



**Planning &
Infrastructure**

***MODIFICATION REQUEST:
Pacific Highway Upgrade - Banora Point***

***Modification request to extend standard
construction hours (07_0059 MOD 5)***

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

May 2012

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*NSW Government
Department of Planning and Infrastructure*

EXECUTIVE SUMMARY

The Pacific Highway Upgrade – Banora Point Project (07_0059) was approved by the then Minister for Planning on 26 February 2009 under Part 3A of the *Environmental Planning and Assessment Act, 1979* (the Act). The approved project involves the upgrade of a 2.5 kilometre section of the Pacific Highway to a six lane divided carriageway highway from the northern end of Barneys Point Bridge through to the southern end of the Tweed Heads bypass in the Tweed local government area.

Construction of the project commenced in May 2010.

The Roads and Maritime Services submitted a request (07_0059 MOD 5) under section 75W of the Act to modify condition 2.8 to extend standard construction hours.

The modification request was placed on public exhibition from 15 February to 2 March 2012 and the department received three submissions on the project; two submissions were received from the public and one from the Environment Protection Authority.

The department has undertaken a comprehensive assessment of the modification request and considers the modification to be acceptable.

The department considers the proposal would have overall benefits to the wider community, and minimal adverse impacts to the local community and environment. The department is satisfied that the proposed extension of standard construction hours is justified and in the public interest and has therefore recommended its approval.

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1. BACKGROUND

The Pacific Highway Upgrade – Banora Point Project (07_0059) was approved by the then Minister for Planning on 26 February 2009 under Part 3A of the *Environmental Planning and Assessment Act, 1979* (the Act). The approved project involves the upgrade of a 2.5 kilometre section of the Pacific Highway to a six lane divided carriageway highway from the northern end of Barneys Point Bridge through to the southern end of the Tweed Heads bypass in the Tweed local government area. Refer to **Figures 1 and 2**.

Construction of the project commenced in May 2010 and is expected to be completed by December 2012.

