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| JRPP No. | 2011NTH001 |
| DA No. | DA 25-2010 |
| Proposed Development | Erection of a single dwelling, 12718 New England Highway, Black Mountain |
| Applicant: | Roads and Traffic Authority |
| Report By: | PANEL SECRETARIAT |

Assessment Report and Recommendation

Referred to the Joint Regional Planning Panel pursuant to section 89(2)(b) of the Environmental Planning and Assessment Act 1979

31 January 2011

1. EXECUTIVE SUMMARY

The Panel Secretariat has reviewed this application for the Regional Panel's consideration, including a consideration of the views of Council and the applicant.

The development, for the erection of a single dwelling, proposes that vehicular access to the site is from Thunderbolts Cave Road, however a travelling stock reserve (TSR) lies between the site and this road. Council is obliged to ensure that access to a site is legal and properly constructed. Council has proposed a deferred commencement condition of consent which requires a right of carriageway to be established over the TSR and registered on title so that access is guaranteed in perpetuity.

The applicant does not agree with this condition and would be content for a deferred commencement condition requiring it to obtain permission from the relevant authority to construct a new access through the TSR.

The Panel Secretariat has reviewed the relevant section of the DCP. The conclusion is the proposal to access the site through a TSR approved by the relevant authority will satisfy Council's DCP requirement that "a legal and properly constructed access to the site" be provided. There is no expressed requirement in the DCP that the access be guaranteed in perpetuity.

Hence the Panel Secretariat does not support Council's recommended condition D1 and recommends the deferred commencement condition be modified to require the submission of a written approval from the relevant authority for the use and construction of an access road through the TSR. To address Council's wish to protect future landowners, the Panel Secretariat recommends an additional condition requiring a written confirmation from the relevant authority that the access has been notated in the Authority's spatial system. It also recommends Council to notate the nature and maintenance responsibility of the access in the property's Section 149 certificate.

2. SITE DESCRIPTION

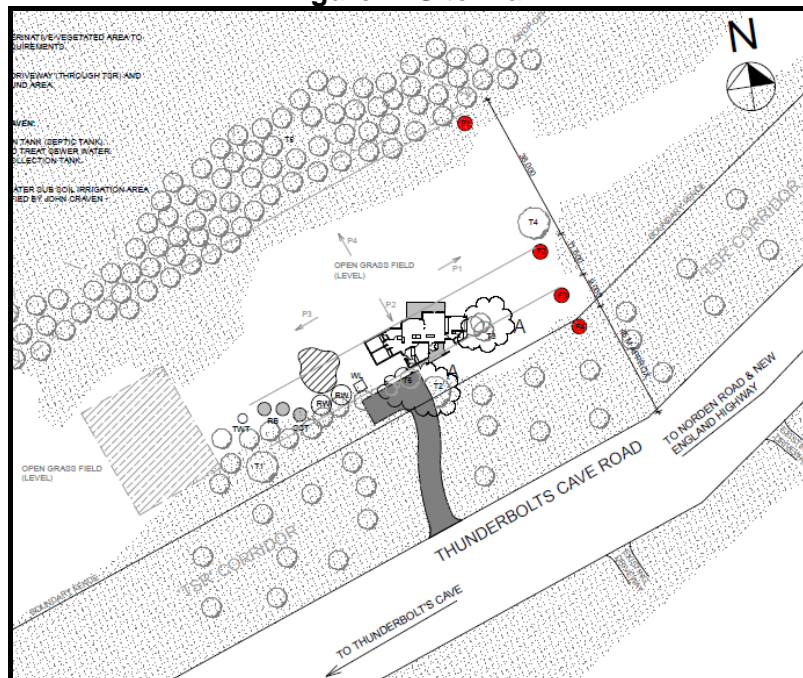
The site is identified as 12718 New England Highway, Black Mountain (Lot 13 DP 263967). The subject site is located between the New England Highway which runs along the western boundary of the site, and Thunderbolts Cave Road along the south-eastern boundary of the site. The site is to be accessed from Thunderbolts Cave Road. A TSR lies between the site and Thunderbolts Cave Road.

The site of the proposed dwelling is a level bare grass paddock, one of the few cleared areas of the site. The rest of the subject land is significantly covered by woodland and forest vegetation. The total area of the site is 88.38 hectares. The nearest neighbour is approximately 300 metres to the south east.

3. PROPOSAL

The application seeks consent to erect a 4 bedroom single storey dwelling, with two rainwater tanks, a septic system and a gravel driveway. The proposed driveway from Thunderbolts Cave Road will require the removal of two small trees.

Figure 2: Site Plan



Source: Location & Site Plan, A-101 Rev A

4. BACKGROUND SUMMARY

- 8 February 2010: DA 25-2010 lodged with Armidale-Dumaresq Council;
- 4 May 2010: A letter issued by the Livestock Health and Pest Authority (LHPA) approving access across the travelling stock route subject to conditions;
- 6 May 2010: Council issued a draft conditional deferred commencement development consent;
- 15 July 2010: Letter from RTA is received by Council advising that they concur with all the proposed conditions of consent apart from condition D1, which requires a right of carriageway across the TSR to be maintained in perpetuity;

- 15 October 2010: Letter forwarded to Council from the Land and Property Management Authority (LPMA) advising that they are the consent authority for works over a TSR and that access in perpetuity cannot be guaranteed;
- 13 December 2010: DA 25-2010 referred to the JRPP as Council is not willing to remove condition D1 and the RTA are not willing to provide written concurrence to the draft conditions of consent.
- 27 January 2011: Statement of Issues received from the RTA

5. ENVIRONMENTAL PLANNING INSTRUMENTS

Under the Armidale Dumaresq Local Environmental Plan (ADLEP) 2008 the subject site is zoned '1 (a) General Rural' and the proposed development is permissible with consent.

