



Item .....
Meeting ..... 2017 April 24

## COUNCIL REPORT

**TO:** CITY MANAGER **DATE:** 2017 April 19

**FROM:** DIRECTOR ENGINEERING **FILE:** 33200 10  
 DIRECTOR PLANNING AND BUILDING *Reference: Kinder Morgan*  
 CITY SOLICITOR

**SUBJECT:** **IMPACT OF KINDER MORGAN'S PROPOSED PIPELINE ROUTING PLAN**

**PURPOSE:** To inform Council of the impact of Kinder Morgan's proposed pipeline routing plan and request approval from Council to file formal Statements of Opposition with the National Energy Board.

**RECOMMENDATIONS:**

1. **THAT** Council authorize staff to file Statements of Opposition with the National Energy Board related to Kinder Morgan's proposed pipeline routing plan.
2. **THAT** a copy of this report be forwarded to all Burnaby Members of Parliament and the Sustainable City Advisory Committee.

**REPORT****1.0 BACKGROUND**

On 2016 November 29, the Federal Governor in Council granted approval for Kinder Morgan's Trans Mountain Expansion Project (the "Project") and directed the National Energy Board (NEB) to issue a Certificate of Public Convenience and Necessity with conditions for the Project. The Project includes:

- 980 km of new pipeline;
- 193 km of reactivated pipeline;
- 12 new pump stations;
- addition of 19 new tanks to existing storage terminals – 5 new tanks in Edmonton and 13 new tanks plus one replacement tank in Burnaby; and
- expansion of three new tanker berths at the Westridge Marine Terminal in Burnaby.

The City remains opposed to the Project and it is challenging the Federal Governor in Council decision in the Federal Courts.

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The purpose of this report is to inform Council of the impact of Kinder Morgan's proposed pipeline routing plan and seek Council's approval to file Statements of Opposition with the NEB.

## **2.0 KINDER MORGAN'S PROPOSED PIPELINE ROUTING PLAN**

Between 2017 February 17 and 2017 March 03, Kinder Morgan filed its Plan, Profile and Book of Reference (PPBoR) for all seven segments of the proposed detailed route of the new pipeline with the NEB. The segment that crosses Burnaby was filed on 2017 March 03. The PPBoR is required to be filed with the NEB as part of the detailed pipeline route approval process.

The Plan and Profile is a drawing as seen from above (aerial view) and side (profile view). The Book of Reference identifies lands, provides the names of the landowners and land occupants and shows the dimensions (length, width and total area) of the right-of-way or easement and temporary work areas required for the pipeline.

Upon submission of the PPBoR to the NEB, Kinder Morgan is required to publish a notice in the local newspapers and give written notice to all landowners along the proposed pipeline route. An owner whose lands are crossed by the pipeline has 30 days from the date they received the notice of the detailed pipeline route to file a Statement of Opposition with respect to the pipeline route over those lands. Adjacent land owners, leaseholders and occupants do not receive direct notice from Kinder Morgan, but have a right to file a Statement of Opposition with the NEB if they anticipate that their lands may be adversely affected. These persons have 30 days from the last publication of the notice in the local newspaper to file the Statement of Opposition with the NEB. A Statement of Opposition must relate to the location of the proposed route of the pipeline and/or the methods or timing of construction.

The NEB may approve the PPBoR for those segments of the proposed detailed route in respect of which the NEB does not receive any statements of opposition. This would allow Kinder Morgan to file the approved PPBoR in respect of such approved segments of the pipeline route with the appropriate provincial government agencies (usually land titles office or registry) and begin construction of the pipeline in those approved segments.

For Council's information, staff has delivered letters to the residents and businesses adjacent to the proposed route alignment within Burnaby to ensure that they are aware of the proposed alignment and have an opportunity to respond appropriately to the NEB.

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In addition, related details were also made available on the City's website and a full page notice was placed in the Burnaby Now newspaper by the City drawing attention to the impact of the proposed pipeline route.