Figure 1: Locality Map

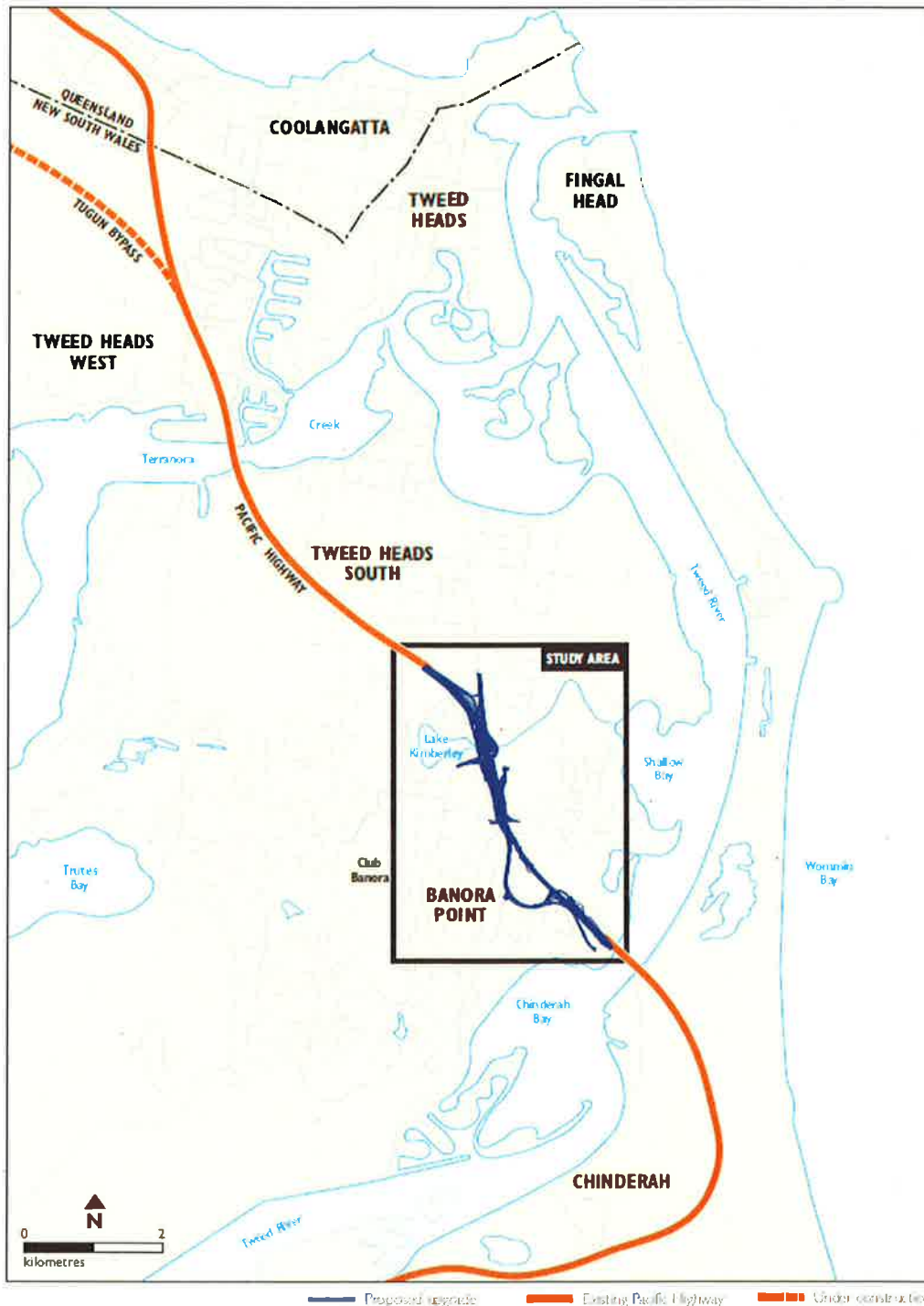
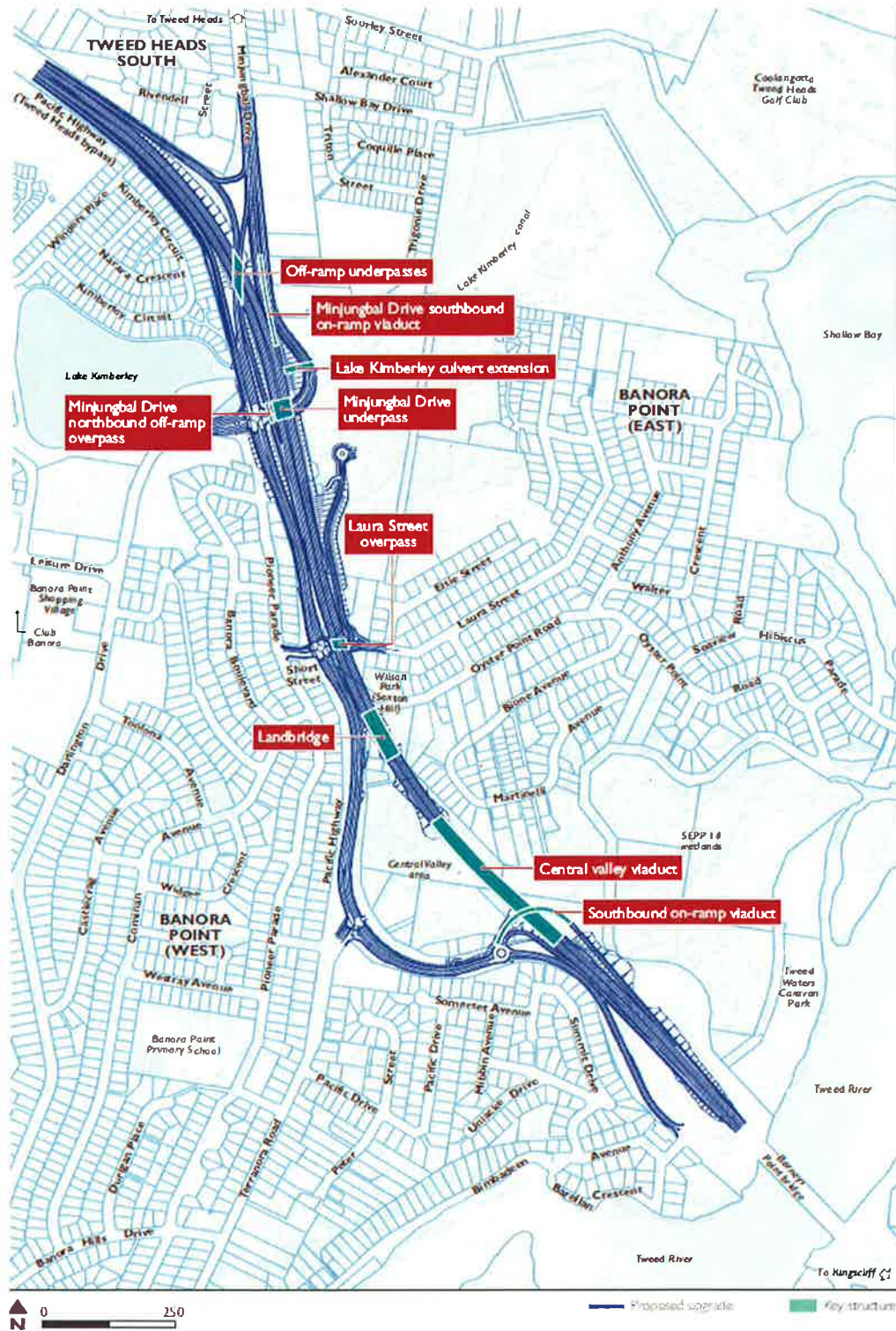


