JOHN HOLLAND

9 October 2018

Attention: Mr Paul Freeman
Department of Planning and Environment (NSW)
GPO Box 39
Sydney NSW 2001

Also by email: paul.freeman@planning.nsw.gov.au

E-MAILED 09/10/2018

Dear Mr. Freeman,

RE: **Section 75W Modification to Project Approval 06_0271**
LAND: **Lots 1 and 2 DP 800003 (708 Pipers Flat Road, Wallerawang) (Land)**

I acknowledge that you have received a s75W modification to the Western Rail Coal Unloader, project approval 06_0271 (**Project Approval**) under section 75W of the Environmental Planning and Assessment Act 1979 from Energy Australia NSW Pty Ltd (**Proponent**).

I note that the key changes proposed to the Project Approval (**Modification**) are as follows:

- A redesign of the rail loop to better optimise the natural land contours, reduce the maximum height of the rail embankment by 4m and provide two branch line connections (rail loop and optional rail spur);
- Repositioning the coal unloader approximately 250m to the west, to line up with the overland conveyor;
- Removal of the approved transfer conveyor and intermediate transfer station;
- Removal of certain approved ancillary infrastructure such as the wagon maintenance area, locomotive provisioning area and diesel storage area;
- An extension to the lapse of the consent; and
- Amendment to the conditions of approval and the state.

I advise that I had a telephone conference on 8 October 2018 with Scott of Lycopodium Infrastructure Pty Ltd and Geoff of Energy Australia NSW Pty Ltd where Scott provided further clarification in respect of Environmental Assessment (**EA**), details of which are as follows:

- There is an existing level crossing at the main site access road which is not shown in Figure 4 of EA;
- The pipeline in the original Project is proposed to be installed by way of crossing the rail corridor; and
- Some of bridges, culverts and crossing structures proposed to be installed are within the rail corridor land.

Background

Transport for NSW (**TfNSW**) is the land owner of the Country Regional Network (**CRN**) railway lines across NSW. As of 15 January 2012, JHR has been appointed to manage the CRN. As such JHR is responsible for reviewing development applications, planning proposals and policies on the lands adjoining the rail corridor to ensure potential impacts to rail operations (current and future) are considered and addressed.

The land affected by the Modification, being Lots 1 & 2 DP 800003 (**Land**) is adjacent to the rail corridor which forms part of the operational Wallerawang to Baal Bone Junction line. As such, this letter is prepared and provided on the basis of the following authority:

a. State Environmental Planning Policy (SEPP) (Infrastructure) 2007 (the **ISEPP**) and;

b. Development Near Rail Corridors and Busy Roads – Interim Guideline (2008) (the **RMS Guideline**) http://www.rms.nsw.gov.au/documents/projects/guideto-infrastructure-development-near-rail-corridors-busy-roads.pdf.

The scope of this letter is in relation to the Modification as well as the original Project Application as the Project was approved while the subject railway line was managed by Australian Rail and Track Corporation Limited (**ARTC**). Therefore, comments contained in this letter should be considered in addition to conditions required by ARTC in the Project Approval.

Furthermore, should there be an inconsistency between the comments made by ARTC and JHR provided in this letter, the comments made by JHR shall prevail to the extent of the inconsistency.

Assessment and requirements of JHR

1. **Risk Assessment/Management Plan and Safe Work Method Statements**

As the Land is adjacent to the rail corridor which contains the railway line currently in operation, it is vital for JHR to be satisfied with risk assessment and safety involving works including but not limited to construction of infrastructure including the branch line connections as well as the coal unloader and removal of the approved transfer conveyor and ancillary infrastructure. As such, it is requested that the Minister for Planning impose a condition requiring the Proponent to submit to JHR a Risk Assessment/Management Plan and detailed Safe Work Method Statements in respect of each work for its review and comment prior to issue of a Construction Certificate.

2. **Construction of rail infrastructure comprising railway line connections for rail loop and optional rail spur**

It is noted that the Modification contains proposed construction of two (2) railway lines to be connected to the main railway line (**Works**) currently managed by JHR. The Proponent may request TfNSW to carry out the Works at the Proponent's costs subject to appropriate legal documents in place. Alternatively, the Proponent may elect to carry out the Works by itself in which case, it is advised as follows:

2.1 The Proponent is required to submit an application to JHR for approval in principle (AIP) for JHR's endorsement and for TfNSW's approval/non-approval;

2.2 Once AIP is obtained, the Proponent is required to submit an application for construction for JHR's endorsement and for TfNSW's approval/non-approval;

2.3 Once the application for construction is approved, the Proponent is required to enter into two siding connection licences with TfNSW; and

2.4 The Proponent is required to enter into Safety Interface Agreement for each connection line with JHR and an Accreditation Deed in accordance with the Rail Safety National Law 2002;

In addition to the above, the Proponent is advised to carry out its Works in compliant with JHR's Safety Management System, Rail Infrastructure Manager Accreditation requirements as determined by JHR, as the RIM of the CRN at the Proponent's costs should costs be associated with complying with JHR's requirements.

