
TO: CHIEF ADMINISTRATIVE OFFICER **DATE:** February 27, 2023

FROM: GENERAL MANAGER CORPORATE SERVICES
GENERAL MANAGER LANDS AND FACILITIES

**SUBJECT: GREEN RECYCLING AND ORGANICS (GRO) FACILITY
ALTERNATIVE APPROVAL PROCESS AND PARK DEDICATION
REMOVAL BYLAW – PORTION OF 4800 RIVERBEND DRIVE**

PURPOSE: To obtain Council approval for an Alternative Approval Process for removal of park dedication for portion of 4800 Riverbend Drive required for the proposed Green Recycling and Organics (GRO) facility.

RECOMMENDATIONS:

1. **THAT** Council direct the City Solicitor to prepare a bylaw to remove the park dedication for that portion of 4800 Riverbend Drive required for the proposed Green Recycling and Organics (GRO) facility.
2. **THAT** Council authorize staff to proceed with the Alternative Approval Process as described in Section 3.1 of this report.
3. **THAT** Council determine the Alternative Approval Process apply to the whole of the City of Burnaby and there is a total of 162,503 eligible electors for this Alternative Approval Process.
4. **THAT** Council approve a single elector response form for the Alternative Approval Process, in the form attached as Attachment 1.
5. **THAT** Council establish a deadline of 4:00 pm on Friday, April 28, 2023, for receiving elector responses under the Alternative Approval Process.

REPORT

1.0 INTRODUCTION

At the Open Council meeting held on February 6, 2023 Council authorized staff to continue with the next steps to advance a proposed green waste processing facility (Green Recycling and Organics or GRO facility) to be located on a portion of 4800 Riverbend Drive. The GRO facility would recycle organic materials such as food scraps and yard waste collected from citizens and businesses and replace the current requirement for processing in a private facility outside of the City of Burnaby (Burnaby).

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As noted in the February 6, 2023, staff report, the proposed GRO facility would process up to 150,000 tonnes of green waste annually from Burnaby and surrounding municipalities providing additional organic waste processing capacity within the region, while creating high-quality compost and renewable natural gas (RNG). The facility would strengthen our commitment to long-term sustainability, reduce greenhouse gas (GHG) emissions, support our region and partners, and contribute to achieving the region’s waste diversion goals.

The property located at 4800 Riverbend Drive (shown outlined in dotted line in Figure 1 below) was dedicated as park by Burnaby Park Dedication Bylaw 2005 (Bylaw No. 11988). The hatched area outlined in Figure 1 represents that portion of 4800 Riverbend Drive required for the GRO facility (the proposed “GRO Development Area”). The GRO Development Area is approximately 8.43 hectares (21 acres), or 12 percent (12%) of the overall park and is not currently used for recreational purposes. To offset the environmental impact of developing the GRO Development Area for the GRO facility, the City proposes to implement a suite of mitigation measures that will result in no net loss of habitat, and will instead result in a net gain of marsh, swamp, floodplain forest and in-stream fish habitat.

