

Presented To:	Operations Committee
Presented:	Monday, Mar 19, 2018
Report Date	Friday, Jan 19, 2018
Type:	Managers' Reports

Request for Decision

The Amended Blue Box Program Plan (December 2017)

Resolution

THAT the City of Greater Sudbury endorses the position taken by staff and the Municipal Resource Recovery & Research Collaborative on the five core areas of concerns related to Stewardship Ontario's amended Blue Box Program Plan submission, as described in the report entitled "The Amended Blue Box Program Plan (December 2017)" from the General Manager of Growth & Infrastructure, presented at the Operations Committee meeting of March 19, 2018;

AND THAT the City of Greater Sudbury supports staff continuing to participate in the consultative process.

Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

Report Summary

New waste management legislation is expected to have significant impacts to municipalities that operate waste diversion programs, including the Blue Box Program.

This report provides an update on the consultative work and highlights the outstanding issues regarding the amended Blue Box Program Plan prepared by Stewardship Ontario and dated December 19, 2017.

Solutions to address these issues will be submitted to Stewardship Ontario for consideration and staff will report back on future outcomes.

Financial Implications

There are no financial implications associated with this report.

Signed By

Report Prepared By

Chantal Mathieu
Director of Environmental
Digitally Signed Jan 19, 18

Financial Implications

Jim Lister
Manager of Financial Planning and
Budgeting
Digitally Signed Jan 19, 18

Recommended by the Department

Tony Cecutti
General Manager of Growth and
Infrastructure
Digitally Signed Jan 19, 18

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Jan 19, 18

Background

New Waste Legislation

- In November 2016, the Waste Diversion Act 2002 was repealed and replaced by the Waste-Free Ontario Act, which includes both the Waste Diversion Transition Act 2016 and the Resource Recovery and Circular Economy Act 2016.
 - The Waste Diversion Transition Act 2016 provides the Ministry of the Environment and Climate Change with an approach to wind-up the existing waste diversion programs for blue box materials, tires, waste electronics and household hazardous waste which are currently operating under the Waste Diversion Act, 2002. The Waste Diversion Transition Act would also enable the wind-up of the industry funding organizations that operate these programs.
 - The Resource Recovery and Circular Economy Act 2016 will consider end-of-life materials as resources rather than waste, which will result in fewer raw materials being used and the production of long lasting and reusable goods. It will establish full producer responsibility by making producers environmentally accountable and financially responsible for recovering resources and reducing waste associated with their products and packaging.
- With the proclamation of the *Waste-Free Ontario Act, 2016* on November 30, 2016, the former Waste Diversion Ontario (commonly referred to as the WDO) was overhauled as the Resource Productivity and Recovery Authority, with responsibility to oversee programs continued under the *Waste Diversion Transition Act, 2016* and enforce compliance with regulations established under the *Resource Recovery and Circular Economy Act, 2016*.
- This new legislation will have a major impact on municipal waste management and, most importantly, on waste diversion programs municipal governments currently operate or have plans to.
- The cost to operate the Blue Box Program Plan is now split 50/50 between municipal governments and the companies that produce these items. The new legislation will make producers fully responsible for the proper management of their products and packaging at the end-of-life.
- Municipal Blue Box recycling programs will undergo some of the biggest changes and municipalities will have new roles to play under as producer responsibility system – to act as service providers to producers who are required to pay for these programs, to work with private service providers, or opt out from providing service altogether.

Consultation Process and Timeline

- The Municipal Resource Recovery & Research Collaborative (Municipal 3Rs Collaborative) is comprised of representatives from the Association of Municipalities of Ontario (AMO), the Regional Public Works Commissioners of Ontario (RPWCO), the Municipal Waste Association (MWA), and the City of Toronto. The objective of the Municipal 3Rs Collaborative is to ensure a smooth and fair transition of the Blue Box program to full producer responsibility. This includes ensuring residents continue to experience a high standard of Blue Box services and that municipalities are fully compensated for agreed services they deliver to their communities.
- A joint letter was sent to the Minister of the Environment & Climate Change on July 7, 2017 (Appendix A – the Accord), which initiated a collaborative process to bring key stakeholders together to support an expedited transition of the existing shared responsibility program to individual producer responsibility under the Resource Recovery and Circular Economy Act, 2016.

