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DELIVERED VIA EMAIL: pgmc@toronto.ca

Ms. Nancy Martins, Secretariat
Planning and Growth Management Committee
City Hall, 10th Floor, West
100 Queen Street West
Toronto, ON M5H 2N2

Dear Chair Councillor Shiner and Members of the Planning and Growth Management Committee,

**Re: PGMC of October 12, 2017
Item No. PG23.6
Port Lands Planning Initiatives – Final Report**

Ontario Power Generation Inc. ("**OPG**") is the owner of the properties located at 440 Unwin Avenue (the former Hearn Generating Station site) and 470 Unwin Avenue (the Portlands Energy Centre ("**PEC**")) located in the Central Waterfront Secondary Plan area. For the reasons discussed in this letter we respectfully submit that the Port Lands Planning Framework ("**PLPF**") OPA as presently drafted fails to acknowledge ownership interests of OPG, as well as existing and long-term uses on said lands. The PLPF's proposed parks and open space system, as well as the proposed cycling network, together with the proposed Unwin Avenue realignment, and the extension of Broadview Avenue may create land use compatibility concerns, potential safety issues and would adversely impact the functionality of OPG's lands.

OPG continues to have active appeals filed with the Ontario Municipal Board (the "**Board**") regarding the City of Toronto Official Plan and the Central Waterfront Secondary Plan (OPA 257), which have not yet been resolved or adjudicated by the Board (the "**OPG Appeals**"). The OPG Appeals have been with the Board since 2005. In the OPG Appeals we raised legitimate concerns regarding the Unwin Avenue realignment, natural heritage areas, concerns about land use, and the waterfront promenade. Although OPG and its solicitors have been engaged in active "without prejudice" settlement discussions with City staff and the City solicitor's office regarding the OPG Appeals for over 10 years, no formal resolution has been achieved.

We understand that the Recommendations before the PGMC requests not only approval of the draft PLPF OPA found at Attachment 3, but is also seeking to instruct the City Solicitor to request the Board to repeal the City's Official Plan and the Waterfront Secondary Plan that currently is before the Board and to replace said documents with the draft PLPF OPA. As stated above the concerns outlined in this letter regarding the draft OPA are consistent with the concerns raised in the OPG Appeals back in 2005.

May 25th, 2017 Comments from OPG on the Draft PLPF:

In the spring of 2017 we had an opportunity to review the draft PLPF OPA and on May 25, 2017 we provided detailed written comments to the City of Toronto City Planning Division, Strategic Initiatives Unit. Attached please find a copy of the May 25, 2017 letter together with the Maps supplied illustrating our concerns (Attachment 1). A response to this letter was not received until September 18, 2017. It is apparent that the concerns expressed in the 2005 OPG Appeals and our May 25, 2017 letter continue to be unresolved. A summary of OPG's key concerns is set out below.

1. Preservation of Existing Uses & Potential Future Generating Opportunities

The draft PLPF OPA fails to adequately recognize the important existing land uses on OPG's lands within the Port Lands. The draft PLPF OPA also has the potential to impede or prohibit future generation opportunities at PEC.

PEC provides essential energy to the downtown core and will continue to do so for the extended future. In a letter dated September 18, 2017 from Ms. Cassidy Ritz responding to OPG's letter of May 25, 2017, Ms. Ritz states "that the Port Lands OPA enables new power production uses and transmissions" however, the OPA requires that any new power plants developed to either replace existing facilities or to provide additional power will be encouraged to utilize renewable energy sources and to support achieving the long-term net zero energy district objective and will be required to go through the site plan approval process. We respectfully submit that the draft PLPF OPA fails to sufficiently consider sections 1.6.8.1 and 1.6.8.3 of the PPS (2014) wherein Planning Authorities are required to plan for and protect corridors and rights-of-ways for infrastructure, including electricity generation facilities and transmission systems to meet current and projected needs and that they should not permit development in planned corridors that could preclude or negatively affect the use of the corridor for the purposes for which it was identified.

