

- 7. CITY OF OTTAWA NATIONAL CAPITAL COMMISSION LEBRETON FLATS
LAND USE AGREEMENT AND INFRASTRUCTURE BUILD OVER POLICY**
- POLITIQUE SUR LA CONSTRUCTION AU-DESSUS DES
INFRASTRUCTURES ET ENTENTE SUR L'UTILISATION DU SOL DES
PLAINES LEBRETON DE LA VILLE D'OTTAWA ET DE LA COMMISSION
DE LA CAPITALE NATIONALE**

COMMITTEE RECOMMENDATIONS

That Council approve:

- 1. Implementation of the risk-based policy for consideration of applications for development above in-ground City-owned infrastructure outlined in this report and Document 1;**
- 2. Delegation of authority to the Deputy City Manager, Planning and Infrastructure to finalize the policy and approve amendments and alterations as needed**
- 3. The use of the risk-based policy when considering development requests on National Capital Commission-owned lands in order to promote Transit Orientated Development in the area surrounding the Confederation Line's Pimisi Station; and**
- 4. The use of the existing lot line on Albert Street between Booth Street and Broad Street for setback calculation on potential development applications on National Capital Commission-owned lands in order to promote Transit Orientated Development in the area surrounding the Confederation Line's Pimisi Station.**

RECOMMANDATIONS DU COMITÉ

Que le Conseil approuve :

- 1. La mise en œuvre d'une politique fondée sur les risques pour l'étude de demandes d'aménagement au-dessus d'infrastructures**

- souterraines appartenant à la Ville, tel que l'expliquent le présent rapport et le document 1;
2. La délégation de pouvoirs à la directrice municipale adjointe, Urbanisme et Infrastructure, en vue de mettre au point les derniers détails de cette politique et d'approuver les modifications, s'il y a lieu;
 3. L'utilisation de la politique fondée sur les risques lors de l'examen des demandes d'aménagement concernant les terrains appartenant à la Commission de la capitale nationale en vue de promouvoir les aménagements axés sur le transport en commun dans le secteur entourant la station Pimisi de la Ligne de la Confédération; et,
 4. L'utilisation de la ligne de lot existante de la rue Albert, entre les rues Booth et Broad, dans le calcul du retrait des terrains de la Commission de la capitale nationale pouvant faire l'objet de demandes d'aménagement futures, en vue de promouvoir les aménagements axés sur le transport en commun dans le secteur entourant la station Pimisi de la Ligne de la Confédération.

DOCUMENTATION / DOCUMENTATION

1. Deputy City Manager's report, Planning and Infrastructure, dated 21 January 2014 (ACS2014-PAI-REP-0001).

Rapport de la directrice municipale adjointe, Urbanisme et Infrastructure, daté le 21 janvier 2014 (ACS2014-PAI-REP-0001).

Report to/Rapport au :

Planning Committee
Comité de l'urbanisme

and Council / et au Conseil

January 21, 2014
21 janvier 2014

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SOMERSET (14)

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**SUBJECT: CITY OF OTTAWA NATIONAL CAPITAL COMMISSION LEBRETON
FLATS LAND USE AGREEMENT AND INFRASTRUCTURE BUILD
OVER POLICY**

**OBJET : POLITIQUE SUR LA CONSTRUCTION AU-DESSUS DES
INFRASTRUCTURES ET ENTENTE SUR L'UTILISATION DU SOL
DES PLAINES LEBRETON DE LA VILLE D'OTTAWA ET DE LA
COMMISSION DE LA CAPITALE NATIONALE**

REPORT RECOMMENDATIONS

That Planning Committee recommend Council approve:

1. Implementation of the risk-based policy for consideration of applications for development above in-ground City-owned infrastructure outlined in this report and Document 1;
2. Delegation of authority to the Deputy City Manager, Planning and Infrastructure to finalize the policy and approve amendments and alterations as needed
3. The use of the risk-based policy when considering development requests on National Capital Commission-owned lands in order to promote Transit Orientated Development in the area surrounding the Confederation Line's Pimisi Station; and