Upon receiving a valid Statement of Opposition within the applicable 30-day period, the NEB must conduct a detailed route hearing in relation to the grounds of opposition raised. Details on methods of construction could relate to clearing of the pipeline right-of-way or easement area, removal and storage of soil, noise and traffic impacts, installation of the pipeline or reclamation of the impacted lands. Details on timing of construction could relate to when it will be constructed and the length of time for construction.

#### **2.1.1 Staff Comments on Kinder Morgan's Proposed Route Alignment in Burnaby**

Staff has reviewed Kinder Morgan's proposed pipeline route alignment and would note the following:

- The entire proposed pipeline route alignment within Burnaby is located in a new corridor (see Attachment #1).
- The NEB Act does not require Kinder Morgan to provide any of the following in the PPBoR:
  - provide or publish workspace and access information beyond the 10-metre wide pipeline easement area;
  - information on work duration within portions of the segment to allow impacted landowners or occupants to assess impacts relating to noise, soils management, access, traffic, dust and lighting;
  - rationale for required workspace area(s);
  - information on timing and mitigation of impacted workspace areas; or
  - information, where applicable, on use of highway and/or local roads as workspace areas which could impact traffic and access.
- Kinder Morgan has not issued notices to owners of Highways and local roads where the proposed detailed route crosses those lands.

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- Only those landowners whose lands are to be crossed or occupied by the pipeline have been provided with information regarding the proposed location of the 10.0-metre wide pipeline easement and related information on workspace and access areas required by Kinder Morgan. For Burnaby lands, workspace widths are shown to vary from 6.0 metres to 25.0 metres. This is in addition to the 10.0-metre width for the proposed pipeline easement.

While it may be argued by Kinder Morgan that the above information are available elsewhere in their Plans or that it will be made available prior to construction, the absence of the above-listed information compromises a person's ability to make an informed decision and respond to the NEB within the limited 30-day response timeline imposed by the NEB Act.

The following sections outline Burnaby's concerns, observations and opposition to the various sections of the proposed pipeline routing. The parcels are noted, in turn, moving from East to West in Burnaby.

#### **2.1.2 North Road Crossing and Brunette Conservation Area**

The proposed alignment's proximity to the bridge structure at North Road, which is jointly owned by the City of Burnaby and the City of Coquitlam, will significantly constrain the municipalities' ability to repair, maintain or expand the bridge in future.

Based on Kinder Morgan's previous submission to the NEB, it is understood that Kinder Morgan will use trenchless technology to install the 914 mm (36 inch) diameter pipeline through the Brunette Conservation Area. However, as with other Kinder Morgan rights-of-way, the proposed 10.0-metre-wide pipeline easement, which bisects the Trans Canada Highway to the north and the rail corridor to the south midway, (see *Attachment #2*), will be required to be permanently free of trees and shrubs to allow for visual inspections of the pipeline corridor by Kinder Morgan. This, in addition to the required workspace and access for trenchless installation, will result in fragmentation of the conservation area and impact the local streams (Holmes Creek and Lost Creek) and the ecology of the area. Furthermore, the proximity of the pipeline to Brunette River, and lack of ability for timely containment in an event of a potential pipeline rupture or spill, will also have a major impact to the Brunette and Fraser rivers.

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### **2.1.3 Portion of Segments North of the Trans Canada Highway, Cottonwood Park and Segment of Lougheed Highway**

Clearing for the varied workspace width and for the 10.0-metre-wide pipeline easement north of Trans Canada Highway will result in removal of a significant number of trees and vegetation, reduction in effective visual and noise buffer for residents to the east, and impacts to City infrastructure located on Government Street (see Attachment #3).

