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April 12, 2019

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Sent By Electronic Mail, Courier and RESS Electronic Filing

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
27-2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli:

EB-2017-0108: Application for certificates of public convenience and necessity for Norfolk County, the County of Elgin, and the County of Middlesex

Re: Submissions of EPCOR Natural Gas Limited Partnership

In accordance with Procedural Order No. 8, please find enclosed the submissions of EPCOR Natural Gas Limited Partnership.

Please do not hesitate to contact me if you have any questions.

Yours very truly,



Patrick G. Welsh

PW:vs

c (email only): Myriam Seers, *Torys LLP*
Susannah Robinson, *EPCOR Natural Gas Limited Partnership*
Dana Bissoondatt, *EPCOR Utilities Inc.*
Azalyn Manzano/Ritch Murray/Richard Lanni, *Ontario Energy Board*
Scott Lewis, *OM Limited Partnership*
Richard King, *Osler, Hoskin & Harcourt LLP*

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Municipal Franchises Act*, R.S.O. 1990,
c. M.55, as amended (the “**Act**”);

AND IN THE MATTER OF an Application by Union Gas Limited
(now Enbridge Gas Inc.) for certificates of public convenience and
necessity for Norfolk County, the County of Elgin and the County of
Middlesex.

**SUBMISSIONS OF
EPCOR NATURAL GAS LIMITED PARTNERSHIP**

April 12, 2019

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Background

1. On March 29, 2019, Enbridge Gas Inc. (“**EGI**”)(formerly Union Gas Limited) filed draft orders for Certificates of Public Convenience and Necessity (each a “**Certificate**”) for Norfolk County, the Municipality of Central Elgin (“**Central Elgin**”), the Township of Malahide (“**Malahide**”), the Municipality of Bayham (“**Bayham**”) and the Municipality of Thames Centre (“**Thames Centre**”). EGI also filed draft customer density maps for each municipality delineating the areas for which it currently had authorization pursuant to a Certificate (each a “**Map**”).
2. In Procedural Order No. 8, the Ontario Energy Board (the “**OEB**”) provided the opportunity for EGI and EPCOR Natural Gas Limited Partnership (“**ENGLP**”) to make written submissions on the draft Certificates and Maps filed by each of the parties. ENGLP provides the following comments for consideration by the OEB, Board Staff and EGI.

Norfolk County

3. In the OEB’s Decision and Order in this proceeding dated October 11, 2018 (the “**OEB Order**”), the OEB directed EGI and ENGLP to prepare and submit draft Certificates specifying included and excluded areas within Norfolk County:

Union Gas and EPCOR are to submit draft orders for their certificates for Norfolk County based on the areas each utility currently has authorization for, excluding the area of overlap, as well as facilities maps or customer density maps with boundaries delineating each area of authorization. Union Gas is to include in its certificate the north half of Lots 3, and 5 in Concession 7, and all of Lots 4 and 5 in Concession 8 in its certificate, and EPCOR is to exclude these areas.¹

4. ENGLP understands the OEB’s direction to mean that each Certificate should clearly and explicitly identify *included* areas and *excluded* areas. However, the draft Certificate provided by EGI for Norfolk County only refers to excluded areas. It is ENGLP’s preference that – and ENGLP respectfully requests that – EGI’s draft Certificate for Norfolk County clearly indicate both included and excluded areas. Additionally, it is ENGLP’s preference that EGI’s and ENGLP’s Certificates for Norfolk County mirror each other’s accordingly (i.e., that EGI’s “included” areas match ENGLP’s “excluded” areas, and *vice versa*).
5. In preparing ENGLP’s own draft Certificate for Norfolk County, ENGLP provided the source of the descriptions for included and excluded areas (e.g., E.B.C. 111 and 119 dated October 15, 1981, otherwise known as ENGLP’s “**Omnibus CPCN**”), and ENGLP used the descriptions previously provided in said sources. In reviewing EGI’s draft Certificate for Norfolk County, the descriptions for excluded areas appear to vary slightly from the descriptions in the source materials (in this case the Omnibus CPCN). ENGLP respectfully requests that the included and excluded areas match the descriptions in the applicable source documents so as to be able to validate the inclusions and exclusions in each

¹ OEB Order, p. 18.

Certificate (in this case, the Omnibus CPCN and EGI's F.B.C. 259 dated March 17, 1959 ("FBC 259")).

