



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

***Modification request to incorporate the
project into the existing management
system (07_0059 MOD 6)***



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

September 2012

Cover Photograph - Viaduct over the Central Valley (DP&I, 2012)

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Published September 2012
NSW Department of Planning & Infrastructure
www.planning.nsw.gov.au

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EXECUTIVE SUMMARY

The Pacific Highway Upgrade – Banora Point Project (07_0059) was approved by the then Minister for Planning on the 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 Banleys Point Bridge though the southern end of the Tweed Heads Bypass in the Tweed local government area.

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

The Roads and Maritime Services have submitted a modification request (07_0059 MOD 6) under section 75W of the Act to modify condition 6.5 in relation to the Operational Environment Management Plan (OEMP) for the Banora Point Project.

The proposed modification does not consider changes to the environment management of the project during the operation stage, it focuses only on administrative and system related aspects of the Minister's approval.

The modification request was forwarded to the Department of Primary Industries, NSW Office of Water, Tweed Shire Council and the Environment Protection Authority. Comments were received from the Department of Primary Industries and the NSW Office of Water in support of the modification.

The Department has undertaken a comprehensive assessment of the modification request and considers the modification to be acceptable. The administrative change to the management system does not change the environmental management obligations of the Proponent. 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 – Banora Point Project (07_0059) was approved by the then Minister for Planning on the 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 though the southern end of the Tweed Heads Bypass in the Tweed local government area.

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

The project location is shown in Figure 1.

