

Brief to the National Capital Commission

Mandate Review Panel

From

The Coalition for NCC Renewal

October 2006

## TABLE OF CONTENTS

Introduction and Overview	i
I. NCC's Functions and Activities – Overviews and Recommendations	
A. Gatineau Park	1
B. The Greenbelt	3
C. NCC Land holdings Outside Gatineau Park and the Greenbelt	6
D. Long Range Planning	8
II. Funding	9
III. Governance - Overview	11
<b>ANNEXES</b>	
A. Profiles of Member Organizations	13
B. CRCCN Position relative à la protection du Parc de la Gatineau CNCCR Position Paper - Gatineau Park	15 21
C. CNCCR Position Paper – Greenbelt	25
D. CNCCR Position Paper – NCC Land Holdings outside Gatineau Park and the Greenbelt	31
E. CNCCR Position Paper – Governance	45

## **Introduction and Overview**

The Coalition for NCC Renewal was formed as a result of the mandate review initiative announced by Minister Lawrence Cannon in April 2006. The Coalition was established primarily to ensure the conservation, expansion and good management of NCC lands in the National Capital Region. It consists of an umbrella group of 10 environmental and community organizations from Ottawa and Gatineau<sup>1</sup> who have worked together for the last six months to develop a consensus on the major land use issues associated with the NCC and a series of recommendations to present to the Mandate Review Panel.

Although our relations with NCC staff over the years have generally been cordial and its professional staff have demonstrated high standards, we have nevertheless identified several structural and functional problems, including a lack of accountability, transparency, land stewardship and governance issues we believe need to be addressed by the federal government. These widespread concerns have resulted in a decline of public confidence in the Commission.

During its deliberations the Coalition reached a number of conclusions, including the following:

- That the NCC should not be abolished but be reformed to become an organization that can assist in the overall planning for the National Capital Region, as well as organize, sponsor and promote events of national significance. However, participants were very clear that support for the continuation of the NCC should not preclude the possibility of removing certain high profile and publicly valued lands such as the Gatineau Park and the Greenbelt from under its jurisdiction and transferring them to another federal entity. It was unanimously agreed that, under no circumstances, should these lands be transferred to the control of the local municipalities.
- Legislation is needed to legally protect certain significant lands and in particular Gatineau Park and the Greenbelt.
- The NCC should place at least as much priority on protection of the ecological, heritage landscape or other values of its greenspaces as it does on its other mandated responsibilities.
- There should be a separate management structure and a decision-making process as well as an annual dedicated budget for land conservation and acquisition that cannot be used for any other purpose without approval from the Treasury Board or Parliament.

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<sup>1</sup> See Annex A for profiles of the coalition member organizations

## CNCCR Brief to the NCC Mandate Review Panel – October 2006

- The NCC should receive sufficient annual funding so that it is not compelled to sell off lands to fund its program requirements. Furthermore, the proceeds of any sales should be transferred to the General Revenue fund, thus eliminating the incentive to act as a developer rather than a conservator and steward of its valued greenspaces.
- The NCC should be exempt from the current Treasury Board policy that mandates land sales only at current market value. Rather, the policy should allow other criteria to be considered such as environmental, community or heritage value.
- The governance function of the NCC needs to be improved, making it more open, transparent and accountable to Parliament and to the public. All NCC meetings should be open to the public and agenda and minutes published, except for those requiring *in camera* deliberations, such as personnel, contract and litigation matters.
- The reform of the NCC needs to include a genuine process and forum for ongoing communication and collaboration between the NCC, and the general public and various interest groups. In short, a meaningful public consultation process is urgently needed.

The fact that we are residents of the National Capital Region who are most directly affected by the decisions of the NCC does not mean we are unmindful of the national interests in our capital area. The protection of the natural and human environment and the quality of life in this region can serve as a model for other jurisdictions across Canada and contribute to the pride of Canadians in our capital.

## **I. NCC's Functions and Activities**

### **A. Gatineau Park - Overview**

The Coalition wants to ensure the long term survival of the exceptional biodiversity and natural ecosystems of the Gatineau Park. In order to achieve this objective, we strongly support efforts to provide legal protection for the boundaries of the Park as well as a management mandate prioritizing conservation as stated in the Master Plan of Gatineau Park, adopted in the spring of 2005 by the board of directors of the National Capital Commission.

This Master Plan marks a true realignment with conservation principles: “The conservation plan, to be prepared in the next three years, will contain in-depth information on the park’s natural environments and their functions, and will also describe the locations and significant natural ecosystems and their components of..., conservation priorities based on the significant ecosystems and their components ... finalizing the inventory of the natural components of interest and producing a summary for consultation purposes.”

### **Major Issues**

#### **1. Lack of Legal Status**

According to a recent Ottawa Citizen-Decima survey, 82% of those polled favour making Gatineau Park a national park. However, the lack of a legal conservation status leaves the Park without defined limits and, over the years, has created, a situation which has brought changes to them without public input and often lack of coherence: properties were sold to individuals inside the Park, some were expropriated, some were excluded from the Park and sold, some bought. This has resulted in the construction of more private homes within the Park. We therefore support the two bills (S-210, C-311) tabled in the Senate and House of Commons, respectively. While providing legal protection is necessary and should be considered as the first priority, it is not sufficient to ensure the long term preservation of the Park’s natural beauty.

#### **2. Protection of Biodiversity**

Every year over a million people come to Gatineau Park which has resulted in the construction of more roads, parking lots, bicycle paths (not counting the many cyclists on the parkways), mountain bike paths, ski-do trails, walking trails, ATV trails and rock

climbing to name only a few activities. While the Park provides numerous recreational opportunities that are highly valued by the public, these activities need to be monitored carefully to ensure that they do not produce serious adverse effects on the Park's ecology. In areas where certain uses are permitted, if conflicts arise with the Park's ability to maintain biodiversity, there should be a forum so that Park management can work with users to develop a strategy for sustainable use of these lands. In this connection, it is important to measure their cumulative environmental impacts rather than each activity individually.

To support this emphasis on conservation, Park residents and visitors need to be made aware of the ecological values of the Park and the need to conserve its biodiversity. In addition to public education, public participation should also be encouraged which could be a very cost-effective way of enhancing the management of the Park.

Another challenge is the management of private properties within the Park and obtaining purchase options for these and the necessary budgets. Park residents need to be made aware that living there is a privilege and that they have a responsibility to protect its biodiversity.

Managing car traffic and its impact on the environment is also a concern. The great majority of visitors arrive in the Park by car. Their number is increasing as well as the number of activities allowed. This puts pressure on the road network and increases the demand for parking spaces. That is why management by ecosystem rather than by activity must be implemented. A comprehensive transportation plan must also be undertaken.

The creation of buffer zones between the Park and humans needs to be addressed in order to minimize "meetings" between humans and wild species that overflow outside the Park. Some natural corridors will also have to be maintained so that the fauna and flora are not isolated from the regional forest and the Ottawa and Gatineau Rivers.

## **Recommendations**

1. Legal protection to the Gatineau Park should be provided as soon as possible, including the setting of its boundaries.
2. The Gatineau Park needs to be given a World Conservation Union category II protection status, that is a national park status: "a natural area of land and/or sea designated to (a) protect the ecological integrity of one or more ecosystems for present and future generations, (b) exclude exploitation or occupation inimical to the purposes of designation of the area and (c) provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible."

3. Pursue the implementation of the Master Plan, including an inventory of significant natural ecosystems.
4. Establish a public awareness plan and program relative to the roles and mandates of a conservation park, to the wealth of fauna and flora of Gatineau Park and to its historic and natural heritage.
5. Create a transportation plan which is based on encouraging alternatives to automobiles and giving access to people without cars;
6. Provide sufficient resources to ensure that conservation efforts are maintained and enhanced as well as funds necessary to buy back properties when opportune. However, funding for property acquisition should not be undertaken at the expense of ensuring conservation.
7. In addition to prohibiting any sales by the NCC within the Park's boundaries, there should be no sales of non-NILM properties adjacent to Park for private development (i.e. for housing, individual cottages etc.). Rather, these lands should be retained by the NCC to create buffer zones and wildlife corridors.

## **B. The Greenbelt – Overview**

The National Capital Greenbelt was created as a result of a recommendation in the 1950 Gréber Report, "*Plan for the National Capital*," but was not implemented until 1958. In his speech to the House of Commons, Prime Minister Diefenbaker said:

"I should like to emphasize that this is a long-term project undertaken in the national interest.... that is necessary and essential if the capital of Canada is to be preserved and developed so that it will be a capital city of which this generation and succeeding generations can and will be proud."

Successive federal governments have steadfastly maintained the sanctity of the Greenbelt insofar as it was not to be treated as a land bank for local municipalities or commercial interests.

### **Current Greenbelt Uses**

According to the current City of Ottawa *Official Plan* and the *NCC Greenbelt Master Plan 1995 – 2015*, there are many and varied land uses on the Greenbelt. These uses range from transportation corridors, hydro right-of-ways, a hospital, a school, a

sportsplex, the Ottawa airport (although in existence before the Greenbelt lands were purchased around it), an equestrian park, a hi-tech campus, residential developments (already in existence before the lands around it were acquired), significant wetlands, reforestation projects, a government research center, lands under cultivation and some virgin forests. In short, other than its general location serving a relatively open “belt” around Ottawa’s core, there is no single defining land use characteristic for the Greenbelt.

### **Challenges Facing the Greenbelt**

There are many challenges facing the Greenbelt and which threaten its long-term viability. These threats may be placed into two general categories, consisting of population growth and NCC budgetary requirements. As the local population continues to grow, the need for land grows with it. The physical areas of the Greenbelt where the threat to its existence are greatest are at the fringe where it “meets” or abuts urbanized areas. It is here that the Greenbelt is nearest the municipal infrastructure of roads, sewers and other services that greatly increases the attractiveness and suitability of Greenbelt lands for commercial or other development. As the brief history of the Greenbelt has amply demonstrated, the temptation to request development of these prime lands is almost irresistible to local municipalities. And with the NCC seeking buyers for its lands in order to make up budgetary shortfalls, this becomes a real threat to the future integrity of not only the Greenbelt but all green space under NCC jurisdiction. As a result, since 1988, the NCC has become a major player in the property development in Ottawa.

### **Greenbelt Land Use Designations: Prioritizing Land For Sale**

Following the 1988 amendments to the *National Capital Act*, the NCC proceeded with a new plan of action designed to determine which of the lands under its control could be sold off on a priority basis. Perhaps in an attempt to add a layer of legitimacy to this new process of land sales, the NCC embarked on a number of “open houses” to garner feedback from the local communities regarding the “value” placed on various parcels of land, including the Greenbelt. As a result the NCC published a series of reports on the Greenbelt including *The Future Greenbelt* (1992), a draft summary *Greenbelt Master Plan 1995 – 2015*, and the 1996 *Greenbelt Master Plan*.

NCC sponsored public opinion polls have shown overwhelming public support for the Greenbelt, with 85% or more indicating that the Greenbelt should be protected and should not be developed: “with the exception of using the land for recreational development, the majority of respondents did not want the Greenbelt to be developed for any other purpose” according to one study. Furthermore, only 5% of respondents



expressing a “positive agreement” to use any of the Greenbelt for housing while less than 3% supported the sale of Greenbelt lands for commercial development.

Three major roles are defined for the Greenbelt in the NCC’s 1996 *Greenbelt Master Plan*, each with a set of land designations:

1. “**Continuous Natural Environment**” role with land designations of “Core Natural Area,” “Natural Buffer” and “Natural Area Link.”
2. “**Vibrant Rural Community**” with “Cultivated Landscape” and “Rural Landscape” as land designations.
3. “**Compatible Built Facilities**” role for the Greenbelt with land designations of “Buildable Site Area” and “Infrastructure Corridor.”