The segment of the alignment to the north leads to Cottonwood Park. Cottonwood Park is to be developed as a neighbourhood park site to serve the residents of the southwest Cameron neighbourhood. Assembly of the site was completed in 2005 with the acquisition of the property, 8839 Government Road, which is located in the core of the park. In addition, the park site contains environmentally significant areas associated with Stoney Creek and its related riparian setbacks to the west of the property. The site also contains the existing Kinder Morgan jet fuel pipeline and BC Hydro power lines to the east of the park property. The proposed new 10.0-metre-wide pipeline easement and the workspace width of 8.0 metres will impose further constraints on the park site and require removal of a significant number of trees and vegetation. In addition, the permanent 10.0-metre-wide footprint of the pipeline easement area will significantly reduce the active usable park zone and sterilize the site in terms for its intended public use (see Attachment #4).

The segment of the pipeline on Lougheed Highway west of Cottonwood Park will result in further impacts due to the removal of trees and vegetation. The above grade pipeline crossing of Stoney Creek within this area will impact City infrastructure along Lougheed Highway, and potentially impact the Creek and downstream environment in the event of a potential pipeline break or rupture.

Furthermore, the removal of trees and vegetation for the 10.0-metre-wide pipeline easement and the varied workspace width at the southeast corner of Lougheed Highway and Gaglardi Way required by Kinder Morgan to tunnel the pipeline across the intersection will significantly impact the residential property developed by Habitat for Humanity. During a site visit by staff at Habitat for Humanity development, staff noted that some residents are generally unaware of the proposed works and related impacts.



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#### **2.1.4 Segments of Gaglardi Way, Eastlake Drive**

The segment of the proposed pipeline alignment at the northwest corner of the intersection of Gaglardi Way and Lougheed Highway, and a portion along Gaglardi Way could constrain future capacity improvements of the intersection and travel lane (see Attachment #3).

The segment of the proposed pipeline route along Eastlake Drive shows the 10.0-metre-wide pipeline easement area and the workspace area to be on the south side of the Eastlake Drive (see Attachment #5). The workspace area is noted to vary from between 6.0 metres to up to 25.0 metres in width, and will result in removal of additional trees and vegetation. There is no justification provided as to why such a large work area is required by Kinder Morgan. The proposed pipeline will impact City infrastructure and third-party utilities along Eastlake Drive, and will result in future additional costs to the City for any infrastructure-related work due to the close proximity to the pipeline alignment.

#### **2.1.5 Segments Crossing Broadway, Along Broadway, Shellmont Tank Farm and Shellmont Street**

The segment crossing Broadway and along Broadway will impact City infrastructure and will result in future additional costs to the City for any infrastructure-related work due to the close proximity to the pipeline alignment (see Attachment #6).

In reviewing the proposed 10.0-metre-wide pipeline segment north of Broadway and along the west side of the Shellmont Tank Farm property located at 2365 Underhill Avenue, staff note that the proposed alignment will result in the removal of a large number of trees and will impact a significant portion of a tributary to Eagle Creek. Information on the workspace that may be required by Kinder Morgan in this area is not readily available. Staff, therefore, cannot determine the full extent of the impact, which may be realized during and post construction, to the buffer zone and the Forest Hill / Meadowood residential neighbourhood located to the west of the Shellmont facilities.

However, staff note that there is a covenant (the "Landscape Buffer Covenant") registered on title to the Shellmont lands (Lot 2 and Lot 271) in favour of the City. Under the terms of the Landscape Buffer Covenant, Shell has an obligation to maintain a landscaped buffer zone on certain portions of Lot 2 and Lot 271. Currently, the buffer zone consists of stands of mature trees. The Landscape Buffer Covenant was a condition of approval of Shell's subdivision and rezoning application to permit the development of the Forest Hill / Meadowood residential community in the early 1980s.

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Given that Kinder Morgan's proposed pipeline route alignment will significantly hinder Shell's ability to comply with its obligations under the Landscape Buffer Covenant, the City has written to Shell requesting copy of Shell's response to the NEB and that it identify the conflict between Kinder Morgan's proposed pipeline route and Shell's obligations under the Landscape Buffer Covenant.

