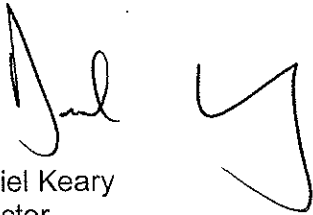


Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 25 January 2010, I approve the modification of the project application referred to in Schedule 1, subject to the conditions in Schedule 2.



Daniel Keary
Director
Infrastructure Projects

Sydney 26 NOVEMBER 2010

SCHEDULE 1

Project Approval:

06_0224 granted by the Minister for Planning on 10 July 2008.

For the following:

The construction and operation of an approximately 41 kilometre dual carriageway, comprising three interchanges and a bypass of Kempsey and Frederickton, referred to as the Pacific Highway Upgrade-'Kempsey to Eungai' Project on land generally to the east of Kempsey, Frederickton and land generally to the west of Clybucca, connecting the existing Pacific Highway between approximately seven kilometres south of Kempsey to approximately 34 kilometres north of the town at Eungai Rail, within the Kempsey and Nambucca local government areas.

Modification:

Modification of the approval in relation to blasting and the approval process for out of hours construction work.

SCHEDULE 2

The approval is modified by:

1. Deleting condition 1.1 and replacing with the following:

1.1 The Proponent shall carry out the project generally in accordance with the:

- a) Major Projects Application 06_0224;
- b) *Kempsey to Eungai – Upgrading the Pacific Highway: Environmental Assessment* (Volumes 1 and 2), prepared by Parsons Brinckerhoff Australia Pty Limited and dated July 2007;
- c) *Kempsey to Eungai – Upgrading the Pacific Highway: Submissions Report*, prepared by Parsons Brinckerhoff Australia Pty Ltd and dated March 2008, including the Statement of Commitments contained therein;
- d) Modification Application 06_0224 MOD 1 and request for modification dated 5 February 2010;
- e) Modification Application 06_0224 MOD 2, request for modification dated 1 October 2010 and additional information provided to the Department on 1 November 2010, 3 November 2010 and 17 November 2010; and
- f) the conditions of this approval.

2. Deleting condition 1.2 and replacing with the following:

1.2 In the event of an inconsistency between:

- a) the conditions of this approval and any document listed from condition 1.1a) to 1.1e) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
- b) any document listed from condition 1.1a) to 1.1e) inclusive, and any other document listed from condition 1.1a) to 1.1e) inclusive, the most recent document shall prevail to the extent of the inconsistency.

3. Deleting condition 2.12 and replacing with the following:

2.12 Standard construction hours for the duration of construction are:

- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive; and
- b) 8:00 am to 1:00 pm on Saturdays; and
- c) at no time on Sundays or public holidays.

The following exceptions (without further approval) to standard construction hours apply:

- i. any works that do not cause construction noise to be audible at any sensitive receiver; or
- ii. for delivery of materials required outside these hours by the Police or other relevant authorities for safety reasons; or
- iii. where it is required in an emergency to avoid the loss of lives, property and/or to prevent environmental harm.

4. Deleting condition 2.13.

5. Deleting condition 2.14 and replacing with the following:

2.14 Certain construction activities (Out of Hours Works) may be allowed to occur outside the standard construction hours with the prior written approval of the Director-General. Requests for out of hours approval will be considered for construction activities which cannot be undertaken during standard construction hours for technical or other justifiable reasons and will be considered on a case

by case or activity-specific basis. Any request for Out of Hours Works must be accompanied by:

- a) details of the nature and need for activities to be conducted during the varied construction hours;
- b) written evidence to the DECCW and the Director-General that activities undertaken during the varied construction hours are justified, appropriate consultation with potentially affected receivers and notification of Council has been undertaken, issues raised have been addressed, and all feasible and reasonable mitigation measures have been put in place; and
- c) evidence of consultation with the DECCW on the proposed variation in standard construction hours.

Despite the above, Out of Hours Works may also occur where a process for considering the above on a case by case or activity specific basis by the Proponent, including factors a) to c) above, has been approved as part of a Construction Environment Management Plan or Construction Noise and Vibration Management Plan for this project.

6. Deleting condition 2.18 and replacing with the following:

- 2.18 The Proponent shall ensure that air blast overpressure generated by blasting associated with the project does not exceed the criteria specified in Table 1 when measured at the most-affected residence or other sensitive receiver.

Table 1 - Airblast Overpressure Criteria

Airblast Overpressure (dB(Lin Peak))	Allowable Exceedance
115	5% of the total number of blasts over a 12 month period
120	0%

However, these criteria do not apply to the Stage 1 Kempsey Bypass where the Proponent has a written agreement with the relevant landowner to exceed the criteria, and the Proponent has advised the Department in writing of the terms of this agreement.

Subject to the Proponent demonstrating to the Director General that consultation with the community and landowners on the proposed blasting program has occurred, these criteria do not apply to Stage 2 Frederickton to Eungai where the Proponent has a written agreement with the relevant landowner to exceed the criteria, and the Proponent has advised the Department in writing of the terms of this agreement.

Note:

1. The agreement may be terminated by the landowner at any time should concerns about the increased blasting limits be unresolved.
2. The Airblast Overpressure level of 125 dBL shall not be exceeded.
3. The agreement does not apply where the property is a heritage property.

7. Deleting condition 2.19 and replacing with the following:

- 2.19 The Proponent shall ensure that ground vibration generated by blasting associated with the project does not exceed the criteria specified in Table 2 when measured at the most affected residence or other sensitive receiver.

Table 2 – Peak Particle Velocity Criteria

Peak Particle Velocity (mm/s)	Allowable Exceedance
5	5% of the total number of blasts over a 12 month period
10	0%

However, these criteria do not apply to the Stage 1 Kempsey Bypass where the Proponent has a written agreement with the relevant landowner to exceed the criteria, and the Proponent has advised the Department in writing of the terms of this agreement.

Subject to the Proponent demonstrating to the Director General that consultation with the community and landowners on the proposed blasting program has occurred, these criteria do not apply to Stage 2 Frederickton to Eungai where the Proponent has a written agreement with the relevant landowner to exceed the criteria, and the Proponent has advised the Department in writing of the terms of this agreement.

Note:

1. The agreement may be terminated by the landowner at any time should concerns about the increased blasting limits be unresolved.
2. The Peak Particle Velocity vibration level of 25 mm/s shall not be exceeded.
3. The agreement does not apply where the property is a heritage property.