

Clause 6 in Report No. 10 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 29, 2017.

6

Update on moving toward Full Producer Responsibility  
under the *Waste-Free Ontario Act*

Committee of the Whole recommends adoption of the following recommendation contained in the report dated May 31, 2017 from the Commissioner of Environmental Services:

1. This report be received for information.
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Report dated May 31, 2017 from the Commissioner of Environmental Services now follows:

1. Recommendation

It is recommended that this report be received for information.

2. Purpose

This report provides an update to Council on the *Waste-Free Ontario Act, 2016* regarding accelerating transition of the blue box program from the municipal sector to full producer responsibility, to reduce financial burden on tax payers.

### 3. Background and Previous Council Direction

Province initiates work under new *Waste-Free Ontario Act*

The *Waste-Free Ontario Act*, proclaimed in November 2016, includes the *Waste Diversion Transition Act*, which oversees current diversion programs, and the *Resource Recovery and Circular Economy Act*, which shifts some waste materials to a full producer responsibility framework. Figure 1 presents the key elements of the Act.

Figure 1  
**Waste-Free Ontario Act, 2016**



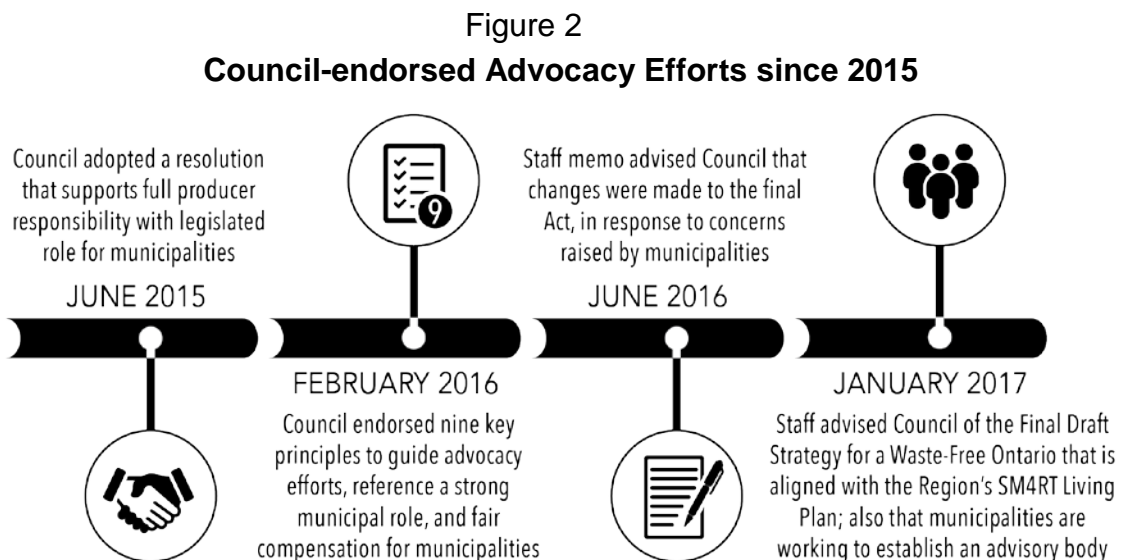
Accompanying the Act is the Strategy for a Waste-Free Ontario: Establishing the Circular Economy (the Strategy). The Strategy includes an implementation timeline that targets transition of the blue box program to full producer responsibility by 2022 (Attachment 1).

Producers are brand holders and/or others with a commercial connection to designated products and packaging in Ontario. Examples of producers include Loblaw Companies Limited, Coca-Cola Refreshments Canada, Unilever Canada Inc., Procter & Gamble Inc. and Sobeys Ontario.

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York Region actively engaged in consultations and advocacy efforts with other municipalities and municipal associations

Since 2015, Council and staff have advocated for fair compensation for assets and contracts, maintained and improved service levels for residents, and a legislated role for municipalities under the *Waste-Free Ontario Act*. Figure 2 summarizes Council-endorsed advocacy efforts.