Figure 2: Project Layout



The project was modified in October 2009 (MOD 1) to provide flexibility in how community engagement was achieved, in November 2009 (MOD 2) for the timing of submission of staging reports and in April 2011 (MOD 4) to increase blasting criteria. The modification request lodged in January 2010 (MOD 3) to stage the Urban Design and Landscaping Management Plan was subsequently withdrawn.

The project traverses a highly urbanised area dominated by low to medium density residential development. Commercial, retail, special uses and some vacant land is also present.

2. PROPOSED MODIFICATION

2.1 Modification Description

The Roads and Maritime Services (the Proponent) has submitted a request (07_0059 MOD 5) under section 75W of the Act to modify condition 2.8 to extend the standard construction hours. The approved standard construction hours are:

- a) 7.00am – 6.00pm Monday to Friday;
- b) 8.00am – 1.00pm Saturdays; and
- c) at no time on Sundays and public holidays.

The Proponent seeks the following standard construction hours:

- a) 6.30am – 6.30pm Monday to Friday;
- b) 8.00am – 3.00pm Saturdays; and
- c) at no time on Sundays and public holidays.

The primary audible construction activities proposed to be undertaken during the 6.30am-7.00am and 6.00pm-6.30pm periods are:

- equipment pre-start;
- refuelling and maintenance;
- deliveries;
- finishing works and clean-up; and
- limited other construction works.

The proponent has justified the proposal on the grounds that it would ensure key government milestones are met, provide improved community and road user benefits, increase project efficiency and improve workforce conditions. The proponent considers the proposal is consistent with section 2.3 of the *Interim Construction Noise Guideline (ICNG)* (Department of Environment and Climate Change, 2009) which provides guidance on categories of work that might be undertaken outside standard construction hours. The proposal is consistent in that the project involves public infrastructure works that shorten the length of the project, are supported by the affected community and sustains the operational integrity of public infrastructure (the Pacific Highway).

The proponent states that it has undertaken an extensive consultation process with residents and stakeholders, including letterbox drop distribution, community and stakeholder briefings, website, phone contacts and distribution of feedback forms, and that the majority of residents who responded support the proposal.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

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 can request the Minister to modify the approval of a 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 would not result in a radical transformation and therefore an assessment in accordance with section 75W of the Act is considered appropriate.

Consequently, this report has been prepared with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75W of the Act.

3.2 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the Act to the Directors in the Major Projects Assessment division where:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

The proposal satisfies all of the above criteria as no submission was received from the Tweed Shire Council, there has been no political disclosure statements made for this application or for any previous related applications and there are less than 10 public submissions (in the nature of objections) made in relation to the proposal.

Accordingly the application is able to be determined by the Director, Infrastructure Projects under delegated authority.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the Act, the Director General is required to make the modification request publicly available. Accordingly, the department:

- publicly exhibited the modification request from 15 February until 2 March 2012:
 - on the department's website; and
 - at the department's head office, the Tweed Shire Council offices at Murwillumbah and Tweed Heads, and the Banora Point Upgrade Alliance (BPUA) Site Office at Banora Point;
- advertised the public exhibition of the modification request in the *Tweed Border Mail* newspaper on 15 February 2012; and
- notified the Environment Protection Authority (EPA), Tweed Shire Council and the State Member for Tweed of the modification request in writing.

The department received three submissions - one submission from a public authority (the EPA) and two submissions from the general public (including a submission made on behalf of 6 residents of 41 Bione Avenue, Banora Point). A summary of the issues raised in submissions is provided below.