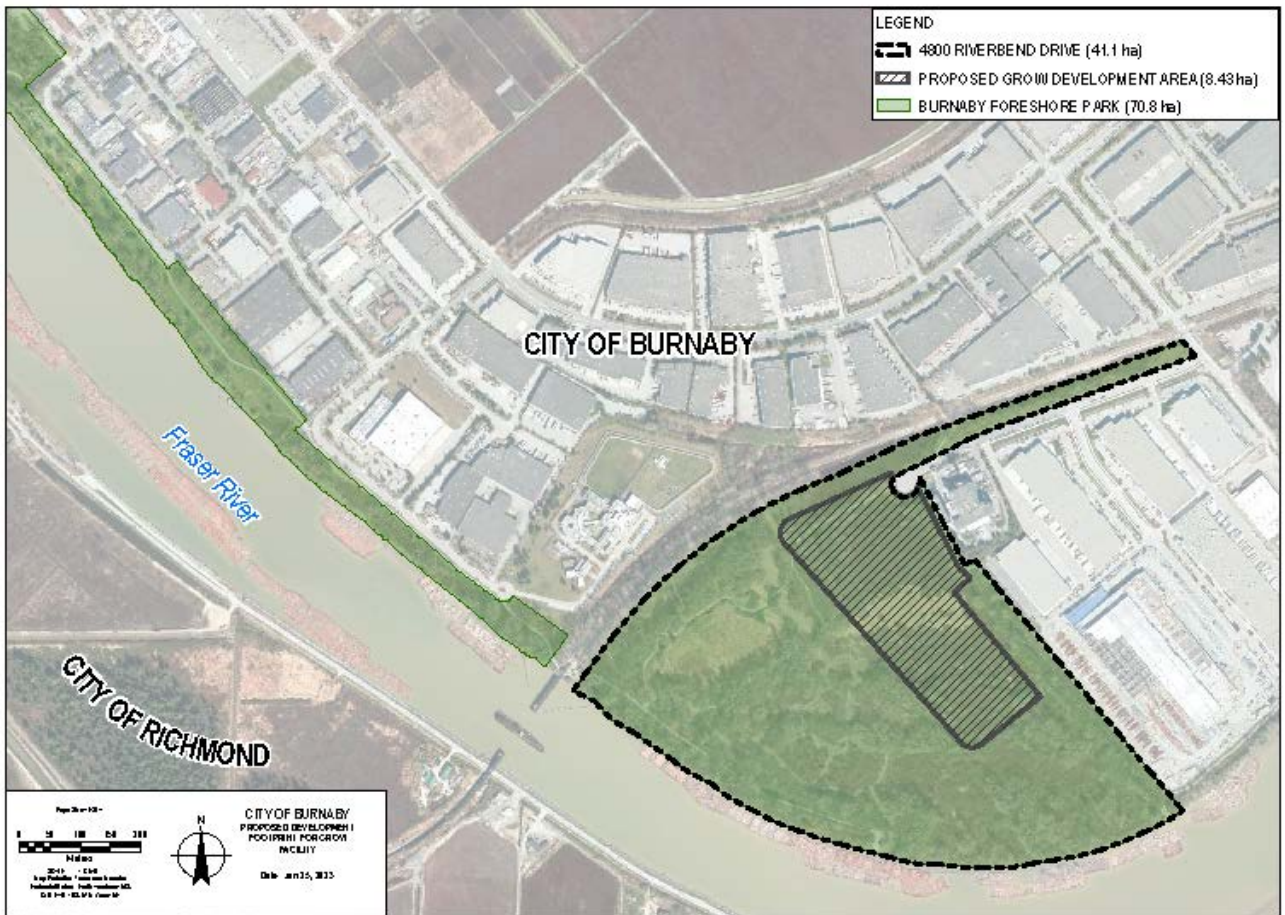


Figure 1. Proposed GRO Development Area on portion of 4800 Riverbend Drive.

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To facilitate development of the GRO facility, it is necessary to remove the park dedication from the GRO Development Area, which can only be done by a bylaw adopted with the approval of the electors as per section 84 of the *Community Charter*. It is recommended that Council authorize an Alternative Approval Process (AAP) to obtain the approval of the electors, pursuant to legislation provided by the *Community Charter* and the *Local Government Act (LGA)*.

This report details and seeks Council approval to pursue the AAP to adopt the proposed *Burnaby Park Dedication Removal Bylaw 2023* which proposes to remove the park dedication for the portion of 4800 Riverbend Drive within the GRO Development Area. The proposed *Burnaby Park Dedication Removal Bylaw 2023* appears elsewhere on this Council agenda for consideration of first, second and third readings.

2.0 POLICY SECTION

GRO aligns with policy objectives contained in Burnaby's Climate Action Framework (2020), Burnaby's Corporate Strategic Plan (2022), Burnaby's Environmental Sustainability Strategy (2016), Burnaby's Community Energy and Emissions Plan (2016), and Burnaby's Economic Development Strategy (2007).

3.0 BACKGROUND

Under section 30(2) of the *Community Charter*, a council may adopt a bylaw to dedicate property as a park. Section 30(3) of the *Community Charter* establishes that the dedication of park under section 30(2) may only be removed by a bylaw adopted with the approval of the electors.

The 40.3-hectare (99.57 acre) property located at 4800 Riverbend Drive was dedicated for park and recreation uses by *Burnaby Park Dedication Bylaw 2005* (Bylaw No. 11988), and was adopted by an affirmative vote of at least 2/3 of all the members of Council in 2005. To facilitate the development of the GRO facility in the GRO Development Area, it is necessary to remove the park dedication from the GRO Development Area by bylaw and approval of the electors must be obtained prior to doing so.

Under the *Community Charter*, there are two ways the approval of the electors can be obtained:

- (1) by way of a vote using the assent voting process (i.e., referendum) under section 85, or
- (2) through the alternative approval process (i.e., former counter petition process) under section 86.

It is recommended the City pursue the Alternative Approval Process (AAP) to remove the park dedication from that portion of 4800 Riverbend Drive within the GRO Development Area.

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3.1 Alternative Approval Process (AAP)

The AAP is a tool that can be used to help local governments understand whether the community views a particular matter as “significant”, and if necessary, whether the matter then warrants being taken to an assent vote (i.e., referendum) for broader citizen engagement. The AAP is set out in section 86 of the *Community Charter* and must be completed after third reading and prior to final adoption of the proposed park dedication removal bylaw.

In order to proceed with the AAP for *Burnaby Park Dedication Removal Bylaw 2023*, Council must by resolution:

- (i) establish a deadline for electors to respond;
- (ii) make a fair determination of the total number of electors the AAP applies to (whether to the whole or only part of the City); and
- (iii) establish the elector response form, which involves formulating the elector response in opposition to the adoption of *Burnaby Park Dedication Removal Bylaw 2023*; and
- (iv) determine whether to allow for single or multiple elector responses on each form.