#### **2.1.6 Tunnel Segment between Burnaby Terminal and Westridge Terminal**

The Project requires construction of two new 30" pipelines between Burnaby Terminal and Westridge Terminal to load vessels. The two pipelines will be located in a 4.24-metre wide diameter tunnel. The tunnel will be 2.6 km in length connecting the Terminals via the Burnaby Mountain Conservation area. The tunnel portals are reported to be located on Kinder Morgan facilities. According to Kinder Morgan, the existing pipeline connecting the Terminals may also be moved to the tunnel, subject to a separate regulatory application. Upon completion, the tunnel containing the pipelines and a precast concrete liner is proposed to be backfilled with grout.


For Council's information, staff are currently reviewing Kinder Morgan's Burnaby Mountain Tunnel Environmental Protection Plan and other related Plans. Technical comments on the Plans will be submitted to the NEB.

In reviewing the tunnel segment between the Terminals, staff notes that Kinder Morgan is requiring a 10.0-metre-wide easement following the tunnel alignment through the Burnaby Mountain Conservation Area (see Attachment #7). The easement area projects to the surface of the land above the tunnel. As such, potential impacts could arise from requiring the easement area to be free of trees and shrubs to allow for visual inspections of the pipeline corridor by Kinder Morgan, as is the case with other Kinder Morgan rights-of-way in Burnaby. In addition, there is a potential for impacts to the surficial portion of the Burnaby Mountain Conservation Area in the event of a need to repair, maintain or respond to a release from the pipelines by Kinder Morgan.

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3.0 CONCLUSION

The impact of Kinder Morgan's proposed pipeline routing on Burnaby's lands will be extensive and destructive. Given this, staff recommends that Council authorize staff to file Statements of Opposition with the National Energy Board related to Kinder Morgan's proposed pipeline routing plan. It is also recommended, that a copy of this report be forwarded to all Burnaby Members of Parliament and the Sustainable City Advisory Committee.