As such, the Minister for Planning is requested to impose a condition requiring the Proponent to comply with JHR's requirements in respect of the above.

JHR note that the application for AIP is currently under JHR's review prior to its submission to TfNSW. Please note that this letter does not constitute an approval from TfNSW in respect of construction of the rail infrastructure.

3. Construction of structures

It is proposed to construct a number of bridges, culverts and crossing structures as part of the Modification. The Minister for Planning is requested to impose a condition requiring that an application for construction of each structure must be submitted to JHR prior to its submission to TfNSW if such structure is proposed to be constructed within the rail corridor land. Please note that this letter does not constitute an approval from TfNSW in respect of the proposal for construction of the structures.

4. Environmental Protection Licence

JHR note that the subject railway line is currently covered under JHR's Environmental Protection Licence (**EPL**). Minister for the Planning is requested to require a condition that the Proponent obtains and subsequently provides to JHR a separate EPL for the construction and operational phase in accordance with Draft Amendments to Protection of Environmental Operations Regulations (Scheduled Activities) 2016 so that the Project including the Modification has no adverse impact on JHR's EPL licence.

5. Excavation in, above, below or adjacent to rail corridors

It is noted that major earthworks for the rail line loop and excavation of the coal unloader chamber will be carried out during stage 1 forming part of 3 construction stages. Clause 86 of the ISEPP stipulates that the consent authority must not grant consent without consulting with the rail authority and obtaining concurrence consistent with clauses 86(2) – (5) in the event that the development involves the penetration of ground to a depth of at least 2m below ground level on land within 25m of a rail corridor.

The details of the earthworks and excavation are yet to be available as of the date of this letter. However, in the event that Stage 1 involves excavation exceeding 2m below within 25m of the rail corridor, it is then requested that the Minister for Planning requires a condition imposing the Proponent to provide geotechnical advice confirming the works forming part of Stage 1, during construction or operation, will have no impact on the stability of the rail corridor land.

6. Traffic Management

It is noted that the Modification contains a proposal to use Level Crossing A to access the site through the proposed main site access road and to close Level Crossing B (**attached** a plan for level crossings). Furthermore, EA states that the conditions relating to the Traffic and Transport Impacts in the Project Approval are considered appropriate for the proposed Modification.

It appears that such conditions do not address the likelihood of its potential increases in use of Level Crossing A by the heavy machinery/plant during the construction phase as a result of closing Level Crossing B. As such, the Minister for Planning is requested to impose a condition requiring that the Proponent, upon consultation with Lithgow Council, provides an assessment of suitability of Level Crossing A to ensure that its safety risks are properly addressed as a result of such increase of its use.

In terms of the proposed closure of Level Crossing B, it is advised that it requires Ministerial approval under the Transport Administration Act 1988. Therefore, the Minister for Planning is requested to impose a condition that the Proponent provides JHR with a comprehensive analysis containing road and rail operational risks, costs and benefits together with effective consultation with the local community prior to JHR's submission of such proposal. Please find ***attached*** a copy of Level Crossing Closures Policy as adopted by TfNSW.

7. Cranes

The RMS Guideline provides that a crane, concrete pump or other equipment (**Equipment**) must not be used in airspace over the rail corridor without approval in writing from JHR.

In the event that such Equipment are required to be used, it is requested that the Minister for Planning impose a condition requiring an safety assessment of the works to be undertaken by a qualified Protection

Officer (as defined in the JHR Network Rules and Procedures http://www.jhrcrn.com.au/what-we-do/network-operations-access/network-rules-procedures-forms) for any potential impact or intrusion on the Danger Zone (as defined in the JHR Network Rules and Procedures). In addition, it is also requested to impose a condition that use of Equipment must be in accordance with the AS 2550 series of Australian Standards, *Cranes, Hoist and Winches, including AS2550 15-1994 Cranes – Safe Use- Concrete Placing Equipment.*

8. Stormwater management

The RMS Guideline provides information regarding discharge of stormwater from a development during and after construction to be designed to ensure that no adverse effects will be had on the existing watercourse and drain infrastructure system. As there is no information regarding the stormwater management available, JHR is not in a position to assess its potential impacts on the rail corridor. As such please provide us with a plan showing the stormwater system of the Land and an engineering report for JHR's assessment.