In addition we submit that the draft OPA fails to acknowledge the authority set out in section 46.2 of the *Electricity Act* that stipulates that if lands were occupied and used in the City of Toronto in connection with the generation of electricity using fossil fuels and for any ancillary use prior to March 31, 1999 any occupier of the land may use the land for the generation of electricity using a type of fuel prescribed by the regulations. Section 46.2 of the *Electricity*

Act applies despite any provision of the *Planning Act* or any other Act and despite any by-law. It is of critical importance to ensure the future potential expansion of the PEC and that policies within the draft PLPF OPA not be worded to restrict, in any fashion, this important function of the OPG lands.

2. Land Use Compatibility

The draft PLPF OPA introduces a number of sensitive land uses in close proximity to PEC and also to the former Hearn Generating Station site.

In our May 25, 2017 letter we provided a map wherein the OPG land ownership was overlaid on the PLPF's land use map. We note that the future "Water's Edge Promenade" is shown immediately proximate to lands abutting the PEC and the lands used by Hydro One for its high voltage switchyard. As well the Parks and Open Space designation occupies a significant portion of lands owned by OPG. We also provided a map illustrating the impact of the Cycling/Pedestrian Network. As illustrated in Attachment 1, the Cycling/Pedestrian Network introduces uses that are not compatible with the current uses of the land. The Cycling/Pedestrian Network could result in public safety issues as a result of its close proximity to electrical equipment and the industrial operations at PEC. The use of lands for recreational active or passive use could also impede or preclude any future potential expansion of PEC.

Additionally, the former Hearn Generating Station is currently subject to a long-term lease and is presently used as a film studio for location filming. The film industry is a billion dollar industry that is an important component of the Toronto economy. The draft PLPF OPA sites that *Destination and Catalytic* uses would be permitted, however this does not reflect the uses of the current long term lease. It is our continued submission that the intended land uses proposed in the draft PLPF OP would create significant land use conflicts that are not in the public interest.

Lastly, Attachment 2 provides extracts of maps attached to the background report illustrating land ownership relative to the proposed land use direction. It is important to note that the major land use changes occur on the lands owned by OPG and there are few land use designation changes proposed to the lands owned by the City of Toronto.

3. Fragmentation of OPG's Lands

As illustrated on the two maps attached to our letter from May 25, 2017, the proposed extension of Broadview Avenue together with the proposed realignment of Unwin Avenue significantly bisects OPG's lands.

The location of the proposed realignment of Unwin Avenue and the extension of Broadview Avenue has the effect of sterilizing the lands to the west of the Broadview Avenue extension and the lands south of the Unwin Avenue realignment. The realignment of Unwin Avenue would also bring the road in extremely close proximity to the PEC site.

These proposed changes will result in a net loss of usable area for OPG and its tenants and therefore negatively impacts the functionality of the OPG's lands for current and future uses.

As noted above, it is only the OPG land holdings that have been so extensively used for public purposes when the lands are wholly owned by OPG.

4. Conclusions

On September 18, 2017 we received a letter from Ms. Cassidy Ritz, Project Manager for Strategic Initiatives responding to our May 25th letter. We have reviewed the responses and can confirm that although small modifications have been entertained our serious concerns remain unresolved and not appropriately addressed.

Our specific concerns as listed in the chart provided in our May 25, 2017 letter continue to be relevant and important. For the reasons as listed in this letter and our letter of May 25, 2017 we respectfully submit that it is premature for the PGMC to recommend approval of the Draft OPA in its present form. We also strongly object to Recommendation 7(a), being a direction to staff to initiate a zoning review of the Port and Industrial Districts in line with the Draft OPA.

We do not object to the notion of an updated framework to guide and shape urban renewal in the Port Lands, however our concerns have been known to City staff since 2005 and we do not believe that the current Draft OPA addresses our concerns.

OPG's solicitor, Mary Flynn-Guglietti from McMillan LLP, and a representative from OPG will be attending at the PGMP meeting on October 12, 2017 as a deputant and would be happy to answer any questions the PGMC may have. In the meantime should you have any questions please do not hesitate to call me.

Yours truly,



for Connie Hergert
VP, Real Estate & Services
Ontario Power Generation Inc.