  
Leon A. Goys, P. Eng., MBA  
DIRECTOR ENGINEERING

  
Lou Pelletier  
DIRECTOR PLANNING AND BUILDING

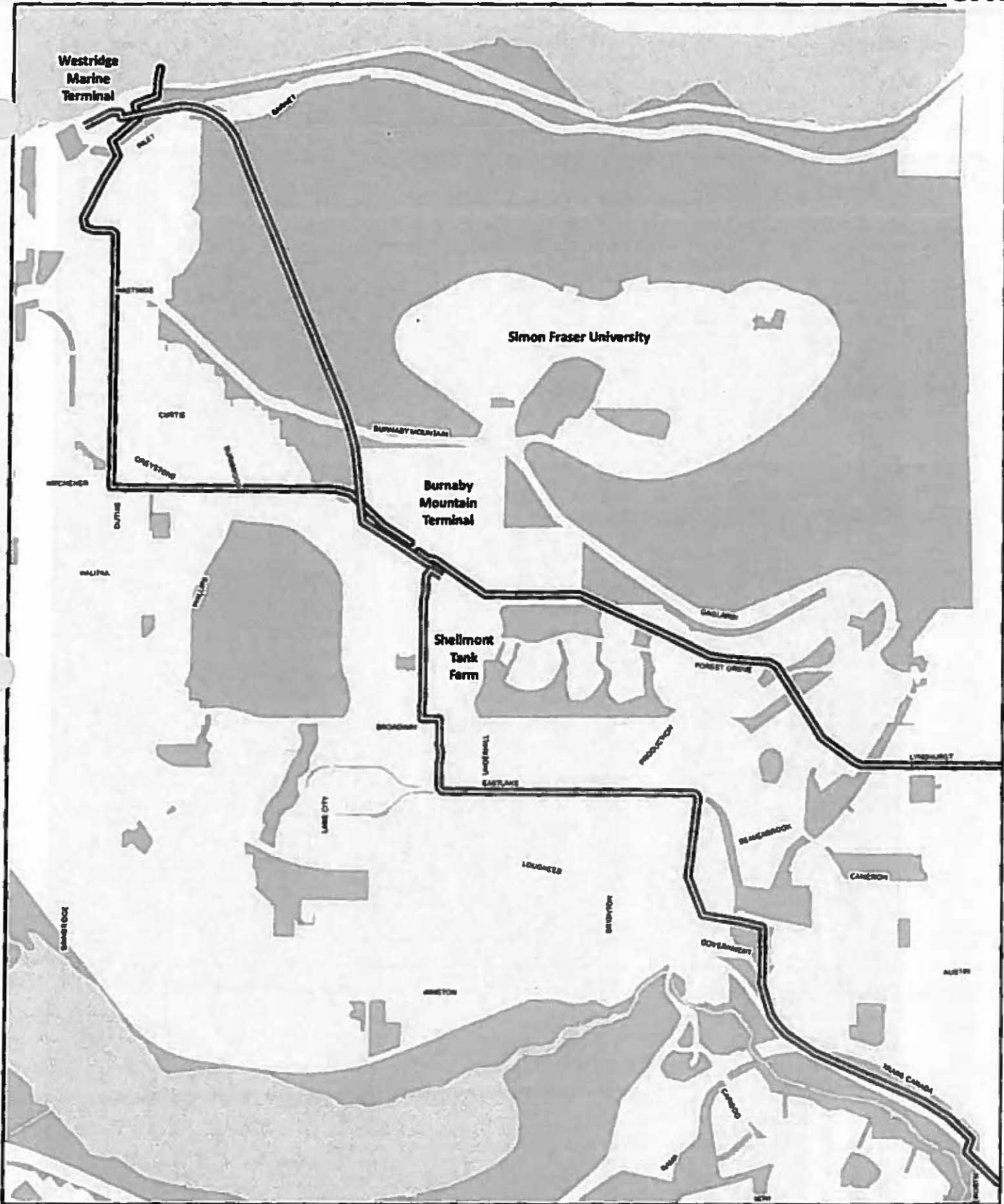
  
May Leung  
CITY SOLICITOR

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Attachments

Copied to: Deputy City Manager  
Director Public Safety and Community Services  
Director Parks, Recreation and Cultural Services  
Director Finance