Feedback to Ministry identifies need to initiate work on transition of blue box program now

In January 2017, the Ministry of the Environment and Climate Change (the Ministry) conducted consultation sessions on the transition order of existing waste diversion programs. Staff submitted a joint letter through the Association of Municipalities of Ontario, Regional Public Works Commissioners of Ontario, Municipal Waste Association and the City of Toronto to the Ministry emphasizing municipal preferences for program transition. The joint letter recommended that the Ministry initiate work on transition of the blue box program, maintain or exceed current program performance, and establish clear definitions of designated materials (Attachment 2).

Association of Municipalities of Ontario facilitates workshop to propose formation of a municipal advisory body

On February 8, 2017, the Association of Municipalities of Ontario hosted a workshop for municipalities, focused on preparing members for the *Waste-Free Ontario Act*. Over 300 municipal staff and elected officials participated. Deputy Mayor Jack Heath, York Region staff and some local municipal staff were in attendance. The following summarizes key discussions during the session:

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Municipalities will play an important role in determining how the new waste management system operates in Ontario; current system of relying on ad hoc support from individual municipal staff will not be enough to protect the taxpayers interest in realizing effective system performance and producer accountability when stewards have substantial dedicated resources.

- Municipalities need to be more strategic and come forward with municipal proposals now, rather than wait for Provincial consultations as producers are likely developing their own proposals.
- Municipalities need to advocate to the Ministry for an early blue box transition to minimize costs to municipalities. Specifically, producers currently pay less than 50 per cent of blue box costs as previously required under the *Waste Diversion Act*. Provisions under the new *Waste Diversion Transition Act* allow the Minister to increase the steward funding obligation to above 50 per cent during transition to full producer responsibility. Under the *Resource Recovery and Circular Economy Act*, producers are required to pay up to 100 per cent once transitioned.

Municipalities agreed to establish a working group that included representatives from the Municipal Waste Association, Association of Municipalities of Ontario, Regional Public Works Commissioners of Ontario and City of Toronto, to establish a joint municipal body.

#### Municipal Waste Technical Group established

The municipal working group met several times after the February 8<sup>th</sup> workshop to establish the Municipal Waste Technical Group (the Technical Group), a joint municipal body to support the transition process. The Technical Group consists of representatives from Association of Municipalities of Ontario, Regional Public Works Commissioners of Ontario, City of Toronto and Municipal Waste Association.

The purpose of the Technical Group is to provide strategic policy and technical work to support municipalities in making informed decisions on transitioning the blue box program to full producer responsibility. The Technical Group will advance discussions with producers to best represent municipal interests and will provide information to municipal staff who will continue to act based on their individual Council direction and authority. All municipalities will continue to maintain autonomy on individual financial and programming decisions. Staff will continue to bring updates and seek Council approval on key decisions when required.

#### 4. Analysis and Implications

Full producer responsibility shifts costs and control of managing blue box program to producers

Municipalities should understand that as the blue box program transitions from municipalities to full producer responsibility, control of the blue box program also shifts from municipalities to producers. Municipalities may be potential service providers under full producer responsibility. This will be determined at a later date. However municipalities are important partners in this transition by representing the public interest and advocating for good service in our communities.

