Major Projects Assessments,
Department of Planning and Infrastructure,
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RE: DRAFT SUBMISSION TO PACIFIC HIGHWAY UPGRADE ENVIRONMENTAL IMPACT STATEMENT, WOOLGOOLGA TO BALLINA

Dear Sir/Madam,

Please consider the following submission on the Environmental Impact Statement (EIS) on the upgrade of the Pacific Highway between Woolgoolga and Ballina. I have made comments upon the issues of route choice, which is fundamental to the way that this project *should* be assessed, as well as on the adequacy of biodiversity assessment work, the proposed biodiversity offset strategy, the efficacy and adequacy of proposed mitigation measures, impacts upon Emu and Koala, road use statistics and road maintenance costs, and the timing, scale and complexity of the project documents.

Route Choice

The primary concern I wish to raise is with the proposal to construct 48km of new highway through Glenugie to Maclean. This massive project component will pass through the most ecologically diverse and relatively intact forested areas of all of coastal NSW. One of the key reasons for such a high level of existing biodiversity is the absence of a major road to date. This should be taken as a useful clue to the most ecologically sustainable route choice. Following the existing highway route (Orange option A) would have negligible environmental impact as most of the flood plain has already been cleared. In terms of the justifications made in the EIS, this option would have been the only means by which it could have been truthfully claimed that avoidance of significant biodiversity impact had been made. Certainly other options further to the east of the preferred route might have been more damaging to biodiversity, but these were never serious contenders in any case given issues and politics of land tenure and the like.

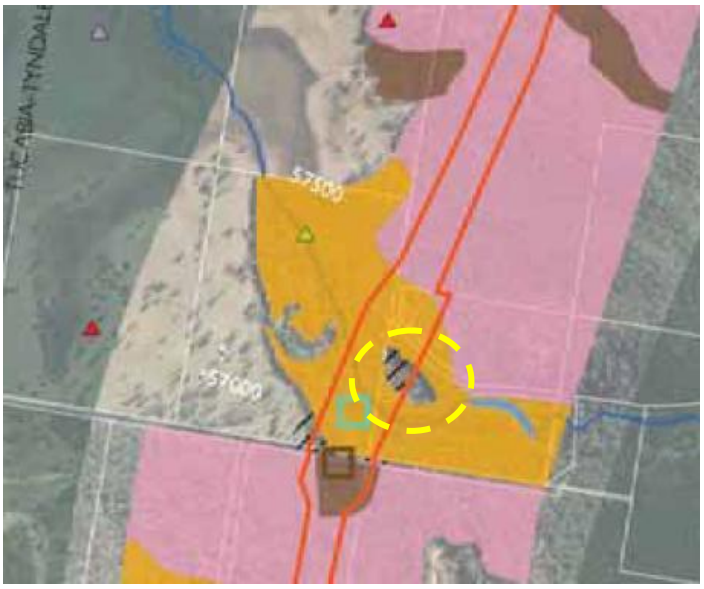
The social and economic impacts of route A would have been slightly greater compared to the preferred route, but it is understood that the primary reason for not duplicating the existing highway is the cost of building bridges on floodplain. It is clear that such engineering is possible (viz Kempsey), but that RMS has preferenced destruction of significant biodiversity over the expense of truly avoiding such impacts. Biodiversity is apparently less a priority than project budgets and the interests of the sugar cane lobby. I would suggest that while regrettable to those involved, the losses of sugar cane land at least can be compensated for in a monetary way. The environmental costs of clearing over 948 hectares of vegetation including 337 hectares of Endangered Ecological Communities (EECs) and the Nationally listed Lowland Subtropical Rainforest cannot be measured nor replaced – that is why they are provided protection. Equally these and other areas of vegetation provide habitat to numerous listed threatened species and the direct and cumulative impacts are

unacceptable, particularly given the long established requirement to implement the principles of ecologically sustainable development (ESD) in undertaking any such project. The proposed offsets (see below) cannot and will not compensate for these losses, achieving neither *maintain*, and certainly not *improved* biodiversity outcomes, such that any claims that this is ESD cannot be justly claimed.