**KINDER MORGAN PIPELINE ROUTE - OVERVIEW MAP**

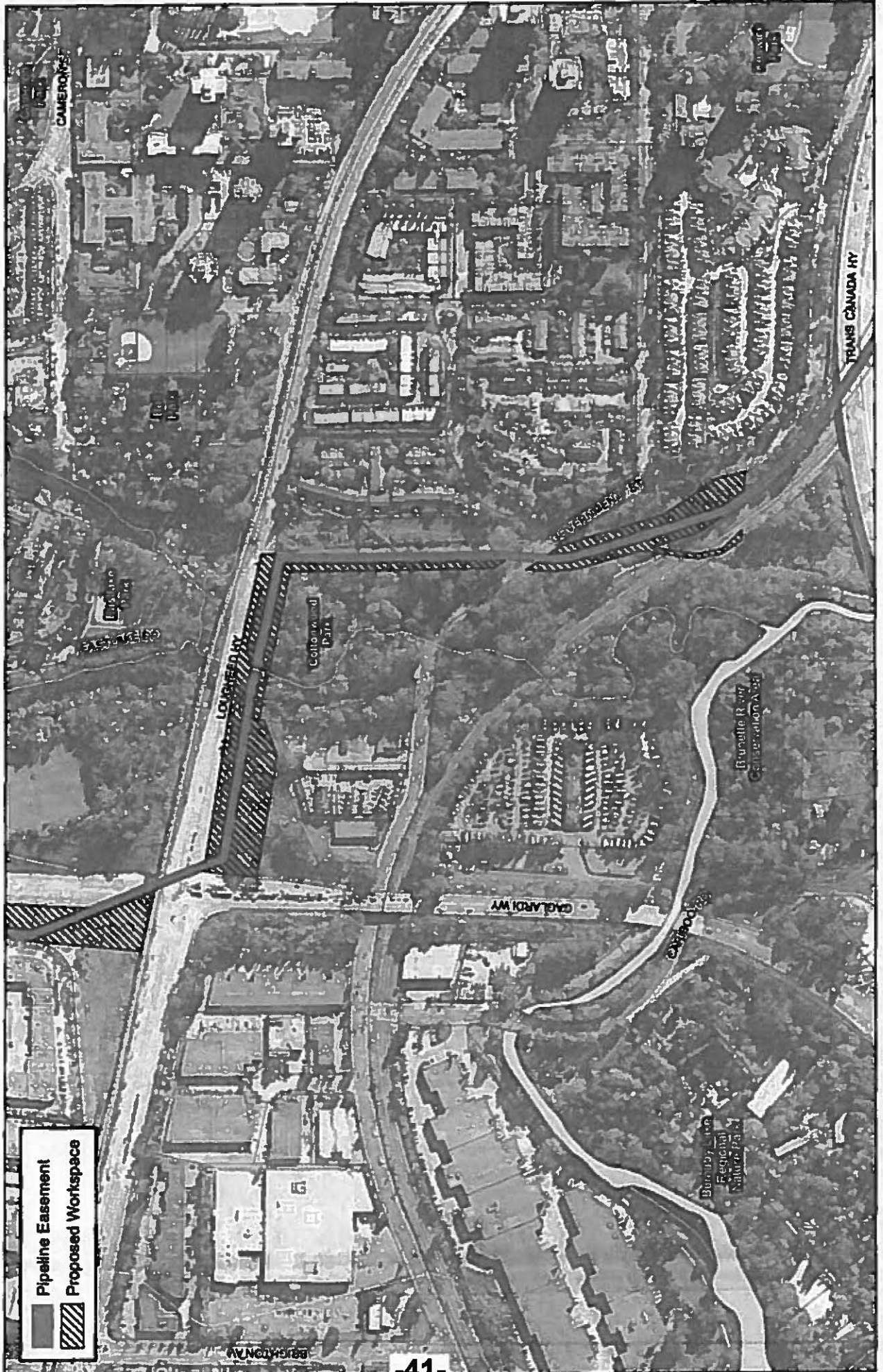
— Proposed 10-Metre Wide Pipeline Easement      — Existing Pipeline

