

**Subject: Confederation Line Regulatory Framework Update**

**File Number: ACS2024-OCC-GEN-0007**

**Report to Transit Commission on 11 April 2024**

**and Council 17 April 2024**

**Submitted on April 2, 2024 by Wendy Stephanson, City Manager**

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**Ward: Citywide**

**Objet : Mise à jour du cadre réglementaire de la Ligne de la Confédération**

**Dossier : ACS2024-OCC-GEN-0007**

**Rapport au Commission du transport en commun**

**le 11 avril 2024**

**et au Conseil le 17 avril 2024**

**Soumis le 2 avril 2024 par Wendy Stephanson, directrice municipale**

**Personne ressource : David White, avocat général et greffier municipal par intérim, Bureau de la directrice municipale**

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**Quartier : À l'échelle de la ville**

## **REPORT RECOMMENDATIONS**

- 1. That Transit Commission recommends to Council that Light Rail Regulatory By-law 2015-301 be repealed and replaced by enacting the new Confederation Line Regulatory By-law as attached in Document 1; and**
- 2. That Transit Commission and Council receive as information this report containing an overview of the existing Confederation Line Regulatory Framework.**

## RECOMMANDATION(S) DU RAPPORT

1. Que la Commission du transport en commun recommande au Conseil d'abroger le *Règlement de contrôle sur le train léger* (n° 2015-301) et de le remplacer en promulguant le nouveau *Règlement de contrôle sur la Ligne de la Confédération*, joint à titre de document 1; et
2. Que la Commission du transport en commun et le Conseil reçoivent à titre d'information le présent rapport contenant un aperçu du cadre réglementaire de la Ligne de la Confédération actuel.

## BACKGROUND

Due to the existence of some interprovincial elements of the City's integrated transit system (specifically bus service to Gatineau), unlike many municipal light rail transit systems in Canada, the light rail components of the City's transit system are subject some federal regulation.

When the City's implementation plan for the Ottawa Light Rail Transit project came before Council in 2011, the City and Transport Canada had been working towards an agreement which would permit the City to regulate the Confederation Line Light Rail system more independently of federal regulation, consistent with other Canadian municipal transit systems which include light rail components and in order to reflect the fact that Transport Canada generally does not provide active regulatory oversight for this type of transit system.

As part of Council's approval of the implementation plan for the Ottawa Light-Rail Transit project (ACS2011-ICS-RIO-0002), on July 14, 2011, Council delegated its authority to the then Deputy City Manager of Infrastructure Services to finalize a regulatory delegation agreement with the Federal Government, as represented by the Federal Minister of Transport and delegated the authority to the Mayor to execute what is now referred to as the Transport Canada Delegation Agreement for the Confederation Line light rail transit system (the "**Transport Canada Delegation Agreement**").

The Transport Canada Delegation Agreement, made effective on October 1, 2011, included provisions for the development, adoption, monitoring and enforcement of City rail transit regulations pursuant to a delegated regulation model.

On September 23, 2015, Council approved the governance and the municipal regulatory framework for what is now the Confederation Line Light Rail Transit System (ACS2015-CMR-OCM-0018) (the "**2015 LRT Report**"). At that meeting Council also

approved the enactment of the Light Rail Regulatory Monitor and Compliance Officer and LRT Regulation By-law as By-law 2015-301 (the “**2015 LRT By-law**”)

On April 26 2023, the report (ACS2023-CMR-OCM-0004) recommending the renewal of the Regulatory Monitor Compliance Officer’s contract for a further five year term also referenced the need for a review of certain elements of the Light Rail Confederation Line regulatory regime in order to address organizational and operational changes which have occurred since the Confederation Line regulatory framework was developed between 2011 and 2015. Staff has now completed that review culminating in this Report including the recommendation that a new Confederation Line Regulatory By-law be adopted.

## **DISCUSSION**

### **CONFEDERATION LINE LIGHT RAIL REGULATORY FRAMEWORK – 2011 TO PRESENT**

The focus of the Confederation Line regulatory regime is safety and security in relation to the design, construction, operations and maintenance elements of the Confederation Line system. Like most rail transit regulatory regimes in Canada and elsewhere, including the municipal self-regulatory model, regulations are applicable to the operator of light rail assets and the related operating system. In the case of the City, this means the focus of the regulations is OC Transpo and other City departments responsible for the operation of the Confederation Line.

In order to meet the requirements of the Transport Canada Delegation Agreement, the Confederation Line regulatory regime requires a certain level of formal documentation as well as some level of independent regulatory oversight and administration.

On September 23, 2015, Council approved the governance and reporting requirements for the municipal regulatory framework, including the delegation of a separate oversight and administration role to the City Manager and the establishment and appointment of the Regulatory Monitor Compliance Officer (“**RMCO**”) position, for what is now the Confederation Line Light Rail Transit System (the “**Confederation Line**”) including through the adoption of the 2015 LRT By-law.

The City Manager is supported in her regulatory and administration role by various personnel in the City Manager’s Office, by the RMCO, Legal Services and other City employees and independent contractors, consultants and advisors as required from time to time.

