ATTACHMENT 1

September 3, 2026

File No. 307998

BY EMAIL - RegistrarCCO@toronto.ca

Toronto City Clerk
City Clerk's Office
City of Toronto
Toronto City Hall, 2nd Floor
100 Queen Street West
Toronto, Ontario
M5H 2N2

ATTENTION: John D. Elvidge, Toronto City Clerk
Registrar Secretariat

Dear Mayor Chow and Members of City Council:

Re: Notice of Objection to Notice of Intention to Designate 39 Wynford Drive, Toronto
Section 30(5) of the *Ontario Heritage Act*

Please be advised that Aird & Berlis LLP is counsel to 39 Wynford Inc. ("**Brookfield**" or our "**Client**"), the owner of the property municipally known in the City of Toronto as 39 Wynford Drive (the "**Property**"). The Property is approximately 1.6 hectares (4 acres) in size and currently contains a four (4) storey office building. The Property is intended to be redeveloped by Brookfield as a transit-supportive, mixed-use complete community.

On July 29 and 39, 2026, Toronto City Council adopted Item PH32.14 and stated its intention to designate the Property under Part IV, Section 29, of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18 (the "**OHA**")[1] in accordance with the Statement of Significance from the Chief Planner and Executive Director and Heritage Planning staff included as Attachment 1 to the report from Heritage Planning staff dated June 15, 2026 (the "**Staff Report**").

Following Council's decision, the City issued a Notice of Intention to Designate the Property dated August 4, 2026 (the "**NOID**"). Consistent with section 30 of the OHA, the NOID advised that a notice of objection to the NOID may be submitted by the Property within 30 days from the date of the NOID, which is September 3, 2026.

The purpose of this letter is to formally object to the proposed designation of the Property pursuant to subsection 29(5) of the OHA.

For the reasons more specifically detailed below, we are writing to express our Client's significant objection regarding Council's intention to proceed with designation of the Property at this time because it is premature to do so in light of ongoing City-initiated and site-specific planning

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[1] The *Ontario Heritage Act*, R.S.O. 1990, c.O.18 can be accessed here: https://www.ontario.ca/laws/statute/90o18#BK37

processes for the Property and the surrounding area. In addition, Brookfield's heritage planning consultant, ERA Architects Inc. ("**ERA**"), have also identified fundamental concerns regarding the statement of significance and description of heritage attributes as proposed in the draft by-law.

Background and Active Development Appeals and Applications for the Property

The Property is located at the southeast corner of Wynford Drive and Gervais Drive within the approved Aga Khan Park & Museum Major Transit Station Area ("**MTSA**") and is in close proximity to both the Aga Khan Park & Museum LRT Station and the Don Mills Station LRT Station on TTC Line 5, the latter of which will also connect to the future Ontario Line subway.

The Property, along with the two adjacent sites at 15 Gervais Drive and 1200 Eglinton Avenue East, collectively comprise the "**Wynford Gervais Site**". The Wynford Gervais Site has long been envisioned to be redeveloped as a transit-supportive, mixed-use complete community. The properties located within the Wynford Gervais Site are owned by three separate landowners who have been working collaboratively for a number of years to put forward a coordinated design for the lands. This vision is reflected in site-specific applications that were recently filed (or are anticipated to be filed) with the City on behalf of each landowner, including Brookfield, as discussed further below.

Through the most recent Municipal Comprehensive Review process, the Property was adopted by City Council and approved by the Minister of Municipal Affairs and Housing for conversion from *Employment Areas* to *Regeneration Areas* through Official Plan Amendment 653 and Site and Area Specific Policy 828 ("**SASP 828**") in order to permit mixed-use redevelopment of the Property following completion of a local area study.

The City has undertaken two City-initiated local area studies that include the Property: the first is known as the Wynford-Concorde Focused Area Study and the second is known as the Don Mills Regeneration Area Study (which proposes to amend SASP 828). The Wynford-Concorde Focused Area Study and the Don Mills Regeneration Area Study were recently adopted by City Council as Official Plan Amendment No. 902 ("**OPA 902**") on May 21, 2026, and Official Plan Amendment No. 911 ("**OPA 911**") on June 25, 2026, respectively. Brookfield, through its planning consultants, Bousfields Inc., has actively participated in both the Wynford-Concorde Focused Area Study and the Don Mills Regeneration Area Study processes and have made various submissions to Staff and Council regarding OPAs 902 and 911, including identifying concerns with the proposed heritage-related policies in OPA 911. As a result of these outstanding concerns, Brookfield has now appealed both OPAs 902 and 911 to the Ontario Land Tribunal (the "**Tribunal**" or "**OLT**"). Accordingly, OPAs 902 and 911, including the heritage-related policies, are not in-force on the Property.