The principles outlined in the Accord state that the transition to individual producer responsibility should:

- Not negatively impact Ontarians' experience with and access to existing recycling services;
 - Improve environmental outcomes;
 - Create a consistent recycling experience for all Ontario residents;
 - Ensure a fair and open marketplace; and
 - Address the provincial interests listed in the Resource Recovery and Circular Economy Act thus becoming the blueprint for the future development of a producer responsibility paper products and packaging regulation under the Resource Recovery and Circular Economy Act.
- The Minister's stated expectation (Refer to Appendix B) was that this proposal would outline the first phase for the transition for the Blue Box under the Waste Diversion Transition Act, 2016, and would set the stage for a second phase of transition that will result in individual producer responsibility under the Resource Recovery and Circular Economy Act in a timely manner. The Minister's Direction Letter provided guidelines for developing the proposal and set out specific requirements to be included.
 - September 2017 to January 2018 – Consultations on the proposed amended Blue Box Program Plan with active input from municipal representatives.
 - December 19, 2017 – Stewardship Ontario posted a full draft of the amended Blue Box Program Plan for comment by the sector and other stakeholders.
 - January 15, 2018 – Comments on draft amended Blue Box Program Plan are due to Stewardship Ontario.

- Late January / early February 2018 – The revised Blue Box Program Plan is considered by the Resource Productivity and Recovery Authority Board for approval and submission to the Minister. Municipalities may have an opportunity to provide additional comments.
- February 15, 2018 – The amended Blue Box Program Plan is due to Minister for his consideration to approve, reject or amend.
- Mid-February / March, 2018 – The Minister will likely post the amended Blue Box Program Plan posted on EBR for 30-45 days for public comment.

Comments on Stewardship Ontario's amended Blue Box Program Plan

Unfortunately, Stewardship Ontario's proposed amended Blue Box Program Plan fails to achieve the goals set out by the key stakeholders (Appendix A) and has not fulfilled the Minister's Direction Letter (Appendix B). Highlights of the five core areas of concern have been identified:

- **Move to Individual Producer Responsibility** – The objective of the amended Blue Box Program Plan as set out in the Accord (Appendix A) and in the Minister's Direction Letter (Appendix B) was to outline the first phase of transition for the Blue Box program to individual producer responsibility under the Resource Recovery and Circular Economy Act, 2016. The key stakeholders understood the current system was not progressing and a move to the new legislative framework could resolve key problems. One significant improvement is allowing individual stewards the opportunity to determine how best to meet their obligations under the Act. An amended Blue Box Program Plan compliant with the Minister's Direction Letter would provide an interim step to ease transition from a municipally-operated Blue Box system to direct steward management. This was not meant to be the end point of this process.

The proposed amended Blue Box Program Plan and associated timeline potentially entrench the existing structure and hinder the transition to the Resource Recovery and Circular Economy Act, 2016. The timeline proposed is seven years to transition municipal programs over to Stewardship Ontario and nine years until any targets are to be achieved. This is four years beyond the target of 2023 set out in the Strategy for a Waste-Free Ontario and stretches over three provincial and municipal election cycles. We do not believe this is a reasonable timeline for a first phase.

- **Need for good governance and balanced decision-making** – The amended Blue Box Program Plan would give unilateral decision-making powers over key elements of the transition that affect business interests to Stewardship Ontario. Until the current municipally-operated Blue Box system can be successfully transitioned to individual producer responsibility, more balanced controls are necessary for the protection of all stakeholders. These controls must protect the interests of individual stewards, service providers, the Province, taxpayers and municipal governments.

