



ADMINISTRATIVE REPORT

Report Date: August 29, 2018
Contact: Kaye Krishna
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RTS No.: 12622
VanRIMS No.: 08-2000-25
Meeting Date: September 18, 2017

TO: Vancouver City Council
FROM: General Manager of Development, Buildings, and Licensing
SUBJECT: Clarification of Authority – Safety Standards Act on Port Lands

RECOMMENDATION

THAT pursuant to Section 5(6) of the *Safety Standards Act*, SBC 2003, c 39 (the “Act”): The City Manager be directed to provide notice to the Provincial Government that the City transfers back to the Province any delegated authority it may have to administer the Act and regulations described in s. 2 of the Administration Delegation Regulation, BC Reg 136/2004 (“Delegation Regulation”) on those lands within the City of Vancouver which are described in Schedule “B” of the Letters Patent of the Vancouver Fraser Port Authority issued pursuant to Order in Council P.C. 2007-1885 December 6, 2007 (the “Vancouver Port Lands”).

REPORT SUMMARY

There is currently a jurisdictional dispute between the Federal and Provincial governments over the authorities and responsibilities for regulation of building safety on Port Lands. Confusion regarding safety jurisdiction on Port Metro Lands, specifically in relation to electrical and gas works, is leading to development delays and general safety risks. While some of the Port Metro Lands fall within the City of Vancouver boundaries, the City does not have jurisdiction over the land. In order to clarify that the City of Vancouver does not have jurisdiction over safety standards on Port Metro Lands and thereby extricate the City from any ongoing question between the Provincial and Federal Governments regarding oversight of electrical and gas work staff recommend that the City formally renounce any such delegated authority on said lands via a formal request to the Province.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The Province delegates the City of Vancouver the power to regulate and inspect buildings, electrical and gas works for the purposes of ensuring that those works meet minimum safety standards power pursuant to the *Safety Standards Act*, SBC 2003, c 39 (“Act”) and the associated Administration Delegation Regulation, BC Reg 136/2004 (the “Delegation Regulation”).

REPORT

Background/Context

The City of Vancouver is empowered by the Province to regulate and inspect buildings, electrical and gas works for the purposes of ensuring that those works meet minimum safety standards.

The City is delegated this power pursuant to the *Safety Standards Act*, SBC 2003, c 39 (“Act”) and the associated Administration Delegation Regulation, BC Reg 136/2004 (the “Delegation Regulation”). The Act allows the provincial government to enter into agreements with local governments to administer safety standards relating to regulated products, such as elevators, boilers, electrical equipment, and gas systems and equipment. The City has entered into an agreement with the Province to administer the *Act* and the Delegation Regulation gives the City of Vancouver the power to administer the standards covered by the *Act for gas and electrical works* within the boundaries of the City of Vancouver.¹ In the majority of municipalities in British Columbia, such functions are delegated by the Province to Technical Safety BC.

The boundaries of the City include various types of land over which the City has varying levels of jurisdiction. For example within the City boundaries there are: privately held lands, lands owned by the Federal Government and lands owned by the Provincial government. The City as a creation of the Province has that authority which it is granted by the Provincial government and which does not supersede Federal jurisdiction.

The Letters Patent of Vancouver Fraser Port Authority establish governance of Port Metro Lands (<https://www.portvancouver.com/wp-content/uploads/2015/07/2008-Letters-Patent.pdf>). Some of the Port Metro Lands are within the boundaries of the City of Vancouver but are not generally subject to municipal jurisdiction and historically the City has not taken regulatory or safety responsibility on the lands. By exception, and through negotiation and partnership, the City has agreed to permit and enforce building and safety (i.e. gas and electrical) bylaws for a few buildings on Port land.

Recently, questions have arisen between the Vancouver Fraser Port Authority (“Port Metro Vancouver”), the Province, the BC Safety Authority (dba Technical Safety BC), and City Staff regarding the applicability of the *Act* to the federal lands described in Schedule B to the Letters Patent of the Vancouver Fraser Port Authority (the “Port Metro Lands”). It is the City Law Department’s view that the *Act* does not apply to the Port Metro Lands and, as a result, the Province is unable to delegate any authority over the Port Metro Lands to the City.