While we have no particular concerns with the first two roles and designations, we do find the “Compatible Built Facilities” role for the Greenbelt and particularly the “Buildable Site Area” designation very problematic. We submit that this land designation is not acceptable if the Greenbelt is to be true to its original vision. Not only is one of the objectives of this land use designation too vague and all encompassing, this designation could be used to justify almost any type of development on Greenbelt lands and especially so for expansion of existing campus-type facilities. Aside from pure agricultural research, it has never been demonstrated that other forms of campus-like research activities, hi-tech and otherwise, must have “specialized land needs such as seclusion...” to achieve their stated objectives.

But even more serious is the NCC statement that the Compatible Built Facilities role for the Greenbelt is in fact a means whereby the sale of Greenbelt land is used to support the NCC’s bottom line. One of the stated objectives of the Buildable Site Area land designation is “to provide a continuous source of revenue in support of Greenbelt operations”. It is questioned however why the Greenbelt is mentioned as needing “support” while it is the NCC itself that needs support to make up its budget shortfalls.

## **Recommendations**

1. The Greenbelt needs to be defined by federal statute so that its boundaries will be clearly delineated in approximation to the legal provisions currently afforded Canada’s National Parks under the *National Parks Act*.
2. A thorough review, with public involvement, should be undertaken of the current land use designations as found in the current NCC *Greenbelt Master Plan*. Serious consideration should be given to the *elimination* of the Compatible Built Facilities role and the Buildable Site Area land designations for all Greenbelt lands not already developed. The Greenbelt is not a self-generating land mass. Once Greenbelt lands are developed they cease being Greenbelt and are lost forever.

3. Depending on funding availability and where feasible, additional lands of environmental significance and contiguous with the Greenbelt, should be purchased.

## **C. NCC Land Holdings Outside Gatineau Park and the Greenbelt - Overview**

### **Background**

Ever since Ottawa was designated as the nation's Capital, the federal government has been active in the acquisition of land in the area. In 1988, as a result of a review of land holdings the Treasury Board approved the concept of National Interest Land Mass (NILM). With some exceptions, lands not designated NILM were, in principle, to be disposed of. All disposals were and still are required to be at fair market value. In 1990, the Treasury Board agreed that proceeds of land sales could be retained by the Commission for the purpose of acquiring NILM lands not in federal hands; in 1992, this directive was loosened to also permit the proceeds to support life-cycle management of capital assets such as bridges and official residences.

Since 1995, the NCC can dispose of real property up to \$200,000 with little ado. A property worth more than \$200,000 can likewise be disposed of provided it is listed in the annual Five-Year Corporate Plan submitted to the Treasury Board.

Disposals over the period 1989-2006 have amounted to 1,450 ha, including 287 ha to the private sector for development. Between 1992 and 2006, annual net proceeds from land sales have ranged between \$3.3 million and \$32.7 million, for an average of \$11.1 million per year.

### **Current Non-NILM Holdings**

Of the Commission's 47,300 ha in land holdings, 3.2% or about 1,500 ha is classified as Non-NILM. Broken down by their "potential vocation" these include:

- - 276 ha, almost all in Quebec, for Transportation corridors;
- - 252 ha labelled "Development (Municipally Designated);"
- - 575 ha designated "To Be Determined;"
- - 180 ha with an Open Space and/or Urban Natural Feature designation.

In total, 107 ha are located at the edge of Gatineau Park, while 95 ha border the Greenbelt.

## **Critique**

### *Designating Land*

The NCC's planning documents do not provide accountability for the NCC's actions with regard to land holdings. The NILM concept and designations were arrived at in 1988 without input from the public – only municipal staff was consulted. Lands changed NILM status between 1988 and 1999, again without public input.

The “potential vocations” ascribed to the Non-NILM listings have an uncertain relationship to the legally valid designations found in municipal Official Plans and Zoning By-laws. We know of no NCC planning documents that provide a definition of these vocations or a rationale for their application to these lands.

A number of designations make intuitive sense, but in general, the public cannot escape the impression that whether a particular piece of land is part of the NILM or not, or what the status is of non-NILM land holdings, has essentially been determined by the Chair's office. Attesting to the large measure of uncertainty is that the largest “potential vocation” category is “To Be Determined.”

Only more detailed information could reveal the ecological and social significance of these holdings, large or small. What is clear, however, is that, whether NILM or not, these lands are part and parcel of the landscape of the national capital area. Various authorities, publics and processes bring specific interests to bear on any given parcel, but all are about the one land. Labelling certain lands as of “national” and others as of “local” importance runs counter to the holistic approach that would permit seeing the land on its own terms, in its real context.

In the mid-1990s, work was begun on an Urban Lands Master Plan but the project was abandoned without explanation.

### *Land Disposal*

The Summaries of the annual Five-Year Corporate Plans include no lists of properties over \$200,000 that are intended for disposal.

Two Treasury Board rules run counter to land use planning in the public interest. *First*, having part of the NCC's budget depend on proceeds from land sales (at the rate of, on average, \$6 million per year, according to the current Corporate Plan) provides a perverse incentive to sell off land to meet revenue requirements. Second, the requirement that land must be disposed of at fair market value overlooks the fact that these lands were acquired with a public interest in mind and that, while a determination fairly could be made that the NCC should not hold on to certain land, that does not necessarily extinguish the public interest.

Options for transfer to entities other than governments or private developers, that would preserve the value a local or wider community may attach to the land, do not appear to be considered. National or local land trust organizations have, to our knowledge, never been approached.

## **Recommendations**

1. Consideration needs to be given to the role of all Non-NILM lands in the life of the community. All Non-NILM land holdings should be subjected to a detailed review, involving a public consultation process and full disclosure of information. This review should then lead to the development of an Urban Lands Master Plan.
2. Treasury Board rules for disposal of real property should be modified to allow for environmental, community and heritage values in addition to fair market value.
3. All land use planning, including all disposal considerations, needs to include a meaningful consultation process that involves the general public.
4. If it is concluded that a holding is to be disposed of, then all options for conveyance need to be considered, including transfer to a community land trust.
5. The NCC should receive sufficient annual funding so that it is not compelled to sell off lands to fund its program requirements and proceeds from its land sales should be credited to the government's General Revenue fund.

## **D. Long Range Planning**

The Coalition believes that the NCC has a vital planning role to play in enhancing the National Capital Region:

First, it should continue in its role as the focal point for planning the development of all public use federal facilities, natural and built, in the NCR. But this needs to be done with greater transparency and public involvement. In the area of land use, the public should be involved from the outset in a meaningful way and not simply by "show and tell" open houses.

Second, the NCC should make greater use of the Tripartite Committee to ensure long range planning and coordination between the NCC and the municipalities in areas such as public land use, transportation and tourism promotion. Potentially, this committee could be a very effective planning and coordination mechanism in the National Capital Region (NCR).

## **Recommendations**

1. The NCC should continue in its role as the focal point for planning the development of all public use federal facilities, natural and built, in the NCR with a much more effective public consultation process.
2. The agendas and minutes of the meetings of the Tripartite Committee should be made public soon after each meeting rather than reported on by the Chair once a year.
3. The should be supported by standing and ad hoc working groups and that reports of these working groups and other submissions be made available to the public.
4. The public should be given opportunities to address the Tripartite Committee on major NCR long range planning and coordination issues.
5. The Panel review the effectiveness of the Tripartite Committee with a view to identifying opportunities for improvement.

## **II. Funding**

Until 1988 the *National Capital Act*, was a fairly restrictive statute insofar as it prohibited the NCC from engaging in any land transactions in excess of \$50,000. This restriction could still allow the NCC to sell to local municipalities an occasional tract of land for a road widening, an easement or some other, minor land requirement. As well, prior to 1988 the proceeds from the sale of any lands in the National Capital Region (NCR) under NCC jurisdiction were to be turned over to the Receiver General of Canada: the NCC, in accordance with the requirements of the *Financial Administration Act*, could not keep money from the sale of federal assets under its management.

In 1988 however, major changes were introduced in the *National Capital Act*. The first and perhaps most significant change was the lifting of the \$50,000 land-sale cap. The NCC was now allowed to sell almost any size parcel of land under its jurisdiction – subject to routine approval in some situations by the Treasury Board. All disposals were and still are required to be at fair market value. In 1990, the Treasury Board agreed that proceeds of land sales would not go into General Revenue but could be retained by the Commission for the purpose of acquiring NILM lands not in federal hands. In 1992, this directive was loosened to also permit the proceeds to support life-cycle management of capital assets such as bridges and official residences. And in concert with these significant changes, the government cut the NCC's budget thereby placing the NCC in a position of being forced to sell federal lands to help make up its

budgetary shortfalls. Insofar as the original mandate of the NCC had not changed, the NCC was left with no choice but to begin the process of selling lands under its jurisdiction, thereby placing it in a serious conflict of interest situation. The upshot of the 1988 amendments to the National Capital Act was to transform the NCC from a role as custodian-protector of National Capital green spaces, to a *de facto* owner of these lands, motivated to sell land to meet its budgetary requirements.

Since 1995, the NCC can dispose of real property up to \$200,000 with little ado. A property worth more than \$200,000 can likewise be disposed of provided it is listed in the annual Five-Year Corporate Plan submitted to the Treasury Board.

The Coalition is not in a position to comment on the adequacy of current NCC funding levels as they should reflect the changes in the NCC's mandate as a result of the current review. However in future, the NCC should not be placed in a situation of having to sell off lands to meet its budgetary shortfall.

## **Recommendations**

1. There should be an annual dedicated budget for land conservation and acquisition that the NCC cannot use for any other purpose without approval of Treasury Board or Parliament. We also recommend that the NCC also manage Activities and Festivals, and perhaps Official Residences, through separate, dedicated budgets. Divesting some of the NCC's other activities that are not central to its mandate such as infrastructure and property maintenance should be considered if they can be undertaken more efficiently by other federal departments or agencies.
2. The NCC should receive sufficient annual funding so that it is not compelled to sell off lands to fund its program requirements. Furthermore, the proceeds of any sales should be transferred to the General Revenue fund, thus eliminating the incentive to act as a developer rather than a conservator and steward of its valued greenspaces.
3. Treasury Board policies regarding land sales by the NCC should be changed from requiring all sales to be at current market value to allowing for other criteria such as environmental, community and heritage value. The requirement that land must be disposed of at fair market value overlooks the fact that these lands were acquired with a public interest in mind and that, while a determination fairly could be made that the NCC should not hold on to certain lands, that does not necessarily extinguish the public interest.

### **III. Governance - Overview**

#### **Introduction**

The Coalition fully supports the federal government's intention to improve the governance function of the NCC, making it more open, transparent and accountable to Parliament and to the public. We see the need to improve future governance of the NCC primarily through the perspectives of the major interests of the Coalition, i.e. the NCC's land use, planning and priority setting.

In our analysis we examined governance issues from two interrelated points of view, structure and functions.

#### **Structure**

The NCC Board of Directors currently consists of a Chairperson, a Vice-Chairperson and 13 other members. Under Bill C-2 (*The Federal Accountability Act*), which is now before the Senate, the Vice-Chairperson would become the Chief Executive Officer, appointed by the Governor-in-Council and be a voting member of the Board. Of the 13 members appointed by the Minister, 8 are from outside the NCR while 5 have to be NCR residents. In our view, the current composition of the Board does not give sufficient overall representation to local residents who are most knowledgeable about the NCR and who are also the most affected by the Board's decisions.

As far as we are aware, other than residency, there are no specific criteria for selection of these 13 Board members. At present, the Board's composition has the look of what one might expect of a small to mid-sized corporation, perhaps a property development company.

#### **Function**

The way the NCC operates has over the years come under a great deal of public criticism and topping the list has been its lack of openness, and particularly its closed Board meetings. The public has much too often been presented with 'faits accomplis' - decisions taken behind closed doors without any opportunities for questioning, making representations, raising objections or proposing alternatives, or knowing why particular decisions were taken.

