



Corporation of the City of
NEW WESTMINSTER

REPORT

Development Services

To: Mayor Côté and Members of Council **Date:** 6/13/2016
From: Beverly Grieve **File:** 05.1020.20
Director of Development Services **Item #:** 72/2016
Subject: **Heritage Control Period Bylaw and Heritage Alteration Permit
Procedures Bylaw - For Three Readings**

RECOMMENDATION

THAT Council

- 1) *Consider Heritage Control Period Bylaw No.7856, 2016 for First, Second and Third Readings; and*
- 2) *Consider Heritage Alteration Permit Procedures Bylaw No. 7859, 2016 for First, Second and Third Readings.*

EXECUTIVE SUMMARY

Council is being asked to consider giving three readings to a heritage control period (HCP) bylaw for the Queen's Park Neighbourhood. The purpose of the heritage control period is to give temporary protection to properties (as specified in the bylaw) within the Queen's Park neighbourhood. The heritage control period would be in effect for a period of one year from the date of adoption in order to manage major exterior changes to and demolitions of buildings constructed prior to December 31, 1966. Should Council choose to adopt the bylaw on June 15, 2016, the control period would expire June 15, 2017.

Council is also being asked to consider giving three readings to a new heritage alteration permit procedures (HAPP) bylaw. The revisions to this bylaw make the application procedure applicable to all heritage alteration period (HAP) requirements, but continue to

restrict the delegation to the existing HRA/designation bylaw/heritage covenant scenarios. The heritage alteration permit procedures bylaw also describes the process if an applicant wishes to appeal the delegate's decision to Council. The heritage control period (HCP) bylaw authorizes the Director of Development Services, as a delegate of Council, to issue heritage alteration permits for all building alterations (except demolitions) within the heritage control area.

PURPOSE

The purpose of this report is to request Council consider a heritage control period bylaw (HCP) and a new heritage alteration permit procedures bylaw (HAPP) for first, second and third readings.

POLICY AND REGULATORY CONTEXT

Official Community Plan

The Official Community Plan (OCP) identifies the need to maintain heritage character in the City within a context of change. Recognizing that this is challenging, the OCP states that the heritage conservation tools found within the Local Government Act should be used when appropriate. This would include temporary heritage protection measures such as the use of a heritage control period.

Heritage Control Period

Section 608 of Part 15 of the Local Government Act provides that a local government may identify a specific area for heritage conservation planning by adopting a bylaw declaring a heritage control period of up to one year during which all property within the area would be subject to temporary heritage protection. The purpose of the heritage control period would be to prevent inappropriate change while the City works towards establishing more long-term heritage protection such as a heritage conservation area.

The heritage control period bylaw could require that a heritage alteration permit be obtained for any of the following:

- Alteration of a building exterior,
- Structural change to a building,
- Moving a building,
- Alteration, moving or taking an action that would damage a fixture or feature including a landscape feature (if identified in the bylaw),
- Alteration (including demolition), excavation or building on the property.

The bylaw could include an 'effective date' clause that states that only complete building permit applications from the heritage control area that are made after the specified date (e.g. first reading) would require a heritage alteration permit.

The declaration of a heritage control period would have no effect on heritage alteration permit procedures for properties in the affected area that are already subject to permanent heritage protection under a heritage designation bylaw or heritage revitalization agreement.

Heritage Alteration Permit

A heritage alteration permit, allowed through Sections 617 and 618 of the Local Government Act, is a permit issued by either Council or its delegate that authorizes alterations or other actions for property that is protected heritage property. It may not vary use, density, or flood plain specifications. If the heritage alteration permit is for a property within a heritage conservation area, it must be in accordance with the guidelines established for the heritage conservation area.

Council or its delegate may refuse to issue a heritage alteration permit if they feel that the work proposed is contrary to heritage conservation principles; however, they must inform the applicant of the requirements or conditions under which they could achieve the allowable density without undertaking the alterations proposed by the applicant. In the case of an application for demolition, this would usually mean identifying a retention option. Council may delegate all or a portion of these decisions to staff.

Delegation of Authority

Section 154 of the Community Charter gives Council the authority to delegate, through a bylaw, certain powers, duties and functions to a council member, council committee, officer or employee of the municipality, or another body established by Council.

BACKGROUND

Queen's Park Neighbourhood Heritage Study

On November 4, 2013, Council endorsed the work program for the Queen's Park Neighbourhood Heritage Study regarding exploring options to support heritage conservation in the Queen's Park neighbourhood. Study recommendations were provided to Council on April 25, 2016. One of the recommendations was the creation of a heritage conservation area, for which the community indicated a high level of support through the study process. To that end, the City solicitor has prepared the heritage control period bylaw and the related heritage alteration permit procedures bylaw being brought forward for first, second and third readings.

