**Terrapure Environmental Response to Discussion paper: Modernizing Ontario’s Environmental Assessment Program

Ministry of the Environment, Parks and Conservation
ERO Number: 013-5101**

**Introduction**

Terrapure Environmental is pleased to respond to the *Modernizing Ontario’s Environmental Assessment Program* discussion paper as we fully agree that the EA process is broken and must be reformed. We share the common goal with the Ontario Government of strengthening Ontario’s economy while protecting the environment. To achieve this important goal, businesses will need policy certainty and confidence in the EA process going forward for Ontario to become more competitive. Today there is little certainty because the environmental assessment and approvals process can take on average anywhere from 5 to 10 years.

**Terrapure and its Role**

Terrapure Environmental is a leading Canadian provider of professional, cost-effective environmental and industrial services and recycling solutions that help address industry’s environmental challenges. With an unwavering focus on environmental, health and safety excellence, the company provides services that minimize waste and maximize the recovery or recycling of valuable industrial by-products through a coast-to-coast network of facilities and on customer sites.

While Terrapure attempts to recover and recycle as much industrial waste as possible, there remains a need for a disposal outlet for residual materials that have exhausted all recovery and diversion options. Therefore, one of our key assets is our Stoney Creek Regional Facility (SCRF), a highly-engineered, non-hazardous industrial waste landfill that has been in operation since 1996 when it was approved by the then-Minister of the Environment Brenda Elliott following the successful completion of an EA. The facility is unique in Ontario in that it only takes in non-hazardous, non-putrescible (i.e. does not accept organic waste that can break down and cause odours/methane) industrial waste, including excavation materials and by-products from industries, such as local steel production and infrastructure projects. Our site does not receive any municipal solid waste. This facility is one of 25 Terrapure locations and offices across Ontario, which collectively employs over 750 people.

Nearly 50% of what is received at the SCRF comes from Hamilton, so to respond to the continuing needs of our customers and to support the strong and growing local economy, we are currently in the final stages of an Individual Environmental Assessment to add additional disposal capacity at the SCRF.

***1. Ensure better alignment between the level of assessment and level of environmental risk associated with a project***

*What kind of projects should require environmental assessment in Ontario?*

Overall all projects should be assessed by their risk potential and the appropriate level of assessment should be assigned accordingly. For example, we would recommend that O. Reg. 101/07 be reviewed to determine the types of projects with their associated thresholds and limits for requirements under the Environmental Assessment Act be updated to reflect current waste management practices that represent low-risk activities and projects.

*Are there some types of projects where a streamlined assessment process is appropriate?*

Absolutely, certain project applications should automatically fall into a streamlined process based on their potential risk to the environment and role in serving the Province. There are examples of streamlined processes federally for mining projects under the Metal and Diamond Mining Effluent Regulations and provincially, there is the Transit Project Assessment Process, which is an accelerated process for transit projects. It could be argued that a number of EA applications, waste management facilities in particular, are absolutely essential to serving Ontario and its economy and therefore should benefit from an accelerated process. At the very minimum if a proposed project application involves an existing facility or an expansion, then it should qualify for a streamlined process especially if an EA was already done in the original project prior to expansion. Holding a greenfield project application to same assessment standard as an existing facility with years of data and relationships with surrounding stakeholders is inefficient and will only add to already too long timelines and red tape.

***2. Eliminate duplication between environmental assessments and other planning approvals processes***

*What could a one-project-one-review process look like for projects in Ontario subject to both provincial and federal requirements?*

Notwithstanding that not all projects are subject to provincial and federal requirements, a one-project-one-review process for those projects that require both approvals is an excellent idea as it is the most basic example of duplication and unnecessary red tape. The Canadian Environmental Assessment Agency has a process that upon acceptance of a project description, an analysis is undertaken by the Agency to decide if a federal environmental assessment is required. If an assessment of the project is required by CEAA then it should not have to go through a provincial process. A simple bilateral agreement between governments could significantly lighten the workload of the MECP and reduce the timelines of other EAs in the provincial process.

*Can you identify any other examples of provincial processes that could be better integrated?*

The best example is consultations, their instructions and to the degree to which they should be carried out as an area where more clarity and involvement from the line Ministries could help speed up the process. Often, when consultation with an Indigenous community or a municipality is required, the extent of consultations required is vague. Guidance, involvement or sign off approval of the work done from the line Ministries that have carriage of those stakeholders would be helpful and speed up the EA process.

*What other actions can the ministry take to eliminate duplicative or redundant processes or approvals?*

No private proponent would deny that rigorous assessments of the technical aspects of the environmental impact of a project need to be carried out. However, some first principles of the EA process need to be reconsidered with regards to private proponents. The environmental assessment process was initially set out to assess public projects, so elements like the need, opportunity and alternatives to a proposed project were appropriate metrics to assess when applied to a public proponent, like a municipality. However when the process is applied to private proponents, the metrics are inappropriate.

A project’s “purpose” and “opportunity” are irrelevant and do not need to be justified as a private proponent would already have a sound business case or existing operation and new or continuing customers to serve. These justifications add significant time to the process as they are assessed in the required Terms of Reference, years before the EA process begins.

