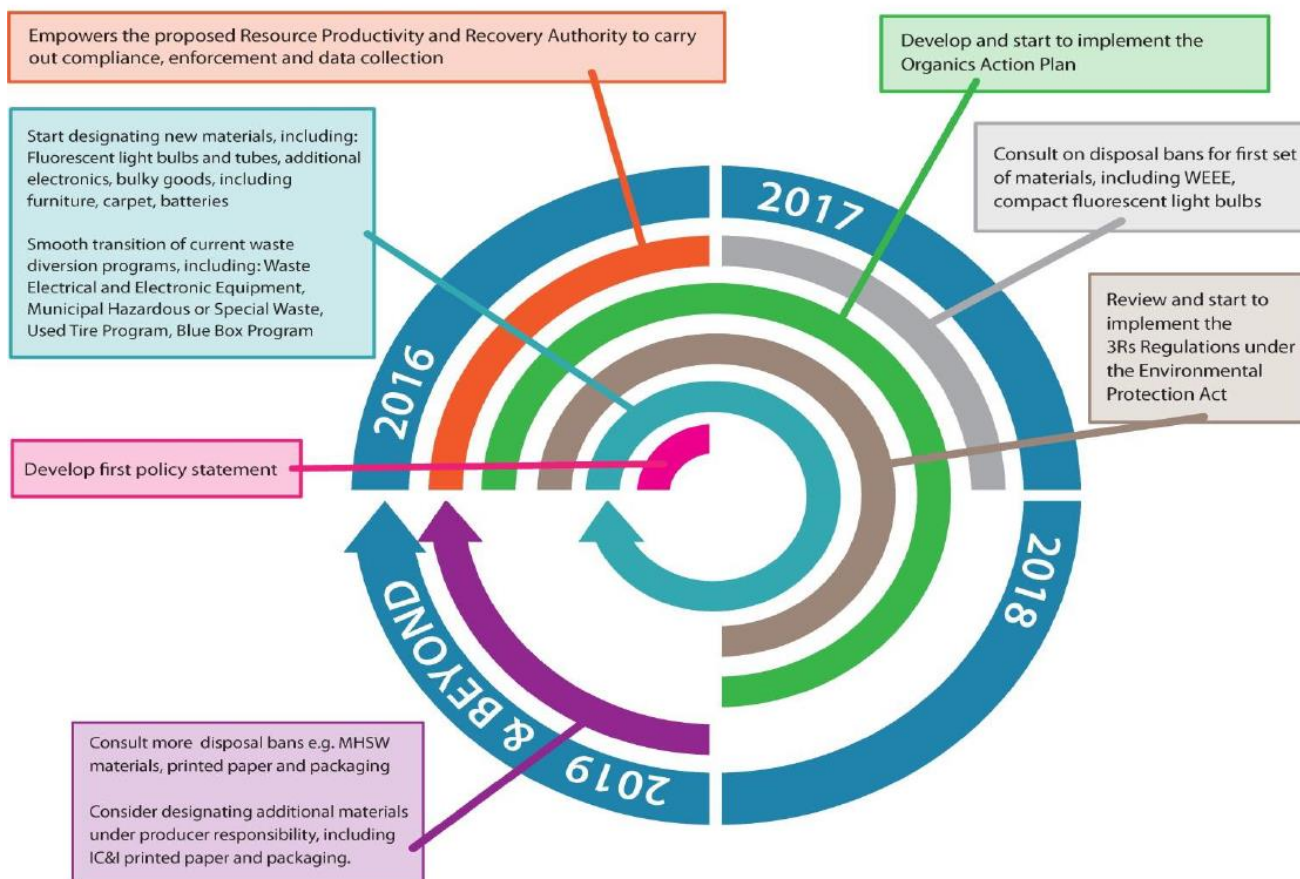
- **Vision:**
 - *A circular economy where we have zero waste and zero greenhouse gas emissions from the waste sector and where all resources, organic or non-organic, are used and reused productively, maximizing their potential and reintegrating recovered materials back into the economy.*
- **Goals:**
 - Zero waste in the Province.
 - Zero greenhouse gas emission from the waste sector.
- **Objectives:**
 - Objective #1: Increase Resource Productivity and Reduce Waste.
 - Objective #2: Enable an Efficient and Effective Recycling System.
 - Objective #3: Create Conditions to Support Sustainable End-Markets.

Draft Strategy - Actions

The draft Strategy supports the following actions:

- **Establishing provincial direction** by providing clear direction through issuance of policy statements.
- **Expanding producer's responsibilities** by placing full responsibility on producers for their products and packaging; empowering the Resource Productivity and Recovery Authority; and ensuring a smooth transition of waste diversion programs to full producer responsibility system.
- **Diverting more waste from disposal** by:
 - Collecting data and putting performance measures in place to enable to province to make evidence-based decisions;
 - Targeting areas for greater diversion by designating new materials, enhancing generator requirements, and developing and implementing an Organics Action Plan;
 - Using disposal bans to facilitate resource recovery and waste reduction;
 - Minimizing the need for landfills and ensure existing landfills are well managed;
 - Integrating multiple tools to foster collaboration.
- **Helping people reduce, reuse and recycle** by increasing awareness of and participation in diversion activities through promotion and education.
- **Stimulating markets for recovered materials** by implementing modern environmental standards; and demonstrating provincial leadership through green procurement.

Draft Strategy - Priorities and Proposed Timelines



Draft Strategy - Performance Measures

- **Move towards zero waste**
 - Declining tonnes of waste sent to landfill.
- **Move towards zero GHG emissions from waste sector**
 - Reduction in GHG emissions from the waste sector.
- **Transition to new producer responsibility**
 - Authority's progress in establishing capacity to fulfil mandate.
 - Meeting transition dates for programs, as outlined in related regulations.
- **Divert more waste from disposal**
 - Timely collection and public reporting of data.
 - Materials designated under new producer responsibility regime.
 - Producers performance in meeting requirements.
 - Progress of the 3Rs Regulations' review and implementation.
 - Progress of the development and implementation of the organics action plan.
- **Create conditions to support sustainable markets**
 - Ongoing implementation of green procurement policies and use of best practices.
 - Progress of the development and implementation of the modern regulator initiative.