DISCUSSION

The heritage control period bylaw (HCP) has been drafted with the following provisions:

- Demolitions or exterior alterations visible from the street of any building constructed on or before December 31, 1996 would require a heritage alteration permit.
- The Director of Development Services would be delegated authority to issue heritage alteration permits within the heritage control area, excluding demolitions which would be considered by Council.
- The delegate or Council may, at its discretion, provide a public notification of its intent to consider a HAP using the same process as used for a DVP application.
- The delegate or Council may refer all heritage alteration permit applications within the heritage control area to the Community Heritage Commission (CHC). It is the intent that from an administrative perspective, all HAPs will be referred to the CHC.
- An applicant can appeal the delegate's decision to Council.
- The heritage control period bylaw would have a review cut-off date which identifies which properties would possibly require a heritage alteration permit. The current heritage review policy states that demolition applications for all buildings older than 50 years be reviewed by the Development Services Department for heritage merit. The heritage control period bylaw uses the same principle for the cut-off date; i.e. work that is identified in the bylaw for all buildings constructed up to and including December 31, 1966 would require a heritage alteration permit.
- The heritage control period bylaw would include an 'effective date' regarding heritage alteration permit applications. Applications that are made before the bylaw received first reading would not require a heritage alteration permit; those made after the bylaw receives first reading, and that are complete applications, would require one. (A 'complete application' would include all of the information required to enable the City to issue the permit.)

The heritage control period bylaw is attached as Appendix 1.

Heritage Alteration Permit Procedures Bylaw

In September 2008, Council gave the Director of Development Services the authority to issue minor heritage alteration permits in the city (after they have been reviewed by the Community Heritage Commission). It is recommended that this bylaw be repealed and replaced with a new heritage alterations permit procedures (HAPP) bylaw that would make the HAPP function in relation to heritage control periods.

The existing delegation bylaw did mention HAPs for heritage conservation areas (in relation to both the application procedure and the delegation of authority) but not heritage alteration permit requirements triggered by a heritage control period. The revisions to the bylaw make the applications procedure applicable to all HAP requirements, but continue to restrict the

delegation to the existing HRA/designation bylaw/heritage covenant scenarios. The Heritage Control Period bylaw (HCP) deals with the delegation of authority for HAPs in that area.

The Director would be given authority in the heritage control bylaw to issue all heritage alteration permits for building alterations within the heritage control area, excluding applications for demolitions, which would continue to go to Council for consideration. The Director would also have the option of referring building alteration applications to Council if the Director considered that a particular heritage alteration permit application warranted Council's attention.

The heritage alteration permit procedures bylaw is attached as Appendix 2.

Comments from the Community Heritage Commission

At the June 1, 2016 meeting, the Community Heritage Commission (CHC) considered what types of heritage alteration permits from the heritage control area, if any, that they would like to review during the one year time period. They felt it reasonable that they review every heritage alteration permit that arises from the heritage control area.

Administrative Policy

A clear policy regarding the administration of certain aspects of the bylaw would be helpful to staff and Council as well as members of the public. Should Council adopt the proposed heritage control period and heritage alteration permit procedures bylaws, staff would develop a policy that would provide guidance on the administration of the heritage control period. The policy would guide the process and recommendations that staff gives Council and its delegate for consideration in relation to any particular application.

The administration policy would include a direction that all HAP applications should be reviewed by the CHC. After the CHC review of the heritage alteration permit applications, the applications would be forwarded either to Council (for demolitions) or its delegate, the Director of Development Services (for exterior alterations) as specified in the heritage control period bylaw.

Heritage Conservation Area Bylaw

The purpose of the heritage control period is to provide time for the City to explore creating a heritage conservation area. The principles of the heritage conservation area would be developed with input from the Queen's Park Neighbourhood Heritage Study Working Group and the neighbourhood, including the Queen's Park Residents' Association and the New Westminster Heritage Preservation Society.

Council would have the opportunity to consider and direct staff on the contents of a heritage conservation area bylaw at the end of the one year heritage control period being considered in this report. Staff would take the City's experience with the heritage control period into account in providing recommendations to Council on the contents of a long-term heritage conservation area bylaw. The issue of the delegation of authority regarding HAPs in a heritage conservation area would be worked out at the time that a heritage conservation area was being considered by Council.

OPTIONS

The following options are available for Council consideration:

That Council:

- 1) Consider Heritage Control Period Bylaw No.7856, 2016 for First, Second and Third Readings, and
- 2) Consider Heritage Alteration Permit Procedures Bylaw No. 7859, 2016 for First, Second and Third Readings.
- 3) Give staff alternative direction.

Staff recommends options 1 and 2.

