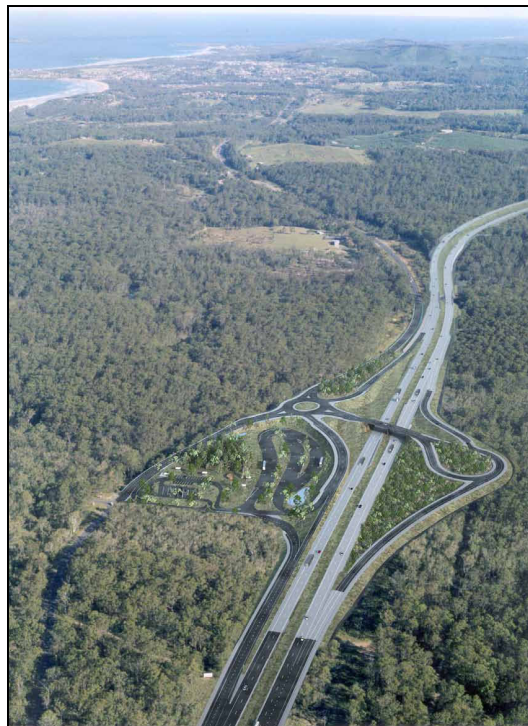


MODIFICATION REQUEST:
*Modification request to incorporate the
project into the existing management
system*



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

June 2013

Cover Photo – Artist impression of Arrawarra rest area - looking south — Artist's impression [Rest Area Environmental Assessment Report. Aurecon 2011]

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EXECUTIVE SUMMARY

The Pacific Highway Upgrade - Sapphire to Woolgoolga project (06_0293) was approved by the then Minister for Planning on 13 January 2009 under Part 3A of the Environmental Planning and Assessment Act 1979 (the Act). The approved project, referred to as the Sapphire to Woolgoolga section of the Pacific Highway upgrade, is approximately 25 kilometres in length, including duplication of the existing highway between Sapphire and South Woolgoolga and a bypass of Woolgoolga, extending to the existing highway near Arrawarra Beach Road. Construction of the project commenced in August 2010 and is expected to be completed by September 2014.

The Roads and Maritime Services (the proponent) has submitted a request (MP06_0293 MOD 7) under section 75W of the Act, seeking a modification to the Minister's approval to allow the operational aspects of the project to be managed in accordance with the existing RMS management systems. Consequently, the proponent seeks approval to remove the need to prepare an Operational Environmental Management Plan.

The department placed the modification request on its website. The proponent conducted consultation with Environment Protection Authority and the Department of Primary Industries who raised no objection to the proposal.

The department has undertaken a comprehensive assessment of the modification request and considers the modification to be acceptable. The Department is satisfied that the modification request is justified and therefore has recommended its approval.

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1. BACKGROUND

The Pacific Highway Upgrade - Sapphire to Woolgoolga project (06_0293) was approved by the then Minister for Planning on 13 January 2009 under Part 3A of the Environmental Planning and Assessment Act 1979 (the Act). The approved project, referred to as the Sapphire to Woolgoolga section of the Pacific Highway upgrade, is approximately 25 kilometres in length, including duplication of the existing highway between Sapphire and South Woolgoolga and a bypass of Woolgoolga, extending to the existing highway near Arrawarra Beach Road. Construction of the project commenced in August 2010 and is expected to be completed by September 2014.

The project location and layout is shown in **Figure 1**.

The project has been modified six times, as outlined below:

- MOD 1 (November 2009) to modify the wording of condition of approval 5.5 and 5.6 in regard to stakeholder consultation.
- MOD 2 (February 2010) to allow minor clearing of ecologically endangered communities, to facilitate activities such as utilities relocation, prior to the commencement of construction.
- MOD 3 (September 2010) to modify condition of approval 2.6 regarding the provision of light wells in culverts.
- MOD 4 (October 2010) to allow road upgrade works on the site of the mine shaft of the former Golden Arrow Mine near the intersection of the Pacific Highway and Maccues Road, Moonee Beach.
- MOD 5 (February 2011) to modify the blasting hours, airblast overpressure and ground vibration levels for works, where the proponent enters into private agreements with affected property owners.
- MOD 6 (October 2012) to incorporate the potential future development of a rest area at Arrawarra for light and heavy vehicles into the project approval.

