

**JOINT REGIONAL PLANNING PANEL
(Southern)**

JRPP Number	2016STH022 DA
DA Number	2016-048
Local Government Area	Hilltops Council
Proposed Development	Upgrade of existing out loading facilities at GrainCorp's grain storage and receival site including: upgrade and extend existing rail siding, construct new 1,000 tonne grain storage bin, construct new 1,000tph loading chute, construct grain conveyor system, and culvert extension.
Street Address	Lot 1 DP819483, Lot 1 DP1099050, Lot 2 DP1189921, Lot 1 DP170420, Lot 1 DP661559, Lots 6 and 7 DP133426, Lot 170 DP753607 and Lot 702 DP96079, 'Cunningar Silos' Cunningar Road, Cunningar.
Applicant/Owner	Applicant: GrainCorp Operations Ltd. Owner(s): GrainCorp Operations Ltd, Transport for NSW, Peter Holding and Crown Land.
Number of Submissions	5
Regional Development Criteria (Schedule 4A of the EP&A Act)	Clause 4 - Council related development over \$5 million.
List of all relevant s79C(1)(a) matters	• SEPP 33 Hazardous and Offensive Development • SEPP 55 Remediation of Land • SEPP Infrastructure 2007 • SEPP State and Regional Development 2011 • Harden Local Environmental Plan 2011 • Demolition of Building AS2601
List all documents submitted with this report for the Panel's consideration	Attachment 1 – Environmental Impact Statement and supporting plans and documentation Attachment 2 – General Terms of Approval DPI Water Attachment 3 – Public submission Attachment 4 – Public authority submissions Attachment 5 – Response to submissions Attachment 6 – Consent conditions
Recommendation	Approval subject to the conditions in Attachment 6.
Report prepared by	Andrew Raines, Land Use Planner, Hilltops Council.
Report date	28 November 2016

Executive summary

Development consent is sought to upgrade existing out loading facilities at GrainCorp's Cunningar grain storage and receival site on land described as Lot 1 DP819483, Lot 1 DP1099050, Lot 2 DP1189921, Lot 1 DP170420, Lot 1 DP661559, Lots 6 and 7 DP133426, Lot 170 DP753607 and Lot 702 DP96079, 'Cunningar Silos' Cunningar Road, Cunningar.

The proposal would extend the existing rail siding so it is capable of loading a 44 wagon train with grain and upgrade existing loading facilities to achieve loading rates of 1,000 tonnes per hour. The Environmental Impact Statement (EIS) supporting the application finds receipts at the Cunningar site would increase from 80,000 to 150,000 tonnes per year, over a period of 5 to 10 years, as a result of the development due to the increased efficiency in loading trains and the resultant reduced volume of heavy vehicles exporting grain from the site to port. The EIS indicates 450 B-doubles export movements per annum from the site to port would be removed.

The development involves railway freight terminal works within 40 metres of a watercourse and 160 metres of a dwelling and is Designated Development pursuant to Section 77A of the *Environmental Planning and Assessment Act, 1979* (the Act). Accordingly, an EIS has been prepared in accordance with the Secretary's Requirements to support the application. It is also Integrated Development as it requires a permit to carry out controlled activities under the *Water Management Act, 2000*. To this end, NSW Department of Primary Industries Water have provided General Terms of Approval.

The Southern Joint Regional Planning Panel is the Consent Authority for this Council related development as the capital investment value is \$8.1 million which exceeds the \$5 million threshold under Schedule 4A of the Act. Council is the recipient for grant funding associated with the development.

The application was placed on public exhibition from 2 September 2016 to 3 October 2016. In addition to notifying surrounding owners and EIS consultation, 6 government agencies were notified. At the close of the exhibition period, 1 submission and 4 agency responses had been received raising concerns with creek bank stabilisation, amenity and access and traffic arrangements. The applicant has subsequently provided a response to those submissions. It is considered the measures proposed to mitigate environmental harm together with the recommended consent conditions adequately address these concerns.

The application has been assessed against Section 79C of the Act and is considered to be an acceptable form of development on the site having regard to the matters discussed in this report, the application is recommended for conditional approval.

The site and surrounding area

The site is located within Cunningar, 5 kilometres east of Harden and 230 metres north of the Burley Griffin Way. It comprises 9 lots with an area of 19 hectares as shown below and is formally described as Lot 1 DP819483, Lot 1 DP1099050, Lot 2 DP1189921, Lot 1 DP170420, Lot 1 DP661559, Lots 6 and 7 DP133426, Lot 170 DP753607 and Lot 702 DP96079, 'Cunningar Silos' Cunningar Road, Cunningar.

