



**Planning &
Environment**

***MODIFICATION REQUEST:
Pacific Highway Upgrade
Woolgoolga to Ballina (SSI 4963)
Modification Request 2***



Secretary's Environmental Assessment Report
Section 115ZI of the
Environmental Planning and Assessment Act 1979

October 2015

Cover Photo — Artist's impression of the Richmond River bridge, looking north (RTA 2012)

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1. BACKGROUND

The Pacific Highway Upgrade – Woolgoolga to Ballina (SSI 4963) was approved by the Minister for Planning 24 June 2014 under section 115ZB of the *Environmental Planning and Assessment Act 1979* (the Act). The approved project, referred to as the Woolgoolga to Ballina project, involves an upgrade of the Pacific Highway, from about six kilometres north of Woolgoolga at Arrawarra Beach Road to Pimlico Road about six kilometres to the south of Ballina to dual carriageways, a distance of approximately 155 kilometres, in the Coffs Harbour, Clarence Valley, Richmond Valley and Ballina local government areas.

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

The project is being delivered in stages, with construction of the section between Woolgoolga and Glenugie commencing in June 2015. The other sections of the project are currently being prepared for construction.

The project traverses a range of land uses and landscapes, including agricultural land (mainly grazing and cropping) and forested areas (including private land, state forests, and national parks) interspersed with regional centres, towns and villages (Woolgoolga, Grafton, Maclean, Woodburn, Broadwater, Wardell and Ballina) and major waterways (including commercial fishing and aquaculture uses). The landscape of the project area includes the Great Dividing Range and floodplains of the Clarence and Richmond rivers, and undulating foothills and valleys.