In addition to the above, undertaking the AAP also requires:

- publishing notice of the AAP in accordance with section 94 of the Community Charter;
- collecting elector responses up until the established deadline; and
- determining and certifying the results after the deadline.

If less than 10% of eligible electors object, then approval of the electors has been obtained and Council may proceed with adopting *Burnaby Park Dedication Removal Bylaw, 2023*.

(i) Deadline for elector response and notice publication

Section 86(3)(a) of the *Community Charter* requires that Council establish a deadline for receiving elector responses for the AAP. Council has flexibility in setting this date, so long as the deadline is at least 30 days after the publication of the second public notice.

If Council authorizes staff to proceed with an AAP as described in this report and gives first, second and third readings to the *Burnaby Park Dedication Removal Bylaw 2023*, staff will publish the prescribed notice in the March 2, 2023 and the March 9, 2023 publications of the Burnaby NOW newspaper.

Staff recommend Council establish a deadline for receiving elector responses for the AAP that is 49 days after the publication of the second notice on account of spring break in

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March and Easter break in April. If Council adopts this recommendation, the proposed deadline for receiving elector responses under the AAP would be 4:00 pm on Friday, April 28, 2023.

(ii) Number of electors to which AAP applies

Section 86(3)(c) of the *Community Charter* requires that a fair determination be made of the total number of electors of the area to which the AAP applies. Staff recommend the area to which the AAP applies be the whole of the City of Burnaby so that all qualified electors in the City have the opportunity to participate in the AAP considering the following:

- the property at 4800 Riverbend Drive was dedicated as park by bylaw and forms part of the Burnaby Fraser Foreshore Park which may be used and enjoyed by all Burnaby residents, and
- the proposed GRO project will benefit the entire community

If Council adopts the recommendation to apply the AAP to the entire City of Burnaby so that all Burnaby electors may participate in the AAP, then staff would further recommend relying on the voters list maintained by Elections BC to estimate the number of eligible electors that are entitled to participate in the AAP.

Under section 86(5) of the *Community Charter*, the electors of the area to which the AAP applies are the persons who would meet the qualifications in section 172(1)(a) of the *LGA*.

To meet the qualifications in section 172(1)(a) of the *LGA*, a person must be either a resident elector or a non-resident property elector, in relation to the voting area for which the voting is to be conducted. The AAP operates similarly to assent voting (i.e., referendum) in that both qualified resident electors and non-resident property electors may submit a response form. The criteria for determining whether someone qualifies either as a resident elector or as a non-resident property elector are set out in sections 65 and 66 of the *LGA*, respectively. In essence, the same qualifications entitling a person to vote in a local government election apply to the AAP.

Approval of the electors is obtained under the AAP if the number of elector responses received by the AAP deadline is less than 10 percent (10%) of the number of electors of the area to which the AAP applies. The January 2023 Burnaby Voter's List provided by Elections BC has a total of 162,503 Burnaby voters. If fewer than 16,250 elector responses are received by the AAP deadline of 4:00 pm on Friday, April 28, 2023, then approval of the electors is obtained.

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(iii) Elector Response Form

The AAP is conducted using an elector response form, which gives electors an opportunity to express their opposition and indicate their view that Council may not proceed with *Burnaby Park Dedication Removal Bylaw 2023* unless it is approved by assent of the electors.

Under section 86(3)(b) of the *Community Charter*, Council must establish elector response forms which may be designed to allow for only a single elector response on each form or for multiple elector responses, and must be available to the public at Burnaby City Hall from the publication of the first public notice until the AAP deadline.

It is recommended that Council establish elector response forms which allow for only a single elector response on each form to enable the City’s Corporate Officer to more efficiently and accurately determine and certify, on the basis of the elector response forms received before the AAP deadline, whether elector approval has been obtained.

The wording of the statement in opposition to the adoption of *Burnaby Park Dedication Removal Bylaw 2023* on the response form should be clear and concise so electors understand that they are expressing their opinion about whether assent voting must be held with respect to the proposed bylaw. The recommended wording of the statement on the elector response form for the proposed *Burnaby Park Dedication Removal Bylaw 2023* is:

“By completing this Elector Response Form, I certify that I am a qualified elector of the City of Burnaby, and I **OPPOSE** Burnaby City Council’s intention to adopt *Burnaby Park Dedication Removal Bylaw 2023*, which removes the park dedication from that 8.43 hectare portion of undeveloped parkland at 4800 Riverbend Drive (area outlined in bold in Figure 1 below) for the purpose of developing a Green Recycling and Organics (GRO) facility.