Cc: Kevin Dick, Portlands Energy Centre

Attachments:

1. Letter from Mary Flynn Guglietti to Cassidy Ritz, dated May 25, 2017
2. Extracts from Portlands Planning Framework – Figure 15 Land Ownership (Page 27) and Figure 33 Land Use Direction (Page 96)



Reply to the Attention of	Mary Flynn-Guglietti
Direct Line	416.865.7256
Email Address	mary.flynn@mcmillan.ca
Our File No.	79074
Date	May 25, 2017

DELIVERED VIA EMAIL (critz@toronto.ca)

City of Toronto City Planning Division
Strategic Initiatives Unit
Metro Hall
22nd Floor, 55 John Street
Toronto, ON M5V 2C6

**Attention: Cassidy Ritz, Project Manager
Strategic Initiatives**

Dear Ms. Ritz:

Re: Draft Official Plan Amendment – The Port Lands

We are the solicitors retained to act on behalf of Ontario Power Generation Inc. (“OPG”) in connection with its properties located at 440 Unwin Avenue (the former Hearn Generating Station site) and 470 Unwin Avenue (the Portlands Energy Centre) located in the Central Waterfront Secondary Plan Area. You will recall that on April 12, 2017, we wrote to you to advise you that our client has significant concerns with the proposed amendment and that we will be providing detailed comments. Kindly accept this letter, which details OPG’s concerns regarding the proposed amendments to the Central Waterfront Secondary Plan (“CWS Plan”) with respect to lands located within the area known as the Port Lands.

History

OPG continues to have active appeals filed with the Ontario Municipal Board (“OMB”) regarding the City of Toronto Official Plan and the CWS Plan, also known as OPA 257, which have not yet been resolved or adjudicated by the OMB (the “OPG Appeals”). The OPG Appeals have been with the OMB since 2005. OPG and its solicitors have been engaged in active “without prejudice” settlement discussions with staff and the City solicitor’s office regarding the OPG Appeals for over 10 years without formal resolution. Throughout the past 10 years we have been informed by the City solicitor’s office that the CWS Plan appeals would be dealt with after most or all of the outstanding OMB appeals to the City’s Official Plan were resolved.

In March of 2017, we received correspondence from the City solicitor’s office informing us that the OMB would hold a pre-hearing for the CWS Plan on May 1, 2017. The purpose of the pre-hearing was to allow the City Solicitor to bring a motion requesting dismissal

of all outstanding OMB appeals of the City's Official Plan, being the CWS Plan for many of the original appellants, except for those that had continued to participate in the process. OPG was not identified as an appellant subject to the request to dismiss. However, the March 2017 correspondence stated that lands located within the Port Lands have been the subject of more recent planning studies and initiatives.

The Port Lands Planning Framework ("**PLPF**") process was initiated in 2012 and it is anticipated that it will be implemented with amendments to the former City of Toronto Official Plan and the CWS Plan. In discussions with City Solicitor Rob Robinson, we were informed that the planning documents that flow from this PLPF initiative would supersede and replace the policies within the existing City of Toronto Official Plan and the existing CWS Plan for lands located within the Port Lands.

As you are aware, OPG has articulated its concerns through participation in the PLPF process and through its original appeals of the earlier policy documents. In reviewing the draft Official Plan Amendment for the Port Lands ("**Draft OPA**") many of OPG's concerns clearly articulated in the OPG Appeals filed over 10 years ago continue to be unresolved. Specifically, the Draft OPA does not recognize the important existing land uses on OPG's lands within the Port Lands. For example, the Portlands Energy Centre provides essential energy to the downtown core and will continue to do so for the extended future. The former Hearn Generating Station site is currently subject to a long-term lease and is presently used as a film studio, which is part of a billion dollar industry that is an important component of the Toronto economy. It is our respectful submission that the intended land uses proposed in the Draft OPA are in direct conflict with the continued uses on OPG's lands and could create significant land use conflicts that are not in the public interest. The proposed new extension of Broadview Avenue onto OPG lands and the proposed realignment of Unwin Avenue would result in fragmented functionality of OPG lands and its ongoing uses, as well as create potential safety concerns.