In addition to the City-initiated instruments identified above, our Client has submitted a site-specific Official Plan Amendment application (the "**OPA**") to support the redevelopment of the Property. The site-specific OPA was filed on April 28, 2026 and deemed complete on June 3, 2026, and is known as municipal file no. 26 150475 NNY 16 OZ. It is currently being reviewed by City staff, including Heritage Planning staff. The draft site-specific OPA proposes to redesignate the Property from *Regeneration Areas* to *Mixed Use Areas*, which is also consistent with the proposed designation of the Property in the proposed OPA 911. The draft OPA also introduces a new SASP, which provides a planning framework to guide the redevelopment of the Property, and includes policies related to land use, public realm, built form, mobility and parks as well as heritage matters. Despite filing the site-specific OPA in April 2026, we have yet to receive any

comments from staff regarding the proposed OPA, including about heritage matters. In addition to our below comments on the prematurity of this proposed designation, this is yet another reason why the proposed designation appears to be premature.

OPA 902, OPA 911, and the site-specific OPA remain live matters subject to OLT appeal or continued review by City staff.

Heritage Impact Statement Supports Site-Specific Development Proposal

As part of the site-specific OPA submission, a Heritage Impact Assessment of the Property and existing structure dated April 22, 2026 (revised June 1, 2026) was submitted by ERA Architects, our Client's heritage architecture and planning consultant (the "**HIA**")[2].

The HIA identified the first two floors of the existing office building structure to contain some heritage value but noted that the later additions of the third and fourth floors do not.

The HIA proposes a conservation strategy that ensures that portions of the existing building will be maintained, with opportunities to remove later incompatible additions on the Property, which provides an opportunity to remove later incompatible additions. ERA proposes that the primary conservation strategy for the Property is rehabilitation and the secondary strategy is restoration, where the aesthetic of the original design will be re-established. The siting of the resource will also help frame important new public features of the design, including a new park.

It is ERA's professional opinion that the proposed development will appropriately mitigate heritage impacts, while responding to nearby transit investment through intensification. The proposed development provides new residential and non-residential uses, a public park, and landscape improvements while maintaining and enhancing those heritage features that have value to the Property.

Heritage Planning staff continue to review the HIA, and it is our understanding that they have not yet provided their comments. The proposed Heritage designation is therefore premature in the absence of receiving staff's comments on the already submitted HIA.

Designation of the Property Remains Premature and Should be Coordinated with Planning Instruments

On November 17, 2025, we wrote to the Toronto Preservation Board requesting a deferral of Item PB37.3, which at that time had proposed designation of the Property. As our submission noted, the deferral was necessary to allow the ongoing local area studies applicable to the Property to be completed. As we also noted at that time, the deferral was required to provide sufficient time for Heritage staff and Brookfield to meaningfully discuss a potential designation through that study process, and to carefully consider how the Property can be best used in the future. In the interest

[2] The Heritage Impact Assessment by ERA Architects dated April 22, 2026 (revised June 1, 2026), as well as the supporting materials submitted by Brookfield in support of its site-specific OPA, can be accessed from the City's Application Information Centre at the following link: https://www.toronto.ca/city-government/planning-development/application-details/?id=5820627&pid=424537&title=39-WYNFORD-DR

of good planning and ensuring consistency across provincial and City objectives, consideration of any proposed designation of the Property must properly include consideration for the planned context of the Property and the outcomes of those studies.

In order to facilitate the deferral, and to demonstrate Brookfield's commitment to working with Heritage staff through the OPA 911 process, Brookfield voluntarily revoked the demolition permit (no. 25 222936 DEM 00 DM) for the Property, which was issued October 31, 2025. On November 12, 2025, Toronto Building confirmed in writing that the demolition permit had been revoked.

On December 17, 2025, City Council considered amended recommendations put forward by Heritage Planning staff through a supplementary report and deferred consideration of the designation of the Property. Instead, Council listed the Property on the City's Heritage Register. Council further requested Heritage Planning to continue consulting with Brookfield regarding the proposed designation of the Property through the still ongoing OPA 911 process.

On July 16, 2026, Toronto Planning and Housing Committee again considered the Staff Report put forward by Heritage Planning that recommended City Council state its intention to designate the Property. We made written submissions, dated July 15, 2026, and an oral deputation to the Committee, strongly opposing these recommendations on the grounds that they were premature and expressing deep concerns with the overly broad Statement of Significance, which included elements such as the third and fourth floor that, in ERA's professional opinion, do not have heritage value. The Committee, and later City Council, ignored these submissions and proceeded to adopt the recommendations of the Staff Report.

