

# DECISION/DIRECTION NOTE

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**Title:** Draft Heritage By-Law – What We Heard and Revised Draft

**Date Prepared:** August 17, 2021

**Report To:** Committee of the Whole

**Councillor and Role:** Councillor Maggie Burton, Planning & Development

**Ward:** N/A

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**Decision/Direction Required:**

Council's direction on proposed changes to the draft St. John's Heritage By-Law.

**Discussion – Background and Current Status:**

The draft St. John's Heritage By-Law was made public at the March 24, 2021, meeting of Council's Committee of the Whole. Since then, there has been a variety of public outreach including two virtual public meetings on the By-Law, another virtual public meeting specifically for the Battery neighbourhood, a heritage focus-group meeting, a meeting with representatives from some churches in the heritage area, and a presentation to the City's Built Heritage Experts Panel. In addition, an online Engage St. John's page was created with rationale for the By-Law and all relevant documents, and a notice was sent to owners of designated heritage buildings. The public meetings were promoted through a public service announcement, notices on the City's website and social media, and a notice in The Telegram newspaper. There were approximately 25 attendees at the first meeting, 14 at the second, and 40 at the Battery meeting. The City received approximately 60 written submissions.

Staff have prepared a "What We Heard" document for Council and the public. The response to the Heritage By-Law has been generally negative. Staff believe that some of the negative reaction stems from a misunderstanding of how the Envision St. John's Development Regulations and the Heritage By-Law will work together. There is no less protection of built heritage than what has been in place for decades. The new By-Law maintains the same level of protection while adding improvements: heritage reports, public consultation, and standards for new developments and for extensions to existing buildings. For example, the Heritage By-Law does not allow a developer to ignore height restrictions – it is silent on building height because height, as well as setbacks, floor-area ratio, stepbacks, and other standards that regulate building form are cited in the Envision Development Regulations.

Below is a summary of the main topics raised by the public. Minutes from the meetings, as well as the public submissions, are attached for Council's consideration.

*Council's Discretionary Authority*

Submissions indicated that the public sees Council's discretionary authority as a loophole that will allow Council to approve developments that do not meet the heritage standards.

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- 1. Recommendation:** Council previously indicated they intend to maintain discretionary authority, therefore there have been no changes recommended to sections involving Council's discretion.

*Built Heritage Experts Panel (BHEP) Terms of Reference*

There were several ideas raised with respect to the BHEP membership and their qualifications. Some suggested adding a structural engineer, historians, a resident of a heritage area, and a Council member. The City is currently reviewing all committee terms of reference; therefore it is recommended to forward submissions regarding the BHEP to appropriate staff for their consideration in updating the Heritage Panel's terms of reference.

Staff would like to clarify that BHEP members, as with all City committees, are selected through a transparent process. Membership is advertised publicly and sent to appropriate organizations such as the NL Association of Architects, the Canadian Homebuilders Association – NL and the Association of NL Archives. Applicants present their qualifications and resumes to the City and applicants who best meet the BHEP's criteria are selected in public by Council during a regular meeting.

- 2. Recommendation:** Staff to forward comments regarding the BHEP to the appropriate staff for consideration during the review of committee terms of reference.

*Heritage Area 4 (Battery neighbourhood) Boundary*

Many felt that Signal Hill Road and Walsh's Square should be included in Heritage Area 4. While staff agree that these areas are part of the Battery neighbourhood, they are different forms of housing with different qualities. Heritage Area 4 aligns with the Residential Battery (RB) Zone that limits development to single detached dwellings, while the townhouses and other houses on Signal Hill Road and Walsh's Square are in the Residential High Density (R3) Zone which is typical of Heritage Area 3. Heritage Area 4 design standards allow large picture windows, which are prevalent in single houses in the Battery but not typical on Battery townhouses. Staff propose to regulate the building forms and facades that already exist.

- 3. Recommendation:** No changes are proposed to the Heritage Area 4 boundary.