The proposal covers an area of 4.8 hectares within the site and is bound by Cunningar Road, Cunningham Plains Creek and the Sydney–Melbourne rail corridor. The topography of the site adjacent the rail corridor is undulating, which then falls steeply towards the creek. The land to be developed is within a valley, mostly cleared of vegetation with established freight infrastructure (bulk storage, weighbridge, sample stand and rail siding) and agricultural land uses separated by an east-west running creek and its north-south running tributary at the centre of the site. There is scattered vegetation along the creek with a wombat borrow and rail culvert within the tributary.

Surrounding developments are predominately rural in nature and includes cropping, intensive livestock and horticulture activities. There are rural dwellings on land zoned RU1 Primary Production some 270 metres north-east, 160 metres south and 260 metres north-west of the land to be developed. The development adjoins GrainCorp's bulk storage bunkers to the south and west of the site.



Figure 1 – Aerial view of site

The proposal

The application seeks to upgrade the existing out loading facilities at GrainCorp's Cunningham grain storage and receipt site and is supported by an EIS. The proposal would extend the existing rail siding so it is capable of loading a 44 wagon train with grain, and upgrade loading facilities to achieve loading rates of 1,000 tonnes per hour. Specifically, the proposal involves:

- Demolition of a truck loadout structure;
- Alterations and additions to the Sydney–Melbourne rail corridor culvert;
- Construction of a 357 metre rail siding northwest of the Sydney–Melbourne rail corridor to store 22 wagons (siding 1), a 360 metre rail siding southwest of Cunningham Plains Creek to store 22 wagons (siding 2), a 392 metre rail siding northeast of the Sydney–Melbourne rail corridor to store 24 wagons (siding 3), and ancillary earthworks, drainage and roadworks; and
- Installation of a 1,000 tonne grain storage bin, two 80 tonne fast loading surge bins with loading chutes, overhead grain storage bin and associated conveyor system to transport grain from existing silos.

The application also seeks approval to operate the loading facility 24 hours per day, 7 days per week during harvest to increase grain receipts at the site from 80,000 to 150,000 tonnes per year.

A copy of the supporting EIS and plans are provided in **Attachment 1**.

Environmental Assessment

In determining this application, the Consent Authority must take into consideration the following matters as listed under Section 79C of the *Environmental Planning and Assessment Act, 1979* (the Act) which are of relevance to the development:

The proposal is Designated Development. In accordance with Clause 80(9)(b) of the Act, the public submission received as part of the exhibition period was forwarded to the Secretary on 7 October 2016 and the Consent Authority may determine the application. Under Schedule 4A of the Act the proposal is Regional Development for which the Joint Regional Planning Panel is authorised to exercise the Consent Authority functions of Council. Council is the recipient for grant funding associated with the development.

The proposal is also Integrated Development under Section 91 of the Act because it requires an approval under the *Water Management Act, 2000*. Accordingly, Department of Primary Industries Water's General Terms of Approval have been provided and are included in the recommended consent conditions.

S79C(1)(a)(i) provisions of any environmental planning instrument(s)

State Environmental Planning Policy (State and Regional Development) 2011

The proposal comprises a class of development included within Schedule 4A of the Act being a Council related development with a capital investment value in excess of \$5 million. Under the provisions of SEPP State and Regional Development, the development is referred to the Southern Joint Regional Planning Panel for determination.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

SEPP 33 applies to any development which is defined as a hazardous industry. A hazardous industry is one which, when all location, technical, operational and organisational safeguards are employed continues to pose a significant risk. The EIS identifies grain and canola oil seed storage and use of fuel and lubricants as potentially hazardous activities and finds these activities do not exceed screening thresholds under the NSW Department of Planning Applying SEPP 33 – Hazardous and Offensive Development Application Guidelines 2011 to be classified a hazardous industry.

State Environmental Planning Policy No. 55 – Remediation of Land

Pursuant to Clause 7 of SEPP 55, a Consent Authority is unable to grant consent unless it has considered whether the land is contaminated and, if so, whether it is satisfied the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

Council's records indicate the site has been used for railway freight transport and agricultural purposes and historically for railway transport. Railway yards are listed under Table 1 of the Managing Land Contamination Planning Guidelines as potentially contaminating activities. The application is supported by an Environmental Soil Investigation.

The investigation was undertaken given past activities to determine whether the site potentially presents a risk of harm to human health and/or the environment in accordance with the *National Environment Protection (Assessment of Site Contamination) Measure, 1999 (as amended)*. Evidence of contamination was found within the fill material on site and east of the Sydney–Melbourne rail corridor culvert. It concluded that:

“There were no reported concentrations of potential contaminants of concern above the adopted human health criteria for commercial/industrial land use... concentrations of zinc above the adopted ecological criteria were considered to pose a low risk to the ecosystem for the intended ongoing site use of commercial/industrial land use given that there is no on site or nearby sensitive ecological receptors”.

Accordingly, Council is satisfied that the land would be suitable for the development in its contaminated state for continuance of a freight transport facility and no further consideration is required under SEPP 55.