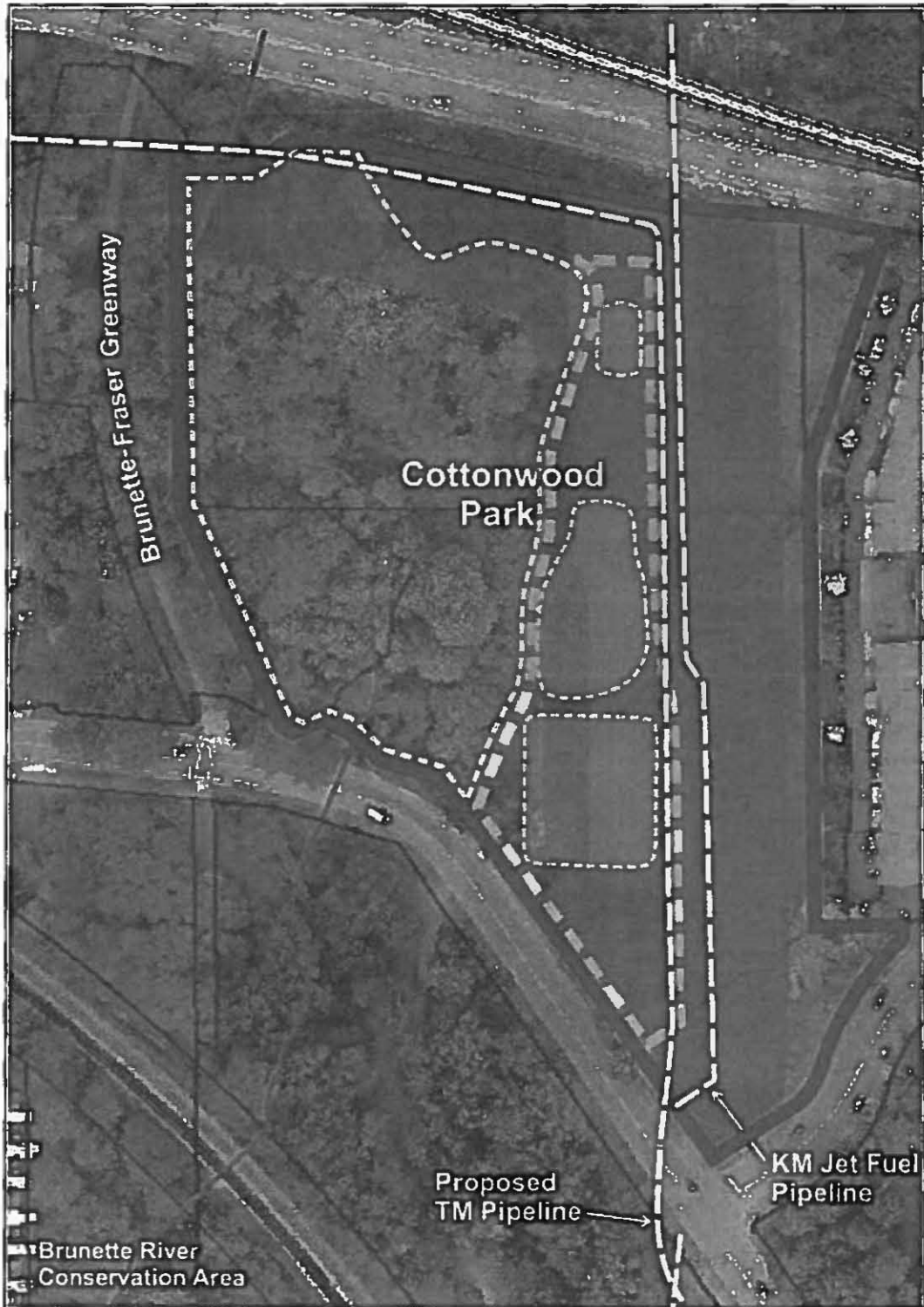





Pipeline Easement  
Proposed Workspace







	<p><b>Cottonwood Park: Constraint Zones limiting the siting of neighbourhood park facilities and amenities.</b></p>													
<p>Scale: NTS                  Drawn By: ATS                  Date: March 2017</p>	<p><b>Legend:</b></p> <table border="0"> <tr> <td data-bbox="614 1861 703 1888">—</td> <td data-bbox="724 1861 855 1888">Park Boundary</td> <td data-bbox="979 1854 1059 1888">- - -</td> <td data-bbox="1091 1861 1219 1888">Riparian Zone</td> </tr> <tr> <td data-bbox="614 1899 703 1926">- - -</td> <td data-bbox="724 1899 935 1926">Park Development Zone</td> <td data-bbox="979 1899 1059 1926">■</td> <td data-bbox="1091 1899 1321 1926">KM Jet Fuel Pipeline Zone</td> </tr> <tr> <td data-bbox="614 1937 703 1964">- · - · -</td> <td data-bbox="724 1937 935 1964">Playground &amp; Playcourts</td> <td data-bbox="979 1937 1059 1964">■</td> <td data-bbox="1091 1937 1342 1964">TM Pipeline Expansion Zone</td> </tr> </table>		—	Park Boundary	- - -	Riparian Zone	- - -	Park Development Zone	■	KM Jet Fuel Pipeline Zone	- · - · -	Playground & Playcourts	■	TM Pipeline Expansion Zone
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- · - · -	Playground & Playcourts	■	TM Pipeline Expansion Zone											