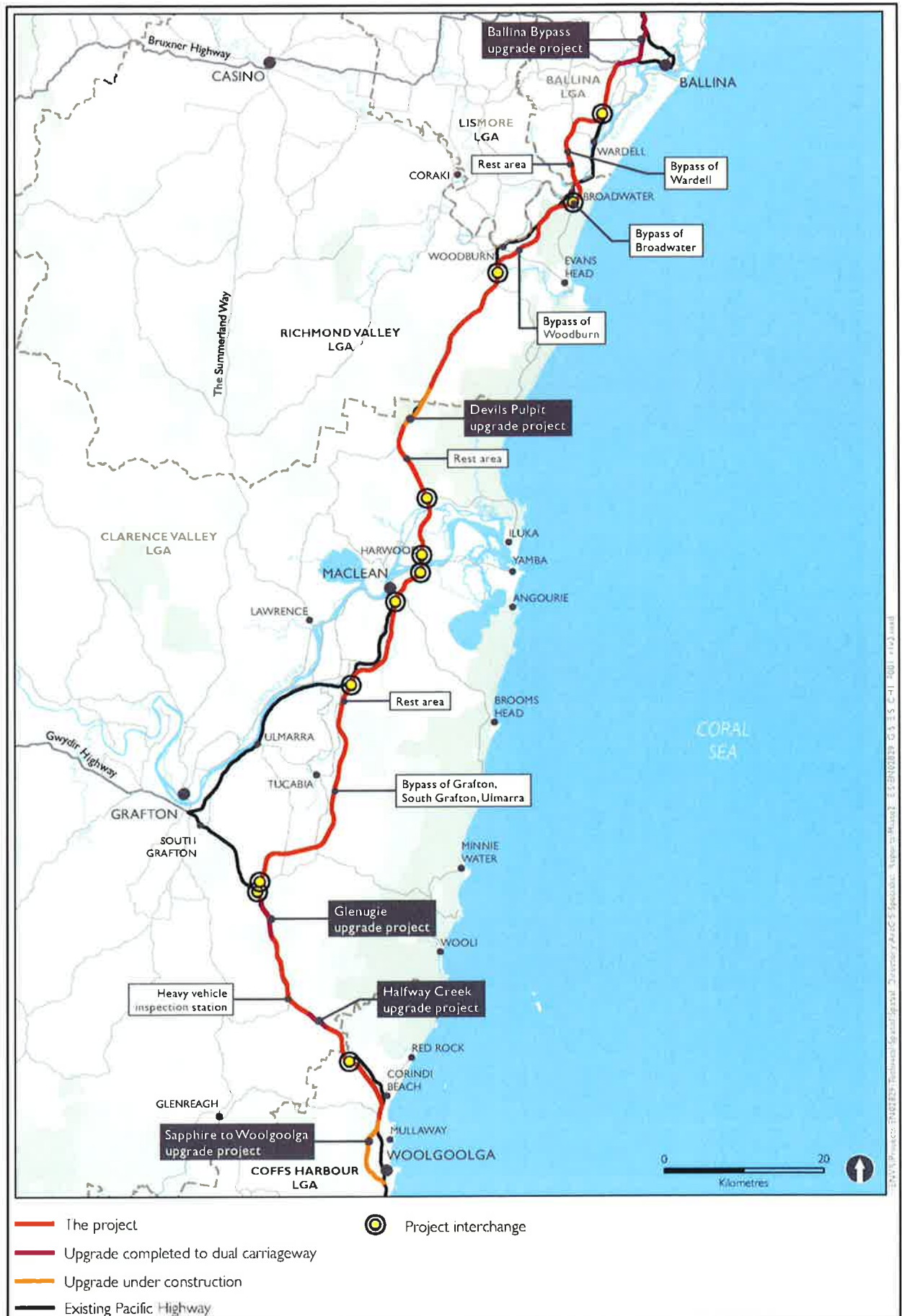


Figure 1: Project Location

2. PROPOSED MODIFICATION

Roads and Maritime Services (the Proponent) has submitted a request (SSI 4963 MOD 2) under section 115ZI of the Act to modify the Minister's approval. The request seeks to allow heritage investigations and impacts for a range of works associated with the upgrade (including utilities adjustments, access roads, driveway upgrades, drainage works etc.) outside the SSI boundary to occur.

Under the approval, condition B54 allows for impacts to heritage outside the SSI footprint with the agreement of the Secretary for ancillary facilities only (in accordance with condition B78). However, the proponent has advised that there is likely to be a range of works associated with the upgrade which are located outside the SSI boundary. Where these works impact on heritage items, a modification of the approval would be required. Due to the potential delays associated with a modification request for individual impacts, the proponent seeks to modify the approval to allow heritage investigations and impacts to occur to a range of project related work located outside the SSI boundary.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

In accordance with section 115ZI of the Act, a proponent may request the Minister to modify the Minister's approval for State significant infrastructure. 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 115ZI of the Act is considered appropriate.

3.2 Delegated Authority

An application to modify an infrastructure approval may be determined by the Director, Infrastructure Projects of the Department of Planning and Environment under delegation from the Minister for Planning dated 2 February 2015, where the local council has not made an objection, a political disclosure statement has not been made, and there are no public submissions in the nature of objections. This proposed modification meets the terms of this delegation.

4. CONSULTATION AND SUBMISSIONS

Under section 115ZL(1)(g) of the Act, the Secretary is required to make the modification request publicly available. Accordingly, the Department placed a copy of the modification request on its website.

As part of preparation of the modification request the proponent undertook consultation with the Office of Environment and Heritage (OEH) regarding this matter. During this early consultation process OEH advised that the modification request is supported.

5. ASSESSMENT

5.1 Modification of heritage investigations and impacts

The Proponent seeks to include a new condition to allow for heritage investigations and impacts to occur to project related work outside the approved SSI boundary. Currently the approval allows for impacts to heritage outside the SSI footprint with the agreement of the Secretary for ancillary facilities only (in accordance with B78). Condition B78 only makes reference to ancillary facilities, so other types of works are not captured. To capture these other works a modification to the project approval would be required.

Due to the size of the project the proponent has indicated that there are a range of works associated with the upgrade which may occur outside the SSI boundary. Where these works impact on a heritage item, the approval would be required to be modified to allow this impact. This modification would now require archaeological investigation to be undertaken not only for ancillary but also other items such as utilities or services or access and service roads and driveways when they impact on heritage items.