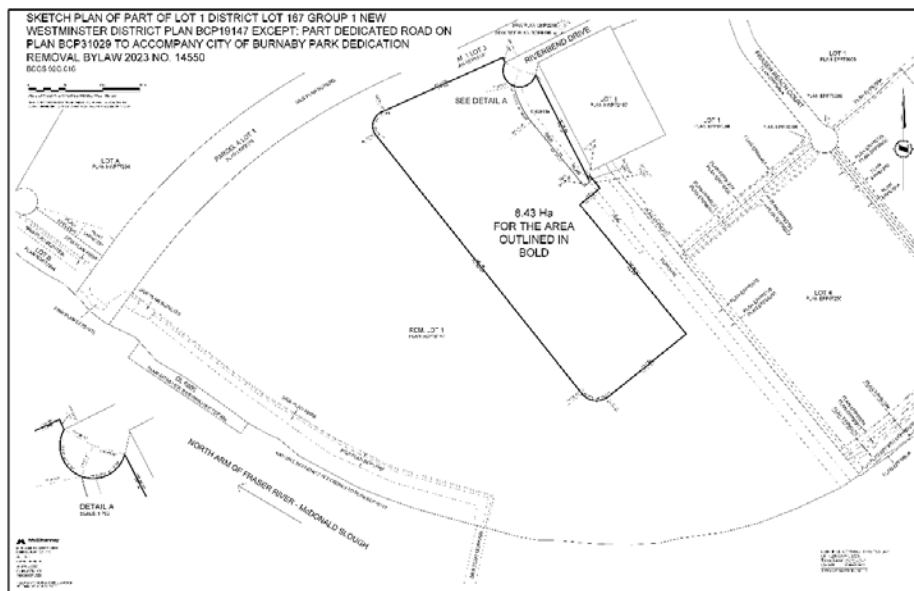


Figure 1. – See Attachment 3 for Additional Map Used for Statutory Notices

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Only electors who are opposed to the proposed bylaw need to sign and submit an elector response form. Electors in favour of the proposed bylaw do not need to take any action.

The form of the proposed elector response form is attached as **Attachment 1**. The elector response forms will be available in the following locations:

- online on the City's webpage (www.burnaby.ca/GRO) beginning at 8:00 am on March 2, 2023 (for electors' self-printing and delivery); and
- at the Legislative Services Department at Burnaby City Hall beginning at 8:00 am on March 2, 2023; and
- at all four (4) Burnaby Public Library locations beginning at 10:00 am on March 2, 2023.

(iv) Elector Responses and Determination and Certification of Results

Signed elector response forms must be submitted to the Legislative Services Department:

- by mail; or
- in person to the Legislative Services Department at Burnaby City Hall during regular business hours; or
- by dropping off the elector response forms in one of the 24-hour drop boxes (which are cleared daily) located at both entrances to Burnaby City Hall.

All forms must be received by the Legislative Services Department before the AAP deadline of **4:00 pm on Friday, April 28, 2023**.

Following the AAP deadline, the City's Corporate Officer will determine the validity of the elector response forms received, certify whether elector approval was received, and report the outcome of the AAP to Council in an Open Council meeting.

Council may approve final adoption of *Burnaby Park Dedication Removal Bylaw 2023* if less than 10% of eligible electors signed and submitted elector responses forms by the AAP deadline.

3.2 Public Communications

On February 6, 2023, the City launched a webpage dedicated to the GRO project. The webpage provides a high-level overview of the GRO project and its potential benefits, and is available at www.burnaby.ca/GRO. If Council approves the recommendations in this report, information about the AAP and how it works, as well as answers to frequently asked questions will be included on this webpage.

4.0 CONCLUSION

The GRO project offers numerous climate action, environmental, community building, and financial benefits to the City. The project provides an excellent opportunity for the

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City to demonstrate leadership in achieving the sustainability and waste-diversion goals of the region.

The proposed project site was selected following an extensive review of City-owned properties, carefully weighing overall project benefits against other considerations. In order to facilitate development of the GRO project it is necessary to remove the park dedication from the portion of 4800 Riverbend Drive within the GRO Development Area, which can only be done by a bylaw adopted with the approval of the electors.

Appearing elsewhere on the February 27, 2023 Council agenda is *Burnaby Park Dedication Removal Bylaw 2023* for consideration of first, second and third readings.

The AAP is an efficient and effective means to obtain the approval of the electors to proceed with adoption of *Burnaby Park Dedication Removal Bylaw 2023*. It is recommended Council authorize staff to proceed with the AAP as described in Section 3.1 of this report, and that Council:

- (a) determine the AAP apply to the whole of the City of Burnaby and that there is a total of 162,503 eligible electors for this AAP;
- (b) approve a single elector response form for the AAP in the form attached as Attachment 1; and
- (c) establish a deadline of 4:00 pm on Friday, April 28, 2023, for receiving elector responses under the AAP.

Should Council adopt the recommendations in this February 27, 2023 report, notice of the AAP will be published in the Burnaby NOW on March 2 and March 9, 2023. Elector response forms will be made available online on the City's webpage (www.burnaby.ca/GRO) beginning at 8:00 am on March 2, 2023, and in-person at the Legislative Services Department at Burnaby City Hall beginning at 8:00 am on March 2, 2023, as well as at all four Burnaby Public Library locations beginning at 10:00 am on March 2, 2023.