In any event, the Minister for Planning is requested to impose a condition requiring that the quantity of water from the Proposal does not increase from pre-proposal flows, nor incorporate any discharge outlets into the rail corridor.

6. Derailment protection and other potential impacts of adjacent development on railway

The RMS Guideline provides information regarding the potential risks from a possible derailment in the context of design of buildings and structure.

As such, the Minister for Planning is requested to impose a condition requiring the applicant to provide JHR with a risk assessment addressing the potential risks of the derailment including considerations of the characteristics of the site, derailment history, the type of structure to be erected and track speed and whether this represents a risk to the integrity of the proposed structure and demonstrating compliance with the principle contained in RIC Standard, TS 30 000 3 01SP or Design Standard BDS 06 for ARTC.

7. Work Access & Possessions

Approval to work access and possession to the current railway line or part thereof (or air space) must be assessed and endorsed by JHR prior to the actual proposed access in accordance with JHR's Network Rules and Procedures and the JHR Possession Manual. This information can be found at http://jhrcrn.com.au/what-we-do/network-operations-access/network-access-planning-performance/.

Once accessed and endorsed, JHR will submit the approval sought to TfNSW's approval/no approval.

It is noted that access to the site will be from either the main entrance on Pipers Flat Road or via the access road and any part of the rail corridor land should not be used to access to the site prior to approval from TfNSW.

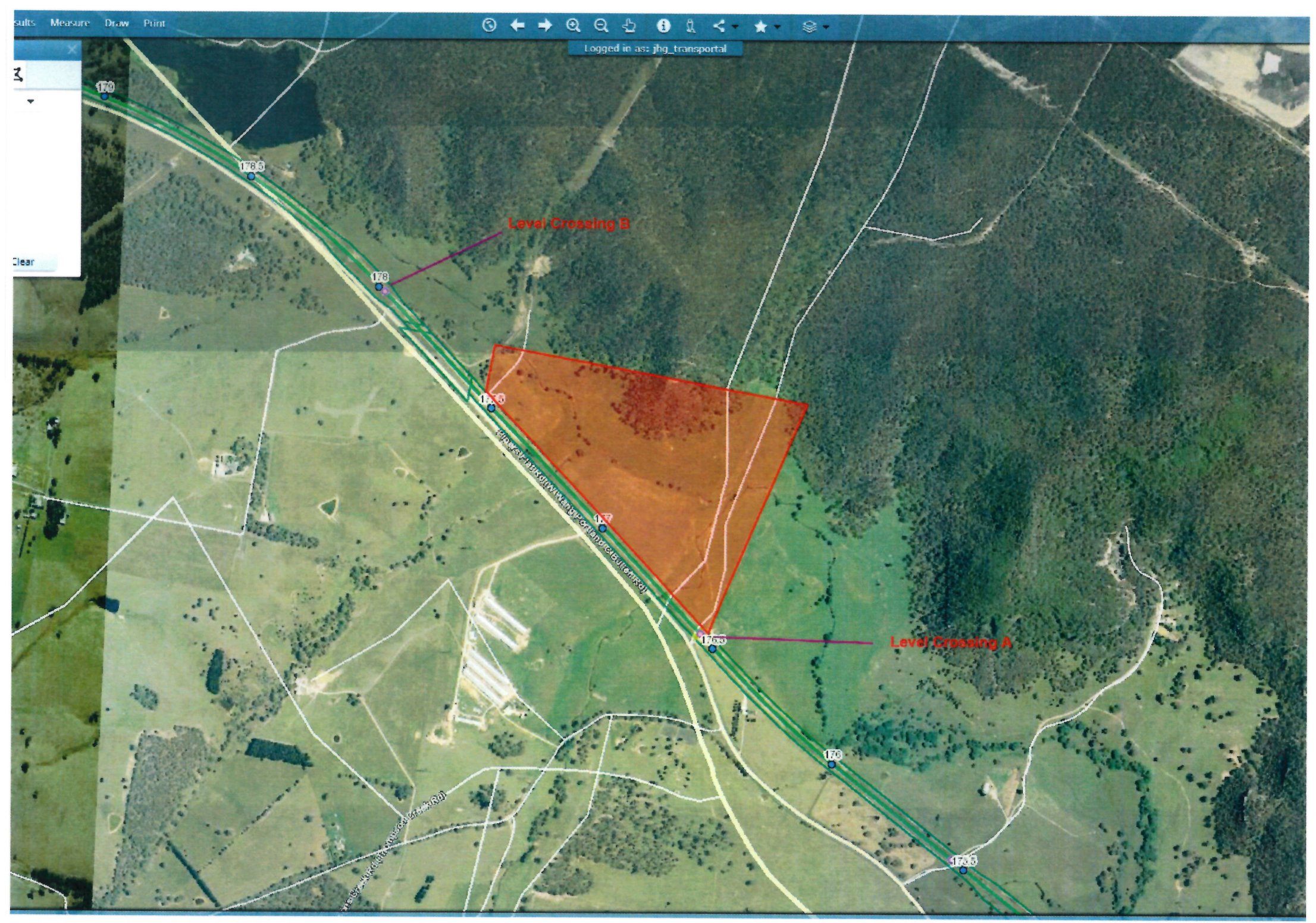
8. Lighting, external finishes and design

