

Modification of Minister's Approval

Section 75W of the *Environmental Planning and Assessment Act 1979*

I, the Executive Director, Major DA Assessments of the Department of Planning, in accordance with the Instrument of Delegation issued by the Minister for Planning, on 4 March 2009, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* determine to approve of the modification to the approval referred to in Schedule 1 in the manner set out in Schedule 2.



Executive Director, Major DA Assessments
As delegate for the Minister for Planning

Sydney, 22 June 2009

SCHEDULE 1

Project Approval:	granted by the Minister for Planning on 22 November 2002.
For the following:	The Bangor Bypass, being the construction and operation of a four lane, controlled access arterial road.
Modification:	Administrative and minor modifications to conditions of approval relating to environmental controls.

SCHEDULE 2

The approval is modified by:

1. adding the following to the Glossary and Abbreviations Table to include:

DECC NSW Department of Environment and Climate Change. Note a reference to the EPA and NPWS is to be taken as a reference to the DECC

DWE NSW Department of Water and Energy

2. replacing existing condition 1 with a new condition 1, as follows:

1. The project shall be carried out in accordance with:
 - (a) the project contained in the Environmental Impact Statement (EIS), as modified by the Representations Report *and as modified by the Bangor Bypass Review of Environmental Factors Supplementary Environmental Assessment for Barry Road dated August 2003 and associated Submissions Report (dated October 2003) and Decisions Report (dated October 2003 and Bangor Bypass Stage 2 Modification Report (dated August 2008)*;
 - (b) all identified Sub Plans, safeguards and mitigation measures identified in the EIS and Representations Report and all additional information supplied by the RTA;
 - (c) the Director-General's Report; and,
 - (d) the Conditions of Approval granted by the Minister.

In the event of any inconsistency with the project as described in the documents referred to above, the Conditions of Approval granted by the Minister shall prevail.

These Conditions do not relieve the Proponent of the obligation to obtain all other approvals and licences from all relevant authorities required under any other Act. Without affecting the generality of the foregoing, the Proponent shall comply with the terms and conditions of such approvals and licences.

It shall be the ultimate responsibility of the Proponent to ensure compliance with all Conditions of Approval granted by the Minister.

3. replacing existing condition 8 with a new condition 8, as follows:

8. The Proponent shall implement a system (supported by adequate resources) prior to the commencement of construction which ensures all complaints received during construction are recorded and managed as expeditiously as possible. Minimum requirements of the Complaints Management System include:
 - (a) a toll free telephone number listed with a telephone company and advertised. This telephone number shall be attended when construction activities are occurring and enable any member of the public to reach a person who can arrange appropriate responses to the complaint(s) being made;
 - (b) adequate resourcing including human resources, communication and transport etc.;
 - (c) an appropriate person(s) to receive, log, track and respond to complaints within the specified timeframe. The name and contact details of the nominated person(s) shall be provided to SSC, relevant authorities and the

- Director-General upon appointment or upon any changes to that appointment;
- (d) details of all complaints received during construction are to be recorded and at least a verbal response on what action is proposed to be undertaken is required within two hours during any night-time works and 24 hours during standard hours or non-construction times;
 - (e) a process for the provision of a more detailed response to the complainant within 10 days, if additional information exists (over and above that provided in the initial response);
 - (f) appropriate management structures to allow effective resolution of complaints; and
 - (g) a mediation system to ensure that all complaints are satisfactorily addressed to the greatest extent practicable. Where external or independent mediation is required, the mediator is to be approved by the Director-General.

Information on all complaints received, including the means by which they were addressed and whether resolution was reached with or without mediation, shall be included in the regular Environmental Monitoring Reports and shall be made available upon request.

4. replacing existing condition 10 with a new condition 10, as follows:

10. The Proponent shall establish a project internet site prior to the commencement of construction and maintain the internet site until 12 months after opening the project to traffic. This internet site shall contain monthly updates of work progress, consultation activities and a planned work schedule, including but not limited to:
- (a) a description of relevant approval authorities and their areas of responsibility;
 - (b) a list of reports and plans that are publicly available under this Approval and the executive summaries of those reports;
 - (c) contact names and phone numbers of the project communications staff; and,
 - (d) the toll-free complaints contact telephone number.

Updates of work progress, construction activities and planned work schedules shall be provided more frequently where significant changes in noise impacts are expected.

