



**Planning &
Environment**

***MODIFICATION REQUEST:
Additional Crossing of the Clarence River
at Grafton – Modification 1***

***Updating of Public Authority References
SSI 6103 (Mod 1)***



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

October 2015

Cover Photograph: Existing Grafton Bridge over the Clarence River, Grafton.

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1. BACKGROUND

The Additional Crossing of the Clarence River at Grafton project (SSI 6103) was approved by the Minister for Planning on 19 December 2014 under section 115ZB of the *Environmental Planning and Assessment Act 1979* (the Act). The approved project is referred to as the Grafton Bridge project, and involves the construction of a road bridge approximately 553 metre long and 17 metres wide with a pedestrian cycle path. The bridge is located 70 metres downstream from the existing Grafton Bridge. The project is located in Grafton, in the Clarence Valley local government area on the New South Wales Mid-North Coast, about 610 kilometres north of Sydney.

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

Early works including the duplication of Charles Street between the Pacific Highway and the Gwydir Highway in South Grafton started in February 2015 and opened to traffic in October 2015. Construction of the bridge is expected to start in late 2016.

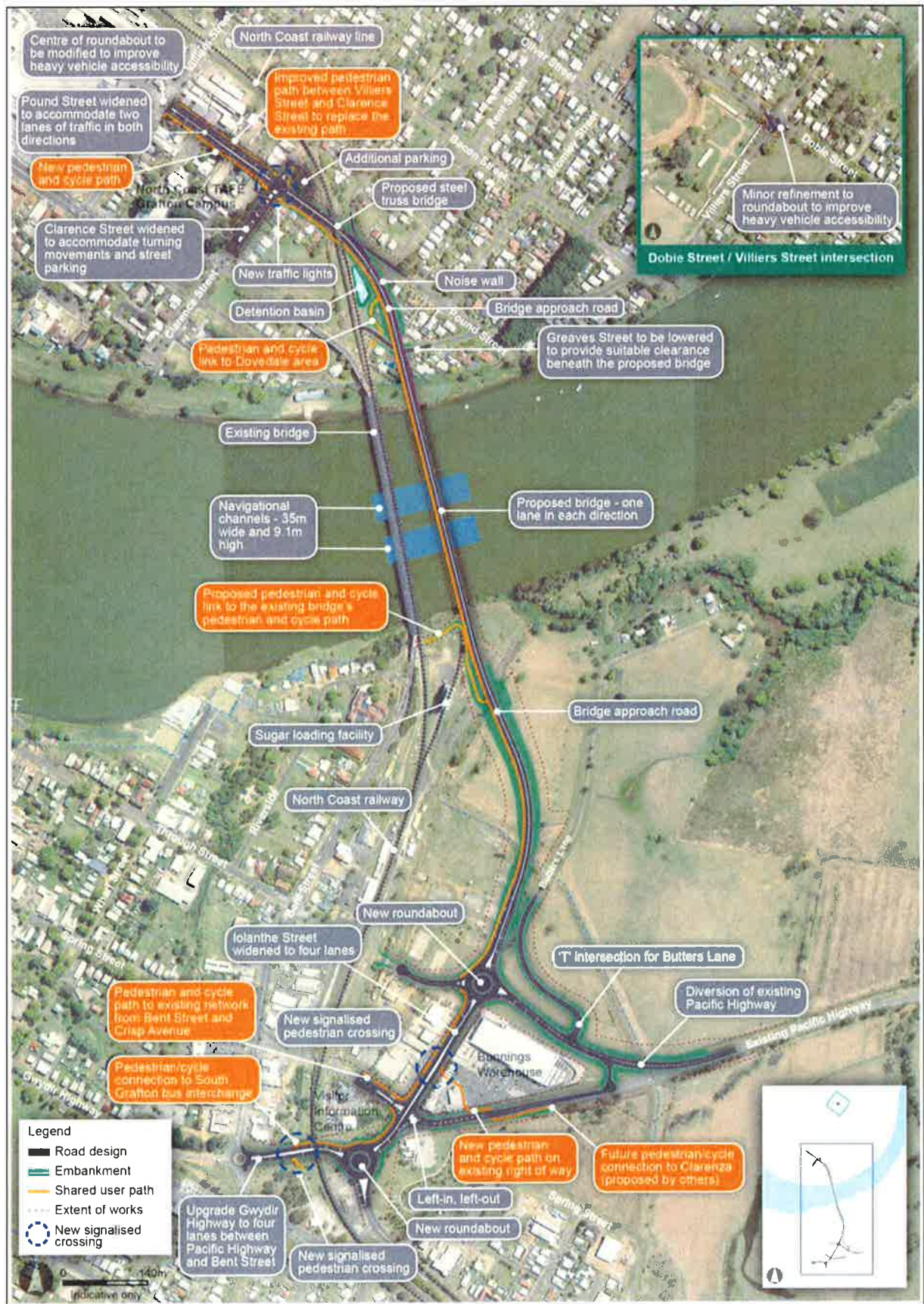


Figure 1: Proposed route and alignment location (RMS 2014)

2. PROPOSED MODIFICATION

Roads and Maritime Services (the Proponent) has submitted a request (SSI 6103 MOD 1) under Section 115ZI of the Act to modify the Minister's approval (**Tab A**). The request seeks to replace references to the Office of Environment and Heritage (OEH) in relevant conditions of approval to the Environment Protection Authority (EPA). The proponent and EPA have a Memorandum of Understanding (MoU) which details the roles and responsibilities of both parties in relation to the Pacific Highway Program managed by the Pacific Highway Office (PHO). The MoU states that EPA is responsible for delivering both environment protection and biodiversity management services to the Pacific Highway Office and the projects that it manages. The delivery of the Grafton Bridge is being managed by the PHO, consequently references to both agencies in the Ministers approval need to be updated to reflect the terms of the MoU in particular, biodiversity services being provided by the EPA.

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 16 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 and forwarded a copy of the request to EPA and OEH. Both agencies advised the Department that they support the modification request (**Tab B**). As the proposal involves a minor administrative change, the modification request was not publicly exhibited.

5. ASSESSMENT

5.1 Modification of References to Office of Environment and Heritage

