Corporation of the City of
NEW WESTMINSTER

REPORT
Engineering Department

To:	Mayor Johnstone and Members of Council	**Date**:	April 3, 2023
From:	Lisa Leblanc Director of Engineering Services	**File**:	05.3510.10 (Doc#2224737)
		Item #:	2023-228

Subject: **Train Whistle Cessation - Update**

RECOMMENDATION

THAT Council receives this report for information.

PURPOSE

To provide Council with information regarding Train Whistle Cessation in response to the motions from the December 12th, 2022 Council meeting.

SUMMARY

Staff will provide quarterly updates to Council (through reports) and the Public (through our website) on the progress of Citywide whistle cessation in 2023.

BACKGROUND

Whistling in emergent conditions and at public grade crossings is a requirement by train operators under the Canadian Rail Operating Rules (CROR). Whistling in emergent conditions (persons or animals on or near the tracks) is a succession of short sounds. Whistling at public grade crossings starts a ¼ mile from the crossing or 20 seconds prior to train occupation of the crossing. This whistling consists of two long whistles followed by a short whistle and ended with a long whistle, which is prolonged or repeated until the train occupies the entire crossing. Unnecessary train whistling is prohibited by the CROR section 14(ii), as shown in attachment 1. According to Transport Canada, there are no known violations or warnings for unnecessary train whistling within the City of New Westminster.

New Westminster has both public grade crossings and private grade crossings throughout its transportation network. A public designated crossing is where railway tracks intersect with a road or path that is owned and maintained by a public authority, and is used by the public. This typically includes municipalities, provinces, and other organized communities. A private grade crossing is one where railway tracks intersect with a road or path that is typically owned and used by private authorities, such as farmers, commercial or industrial businesses or private individuals. Private grade crossings are not used by the public. Whistling is not required at private crossings, unless emergent conditions exist.

Transport Canada developed the Grade Crossing Regulations (GCR) and Grade Crossing Standards (GCS) in 2014, outlining the requirements to improve safety for all crossing users. The GCR/GCS' were phased in with the understanding that compliance will take time and require substantial resources and financial commitment. The GCR/GCS' were updated in 2019 with the addition of the requirement for existing crossings to be compliant by either November 28th, 2024 (for federally regulated crossings) or January 1st, 2028 (for provincially regulated crossings). Grade crossing regulations and standards make crossings safer by specifying minimum requirements for not only the rail crossing and warning systems, but also the road approaches, nearby intersections, adjoining lands (including grade), signage and sightlines.

The City of New Westminster has four rail companies operating within its borders. These four companies are Canadian National Railway (CN), Canadian Pacific Railway (CP), Southern Railway of British Columbia (SRY) and Burlington Northern Santa Fe (BNSF). Additionally, three of the companies are regulated federally (CN, CP and BNSF) and one is regulated provincially (SRY). Most of our mainland rail crossings have tracks owned and operated by more than one of these companies. Each rail company has its own priorities and response times and, although each is interested in working collaboratively on safety upgrades, progress is dependent on resources including funding and staffing availabilities. Generally, rail companies do not prioritize the pursuit of whistle cessation because whistling is required in accordance with CROR.

The required volume and frequency of train whistles at public crossings can have a negative impact on residents, businesses and institutions in close proximity. To help address these negative impacts, Transport Canada has developed a process for communities to pursue the cessation of non-emergent train whistling at select public crossings. This process consists of eight steps and includes items such as consultation with the associated rail companies, completing a safety assessment, implementing the necessary safety upgrades, municipalities passing a resolution to cease whistling, executing a whistle cessation agreement, acquiring the necessary liability insurance coverage and rail companies issuing anti-whistling directives to train operators.

In 2014, the City of New Westminster adopted Train Whistle Cessation bylaw 7698 (attachment 2), which was a required step in the whistle cessation process for Provincially Regulated Railways, at the time. The Provincial Railway regulator has since adopted the Transport Canada process for whistle cessation, which requires a resolution from council,

which can be fulfilled through a passed motion. As a housekeeping item, staff will work to rescind Bylaw 7698.

Currently, whistle cessation has been implemented at four public crossings in New Westminster. They are the Brookes Street Pedestrian crossing (Queensborough), Quayside Drive crossing (at Laguna Court), Begbie Street crossing (at Front Street) and Front Street crossing (at 4th Street).