The RMS Guideline provides information regarding lighting and external finishes of buildings which may have potential impacts on the rail corridor. In particular, it is requested that the Minister for Planning require the use of red and green lights being avoided in all signs, lighting building colour schemes on any part of a building which faces the rail corridor.

Should you have any further enquiries regarding this matter please contact the writer either email at joanne.cheoung@jhg.com.au or telephone (02) 9685 5092 at your earliest convenience.

Yours faithfully,

Joanne Cheoung
Business Analyst
John Holland Rail
Country Regional Network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Level Crossing B
Level Crossing A

Level Crossing Closures Policy

Purpose

To provide guidance and direction to transport planners and infrastructure managers in the ongoing development and management of the NSW rail network.

Background

Level crossings are the points at which roads and rail meet at substantially the same grade; they can represent significant collision potential for pedestrians, road and rail users.

Although the number of collisions appear to have stabilised in recent years and is at a historically low level, crashes at level crossings have the potential for high consequences.

In addition, there is concern about the number and significance of level crossing safety incidents involving heavy vehicles. Findings from a 2011 national research project show heavy freight vehicles are over represented in collisions at level crossings and the likelihood of fatalities is greater in crashes involving heavy freight vehicles compared to other types of road vehicles. This is also of concern given the projected growth in Australian freight over the next few decades; between 2010 and 2030 truck traffic is predicted to increase by 50% and rail freight is expected to jump by 90%. [1]

While engineering improvements (such as boom gates and flashing lights) can reduce the potential for accidents between road vehicles and trains, closure is ultimately the best method of completely eliminating risk at a level crossing.

There are two categories of level crossings in New South Wales. The first is an accommodation level crossing. Rail infrastructure owners are required under the *Public Works Act 1912* to provide a level crossing where the construction of a railway line cuts access to a road or a property. These accommodation crossings can be either private or public.

Private accommodation level crossings allow access to private properties, or between parts of private properties and are for the exclusive use of the property holder and their nominees and are not open to public access. Public accommodation crossings are located on main or local roads where the Roads and Maritime Services or local government is the road owner.

The second type of level crossing is a licensed crossing. These crossings were constructed after the railway line and require a licence agreement between the track owner and the entity requesting usage.

Due to the safety risk associated with level crossings, it is Government policy that where alternative access exists and following consultation with affected parties, level crossings be closed whenever possible.

Formal closure of any level crossing requires Ministerial approval under the *Transport Administration Act 1988.*

TfNSW Position

To manage the risks to safety associated with road and rail interfaces, the closure of public and

[1] Sources: ITSR, *NSW Level Crossing Strategy Council Six-monthly report covering occurrences to 31 March 2012,* April 2012 and Source: Infrastructure Australia

private level crossings in NSW is to be pursued, where it is practical and cost effective to do so. Access may be managed by a grade separation or by redirecting traffic via an alternate approved access route.

The Process for Closing a Level Crossing and Issues to be Considered

While the closure of level crossings is strongly supported, it is recognised that the closure of a level crossing may have adverse impacts on the adjacent landowners, emergency services, the community, road authorities, and other road and rail users. Proposals to close level crossings should, therefore, be based on a comprehensive analysis of road and rail operational risks, impacts, costs and benefits, and, if necessary, provision of safe and convenient alternative access. The approval process must also incorporate effective consultation which includes seeking local community support to close the level crossing and addresses the concerns of the local community.

Under s99B of *Transport Administration Act 1988*, a rail infrastructure owner may close any level crossing provided that prior to closing the crossing, it notifies Roads and Maritime Services and local council and receives Ministerial approval.

TfNSW reviews all applications for level crossing closures before they are submitted to the Minister to ensure that the relevant issues have been considered and adequate consultation has been undertaken with the land owner, the local council, emergency services, Roads and Maritime Services (if they are the road authority), and any other relevant parties.

Funding under the Level Crossing Improvement Program (LCIP) is supplementary to the existing capital and maintenance programs of rail infrastructure agencies to improve and maintain safety at the level crossings on their networks. Funding for level crossing closures is outside the scope of the LCIP.

The Level Crossing Strategy Council (LCSC) can be asked to provide advice on level crossing closures.