

Addendum to the Terms of Reference

Amendments highlighted in red

Background

Council has directed that a Rail Policy be developed to create a long term strategy for approving development applications in proximity to the railway corridor. The Municipal Development Plan (MDP) supports continued growth and development near railway corridors. The goals of the Rail Policy are to manage and mitigate risk, and reduce nuisance factors resulting from railway operations. The project will include policy and processes for approving development applications in proximity to the railway corridor that consider public safety, building protection and economic value.

Status

On 2015 December 18, Council directed Administration to report back on 2016 March 21 based on the in-camera discussion that resulted from report C2015-0957. The Mayor was requested to write to the Minister of Transport and the President of the Federation of Canadian Municipalities (FCM) requesting that the federal government, in the interest of public safety, pass legislation to reduce risks posed by rail traffic. These letters were attached to report C2016-0197. A response from the FCM was received by the Mayor's office that outlines the work the FCM has recently undertaken to improve the safety of moving dangerous goods by rail.

At an in-camera session of Council on 2016 March 21, Council adopted the following recommendations with respect to report C2016-0197:

1. Direct Administration to consult with key stakeholders to review the draft deliverables for a Rail Policy Framework as identified in Attachment 2, including a more particular review and revision of the sensitive use list, and report back to Council with a terms of reference that includes deliverables, scope of work and timelines no later than 2016 Q2; and
2. Direct that the In Camera discussion and PowerPoint presentation remain confidential pursuant to Sections 23(1)(b), 24(1)(a) and (b), and 27 of the *Freedom of Information and Protection of Privacy Act*.

This Terms of Reference has been prepared with key stakeholders in response to this Council direction.

Purpose

The purpose of this document is to define the Terms of Reference for the development of Rail Policy including, scope, deliverables and timelines. The Terms of Reference will guide how Administration and stakeholders will work together to develop the Rail Policy.

The Rail Policy will respond to the following key question, which is the issue defined by key stakeholders and Administration: **How will The City of Calgary support the continued development and economic value of lands in proximity to rail, while protecting public safety and buildings?**

Representation

Key stakeholders were identified to represent their Business Unit or external organization to develop the Terms of Reference. Through this representation the following section summarizes the approach that was used to engage with key stakeholders to identify the following project framework:

- The process and guiding principles
- Assumptions and responsibilities
- Issues to resolve through Rail Policy
- Project deliverables
- Communications and engagement strategy

Administrative Staff

The internal stakeholder group was comprised of Administrative staff from:

- Planning and Development (PD)
- Calgary Fire Department (CFD)
- Calgary Emergency Management Agency (CEMA)
- Law
- Real Estate and Development Services (RE&DS)

External Stakeholders

External stakeholders were identified by development industry organizations, and included the following development industry organizations and groups:

- Calgary Home Builders' Association Urban Development Institute Calgary Region (CHBA – UDI)
- Building Owners and Managers Association (BOMA)
- Commercial Real Estate Development Association (NAIOP)
- Development Consulting Firms

- Developers
- Railways (CP and CN)

Key Stakeholder Meeting Format

External stakeholders were invited to three meetings. The internal stakeholder group met initially and then joined the last two meetings with the external stakeholders. These two groups are the key stakeholders that guided the development of this Terms of Reference.

Additional Key Stakeholder Engagement

In addition to the key stakeholders, a broader group of stakeholders will be engaged in the development of the Rail Policy, including industry associations, railway companies, regulators and community groups. CP and CN have been approached and have expressed interest in being involved in the development of the Rail Policy.

Stakeholder Engagement Process and Guiding Principles

The City of Calgary will convene a stakeholder engagement process bringing City business units, landowners including railway companies, other orders of government and invested parties together to identify solutions.

The following principles were agreed to for the engagement process for the Rail Policy development:

1. The City and industry stakeholders will work together collaboratively;
2. The process will involve the railway companies;
3. The process will be transparent;
4. The process will be based on trust and open, honest dialogue;
5. Participants will be open to other perspectives;
6. Innovative and flexible solutions will be encouraged; and,
7. The process will strive to reach a timely conclusion.

Objectives

When considering a development application adjacent to rail, Administration has established three key objectives:

1. Protection for building occupants and citizens in close proximity to the building;
 2. Protecting buildings; and,
 3. Facilitating emergency response to a railway incident.
- ~~Safety protection for building occupants, and citizens in close proximity to the building;~~
 - ~~Facilitating emergency response to a railway incident; and,~~
 - ~~Protecting buildings.~~

These objectives reflect the issues raised by key stakeholders, but with a need to also consider the full development potential of land and buildings. The key stakeholders reviewed and understood these objectives.

