



Date: September 5th, 2024

VIA ELECTRONIC MAIL to kyle.fearon@toronto.ca

City of Toronto
City Planning Division
Strategic Initiatives, Policy & Analysis
Metro Hall
22nd Floor
55 John Street
Toronto, Ontario
M5V 3C6

Attention: Kyle Fearon, Senior Planner

Dear Mr. Fearon:

Comments of Toronto Hydro-Electric System Limited ("Toronto Hydro") on the Draft Official Plan Amendment 528 ("OPA 528") – Policy Changes Regarding Disposal of Lands for Infrastructure Projects in Parks and Open Space Areas.

Toronto Hydro appreciates the opportunity to participate in the process regarding changes to the Official Plan relevant to infrastructure projects in City owned parks and open spaces.

Toronto Hydro understands and values the importance of our public parks and open space areas. The benefit of preserving public parks and open space is obvious, as is the importance of ensuring the supply of electricity through our distribution system. These interests are compatible and are routinely balanced and reconciled. Although our design teams consider the avoidance of parks and other sensitive lands during their assessment process, so that the placement of infrastructure in parks is considered only when there is no reasonable alternative available, such infrastructure can be designed and installed in a manner which does not create an unacceptable impact upon the use of such lands. Therefore, we welcome the introduction of amendments which will allow for a reasonable, efficient and balanced review of any request to place infrastructure within a public park or other open space, to allow for the effective and efficient distribution of electricity to the public and to mitigate any impact upon the use of such space, so that such impact is reasonable and manageable.

As you know, we have been monitoring and participating in the process related to OPA 528. Generally, we are supportive of the City initiative to remove the requirement for an official plan amendment in order to facilitate a long term utility easement within City-owned Parks and Open Spaces within the *Green Space System* or the *Natural Heritage System*. We understand that a final report, concerning OPA 528, is scheduled for consideration by the Planning and Housing Committee on September 26, 2024.

Based upon the public consultation and stakeholders' meetings in the Fall of 2023, we note that revisions were made to the proposed OPA 528, so that it currently reads as follows:

Updated (March 7, 2024) Draft Policy 4.3.9

“The sale or disposal of City-owned lands in *Parks and Open Space Areas*, within the *Green Space System* or the *Natural Heritage System*, may occur where the lands will be restored and enhanced, all existing development criteria of this Plan are satisfied, including those in Policy 4.3.6 and the appropriate assessment referenced in Policy 4.3.2, and the sale or disposal:

- a) is to a public agency for the purpose of undertaking a conservation project; or
- b) is an easement necessary to allow for essential underground public works and utilities and associated access points and control panels, where there is no reasonable alternative and there is no restriction to public access to parkland except during construction and maintenance.”

(the “**Draft Policy**”). We have reviewed the Draft Policy and we comment as follows:

1. Requirement to “restore and enhance”

We request that this requirement be limited to “restored”, so that the word “enhanced” is deleted as the Draft Policy contemplates that a request will be refused if the land will not be “enhanced”, even if it can be “restored”. In light of the need for the easements that Toronto Hydro requires and the importance of preserving the distribution system, it is our position that requiring “enhancement”, in addition to “restoration”, is unreasonable and an unfair burden upon Toronto Hydro and our customers.

2. Clarification of the requirement to satisfy “all existing development criteria of this Plan”

We appreciate having heard the confirmation from Planning Staff on March 28, 2024, that only the provisions of the Official Plan which apply to 4.3.9 will apply to any project being proposed through the new application process contemplated in the Draft Policy. However, the Draft Policy must be amended consistent with these statements, so that this new process will, in fact, benefit the City and infrastructure provider and save time and staff resources.

3. Appropriate Assessment

We request further information and clarity regarding the City's process for conducting and obtaining approval for an "appropriate assessment", as required by the Draft Policy for Toronto Hydro projects in parks and open space areas. In particular, the Draft Policy must clearly explain what an “appropriate assessment” means, who is to provide it and what process is required.

4. Only Underground Utility Easements

While Toronto Hydro appreciates the preference for underground easements, we are concerned that the Draft Policy is limited to “underground public works and utilities”. It is not reasonable to refuse to consider a request for overhead and above grade facilities in certain cases, particularly as above grade facilities are sometimes the only practical way

to meet service needs, and do not always result in a material impact upon the park or open space. Accordingly, consideration must be given to the inclusion of overhead and above grade facilities. Toronto Hydro has no objection to a process in which it would be obliged to identify what alternatives were explored and provide adequate evidence that there are no reasonable alternatives to an underground installation.

5. No Specified Time Periods for Review

The Draft Policy fails to specify any timelines to be adhered to by the City for review and the making of a decision. We request that the proposed Draft Policy include a processing timeline in keeping with the legislated processing requirements for an official plan amendment under the *Planning Act*. If the objective is to create a more efficient system, such specified time periods are essential.

6. No provision for Emergency Relocation or Urgent Need

Toronto Hydro provides an essential service to the city. Accordingly, the Draft Policy must include a provision permitting an expedited process for an overhead or above grade emergency relocation or urgent need, even if it is by way of a licence for a limited duration, with sufficient time to apply for and secure an ordinary approval under the Draft Policy.

7. Appeal Rights

The Draft Policy must include an appeal process to an independent body if the permission requested under the Draft Policy is refused. The Draft Policy must also confirm there is an option to reapply for approval with an alternative approach. Unlike the process for an Official Plan Amendment which has an imposed timeline and an opportunity to appeal to the Ontario Land Tribunal, the proposed process under the Draft Policy has no timelines and is subject to staff discretion with no appeal rights. The Draft Policy must also include provision for a utility to apply for an Official Plan Amendment, either at the same time as or as an alternative to proceeding by way of the new Policy 4.3.9.

8. Process

Please amend the Draft Plan in order to confirm that the proposed process will not involve public consultation. Please also specify what fees (if any) will be required for this process.

9. Public Access

The Draft Policy states that there be “no restriction to public access to parkland except during construction and maintenance”. The Draft Policy should include provision allowing for a reasonable restriction in access to the infrastructure installed for safety reasons.

We would be pleased to meet with you in order to discuss these matters further. Kindly advise us of your availability for such a meeting at your earliest opportunity.

We appreciate this opportunity to provide our comments.

Yours truly,

Irfanali Gulamhusein
Manager, Facilities (*Real Estate*)

TORONTO HYDRO-ELECTRIC SYSTEM LIMITED
71 Rexdale Blvd.
Toronto, ON M9W 6Y2
T: (416) 542-3100 x42154
IGulamhusein@TorontoHydro.com

cc: Brandon Paniccia, Project Coordinator
City of Toronto Planning Division
brandon.paniccia@toronto.ca