At the December 12th, 2022 Council meeting, Council directed staff to report back on progress made to eliminate unnecessary train whistles; to eliminate unnecessary train whistles in Sapperton and Queensborough by 2026 and investigate the associated costs or provincial/federal funding opportunities.

DISCUSSION

The At-Grade Public Crossing Whistle Cessation Summary is included with this report as attachment 3.

New Westminster has 27 at-grade public rail crossings. 11 of these are on the mainland portion of the City, and 16 are in Queensborough. The At-Grade Public Crossing Whistle Cessation Summary identifies each public crossing within the City of New Westminster. It does not include any of the 15 private crossings.

Accurate cost estimates and implementation dates for both GCR/GCS compliance and the implementation of whistle cessation at each individual crossing will require further examination, design analysis and stakeholder engagement. Some of the factors that can impact the scale of compliance upgrades are: the number of tracks at the crossing, train speeds, existence of fencing and barricades, user sightlines, the availability of public land, proximity to private property, proximity to road infrastructure and intersections and the presence of utilities.

Stakeholder engagement at both the staff level and with the respective rail companies is a key requirement for the implementation of whistle cessation.

Short Term Opportunities

The following crossing requires the completion of construction deficiencies, a final safety assessment, insurance acquisition and stakeholder agreements:

1. Furness Street @ Duncan Street Queensborough

Whistle cessation at this crossing by the end of 2023 is a possibility.

Mid Term Opportunities

Due to the requirements of GCR/GCS and whistle cessation, and because they serve a single private property, the following crossings are recommended for re-assignment from Public to Private:

1. Twentieth (20th) Street crossing West End / Mainland
2. Fourth (4th) Avenue crossing West End / Mainland

Although the timeline for these re-assignments is currently unknown, preliminary discussions indicate that it might be possible to have them completed by the end of 2024. Each crossing requires further assessment and will require agreements with the property owners and railways, safety upgrades, land transfers and the execution of a variety of legal agreements. As previously mentioned, whistling is not required at private crossings unless emergent conditions exist.

The following crossings have had safety assessments completed, conceptual designs advanced, and class C estimates completed:

1. Spruce Street crossing Sapperton / Mainland
2. Cumberland Street crossing Sapperton / Mainland

Based on feedback and subject to the outcome of ongoing revision of the design drawings by the rail companies, it may be possible to complete construction work on both of the above crossings by the end of 2024 with the implementation of whistle cessation in 2025. Achievement of this goal is subject to resource availability from the rail companies, availability of equipment, materials and contract personnel to complete the capital works. An adequate and up-to-date budget will be required for these crossings

Long Term Projects

The following crossings will require further design analysis and may require comprehensive structural modifications or road and/or rail re-alignments:

1. Furness Street @ Ewen Avenue Queensborough
2. Mercer Street @ Ewen Avenue Queensborough
3. Ewen Avenue @ Stanley Street Queensborough
4. Salter Street @ Derwent Way Queensborough
5. Braid Street @ Brunette Avenue Sapperton / Mainland
6. Braid Street @ Vulcan Street Sapperton / Mainland

The above crossings are considered highly complex, resource intensive (both City and railway companies), projects that will require further examination to better understand the technical implications, resource and capital expenditure impacts, as well as implementation timeframes.

The recently constituted Railway Technical Committee (RTC) held its first meeting on February 28th, 2023. The meeting was chaired by City staff, and was attended by staff from the Engineering Department and New Westminster Fire and Rescue Services, the four Railway companies operating in New Westminster, and the Provincial and Federal regulators. The topics discussed included Council motions, the community's demand to

achieve whistle cessation and including railway contact information on the City's website. The Terms of Reference for the RTC is provided in attachment 4.

NEXT STEPS

Staff will continue working directly with stakeholders and through the RTC to better understand the costs and timelines for upgrading the Queensborough and Sapperton public crossings and implementing whistle cessation. This information will be used to update the At-Grade Public Crossing Whistle Cessation Summary, which will be presented to Council as a part of a quarterly update process.

Staff will update the City's website on a quarterly basis with relevant information regarding progress on Citywide whistle cessation. Staff will continue to work with rail partners to advance the implementation of whistle cessation at the Short Term and Mid Term Opportunity crossings.