## **Recommendations**

1. It is recommended that the new Board consist of a total of 9 members (i.e. the Chairperson, the CEO and 7 other members) who would be selected as follows:
  - 2 from the City of Ottawa
  - 1 from the City of Gatineau
  - 1 from the Atlantic provinces
  - 1 from Québec, other than Gatineau
  - 1 from Ontario, other than Ottawa
  - 1 from the western provinces and territories

Having 4 members from outside the National Capital Region should ensure that the national interests are addressed by the Board.

2. Selection criteria should be established for the appointment of the NCC Chairperson and Board members and that there should be public input into the nomination process in order to ensure a better balance of members who are actively concerned with the conservation of NCC lands. In our view, it is essential that Board membership reflects the new mandate of the NCC and particularly its environmental stewardship role. It is therefore proposed that at least two of the appointees have extensive knowledge and experience in protecting the natural environment. Other key qualifications for Board member selection should include experience in:
  - Strategic planning
  - Heritage/building conservation/architecture
  - Transportation
  - Communications/tourism
  - Federal government departments, including central agencies
  - Business owner/corporate executive
3. Because of the need for close communication and cooperation between the federal and local governments, a member of both Ottawa and Gatineau councils should be designated by their councils to sit on the Board, but only as non-voting members.
4. All NCC meetings should be open to the public, and agendas and minutes as well as decisions (dispositions) published, except for those items that require *in camera* deliberations, such as for personnel, contract and litigation matters. In addition, individuals and groups should have the opportunity to make submissions to the Board prior to any decisions taken.



## **Profiles of Member Organizations**

### Alliance to Save Our Greenbelt (ATSOG)

The Alliance to Save Our Greenbelt (ATSOG) was federally incorporated in 1993. Its functions include ensuring the preservation of NCC lands and particularly the Greenbelt, representing citizens' groups, lobbying for the preservation of the Greenbelt, informing the public of issues concerning the Greenbelt. Since its founding, ATSOG has filed three objections and contested these in Ontario Municipal Board (OMB) hearings involving Greenbelt land use issues and has challenged the NCC and the city in federal court over similar Greenbelt land use issues.

### Canadian Parks and Wilderness Society (CPAWS)

The Canadian Parks and Wilderness Society is Canada's grassroots voice for wilderness protection. It recommends the need for new protected wilderness areas, ensures that existing protected areas are safeguarded and supports ecologically sound land and natural resource management. The Ottawa Valley Chapter (CPAWS-OV) was formed in 1969 when there was a requirement to defend Gatineau Park against a large scale development proposal. Since its inception CPAWS-OV has maintained a continuing interest in the park and unceasingly recommended that its ecological integrity was of the utmost importance and should take precedence over recreational use.

### La coalition pour la sauvegarde du Parc Gatineau

La coalition pour la sauvegarde du Parc Gatineau a pour but d'assurer la survie à long terme de la biodiversité et des écosystèmes naturels du Parc. Elle est composée de 8 organismes. Les objectifs principaux sont d'obtenir un statut de protection permanent avec une gestion donnant priorité à la conservation du Parc. L'action principale de la coalition consiste à faire l'éducation du public et des décideurs, par des pressions, des campagnes de lettres et du lobbying direct.

Conseil régional de l'environnement et du développement durable de l'Outaouais

Le Conseil régional de l'environnement et du développement durable de l'Outaouais (CREDDO) est un organisme à but non lucratif dont la mission première est la protection de l'environnement et la promotion du développement durable dans un cadre de concertation. Il est membre du réseau des 16 conseils régionaux de l'environnement du Québec et participe à de nombreux comités et tables de concertation surtout régionale tant en forêt, en problématiques pointues telle la gestion des matières résiduelles puis le transport que l'aménagement du territoire en milieu urbain ou rural. Il est aussi source de références en tout ce qui touche l'environnement et le développement durable tant pour les médias, que les décideurs et citoyens.

Eco-Watch

Eco-Watch was founded in 1990 and is a non-governmental organization based in western Quebec whose objectives are to assist government departments to protect the natural environment by collaborating with enforcement agencies to monitor, investigate and report infractions.

Federation of Citizens' Associations of Ottawa-Carleton Inc. (FCA)

The FCA is the umbrella organization of community associations, property owners associations, ratepayer associations and similar voluntary groups in the City of Ottawa. Some three dozen associations are dues-paying members of the FCA and a similar number participate irregularly in FCA meetings and events. The mandate of the FCA is to encourage citizen participation in the conduct of community affairs in Ottawa and in the national capital region; to encourage collective action; and to facilitate flows of information about community developments and among members.

Greenspace Alliance of Canada's Capital

The Greenspace Alliance works to preserve green places in the National Capital area. Concerned residents formed the Alliance in October 1997. Its primary aim is to conserve public and private greenspace. This includes natural and landscaped places deemed significant by a community. It also works to protect waterways and wetlands. The Alliance believes that urban greenness is essential for a community's quality of life. Places of greenness contribute to our personal, social, economic, cultural and spiritual well-being. They also connect us with the natural and cultural history of our region.

Ottawa Field-Naturalists' Club

The Ottawa Field-Naturalists' Club is the oldest natural history club in Canada, with a membership of over 800 individuals, the majority of whom reside in the National Capital Region. Our objectives include promoting the appreciation, preservation, and conservation of Canada's natural heritage, and supporting and cooperating with organizations engaged in preserving, maintaining or restoring environments of high quality for living things.

Save Our Greenspace

Save Our Greenspace was initially created to work with the City of Ottawa to help identify Species at Risk omitted from the Environmental Assessment of the North-South LRT Project. Save Our Greenspace will continue to work with the City of Ottawa to ensure Species at Risk, their habitats, and nesting grounds are protected within the NCC Greenbelt and other greenspaces. The NCC Greenbelt is rich in biodiversity, which we believe should be protected and preserved as a legacy for our children, not for urban sprawl. The area of our work which provides us with the greatest satisfaction is our work with communities and researchers educating children on the species and plants in their neighbourhoods.

Sierra Club of Canada

Sierra Club of Canada's mission is to develop a diverse, well-trained grassroots network working to protect the integrity of our global ecosystems. Sierra Club of Canada has been active in Canada since 1963 with seven offices across Canada. The Sierra Youth Coalition is Sierra Club of Canada's youth arm. Sierra Club of Canada has approximately 10,000 members, supporters, and youth affiliate members across Canada. Members are volunteers who work in Club campaign activities, as well as outings and Club development.

## **CRCCN Position relative à la protection du Parc de la Gatineau**

La Coalition tient à s'assurer de la survie à long terme de la biodiversité et des écosystèmes naturels très diversifiés et exceptionnels du parc. Pour ce faire elle veut obtenir un statut de protection permanent avec une gestion donnant la priorité à la conservation du parc, comme stipulé dans le Plan directeur du Parc de la Gatineau adopté au printemps 2005 par le conseil d'administration de la CCN.

Ce Plan directeur marquait le virage vers la conservation en stipulant : « Réaliser, dans les trois premières années suivant l'adoption du plan directeur, un plan de conservation des milieux naturels et des écosystèmes significatifs et assurer la mise en œuvre graduelle des mesures de conservation identifiées ...finalisant l'inventaire des composantes naturelles d'intérêt et en produisant une synthèse à des fins de consultations ». Nous encourageons fortement la CCN à compléter cet inventaire et ce plan et nous enjoignons le gouvernement fédéral à en assurer les ressources nécessaires.

Selon une étude de la CCN, de 1980 (Gagnon, *Inventaires des ressources naturelles des boisés de la région de Hull*), le parc « constitue un échantillon représentatif d'une grande partie des paysages naturels riches et diversifiés du Bouclier canadien. Il joue un rôle important dans le maintien de la **biodiversité** et de la vitalité des écosystèmes régionaux, en fournissant un habitat pour plusieurs espèces fauniques ou floristiques, dont certaines sont considérées en péril ».

### **Problématiques**

#### **1- Absence de statut légal**

Selon un récent sondage Décima pour le compte du Ottawa Citizen, 82% des personnes sondées seraient en faveur de désigné le parc de la Gatineau, parc national. Le manque de statut de protection fait que les frontières du parc ne sont pas délimitées de façon permanente. Ceci a permis au cours des années une série de changements aux limites du parc sans consultations publiques et souvent sans cohérence : la vente de terrains à l'intérieur du parc à des particuliers, l'expropriation de certains autres, l'exclusion de certaines parcelles mises en vente par après, puis certains achats de propriétés. La construction de résidences privées en est un résultat.

De plus, le fait qu'il n'y ait aucun statut légal, donne juridiction aux municipalités sur le territoire desquelles se trouvent le parc, relativement à la construction de bâtiments et aménagement de terrains. Elles accordent d'innombrables dérogations mineures au codes et règlements permettant des abus et empiètements sur les berges de lacs, sur le territoire faunique du parc. Les gens construisent des résidences secondaires dans des abris à bateaux, coupent des arbres pour faire de grandes pelouses, construisent des murs sur la berge etc. La propriété de chemin est aussi contestée par les municipalités.

Nous sommes en accord avec les deux projets de loi (S-210, C-311) déposés au Sénat et à la Chambre des communes respectivement. Ils traitent effectivement du statut, mais de façon sommaire puisqu'ils ne traitent que des frontières du parc. Selon nous les deux propositions touchent la dimension du contenant mais peu du contenu.

Enfin la façon d'octroyer un statut de protection et à qui serait dévolue la responsabilité de la gestion peuvent se faire de diverses façons soit en créant une loi spéciale, soit en modifiant la loi sur la CCN, celle des Parcs nationaux du Canada ou celle des Parcs du Québec ou encore en appliquant la Politique canadienne de protection de la faune. Selon nous l'important c'est le statut de protection du parc, plus que le véhicule légal utilisé pour le faire.

Le parc de la Gatineau doit cependant avoir le statut de protection catégorie II soit de parc national selon la définition de l'Union internationale de la conservation de la Nature, comme étant : "un territoire protégé géré en priorité dans un but de conservation des écosystèmes puis de loisir." (site de l'UICN tiré de IUCN (1994). *Guidelines for Protected Areas Management Categories*, [www.uicn.org](http://www.uicn.org))

## **2- Protection de la biodiversité**

Le parc est un exemple typique de la forêt feuillue mixte, dont la plus grande étendue publique se retrouve en Outaouais. Plus de 80% des forêts au Québec et au Canada sont du type boréal (bouleaux, trembles et conifères). La forêt feuillue mixte renferme par définition une grande biodiversité puisqu'en plus de ces bois elle renferme diverses espèces d'érable, de chêne, de frêne, de hêtre, d'orme, de pin, sapin, épinette et pruche. La forêt feuillue possède aussi un sous-bois très peuplé ; c'est pour cette raison que le parc nécessite une protection particulière.

À chaque année plus d'un million de visiteurs accèdent au parc ce qui a amené la construction de nouvelles routes, de sentiers cyclables (sans compter les nombreux cyclistes sur les promenades, venus en voiture), des sentiers de vélo de montagne, de pistes de moto-neige, de sentiers de marche, de pistes de ski, de parcs de stationnement, pistes de VTT et le développement de l'escalade pour ne nommer que

celles-ci. Dans les endroits où certains usages sont permis, si ceux-ci nuisent à la capacité du parc de maintenir la biodiversité, un forum de discussion devrait être établi afin que les gestionnaires puissent travailler avec les usagers en vue de développer une stratégie d'usage durable de ces terres. La Coalition soutient une rationalisation de ces activités (et non qu'elles soient toutes bannies) fondée sur le principe que la conservation et non les loisirs, soit prioritaire. Ceci ouvrira la porte à une gestion écosystémique du parc, plutôt qu'une gestion par secteur d'activité.

Chacun mesure l'impact environnemental de son activité en affirmant qu'il y en a peu, mais personne n'a fait le cumul des impacts et de la fracturation du milieu naturel par les routes, sentiers et résidences, sans compter que la grande majorité des visiteurs arrivent en véhicule motorisé individuel. (la pollution s'additionne aux problèmes de chemins et de stationnement).