6. ENGLP has no comments on EGI's draft Map for Norfolk County.

Central Elgin

7. ENGLP echoes its comments above regarding the draft Certificate for Central Elgin, namely that:
- (a) EGI clearly indicate both *included* and *excluded* areas in its Certificate;
 - (b) EGI and ENGLP's Certificates mirror each other (i.e., EGI's excluded areas match ENGLP's included areas, and *vice versa*); and
 - (c) the descriptions in EGI's Certificate remain consistent with the source documents (i.e., EB-2007-0810, along with the Omnibus CPCN and ENGLP's Certificate E.B.C. 242 dated September 6, 1996 ("EBC 242")).
8. Additionally, ENGLP has identified areas on EGI's Map that appear to be inconsistent with ENGLP's mapping. This mapping conflict is shown in more detail in Schedule "A".

Malahide

9. ENGLP has no comments on EGI's draft Certificate or Map for Malahide.
10. ENGLP notes that while it explicitly excluded Lot 24 in Concession 11 in its draft Certificate for Malahide, it did not exclude Lot 24 in Concession 11 in its draft Map. ENGLP filed a revised Map for Malahide on April 10, 2019.

Bayham

11. ENGLP echoes its comments above regarding the draft Certificate for Bayham, namely that:
- (a) EGI clearly indicate both *included* and *excluded* areas in its Certificate (in this case, EGI listed included areas but not excluded areas);
 - (b) EGI and ENGLP's Certificates mirror each other (i.e., EGI's excluded areas match ENGLP's included areas, and *vice versa*); and
 - (c) the descriptions in EGI's Certificate remain consistent with the source documents (i.e., EBC 255, along with the Omnibus CPCN).
12. ENGLP notes that there appears to be some conflict between EBC 255 and the Omnibus CPCN as they relate, in particular, to the splitting of lots. That is, EBC 255 and EGI's draft Certificate for Bayham refer to "the south half" and the "north half" of certain lots. Conversely, the Omnibus CPCN refers to the whole of certain lots except for the "southerly

200 feet” or the “northerly 200 feet” of these lots. These discrepancies are shown in more detail in Schedule “A”.

13. The discrepancies are further complicated by the fact that the language in EGI’s draft Certificate for Bayham does not appear to completely match the language in the source material (i.e., EBC 255 and the Omnibus CPCN). ENGLP submits that these discrepancies should be resolved in favour of ENGLP for two reasons: (1) ENGLP’s entitlement to the totality of the lots except for the northerly or southerly 200 feet is clearly specified in the Omnibus CPCN²; and (2) EBC 255 explicitly excludes from EGI’s Certificate all areas that overlap with the Omnibus CPCN:

Listed below are the specific areas in the Township of Bayham for which Union currently holds certificates FBC 259 and EBC 97, excluding all certificated areas that overlap with NRG’s Certificate EBC 111 and 119 and including the north four-tenths of Lot 26, Concession 8 and all of Lot 27, Concession 8 (emphasis added).

ENGLP also submits that the fact that EGI’s draft Certificate for Bayham does not use the exact language in EBC 255 makes it difficult to validate the source of the entitlement to that territory (if any).

Thames Centre

14. ENGLP echoes its comments above regarding the draft Certificate for Thames Centre, namely that:
- (a) EGI clearly indicate both *included* and *excluded* areas in its Certificate (recognizing, in this case, that EB-2009-0034 grants all of Thames Centre to EGI other than areas covered by the Omnibus CPCN);
 - (b) EGI and ENGLP’s Certificates mirror each other (i.e., EGI’s excluded areas match ENGLP’s included areas, and *vice versa*); and
 - (c) the descriptions in EGI’s Certificate remain consistent with the source documents (i.e., EB-2009-0034, along with the Omnibus CPCN).
15. ENGLP has identified a number of discrepancies between EGI’s Map for Thames Centre and ENGLP’s Map for Thames Centre. ENGLP submits that this may be due, in part, to the fact that EGI’s draft Certificate does not use the language from the Omnibus CPCN to describe the excluded areas. ENGLP submits that these discrepancies should be resolved in favour of ENGLP, as ENGLP has clearly demonstrated its entitlement – through the Omnibus CPCN – to these areas. These discrepancies are outlined in more detail in Schedule “A”.