¹ For all other municipalities and regions, the Province delegates this authority to the BC Safety Authority.

This view is bolstered by the fact that City Staff typically do not perform inspections pursuant to the *Act* on the Port Metro Lands. As the Port Metro Lands are not subject to the City of Vancouver bylaws, including the Vancouver Building Bylaw, performing inspections consistently for all parcels/buildings on these lands would require considerable additional training and resources for City inspectors, and could introduce confusion and risk associated with regulating different by-laws for the same types of systems and structures within City authority.

Strategic Analysis

Staff recommend the City renounce any delegation or authority included in the *Safety Standards Act*, SBC 2003, c 39 (“Act”) on Port Metro Lands in order to remove any confusion or risk regarding municipal authority or responsibility on Port Metro Lands and to extricate the City from any jurisdictional dispute between senior governments and/or their agencies.

Staff have taken a number of steps to clarify the scope and potential consequences of such a renouncement. First, staff evaluated the boundaries described in the Letters Patent, and illustrated by the red border in the map included in Appendix A, which was provided by the Port. Staff confirmed that the lands within Port jurisdiction should not fall within municipal oversight.

Staff held various discussions with the Province, the Port, and the BC Safety Authority to assess the issues and clarify expectations of roles and responsibilities. Staff also evaluated the risks and benefits associated with including or excluding this jurisdiction from municipal delegation, and determined that excluding it minimized risks and clarified jurisdiction for the City.

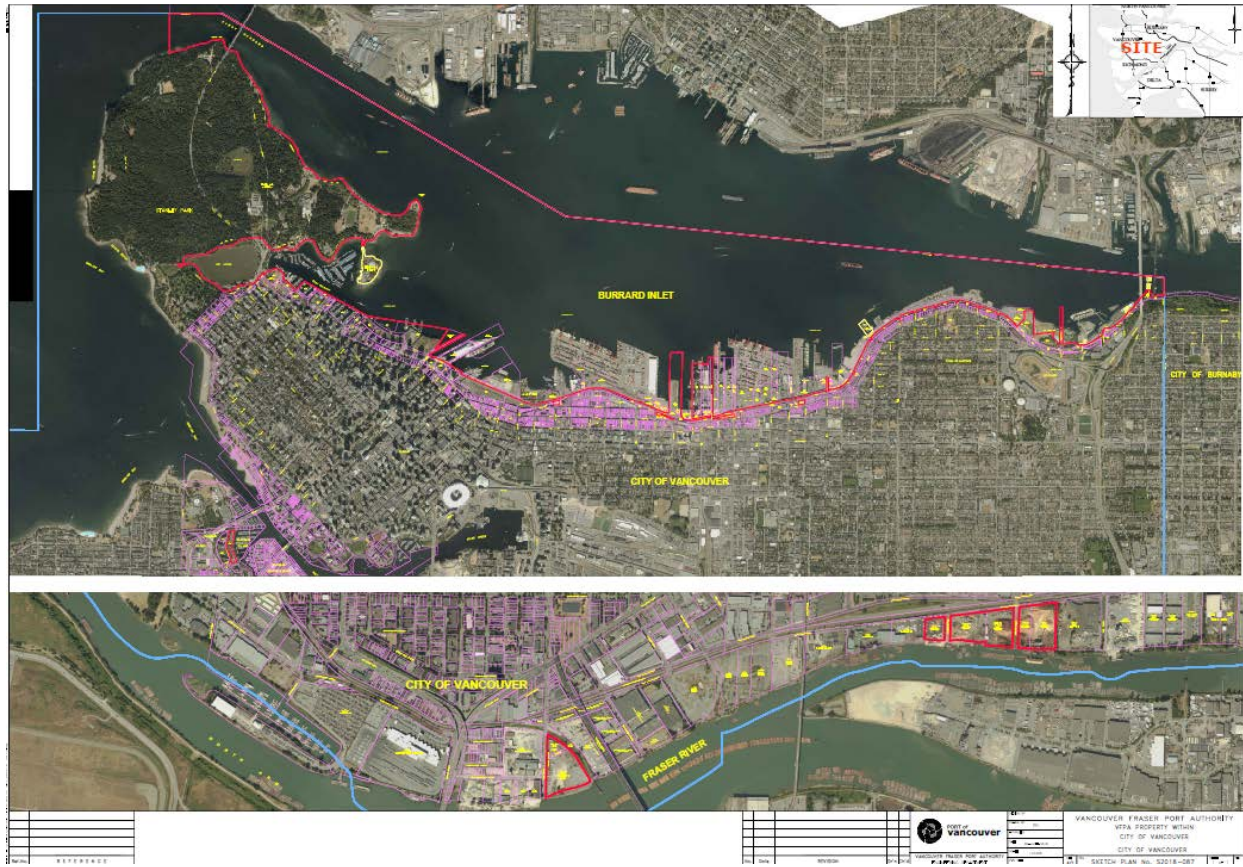
Section 5(6) of the *Act* allows for the City to renounce any jurisdiction delegated to it by the Delegation Regulation by providing notice to the Provincial government. To remove the City from the confusion regarding jurisdiction and to formalize the status quo, staff propose that the City confirm its lack of jurisdiction over the Port Metro Lands by renouncing, to the extent the City of Vancouver does have delegated authority under the Delegation Regulation to administer the Act and regulations on the Port Metro Lands, any delegated authority it may have to administer the Safety Standards Act on the Port Metro Lands.