La multiplicité des activités crée une fragmentation du territoire qui nuit à la survie des espèces nécessitant un territoire d'envergure non interrompu. Les chemins et croisées empêchent les plus petites espèces de se déplacer et de se reproduire avec des individus de même espèce mais de famille génétique différente, sans compter que le risque de se faire tuer par les humains et leurs véhicules augmente avec chaque chemin.

Toutes les activités humaines et la présence de résidents posent un risque à cette biodiversité qui selon le Plan directeur de 2005 comprend : 53 espèces de mammifères, 234 espèces d'oiseaux, 11 espèces de reptiles, 17 espèces d'amphibiens, 52 espèces de poissons, plus de 1 000 espèces d'invertébrés, 53 espèces d'arbres et plus de 1 000 espèces de plantes dont près de 50 déclarées menacées ou vulnérables. (*Plan directeur du parc de la Gatineau 2005*)

### **3- Défis**

Le plus grand défi demeure celui de convaincre certains usagers que leur activité est en conflit avec la vocation de conservation d'un parc national (définition de l'UICN) donc impraticable. Modifier les comportements tendant à considérer le parc comme un terrain de jeu plutôt qu'un joyau de la biodiversité de l'Outaouais québécois pose aussi défi. Il y a aussi à prévoir toute une campagne de sensibilisation auprès de la population quant à la définition d'un parc de conservation puis des mandats et objectifs que commande un tel statut. Il s'agira aussi de mettre à contribution la population relativement à la protection de la biodiversité.

Un autre défi c'est la gestion des propriétés privées à l'intérieur même du parc et l'obtention d'une option de rachat de celles-ci, de mêmes que les budgets nécessaires pour ce faire. Les citoyens y demeurant doivent être sensibilisés au fait qu'ils sont privilégiés d'y habiter et par ce fait qu'ils ont leur part une de responsabilité quant à la protection de la biodiversité.

Celui de la gestion de la circulation automobile et de ses impacts sur l'environnement s'ajoute aussi à la liste. La grande majorité des visiteurs arrivent en auto dans le parc. Leur nombre est en croissance de même que celle du nombre d'activités permises. Ceci fait pression sur le réseau routier et accroît la demande en espace de stationnement. C'est pourquoi la gestion par écosystème et non par activité doit être implantée, un plan de transport devant y être inclus.

La notion de zone tampon entre le parc et les humains nécessitent une plus grande attention. Comme le parc a longtemps été considéré comme un terrain de jeu et comme faisant partie du paysage urbain, il n'y a souvent qu'une rue qui sépare les habitations du parc. Il va falloir réfléchir aux façons de créer une zone tampon souvent à l'intérieur même du parc afin de minimiser les « rencontres » entre humains et espèces sauvages qui débordent du parc. En plus d'une zone tampon il faut s'assurer que des corridors naturels soient maintenus afin que le parc et les espèces fauniques et floristiques ne soient pas isolés du reste du milieu forestier régional et des rivières des Outaouais et Gatineau.

## **Recommandations**

1. Donner un statut légal de protection au parc de la Gatineau le plus tôt possible y compris l'établissement des limites.
2. Donner au parc de la Gatineau un statut de protection de **parc national** de catégorie II selon la définition de l'**UICN** « un espace naturel désigné, soit terrestre ou aquatique, dans le but de (a) protéger l'intégrité écologique de un ou plusieurs écosystèmes pour les générations présentes et futures, de (b) exclure l'exploitation ou occupation incohérentes avec les objectifs de désignation de cet espace et de (c) fournir une base permettant l'exploration spirituelle, scientifique, éducative et récréative de même que touristique, qui se fait dans le respect des valeurs l'environnementales et culturelles. » (UICN Catégories de *gestion des espaces protégées*, [www.uicn.org](http://www.uicn.org)).
3. Poursuivre la mise en œuvre du Plan directeur du Parc de la Gatineau y compris l'inventaire des écosystèmes naturels significatifs.
4. Etablir un plan et programme de sensibilisation du public relativement aux rôles et mandats d'un parc de conservation, aux richesses fauniques et floristiques du parc de la Gatineau et à son patrimoine historique et naturelle.
5. Créer un plan de transport cherchant à encourager les alternatives à l'automobile et facilitant l'accès aux personnes n'ayant pas de voiture.

CNCCR Brief to the NCC Mandate Review Panel – October 2006

6. Octroyer les budgets nécessaires en vue d'assurer que les efforts de conservation déployés sont maintenus et améliorés y compris les sommes pour le rachat de propriétés lorsque opportun. Cependant l'acquisition de terrains ne doit pas se faire au détriment de la conservation.
7. En plus de ne pas permettre de vente de terrains par la CCN à l'intérieur des limites du parc, ne pas vendre de terrains dits en surplus à des intérêts privés (projets domiciliaires, maisons ou chalets individuels) mais de les garder plutôt pour créer des zones tampons ou corridors naturels.



**ANNEX B**

**CNCCR Position Paper – Gatineau Park**

The Coalition wants to ensure the long term survival of the exceptional biodiversity and natural ecosystems of the Gatineau Park. In order to achieve this objective, we strongly support efforts to provide legal protection for the boundaries of the Park as well as a management mandate prioritizing conservation as stated in the Master Plan of Gatineau Park, adopted in the spring of 2005 by the board of directors of the National Capital Commission.

This Master Plan marks a true realignment with conservation principles: “The conservation plan, to be prepared in the next three years, will contain in-depth information on the Park’s natural environments and their functions, and will also describe the locations and components of significant natural ecosystems ... conservation priorities based on the significant ecosystems and their components ... finalizing the inventory of the natural components of interest and producing a summary for consultation purposes.” We strongly encourage the NCC to complete this inventory and we enjoin the federal government to ensure it has the necessary resources to do so.

According to a 1980 NCC study (*Gagnon, Inventory of the Natural Resources of the Wooded Areas of the Hull Region*), “the park constitutes a representative sample of a vast part of the natural, rich and diversified landscapes of the Canadian Shield. It plays an important role in the maintenance of the biodiversity and the vitality of regional ecosystems, by providing habitat for many fauna and flora species, many of which are considered in danger.”

**Major Issues**

**1. Lack of Legal Status**

According to a recent Ottawa Citizen-Decima survey, 82% of those polled favour making Gatineau Park a National Park. However, the lack of a legal conservation status leaves the Park without defined limits and, over the years, has created a situation which has brought changes to them without public input and often lack of coherence: properties were sold to individuals inside the Park, some were expropriated, some were excluded from the Park and sold, some bought. This has resulted in the construction of more private homes within the Park.

The fact that the Park has no legal status also gives municipalities some jurisdiction on the territory of the Park within their boundaries, concerning building construction and land management of private parcels. They permit many minor variances to municipal and construction codes which lead to abuses and trespasses on wildlife habitat and on lakeshores. People build guesthouses within boathouses, they cut trees to make lawns, they build retaining walls along lakes etc. Road ownership is also contested by municipalities.

We therefore strongly support the two bills (S-210, C-311) recently tabled in the Senate and House of Commons, respectively. We note, however, that these bills address primarily the boundaries of the Park and the acquisition and sale of Park lands. They do not deal with how the Park should be managed to ensure its continued viability.

Furthermore, the means by which the legal status is granted and who is responsible for the Park management are diverse: a special law, modifying the *National Capital Act*, Parks Canada or Parks Quebec Enactment legislation are all options. For our Coalition, giving protection to the Park by legal status is most important; the vehicle used to do so is less.

The Gatineau Park must therefore have a category II protection status, that is a National Park status according to the IUCN: “natural area of land and/or sea designated to (a) protect the ecological integrity of one or more ecosystems for present and future generations, (b) exclude exploitation or occupation inimical to the purposes of designation of the area and (c) provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible”. (*IUCN Protected Areas Management Categories www.iucn.org*)

## **2. Protecting Biodiversity**

The Gatineau Park is a typical example of a mixed deciduous forest. The Outaouais is the greatest such forest in the public domain of Québec. More than 80% of the province’s and Canada’s forested territory is covered by boreal forest (birch, aspen and spruce). The mixed deciduous forest contains by definition a greater biodiversity because these trees grow in it along with different kinds of maple, oak, ash, beech, elm, pine, spruce and hemlock. This type of forest also holds varied undergrowth which is another reason why the Park needs a conservation status.

Every year over a million people come to Gatineau Park which has resulted in the construction of more roads, parking lots, bicycle paths (not counting the many cyclists on the parkways), mountain bike paths, ski-do trails, walking trails, ATV trails and rock climbing to name only a few activities. While the Park provides numerous recreational opportunities that are highly valued by the public, these activities need to be monitored

carefully to ensure that they do not produce serious adverse effects on the Park's ecology. In areas where certain uses are permitted, if conflicts arise with the Park's ability to maintain biodiversity, there should be a forum so that Park management can work with users to develop a strategy for sustainable use of these lands. In this connection, it is important to measure their cumulative environmental impacts rather than each activity individually.

Everyone measures the environmental impact of their activity individually, saying that it has but a slight impact, but no one measures the cumulative impacts and the segmentation of the ecosystem by the roads, paths and homes notwithstanding that the majority of visitors come to the Park in individual motorized vehicles (add pollution to roads and parking problem).

The multiplicity of activities creates a fragmentation of the territory which impedes the survival of species needing a vast non interrupted territory. The roads and crossroads stop smaller species from moving from place to place and to reproduce themselves with individuals of the same species but from another genetic family. The risk of getting killed by a car is also increased.

All the activities and the presence of homes create a risk to Park biodiversity which according to the Master Plan includes: 53 species of mammals, 234 species of birds, 11 species of reptiles, 17 species of amphibians, 52 species of fish, more than 1 000 species of invertebrae, 53 species of trees and more than a 1000 species of plants, close to 50 of which are on the endangered or at risk lists. (*Gatineau Park Master Plan 2005*)

### **3. Challenges**

The greatest challenge remains convincing certain users that some activities might come in conflict with a conservation mandate (*IUCN definition*) and therefore may have to be restricted. Modifying behaviours that tend to consider the Park simply as a playground without regard to preserving the natural habitats can be a challenge. An awareness program will have to be set up in order to educate the public pertaining to the definition, objectives and mandates of a conservation park. The public will also be solicited in order to participate in the protection of the biodiversity.

Another challenge is the management of private properties within the Park and obtaining purchase options for these and the necessary budgets. The citizens living within the Park must be made aware that living there is a privilege and that they have a responsibility in protecting biodiversity.

Managing car traffic and circulation and its impact on the environment is also to be added to the list. The great majority of visitors arrive in the Park by car. Their number is increasing as well as the number of activities allowed. This puts pressure on the road

network and increases the demand for parking spaces. That is why management by ecosystem rather than by activity must be implanted. A comprehensive transportation plan must also be included.

The principle of buffer zones between the Park and humans needs to be dealt with. As the Park has long been considered a playground and as being part of the urban landscape, there is often only a street separating the Park from houses. We will have to think of ways to create a buffer zone, even within the Park in order to minimize “meetings” between humans and wild species that overflow outside the Park. Some natural corridors will also have to be maintained so that the fauna and flora are not isolated from the regional forest and the Ottawa and Gatineau Rivers.