The subject lot benefits from a dwelling entitlement under clause 14(8) of ADLEP 2008. This clause states that '*consent may also be granted, for an application lodged with the consent authority within 3 years of the commencement of this Plan, for the erection of a dwelling house on land in this zone if the land is a lot lawfully created before 31 Jul 1992 being a lot on which a dwelling house could have been erected under Dumaresq Local Environmental Plan No 1, 2, 3, 4, 5, or 6*'. The subject lot was created prior to 31 July 1992, under a plan of subdivision lodged on 7 March 1983. Under Dumaresq LEP No. 1 the minimum area required for a dwelling house within the 1(a) zone was 40 hectares. The subject lot has an area of 88.38 hectares.

Under clause 56 – 'Development along arterial roads' of the ADLEP 2008, direct vehicular access onto an arterial road is not encouraged wherever practical and wherever there is an alternative access to the site.

Under Clause 4.2 D4 of the Armidale Dumaresq Development Control Plan (DCP) 2007, Council must ensure that land upon which a dwelling is proposed to be erected has a legal and properly constructed access.

The proposed development is generally consistent with:

- SEPP No. 44 – Koala Habitat Protection
- SEPP Basix 2004
- SEPP (Infrastructure) 2007
- SEPP (Rural Lands) 2008

6. CONSULTATION AND PUBLIC EXHIBITION

The proposal was not advertised or notified as Council considered it was in an isolated location and would have no impact on adjoining properties. As such no submissions were received.

7. CONSIDERATION OF SECTION 79C(1) OF THE EP&A ACT

Council's officer has undertaken an assessment of the application with regard to the provisions of the EP&A Act and all matters specified under section 79C(1). The assessment report recommends the DA be approved once the applicant provides written concurrence to the draft conditions of consent.

8. JRPP's STATUTORY ROLE

Section 89(1)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act) states that a consent authority must not impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.

Section 89(2)(b) of the Act provides that if a consent authority fails to determine a Crown DA within the prescribed time limit it may be referred by either the applicant or the consent authority to a JRPP.

In this case, Council resolved to impose a condition requiring the applicant to register a right of carriageway on title to ensure continued legal access to the site be maintained in perpetuity. The applicant does not agree to such condition.

In view of the disagreement, both parties agreed to refer the application (DA 25-2010) to the JRPP for determination.

9. THE DISPUTED CONDITION

Council's DCP requires that land on which a dwelling is to be erected has legal and properly constructed access. Prior to determination Council requested that the applicant seek approval from the relevant authority for access across the TSR. A letter from the Livestock Health and Pest Authority (LHPA) was forwarded to Council, granting access, subject to conditions. Council issued a draft conditional deferred commencement development consent. The RTA advised they agreed with all conditions except D1.

Condition D1 states:

D1 – That having regard to the proposed location of the new vehicular access to lot 13 DP 263967, which will be required across the existing Travelling Stock Route (TSR), legally known as Lot 7020 DP 1056983, as per the approved plans, drawn by Natural matters Design, Project No. 4207, Drawing No. A-101 and dated 3/2/2010, the Applicant is to seek a right of carriageway across the TSR to the subject site from the property owner.

The Right of Carriageway, which is to be 20 metres in width, is to be registered on Title Documents/s88b for Lot 13 DP 263967 prior to this consent becoming legally operative. Additionally, provision is also made in the s88b for the ongoing management/ maintenance of the carriageway including clear details of the responsibilities of all affected parties, including mechanism for the resolution of conflicts between affected parties. Details to be provided to the satisfaction of the Director of Planning and Environmental Services or nominee.

Such requirement is to ensure that continued legal access to Lot 13 DP 263967 is maintained in perpetuity.

10. POSITION OF EACH PARTY

The views of Council and the applicant are summarised as follows:

Armidale Dumaresq Council

Assessment staff

- The assessment report recommends that the application be approved once the applicant has provided written concurrence to the draft conditions of consent.
- Council is reluctant to remove the proposed condition D1 as it would be inconsistent with its DCP which requires "a legal and properly constructed access". It notes access across the TSR would only be guaranteed whilst the status of the relevant legislation is current, and could not be guaranteed in perpetuity primarily due to potential for Native Title claims over this land,

changes in legislation or the administering authority or that the TSR could be revoked in the future.

- Council acknowledges that there are other examples of vehicular access across TSR's to private properties, however in the main these are not separately identified from part of the road itself which is the situation in this instance.
- Council has requested the RTA to provide definitive legal advice on the matter on which it could rely on, otherwise provide Council with an alternative arrangement for consideration. The RTA is yet to meet the request.

Applicant – Roads and Traffic Authority

- The RTA has considered the draft consent and agrees to all conditions except D1.
- The RTA's view is that the requirements in this condition are not appropriate in the circumstances and the various inquiries made to date indicate that the RTA is unable to satisfy the condition.
- Its legal advice indicates that a right of carriageway for private purposes over a TSR would be inconsistent with the public nature of a TSR. The right of access granted to occupiers of land under the Rural Lands Protection Act 1998 is intended for such purpose and should address the access issue.
- The RTA requests a deferred commencement condition requiring it to obtain permission from the LPMA to construct access through the TSR.

10. DISCUSSION OF CONDITION D1

Council expressed the main reason for the condition is "to ensure that this access would be ongoing in perpetuity and would not be removed or withdrawn at any time in the future when the RTA had possibly on sold this lot onto an unsuspecting purchaser who would more than likely assume that the appropriate checks and approvals had been sought prior to Consent and that access would be guaranteed in perpetuity."

Although the RTA has secured the LHPA's approval to provide access through the TSR, Council does not consider such approval provides the guarantee it sought.

Draft Condition D1 raised two question:

1. Whether an approval to grant a right of access through the TSR and construction of the access is sufficient to meet the requirements of the DCP of having "a legal and properly constructed access to the site"?
2. Whether the register of the right of access on title is required to satisfy the DCP provisions?

The Armidale Dumaresq Development Control Plan 2007

Clause 4.2 of D4 in the DCP provides:

Land upon which a dwelling is to be erected must have **legal and properly constructed access**. Depending on the circumstances, the following options are available for providing access:

- Construction and dedication of a Crown Road;
- Right-of-carriageway;
- Undedicated roads; and
- public road.

The circumstances, under which the above options are acceptable to Council, as well as the requirements for each option, are provided below:

Construction and Dedication of a Crown Road as a Council Public Road

Where access is proposed via a Crown Road, the road is to be dedicated as a Council public road and constructed by the developer to Council's specification.