Figure 1: Locality Map

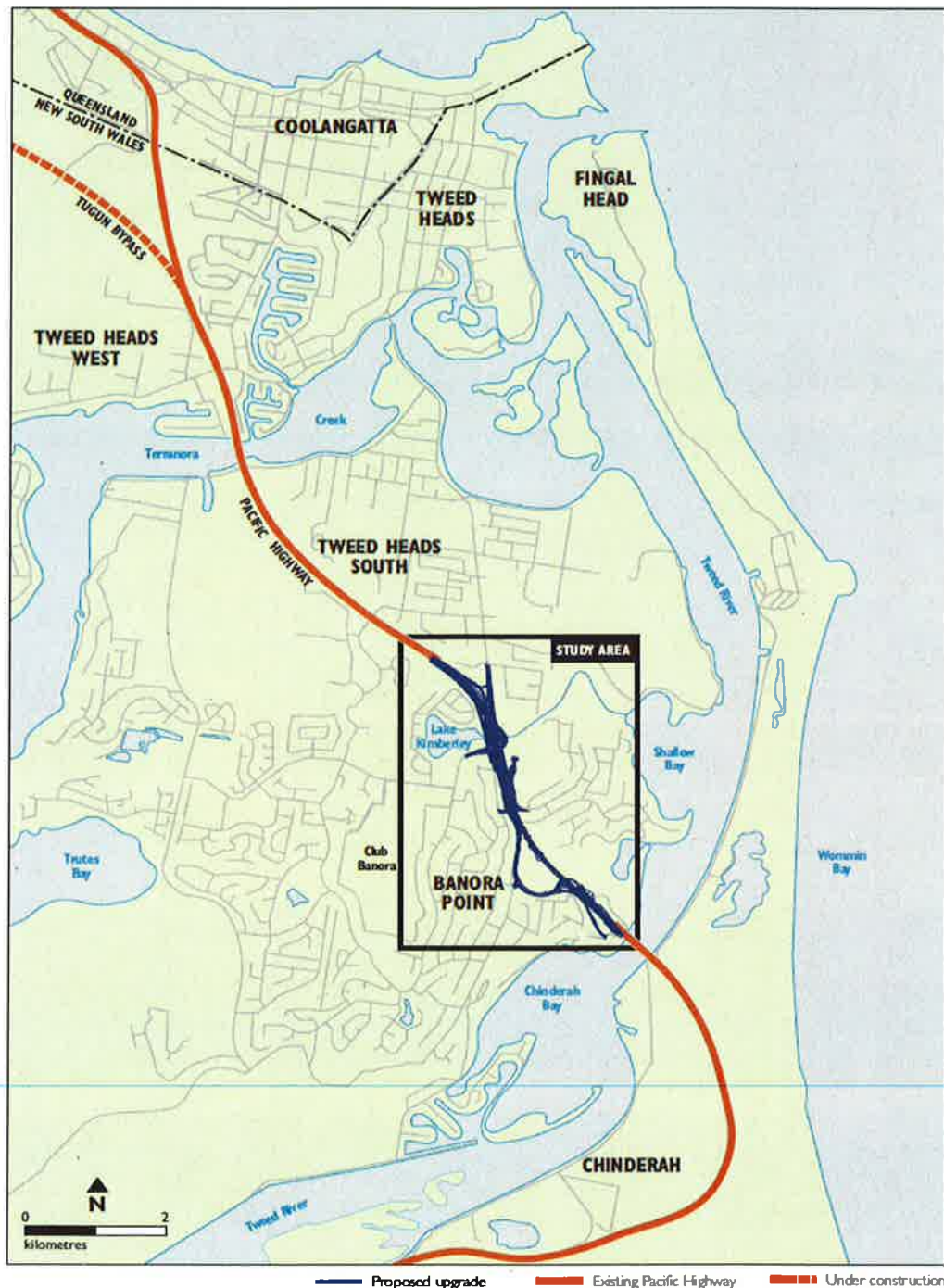
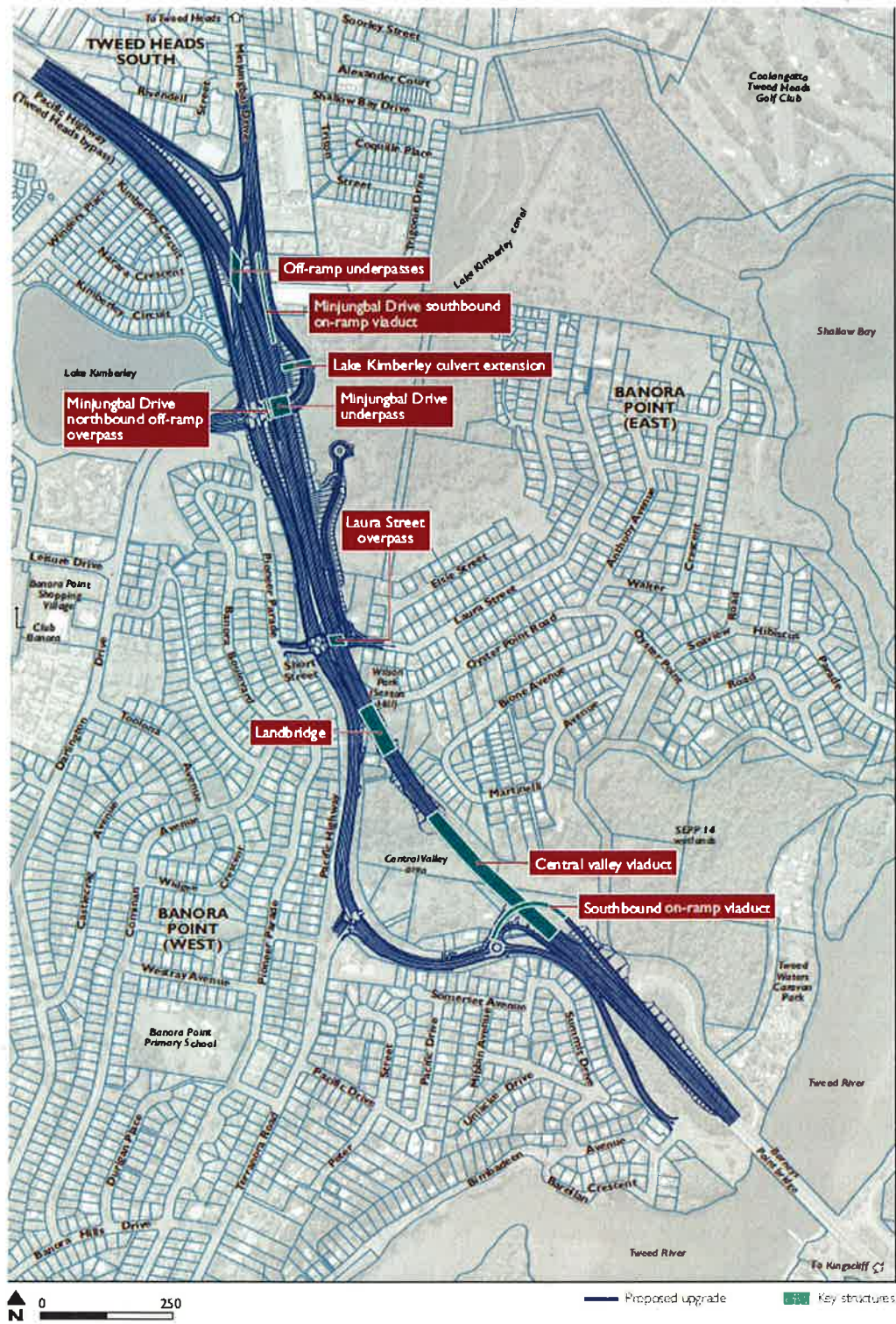