### **Recommendations**

1. Legal protection to the Gatineau Park should be provided as soon as possible, including the setting of its boundaries.
2. The Gatineau Park needs to be given a World Conservation Union Category II protection status, that is a **national park** status: “a natural area of land and/or sea designated to (a) protect the ecological integrity of one or more ecosystems for present and future generations, (b) exclude exploitation or occupation inimical to the purposes of designation of the area and (c) provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible”; (*IUCN Protected Areas Management Categories* [www.iucn.org](http://www.iucn.org)).
3. Pursue the implementation of the Master Plan, including an inventory of significant natural ecosystems.
4. Establish a public awareness plan and program relative to the roles and mandates of a conservation park, to the wealth of fauna and flora of Gatineau Park and to its historic and natural heritage.
5. Create a transportation plan which is based on encouraging alternatives to automobiles and giving access to people without cars.
6. Sufficient resources need to be provided to ensure that conservation efforts are maintained and enhanced as well as funds necessary to buy back properties when opportune. However, funding for property acquisition should not be undertaken at the expense of ensuring conservation.
7. In addition to prohibiting any sales by the NCC within the Park’s boundaries, there should be no sales of non-NILM properties adjacent to Park for private development (i.e. for housing, individual cottages etc.). Rather, these lands should be retained by the NCC to create buffer zones and wildlife corridors.

## **CNCCR Position Paper – Greenbelt**

### **Introduction**

The National Capital Greenbelt was created on the recommendation found in the Gréber Report titled: a *“Plan for the National Capital.”* This long-in-the-making Report, interrupted by WWII, was completed and submitted to the Mackenzie King government in November 1949. But it was not until June 18, 1958, that Prime Minister John Diefenbaker rose in the House of Commons and announced his government would make funds available to the Federal District Commission (the NCC’s predecessor) to buy up the land in the National Capital Region necessary for the creation of a Greenbelt. Mr. Diefenbaker mentioned the Greenbelt five times in his speech to the House of Commons. In addition the Prime Minister said:

“I should like to emphasize that this is a long-term project undertaken in the national interest.... that is necessary and essential if the capital of Canada is to be preserved and developed so that it will be a capital city of which this generation and succeeding generations can and will be proud.”

Thus began the painful expropriation process of hundreds of local farms, which although bought at “fair” market prices, nevertheless ended the farming careers of many families and their descendants. A number of federal court challenges were initiated by some of the farmers but all cases were lost because the Crown had – and continues to have – absolute authority in the area of land expropriation.

Successive federal governments have steadfastly maintained the sanctity of the Greenbelt insofar as it was not to be treated as a land bank for local municipalities or other commercial interests. For example on June 11, 1982, the late Hon. Walter Baker, PC, MP, wrote a letter to then Minister of Public Works, the Hon. Paul Cosgrove, expressing concern about the future of the Greenbelt:

“The NCC property in Nepean and elsewhere in the Greenbelt has been protected by successive governments from intrusion that would destroy or diminish it in any way, and the preservation of these lands... has been the position of successive federal governments.”

According to Mr. Baker, as our Region grows, so does the importance of keeping our Greenbelt intact.

“When the Greenbelt was first announced many years ago, the concept was supported in the community which was not then as densely populated as it is now. The increase in population and the increase in the use of the property makes its preservation today even more appropriate and necessary.”

If these words of Mr. Baker were true then they are even more so today. Mr. Baker continued in his letter by stating that:

“The people want assurance from the Government of Canada, and particularly from the National Capital Commission, that it will maintain the stance of preservation and that it will not succumb to the blandishments that come from time to time, for the use of lands for purposes which are not in keeping with the original concept...”

Mr. Baker was justified in expressing his concern for the future of the Greenbelt as there was no formal protection or definition or mention of it in any Canadian statute. And this continues to this day.

## **A Watershed Reversal**

Up until 1988 the *National Capital Act*, which governs the activities of the NCC, was a fairly restrictive statute insofar as it prohibited the NCC from engaging in any land transactions in excess of \$50,000. This restriction could still allow the NCC to provide (sell to) local municipalities an occasional tract of land for a road widening, an easement or some other, minor land requirement. As well, prior to 1988 the proceeds from the sale of any lands in the National Capital Region (NCR) under NCC jurisdiction – Greenbelt and otherwise – were to be turned over to the Receiver General of Canada: the NCC in accordance with the requirements of the *Financial Administration Act*, could not keep money from the sale of federal assets under its management.

In 1988 however, major changes were introduced in the *National Capital Act*, changes that would drastically alter the “character” of the NCC. The first and perhaps most significant change was the lifting of the \$50,000 land-sale cap. The NCC was now allowed to sell almost any size parcel of land under its jurisdiction – subject to routine approval in some situations by Treasury Board. In addition, the amended *Act* now also allowed the NCC to by-pass the provisions of the *Financial Administration Act*: the NCC

could now keep all the money from the sale of all lands under its control. And in concert with these significant changes to the *National Capital Act*, the government of the day cut the NCC's budget thereby placing the NCC in a position of being forced to sell federal lands to help make up its budgetary shortfalls. Insofar as the original mandate of the NCC had not changed, the NCC was left with no choice but to begin the process of selling lands under its jurisdiction, thereby placing it in a serious conflict of interest situation. The upshot of the 1988 amendments to the National Capital Act was to transform the NCC from a role as custodian-protector of National Capital green spaces, to a *de facto* owner of these lands, motivated to sell land to meet its budgetary requirements.

And to demonstrate, in part, the conflicts that this can cause, following the construction of the Hunt Club Road Extension in Nepean, the NCC developed plans for residential and commercial development on the severed Greenbelt lands between the new highway and adjoining residential communities. These communities fought back with the result that the largest parcels of severed land became sport fields (Ben Franklin Park) while the smaller areas have been left undeveloped to this date.

### **Current Greenbelt Uses**

According to the current City of Ottawa *Official Plan* and the *NCC Greenbelt Master Plan 1995 – 2015*, there are many and varied land uses on the Greenbelt. These uses range from transportation corridors, hydro right-of-ways, a hospital, a school, a sportsplex, the Ottawa airport (although in existence before the Greenbelt lands were purchased around it) an equestrian park, a hi-tech campus, residential developments (already in existence before the lands around it were acquired), significant wetlands, reforestation projects, a government research center, lands under cultivation and some virgin forests. In short, other than its general location serving a relatively open "belt" around Ottawa's core, there is no single defining land use characteristic for the Greenbelt.

### **Challenges Facing the Greenbelt**

There are many challenges facing the Greenbelt and which threaten its long-term viability. These threats may be placed into two general categories consisting of population growth and NCC budgetary requirements. As the local population continues to grow the need for land grows with it. The physical areas of the Greenbelt where the threat to its existence are greatest are in the fringe where it "meets" or abuts urbanized areas. It is here that the Greenbelt is nearest the municipal infrastructure of roads, sewers and other services that greatly increases the attractiveness and suitability of Greenbelt lands for commercial or other development. As the brief history of the

Greenbelt has amply demonstrated the temptation to request development of these prime lands is almost irresistible to local municipalities. As municipalities are essentially vehicles designed to govern growth within their jurisdiction, they are vehicles that “drive” the development and redevelopment of real estate especially so when considering the chief contacts with City Hall are primarily the for-profit development industry with its applications for permits and zoning requests. And with the NCC, eagerly seeking buyers for its lands in order to make up budgetary shortfalls, this becomes a deadly combination for the future integrity of not only the Greenbelt but all green space under NCC jurisdiction. There is no longer an effective check on the protection of federal lands in the National Capital Region. The NCC is now a major player in the pro-development industry. It needs the money.

But worse. Because the NCC is the largest landowner within the NCR and because of its constant and relentless budgetary pressures, it is thus often forced into the role of a supra-municipality where its activities and needs can collide with the Official Plans of the local municipalities. Whereas the local municipalities attempt to bring order to the planning process based primarily on market-driven needs, the NCC is forced into the land sale business because of its own budget-driven needs. The resultant clashes over planning priorities are thus inevitable and do not bode well for our region’s long-term character - the very character the NCC’s mandate requires it to enhance and protect. The NCC’s current conflict of interest situation is thus glaringly obvious.

### **Greenbelt Land Use Designations: Prioritizing Land for Sale**

Following the 1988 amendments to the National Capital Act, the NCC proceeded with a new plan of action designed to determine which of the lands under its control could be sold off on a priority basis. Perhaps in an attempt to add a layer of legitimacy to this new process of land sales, the NCC embarked on a number of “open houses” to garner feedback from the local communities regarding the “value” placed on various parcels of land including the Greenbelt, the largest single landmass on the Ottawa side of the river. And from some of the information garnered at those open houses there emerged publications such as *The Future Greenbelt* (1992), a draft summary *Greenbelt Master Plan 1995 – 2015*, and a 1996 *Greenbelt Master Plan*.

NCC sponsored public opinion polls have shown overwhelming public support for the Greenbelt, with 85% or more indicating that the Greenbelt should be protected and should not be developed: “with the exception of using the land for recreational development, the majority of respondents did not want the Greenbelt to be developed for any other purpose” according to one study. Furthermore, only 5% of respondents expressing a “positive agreement” to use any of the Greenbelt for housing while less than 3% supported the sale of Greenbelt lands for commercial development.



With these consistent poll results as backdrop, the remaining focus will be on the land use designations as put forth in the NCC's 1996 *Greenbelt Master Plan*. In this publication there are three major "roles" defined for the Greenbelt each with an accompanying set of land designations (p. 35). There is firstly a "Continuous Natural Environment" role with land designations of "Core Natural Area," "Natural Buffer" and "Natural Area Link." The second Greenbelt role is defined as "Vibrant Rural Community" with "Cultivated Landscape" and "Rural Landscape" as land designations. The third is the "Compatible Built Facilities" role for the Greenbelt with land designations of "Buildable Site Area" and "Infrastructure Corridor." And it is this "Compatible Built Facilities" role for the Greenbelt that is the most troublesome.

Although the justification of the NCC's "Infrastructure Corridor" land designation must be acknowledged insofar as this seeks to "minimize infrastructure intrusion in the Greenbelt by grouping major infrastructure in shared corridors... and to improve public access to, and through, the Greenbelt"(p. 44), the "Buildable Site Area" land designation is not acceptable if the Greenbelt is to survive its original vision. Not only is one of the objectives of this land use designation too vague and all encompassing as it seeks to "accommodate organizations of Capital importance with specialized land needs, such as seclusion or large operational areas..." (p.44), this designation could be utilized to justify almost any type of development on Greenbelt lands and especially so for expansion of existing campus-type facilities. Aside from pure agricultural research, it has never been objectively demonstrated that other forms of campus-like research activities, hi-tech and otherwise, must have "specialized land needs such as seclusion..." to achieve their stated objectives. To demonstrate, one need look no further than the federal government's own Federal Study Centre (a top secret cryptographic research facility) nestled between a school and a residential neighbourhood and facing a high volume traffic corridor, Heron Road. Additionally, there is also the example of the NCC actively promoting the sale and development of Greenbelt land designated in its own *Greenbelt Master Plan* (p.39b) as environmentally sensitive Natural Area Link. Disregarding its own studies and poll results or using faulty logic to justify land sales apparently does not bother the NCC. It needs the money.

But even more serious for the long-term survival of the Greenbelt than the above is the NCC statement that the Compatible Built Facilities role for the Greenbelt is in fact a means whereby the sale of Greenbelt land is used to support the NCC's bottom line. One of the stated objectives of the Buildable Site Area land designation is "to provide a continuous source of revenue in support of Greenbelt operations" (p. 44). It is questioned however why the Greenbelt is mentioned as needing "support" while it is the NCC itself that needs support to make up its budget shortfalls. In short, of all the studies conducted, open houses held, polls taken, reports written, land designations developed and master plans created regarding the Greenbelt, these were only and ultimately for the purpose of creating a prioritized "selling list" - deciding which lands could be sold off first and which last. The NCC needs the money.