4. The use of the existing lot line on Albert Street between Booth Street and Broad Street for setback calculation on potential development applications on National Capital Commission-owned lands in order to promote Transit Orientated Development in the area surrounding the Confederation Line's Pimisi Station.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'urbanisme recommande au Conseil d'approuver :

1. La mise en œuvre d'une politique fondée sur les risques pour l'étude de demandes d'aménagement au-dessus d'infrastructures souterraines appartenant à la Ville, tel que l'expliquent le présent rapport et le document 1;
2. La délégation de pouvoirs à la directrice municipale adjointe, Urbanisme et Infrastructure, en vue de mettre au point les derniers détails de cette politique et d'approuver les modifications, s'il y a lieu;
3. L'utilisation de la politique fondée sur les risques lors de l'examen des demandes d'aménagement concernant les terrains appartenant à la Commission de la capitale nationale en vue de promouvoir les aménagements axés sur le transport en commun dans le secteur entourant la station Pimisi de la Ligne de la Confédération;
4. L'utilisation de la ligne de lot existante de la rue Albert, entre les rues Booth et Broad, dans le calcul du retrait des terrains de la Commission de la capitale nationale pouvant faire l'objet de demandes d'aménagement futures, en vue de promouvoir les aménagements axés sur le transport en commun dans le secteur entourant la station Pimisi de la Ligne de la Confédération.

BACKGROUND

On December 19, 2012, City Council awarded the contract to design, build, finance and maintain the first leg of Ottawa's Light Rail Transit system – the Confederation Line – to the Rideau Transit Group (RTG) when it unanimously carried the recommendations of report [ACS2012-ICS-RIO-0004](#).

The Confederation Line is the largest infrastructure project in the City's history. When complete and operational in 2018, the Confederation Line will provide rapid and high-quality transit service from the Tunney's Pasture Mixed Use Center/employment node in the west to Blair Station Mixed use Center/employment node in the east. This 12.5 kilometre, 13 station electric Light Rail Transit (LRT) system includes a tunnel to

address the increasingly severe bus bottleneck through the downtown core that slows service and challenges the reliability of the City's transit system.

The project is part of the City's overarching and long-term smart-growth objectives laid out in the Official Plan, Transportation Master Plan, and Infrastructure Master Plan. The Confederation Line's role in the City's long-term growth objectives is to act as a catalyst for development and redevelopment in the areas surrounding LRT stations, including Pimisi Station, which will be located on Booth Street north of Albert Street. The City is already seeing demand for development in these areas grow and the pace of this development is expected to increase leading up to the opening of the transit line and in the years after commissioning.

In order to be prepared for this demand, the City is proactively assessing areas around stations and creating Transit Orientated Development (TOD) plans. These plans are based on smart growth principles and are designed to encourage complete, dense communities where people live, work, shop, and play while relying less on individual vehicle use and more on alternative forms of transportation including walking, cycling and public transit. This type of development maximizes return on investment in major city-building infrastructure projects, like the Confederation Line, and contributes to the overall economic, environmental, social and cultural sustainability of cities through efficient land use that accommodates growth on existing and planned infrastructure.

Much of the land surrounding Pimisi Station is owned by the National Capital Commission, and this land is expected to be redeveloped in the coming years in a manner that reflects the City's and NCC's shared TOD goals for the area.

The shared vision sees Lebreton Flats as a unique site that is a key component in the future of the Nation's Capital and the core area of the City. Redevelopment of the area will be guided by the principles contained in the 1996 Lebreton Flats Master Land Agreement between the City and NCC. The development will reflect the City's Official Plan and Escarpment Area District Plan principles that were developed in conjunction with the NCC. These principles call for the creation of a vibrant, dense, mixed-use neighbourhood with ample open space, served by a network of pathways and pedestrian-friendly streets that connect seamlessly with Pimisi Station and the Confederation Line, which is currently under construction in the area.