FINANCIAL IMPLICATIONS

The 2023-2027 Proposed Five Year Financial Plan includes $1.89M to support rail crossing upgrades and whistle cessation projects, of which $0.89M has been allocated to the 2023 Proposed general fund Capital Budget. The 2023 capital budget aims to advance stakeholder engagement, conceptual design works and to advance service and equipment procurement where appropriate. This work will inform and identify the scope, risk and constraints to advance the safety works and provide information on total funding requirements.

Third party grant funding opportunities are available for safety upgrades through Transport Canada's Railway Safety Improvement Program (RSIP). RSIP has recently changed their funding model from an open call system, which accepts applications throughout the year, to a closed call system, which only accepts applications during specific timeframes.

Municipalities are eligible to receive up to an 80% financial contribution per eligible project with a maximum contribution amount per recipient (not project) of $10,000,000 per fiscal year. See attachment 5 – RSIP Information.

INTERDEPARTMENTAL LIAISON

Engineering Services will continue to work with the Finance and Legal Departments to minimize both the financial impacts and risk exposure to the City. Additionally, the Communications Department will be updated with advancements in major milestone progress or impactful phases of the work. The Fire Department is a member of the RTC.

OPTIONS

The following options are presented for Council's consideration:

1. That Council receive this report for information;

2. That Council provide alternative direction to staff.

Staff recommends Option 1.

CONCLUSION

Whistle cessation is a challenging, expensive and prolonged process. Implementing Citywide train whistle cessation in a timely manner will require dedicated staff resources, the continuation of collaborative stakeholder relationships and adequate capital funding from the City.

Staff will provide quarterly updates to Council (through reports) and to the public (through our website) on the progress of Citywide whistle cessation in 2023.

ATTACHMENTS

Attachment 1 – Canadian Rail Operating Rules (CROR) Excerpt – Page 25
Attachment 2 – City of New Westminster bylaw 7698, 2014
Attachment 3 – At-Grade Public Crossing Summary
Attachment 4 – Railway Technical Committee Terms of Reference
Attachment 5 – RSIP Application Information

APPROVALS

This report was prepared by:
Garey Carlson, Engineering Technologist

This report was reviewed by:
Christy Mereigh, Manager, Strategic Projects
Kwaku Agyare-Manu, Senior Manager, Engineering Services

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

Corporation of the City of
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Attachment # 1

Canadian Rail Operating Rules

(CROR) Excerpt – Page 25

13. ENGINE BELL

(a) The engine bell must be rung when:
- (i) an engine is about to move, except when switching requires frequent stopping and starting after the initial move;
- (ii) passing any movement standing on an adjacent track;
- (iii) approaching, passing or moving about station facilities or shop track areas; and
- (iv) one-quarter of a mile from every public crossing at grade (except within limits as may be prescribed in special instructions) until the crossing is fully occupied by the engine or cars. At crossings where engine whistle signal 14(l) is applicable the engine bell need not be rung.

(b) Should the engine bell fail on the lead locomotive in the consist, repairs must be made as quickly as possible. If repairs cannot be made the movement may proceed to the first point where repairs can be made. The engine bell if available on another locomotive in the consist will be rung continuously or operated by another member of the crew, when available, under the direction of the locomotive engineer.

14. ENGINE WHISTLE SIGNALS

NOTE:

(i) Wherever the words “engine whistle” appear in these rules they also refer to “engine horn”. Signals prescribed by this rule are illustrated by “o” for short sounds; “___” for longer sounds.

(ii) Engine whistle signals must be sounded as prescribed by this rule, and should be distinct, with intensity and duration proportionate to the distance the signal is to be conveyed. Unnecessary use of the whistle is prohibited.

(iii) Radio must not be used in lieu of engine whistle signals for indications prefixed by the symbol (#).

(a) o

When standing - braking system is equalized; angle cock may be closed.

(b) o o

Note: Not applicable when switching.

(i) Answer to a “stop” signal (except a fixed signal).

(ii) Answer to any signal not otherwise provided for.

(e) o o o o o o o

To notify track forces of fire on or near the right of way (to be repeated as often as required).

(f) Succession of short sounds

(#) Alarm for persons or animals on or near the track.