4.2 Public Authority Submission

The EPA supports the proposal subject to ongoing consultation with complainants and documentation of such discussions and mitigation measures proposed/ offered. The EPA also commented on the assessment of the proposal. These are summarised below:

- queried whether notification of the Department's exhibition of the modification request was made in the project's community updates;
- the discussion on community consultation does not accurately reflect the level of community concern raised regarding the proposal;
- Table 5.2 states that actual impacts were less than predicted maximum impacts but does not indicate how this relates to complaints or community satisfaction;
- the assessment report did not mention the Environmental Protection Licence stipulates standard construction hours;

- uncertainty over the definition of critical path activities and the number of times which work on Saturdays are required;
- queried the justification of sustaining the operational integrity of the Pacific Highway, given that the north and south bound lanes are due to open in March 2012 and there would be limited benefits at this point in the project's life; and
- the assessment did not acknowledge that the amenity of residents could be further impacted by the proposal.

4.3 Public Submissions

Two submissions were received and all objected to the proposal. The key issues raised are summarised below:

- noise and vibration impacts;
- amenity impacts;
- disturbance to daily activities and rest hours;
- not notified of the proposal by the Banora Point Upgrade Alliance;
- inconvenience of temporary relocation; and
- out of hours works previously undertaken were audible from residence.

A discussion of the proponent's response to issues raised by the EPA and the public is in section 5 of the report.

5. ASSESSMENT

The main issues resulting from the proposal are noise impacts, justification for the request and consultation with the affected community.

Noise and Vibration Impacts

The proponent has identified the nature of works that would be undertaken and the type of equipment that would be utilised between 6.30am and 7.00am in the morning and 6.00pm to 6.30pm in the evening. These general activities are:

- equipment pre-start – starting of equipment prior to the day's operation. This involves visual inspection of the equipment, checking fluid levels, refuelling, starting and idling engines for approximately 3 minutes;
- refuelling and maintenance – equipment refuelling and maintenance is generally undertaken between 7.00am and 6.00pm, but in situations such as equipment breakdown this may be required between 6.30am and 7.00am;
- construction – audible activities associated with dewatering and dust suppression (pumps and water carts), traffic control (barrier placement/ removal, line marking and removal), manual labour (hand tools), minor earthworks and drainage (excavators, road trucks, bulldozers and rollers (not prior to 7.00am) and graders), concreting (concrete pumps, crane, semi-trailers, concrete trucks) and asphalt and spray sealing (not prior to 7.00am);
- deliveries – mostly to the site compound but also at other locations on the alignment; and
- finishing and clean up – packing up materials/ equipment and tidying up the work area.

Work on Saturdays between 1.00pm and 3.00pm include the above, as well as the completion of critical path activities such as bridge works, finishing works and preparatory works for traffic switches and traffic management works.

The proponent has provided advice on the expected noise levels for the types of activities that would be carried out during the extended hours (based on construction noise predictions in the Construction Noise and Vibration Management Plan (CNVMP)). The predicted noise levels during the extended hours are shown in **Table 1** and cover the range from the quietest

Table 1: Predicted Noise Levels

Loc. No	Address	Early morning	Project Noise Goals			Predicted Noise From Construction Activity L_{A10} , dB(A)				
			Day	Evening	Night	Main Site Compound (Site Operation)	Wilson Park (Operation Phase)	Earthworks & Drainage (With Mitigation)	Pavement (With Mitigation)	Bridge Work (excluding piling) (With Mitigation)
1	38 Summit Dr	63	66	58	45	<30 - 35	<30 - 48	59 - 85	54 - 78	48 - 68
2	10 Pacific Hwy	62	53	46	39	<30	<30 - 42	55 - 81	52 - 76	57 - 77
3	20 Somerset Ave	68	70	64	44	<30 - 37	<30 - 50	47 - 73	44 - 68	49 - 69
4	5 Pacific Hwy	68	56	48	35	<30 - 40	<30 - 57	60 - 86	56 - 80	62 - 82
5	40 Pioneer Pde	62	66	60	47	<30 - 53	<30 - 46	58 - 84	55 - 79	60 - 80
6	18 Pioneer Pde	59	67	62	50	<30 - 59	<30 - 37	55 - 81	52 - 76	57 - 77
7	17 Pioneer Pde	66	68	63	55	<30 - 55	<30 - 36	49 - 75	46 - 70	51 - 71
8	50 Martinehl Ave	58	55	52	46	<30 - 31	<30 - 51	53 - 79	48 - 72	53 - 73
9	51 Bione Ave	57	55	53	46	<30 - 31	<30 - 68	55 - 81	53 - 77	58 - 78
10	12 Laura St	55	54	52	41	<30 - 46	<30 - 43	54 - 80	51 - 75	56 - 76
11	11 Elsie St	57	54	53	46	<30 - 61	<30 - 33	46 - 72	43 - 67	48 - 68
12	1 Oyster Point Rd	51	55	52	45	<30 - 53	<30 - 51	52 - 78	50 - 74	54 - 74
13	42 Kimberley Cct	56	58	52	40	<30 - 49	<30	57 - 83	54 - 78	59 - 79
14	113 Winders Pl	61	59	54	40	<30 - 44	<30	59 - 85	56 - 80	61 - 81
15	60/12 Trigone Dr	53	46	50	43	<30 - 52	<30 - 36	46 - 72	43 - 67	48 - 68
16	41/12 Trigone Dr	52	45	45	42	<30 - 50	<30	39 - 65	36 - 60	41 - 61