As noted above, OPA 911 as well as the site-specific OPA both contain heritage-related policies that will impact the application of any proposed heritage designation of the Property. Our Client has identified significant concerns with the heritage policies of OPA 911 (including proposed policies 9, 26, 27, 33, and 45) and their potential application, and the proposed heritage policies of the site-specific OPA remain under review by City staff. Neither OPA 911 nor the site-specific OPA are as of yet approved or in-force, and in the case of OPA 911, its policies have been appealed by our Client.

Therefore, it remains premature to designate the Property at this time. As noted above, there remain central heritage policy issues relating to the heritage merits of the Property that remain live and have not yet been resolved. In the interest of good planning, the question of designation – and the associated description of heritage attributes – should properly be coordinated and considered in conjunction with OPA 911 and Brookfield's site-specific OPA, both of which are subject to ongoing planning processes.

Finally, there is no urgency to proceed with the designation at this time. Pursuant to subsection 27(15) of the OHA, the Property will remain on the Toronto Heritage Register until the second anniversary of the day the Property was first included on the Register (which is not until December 2027). Furthermore, O. Reg. 385/21: "General"[3] under the OHA provides in subsection 1(2) that the time limitation that normally requires a Property to be designated within 90 days of a "prescribed event" (and which includes the submission by Brookfield of the site-specific OPA) does not result in that Property coming off the Register if the "owner of the property and the council of the municipality agree that the restriction does not apply".

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[3] O. Reg. 385/21: "General" can be accessed here: https://www.ontario.ca/laws/regulation/210385

Therefore, for the reasons noted above, there is no urgency requiring City Council approve the intended heritage designation for the Property at this time. Rather, the above-mentioned provisions of the OHA and O. Reg. 385/21 allow additional time for City Heritage Staff and Brookfield to properly coordinate the designation with both of Brookfield's existing site-specific OPA and the under appeal heritage policies in OPA 911.

Concerns Regarding Statement of Significance and Description of Heritage Attributes

As noted earlier, our Client's heritage consultant ERA Architects Inc. has been actively engaging with Heritage Planning staff regarding this matter.

ERA prepared a Heritage Impact Assessment ("**HIA**") and Cultural Heritage Evaluation Report (dated April 22, 2026 and revised on June 1, 2026), which provided primary and secondary research on the Property and findings from visual inspections.

ERA strongly disagrees with the Statement of Significance as provided in Attachment 1 of the Staff Report. Importantly, the heritage attributes identify the heritage resource as a four-storey building. The building was originally constructed in 1961 as a two-storey building to the design of Peter Dickinson. A later two-storey vertical addition was designed by Webb Zerafa Menkes Architects in 1967 following Peter Dickinson's death, which includes an incompatible fourth floor level of simplified form that varies from the others. ERA is of the opinion that the 1967 addition alters the original scale and proportions of the building and weakens the horizontal form as reflected in Peter Dickinson's original design. It is ERA's opinion that the attributes should focus on the original two-storey building, which better reflects Dickinson's elegant horizontal design and the specific context of the Don Mills area as it was originally conceived.

As a result, ERA is of the opinion that the designation of the Property is premature at this time. Furthermore, the attributes do not accurately reflect the cultural heritage value of the Property, and it would be more appropriate to consider the designation of the Property as part of the ongoing development discussions. As noted earlier, the submitted HIA proposes a conservation strategy that will better reinforce the aesthetic of the original two (2) storey design of the structure before the additions were added in 1967 and 1977.

Request to City Council to Defer Consideration of Heritage Designation of the Property or to Modify the Statement of Significance to be Consistent with HIA

For the reasons outlined above, the proposed heritage designation of the Property is premature at this time and should properly be coordinated with the ongoing planning consideration of Brookfield's HIA and the outcomes of OPA 911, OPA 902 and Brookfield's site-specific OPA. Furthermore, as identified by ERA, the proposed Statement of Significance and description of the potential heritage attributes currently do not accurately reflect attributes of the building on the Property and require revision.

Brookfield and its planning and heritage consultants have consistently worked with Heritage staff and undertaken good faith efforts – including withdrawing its approved demolition permit – to facilitate further discussions with staff on the proposed designation. Brookfield intends to continue these discussions regarding the proposed designation and Statement of Significance, however, these discussions must be undertaken along with the ongoing consideration of the under appeal heritage policies in OPA 911 and the site-specific OPA in order to ensure coordination of the instruments and to maintain principles of good planning.

As a result, in considering this Notice of Objection, we respectfully request that City Council recommend the proposed designation be deferred and further consultation between Heritage Planning staff and Brookfield occur within the context of the OLT appeal of OPA 911 and the review of the site-specific OPA and guided by the professional opinion of ERA Architects outlined in the already submitted HIA.

Thank you in advance for considering this Notice of Objection. Should you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

AIRD & BERLIS LLP



Alexander J. Suriano

Encl.

cc: Client
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