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PDC MAY 31 2010

DATE: May 11, 2010

TO: Planning and Development Committee
Meeting Date: May 31, 2010

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: **Protection of the Ontario Power Generation Lands in Lakeview**

RECOMMENDATION: That the report titled "*Protection of the Ontario Power Generation Lands in Lakeview*" dated May 11, 2010, from the Commissioner of Planning and Building, be received for information.

BACKGROUND: On April 14, 2010 City Council, through Resolution 0087-2010, attached as Appendix 1, directed Planning staff to report to Planning and Development Committee "regarding the various options available to City Council to protect the Lakeview lands until a plan is in place for their redevelopment". The "Lakeview lands" refer to the Ontario Power Generation (OPG) lands where the former Lakeview Generation Station was operating until April 2005, located on the south side of Lakeshore Road East, west of Dixie Road.

The OPG lands are currently designated "*Utility – Special Site 9*" in Mississauga's Official Plan, Lakeview District Policies and zoned U-1 in Mississauga Zoning By-law 0225-2007. The *Utility* designation and U (Utility) zoning permits utility rights-of-way and larger above ground facilities such as pumping stations and water and sewage treatment plants. In addition to the utility uses permitted on this site, Special Site 9 and Exception Zone 1 allow a power generating facility.

The OPG Lakeview Lands project is under the direction of Bruce Carr, Director of Strategic Community Initiatives in the City Manager's Office.

COMMENTS:**1. City Council and Province of Ontario Commitment to Change on the Waterfront**

City Council and the Province of Ontario have demonstrated commitment to facilitating change on the waterfront, and in particular on the OPG lands on the following occasions:

On February 27, 2008, City Council unanimously approved the following motion (Appendix 2):

“Be it resolved that the Council of the City of Mississauga inform the Ontario Power Authority that we are strongly opposed to the construction of a gas power plant in the Lakeview Community and further, that the Council of the City of Mississauga encourage Staff to commence planning for the redevelopment of Lakeview as a diverse, multi-faceted community for the twenty-first century.”

On July 16, 2008, the Provincial Government announced the former Lakeview Generating Station will not be a potential site for a new natural gas plant and that Lakeview's future in electricity generation is over. The Ministry of Energy and Infrastructure directed the Ontario Power Authority to launch a competitive bidding process for a combined-cycle natural gas plant in the Southwestern Greater Toronto Area, including Mississauga, Etobicoke, and Oakville.

In April 2009, City Council adopted the Strategic Plan, the City of Mississauga's highest level policy document to shape and direct strategic decision-making for the City. Included in the Action Plan to implement the Strategic Plan is the Visionary Action “We will create a model sustainable community on the waterfront” that has “limitless potential for creative development and re-development”.

This commitment to change along the waterfront was further reinforced on April 14, 2010 when City Council unanimously approved a motion to “reconfirm its strong opposition to any reconsideration of the Lakeview lands as a site for power generation” and “its strong desire and intent to develop the Lakeview lands into a diverse, multi-faceted lakefront community.”

Included in this resolution was direction for City staff to immediately prepare an RFP to retain a consultant to commence a tertiary study for the OPG lands.

2. Options and Analysis for the Protection of the OPG Lands

Planning staff have reviewed possible options available to the City to protect the Lakeview lands and offer the following:

a) Interim Control By-law

Section 38 of the *Planning Act* permits a municipality to pass an Interim Control By-law that temporarily prohibits the continued use of the land, buildings or structures within the specified area(s), except for those uses set out in the by-law. This temporary prohibition allows a study to be undertaken to address an issue, and reconsider land use policies. It must be demonstrated that there are legitimate planning reasons for the enactment of an Interim Control By-law, which generally includes the existence of pressure for, or contemplated development in an area which, while in compliance with existing zoning, may be questionable in light of emerging planning considerations for the lands in question or there is a policy vacuum. In addition, applicable policies may be outdated and require a review in light of the particular circumstances. The Interim Control By-law may be in effect for up to one year, to allow sufficient time to complete the desired review or study. Council may extend the by-law for a further one-year period, but once the by-law expires, no Interim Control By-law can be passed which applies to the same lands for a subsequent period of three years.

