

AGENDA INFORMATION	
<input type="checkbox"/> Regular Meeting	Date: <u>January 29, 2018</u>
<input type="checkbox"/> Other:	Date: _____

 Dept. Manager	 GM/T Director	 CAO
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## The District of North Vancouver REPORT TO COUNCIL

January 23, 2018  
File: 01.0115.30/002.000

**AUTHOR:** James Gordon, Municipal Clerk

**SUBJECT:** Park Dedication Removal Bylaw 8303, 2018 (Kirkstone Park)

### RECOMMENDATION:

1. THAT "Park Dedication Removal Bylaw 8303, 2018" is given FIRST, SECOND and THIRD Readings.
2. THAT approval of the electors be obtained by means of an alternative approval process.
3. THAT the elector response form be approved in the form set out in Attachment 2 to the report of the Municipal Clerk dated January 23, 2018.
4. THAT the deadline for submission of elector response forms shall be 4:00 pm on Monday, March 12, 2018.
5. THAT a fair determination of the number of electors in the District of North Vancouver is 59,617.

### REASON FOR REPORT:

The reason for this report is to provide three readings to Bylaw 8303 (Attachment 1) and to assist Council with the requirements of adopting a park dedication removal bylaw.

### EXISTING POLICY:

District policy *Requirement for Assent of the Electors by Referendum for Removal of Park Dedication* applies. This policy requires that parks dedicated by referendum only have their dedication removed by referendum. The council of the day enacted this policy to ensure the continued protection of parkland at a high standard and so required this additional level of protection for the removal of District parkland. Kirkstone Park was dedicated for park and recreation purposes by referendum in 1999 (Bylaw 7108).

### BACKGROUND:

Council wishes to establish a road network in the Lynn Valley Town Centre as outlined in the Official Community Plan and Lynn Valley Flexible Planning Framework. To achieve

this the dedication for park and recreation purposes of a portion of Kirkstone Park must be removed (shown in red on the map below). Removal of the park dedication will permit the land to be used for road and sidewalks. This area is identified in Bylaw 8303 and will remove the dedication as park upon adoption.

The District's Official Community Plan and Lynn Valley Flexible Planning Framework identified the need for a new road connecting Emery Place to Mountain Gate. The future road will accommodate access to Kirkstone Park and will replace the existing gravel trail with new sidewalks and lighting. This new road is to come from two sources: the property located at 1200 Emery Place (Emery Village) as a condition of the proposed rezoning and from Kirkstone Park.

The part of the road coming from the Emery Village development will be dedicated as highway by way of subdivision if and when Council adopts the rezoning bylaw. The part of the road coming from Kirkstone Park is currently part of a much larger fee simple parcel belonging to the District.

If the park dedication is not removed it would result in a road containing a strip down the middle that is a parcel of District-owned park with dedicated highway on either side. The District's obligations, duties and liabilities are different in relation to roads and parks with different regulatory schemes for each, such as parks being subject to the Park Control Bylaw and roads subject to the Street and Traffic Bylaw. This situation is different than a park that wholly includes roads such as roads within Stanley Park in the City of Vancouver. This confusing situation in Lynn Valley can only be fully addressed by removing the park dedication from the portion of park needed for the road.

The policy requiring a referendum for the removal of dedicated parkland is self-imposed and not binding on Council. Given the cost and time involved with conducting a referendum, the problems that arise if the future road is partially located over parkland and the extensive public engagement undertaken that resulted in the proposed road network, adhering to the policy in these circumstances cannot be justified. The statutory



requirement that the approval of the electors be obtained before adopting a park dedication removal bylaw is better achieved in these circumstances by an alternative approval process (AAP).

Section 30 of the *Community Charter* requires that any bylaw removing a park dedication receive approval of the electors before adoption. Approval of the electors may be obtained by either assent of the electors (a referendum) or by an alternative approval process. The choice of method is at Council's discretion but given the concerns noted above and the considerable cost and time associated with a referendum, an alternative approval process is the preferred and recommended option.