- **Improving Environmental Outcomes** – The environmental outcomes of the amended Blue Box Program Plan and the development of a circular economy for Paper Products and Packaging will be determined by what materials are obligated, which of these are collected and how they are managed, and which generators of these materials will be serviced. The draft amended Blue Box Program Plan in its current form does little to progress the Blue Box system. In some cases, Ontarians would see at least an interim reduction in Blue Box services provided by municipalities today.
- **Ensuring Transparency** – The proposed amended Blue Box Program Plan does not set out clear and measurable targets or define how they will be measured, verified and reported. It also does not address the Minister's Direction Letter (Appendix B) to establish methods to facilitate the reduction of Paper Products and Packaging and to discourage the use of non-recyclable and problematic materials. The lack of transparency undermines the legitimacy of the Program, creates business uncertainty, and provides liability issues for municipalities.
- **Legacy Concerns** – There are a number of issues specific to municipal governments that were addressed in the Accord (Appendix A) to facilitate transition in a reasonable and fair manner, but have not been resolved in the amended Blue Box Program Plan. This includes agreement on the payment of eligible costs for non-transitioned municipalities, management of newspapers at no cost to municipalities, and collaborative efforts to minimize the potential for stranded assets.

Solutions to these issues will be submitted to Stewardship Ontario by the January 15th deadline. The hope is that the solutions will be considered and incorporated in the revised Blue Box Program Plan that is scheduled to be submitted to the Resource Productivity and Recovery Authority Board for approval and submission to the Minister.

Next Steps

Staff will continue to participate in the consultation process and will update the Committee on a regular basis.

July 7, 2017

The Honourable Glen Murray
Minister of the Environment and Climate Change
77 Wellesley Street West
11th Floor, Ferguson Block
Toronto, Ontario
M7A 2T5

Dear Minister Murray:

Re: Request for support towards beginning the transition to a circular economy for paper products and packaging in Ontario

Over the last several months leaders from Ontario's brand holder and municipal government sectors have been discussing the future of Ontario's Blue Box within the context of the vision of a circular economy as set forth by the Ministry of Environment and Climate Change in its *Strategy for a Waste Free Ontario: Building the Circular Economy (February 2017)* ("Strategy").

This discussion has led us to the conclusion that the time to begin building a circular economy for paper products and packaging ("PPP") is now.

A critical first step in the evolution towards such a circular economy is to implement extended producer responsibility (EPR) – that is, the transfer of the obligations and responsibilities to collect and manage PPP from Ontario municipal governments to brand holders and other persons with a commercial connection to the supply of PPP into Ontario.

Consistent with the Strategy's desire for an orderly and smooth transition of the Blue Box to EPR we have agreed that such a transition must:

- Not negatively impact Ontarians' experience with and access to existing recycling services;
- Improve environmental outcomes;
- Create a consistent recycling experience for all Ontario residents;
- Ensure a fair and open marketplace; and
- Address the provincial interests listed in the *Resource Recovery and Circular Economy Act 2016* (RRCEA) thus becoming the blueprint for the future development of a producer responsibility PPP regulation under the RRCEA.

Consistent with these objectives, the parties have reached accord regarding the following:

- The transition plan should be the subject of an amended Blue Box Program Plan pursuant to provisions under the *Waste Diversion Transition Act 2016* (WDTA) that provide for such an amendment;
- The amended plan should provide for the obligation for the collection and management of PPP to transfer to Stewardship Ontario upon the expiry, early termination or potentially through a suitable

amendment of municipal contracts with their service providers. Municipal governments will be fully determinant in deciding whether they wish to act on behalf of Stewardship Ontario for the procurement and contract oversight of PPP collection services. Municipal governments will have an opportunity to participate in the post collection management of PPP in transitioned municipalities;

- In transitioned municipalities, the plan will obligate Stewardship Ontario to provide for the collection and management of PPP generated by residents/households and, working with relevant affected municipalities, consideration will also be given to accommodating associated public spaces, parks and other related services provided by those municipalities;
- For those municipalities not immediately transitioning to EPR, the plan will address payments to be made under S. 11 of the WDTA based on a municipality's verified net cost of operating its existing blue box program. The plan will define the eligible costs to be included in calculating the net cost. The plan will also describe any agreements between Stewardship Ontario and recipient municipalities for the reporting and verification of costs reported by municipalities; and
- The plan should establish the arrangement with Stewardship Ontario by which the Canadian Newspapers Association and Ontario Community Newspapers Association (CNA OCNA) will meet their members' EPR obligation for old newsprint (ONP) in such a manner that is without cost to transitioned municipalities.