Due to the size of the Confederation Line project, some related works have been incorporated into the construction schedule to avoid future conflicts and throw away spending or to achieve economies of scale. Two of these related undertakings are the construction of a portion of the Combined Sewer Storage Tunnel (CSST) and the New Albert Street Storm Sewer (NASS) on the north side of Albert Street between Broad Street and Brickhill Street on Lebreton Flats.

The CSST is the centrepiece project of the Ottawa River Action Plan, a key City environmental initiative and Council priority aimed at improving the health of the river.

When built, the CSST will capture and hold surplus volumes of combined sewer flow during wet weather that would otherwise overflow into the Ottawa River. These flows will be held until capacity is available in the system to transmit these volumes to the Robert O. Pickard Environmental Centre for treatment. The CSST will greatly lower the amount of contaminants released to into the river by reducing overflows on average to one event per year, improve overall river water quality and reduce the number of beach closures. Construction of the tunnel will place Ottawa on the cutting edge of environmental protection in relation to combined sewer overflow management.

The NASS will serve the Preston-Wellington drainage area which is generally bounded by Albert Street to the north, the City Centre to the west, Somerset Street West to the south and Percy Street to the east. This area was originally constructed with combined sewers, however since the 1980s, sewer separations have been completed in the area. The NASS is required to complete the sewer separation from this area and will outlet to the existing Tailrace outlet sewer which runs from the Lloyd-Booth Chamber (within the existing Transitway approximately 80m east of Booth Street) to the Tailrace at the Fleet Street Pumping Station. This sewer will improve Ottawa River water quality by removing some of the combined sewage from the City Combined Sewer system. Similar to the CSST, this sewer will reduce combined sewer overflows to the Ottawa River.

The sections of the CSST and NASS being built in conjunction with the Confederation Line project will be located under City and NCC lands in the area of Pimisi Station that the National Capital Commission and the City want to be developed in accordance with TOD principles. Once this portion of the CSST and NASS are in the ground, building over it would maximize the transit orientated development potential in the area and boost the return on the Confederation Line investment. However, building over this infrastructure, and other existing infrastructure already in place, would run counter to the City's current policy against allowing development on top of key City infrastructure.

This is not a unique situation and with anticipated demand for TOD development along the Confederation Line expected to continue for years to come, similar situations are expected to present themselves in the future.

Therefore, the purpose of this report is to direct staff to implement a policy to ensure the City takes a uniform, risk-based approach when deciding what build over rights above City infrastructure it will grant property owners provided a proposal is appropriate for the area and is consistent with directions for the growth in the Official Plan, Secondary Plans, CDP's, Development/Design Guidelines and the zoning bylaw. Should it be deemed appropriate, the City will grant the property rights necessary to build over existing infrastructure in accordance with its disposal policy and procedures.

The recommendations of this report will also ensure the City will be able to construct portions of the CSST and NASS within Lebreton Flats in conjunction with the

Confederation Line project in a timely manner without limiting the NCC's ability to plan and promote Transit Orientation Development in the area surrounding Pimisi Station.

DISCUSSION

Recommendation One

Ottawa, like many municipalities, has maintained a policy that discourages development above major infrastructure. This policy was in accordance with best industry practices as it ensured operation of the infrastructure would not be compromised by development, development would not be compromised by infrastructure operation or failure, and the degree of complexity associated with monitoring and maintaining the infrastructure would be kept to a minimum. The downside of this policy is it constrains and sometimes precludes development in general and often in areas where municipalities are looking to focus growth.

In recent years, improvements in infrastructure materials, construction techniques, and monitoring and maintenance practices along with the best-practice City-building smart growth goals of creating more compact, dense neighbourhoods close to major transit services has prompted a second look at policies related to building over top of municipal infrastructure. This is especially the case in situations where there are other benefits to promoting development in an area. As outlined in the background section of this report, these situations exist in the City of Ottawa.