Requiring a private proponent to evaluate “alternatives to” their chosen undertaking is also unnecessary and a waste of time. Just as it would be pointless to ask a carpenter to assess whether they could build something out of steel, its equally pointless to ask a waste management company with a landfill to evaluate “incineration” as a method to manage waste, it’s not what they do. These evaluations and justifications all require time and significant cost to justify and evaluate, which further indicates why an Environmental Assessment can take up to 10 years to complete for some private proponents. Private proponents should not have to go through the same process public entities go through. If they satisfied only the components that applied to them, the EA process would be significantly shorter and the workload would be reduced on the Ministry reviewers.

***3. Find efficiencies in the environmental assessment process and related planning and approval processes to shorten timelines from start to finish***

*What could a coordinated one-window approach look like for Ontario projects?*

We are in favour of more regularly scheduled meetings with all line ministries that have carriage over certain aspects of the EA because it will help break log jams and ultimately speed up EA process.

*Can you identify any areas in the environmental assessment process that could be better streamlined with the municipal planning process or with other provincial processes?*

Provincial processes and approvals should supersede any municipal or developer planning process and should be correlated and enforced more regularly. All too often, municipalities’ planning processes make assumptions about Provincially approved projects, their lifespan or current status and residential land begins to be approved closer and closer to a multi-decade operating facility. This happens often in the waste management business where a piece of waste infrastructure, sometimes in place for 20-30 years, begins to have issues with residents because the municipality approved land too close to a facility or a developer misrepresented the lifespan of the facility.

Additionally, a proponent should be allowed to initiate and streamline certain permit and approval applications during the environmental assessment process to speed up overall timelines for projects, including the subsequent ECA approvals.

*What advantages and disadvantages do you see with the ministry’s environmental assessment process being the one-window for other approval/permit processes?*

The main disadvantage with a one-window approach is capacity. The lack of capacity in the Ministry leads to the delays and a too lengthy process. The only way to free up capacity is to reduce workload, and previous suggestions like eliminating public requirements for private proponent and federal/provincial redundancies will alleviate the workload on MECP staff.

Additionally, outsourcing some basic review work could help reduce the workload on the Ministry and bring certainty back to businesses, as the current timelines are ambiguous and business cannot function properly in that environment.

*What other actions can we take to reduce delays and provide certainty on timelines for environmental assessment?*

Currently, timelines are more of a guideline and not definitive. Simply legislating and mandating the currently suggested timelines would speed the process up significantly and bring a level of certainty and the ability to plan to proponents.

For example some stakeholders are advocating for further regulations to give municipalities the legislative authority to refuse private proponents from expanding or citing waste management facilities within their boundaries. If this were granted it would add an additional layer of regulatory process involvement on top of that currently handled by the Ministry of the Environment.

*What are the advantages and disadvantages of using a sector-based terms of reference?*

Developing a sector-specific Terms of Reference for waste management projects would be beneficial, so long as there are separate templates for a public sector and a private sector undertaking. Further, there should be some flexibility within the template to allow a proponent to tailor the Terms of Reference to their specific undertaking – one size cannot fit all for waste sector projects.

*Are there other ways we could improve our review timelines?*

The most glaring example is that there are currently legislative clauses and accompanying regulations within the Environmental Assessment Act that permit the Ministry of Environment to go beyond internal service standards for rendering decisions and approvals.

By simply deleting the following clause from the Environmental Assessment Act Environmental Assessment Act R.S.O. 1990, CHAPTER E.18:

Validity of decisions

(4) A decision of the Minister is not invalid solely on the ground that the decision was not made before the applicable deadline. 1996, c. 27, s. 3.

It will ensure decisions are rendered within the existing internal service standards and enable the Government to meet its commitment of delivering decisions and approvals within a year. In turn, this will give Ontario businesses the time certainty required to make investment and operational decisions.

***4. Go digital by permitting online submissions***

*How would you like to be consulted on environmental assessment projects?*

The current system of having an assigned project officer is positive in that it gives the proponent a point of contact. However, because project approvals are nearing 5-10 years, project officers change on a file and it would be beneficial to devise a system so there is as little interruption as possible when the project officer changes.

*Would an online environmental assessment registry be helpful for you in submitting an environmental assessment or accessing environmental assessment information?*

Yes, far too much physical paper is required and adds to the delays experienced in the EA process. A simple example of this is printing and translation of the government review document of the EA. A process that is estimated to take 4-5 weeks often takes 2 months because the Queens Park Printer and the Government translator are required to be used. This adds potentially significant time to the process, where in the waste sector a month when capacity tight is a real concern for customers and the regional economy. The document does not need to be physically printed for public review in public spaces like a library; it should be online for public review and commenting, further expediting the process.

*What type(s) of environmental assessment project information would you like to access online?*

As much information as possible should be accessible online. This would save time on the proponent and government side, as it would cut down the interactions between the proponents, their consultants, the project officer and managers. This would in turn free up time within the Ministry for review and would reduce overall timelines.