Right-of-Carriageway

Access by right-of-carriageway is not encouraged. In cases where rights-of-carriageway are acceptable to Council they will only be allowed on the following basis:

- (i) the right-of-carriageway serves only one lot or holding; and
- (ii) the right-of-carriageway is to be a minimum of 20 metres wide.

Construction and maintenance of the right-of-carriageway is not the responsibility of Council.

Undedicated Roads

Undedicated roads are roads that are not dedicated as Council or Crown Roads and include:

- Forestry Roads
- Rural Lands Protection Board reserves, and
- Ministerial roads.

The applicant is to provide written agreement from the responsible authority for the use of the road for access.

In brief, the DCP requires a "legal and properly constructed access" to the site and provides 4 options to secure such access. Council's preference is for the second option that is a right-of-carriage. The applicant proposes to secure a right of access through the TSR.

Option 3 of the DCP allows access via "undedicated road" and defines it as including "Rural Lands Protection Board reserves" (RLPB reserves) with an additional provision that a written agreement from the responsible authority for the use of the access is required.

As the only reserves administered by the previous Rural Lands Protection Board were the TSRs, it is reasonable to read the TSRs as the RLPB reserves. Therefore, if the applicant can secure written agreement from the relevant authority for the construction and use of the TSR for access purpose, it satisfies the DCP requirements. It is also noted that there is no expressed requirement in the DCP that the access must be guaranteed in perpetuity.

Council's concern

In the referral letter to the Panel Secretariat dated 13 December 2010, Council expressed its concern and reason for Condition D1 as it

wanted to ensure that this access would be ongoing in perpetuity and would not be removed or withdrawn at any time in the future when the RTA had possibly on sold this lot onto an unsuspecting purchaser who would more than likely assume that the appropriate checks and approvals had been sought prior to Consent and that access would be guaranteed in perpetuity.

Council's concern to protect future land owners' right of access is reasonable and appropriate for a responsible authority. However, the Panel Secretariat notes that many rural properties have accesses via TSRs. Section 98 of the *Rural Lands Protection Act 1998* (RLP Act) makes special provision for certain occupiers of land to have a right of access over TSRs to and from the nearest public road if the land does not have other access.

The LPMA also advised via a letter to the RTA dated 15 October 2010 that “access across the TSR would be enjoyed unencumbered” under the provisions of Section 98 of the RLP Act.

As to the question of ensuring access to be in perpetuity, the LPMA also advised that although there is no guarantee for any future event, ie the change of TSR status, access issues will have to be addressed accordingly at the time of the proposed change.

The RTA contented that

a property's only means of access is not able to be removed without provision of compensation or an alternative access being provided. The annotation of an approved access across a TSR on LPMA and LHPA records would act as an alert to the authorities that there is a constraining issue associated with a proposed change of status to the TSR.

The RTA further advised that it would not be able to satisfy Condition D1 as the LPMA has indicated it had not previously granted a right-of-carriageway over a TSR. No guarantee “in perpetuity” can be given due to Native Titles issues and the possibility of the TSR being revoked in the future.

It was further pointed out that if the TSR status is to be changed, the property owner who relies on the access would be consulted and offered alternative access such as a right-of-carriageway before the TSR status is changed.

Conclusion

The Panel Secretariat's review concludes that:

1. DCP requirement:
 - a written approval from the relevant authority for access over the TSR will satisfy the DCP. The LHPA has issued approval with conditions. The LPMA advised it is the consent authority for the works.
 - The DCP provides no express requirement that the access be guaranteed in perpetuity.
2. Council's concern of future landowner's right to access
 - a written confirmation from the relevant authority (LHPA and LPMA) that the access has been notated in their spatial system should be provided to address Council's concern.
 - it is also open to Council to notate the nature of the access in the Section 149 certificate to alert future land owner of their responsibilities to maintain the access road and the relevant approval authority for any future works associated with the access road.

Having regard to the conclusion, the Panel Secretariat recommends that Condition D1 be amended to require the applicant to provide Council with a written approval from the relevant authority for the use and construction of the access over the TSR.

An additional condition D2 be included to require the applicant to provide written confirmation from the LHPA and LPMA that the access road is notated in their spatial system.

The Panel recommends to Council that the nature and maintenance responsibility of the access road be notated in the property's Section 149 certificate.

Options available to the Panel

There are 3 options available to the Panel in considering this application:

1. Accept Council's recommended Condition D1 as reasonable and determine to approve the application with conditions including D1. If the applicant maintains its objection, the Panel should refer the application to the Minister for determination as under Section 89(1)(b), the consent authority must not impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.
2. Accept the applicant's proposal that a deferred commencement condition be included requiring the applicant to obtain permission from the LPMA to construct a new access through the TSR as the LHPA has already granted approval to the access with conditions.
3. Accept the Panel Secretariat's recommendation that Condition D1 be amended to require written approval from the LHPA and LPMA be provided to the Council. An additional condition be included requiring a written confirmation from the relevant authority (LHPA and LPMA) that the access has been notated in their spatial system. A recommendation be made to the Council that the nature of the access and maintenance responsibilities be notated in the property's Section 149 certificate.

11. RECOMMENDATION

It is recommended that the JRPP:

- (A) **consider** all relevant matters prescribed under the *Environmental Planning and Assessment Act 1979*, as contained in the findings and recommendations of this report;
- (B) **approve** the development application, subject to conditions set out in Schedule 1, pursuant to section 80(1)(a) and section 89 of the *Environmental Planning and Assessment Act 1979*, having considered all relevant matters in accordance with (A) above;
- (C) **recommend** Council to notate then nature and maintenance responsibilities of the access road in the property's Section 149 certificate.