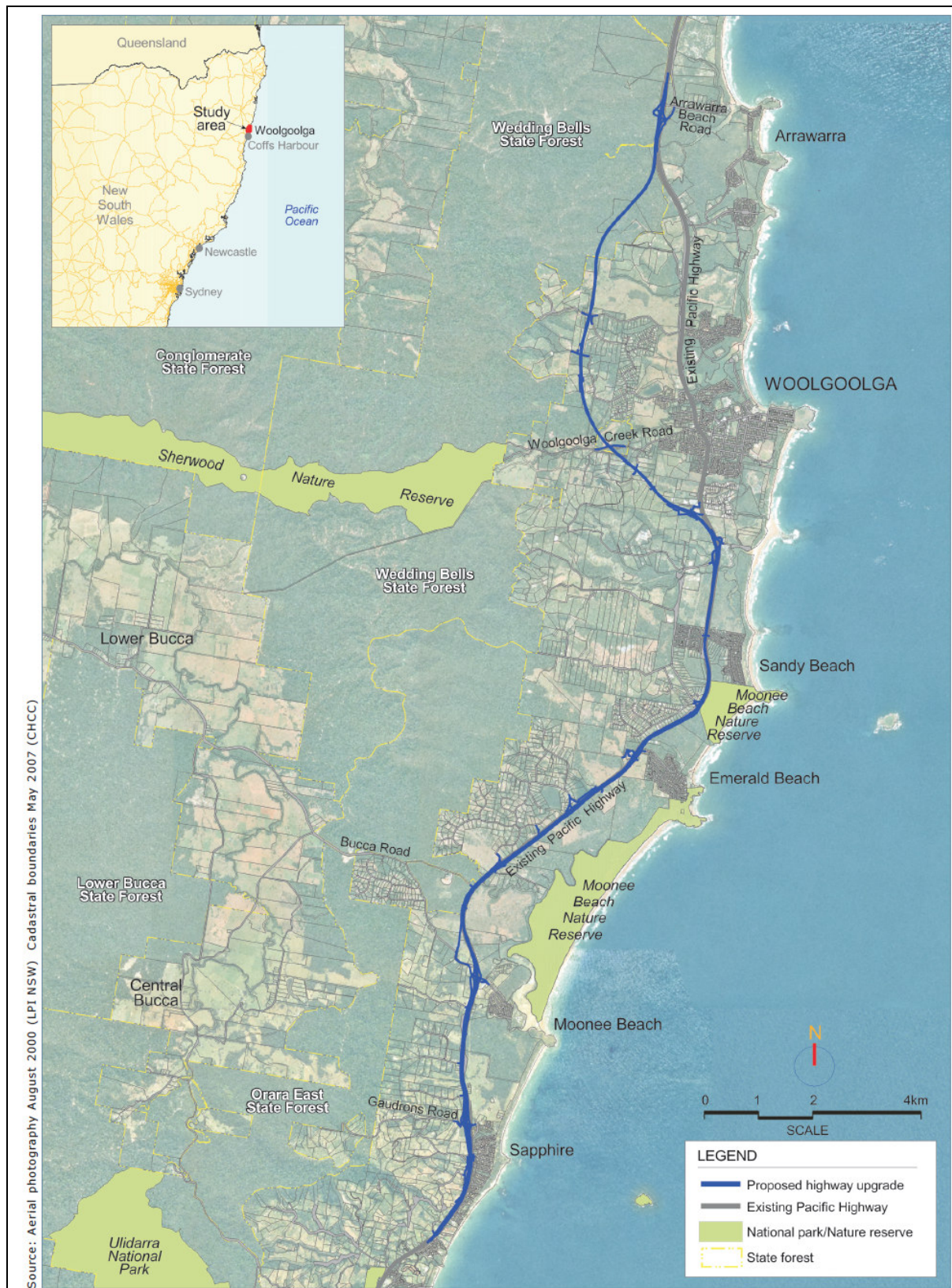


Figure 1 Project location (Source: EA — Connell Wagner 2007)

