

**Subject: Bill 23: Implementation of Changes to the Ontario Heritage Act**

**File Number: ACS2023-PRE-RHU-0019**

**Report to Built Heritage Committee on 13 June 2023**

**and Council 14 June 2023**

**Submitted on June 2, 2023 by Court Curry, Director, Right of Way, Heritage, and Urban Design Services, Planning, Real Estate and Economic Development**

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**Ward: Citywide**

**Objet : Projet de loi 23 : Mise en œuvre des modifications à la *Loi sur le patrimoine de l'Ontario***

**Dossier : ACS2023-PRE-RHU-0019**

**Rapport au Comité du patrimoine bâti**

**le 13 juin 2023**

**et au Conseil le 14 juin 2023**

**Soumis le 2 juin 2023 par Court Curry, Directeur, Services des emprises, du patrimoine, et du design urbain, Services de la planification, des biens immobiliers et du développement économique**

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**Quartier : À l'échelle de la ville**

**REPORT RECOMMENDATION(S)**

That the Built Heritage Committee recommend that Council:

1. Receive for information the Bill 23 *Ontario Heritage Act* Legislative Compliance Strategy 2023-2025, as follows:
  - a. The strategy for screening and prioritization of non-designated properties listed on the Municipal Heritage Register for consideration for designation under Part IV of the *Ontario Heritage Act*, as shown in Document 1
  - b. The approach for the phased removal of non-designated properties from the Municipal Heritage Register
  - c. The amendments to the City's heritage designation process regarding consultation and reporting
  - d. The strategy for consultation with community associations, historical societies, and other community organizations, and the development of a volunteer strategy
  - e. General procedural changes to address resourcing and workload implications of Bill 23.
  
2. Approve the following administrative and procedural amendments:
  - a. Discontinue the use of the Council-approved procedures for the Heritage Register
  - b. Adopt the *Ontario Heritage Act* Alternative Notice Policy under Section 270 of the *Municipal Act* attached as Document 2
  - c. Direct staff to prepare an amendment to the Notice By-law 2018-306 to enact the alternative notice requirements for the publication of notice under the *Ontario Heritage Act*
  - d. Direct staff to bring forward a Standard Heritage Easement By-law for approval by Council
  - e. Approve reduced timelines for the publication of reports for Built Heritage Committee and Planning and Housing Committee as set out in this report
  
3. Approve the addition of the following items to the Heritage Planning Branch workplan and direct staff to undertake such work as follows:

- a. Direct staff to bring forward a list of priority Heritage Conservation District Studies for consideration by BHC and Council by Q1 2024 along with associated Terms of Reference for conducting Heritage Conservation District studies.
  - b. Direct staff to develop a monitoring tool and heritage information resource for properties of heritage interest that have been removed from the City's Heritage Register as a result of Bill 23.
  - c. Direct staff to review Section 29 (Part IV and Part V of the Ontario Heritage Act) of Schedule "I" of the Delegation of Authority By-law (Bylaw 2023-67) and recommend any amendments to Council in Q1 2024 that improve the efficiency of approvals within the context of the constraints of Bill 23.
4. Suspend the rules of procedure to consider this report at the June 14<sup>th</sup> Council meeting so it may be considered concurrently with the Bill 109 Implementation Phase 2 report (ACS2023-PRE-GEN-0004) and the Provincial Legislation Resource Impact report (ACS2023-PRE-GEN-0005).

#### **RECOMMANDATION(S) DU RAPPORT**

Que le Comité du patrimoine bâti recommande ce qui suit au Conseil :

1. Prendre connaissance, à titre d'information, de la Stratégie de conformité à la Loi, pour la période 2023-2025, du projet de loi 23 visant la *Loi sur le patrimoine de l'Ontario*, dont voici les points saillants :
  - a. La stratégie de sélection et de priorisation des biens non désignés et figurant au Registre du patrimoine de la Ville, dont la désignation en vertu de la partie IV de la *Loi sur le patrimoine de l'Ontario* doit être examinée, comme le décrit le document 1;
  - b. L'approche adoptée pour la suppression graduelle du Registre du patrimoine de la Ville des biens non désignés;
  - c. Les modifications apportées au processus de désignation patrimoniale de la Ville, en matière de consultation et d'établissement de rapports;
  - d. La stratégie de consultation des associations communautaires, des sociétés d'histoire et d'autres organisations de citoyens, et l'élaboration d'une stratégie de bénévolat;

- e. Les modifications d'ordre général apportées aux procédures afin de tenir compte des répercussions du projet de loi 23 sur la dotation et la charge de travail.
2. Approuver les modifications administratives et procédurales suivantes :
- a. Cesser d'appliquer les procédures approuvées par le Conseil relatives au Registre du patrimoine;
  - b. Adopter la politique sur les types d'avis différents de la *Loi sur le patrimoine de l'Ontario* en vertu de l'article 270 de la *Loi sur les municipalités*, ci-jointe en tant que document 2;
  - c. Enjoindre au personnel d'élaborer une modification au Règlement municipal sur les avis publics 2018-306, afin d'adopter les exigences relatives aux types d'avis différents pour la publication d'avis en vertu de la *Loi sur le patrimoine de l'Ontario*;
  - d. Enjoindre au personnel de soumettre à l'approbation du Conseil un règlement municipal sur les servitudes patrimoniales standards;
  - e. Approuver la réduction des délais de publication de rapports au Comité du patrimoine bâti et au Comité de la planification et du logement, comme il est précisé dans le présent rapport.
3. Approuver l'ajout des points suivants au plan de travail de la Direction de la planification du patrimoine et enjoindre au personnel d'entreprendre les missions suivantes :
- a. Soumettre au Comité du patrimoine bâti et au Conseil, d'ici le premier trimestre de 2024, une liste des études prioritaires des districts de conservation du patrimoine, accompagnée du mandat validant la réalisation d'études des districts de conservation du patrimoine;
  - b. Élaborer un outil de surveillance et une ressource d'information sur le patrimoine visant les biens d'intérêt patrimonial qui ont été retirés du Registre du patrimoine de la Ville en raison du projet de loi 23;
  - c. Examiner l'article 29 (parties IV et V de la *Loi sur le patrimoine de l'Ontario*) de l'annexe I du Règlement municipal sur la délégation de pouvoirs (Règlement n° 2023-67) et recommander des modifications au Conseil, au cours du premier trimestre de 2024, visant à améliorer l'efficacité des approbations dans le contexte des contraintes du projet de loi 23.

4. **Suspendre les règles de procédure pour examiner le présent rapport lors de la réunion du Conseil du 14 juin du Conseil, afin qu'il puisse être examiné parallèlement avec le rapport sur la phase 2 de mise en œuvre du projet de loi 109 (ACS2023-PRE-GEN-0004) et le rapport sur les répercussions de la législation provinciale sur les ressources (ACS2023-PRE-GEN-0005).**

## **EXECUTIVE SUMMARY**

Since 2019, successive provincial legislative changes through Bills 108, 109 and 23 have impacted the *Ontario Heritage Act (OHA)* and the work of the Heritage Planning Branch. This report provides an overview of the changes to the OHA and the implications for the work of the Heritage Planning Branch and the Built Heritage Committee (BHC).

The most significant change to the OHA is related to the City's Register of non-designated listed properties. With approximately 4,600 non-designated properties identified primarily through the comprehensive City-wide Heritage Inventory Project, the City of Ottawa's inventory of non-designated properties is the largest in Ontario. Bill 23 introduced a statutory timeline for listed properties. If Council does not issue a Notice of Intention to Designate under the OHA before December 31, 2024, listed properties must be removed from the Register and cannot be re-listed for five years.

This report outlines a strategy for assessing these non-designated listed properties and prioritizing properties for designation. In addition, given the increased workload as a result of this work and additional pressures from Bills 108 and 109, this report also includes updates and information on internal process amendments to increase efficiency in many aspects of the Heritage program including the designation and application process. Finally, the report includes recommendations to develop new tools and processes to assist in managing the implementation of these legislative changes.