(l) ___ ___ o ___

(i) (#)At public crossings at grade:

A whistle post will be located 1/4 mile before each public crossing where required. Whistle signal must be sounded by movements:
- exceeding 44 MPH, at the whistle post
- operating at 44 MPH or less, in order to provide 20 seconds warning prior to entering the crossing.

Whistle signal must be prolonged or repeated until the crossing is fully occupied.

EXCEPTION: Not applicable when manual protection is to be provided or when shoving equipment other than a snow plow over a crossing protected by automatic warning devices.

(ii) (#) At other whistle posts indicated in special instructions.

(iii) (#) At frequent intervals when view is restricted by weather, curvature or other conditions.

(iv) Special instructions will govern when such signal is prohibited in whole or in part.

(r) In case of engine whistle failure the engine bell must be rung continuously;

Corporation of the City of
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Attachment # 2

City of New Westminster Bylaw

7698, 2014

CORPORATION OF THE CITY OF NEW WESTMINSTER

BYLAW NO. 7698, 2014

A bylaw to regulate the sounding of train engine whistles at specified railway/roadway at-grade crossings in the City of New Westminster pursuant to the Railway Safety Act [SBC 2004] Chapter 8 and the Railway Safety Adopted Provisions Regulation (B.C. Reg 210/2004).

WHEREAS pursuant to Section 9 (1) of the *Railway Safety Act* [SBC 2004], the Province of British Columbia may adopt by regulation provisions of the *Railway Safety Act (Canada)*;

AND WHEREAS pursuant to Section 3 of the *Railway Safety Adopted Provisions Regulation* (B.C. Reg 210/2004) the Province has wholly adopted the provisions of Section 23.1 of the *Railway Safety Act (Canada)*;

AND WHEREAS pursuant to Section 23.1 of the *Railway Safety Act (Canada)*, a municipality may by resolution declare that train engine whistles not be used in a specified area within a municipality;

AND WHEREAS Council deems it desirable that railways cease the sounding of train engine whistles at the railway/roadway at-grade crossings listed in Schedule "A" attached hereto;

NOW THEREFORE the City Council of the Corporation of the City of New Westminster in open meeting assembled **HEREBY ENACTS AS FOLLOWS:**

1. Railways are relieved of the obligation under the Canadian Railway Operating Rules for the sounding of train engine whistles at all railway/roadway at-grade crossings in the City of New Westminster, in accordance with the provisions of Section 3 of the *Railway Safety Adopted Provisions Regulation* (B.C. Reg 210/2004) and, Section 23.1 of the *Railway Safety Act (Canada)*.

2. This By-law shall come into full force and effect on the day upon which the BC Safety Authority or Transport Canada confirms in writing that the railway/roadway at-grade crossings listed in Schedule "A" meet the safety and technical standards required for cessation of train engine whistling in accordance with the provisions under the *Railway Safety Act* [SBC 2004] Chapter 8 and the *Railway Safety Adopted Provisions Regulation* (B.C. Reg 210/2004) and, Section 23.1 of the *Railway Safety Act (Canada)*.

3. This By-law may be cited for all purposes as the "New Westminster Train Whistle Cessation Bylaw 7698, 2014."

GIVEN FIRST READING this 7th day of July, 2014.

GIVEN SECOND READING this 7th day of July, 2014.

GIVEN THIRD READING this 7th day of July, 2014.

ADOPTED and the Seal of the Corporation of the City of New Westminster affixed this 25th day of August, 2014.

MAYOR **MAYOR WAYNE WRIGHT**

CORPORATE OFFICER

JAN GIBSON, ACTING CORPORATE OFFICER

Doc# 569547

SCHEDULE "A"

Rail Level Crossings where the Railway Companies and their train crews are relieved from the responsibility for sounding train engine whistles:

RAILWAY	SUBDIVISION	MILEAGE	HIGHWAY
SRY Rail Link	Marpole Spur	15.14	Twentieth Street
SRY Rail Link	Fraser Valley Sub	0.06	Begbie Street
SRY Rail Link	Queensborough Branch	0.30	Quayside Drive
SRY Rail Link	Queensborough Branch	0.69	Port Royal
SRY Rail Link	Annacis Connector	0.07	Ewen Avenue at Furness Street
SRY Rail Link	Annacis Connector	0.21	Ewen Avenue at Mercer Street
SRY Rail Link	Annacis Connector	0.34	Ewen Avenue at Stanley Street
SRY Rail Link	Annacis Connector	0.63	Salter Street