Juli Halliwell
GENERAL MANAGER CORPORATE SERVICES



J. Lota, P. Eng., MBA, MPA
GENERAL MANAGER LANDS AND FACILITIES

Attachment 1 – Single Elector Response Form
Attachment 2 – Multiple Property Owner Consent Form
Attachment 3 – Figure 1 (Detailed Map)

Instructions

Burnaby City Council is seeking approval of the electors to adopt *Burnaby Park Dedication Removal Bylaw 2023* through an Alternative Approval Process in accordance with section 86 of the *Community Charter*. If less than 10% (16,250) of eligible electors (162,503) submit a completed Elector Response Form by the deadline, then Burnaby City Council may proceed with the adoption of *Burnaby Park Dedication Removal Bylaw 2023*.

If you are **IN FAVOUR** of *Burnaby Park Dedication Removal Bylaw 2023*, you do not need to submit a form.

If you are **OPPOSED** to the adoption of *Burnaby Park Dedication Removal Bylaw 2023*, you may sign and submit an Elector Response Form if you meet the qualifications of a resident elector or non-resident property elector in the City of Burnaby.

All Elector Response Forms **MUST** be received in the Legislative Services Department at Burnaby City Hall no later than **4:00 pm on Friday, April 28, 2023**. Completed Elector Response Forms may only be submitted to the Legislative Services Department:

1. by mail;
2. in person to the Legislative Services Department at City Hall during regular business hours; or
3. by dropping it off in one of the 24-hour drop boxes (which are cleared daily) located at both entrances to Burnaby City Hall.

If you are submitting this form by mail, please note post marks are not accepted as the date of submission. It is the responsibility of the elector to ensure the response form is received in the Legislative Services Department by the deadline.

A hand-written (physical) signature is required. Electronic signatures or any electronic submissions will not be accepted.

If you have any questions about the Alternative Approval Process, please contact us by phone 604-294-7290 or email us at legislativeservices@burnaby.ca

DRAFT

Qualifications of Electors

In order to sign an Elector Response Form in relation to the Alternative Approval Process, a person must either be a **resident elector** or **non-resident property elector** (not both) within the City of Burnaby.

A **resident elector** is an individual who is qualified to vote in the City of Burnaby by residing in the City. To sign an Elector Response Form as a resident elector a person must:

- (i) be 18 years of age or older at the time of signing the Elector Response Form;
- (ii) be a Canadian citizen;
- (iii) have lived in British Columbia for at least six months immediately prior to signing the Elector Response Form;
- (iv) be a Burnaby resident; and
- (v) not be disqualified by any enactment from voting in an election, or otherwise disqualified by law.

A **non-resident property elector** is an individual who does not live in the City of Burnaby but who is entitled to vote by virtue of owning real property in the City. To sign an Elector Response Form as a non-resident property elector a person must:

- (i) be 18 years of age or older at the time of signing the Elector Response Form ;
- (ii) be a Canadian citizen;
- (iii) have lived in British Columbia for at least six months immediately prior to signing the Elector Response Form;
- (iv) own real property in the City of Burnaby for at least 30 days prior to signing the Elector Response Form; and
- (v) not be disqualified by any enactment from voting in an election, or otherwise disqualified by law.

If a property is owned by **more than one individual**, only one person may sign an Elector Response Form. A person may only register as a non-resident property elector in relation to **one parcel** of real property. If a property is owned by more than one person, then a person must include a Non-Resident Property Elector Multiple Owner Consent Form signed by a majority of the property owners with their signed Elector Response Form.

Corporate Voting is Prohibited

As per section 64(3) of the *Local Government Act*, no corporation is entitled to be registered as an elector or have a representative registered as an elector and no corporation is entitled to vote. For clarity purposes, none of the shareholders, directors or officers of a corporation that owns property in Burnaby is entitled to vote as an elector on behalf of that corporation.

Electors Have One Submission

As per section 86(10) of the *Community Charter*, a person **must not** sign more than one Elector Response Form in relation to this Alternative Approval Process regarding *Burnaby Park Dedication Removal Bylaw 2023*.

Privacy Notice

Personal Information collected on this Elector Response Form is collected for the purposes of the Local Government Alternative Approval Process under sections 26(a) and 26(c) of the *Freedom of Information and Protection of Privacy Act*. For questions regarding the collection, use and storage of personal information, please contact the Director of the Legislative Services Department at 604-294-7290.

Elector Response Form – Alternative Approval Process

By completing this Elector Response Form, I certify that I am a qualified elector of the City of Burnaby, and I **OPPOSE** Burnaby City Council's intention to adopt *Burnaby Park Dedication Removal Bylaw 2023*, which removes the park dedication from that 8.43 hectare portion of undeveloped parkland at 4800 Riverbend Drive (area hatched and outlined in bold in Figure 1 below) for the purpose of developing a Green Recycling and Organics (GRO) facility.

