

25 September 2017

Dear Sir/ Madam

We are a dairy farming family substantially affected by the Albion Park Rail bypass project. Our dairy farm lies within the Macquarie Rivulet floodplain and is bisected by the existing Illawarra Highway. Approximately 26% of the main carriageway of the new road goes through ours and our neighbour's property. The road destroys our dairy, associated sheds and our family home, in addition to taking 17.5 hectares of prime agricultural land that we currently use for grazing.

We have reviewed the Submissions and Preferred Infrastructure report and provide our comments below.

**Serious safety issues with Pedestrian and Cyclist facilities.**

The new main carriageway completely cuts through the centre of our farm, stopping us from our current practice of being able to walk our cows across the Illawarra Highway, as permitted by a licence from Local Land Services.

RMS say that they have alleviated this issue by providing access to cross the cows and farm machinery under the new Frazers Creek bridges (BR07). In addition they promised an underpass in a key site further along the motorway (more on that later).

In the 2015 EIS they also showed a cycleway running along the western side of the motorway. In our responses to the EIS document we cited serious safety concerns with having cows and cyclist/pedestrians in such close proximity. We were subsequently told by RMS that they respected our concerns and a cycleway would no longer be going through that area.

It was with astonishment therefore that we received the news that another cycleway would appear in the preferred infrastructure report. This time on the eastern side of the motorway.

It is seriously concerning that RMS care so little for the safety of recreational cyclists and pedestrians. In the response to our submission on page 32 (Issue 23) and elsewhere in the document, RMS only state "Measures to reduce the potential risk of interaction between farm operations and users of the shared path will be investigated during detailed design such as cycle friendly cattle crossings". We don't believe that a 'cycle friendly cattle crossing' exists.

We are very concerned for the public safety in this area. Cows are easily frightened, particularly the younger ones. If the heifers were crossing under the bridges at Frazers Creek and became spooked by a cyclist, they could stampede. This puts the public and our staff at an unacceptable level of risk of being crushed. We are experienced in handling cows yet even with that experience we have had family members with a broken leg and broken ribs from dealing with the cows. These are not concerns to be taken lightly.

Supposing that some arrangement with gates were introduced, as cows are crossing that area it is inevitable that they will leave behind urine and manure. Depending on the season

there will also be dirt, grass, and stones from their hooves. It will make the surface of the path unsuitable for the public. Will RMS or Shellharbour Council want to bear the responsibility of a cyclist slipping and injuring themselves?

The area will be traversed on a daily basis by farm staff on motor bikes, tractors with farm machinery and silage trailers. Our farm operates with a high degree of occupational health and safety but in all industries accidents can happen. Should a 600kg bale of silage fall off the trailer as we are using this access it could kill a pedestrian.

Cyclist would also be delayed for a considerable period as the cows are crossing the cycleway. The older, more mature cows would be crossing the cycleway at the proposed underpass site to the south of the Frazers creek bridges. At present the underpass is only going to be 3.6m wide. At that width the cows are only likely to go through in single file. With 600 cows in the milking herd this is likely to take 30 – 40 minutes for all the cows to cross. Is a pedestrian or cyclist inclined to wait that long? The presence of someone unknown to the cows watching them cross is also likely to slow the process. Mature cows are also easily scared, but less likely to bolt than the younger animals. It is likely that they would simply stop and refuse to cross without a great deal of encouragement from ourselves or our staff.

For your further education we attach a report from a dairy consultant who has been working with our family and with RMS on this project. He primarily works in Victoria and has had experience of this sort of situation. He does not recommend that a cycleway be placed in this area.

It is important to note that there are alternatives for cyclists. We include a copy of Figure 3-9 from the Additional Traffic and Transport Assessment Report (page 22). Pedestrians and recreational cyclists can use the existing off road shared path along the Princes Highway. This will then join up with the proposed off road shared path on Station Road and then on to the proposed path along Tongarra Road. We have highlighted this route in the diagram with a yellow marker. We note that the Traffic and Transport Assessment report further states "Since the EIS release, Shellharbour City Council in collaboration with Roads and Maritime has undertaken design work to provide a continuous off-road shared-use path along Tongarra Road to link Albion Park Rail and Albion Park. Roads and Maritime are providing funding for this shared path which would connect Albion Park with an off road shared path along Tongarra Road and connect with the existing shared path running north and south on the existing Princes Highway through Albion Park Rail." (page 23 Addendum Traffic and Transport Assessment Report) They further note that the shared path would be constructed as part of the project. So this is not just something Council are thinking of and might not ever get built. It will be available to the public as part of the project. So the needs of the recreational cyclist are already accommodated by these paths. Experienced cyclists will be able to use the cycle paths on the road shoulders of the new motorway as also shown in this diagram. (Highlighted in dark green)