An Interim Control By-law enacted on the OPG lands would suggest imminent development is contemplated for, or underway, for the subject lands for a use that is not in keeping with emerging planning considerations for the area, and that breathing space is required by prohibiting the use pending the completion of a study.

OPG has not come forward with plans to develop the former Lakeview Generating Site, either through a formal application or preliminary discussions. In fact, the OPG 2008 Annual Report indicates that the Provincial Government announced that the site would not be used for a new gas-fired generating station.

Appendix 3 to this report is an extract from the 2008 Annual Report confirming this fact.

In addition, City staff has commenced a study of the OPG lands that will establish a vision for the community and provide the necessary rationale for any proposed land use change, if so recommended. Moreover, for reasons discussed under Section 3, Applicable Legislation, an Interim Control By-law would not prevail, in any event, were OPG to proceed with a power generation undertaking.

b) City Initiated Official Plan Amendment and Rezoning

The City can initiate an Official Plan amendment and rezoning to remove power generation as a permitted use on the OPG lands in Lakeview. Applications for a site specific Official Plan amendment and rezoning require satisfactory reports and background studies to demonstrate sound rationale for a change in land use.

This was reinforced in a decision from the Ontario Municipal Board (OMB) in February 2009 for the Kraft Canada site in Streetsville. The Board states, in its decision, that it *“finds itself at a loss as to how the City came to the conclusion that the use is incompatible. The evidence is just not there.”* Further, the Board found that the City *“...did not undertake any expert or comprehensive study leading to the justification of the change in use...it certainly should have (authors’ emphasis), knowing the circumstances.”*

As indicated above, a recommended change in land use from the existing permissions on a property should be supported by a comprehensive study and sound rationale, otherwise the recommended change can be challenged. A study of the OPG lands has commenced with a goal to establish a vision and concept plan for the area. In light of the absence of a comprehensive study that would justify a City initiated amendment to the Official Plan and Zoning By-law, this option is not supported.

3. Applicable Legislation

Legislation in the *“Planning Act”*, *“Electricity Act, 1998”* and *“Green Energy Act 2009”* are applicable to the OPG site. In consideration of the above options, City Council should be aware of the following:

a) Section 62 of the *Planning Act* (refer to Appendix 4)

The Lakeview site is registered in the name of OPG-Lakeview Inc., which staff have confirmed with OPG was a subsidiary but has since been merged with OPG. The effect of s. 62 of the *Planning Act* is that were OPG to obtain environmental assessment approvals from the Ministry of the Environment (MOE) for a power generation undertaking, the Lakeview lands would become entirely exempt from the *Planning Act*, and would fall outside of the City's ability to control or regulate through zoning by-laws.

Hence, were an Interim Control By-law enacted, and during the period when such a by-law were in effect, were OPG to obtain environmental assessment approval for a power generation undertaking, the Interim Control By-law would cease to apply and have no effect on OPG. Similarly, in the event the subject site were to be rezoned, s. 62 would operate such as to exempt OPG from compliance with the rezoning if it were to receive environmental assessment approval for a power generation undertaking.

b) Section 62.0.1 of the *Planning Act* (refer to Appendix 4)

Section 62.0.1 of the *Planning Act*, introduced through Bill 51, provides that a power generation undertaking by any person is not subject to the *Planning Act* if it is approved through the environmental assessment process, and, the Provincial Cabinet enacts a regulation which prescribes the undertaking that would exempt it from the *Planning Act*.

c) Section 46.1 of the *Electricity Act, 1998* (refer to Appendix 5)