## **Conclusions and Recommendations**

Of the centrality of the Greenbelt in the 1949 Gréber Report (p. 204, 225), of the fanfare with which John Diefenbaker introduced its formation to the House of Commons, of the enormous financial and social costs it took to create, of its environmental, social, and planning significance, of its world-renowned reputation and of all the ongoing accolades heaped upon it, it is astonishing that the Greenbelt is not referred to in any federal statute. Only at the municipal level, in the City of Ottawa Official Plan, is there reference to the Greenbelt and then only for the planning of lands surrounding it. As such, the Greenbelt needs to be better protected and so the following recommendations are offered:

1. That the Greenbelt be defined in federal statute, and that its boundaries be clearly delineated in approximation to the legal provisions currently afforded Canada's National Parks under the *National Parks Act*.
2. That a thorough review, with public involvement, be undertaken of the current land use designations as found in the current NCC *Greenbelt Master Plan*. Serious consideration should be given to the *elimination* of the Compatible Built Facilities role and the Buildable Site Area land designations for all Greenbelt lands not already developed. The Greenbelt is not a self-generating land mass. Once Greenbelt lands are developed they cease being Greenbelt and are lost forever.
3. That depending on funding availability and where feasible, additional lands of environmental significance and contiguous with the Greenbelt, be purchased.

## **CNCCR Position Paper – NCC Land Holdings outside Gatineau Park and the Greenbelt**

### **Summary**

The paper reviews the background and history of the NCC's land acquisitions and disposals. It then provides an analysis of newly available information on lands outside the so-called National Interest Land Mass (NILM). Professed vocations for many of these lands such as Open Space, Recreation and Transportation – with no apparent intent of disposal – put into question the utility of the NILM concept.

The paper recommends that all non-NILM land holdings be subjected to a detailed review adopting a holistic approach to land use planning. All land use planning should be conducted in a transparent manner involving the public in meaningful consultations.

The paper further recommends that Treasury Board rules for disposal at fair market value be modified to allow for environmental, community and heritage values; that proceeds of land sales flow to General Revenue; and that options for disposal include conveyance to a community land trust.

### **Genesis of NCC Land Holdings and Disposals**

Ever since Ottawa was designated as the nation's Capital, the federal government and its agents have been active in the acquisition of land in the area. Specifically, the Ottawa Improvement Commission (since 1899), the Federal District Commission (since 1927) and the National Capital Commission (since 1958) have acquired land to create parks and parkways close to downtown, along the Rideau Canal and at the south end of Gatineau Park. The Gréber Plan (1950) resulted in land acquisition for the Greenbelt, a major expansion of Gatineau Park and various other sites, including urban corridors.

Along with federal retrenchment starting in the mid-1980s, the Treasury Board ordered a review of land holdings and, in 1988, approved the concept of National Interest Land Mass (NILM). Not all NILM lands were on the books of the NCC and some were in private hands. Lands not designated NILM were, in principle, to be disposed of. Exceptions included future sites for embassies and future municipal transportation corridors. All disposals were and still are required to be at fair market value. In 1990, the Treasury Board agreed that proceeds of land sales would not go into General Revenue but could be retained by the Commission for the purpose of acquiring NILM

lands not in federal hands; in 1992, this directive was loosened to also permit the proceeds to support life-cycle management of capital assets such as bridges and official residences.

Since 1995, the NCC can dispose of real property up to \$200,000 with little ado. A property worth more than \$200,000 can likewise be disposed of provided it is listed in the annual Five-Year Corporate Plan submitted to the Treasury Board.<sup>(1)</sup>

### **NILM and Non-NILM Lands**

The NILM concept was described in the 1988 Plan for Canada's Capital (also known as the *Federal Land Use Plan* or FLUP). It named as National Interest Lands: "the national institutions and symbols, rivers and canal banks, Confederation Boulevard, the parkway corridors, Gatineau Park and the Greenbelt," saying these will be retained "in perpetuity." (The only other lands in which it said the NCC has a legitimate continuing interest were sites for future diplomatic missions & institutional buildings, and potential transportation corridor lands.)

The FLUP distinguished Conservation Areas, Capital Parks, Shorelines, Parkways & Recreational Pathways, and Agricultural & Forestry lands, but provided no lists. There is a map showing these designations, however.<sup>(1)</sup> In the Plan's Conclusion, policy direction (j) reads: "selective land acquisition, exchange and disposal program to consolidate the National Interest Lands and support the priorities expressed in this Plan." There was no list of land holdings to be disposed of.

The 1999 *Plan for Canada's Capital* described the NILM as "national shrines; the rivers and canal banks; the ceremonial route encompassing Confederation Boulevard and Brewery Creek lands; Gatineau Park; and the Greenbelt." It noted that not all NILM lands were in federal ownership ("e.g., the La Baie site in Gatineau") and that the NILM "will be revised as part of the implementation of this Plan."

The Plan referred to "Capital Urban Green Spaces," meaning Capital parks and green corridors. "Key Capital Parks" were said to "include:" Confederation, Jacques Cartier, Rockcliffe, Major's Hill, Rideau Falls, Commissioner's, Hog's Back/Vincent Massey, Leamy Lake, Brébeuf, and LeBreton Common. The Plan also noted that certain lands considered Capital parks in the 1988 Plan "are no longer considered to fulfill this role as a result of the 1995-99 review" and that these "include:" the Prince of Wales site, except

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<sup>1</sup> Attachment 1 provides information about the legal framework for the NCC's disposal of Surplus Land, provided to the Coalition by NCC staff, June 2006.

<sup>1</sup> Map 4 – Natural Environment

for the shore lands [this refers to Moffatt Farm], and Shirley's Bay and Gatineau Park south of Gamelin Boulevard which are now both designated as Natural Heritage Areas (like the rest of Gatineau Park and portions of the Greenbelt).

## **Recent Disposals and Acquisitions**

The Treasury Board rationale of NILM designations and a list of lands so designated are not in the public domain.<sup>(1)</sup> Nor are records of land acquisitions and disposals readily accessible. In September 2002, the *Ottawa Citizen* published an article on the NCC's land transactions during the years 1993-2002 based on Access to Information research by Ken Rubin. The list of *disposals* as documented in *The Citizen* included:

- 1993-94: sale of Greenbelt land for construction of Hunt Club Road (\$2.4 M) and of Aviation Parkway land to CMHC (\$1 M);
- 1994-95: sale of the Britannia storm sewer wetlands (\$1 M), 63 Echo Drive (for condos, \$1 M);
- 1995-96: sale of the US Embassy site (\$12.4 M), land on the Chemin de la Montagne (for a shopping mall, \$3.6 M), a \$1 M sale to J.D. Turnbull Development Inc. for an unidentified site in Ottawa, and another \$2.6 M in other land sales. The NCC also acquired land from Public Works on Maloney Boulevard for \$6 M, turning it over to Gatineau for the Des Draveurs Parkway;
- 1998-99: sale of the Concord-Echo lands (to Claridge Homes, for \$3 M); and another \$2.9 M in other land sales;
- 1999-00: \$3 M in land sales, half of it again to Claridge Homes;
- 2000-01: sale of land on Sussex Drive (to the Agha Khan Foundation, for \$5.2 M), an Albion Road property (to a numbered company, for \$2.2 M; Greenbelt land at Fallowfield and Woodroffe (to the Regional government, for a bus terminal, for \$1.3 M); land at Innes and Blair (to another numbered company, for \$6.7 M); and another \$3.4 M in other land sales; and
- 2001-02 (to February): the Nicholas-Waller triangle (to a Montreal developer, for \$1 M); the Heron-Walkley lands (to Claridge Homes, for \$1.5 M).

The Commission Chair explained to the Senate Finance Committee in June 2002 that, of the 1,273 ha sold since 1989, 60% had been conveyed to municipal or provincial governments, 24% remained greenspace and 14% (173 ha) had gone to private developers; of the remaining 2%, 18 ha went to churches or schools, 10 ha to other federal agencies and 1 ha to an embassy. In a staff paper of September 2006, "About National Capital Commission Lands" ("NCC paper"), disposals over the period 1989-2006 amounting to 1,450 ha <sup>(2)</sup> are described as, for 49% of the acreage, having been

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<sup>1</sup> Confirmed in an e-mail communication from NCC staff, September 29, 2006.

<sup>2</sup> A draft version of the paper, provided to the Coalition in June 2006, noted that these figures do not include transactions involving small parcels in the period 2002-2006.

## CNCCR Brief to the NCC Mandate Review Panel – October 2006

transfers to municipal and provincial governments and agencies for public infrastructure, while 23% was destined for private or public recreational or open space use, and 28% (405 ha) was destined for development, including 287 ha to the private sector.

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Between 1992 and 2006, annual net proceeds from land sales have ranged between \$3.3 million and \$32.7 million, for an average of \$11.1 million per year. <sup>(2)</sup>

Recent *acquisitions* have included:

- 1994: 617 ha of Meech Creek Valley for lands in Hull, Aylmer and Chelsea, from the Outaouais regional government;
- 1995: Rockcliffe Park, from the City of Ottawa
- 2000: 360 ha of Mer Bleue bog;
- 2000: 780 ha of the Agricultural Research Farm on Woodroffe Avenue;<sup>(3)</sup> and
- 2003: the Scott Paper site.

The NCC paper notes that total acquisitions over the 1989-2006 period have amounted to 2,477 ha, leaving about 700 ha of acquisitions to be identified.

### **Current Non-NILM Holdings**

Of the Commission’s 47,300 ha in land holdings, 3.2% or 1,500 ha is classified as Non-NILM.<sup>(4)</sup> Three lists comprising urban and non-urban Non-NILM lands as well as three associated Maps, based on GIS data, are now available on the NCC web site. The lists provide a brief description of the property, its acreage (in m<sup>2</sup>), what the Maps call its

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<sup>1</sup> A draft version of the paper, provided to the Coalition in June 2006, noted that these figures do not include transactions involving small parcels in the period 2002-2006.

<sup>2</sup> E-mail communication from NCC staff, September 28, 2006.

<sup>3</sup> This acquisition of part of the Agricultural Research Farm (located in the Greenbelt) did not add to Ottawa’s greenspace as it simply transferred title from the books of Agriculture and Agri-Food Canada to those of the Commission.

<sup>4</sup> E-mail communication from NCC staff, September 29, 2006.

## CNCCR Brief to the NCC Mandate Review Panel – October 2006

“Potential Vocation” and, sometimes, a clarifying comment. The 136 lines add up to 1,435 ha.<sup>(1)</sup> The Maps also show the NILM lands that are on the NCC’s books. An analysis of this information and a Summary Table are provided in Attachment 2.

In brief, the analysis shows that:

- 276 ha, almost all in Quebec, have a Transportation vocation. They are generally along major highways and in many cases under contract with the Province or the City of Gatineau;
- 252 ha are labelled “Development (Municipally Designated).” One-half is in non-urban Quebec, including 106 ha in La Pêche and 22 ha at the edge of Gatineau Park. Most of the rest is in urban or non-urban Ontario and is presumably also destined for development;
- the largest category (575 ha) is one with a vocation “To Be Determined.” Almost half of that acreage is in non-urban Quebec, including 85 ha at the edges of Gatineau Park. In urban Quebec, properties include the Champlain Corridor and part of Moore Farm. In urban Ontario, the 166 ha labelled “To Be Determined” include portions of the Southern Corridor and 18 ha at the edge of the Greenbelt;
- “Open Space” (and/or “Urban Natural Feature”) are vocations almost exclusively found in Ontario. In the urban area, apart from 58 ha in the Southern Corridor (including McCarthy Woods) and the 11-hectare Hampton Park, these properties are mostly very small parcels. Lands in non-urban Ontario with this vocation are the Innes Road By-pass and parcels near Carlsbad Springs, all at the edge of the Greenbelt and totalling 77 ha.
- three sites in Ontario, all leased to the City, are labelled “Recreation” as is the 58-hectare Champlain Golf Club in Quebec;
- seven small properties in Ontario are marked as “NILM Designation to be confirmed.”

In total, 107 ha are located at the edge of Gatineau Park, 95 ha border the Greenbelt and one 2-hectare parcel is along the Rideau River.

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<sup>1</sup> The remaining 65 ha are thought to mainly consist of so-called water lots, primarily along the Ottawa River.