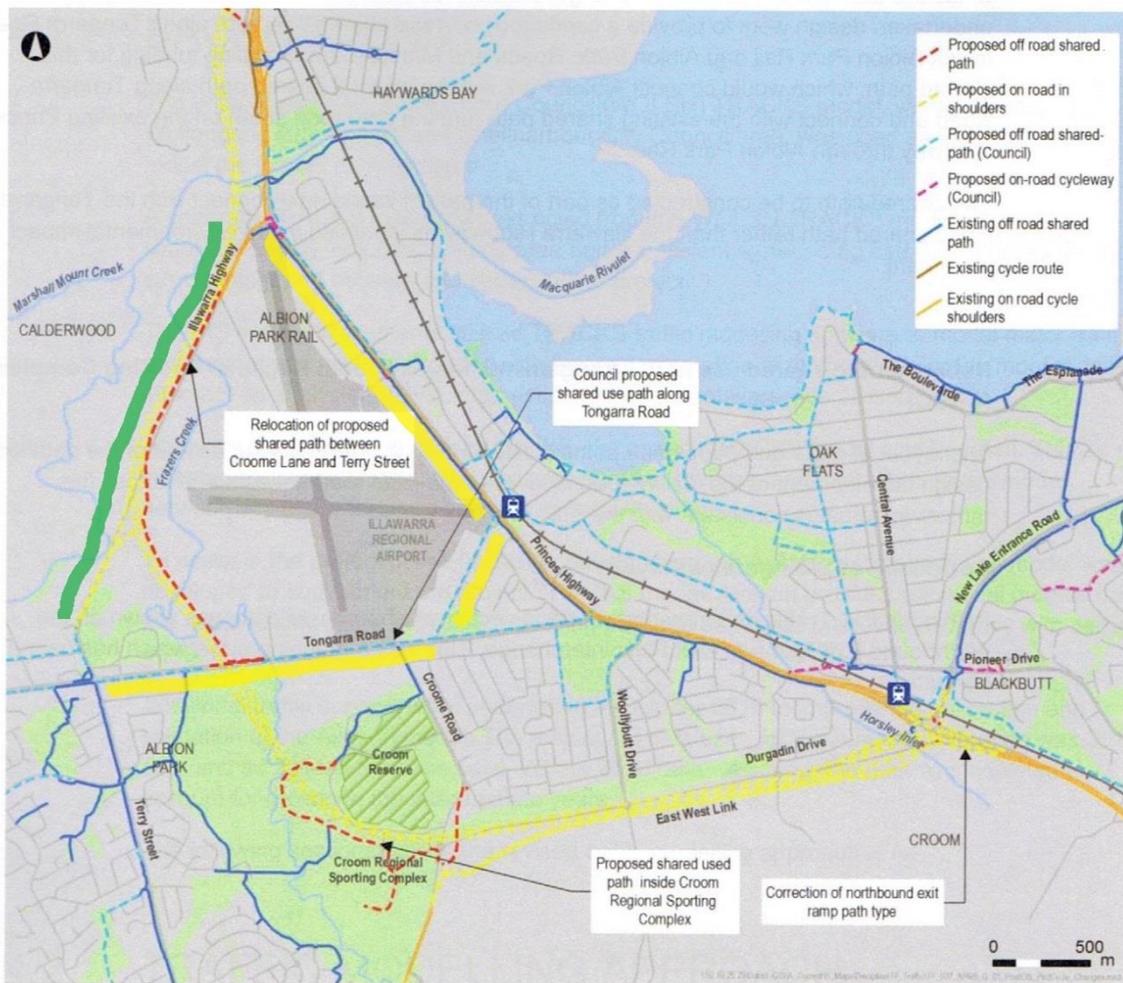


Figure 3-9 Key Changes to the Pedestrian and Cycle Network since EIS

Finally, the construction of a cycleway in this area will add unnecessary cost to the project. We have already noted above how there is an alternate route for cyclists. The duplicate proposed cycle path may be able to follow the existing Illawarra Highway along some of its length but once it swings around toward Tongarra Road it will need to traverse Frazers Creek in two places. Therefore there will need to be two new bridges. As this area regularly floods the bridges will need to be of a durable construction that won't wash away and cause ongoing cost to council. There is no need to waste money on this when there is a guaranteed alternative that is safer for pedestrians and cyclists

We are completely opposed the inclusion of a cycleway in this area.