TransCanada Energy Ltd. has commenced a court application against the Town of Oakville seeking a declaration that s. 46.1 of the *Electricity Act, 1998* essentially allows lands to be used for the generation of electricity if they were used, or could have been used for this purpose, as of March 31, 1999, irrespective of any by-law. TransCanada Energy Ltd, was awarded a contract from Ontario Power Authority to build, own and operate a 900 megawatt natural gas fired power plant in the Town of Oakville on Royal Windsor Drive, east of the Queen Elizabeth Way. The court application is scheduled to be heard in the Ontario Superior Court on June 24, 2010, and the court's decision will be instructive as to the

effect that this statutory provision will have on other power generation projects in the Province.

d) Section 62.0.2 of the *Planning Act* (refer to Appendix 6)

A new provision has been added to the *Planning Act* (Section 62.0.2) by virtue of the *Green Energy Act, 2009*, whereby "renewable energy undertakings" are now entirely exempt from official plans and zoning by-laws under the *Planning Act* and, therefore, entirely exempt from municipal zoning control. Renewable energy is defined as the generation of power from an energy source that is renewed by natural processes including, but not limited to, wind, water, biomass, biogas, biofuel, solar energy or geothermal energy. If OPG proposed a renewable energy project, such as a wind farm, municipal official plans and zoning by-laws, including Interim Control By-laws, do not apply.

4. Study of the OPG Lands – Community Engagement and Visionary Concept Plan

As indicated previously, the Strategic Community Initiatives Division of the City Manager's office has commenced a study of the OPG lands. This study was commenced in view of the announcement of the Provincial government on July 16, 2008 – that the Lakeview site will not be a potential site for a new natural gas plant. The first phase of the study is to engage the community and stakeholders on their vision for this key waterfront site, and incorporate these ideas into a visionary concept plan for the area. A consultant will be retained to facilitate this process. Phase I of the study will build upon the public engagement that was undertaken as part of the Lakeview District Policies Review and captured in the "*Lakeview and Port Credit District Policies Review and Public Engagement Process – Directions Report*".

It is anticipated that a consultant will be retained by the end of June 2010, with background research and community engagement beginning in subsequent months. Once a consultant is retained, a detailed work plan, project schedule and communications plan will be presented to City Council at the August 4, 2010 meeting. It is anticipated that the first phase of the project will take 6-8 months to produce a visionary concept plan.

STRATEGIC PLAN: The Strategic Pillar for Change, “Prosper”, identifies the following Visionary Action “We will create a model sustainable community on the waterfront”. The revitalization of the OPG lands provides an opportunity to embrace the strategic goals and actions of each strategic pillar, with initiatives that are aligned with creating a mixed use, vibrant, integrated, sustainable community.

FINANCIAL IMPACT: There are no financial impacts to the report at this time.

CONCLUSION: The OPG lands are a significant site along the city’s waterfront providing a tremendous opportunity to transform the south easterly portion of the city. A study of the OPG lands has commenced with a request for proposals to retain a consultant to undertake community engagement and a visionary concept plan for the area.

Staff are of the view that there are insufficient planning grounds to warrant the enactment of an Interim Control By-law or preparation of a City-initiated OPA and zoning by-law to remove a power generation facility as a permitted use on the OPG site. Moreover, the legislation applicable to the OPG site allows development of power generation and renewable energy undertakings virtually without municipal approvals or controls. In addition, a pending court application against the Town of Oakville will likely result in judicial guidance on the potential impact of the *Electricity Act* and how this may impact other lands that allow power generating facilities.

City Council has sent a clear message that it is committed to facilitating and supporting a change in this area as demonstrated in the motions unanimously adopted on February 27, 2008 and April 14, 2010. The Provincial Government has also supported change in this area through the announcement on July 16, 2008 indicating the OPG lands will not be a site for a future natural gas power plant. This was also included in the OPG 2008 Annual Report.

At this point in time, the existing direction from City Council to immediately commence a tertiary plan for the OPG lands is the best course of action.