State Environmental Planning Policy – Infrastructure 2007

The development involves the relocation of overhead power lines servicing the site. Clause 45 of SEPP Infrastructure addresses safety risks and requires the Consent Authority to consider any response from the electricity supply authority for the area. The application was referred to Essential Energy and no response was received as such no further consideration is required under this Clause.

The proposal is traffic generated development under Clause 104 of SEPP Infrastructure and Schedule 3 of the SEPP as the freight transport facility has access to Cunningar Road and requires a referral to Road Maritimes Services (RMS). The RMS raised no objections to the development subject to conditions which have been incorporated within the recommended consent conditions. The RMS did raise concerns with traffic safety and this is discussed further below.

Clause 84 of SEPP Infrastructure applies where development will involve a likely significant increase in the total number of vehicles or the number of trucks using a level crossing that is in the vicinity of the development. The Cunningar Road level crossing is adjacent the site and is used by vehicles traveling to and from the site by the Burley Griffin Way. Therefore, the Consent Authority must consider the following matters:

a) Any response from the rail authority.

The application was referred to Transport for NSW and ARTC but no response was received.

b) The implications of the development for traffic safety including the costs of ensuring an appropriate level of safety, having regard to existing traffic characteristics and any likely change in traffic at level crossings as a result of the development.

A traffic study supporting the application finds existing truck and light vehicle movements to the site average 440 per week and 672 per week respectively during harvest. It reveals these truck movements to the site would increase by 160 per week during harvest with a majority of vehicle movements by the Cunningar Road level crossing. Accordingly, the application was referred to RMS and the following response was received highlighting traffic safety concerns at the level crossing:

“The adopted development option relies on the movement of commodity between the bunkers and the loading facilities via Cunningar Road and across the Railway Line. Therefore, measures need to be implemented during the operation of the facility that address the impacts on public infrastructure and safety due to the increased interaction of the development with Cunningar Road and the railway level crossing for the transport of goods between the rail siding and the storage bunkers... Given the potential traffic generation, including light vehicles, it is appropriate to require that as a minimum the intersection of the access driveway to the loading facility with Cunningar Road be treated to provide a sealed Basic Right Turn (BAR) and Basic Left Turn (BAL) intersection treatment. To minimise the potential for stacking of vehicles onto the railway line it is considered appropriate that the intersection of any driveway to the site of the loading facility with Cunningar Road be located a minimum of 50 metres from the hold line on Cunningar Road for the railway level crossing”.

The applicant was provided an opportunity to respond to the concerns raised by RMS (see **Attachment 4**). The applicant's response proposes to widen the ingress by 10 metres to provide a separation distance of 6.5 metres from the hold line on Cunningar Road for the railway level crossing, without intersection treatments. This arrangement

provides a prop position for a single B-double to stand clear of the boom gate by utilising the hold line separation area as shown in the figure below.

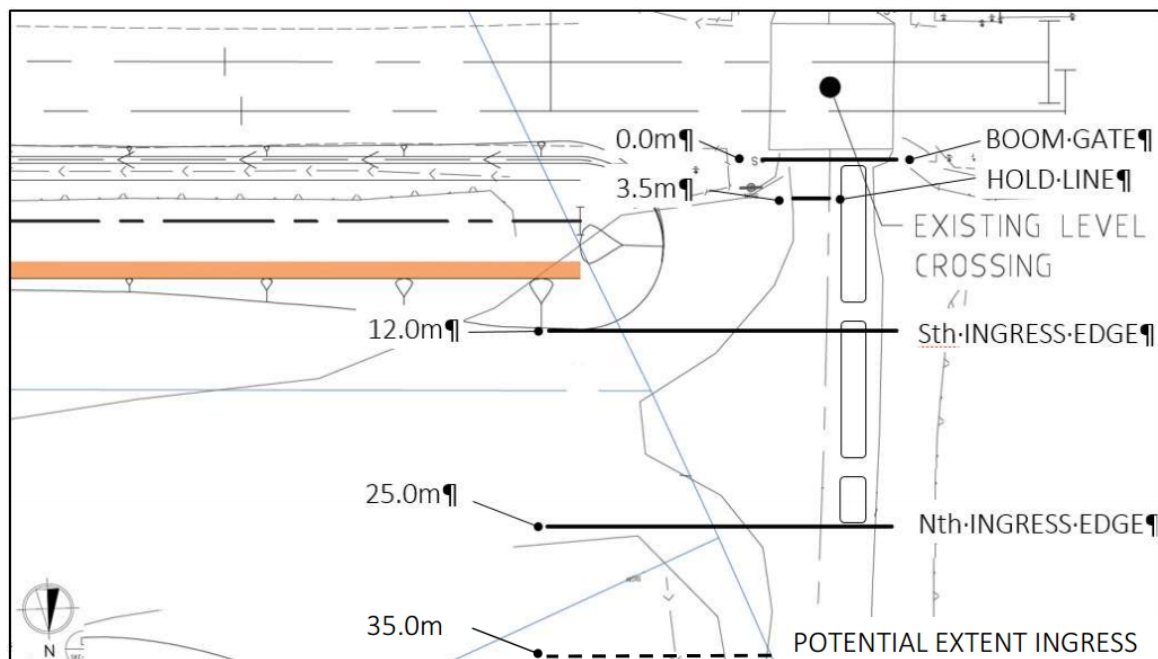


Figure 2 - Layout of existing and proposed Cunningar Road ingress.