Given our concurrence on these significant issues and the important opportunity that is presented by the parties' positions, we believe your request to amend the existing BBPP would be timely and are seeking your support in this regard.

We would be most pleased to meet with you to discuss our views regarding the transition to EPR.

In the interim, if you have any questions or concerns regarding our request please do not hesitate to reach out to Mac Bain at 705 498 9510 or John Coyne respectively at 416 963 4009.

Sincerely,

On behalf of Municipal Governments:



Mac Bain
Chair, AMO Waste Task Force



Jim McKay
General Manager, Solid Waste Management Services, City
of Toronto



Fred Jahn, P.Eng.
Chair, Regional Public Works
Commissioners of Ontario



Karyn Hogan
Chair, Municipal Waste Association

On behalf of the Directors of Stewardship Ontario:



John D. Coyne,
Chair, Stewardship Ontario

Copy: Mr. Arthur Potts, MPP
Parliamentary Assistant, Environment and Climate Change

Mr. Colin O'Meara
Policy Advisor, Environment and Climate Change

Ms. Wendy Ren
Director, Resource Recovery Branch

Appendix B

Ministry of the Environment
and Climate Change

Ministère de l'Environnement
et de l'Action en matière de
changement climatique

Office of the Minister

Bureau du ministre

77 Wellesley Street West
11th Floor, Ferguson Block
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August 14, 2017

Ms. Glenda Gies
Chair
Resource Productivity and Recovery Authority
4711 Yonge Street, Suite 408
Toronto ON M2N 6K8

And

Mr. John Coyne
Chair
Stewardship Ontario
1 St. Clair Ave. West, 7th Floor
Toronto ON M4V 1K6

Re: First Phase Transition – Direction for Proposal for an Amended Blue Box Program Plan

Dear Ms. Gies and Mr. Coyne:

Ontario's Blue Box Program is well-recognized as a North American leader that provides services for residential paper products and packaging (PPP).

Pursuant to Section 13 of the *Waste Diversion Transition Act, 2016* (WDTA), I am writing to direct the Resource Productivity and Recovery Authority (the Authority) and Stewardship Ontario (SO) to develop a proposal for an amended Blue Box Program Plan (BBPP). This proposal is to be developed collaboratively with municipalities, stewards and affected stakeholders as required by subsection 13(2) of the WDTA.

My expectation is that this proposal will outline the first phase of transition for the Blue Box Program under the WDTA, and will set the stage for a second phase of transition that will result in individual producer responsibility under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA).

It is also my expectation that the proposal for an amended BBPP will build on the accord outlined in the joint letter sent to my predecessor, Glen Murray, on July 7, 2017 from the Association of Municipalities of Ontario, City of Toronto, Regional Public Works Commissioners of Ontario, Municipal Waste Association and SO.

It is in the public interest that the proposal for an amended BBPP is consistent with the following principles:

- Ensuring a seamless transition of the Blue Box Program, specifically:
 - Not negatively affecting Ontarians' experience with and access to Blue Box services,
 - Incorporating clear rules to support residents' participation including standardized materials and services, and
 - Improving program performance;
- Working towards the circular economy by supporting reduction, reuse, recycling and reintegration of PPP materials into the economy;
- Providing for continuous improvement of environmental outcomes by:
 - Expanding and harmonizing the list of materials in the existing Blue Box program that are accepted from Ontario residents,
 - Establishing clear and measurable collection and management standards with a high level of environmental protection, and
 - Developing methods to support waste reduction;
- Providing effective economic methods to incent behavior changes leading to waste reduction of PPP;
- Driving innovation through collaborative and competitive efforts by:
 - Supporting cooperation among parties, including stewards, municipalities, waste management industry, and other affected parties, to bring complementary abilities to deliver better results, and
 - Promoting competition by ensuring a fair and open marketplace for Blue Box services under the WDTA and not creating barriers to competition when the program transitions to individual producer responsibility under the RRCEA;
- Avoiding stranded assets to the extent possible in a collaborative manner;
- Providing choices for municipalities where SO is to provide Blue Box services (i.e. transitioned municipalities):
 - These municipalities will decide whether they wish to act on behalf of SO for the procurement and contract oversight of PPP collection services, and
 - These municipalities should also have an opportunity to participate in the post-collection management of PPP collected; and,
- Addressing issues related to the in-kind contribution from the newspaper industry in a manner that is without cost to the transitioned municipalities.