Due to the above factors, Planning and Growth Management, Infrastructure Services and Environmental Services staff have examined the pros and cons of continuing a rigid policy against development above infrastructure and have come to the conclusion that a more flexible policy that would grant build over rights in appropriate cases is warranted. Staff recommends that a risk-based approach that examines all relevant facts be applied when determining whether or not to allow for construction above municipal infrastructure.

This policy will not mean routine approval of build over requests. These would only be granted if an applicant can demonstrate that the risks associated with development over municipal infrastructure are offset by the benefits of doing so. The risks would have to be reasonable, the benefits clear and costs associated with the request must be paid by the requestor.

This approach is consistent with the principles outlined in the Comprehensive Asset Management Program, the City's Risk Management Policy and the City's Fiscal Framework.

The policy will see risk assessments of projects on a case-by-case basis that consider the magnitude of social, environmental and economic consequences of potential failures. The policy will consider proposed strategies to mitigate the risk. These

assessments will include examinations of all current and future relevant factors including:

- The physical state of the infrastructure to determine deterioration from use, age, weathering and other factors and how building over would impact these factors;
- The operational and maintenance history, plans and policies related to the infrastructure;
- Design and technical considerations related to obsolescence and effective performance both pre- and post-build over;
- The importance of the infrastructure for the proper functioning of the entire system including reliability, redundancy and availability under various conditions, including the consequence of failure; and
- The maintainability of the infrastructure post build over including ease of serviceability, inspection and servicing, reparability, restoration after a failure and ultimate renewal or replacement.

Following the City's Risk Management Policy, when examining build over requests, staff will consider environmental, social and economic repercussions of failure to determine if the risk is acceptable. Social factors to be considered include public safety, private property impacts, public service disruption, and visual, olfactory, or audible impact. Environmental factors to be examined are the magnitude of potential discharge of contaminants to the natural environment, potential contamination of drinking water supply, impacts on local atmosphere, and possible disruption to environmentally sensitive areas. Economic factors to be considered are the cost of construction, operation, maintenance, repair, and replacement of the infrastructure, disruption to private businesses, impact on public transportation or other public infrastructure, and traffic control requirements.

The assessments described above will be undertaken for existing conditions, end state and during construction. Attached as Document 1 is a risk-assessment template that would be used when build over requests are received.

Recommendation 2

During finalization of the policy, it is expected that the risk-assessment policy and template as described in Recommendation 1 and shown in Document 1 respectively may require minor adjustment and refinement. Similarly, during implementation of the policy, circumstances may arise that require the policy to be modified to reflect unforeseen and unique circumstances presented in individual build over request.

In order to ensure the City's legislative process is not over-burdened with reports requiring approval of amendments and alterations of the policy, it is recommended the Deputy City Manager, Planning & Infrastructure be delegated authority for finalize the policy and make amendments or adjustments as necessary.

Recommendation 3

The City has adopted a smart-growth based vision for the future growth of the municipality. At the core of this vision is a concerted effort to focus growth in existing areas around major transit services in order to maximize the return on investment of taxpayers' dollars in public infrastructure. This vision is reflected in the City's major long-term planning documents – the Official Plan, the Transportation Master Plan, and the Infrastructure Master Plan.

Inside the Greenbelt, the Confederation Line is a \$2.13 billion catalyst for achieving the creation of complete, dense communities where people live, work, shop, and play while relying less on individual vehicle use and more on alternative forms of transportation including walking, cycling and transit use. This investment is expected to lower the City's future costs of growth by accommodating more people and jobs within the urban area, maximizing the use of existing infrastructure and the transit system being developed. This type of growth lowers the City's and, therefore, taxpayers', future capital and operating costs associated with expansion of the road, water, and sewer systems into greenfield areas to serve relatively few new taxpayers when compared to intensified infill development on existing services. Having more people in a smaller geographical area also lowers the costs of providing libraries, community centres, social services and other municipally funded services.

To achieve the City's smart-growth goals and meet the increasing demand for residential and employment development in areas around rapid transit stations, the City is proactively assessing areas around the stations and creating TOD plans. Seven of these plans are already in place.