Staff recommend that Council direct the City Manager to execute a letter in the form found in Appendix B and send it to the Provincial government in order to resolve this issue.

CONCLUSION

The Federal and Provincial governments are currently debating which entities have authority to regulate Port Lands. In a few exceptions, the City of Vancouver has played a regulating role on administering gas and electrical regulations under the Safety Standards Act, but this is not a standard or consistent role for the City. Confusion regarding safety jurisdiction on Port Metro Lands is leading to development delays and general safety risks. In order to clarify that the City of Vancouver does not have jurisdiction over safety standards on Port land, staff recommend that the City formally renounce any such delegated authority on said lands via a formal request to the Province.

Appendix A – Illustrative Boundary Map of Port Metro Lands*



**This map is for illustrative purposes only. The red line depicts the boundaries of Port Metro Lands that fall within the municipal boundaries of the City of Vancouver. The Official Document of Record is the Letter Patents, Schedule B, which describes in detail the specific boundaries of the Port Metro Lands.*

Appendix B – Draft Letter to the Province

To: The Honourable Selina Robinson, Minister of Municipal Affairs and Housing

From: **Sadhu Johnston, City Manager, city of Vancouver**

Re: **Notice of transfer of administration of Safety Standards Act on Port lands within City of Vancouver**

This notice is issued pursuant to s. 5(6) of the *Safety Standards Act*, SBC 2003, c 39 (“Act”).

The City of Vancouver hereby transfers back to the Province any delegated authority it may have to administer the *Safety Standards Act* and regulations described in s. 2 of the Administration Delegation Regulation, BC Reg 136/2004 (“Delegation Regulation”) on those lands within the City of Vancouver which are described in Schedule “B” of the Letters Patent of the Vancouver Fraser Port Authority issued pursuant to Order in Council P.C. 2007-1885 December 6, 2007 (the “Vancouver Port Lands”).

To the extent the City of Vancouver does have delegated authority under the Delegation Regulation to administer the Act and regulations on Vancouver Port Lands, the City of Vancouver hereby transfers back to the government its administration of the Act and regulations on Vancouver Port Lands, effective **October 1, 2018**.

The City of Vancouver has confirmed that BC Safety Authority, dba Technical Safety BC, is prepared to commence administration of the Act and regulation on Vancouver Port Lands, should the Province decide to delegate authority accordingly.

City of Vancouver

Signed: September ____, 2018

Authorized Signatory

Title: _____