Prepared by:

Endorsed by:

Emily Dickson
Panel Secretariat

Paula Poon
Panel Secretariat

12. ATTACHMENTS

- i) Schedule 1
- ii) Letter from Armidale Dumaresq Council referring DA 25-2010 to the JRPP, dated 13 December 2010;
- iii) RTAs response on the draft conditional deferred commencement development consent, dated 15 July 2010;
- iv) Letter from the LHPA, dated 4 May 2010;
- v) Letter from the LPMA, dated 15 October 2010

SCHEDULE 1

CONDITIONS ATTACHED TO DEVELOPMENT CONSENT NO. DA-25-2010

Please read all conditions carefully. The applicant/ developer may arrange to meet with Council to review and clarify, if necessary, the precise requirements of the conditions of this consent.

Note: A copy of all conditions contained in this consent are to be provided to contractors and subcontractors working on the site, to ensure all work is carried out in accordance with this consent.

PART A – DEFERRED COMMENCEMENT CONDITIONS

The following matters are to be addressed/satisfied before this Consent may operate for the purposes of Section 80(3) of the *Environmental Planning and Assessment Act 1979, as amended*:

- D1: That having regard to the proposed location of the new vehicular access to Lot 13 DP 263967, which will be required across the existing Travelling Stock Route (TSR), legally known as Lot 7020 DP 1056983, as per the approved Plan, drawn by Natural Matters Design, Project No. 4207, Drawing No. A-101 and dated 3/2/10, the Applicant is to seek approval from the relevant authority (including the Livestock Health and Pest Authority (LHPA) and the Land and Property Management Authority (LPMA)) for the use and construction of a right of access across the TSR to the subject site. A copy of the approval be submitted to Council for record purposes.
- D2. A written confirmation from the LHPA and LPMA that the right of access has been notated in their spatial system is provided to the Armidale Dumaresq Council for record purposes.

It is noted that the LHPA has issued the following conditions for the right of access:

1. All works that are carried out will be at the cost of the owner of the lane;
2. Gates and supporting structures (strainers etc) must meet Authority specifications or if a grid is installed, Armidale Dumaresq Council specifications.
3. Grid or gate and supporting structures must be continuously maintained at the cost of the owner of the lane.
4. The continuous maintenance is to be transferred to any subsequent owners and the liability must be disclosed at the time of any future transfers of the relevant land.
5. Approval for access may be withdrawn if maintenance is not to a satisfactory standard.

PART B – OTHER CONDITIONS

The following conditions must be complied with once the Development Consent becomes operative:

PRESCRIBED CONDITIONS

The following conditions are prescribed in relation to this development consent:

Fulfilment of BASIX commitments

Fulfilment of the commitments listed in each relevant BASIX certificate for the development is a prescribed condition of this development.

Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

- (1) The following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
 - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This clause does not apply:
 - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (b) to the erection of a temporary building.
- (3) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

Erection of signs

- (1) For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

Notification of Home Building Act 1989 requirements

- (1) For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (2) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and

- (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (iii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause
- (4) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

GENERAL CONDITIONS

1. Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

At the commencement of building works and in perpetuity, the property around the building shall be managed as follows as outlined within section 4.1.3 and appendix 5 of *'Planning for Bush Fire Protection 2006'* and the NSW Rural Fire Service's document *'Standards for asset protection zones'*.

- north for a distance of 38 metres as an asset protection zone;
- east for a distance of 20 metres as an asset protection zone;
- south for a distance of 9 metres as an asset protection zone; and
- west for a distance of 20 metres as an asset protection zone.

(Note: in forested areas a portion of the APZ may be maintained as an outer protection zone as specified in Table A2.7 of *Planning for Bush Fire Protection 2006'*.)

2. Design and Construction:

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

- New construction shall comply with Australian Standard AS3959-1999 *'Construction of buildings in bush fire-prone areas'* Level 3.
- All new fencing shall be non-combustible.
- There is to be no exposed timber on the northern elevation of the proposed building.
- All glazing on the northern elevation shall be capable of withstanding up to 40kW/m² of radiant heat flux loading.

- 3. The development must take place in accordance with the approved plans (bearing the Armidale Dumaresq Council approval stamp dated 6/5/10) and documents submitted with the application, including plans drawn by Natural Matters Design, Project Number: 4207, Drawings numbered A-1 01, A-102, A-103, A-104, A-201, A401 & A-501 and dated 3/2/2010, and subject to the

conditions in this notice, to ensure the development is consistent with Council's consent.

4. All Engineering works to be designed by a competent person and carried out in accordance with Council's Engineering Code, unless otherwise indicated in this consent, to ensure that these works are of a sustainable and safe standard.
5. Approved tree removal should be carried out by an appropriately qualified person (e.g. tree surgeon) to avoid any risk to life or damage to property. This person should have adequate public liability insurance cover.
6. All sewer and drainage works associated with the approval are to comply with the requirements of AS 3500 and completed only by a licensed plumber and drainer.
7. In the event that Aboriginal artefacts are identified on the site during development through earthworks or construction, the Applicant shall contact the National Parks and Wildlife Service (NPWS - part of the Department of Environment and Conservation) and cease work in the relevant location pending investigation and assessment of its heritage value by NPWS and the relevant local Aboriginal groups.

BEFORE RELEASE OF CONSTRUCTION CERTIFICATE

8. The plans accompanying the Construction Certificate are to demonstrate compliance with the Building Code of Australia for the class 1a building, specifically:
 1. Details of proposed rammed earth walls, detailing how the walls will meet the requirements of the Building Code of Australia. Details will also need to show structural components, tie downs, and how the walls are to be constructed.
 2. Structural details for footings, floor slabs and structural wall members.
 3. Plans and specification to show compliance with N.S.W Rural Fire Service report.

Amended plans are to be submitted to the Principal Certifying Authority for authentication of BCA compliance and issue of a Construction Certificate.

Note- Should the external configuration of the building be modified as a result of achieving BCA compliance, the plans accompanying this development consent must also be modified.

9. Details of materials and finishes, including colours, are to be submitted for the approval of the relevant Certifying Authority, before the release of the Construction Certificate, to ensure that the building is visually compatible with the rural character and landscape of the locality. In this regard, the external appearance of the building and ancillary structures, should be non-reflective and of natural colours (such as greys, greens and browns) that blend with the colours of the surrounding land and vegetation. Zinalume, white or silver coloured materials are not to be used as external materials/colours for buildings and other structures, including above ground water storage tanks.
10. Written advice from telecommunications and electricity providers, confirming that satisfactory arrangements have been made for the provision of a

telecommunications and electricity services, are to be submitted before the issue of a Construction Certificate.