Note – evening includes Saturday afternoon (1.00pm to 3.00pm)

plant operating in isolation to all plant operating concurrently. The scope of activities proposed to be undertaken during the extended hours are limited and the predicted noise levels will be at the lower end of the noise level range.

Based on the lower range of the noise levels in Table 1, certain activities (earthworks and drainage, pavement and bridge works) are predicted to exceed the project noise goals for the night time (6.30am to 7.00am) and evening (6.00pm to 6.30pm weekdays and 1.00pm to 3.00pm Saturday afternoon) periods. The exceedances based on the night time noise goals are between 2 to 27 dB(A) and for the evening period, between 1 and 14 dB(A).

The proponent has provided background noise levels for the early morning period, which indicates that ambient noise levels are similar/ approaching day time levels and in some locations are higher. For this reason, the proponent considers that the early morning noise levels are more representative for assessment of noise impacts in the 6.30am to 7.00am shoulder period than the night time level, which is an average over 9 hours. Based on the shoulder period noise goals there would be minor exceedances of 1-3 dB(A) at several locations. It is noted that exceedances of such levels would largely be imperceptible.

In relation to noise levels during the evening period (6.00pm to 6.30pm and 1.00pm to 3.00pm on Saturdays), earthworks and drainage, paving and bridge works would result in exceedances of 1 to 14 dB(A) at a number of locations.

Operation of the main and Wilson Park construction compounds during the extended hours are expected to comply with the noise goals.

The proponent has committed to implement existing noise management measures from the CNVMP during the extended hours, the measures include but are not limited to the following:

- implementation of all reasonable and feasible noise mitigation measures as listed in section 6 of the CNVMP;
- all plant regularly operating on site to be fitted with broadband alarms to reduce potential noise impact;
- where required and practical, temporary mobile noise screens to be installed around the works;
- representative noise monitoring to be undertaken;
- proactive community consultation to be undertaken, to ensure the public is kept informed of the construction activities;
- the Community Relations Officer to be contactable during the works through the 1800 community number to respond to complaints; and
- complaints to be reported to the EPA and department in the monthly compliance reports.

The majority of major construction works is either near completion or completed. The southbound and northbound carriageways progressively opened to traffic in a temporary arrangement on 2 April and 14 May 2012, respectively. Construction work which remains to be completed include highway finishing works, works at the northern and southern interchanges and Terranora Road intersection (which includes earthworks, drainage, kerb, asphaltic concrete overlay, pavement works, street lighting installation, median barrier installation, landscaping and other finishing works) and works on the existing Pacific Highway as a service road (including drainage, kerb, asphaltic concrete overlay, street lighting installation, median barrier installation and landscaping). The lower noise generating activities of these works would be carried out during the extended hours.