Prioritizing blue box for transition should reduce municipal costs

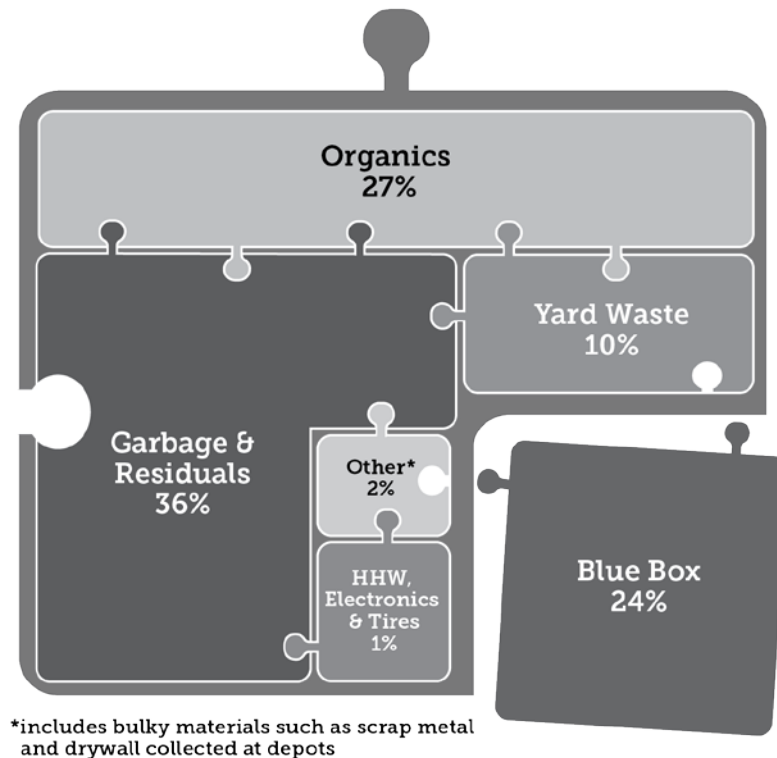
Under the current funding arrangement, stewards pay less than 50 per cent of the cost of managing blue box materials, and the annual process for negotiating the funding obligation is difficult and resource-intensive for municipalities. Municipal costs across the sector are \$130M per year and rising for our share of the blue box program. Challenges associated with calculating the annual Steward Obligation will continue until the program undergoes transition to the full producer responsibility framework. With the upcoming provincial election in 2018, early action on transitioning the blue box program is important to mitigate potential delays.

If it takes five years to fully transition the program (e.g. transition occurs in 2022), the estimated cost to municipalities is \$650M, or \$130M annually. This estimate is based on current municipal costs to support the blue box program above and beyond the funding currently provided by producers (less than 50 per cent of program costs). Early transition to full producer responsibility would significantly reduce the municipal funding contribution.

Under the new regulatory regime Municipalities will continue to be responsible for managing and funding majority of waste

Impacts to York Region's processing and local municipal collection systems are difficult to estimate as the details for transition have not been determined. Municipalities will continue to be responsible for managing non-designated materials through garbage, green bin and yard waste programs, which represent approximately 75 per cent of tonnes in 2016 as shown in Figure 3. The blue box program accounts for approximately 24 per cent of total tonnes managed by the Region and local municipal partners. Other designated materials that will transition to full producer responsibility include tires, electronic waste and hazardous wastes.

**Figure 3**  
**2016 Percentage of Waste Tonnage by Stream Managed in the Region**



The shift to full producer responsibility may have implications for the Region's Material Recovery Facility operating contract, which expires in July 2020. Staff are currently evaluating the Region's options and will ensure Council is well informed for future decisions. Details on standard level of service, targets, accessibility and promotion and education will be forthcoming. Staff will continue to advocate for fair compensation for current contracts, existing assets and sustained and/or improved service levels to residents.

## 5. Financial Considerations

The Region's 2017 operating budget for processing blue box materials is approximately \$7.1 million net of blue box revenue, which is an estimated 16 per cent of the total Waste Management budget. As a comparison, the green bin program represents an estimated 40 per cent and residual waste represents 31 per cent of the total 2017 Waste Management budget that will continue to be funded through the tax levy.

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York Region staff will continue to advocate for protection of municipal infrastructure and assets

York Region owns the York Region Waste Management Centre in East Gwillimbury and contracts operation of the facility to Miller Waste Systems. The Region has made significant investments into waste management infrastructure to ensure the success of our waste diversion programs. The Waste Management Centre is among the best performing facilities in Ontario, consistently capturing over 90 per cent of program recyclables in the inbound blue box stream. The total replacement value of the Waste Management Centre is currently over \$55 million.

Future decisions on municipal collection contracts will need to be determined on a case by case basis

Understanding the financial impact of full producer responsibility on municipal collection contracts is difficult to predict given there are a number of possible outcomes once transition is complete. The following are three possible scenarios used to demonstrate how transition may happen, however more details would be required to inform municipal decision making:

- Municipalities do not transition over to full producer responsibility until current contracts expire. In this scenario, municipalities would continue with their current contracts and receive producer funding in accordance with Waste Diversion Transition Act until contract expiry when the blue box program is then transitioned to full producer responsibility.
- Municipalities operate as service providers to the producers in the delivery of waste management services for blue box, with the majority of costs being borne by producers. In this scenario, municipalities could terminate their current contracts early and enter into new service contracts with producers.
- Municipalities cease to provide blue box service altogether, transitioning full responsibility for program delivery and costs to producers. In this scenario, municipal waste management contracts currently in effect would need to be reassessed. Contracts may need to be renegotiated to exclude the blue box program.