11. Internal access design and construction is to ensure the retention of as many existing trees as possible. All trees proposed to be removed are to be clearly identified by survey and shown on detailed construction plans to the satisfaction of the Principal Certifying Authority before the issue of a Construction Certificate for the development.

All trees to be retained are to be appropriately marked and protected during construction works and no buildings constructed or utility service mains installed within 3 metres of the trunks of these trees so as not to prejudice their future retention.

12. For all construction work required on Council land (eg. Stormwater, footpaths, kerb and gutter etc.), the Applicant is to submit an Application to Conduct Work on Land to Which Council is the Regulatory Authority, which will incorporate seeking any necessary approvals for work in road reserves under the Roads Act 1993. The Application must be approved prior to the issue of a Construction Certificate, to ensure pedestrian and vehicular safety during construction.

BEFORE WORKS COMMENCE

13. The *owners* of the property are to give Council written notice of the intention to commence works and the appointment of a Principal Certifying Authority (if the PCA is not Council) at least two days before the proposed date of commencement, in accordance with cls 103, 103A and 104 of the Environmental Planning and Assessment Regulation 2000. Such notice is to be given using the form enclosed with this consent.

14. A Construction Certificate must be obtained before work commences, in accordance with cl.146 of the Environmental Planning and Assessment Regulation 2000.

15. Before construction commences on the site and throughout the construction phase of the development, erosion control measures are to be installed to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:

- divert contaminated run-off away from disturbed areas,
- erect silt fencing along the downhill side of the property boundary,
- prevent tracking of sediment by vehicles onto roads by limiting access to the site and, where necessary, installing a temporary driveway and
- stockpile all topsoil, excavated material and construction debris on the site, erecting silt fencing around the pile where appropriate.

Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act.

16. Should Council be appointed the Principal Certifying Authority, the Applicant must give at least 2 days' notice to enable the following inspections to be undertaken where appropriate for the class of building:
 - • before the pouring of footings**
 - • before covering drainage (under hydrostatic test)
 - • before pouring any reinforced concrete structure, such as a slab-on ground, suspended slab, or driveway **

- • before covering the framework for any wall, roof or other building element **
- • before covering waterproofing in any wet area**
- • before covering any stormwater drainage connections**
- • when the building work is completed and before the issue of an occupation certificate**

** denotes a critical stage inspection (a mandatory inspection pursuant to Section 109E of the EP&A Act 1979). Please note that an Occupation Certificate cannot be issued for a development where a critical stage or other nominated inspection has not been carried out.

17. The uppermost layer of the soil profile (top soil) is to be retained on site, stockpiled and surrounded at its base with silt fencing to ensure that the topsoil is maintained in a satisfactory and reusable condition. Areas within the development not otherwise built on are to be left with not less than 100mm of topsoil with grass or other landscaping established, to provide an aesthetically pleasing development within the streetscape.

DURING CONSTRUCTION

18. Access:

The intent of measures for property access is to provide safe access to/from the public road system for fire-fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

- Property access roads shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.

19. The development must be carried out in accordance with *Managing Urban Storm water: Soils & Construction* (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and as in force at the date of this consent; to maintain public and environmental safety and amenity, and prevent erosion and sedimentation.

ADVISING: Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act.

20. Effective dust control measures to be maintained during construction to maintain public safety/amenity and construction activities are to be restricted solely to the subject site.

ADVISING: Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act.

21. Construction of an internal all-weather access road from Thunderbolts Cave Road to the dwelling is to be undertaken in order to minimise soil erosion with suitable profiling and drainage to reduce surface water run off volumes and velocity with relation to the slope of the land.

The intersection of the access to the land with the public road is to be located such that a 100 kilometre per hour safe intersection sight distance requirement is satisfied in both approach directions.

A vehicular entrance must be provided in accordance with Council's standards, incorporating a 375 mm diameter stormwater pipe and concrete headwalls and minimum 150mm road base. Alternately where sufficient depth is not available, a 6m long by 1.5m wide reinforced concrete slab dish drain shall be constructed to provide access to the property. Where the property entrance abuts a sealed road, the driveway between the edge of the existing seal and the property boundary shall also be sealed with a minimum 2 coat bitumen or emulsion seal.

All Engineering works to be designed by a competent person e.g. Professional Engineer and carried out in accordance with Councils Engineering Code (POL 119), unless otherwise indicated, to ensure that these works are of a sustainable and safe standard.

22. Any fill which is placed on the site shall be free of any contaminants and placed in accordance with the requirements of AS 3798-1990 *Guidelines on Earthworks for Commercial and Residential Developments*. The developer's structural engineering consultant shall:

- identify the source of the fill and certify that it is free from contamination; and
- classify the area within any building envelope on any such filled lot in accordance with the requirements of "Residential Slabs and Footings" AS 2870.1.

23. Materials must not be burned on-site. All waste generated on site must be disposed of at Council's Waste Disposal Depot or Waste Transfer Station, to protect the amenity of the area and avoid the potential of air pollution.

24. Roof and surface stormwater from paved and impervious areas is to be collected and directed away from any buildings and on-site waste water management system, to protect the site and adjoining property from effects of flooding. Relevant work to be carried out immediately after the roof and guttering is installed.

25. The hours of building work are to be restricted to between 7.00am and 6.00pm on Monday to Friday and 8.00am to 1.00pm on Saturdays, to maintain the amenity of the locality. No audible building work is permitted on Sundays and Public Holidays. Written prior arrangement with Council is required for building work to take place outside these hours. Breaches of this condition may result in the issuing of a Penalty Infringement Notice or prosecution.

26. Toilet facilities are to be provided at, or in the vicinity of the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be connected to an accredited sewage management facility approved by the councillor some other sewage management facility approved by the council.

BEFORE OCCUPATION / WHEN WORKS ARE COMPLETED

27. Provision of not less than 90,000 litres of domestic water storage. However, where the property has an additional permanent water source or storage, e.g. dams, bores, streams or swimming pool, not less than 45,000 litres of domestic water storage will be required.