## **RÉSUMÉ**

Depuis 2019, des modifications successives apportées à la législation provinciale, par le biais des projets de loi 108, 109 et 23, ont eu des répercussions sur la *Loi sur le patrimoine de l'Ontario (LPO)* et le travail de la Direction de la planification du patrimoine. Le présent rapport offre un aperçu des modifications apportées à la LPO et des répercussions sur le travail de la Direction de la planification du patrimoine et du Comité du patrimoine bâti (CPB).

La modification la plus importante apportée à la *LPO* concerne le registre de la Ville des biens répertoriés non désignés. Avec environ 4 600 biens non désignés, essentiellement identifiés dans le cadre du Projet d'inventaire patrimonial détaillé, l'inventaire de la Ville d'Ottawa des biens non désignés est le plus important en Ontario. Le projet de loi 23 a fixé un délai réglementaire pour les biens répertoriés. Si le Conseil ne publie pas un avis d'intention de désigner en vertu de la *LPO* avant le 31 décembre 2024, les biens répertoriés devront être retirés du Registre et ne pourront pas être répertoriés à nouveau pendant une période de cinq ans.

Le présent rapport décrit une stratégie d'évaluation de ces biens répertoriés non désignés et de priorisation des biens devant être désignés. En outre, compte tenu de la hausse de la charge de travail résultant de ces tâches et des pressions supplémentaires découlant des projets de loi 108 et 109, le présent rapport propose des mises à jour et de l'information sur les modifications au processus interne qui permettraient d'améliorer l'efficacité de nombreux aspects du programme du patrimoine, notamment les processus de désignation et de demande. Enfin, le rapport contient des recommandations sur l'élaboration de nouveaux outils et processus permettant d'aider à la gestion et à la mise en œuvre de ces changements législatifs.

## **BACKGROUND**

### **Introduction**

Beginning in late 2019, the provincial government has introduced three bills that have changed the process for the designation and management of heritage resources in Ontario. The changes implemented through Bills 108, 109 and 23 have resulted in a highly complex heritage planning process that requires the City to adjust its processes, procedures and practices in order to continue to undertake important heritage conservation work which remains a provincial interest and a priority for City Council through the City's Official Plan.

This report has been prepared to provide background on the changes that have occurred and how the Department proposes to implement them.

### **Heritage Planning Branch Resourcing and Responsibilities**

Given that this report has significant impacts on the workplan and resourcing of the Heritage Planning Branch, the following section provides an overview of the resourcing and work of the branch today.

The Heritage Planning Branch consists of seven FTEs including a Program Manager, five Heritage Planners and one Heritage Register Coordinator. For the last two years Council has approved a temporary Planner III working on Heritage Conservation District (HCD) updates as a result of Bill 108 time sensitivities. As a result of the impacts of Bill 23, the department has recently created three temporary positions to assist in the implementation of the legislative requirements, a Planner II and two Heritage Register Coordinators to undertake historic research and designation work. The go forward resourcing recommendations for Council consideration is the subject of an overall departmental resourcing impact report entitled Provincial Legislation Resource Impact Report (ACS2023-PRE-GEN-0005).

The cumulative effects of Bills 108, 109, and 23 are wide reaching and impact many branch operations. The responsibilities of the branch include:

- Matters under the *Ontario Heritage Act*
  - Applications for heritage permit
  - Individual designations
  - Non-designated listings
  - Easement agreements
  - HCDs and HCD plans
- Heritage review for development applications adjacent to or involving designated properties, National Historic Sites, or the Rideau Canal
- Cultural heritage character areas
- Building permit, sign permit and mural program review and approval for designated heritage properties
- Review and consultation with internal departments on City-owned heritage resources
- Policy development related to the heritage conservation program such as the Official Plan, Zoning By-law, Property Standards By-law and others
- Public education on heritage conservation through the Heritage Community Liaison Program, Ottawa Heritage Awards and Heritage Planning Primer
- Heritage Watch List

- Heritage Plaque program
- Heritage Grant Program for Building Restoration
- Heritage Community Improvement Program
- National and provincial built heritage advocacy and collaboration

### **Summary of Legislative Changes: Bill 108, Bill 109, and Bill 23**

On July 1, 2021, *Bill 108*, the *More Homes, More Choice Act, 2019*, was proclaimed, amending aspects of the OHA. Changes included a new 90-day time-limit to designate properties subject to a “Prescribed Event” under the *Planning Act*, the introduction of an extended objection and appeals process for designation under Part IV of the OHA, and the routing of all heritage related appeals to the Ontario Land Tribunal (OLT). For further information on Bill 108, refer to report [ACS2021-PIE-RHU-0027](#).

On April 14, 2022, Bill 109 received Royal Assent, further amending various Provincial Legislation. The OHA was not amended through Bill 109, but its changes are widespread and impact the Heritage Planning Branch’s work. For further information on Bill 109, refer to report [ACS2022-PIE-GEN-0011](#).

On October 25, 2022, *Bill 23*, the *More Homes Built Faster Act 2022*, was introduced at the Ontario Legislature, receiving royal assent on November 28, 2022, and further amending the OHA. On January 1, 2023, most of these amendments were proclaimed into force. The breadth and scope of these amendments, coupled with the ongoing implementation of Bill 108, requires significant changes to how the City of Ottawa undertakes built heritage conservation, particularly as a component of the development process and in relation to the listing of non-designated properties on the City’s heritage register. The following sections summarize the Bill 23 amendments currently in force, in addition to those to be proclaimed or prescribed by regulation in the future.

### **Non-Designated Properties Listed on the City’s Heritage Register**

Bill 23 introduces new restrictions to the listing of non-designated properties on municipal heritage registers. Non-designated properties can now be listed for a maximum of two years. After two years, if Council has not issued a Notice of Intention to Designate a listed property it shall be removed from the register, with the removal date determined by the property’s date of listing:

- Non-designated properties listed on the register on or before the proclamation date of January 1, 2023, must be removed from the register as of January 1, 2025.
- Non-designated properties listed on the register after January 1, 2023, must be removed from the register as of the two-year anniversary of their listing date.

In addition to the above-noted timelines, if the removal of a non-designated property from the register occurs at the two-year anniversary, that property is prohibited from being listed on the register as a non-designated property for a period of five years from the date it is removed. Council approval is required to approve the removal of a non-designated property from the register if the removal occurs at the two-year anniversary. If Council is required to remove non-designated properties at the two-year anniversary, they are not required to consult with the Built Heritage Committee.

### **Designation of Properties Subject to Prescribed Events**

Bill 108 amended the OHA to limit the ability of municipalities to designate properties subject to active applications under the *Planning Act*. Under the pre-Bill 23 OHA, following the occurrence of a “prescribed event” on any property, municipalities had a 90-day window to designate the property. After that 90-day period, the property could not be designated until the conclusion of the *Planning Act* application. As set out in Ontario Regulation 385/21, prescribed events include applications for Zoning By-law Amendments, Official Plan Amendments, and Plan of Subdivision.

Under Bill 23, this link to the *Planning Act* was furthered by limiting the ability of the municipality to designate a property subject to a prescribed event unless it is already listed on the City’s Heritage Register. This restriction combined with the two-year expiry of listed properties has created a complex set of timelines and restrictions.

### **Criteria for Designation under Part IV and V and Listing as a Non-designated Property**

[Ontario Regulation 9/06](#) prescribes nine criteria for determining the cultural heritage value or interest of properties in Ontario. Under the pre-Bill 23 OHA a property was required to meet one or more of these criteria to be designated under Part IV of the OHA. Bill 23 has amended these criteria and expanded their applicability. Previously, the nine prescribed criteria were organized under three categories: design or physical value, historical or associative value, and contextual value. These categories have been removed and replaced with nine individual criteria. The criteria now apply to listings and

designation under Part IV; to be listed, a property must meet one of the nine criteria, and in order to be designated it must meet two or the nine criteria.