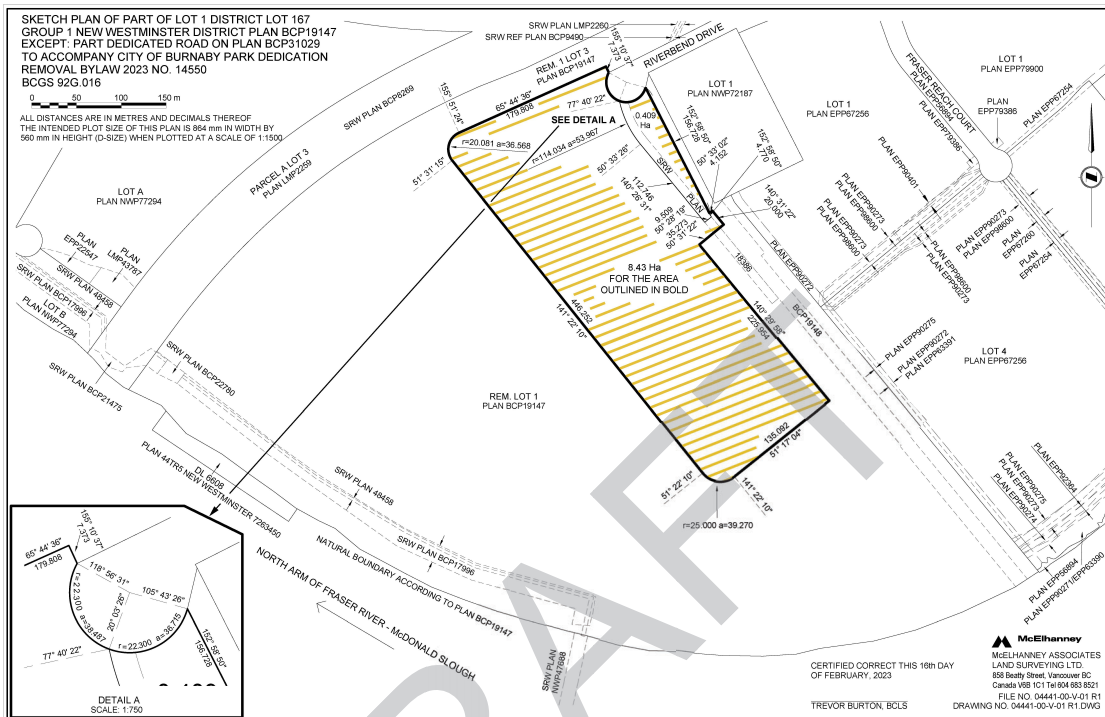


Figure 1

Completed Elector Response Forms must be received in the Legislative Services Department at Burnaby City Hall, 4949 Canada Way, Burnaby, BC V5M 1G2 by **4:00 pm on Friday, April 28, 2023**.

Burnaby City Council may proceed with the adoption of *Burnaby Park Dedication Removal Bylaw 2023* if less than 10% (16,250) of eligible electors (162,503) submit a completed Elector Response Form by the deadline.

RESIDENT ELECTOR

LEGAL FIRST NAME (GIVEN) OF ELECTOR		LEGAL LAST NAME (SURNAME) OF ELECTOR	DATE OF BIRTH
RESIDENTIAL ADDRESS STREET ADDRESS			
SUITE #	CITY Burnaby, BC	POSTAL CODE	
SIGNATURE OF ELECTOR		DATE	

Hand-written signature is required. Electronic signatures will not be accepted.

By signing this form you are indicating **OPPOSITION** to *Burnaby Park Dedication Removal Bylaw 2023*.
If you are a non-resident property elector, please only complete the Non-Resident Property Elector form (on reverse).

NON-RESIDENT PROPERTY ELECTOR

LEGAL FIRST NAME (GIVEN) OF ELECTOR	LEGAL LAST NAME (SURNAME) OF ELECTOR	DATE OF BIRTH
RESIDENTIAL ADDRESS STREET ADDRESS		
SUITE #	CITY	POSTAL CODE
<p>I am a non-resident property elector who lives in another community and owns property in the City of Burnaby located at: FULL STREET ADDRESS OF PROPERTY IN BURNABY</p> <p>To be eligible to submit your form, Non-Resident Property Electors must attach a copy of proof of ownership of the Burnaby property indicated above. Examples of proof include a tax notice, bill of sale, or other relevant documentation. For further information, contact Legislative Services to confirm acceptable proof of ownership.</p>		
SIGNATURE OF ELECTOR		DATE
<i>Hand-written signature is required. Electronic signatures will not be accepted.</i>		

By signing this form you are indicating **OPPOSITION** to Burnaby Park Dedication Removal Bylaw 2023.

If a property is owned by more than one person, only one (1) owner can sign the Elector Response Form, and that person signing must include a Non-Resident Property Elector Multiple Owner Consent Form signed by a majority of the property owners with their signed Elector Response Form. A non-resident property elector may only submit an Elector Response Form in relation to one property. Where a property is owned in whole or in part by a corporation, no one is eligible to sign an Elector Response Form.