Although not specifically required by Council, it is recommended that landowners consider providing a greater storage capacity where an additional water source or storage is not available.

In recognition that no reticulated water supply exists, the minimum quantities of water storage required above, are to include at least 20,000 litres reserved for fire fighting purposes. A suitable connection for Rural Fire Service purposes must be made available. In general a 65mm Storz outlet with a Gate or Ball valve shall be provided. Underground tanks with an access hole of 200mm will allow bushfire fighting tankers to refill direct from the tank. Any underground tanks shall be fitted with a childproof access hole of 200mm x 200mm will allow bushfire fighting tankers to refill direct from the tank. Tanks and associated fittings on the hazard side of the building shall be provided with adequate shielding to mitigate the impact of flame contact and radiant heat and provide safe access for fire-fighters.

28. An Occupation Certificate must be obtained before the approved use commences, in accordance with the EP&A Act and to ensure the health and safety of the building's occupants.

ADVISING: Failure to obtain an Occupation Certificate is an offence under the legislation. Penalty advice for buildings (penalties do not apply to uses detailed in 109M and 109N; i.e. crown projects, Class 1a and 10 buildings or as detailed for certain temporary structures).

29. The property number shall be clearly and permanently displayed on or adjacent to the road frontage to identify the premises to the public and to essential/emergency services. Numbers shall be 100mm high x 50mm wide (minimum) and of a colour contrasting with the surface to which they are affixed.

OPERATIONAL MATTERS

30. Landscaping:

Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

31. Utilities:

The intent of measures is to locate gas and electricity so as not to contribute to the risk of fire to a building.

- Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZS 1596:2002: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.
- All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.
- Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.
- Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting

fire fighting activities.

32. Provision and maintenance of the required Asset Protection Zones (APZs) around the dwelling as specified in condition 1 of this Consent for the life of the development. Maintenance of the bush fire fuel hazard reduction zone around this area must include:
- ensuring ground-level fire fuel is kept to a minimum,
 - ensuring that the surrounding vegetation canopy is discontinuous and does not provide a path for transfer of fire to the dwelling,
 - trees and shrubs being maintained regularly to ensure they:
 - do not touch or overhang the building, are well spread out and do not form a continuous canopy,
 - are located far enough away from the house so that they will not ignite the house by direct flame contact or radiant heat emission,
 - are not species that retain dead material or deposit excessive quantities of ground fuel in a short period or in a danger period.

The current NSW *Planning for Bushfire Protection Guidelines* are available via Council's Customer Service Centre.

33. In recognition that koala food trees are known to be present on the subject site and adjoining the site within the TSR, the area is considered to be potential koala habitat with evidence of their presence in the area identified. As such, any domestic dogs retained at the property are to be contained within the immediate house yard, with a suitable dog-proof fence erected around the perimeter. Dog(s) are only allowed on the wider property during daylight hours and under the owner's direct control and supervision, to reduce the potential for any dog attacks on koalas using or moving through the site.

ADVICE

All building work must be carried out in the following manner to ensure compliance with the Building Code of Australia (Housing Provisions):

- The timber primary building elements of the building are to be protected from subterranean termites in accordance with AS 3660.1, and a durable notice must be permanently fixed to the building in a prominent position (eg. Inside the electricity meter box) indicating:
 - method of protection,
 - date of installation of system,
 - where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label, and
 - the maintenance requirements of the system.
- An approved polythene moisture barrier is to be provided to the underside of the concrete floor slab to prevent external moisture entering the building.
- Footings and floor slabs to be constructed in accordance with the requirements of AS 2870 - Residential Slabs and Footings, to ensure the structural integrity of the building.
- Sub-floor ventilation is to be provided as detailed in part 3.4.1.2 of the BCA (copy available on request) to prevent moisture damage to structural elements of the building, and to assist in the prevention of termite attack.
- Timber framing to comply with the requirements of AS 1684 - Timber Framing Code, to ensure structural integrity of the building. The frame is to be adequately braced and 'tied-down' to the footings to prevent movement of the structure by wind forces.

- Brickwork to be constructed in accordance with AS 3700 "Masonry Code", to ensure structural integrity of the building.
- Wet areas to be finished with an impervious floor surface, and care taken to seal floor/wall junctions adequately, to protect the structure of the building and to maintain the amenity of the occupants.
- Smoke alarms to be provided and located in accordance with 3.7.2 of the BCA (copy available on request), to safeguard the occupants of the building in the event of a fire.
- The door to a fully enclosed sanitary compartment must open outwards, slide or be readily removable from the outside of the compartment to enable unconscious occupants to be removed from the compartment.
- Steps and landings higher than 1000mm above the adjacent floor level must be provided with handrails and balustrades as detailed in Part 3.9.2 of the BCA (copy available on request) to provide safe access to and within a building.
- Any use of greywater must be carried out below surface level (ie. using porous piping - not above-ground sprinklers) and must not impact on adjoining properties, all in accordance with a Council approval under s.68 of the Local Government Act 1993.
- Any plumbing, drainage and electrical work to be carried out by a licensed tradesperson, with plumbing and drainage work all in accordance with a Council approval under s.68 of the Local Government Act 1993.

OTHER APPROVALS / CONSENTS

Local Government Act 1993 - approvals granted under Section 78A(3) and (5) of the Environmental Planning and Assessment Act 1979:

- Separate s68 approval granted for S68-21-2010 for the installation/operation of an on-site waste water treatment system.

General terms of other approvals integrated as part of this consent:
Nil

REASONS FOR THE ABOVE CONDITIONS

Given Council's duty to consider the matters set out in Section 79C(1) of the Environmental Planning and Assessment Act 1979 (as amended), the above conditions have been placed on the consent in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 (as amended).