5. replacing existing condition 12 with a new condition 12, as follows:

12. The Proponent shall prepare a Community Involvement Plan for the construction period to be set in place prior to commencement of construction. The Community Involvement Plan shall set out the community communications and consultation procedures and protocols for the project, which shall comply with the obligations under the approval from the Minister, other approvals, licences and permits. The Plan shall also include but not limited to:
- (a) details of the communication protocols and procedures and consultation team appointed to manage and implement the Plan during the construction period including qualifications and experience;
 - (b) details of the role of the Independent Community Liaison Representative (ICLR) and demonstration of how the independence of this representative will be maintained;
 - (c) a crisis and issues management plan identifying the range of consultation activities to be undertaken to minimise community reaction to construction activities;

- (d) the maintenance and updating of the established stakeholder database including:
 - (i) identification of the local community likely to be affected by the project;
 - (ii) identification of residences, businesses and other sensitive land uses; and,
 - (iii) the specific communication needs of this community (ie. language translation, disabled access etc);
- (e) procedures for informing users of the affected road network of planned traffic arrangements including temporary traffic switches;
- (f) procedures for informing the local community of planned investigation and construction activities;
- (g) provisions for dealing with complaints (particularly night time) and response requirements as specified in Condition No 8. This should include the respective protocols for the EMR, ICLR, Contractors, and any other relevant stakeholders in handling complaints and independent dispute resolution;
- (h) provision for the Proponent's attendance and participation in all groups and public meetings forming part of the Community Involvement Plan; and
- (i) the provision of training for all employees and sub-contractors on the requirements of the Community Involvement Plan.

6. deleting condition 13.

7. replacing existing condition 14 with a new condition 14, as follows:

- 14. The Director-General shall approve the appointment of the person(s) nominated by the Proponent to serve as the Independent Community Liaison Representative (ICLR), at least one month prior to the commencement of construction. In considering the appointment the Director-General shall take into account the qualifications of the ICLR particularly their experience in facilitation, mediation and dispute resolution. The ICLR shall serve for the duration of construction.

The role of the ICLR will include but not be limited to:

- (a) monitor and confirm that the Proponent meets all the communication and consultation obligations outlined in the approved Community Involvement Plan and as they arise during the course of the project;
- (b) be available for direct contact from the community during all hours that construction works are undertaken;
- (c) draw to the attention of the EMR and the Proponent all community complaints and issues; and,
- (d) assist the Proponent to mediate the resolution of disputes that can not be resolved by the EMR or the Proponent in consultation with the community.

The Proponent shall bear the cost of employing the ICLR.

8. deleting condition 15.

9. deleting condition 16.

10. replacing existing condition 21 with a new condition 21, as follows:

- 21. The Proponent shall ensure that it has an internal audit system and that internal audits are undertaken and endorsed by the EMR every six (6) months to ensure compliance with the EMP, the conditions of approval and all other relevant

licences and approvals. Each audit must be completed within 6 weeks of the end of the 6 month period and be made available to the Director-General upon request.

11. replacing existing condition 22 with a new condition 22, as follows:

22. An Operational Environmental Management Plan (OEMP) shall be prepared and approved by the Director-General prior to opening of the project to traffic. The Plan shall be prepared in consultation with the EPA, DWE, NPWS, SSC and any other relevant government agency nominated by the Director-General. The Plan shall be prepared in accordance with the Conditions of this Approval, all relevant Acts and Regulations and accepted best practice management Sub Plans.

The OEMP shall be endorsed as being in accordance with the Conditions of Approval by the EMR prior to seeking approval of the Director-General.

The OEMP shall address the following:

- (a) identification of the statutory and other obligations which the Proponent is required to fulfil, including all licences/approvals and consultations/agreements required from authorities and other stakeholders and key legislation and policies which control the Proponent's operation of the project;
- (b) sampling strategies and protocols to ensure the quality of the monitoring program including specific requirements of DWE, NPWS, relevant Australian Standards and relevant EPA Guidelines;
- (c) monitoring, inspection and test plans for all activities and environmental qualities which are important to the environmental performance of the project during its operation, including a description of potential site impacts, performance criteria, specific tests and monitoring requirements, protocols (eg. frequency and location) and procedures to follow;
- (d) steps the Proponent intends to take to ensure compliance with all plans and procedures;
- (e) consultation requirements, including relevant government agencies, the local community and Councils, and complaints handling procedures; and,
- (f) strategies for managing the main environmental impacts including, but not limited to: noise; water quality; erosion and sedimentation; access and traffic; waste/resource management/removal/disposal; hydrology and flooding; visual screening, landscaping and rehabilitation; hazards and risks; and energy use, resource use and recycling.

Specific requirements for some of the main environmental system elements referred to in (f) shall be as detailed under the Conditions of this Approval and/or as required under any licence or approval.

The OEMP shall be made publicly available.

All sampling strategies and protocols undertaken as part of the Operational EMP shall include a quality assurance/quality control plan and shall be approved by the relevant regulatory agencies to ensure the effectiveness and quality of the monitoring program. Only accredited laboratories can be used for laboratory analysis.

Where a requirement of this condition is not considered applicable, then the Proponent must clearly demonstrate the reason for this when seeking the approval of the Director-General. If the Proponent has an environmental management system, which is applicable to the project, then that system may be

proposed as the OEMP. Details of the existing system must be provided to the Director-General demonstrating its application to this project.