- ATTACHMENTS:**
- APPENDIX 1: City Council Resolution 0087-2010 April 14, 2010
 - APPENDIX 2: City Council Resolution 0048-2008 February 27, 2008
 - APPENDIX 3: Excerpt from the OPG 2008 Annual Report
 - APPENDIX 4: *Planning Act* Section 62 and 62.0.1
 - APPENDIX 5: *Electricity Act* 1998 Section 46.1
 - APPENDIX 6: *Planning Act* Section 62.0.2

Original Signed By:

Edward R. Sajecki
Commissioner of Planning and Building

Prepared By: Susan Tanabe, Manager, Community Planning



RESOLUTION 0087-2010
adopted by the Council of
The Corporation of the City of Mississauga
at its meeting on April 14, 2010

0087-2010 Moved by: C. Corbasson

Seconded by: Nando Iannicca

Whereas City Council unanimously approved the following motion February 27, 2008: “Be it resolved that the Council of the City of Mississauga inform the Ontario Power Authority that we are strongly opposed to the construction of a gas power plant in the Lakeview Community; and further, that the Council of the City of Mississauga encourage Staff to commence planning for the redevelopment of Lakeview as a diverse, multi-faceted community for the twenty-first century.”

Whereas then Ontario Minister of Energy George Smitherman made an announcement on July 16, 2008, overlooking the old site of the Lakeview Generating Station:
“Ladies and gentlemen, I’m happy to announce that Lakeview’s future in electricity generation is over.”

Whereas a report to PDC on November 17, 2008 entitled ‘Waterfront as a Premier Destination: Update and Action Plan’ was subsequently approved by Council and received \$ 150, 000 to conduct a study of the OPG lands;

Whereas meetings were held with Ministry of the Environment Senior Policy Advisors on December 16, 2009 in which the MEI stated support for the transfer of the OPG lands – once they were cleaned up – to the Ontario Realty Corporations. ‘Pump and treat’ clean up was to commence the spring of 2010;

Therefore be it resolved;

1. Council reconfirms its strong opposition to any reconsideration of the Lakeview lands as a site for power generation.
2. Council reconfirms its strong desire and intent to develop the Lakeview lands into a diverse, multi-faceted lakefront community.

..... continued

3. That an RFP be prepared immediately, utilizing the budgeted amount approved, to put in place a consulting firm to commence a tertiary study for the OPG lands.
4. That Planning staff report to the next PDC meeting regarding the various options available to Council to protect the Lakeview lands until a plan is in place for their redevelopment.
5. That Staff request an update from the MEI as to the status of the clean up of the OPG lands and report their findings to Council.
6. That a copy of this motion be forwarded to the Premier, the Ministry of Energy of Ontario, OPG, and the Member of Provincial Parliament for Mississauga South.

A recorded vote was called with the following results:

	<u>YES</u>	<u>NO</u>
Mayor H. McCallion	X	
Councillor C. Corbasson	X	
Councillor P. Mullin	X	
Councillor M. Prentice	X	
Councillor F. Dale	Absent	
Councillor E. Adams	X	
Councillor C. Parrish	X	
Councillor N. Iannicca	X	
Councillor K. Mahoney	X	
Councillor P. Saito	X	
Councillor S. McFadden	X	
Councillor G. Carlson	X	

Recorded Vote

Carried – (11-0) 1 Absent

EC.06



RESOLUTION 0048-2008
adopted by the Council of
The Corporation of the City of Mississauga
at its meeting on February 27, 2008

0048-2008 Moved by: C. Corbasson

Seconded by: P. Mullin

Whereas the Lakeview Community is the south-east gateway into the City of Mississauga,

Whereas the Lakeview Community has a long, underdeveloped stretch of lakefront, prime for recreational, business and residential redevelopment as a continuation of the Port Credit waterfront,

Whereas Lakeview is one of the few areas remaining in the City which can be fully redeveloped into a planned community incorporating the visions of Mississauga for the 21st Century,

Whereas Lakeview can be redeveloped into a street-based entertainment and urban-living centre which will attract tourism from all over the Golden Horseshoe,

Whereas recently-released reports on the median prices of resale homes across the GTA indicate the area east of the Credit River and south of Dundas averaged an increase of 32% since 2005 – while the average in the rest of Mississauga was 14.3% - making this a prime location of choice for businesses, recreational facilities, smart growth residential development of great variety and other exciting development prospects,