Full cost accounting study will help define financial impact of full producer responsibility framework

The full cost accounting study will help define administrative and operational costs incurred to implement the Region's waste management system. Costs associated with municipal collection, customer service, and promotion and education will be estimated through the study to help inform future negotiations when transitioning to full producer responsibility.

## 6. Local Municipal Impact

It is difficult to determine the actual impacts to local municipalities and to their collection contracts when transitioned to full producer responsibility. The Ministry has assured municipalities that Ontarians' experience with and access to existing services will not be negatively impacted, such as curbside collection of blue box materials. As details become available, local municipalities will be able to gain better insight on next steps. Region staff will continue to ensure local municipal staff are kept informed through working group meetings and are encouraged to participate when consultations are available to municipalities.

## 7. Conclusion

Staff will continue to engage municipal partners and other stakeholders to advance the municipal perspective on issues related to the *Waste-Free Ontario Act* as opportunities develop. Staff will ensure the Region's and local municipalities interests are well represented through the Municipal Technical Working Group. The Region's SM4RT Living Plan aligns with the goals and principles of the new provincial waste management framework legislation. Staff will maintain collaborative efforts with the Province and waste management stakeholders to advance waste reduction opportunities. Staff will continue to update Council regarding progress related to transitioning to full producer responsibility as new information becomes available.

For more information on this report, please contact Laura McDowell at 1-877-464-9675 ext. 75077.

The Senior Management Group has reviewed this report.

May 31, 2017

Attachments (2)

#7565655

Accessible formats or communication supports are available upon request



### Timeline for implementation of the *Waste Free Ontario Act, 2016*

Year of Implementation	Implementation Action
2016	<ul style="list-style-type: none"> <li>• <i>Waste-Free Ontario Act</i> is promulgated</li> <li>• Establish the Resource Productivity and Recovery Authority</li> </ul>
2017	<ul style="list-style-type: none"> <li>• Begin development of Organics Action Plan</li> <li>• Develop and consult on 3Rs regulations under <i>Environmental Protection Act</i></li> <li>• Begin Transition of Used Tires Program</li> <li>• Establish Resource Productivity and Recovery Registry</li> <li>• Develop and consult on First Provincial Policy Statement (expected to address food and organic wastes)</li> </ul>
2018	<ul style="list-style-type: none"> <li>• Develop and consult on first disposal bans (e.g. food waste, existing designated materials)</li> <li>• Begin implementation of Organics Action Plan</li> <li>• Begin implementing first Provincial Policy Statement</li> <li>• Begin designating new materials under producer responsibility regulations</li> <li>• Complete transition of the Used Tires Program</li> </ul>
2019	<ul style="list-style-type: none"> <li>• Begin implementing amended 3Rs Regulations</li> </ul>
2020	<ul style="list-style-type: none"> <li>• Designate additional materials under Resource Recovery and Circular Economy Act (RRCEA)</li> <li>• Complete transition of existing waste diversion programs (Except Blue Box Program Plan)</li> <li>• INTERIM GOAL: 30% Diversion</li> </ul>
2021	<ul style="list-style-type: none"> <li>• Begin Implementing disposal bans on designated materials</li> <li>• First Ministry review of <i>Waste-Free Ontario Act/Strategy</i></li> </ul>
2022	<ul style="list-style-type: none"> <li>• Complete Transition of Blue Box Program</li> </ul>



January 31, 2017

Ms. Wendy Ren, Director  
 Ministry of the Environment and Climate Change  
 Climate Change and Environmental Policy Division  
 Resource Recovery Policy Branch  
 8th Floor, 40 St Clair Avenue West  
 Toronto, ON M4V 1M2

Dear Ms Ren:

**Re: Municipal comments on Waste Free Ontario Act transition planning**

Thank you for the opportunity to consult with you and your team on transition plans for diversion programs under the *Waste Diversion Transition Act*. Municipalities provide a wide variety of services under these programs and we share the Province's goal of ensuring an orderly transition of the programs to the *Resource Recovery and Circular Economy Act* for our communities.