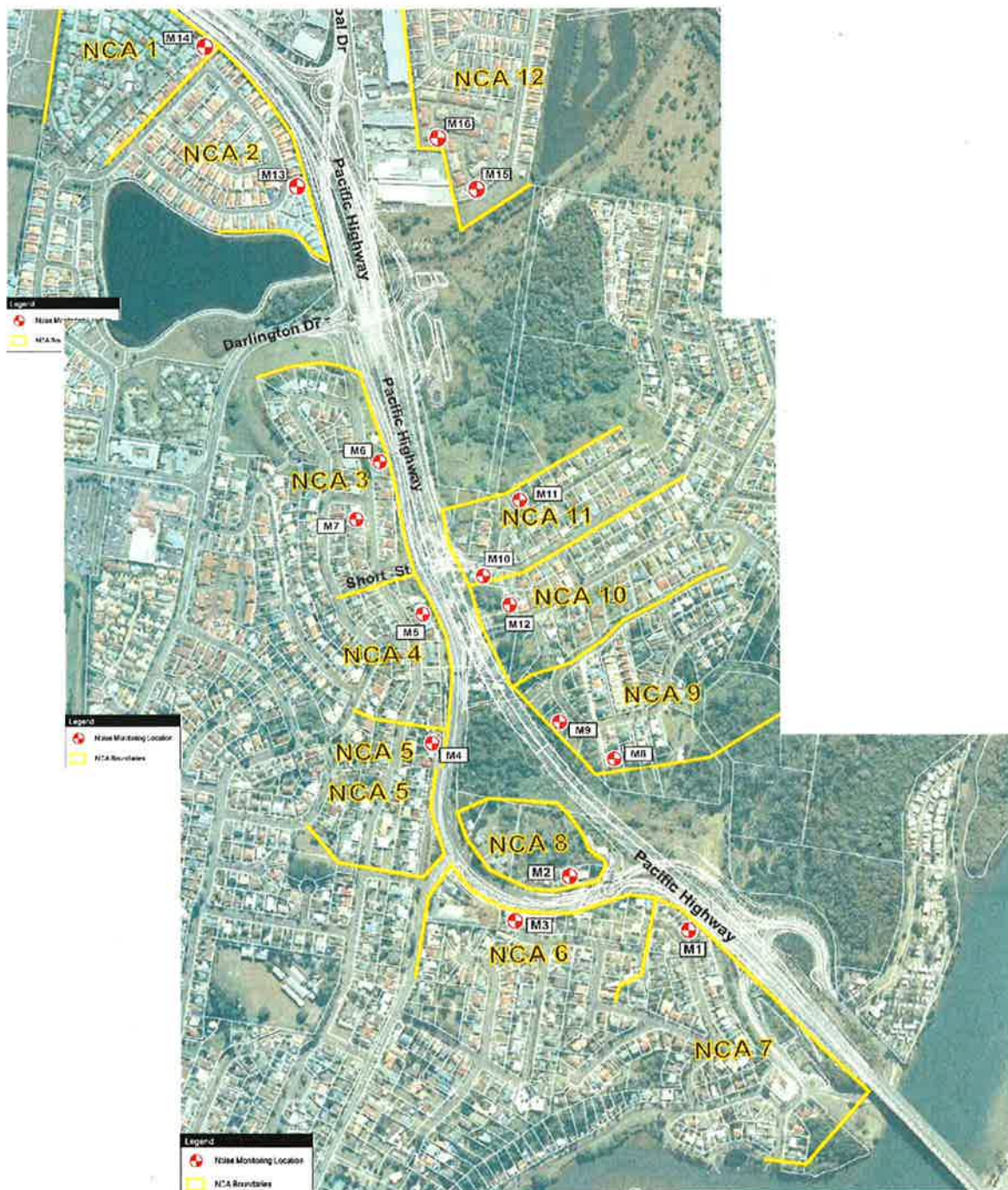
The installation of operational noise mitigation measures (noise walls/ barriers and at-property treatment) is either underway or completed and that these measures will assist in further reducing potential construction noise impacts. These measures are expected to reduce construction noise by 7 to 15 dB(A) and 10 to 25 dB(A) (inside the residence), respectively.

Department's Consideration

The public submissions raised noise and vibration impacts as a key concern, in particular impacts on receivers within Bione Avenue (noise catchment area (Location) 9 in **Figure 3**). Bione Avenue is located to the east of the upgrade, with the highway traversing the Central Valley via a viaduct (to the southeast) and entering Sexton Hill in a cutting (to the northwest). The Wilson Park landbridge is located over the cutting.

Based on the lower range of noise impacts, bridge works undertaken during the morning shoulder period would result in a 1 dB(A) exceedance and 5 dB(A) exceedance in the Bione Ave catchment during the evening and Saturday afternoon. Earthworks during the evening and Saturday afternoon would result in a 2 dB(A) exceedance.