### Underpass

In our response to the EIS we noted the critical need for a cattle underpass in a useful position. The DPI submission also mentioned this critical need. RMS' responses to submissions have failed to address this issue.

On page 15 of Volume 1 the Purpose of this report is stated. One of the key design refinements proposed is "Reduction of the project footprint within agricultural land, and provision of additional connectivity across the highway for agricultural use." We note the key word 'additional' here i.e.: above and beyond that contained in the original EIS. In a meeting between ourselves and RMS on 1/3/2016, RMS presented a revised road design

and advised that they would be providing an underpass 4m high and 8m wide at our desired location. They advised that in return they would like early access to our land to commence preloading the soft soils, which would save them money. They expected to start the preload in January 2017. The Tate family agreed to this course of action. In June 2016 they provided updated timings and advised that the preload would commence in March 2017. The underpass was still guaranteed at the dimensions agreed upon in March. Meetings throughout the rest of the year with RMS continued along these lines. We met with them on 1 December 2016 and they presented us with a new road design (different to the design presented in March). They advised that the underpass was still going ahead at the agreed dimensions. They also stated that the preload was not going to take place in 2017 and might take place once the design and construct contract was issued, possibly in July 2018. The Tate family expressed concerns over the loss of saving in not doing the preload earlier. RMS assured us that this would have no impact on the underpass being built. Subsequent meetings with RMS in 2017 continued along these lines. It was only at a meeting in June 2017 when we were finally presented with an acquisition offer that RMS reneged on their agreement. They withdraw the offer of a 4m high and 8m wide underpass and replaced it with a 3m high x 3.6m wide underpass. This underpass is shown on page 33 of Volume 8 as culvert ID6. (In other areas of the report it is referred to as drainage structure M2e). The size of this underpass is completely unsuitable for moving a 600 head milking herd. Under present conditions we use 10m wide gate openings to cross 200 - 240 cows across the Illawarra Highway. We can cross these animals in approximately 1 min 40 seconds, thus reducing impact on road users and making the operation efficient for our business. Having to combine our dairy herds and then try to force them through a 3.6m wide opening would be like forcing businesses to go back to dial up internet speeds. At that width opening the cows will most likely travel in single file. What was a simple operation will now take 30 - 40 minutes.

The Tate family have shown good faith in all their negotiations with RMS. This reversal on an agreed course of action shows a complete lack of integrity by the RMS organisation. We are pursuing this matter with our local member and the road's minister.

We also note that by recommending a small culvert, RMS are going against the recommendations of the Hydrology and Flooding Assessment Report. On page 23 they note the need for three, 3m x 3m culverts under the motorway in order to meet their flooding objectives. RMS has confirmed to us that the only requirement in the design and construct contract is a 3.6m wide x 3m high culvert in our desired underpass location. They also advise: "During the detailed design phase, another flood assessment will be undertaken, this will determine the exact dimensions of culverts and structures along the project length for the purposes of flooding. However, the 3.6m wide x 3m high culvert for the purposes of cattle crossing previously discussed will be the minimum dimensions of the opening for the culvert on the boundary of Lot 121 DP 998189 / Lot 1 DP 955731 to access Lot 6 DP 1100435 regardless of any outcome related to the flooding assessment." The underpass that RMS promised initially could act as a flood mitigation structure thus solving two issues in one.

We can't leave this to chance. We need the 4m high by 8m wide underpass as promised by RMS.

### **Land use saving**

Throughout the PIR document RMS advise that there is a saving of agricultural land of 10.3 hectares by modifying the road design and a further 3.8 hectares by removing an ancillary site from our land holdings. This is an interesting perspective but perhaps the facts of the situation should be reported.

On the day that RMS presented us with the EIS report they highlighted the inclusion of the ancillary site. They advised that this was voluntary on our part and that they expected that we would be unwilling to have this on our land. We confirmed that there was no way we would allow this. So now RMS are claiming a saving from removing something that was never going to happen in the first place.

We aren't sure where the 10.3 ha figure comes from. Based on the acquisition boundaries we were presented with at the time of the EIS and since this new design was put forward, the saving is 9.2 hectares. This is comprised of 6.1 ha on land we own and 3.1 ha of land we lease from our neighbour. What is not stated is that RMS will be acquiring our neighbour's land parcel that they 'saved' 3.1ha on as the road makes this land locked, unable to be accessed via any other way except through our land. This parcel of land is 12.6 ha. We hope that common sense will prevail and we may be able to purchase the residual from RMS but there is no guarantee that this will happen. So with the loss of this 12.6ha plus the 15.4ha taken from our land, this road is costing the dairy industry 28ha of quality agricultural land. We note from the Traffic and Transport Assessment report that they needed to change the interchange arrangement on our land anyway to solve a potential traffic weaving issue. We wonder how much of these amendments were about saving agricultural land and how much was to solve a traffic problem.