Department's consideration

The Department notes that the proposed modification would allow archaeological investigations of heritage items to be undertaken outside the approved project boundary to inform the placement of not only ancillary facilities, but also utilities and services, access and service and driveways or similar works required for highway upgrade project. Currently the project approval only allows for the proponent to undertake archaeological investigations at ancillary sites that do not meet the locational criterion set out in condition B73 of the approval.

As the project covers a large area between Woolgoolga to Ballina it is not possible to accurately predict all works that may be required to occur outside the project boundary. The Department agrees that a prescriptive and narrow definition (such as restriction to only ancillary sites, utilities and access roads) may not cover all potential works required outside the boundary of the project. These works may include drainage works, fencing and other miscellaneous items such as removal of blueberry posts and irrigation lines. Currently these types of works would require the approval to be modified to allow these works to be undertaken.

Overall condition B44 requires that certain sites are to be investigated by an Archaeologist and a report prepared advising of the results of the investigation and recommendations for further work in consultation with OEH and submitted to Aboriginal parties. While condition B45 states that if impacts to heritage items cannot be avoided a salvage strategy is required to be developed in consultation with OEH and Aboriginal parties. Condition B50 also requires archaeological investigations to be undertaken for non-aboriginal items. Works under these conditions still require approval from the Secretary.

To ensure that these additional works are undertaken correctly, the proposed modification would require compliance with these conditions.

As part of the consultation process the proponent discussed the proposed modification with OEH. The OEH has indicated that they support the intention of the variation to capture a range of activities necessary for the construction of the project. OEH also noted that in principle they support the inclusion of utilities, services and access restoration to premises affected and the inclusion of drainage and fencing mitigation measures required to protect the environment and heritage with regard to archaeological investigations to inform the placement of ancillary facilities.

The Department supports the modification request as it aims to provide a buffer distance adequate enough to undertake drainage line works on flat terrain, while also capturing a range of activities necessary for the construction of the project and require archaeological investigations to be

undertaken. The Department is satisfied that these types of works are generally minor in nature and that consultation would be required to be undertaken with OEH and Registered Aboriginal Parties. This would ensure that any potential impacts would be taken into consideration.

It is noted the approval allows a range of work associated with the upgrade to be undertaken outside the project boundary. In this case the modification would investigation and impacts to heritage sites for these works.

The amendment would allow the streamlining of the regulatory approval process associated with assessing and managing potential impacts to heritage outside the project boundary, while providing for adequate protection to heritage impacts.

Therefore, it is recommended that the approval be modified to permit impacts to heritage items outside the SSI boundary associated with a range of works such as utility adjustments, access roads, driveway upgrades and drainage works.

5.2 Administrative amendments

As part of its review of the conditions of the consent, a minor administrative error was detected. Currently condition D25 (d) has a sub-clause which starts at (v) and concludes at (xiv). It is advised that this grammatical error be amended to refer to subclauses from (i) to (x) respectively.

This administrative amendment would not affect any other conditions within the consent.

6. CONCLUSION AND RECOMMENDATIONS

The Department has considered the modification request and supports the proposal as it would allow for more items outside the project boundary to be captured. This will ensure a streamlined process would continue in accordance with the conditions of consent. Without this amendment the proponent would be required to seek a modification every time it impacts on a heritage item outside the project boundary.

Modifications to approvals can be lengthy and may delay construction. The Woolgoolga to Ballina project is of strategic importance in upgrading the Pacific Highway to reduce travel times, improved road safety for motorists and local communities.

In addition conditions B44 and B50 would be referenced as part of the proposed modification. Currently these conditions require consultation to be undertaken with OEH if impacts to heritage items may occur, subject to approval by the Secretary. The Department believes this mechanism is a satisfactory requirement as the impacts would be assessed and taken into consideration.

Therefore it is recommended that the modification request be approved.

Approved



Michael Young
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APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7307

APPENDIX B RECOMMENDED MODIFYING INSTRUMENT
