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October 10, 2012

City Clerk
Administrator, Planning and Growth Management Committee
Toronto City Hall
100 Queen Street West, 10th Floor, West Tower
Toronto, ON
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Attention: Merle MacDonald

**RE: Toronto Official Plan Five-Year Review
Proposed Heritage and Public Realm Policies (OPA 199)
MMAH File No. 20-DP-2002-11010**

Please find enclosed comments from the Ministry of Municipal Affairs and Housing (MMAH) based on a review of the proposed Official Plan Amendment No. 199 (OPA 199). This amendment updates the City's policies with respect to heritage and public realm policies as part of the City's Five-Year Review of the Official Plan. This update is required to ensure that the Official Plan implements the provincial legislative and policy framework for heritage protection.

The Province recognizes the importance of and has an interest in the conservation of cultural heritage resources, including archaeological resources, built heritage resources and cultural heritage landscapes as matters of provincial interest reflected within the *Planning Act*, Provincial Policy Statement, 2005 (PPS) and *Ontario Heritage Act*.

Municipalities are required to update their Official Plans in accordance with the *Planning Act* and implement cultural heritage resources policies in accordance with the *Ontario Heritage Act*. In this regard, the Official Plan is the most important municipal document for implementation of the PPS and *Ontario Heritage Act* cultural heritage resources policies and regulatory framework.

Overall, we would like to commend the City's dedication and efforts towards protection and conservation of its heritage resources. The proposed cultural heritage policies support and implement provincial heritage policies and legislation, in particular Section 2.6 of the PPS and the provisions and policies of

the revised *Ontario Heritage Act*.

Through the One-Window Provincial Planning Service we have circulated the proposed heritage policies to the Ministry of Tourism, Culture and Sport (MTCS). Based on a review of proposed OPA 199, the following are outstanding comments for the City's consideration:

OPA 199 Policy No. 34 (previous Draft Policy No. 28)

As previously noted in our pre-consultation comments, it is recommended that the following sentence be added to the policy:

"Any alterations to known archaeological sites shall only be performed by licensed archaeologists."

Persons reading this Official Plan policy should be informed that only licensed archaeologists can conduct site alteration on lands containing archaeological resources of areas of archaeological potential. This is particularly important in areas such as Baby Point, an established neighbourhood located on top of an archaeological site (aboriginal village).

OPA 199 Policy No. 42

The Ministry acknowledges that the City has included a new policy for marine archaeological resources as recommended in our pre-consultation comments. However, the recommended wording has been modified in such a way that it could be seen as being inconsistent with the *Ontario Heritage Act*. The proposed policy currently states:

"The City may require an archaeological assessment for marine archaeological remains and artifacts, to be conducted by a licensed marine archaeologist, when a development is located in open water and/or may affect a fully submerged marine archaeological resource."

Ontario Regulation 170/04 (made under the *Ontario Heritage Act*) defines marine archaeological site as "an archaeological site that is fully or partially submerged or that lies below or partially below the high-water mark of any body of water."

The original recommended wording provided in our letter dated August 28, 2012 of "The remains may be partially or full submerged, they may currently be under water or were, at one time, under water but are no longer submerged" is meant to address such instances as the discovery of Queen's Wharf (and other artifacts) that were originally submerged but are now buried as a result of land infill along the former shoreline.

Therefore, the City may wish to consider the following wording for this policy:

"The City may require an archaeological assessment for marine archaeological remains and artifacts, to be conducted by a licensed marine archaeologist, when a development is proposed in the water or along the waterfront and/or shoreline."

We understand that the proposed heritage and public realm policies (OPA 199) will be considered by Planning and Growth Management Committee on October 12, 2012. We advise that we are, subject to the two modifications outlined in this letter, satisfied with and fully supportive of the proposed amendment.

By this letter, the Ministry would also appreciate receiving notification of the Council decision on the proposed OPA 199.

Should you have any further questions, please contact Karen Ho, Planner at 416-585-6862, Louis Bitonti, Senior Planner at 416-585-6563 or the undersigned at 416-585-6063.

Yours truly,



Mark Christie, MCIP, RPP
Manager, Community Planning and Development
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cc. Katherine Kirzati, Ministry of Tourism, Culture and Sport
Kerry A. Voumvakis, Acting Director, Policy & Research, Toronto
Scott Barrett, Senior Preservation Coordinator, Toronto
Paul Bain, Project Manager, OP Review, Toronto