The Authority and SO shall have regard to the provincial interest described in Section 2 of the RRCEA when developing the proposal for an amended plan.

As producers assume the 50 per cent of costs currently borne by municipal taxpayers, it is my expectation there will be a clear and transparent process by which municipalities demonstrate the benefit their taxpayers will receive.

The Authority and SO shall develop a communication and issues management plan. The plan shall identify issues that may arise during the development of the proposal for the amended BBPP, outline the steps to manage these potential issues and set out the process by which the Authority and SO will provide information to affected stakeholders and the public on a regular basis.

During the development of the proposal for an amended plan, the Authority and SO shall ensure meaningful consultation and communication with representatives of municipalities, stewards and other affected stakeholders.

Together with the submission of the proposal for an amended BBPP, the Authority and SO shall submit a report to the Ministry outlining how the Authority and SO have met the consultation requirements under the WDTA, including:

- A list of the stewards, municipalities, service providers and other affected stakeholders that were consulted during the development of the proposal;
- A summary of the comments received by the Authority and SO from affected stakeholders; and,
- A report of how the comments were considered by the Authority and SO.

The Authority and SO shall report to the Ministry each month on their progress in developing the proposal for an amended BBPP.

An addendum to this letter has been attached which provides additional direction for amending the BBPP.

The proposal for an amended BBPP shall be developed in accordance with this letter and the enclosed addendum and the WDTA.

If approved by the Authority, the proposal for an amended BBPP shall be submitted to me for approval by February 15, 2018, or on such later date that I provide in writing. The submission shall include particulars of any matters that are unresolved at the time of the submission.

It is my expectation that, upon my approval, and subject to any necessary amendments to relevant regulations being approved by the Lieutenant Governor in Council, this amended plan will replace the current plan in its entirety.

Ms. Glenda Gies
Mr. John Coyne
Page 4.

If it is in the public interest to do so, I will provide further direction at a later date related to the matters set out in this requirement, or to provide clarification related to amending the BBPP.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Ballard". The signature is written over the printed name and title.

Chris Ballard
Minister

Cc: Paul Evans, Deputy Minister
Ministry of the Environment and Climate Change

ADDENDUM TO THE MINISTER'S DIRECTION LETTER FOR AN AMENDED BLUE BOX PROGRAM PLAN

Pursuant to an agreement being reached between SO and each transitioned municipality (see definition below) and subject to necessary amendments to relevant regulations being made by the Lieutenant Governor in Council, SO would provide services for residential paper products and packaging (PPP) supplied by stewards to Ontario residents and covered under the Blue Box Program.

NON-TRANSITIONED MUNICIPALITIES:

Non-transitioned municipalities are those that have not entered into an agreement with SO and SO is not delivering Blue Box collection and management services for these municipalities.

The proposal for an amended BBPP shall address payments to the non-transitioned municipalities under Section 11 of the WDTA based on the municipality's verified net cost of operating its existing Blue Box program:

- The plan shall define the eligible costs to be included in calculating the net cost; and,
- The plan shall also describe any agreements among the Authority, SO, and recipient municipalities for the reporting and verification of costs by municipalities.

TRANSITIONED MUNICIPALITIES:

Subject to necessary amendments to relevant regulations being approved by the Lieutenant Governor in Council, transitioned municipalities are those that have entered into an agreement with SO and SO is delivering Blue Box collection and management services.

The proposal shall outline when and how the responsibility for the collection and management of PPP will be transferred smoothly from these municipalities to SO.

The proposal for an amended BBPP shall include the following:

Defined Materials Covered in BBPP:

- Include an expanded definition of Blue Box materials to identify the PPP that will be covered under the BBPP;
- The materials shall include:
 - paper products,
 - primary packaging,
 - convenience packaging, and
 - transport packaging;
- For purposes of primary, convenience and transport packaging, refer to the RRCEA for definitions; and,

- When defining the materials, SO and the Authority will also consult with stewards of packaging who are regulated under deposit-return programs (e.g., stewards of milk containers).