NON-RESIDENT PROPERTY ELECTOR MULTIPLE OWNER CONSENT FORM

2023 LOCAL GOVERNMENT ALTERNATIVE APPROVAL PROCESS

SECTION 1: CONSENT DETAILS

We, together with the person registering, constitute a majority of registered owners of the real property noted below and hereby give consent to:

NAME OF NON-RESIDENT PROPERTY ELECTOR

being registered as the Non-Resident Property Elector for the jointly owned property legally described as:

LEGAL DESCRIPTION OF PROPERTY

and located at:

STREET ADDRESS OR LOCATION

SECTION 2: SIGNATURE

Hand-written signature is required. Electronic signatures will not be accepted.

NAME	SIGNATURE
NAME	SIGNATURE
NAME	SIGNATURE
NAME	SIGNATURE
NAME	SIGNATURE

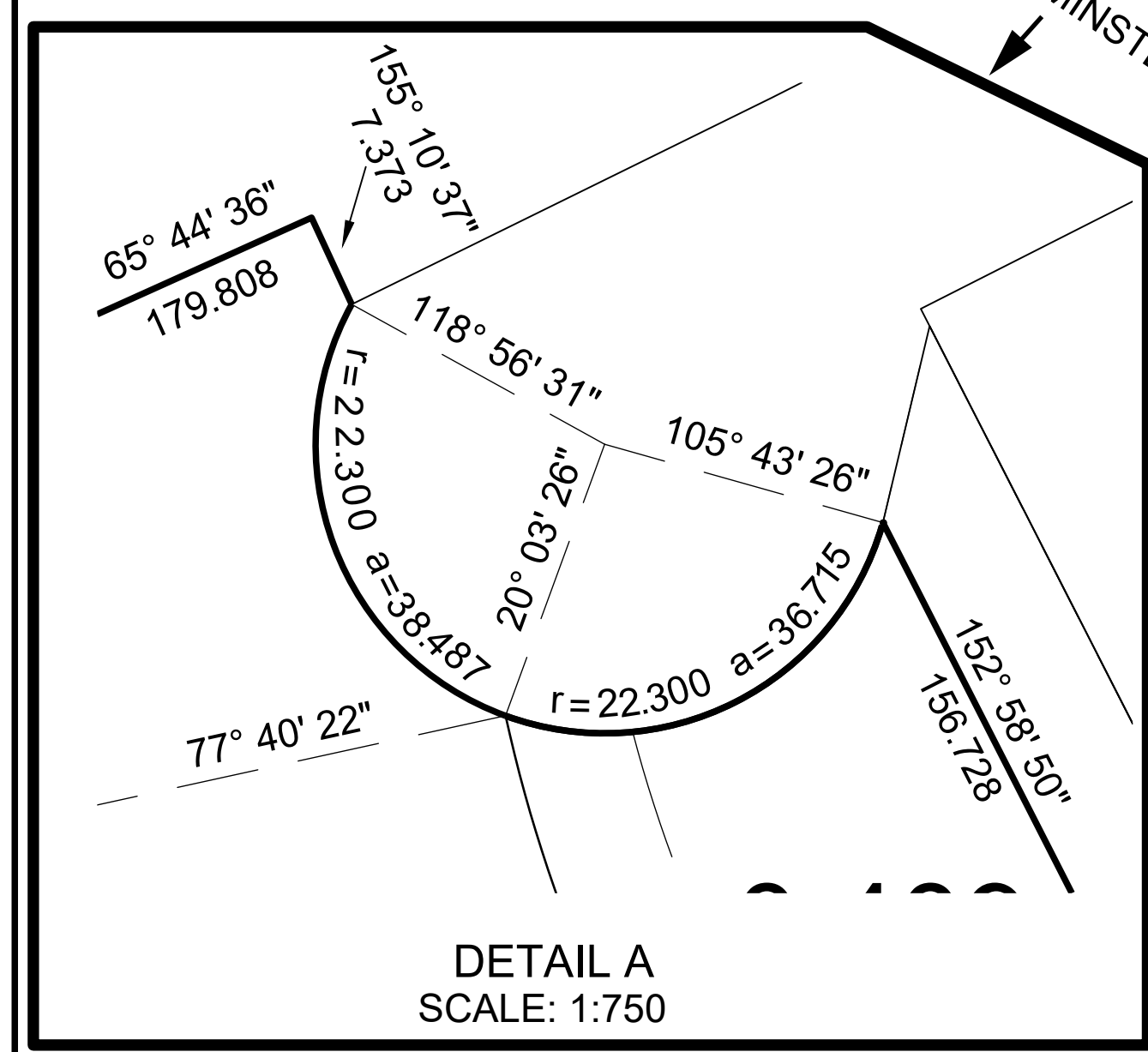
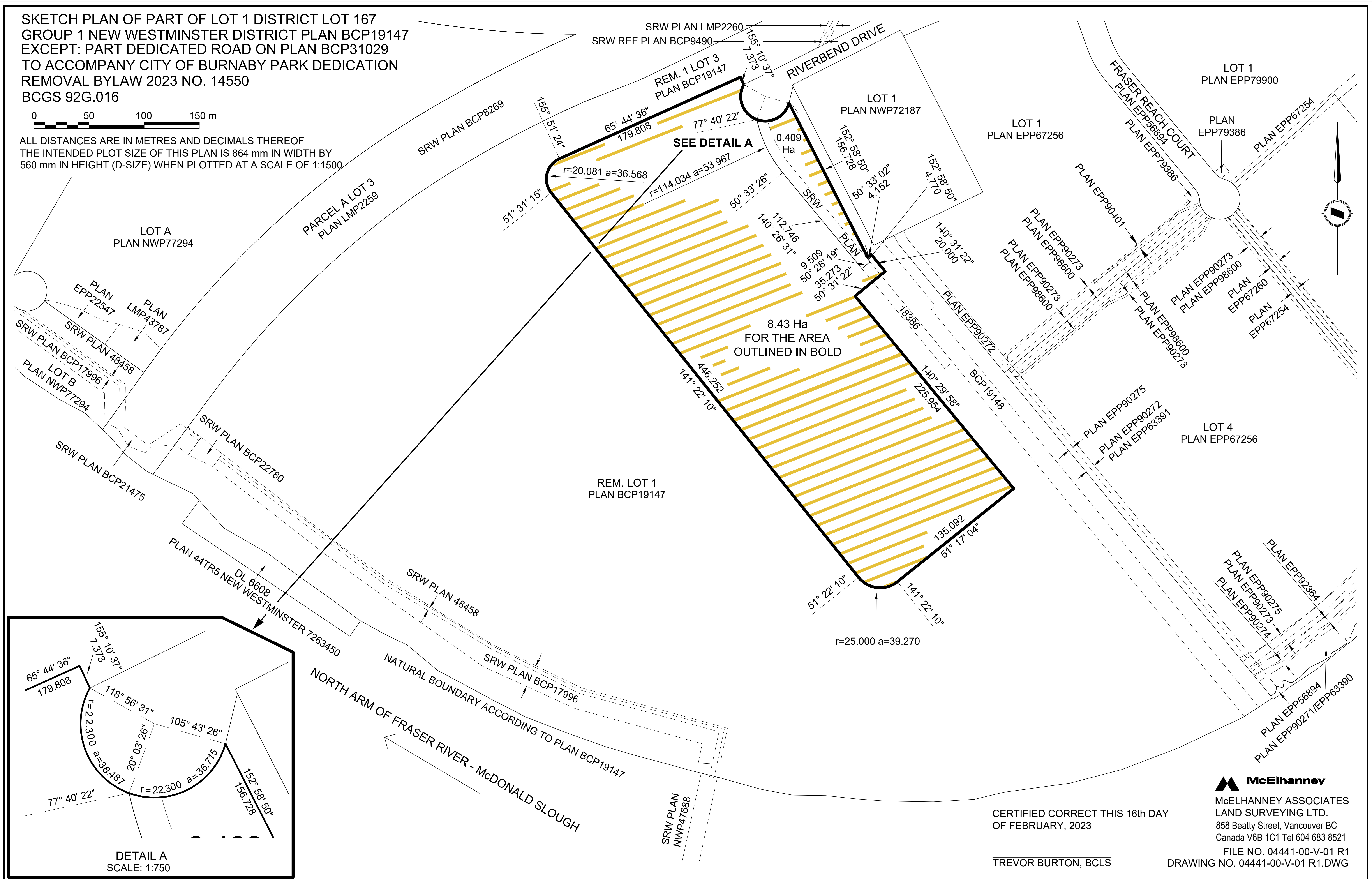
NOTE: The person registering as the Non-Resident Property Elector must be one of the registered owners of the property.