We would like to see work start immediately on the transition of the Blue Box Program. This will take a combined effort by all stakeholders. Given its profile with Ontarians as a symbol of environmental awareness, we should ensure it is transitioned expeditiously and successfully to demonstrate the Government's commitment to a Circular Economy.

We recognize that transition of the Blue Box program will take some time and that the Ministry is interested in transitioning one of the WDTA programs by the end of the year. Concurrently with work on transitioning the Blue Box, we would support work on transitioning Municipal Hazardous and Special Waste or Waste Electrical and Electronic Equipment to the RRCEA. We have provided further notes on this in our comments below.

We have provided comments on the slide deck you presented to us as well as responses to the specific questions you posed:

**General comments:**

**Slide 5: Roles and Responsibilities:**

- Under Authority subsection: data clearinghouse role – important to ensure that municipal datacall is maintained; municipalities want to have continued access and ownership of datacall through transition to RRCEA
- Repatriation of CIF to municipal sector must be done prior to windup of Stewardship Ontario and transfer funds from Stewardship Ontario to municipal sector

#### Slide 6: Desired Outcomes for Transition:

- Support listing of desired outcomes for transition
- The standards by which 'meet or exceed current program performance' will require further definition on each program; it's a complex issue with a large variety of service delivery options provided in different municipalities; all stakeholders, including Province, will have to agree on what the service standard is going forward for each program and how we ensure a high quality service is delivered to all Ontarians
- Glad to hear Ministry commitment to ensure Authority consults with Competition Bureau on windup of IFOs to ensure open and fair competition in the marketplace; will need to carefully consider how data systems, infrastructure, reserves etc. are dealt with fairly
- Fairness to consumers – needs to be considered for reserves from IFOs; particularly in programs where consumers have paid visible fees, but also in those without; it is consumer money not IFO's or stewards; also need to ensure that any levying of visible fees in new programs is done fairly and has a nexus to end-of-life management costs for the product or package; need to avoid 2010 experience with Ecofees
- Need to be clear that 'producer flexibility' refers to how they choose to organize themselves and meet their obligations

#### Slide 7: Transition Process:

- Development of Regulations under RRCEA needs a separate conversation with MOECC as many details to discuss
- Success of the WFOA will depend on RRCEA regulations to support them and how these regulations are implemented. Regulations will need to set specific service levels to clearly define expectations for Producers, service providers and all stakeholders. Some of the definitions required are: material specific targets for waste reduction, reuse and recovery; accessibility standards for Producers to ensure all Ontarians are serviced; data reporting requirements; promotion and education standards; service level standards, amongst many others.
- Need to ensure that future regulations use simple language and definition of designated material to ensure all materials in a category are captured.
- In order to set these definitions, we need to ensure:
  - Deep understanding of waste management system mass balance to ensure desired outcomes are realized i.e. by material, stream (recycling, organics, disposal etc.), generator type (municipally collected, ICI, single family hhld, multi residential hhld, schools, hospitals etc.)
  - Important to understand Multi Residential buildings and how to get recovery of resources from them; building code and municipal planning approvals process for mandatory source separation infrastructure; emerging technologies such as mixed waste processing etc.

- Consideration of mixed waste processing and recovered materials from this process (including PPP, organics etc.)
- Termination of blue box program under WDA will need to address Reg. 101 and repeal it
- Support use of disposal bans to drive diversion in specific instances as long as the following elements are considered:
  - Ensure appropriate diversion capacity for banned materials that is easily accessible to avoid illegal dumping and other unintended consequences
  - Need to ensure it doesn't result in materials being exported to other jurisdictions for disposal
  - A food waste ban cannot result in municipalities being forced to implement a program
  - Disposal bans should be done in concert with other tools such as generator requirements and extended producer responsibility
  - Disposal bans may require considerable resources for enforcement
  - Effective promotion and education efforts need to be developed by Producers to ensure Ontarians are aware of alternative means to manage materials that are banned from disposal

**Slide 9: Considerations for Orderly Transition:**

- Don't allow concerns over fragmentation inhibit competition
- European experience shows that competition at PRO level and IPR limit use of visible fees by Producers
- Need to be mindful of other Provincial legislation, regulations and requirements in managing transition such as Places to Grow etc.

