

11.1. NOTICE OF MOTION

I hereby give notice that at the Ordinary Meeting of Council on 24 June 2020 I will propose the following motion:

THAT Council:

The position of Council with regard to the heritage railway gates resolved in 23 February 1997 is particularly relevant following the 30 May 2020 incident that resulted in damage to the gate.

In light of that position from the resolution of the 23 February 1997 Council Meeting:

SUMMARY

This report deals with an application to relocate the existing interlocking railway gates at Lydiard Street North to replace them with boom barriers (and associated new signals etc) and to undertake heritage restoration works to the gates their mechanisms and the adjacent signal box. The application has been publicly notified and six objections received. The report recommends that the application be refused.

RESOLUTION

That Council issue a Notice of Refusal on the following grounds:

- 1. That proposed works are not in accordance with the orderly and proper planning of the subject land and the area which land is situated.***
- 2. The proposed works will significantly detract from the unique historical charter of Ballarat.***
- 3. The proposal will significantly detract from the historical importance of the adjacent historical buildings and places.***
- 4. The conservation analysis provided in the application fails to meet Burra Charter principals or follow the JS Kerr process, and in particular fails to identify the significance of the Lydiard Street gates within a broader statewide and national context.***
- 5. The data on cost comparisons between alternative crossing treatments is inadequate, and a case of community financial hardship in the event of the refusal of the application is not established.***

I request that Council advocate this position to the following:

- Relevant Ministers
- Vic Track
- V-Line
- Heritage Victoria
- National Trust

Cr McIntosh

ATTACHMENT

Notice of Motion



COUNCILLORS NOTICE OF MOTION FORM

(In accordance with Division 4, Clause 31, Ballarat City Council Meeting Procedure Local Law)

TO: Chief Executive Officer – City of Ballarat

FROM: Cr Samantha McIntosh

DATE: 19/06/2020

I hereby give notice that at the Ordinary Meeting of Council on 24 June 2020 I will propose the following motion:

THAT Council:

The position of Council with regard to the heritage railway gates resolved in 23 February 1997 is particularly relevant following the 30 May 2020 incident that resulted in damage to the gate.

In light of that position from the resolution of the 23 February 1997 Council Meeting:

SUMMARY

This report deals with an application to relocate the existing interlocking railway gates at Lydiard Street North and to replace them with boom barriers (and associated new signals etc) and to undertake heritage restoration works to the gates their mechanisms and the adjacent signal box. The application has been publicly notified and six objections received. The report recommends that the application be refused.

RESOLUTION:

That Council issue a Notice of Refusal on the following grounds:

- 1. The proposed works are not in accordance with the orderly and proper planning of the subject land and the area within which the land is situated.***

2. ***The proposed works will significantly detract from the unique historical character of Ballarat.***
3. ***The proposal will significantly detract from the historical importance of the adjacent historical buildings and places.***
4. ***The conservation analysis provided in the application fails to meet Burra Charter principles or follow the JS Kerr process, and in particular fails to identify the significance of the Lydiard Street gates within a broader statewide and national context.***
5. ***The data on cost comparisons between alternative crossing treatments is inadequate, and a case of community financial hardship in the event of the refusal of the application is not established.***

I request that Council advocate this position to the following:

- Relevant Ministers
- Vic Track
- V-Line
- Heritage Victoria
- National Trust

Signed:



Dated:

19-06-2020


Extracts from Meeting Procedure Local Law

31 Councillors may propose Notices of Motion

- 31.1 Prior to a Council Meeting, Councillors wanting to include a matter on the Agenda, must complete a Notice of Motion form.
- 31.2 A Notice of Motion form must be signed by the Councillor, and be lodged with the Chief Executive Officer (whether personally, by facsimile, email or otherwise) by 4pm the Thursday before the Council Meeting so as to allow sufficient time for him or her to give each other Councillor notice of such Notice of Motion, and to allow sufficient time for the Notice of Motion to be put in the Agenda for the next Council Meeting. If a Notice of Motion form is received after that time, it must, unless withdrawn, be included in Agenda for the following Council Meeting.
- 31.3. A Notice of Motion may be withdrawn by the Councillor who lodged it by a request in writing received (whether personally, by facsimile, email or otherwise) prior to the publication of the Agenda for which the Notice of Motion was intended. Otherwise, the item must be dealt with at a Council Meeting.
- 31.4 The Chief Executive Officer must reject any Notice of Motion which:
- 31.4.1. is too vague;
 - 31.4.2. is identical or substantially similar to a Notice of Motion or a Recession Motion that has been considered by the Council and lost in the preceding six (6) months;
 - 31.4.3. is defamatory;
 - 31.4.4. may be prejudicial to any person or Council;
 - 31.4.5. is objectionable in language or nature;
 - 31.4.6. is outside of the powers of Council;
 - 31.4.7. is a notice of motion submitted during the caretaker period; or
 - 31.4.8. is a matter subject to a Council decision making process which has commenced but not yet complete.
- 31.5 If the Chief Executive Officer rejects a Notice of Motion under sub-clause 31.4, he or she will inform the Councillor who lodged the Notice of Motion of that rejection and the reasons for it. The Councillor will be provide with 24 hours to lodge a revised Notice of Motion provided that the Meeting at which the Notice of Motion is to be considered is more than 24 hours from the time of rejection.
- 31.6. The Chief Executive Officer may reject and refer any Notice of Motion to the Council's Operational service request process if it relates to a matter that he or she determines is more appropriately addressed that way.
- 31.7. Subject to sub-clauses 31.8 and 31.9 a Notice of Motion must call for a Council report if the Notice of Motion:
- 31.7.1. substantially affects the level of Council services;

- 31.7.2. commits the Council to expenditure in excess of \$20,000 and that has not been included in the adopted budget;
 - 31.7.3. establishes or amends a Council policy; or
 - 31.7.4. commits the Council to any contractual arrangement, as determined by the Chief Executive Officer.
- 31.8. Where a Notice of Motion is likely to commit Council to significant expenditure not included in the adopted budget then the Notice of Motion must call for a report for Council's consideration and public submission process if applicable.
- 31.9. The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with Section 89(2) of the Act, in which case the Notice of Motion will be confidential unless the Council resolve otherwise.
- 31.10. full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the material accompanying the Agenda.
- 31.11. the Chief Executive Officer must arrange for a formal report to be prepared and presented to the Council for the purposes of sub-clause 31.7. Where practicable the report should be presented to the next Council Meeting.
- 31.12. The Chief Executive Officer must cause all Notices of Motion to be numbered, dated and entered in the Notice of Motion register in the order in which they were received.
- 31.13. Except by leave of Council, each Notice of Motion must be considered in the order in which they were received by the Chief Executive Officer.
- 31.14. If a Councillor who has given a Notice of Motion is absent from the Council Meeting or fails to move the motion when called upon by the Chairperson, any other Councillor may move the motion.
- 31.15. If a Councillor proposing the motion wishes to amend the Notice of Motion, he or she may do so by seeking leave of the Council to amend the Notice of Motion prior to it being seconded.
- 31.16. The Chairperson, having lodged a Notice of Motion in accordance with this clause, must vacate the Chair of the Council Meeting to move the Notice of Motion; and the Deputy Mayor or, in the absence of the Deputy Mayor, temporary Chairperson appointed by the Council, will take the Chair for the duration of consideration of the item.
- 31.17. If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

Office Use Only

Notice Received	Date 19 June 2020
Notice accepted / rejected by CEO (please circle)	Date:- 19 June 2020 Signature:- 
Notice Given To Councillors	Date:- Signature:-
Date of Meeting	
Notice Number	