ATTACHMENTS

Appendix 1: Heritage Control Period Bylaw No. 7856, 2016

Appendix 2: Heritage Alteration Permit Procedures Bylaw No. 7859, 2016

This report has been prepared by:
Julie Schueck, Heritage Planner

This report was reviewed by:
Jackie Teed, Manager of Planning

Approved for Presentation to Council



Beverly Grieve
Director of Development Services



Lisa Spitale
Chief Administrative Officer

CITY OF NEW WESTMINSTER

BYLAW NO. 7856, 2016

A bylaw to declare a heritage control period

WHEREAS the Queen's Park neighbourhood has a high concentration of buildings that have heritage value or heritage character, many of which are on the City's Heritage Register; and

WHEREAS the Council intends to consider long-term heritage protection measures for the neighbourhood and for properties in the neighbourhood; and

WHEREAS under Part 15 of the *Local Government Act* the Council may declare a heritage control period for heritage conservation planning purposes;

NOW THEREFORE the Council of the City of New Westminster, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Queen's Park Heritage Control Period Bylaw No. 7856, 2016".
2. The Council declares a heritage control period under Section 608 of the *Local Government Act* in respect of the area outlined in heavy black line on Schedule A to this Bylaw (the "Heritage Control Area").
3. The length of the heritage control period declared by this bylaw is one year.
4. All types of alterations to property in the Heritage Control Area are allowed without obtaining a heritage alteration permit, except the following:
 - a. demolition or relocation of a residential dwelling any portion of which was constructed before December 31, 1966;
 - b. addition of floor area to a residential dwelling any portion of which was constructed before December 31, 1966, if any part of the additional floor area is located between an exterior wall of the dwelling as it existed on the date of adoption of this bylaw and:
 - i. the front lot line of the lot on which the dwelling is located; or
 - ii. either of the side lot lines of the lot.
 - c. alterations to the roof structure of a residential dwelling that was constructed before December 31, 1966 that are visible from the street from which the dwelling takes its civic address;
 - d. alterations to an exterior wall of the dwelling that faces the street from which the dwelling takes its civic address, or either of the side lot lines of the lot on which the dwelling is located, that involve the location or dimensions of any door or window or the design or material composition of any verandah, porch including sleeping porch, railing or architectural detailing.
5. For the purposes of Section 4, a building was constructed on the earliest of the dates on which the City issued a building permit authorizing the construction or authorized, in writing, the connection of the building to the City's water supply, sewage collection or electrical power supply systems.

6. A heritage alteration permit is not required for any alteration for which a complete building or demolition permit application was made prior to the date of first reading of this Bylaw.
7. The Council delegates to the Director of Development Services authority to issue a heritage alteration permit for an alteration described in Subsection b, c or d of Section 4, and in such cases references to the Council in Sections 7, 8, 9, and 10 shall be interpreted as references to the Director.
8. The Council may direct that a notice of its intention to issue a heritage alteration permit be given in the same manner as a notice of its intention to issue a development variance permit.
9. The Council may, prior to considering the issuance of a heritage alteration permit, refer the permit application to the Community Heritage Commission for its recommendation.
10. The Council may, subject to s. 617(6) of the *Local Government Act*, refuse to issue a heritage alteration permit for an alteration that would, in the Council's opinion, not be consistent with the purpose of the heritage control period declared in this bylaw.
11. A heritage alteration permit issued by the Council under this bylaw may be made subject to terms, requirements and conditions that the Council considers consistent with the purpose of the heritage control period declared in this bylaw, including a requirement that the applicant provide security as described in s. 618 of the *Local Government Act*.
12. If the Director of Development Services requires under Section 11 that an applicant provide security to guarantee the performance of the terms, requirements and conditions of the permit, the amount of the security shall be determined on the basis of an estimate by the applicant's architect or design consultant of the cost that the City would incur in undertaking and completing the work that would be required to satisfy a term, requirement or condition of the permit specified by the Director for the purposes of this Section.
13. The Council delegates to the Director of Development Services the authority to determine whether the holder of a heritage alteration permit issued in respect of the Heritage Control Area has contravened or failed to comply with a term, requirement or condition of the permit, and to undertake and complete the work required to satisfy the term, requirement or condition or ameliorate the effects of the contravention or noncompliance.
14. An applicant who is subject to a decision of the Director of Development Services under this Bylaw is entitled to have the Council reconsider the matter, in accordance with the procedures set out in City of New Westminster Heritage Alteration Permit Procedure Bylaw No. 7859, 2016.
15. No person shall undertake or perform any work described in Section 4 in the Heritage Control Area without obtaining a heritage alteration permit.
16. No person shall undertake or perform any work authorized by a heritage alteration permit in the Heritage Control Area, except in accordance with the terms, conditions and requirements specified in the permit.