Whereas potential property and business tax income from entertainment facilities, hotels, light industry, commercial/business centres and smart growth residential buildings located in Lakeview could generate up to 2 billion dollars in development, will create tax and tourist revenue for the City for many years to come,

February 27, 2008

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Whereas the commitment of land required for the construction of a gas power plant will dramatically alter the possibilities of a new and exciting vision for the Lakeview Community,

Whereas the City of Mississauga has been intensely involved in Visioning Workshops to shape ideas for Mississauga, and with community consultations on Building a City for the 21st Century,

Whereas the citizens of Lakeview have contributed greatly to Mississauga, Ontario and Canada by way of the Arsenal Lands munitions factory, the Lakeview Coal Generating Station, The Lakeview Wastewater Treatment Centre and the Lakeview Water Treatment Plant,

Whereas this is a moment in time when there is an incredible opportunity to create an exciting, vibrant and visionary Lakeview Community for the 21st Century,

Whereas the placemaking process and workshops conducted as part of the review of the Lakeview District Policies did not include the Lakeview OPG lands because their future use is uncertain,

Therefore be it resolved, that the Lakeview District Policies Review study address the Lakeview OPG lands for uses other than a Power Generating Facility,

And further, that the Council of the City of Mississauga inform the Ontario Power Authority that we are strongly opposed to the construction of a gas power plant in the Lakeview Community,

And further, that the Council of the City of Mississauga encourage staff to commence planning for the redevelopment of Lakeview as a diverse, multi-faceted community for the 21st Century.

Carried
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Management's Discussion and Analysis

Hydroelectric Projects Directive

In December 2007, the Minister of Energy issued a directive to the OPA to negotiate a HESA for the Lac Seul, Upper Mattagami, Hound Chute, Healey Falls and Lower Mattagami projects. The Lac Seul, Upper Mattagami and Hound Chute agreements have been executed. The HESA for the Healey Falls project is being finalized. The negotiations for the HESA for Lower Mattagami began in the fourth quarter of 2008.

Biomass Generation Opportunities

The potential to convert some of the existing coal-fired units to biomass fuelling is continuing to be assessed. Biomass is considered to be carbon neutral. This fuelling option can provide the ability to use existing assets beyond the 2014 coal plant closure date. Studies are currently underway to assess biomass availability, costs and end-to-end requirements for the safe handling, storage and combustion of biomass.

Portlands Energy Centre

OPG entered into a partnership with TransCanada Energy Ltd., through the Portlands Energy Centre L.P. ("PEC"), to pursue the development of a 550 MW gas-fired, combined cycle generating station on the site of the former R.L. Hearn generating station, near downtown Toronto. OPG has a 50 percent ownership interest in the joint venture. In May 2008, the construction for the simple cycle mode of operations for the PEC was completed. The station was available to operate in a simple cycle mode as needed during the summer of 2008.

In September 2008, the simple cycle mode of operations for the PEC ended and the plant was returned to the custody of the contractor for completion of the combined cycle plant. Final system commissioning and preparation for the guarantee performance testing and the demonstration runs was conducted during the last two months of 2008. The PEC is expected to be in-service in a combined cycle mode in the first quarter of 2009, earlier than its contractual in-service date of June 1, 2009.

OPG's share of capital expenditures for the year ended December 31, 2008 was \$87 million, and life-to-date expenditures were \$360 million. Total project costs continue to be within the \$730 million approved budget, excluding capitalized interest. A significant proportion of the capital cost relates to an engineer-procure-construct contract to construct the facility. OPG's share of the project is debt financed through the OEFC.

Southwest Greater Toronto Area Generation

In January 2009, the OPA announced the four companies that have successfully qualified to submit proposals to construct a natural gas generating station in the Southwest Greater Toronto Area ("GTA"). The partnership of TransCanada Energy and OPG, working under the name of the Portlands Energy Centre, is one of the successful qualifiers.