New criteria have also been introduced for Heritage Conservation Districts. These criteria will apply to new Heritage Conservation District designations where the municipality must now show that 25 per cent of the properties within a proposed HCD meet the criteria under 9/06.

### **Heritage Register Information to be Published Online**

Bill 23 introduced a new requirement for municipalities to ensure that the information included in the register is accessible to the public on the municipal website by July 1, 2023. Although the City of Ottawa currently publishes the location of heritage properties on [GeoOttawa](#), location information is not enough to satisfy this new requirement. City staff in several branches are working together to publish Heritage Register information on the City's website as an interactive map. Compliance will be achieved in phases over the next several months.

### **Expanded Objection and Appeal Rights**

Bill 108 and Bill 23 have together expanded opportunities for objections and appeals of heritage register listings and designations. Owners of properties listed on the heritage register can now submit a formal objection to the property being listed on the heritage register at any time.

In addition, Bill 108 established a new objection and appeals process for designations under Part IV of the OHA. Part IV designations are now subject to a two-part objection and appeal process. First, any person can object to a Notice of Intention to Designate (NOID) issued by Council within 30 days of its publication. The NOID serves as a public notification that informs the owner and the public of Council's intent to pass a by-law designating the subject property. If an objection is received, Council must review its decision and decide whether to continue with the designation or withdraw the NOID, therefore ending the designation process. If no objection is received, or if Council proceeds with a designation, the designation by-law is then appealable to the Ontario Land Tribunal (OLT) by any person. OLT decisions related to designations are binding and final.

### **Conclusion**

The successive legislative amendments implemented by the Province represent a significant shift in the regulation of heritage conservation in Ontario. To summarize, the primary impacts of the amendments are:

- a) **Eliminating the Heritage Register as a tool to recognize and monitor properties of heritage interest:** the listing of non-designated properties on the heritage register now serves as a temporary protection measure prior to their designation under Part IV of the OHA,
- b) **Increasing litigiousness:** all heritage related appeals are now heard by the Ontario Land Tribunal, potentially requiring the presence of the City's professional and legal staff in significantly more tribunal hearings per year. In the case of Part IV appeals, these are preceded by an additional objection process requiring an additional report and Council direction.
- c) **Undermining the autonomy of the OHA:** restrictions on the designation of properties subject to "prescribed events" under the *Planning Act* has reduced the City's ability to make conservation decisions and weakened the City's position in proactively exploring conservation opportunities with property owners and developers.
- d) **Increasing administrative burden:** the various amendments have introduced new, shortened, and overlapping requirements and timelines for different processes under the OHA and *Planning Act*, resulting in significant increases in staff time related to tracking, report writing, and communication with property owners. Unlike with previous significant amendments to the legislation, the Province has provided no interpretive material for professionals or property owners on any OHA processes, nor any additional funding to municipalities to absorb these added administrative tasks.

With these impacts in mind, the Heritage Planning Branch has prepared recommendations necessary for implementing the requirements of Bill 23. The remainder of this report discusses each recommendation.

## DISCUSSION

### **Recommendation 1: Receive for information the Bill 23 OHA Legislative Compliance Strategy 2023-2025**

The most significant change to the OHA arising out of Bill 23 are to the Municipal Heritage Register. The City of Ottawa Heritage Register has approximately 4,600 listed

properties, most of which were listed through the City-wide Heritage Inventory Project which concluded in 2019.

Through consultation with Legal Services staff and colleagues around the province, staff have identified that if Council voluntarily removes properties from the Register before the two-year expiry date then the five year restriction on re-listing does not apply. This would allow the City the flexibility to re-list significant properties to provide interim protection and preserve the City's ability to designate a property where there is an associated *Planning Act* application. As a result, staff will bring forward several reports over the coming year, prior to the end of 2024, recommending bulk removals from the Register as we move towards legislative compliance.

Given the complications associated with listing on the Heritage Register it is anticipated that there will be far fewer properties listed on the Heritage Register in the future. However, de-listing properties from the Register does not mean they are no longer significant, and staff believe the maintenance of the comprehensive data from the Register and the monitoring of properties of interest remains of importance. A recommendation to develop a monitoring tool or database of heritage information has been included in this report.

**Recommendation 1(A): Receive for information the strategy for screening and prioritization of non-designated properties listed on the Municipal Heritage Register for consideration for Part IV OHA designation, as shown in Document 1**

Given the large volume of properties that require review and consideration before the end of 2024, staff have developed a two phase approach to evaluate and prioritize properties for designation.

**Phase I Screening**

All properties will be subject to a preliminary assessment to determine if the property is a candidate for designation, based on the information currently available to staff.

The Phase I assessment will be based on the nine criteria listed in Ontario Regulation 9/06 which can generally be defined in three categories: design, historical and contextual values:

1. The property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction method.
2. The property has design value or physical value because it displays a high degree of craftsmanship or artistic merit.
3. The property has design value or physical value because it demonstrates a high degree of technical or scientific achievement.
4. The property has historical value or associative value because it has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community.
5. The property has historical value or associative value because it yields, or has the potential to yield, information that contributes to an understanding of a community or culture.
6. The property has historical value or associative value because it demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.
7. The property has contextual value because it is important in defining, maintaining or supporting the character of an area.
8. The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings.
9. The property has contextual value because it is a landmark. O. Reg. 569/22, s. 1.

Phase I assessments will be conducted on a ward-by-ward basis, with additional reviews by building typology, property owner or other categories. The Phase I assessment will be based on an analysis of existing data, building information on file with the City, staff knowledge of local building stock and expertise on the criteria for designation. The goal of the Phase I assessment is to identify properties that are strong candidates for designation under Part IV of the OHA.

The result of the Phase I assessment will be in the form of Yes or No: Yes, this property is a strong candidate for individual designation or No, this property is not a strong candidate for individual designation. All properties that receive a Yes will proceed to the Phase II prioritization. Properties that receive a “No” in the Phase I screening may be

recommended for removal from the Heritage Register and/or identified as part of a potential Heritage Conservation District study area.

Properties that are not considered to be strong candidates for designation through the Phase I assessment continue to have cultural heritage value and can be recognized by communities through alternatives to the Heritage Register. Removal from the Register does not preclude these properties from being listed or designated in the future nor does it prevent them from receiving alternative recognitions. In the Phase I screening, it is acknowledged that without appropriate historical research on each property some properties of significance will be screened out. This does not mean that these properties are excluded from future consideration for designation.

### **Phase II Prioritization**

Properties that are screened in through Phase I will be prioritized through the Phase II evaluation based on risk, program diversification, geography and architectural significance. Given the anticipated number of properties that will screen through to Phase II and staff and Built Heritage Committee capacity to process these designations, not all properties that merit recognition under the OHA will be able to be designated within the two-year statutory timeframe. This does not mean that properties cannot be designated after removal from the Register but they will remain unprotected in the interim.

As a result, staff are recommending that Council endorse an approach to prioritization for designation based on policies in the new Official Plan that outline the City's priorities for the designation program. In addition to existing listed properties, there are many other properties of potential cultural heritage value that currently have no status under the OHA that will be considered if threatened or as time and resources permit.

The relevant policies include:

4.5.1 (10) The City shall immediately consider the designation of any resource of cultural heritage value under the *Ontario Heritage Act* if that resource is threatened with demolition.

4.5.1 (11) The City shall promote equity and inclusivity by recognizing, protecting and honouring sites of cultural heritage value associated with the diverse historical experiences, and prioritizing the identification of underrepresented historic places.

4.5.1(12) Because Ottawa has a large and varied geography, the heritage conservation program shall reflect properties in all areas of the city to ensure that the histories of the

urban, suburban and rural areas are recognized, honoured and protected.

In addition to the three criteria found in the policy excerpts outlined above, staff have added a fourth criteria to prioritize properties of exceptional design value where examples of that building typology may not already be designated. The intent of this criteria is to recognize the significance of those properties that display exceptional design and architectural value while balancing this interest against risk, program diversification, and geography.

