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Authorized commenting Agency for



July 31, 2023

Hon. Steven Clark, Minister
Ministry of Municipal Affairs and Housing
777 Bay Street, 13th Floor
Toronto, ON
M7A 2J3

Dear Minister Clark:

RE: Regional Municipality of Durham: New Official Plan

ERO Number: 019-7195

Ministry Reference Number: 18-OP-237796

MHBC File: PAR 50012

MacNaughton Hermsen Britton Clarkson (MHBC) are the planning consultants for TransCanada Pipelines Limited (TCPL). This letter is in response to the notice of posting and commenting period for the new Durham Region Official Plan by the Environmental Registry of Ontario.

In the Region of Durham, TCPL operates two (2) high-pressure natural gas pipelines and associated facilities within a right-of-way and an industrial-scale compressor station in the Municipality of Clarington. TCPL's pipelines and facilities are regulated federally, and are subject to the jurisdiction of the Canada Energy Regulator (CER). As such, certain activities must comply with the *Canadian Energy Regulator Act* ("Act") and associated Regulations. The Act and the Regulations noted can be accessed from the CER's website at www.cer-rec.gc.ca.

Policy Context

In the Provincial Policy Statement (PPS), TCPL's pipelines and facilities are defined as "*infrastructure*" and "*major facilities*". The Land Use Compatibility policies in Section 1.2.6 of the PPS protect major facilities from the encroachment of sensitive land uses that may impact their long-term operational and economic viability. Further, Section 1.6.8.1 of the PPS identifies the responsibility of planning authorities to plan for and protect corridors and rights-of-way for infrastructure to meet current and projected needs. The Growth Plan (2020) also references the importance of protecting and maintaining planned infrastructure to support growth in Ontario.

Appropriate setbacks of buildings, structures and dwellings to the rights-of-way are needed to manage the safety and integrity of the pipelines, as well as ensuring adequate access for emergencies, operations and maintenance. Where possible, TCPL also seeks to implement Official Plan policies and zoning regulations that implement its guidelines to increase awareness of TCPL's pipelines and facilities and associated development requirements.

MHBC, on behalf of TCPL, have been actively engaged in the "Envision Durham" Municipal Comprehensive Review process. On February 15, 2023, MHBC submitted a letter that requested the addition of policies that

identify the presence of TCPL's infrastructure and highlight TCPL's key development and regulatory requirements. These requests were not included in the New Official Plan.

We are requesting that the Minister modify Section 4.3 *Utilities & Energy* of the Durham Regional Official Plan to include the following policies to ensure conformity with Provincial policy:

1. *TransCanada PipeLines Limited ("TCPL") operates two high-pressure natural gas pipelines and associated facilities within its right-of-way crossing the Region of Durham, as identified on Map 1.*
2. *Development resulting in increased population density in proximity to TCPL's right-of-way may result in TransCanada being required to replace its pipeline(s) to comply with CSA Code Z662. Early consultation with TCPL or its designated representative, for any development proposals within 200 metres of its pipelines (the "Class Assessment Area") should be undertaken to ensure TCPL can assess potential impacts and provide recommendations to avoid adverse impacts to its facilities.*
3. *TCPL is regulated by the Canadian Energy Regulator (CER) which has a number of requirements regulating development in proximity to its pipelines. This includes approval requirements for activities within 30 metres of the pipeline centreline (the "Prescribed Area"), such as conducting a ground disturbance, constructing or installing a facility across, on, or along the pipeline right-of-way, driving a vehicle, mobile equipment or machinery across the right-of-way, and the use of explosives.*
4. *A minimum setback of 7 metres shall be provided from the edge of the right-of-way for all permanent buildings and structures. Accessory buildings and structures shall have a minimum setback of at least 3 metres from the edge of the right-of-way.*
5. *A minimum setback of 7 metres from the edge of the pipeline right-of-way shall also be provided for:*
 - a. *road rights-of-way (paralleling pipeline rights-of-way), private driveways, parking spaces and parking areas; and,*
 - b. *stormwater management facilities.*
6. *Throughout any built up areas, the TCPL's right-of-way is encouraged to be designated for passive parkland or passive open space use.*

Thank you for the opportunity to comment on the New Official Plan. If you have any questions, please do not hesitate to contact our office at TCEnergy@mhbcplan.com.

Sincerely,



Dana Anderson, MA, FCIP, RPP
Partner | MHBC Planning



Kaitlin Webber, MA
Planner | MHBC Planning

on behalf of TransCanada PipeLines Limited