12. replacing existing condition 62 with a new condition 62, follows:

62. A detailed Construction Noise and Vibration Management Sub Plan shall be prepared as part of the Construction EMP in consultation with SSC. The Sub Plan shall provide details of noise and vibration controls to be undertaken during the construction. The Sub Plan shall include, but not be limited to:
- (a) identification of each work area, site compound and construction depot;
 - (b) identification of the specific activities that will be carried out and associated noise sources for each work area, site compound and construction depot;
 - (c) identification of all potentially affected noise sensitive receivers including residences, schools, commercial premises and noise sensitive equipment;
 - (d) identification of the appropriate construction noise objective for the project with regard to the requirements of Condition No. 64;
 - (e) identification of appropriate construction vibration objectives with regard to the requirements of Condition No. 73;
 - (f) determination of appropriate noise and vibration objectives for each identified noise sensitive receiver, with regard to the requirements of Condition Nos. 64 and 73;
 - (g) assessment of potential noise and vibration from the proposed construction methods including noise from construction vehicles and noise impacts from required traffic diversions;
 - (h) detailed examination of all feasible noise mitigation measures including the use of alternative construction methods where potential noise levels exceed the relevant objectives;
 - (i) consideration of erecting operational stage noise mitigation measures prior to construction commencement;
 - (j) description of management methods and procedures that will be implemented to control noise and vibration during construction;
 - (k) description of specific noise mitigation treatments and time restrictions including respite periods, duration, and frequency;
 - (l) justification for any activities outside the normal hours specified in Condition No. 63;
 - (m) construction timetabling, in particular works outside standard hours, to minimise noise impacts;
 - (n) a pro-active and reactive strategy for dealing with complaints including compliance with the construction noise and vibration objectives, particularly with regard to verbal and written responses;
 - (o) noise and vibration monitoring, reporting and response procedures;
 - (p) procedures for notifying residents of construction activities that are likely to affect their noise and vibration amenity;
 - (q) contingency plans to be implemented in the event of non-compliances and/or noise complaints; and,
 - (r) education of construction personnel about noise minimisation.

With respect to (h) above, the Proponent shall consider the use of a range of structural and non-structural measures during construction including barriers, acoustic treatment of residences, scheduling of construction activities to minimise impacts and temporary relocation of affected residents. The Proponent shall ensure that the mitigation measures referred to in Working Paper 3 of the EIS and in these Conditions are incorporated into the Sub Plan.

13. replacing the first sentence of condition 65 with the following:

65. The Proponent shall consider and apply feasible noise and vibration mitigation measures including considering:

14. replacing existing condition 68 with a new condition 68, as follows:

68. The Proponent shall ensure that rock breaking, rock hammering, sheet piling and other activities which result in impulsive or tonal noise generation are scheduled between the following hours unless otherwise agreed by the Director-General through the Construction Noise and Vibration Management Sub Plan process:
- (a) 8 am to 6 pm, Monday to Friday; and,
 - (b) 8 am to 1 pm Saturday.

Where these activities are undertaken for a continuous three-hour period and are audible to noise sensitive receptors, a minimum respite period of at least one hour shall be scheduled before activities re-commence.

For the purposes of this condition 'continuous' includes any period during which there is less than a 60 minute respite between ceasing and recommencing any of the work the subject of this condition.

15. replacing existing condition 81 with a new condition 81, as follows:

81. The Proponent shall consider the use of open graded asphalt or other best practice low noise road surface materials.

16. replacing existing condition 98 with a new condition 98, as follows:

98. The Proponent shall develop a detailed Flooding and Drainage Management Sub Plan for the project as part of the Construction EMP in consultation with the DECC and SSC. The Sub Plan shall be in accordance with the measures identified in DIPNR's *Floodplain Development Manual: the Management of Flood Liable Land* dated April 2005 (or its latest edition). The objective of the Sub Plan shall be to not increase inundation levels or durations during a 100 year ARI flood event in any areas.

17. replacing existing condition 99 with a new condition 99, as follows:

99. All surface water flows from construction sites shall be detained through appropriate measures to ensure that there is no exacerbation of existing flooding in consultation with the DECC. The Proponent shall consult with SSC on appropriate and specific measures to be implemented.

18. replacing existing condition 100 with a new condition 100, as follows:

100. The cross drainage system shall be designed to ensure that there is no exacerbation of existing flooding or water logging in consultation with the DECC, SSC and Landcom.

19. replacing existing condition 107 with a new condition 107, as follows:

107. The haulage of spoil to and from the site shall be limited to the hours between 7:00 am and 6:00 pm, Monday to Friday, 8 am to 1 pm on Saturday and at no times on Sundays or public holidays.

20. replacing existing condition 113 with a new condition 113, as follows:

113. The Proponent shall only establish construction compounds, stockpiles or any

other ancillary facilities under this Approval in locations that satisfy the following criteria, unless otherwise agreed to by the Director-General:

- (a) sites to be within the road reserve wherever possible;
- (b) sites to access the local road network as determined in the Construction Traffic Management Sub Plan required by Condition 42;
- (c) on relatively level land;
- (d) sites to be separated from nearest residences by at least 100m unless it can be demonstrated that residents will not experience adverse impacts on noise, visual and air quality impacts;
- (e) sites above the 100 ARI flood level ; and,
- (f) sites are to have a low conservation significance for flora and fauna and heritage and are not to require any clearing of native vegetation beyond that which must be cleared for the project in any case.

Where the above criteria can not be met, the Proponent must demonstrate that there will be no significant adverse impact.