Figure 2: Project Layout



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, in April 2011 (MOD 4) to increase blasting criteria and in May 2012 (MOD 5) to extend the standard construction hours. The modification 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 proponent of the project, the Roads and Maritime Services (RMS) has submitted a request (07_0059 MOD 6) under section 75W of the Act to modify condition 6.5 to the following:

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

This condition relates to the requirement for an Operational Environment Management Plan (OEMP). The proposed modification does not consider changes to the environmental management during the operational stage; it focuses only on administrative and management systems related aspects of the Minister's approval.

Condition 6.5 currently states:

Operational Environment Management Plan

6.5 *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 performance of the upgrade, in relation to the traffic performance (level of service), identified in the Environmental Assessment, will be monitored. In particular the following traffic performance issues shall be addressed in the plan:
 - i) identify the methodology that will be used to measure and monitor performance;*
 - ii) the timing of the monitoring and reporting;*
 - iii) details of the long term monitoring process.**
- d) 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 2.4;*
 - ii) measures to monitor and manage heritage sites within the road reserve with reference to Conditions 2.20 - 2.23;**

- iii) measures to monitor and manage noise impacts with reference to Condition 2.15;
- iv) measures to monitor and minimise soil erosion and the discharge of sediment and other pollutants to surrounding lands and/or waters;
- v) measures to monitor and maintain landscaping undertaken along the project corridor until the vegetation has sufficiently been established.
- e) a description and contact details of the roles and responsibilities for all relevant employees involved in the operation of the project; and
- f) 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.

Condition 6.5 outlines the requirements for the preparation of an Operation Environmental Management Plan. The requirements include the details of activities, statutory and other obligations, monitoring of environmental performance and roles and responsibilities and complaints handling.

RMS has noted that recent Pacific Highway Upgrade project approvals, e.g. Tintenbar to Ewingsdale (07_0051) and Warrell Creek to Urunga (07_0112) included a streamlined approval process for operation environmental management by incorporating the project into existing environmental management systems.

It is requested that a similar condition be adopted for the Banora Point upgrade project. This would reduce the workload associated with the preparation and assessment of an Operation Environmental Management Plan, in addition to removing unnecessary duplication of documentation and management processes.

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 can request the minister to modify the approval of the 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 in accordance with the requirement 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 submissions were received from the public and Tweed Council, and there has been no political disclosure statements made for this application or for any previous related applications.

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

4. CONSULTATION AND SUBMISSIONS

In accordance with section 75W of the Act and clause 8G of the EP&A Regulation, the modification request was made available on the Department's website http://majorprojects.planning.nsw.gov.au/page/project-sectors/transport--communications--energy---water/roads/?action=view_job&job_id=5556.

Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means.

The modification request was notified to the Environment Protection Authority, the Department of Primary Industries (Fisheries), New South Wales Office of Water and Tweed Shire Council. The Department of Primary Industries subsequently advised it did not object to the modification request.

5. ASSESSMENT

The Department has considered the modification request and notes that the management of the operation of the Banora Point upgrade is proposed to be incorporated into the proponent's existing environmental management systems. The key issue is whether the proposal to incorporate the operational environment management practices into an existing environmental management system is a viable alternative that would ensure appropriate environment management/mitigation measures are in place.

The Roads and Maritime Services, has advised its Infrastructure Asset Management will be responsible for managing the maintenance of the state road network and Roads and Fleet Services (RFS) will provide the maintenance services.