*Heritage Reports and Public Consultation*

The Heritage By-Law proposes a new heritage report, which would be required in certain circumstances. These would be akin to the land-use reports that are part of the Envision Development Regulations and have been used by the City since 1985. Regarding the heritage reports, some people felt that a list of minimum requirements should be written into the By-Law, that staff should not be permitted to prepare heritage reports (this is proposed for simpler applications), that heritage reports should be required for all new developments, extensions, and renovations, and that the qualifications of whoever prepares the reports should be identified in the By-Law.

Given the variety of applications that may require a heritage report, ranging from a single house to a large commercial building, staff believe a general description is best in the By-Law, and specific details, including qualifications of the person preparing the report, can be identified in the heritage report terms of reference. Sample terms are attached to demonstrate heritage reports will be thorough. Staff have updated the By-Law to include the requirement of

a heritage report for all new developments in the heritage areas plus for new developments adjacent to designated heritage buildings. Staff felt that it was not necessary to require a heritage report for building extensions or renovations that meet the heritage design standards. Should there be a situation where a heritage report is recommended, Council has the authority to require a heritage report for any application.

**4. Recommendation:**

- (a) Add a requirement that Council shall require a heritage report for new buildings in heritage areas and for new developments adjacent to heritage buildings.
- (b) Consult with Heritage NL to obtain a list of qualified heritage professionals.

Many submissions suggested that public consultation should be required for new developments, building extensions or major renovations. Staff felt that if an application meets the heritage design standards, public consultation may not be needed. For example, if an applicant were to demolish and rebuild a townhouse and the development met all standards, public consultation would not be recommended. Given that there are about 5,000 buildings in the heritage areas, a blanket approach for consultation is not the best use of resources. Rather, staff evaluate applications and should, for example, there be an application for a significant extension to an existing building, staff can bring the application to Council for direction on consulting the public.

**5. Recommendation:** No changes proposed to Section 11 regarding public consultation.

*Heritage Design Standards*

Some submissions had specific recommendations for the design standards, while other were more general. Below are proposed changes based on the public feedback received.

**6. Recommendations:**

- (a) Designated Building – changed “architectural style” to “architectural characteristics”.
- (b) Corner Boards – removed 6 inches as the required size, as some corner boards are traditionally larger or smaller than that size.
- (c) Garages - no changes proposed, although some people felt that garages should not be permitted in some heritage areas.
- (d) Residential Roof Styles and Materials – broadened the type of roofs permitted in Heritage Area 4 (the Battery). Allowed consideration of traditional metal roofs on designated heritage buildings.
- (e) Solar Panels – no changes proposed at this time, however staff will continue to monitor applications and requirements for solar panels.
- (f) Heat Pumps – regulations removed from the Heritage By-Law. Regulations for heat pumps and mini-splits are in the Envision Development Regulations and therefore are not needed in the Heritage By-Law.
- (g) Commercial Building Facades – added consideration for façade accent materials.
- (h) Roof Decks – there have been submissions for and against roof decks. The residential roof deck standards were drafted
- (i) Design Standards for New Buildings – some felt that the standards for new buildings were too general. The City’s BHEP agreed that a good approach is to require traditional materials, and require new developments to respond to the existing development pattern in the street. No changes are proposed at this time,

but this section can be re-evaluated once more studies, such as the planned Heritage Plan, have been completed.

- (j) Other – edits throughout to add clarity.

### *Design of Tall Buildings*

The heritage design standards propose a relaxation of the standards for the part of the building above 18 metres building height. This would apply only to zones which allow a building height greater than 18 metres. This would **not** apply to areas zoned Commercial Downtown Mixed (CDM) where the maximum building height is 18 metres. It would apply to areas zoned Commercial Downtown (CD) west of Adelaide Street, where larger buildings such as the Fortis Building and the Delta Hotel exist. Given that the CD Zone allows a building height of 54 metres, staff did not propose requiring traditional materials for higher parts of façade, to allow flexibility in design. Staff believed that, given the location of these properties on the western end of downtown, the first 4 storeys should be traditional design that matches the streetscape, but modern materials such as glass could be considered above 18 metres. Staff seeks Council's direction on this matter.