The proposed approach, scoring and weighting is outlined in detail in Document 1.

**Recommendation 1 (B): Receive for information the approach for the phased removal of select non-designated properties from the Municipal Heritage Register**

Properties that are not prioritized for designation at this time will be recommended for removal from the Register prior to the December 31, 2024 statutory deadline in order to avoid the five-year limitation on re-listing.

In order to break the task into manageable chunks for staff, Committee and Council, staff will bring forward at least three reports with recommended removals from the Heritage Register in Q3 2023, Q1 2024 and Q2 2024. This will ensure that the City is moving towards legislative compliance before the end of 2024.

At the end of the two-year period, any remaining properties that have not been recommended for designation will be removed from the Register. Heritage staff will also explore other tools to provide interim protection for certain properties at the end of the two-year period such as Heritage Conservation District Study Area By-laws.

**Recommendation 1 (C): Receive for information updates regarding amendments to the City's heritage designation process regarding consultation and reporting**

Individual (Part IV) designations are the strongest conservation tool available to municipalities in Ontario. Under previous versions of the OHA, listing non-designated properties on the register was a complimentary strategy to the City's Part IV and Part V designation programs; however, listing properties on the register was generally not intended to serve as a step towards designation. As noted in the preceding report sections, Bill 23's introduction of a two-year time limitation for a non-designated property to be listed on the City's Heritage Register has shifted the register's function from a commemoration and monitoring tool to a temporary, stop-gap step in the designation process. In effect, this has heightened the importance of completing future Part IV designations as efficiently as possible, as the City's ability to monitor change over time,

and participate in development processes related to heritage resources, has been drastically reduced.

Staff will be implementing the following preliminary directions and procedural changes for Part IV designations:

### **Limitations to Property Owner Consultation**

The OHA does not require consultation with property owners prior to issuing a Notice of Intention to Designate (NOID) a property under Part IV. However, it is the City's current practice to consult with property owners prior to and during the designation process and generally it is the Department's preference to bring forward designations when supported by the property owner. In many instances this means that designations may take several months or years as negotiations are undertaken with property owners.

Given the urgency of completing additional designations over the next two years, the current approach to extensive consultation is not feasible. Further, through amendments to the designation process implemented by Bill 108, property owners have an expanded ability to object to and appeal designations, reducing the significance of prior negotiation or consultation in instances where owners may be opposed.

Going forward, staff will generally not consult with property owners during the research and assessment stages of a potential designation. Property owners will however be advised of a proposed designation and provided with the draft research and documentation on a property at least six weeks in advance of the item being heard by BHC and will be offered a meeting with staff in advance of the hearing. Staff will also provide information on how a property owner can participate in the designation, objection, and appeal processes. Where considered necessary due to the specific context of a property, staff may undertake proactive consultation with property owners. Examples of situations where more extensive consultation may occur are designations contemplated on sites subject to large scale or complex development proposals, or where properties are owned by local institutions such as school boards and specific considerations related to the ongoing use of the property must be integrated into a potential designation.

### **Thematic Designation Reports**

The Heritage Register screening and prioritization, in combination with previous studies and Council directions, will result in the identification of themes, typologies, and other shared associations between properties. In order to efficiently leverage staff time and research expertise, Heritage Staff will be bringing forward multiple proposed

designations through single, thematically focused reports. This approach has been used at the City on a smaller scale, typically involving two to three properties under one report. However, it is anticipated that in order to complete an adequate number of new designations annually, these individual reports may recommend the designation of significantly more properties depending on the associated themes.

### **Streamlined Report Formats**

Heritage Staff have established a new format for consolidating research and assessing properties against Ontario Regulation 9/06, referred to as the Heritage Analysis and Evaluation Report (HAER). This document follows revisions to Ontario Regulation 9/06 and simplifies the organization of property information, eliminating duplication associated with addressing individual criteria upfront, and presenting relevant information in a concise, linear format.

### **Recommendation 1(D): Receive for information updates regarding the strategy for consultation with community associations, historical societies, and other community organizations, and the development of a volunteer strategy**

Heritage conservation and designation are inherently about the community and providing physical touchstones to our collective past that contribute to our sense of place. As a result, community engagement and community values are integral to the success of the City's heritage designation program. Extensive consultation was undertaken city-wide as part of the Heritage Inventory Project with community associations, historical societies and members of the public identifying properties of significance to the community across the city.

Given the statutory deadlines associated with the implementation of the legislative changes, there will not be capacity for extensive public consultation through this process but the Heritage Planning Branch is developing a public consultation strategy that will include:

- Targeted outreach to identify community designation priorities. Groups and organizations contacted will include Heritage Ottawa, community associations, historical societies, and members of the Built Heritage Committee.
- Broad outreach to groups and organizations associated with underrepresented communities and peoples in Ottawa's history, to assist in identifying properties with associations not currently represented in Ottawa's heritage designation program. Heritage Planning staff will work with staff across the corporation to appropriately identify and reach out to groups, organizations, and individuals.

- Online survey allowing any interested member of the public to identify important properties that are currently listed on the Heritage Register.
- Outreach to Ottawa's Indigenous communities. Heritage Staff acknowledge that the City's designation program continues to underrepresent the significant stories associated with Ottawa's past and present Indigenous communities. In the spirit of reconciliation, the Department's goal is to continue to undertake respectful and productive relationships with organizations and individuals to address this gap particularly in the heritage designation program. Heritage Planning staff will work with staff across the corporation to appropriately identify and reach out to groups, organizations, and individuals.

### **Volunteers**

Since the implications of Bill 23 have become public, the Heritage Planning Branch has received many offers from Carleton University, community associations, members of the public, architects, historians, and others to partner in providing research assistance and other work. Given the volume of work, staff intend to leverage these partnerships and offers of volunteers to assist in undertaking some of the research required to support potential designations. Staff will remain the subject matter experts and will be responsible for report writing and all processes under the OHA, but volunteers will be able to assist in identification of properties and undertaking primary research as appropriate.

The Heritage Planning Branch is currently developing a strategy for volunteers and training of volunteers in accordance with City policy.

### **Recommendation 1(E): Receive for information updates regarding general procedural changes to address resourcing and workload implications of Bill 23**

Additional staff resources have been identified to deal with some of the immediate time pressures related to non-designated listed properties, and further resources to assist with the ongoing impacts of these legislative changes have been identified through the departmental resourcing report. The increased administrative burden, additional report writing steps, and reduced statutory timelines for professional planning review will have an ongoing impact on the ability of the branch to respond to its statutory requirements let alone direction from Council to undertake new initiatives such as Heritage Conservation Districts.

As a result, the Branch has undertaken an exercise to identify efficiencies within current processes and practices. While these changes do not require Committee and Council

approval, they are important to highlight as some of these changes will impact reports to committee and pre-consultation processes.

### **Reports to Built Heritage Committee and Council on Heritage Applications**

The professional planning staff in the Heritage Planning Branch undertake thorough and detailed analysis of every application under the OHA whether they are processed under the authority delegated to staff or are brought forward to the BHC and Council for consideration. As new, more comprehensive HCD Plans have been developed and approved by Council this report writing has become more complex and time consuming. Some of the detailed policy by policy analysis can exceed 20 pages for a new detached house in a heritage conservation district.

After surveying the heritage permit application reports from several major Ontario municipalities, staff have determined that a more streamlined approach to reporting is appropriate without compromising the analysis and evaluation of applications and the professional recommendations to BHC and Council.

Rather than providing detailed analysis of each specific guideline and policy for each application, staff will provide an overarching analysis of the application as it relates to compliance with the applicable policy framework. Issues will be grouped into common themes such as design, landscape, or conservation work. The rationale for the recommendations and conditions of approval will be stated more succinctly. This approach will provide a clearer, more concise report to BHC and Council while maintaining the level of professionalism required and providing committee and Council with the information needed to make informed decisions. All relevant documents and guidelines will be appended to staff reports and staff will be available to answer any questions from members of the committee on specific guidelines or policies as required.