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Attachment # 3

At-Grade Public Crossing Summary

AT - GRADE PUBLIC CROSSING WHISTLE CESSATION SUMMARY

No.	Area	Crossing	Owner	Users	Required Work	Estimated Cost	Status	Cessation Possible
1	QB	Salter Street @ Derwent Way	SRY	SRY	Further analysis required. Possible road re-alignment of Derwent may be required.	TBD	Reviewing Information	TBD
2	QB	Stanley St / 400 Ewen Ave Access (MUP)	SRY	SRY	Further analysis required. Possible rail or road re-alignment may be required.	TBD	Reviewing Information	TBD
3	QB	Ewen Avenue @ Stanley Street	SRY	SRY	Further analysis required. Possible rail or road re-alignment may be required.	TBD	Reviewing Information	TBD
4	QB	Mercer Street @ Ewen Avenue	SRY	SRY	Further analysis required. Possible rail or road re-alignment may be required.	TBD	Reviewing Information	TBD
5	QB	Furness Street @ Ewen Avenue	SRY	SRY	Further analysis required. Possible rail or road re-alignment may be required.	TBD	Reviewing Information	TBD
6	QB	Boundary Road @ Boyd Street	SRY	SRY	Further analysis required.	TBD	Reviewing Information	TBD
7	QB	Gifford Street @ Boyd Street	SRY	SRY	Further analysis required.	TBD	Reviewing Information	TBD
8	QB	Howes Street @ Boyd Street	SRY	SRY	Further analysis required.	TBD	Reviewing Information	TBD
9	QB	Queensborough Landing Pedestrian Crossing	SRY	SRY	Further analysis required.	TBD	Reviewing Information	TBD
10	QB	Queensborough Landing Vehicle Crossing West	SRY	SRY	Further analysis required.	TBD	Reviewing Information	TBD
11	QB	Queensborough Landing Vehicle Crossing East	SRY	SRY	Further analysis required.	TBD	Reviewing Information	TBD
12	QB	Wood Street @ Boyd Street	SRY	SRY	Further analysis required.	TBD	Reviewing Information	TBD
13	QB	Boyne Street @ Boyd Street	SRY	SRY	Further analysis required.	TBD	Reviewing Information	TBD

QB = Queensborough / ML = Mainland
TBD = To Be Determined

Updated to end of: 2023 – Q1

No.	Area	Crossing	Owner	Users	Required Work	Estimated Cost	Status	Cessation Possible
14	QB	Stanley Street @ Duncan Street	SRY	SRY	Further analysis required.	TBD	Reviewing Information	TBD
15	QB	Furness Street @ Duncan Street	SRY	SRY	Construction deficiencies to be completed.	TBD	Construction In Progress	2023
16	QB	Pedestrian Crossing @ Brookes Street	SRY	SRY	None – whistle cessation has been implemented	N/A	Complete	Complete
17	ML	Twentieth Street @ River Drive	SRY, CP, CN	SRY, CP, CN	Re-assign crossing from public to private. Further analysis required.	TBD	Reviewing Information	TBD
18	ML	Fourth Avenue @ Fourteenth Street	SRY, CP, CN	SRY, CP, CN	Re-assign crossing from public to private. Further analysis required.	TBD	Reviewing Information	TBD
19	ML	Quayside Drive @ Laguna Court	SRY	SRY	None – whistle cessation has been implemented	N/A	Complete	Complete
20	ML	Begbie Street @ Front Street	CN	SRY, CN, CP, BNSF	None – whistle cessation has been implemented	N/A	Complete	Complete
21	ML	Front Street @ Fourth Street	CN	SRY, CN, CP, BNSF	None – whistle cessation has been implemented	N/A	Complete	Complete
22	ML	Cumberland Street @ Columbia Street	CP, BNSF	CN, CP, BNSF	Flashing Lights, Bells and Gates plus pedestrian facility upgrades.	$1.0 M	Conceptual Design	2025
23	ML	Spruce Street @ Brunette Avenue	CP, BNSF	CN, CP, BNSF	Flashing Lights, Bells and Gates plus pedestrian facility upgrades. Skytrain Station access / egress integration required.	$1.2 M	Conceptual Design	2025
24	ML	Capilano Way @ Edworthy Way	BNSF	BNSF	Due to low rail activity, whistle cessation has not been pursued at this crossing.	TBD	Reviewing Information	TBD
25	ML	Braid Street @ Brunette Avenue	CN	CN, BNSF	Safety re-assessment required to identify work required for cessation.	TBD	Reviewing Information	TBD
26	ML	Braid Street @ Vulcan Street	CP	CP	Safety re-assessment required to identify work required for cessation.	TBD	Reviewing Information	TBD
27	ML	Braid Skytrain Station access road	CN	CN, BNSF	Due to low rail activity, whistle cessation has not been pursued at this crossing.	TBD	TBD	TBD