In choosing to proceed via an alternative approval process Council must establish three things:

1. The elector response form;
2. The deadline for submission of elector response forms; and,
3. A fair determination of the total number of electors in the District.

This report, and its recommendations, assists Council in meeting its statutory obligation in this regard.

#### **ANALYSIS:**

An alternative approval process is a statutory pause in the adoption process of certain types of bylaws that allows the electors to voice their opposition to the planned course of action by Council. It is characterized such that Council may proceed with the matter unless, by the established deadline, at least 10% of the electors indicate that Council must obtain the assent of the electors (go to a referendum) before proceeding. Approval of the electors by either method must be obtained before Council may proceed with adopting the bylaw. Approval of the electors by way of an alternative approval process is obtained if:

1. Notice is published as required;
2. Electors are provided with an opportunity to indicate that Council may not proceed with the bylaw (via elector response form and the established deadline); and,
3. If, by the established deadline, elector response forms received are less than 10% of the eligible electors.

The Municipal Clerk certifies the result as to whether approval of the electors has been obtained or not.

The format of the elector response form must be established by Council. It must be made available at the District Hall from the time of publication of the first notice until the established deadline. It is permissible for the public to copy the document but they must be copies of the established form. The proposed elector response form is attached to this report as Attachment 2.

The deadline for submission of elector response forms must be at least thirty days after the publication of the second of two required notices. The recommended submission deadline is 4:00 p.m. on Monday, March 12, 2018 and is based on the following timetable:

Monday, January 29, 2018	Bylaw is given three readings and direction given to staff to proceed by way of an alternative approval process
Friday, February 2, 2018	First notice published – elector response forms must be available
Friday, February 9, 2018	Second notice published – deadline no sooner than thirty days following
Monday, March 12, 2018	Deadline 4:00 p.m. – 31 days after second notice published
Monday, March 19, 2018	Bylaw may be adopted if approval of the electors is obtained

The number of eligible electors at the 2014 general municipal election was 59,617. This number is from Elections BC whose list is adopted by the District as its official list of electors. Given the source of the data and the fact that it is the most recently available list of electors, staff feel it is the most accurate available number and would be a sound basis for a determination of a fair number of electors presently in the District; therefore, the “at least 10%” threshold to be met in order to prevent Council from adopting this bylaw is 5,962 electors.

### **Conclusion:**

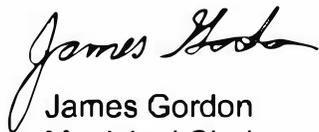
The foregoing provides background to the decisions Council is required to make in respect of an alternative approval process for Park Dedication Removal Bylaw 8303, 2018. They are required decisions in which Council must be specific. The suggested recommendations fulfil all statutory requirements and provide sufficient direction for staff to proceed with the necessary tasks.

### **Options:**

In respect of Park Dedication Removal Bylaw 8303, 2018 Council has the following options:

1. Proceed with an alternative approval process as recommended;
2. Direct staff to return with a modified proposal such as a different elector response form, different submission deadline, or other determination of the number of electors;
3. Direct staff to return with a proposal to proceed via a referendum; or,
4. Not proceed with the removal of park dedication via bylaw.

Respectfully submitted,



James Gordon  
Municipal Clerk

Attachment:

1. Park Dedication Removal Bylaw 8303, 2018
2. Elector response form

REVIEWED WITH:		
<input type="checkbox"/> Sustainable Community Dev.	_____	
<input type="checkbox"/> Development Services	_____	
<input type="checkbox"/> Utilities	_____	
<input type="checkbox"/> Engineering Operations	_____	
<input type="checkbox"/> Parks	_____	
<input type="checkbox"/> Environment	_____	
<input type="checkbox"/> Facilities	_____	
<input type="checkbox"/> Human Resources	_____	
<input type="checkbox"/> Clerk's Office	_____	
<input type="checkbox"/> Communications	_____	
<input type="checkbox"/> Finance	_____	
<input type="checkbox"/> Fire Services	_____	
<input type="checkbox"/> ITS	_____	
<input type="checkbox"/> Solicitor	_____	
<input type="checkbox"/> GIS	_____	
<input type="checkbox"/> Real Estate	_____	
External Agencies:		
<input type="checkbox"/> Library Board	_____	
<input type="checkbox"/> NS Health	_____	
<input type="checkbox"/> RCMP	_____	
<input type="checkbox"/> NVRC	_____	
<input type="checkbox"/> Museum & Arch.	_____	
<input type="checkbox"/> Other:	_____	

**The Corporation of the District of North Vancouver**

**Bylaw 8303**

A bylaw to remove park dedication

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The Council for The Corporation of the District of North Vancouver enacts as follows:

**1. Citation**

This bylaw may be cited as "Park Dedication Removal Bylaw 8303, 2018".

**2. Dedication Removal**

- a) The dedication for park and recreation purposes, as set out in Bylaw 7108 "Kirkstone Park Dedication Bylaw", of the portions of Kirkstone Park comprising a total of 0.08218 ha (821.8m<sup>2</sup>) as shown outlined in bold on the plans attached hereto as Schedule "A" is hereby removed.

**READ** a first time

**READ** a second time

**READ** a third time

**ELECTOR APPROVAL OBTAINED**

**ADOPTED**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Municipal Clerk

Certified a true copy

\_\_\_\_\_  
Municipal Clerk



DISTRICT OF NORTH VANCOUVER  
ELECTOR RESPONSE FORM

**Park Dedication Removal Bylaw 8303, 2018**  
**Portion of Kirkstone Park**

The District of North Vancouver intends to adopt Park Dedication Removal Bylaw 8303, 2018. This bylaw proposes to remove the dedication for park and recreation purposes, as set out in Bylaw 7108 "Kirkstone Park Dedication Bylaw", of a 0.08218 ha (821.8m<sup>2</sup>) portion of Kirkstone Park as shown on the plans attached to the bylaw. The portions of land removed from Kirkstone Park will be used for road and sidewalks to achieve the road network as envisioned in the Official Community Plan.

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- This form may be signed by one or two electors of the District of North Vancouver.
  - For the purposes of signing this elector response form, the term "elector" means a person who, at the time of signing this form, meets the qualifications of the *Local Government Act* for registration as a resident elector or as a non-resident property elector of the District of North Vancouver.
  - Accurate copies of this elector response form may be made and used for signing.
  - A person may not sign an elector response form more than once.
  - A person who is not an elector of the District of North Vancouver must not sign this elector response form.
  - The full name and residential address of each person signing must be included on this elector response form and, if applicable, also the address of the property in relation to which the person is entitled to register as a non-resident property elector.
  - Signed elector response forms must be delivered to the Municipal Clerk, District of North Vancouver, 355 West Queens Road, North Vancouver, BC V7N 4N5, (or by email at [gordonja@dnv.org](mailto:gordonja@dnv.org)) by **4 pm on Monday, March 12, 2018**.

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I am an elector of the District of North Vancouver. By my signature below, I hereby indicate that the District **should not** adopt Park Dedication Removal Bylaw 8303, 2018:

**NAME OF ELECTOR:** \_\_\_\_\_  
(please print name)

**RESIDENTIAL ADDRESS:** \_\_\_\_\_  
(or address of property for which you are registering as a non-resident property elector)

**TELEPHONE NUMBER:** \_\_\_\_\_

**SIGNATURE OF ELECTOR:** \_\_\_\_\_

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**NAME OF ELECTOR:** \_\_\_\_\_  
(please print name)

**RESIDENTIAL ADDRESS:** \_\_\_\_\_  
(or address of property for which you are registering as a non-resident property elector)

**TELEPHONE NUMBER:** \_\_\_\_\_

**SIGNATURE OF ELECTOR:** \_\_\_\_\_