2. PROPOSED MODIFICATION

2.1 Modification Description

The Roads and Maritime Services (RMS) has submitted a request (MP06_0293 MOD 7) under section 75W of the Act, seeking a modification to the Minister's approval to allow the operational aspects of the project to be managed in accordance with the existing RMS management systems. Consequently, the proponent seeks approval to remove the need to prepare an Operational Environment Management Plan (OEMP).

Condition 6.4 requires RMS to prepare and implement an OEMP, and specifies the contents of the OEMP. The text of condition 6.4 is excerpted below:

- 6.4 The Proponent shall prepare and implement an Operational Environment Management Plan for the project that details the environmental management framework, practices and procedures to be followed during its operation. The Plan shall be consistent with the Department's *Guideline for the Preparation of Environmental Management Plans* (DIPNR 2004) to provide a clear environmental management framework. The Plan shall be prepared in consultation with the relevant government agencies and shall include, but not necessarily be limited to:
- a) a description of all relevant activities to be undertaken during operation of the project including an indication, where relevant, of stages of operation;
 - b) statutory and other obligations that the Proponent is required to fulfil during operation including all approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
 - c) details of how the project's environmental performance will be monitored and what actions will be taken to address identified adverse environmental impacts. In particular, the following environmental performance issues shall be addressed in the Plan:
 - i) measures to monitor and manage ecological factors, including effectiveness and maintenance of fauna crossings and rehabilitation measures, with reference to Condition 2.12;
 - ii) measures to monitor and manage heritage sites within the road reserve with reference to Condition 2.32;
 - iii) measures to monitor and manage noise impacts with reference to Condition 2.24;
 - iv) measures to monitor and minimise soil erosion and the discharge of sediment and other pollutants to surrounding lands and/or waters; and
 - v) measures to monitor and maintain landscaping undertaken along the project corridor until the vegetation has sufficiently been established;
 - d) a description and contact details of the roles and responsibilities for all relevant employees involved in the operation of the project; and
 - e) complaints handling procedures during operation.
- The Plan shall be submitted for the Director-General's approval no later than one month prior to the commencement of operation, or within such period as otherwise agreed by the Director-General. Operation of the project shall not commence until written approval has been received from the Director-General.

The Proponent proposes removing the requirement to prepare an OEMP. Instead of preparing and implementing an OEMP, the Proponent requests that the project be operated in accordance with the existing RMS management systems. To this effect, the RMS has proposed that condition 6.4 be replaced with the following:

- 6.4 Prior to the commencement of operation, the proponent shall incorporate the project into its existing management systems.

The proposed modification would not affect any other conditions of approval governing operational environmental management. Further, the Proponent asserts that all project statements of commitments relevant to operation of the project would be fulfilled.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

In accordance with clause 3 of schedule 6A of the Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by schedule 6A, continues to apply to transitional Part 3A projects.

Section 75W of the Act provides that a proponent may request the Minister to modify the approval of a transitional Part 3A project. The Minister's approval is not required if the project, as modified, will be consistent with the original approval. The subject modification is not consistent with the approval, but does not constitute a project in its own right, and therefore a modification in accordance with section 75W of the Act is considered appropriate.

3.2 Delegated Authority

An application to modify a transitional Part 3A project approval may be determined by the Director, Infrastructure Projects of the Department of Planning and Infrastructure under delegation from the Minister for Planning and Infrastructure, dated 4 April 2013, where the local council does not object, a political disclosure statement has not been made in relation to the application, and less than 10 objections are received. This proposed modification meets the terms of this delegation, and may be determined by the Director, Infrastructure Projects of the Department of Planning and Infrastructure.

