

Response to MM11.39 - Protecting the Process for Tree Removal at Ontario Place - Supplementary Report

Date: November 6, 2023

To: City Council

From: City Solicitor

Wards: Ward 10 - Spadina-Fort York

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

SUMMARY

On October 11-12, 2023, City Council adopted MM11.39 directing the Acting General Manager, Parks Forestry & Recreation and the Chief Planner and Executive Director, City Planning, in consultation with the Senior Manager, Heritage Planning, the Director, Waterfront Secretariat, and the City Solicitor, as necessary, to report to the November 8-10, 2023 meeting of City Council regarding requirements applicable to the removal of trees within Ontario Place, in particular as it relates to Heritage Impact Assessments and Environmental Assessments for Ontario Place, in advance of City Council making a decision in respect of development applications filed by Infrastructure Ontario (Application 22 233864 STE 10 OZ). In the same item, City Council also directed the City Solicitor to report to the same meeting of Council evaluating the City's legal options in light of the report from the Chief Planner and Executive Director, City Planning.

The purpose of this supplementary report is to respond to the latter direction of City Council Decision Item MM11.39.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council receive this report and Confidential Attachment 1 to this report from the City Solicitor for information.

2. City Council direct that all information contained in Confidential Attachment 1 to this report from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice or communications that are subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

City Council Decisions

On October 11, 2023, City Council directed the Acting General Manager, Parks Forestry & Recreation and the Chief Planner and Executive Director, City Planning, in consultation with the Senior Manager, Heritage Planning, the Director, Waterfront Secretariat, and the City Solicitor, as necessary, to report to the November 8-10, 2023 meeting of City Council regarding requirements applicable to the removal of trees within Ontario Place, in particular as it relates to Heritage Impact Assessments and Environmental Assessments for Ontario Place, in advance of City Council making a decision in respect of development applications filed by Infrastructure Ontario (Application 22 233864 STE 10 OZ). City Council also directed the City Solicitor report to the same meeting of Council evaluating the City's legal options in light of the report from the Chief Planner and Executive Director, City Planning. City Council's decision may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.MM11.39>

On April 12, 2023, City Council adopted TE4.36 Ontario Place - Official Plan Amendment and Zoning By-law Amendment - Status Report which directed staff to continue to use the Guiding Principles for the Revitalization of Ontario Place, intended to be read and interpreted in the context of the Central Waterfront Secondary Plan, in the review of the Official Plan Amendment and Zoning By-law Amendment applications for the Ontario Place redevelopment. City Council's decision may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE4.36>

On February 2, 2022, City Council adopted [EX29.5 Ontario Place Redevelopment - Priority Areas for Collaboration and Development Approvals Process](#) which, among other things:

- Directed staff to report back on a status update on the review of the development applications, which were submitted to the City on November 25, 2022;
- Directed staff to report back on a general update on the Ontario Place Redevelopment;

- Requested staff to continue with a robust public consultation and stakeholder engagement process to inform the City's review of the Ontario Place redevelopment; and
- Authorised the Deputy City Manager, Infrastructure and Development Services to negotiate and execute an "Ontario Place Redevelopment Agreement", in a form acceptable to the City Solicitor, based substantially on the Toronto-Ontario Major Terms and Conditions before City Council on the Item.

On June 8, 2021, City Council adopted [EX24.3 Ontario Place Redevelopment Update](#), which directed staff to report back on:

- A formal Toronto-Ontario agreement on priority areas for collaboration on the Ontario Place redevelopment; and
- The process that will be utilized for *Planning Act* and *Ontario Heritage Act* approvals for the Ontario Place redevelopment.

On September 30, 2020, City Council adopted [TE18.42 Exhibition Place Master Plan - Phase 1 Proposals Report](#) which directed the City Council to rely on the findings of the Phase 1 Proposals Report to:

- a) inform future conversations with the Province regarding the joint revitalization of Ontario Place and Exhibition Place; and
- b) inform future consultations with Metrolinx regarding the Ontario Line.

On May 14, 2019, City Council adopted [EX5.1 Ontario Place/Exhibition Place Revitalization](#) which directed City staff to engage the Province in developing a joint strategy to plan the future of Ontario Place and Exhibition Place in a collaborative, cooperative, and consultative manner with all stakeholders, and adopted five Guiding Principles for the revitalization of Ontario Place.

On May 14, 2019, City Council received information [TE5.27 Ontario Place Revitalization - Results of Subcommittee Consultation, Guiding Principles and Next Steps](#) which considered feedback from the public that came through the Subcommittee on Ontario Place established by the Toronto and East York Community Council.

On May 14, 2019, City Council adopted [EX5.1 \(supposed by PB5.4\) Inclusion on the City of Toronto's Heritage Register - 955 Lake Shore Boulevard West - Ontario Place](#), which added Ontario Place to the City's Heritage Register in accordance with a Statement of Significance outlining the reasons for inclusion.

Province of Ontario, Ontario Place Information

Documents and information pertaining to the Ontario Place revitalization are found here: <https://engageontarioplace.ca/documents/>

On July 4, 2023, Infrastructure Ontario issued a Notice of Completion for the Category C Public Work Class Environmental Assessment completed for Ontario Place, which excludes the "shaded areas" identified on the figure on page 1 of the Notice being the West Island where the Therme Project is proposed and the Live Nation portions of the site.

The Notice of Completion may be found here:

https://engageontarioplace.ca/wp-content/uploads/2023/06/OP-Notice-of-Completion-Newspaper-Ad_Final_EN-1.pdf

A Final Environmental Study Report has not been posted at the time of preparing this report.

On November 25, 2022, the Minister of Citizenship and Multiculturalism approved the Strategic Conservation Plan for Ontario Place under the Province's Standards and Guidelines for Conservation of Provincial Heritage Properties pursuant to the Ontario Heritage Act - Part III.1. The approved Strategic Conservation Plan may be found here:

https://engageontarioplace.ca/wp-content/uploads/2022/12/Ontario-Place_Strategic-Conservation-Plan_2022.11.24-1.pdf

In July of 2022, Infrastructure Ontario posted a Final Notice of Completion for the Category B Public Works Class Environmental Assessment for the site servicing undertaking at Ontario Place (to reconfigure and facilitate water, wastewater, stormwater, electrical, telecom, gas and other similar connections) following a 60-day formal consultation on the draft documents from April 28, 2022 to June 30, 2022:

<https://engageontarioplace.ca/wp-content/uploads/2022/05/OP-Cat-B-EA-Site-Servicing-Notice-of-Completion-26May2022-en.pdf>

The Final Notice of Completion was required to also be in compliance with the approved Consultation and Document Report dated July 15, 2022:

<https://engageontarioplace.ca/wp-content/uploads/2022/07/OP-Cat-B-EA-Site-Servicing-CD-Report-July-8EN.pdf>

COMMENTS

In adopting Item MM11.39, Council indicated a concern respecting the tree removal on Ontario Place and in areas of the site where a Heritage Impact Assessment had not been completed. As the Province indicated that they will not be formally applying for permits, Council also raised a concern in this respect. Council also raised a further concern that all tree removal plans should ensure that the appropriate regulatory and planning processes have been completed before they are undertaken.

Confidential Attachment 1 contains advice or communications that are subject to solicitor-client privilege and are provided in response to the direction by City Council at its October 2023 meeting.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Information