

Jennifer Ninnette

From: Rampant, Cody <Cody.Rampant@lands.wa.gov.au>
Sent: Tuesday, 10 February 2015 1:17 PM
To: Jennifer Ninnette
Cc: Gasmier, Carolyn
Subject: RE: Packsaddle Freehold Area
Attachments: Map 10 Schedule 2 - Packsaddle Freehold Areas.pdf; 201502101259.pdf

Hi Jennifer

I provide the following response to your enquiries below:

Has a crossing been constructed over Packsaddle Creek and DP1 drain?

- Yes, a crossing was constructed over the Packsaddle Creek. Funding of the nominated amount of \$700,000 was provided to a contractor to complete the works. Funding was expended on the Packsaddle Creek Crossing only, no funding or work was undertaken on a crossing for the DP1 drain.

Has a road been constructed from the existing Packsaddle Road to Packsaddle Creek?

- A track exists from Packsaddle road to Packsaddle Creek. The track is used for "Vehicular and Pedestrian Access" by three Miriuwung Gajerrong Aboriginal Communities. No road has been dedicated from Packsaddle Road to Packsaddle Creek.

Has fencing and a gate been established, or is there a location proposed, on the boundary of the proposed Packsaddle Freehold Area?

- To the Department's knowledge fencing and a gate have not been established for the Packsaddle Freehold Area. The proposed boundary of the Packsaddle Freehold Area is shown at Map 10, Schedule 2 of the Ord Final Agreement (copy attached). The areas to be transferred are Packsaddle Freehold Area and Packsaddle Freehold ILUA Area.

Is there an easement document or is this simply an access easement as shown on the deposited plan?

- Yirrallelm 1 & 2 and Jimbilum Communities have supporting legal access through the form of s144 Land Administration Act Easements. The Easements are for the purpose of Vehicular and Pedestrian Access. They are in the form of a document registered at Landgate and noted on the affected titles as encumbrances.

If there is an actual easement document, does it allow for any fencing or gates, and where any such fencing or gates can be located, and are you please able to provide a copy of this document or at least the document number?

- Easements are registered against each title for the Yirrallelm 1 & 2 and Jimbilum Communities. The easements contain a provision stating the grantee must not fence off the easement area without prior written consent of the Minister for Lands, but may construct and maintain a gate or gates in any fence now or hereafter crossing the easement area. The Easement document numbers are L755159, L755146 and L755152.

Is a road intended to be constructed along the existing easement alignment or along the Packsaddle Road Area alignment as indicated in the OFA?

- The intention of the OFA with regard to the provisions of Clause 39.4(1) relate to a funding commitment of \$700,000 from the State. There was an agreed prioritisation of actions to occur in order at Clause 39.4(1)(c) - (f). The entire funding amount was expended on the Packsaddle Creek Crossing – being the first priority action, in fact the State funded an additional ~\$200,000 to facilitate upgrade works to the Packsaddle Crossing after it failed in its first wet season. Accordingly, the State has satisfied its obligations under Clause 39.4 and there is no further intention to construct a road along the easement alignment or the Packsaddle Road Area alignment as indicated in the OFA.

I also provide a letter to the Shire referencing Alex Douglas's advice that the Shire did not want involvement in the construction of the Packsaddle Road. Unfortunately, I've been unable to locate a copy of the 'follow-up' advice referred in the letter.

Regards

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From: Jennifer Ninyette [mailto:Jennifer.Ninyette@swek.wa.gov.au]
Sent: Wednesday, 28 January 2015 12:39 PM
To: Gasmier, Carolyn; Rampant, Cody
Subject: Packsaddle Freehold Area
Importance: High

Hi Carolyn and Cody,

At the Ordinary Council Meeting last night an item went up for Council to consider management of the proposed Packsaddle Creek Reserve, however Council seemed more interested in relation to the fencing requirements to 'control access to Barbecue Hill' in relation to clause 39.4 of the Ord Final Agreement (OFA) in relation to the 'Packsaddle Road Area'.

Are you please able to confirm whether there has been any action in relation to the Packsaddle Road Area as stipulated under the OFA, i.e.:

- Has a contractor been nominated to undertake any of the proposed works as outlined in clause 39.4 (1) (c) to (e), and if so:
 - Has a crossing been constructed over Packsaddle Creek and DP1 drain?
 - Has a road been constructed from the existing Packsaddle Road to Packsaddle Creek?
 - Has fencing and a gate been established, or is there a location proposed, on the boundary of the proposed Packsaddle Freehold Area?

An easement has been created over the existing access track to provide legal access to the Yirrallem 1 & 2 and Jimbilum communities. Are you please able to advise in response to the following:

- Is there an easement document or is this simply an access easement as shown on the deposited plan?
- If there is an actual easement document, does it allow for any fencing or gates, and where any such fencing or gates can be located, and are you please able to provide a copy of this document or at least the document number?
- Is a road intended to be constructed along the existing easement alignment or along the Packsaddle Road Area alignment as indicated in the OFA?

I cannot find any records to indicate that your Department has written to the Shire specifically about the access road, however I assume that this has occurred.

I have found an email from a company called Voran (consulting engineers) dated 18 February 2008 and in which Kevin Emrose has been copied in, relating to the upgrade of the road to the Jimbilum (spelt Jimbalum in the email) Community, a copy of which is attached, which has included a engineered design

for the crossing and Packsaddle Creek. This email indicates that the Shire had been approached previously in relation to construction and management of this road, however I have been unable to find any correspondence between Lands and the Shire specifically about this. Are you please able to check your Departments records in relation to the access road, gates and fencing in particular?

Happy to discuss. Any and all information you can provide would be appreciated. I need to compile as much information as possible for the briefing session to be held on 10 February.

Regards

Jennifer Ninyette
Senior Planning Officer

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