We are grateful for the saving of 6.1ha that has been achieved however we think there are more savings to be made. We would encourage RMS to place incentives in the design and construct contract for the road builders to provide a detailed design that uses less agricultural land.

### **Increased Flooding on Agricultural land**

We have compared the Macquarie Rivulet Change in Water Level maps from those provided in the EIS to the current design. We are pleased to see a reduction in the extent of increased flooding but note an increase in depth. We were particularly concerned with the 2 year and 5 year maps. We note that even relatively frequent floods will have an increase in flooding levels on our farm of 25-40cm.

We raised the increased flooding levels in our response to the EIS. RMS addressed this in their response to issues 93 and 95. We still reject their assertion that it's ok to add more flooding to agricultural land because it can "accommodate higher flood levels for short periods of time without any substantial increases in land damage or decreased use of the land."

Yes, flooding is a situation we are well versed in managing, but why should this project be allowed to exacerbate the issue? 40cm is a substantial increase in flooding depth and we feel that it will adversely impact our land.

In the final paragraph of RMS' response to issues 93 and 95 it notes "Roads and Maritime would continue ongoing consultation with affected landholders (including the dairy enterprise) during detailed design to ensure impacts proposed are not detrimental to the operation of the enterprise." We would welcome discussion with RMS on this issue as we were certainly not involved in any negotiations to set the targets that RMS are trying to meet. We are very concerned how changes to different aspects of this project could affect flooding on our farm.

### **Flooding during construction**

As noted in our responses to the EIS, flooding during construction is inevitable. This could have a serious impact to water quality in Frazers Creek and the Macquarie Rivulet. In addition we are concerned about silt, rocks and other construction debris being strewn over our paddocks. RMS address these issues in their responses to issues 192 and 92 and note: "Impacts on water quality in these watercourses beyond the project boundary (including downstream of the project) are expected to be avoided via implementation of the construction phase water quality management measures, and impacts on the dairy operation such as stock watering and irrigation are expected to be negligible." We appreciate the inclusion of environmental management measure HF01 but do not think this is stringent enough.

Our area experienced significant flooding in March 2017. Our farm is downstream of the Calderwood residential development. They were supposed to have all necessary environmental measures in place yet they could not cope with the flooding situation. The water in the Macquarie Rivulet was thick with mud for 2 weeks and was not usable for watering our stock or running our dairy. We had to truck in water for that period. How will RMS ensure this situation is not repeated in the construction of the Bypass?

### **Dairy enterprise viability**

Page 88 of Volume 1 purports to address community issues 173 – 179. In relation to the impacts on the dairy enterprise it states: "It is expected that the operational aspects of the business would require adjustment. It is not anticipated that the project would render the dairy enterprise unviable, and the impact to the milk production industry in the Illawarra is expected to be low." This comment is ill-informed and offensive. The writer has no knowledge of the sweeping changes we will be forced to make to keep our business going. Having to combine our milking herds changes a significant number of our daily farming practices. Our existing dairy facilities will be unable to milk the combined volume of cows and will need to be substantially changed. We will also need to change cattle laneways, watering system, fences, and feeding/loafing facilities. These are not minor adjustments.

It further notes that "any compensation would be determined in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991." At the current level of compensation being offered by RMS we would be forced to halve our milking herd and lay off staff. How is this "Just"? RMS know exactly how much the replacement infrastructure costs. They were involved in many of the studies to determine these costs. We did not ask RMS to build a road on our land, we are being forced to comply. RMS should fund the infrastructure needed to return our business to its current state.

### **New Bridge across the Macquarie Rivulet**

Both our previous EIS submission and the DPI submission refer briefly to the construction of a bridge across the Macquarie Rivulet. We did not highlight this as a key issue in our response to the EIS as it was not a design issue for the road but more an issue of compensation in order to restore our business to its current capacity. In the response to DPI issue 6 RMS advise that “An additional bridge to cross cattle is not considered in the scope of this project as adequate access for cattle has been provided across the site”. RMS are aware that the final part of this comment is untrue. An additional bridge across the Rivulet is required in order to maintain our current function. Without it we will be unable to access the Meadow View area of the farm, which is where the motorway is located and where the dairy facilities have been destroyed. They are aware of this as they were involved in the surveying of the new bridge site and have received a quote for the cost of building the bridge. We will be following up this issue in compensation discussions.