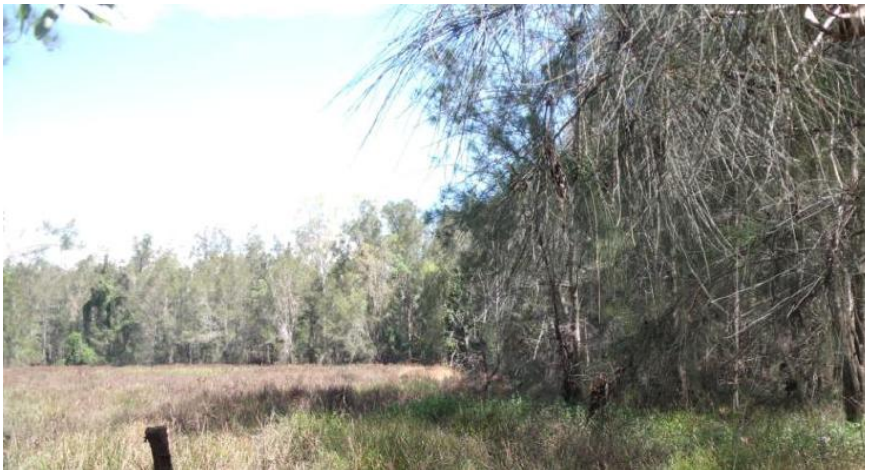
Biodiversity Assessment

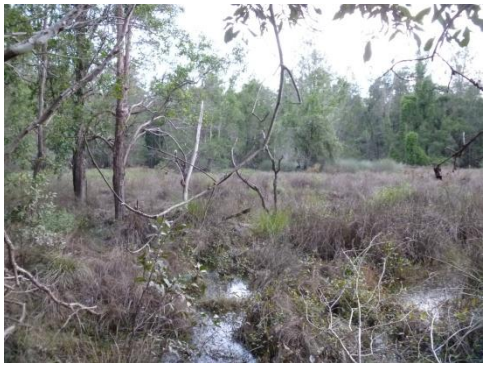
Step 2 of the DECCW Field survey and assessment suggests that to provide a reliable assessment of the presence or absence of threatened species that consideration must be given to the presence of the known or likely habitat components for the species. In some cases, there may be habitat that indicates the possible presence of a species even if the species has not been conclusively found within the survey area.

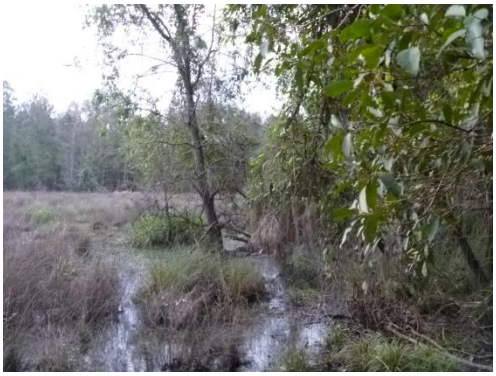
With this in mind I therefore draw your attention to at least one low lying area, north of Somervale Road (near Tucabia), where there is a natural waterhole and swamp complex system, leading downstream (westwards) to a freshwater wetland/swamp complex that is directly under the path of the proposed highway. This latter area has been mapped in the biodiversity assessment (station 57-63) as 'cleared/modified' and apparently thus is deemed to have very limited ecological value.



I have visited this property on several occasions, including very recently after the significant flooding rain and I am well acquainted with the landholder. I can confirm that this area is an ephemeral wetland with various sedges and other water tolerant species dispersed throughout, largely fringed by swamp oak and paperbark forest (EECs). The classification of this unique complex (which the landholder claims has been in the same condition for over 20 years and has exhibited no significant tree growth in that time), provides significant seasonal breeding and forage habitat for frogs (including *Mixophyes fasciolatus*) and would also act as habitat for Brolga and Jabiru and other species opportunistically. I am concerned that its representation as cleared/modified is inaccurate and that its ecological value (quite likely it is Freshwater Wetland EEC) has thus been wrongly dismissed for the purposes of further investigation. This also impacts upon understanding of proper mitigation design and the relevant offset requirements that would apply if a full understanding of this likely EEC was available.







Close upstream (East) of this wetland site, a local resident well known to me confirms sightings of the Australasian Bittern (confirmed north of Tyndale on Champion Creek system in PPR documents,). I have seen that the area provides ideal bittern habitat, however, the documents provided make no such acknowledgement in regard to this area. The fishing bat (Myotis) is also highly likely to use this stream regularly.

This property owner also has evidence on his property in drier forest parts of Brush-tailed Phascogale and has made numerous sightings of threatened owl species and glossy black cockatoos.

The impacts of a highway in this vicinity, particularly on water dependent species, shy species and upon any species reliant upon calls for breeding and other behaviour, need to be considered closely. Before any approval is given to this project it is strongly

recommended that further investigation of this area be required, producing full scientific understanding of the ecological values that would be exposed to direct and indirect and cumulative impacts of such a development. This would assist in accurately formulating mitigation and offset measures that would apply in this area. Ideally of course, subject to appropriate survey, *avoidance* of impacts in this location would be the proper course of action.