RIGHT OF APPEAL

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Section 82A of the Environmental Planning and Assessment Act 1979 gives you the right to request a Review of Determination. Upon payment of the prescribed fees Council will review the determination under the provisions of

Section 82A. *Note: Section 82A of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a Designated Development, Integrated Development or Crown Applications.*

2010NTH038



Armidale Dumaresq Council

Address correspondence to:
General Manager
135 Rusden Street
PO Box 75A
ARMIDALE NSW 2350

Phone: (02) 6770 3600
Free call: 1300136 833
Fax: (02) 6772 9275
Email: council@armidale.nsw.gov.au
ABN 63 781 014 253

Our Ref:JG:DA-25-2010

RECEIVED
10 JAN 2011

13 December 2010

BY:.....

Panel Secretariat – Northern Region
GPO Box 3415
SYDNEY NSW 2001

Dear Sir/Madam,

APPLICATION NUMBER: DA-25-2010

PROPERTY: LOT 13 DP 263967, BEING 12718 NEW ENGLAND HIGHWAY, BLACK MOUNTAIN NSW 2350

PROPOSAL: ERECTION OF A SINGLE DWELLING

I refer to the above Development Application, being DA-25-2010, which was lodged with Council by the Roads and Traffic Authority on 8 February 2010.

During the s79C assessment for this Application it was identified that the subject lot did not have direct vehicular access to a public road other than to the New England Highway which is a Classified State Road and runs along the western boundary of the site.

Under the provisions of Clause 56 – ‘Development along arterial roads’, of Armidale Dumaresq Local Environmental Plan (ADLEP) 2008, direct vehicular access onto an arterial road is not encouraged wherever practical and wherever there is alternative access to the site. In this instance, the RTA lodged the Application and plans proposing that the vehicular access to the property be via Thunderbolts Cave Road which is on the eastern side of the lot. Significantly it was identified that an existing Travelling Stock Route (TSR) lies between the entire length of the lot and Thunderbolts Cave Road preventing direct vehicular access from the site onto this roadway.

Under Chapter D4 of Armidale Dumaresq Council DCP 2007, Council must ensure that land upon which a dwelling is proposed to be erected has a legal and properly constructed access. As such, prior to determination of the Application, Council requested that the Applicant seek appropriate approval from the relevant authority for access across the TSR. A letter from the Livestock Health and Pest Authority (LHPA) dated 4 May 2010 was provided to the Applicants consultant and forwarded to Council, copy enclosed within the documents.

With a letter being issued by the LHPA providing access across the TSR subject to conditions, Council wanted to ensure that this access would be ongoing in perpetuity and would not be removed or withdrawn at any time in the future when the RTA had possibly on sold this lot onto an unsuspecting purchaser who would more than likely assume that the appropriate checks and approvals had been sought prior to Consent and that access would be guaranteed in perpetuity.

Council therefore issued a Draft Conditional Deferred Commencement Development Consent (Draft Consent) on 6 May 2010, seeking the RTA's written concurrence to the proposed conditions of Consent. Proposed Deferred Commencement Condition D1 stated:

'That having regard to the proposed location of the new vehicular access to Lot 13 DP 263967, which will be required across the existing Travelling Stock Route (TSR), legally known as Lot 7020 DP 1056983, as per the approved Plan, drawn by Natural Matters Design, Project No. 4207, Drawing No. A-101 and dated 3/2/10, the Applicant is to seek a Right of Carriageway across the TSR to the subject site from the property owner.

The Right of Carriageway, which is to be 20 metres in width, is to be registered on Title Documents/s88b for Lot 13 DP 263967 prior to this Consent becoming legally operative. Additionally, provision is also to be made in the s88b for the ongoing management/maintenance of the carriageway including clear details of the responsibilities of all affected parties, including mechanism for the resolution of conflicts between affected parties. Details to be provided to the satisfaction of Director Planning and Environmental Services or nominee.

Such requirement is to ensure that continued legal access to Lot 13 DP 263967 is maintained in perpetuity'.

After much discussion between Council and the RTA regarding the proposed deferred commencement condition D1, a written response was received from the RTA on 15 July 2010 advising that they concurred with all the proposed conditions of consent apart from the deferred commencement condition D1.

Following further investigations with the relevant authorities regarding the status of the TSR, Council were advised by the Land and Property Management Authority (LPMA) that they were in fact the consent authority for works over a TSR not the LHPA. Whilst in this e-mail the LPMA advises that under s98 of the Rural Lands Protection Act 1998 it states the following, it could not guarantee continued access in perpetuity.

Certain occupiers of land to have a right of access over travelling stock reserves

- (1) An occupier of land is entitled to a right of way over a travelling stock reserve (whether controlled or managed) to and from the road nearest to the land if no other access to and from the land by means of an established road or track is available.*
- (2) A right of way is subject to such conditions as to its exercise (including any conditions as to its position, construction or improvement) as may be imposed by the responsible authority in a particular case.*
- (3) The responsible authority is to give notice to the occupier of land of any condition imposed by it on a right of way of the occupier.*
- (4) The occupier may, with the approval of the responsible authority, and must if directed to do so by the responsible authority by notice in writing, construct or make improvements to the occupier's right of way over the reserve.*
- (5) Any construction or improvements are to be made at the expense of the occupier.*

Whilst the LPMA have advised that they can not provide a right of carriageway over the TSR, Council is reluctant in this instance to remove the proposed deferred commencement condition D1 from the Draft Consent, which would be inconsistent with its own DCP. Furthermore, and as advised by the LPMA themselves, any access across the TSR would only be guaranteed whilst the status of the relevant legislation is current, and could not be guaranteed in perpetuity primarily due to potential for Native Title claims over this land, changes in legislation or the administering authority or that the TSR could possibly be revoked at some time in the future.

Additionally, Council have requested that the RTA provide it with definitive legal advice on the matter on which it could rely on, otherwise provide Council with an alternative arrangement for consideration. As at the date of writing, the RTA has not provided Council with such.

Finally, whilst Council acknowledges that there may be many other examples of vehicular accesses across TSR's to private properties, it would also like to advise that in the main these TSR's are not separately identified from part of the road reserve itself, which is the situation in this instance with this TSR being separately identified from the road reserve with its own Lot and Deposited Plan numbers.