The Proponent seeks to replace all references to OEH with EPA where these conditions relate to biodiversity matters to reflect the management of the Grafton Bridge project by the PHO and the MoU between the proponent and the EPA whereby the EPA provides biodiversity management services to the PHO on the projects that it manages.

Department's consideration

The conditions of approval require the Proponent to consult with various public authorities in the preparation of documents required by the approval. The approval specifically requires the Proponent to consult with the OEH on matters relating to biodiversity. The EPA is required to be consulted on environment protection matters (such as noise and vibration, soil and water and air quality). This represents the statutory responsibilities of the relevant public authorities.

The Department notes the terms of the MOU between the Proponent and EPA which sets out the responsibilities of the EPA in providing services on the management of biodiversity issues. The terms of the MOU provides two dedicated threatened species officers within the EPA's Pacific Highway Upgrade Team (**Tab C**). The Department is satisfied that the MOU provides for appropriately qualified officers to provide biodiversity and threatened species services to the Proponent on the Pacific Highway Upgrade Program, and which will now include the Grafton Bridge.

The EPA has advised it is supportive of the proposed modification as it reflects the terms of the MOU with RMS and current 'on the ground' practices. The EPA has a role in providing expert technical advice on biodiversity conservation and management. The EPA continues to consult with OEH, particularly on matters relating to heritage. Similarly, the OEH supports the modification request.

The Department is satisfied with the arrangement between the Proponent and EPA, for EPA to provide advice on biodiversity issues associated with the projects managed by the PHO. The Department is satisfied with the technical advice that it has received from EPA on biodiversity conservation matters and is confident that the level of service and quality of advice provided, to both the Department and the Proponent, would be maintained for this project.

6. CONCLUSION AND RECOMMENDATIONS

The Department has considered the modification request and supports the proposal as it would update the roles of the respective agencies and would ensure consistency of the approval with the project documents. The change to agency names (replacement of OEH with EPA) reflects current arrangement where EPA provides technical advice on biodiversity matters to the Proponent's PHO. Therefore it is recommended that the modification request be approved.

Approved

 16/10/15

Michael Young
**A/Team Leader Regional Roads
Infrastructure Projects**

 20.10.15

Karen Jones
**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=7305

APPENDIX B RECOMMENDED MODIFYING INSTRUMENT