### **Notification Letters**

The OHA has no requirements for notifying neighbouring property owners of applications for alterations, demolition, or new construction on designated properties. However, it has long been the Department's practice to issue notification letters to property owners located within 30 metres of properties subject to applications under the OHA 10 days prior to an application being heard by the Built Heritage Committee. The standard notification letter for heritage applications includes a lengthy description of the application, an overview of the BHC and Council review process, and several attachments including excerpts from the application's plans, and a mail-in comment sheet. Accounting for an English and French version of these documents, the letters are

frequently 10 or more pages and take significant staff time to complete, issue for translation, print, and mail. In addition, this information is currently posted to the City's DevApps website.

In an effort to streamline processes related to OHA applications, staff have prepared a revised notification letter template that conveys the necessary information in a more condensed format, directing residents to view application material online and submit comments directly to BHC. The revised bilingual letter is two pages and takes significantly less time to prepare, translate, print, and mail.

### **Pre-Application Consultation Process**

Pre-application consultation is encouraged but is not a requirement of an application under the OHA. In 2019, the Heritage Planning Branch started a pilot program for pre-application consultations on applications under the OHA that require City Council approval. The goal of the program was to ensure that community associations were involved early in the application process and given the opportunity to provide feedback and comments to applicants in advance of a formal application. In addition, the program was intended, along with the Heritage Community Liaison program, to provide an opportunity for heritage staff and community representatives to collaborate in the implementation of HCD Plans and the management of HCDs. The pilot program ran for 18 months and was instituted permanently city-wide in January 2022.

The current process involves the preparation of shared comments between community members and staff in addition to involvement of the community association in every iteration of a proposal before it is formally submitted under the OHA. This program is intensive for staff to administer, particularly when staff and the community association do not agree on comments related to a specific application. Given the time pressure that staff will now be under the Department will be amending the current process to reflect staff's capacity to engage with the community during the pre-application phase.

The following program elements will remain in place:

- Community association representatives will continue to be invited to formal pre-application consultation meetings
- Community association representatives will be able to provide verbal and written comments on proposals
- Community associations will continue to be notified when an application for heritage permit is received and offered the opportunity to provide comments in

advance of a report to BHC for approval.

The key changes to the program include:

- Elimination of the “shared comments” approach where the Heritage Planner works with the community association on providing shared comments to the applicant. Instead, the heritage planner will provide staff comments and the community association may provide their own comments.
- Follow up pre-application consultation meetings will not generally be scheduled. Applicants will instead be encouraged to liaise with the community association to address comments prior to the submission of a heritage application.
- The community association will generally have two formal opportunities to engage in the process, at the pre-application consultation meeting and once the formal application has been submitted.

The revised Terms of Reference for the pre-application consultation process is attached as Document 3 for Committee and Council’s information.

### **Other Efficiencies**

Heritage Planning staff continue to develop new tools to increase efficiency in our processes. Some of these tools include:

- A list of standardized heritage conditions for staff to provide on Site Plan Control applications
- Inclusion of heritage requirements in the Development Application Study Policy By-law
- Development of a standardized research template with sources to be consulted for historic property research
- Development of new tools to assist heritage staff keep track of the more complex legislative timelines, potentially through the Land Management Solution (LMS)

### **Recommendation 2: Approve administrative and procedural amendments**

This section outlines various administration and procedural changes that require Council approval.

### **Recommendation (2A): Discontinue the use of the Council-approved procedures**

## for the Heritage Register

In 2016, Council adopted the “Heritage Register Procedures” ([ACS2016-PAI-PGM-0056](#)) to establish processes to deal with listing, removal, and demolition of properties on the Register. Given recent amendments to the OHA, which provide detailed requirements for listing, objections, removal and demolition these procedures are no longer required. Staff recommend that Council discontinue the use of these procedures and rely on the direction as set out in the OHA to ensure legislative compliance

The revised procedures based on the updated OHA are outlined below:

- Listing
  - Given the statutory timelines and restrictions associated with the listing of properties on the Heritage Register, staff anticipate bringing forward reports or motions recommending listing of new properties on short notice in order to preserve Council’s ability to issue a Notice of Intention to Designate a property after a prescribed event occurs.
  
- Demolition
  - When a property owner submits a 60-day Notice of Intention to Demolish under the OHA, the current procedures provide an opportunity for the Ward Councillor or Chair of BHC to request a staff report on the demolition. Given the strict statutory timelines and pressure on staff resources to prepare designation reports, staff recommend that going forward, this report only be prepared where staff recommend designation of the property under the OHA. The Ward Councillor and Chair of Built Heritage Committee will continue to be notified by email when a 60-day Notice of Intention to Demolish is received. A member of Built Heritage Committee can bring forward a motion directing staff to issue a Notice of Intention to Designate when one is not otherwise planned to be brought forward by staff. Staff will be prepared to assist in the preparation of the required documents to ensure compliance with the OHA.
  
- Removal
  - Through the legislative changes, properties shall be removed from the Heritage Register under Section 27 (15) if Council has not issued a Notice of Intention to Designate within two years of January 1, 2023 or the date that the property is listed. Staff will bring forward reports as required to

ensure legislative compliance.

- Objection Process
  - Amendments to the OHA through Bills 108 and 23 created an objection process for listed properties. The owner of a listed property can now submit an objection to the listing at any point in time. Staff will assess these objections and bring forward reports for consideration of BHC and Council as required.

**Recommendation 2(B): Adopt the *Ontario Heritage Act* Alternative Notice Policy under Section 270 of the *Municipal Act* attached as Document 2 and approve an amendment to the Notice By-law 2018-360 to enact the alternative notice requirements for the publication of notice under the OHA**

Notice is required to be published in a newspaper with general circulation in the municipality for several processes under the OHA. These processes include:

- Notice of Intention to Designate
- Notice of passage of Part IV designation by-law
- Notice of withdrawal of Notice of Intention to Designate
- Notice of application to repeal a designation by-law
- Notice of passage of by-law for Heritage Conservation District designation or new Heritage Conservation District Plan

The City's current practice is to publish these advertisements in *The Ottawa Citizen* and *Le Droit*. Preparing and publishing these advertisements is time consuming and costly. The average cost to publish one Notice of Intention to Designate in both languages is approximately \$1,300. Given the anticipated increase in designations over the next two years and beyond, the cost of advertising for each designation will have a significant impact on the Branch budget.

In addition, staff believe that publishing notice on the City's website will provide greater accessibility to this information by the general public and will increase efficiency.

Subsection 26(4) of the OHA provides the following:

(4) Where a municipality is required by this Part to publish a notice in a newspaper having general circulation in the municipality, notice given in accordance with a policy

adopted by the municipality under section 270 of the **Municipal Act**, 2001 is deemed to satisfy the requirement of this Part to publish notice in a newspaper.

Staff recommend approval of the *Ontario Heritage Act* Alternate Notice Policy under Section 270 of the *Municipal Act*, 2001, attached as Document 2 to this report and further recommend that Council approve amendments to the Notice By-law 2018-360 to enact the policy. The draft amendment to the by-law to enact this policy will be brought forward to a future Council meeting for adoption.

In order to ensure that residents who are used to reading these notices in the newspaper are aware of the change, the Department will work with Public Information and Media Relations staff to develop a communications strategy to ensure that interested members of the public are informed of the change.

### **Recommendation 2(C): Direct staff to bring forward a Standard Heritage Easement By-law for approval by Council**

Staff recommend that BHC direct staff to bring forward a Standard Heritage Easement By-law. Section 37 of the OHA enables municipalities to enter into easements with property owners for the purposes of conserving of a property's cultural heritage value or interest. Heritage staff have increasingly recommended the use of easements to support the conservation of certain properties. Currently, entering into heritage easements requires the passage of a property specific by-law granting the City authority to enter into an easement. Through consultation with legal staff, it has been determined that Council can approve a by-law delegating general authority to the General Manager of PRED to enter into heritage easements for the purposes of the conservation of heritage resources, establishing a consistent and standard format for easements and removing the initial by-law requirement for individual easements.

