

REPORT

Engineering Department

To: Mayor Johnstone and Members of Council
Date: April 24, 2023

From: Lisa Leblanc
Director of Engineering Services
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Item #: 2023-228

Subject: Train Whistle Cessation - Update

RECOMMENDATION

THAT Council receives this report for information.

PURPOSE

To provide Council with information regarding Train Whistle Cessation in response to the motions from the December 12th, 2022 Council meeting.

SUMMARY

Staff will provide quarterly updates to Council (through reports) and the Public (through our website) on the progress of Citywide whistle cessation in 2023.

BACKGROUND

Whistling in emergent conditions and at public grade crossings is a requirement by train operators under the Canadian Rail Operating Rules (CROR). Whistling in emergent conditions (persons or animals on or near the tracks) is a succession of short sounds. Whistling at public grade crossings starts a ¼ mile from the crossing or 20 seconds prior to train occupation of the crossing. This whistling consists of two long whistles followed by a short whistle and ended with a long whistle, which is prolonged or repeated until the train occupies the entire crossing. Unnecessary train whistling is prohibited by the CROR section 14(ii), as shown in attachment 1. According to Transport Canada, there are no known violations or warnings for unnecessary train whistling within the City of New Westminster.

New Westminster has both public grade crossings and private grade crossings throughout its transportation network. A public designated crossing is where railway tracks intersect with a road or path that is owned and maintained by a public authority, and is used by the public. This typically includes municipalities, provinces, and other organized communities. A private grade crossing is one where railway tracks intersect with a road or path that is typically owned and used by private authorities, such as farmers, commercial or industrial businesses or private individuals. Private grade crossings are not used by the public. Whistling is not required at private crossings, unless emergent conditions exist.

Transport Canada developed the Grade Crossing Regulations (GCR) and Grade Crossing Standards (GCS) in 2014, outlining the requirements to improve safety for all crossing users. The GCR/GCS' were phased in with the understanding that compliance will take time and require substantial resources and financial commitment. The GCR/GCS' were updated in 2019 with the addition of the requirement for existing crossings to be compliant by either November 28th, 2024 (for federally regulated crossings) or January 1st, 2028 (for provincially regulated crossings). Grade crossing regulations and standards make crossings safer by specifying minimum requirements for not only the rail crossing and warning systems, but also the road approaches, nearby intersections, adjoining lands (including grade), signage and sightlines.

The City of New Westminster has four rail companies operating within its borders. These four companies are Canadian National Railway (CN), Canadian Pacific Railway (CP), Southern Railway of British Columbia (SRY) and Burlington Northern Santa Fe (BNSF). Additionally, three of the companies are regulated federally (CN, CP and BNSF) and one is regulated provincially (SRY). Most of our mainland rail crossings have tracks owned and operated by more than one of these companies. Each rail company has its own priorities and response times and, although each is interested in working collaboratively on safety upgrades, progress is dependent on resources including funding and staffing availabilities. Generally, rail companies do not prioritize the pursuit of whistle cessation because whistling is required in accordance with CROR.

The required volume and frequency of train whistles at public crossings can have a negative impact on residents, businesses and institutions in close proximity. To help address these negative impacts, Transport Canada has developed a process for communities to pursue the cessation of non-emergent train whistling at select public crossings. This process consists of eight steps and includes items such as consultation with the associated rail companies, completing a safety assessment, implementing the necessary safety upgrades, municipalities passing a resolution to cease whistling, executing a whistle cessation agreement, acquiring the necessary liability insurance coverage and rail companies issuing anti-whistling directives to train operators.

In 2014, the City of New Westminster adopted Train Whistle Cessation bylaw 7698 (attachment 2), which was a required step in the whistle cessation process for Provincially Regulated Railways, at the time. The Provincial Railway regulator has since adopted the Transport Canada process for whistle cessation, which requires a resolution from council,

which can be fulfilled through a passed motion. As a housekeeping item, staff will work to rescind Bylaw 7698.

Currently, whistle cessation has been implemented at four public crossings in New Westminster. They are the Brookes Street Pedestrian crossing (Queensborough), Quayside Drive crossing (at Laguna Court), Begbie Street crossing (at Front Street) and Front Street crossing (at 4th Street).

At the December 12th, 2022 Council meeting, Council directed staff to report back on progress made to eliminate unnecessary train whistles; to eliminate unnecessary train whistles in Sapperton and Queensborough by 2026 and investigate the associated costs or provincial/federal funding opportunities.

DISCUSSION

The At-Grade Public Crossing Whistle Cessation Summary is included with this report as attachment 3.

New Westminster has 27 at-grade public rail crossings. 11 of these are on the mainland portion of the City, and 16 are in Queensborough. The At-Grade Public Crossing Whistle Cessation Summary identifies each public crossing within the City of New Westminster. It does not include any of the 15 private crossings.

Accurate cost estimates and implementation dates for both GCR/GCS compliance and the implementation of whistle cessation at each individual crossing will require further examination, design analysis and stakeholder engagement. Some of the factors that can impact the scale of compliance upgrades are: the number of tracks at the crossing, train speeds, existence of fencing and barricades, user sightlines, the availability of public land, proximity to private property, proximity to road infrastructure and intersections and the presence of utilities.