Defined Stewards:

- Define obligated stewards.

Defined Responsibility for Waste Reduction and Resource Recovery:

Waste Reduction

The proposal for an amended BBPP shall:

- Establish methods to facilitate the reduction of waste generated related to defined PPP materials. The methods may include activities to support:
 - increase of the product's or packaging's reusability and recyclability,
 - reduction or elimination of any impact the material may have on the recyclability of other materials,
 - reduction of the amount of waste generated at the end of the product's or packaging's life,
 - reduction or elimination of the use of any substance in the material that compromises the material's reusability or recyclability, and/or
 - increase of the use of recovered resources in the making of the material;
- Use means to discourage the use of materials that are difficult to recycle and have low recovery rates. The means include, but are not limited to, rules for stewards, fee setting methodology, and compiling information to measure stewards' initiatives to reduce waste; and,
- Establish mechanisms to identify and address issues associated with problematic materials, such as packaging that is difficult to recycle.

Collection and Management of Materials

The proposal shall set clear standards for SO's collection and management, including:

- Support clear service standards to enable resident participation;
- Increase the diversion target for the Blue Box Program to 75 per cent of the PPP supplied by stewards to transitioned municipalities' households;
- Establish material-specific management targets for PPP supplied by stewards to transitioned municipalities' households;
- Identify geographically-based collection and management standards, including rural, northern, and remote areas;
- Maintain convenience and accessibility standards, including:
 - curbside collection for households where currently provided by these municipalities and indigenous communities,
 - collection services to multi-residential buildings where currently provided by these municipalities and indigenous communities, and
 - depot collection services currently provided by these municipalities and indigenous communities;
- Improve convenience and accessibility by offering collection services to multi-residential buildings that are not being serviced by these municipalities, within an identified timeframe;

- Consider accommodating associated public spaces, parks and other related services provided by these municipalities;
- Consider expanding Blue Box collection services over time; and,
- The methods for managing the materials shall allow for the material or part of the material to be, in accordance with Ontario standards and regulations:
 - reused,
 - used in the making of new products, packaging or other activities in end-markets, or
 - used as a nutrient for improving the quality of soil, agriculture or landscaping.

Promotion and Education

For the purpose of increasing resource recovery and reducing Blue Box waste materials, the proposal shall establish an effective promotion and education program, including promoting awareness of the program activities to residents and other targeted audiences and engaging audiences to elicit feedback.

Registration, Reporting, Record Keeping and Auditing

The proposal will include an appropriate approach for registration, reporting, record keeping and a third-party audit to ensure an effective and efficient system.

ESTABLISH ISSUE MANAGEMENT APPROACHES:

The proposal shall:

- Develop a protocol for managing issues raised in a fair, effective, efficient and equitable manner during the implementation of the amended plan, if approved;
- Develop a plan to avoid stranded assets to the extent possible in a collaborative manner; and,
- Establish an arrangement between SO and the newspaper industry (i.e., the Canadian Newspapers Association and Ontario Community Newspapers Association) in order to meet members' obligation for old newsprint in such a manner that is without cost to transitioned municipalities.

PROMOTE COMPETITION:

The proposal shall:

- Establish a mechanism to support a fair and open marketplace for Blue Box services under the WDTA;
- Not create barriers to competition in the second phase of transition that will result in individual producer responsibility under the RRCEA; and,
- Describe how contracts held by SO for the collection and management of PPP will be managed upon wind up of the Blue Box Program to enable competition once materials are regulated under the RRCEA.

PERFORMANCE INDICATORS AND REPORTING:

- The proposal shall include performance indicators to measure whether SO has fulfilled the resource recovery obligations and established waste reduction methods as set out in the amended plan; and,
- In addition to the requirements set out in Section 30 of the WDTA, SO's Annual Report shall include:
 - a description of whether and how SO has fulfilled resource recovery obligations set in the amended plan,
 - a description of how SO has supported waste reduction methods set in the amended plan, and
 - a third-party audit of SO's collection and management services and outcomes.