In the interest of improving and streamlining conservation processes, the department intends to continue consulting with Legal Services to develop a general authorization by-law for entering into heritage easements. The proposed by-law would include the following general parameters:

- Authority for the General Manager, Planning, Real Estate and Economic Development Department to enter into easement agreements under Section 37 of the OHA for the purposes of the conservation of heritage resources.
- Requirement to bring forward draft easement agreements for approval by Built Heritage Committee and Council for properties that are not designated and are

also subject to a prescribed event (Official Plan Amendment, Zoning By-law Amendment or Plan of Subdivision)

Unlike designations under Parts IV or V of the OHA, entering into a heritage conservation easement agreement requires the consent of the property owner. Bill 23 has reduced the ability of the City to conserve properties within the development process through increased restrictions to prescribed events. In the instance where a property owner is interested in pursuing the conservation of buildings or specific attributes on a property subject to an active *Planning Act* application, the second clause above essentially retains the City's ability to conserve specific attributes within the development process.

The department's recommendation is that the Built Heritage Committee direct staff to bring this by-law forward to Council when completed.

**Recommendation 2(D): Approve reduced timelines for the publication of reports for Built Heritage Committee and Planning and Housing Committee**

Applications for Heritage Permit under Sections 33, 34 and 42 of the OHA are subject to a 90 day statutory timeline. If Council does not render a decision within the 90 day timeline, the application is deemed to be approved.

The short statutory approval timeline under the OHA has historically been a challenge for bringing forward heritage permit applications for Council consideration within to the City's legislative process. Recent legislative changes through Bills 108, 109 and 23 have resulted in an even more complex statutory timeline system that makes it difficult to undertake the required professional planning work and provide advice to Committee and Council. As identified in this report, staff have worked to identify efficiencies in internal processes. Additional report publishing timeline changes are recommended to help ensure statutory timelines can be met and risk is minimized to the City.

Bill 108 introduced additional timeline requirements for the Part IV designation process through the introduction of "prescribed events", an objection process for Notice of Objection to Designate and timelines related to the passage of designation by-laws.

Bill 109 introduced timeline requirements for Zoning By-law Amendment and Site Plan Control applications under the *Planning Act* which have significant impacts on the work of the department. Report [ACS2023-PRE-GEN-0004](#) addresses these implications and recommends changes to Governance structure to allow for the publication of reports related to Zoning By-law Amendments six days in advance of a Planning and Housing Committee meeting instead of the standard 10 days.

Given the new statutory requirements under both the OHA and *Planning Act*, the Department recommends that this standard be extended to the following report types under the OHA:

- Reports recommending listing or designation where the property is subject to or anticipated to be subject to a prescribed event under the *Planning Act*
- Reports related to objections to Notice of Intention to Designate under the OHA
- Reports related to heritage permit applications under Sections 33, 34 or 42 of the OHA where there is an associated Zoning By-law Amendment that will be considered concurrently by Planning and Housing Committee and Council.

**Recommendation 3: Approve additions to the Heritage Planning Branch workplan**

**Recommendation 3 (A): Direct staff to bring forward a list of priority Heritage Conservation District Studies for consideration by BHC and council by Q1 2024 along with associated Terms of Reference for conducting Heritage Conservation District studies.**

Heritage Conservation Districts (HCDs) are an integral part of the City's heritage program. HCDs provide an opportunity for City Council to identify and recognize areas including landscapes, neighbourhoods, streetscapes, villages and main streets for their collective value and implement a context-appropriate policy framework for managing change in these areas through an HCD Plan. HCDs are not intended to block new development or intensification in existing areas and many new developments are approved in Ottawa's HCDs every year.

There are currently 21 HCDs in Ottawa and several additional HCD studies have been previously endorsed by City Council for future departmental workplans.

These include:

- Powell Avenue HCD Study
- Bank Street in the Glebe HCD Study
- Golden Triangle HCD Study
- Dundonald Park/West Centretown HCD Study

Bill 23's amendments to the OHA, particularly those that limit the ability of the City to list non-designated properties on the Heritage Register, have heightened the significance of

HCDs as heritage conservation tools. Under previous iterations of the OHA, the listing of individual properties comprising streetscapes, neighbourhoods, or other areas with cultural heritage value was an adequate conservation and commemoration strategy in certain scenarios, imposing only a time-limited restriction on demolition and retaining heritage staff's ability to provide input on development applications.

Going forward, the designation of additional HCDs will be an essential strategy in conserving the character of different areas of Ottawa. As such, the City's Heritage Conservation District work program must be recalibrated. To do so the existing Heritage Register properties must first be analyzed to determine if there are clusters of listed properties that lend themselves towards consideration as for new HCDs. In addition to this analysis, staff intend to work with community associations, historical societies and ward councillors to identify priority areas for consideration as HCDs. Further, staff will assess the existing Cultural Heritage Character Areas being Sandy Hill, Carlington North and Richmond Village to determine if these should be considered through an HCD study.

It is important to note that an HCD study is a large and comprehensive project, and with existing staff resources it will take many years to develop HCDs in all areas that may merit designation.

Over the past several years, the department has been working towards updating all pre-2005 HCDs with new HCD Plans according to the requirements of the 2005 revisions to the OHA. This work is nearing completion with the ByWard Market and Lowertown West HCD Plans anticipated to be considered by Council in Q4 2023. This leaves the Sandy Hill West, Bank Street and Sparks Street HCDs outstanding. Staff anticipate the process for Sandy Hill West and Bank Street could be streamlined given recently approved HCD Plans in Sandy Hill and Centretown which could inform new plans for these HCDs. Creating an HCD Plan for the Sparks Street HCD is not a high priority for staff at this time given the significant federal government projects involving heritage resources along the street.

For 2023 the priority will be to undertake the necessary Heritage Register analysis and as such staff recommend that Council direct staff to bring forward a prioritized workplan of potential HCD study areas for consideration and endorsement by Committee and Council in early 2024.

Given the anticipated number of study areas to be identified, and the new criteria for designation of HCDs under Part V of the OHA, staff also recommend the development of a Terms of Reference document outlining how the City will approach and conduct

HCD studies going forward. This will assist in creating a consistent approach for both staff and potential consultants in the future which will also streamline the process to these large and often lengthy studies

**Recommendation 3 (B) Monitoring Tool: Direct staff to develop a monitoring tool and heritage information resource for properties of heritage interest that have been removed from the City’s Heritage Register as a result of Bill 23.**

Between the early 1980s and 2019 the City maintained the Heritage Reference List (HRL) which was a list of properties of heritage interest to the City. The HRL had no standing under the OHA and was used as a monitoring tool for properties of heritage interest as it related to development applications and building permits.

City Council discontinued the use of the HRL in 2019 at the completion of the City-wide Heritage Inventory Project which resulted in the comprehensive Register of listed properties we have today. Given that most properties will now be removed from the Heritage Register, staff recommend the development of a new monitoring tool for potential heritage properties that will allow staff to remain involved and have advance notice of potential development on a property of interest.

**Recommendation 3: Delegation of Authority to Staff**

The Delegation of Authority By-law (2023-667) Schedule “I”, Section 29 sets out matters that Council has delegated the authority to staff to undertake, with appropriate thresholds and accountabilities. While certain matters must be retained within the approval purview of Council per the *Ontario Heritage Act*, as a result of the constraints of Bill 23 staff recommend a further detailed analysis be undertaken of where matters could be further delegated to staff with the intention of improving the efficiency of approvals. Such considerations could include increasing the delegation to staff for additions to designated properties or delegating the approvals for the construction of new detached dwellings where there is no impact to the cultural heritage value of the property and/or the development meets the applicable heritage conservation district plan or guidelines. Staff will bring forward any recommendations after stakeholder consultation for Council consideration in Q1 2024.