² Omnibus CPCN pp. 4-5

16. Additionally, upon further review of its materials, ENGLP identified an inadvertent omission of certain portions of its territory granted by the Omnibus CPCN in its draft Map for Thames Centre, namely “the whole of Lot A in each of Concessions 2, 3, 4, 5 and 6” and “that part of Lot A, in Concession 1 lying south of Highway 401”.³ ENGLP filed a revised Map for Thames Centre on April 10, 2019.

Additional Requests

Further Submissions by Board Staff and opportunities to file revised materials

17. ENGLP respectfully requests that the OEB consider making additional provisions for Board Staff to review and comment on these Submissions and EGI’s submissions, along with ENGLP and EGI’s respective Replies (currently due by April 26, 2019).
18. Further, ENGLP respectfully requests that the OEB consider providing further direction to ENGLP and EGI to revise any Certificates and/or Maps as needed based on the comments of the parties and Board Staff, so as to enable the OEB to have the best available Certificates and Maps for the purposes of issuing final Orders.

Additional Certificates in order to cancel the Omnibus CPCN in its entirety

19. As noted in ENGLP’s submission of March 29, 2019, ENGLP has observed that the Omnibus CPCN will largely be superseded by the new Certificates issued by the OEB in this proceeding. Following these final Orders, the only areas covered by the Omnibus CPCN will be the Town of Aylmer and certain areas within the Township of South-West Oxford and the former Township of Westminister (now part of the City of London). ENGLP would appreciate a direction from the OEB as to whether it would like ENGLP to submit draft Certificates and Maps for those areas so as to be able to cancel the Omnibus CPCN in its entirety. As noted in its letter of March 29, ENGLP would still be in a position to file draft Certificates and Maps by April 18, 2019 (or such other time thereafter as directed by the OEB).

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

April 12, 2019



Patrick G. Welsh
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Counsel for EPCOR Natural Gas Limited Partnership

³ Omnibus CPCN, p. 2.

SCHEDULE "A"

Central Elgin

The areas south and east of Cat Fish Creek, South of Talbot Rd East Concession, lots 69, 70, 71 are showing as part of EGI's territory in a manner that is not consistent with the description in EBC 242, which grants "all those parts of Lots 69, 70, 71, 72 and 73 in Concession 8 lying east of Catfish Creek which runs in a general north-easterly direction through such lots" to ENGLP.

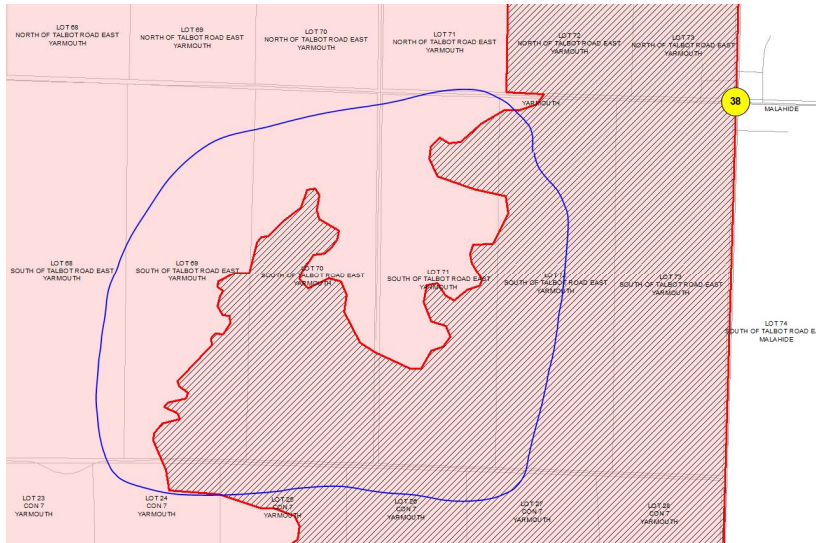


Figure 1 - ENGLP Map showing areas East of Catfish Creek as within ENGLP territory consistent with EBC 242.



Figure 2 - EGI Map showing areas East of Catfish Creek as within EGI territory.

Bayham

ENGLP's Omnibus CPCN grants, *inter alia*, all of Lots 17, 18 and 19 in Concession 9 except the southerly 200 feet of these lots, and all of Lots 17, 18, and 19 in Concession 8 except the northerly 200 feet of these lots, whereas in EGI's Map, these Lots are split.