4. CONSULTATION AND SUBMISSIONS

Under Section 75X(2)(f) of the Act, the Director General is required to make the modification request publicly available. Accordingly, the Department placed a copy of the modification request on its website.

The Department also consulted with the NSW Environment Protection Authority (EPA) and Department of Primary Industries (DPI). The EPA and DPI indicated their support for the proposal.

5. ASSESSMENT

The proponent asserts that the project, once operational, would be managed in accordance with the existing environmental management conditions of the project, and the project approval, including any relevant conditions of approval and statements of commitment. The removal of the OEMP requirement would not reduce environmental outcomes, but would remove the administrative burden of preparing a document that replicates operational management measures contained in the project approval and the existing RMS management system.

Once operational, the proponent intends for the project to be maintained by RMS Northern Infrastructure Asset Management (Asset Management) and Road and Fleet Services. Annual assessments of the project would be undertaken by Asset Management and Road and Fleet Services, and maintenance requirements identified in accordance with RMS specifications M1 – General Network Management Requirements and M30- Maintenance Intervention and Investigatory Requirements (Corridor). These documents, taken together with the RMS specifications and general requirements, form the existing RMS management system. These documents, as updated, are made publicly available on the RMS website.

Road and Fleet Services would undertake maintenance of the project in accordance with the project approval, the relevant RMS specifications, the Road Services Management Plan (2012) and the Road and Fleet Services Environmental Management System (2008) (the RFS EMS). The proponent advises that RFS EMS includes the RMS environmental policy, legal and other requirements, communicating and reporting structures, staff training, and environmental management of maintenance and construction activities. The RFS EMS is compliant with ISO 14001:2004.

Condition 6.4 requires the OEMP to provide details of how the environmental performance of the project would be monitored. Table 1 considers these requirements and existing approval conditions.

Table 1 Condition 6.4 requirements

Condition 6.4 requirement	How this requirement would be addressed	Status
Measures to monitor and manage ecological factors, including effectiveness and maintenance of fauna crossings and rehabilitation measures, with reference to Condition 2.12	Condition 2.12 requires the proponent to implement a Biodiversity Offset and Mitigation Strategy, which provides a framework for ecological mitigation measures and maintenance of biodiversity offsets during operation of the project. Condition 2.13 requires the proponent to prepare a Biodiversity Offset and Mitigation Package to give effect to the strategy, including detailing the final offset measures and a timeline for their implementation.	The Biodiversity Offset and Mitigation Strategy was approved by the department on 3 June 2010. The Biodiversity Offset and Mitigation Package has been submitted to the department for approval.
Measures to monitor and manage heritage sites within the road reserve with reference to Condition 2.32	Condition 2.32 requires the proponent to develop a strategy for the salvage and storage of salvaged objects, during construction and operation. The proponent has committed to implementing the salvage and curation strategy contained in the Construction Heritage Management Plan to monitor and manage heritage sites within the road reserve impacted by the project.	The Construction Heritage Management Plan was approved by the Director-General on 4 August 2010, as part of the project Construction Environmental Management Plan. The proponent has advised that all heritage items within the project alignment have been salvaged, and long term management (including redeposit) would be undertaken in accordance with the Construction Heritage Management Plan.
Measures to monitor and manage noise impacts with reference to Condition 2.24	Condition 2.24 requires the proponent to prepare a review of proposed operational noise mitigation measures. This proponent has committed to implementing all proposed mitigation measures contained in that report, known as the Operational Noise Management Report.	The Operational Noise Management Report was approved by the Director-General on 21 October 2011.
Measures to monitor and minimise soil erosion and the discharge of sediment and other pollutants to surrounding	The proponent has committed to undertaking progressive landscaping of all areas exposed during project	The project is required to operate in accordance with EPL 13278.