On February 21, 2021, the City Manager signed the City Manager Designation Document (the “**CMDD**”). The CMDD (1) identifies and confirms the status of City adopted Confederation Line regulations as well as programs applicable to the design, construction, operation and maintenance of the Confederation Line, (2) clarifies who the regulations apply to and what City departments, offices, groups or branches are responsible for adopting, implementing, directing, providing oversight, and/or maintaining records with respect to certain programs and provides guidance regarding the administration of the City’s Confederation Line regulatory regime generally.

The CMDD is a living and adaptive document that continues to be reviewed and modified by the City Manager as operational, technical and regulatory improvements manifest over time and with the collaboration, input and advice from the senior leadership team at OC Transpo and Rail Construction Program.

Both the 2015 LRT By-Law and the CMDD require amendment to reflect organizational and operations changes which have occurred since the inception of the regulatory framework for the Confederation Line.

## **REVIEW OF CONFEDERATION LINE REGULATORY FRAMEWORK**

Since the development of the Confederation Line regulatory regime between 2011 and 2015, and the adoption of the Confederation Line By-law in 2015, there have been a number of organizational changes including changes to names of departments and branches and the introduction of the roles and positions of the Chief Safety Officer (CSO) (2016) and Director of Engineering Services (DES) (2023) have been added to Transit Services since 2015.

There have also been a number of operational developments including revenue service for the Confederation Line in 2019 and the conclusion of an agreement with the Transportation Safety Board (TSB) with respect to the assessment and investigation of serious rail accidents and safety incidents. In addition, the RMCO has continued to improve and clarify independent monitoring processes and protocols for Confederation Line operation and maintenance.

A review of the existing Confederation Line regulatory framework was undertaken by staff from OC Transpo, the Rail Construction Program and Legal Services (both internal and external) including the Clerk’s Office, and resulted in the identification of the following recommended changes:

- Updating titles of City officials and names of City departments and branches that have since changed from 2015 including incorporating new positions that have since been added to Transit Services noted above the CSO and the DES;
- Centralizing responsibility for the designation of regulations and programs applicable to the Confederation Line;
- Clarifying the role of the Regulator Monitor Compliance Officer (RMCO) in monitoring regulatory compliance for operations and maintenance of the Confederation Line since revenue service in September 2019;
- Confirming the regulatory compliance monitoring during design and construction activities through independent oversight provisions and activities provided for under the Confederation Line Project Agreements;
- Establishing reporting timelines and activities for the RMCO, including coordination with City officials including the City Manager and General Manager of Transit Services Department and reporting to Transit Commission and Council.
- Providing additional clarity and capturing the roles of the City Manager and General Manager with respect to accident and incident investigations in the CMDD rather than referring to them in the LRT By-law which is consistent with prevailing practice; and,
- Updating the CMDD, including the list of designated regulations and programs, to reflect current practice.

## **NEW CONFEDERATION LINE REGULATORY BY-LAW**

In connection with the above objectives, Legal Services (both internal and external) with a coordinated and collaborative involvement of staff at OC Transpo have drafted the updated Confederation Line Regulation By-law, included as Document 1 to this Report.

The new Confederation Line Regulation By-law is recommended for approval by Committee and Council and enactment at the April 17, 2024 Council meeting.

## **CONFEDERATION LINE DESIGNATED REGULATIONS**

Revisions and updates to the 2021 CMDD have also been developed including a proposal that the updated designation document be known as the **Confederation Line Designated Regulations** (CLR) in order to clarify its purpose.

Following the enactment of the new Confederation Line Regulatory By-law, and upon final review of the CLR by the City Manager, the City Manager is expected to adopt the new CLR.

It is important to note that the Confederation Line By-law and the CLR, are only two of many regulatory documents, processes, plans etc. that combine to make up the Confederation Line regulatory regime. Other important documents, processes and plans include but are not limited to:

- The contract between the City and the Transportation Safety Board (TSB) in September 2019, confirming and clarifying the coordinated and shared regulatory authority of both the TSB and the City to assess, investigate and issue reports in relation to serious rail accidents and safety incidents;
- Ongoing independent regulatory compliance monitoring conducted by the RMCO;
- Transit By-law 2007-268; as amended and,
- The OC Transpo Confederation Line Oversight Plan, which is reviewed and updated each year and more frequently if required.

## **FINANCIAL IMPLICATIONS**

There are no financial implications with the recommendations in this report.

## **LEGAL IMPLICATIONS**

There are no legal impediments to approving the recommendations in this report.

## **COMMENTS BY THE WARD COUNCILLOR(S)**

This is a city-wide report.

## **CONSULTATION**

Consultation was not required for this report.

## **ACCESSIBILITY IMPACTS**

There are no specific accessibility impacts associated with this report.

## **DELEGATION OF AUTHORITY IMPLICATIONS**

No additional delegated authority is being sought by staff as part of this report except as described in this report.

## **RISK MANAGEMENT IMPLICATIONS**

No risk management implications have been identified associated with this report.

## **RURAL IMPLICATIONS**

No rural implications have been identified associated with this report.

## **TERM OF COUNCIL PRIORITIES**

No specific Term of Council priorities have been identified in the preparation of this report.

## **DISPOSITION**

Legal Services has prepared and will forward the Confederation Line By-law to Council for enactment as described herein.

## **Document 1**

Confederation Line Regulatory By-law – 2024