The area around Pimisi station represents great potential for development based on TOD principles because much of it is currently under used or vacant. The NCC has expressed a desire to use TOD principles when planning future development on its lands in the area, and the City supports this approach. However, the existing 60-year-old, 1.8 metre diameter Interceptor Outfall Sewer (IOS) and the portion of the CSST and NASS to be constructed in the area would constrain this development if the City's current no-build-over policy is maintained. This is because the existing IOS is under a portion of the Old Wellington Street corridor where CSST and related sewer works will also be constructed. This City-owned closed road corridor cuts across an NCC-owned vacant lot northeast of the Booth Street and Albert Street that is to be developed. Also, the NASS will be placed under the north side of Albert Street partially under the edge of NCC-owned land that is also to be developed. All of the City lands in this area not required for the Confederation Line are to be transferred to the NCC under the terms of

the Lebreton Flats Master Lands Agreement (see location maps attached as Document 2 and 3).

As expressed in the Official Plan, the City supports and encourages development based on TOD principles around all Confederation Line Stations, including Pimisi Station.

In order to ensure these lands can be developed in accordance with TOD principles, the CSST and NASS to be constructed in the area have been designed to allow for development to be built on the lands above them. Specifically, the infrastructure to be placed in the ground has been upgraded in order to increase the load-bearing strength to allow for build over, the access structures have been designed to allow repairs and maintenance to be performed on site with large equipment without interfering with potential buildings, the access structures are within the City right of way, and the infrastructure is being spaced close together, and close to existing infrastructure, to allow as much as of it as possible to be bridged by a future structure above them.

The City and NCC are also ensuring TOD principles can be applied to future development in the area through the property agreement. All property rights required from the NCC for the CSST and the NASS will be acquired in accordance with the City's Real Property Acquisition Policy, which directs that Real Property shall be acquired on the basis of market value, and where applicable, entitlements as defined by the Expropriation Act. In addition to market value and in compliance with federal and provincial expropriation laws, the compensation offer to the National Capital Commission for the right to place this infrastructure under the subject lands will be adjusted to account for injurious affections, disturbance damages, costs incurred in determining compensation and benefits brought to the lands by the proposed works.

In short, the City encourages development based on TOD principles in the area of Pimisi Station, including lands the CSST and NASS will be under, the infrastructure projects have been designed allow for build over and minimize any potential constraint of future development projects, and the City agrees to follow the applicable laws surrounding compensation as outlined above. However, without specific plans, including the necessary technical and engineering reports, for development on top of below grade service infrastructure, the City cannot provide pre-approval to do so.

It is for these reasons, Recommendation 3 of this report is designed to ensure that the risks and mitigation measures associated with potential development over the CSST and NASS will be determined using a standardized and consistent approach, and that if those risks are deemed to be acceptable considering all circumstances and relevant factors, the City's approval for building over the CSST and NASS in this area will not be unreasonably withheld.

Recommendation 4

As mentioned above, part of the NASS and related works to be constructed in conjunction with the Confederation Line will be located on the north side of Albert Street between Broad Street and Booth Street on properties owned by the NCC (see Document 3).

In accordance with the City's current policy against development on top of infrastructure, the normal practice after the installation of the NASS in this area would be for the City to redraw the lot line to reflect the location of the infrastructure, and then calculate any future development setbacks from the new line. This would mean a loss of land for TOD-type projects and would place any development further back from the road, both of which are generally discouraged when the goal is to build compact neighbourhoods with animated streets.

Therefore, building on the rationale for Recommendation 3, the forth recommendation of this report is to approve the use of the existing lot line on the north side Albert Street between Booth Street and Broad Street to calculate future setbacks for development in order to maximize the TOD potential of the area and create a vibrant street edge.