The application has been considered by Council's Director Infrastructure Services who raised no objections to the RMS requirements, as the existing ingress is located where Cunningar Road is at its narrowest with no turning lane capacity and the development effectively doubles throughput at the site weighbridge.

c) The feasibility of access for the development that does not involve use of level crossings.

The site is separated to adjoining bulk storage bunkers and the state road network by the Sydney–Melbourne rail corridor and there is no practical alternative access that would avoid the use of the Cunningar Road level crossing.

Clauses 85 and 86 of SEPP Infrastructure apply to development on land that is in or adjacent to a rail corridor where the development is likely to have an adverse effect on rail safety. The proposal involves development within and adjacent to the Sydney–Melbourne rail corridor. Consequently, the Consent Authority must consider any response from the relevant rail authority and the Development Near Rail Corridors and Busy Roads Interim Guidelines. It is assessed the proposal would impact rail operations with replacement of rail switches and construction of new rail sidings. The Interim Guidelines requires an agreement between the applicant and the rail authority to be made prior to work involving track possession. The application was referred to Transport for NSW and ARTC, but no response was received. A consent condition addresses this matter.

Cunningar Road is a classified road. Accordingly, Clause 101 of SEPP Infrastructure applies to the development, requiring the Consent Authority to be satisfied the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development.

Vehicular access to the site is provided by two accesses onto Cunningar Road, within a 100km/h speed zone, with ingress adjacent a level crossing and egress sited 50 metres from a level crossing. All grain would be delivered to the site by Cunningar Road, and distributed to adjoining bulk storage bunkers as shown below.

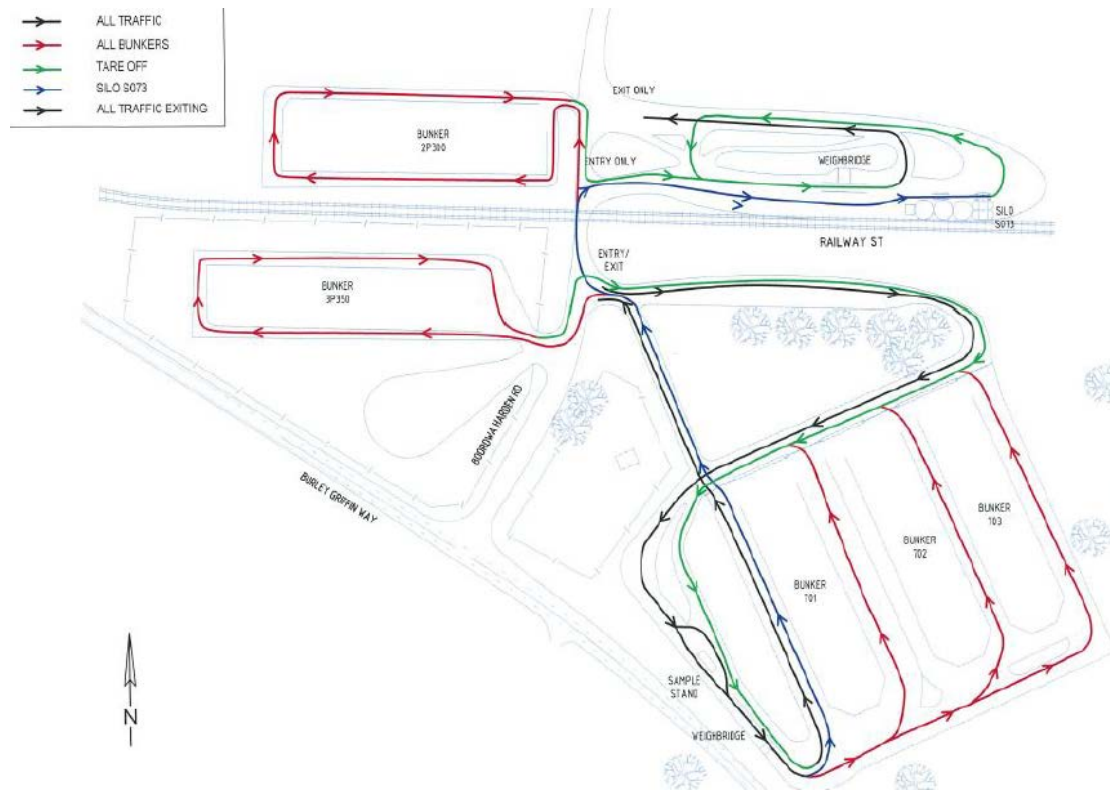


Figure 3 – Proposed traffic flow plan



Figure 4 - View from Cunningham Road towards site showing existing ingress sited 6.5 metres from the hold line on Cunningham Road for the railway level crossing.



