



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Port Lands OPM OLT Appeals (Phase 2) - Further Request for Direction Report

Date: March 1, 2022

To: City Council

From: City Solicitor

Wards: Ward 14

REASON FOR CONFIDENTIAL INFORMATION

This report concerns litigation that affects the City of Toronto. This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

The Port Lands Official Plan Modification (the "Port Lands OPM" or "OPM") was first endorsed by City Council in December of 2017. Several appellants of the Central Waterfront Secondary Plan ("OPA 257" or "CWSP"), including public agencies, existing industries, and private owners with development aspirations, raised issues with the Port Lands OPM. Given the large number of parties and issues, the hearing of the Port Lands issues was planned to be phased.

The first phase dealt with Land Use and Transportation matters, and was resolved through negotiation and settlement discussions, resulting in Decisions and Orders of the Local Planning Appeal Tribunal in March and May of 2021, commending the City and the parties and approving the OPM in part. A five-week hearing is scheduled for May and June, 2022 to deal with the remaining issues (the Port Lands OPM Hearing (Phase 2)).

The parties have agreed to adjourn consideration of some Phase 2 issues pending ongoing City-wide work. Through settlement discussions, most of the remaining Phase 2 issues have been resolved. There are now only two outstanding parties with issues to be litigated: 309 Cherry and OPG/PEC. The remaining issues include matters related to: Urban Design Standards & Heritage; and Sustainability and Biodiversity.

The purpose of this report is to seek further instructions in respect of the Port Lands OPM Hearing (Phase 2). City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, and Confidential Appendices A and B to Confidential Attachment 1, once adopted by City Council.
3. City Council direct that the remainder of Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, as it contains information that is subject to solicitor-client and settlement privilege.

FINANCIAL IMPACT

There are no financial implications from the adoption of this report.

DECISION HISTORY

On December 5, 6, 7 and 8, 2017, City Council considered Item PG24.6, which, amongst other matters pertaining to the Port Lands Planning Initiatives, directed the City Solicitor to request the Ontario Municipal Board (now Ontario Land Tribunal, "OLT" or "Tribunal") to modify the former City of Toronto Official Plan and CWSP substantially in accordance with the Port Lands OPM, and to implement the Port Lands OPM at the on-going CWSP appeals proceedings before the OLT as appropriate.

For more information, see the Council consideration and Report for Action at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.6>
<https://www.toronto.ca/legdocs/mmis/2017/pg/bgrd/backgroundfile-107844.pdf>

Throughout 2019, 2020 and 2021, the parties to the Port Lands OPM Hearing worked together to structure the Port Lands OPM hearing in phases, and to resolve the Phase 1 hearing issues.

City Council considered a number of reports from the City Solicitor and endorsed a number of proposed policy modifications that resolved the Phase 1 issues and resulted in the issuance of a partial approval of the OPM, as set out in written Decisions and Orders of the Tribunal issued on March 8 and May 18, 2021 in Tribunal Case No: PL030514.

For background on the resolution of the Phase 1 Port Lands OPM hearing and issues, see the Council consideration and related reports at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC22.9>
<https://www.toronto.ca/legdocs/mmis/2020/cc/bgrd/backgroundfile-148177.pdf>
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC27.5>
<https://www.toronto.ca/legdocs/mmis/2020/cc/bgrd/backgroundfile-159283.pdf>
<https://www.toronto.ca/legdocs/mmis/2020/cc/bgrd/backgroundfile-159471.pdf>
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC30.12>
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC31.14>

Subsequent to the Phase 1 Settlement hearing, the City engaged in without prejudice discussions to try and resolve the Phase 2 issues. On December 15, 16 and 17, 2021 City Council considered Item CC38.12, which directed the City Solicitor to support a number of proposed policy modifications at the OLT, Port Lands OPM Hearing (Phase 2). For more information, see the Council consideration at the following link:

[Agenda Item History - 2021.CC38.13 \(toronto.ca\)](#)

On February 2 and 3, 2022 City Council considered Item CC39.5, which directed the City Solicitor to support further modifications at the OLT, Port Lands OPM Hearing (Phase 2). For more information, see the Council consideration at the following link:

[Agenda Item History - 2022.CC39.5 \(toronto.ca\)](#)

COMMENTS

Background on Settlement Discussions

Staff have continued without prejudice discussions with the remaining appellants with a view to resolving or further narrowing the outstanding issues for the hearing. The purpose of this report is to provide an update on the outcome of these discussions and to seek further instructions.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Report from City Solicitor
Confidential Appendix A to Confidential Attachment 1 - Confidential Information
Confidential Appendix B to Confidential Attachment 1 - Confidential Information