

May 8, 2024

BY EMAIL TO: phc@toronto.ca

Planning and Housing Committee
City of Toronto
Toronto City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

ATTENTION: Nancy Martins, Committee Administrator, Planning And Housing Committee

Dear Members of Planning and Housing Committee:

**Re: PH 12.1 – Update Downsview: Secondary Plan, Zoning By-law, Urban Design Guidelines and Master Environmental Servicing Plan - Final Report
Toronto Official Plan Amendment No. 716 ("OPA 716")
Canada Lands Company**

(i) Introduction

Aird & Berlis LLP is counsel to Canada Lands Company ("**CLC**"), a Crown corporation of the Government of Canada. Parc Downsview Park ("**PDP**"), a subsidiary of CLC, is the owner of Downsview Park in the City of Toronto (the "**City**"). CLC is responsible for over 500 acres of PDP land within the Downsview area.

We are writing on behalf of CLC to provide comments on Item PH 12.1 regarding the City Planning and Transportation Services report titled "Update Downsview: Secondary Plan, Zoning By-law, Urban Design Guidelines and Master Environmental Servicing Plan - Final Report" (April 23, 2024) (the "**Staff Report**") and the accompanying proposed updated Downsview Secondary Plan (the "**Downsview SP**") included as Official Plan Amendment No. 176 ("**OPA 176**") and appended as Attachment 1 to the Staff Report.

CLC has engaged in extensive consultation with City staff throughout the comprehensive planning framework process for the Downsview area, including in the creation of the updated Downsview SP. As a result of these collaborative efforts, CLC is pleased to support the the updated secondary plan that is now before this Committee, with the exception of one area of outstanding concern. Specifically, CLC remains significantly concerned with Policy 7.5.3 and Schedule 3 of the proposed plan addressing cultural heritage resources located on lands under the ownership of PDP. As Policy 7.5.3 notes, cultural heritage resources on lands under the ownership of PDP are exempt from the *Ontario Heritage Act*, R.S.O. c. O.18 (the "**OHA**"). Furthermore, heritage resources that are owned and identified by the federal government are subject to federal policies and procedures for the conservation of same.

For the reasons more specifically provided below, the proposed policy and schedule, in their current form, fail to properly account for the legal framework governing federally owned resources.

Importantly, Policy 7.5.3 and Schedule 3 represent an attempt to include listing statements and property descriptions for the PDP lands that are inappropriate for a secondary plan document and which will impose obligations that are inconsistent with both the jurisdiction of the City as well as the proper operation of the *OHA*. As a result, CLC requests that the Committee make such amendments as necessary to address these significant concerns with the plan.

(ii) Concerns with Policy 7.5.3 and Schedule 3 of the Proposed Downsview SP

As noted above, CLC has concerns with policy 7.5.3 and the related Schedule 3 as currently proposed in the draft Downsview SP. Policy 7.5.3 as currently drafted reads as follows:

7.5.3. Cultural Heritage Resources located on lands under the ownership of the federal government and its corporations and which are exempt from the Ontario Heritage Act are described in Schedule 3, and will be conserved in consideration of the Standards and Guidelines for the Conservation of Historic Places in Canada.

Schedule 3, which is referenced in the above policy, includes the following introductory text:

Cultural heritage resources located on lands under the ownership of the federal government and its corporations and which are exempt from the Ontario Heritage Act, as referenced in policy 7.5.3, are identified below

The Schedule then proceeds to identify certain properties and buildings located on PDP's lands as well as property descriptions, statements of significance, and lists of heritage attributes.

Both Policy 7.5.3 and Schedule 3 expressly recognize the unique status of PDP's lands. However, the operation of that policy and schedule serve to impose municipal heritage requirements on federally owned land and buildings that are not appropriate for a secondary plan document and that additionally conflict with the listing process intended by the recently amended *OHA*.

Firstly, it is inappropriate for Schedule 3 to include statements of significance for PDP properties (or, in fact, any properties) as an appendix to the Downsview SP. These statements of significance are outside the scope of the Downsview SP and are properly dealt with through applicable heritage legislation. It is our understanding that no other official plan or secondary plan in Toronto includes heritage listing statements as currently proposed in Schedule 3 to the Downsview SP. To do so here, particularly only for PDP properties, is inconsistent with the City's own approach to cultural heritage policies in other secondary plans and, importantly, is an attempt to inappropriately incorporate by reference such statements of significance into the Downsview SP. The cultural heritage resource policies of the Downsview SP identify the cultural heritage resources in the plan area, and do not require the inclusion of such listing statements. Schedule 3 and Policy 7.5.3 are particularly problematic because they both note that PDP owned properties are not subject to the *OHA*.

Secondly, including statements of significance as Schedule 3 to the Downsview SP fails to appropriately recognize that properties which are currently listed on the City's heritage register may be removed in the near future. Recent changes to the *OHA* provide that listed properties shall be removed from the City's heritage register after two (2) years if they are not successfully designated by the municipality. In the case of the properties proposed to be included in Schedule

3, this will be on January 1, 2025. As a result, the heritage status of all buildings in Ontario (including those owned by PDP) is not static, and is subject to change. Therefore, including statements of significance for PDP properties in Schedule 3 of the Downsview SP that may be removed from the City's heritage register in future fails to recognize this legislative intent of the *OHA*.

Thirdly, the current wording of Policy 7.5.3 requires that the PDP owned cultural heritage resources described in Schedule 3 "will be conserved in consideration of the Standards and Guidelines for the Conservation of Historic Places in Canada". This policy inappropriately connects the conservation of PDP owned buildings with the statements of significance proposed to be included in Schedule 3. CLC is extremely concerned that the requirement of Policy 7.5.3 to conserve those properties as described in Schedule 3 exceeds the jurisdiction of the City to direct the conservation of PDP owned sites and inappropriately incorporates by reference listing documents for properties that may be removed from the City's heritage register in the near future.

Finally, Schedule 3 serves no purpose beyond inappropriately attempting to include the statements of significance for PDP properties. A list of identified cultural heritage resources in the Downsview SP area is already included on Map 7-10. Map 7-10 identifies the same buildings on PDP lands that are also found in the proposed Schedule 3. As a result, Schedule 3 is not necessary to the operations of the remaining cultural heritage resource policies of the plan, and should be deleted.

(iii) Conclusion

For the reasons above, CLC remains significantly concerned with the intention and proposed operation of Policy 7.5.3 and Schedule 3 of the proposed Downsview SP. Although both the policy and schedule recognize the unique status of PDP owned lands, Policy 7.5.3 and Schedule 3 represent an attempt to include listing statements and property descriptions for the PDP lands that are inappropriate for a secondary plan document and which will impose obligations that are inconsistent with both the jurisdiction of the City as well as the proper operation of the *OHA*.

In order to address these concerns, CLC respectfully requests Planning and Housing Committee amend the proposed Downsview SP to delete Schedule 3 in its entirety and further amend Policy 7.5.3 to remove reference to that Schedule.

Yours truly,

AIRD & BERLIS LLP



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