Figure 3: Location of Sensitive Receivers in Noise Catchment Areas



M2 Sensitive receivers' locations

The proponent has advised that high noise and vibration generating activities associated with the construction of the viaduct over the Central Valley and excavation and blasting of the Sexton Hill cutting, and construction of the landbridge has been completed. Furthermore, the proponent has committed to undertake low noise generating activities during the early morning period. The department notes that high noise and vibration generating construction activities near Bione Avenue have largely been completed and only relatively low noise activities are proposed during the extended hours. The department considers the proposal has moderate noise impacts during the evening period and on Saturday afternoons, and also notes that the proponent is progressively implementing operational noise mitigation measures (noise walls and/or at property treatment) which would provide additional shielding against potential construction noise. In relation to vibration impacts, the department considers that these would be minor and can be adequately addressed through the CNVMP.

Whilst the noise assessment indicates that construction works could potentially generate noise levels at a number of locations above the noise management level of 75 dB(A), which represents the point above which there may be strong community reaction to noise, as established in the ICNG, the department notes that these high noise levels represent the worst case scenario, where plant is operating concurrently. The proponent has advised that activities are likely to be isolated to a few areas across the project corridor at any one time and would occur either infrequently or for short durations. Furthermore, only low noise generating activities such as equipment pre-start and finishing and clean up would be carried out during the early morning period (6.30am to 7.00am) and finishing and clean-up during the evening period.

In addition to the above activities, critical path construction activities would also occur on Saturdays between 1.00pm and 3.00pm. Critical path construction activities are those activities which if not completed, would potentially delay the construction program. These include activities such as bridge works, finishing works and preparation works for traffic switches and traffic management works. In order to reduce potential impacts on the local community, the department has recommended that only critical activities as approved by the Environmental Representative can be undertaken between 1:00pm to 3:00pm on Saturdays. This would ensure that only activities which are considered to be critical to the completion of the work has been reviewed and approved by the independent Environmental Representative.

The EPA and public submissions raised the issue of noise complaints about previous out of hours work. The department has reviewed noise complaints made on out of hours work between May 2010 and February 2012. A total of 18 complaints were made, generally relating to noise from service relocation works, demolition works, paving and cutting. In response to the complaints, the Banora Point Upgrade Alliance (BUPA) implemented mitigation measures detailed in the CNVMP, including noise monitoring to confirm compliance with the project's noise goal, alternative respite offered to residents, re-toolboxed works to minimise noise and attempt to finish work by 10.00pm. The proponent has also advised that notification of out of hours work is made in advance to potentially affected residences and that BUPA has maintained regular contact with a number of residents in the Bione Avenue area. The department considers these measures are an appropriate response to noise complaints.

In consideration of the above, the department considers that an extension to the standard hours is unlikely to have significant adverse noise impacts at surrounding sensitive receivers, and that potential impacts can be adequately managed and mitigated by the implementation of noise management and mitigation measures as described in the modification request and the approved CNVMP and the recommended conditions.

Justification

The project is located in one of the busiest sections of the Pacific Highway in NSW, with high volumes of traffic, peak hour congestion and limited available space. As a result, the Roads and Maritime Services placed restrictions on the project through a Road Occupancy Licence, with the aim of restricting disruptions to traffic flows. These restrictions include the following:

- no highway closure/stoppage between the following times:
 - Monday to Wednesday: 6.00am to 7.00pm;
 - Thursday to Friday: 6.00am to 9.00pm;
 - Saturday: 6.00am to 2.00pm; and
 - road closure/ stoppage restrictions also apply during all Holiday Periods.
- works cannot be undertaken closer than 1.2m to the road for 60km/hour traffic;
- worksite and queue length.

The proponent has justified the modification request for the following reasons:

- to ensure key State and Federal milestones are met;
- provide improved community and road user benefits; and
- allow increased project efficiency.

The proponent states the Federal and State governments have set the Pacific Highway Upgrade project as a high priority project of significance for NSW. An increase in allowable construction hours could potentially shorten the length of construction of the project and bring forward the completion dates from December to September 2012. Early completion of the project could be beneficial to both local residents and road users as it may allow restoration of amenity and reduce disruptions to traffic and road users.

Department's Consideration

The department has considered the proponent's request and justification for extending the standard construction hours in terms of the ICNG. The EPA also commented that adequate justification for the proposal in terms of sustaining the operational integrity of the existing public infrastructure must be made in terms of the ICNG. The proponent states that section 2.3 of the ICNG specifies five categories of works that might be undertaken outside the standard construction hours, including public infrastructure works that shorten the length of the project, that are supported by the affected community and sustains the operational integrity of public infrastructure. The proponent considers the proposal satisfies these criteria in that extension of the construction hours would enable the completion of the project to be shortened, is supported by the majority of the local community and reduces impacts on the operation of the Pacific Highway in a highly urbanised area with high traffic volumes.