## **Critique**

### Designating Land

The NCC's planning documents do not provide accountability for the NCC's actions with regard to land holdings. The NILM concept and designations were arrived at in 1988 without input from the public – only municipal staff was consulted.<sup>(1)</sup> Lands changed NILM status between 1988 and 1999, again without public input. More lands than those named in the 1999 Plan lost their NILM status. E.g., the so-called Eastern Corridor (from Pleasant Park Woods to Walkley Road) was shown on the 1988 map as a Recreational Pathway but was (with preservation of at best a 20- or 30-meter pathway) conveyed to the City, the Region and private developers in 1995.

In the recently provided lists, the lands described as having their NILM status "To be confirmed," are in this holding category because there is an issue whether they should be declassified (possibly then allowing development).<sup>(2)</sup>

The "potential vocations" ascribed to the Non-NILM listings have an uncertain relationship to the legally valid designations found in municipal Official Plans and Zoning By-laws. We know of no NCC planning documents that provide a definition of these vocations or a rationale for their application to these lands.

A number of designations make intuitive sense but in general the public cannot escape the impression that whether a particular piece of land is part of the NILM or not, or what the status is of non-NILM land holdings, has essentially been determined by the Chair's office. Attesting to the large measure of uncertainty is that, in the recent lists, the largest "potential vocation" category, comprising 575 ha, is "To Be Determined."

The NILM lands display a certain degree of coherence (Gatineau Park, the Greenbelt, along the Ottawa, Gatineau and Rideau Rivers and Canal) but there are also curious gaps, e.g., along the Rideau River.<sup>(3)</sup> Transactions or decisions about otherwise similar lands appear to be inconsistent. For example, the Pinecrest Corridor (connecting Britannia Bay to the Central Experimental Farm and the Rideau Canal) is in the NILM but the Eastern Corridor was abandoned. The vocation of the Southern Corridor

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<sup>1</sup> E-mail communication from then NCC Senior Planner Richard Scott to a Coalition member, June 21, 2004.

<sup>2</sup> E-mail communication from NCC staff, September 29, 2006. The response notes that any change in designation would be examined through a planning study that would include public consultations.

<sup>3</sup> One should note that NILM status does not guarantee protection. Only strong popular opposition and a decision by the Quebec Minister of Finance prevented conversion of part of Leamy Lake Park to a golf course for the Hôtel du Casino in June 2002.



(except for McCarthy Woods) remains “To Be Determined” and is still before the Ontario Municipal Board in an NCC appeal of the 2003 Official Plan designation of part of this land as Major Open Space.<sup>(1)</sup> The corridor of the Aviation Parkway remains part of the NILM but the lands around the Airport Parkway were conveyed to the Region in the late 1990s.

The Non-NILM lands include a number of major blocks (including the Southern Corridor, lands at Hurdman, Hampton Park, the Champlain Golf Course and Champlain Corridor, and Moore Farm), and over 200 ha bordering either the Greenbelt or Gatineau Park, but show otherwise little coherence.

Only more detailed information could reveal the ecological and social significance of these holdings, large or small. What is clear, however, is that, whether NILM or not, these lands are part and parcel of the landscape of the national capital area. Various authorities, publics and processes bring specific interests to bear on any given parcel, but all are about the one land. Labelling certain lands as of “national” and others as of “local” importance runs counter to the holistic approach that would permit seeing the land on its own terms, in its real context.

In the mid-1990s, work was begun on an Urban Lands Master Plan but the project was abandoned without explanation. More recently, it was again announced that such a Master Plan would be developed but once again the work seems to have stalled. The NCC paper refers to this planning process without providing any specifics except to promise that there will be a public consultation component.

### Land Disposal

The Summaries of the annual Five-Year Corporate Plans include no lists of properties over \$200,000 that are intended for disposal.

Two Treasury Board rules run counter to land use planning in the public interest. *One*, having part of the NCC’s budget depend on proceeds from land sales (at the rate of, on average, \$6 million per year, according to the current Corporate Plan) provides a perverse incentive to sell off land to meet revenue requirements. *Two*, the requirement that land must be disposed of at fair market value overlooks the fact that these lands were acquired with a public interest in mind and that, while a determination fairly could be made that the NCC should not hold on to certain land, that does not necessarily extinguish the public interest.

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<sup>1</sup> This is consistent with earlier behaviour, e.g. the NCC’s appeals of the former City of Ottawa’s 1991 Official Plan and 1998 comprehensive new zoning by-law. For a detailed analysis, please see Amy Kempster, “National Capital Commission: Protector of Greenspace or Protector of Developer Rights?” 7 April 2003, available at <<http://www.flora.org/greenspace/NCC/Amy-overview.shtml>>.

“Vocations” such as Open Space/Urban Natural Feature, Recreation and Transportation leave the definite impression that these lands are not up for disposal. One may wonder what being labelled “Non-NILM” really means.

Various transactions and contractual arrangements over the past 18 years demonstrate that the NCC confers with other governments in seeking a destination for lands on its books that it considers outside the NILM. It is also evident, however, that if another government is not interested or unable to pay, then with rare exceptions the Commission turns to private developers, in pursuit of maximum value.<sup>(1)</sup> Options that would preserve the value a local or wider community may attach to the land do not appear to be considered. National or local land trust organizations have, to our knowledge, never been approached, let alone that new community trusts that could take on stewardship of the land would be encouraged.

### **Recommendations**

1. Consideration needs to be given to the role of all Non-NILM lands in the life of the community. All Non-NILM land holdings should be subjected to a detailed review, involving a public consultation process and full disclosure of information. This review should then lead to the development of an Urban Lands Master Plan.
2. Treasury Board rules for disposal of real property should be modified to allow for environmental, community and heritage values in addition to fair market value.
3. All land use planning, including all disposal considerations, should include a meaningful consultation process that involves the general public.
4. If it is concluded that a holding is to be disposed of, then all options for conveyance should be considered, including transfer to a community land trust.
5. The NCC should receive sufficient annual funding so that it is not compelled to sell off lands to fund its program requirements and proceeds from its land sales should be credited to the government’s General Revenue fund.

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<sup>1</sup> Staff were unable to state whether Non-NILM lands that are labelled Municipally Designated for Development acquired that status before or after the NCC obtained the property. In certain instances (e.g., the Southern Corridor in the late 1990s), the Commission went to bat in an attempt to upzone land so it would fetch a higher value. In recent years, it has let the prospective buyer/developer face the community and City Hall (e.g., Moffatt Farm in 2004). It is not known whether in such instances the ultimate selling price was made a function of the degree of the developer’s success. On the other hand, as the text above noted, the Commission has fiercely resisted any diminishment of its development rights and continues to do so in cases pending before the Ontario Municipal Board.

## References

Mohammed Adam, “The NCC’s decade-long, \$60M property sell off,” *The Ottawa Citizen*, September 25, 2002, p. D1.

Amy Kempster, “National Capital Commission: Protector of Greenspace or Protector of Developer Rights?” 7 April 2003, available at <http://www.flora.org/greenspace/NCC/Amy-overview.shtml>.

National Capital Commission, Plan for Canada’s Capital, a.k.a. Federal Land Use Plan, 1988.

National Capital Commission, Plan for Canada’s Capital, 1999.

National Capital Commission, 2004-2005 Annual Report and previous issues.

National Capital Commission, 2004-2005 to 2008-2009 Summary of the Corporate Plan and previous issues.

National Capital Commission, “About National Capital Commission Lands,” 8 pp., available on the NCC web site under Plan, Preserve & Develop / Planning Canada’s Capital / About NCC Lands.

National Capital Commission, lists of Non-NILM lands; and maps of NCC NILM and Non-NILM lands, available on the NCC web site.

Various e-mail communications from NCC staff, dated June 21, 2004, June 15, September 28 and 29, and October 4, 2006.

**ATTACHMENT 1**

**Legal Framework for the Disposal of Surplus Land**  
(Information provided by NCC staff, June 2006)

The NCC's authority to dispose of surplus land is derived from the *National Capital Act* (NCA) and the *Financial Administration Act* (FAA) & *Regulations*.

Subsection 15(2) of the NCA allows the NCC to dispose of real property for up to \$10,000 and requires Governor-in-Council approval for disposals above \$10,000, in accordance with subsection 99(2) of the FAA.

Under subsection 99(2), an agent Crown corporation may dispose of property and use the proceeds but only in accordance with regulations or the authority of the Governor in Council.

The Crown Corporation General Regulations were issued in 1995. Sections 5 and 6 of these regulations apply to the disposal of property pursuant to 99(2) of the FAA. They allow corporations like the NCC to sell real property at fair market value as follows:

- a. properties with a fair market value of \$200,000 or less; and
- b. properties valued over \$200,000 where the transaction is consistent with the most recently approved corporate plan.

The NCC includes a list of potential property disposals valued over \$200,000 in its annual corporate plan that is submitted for Governor-in-Council approval.

Section 6 of the regulations allows the NCC to use the proceeds from sale in a manner that is consistent with its approved corporate plan.

References provided:

*National Capital Act*, section 15;

*Financial Administration Act*, section 99 (2);

*Crown Corporation General Regulations*, 1995, paras. 4 to 6.

**ATTACHMENT 2**

**NCC Non-NILM Land Holdings: An Analysis**

NCC staff has created a listing of Non-NILM land holdings as of October 2006, comprising a total of 136 line items over three lists. They are posted on the NCC web site and are not reproduced in this paper. The line numbering is not continuous across the lists. The Urban Lands list refers to Ontario in lines 1 - 61, 101 - 106 and A - F; and to Quebec in lines 62 - 100. The second list is for Non-Urban Ontario and has lines 1 - 6 and A. The third list covers Non-Urban Quebec in 20 lines. As well, three corresponding maps are provided, which also show the NILM lands that are on the NCC's books. The Table at the end of this Attachment summarizes these data.<sup>1</sup>

What the lists provide under "Description" is on the Maps called "Potential Vocation." There is no explanation of the definition of the various "vocations" or of the source or authority for these categorizations.

The largest category (575 ha) is "**To Be Determined.**" Almost half of that acreage is in non-urban Quebec (281 ha). Of these, 85 ha are at the edges of Gatineau Park (lines 12-18) and another 131 ha are near Pink, Terry Fox and Cook Roads (line 19<sup>2</sup>).

In urban Ontario, the 166 ha labelled "To Be Determined" comprise 18 line items. Three of the properties are in the Southern Corridor and are in whole or in part the subject of an NCC appeal of the 2003 Ottawa Official Plan to the Ontario Municipal Board (lines 1, 6 and 8, totalling 130 ha). Two properties, both at Bank Street and Lester Road, totalling 18 ha, are at the edge of the Greenbelt (lines 13 and 14). Six ha are part of

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<sup>1</sup> The Coalition was provided with an earlier version of the lists in July. In the new version, 9 line items for small properties, totalling less than 4 ha, are added; 3 properties, comprising a total of 10 ha, are shown as having been sold in September 2006; and the size of many holdings has vastly increased. Between the July and October versions, total land holdings identified increased, net, from 966 ha to 1,435 ha.

<sup>2</sup> In the list for Non-Urban Quebec, line 19 is labelled "Transportation" but the Map colours it as "To Be Determined." NCC staff has confirmed that the description "Transportation" is in error (e-mail from Sandra Pecek, October 4, 2006). Another error regards line item 84 in Urban Quebec: It is Open Space but is erroneously coloured as Recreation on the map (idem).

LeBreton Flats (line 58). Two small properties in non-urban Ontario (lines 1 and 2) are at the edge of the Greenbelt.

In urban Quebec, major components of the 127 ha “To Be Determined” are the Champlain Corridor (99 ha), part of Moore Farm (20 ha), and Chars de combat Park (5 ha) (lines 66, 68 and 77 respectively).

The vast portion of what is labelled “**Transportation**” is found in urban and non-urban Quebec, almost all under contract with the Province and generally along the major highways; the Philemon-Wright Corridor is leased to the City. There is a total of 276 ha in the Transportation category (plus some at Hurdman – see below).