17. Nothing in this bylaw is intended to affect in any way the force or effect of heritage protection of any property in the Heritage Control Area existing on the date of adoption of this bylaw, including without limitation any heritage designation bylaw, heritage covenant, or heritage revitalization agreement.

READ A FIRST TIME this ___ day of _____, 2016.

READ A SECOND TIME this ___ day of _____, 2016.

READ A THIRD TIME this ___ day of _____, 2016.

ADOPTED this ___ day of _____, 2016.

Mayor

Clerk

SCHEDULE A

MAP OF QUEEN'S PARK HERITAGE CONTROL AREA



Appendix 2

Heritage Alteration Permit Procedures

Bylaw No. 7859, 2016

CORPORATION OF THE CITY OF NEW WESTMINSTER

BYLAW NO. 7859, 2016

A bylaw of the Corporation of the City of New Westminster to establish procedures for the issuance of heritage alteration permits

WHEREAS the *Local Government Act* authorizes the Council to define procedures under which a person may apply for the issue of a permit under Part 15 – Heritage Conservation of the Act;

AND WHEREAS the *Community Charter* authorizes Council to delegate its powers, duties and functions, including those specifically established by an enactment, to its officers and employees, its committees or its members or to other bodies established by the Council;

NOW THEREFORE City Council of the Corporation of the City of New Westminster in open meeting assembled enacts as follows:

TITLE

1. This Bylaw may be cited for all purposes as "City of New Westminster Heritage Alteration Permit Procedure Bylaw No. 7859, 2016."

REPEAL

2. City of New Westminster Heritage Alteration Permit Delegation Bylaw No. 7260, 2008 is repealed.

HERITAGE ALTERATION PERMITS

3. Where a heritage alteration permit is required for a proposed action by the *Local Government Act*, a bylaw or order under Part 15 of the *Local Government Act*, a heritage revitalization agreement, or a covenant under Section 219 of the *Land Title Act*, application shall be made to the City's Director of Development Services in the manner and on the form prescribed by the Director.

4. The Director of Development Services is authorized and empowered to:
- (a) issue a heritage alteration permit authorizing the following alterations or other actions if such authorization is required by a heritage revitalization agreement, a heritage designation bylaw, or a heritage covenant under Section 219 of the *Land Title Act*:
 - i. exterior repainting of part or whole of building;
 - ii. changes to exterior building materials;
 - iii. changes to exterior roofing materials;
 - iv. exterior building repairs that alter the building appearance;
 - v. new exterior windows or doors, in existing locations that alter the building appearance;
 - vi. placement of exterior communications equipment that is visible from the street or neighbouring properties;
 - vii. additions to the building or structure, whether fully or partially enclosed or fully open to the outside except for a roof covering, where the total interior floor area is increased by 20 square metres or less;
 - viii. new building or structure for storage of refuse and recycling;
 - ix. new buildings or structures with a total interior floor area of 20 square metres or less that provide covered or enclosed bicycle parking; and
 - x. landscape changes or new landscaping, including both installation of planting materials (but not seasonal planting) and installation of permanent planters, guardrails and other hard landscaping;
 - (b) withhold the issue of a heritage alteration permit for an action which, in the opinion of the Director of Development Services, would not be consistent with the purpose of the heritage protection of the property;
 - (c) establish and impose terms, requirements and conditions on the issue of a heritage alteration permit which the Director of Development Services considers consistent with the purpose of the heritage protection of the property; and

- (d) determine whether the terms, requirements and conditions of a heritage alteration permit have been met.

RECONSIDERATION BY COUNCIL

- 5. Where an applicant for a heritage alteration permit is dissatisfied with a decision made by the Director of Development Services, the applicant may apply to the Council for reconsideration of that decision within 30 days of the decision being communicated to them.
- 6. An application for reconsideration must be delivered in writing to the City Clerk and must set out the grounds upon which the applicant considers the decision of the Director of Development Services is inappropriate, and what, if any, decision the Council ought to substitute.
- 7. The City Clerk shall place the matter on the agenda of a Council meeting and shall advise the applicant, in writing, of the date and time of the meeting and the applicant's right to be heard at the meeting.
- 8. At the meeting of Council at which reconsideration occurs, the Council may hear from the applicant, the Director of Development Services and any other person interested in the matter who wishes to be heard, and may either confirm the decision of the Director or substitute its own decision.

READ A FIRST TIME this _____ day of _____, 2016.

READ A SECOND TIME this _____ day of _____, 2016.

READ A THIRD TIME this _____ day of _____, 2016.

ADOPTED this _____ day of _____, 2016.

MAYOR

CITY CLERK