The department considers that the justification for extended hours is principally focused on the benefits from reducing the length of the construction schedule for the project. The assessment suggested that longer working hours would increase efficiency and provide opportunity to reinstate amenity sooner for the benefit of the local community. The assessment also indicated that there are technical and practical impediments to completing works within the hours stipulated under the project's approval, predominately restrictions outlined in the Road Occupancy Licence issued for the project, including limitations on roadside lane closures, worksite length, queue length of impacted traffic, and hours of works on the Pacific Highway.

It is noted that residents are generally tolerant of construction noise during daytime and in many instances are amenable to longer work days if this means that construction is completed more quickly and the road opened to traffic sooner than would otherwise be the case. Whilst the request did not provide conclusive arguments to support its assertion that the benefits to the community from a shortened construction timeframe would offset the amenity impacts of more intensive work days, the proponent has undertaken extensive community consultation on this issue, and the proposal is supported from those community

members who have responded. Moreover, the department has publicly exhibited the modification request, and only two public submissions were received on the proposal.

In consideration of the above, the department considers the request to be justified and in accordance with the ICNG, specifically category 4 works.

Community Consultation

The proponent has engaged with the community in preparing the modification request. The consultation involved:

- community open day in March 2010 – 26 attendees with 18 feedback forms received (17 support/ 1 objection);
- letterbox drop about the proposal and feedback form distributed to 1700 residents in the Banora Point and Tweed Heads area in May 2010. 91 responses were received (73 support/ 18 objections). The Bione Ave Residents Alliance and Banora Point District Residents Association objected to the proposal; and
- letterbox drop about the proposal and feedback form distributed to 2500 residents in October 2010. 61 responses were received (49 support/ 12 objections).

The proponent states that overall 4335 residents and stakeholders were targeted in the consultation process, of which 172 stakeholders provided a direct response to the proposal by filling in a feedback form, writing, preparing a petition and verbally expressing their views. A total of 33 stakeholders raised objection to the proposal and 139 responses were in support. The proponent acknowledges there are some residents who do not support the proposal but the large majority (greater than 80%) either supports or has not expressed any concerns.

Department's Consideration

The department acknowledges that the proponent through its community consultation process has demonstrated that the majority of affected stakeholders either support or have no views about the proposal. The department is satisfied that the proponent has an ongoing community consultation and notification process to ensure that local residents are notified and consulted on progress with construction activities and out of hours work, including the proposal to extend construction hours. As discussed in section 4 of this report, the department undertook its own public consultation with the community, including notification in a local paper, exhibition of the request in Tweed Heads and the BUPA site office. The department considers that it has met all its public consultation obligations required under section 75W of the Act, which complements the consultation undertaken previously by the proponent.

Other

Amenity impacts, disturbance to daily activities and inconvenience of temporary relocation were also issues raised by the community.

The department notes these concerns, but is also cognisant that the proposal is supported by the majority of community members who have responded to the proponent's consultation process.

The proponent has offered (and continues to do so where appropriate) as a noise mitigation measure, the temporary relocation of residents who are exposed to high noise generating activities. This represents best practice to reduce construction impacts on sensitive receivers.

The department also acknowledges that works on the upgrade project have been restricted by a number of factors, including restrictions placed through the Road Occupancy Licence, which have impeded the undertakings of certain works during standard construction hours, the highly urbanised nature of the area and the restricted road corridor. On balance, in

consideration of the justification of the proposal, the potential benefits to the wider community from a shortened construction timeframe, and the adequacy of mitigation and management measures proposed to address potential amenity impacts on residents, the department supports the proposal.

6. CONCLUSION AND RECOMMENDATIONS

The department has considered the modification request, community and public authority comments and the proponent's response.

The department considers that the proponent has demonstrated in its assessment of the proposal that the extension of standard construction hours is justified and would facilitate the efficient delivery of this important public infrastructure.

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.

 16/5/12
Michael Young
Manager Roads
Infrastructure Projects

 17/5/12
Glenn Snow
A/Director
Infrastructure Projects

APPENDIX A MODIFICATION REQUEST

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/page/project-sectors/transport--communications--energy---water/roads/?action=view_job&job_id=4913

APPENDIX B SUBMISSIONS

See the Department's website at:

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APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