Figure 3 - ENGLP Map showing Lots within ENGLP territory except for the southerly and northerly 200 feet consistent with the Omnibus CPCN.

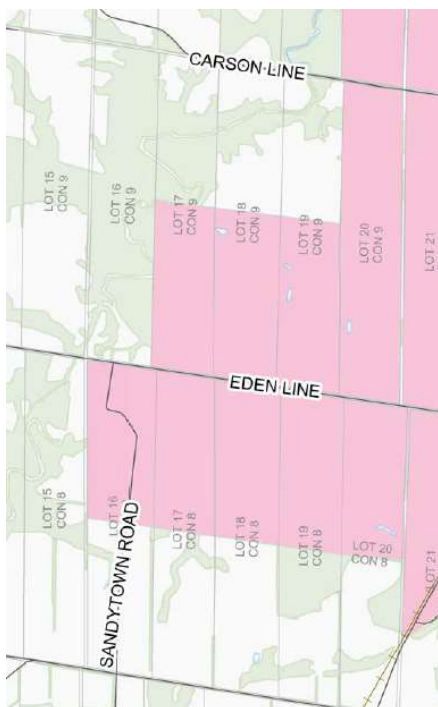


Figure 4 - EGI Map showing Lots as half EGI's

Bayham (cont'd)

ENGLP's Omnibus CPCN grants all of Lot 16, Concession 8 to ENGLP, whereas EGI's Map shows Lot 16, Concession 8 as split between ENGLP and EGI.



Figure 5 - ENGLP Map showing Lot 16, Concession 8 as within ENGLP territory in accordance with the Omnibus CPCN.



Figure 6 - EGI Map showing Lot 16, Concession 8 as half within EGI territory.

Bayham (cont'd)

ENGLP's Omnibus CPCN grants all of Lot 25, Concession 8 to ENGLP, whereas EGI's Map shows the northern portion of Lot 25, Concession 8 as within EGI's territory.

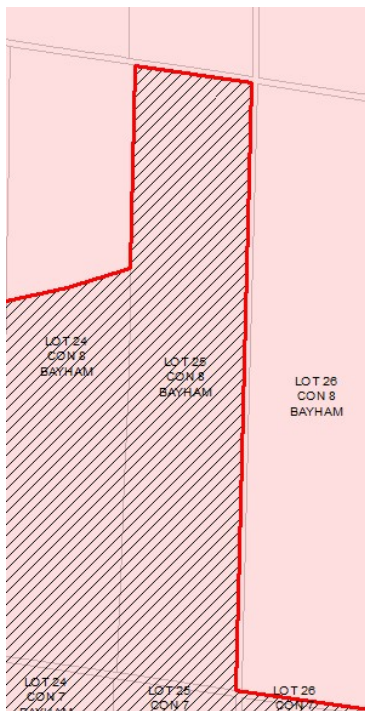


Figure 7 - ENGLP Map showing Lot 25, Concession 8 as within ENGLP territory in accordance with the Omnibus CPCN.



Figure 8 - EGI Map showing the northern portion of Lot 25, Concession 8 as within EGI territory.

Figure 10 - EGI Map showing areas around Nilestown as within EGI territory.

Thames Centre (cont'd)

The Omnibus CPCN also grants areas in Thames Centre within the former Township of Westminister, namely those parts of Lots 21, 22, 23 and 24, in Concession 1 lying south of Highway 401, whereas EGI's Certificate shows those portions as within EGI territory.