Figure 5 - View from Cunningham Road towards site showing existing egress sited 50 metres from the hold line on Cunningham Road for the railway level crossing.

The proposal increases truck movements over Cunningham Road, including the level crossing, with commodities transported between bulk storage areas and the loading facility. The traffic study supporting the application suggests that truck movements to the site would increase by 160 per week during harvest. In consideration, the existing accesses from Cunningham Road to the loading facility are not constructed to a standard suitable for their intended purpose, and it is therefore appropriate to require the ingress to be sited a safe distance from the level crossing and treated to provide a sealed Basic Right Turn and Basic Left Turn intersection treatment as recommended by the road authority. Accordingly, these matters are addressed as consent conditions to satisfy the SEPP.

Harden Local Environmental Plan 2011

The site is zoned RU1 Primary Production under the Harden Local Environmental Plan 2011 (HLEP 2011). Development for the purpose of a freight transport facility is permissible with consent within this zone under the Land Use Table.

The proposal is categorised as 'freight transport facility' under the HLEP 2011:

"Freight transport facility means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved".

The objectives of the RU1 Primary Production zone are:

- a) To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- b) To encourage diversity in primary industry enterprises and systems appropriate for the area.
- c) To minimise the fragmentation and alienation of resource lands.
- d) To minimise conflict between land uses within this zone and land uses within adjoining zones.
- e) To encourage the development of non-agricultural land uses that are compatible with the character of the zone.

The proposal is considered acceptable having regard to the RU1 Primary Production zone objectives as it supports established local and regional farming enterprises, encourages sustainable rural economic activities employment opportunities, and would be designed and operated to maintain a reasonable residential amenity for surrounding rural dwellings. Freight transport facilities are listed as permitted development with consent within this zone.

The proposal does not involve a heritage item nor is it located within the vicinity of any items of environmental heritage listed under Schedule 5 of the HLEP 2011 or listed on the State Heritage Register under Section 170 of the *Heritage Act, 1977*.

Clause 6.2 of the HLEP 2011 addresses earthworks and requires the Consent Authority to consider the likely effects of the development on the existing drainage patterns, future use of the land, quality of fill or excavated soil or both, amenity of the adjoining properties and proximity to and potential for adverse impacts on any watercourse. The development involve railway formation works and the plans indicate that rail sidings 1 and 3 would be constructed close to existing grade while rail siding 2 would be constructed on a raised embankment. In this regard, the earthworks are considered acceptable subject to appropriate sediment and erosion controls measures being implemented for the following reasons:

- a) The earthworks within water land and adjacent a waterway are supported by a hydrology and ecology assessment. The assessments confirm the earthworks would not adversely affect drainage patterns within the catchment or known environmental sensitive area. The EIS identifies suitable soil and erosion measures to address on and off site impacts and the water management works would not adversely affect receiving waters.
- b) The earthworks are supported by a geotechnical and environmental soil investigation and the soil quality is found to be suitable for reuse on site for commercial/industrial purposes. However, it is recommended that consent conditions be applied requiring the submission of classification and disposal reports for any excavated materials to meet regulatory requirements.
- c) The earthworks will not adversely affect any known items of heritage significance. An Aboriginal Heritage Due Diligence Report supporting the application finds works can proceed with caution. However, conditions are recommended to ensure that should site works uncover a potential relic or artefact, works will be halted to enable investigation by relevant authorities and obtain permits to relocate the findings.

- d) The earthworks will not adversely affect the development potential of the site or adjoining properties.

The land is identified as groundwater vulnerable and Clause 6.3 of the HLEP 2011 requires the Consent Authority to consider the impact of the development on the groundwater system. The proposal does not involve any on site storage or disposal activities that may potentially contaminate groundwater. The EIS and supporting geotechnical investigation and hydrology assessment demonstrates that the development has been appropriately designed to avoid areas with shallow water conditions and minimise groundwater interaction.

The land is identified as dryland salinity. Accordingly, the Consent Authority must consider if the development is likely to have an impact on salinity processes under Clause 6.6 of the HLEP 2011. Dryland salinity occurs where salt is mobilised and redistributed by rising groundwater. Groundwater was recorded at a depth of around 0.5 metres in the vicinity of the creek and around 2 to 5 metres over the remainder of the land to be developed. The EIS finds there would be no change to hydrology and proposes to replace several trees on site that would be removed as a result of the development. In this regard, the proposed off-set is considered acceptable to address dryland salinity.