Condition 6.4 requirement	How this requirement would be addressed	Status
lands and/or waters	construction to minimise soil erosion and the discharge of sediment and other pollutants to surrounding lands and waters in accordance with the conditions of the project environment protection licence.	
Measures to monitor and maintain landscaping undertaken along the project corridor until the vegetation has sufficiently been established	The proponent has committed to monitoring and remediation of landscaping and rehabilitation works for a minimum period of 2 years following commencement of operation. The proponent has undertaken to prepare an Urban Design and Landscaping Plan to reflect all project landscaping commitments, prior to operation. The proponent advises that maintenance of project landscaping would be conducted in accordance with RMS Specifications M321 - Landscape Maintenance and M30 – Maintenance Intervention & Investigatory Requirements (Corridor).	An Urban Design and Landscaping Report will be prepared prior to completion of construction.
Complaints handling procedures during operation.	Condition 5.6 requires the proponent to prepare a community communications strategy for the project. All ongoing community engagement, including complaints handling, would be implemented in accordance with this plan, known as the Community Involvement Plan. The proponent has committed to maintaining the existing dedicated project hotline, email address and postal address for the first year of operation of the project, whereupon all enquiries would be directed to the RMS Environmental Hotline.	The Community Involvement Plan was approved by the Director-General on 4 August 2010.

RMS notes that sections of the existing highway would be vested in Coffs Harbour City Council as the new Pacific Highway alignment commences operation. RMS advises that it has commenced negotiations with Council regarding the ongoing maintenance requirements for all affected sections of road.

Department's consideration

The department considers that the project can be appropriately managed in accordance with the proponent's existing environmental management systems, provided that operational maintenance includes monitoring and management of all key operational environmental issues.

The department notes that the Banora Point Pacific Highway upgrade project is currently operating in accordance with the proponent's existing management systems. The department notes that recent Pacific Highway upgrade project approvals—including Tintenbar to Ewingsdale, Warrell Creek to Urunga and Oxley Highway to Kempsey—have been approved with (or have recently been modified to include) a condition requiring the proponent to incorporate the project into its existing environmental management systems. The department is not aware of any adverse issues arising out of any RMS projects that have utilised an EMS in lieu of an OEMP.

The department acknowledges the RMS commitment to operate the project in accordance with all relevant conditions of approval and statements of commitment, as detailed in the modification document. To reflect this commitment, department has recommended that the condition 6.4 be amended to require RMS to ensure that key operational environmental impacts are monitored and managed. As identified in the project approval, the key environmental issues during operation will include ecology, noise impacts, soil erosion and waste management, landscaping of the road corridor, Aboriginal and non-Aboriginal heritage, water quality and traffic performance.

The department considers that allowing the proponent to undertake operation of the project in accordance with its existing management systems would streamline the regulatory process for operation of the project, while maintaining environmental outcomes. The department is satisfied that the modification would maintain environmental outcomes, while avoiding the duplication of effort involved in the proponent preparing an OEMP that addresses issues already satisfactorily addressed in its existing environmental management systems.

The department considers that the recommended amendment to condition 6.4 would provide for a system of operational environmental management that is less administratively burdensome than, and equally environmentally efficacious to, that provided by the OEMP, by requiring the proponent to:

- operate the project in compliance with its existing management systems;
- ensure compliance with the existing conditions of approval and its statements of commitment; and
- monitor and manage all key operational environmental impacts.

6. CONCLUSION AND RECOMMENDATIONS

The department has considered the modification request and is satisfied that the proponent has demonstrated in its assessment of the proposal that the proposed management system is justified and would ensure that effective environmental management and monitoring of the operation of the project is implemented.

In conclusion, the department is satisfied that with the implementation of the mitigation and management measures proposed by the proponent, the proposal would have minimal impacts on the surrounding community, and therefore recommends the approval of the modification request.

Endorsed by


4/6/13

Kylie Seretis
**Manager Roads
Infrastructure Projects**

Approved by


5/6/13

Karen Jones
**A/Director
Infrastructure Projects**

APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5946

APPENDIX B CURRENT CONSOLIDATED APPROVAL

See the Department's website at

<https://majorprojects.affinitylive.com/public/5db7866e4dbf46805f7c1909cb09660a/Consolidated%20approval.pdf>

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