The next largest category is labelled “**Development (Municipally Designated)**” and comprises 252 ha. This is based on an Official Plan or Zoning designation of the respective municipalities that offers development rights “and with which the NCC agrees.”<sup>1</sup>. It is not clear what these rights are and whether they were obtained before or after the properties were acquired by the NCC.

Over one-half of this acreage is again in non-urban Quebec (140 ha). Of these, 106 ha are at La Pêche (line 11). Another 22 ha are at the edge of Gatineau Park (line 9).

Almost all other acreage in this category is in urban or non-urban Ontario, 73 and 37 ha respectively. Four large properties, on Walkley at Hawthorne Road, a future Hunt Club Road extension at Russell Road, and at LeBreton Flats, comprise the vast portion of urban land in this group (61 ha, lines 15-17 and 56). Of non-urban land, 33 ha are at Limebank Road, south of Leitrim (line 4); the remaining parcel is at nearby Honey Gables (line 3).

“**Open Space**” (and/or “**Urban Natural Feature**”) are designations almost exclusively found in Ontario, over a total of 176 hectares. Note that these terms are defined in the 2003 Ottawa Official Plan<sup>2</sup>. In the urban area, these are mostly very small parcels; the exceptions are: portions of the Southern Corridor (lines 5 and 7, totalling 58 ha), 7 ha at Moffatt Farm that are under contract with the City (lines 20 and 21), and Hampton Park (11 ha, line 60). The 77 ha in non-urban Ontario (lines 5 and 6) are at the edge of the Greenbelt.

In urban Ontario, “**Recreation**” refers to three sites, all leased to the City: Mooney’s Bay, a ball diamond along Mann Avenue, and a tiny parcel next to the RCMP headquarters (lines 18, 40 and 43). Note that “Recreation” is not an Official Plan designation; in the 2003 OP, Mooney’s Bay is Major Open Space. In urban Quebec, almost all of the acreage refers to the Champlain Golf Club (58 ha, line 65); there is no annotation next to this item that the site is leased or under contract.

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<sup>1</sup> E-mail from Sandra Pecek, September 29, 2006.

<sup>2</sup> If one accepts that “Open Space” stands for the OP’s “Major Open Space.”

Line 32 of the Urban list 1 refers to 42 ha at **Hurdman** and ascribes four designations to various portions. Lines 33 and 35 to 36 refer to land close by, a further 16 ha with a mixture of designations. (Line item 34, also near Hurdman, was sold in September 2006.)

Finally, seven lines describe lands in Ontario for which the **NILM Designation is to be confirmed**. Six of these are in the urban area, of which five are subject to a planning study; one of the latter, at Maplelawn (line A in the urban list) is a subject of the NCC's appeal of the Ottawa OP. The one rural property in this group (line A in the Non-Urban list) is at the edge of the Greenbelt and is also subject to a planning study. These lands, currently part of the NILM, are in this holding category because there is an issue whether they should be declassified (presumably then allowing development).<sup>1</sup>

Altogether, the lands on these three lists comprise **1,435 hectares**. Staff estimates that Non-NILM land amounts to about 1,500 ha. The remaining 65 ha are thought to comprise primarily so-called water lots, mainly along the Ottawa River, which are not included in the GIS-based data reflected in the lists.<sup>2</sup>

## **Conclusions**

1. These non-NILM land holdings comprise but a small portion (3.2%) of the NCC's total land holdings of about 47,300 ha in the National Capital Region. Still, over 1,400 hectares is much land.
2. There are some major blocks (including the Southern Corridor, Mooney's Bay, lands at Hurdman, Hampton Park, the Champlain Golf Course and Champlain Corridor, and Moore Farm) and many, many small holdings.
3. Outside these major blocks and apart from the lands at the edges of Gatineau Park and the Greenbelt there is little coherence evident in the set of holdings. One wonders under what rationale this amalgam came into the NCC's hands.
4. Much uncertainty remains about the meaning of the various "potential vocations" and their implications. How they relate to municipal plan designations is not evident.
5. While this summary analysis has highlighted the major parcels, many of the smaller holdings may be of high value to the surrounding communities, or may have special ecological value. More detailed assessments are required.

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<sup>1</sup> E-mail from Sandra Pecek, September 29, 2006.

<sup>2</sup> Idem.

**TABLE : NCC List Of Non-NILM Land Holdings - As of October 2, 2006**

**“POTENTIAL VOCATION”**

	<u>Hectares</u>	<u>Acres</u>	<u># of Items</u>	
<b>Transportation</b>				
Urban Ontario	17.2	43		10
Non-Urban Ontario	0.0	0	0	
Urban Quebec	128.7	318	20	
Non-Urban Quebec	129.8	321	1	
<i>Total</i>	<i>275.8</i>	<i>681</i>	<i>31</i>	
<b>Development (Municipally Designated)</b>				
Urban Ontario	73.4	181	12	
Non-Urban Ontario	36.7	91	2	
Urban Quebec	2.8	7	4	
Non-Urban Quebec	139.6	345	4	
<i>Total</i>	<i>252.4</i>	<i>624</i>	<i>22</i>	
<b>To Be Determined</b>				
Urban Ontario	166.4	411	18	
Non-Urban Ontario	0.6	1	2	
Urban Quebec	127.5	315	8	
Non-Urban Quebec	281.0	694	15	
<i>Total</i>	<i>575.5</i>	<i>1,422</i>	<i>43</i>	
<b>Hurdman</b> (various designations)	<i>57.6</i>	<i>142</i>	<i>4</i>	
<b>Open Space (some Urban Natural Feature)</b>				
Urban Ontario	99.7	246	17	
Non-Urban Ontario	76.6	189	2	
Urban Quebec	3.3	8	5	
Non-Urban Quebec	0.0	0	0	
<i>Total</i>	<i>179.7</i>	<i>444</i>	<i>24</i>	
<b>Recreation</b>				
Urban Ontario	23.9	59	3	
Urban Quebec	60.8	150	2	
<i>Total</i>	<i>84.6</i>	<i>209</i>	<i>5</i>	
<b>NILM Designation to be Confirmed</b>				
Urban Ontario	9.0	22	6	
Non-Urban Ontario	0.1	0	1	
<i>Total</i>	<i>9.1</i>	<i>22</i>	<i>7</i>	
<b>TOTAL Non-NILM LANDS</b>	<b>1,434.7</b>	<b>3,545</b>	<b>136</b>	
Estimated Total Non-NILM Unaccounted for (water lots?)	1,500.0	3,706		
	65.3	161		



## **CNCCR Position Paper – Governance**

The Coalition fully supports the federal government's intention to improve the governance function of the NCC making it more open, transparent and accountable to Parliament and to the public. We see the need to improve future governance of the NCC primarily through the perspective of the major interests of the Coalition, i.e. the NCC's land use, planning and priority setting.

In our analysis we examined governance issues from two interrelated points of view:

1. STRUCTURE
2. FUNCTION

### **1. STRUCTURE**

#### **Current Structure**

According to Section 3 of the *National Capital Act*, the NCC Board of Directors currently consists of a Chairperson, a Vice-Chairperson\* and 13 other members. The Chairperson and Vice-chairperson are appointed by the federal Cabinet (Governor in Council) and the other 13 members are appointed by the Minister responsible for the NCC, with the approval of Cabinet.

These members are appointed as follows:

- (a) three, ordinarily resident in the National Capital Region, from local municipalities in Ontario, at least two of whom must be from the city of Ottawa;
- (b) two, ordinarily resident in the National Capital Region, from local municipalities in Quebec, at least one of whom shall be from the section of the city of Gatineau that is west of the Gatineau River; and
- (c) eight from Canada generally, other than from a city or municipality referred to in either of paragraphs (a) or (b).

Of the 13 members appointed by the Minister, 10 are from outside the NCR while only 3 have to be NCR residents. In our view, the current composition of the Board does not give sufficient representation in relation to the total to local residents who are most knowledgeable about the NCR and who are also the most affected by the Board's decisions.

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\* Under Bill C-2 (*The Federal Accountability Act*), which is now before the Senate, the Vice-Chairperson would become the Chief Executive Officer, appointed by the Governor-in-Council and be a voting member of the Board.

### **Current Appointment Process**

As far as we are aware, other than residency, there are no specific criteria for selection of these 13 Board members. At present the Board's composition has the look of what one might expect of a small to mid-sized corporation, perhaps a property development company. Overall, the knowledge and experience of current Board members do not, in our view, appear to reflect the NCC's mandate, either in terms of its conservation role or its role in "organizing, sponsoring or promoting public activities and events in the National Capital Region".

## **2. FUNCTION**

The way the NCC operates has over the years come under a great deal of public criticism and topping the list has been its lack of openness, and particularly its closed Board meetings. The public has much too often been presented with 'faits accomplis' - decisions taken behind closed doors without any opportunities for questioning, making representations, raising objections or proposing alternatives, or knowing why particular decisions were taken.

In relation to long range planning, the Coalition believes that the NCC has a vital planning role to play in enhancing the National Capital Region:

First, it should continue in its role as the focal point for planning the development of all public use federal facilities, natural and built, in the NCR. But this needs to be done with greater transparency and public involvement. In the area of land use, the public should be involved from the outset in a meaningful way and not simply by "show and tell" open houses.

Second, the NCC should make greater use of the Tripartite Committee to ensure long range planning and coordination between the NCC and the municipalities in areas such as public land use, transportation and tourism promotion. Potentially, this committee could be a very effective planning and coordination mechanism in the NCR and we recommend that the Panel review its effectiveness with a view to identifying opportunities for improvement.

## Recommendations

1. The new Board should consist of a total of 9 members (i.e. the Chairperson, the CEO and 7 other members) who would be selected as follows:
  - 2 from the City of Ottawa
  - 1 from the City of Gatineau
  - 1 from the Atlantic provinces
  - 1 from Québec, other than Gatineau
  - 1 from Ontario, other than Ottawa
  - 1 from the western provinces and territories

Having 4 members from outside the National Capital Region should ensure that the national interests are addressed by the Board.

2. Selection criteria should be established for the appointment of the NCC Chairperson, CEO and Board members and that there should be public input into the nomination process in order to ensure a better balance of members who are actively concerned with the conservation of NCC lands. In our view, it is essential that appointments reflect the new mandate of the NCC and particularly its environmental stewardship role and it is proposed that at least two of the appointees have had extensive experience in protecting the natural environment. Other key qualifications for Board member selection should include experience in:
  - Strategic planning
  - Heritage/building conservation/architecture
  - Transportation
  - Communications/tourism
  - Federal government departments, including central agencies
  - Academia e.g. biology, ecology /environmental science
  - Business owner/corporate executive
3. Because of the need for close communication and cooperation between the federal and local governments, a member of both Ottawa and Gatineau councils should be designated by their councils to sit on the Board, but only as non-voting members.\*
4. All NCC meetings should be open to the public, and agendas and minutes as well as decisions (dispositions) published, except for those items that require *in camera* deliberations, such as for personnel, contract and litigation matters. In addition, individuals and groups should have the opportunity to make submissions to the Board prior to any decisions taken.

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\* The Coalition does not support the appointment of any sitting member of municipal councils of Ottawa or Gatineau to the NCC board as a voting member. The interests and accountabilities of the two levels of government may at times be at variance and thus represent a potential conflict of interest. On the other hand, it is important that the two municipal councils be kept informed of the current issues and have the opportunity to participate during the Board's deliberations and report back to their respective councils.

5. The agendas and minutes of the meetings of the Tripartite Committee should be made public soon after each meeting rather than reported on by the Chair once a year.
6. The Tripartite Committee should be supported by standing and ad hoc working groups and that reports of these working groups and other submissions be made available to the public.
7. The public should be given opportunities to address the Tripartite Committee on major NCR long range planning and coordination issues.