

CHRIS W

PHO M2799



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Director-General

The Director-General
Department of Planning
PO Box 39
SYDNEY NSW 2001

Attention: Mark Turner

PACIFIC HIGHWAY UPGRADE – KEMPSEY TO EUNGAI PROJECT – PROPOSED CONDITION OF APPROVAL MODIFICATION

Dear Mark,

The Roads and Traffic Authority (RTA) are requesting a modification to the conditions of approval for the Kempsey to Eungai project to allow for private agreements to be entered into with property owners regarding blasting criteria. In addition, it is also requested to modify the conditions of approval to allow for approval to alter the construction hours through the Construction Environmental Management Plan or Construction Noise and Vibration Management Plan instead of approval by the Director-General's as at presently.

It is considered that this modification would result in best practice management measures being able to be applied to the Kempsey to Eungai project which would benefit the broader community and road users and allow for streamlining of the regulatory approval process associated with varying the hours of construction. Further detail on the proposed modification and justification is provided below.

Blasting

Condition 2.18 and Condition 2.19 of the Project Approval provide the airblast overpressure and peak particle velocity criteria required to be met by blasting associated with the Kempsey to Eungai project. The criteria provided is considered conservative by industry standards and is related to human comfort levels for blasting operations (AS 2187.2 – 2006). It is acknowledged that the criteria recommended for control of damage to structures is greater than that recommended for human comfort levels. Compliance with the criteria is required at the most affected residence or other sensitive receiver.

As required under the *Protection of the Environment Operations Act 1997*, the Kempsey Bypass Alliance, engaged by the RTA to undertake the design and construction of the first stage of the Kempsey to Eungai project, hold an Environmental Protection Licence (EPL 13265) for their works. The EPL conditions related to blasting criteria are consistent with the Project Approval. However, monitoring for compliance is required at the most affected residence or noise sensitive location that is not owned by the licensee or subject to a private agreement between the owner of premises or noise sensitive location and the licensee for all blasts carried out in or on the premises.

Roads and Traffic Authority

It is proposed that a similar exemption to monitoring for compliance against blasting criteria as provided in the EPL conditions be adopted for the Project Approval for the Kempsey to Eungai project.

It is envisaged that the negotiation and process of establishing a private agreement would be consistent with that set out in the *NSW Industrial Noise Policy* (EPA 2000) and *Interim Construction Noise Guideline* (DECC 2009). The RTA is familiar and understanding of the negotiated agreement process and in recent times such process has been widely adopted on the Hume Highway duplication projects.

In consideration of the areas subject to blasting for the Kempsey Bypass section of the Kempsey to Eungai project, approximately 20 private agreements would be potentially negotiated by the Kempsey Bypass Alliance. The Kempsey Bypass Alliance has been proactive in community consultation for the required blasting. A number of one on one briefings have been undertaken and a community information session was held in late September 2010. Based on the community engagement undertaken to date, it is envisaged that private agreements would be viewed as amenable by those affected residents.

The objective of the private agreement would be to allow for blasting criteria to be increased at particular premises. However, the Kempsey Bypass Alliance would not negotiate above the levels which would result in damage to structures. These levels are generally 25 mm/s peak particle velocity and 125 dBL airblast overpressure or higher depending on the type of structure. Where no private agreements exist, the criteria provided in the Project Approval would be adhered to.

Notwithstanding the potential application of private agreements, the Kempsey Bypass Alliance have undertaken detailed property inspections and prepared pre-condition reports as required by the RTA Statement of Commitments for the Kempsey to Eungai project, namely Commitment P4, P5 and P6. Following the blasting program, follow-up property inspections would be undertaken with the preparation of post-condition reports. Any damages that have resulted from the blasting program would be rectified to the satisfaction of the property owner to the pre-condition level or similar.

The benefits of allowing private agreements to be negotiated as part of the Project Approval to the broader community and road users would be a considerably shortened blasting program. With the existing Project Approval, the blasting program for the Kempsey Bypass would commence in October 2010 and continue up until the end of 2011 given ideal weather conditions. With allowing private agreements to be negotiated, the blasting program would be reduced by up to three months. This would have positive amenity impacts for the local community and reduce the potential traffic delays resulting from road closures.

This modification is considered consistent with current best practice management and would not result in a decrease in the environmental performance of the Kempsey to Eungai project.

Altering hours of construction

Condition 2.14 of the Project Approval outlines the process required to vary the hours of construction. This process involves the preparation of documentation detailing and justifying the nature of works requiring the variation to the construction hours. In addition, consultation with potentially affected sensitive receivers and the Department of Environment, Climate Change and Water is required prior to submission to the Director-General for approval.

With the continued development of detailed design and refinement of the construction program for the Kempsey Bypass section of the Kempsey to Eungai project, a number of activities are proposed which would require the process detailed in Condition 2.14 to be followed. Whilst these activities have been identified now and there is opportunity to consolidate similar requests to vary the construction hours, it is not considered unlikely that a number of other proposals would be realised which would also require additional requests to be submitted.

It is noted that for recent Pacific Highway Upgrade project approvals, eg Sapphire to Woolgoolga (06_0293) and Banora Point (07_0059), a streamlined approval and assessment process for varying the hours of construction was allowed for as part of the Construction Environmental Management Plan or Construction Noise and Vibration Management Plan.