**Slide 12: Questions:**

**What are your views regarding the desired outcomes listed? Is there anything missing?**

- From above:
  - Support listing of desired outcomes for transition
  - The standards by which 'meet or exceed current program performance' will require further definition on each program; it's a complex issue with a large variety of service delivery options provided in different municipalities; all stakeholders, including Province, will have to agree on what the service standard is going forward for each program and how we ensure a high quality service is delivered to all Ontarians
  - Glad to hear Ministry commitment to ensure Authority consults with Competition Bureau on windup of IFOs to ensure open and fair competition in the marketplace; will need to carefully consider how data systems, infrastructure, reserves etc. are dealt with fairly

- Fairness to consumers – needs to be considered for reserves from IFOs; particularly in programs where consumers have paid visible fees; it is consumer money not IFO's or stewards; also need to ensure that any levying of visible fees in new programs is done fairly and has a nexus to end-of-life management costs for the product or package; need to avoid 2010 experience with Ecofees

**What are your thoughts about the criteria outlined?**

- The criteria do a good job of illustrating the key considerations for each program transition
- Weights of significance and priority should be applied to each specific criteria to determine their importance and influence on the order for transition
- Would be helpful to have a list of each program compared against the criteria with pros/cons and/or considerations to better evaluate a potential approach/order for transition
- Have to carefully think through balance of competition vs. fragmentation; don't inhibit competition to reduce fragmentation
- Thoughts on fragmentation:
  - Largest potential impact is on curbside blue box; MOECC gave example of multiple boxes collected on multiple days during our consultation session
  - Experience/analysis in other jurisdictions has shown that lower collection and system costs result by keeping a basket of goods approach; particularly for large Producers who have multiple products in many different material types; believe studies were done in BC on this by consultant team who designed program for MMBC; would be informative for MOECC to review them
  - For other materials that will mainly be depot drop off – consumers prefer 'one stop shops' where they can dispose of numerous material types in one trip

**Based on the considerations and criteria, what are your views regarding key opportunities and challenges for winding up the four existing waste diversion programs?**

- Agree with MOECC preference to pick one program to transition first that can:
  - Be completed relatively simply
  - Generate learnings and experience for more complex transitions
  - Be completed in a timely manner (one year)
- Blue box discussions should start now given complexity; have them concurrently with transition work on first program to transition
- Municipal savings from Blue Box transition to RRCEA may be required to fund additional initiatives envisioned by MOECC such as Organics Action Plan, food waste ban, reduction and reuse, more composting programs, etc.
- Most likely candidates for first transition would be MHSW or WEEE
- Potential concern that MHSW could again result in public backlash due to visible fees
- May put WEEE in better position as visible fees already exist

**What are your thoughts on the timelines needed for each transition activity?**

- This will vary greatly depending on the program
- Need to develop a critical path for all the activities that need to occur in wind up of IFO and development of Regulations under RRCEA
- Difficult to offer detailed comments other than it needs to be done well and thoroughly, but with a sense of urgency to leverage current political will for change

**What are your views on the order for transitioning the existing waste diversion programs?**

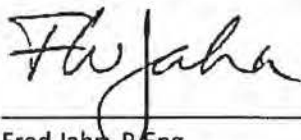
- Start with WEEE or MHSW, then move to tires
- Start blue box transition discussions with stakeholders now

**What is the feasibility of transitioning more than one program at the same time?**

- Like the idea of leveraging current political will for change to get multiple programs completed
- Concerned about resources and stakeholder’s ability to provide input in a meaningful manner

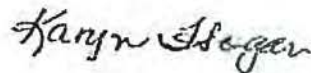
We hope this input is helpful. We are pleased to work with you as a key partner as we move forward on a low carbon future and building a circular economy.

Sincerely,



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Fred Jahn, P.Eng  
Chair, Regional Public Works Commissioner  
Of Ontario




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Karyn Hogan, BA, MLIS, MA  
Chair, Municipal Waste Association



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Vincent Sferrazza  
Director, Policy, Planning & Support  
Solid Waste Management Services  
City of Toronto



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Monika Turner  
Director of Policy  
Association of Municipalities of Ontario