We believe that the Draft OPA fails to acknowledge ownership of the OPG lands, as well as existing and long-term uses on these lands. We are attaching two plans, which illustrate the ownership of land in this area, being the OPG lands, the Hydro One lands and the TEDCO lands that are subject to a 999-year lease with OPG. It is clear from these plans that the proposed parks and open space system as well as the proposed cycling network occupies lands that are currently lands used by Hydro One for its high voltage switchyard and lands used by Portlands Energy Centre for its sub-station. The proposed cycle track and proposed Unwin Avenue realignment bisects OPG's lands and would create safety issues, land use conflicts and negatively impact the functionality of the site.

The following chart provides specific references to various policies in the Draft OPA that relate to the concerns as referenced above:

Proposed Policy	Page Reference	Comments
<p>Amend Policy 7.1 – The Central Waterfront Secondary Plan consists of the Core Principles, Big Moves and Policies, Maps A to E and Schedules A to C</p>	<p>2</p>	<p>OPG has concerns with Schedules A to C as follows:</p> <p>Schedule A proposes a realigned Unwin Avenue that fragments the Hearn property and limits the site’s functionality. The current tenant uses the lands that would be located south of Unwin Avenue for parking. Schedule A also proposes a new bridge across the channel with a roadway on OPG lands on the west side of the Hearn property. This new roadway, as proposed, would interfere with site movement for both the tenant and Hydro One that require access in this area.</p> <p>Schedule B provides for a potential streetcar right of way across the channel and onto the Hearn property, including what appears to be a turning area for streetcars. The proposed location of the turning area is in a parking area used by the existing tenant at the Hearn site.</p> <p>Schedule C (Map E) proposes new Parks and Open Space lands on the Hearn property as a result of the realignment of Unwin Avenue. These lands should remain designated Regeneration Area to provide flexibility in future use and design of these private lands.</p> <p>We believe that there are sufficient lands south of the existing Unwin Avenue to accommodate park and open space uses.</p>
<p>Amend Policy 7.5</p>	<p>2</p>	<p>Same concern as referenced above in that the policy proposes a new roadway (Broadview extension) on the Hearn property as a result of the bridge across the channel. The proposed ROW is 35 metres with protection for future streetcar service.</p>
<p>New Schedule C – Port Lands Area Specific Policy</p> <p>2.1.2 c) – The extension of Broadview Avenue will be a centrally located civic</p>	<p>4</p>	<p>OPG is concerned with adding a new roadway on the west portion of the Hearn site. There are numerous other opportunities for road connections including Cherry Street, Don Roadway, and Leslie Street. The addition of a new road on the west side of the Hearn site</p>

<p>spine into and through the Port Lands that extends across the Ship Channel, linking destinations along its way. It will include dedicated transit to Commissioners Street, with dedicated transit protected for south to the Hearn. The street will be aligned on the axis with the Hearn chimney stack, framing this iconic piece of Toronto history.</p>		<p>would frustrate existing access and parking for the current tenant and Hydro One.</p> <p>Also, it is unclear how the City has determined that the Hearn chimney stack is iconic. The stack is a visible feature in this area but it is not clear as to whether it should be referred to as iconic.</p>
<p>2.1.3 d) – Unwin Avenue...The street will be realigned in the vicinity of the Hearn and Port Lands Energy Centre to provide improved access, better engage with the Hearn and create a net environmental gain.</p>	<p>5</p>	<p>It is unclear how access will be improved and how a realigned road will better engage the Hearn property. In fact, the realignment of Unwin Avenue appears to limit lands available to the property owner and will fragment the property. Although there is a net environmental gain to the City by the proposed road realignment, this results in a net loss of usable areas for the land owners operating businesses, including film production and power generation at the Portlands Energy Centre.</p> <p>Has the City considered any potential transportation and traffic safety concerns with realigning Unwin Avenue so close to the Hearn stack (the realigned Unwin Avenue appears to abut the stack) What safety precautions would be implemented to ensure vehicular safety?</p>
<p>4.1.7 – The Hearn Generating Station</p>	<p>9</p>	<p>Although the proposed land use permissions appear to be more flexible, it is not clear as to whether adaptive re-use destination and catalytic uses are compatible with the existing uses at site, particularly given the presence of Hydro One and their site uses.</p>
<p>5.2.4 – An apron of generous open space will be provided adjacent to the west and south facades of the Hearn Generating Station building and any</p>	<p>12</p>	<p>Proposed open space is intended to support public events, naturalized plantings, seating areas on the south and west facades of the Hearn Generating Station building. This property is privately owned and should not be considered for public uses unless such future</p>