It is requested that a similar condition be adopted for the Kempsey to Eungai project. Such a modification would assist not only the RTA and its contractors but also the regulatory agencies by reducing workloads in preparing and assessing a potentially high number of requests to vary construction hours and the repeated consultation required. Notwithstanding, this modification would not detract from the required assessment, justification and consultation required to alter the construction hours.

Please contact Andrew Cook (02 6560 2508) should you require any additional information or require clarification on any of the above.

Yours sincerely



Wes Stevenson
Acting General Manager, Pacific Highway

1/10/2010

Request to modify a major project



NSW GOVERNMENT
Department of Planning

Date duly made: 8 / 10 / 10

Modification No. 06 0224 MOD2

1. Before you lodge

This form is required under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) in order to request the Minister to modify the Minister's approval to carry out a project or concept plan to which Part 3A of the Act applies.

Before making this request, it is recommended that you first consult with the Department of Planning (the Department) concerning your modification. The Director-General may issue environmental assessment requirements that must be complied with before your request will be considered by the Minister. If the changes proposed by the modification will result in a project that is consistent with the existing approval, the Minister's approval for a modification is not required.

Disclosure Statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Note: For more details about political donations disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

All modification requests must be lodged with the Director-General of the Department of Planning, by courier or mail. An electronic copy should also be e-mailed to the assessment contact officer assigned to the project.

NSW Department of Planning
Ground floor, 23-33 Bridge Street, SYDNEY NSW 2000
GPO Box 39 SYDNEY NSW 2001
Phone 1300 305 695

2. Details of the proponent

Company/organisation/agency

Roads and Traffic Authority

ABN

64480155255

Mr Ms Mrs Dr Other

First name

Wes

Family name

Stevenson

Position

General Manager, Pacific Highway Office

STREET ADDRESS

Unit/street no.

21

Street name

Prince Street

Suburb or town

Grafton

State

NSW

Postcode

2460

POSTAL ADDRESS (or mark 'as above')

PO Box 546

Suburb or town

Grafton

State

NW

Postcode

2460

Daytime telephone

02 6640 1000

Fax

02 6640 1001

Mobile

Email

wesley_stevenson@rt.a.nsw.gov.au

3. Identify the land

STREET ADDRESS (where relevant)

Unit/street no.

N/A

Street or property name

Pacific Highway

Suburb, town or locality

Kempsey

Postcode

2440

Local government area(s)

Kempsey Shire

State Electorate(s)

Oxley

REAL PROPERTY DESCRIPTION

As per Kempsey to Eungai EA

Note: The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands.

Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers. If the proposed modification applies to more than one piece of land, please use a comma to distinguish between each real property description.

OR: detailed description of land attached:

MAP: A map of the site and locality should also be submitted with this request.

4. Details of the original major project or concept plan

Briefly describe what the original approval allows

The construction and operation of approximately 41 km dual carriageway highway, comprising three interchanges, a bypass of Kempsey and Frederickton and a bridge over the Macleay River and partial bridging of the Macleay River Floodplain.

What was the original project application no.?

06_0224

What was the date of the approval?

10 July 2008

What was the original application fee?

N/A

Note: Clause 245K of the *Environmental Planning and Assessment Regulation 2000* provides information on calculating the maximum fee for a request for modification.

5. Describe the modification you propose to make to the approval

Describe the proposed modification

The Roads and Traffic Authority (RTA) are requesting a modification to the conditions of approval for the Kempsey to Eungai project to allow for private agreements to be entered into with property owners regarding blasting criteria. In addition, it is also requested to modify the conditions of approval to allow for approval to alter the construction hours as part of the Construction Environmental Management Plan or Construction Noise and Vibration Management Plan.

These modifications would result in best practice management measures being able to be applied to the Kempsey to Eungai project which would benefit the broader community and road users. It will also allow for streamlining of the regulatory approval process associated with varying the hours of construction. Further detail on the proposed modification and justification is provided in the attached correspondence.

Your modification request may need to be accompanied by an Environmental Assessment, including plans. An electronic and hard copy of this document will be required.

ESTIMATED CAPITAL INVESTMENT VALUE

Please indicate the estimated capital investment value (CIV) of the modification to the project approval or concept plan (excluding GST).

\$N/A

FULL TIME EQUIVALENT JOBS

Please indicate the number of jobs created by the proposed modification. This should be expressed as a proportion of full time equivalent (FTE) jobs over a full year.

Construction jobs (FTE)

N/A

Operational jobs (FTE)

N/A

6. Landowner's consent (where required)

As the owner(s) of the above property, I/we consent to this request being made by the proponent:

Land

N/A

Signature

Name

Date

Land

N/A

Signature

Name

Date

Note: Under Clause 8F of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), certain applications for approval under Part 3A of the Act do not require consent of the landowner, however, the proponent is required to give notice of the application (e.g. linear infrastructure, mining & petroleum projects, and critical infrastructure).

7. Political donation disclosure statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Have you attached a disclosure statement to this request?

- Yes
 No

Note: For more details about political donations disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

8. Proponent's signature

As the proponent(s) of the project and in signing below, I/we hereby:

- provide a description of the modification to the project approval or concept plan and address all matters required by the Director-General pursuant to Section 75W of the Act, and
- declare that all information contained within this form is accurate at the time of signing.

Signature



Name

Wes Stevenson

Date

1/10/2010

In what capacity are you signing if you are not the proponent

Acting General Manager, Pacific Highway

Name, if you are not the proponent