



Director Transport Assessments
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Your Ref: SSI-9487

Our Ref: Brendan Tobin/Alison Thorp/ 2034499-1
Please quote this when replying

Date: 5 February 2021

Please ask for: Brendan Tobin
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Dear Sir/Madam,

State Significant Infrastructure Application SSI 18 9487
Australian Rail Track Corporation, Inland Rail – Narramine to Narrabri

1. We act on behalf of Brett and Leanne Lummis in relation to the above matter.
2. Our clients are the owners of 'Trelawney Park' at 51 Nalders Access Road, Curban 2827, which is Lot 20 and Lot 57 in Deposited Plan 753375 (**Property**). The ARTC property reference for the Property is 2638530.
3. Our clients are opposed to the Australian Rail Track Corporation's (**ARTC**) proposed Inland Rail Project Narramine to Narrabri Track (**N2N Track**). The N2N Track traverses the whole of the south-eastern boundary of our client's Property. In addition, our client's Property will be impacted by the Curban crossing loop, a construction compound, mobile concrete batch plant and various storage areas.
4. As a result, our client has significant concerns regarding the N2N Track, in relation to the lack of adequate consultation by the ARTC, access issues, and adverse noise, flooding and visual impacts. These concerns are considered in further detail below.

Inadequate consultation

5. As landowners directly impacted by the N2N Track, our client's met with ARTC representatives in 2019 and September 2020 to discuss issues associated with the N2N Track. At the most recent meeting, our clients requested further details from ARTC about noise impacts, operation of culverts on Nalders Access Road and stock crossings. However, at this stage, this further information has not been provided.
6. Our clients were also asked by ARTC representatives about the possibility of using part of their Property for construction compounds, and were advised by our client that this could be a possibility only if they were adequately compensated enough to ensure that the constraint of part of their Property and the associated disruption to their existing business are commercially viable. However, at this stage, no such discussions have taken place.

7. Following our review of the Environmental Impact Statement for the N2N Track (**EIS**), which was put on public display on 8 December 2020, our clients were surprised and disappointed to discover that significant construction infrastructure would be located on their Property, which includes a construction compound, mobile concrete batch plant, sediment basin and various storage areas.
8. At this stage, our clients have not received any information from the ARTC regarding the extent of the impact of the construction infrastructure, the size, the proposed duration of the use of their Property for construction purposes, the proposed hours of use of the compound and associated infrastructure, and measures that will be imposed to ensure biosecurity protocols and compliance at our client's Property is maintained.
9. The proposed use of part of our clients Property for construction purposes could have a potentially detrimental impact on their business and lifestyle for a prolonged period, and at this stage, our clients have not received any assurances from the ARTC that they will be adequately compensated for the loss of use of land, disruption and severance impacts.
10. In addition, our clients were advised by ARTC representatives in the September meeting that the proposed Curban crossing loop would no longer impact on their Property, however, the crossing loop is indicated within our client's Property boundary in both the EIS construction and operational plans.
11. It is disappointing that such meaningful changes which significantly impact on our client were not communicated to them by the ARTC, but were instead buried within a voluminous EIS. The failure by the ARTC to adequately consult our client also conflicts with the assertions set out in the EIS Consultation Report (Appendix C to the EIS), which states that landowners directly impacted by the final rail corridor were provided with updated property maps in late 2020 clearly showing the location of the final rail corridor and issues such as flood modelling, operational noise, access, visual impacts, property acquisition and construction infrastructure were discussed.¹

Access route

12. At our client's meeting with ARTC representatives in September 2020, they were advised that they would be provided a private level crossing at the southern end of Nalders Access Road, to ensure they could maintain access to their Property. However, the ARTC also advised that information regarding the private level crossing would not be contained in the EIS.
13. Relevantly, we note that the EIS plans identify that there will be no public level crossing at the southern end of Nalders Access Road and does not contain any information regarding private level crossings.
14. It is imperative that the ARTC's assertion of a private level crossing, with associated holding pens to move stock and truck turning bays off National Park Road, is ultimately provided as part of the final design of the N2N Track. If such access is not provided, it may detrimentally impact our client's day-to-day operation of its business, increase travel time to and from its Property from local services and will further de-value the Property.