Assumptions and Responsibilities

1. There are unique risks associated with the operation of railways in urban areas.
2. The City of Calgary must manage its risk as an approving authority and as an emergency responder.
3. The municipality is required to respond to incidents on rail.
4. Where satisfactory access and setup space is not available for first responders in an emergency situation, risk is increased.
5. The City of Calgary does not have any direct control over rail operations (such as train speed).
6. The railways are responsible for operating safely.
7. The railways must move dangerous goods and are liable for the movement of dangerous goods.
8. The City, industry and the railway companies will work together on issues of mutual interest.
9. The City will continue to accept and process development applications near rail in the near term.
10. The City will continue to review the current approach and process for development applications in proximity to the railway corridor. If, during the development of the Rail Policy, alternative solutions or approaches to deal with risk are identified, the current approach may be amended.
11. The Rail Policy may provide for a variety of different solutions appropriate for different urban contexts (such as greenfield vs. redevelopment areas).
12. The full development potential of sites near rail will be considered in accordance with the goals of the Municipal Development Plan.
13. Administration and stakeholders will be encouraged to bring creative and innovative development solutions to managing risk near rail.
14. Calgary City Council is the decision-maker on land use matters.

Issues

The City of Calgary and the key stakeholders have agreed to the following issues to resolve:

1. Clarity and certainty in the development application process;
2. Protecting life safety and buildings;
3. Land value and tax base impacts;
4. Emergency services access to the rail corridor;
5. Working with the railway companies and regulators on issues related to their responsibilities for operational safety and the impacts of rail on nearby property; and,
6. Outlining risk assessment requirements and exploring developer / City partnerships when possible.

Communications and Engagement Strategy

The following communications and engagement strategy was agreed to by the key stakeholders for the Rail Policy. A Communications Plan will be developed for the Rail Policy.

1. The City will establish a comprehensive communication and engagement strategy.
2. Communications channels will include The City's website: calgary.ca/railway, email, subscription electronic newsletters and other means to provide information to the stakeholders such as industry associations, railway companies, regulators and community groups as well as the broader public.
3. Discussions and decisions at stakeholder meetings will be documented.
4. From time to time communications may be issued jointly by The City and the stakeholder group.

Project Decisions and Recommendations to City Council

Deliverables

The Rail Policy will build on the current approach and supplement it with tools to address Calgary's specific development context. Project decisions and recommendations to City Council will be based on the following:

1. Background report - best practices and comparables; review of Calgary's context and specific characteristics; economic analysis to understand the impacts on land value and the tax base for sample areas;
2. Risk and mitigation process - risks to be mitigated; localized risk analysis including understanding probabilities and impacts for more vulnerable areas; identify optional and scalable mitigation measures and allow for flexible and innovative solutions;
3. Proximity rules and sensitive uses - thresholds for setbacks, risk assessments and mitigation strategies (i.e. suitable for small to large sites); approach for addressing sensitive uses; explore options for incentives to offset mitigation requirements and optimize development potential;
4. Area based emergency response access strategy;
5. Intergovernmental and railway company engagement strategy – short term and long term strategy for working with other orders of government, industry, railway companies and regulators on issues of rail safety and operations; and,
6. Implementation plan – including Municipal Development Plan and Land Use Bylaw amendments, as needed.

Progress has been made on the above deliverables which guide development of an Interim Approach to process development applications as the policy is developed. With continued collaboration with internal and external stakeholders the following additional deliverables will be completed:

Addendum to the Deliverables

Progress has been made on the initial six deliverables. This work guided development of an Interim Approach to process development applications as the policy is developed. Respecting all aspects of the Terms of Reference and with continued collaboration with internal and external stakeholders the following additional deliverables will be completed:

1. Baseline Risk Assessment – to support objective 3:
Will identify and lay out general risk to developments adjacent to a rail corridor.
2. Noise and vibration recommendations and scopes – in support of objective 1:
The environmental impacts of railways on nearby development include noise and vibration. Policy will provide a scope which will respond to noise and vibration impacts in the Calgary Context.
3. Public engagement process introducing the policy framework to the community:
After rail policy is drafted, a public engagement process will be used to introduce the development and rail policy framework to the community in 2017 Q4 and 2018 Q1.

Timelines

A timeline with phased deliverables is proposed as follows:

Deliverable	Proposed Timeline	
	Stakeholder Review	Report to Committee
Phase 1:		
Background report	December 2016	
Risk and mitigation process	November 2016	March 2017
Proximity rules and sensitive uses	December 2016	March 2017
Intergovernmental and railway company engagement strategy	October 2016	
Phase 2:		
Area based emergency response access strategy	Q2 2017	
Baseline Risk Assessment	September 2017	
Noise and Vibration recommendations	October 2017	
Public Engagement Process	Q4 2017 + Q1 2018	
Implementation - MDP & LUB amendments		Q2 2018

In order to provide sufficient opportunity for collaboration on the remaining deliverables, the Terms of Reference has been amended to deliver policy to the Standing Policy Committee on Planning and Urban Development in 2018 Q2.

A revised project timeline for deliverables is proposed as follows:

