

17 November 2014

Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Attention: Michael Young

Dear Michael,

**Pacific Highway Upgrade – Woolgoolga to Ballina (SSI-4963)
Modification Request No.1 and No.2**

The Pacific Highway upgrade between Woolgoolga and Ballina (“the project”) was approved by the NSW Minister for Planning on the 24th June 2014 and by the Commonwealth Minister for the Environment on the 14th August 2014.

Roads and Maritime Services (Roads and Maritime) is currently undertaking construction of the utility adjustments pursuant to the Minister’s Conditions of Approval (MCoA).

The area of native vegetation clearing required for utility works was provided as part of the Environmental Impact Assessment documentation and is established in the plan: “*Pacific Highway Upgrade Woolgoolga to Ballina: Utilities impact native vegetation (D00395_0102_Utilities Clearing Vegetation_v9)*, prepared by Roads and Maritime Services, dated 21 May 2014” (Condition A2 (f)).

From information in the plan, the ‘Definitions’ table in the MCoA nominates sections where clearing for utilities does not trigger ‘Construction’. The definition, under subclause (f), states:

“*Construction - Includes all work in respect of the SSI other than:*

(f) utilities adjustments within sections 1, 2, 5, 6 and 11 of the SSI, as specified in the documents referred to in condition A2(f), where an Environment Work Method statement has been approved by the Secretary in consultation with OEH and DoE.”

Roads and Maritime has identified that in the definition (f), native vegetation clearing in Section 4 (which was included in the original plan) has been omitted and is requesting for it to be incorporated to ensure consistency within the approval and to progress the Section 4 utility adjustments. In addition native vegetation clearing for utilities has been unnecessarily included for Section 2 and can be removed from the definition.

Further to the above request for modification to the definitions in the Minister’s Conditions of Approval, a second modification is also required.

As you are aware, Roads and Maritime and the EPA have a long Memorandum of Understanding (MoU), which details the roles and responsibilities of both parties in relation to the Pacific Highway Upgrade Program. The MoU details the levels resourcing to be provided, the services to be delivered and a range of governance and administrative arrangements. In relation to the services delivered, the MoU confirms that the EPA is responsible for delivering both environment protection and biodiversity management services to the Pacific Highway Upgrade Program.

While it is acknowledged that structural reforms within State Government have meant that environment protection (EPA) and biodiversity management (OEH) services are now delivered from separate agencies, it was a conscious decision to keep the existing EPA Pacific Highway team together to ensure that it could continue to focus on delivering dedicated services to the Pacific Highway Upgrade Program. This approach has been negotiated and agreed between Roads and Maritime, EPA and OEH.

The EPA’s Pacific Highway Upgrade Team therefore continues to provide both environment protection and biodiversity management services to Pacific Highway Upgrade Program. In delivering these biodiversity management services, the EPA continues to consult with OEH.

Roads and Maritime has consulted representatives from the EPA and OEH, who are supportive in Roads and Maritime seeking this modification. In this context, Roads and Maritime is requesting that the Woolgoolga to Ballina, Minister’s Conditions of Approval are amended to reflect the terms of the Roads and Maritime - EPA MoU. This would simply involve amending the Minister’s Conditions of Approval to replace all references to OEH with EPA where these conditions refer to either biodiversity issues (including threatened species) or environment protection matters.

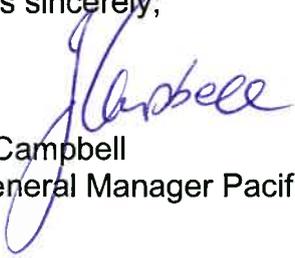
In light of the requests above, it is proposed that that the Secretary considers revising the definition in the MCoA to reflect the changes in the table below, as well as replacing the reference to ‘OEH’ where relevant.

Existing Definition of “Construction”	Modified Definition of “Construction”
<p>“Includes all work in respect of the SSI other than: ...</p> <p>(f) utilities adjustments within sections 1, 2, 5, 6 and 11 of the SSI, as specified in the documents referred to in condition A2(f), where an Environment Work Method statement has been approved by the Secretary in consultation with OEH and DoE.</p>	<p>“Includes all work in respect of the SSI other than: ...</p> <p>(f) utilities adjustments within sections 1, 4, 5, 6 and 11 of the SSI, as specified in the documents referred to in condition A2(f), where an Environment Work Method statement has been approved by the Secretary in consultation with EPA and DoE.</p>

In order to provide clarity for all agencies and thereby ensure timely delivery of the Woolgoolga to Ballina project it would be appreciated if you would expedite the changes as requested.

Should you wish to discuss these matters further or clarification is required please contact Scott Lawrence on 02 6640 1375 or scott.lawrence@rms.nsw.gov.au in the first instance.

Yours sincerely,



Jim Campbell
A/General Manager Pacific Highway

Cc. Environment Protection Authority – Director North, Gary Davey
Office Environment and Heritage – Regional Manager North East, Don Arnold