The site of the proposal is not identified on the Flood Planning Map, but is likely to be flood affected land and therefore, Clause 6.8 of the HLEP 2011 requires the Consent Authority to be satisfied that the development:

- a) Is compatible with the flood hazard of the land, and
- b) Is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- c) Incorporates appropriate measures to manage risk to life from flood, and
- d) Is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- e) Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The EIS and supporting hydrology assessment addresses flooding planning and states:

"The proposal would have minimal impact to the 1 in 100 year flooding about the area and the works footprint is location well outside of the approximate flooding extents. The Cunningar Road culvert overflow level (at the crown of Cunningar Road) is located approximately 1 metre below the lowest earthworks level proposed, therefore flooding would overtop Cunningar Road by 1 metre before the proposed earthworks would have an impact to the flood levels. Local flooding impacts would be mitigated by the extension of the culvert over the unnamed ephemeral drainage line.

No change to the local hydrology is proposed and the proposal drainage would not to divert water into other systems. Overall, the culvert extension and drainage work upstream and downstream would improve the movement of stormwater and minimise flooding impacts from the proposal".

The supporting documentation addresses bank stability and confirms scour protection for the entire channel diversion would be constructed to withstand a peak velocity of 1.5 metres per second generated by the 1 in 100 year event.

Accordingly, Council is satisfied that the development is consistent with this Clause.

Section 79C(1)(a)(ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority

There are no draft environmental planning instruments that are relevant to the development.

Section 79C(1)(a)(iii) any development control plan

There are no Development Control Plans applying to the site.

Section 79C(1)(a)(iii)(a) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

There are no planning agreements applying to the development.

Section 79C(1)(a)(iv) any matters prescribed by the regulations, that apply to the land to which the development application relates

Clauses 92 to 94 of the Regulations outline the matters to be considered in the assessment of the development. Clause 92 requires the Consent Authority to consider the provisions of AS2601:1991 - Demolition of Structures when demolition of a structure is involved. In this regard a consent condition is proposed to ensure compliance with the Australian Standard.

All other relevant provisions of the Regulations have been considered in the assessment of this proposal.

Section 79C(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality

Context and Setting

The site is located within the RU1 Primary Production zone bound by Cunningar Road, Cunningham Plains Creek and the Sydney–Melbourne rail corridor. The land contains an established freight transport facility which is supported by bulk storage bunkers on adjoining lands and these sites form GrainCorp's Cunningar grain storage and receival complex. The complex interfaces with Burley Griffin Way to the south and Cunningham Plains Creek to the north of the site. The land to be developed is within a valley and the proposed structures and rail sidings will not significantly alter the rural landscape character and views. The proposal is consistent with the context and setting for the area in which it is located.

Access and Traffic

All grain receivals will be delivered to the loading facility site using Cunningar Road before distributing the grain to adjoining bulk storage bunkers or on site silos. It is considered there is sufficient capacity in the road network to accommodate additional traffic generated by the upgraded freight terminal as demonstrated in the supporting traffic study. However, the existing ingress from Cunningar Road requires upgrades to maintain the safety and ongoing function of Cunningar Road.

Public Domain

It is considered that the development would have a moderate impact on the public domain of the locality. There would be short term impacts arising from construction activities associated with access and intersection treatments works. These works would have a long term positive impact with improved traffic safety at the Cunningar Road level crossing.

Utilities

The site is suitably serviced for the development. The development involves relocation of a consumer mains overhead power line and a consent condition is recommended to ensure that any adjustments or augmentations of public utility services required as a result of the development are at no cost to Council.

Water

The site is connected to Council's reticulated water service and it is unlikely the development would generate additional demand on this service. Water carts are proposed to supplement the water service to cater for dust suppression and earthworks needs during construction.

Noise and Vibration

A noise and vibration impact assessment forming part of the EIS details the current acoustic impacts of the site as well as the potential construction and operation acoustic impacts of the development on nearby rural dwellings.

The supporting noise assessment demonstrates the requirements of NSW EPA Industrial Noise Policy and NSW EPA Interim Construction Noise Guidelines would be achieved with the implementation of management plans detailing suitable noise mitigation measures and a complaint handling system. The application has been considered by Council's Environmental Health Officer who raised no objections to these measures.

The development involves the use of vibration intensive equipment during the construction phase. The vibration impact assessment concludes transmission of ground vibrations to any affected building is low and plant would maintain safe working distances as recommended by the Transport for NSW Construction Noise Strategy. In its operational phase, the assessment finds vibration impacts caused by freight movements is confined to land within 40 metres of the rail sidings and the expected vibrations would achieve the acceptable criteria under the NSW EPA Assessing Vibration Guidelines for both human comfort and building damage.