With Council not prepared to remove the proposed deferred commencement condition from the Draft Consent in this instance and the RTA not willing to provide written concurrence to these conditions, both parties are now seeking that the matter be reviewed by the Joint Regional Planning Panel (JRPP). I have advised the RTA of this and they are happy that the matter be referred to the JRPP for their assessment and determination.

Should you have any further enquires please contact me at Council's Development Control Unit on 6770 3609 or E-mail council@armidale.nsw.gov.au.

Yours sincerely



John Goodall

Town Planner

Received

20 JUL 2010



129-3

15 July 2010

John Goodall
Town Planner
Armidale Dumaresq Council
PO Box 75A
ARMIDALE NSW 2350

20-7-2010
1/2010/16456
DP-25-2010
FORWARDED TO J. Goodall

Dear Mr Goodall

Development Application No: DA -25-2010
Property: Lot 13 DP 263967, located at 12718 New England Highway Black Mountain

I refer to your letter dated 6 May 2010 attaching draft conditional deferred commencement development consent (**Draft Consent**) in respect of the above DA for the RTA's concurrence under section 89(1) of the *Environmental Planning and Assessment Act 1979*.

The RTA has considered the Draft Consent and considers it acceptable in all but one respect, namely the deferred commencement condition D1 contained in Part A.

As you are aware, condition D1 requires:

- the applicant to seek a Right of Carriageway across the Travelling Stock Route (TSR) identified in Drawing No. A-101 dated 3/2/10, to the Property;
- the Right of Carriageway to be 20 metres in width and "registered on Title Documents/s88b for Lot 13 DP 263967" prior to the consent becoming operative; and
- provision be made in the s88b for "the ongoing management/maintenance of the carriageway including clear details of the responsibilities of all affected parties, including mechanisms for the resolution of conflicts between affected parties."

The reason for the requirements in condition D1 is stated to be for the purpose of ensuring continued legal access to Lot 13 DP 263967 is maintained in perpetuity.

In the RTA's view the requirements in this condition are not appropriate in the circumstances and the various inquiries made to date indicate that the RTA is unable to satisfy the condition in any event.

Relevantly, as you are aware, the owner of the land within the TSR is the Land and Property Management Authority (LPMA). The LPMA have confirmed with you in their email of 8 June 2010 that:

- the occupier of the Property has a right of access to the Property under section 98 of the *Rural Lands Protection Act 1998 (RLP Act)*, which authorises access while ever the TSR status is in effect;
- the LPMA cannot guarantee access through the TSR in perpetuity primarily due to "Native Title issues but also due to the possibility that the TSR could be revoked in the future (however, it is likely that an easement or form of secure access would be negotiated for the later(sic));" and
- the RTA would need to lodge an application with the LPMA for permission to construct a new access through the TSR.

Roads and Traffic Authority

The RTA has also made its own inquiries with the local LPMA office and was informed that the LPMA had not previously granted a right of carriageway over a TSR. Furthermore, in the RTA's view a right of carriageway for private purposes over a TSR would be inconsistent with the public nature of a TSR and the right of access granted to occupiers of land under the RLP Act is for this very purpose. Practically speaking, the RTA considers such a right is likely to be commonly relied upon for access to numerous rural properties located throughout the State.

The RTA would be content for a deferred commencement condition requiring it to obtain permission from the LPMA to construct a new access through the TSR. Additionally, as you are aware, the RTA has in a letter dated 4 May 2010, obtained conditions from the New England Livestock Health and Pest Authority for the grant of access through the relevant TSR. The RTA would be content if these requirements replaced those currently contained in deferred commencement condition D1 of the Draft Consent and requests you amend the Draft Consent accordingly.

I look forward to you providing an amended Draft Consent for the RTA's consideration.

If you have any queries in relation to this letter, please contact David Rath on (02) 8588 5339.

Yours sincerely


Aurora Moroney
Property Services
Sydney Region

Our Ref: 1.5.3

4th May, 2010

Joakim Ho,
Natural Matters Design,
107 Faulkner Street,
ARMIDALE. N.S.W. 2350

Dear Sir,,

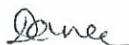
RE: Access via TSR to land

I refer to your letter received on 28th April, 2010 regarding access required by RTA through the Travelling Stock Reserve. Access has been granted subject to the following conditions:

1. All works that are carried out will be at the cost of the owner of the lane.
2. Gates and supporting structures (strainers etc.) must meet Authority specifications or if a grid is installed, Armidale Shire Council specifications.
3. Grid or gate and supporting structures must be continuously maintained at the cost of the owner of the lane.
4. The continuous maintenance is to be transferred to any subsequent owners and the liability must be disclosed at the time of any future transfers of the relevant land.
5. Approval for the access may be withdrawn if maintenance is not to a satisfactory standard.

Please contact our Ranger Pau Berdar on 0427 007 190 if you require further information or wish to discuss the matter.

Yours faithfully,



Per Debbie Cuneen

M. McLeod

General Manager

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Mr Robert Macfarlane
RTA
P. O. Box 576
Grafton NSW 2460

PO Box 199A,
108 Faulkner St,
ARMIDALE NSW 2350
PH: 6770 3100
Contact Person: Garry Davis
PH: 6770 3103
Garry.Davis@lpma.nsw.gov.au

15 October 2010

REF: 10/05065

Dear Mr Macfarlane

RE: Devils Pinch - Access Across TSR

Reference is made to your letter of 14 October 2010 regarding future access across TSR's in this vicinity.

At the present time, if the RTA were to dispose of any land in this vicinity, access across the TSR would be enjoyed unencumbered under the provisions of Section 98 of the Rural Lands Protection Act, 1998.

Any purchaser of the land would be wise to notify the local Office of the LHPA and even this Authority, so that our spatial system could be noted.

If this Authority were then alerted to any impending change of the TSR, we would then consider, as part of the process in dealing with the proposed change of the status of the TSR, any access issues that were to arise and address them accordingly. This would be especially relevant if this Authority were processing any type of application or claim that was to alter the status of the TSR.

As no guarantees can be given for any future event, this Authority would always be mindful of allowing any existing access to continue into the future wherever practicable.

Yours sincerely


Garry Davis
ARMIDALE OFFICE