- 7. Recommendation:** Staff maintain that non-traditional materials may be considered on the portion of building taller than 18 metres, to create a traditional streetscape at the base while allowing flexibility in upper-storey building materials.

### *Standards and Guidelines for the Conservation of Historic Places in Canada*

Several submissions recommended that the City should adopt and use the Standards and Guidelines for the Conservation of Historic Places in Canada, published by Parks Canada. Staff are open to this but would need to explore its full implications on residents, property owners and the City's application processes.

- 8. Recommendation:** After the Heritage By-Law is brought into effect, staff review the implications of adopting the Standards and Guidelines for the Conservation of Historic Places in Canada and report back to Council.

### *National Historic Districts and Federal/Provincial Heritage Buildings*

The City does not regulate National Historic Districts or heritage buildings that are designated by other levels of government, however we can show the Districts on the heritage areas map in the By-Law, to prompt any additional evaluation needed for applications in these districts. The Districts may have certain characteristics that could be encouraged in new development. The City can add a list of federally and provincially designated heritage buildings to the City's website, but the By-Law is not an appropriate place for that list because we do not have authority to regulate them as heritage buildings unless designated by Council. In an effort to harmonize our list in the past, many property owners declined municipal designation.

Some submissions stated that the St. John's Ecclesiastical District National Historic Site should have its own zone or development criteria. Council has agreed to prepare a management plan for the Ecclesiastical District in future. Once that is done, changes to the Heritage By-Law may be required.

- 9. Recommendation:**

- (a) Add the National Historic Districts to the heritage area map in the Heritage By-Law.

- (b) Add a list of federally and provincially designated heritage buildings to the City's website.
- (c) As future work of the City's Planning Division, prepare a management plan for the Ecclesiastical District National Historic Site.

Please note that the text of the Heritage By-Law is not attached to the Committee agenda at the moment. It will be edited in line with this memo and added to the agenda as soon as possible.

**Key Considerations/Implications:**

1. Budget/Financial Implications: Not applicable.
2. Partners or Other Stakeholders: Residents and property owners of designated heritage buildings or properties in the heritage areas, Heritage NL, the NL Historic Trust, Parks Canada, and residents and business owners of St. John's.
3. Alignment with Strategic Directions/Adopted Plans:  
*St. John's Strategic Plan - A Sustainable City* – Plan for land use and preserve and enhance the natural and built environment where we live.
4. Legal or Policy Implications: Adoption of a Heritage By-Law will derive its authority from the City of St. John's Act, which has specific provisions for built heritage in Section 355.
5. Privacy Implications: Not applicable.
6. Engagement and Communications Considerations: Draft Heritage By-Law engagement included the creation of an Engage St. John's page, public meetings, a focus-group meeting, a meeting with local churches, notices to heritage building owners and relevant organizations, and notices in *The Telegram* and on the City's website and social media.
7. Human Resource Implications: Not applicable.
8. Procurement Implications: Not applicable.
9. Information Technology Implications: Not applicable.
10. Other Implications: Not applicable.

**Recommendation:**

That Council provide direction to City staff on the 9 recommendations listed above for the St. John's Heritage By-Law.

**Prepared by: Ann-Marie Cashin, MCIP, Planner III – Urban Design & Heritage**  
**Approved by: Ken O'Brien, MCIP, Chief Municipal Planner**



**Report Approval Details**

Document Title:	Draft Heritage By-Law - What We Heard and Revised Draft.docx
Attachments:	
Final Approval Date:	Aug 19, 2021

This report and all of its attachments were approved and signed as outlined below:

**Ken O'Brien - Aug 17, 2021 - 8:15 PM**

**Jason Sinyard - Aug 19, 2021 - 12:02 PM**