Flora and Fauna

A vegetation survey and biodiversity assessment was carried out by NGH Environmental in July 2016. The survey established the land to be developed is comprised of exotic dominated groundcover vegetation with a few scattered natives present as follows:

- a) *"Native plantings - A small patch of native planting occurs on the adjacent farmland to the east of the railway corridor but also within the proposal site. 0.5 hectares occurs within the study area. Thornbills and Honeyeaters were observed utilising this area for foraging.*
- b) *Degraded riparian habitat - Low diversity riparian vegetation dominated by Common Reed and rushes occur within the creekline, with occasional weeping willows and a significant area of blackberry. One Yellow Box and several Blackwoods occur. This area is identified as Degraded Riparian Vegetation (1.1ha). The Common Eastern Froglet (Crinia signifera) was heard calling from the reeds within the creekline. A Common Wombat (Vombatus ursinus) burrow was observed within the proposal site, on the banks of Cunningham Plains Creek. A large flock of House Sparrows were perching on the Blackberry and Fennel stalks (Foeniculum vulgare). Superb Blue Wrens (Malurus cyaneus) were also utilising the blackberry for a food resource and shelter. Other common woodland Birds and European Rabbits (Oryctolagus cuniculus) are likely to utilise this resource.*
- c) *Highly modified exotic dominated vegetation – This habitat type occurs within the railway corridor providing little habitat value although a flock of Galahs (Eolophus roseicapillus) was utilising areas near the wheat silos. This habitat type occupies approximately 10.5 hectares within the study area".*

The assessment establishes no threatened flora or fauna species have been located on site and no significant habitat would be destroyed or impacted as a result of the development. It is considered the proposal would not result in any significant impacts on threatened species, population, or ecological community, or its habitat.

Heritage

The development is unlikely to impact upon environmental heritage or relics within the land. An Aboriginal Heritage Due Diligence Report supporting the application finds that works can proceed with caution. The study recommended conditions relating to if objects, skeletal

remains or historic items are found during construction. These have been included in the recommended consent conditions.

Other Land Resources

The development is located on land which has historically been used for freight transport purposes and is unlikely to impact upon other land resources within the locality

Soils

The implications for soil erosion can be addressed through the imposition of conditions of consent requiring soil erosion and sedimentation control during the construction phase of the development. A geotechnical investigation finds that the ongoing use of the development is unlikely to create impacts to the site soils.

Air and microclimate

With the significant earthworks, it is likely that dust will be generated during the construction phase. The mitigation measures detailed in the EIS address the potential impact of dust on surrounding rural dwellings in this phase. Accordingly, a consent condition is recommended for a dust management plan to be prepared addressing the construction and operational phases of the development.

Hazards

The land is not known to contain any technological hazards. There are no natural hazards such as soil instability, bush fire or flooding affecting the site that would prevent the proposed development.

Waste

Waste would be generated as a result of the construction phase of the development. It is submitted in the EIS that a Waste Management Plan will be prepared and implemented as part of the development with waste minimisation practices applied to reuse excavated materials on site. A consent condition is recommended to require a waste management plan to be prepared prior to work commencing and be implemented during construction.

Energy

The development is not expected to use excessive energy consumption in the construction and operational phases.

Safety Security and Crime Prevention

The site is unfenced and access is controlled with site features (creek and rail sidings) and the public/private transition is clearly defined. The development maintains casual surveillance with clear views to and from surrounding public roads and rural dwellings. The site would be staffed 24 hours a day during harvest with external lighting affixed to existing buildings and structures. It is therefore unlikely that the development would create any additional safety, security or crime risks.

Economic and Social Impacts

The proposal is not expected to create any negative economic or social impacts. The development would have a positive economic effect by improving freight transport operations and supporting local and regional farming enterprises.

The health and wellbeing of occupants in surrounding rural dwellings would be maintained with a noise and traffic management plan as submitted by the EIS. The application has been considered by Council's Environmental Health Officer who raised no objections, but identified the measures addressing noise generated by locomotive brake tests must be implemented prior to operations. Accordingly, this matter is addressed by a consent condition.

Construction

The EIS submits construction works would be carried out on and adjacent the rail corridor and road reserve in consultation with the relevant rail and road authorities. A construction

traffic and safety management plan is recommended to be prepared to the satisfaction of the relevant authorities prior to works commencing.

Cumulative Impacts

The development is consistent with the relevant heads of consideration. The cumulative impact of additional heavy vehicles on the surrounding roads is acceptable, subject to road and access upgrades to address traffic safety and maintain the function of Cunningar Road. As such the development is unlikely to cause negative cumulative impacts in the locality. It is considered that the cumulative impacts are acceptable.

Section 79C(1)(c) the suitability of the site for the development

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the development. The site is therefore considered suitable for the development subject to the recommended consent conditions.