<p>associated adaptive reuse of this building. The open space will provide, but not be limited to:</p> <p>a) Public event gathering space;</p> <p>b) Space for naturalized plantings, particularly adjacent to Unwin Avenue;</p> <p>c) Other features such as passive green lawns and/or seating areas.</p>		<p>uses are considered in association with a future development application.</p> <p>Further to our concerns identified on Schedule A, the generous provision of open space on the west and south facades of the Hearn Station building may not be compatible with existing uses at site. For instance, the maintenance work on Hydro One's transmission equipment and the tenant's use of the Hearn property may conflict with public events/seating areas.</p> <p>A provision should be added to this draft policy to specify that the proposed uses will only be considered at such time as the existing uses discontinue or appropriate mitigation measures are installed to protect the public from noise and/or air emissions.</p>
<p>7.5.4 a) – Other city-wide community infrastructure priorities for the Port Lands include: Cultural facilities as part of the adaptive reuse of the Hearn.</p>	<p>17</p>	<p>There are no plans by the owner at this time to introduce cultural facilities to the Hearn property. The introduction of cultural facilities on the property would be best considered as part of any future development application.</p>
<p>8.7 – On publicly owned land....20 percent of the residential gross floor areas will be set aside for affordable rental housing.</p>	<p>19</p>	<p>Please confirm how publicly owned land is defined. OPG's lands should not be considered public lands.</p>
<p>9.10 – Land conveyed to the City for public streets will:</p> <p>9.10.1 be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements; and</p> <p>9.10.2 meet the City's policy for "Accepting</p>	<p>22</p>	<p>Unless directly associated with a development application, should the City choose to expropriate lands for the extension of Broadview Avenue across OPG's Hearn site, the onus should not be on the owner to provide the lands free and clear to the City. Same principle applies for Unwin Avenue.</p>

Potentially Contaminated Lands to be Conveyed to the City under the Planning Act".		
14.4 – Development, new utilities or new hydro electric infrastructure will not impede achievement of any planned infrastructure corridors or preferred alignments determined through the Environmental Assessment Act process and identified on Maps A or B.	32	This policy should be reversed. Any planned infrastructure corridors or preferred alignments determined through the EA Act process and identified on Maps A or B will not impede development, new utilities or new hydro electric infrastructure associated with existing facilities in the Port Lands. Existing businesses should not be encumbered by proposed changes being made by the City.

As noted in my correspondence dated April 12, 2017, both my client and I continue to welcome an opportunity to meet with City staff to discuss our concerns with the proposed draft OPA as it affects OPG's lands. We look forward to hearing from you.

