

**Report to
Rapport au :**

**Agriculture and Rural Affairs Committee
Comité de l'agriculture et des affaires rurales
1 October 2015 / 1er octobre 2015**

**and Council
et au Conseil
14 October 2015 / 14 octobre 2015**

**Submitted on September 24, 2015
Soumis le 24 septembre 2015**

**Submitted by
Soumis par :
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Ward: RIDEAU-GOULBOURN (21)

File Number: ACS2015-COS-ESD-0021

SUBJECT: Daly Municipal Drain – Appointment of Engineer

OBJET: Drain municipal Daly – Nomination d'un ingénieur

REPORT RECOMMENDATIONS

That the Agriculture and Rural Affairs Committee recommend Council appoint Mr. Andy Robinson, P. Eng of Robinson Consultants Inc. as the Engineer of record to prepare a report that addresses the implications of unassessed land being connected to the Daly Municipal Drain under Subsection 65(5) of the Drainage Act, as described in this report.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil de nommer M. Andy Robinson, ing., de la firme Robinson Consultants Inc., comme ingénieur chargé de rédiger un rapport sur les implications du raccordement de terrains non évalués au drain municipal Daly en vertu du paragraphe 65 (5) de la *Loi de 1990 sur le drainage* de l'Ontario, comme il est décrit dans le présent rapport.

BACKGROUND

The Clerk of the City of Ottawa has received a request from a developer to connect additional land to the Daly Municipal Drain pursuant to Section 65 of the Drainage Act. The land known as 6622 Rideau Valley Drive South (the "Unassessed Land") is currently not assessed under the original Daly Municipal Drain engineer's report dated November 13, 1973 and By-law No.29-73. The Daly Municipal Drain is located in Rideau-Goulbourn Ward in the village of Kars and was first constructed in 1973 by the former Township of North Gower under the engineer's report entitled Engineer's Report for the construction of the Daly Municipal Drain Township of North Gower, dated November 13, 1973.

The Pratt Municipal Drain flows into the Daly Municipal Drain. The Unassessed Land is currently not assessed under the original Pratt Municipal Drain engineer's report dated October 6, 1969 and By-law No.36-69. The Pratt Municipal Drain is being updated under a separate staff report.

DISCUSSION

Although Council is not required to appoint an engineer to prepare a report prior to considering a request to connect to drainage works, staff are recommending that Council appoint a qualified drainage engineer to provide Council with information on the implications of connecting the Unassessed Land to the Daly Municipal Drain in order that Council may exercise due diligence prior to making a decision under Subsection 65(5) of the Drainage Act, either approving or disapproving the proposed connection to the drainage works.

In order to satisfy the requirements of Section 65(3) and avoid a second site visit the engineer will be asked to include the assessment for just proportion of the drainage works for the Unassessed Land in his report in the event that Council does approve the connection under Section 65(5).

Staff are recommending the appointment of Mr. Andy Robinson P. Eng. of Robinson Consultants Inc., as the engineer of record as he has over 35 years experience with similar *Drainage Act* projects, a specialized field of engineering in Ontario.

This report has no tax or budget implications. All costs associated with the engineer's report will be initially paid by the Surface Water Branch of the City but eventually recovered from the owner of 6622 Rideau Valley Drive South. The estimated cost of the report is \$25,000. Funding is available in the approved Municipal Drainage capital program for the cost of the engineer's report.

Council's appointment of the Drainage Engineer to prepare a report does not supersede any regulatory requirements that may be associated with any natural environment issues raised in any other public consultations to date.

The developer of the Unassessed Land has provided required environmental studies, reports and regulatory requirements of relevant agencies (i.e. Conservation Authorities, Ministry of Natural Resources, and Department of Fisheries and Oceans) through the development process for the Unassessed Land.

If Council approves the connection and if the assessment is for an amount greater than \$500, the owner of the land that is assessed may appeal the engineer's assessment to the Tribunal within 40 days after the City Clerk and Solicitor sends a copy of the assessment to the owner of the assessed land (Subsection 65(11) of the Drainage Act).

The *Drainage Act* prescribes the process and timelines that must be followed for any modification or construction of a municipal drain.

Schedule for the proposed connection to the Daly Municipal Drain

Should the Agricultural and Rural Affairs Committee and Council approve the appointment of the Engineer, Mr. Andy Robinson P. Eng. of Robinson Consultants Inc., the anticipated schedule will be as follows:

- Council appointment of Engineer to prepare a report for Council's consideration of the proposed connection drainage works – October 2015
- Preparation of engineer's report – October 2015 to April 2016
- Submission of engineer's report and staff report containing staff's recommendation to Council on whether to approve the connection based on the implications set out in the engineer's report – May 2016

- Consideration of report and Council decision under 65(5) to approve or disapprove the connection, based on implications and evaluation in the engineer's report and staff's recommendation to Council – June 2016
- Drainage Tribunal 40 day appeal period under 65(11) – Q3 of 2016

RURAL IMPLICATIONS

The proposed rural subdivision will benefit from this undertaking through improved drainage and reduced risk of flooding.

CONSULTATION

Consultation with the Ward Councillor, and City staff is ongoing.

COMMENTS BY THE WARD COUNCILLOR(S)

The Ward Councillor is aware of this report.

LEGAL IMPLICATIONS

The Drainage Act stipulates that no person shall connect to or disconnect from drainage works without the approval of the council of the municipality (Subsection 65(5)) but the Drainage Act does not set out any process that Council must follow or documentation that Council must consider prior to making its decision. However, if Council were to approve a connection to a drainage works without first considering a drainage engineer's report on the implications of the connection, the decision would likely be set aside if appealed.

If Council approves the connection of the land to the drainage works, the next step is that the clerk of the municipality shall instruct an engineer to inspect the land that is to be connected and assess it for a just proportion of the drainage works (Subsection 65(3) of the Drainage Act)

Rights of Appeal:

Any person may appeal to the referee under s. 106 of the Drainage Act the following:

1. Council's appointment of the engineer to prepare the engineer's report recommended by staff under this staff report, and
2. Council' decision under Subsection 65(5) approving or disapproving the connection of the Unassessed Land to the Pratt Municipal Drain.

As long as Council uses its best efforts to make an informed decision on the approval or disapproval of the connection the Unassessed Lands to the existing drainage works, there are no legal impediments to the implementation of the recommendation in this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with this report.

FINANCIAL IMPLICATIONS

This report has no tax or budget implications. The estimated costs of \$25,000 for the engineer's report will be initially paid by the City of Ottawa, Surface Water Management Branch, Environment Services Department, and recovered from the owner of 6622 Rideau Valley Drive South. Funds are available in the approved Municipal Drainage capital program. Once approved by Council, a separate new internal order will be created for this specific drain and all necessary funding will be transferred to it.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ENVIRONMENTAL IMPLICATIONS

The subsequent connection to the Daly Municipal Drain is associated with final approval of the subdivision. The provincially significant wetland within the watershed of the Daly Municipal Drain will not be affected by the update of the Engineers Report. Any proposed works will require compliance with City, provincial and federal policies, standards, regulations and legislation.

TERM OF COUNCIL PRIORITIES

The proposed works to the Daly Municipal Drain will fulfill the City's Strategic Plan's environment and infrastructure protection priorities.

SUPPORTING DOCUMENTATION

DOCUMENT 1 – Daly Municipal Drain, Location Plan

DISPOSITION

The Drainage Superintendent shall notify all affected landowners and the local conservation authority of the decision of Council.