The OPA is expected to issue their RFPs during the first quarter. At that time, more will be known about the specific project requirements. OPG will work with TransCanada to complete the required EA, develop the project, engage suppliers and contractors, and submit a competitive bid later in the year. The OPA is likely to require an in-service date of 2013.

Lakeview Site

In 2008, OPG completed the decommissioning and demolition of the Lakeview coal-fired generating station, having closed the station in 2005 after more than 40 years of service. OPG explored the potential development of a gas-fuelled electricity generating station at the site. However, in July 2008, the Ontario government announced that the Lakeview site will not be used for a new gas-fired generating station.

Developing and Acquiring Talent

Essential to workforce management at any organization is good planning. OPG's ability to sustain on-going operations and the successful delivery of the portfolio of planned projects is dependent on developing and maintaining a talented and engaged workforce, and a strong leadership capability. OPG's resource strategy is to develop and acquire necessary talent focused on developing excellent leadership and the necessary resources to meet the demand that will be generated by retirements and the forecast skilled labour shortages.

Skilled Workforce

As of December 31, 2008, OPG had approximately 12,000 regular employees. OPG's employees have considerable technical experience in operating and maintaining the Company's generating stations. Due to an aging workforce, OPG's challenge is to attract and retain a skilled workforce to replace retiring employees. Approximately 37 percent of OPG's workforce was over the age of 50 at December 31, 2008. OPG has a comprehensive resource and succession planning program to address demographic issues and issues associated with closure of the coal-fired generating stations. OPG is well positioned in the competitive market place to attract new employees.

The Company's collective agreement with the Power Workers' Union runs through March 31, 2009 and the labour agreement with The Society of Energy Professionals runs through December 31, 2010. As of December 31, 2008, the Company had approximately 90 percent of its regular labour force represented by collective bargaining agreements.

CAPABILITY TO DELIVER RESULTS

Generating Assets

OPG continues to implement specific initiatives to improve the reliability and predictability of each nuclear generating station. These initiatives are designed to address the specific technology requirements, operational experience, and mitigate risks. The Darlington nuclear generating station has transitioned to a three-year outage cycle to take advantage of the physical condition of the plant, the availability of backup systems, and the ability to refuel during operations. The Pickering A and B nuclear generating stations will continue to focus on implementing targeted improvements in reliability.

Excerpt from the *Planning Act*, Section 62 and 62.0.1

Section 62

- (1) Not subject to Act – An undertaking of Hydro One Inc. (as defined in subsection 2 (1) of the *Electricity Act*, 1998) or Ontario Power Generation Inc. (as defined in subsection 2 (1) of that Act) that has been approved under the *Environmental Assessment Act* is not subject to this Act.
- (2) Subsidiaries included – For the purposes of subsection (1), a reference to a corporation is deemed to include a subsidiary of that corporation.

Section 62.0.1

- (1) Exempt undertakings – An undertaking or class of undertakings within the meaning of the *Environmental Assessment Act* that relates to energy is not subject to this Act or to section 113 or 114 of the *City of Toronto Act, 2006* if,
 - (a) it has been approved under Part II or Part II.1 of the *Environmental Assessment Act* or is the subject of,
 - (i) an order under section 3.1 or a declaration under section 3.2 of that Act, or
 - (ii) an exempting regulation made under that Act; and
 - (b) a regulation under clause 70 (h) prescribing the undertaking of class of undertakings is in effect.
- (2) Same – An undertaking referred to in subsection 62 (1) that has been approved under the *Environmental Assessment Act* is not subject to section 113 or 114 of the *City of Toronto Act 2006*.

Excerpt from the *Electricity Act, 1998* Section 46.1

Transition

Use of land in connection with generation

- (1) If, on March 31, 1999, the occupier of land used or could lawfully have used the land in connection with the generation of electricity, any occupier of the land may,
- (a) use the land in connection with the generation of electricity,
 - (i) for the use for which the land as used on March 31, 1999, or
 - (ii) for any use for which the land could lawfully have been used on March 31, 1999; and
 - (b) use or erect on the land any building or structure in connection with a use of the lands that is authorized by clause (a). 2001, c. 23, s. 67.