### **Noise**

Figure 4 in the Noise and Vibration Addendum report shows that low noise pavement has been incorporated across the bulk of the main carriageway but not on the on/off ramps on the Illawarra highway. We note that a number of residences in NCA 10 are recommended for property treatments. One of these is owned by the Tate family. We are interested to know if continuing the low noise pavement on the on/off ramps may help resolve the noise issues for receivers in NCA 10.

### **Flood free access**

Volume 2, Page 294 Section 5.5.9 Land Use – Impact on Property Access states that “Agricultural land (dairy) - Access to flood free land would be provided via BR07 under the motorway”. This is an interesting perspective. When not in flood conditions it is true that you can get to the adjacent high ground via the access points under BR07. However, the access track via BR07 will flood. So while there may be flood free land located near there, you won't be able to get to it in flood conditions. Therefore it will be unsuitable to have our cows retreat to this section of the farm as we won't be able to provide them with any feed or care in that location. RMS cannot provide us flood free access to our high ground as they will not allow access off the motorway and that is the only route that doesn't flood.

### **Biodiversity Offset**

We understand that site 12 of the biodiversity offset strategy is on our land. We understand from RMS that they will not be pursuing this site. We are not interested in having this site used as a biodiversity offset.

### **Proposed Croom Road detention basin.**

In the submission from Shellharbour City Council, we note that Issue 16 refers to the discharge from the proposed Croom Road basin. Council asks that the discharge from this basin be directed to Frazers Creek. In their response RMS advise that the Croom Road basin detention configuration would be discussed with Shellharbour Council during detailed design. As a downstream receiver of all the water that flows through Frazers Creek we are very concerned by any further waters being directed into the creek in flood situations. We would like assurance that there are no further increases in flooding of our dairy farm due to these changes.

### **Access to Albion Park**

Community Issues 82 – 84 address flooding. As do Issues 12 and 19 raised by Shellharbour Council. In response to Issues 82-84 RMS note that “There would be a significant improvement in access during a flood event over the existing condition, with the majority of the new motorway being flood free in the 100 year ARI event.” This is great news if you wish to travel through Albion Park on the motorway but if you wish to exit the motorway to go into Albion Park, it is a different story. RMS’ response to council’s issue 12 shows that the three access points into Albion Park off the motorway (Taylor Road, Tongarra Road and the new East West link) all flood in relatively frequent rain events. The response to Issue 19 indicates that the flooding at Taylor road would be exacerbated by the project. The community of Albion Park deserve a better outcome than this. The project should be looking at what options are available to improve flood performance in at least one of the access routes so the people of Albion Park are not cut off from their homes. Work does not have to be limited to roads works. The project will be building major infrastructure at the twin bridges over Frazers Creek (BR09). RMS should take the time to do some remediation works on the wetlands there. In recent years the wetlands have become clogged with reeds/bulrushes which has blocked the channel and caused the water levels to rise. This has the result of much more frequent flooding of Taylor Road than ever used to be experienced. Historical photos of the area show a much more defined water course. If these swampy areas were restored to the former levels, in an environmentally friendly manner, the flooding issues would be reduced.

### **Protection for Agricultural Land**

RMS response to Issue 186 shows the appalling lack of government protection for agricultural land. Two of the eight volumes of this Submissions and Preferred Infrastructure report are devoted to biodiversity and calculating offsets. Yet the comment on issue 186 notes “no formal offset policy or requirements are in place requiring the offset of agricultural land”. In fifty years’ time we will have saved the endangered species and communities, we will have built a great road network and have high density housing on the coast. Unfortunately we will have to import all our food from overseas as we will have built all the housing and infrastructure on prime agricultural land. Agricultural land is becoming the endangered community here and we must protect it. We urge the Department of Planning and Environment to consult with the Agriculture Minister to get protections in place for agricultural land before Australia loses our ability to feed ourselves.

### **Travel Time savings**

Community issue 53 discussed the different figures shown in the EIS documentation as time savings for when the road opens. We note that updated savings have been calculated based on new traffic modelling. All these statistics are shown as at 2041. We would like to know the estimated time savings under the new model when the road first opens.

Thank you taking the time to review our concerns. We look forward to further discussions with the Department of Planning and Environment and/or RMS.

Yours sincerely

Craig Tate  
Philip Tate  
Nicole Tate  
Karen Tate