RFS manages routine road maintenance activities under the Road Services Management Plan (2012) and the RFS Environmental Management System (2008). These documents describe how RFS manages the environmental impacts of their activities. The RFS EMS has been developed to satisfy the ISO 14001:2004 requirements for environmental management systems. It includes the environmental policy, legal and other requirements, communicating and reporting structures, staff training, as well as environmental management of maintenance and construction activities.

The Department notes that ISO 14001: 2004 is an internationally recognised standard that exists to help organisations:

- Minimise how their operations impact the environment.

- Comply with applicable laws, regulations, and other environmental requirements.
- Continually improve on the above measures.

Accordingly, the Department accepts that the EMS implemented in accordance with ISO 14001:2004 would result in a fundamentally sound system of environmental management. It is further noted that the Department is not aware of any adverse issues arising out of any previous RMS projects that have utilised an EMS in lieu of an OEMP.

Condition 6.5 requires the OEMP to provide details of how the environmental performance of the project would be monitored. The table below considers there requirements and existing approval conditions.

Condition 6.5 requirement	Comments on proposed modification:
a) traffic performance	RMS states that there are a number of routine traffic monitoring locations with the immediate vicinity of the upgrade including one located north of Barney's Point Bridge. The short and long term traffic performance of the upgrade will be subject to ongoing monitoring by RMS during operation as part of routine traffic monitoring across the NSW road network. The details of the overall performance of the upgrade in relation to the traffic performance (level of service) will be assessed in the Environmental Impact Audit Report (EIAR) required to be prepared 12 months after commencement of operation. The EIAR will assess the key impact predictions made in the EA and any supplementary studies and detail the extent to which actual impacts reflect the predictions. The suitability of implanted mitigation measures and safeguards will also be assessed. The report will also provide any details of recommended works or other actions as a result of the audit process.
b) ecological factors	RMS states that measures to monitor and manage ecological factors would be undertaken in accordance with the Biodiversity Offset and Mitigation Strategy for the project. (condition 2.4)
c) heritage sites	Heritage sites are outside the project boundary and have not been impacted by the upgrade construction. The RMS has reinstated the heritage terraces in the Central Valley beneath the viaduct Interpretative signage is currently being developed in consultation with the Aboriginal Focus Group and Tweed Aboriginal Advisory Committee. Signage will be installed with 6 months of opening the upgrade to operational traffic.
d) noise impacts	Noise impacts would be monitored and managed through the noise auditing process, which is required under conditions 3.2 and 3.3.

e) soil erosion and the discharge of sediment and other pollutants	Measure to minimise soil erosion would be managed through the Urban Design and Landscape Management Plan. All exposed areas would be landscaped prior to the completion of works which will assist to minimise risk of soil erosion and discharge of sediment to surrounding lands and/or waters.
f) landscaping	Monitoring and maintenance of landscaping along the upgrade will be undertaken in accordance with the approved Urban Design and Landscape Management Plan. The Banora Point Upgrade Alliance are required to undertake specific maintenance of the landscaping areas for one year after date of completion. Ongoing long term monitoring of these measures would be undertaken by the RMS.
g) complaints handling procedures during operation	The project hotline will be operational for up to 12 months after the commencement of operation and the RMS environmental Hotline for the entire operation period.

With the inclusion of these requirements within the existing EMS, the Department is satisfied that adequate operational monitoring and management would be undertaken.

The Department also notes that recent Pacific Highway upgrade project approvals requires the operation of the project to be incorporated into the existing environmental management systems for the project:

"Prior to the commencement of operation, the Proponent shall incorporate the project into its existing environmental management systems"

The Department considers that the RMS maintains a sufficient existing environmental management system to allow the inclusion of the above condition, in an expanded form, to replace the requirement to prepare an OEMP. In addition to operational monitoring and management measures, the amended condition includes landscaping and urban designs, which are operational related matters.

In summary, the Department is satisfied that the modification would result in lessening duplication and would streamline the regulatory process for the preparation of operational environmental management systems. It is considered that existing conditions of approval would adequately ensure appropriate operational monitoring and management is undertaken, whilst the existing EMS, which has been prepared in accordance with ISO 14001:2004 and which would incorporate the relevant operational matters, would provide an adequate system of environmental management.

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.

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APPENDIX A ENVIRONMENTAL ASSESSMENT

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=5556