Corporation of the City of
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Attachment # 4

Railway Technical Committee

Terms of Reference

Railway Technical Committee Terms of Reference

Purpose

The City of New Westminster Railway Technical Committee (RTC) will provide a forum for the exchange of information between the Canadian Pacific (CP), Canadian National (CN), Burlington Northern (BNSF) and Southern Railway of BC (SRY), Transport Canada, Technical Safety BC, and the City of New Westminster (CNW).

The committee will meet, discuss and provide updates of plans, concerns or issues and assist one another on resolutions.

Items for Discussion may include, but are not limited to, the following areas:

- Rail and Public Safety (ex: Operation Lifesaver initiatives)
- Rail Crossing Upgrades to be Compliant with the Transport Canada Grade Crossing Regulations
- Whistle Cessation Initiatives
- Railway Train and Yard Operations (ex: shunting, noise and emissions)
- Road Authority and Railway Infrastructure Improvement Projects
- Planned Development Projects or other area restructure plans adjacent to railway right-of-way
- Railway and City Emergency Preparedness and Planning
- Railway Maintenance Programs (ex: fencing, brush clearing and crossing surfaces)
- Grant Opportunities Related to Railway Projects
- Rail Crossing Monitoring Programs (ex: compliance and trespass)

Composition

The RTC will be chaired by Lisa Leblanc, Director of Engineering, City of New Westminster, and the membership will be comprised of the following:

- CN Representative
- CP Representative
- BNSF Representative
- SRY Representative
- Transport Canada Representative
- Technical Safety BC Representative

Staff Support

The RTC will be supported by staff from the Engineering Dept., New Westminster Fire, Integrated Services and other departments as required. The committee will be documented with meeting minutes circulated after each meeting.

- Megan Jones; Engineering Clerk
- Garey Carlson; Engineering Technologist
- Christy Mereigh; Manager, Strategic Projects
- Jeff Gill; Assistant Deputy Chief
- Kanny Chow; Transportation Engineer

Schedule of Meetings

It is anticipated that the Railway Technical Committee will meet on a quarterly basis; however, this may be modified dependent on individual project planning and scheduling needs.

Corporation of the City of
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Attachment # 5

RSIP Application Information

Transport Canada – Rail Safety Improvement Program (RSIP) Information

RSIP applications are assessed on the following criteria:

- Relevance of the project: how closely the proposed project corresponds to the RSIP objectives and eligible activities.
- Quality of the Application: the degree to which the planned activities, schedule, budget, targeted results, roles, and responsibilities are clear, realistic, and consistent with the proposed project's objectives.
- Value for the money: the degree to which the project represents an appropriate use of public funds towards achieving the broader objectives of the program.
- Impact timeline: the timeline for how long it will take for this project to have a positive impact on rail safety.
- Environmental Conditions: whether the location is prone to extreme weather conditions that have an impact on rail safety.
- Project safety priority ranking based on the following criteria:
    - Historical collision data
    - Train and traffic volumes
    - Train and traffic speeds
    - Crossing configuration
    - Number of tracks and lanes
    - Existing crossing protection
    - Recommendations received from site inspections
- The project leverages participation from other public and private entities
- Applicant's relevant experience and capacity

Due to the limited amount of available funds in a given year, the applications received under RSIP are prioritized and the funds are allocated based on risk and identified safety issues, as well as the potential for the project to reduce collisions (fatalities, injuries and property damage).

Additional information on the RSIP funding program is available at:

https://tc.canada.ca/en/programs/funding-programs/rail-safety-improvement-program