**FINANCIAL IMPLICATIONS**

Due to Bill 23, procedural changes are required that have additional resource requirements. Additional resources are addressed in the Provincial Legislation Resource Impact report (ACS2023-PRE-GEN-0005), funded from within existing resources in 2023.

## **LEGAL IMPLICATIONS**

The recommendations proposed within this report are in accordance with the legislative changes impacting the *Ontario Heritage Act*.

## **COMMENTS BY THE WARD COUNCILLOR(S)**

N/A

## **ADVISORY COMMITTEE(S) COMMENTS**

This section contains any comments or recommendations made by one or more Advisory Committees relating to this report.

## **CONSULTATION**

Heritage Planning staff held an information and discussion session with representatives from Heritage Ottawa and several local community associations on March 29, 2023. Staff presented the proposed approach, answered questions and received feedback from the community.

A memo outlining proposed changes to processes was sent to the Industry Steering Committee in advance of their April 21, 2023 meeting.

## **ACCESSIBILITY IMPACTS**

There are no accessibility impacts of this report.

## **ASSET MANAGEMENT IMPLICATIONS**

There are no asset management implications associated with this report.

## **INDIGENOUS GENDER AND EQUITY IMPLICATIONS**

One of the key parameters of the designation prioritization strategy outlined in this report is program diversification of the City's Heritage Designation program. Heritage staff will proactively seek input from Indigenous communities on the best approach to ensuring that the Indigenous histories of Ottawa are represented through the heritage program. This work is envisioned to be collaborative and may include mechanisms to recognize histories of the land on which a building is built or revisiting existing designations and heritage plaques in the spirit of reconciliation.

As outlined in this report, the Heritage Planning Branch will also seek to ensure that the stories represented through our designated heritage resources are inclusive and

highlight underrepresented stories in Ottawa's history through consultation and outreach to groups and organizations associated with underrepresented communities and peoples in Ottawa's history. This will assist in identifying properties with associations not currently represented in Ottawa's designation program.

### **RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications.

### **RURAL IMPLICATIONS**

The recommendations in this report will apply to heritage properties city-wide.

### **TERM OF COUNCIL PRIORITIES**

N/A

### **SUPPORTING DOCUMENTATION**

Document 1 Screening and Prioritization Framework for Listed Properties

Document 2 *Ontario Heritage Act* Alternate Notice Policy

Document 3 Terms of Reference for Pre-Application Consultation Program

### **DISPOSITION**

Heritage Planning staff in the Planning, Real Estate and Economic Development Department are responsible for implementing the recommendations included in this report.

## **Document 1 Screening and Prioritization Framework for Listed Properties**

### **Introduction**

There are 4620 properties listed on the City of Ottawa Heritage Register as non-designated listings under Section 27 of the *Ontario Heritage Act*. City Council has listed all of these properties over the last 10 years for their potential cultural heritage value. Recent changes to the *Ontario Heritage Act* mean that unless Council issues a Notice of Intention to Designate these properties by December 31, 2024 they will be removed from the Register and subject to a five year limitation on re-listing. However, the arbitrary timeline contained in the OHA does not reflect the heritage value of these places, value does not disappear after two years. Further, the removal of these properties from the Register does not necessarily mean that they will be demolished or lost, it simply means that staff and Council have fewer tools at our disposal to work on heritage matters through the development process.

As a result, the Department has prepared the strategy below to undertake efficient assessment of the properties to prioritize properties for designation under Part IV of the OHA before the timeline expires. This approach will result in some properties being missed but given the volume of properties and the information and resources available, staff recommend this approach as the best way forward.

### **Phase I Screening**

All properties will be subject to a preliminary assessment to determine if the property is a candidate for designation, based on the information currently available to staff. In the Phase I screening, it is acknowledged that without appropriate historical research on each property some properties of significance will be screened out. This does not mean that these properties are excluded from future consideration for designation.

The Phase I assessment will be based on the three categories of criteria listed in Ontario Regulation 9/06:

- Design or physical value
- Historical or associative value
- Contextual value

The Phase I assessment will be based on existing data, staff knowledge of local history and architectural styles and expertise on the criteria for designation. The Phase I assessment is intended to assess whether a property has potential for designation

under the *Ontario Heritage Act*. Further study will be required to determine whether a property meets the criteria for designation.

The result of the Phase I assessment will be in the form of Yes or No. All properties that score a Yes will proceed to the Phase II scoring. This will be conducted on a ward-by-ward basis. Additional reviews by building typology, property owner or other categories will also be undertaken. Those properties that score a “No” in the Phase I screening will be recommended for removal from the Heritage Register. Removal from the Register does not preclude these properties from being listed or designated in the future.

### **Phase II Evaluation**

Properties that are screened in through Phase I will be prioritized through the Phase II evaluation. Given limited staff capacity, not all properties that merit recognition under the *Ontario Heritage Act* will be able to be designated within the two year statutory timeframe so a prioritization approach must be taken.

The criteria for the Phase II evaluation is based on the relevant Official Plan policy that outlines the City’s priorities for the designation program. These priorities include properties threatened with demolition, properties that tell stories that are currently underrepresented in the City’s heritage inventory, and ensuring that the history of all areas of Ottawa are represented on the Heritage Register.

Properties ranked through the Phase II evaluation process will be divided into three categories. Properties that fall within Category 1 will be the immediate priorities for designation, Category 2 properties require additional research and Category 3 properties are not immediate priorities but may be good candidates for designation in the future or inclusion in a Heritage Conservation District.

In the future, through policy development through the Heritage Management Plan, the City’s heritage program will be structured around these Official Plan policies and the staff will work with appropriate groups to identify significant resources and tell new stories.

Given the statutory timelines on the existing listed properties, staff have prioritized the properties that are already listed on the Heritage Register for consideration as Council has already agreed that these properties have potential cultural heritage value.

## Risk

The criteria and scoring below are intended to assist staff in assessing threat or risk of demolition associated with a listed heritage property and is based on the following Official Plan policy:

4.5.1 (10) The City shall immediately consider the designation of any resource of cultural heritage value under the *Ontario Heritage Act* if that resource is threatened with demolition.

Weighting out of 100: 35 per cent

Score	Description
3	Imminent development, staff are aware of potential development, vacant building, rare building in neighbourhood
2	Probable development site, high development pressure in neighbourhood, direction for intensification in OP  (ie. near transit corridor, on a main street)
1	Possible development site
0	Stable use, unlikely to be re-developed

## Program Diversification

This criteria and the scoring below are intended to prioritize properties associated with people, stories and themes that are not well represented on the City's heritage register such as properties associated with Indigenous history, women's history, LGBTQ2S+ history, history of racialized and marginalized communities. We acknowledge that there is significant work for the City to undertake in this area in the future and staff intend to work with appropriate community groups around the City to move this forward in the future. PRED further acknowledges that in most cases we do not have the information on hand to assist us in determining the stories of many of these buildings.

Despite its limitations and given the statutory timelines associated with the implementation of Bill 23 changes to the *Ontario Heritage Act*, staff and Council see this criteria as a priority for the City's heritage program. Staff have included these criteria to ensure that where the stories or associations of buildings are known, we consider

whether these stories contribute to a more inclusive inventory of designated heritage building.

This criteria and associated scoring are based on the following Official Plan policy:

4.5.1 (11) The City shall promote equity and inclusivity by recognizing, protecting and honouring sites of cultural heritage value associated with the diverse historical experiences, and prioritizing the identification of underrepresented historic places.

Weighting out of 100: 25 per cent

Score	Description
3	The property contributes to a greater understanding of an underrepresented group, theme, person or event that is not currently well-represented in the City's designation program.
2	The property represents an architectural style, resource typology, or time period that is underrepresented in the City's previously designated properties.
1	Unknown – requires more research
0	The property is associated with a theme, association, event, group or person that is already well-represented through the City's heritage designation program

## Geography

Currently, the City's heritage inventory is predominantly comprised of properties located in the historic core of the City including Wards 12, 13 and 14. This criteria has been included to ensure that representation of the history of the remainder of the City is prioritized as staff evaluate properties for potential designation. This is based on the following Official Plan policy:

4.5.1(12) Because Ottawa has a large and varied geography, the heritage conservation program shall reflect properties in all areas of the city to ensure that the histories of the urban, suburban and rural areas are recognized, honoured and protected.