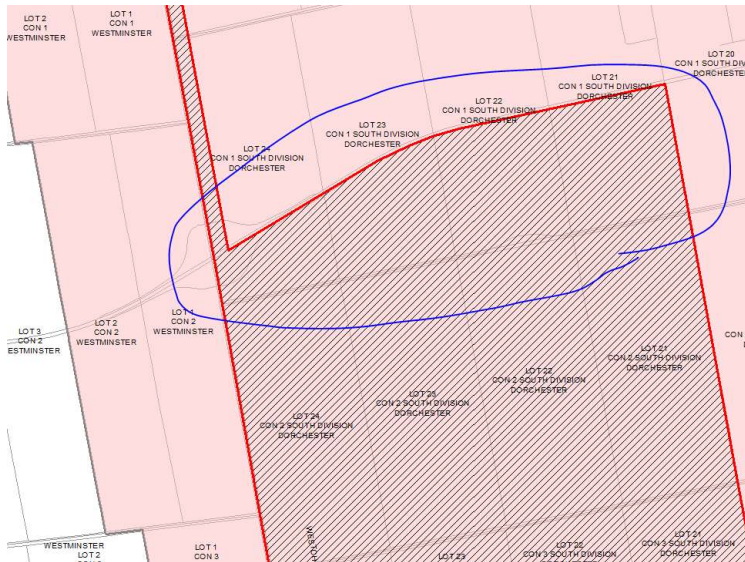


Figure 11 - ENGLP Map showing portions of the former Township of Westminster south of Highway 401 as within ENGLP territory consistent with the Omnibus CPCN.



Figure 12 - EGI Map showing portions of the former Township of Westminister south of Highway 401 as within EGI territory.

Thames Centre (cont'd)

The Omnibus CPCN grants ENGLP the west half of the southerly quarter of Lot 20 in Concession 5 and the south halves of Lots 18 and 19 in Concession 6, however EGI's Map does not show these portions as within ENGLP's territory.

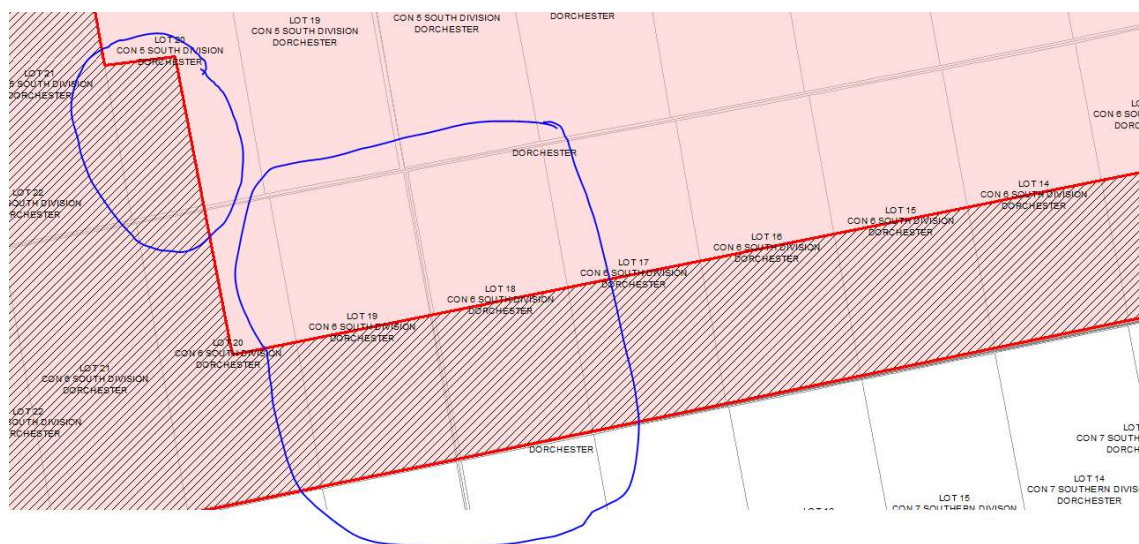


Figure 13 - ENGLP Map showing the southerly quarter of Lot 20, Concession 5 and the south halves of Lots 18 and 19, Concession 6 as within ENGLP territory in accordance with the Omnibus CPCN.



Figure 14 - EGI Map showing Lot 20, Concession 5 and Lots 18 and 19, Concession 6 as entirely within EGI's territory.

Thames Centre (cont'd)

The Omnibus CPCN grants the south halves of Lots 11, 12 and 13 in Concession 6 to ENGLP, but EGI's Map does not show these portions as within ENGLP's territory.