Personal Information collected by the City of Burnaby is managed in accordance with the [Freedom of Information and Protection of Privacy Act](#). Personal Information on this application form is collected for the purposes of the Local Government Alternative Approval Process under sections 26(a) and 26(c) of the Freedom of Information and Protection of Privacy Act. For questions regarding the collection of personal information, please contact the Director of the Legislative Services Department at 604-294-7290.

SKETCH PLAN OF PART OF LOT 1 DISTRICT LOT 167
 GROUP 1 NEW WESTMINSTER DISTRICT PLAN BCP19147
 EXCEPT: PART DEDICATED ROAD ON PLAN BCP31029
 TO ACCOMPANY CITY OF BURNABY PARK DEDICATION
 REMOVAL BYLAW 2023 NO. 14550
 BCGS 92G.016



ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF
 THE INTENDED PLOT SIZE OF THIS PLAN IS 864 mm IN WIDTH BY
 560 mm IN HEIGHT (D-SIZE) WHEN PLOTTED AT A SCALE OF 1:1500



CERTIFIED CORRECT THIS 16th DAY
 OF FEBRUARY, 2023

TREVOR BURTON, BCLS

McElhanney
 McELHANNEY ASSOCIATES
 LAND SURVEYING LTD.
 858 Beatty Street, Vancouver BC
 Canada V6B 1C1 Tel 604 683 8521
 FILE NO. 04441-00-V-01 R1
 DRAWING NO. 04441-00-V-01 R1.DWG