This also means that the future development will be potentially closer and possibly over deep infrastructure in this area. As such, the ability to repair and maintain this infrastructure could be compromised, and the negative environmental impacts associated with an infrastructure failure could be compounded if sufficient space is not provided for access. Staff will apply the risk-based policy for any future development application in this area, which will also need to accommodate access to new and existing infrastructure in order to allow for monitoring, maintenance, repairs and eventually replacement.

Lastly, in this instance, development will be taking place in the future where road widening is anticipated. In order to ensure that development can take place to the current setback line, a rezoning would be necessary to reduce setback from what would normally be the new lot line. Staff will bring forward for Council's consideration the required rezoning at the appropriate time.

RURAL IMPLICATIONS

The vast majority of the City of Ottawa's key infrastructure is in the urban area. However, the City does have infrastructure located in rural areas, particularly in rural villages. As such, the recommendations of this report will apply to potential applications for build over in rural areas as well as urban areas.

CONSULTATION

The City has held extensive consultations with the National Capital Commission in regards to Recommendations 2 and 3 of this report. Staff will also conduct further consultations with interested parties during development and implementation of the risk-based build over policy as per Recommendation 1 of this report.

COMMENTS BY THE WARD COUNCILLOR

Councillor Holmes Comments - The policy needs to clearly state upfront that future development on land above the City-owned CSST and NASS will need to provide sufficient space to allow access for regular inspections in order to maintain the infrastructure in good repair.

LEGAL IMPLICATIONS

There are no legal impediments to the adoption of the recommendations in this report. The adoption of zoning by-laws to reflect changes to accommodate future road widening will be subject to potential appeals to the Ontario Municipal Board.

RISK MANAGEMENT IMPLICATIONS

The build over policy recommended in this report is consistent with the City's Risk Management Policy.

ASSET MANAGEMENT IMPLICATIONS

The build over policy recommended in this report adopts a risk-based approach that is consistent with the City's Comprehensive Asset Management Policy.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with the recommendations of this report.

ENVIRONMENTAL IMPLICATIONS

The recommendations of this report have several positive environmental implications. They will allow the timely construction of a portion of the combined sewer storage tunnel that will place the City at the forefront of environmental protection in the area of combined sewer overflows. The recommendations will also allow for the redevelopment of under used land that will be serviced using existing resources, which will help alleviate pressure to expand the City's geographic footprint. TOD development in the

area will also see lower individual vehicle use and increased use of alternative forms of transportation like public transit, walking and cycling, which helps lower air emissions.

As outlined in the body of the report, development over infrastructure can compound the negative environmental impact of a failure. The risk-based policy for deciding on whether or not to grant build over requests contains examinations of the potential negative environmental impacts. The build-over requests will only be granted when the risk of doing so is deemed reasonable.

TECHNOLOGY IMPLICATIONS

There are no technology implications.

TERM OF COUNCIL PRIORITIES

The recommendations of this report will help the City achieve the following Council Priorities.

- TM1 Ensure sustainable transit services
- TM2 Maximize density in and around transit stations
- TM3 Provide infrastructure to support mobility choices
- TM4 Promote alternative mobility choices
- ES1 Improve storm water management
- ES2 Enhance and protect natural systems
- ES3 Reduce environmental impact
- HC3 Improve social and affordable housing
- GP3 Make sustainable choices
- FS1 Align strategic priorities to Council's tax and user fee targets

SUPPORTING DOCUMENTATION

Document 1 – Risk Assessment Template

Document 2 – CSST Location East of Booth Street

Document 3 – CSST Location West of Booth Street

DISPOSITION

Upon approval of the recommendations of this report staff will:

1. Implement the risk-based policy for assessment and decision making process in relation to requests for development above City infrastructure;

2. Staff will employ the risk-based policy for determining requests to build over the CSST and NASS on NCC lands in Lebreton Flats in order to help maximize the TOD potential in the area;
3. Where services are located in easements, staff will use the existing lot line for calculating setbacks on the north side of Albert Street between Booth Street and Broad Street in order to help maximize the TOD potential in the area; and
4. Staff will bring forward a zoning amendment to address setbacks where road widenings are anticipated to be taken in the future.