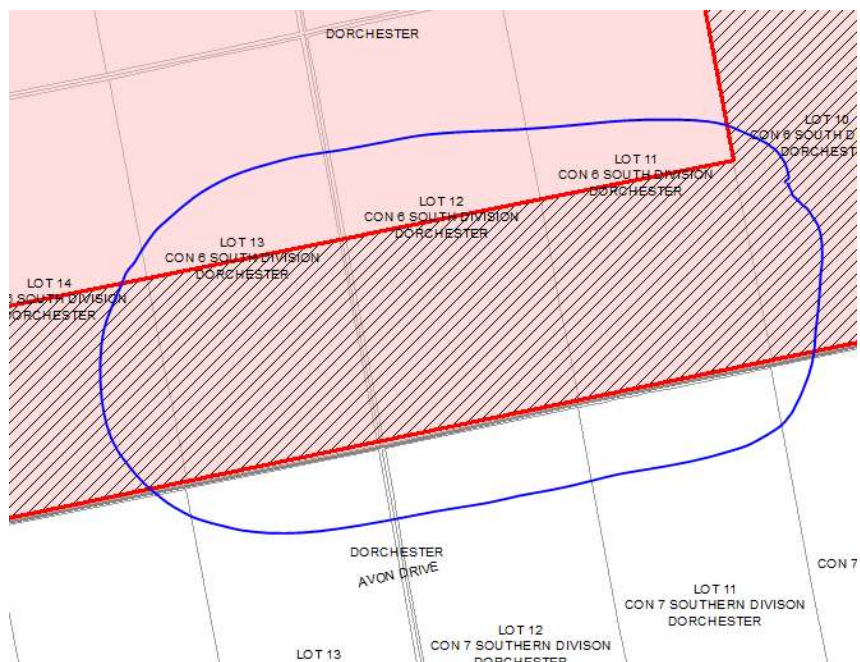


Figure 15 - ENGLP Map showing Lots 11, 12 and 13, Concession 6 as within ENGLP's territory in accordance with the Omnibus CPCN.



Figure 16 - EGI Map showing Lots 11, 12 and 13 as within EGI territory.

Thames Centre (cont'd)

The Omnibus CPCN grants the whole of Lot 10 in Concession 2 and the part of Lot 10 in Concession 1 lying south of Highway 401 to ENGLP, but EGI's Map does not show these portions as within ENGLP territory.



Figure 17 - ENGLP Map showing portions of Lot 10, Concession 1 and Lot 10, Concession 2 as within ENGLP's territory in accordance with the Omnibus CPCN.



Figure 18 - EGI Map showing Lot 10, Concession 1 and Lot 10, Concession 2 as within EGI territory.

Thames Centre (cont'd)

The Omnibus CPCN grants the south halves of Lots 1, 2, 3 and 4 of Concession 6 to ENGLP, but EGI's Map does not show these portions as within ENGLP territory.

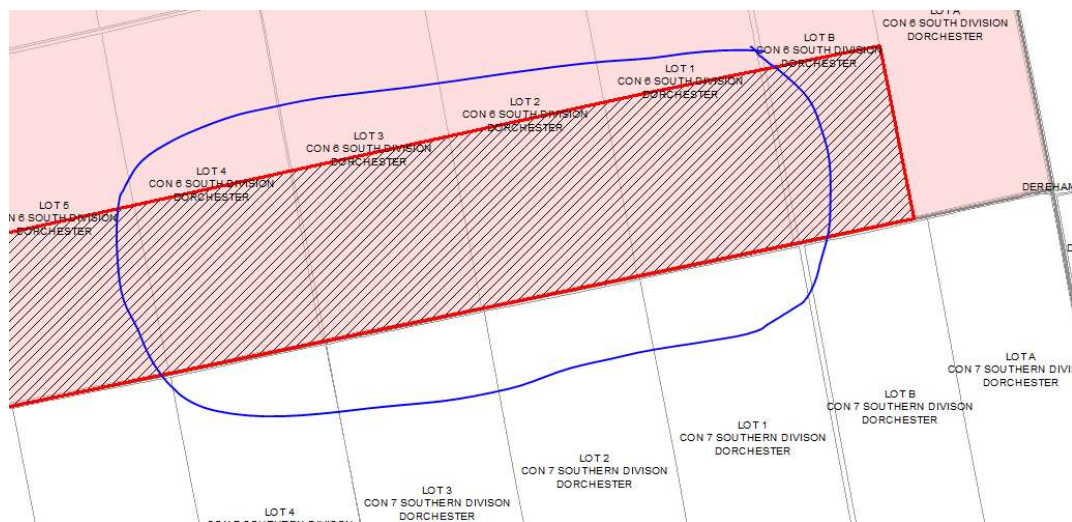


Figure 19 - ENGLP Map showing the south halves of Lots 1, 2, 3 and 4, Concession 6 as within ENGLP's territory in accordance with the Omnibus CPCN.



Figure 20 - EGI Map showing Lots 1, 2, 3 and 4 as within EGI territory.