¹ Section 5.1.10 of the Consultation Report, Appendix C to the Environmental Impact Statement

Noise impacts

15. Due to the proximity of the N2N Track to our client's residential Property, which is located approximately 500m from the centre of the rail alignment, our client has significant concerns regarding adverse noise impacts associated with the N2N Track, both during construction and operation of the railway. The location of the N2N Track may also result in noise and vibration impacts that will adversely affect livestock located on our client's Property.
16. The significant construction infrastructure located within our clients' stock paddocks, and the noise and vibration generated by a significant number of double-stacked freight trains up to 1,800m long and 6.5m high traversing the Property multiple times a day, will adversely impact on peak operational seasons, such as the lambing season, as well as our client's general use of the Property throughout the year.
17. At our client's meeting with ARTC representatives in September 2020, it was noted that our clients' residential property would be subject to noise impacts in the 80Db range. As a result, the ARTC provided our clients with "basic mitigation details although further work in this regard is needed".² Although our client has requested further information from ARTC in this regard, to date this information has not been provided.
18. It is unclear within the EIS whether the ARTC has accurately assessed the noise and vibration impacts of the construction infrastructure located on our client's Property. This is of serious concern to our clients given that the EIS states that proposed construction hours include regular work outside the recommended standard hours.³ As it is anticipated that such construction work will reasonably require construction vehicles accessing the construction compound, this will result in regular noise and vibration impacts very early in the morning, late in the evening and night and on weekends.
19. Further, it is also unclear within the EIS whether the ARTC has robustly assessed the operational noise and vibration impacts of the N2N Track on our client's Property and whether the potential noise mitigation options identified in Table B9.8⁴ would sufficiently minimise potential noise and vibration impacts and achieve the assessment criteria.
20. Consequently, the ARTC has failed to satisfactorily show that the noise and vibration impacts associated with N2N Track will not adversely affect our client's Property, both during the construction and operational phases.
21. As such, it is imperative that the potential construction and operational noise and vibration impacts on both residential receptors and our client's business, are adequately and robustly assessed, and necessary mitigation measures are implemented. Further, there should be a requirement that the ARTC to regularly monitor noise and vibration impacts during the construction process and operational phase of the N2N Track to ensure that limits are not exceeded.

² Inland Rail Meeting Record, Brett & Leanne Lummis, 11 September 2020

³ Page 8.7 of Chapter 8 Noise and Vibration (Construction) of the EIS

⁴ Table B9.8 of Chapter 9 Noise and Vibration (Operation) of the EIS

Flooding and other water impacts

22. The alignment of the N2N Track is located within close proximity to a number of creeks, in particular Jude's Creek, part of which runs through our client's Property. During rainfall periods, these creeks become easily flooded and the surrounding land is subject to strong overland water flows, which often come with little or no warning. As such, our clients are concerned that the flooding risks at their Property will be exacerbated by the proximity of the N2N Track, and considers that the ARTC has failed to undertake accurate and robust flooding modelling.
23. It is also unclear whether the N2N Track will block and/or redirect the natural flow of local creeks, including Jude's Creek. This potential change or blockage of water flows would have a seriously detrimental effect on our client's Property, which is reliant on natural watercourses and dams for stock and domestic water supply. The ARTC has failed to satisfactorily show that the impact of the N2N Track on overland water flows will not adversely impact our client's Property.
24. As such, it is imperative that the impact of flooding and overland water flows arising as a result of the N2N track have been adequately and robustly assessed in respect to our client's Property, and any necessary mitigation measure are implemented.

Visual impacts

25. At our client's meeting with ARTC representatives in September 2020, it was noted that visual impacts were "N/A" to our client.⁵ Given the proximity of the N2N Track to our client's Property, and the potential loss of vegetation along the existing tree link to accommodate the railway alignment, it appears that the N2N Track may result in an adverse visual impact.
26. The ARTC has failed to satisfactorily show that the location of the N2N Track and the construction infrastructure within our client's Property will not result in adverse visual impacts both in the construction phase and the long term operational phase.
27. As such, it is imperative that the visual impact of the N2N track have been adequately and robustly assessed in respect to our clients Property, and any necessary mitigation measure are implemented.

⁵ Inland Rail Meeting Record, Brett & Leanne Lummis, 11 September 2020

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Conclusion

28. Overall, our clients are opposed to the N2N Track due to the unacceptable adverse impacts it will impose on their Property.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'B. Tobin'.

Brendan Tobin

**Principal Lawyer
for DWF (Australia) ABN 48 630 454 134**