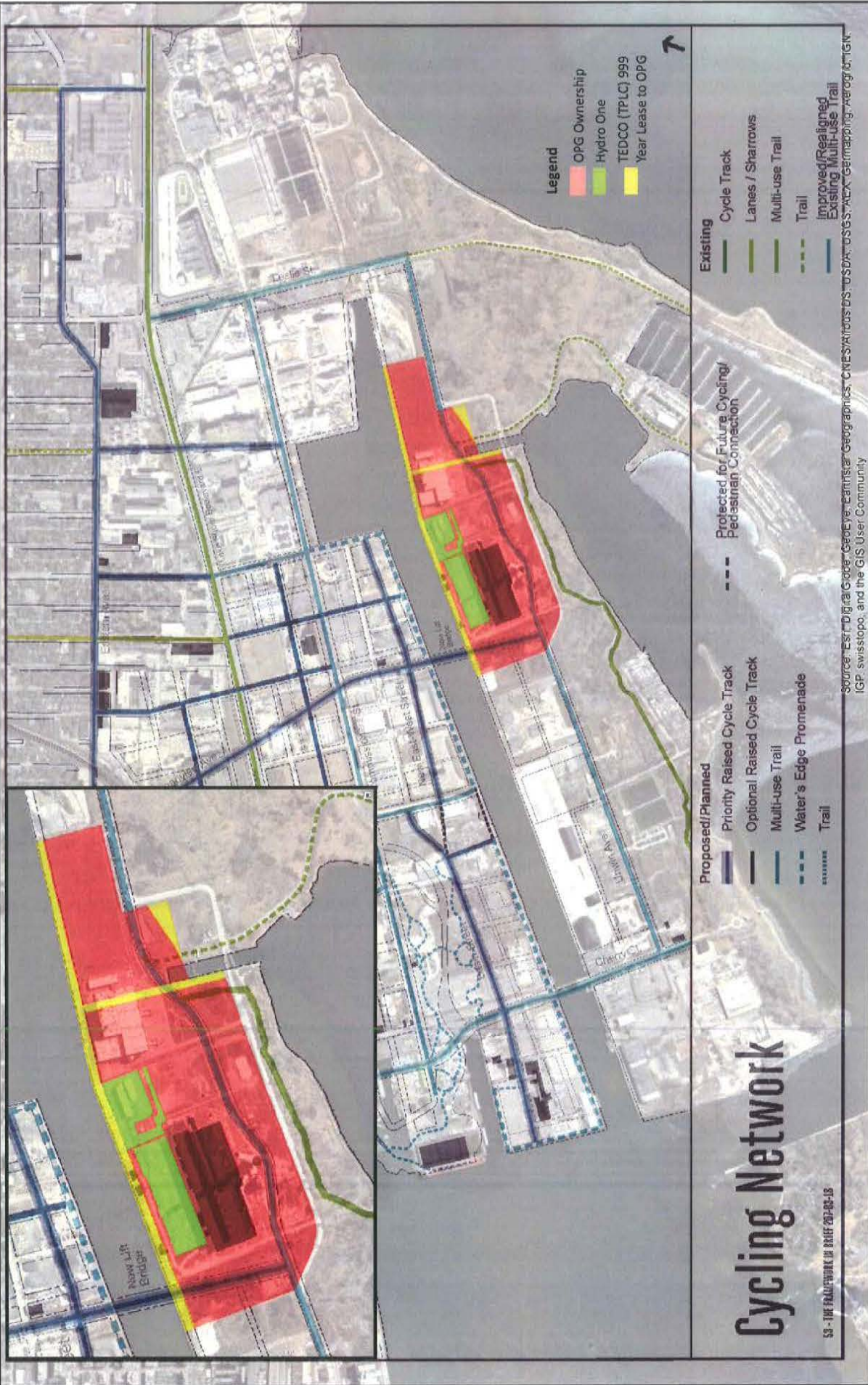
Yours very truly,



Mary Flynn-Guglietti

MFG/do
Attach.

Cc: Samantha Piane, Ontario Power Generation
Ray Davies, Ontario Power Generation
Cathie Sanford, Ontario Power Generation
Rob Robinson, Solicitor, City of Toronto
Kevin Dick, Facility Manager, Portlands Energy Centre
Lou Fortini, Director of Real Estate, Hydro One Networks Inc.



Legend

- OPG Ownership
- Hydro One
- TEDCO (TPLC) 999
- Year Lease to OPG

- Proposed/Planned**
- Priority Raised Cycle Track
 - Optional Raised Cycle Track
 - Multi-use Trail
 - Water's Edge Promenade Trail
- Existing**
- Cycle Track
 - Lanes / Sharrows
 - Multi-use Trail
 - Trail
 - Improved/Realigned Existing Multi-use Trail
- Protected for Future Cycling/ Pedestrian Connection**
-

Cycling Network

SS - THE TOWN OF BRIDGEVILLE

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, IGP, swisstopo, and the GIS User Community

Attachment #2