Stakeholder engagement at both the staff level and with the respective rail companies is a key requirement for the implementation of whistle cessation.

Short Term Opportunities

The following crossing requires the completion of construction deficiencies, a final safety assessment, insurance acquisition and stakeholder agreements:

- 1. Furness Street @ Duncan Street Queensborough

Whistle cessation at this crossing by the end of 2023 is a possibility.

Mid Term Opportunities

Due to the requirements of GCR/GCS and whistle cessation, and because they serve a single private property, the following crossings are recommended for re-assignment from Public to Private:

- 1. Twentieth (20th) Street crossing West End / Mainland
- 2. Fourth (4th) Avenue crossing West End / Mainland

Although the timeline for these re-assignments is currently unknown, preliminary discussions indicate that it might be possible to have them completed by the end of 2024. Each crossing requires further assessment and will require agreements with the property owners and railways, safety upgrades, land transfers and the execution of a variety of legal agreements. As previously mentioned, whistling is not required at private crossings unless emergent conditions exist.

The following crossings have had safety assessments completed, conceptual designs advanced, and class C estimates completed:

- 1. Spruce Street crossing Sapperton / Mainland
- 2. Cumberland Street crossing Sapperton / Mainland

Based on feedback and subject to the outcome of ongoing revision of the design drawings by the rail companies, it may be possible to complete construction work on both of the above crossings by the end of 2024 with the implementation of whistle cessation in 2025. Achievement of this goal is subject to resource availability from the rail companies, availability of equipment, materials and contract personnel to complete the capital works. An adequate and up-to-date budget will be required for these crossings

Long Term Projects

The following crossings will require further design analysis and may require comprehensive structural modifications or road and/or rail re-alignments:

- 1. Furness Street @ Ewen Avenue Queensborough
- 2. Mercer Street @ Ewen Avenue Queensborough
- 3. Ewen Avenue @ Stanley Street Queensborough
- 4. Salter Street @ Derwent Way Queensborough
- 5. Braid Street @ Brunette Avenue Sapperton / Mainland
- 6. Braid Street @ Vulcan Street Sapperton / Mainland

The above crossings are considered highly complex, resource intensive (both City and railway companies), projects that will require further examination to better understand the technical implications, resource and capital expenditure impacts, as well as implementation timeframes.

The recently constituted Railway Technical Committee (RTC) held its first meeting on February 28th, 2023. The meeting was chaired by City staff, and was attended by staff from the Engineering Department and New Westminster Fire and Rescue Services, the four Railway companies operating in New Westminster, and the Provincial and Federal regulators. The topics discussed included Council motions, the community’s demand to

achieve whistle cessation and including railway contact information on the City's website. The Terms of Reference for the RTC is provided in attachment 4.

NEXT STEPS

Staff will continue working directly with stakeholders and through the RTC to better understand the costs and timelines for upgrading the Queensborough and Sapperton public crossings and implementing whistle cessation. This information will be used to update the At-Grade Public Crossing Whistle Cessation Summary, which will be presented to Council as a part of a quarterly update process.

Staff will update the City's website on a quarterly basis with relevant information regarding progress on Citywide whistle cessation. Staff will continue to work with rail partners to advance the implementation of whistle cessation at the Short Term and Mid Term Opportunity crossings.

FINANCIAL IMPLICATIONS

The 2023-2027 Proposed Five Year Financial Plan includes \$1.89M to support rail crossing upgrades and whistle cessation projects, of which \$0.89M has been allocated to the 2023 Proposed general fund Capital Budget. The 2023 capital budget aims to advance stakeholder engagement, conceptual design works and to advance service and equipment procurement where appropriate. This work will inform and identify the scope, risk and constraints to advance the safety works and provide information on total funding requirements.

Third party grant funding opportunities are available for safety upgrades through Transport Canada's Railway Safety Improvement Program (RSIP). RSIP has recently changed their funding model from an open call system, which accepts applications throughout the year, to a closed call system, which only accepts applications during specific timeframes.

Municipalities are eligible to receive up to an 80% financial contribution per eligible project with a maximum contribution amount per recipient (not project) of \$10,000,000 per fiscal year. See attachment 5 – RSIP Information.

INTERDEPARTMENTAL LIAISON

Engineering Services will continue to work with the Finance and Legal Departments to minimize both the financial impacts and risk exposure to the City. Additionally, the Communications Department will be updated with advancements in major milestone progress or impactful phases of the work. The Fire Department is a member of the RTC.

OPTIONS

The following options are presented for Council's consideration:

1. That Council receive this report for information;
2. That Council provide alternative direction to staff.

Staff recommends Option 1.

CONCLUSION

Whistle cessation is a challenging, expensive and prolonged process. Implementing Citywide train whistle cessation in a timely manner will require dedicated staff resources, the continuation of collaborative stakeholder relationships and adequate capital funding from the City.

Staff will provide quarterly updates to Council (through reports) and to the public (through our website) on the progress of Citywide whistle cessation in 2023.

ATTACHMENTS

Attachment 1 – Canadian Rail Operating Rules (CROR) Excerpt – Page 25

Attachment 2 – City of New Westminster bylaw 7698, 2014

Attachment 3 – At-Grade Public Crossing Summary

Attachment 4 – Railway Technical Committee Terms of Reference

Attachment 5 – RSIP Application Information

APPROVALS

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