Weighting out of 100: 15 per cent

Score	Description
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2	Located outside of wards 12,13,14 ,15, 17 or is a prominent landmark in the neighbourhood.
1	Located in an underrepresented ward or neighbourhood
0	Does not meet the geography criteria

### **Design and Architectural Value**

Weighting out of 100: 25 per cent

Most local properties designated under OHA Parts IV and V are recognized wholly or in part for their design or architectural value. Despite this bias, some properties with significant design and architectural value remain listed on the heritage register as non-designated properties. Therefore, the intent of this criteria is to recognize the significance of those properties that display exceptional design and architectural value while balancing this interest against Risk, Program Diversification, and Geography. As such, this criteria has been scored as a yes or no category with a maximum possible score of 1.

Score	
1	The property has significant architectural and/or design value
0	The property does not display significant architectural or design value

## **Document 2 *Ontario Heritage Act* Alternate Notice Policy**

### ***Ontario Heritage Act* Alternative Notice Policy**

Approved By: City Council

Approval Date:

Effective Date:

### **Policy Statement**

The City of Ottawa is committed to providing high quality services by embracing technology and publishing *Ontario Heritage Act* notices online. The City of Ottawa is dedicated to eliminating barriers and offering alternative bilingual communication. The City of Ottawa shall act in accordance with this Policy on matters related to the *Ontario Heritage Act*.

### **Purpose**

The objective of this Policy is to establish an alternative method for the City of Ottawa to provide notice required under the *Ontario Heritage Act* by publishing notices on the municipal website.

### **Application**

This Policy applies to all City employees.

### **Policy Requirements**

As an alternative to notice published in a newspaper, notice required under the *Ontario Heritage Act* may be published on the municipal website. *Ontario Heritage Act* notices published on the municipal website must be labelled with clear headings and findable through Search features. *Ontario Heritage Act* notices published on the municipal website must adhere to all municipal by-laws and policies including the Web Accessibility Policy and the Bilingualism Policy.

### **Responsibilities**

City employees are responsible for adhering to this policy.

## **Monitoring/Contraventions**

Planning, Real Estate and Economic Development Department will monitor the application of this policy.

## **References**

- [Web Accessibility Policy](#)
- [Bilingualism Policy](#)

## **Legislative and Administrative Authorities**

- *Ontario Municipal Act*, Section 270 (1)  
The circumstances in which the municipality shall provide notice to the public and, if notice is to be provided, the form, manner and times notice shall be given.
- *Ontario Heritage Act*

## **Definitions**

**Notice** – Official communication of a decision by City Council.

## **Keyword Search**

Notice, Heritage

## **Inquiries**

Please email [heritage@ottawa.ca](mailto:heritage@ottawa.ca) or phone 613-580-2463.

## Document 3 Terms of Reference for Pre-Application Consultation Program

### Heritage Planning Pre-Application Consultation Program

#### Terms of Reference

June 2023

#### 1.0 Background

The Heritage Planning Branch conducted a pilot program for pre-application consultations on applications under the *Ontario Heritage Act* that require City Council approval in three neighbourhoods with designated heritage conservation districts (HCDs): New Edinburgh, Sandy Hill and Rockcliffe Park. The pilot program ran for 18 months from October 2019 to April 2021. The program was well received and has been expanded to all neighbourhoods with HCDs.

The goals of the program are:

1. To ensure that the community is involved in the application process from the beginning and given ample opportunity to provide feedback and comments to the applicant in advance of the submission of a formal application.
2. To provide an opportunity for City heritage staff and community associations/heritage committees to better collaborate in the implementation of *HCD Plans* and the management of heritage conservation districts.

#### 2.0 Process

When the Heritage Planning Branch receives a request for pre-application consultation on a property in any HCD, the assigned heritage planner will contact the local community association (CA) or heritage committee (HC) and invite them to attend a pre-application consultation meeting with the applicant, City staff, and up to two representatives of the CA or HC. Meetings will be held virtually or at Ottawa City Hall and will be organized by the City of Ottawa Heritage Planning Branch.

Applicants will be requested to provide plans by email in advance of the meeting to allow staff and the CA/HC to prepare. For a pre-application consultation meeting, applicants are generally expected to provide a site plan and preliminary elevations. If available, additional documents are helpful (such as topographical survey, landscape plan, material palettes, streetscape elevations) in more detailed comments.

It is important that the assigned heritage planner meet with applicants in a timely manner. Staff will coordinate the pre-application consultation meeting to take place within two weeks of receiving the request. If the CA/HCs representatives are not able to attend the meeting within that time frame, the assigned heritage planner will send a copy of the meeting notes to the CA/HC for their information.

The pre-application consultation process is often iterative and there may be a requirement for additional meetings.

## **2.1 Confidentiality**

While pre-application consultation is not legislated under the *Ontario Heritage Act*, applicants have an expectation of confidentiality at the early stages of their project. This may be for a variety of reasons including privacy or real estate transactions.

City heritage staff are required to maintain confidentiality regarding a proposal until a formal application under the *Ontario Heritage Act* is submitted and the application is formally circulated to the community and posted online.

By participating in this program, members of community associations/heritage committees agree to sign a Non-Disclosure Agreement (NDA) to maintain confidentiality. Committee members may discuss applications among those who have signed the same NDA.

The City reserves the right to revisit the Terms of Reference or terminate the pre-consultation program at any time if the confidentiality requirement is not respected.

## **2.2 Meeting**

The assigned heritage planner will chair the meeting. The applicant will be given time to describe the project and share the plans with attendees. The representative of the CA/HC will be offered the opportunity to ask questions and provide initial comments if desired. The heritage planner will also have time to ask questions and provide initial comments.

When there is an associated *Planning Act* Application, the heritage and planning pre-application consultation meetings may be combined into one meeting.

## **2.3 Feedback**

At the meeting, the heritage planner will provide process and timeline information, application requirements, and other relevant information. In addition, the heritage planner will refer the applicant to relevant sections of the HCD Plan.

After the meeting, the heritage planner will provide a follow-up email to the proponent that provides the feedback from the City as well as information regarding timelines, application requirements, fees and the process information.

The CA/HC will have the opportunity to provide their own written comments to the applicant by email after the meeting.

#### **2.4 Timing of Feedback**

In order to provide timely client service, the heritage planner will provide all pre-application consultation comments to the applicant within 10 business days of the meeting.

The CA/HC representative can provide their comments directly to the applicant by email and cc'd to the heritage planner or to the heritage planner who will circulate the comments to the applicant.

#### **2.5 Continued Guidance and Consultation**

If the applicant submits revised plans as a result of the pre-application consultation, the heritage planner may circulate them to the CA/HC liaison within two business days and offer the CA/HC the opportunity to provide further comments to the applicant.

City staff will encourage applicants to continue to liaise with CA/HCs on matters of issue resolution but will not normally schedule multiple follow up meetings except in exceptional circumstances.

#### **2.6 Formal Application**

Once a formal application has been submitted, the heritage planner will notify the CA/HC liaison and offer the opportunity to provide formal comments for inclusion in the staff report.

City Council must make a decision on the application within 90 days of the receipt of the complete application. If they do not, the application is deemed to be approved. Given this legislated timeline, there is not enough time to provide additional comments back to the applicant once a formal submission is made.

City heritage staff will consider the formal comments submitted by the CA/HC in formulating staff recommendations to Committee and Council and may include conditions to address concerns of the CA/HC.

It should be noted that while the City requests that applicants address comments and revise their plans prior to submitting a formal application, pre-application consultation is not a legislated requirement under the *Ontario Heritage Act* and an application can be submitted at any time.

## **2.7 Revisions**

The City shall undertake periodic review of these Terms of Reference and the document may be amended from time to time.