Section 79C(1)(d) any submissions made

The application was placed on public exhibition from 2 September 2016 to 3 October 2016 in accordance with the *Environmental Planning and Assessment Regulation 2000*. At the close of the exhibition period, 1 submission and 4 government agency responses were received raising the following concerns. Copies of the submissions are provided in **Attachments 3 & 4**.

Issue: dust suppression during the construction and operational phases.

The EIS details dust mitigation measures during the construction phase of the development with limited measures in its operational phase. It is appropriate that a dust management plan be prepared detailing the methods of controlling dust from traffic movements on the site and from the operation of the freight terminal, including all plant and equipment stored or operated on site. This matter is addressed by a consent condition to ensure a reasonable amenity is maintained at all times.

Issue: standard of access, road and circulation pavement.

Cunningar Road is sealed and the existing property accesses and on site circulation areas are unsealed. The development proposes to seal the property accesses and gravel circulation areas. This report recommends further road and property access upgrades to meet the road authority standards for traffic generating development. In terms of the gravel circulation area the supporting geotechnical investigation submits that a 300 millimetre gravel pavement thickness would be adequate for internal traffic loading. These matters are addressed by consent conditions to ensure the pavement standard is suitable for its intended use.

Issue: lack of road safety signage.

A traffic management plan detailing road safety signage prepared in consultation with the relevant road and rail authorities is recommended in the consent conditions and adequately addresses this concern.

Issue: uncovered loads and spill haulage management.

As above, the recommended traffic management plan is to detail a driver code of conduct to address driver behaviour, handling of grain and traffic regulations. These issues would be adequately addressed in the traffic management plan.

Issue: damage to public roads during the construction and operational phases.

The applicant has not proposed a voluntary planning agreement. However, a consent condition has been imposed to ensure any damage or disturbance to the road reserve of Cunningar Road is restored in accordance with Council requirements.

Issue: acoustic impacts on an approved dwelling outside the noise monitoring sites.

The approved dwelling is to be sited on land zoned RU1 Primary Production some 450 metres north of the site and is shown below in relation to the noise monitoring sites. The acoustic report finds the likely operational noise levels from the development on surrounding dwellings would not be noticeable. It is considered this finding would apply to the approved dwelling site which features a greater separation distance than existing dwellings assessed by the acoustic report.



Figure 6 – Noise monitoring locations

Government Agency Submissions

Roads and Maritime Services

The application was referred to the Roads and Maritime Services (RMS) for comment as the development is traffic generating development and fronts a classified road. The matters raised by RMS are discussed and addressed throughout this report.

NSW Department of Primary Industries Water

The application is Integrated Development under Section 91 of the Act because it requires an approval under the *Water Management Act, 2000*. Accordingly, NSW Department of Primary Industries Water's General Terms of Approval have been provided and are included in the recommended consent conditions.

NSW Environmental Protection Authority

The application was referred to the NSW Environment Protection Authority (EPA) for comment as the EIS required EPA consultation. The EPA raised no objections to the development subject to works within the rail corridor being undertaken in accordance with ARTC's Environmental Protection Licence No. 3142. This matter is addressed by a consent condition.

NSW Office of Environment and Heritage

The application was referred to the NSW Office of Environment and Heritage (OEH) for comment as the EIS required OEH consultation. The OEH raised no objections to the development, but recommended conditions for cultural heritage protection and identification

of the wombat borrow on the detailed plans. Accordingly, consent conditions have been imposed to address these matters.

Section 79C(1)(e) the public interest

The proposal has been assessed against the relevant heads of consideration applying to the site. As demonstrated throughout this report, the proposal will enable intensification of the site in accordance with its capacity, and assist in achieving State transport priorities with appropriate measures to be implemented during the construction and operational phases to mitigate against any negative likely impacts. As such it is considered that the application is in the public interest.

S94 Development Contributions

A Section 94A levy of \$81,000.00 would be required for the development under the Harden Section 94A Contributions Plan 2014. A consent condition requiring that levy to be paid is included in the recommendation.

Conclusion

In accordance with Schedule 4A of the *Environmental Planning and Assessment Act, 1979*, the application is referred to the Joint Regional Planning Panel for determination.

The development has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act, 1979* and the Harden Local Environmental Plan 2011. The proposal is permissible in the RU1 Primary Production zone, however, the design of the site access onto Cunnigar Road is considered to be unsuitable as proposed to adequately cater for the likely traffic generated by the development. This report identifies that the access can be upgraded to a standard suitable for its intended use and conditions are recommended to address this matter.

A total of 5 submissions (including government agency responses) were received as a result of the public exhibition process and the matters raised have been addressed in this report and conditions (where relevant).

This report indicates that the application is considered satisfactory subject to the imposition of the recommended consent conditions to ensure that the development proceeds in an acceptable manner.