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Section 9.0 Amending the Environmental Assessment

Some aspects of the project may require a change following approval by the Minister under the *EA Act*, as design details are further developed during the later stages of project design, construction and/or operation. It may be necessary to amend the EA because of changes in conditions, development of new mitigation measures or the identification of previously unknown concerns. In recognition of this, Brooks Road Environmental is proposing an amendment procedure consistent with other EA's approved in the past. This amendment procedure would benefit all parties potentially involved by providing an agreed to and well understood approvals process for ensuring that proposed changes are effectively and appropriately dealt with.

As such, it is proposed that any unforeseen changes to the Preferred Undertaking be first reviewed by Brooks Road Environmental staff in conjunction with the MOECC and then grouped into one of three categories: (1) no amendment required; (2) a minor amendment required; or (3) a major amendment required. As a result of this approach, two amendment procedures are being proposed: one associated with minor amendments and one associated with major amendments.

It should be noted that no amendments to the vertical capacity expansion volume (421,000 m³) included in this EA will be sought by Brooks Road Environmental. Therefore, if there was a desire to increase the landfill capacity, Brooks Road Environmental would be required to complete a separate approval under the *EA Act* in accordance with this process.

9.1 Change Review Process

During the detailed design, construction and/or operation of the Preferred Undertaking, changes to some aspects of the project's design may occur due to:

- Unforeseen site-specific problems encountered only during detailed design, construction and/or operation
- Improvements in the design to provide greater environmental benefits and/or less adverse effects
- Circumstances that develop at the time of construction
- Issues identified in other approvals processes
- Changes to the regulatory framework (i.e., new legislation or regulations)

Where such changes may occur, a process must be followed to consider them within the context of the Minister-approved EA and determine if an amendment is required based on the significance of the change. Therefore, any unforeseen change to the Minister-approved Preferred Undertaking will be reviewed by Brooks Road Environmental in conjunction with MOECC prior to it being carried out. With this in mind, the following questions will be applied to

the proposed change as part of the review to determine how it should be dealt with within the context of the EA amendment procedure:

1. Is there a change to what was proposed to be built?
2. Is there a change to where something was to be built?
3. Is there a change to how something was to be built?
4. Is there a change to when something was to be built?

Following discussions with MOECC with respect to the change being contemplated, Brooks Road Environmental will utilize the responses to these questions to determine how the proposed change will be dealt with. For example, in the case of a "Yes" response being provided to any of these questions, Brooks Road Environmental will determine the significance of that change in terms of its net effect on the environment, a stakeholder (including the public), and/or a commitment made in the Minister-approved EA.

If the significance of the change is determined to be negligible, then no amendment would be required and Brooks Road Environmental could proceed with implementing the change. An example of this may be a shift in the internal road network.

If, however; the change was to result in an increased net adverse effect (i.e., as a whole after considering potential benefits from the change), the review will be documented by Brooks Road Environmental and then categorized by Brooks Road Environmental as either a potential minor or major amendment, subject to discussions with the MOECC's Environmental Approvals Branch (EAB) and concurrence from the Director. The same criteria and indicators described in the EA will be used for this comparative process to determine potential benefits from the change. Descriptions of the processes for addressing minor and major amendments are provided below.

9.2 Minor Amendments

A proposed change to the approved EA that would not alter the Preferred Undertaking significantly in terms of what would be built, where it would be built, how it would be built, and when it would be built, but may result in an increased net environmental effect, would be categorized as a minor amendment.

In the case of a minor amendment, regardless of the changes proposed, the conclusion that the Preferred Undertaking is required, and its status as the Preferred Undertaking in relation to the other alternatives considered during the EA, would not be affected or opened to re-evaluation, unless otherwise directed by the Minister.

In the cases where the proposed change is categorized by Brooks Road Environmental as a potential minor amendment, then the following process will be followed prior to implementing it:

1. Brooks Road Environmental will discuss the proposed design change and categorization with staff at the MOECC's EAB.
2. If staff at the MOECC's EAB agrees that the proposed design change is a minor amendment, Brooks Road Environmental will prepare an amendment review document to describe:
 - The proposed design change to the Preferred Undertaking
 - The rationale for the proposed design change
 - Implications of the proposed design change on the social, cultural and natural environment, a stakeholder, or an EA commitment
 - Proposed mitigation/compensation measures, if required, to address any potential adverse effects of the change
 - Any net effects following implementation of mitigation/compensation measures
3. Brooks Road Environmental will distribute the amendment review document to directly affected stakeholders, interested Aboriginal communities, MOECC's EAB and the Haldimand County for 30 calendar days for review and comment.
4. Brooks Road Environmental will consider comments received during the 30 calendar day review period.
5. Brooks Road Environmental will implement the proposed change, subject to receiving written concurrence from the Director of the MOECC's EAB that the proposed change is a minor amendment, ensuring that any required mitigation/compensation measures are provided for and carried out.

9.3 Major Amendments

Proposed changes to the approved EA of a much more significant nature would be categorized as major amendments. In general, these proposed changes would alter the design of the Preferred Undertaking significantly in terms of what would be built, where it would be built, and how it would be built.

In cases where the proposed change is determined to be a major amendment, Brooks Road Environmental will conduct a new EA process for the major amendment that will be considered, as applicable in the circumstances, to be a new undertaking as per Section 12 of the *EA Act*.