

REPORT

Engineering Services

To: Mayor Johnstone and Members of
Council

Date: May 27, 2024

From: Lisa Leblanc
Director of Engineering Services

File: 05.3510.10
(Doc #2492377v2)

Item #: 2024-308

Subject: Train Whistle Cessation Resolution at the Furness Street Rail Crossing

RECOMMENDATION

THAT Council, in accordance with section 3 of the *Railway Safety Adopted Provisions Regulation* B.C. Reg 210/2004 and section 23.1 of the *Railway Safety Act* (Canada), pass the following resolution:

THAT New Westminster City Council directs that train whistles not occur in the area of the Furness Street at-grade crossing near Duncan Street at SRY Queensborough Spur Mile 0.80 in New Westminster.

PURPOSE

The purpose of this report is to request that Council pass a resolution that train whistles should not be used at the Furness Street (near Duncan St) public at-grade rail crossing.

SUMMARY

This report requests a Council resolution to satisfy provincial legislative requirements for whistling cessation under the *Railway Safety Act* and the *Railway Safety Adopted Provisions Regulation*.

BACKGROUND

Southern Railway of BC Ltd (SRY) is a provincially regulated rail operator. The Furness Street crossing (near Duncan Street) is identified as SRY Queensborough Spur Mile 0.80, and its approximate location is shown in Figure 1.



Figure 1

If an area meets the prescribed requirements in the *Grade Crossing Regulations*, and City Council by resolution declares that it agrees that whistles on railway equipment should not be used in that area, then subject to specific, safety-related exceptions, no person is allowed to use the whistle on any railway equipment in the area.

Before passing such a resolution, the City must consult the railway company that operates the relevant railway line, notify relevant associations and organizations, and give public notice of its intention to pass the resolution.

DISCUSSION

As contemplated by section 9 of the Railway Safety Act (British Columbia), pursuant to the *Railway Safety Adopted Provisions Regulation*, the Province adopted provisions of the federal *Railway Safety Act* and the federal *Grade Crossing Regulations* so that they apply to provincial railways, including SRY.

Section 23.1(1) of the *Railway Safety Act* (Canada) provides that no person shall use the whistle on any railway equipment in an area within a municipality if:

- (a) the area meets the requirements prescribed for the purposes of this section; and
- (b) the government of the municipality, by resolution, declares that it agrees that such whistles should not be used in that area and has, before passing the resolution,
 - (i) consulted the railway company that operates the relevant line of railway,
 - (ii) notified each relevant association or organization, and
 - (iii) given public notice of its intention to pass the resolution.

The whistle may be used if (a) there is an emergency; (b) any rules in force under section 19 or 20 of the *Railway Safety Act* or any regulations require its use; or (c) a railway safety inspector orders its use under section 31 of the *Railway Safety Act*.

Council may pass a resolution to implement train whistle cessation if it agrees that such whistles should not be used at the Furness Street (near Duncan Street) public at-grade crossing.

Staff have consulted with SRY, the railway company that operates this line of railway, and SRY has indicated that it agrees the requirements for whistling cessation under the *Grade Crossing Standards* have been met. Staff have also consulted with the provincial regulator, Technical Safety BC and have given public notice of its intention to pass the resolution through the Public Notices section of the City's website, by City email and a hard copy bulletin posted at City Hall, the Library main branch and the Queensborough Community Centre.

The technical requirements to achieve whistling cessation are prescribed in sections 104 to 107 of the *Grade Crossing Regulations*. The City has completed the required upgrades to meet the legislative requirements for at grade road crossings and whistle cessation. These upgrades include:

1. Furness and Duncan Street intersection re-alignment.
2. Improved sight lines.
3. Installation of a 3 way stop at the Furness and Duncan Street intersection.
4. Installation of an active railway warning system.
5. Installation of a separated pedestrian rail crossing with maze barriers and fencing.
6. Installation of fencing to prevent trespassing into the rail corridor.
7. Installation of "Look Listen Live" and "Look For Trains" decals on the pedestrian path.
8. Installation of hatching on the road surface identifying areas where motor vehicles should not be queuing.

SRY contracted the engineering firm Hatch to assess the upgrades and per the attached signed and sealed letter dated September 26, 2023, the Hatch engineer concluded that the Furness and Duncan Street crossing meets the *Grade Crossing Standards* for whistling cessation. If Council passes a resolution that whistles should not be used at this crossing, then Staff will forward a copy of the resolution to SRY and Technical Safety BC. Within 30 days of receipt of the resolution, SRY must issue special instructions under the *Canadian Rail Operating Rules* to eliminate whistling at the Furness and Duncan crossing (subject to legislated exceptions), and notify Technical Safety BC and the City of the effective date of whistling cessation no later than 30 days after the day whistling stops.

If the City and SRY do not maintain the crossing according to legislated requirements, then Technical Safety BC could order that train whistling start again.

NEXT STEPS

City Staff will provide SRY with Council's resolution and ask for confirmation that whistling be stopped at the Furness Street crossing and then work with SRY to maintain the crossing to avoid the risk of the regulator ordering train whistling to resume.

FINANCIAL IMPLICATIONS

The recently completed upgrades to the Furness Street crossing were funded and delivered by the developer of the adjacent property. Maintenance of the rail crossing active warning system is the responsibility of the City of New Westminster and is paid for through the annual operating budget. The annual maintenance cost is approximately \$9,700.

INTERDEPARTMENTAL LIAISON

Engineering Services will work with Engineering Operations to ensure the crossing continues to be in compliance with the whistle cessation requirements and will also continue to work with the City's Finance and Legal Departments to minimize the financial impacts and risk exposure to the City.

OPTIONS

The following options are presented for Council's consideration:

1. THAT Council, in accordance with section 3 of the *Railway Safety Adopted Provisions Regulation* B.C. Reg 210/2004 and section 23.1 of the *Railway Safety Act* (Canada), pass the following resolution:

THAT New Westminster City Council directs that train whistles not occur in the area of the Furness Street at-grade crossing near Duncan Street at SRY Queensborough Spur Mile 0.80 in New Westminster.

2. That Council provides alternative direction to Staff.

Staff recommends Option 1.

CONCLUSION

Upon the passing of this resolution, the City will instruct SRY to move forward with the final step in the process to stop the use of train whistles at the Furness Street crossing, which will reduce the noise impacts on existing and future residents in the area.

ATTACHMENTS

Attachment 1 – Hatch letter H367563-RW-310-S0-0001 - Furness St Warning System - 2023-09-26

APPROVALS

This report was prepared by:
Garey Carlson, Engineering Technologist

This report was reviewed by:
Kwaku Agyare-Manu, Senior Manager, Engineering Services

This report was approved by:
Lisa Leblanc, Director of Engineering
Lisa Spitale, Chief Administrative Officer