Same

- (2) For the purpose of subsection (1), if, on March 31, 1999, land was used or could lawfully have been used in connection with a generation facility that used a type of fuel prescribed by the regulations to generate electricity and, with respect to that type of fuel, the regulations prescribe another type of fuel as a substitute fuel, it shall be deemed to have been lawful on March 31, 1999 to use the land in connection with a generation facility that used the substitute to generate electricity.

Transition: use of land in connection with transmission or distribution

- (3) If, on March 31 1999, the occupier of land used for could lawfully have used the land in connection with the transmission or distribution of electricity, any occupier of the land may,
- (a) use the land in connection with the transmission or distribution of electricity,
 - (i) for the use for which the land was used on March 31, 1999 or
 - (ii) for any use for which the land could lawfully have been used on March 31, 1999; and
 - (b) use or erect on the land any building or structure in connection with a use or the land that is authorized by clause (a). 2001, c. 23, s. 67.

Planning Act

- (4) This section applies despite any provision of the *Planning Act* that was enacted before the day the *Responsible Choices for Growth and Fiscal Responsibility Act (Budget Measures), 2001* received Royal Assent and despite any by-law, regulation or order made under the *Planning Act* before that day. 2001, c. 23, s. 67.

Excerpt from the *Planning Act*, Section 62.0.2

(1) Despite any Act or regulation, the following do not apply to a renewable energy undertaking, except in relation to a decision under section 28 or Part VI:

1. A policy statement issued under subsection 3 (1).
2. A provincial plan, subject to subsection (2). 2009, c. 12, Sched. K, s. 3.

Exception

(2) Subsection (1) does not apply in respect of,

- (a) the Niagara Escarpment Plan;
- (b) another provincial plan, if the provincial plan is prescribed for the purposes of this subsection; or
- (c) a provision of another provincial plan, if the provision is prescribed for the purposes of this subsection. 2009, c. 12, Sched. K, s. 3.

Official plans

(3) For greater certainty, an official plan does not affect a renewable energy undertaking. 2009, c. 12, Sched. K, s. 3.

Same

(4) Section 24 does not apply to,

- (a) the undertaking of a public work that is a renewable energy undertaking or is intended to facilitate or support a renewable energy undertaking;
- (b) the passing of a by-law with respect to a public work described in clause (a); or
- (c) the passing of a by-law that is intended to facilitate or support a renewable energy undertaking. 2009, c. 12, Sched. K, s. 3.

Demolition control area

(5) A by-law passed under section 33 does not apply to a renewable energy undertaking. 2009, c. 12, Sched. K, s. 3.

By-laws and orders under Part V

(6) A by-law or order passed or made under Part V does not apply to a renewable energy undertaking. 2009, c. 12, Sched. K, s. 3.

Transition, existing agreements

(7) An agreement that is entered into under Part V before the day subsection 4 (1) of Schedule G to the Green Energy and Green Economy Act, 2009 comes into force applies to a renewable energy project, and to any related renewable

energy testing facility and renewable energy testing project, until the day a renewable energy approval is issued under section 47.5 of the Environmental Protection Act in relation to the renewable energy project. 2009, c. 12, Sched. K, s. 3.

Development permit system

(8) A regulation or by-law made or passed under section 70.2 does not apply to a renewable energy undertaking. 2009, c. 12, Sched. K, s. 3.

City of Toronto Act, 2006, ss. 113, 114

(9) A by-law passed under section 113 or 114 of the City of Toronto Act, 2006 does not apply to a renewable energy undertaking. 2009, c. 12, Sched. K, s. 3.

Ontario Planning and Development Act, 1994, s. 17

(10) An order made under section 17 of the Ontario Planning and Development Act, 1994 does not apply to a renewable energy undertaking. 2009, c. 12, Sched. K, s. 3.