Biodiversity Offset Strategy

The statement of intent in regards to the offset strategy is appreciated, as is the notional assumption of significant impact where there are reasonable doubts about impacts or where information is unavailable, but a statement of intent for offsets is an insufficient basis for approval of this project, particularly when there is also an admission that the package of biodiversity impact mitigation measures may also prove inadequate. There is insufficient detail to determine whether 337 hectares of listed threatened ecological communities to be lost can in fact be acquired on a like for like basis, particularly when the intent is also to find such offsets in "the region". It is very unlikely that 56ha of Lowland Sub tropical Rainforest will be found and I have strong doubts about the 5 other EECs as well. The fact is that EECs - and the threatened species and habitats they contain - are in finite supply, which again is why they are provided state wide and national recognition and protection. The detail of which lands can be acquired needs to be made available and the vegetation communities identified and assessed as being suitable, prior to this EIA being endorsed for exhibition and assessment. If it is deemed unrealistic to fulfil the stated offset requirement, then the avoidance of impacts should again be the highest priority before approval by the determining authority – after the fact will be too late.

Even if they could be found within the region, given that all the listed EECs occur predominantly within the coastal zone, the costs associated with purchasing suitable coastal properties is likely to be significant. The offset acquisition costs must be factored into the equation as being part of the overall project budget. That is, the offset strategy should be full costed within the parameters set by the stated intent of the strategy. This costing, once approved, should be binding.

There also needs to be funding set aside for the set up and management of offset lands. Without this (or information about it) it is impossible to determine whether this route and this project is the most cost effective. Omission of detail on the costs of these offsets at this stage (as per above) makes the cost benefit analysis provided in Section 1.3 of very limited utility and the offset strategy appears to be merely a set of rhetorical guiding principles, which are unlikely to be met for reasons outlined above. *What chance is there that adequate compensation will be made for biodiversity impacts after all is approved and constructed? How will this be conditioned to ensure that this promise is completely captured and accounted for?*

This is further compounded when the level of consideration of impacts upon EECs, threatened species and their habitats to date has been so broad. Detailed studies that would be required to truly evaluate the scale and scope of impacts are yet to be conducted, again suggesting that an accurate costing of offsets required is presently unavailable.

Efficacy and Adequacy of Mitigation Measures

The EIA has made it clear that this project is likely to have a significant impact on "several threatened flora and fauna, most notably the coastal emu endangered population and the critically endangered Lowland Rainforest of Subtropical Australia present in the study area". This takes into account the (inadequate) offset strategy as per above. The conclusion of the biodiversity assessment states:

> There is no conclusive scientific knowledge on the ability of each of the assessed species to sustain a loss of the magnitude expected or resilience to change including adaptation to the proposed mitigation measures. As such, there is a risk that the project could have a significant impact on several threatened flora and fauna, most notably the coastal emu endangered population and the critically endangered Lowland Rainforest of Subtropical Australia present in the study area.

This is a very telling and worrying concluding comment on the subject of biodiversity impacts generally.

Impacts on Emu

Of particular concern, I note that there is no detailed consideration of the Emu population in the offset strategy *per se*, with much reliance upon the imagined workability of constructed mitigation measures (underpasses etc), which, if proven unworkable, will provide additional pressure that is likely to hasten the demise of this population. Further significant impact on these species and populations is unacceptable, particularly when there is likely to be no feasible way of mitigating, nor offsetting the impacts. In effect, all of this suggests that proper avoidance of impact should be the only defensible option and as outlined above, such an option does exist in the form of re-routing the highway. While it is apparently a more expensive option, this is only so because no one has properly costed the loss of the Emu population, for example. This seems particularly tragic given the iconic status this bird nationally (on the coat of arms) and locally (which is or certainly could be even more so a very significant tourism draw card).

RMS identified their preferred route in 2006, but only in 2012 have they trialled the attachment of satellite trackers to coastal emu as a means of obtaining some level of baseline information about this population. In order to obtain relevant, useful information to inform the design of this preferred route in the Coldstream area, such information gathering should have been underway at least five years previously. As I understand it, there has been no other form of baseline monitoring done in regard to this Endangered Population.

I note that it is suggested that should the mitigation structures proposed for emu (essentially flood mitigation related underpasses presumed to have corridor benefit to fauna (in dry times)) fail to be used by them (particularly in wet times), a land bridge could be constructed. It is not clear what the triggers for such an expensive undertaking would be and whether this too has been incorporated in costing of the project as a whole. *Does the money exist or would future governments need to be lobbied to establish this post approval necessity?*

I reiterate that without such information, this appears not to be a fully costed project against which the ecologically less destructive route option can be accurately compared. The job of the Department of Planning and Infrastructure is not to be concerned with project budgets however, but to determine if it is acceptable to risk significant impacts to threatened species, such as are deemed to be more than likely by the documents I have had the time to review. Taking the Emu population into account in particular, the Key Thresholds (draft guidelines on threatened species assessments) that the proponents were to adhere to in making their assessments of impacts are readily seen as having been referred to, but not effectively informed by (emphasis added):

> **Step 4. Avoid, mitigate and then offset**. Consideration is to be given to measures to avoid or minimise impacts. This step requires the description and justification of measures to mitigate any adverse effects. Where measures to avoid and mitigate are not possible, then offset strategies need to be considered. The extent to which measures avoid, mitigate or offset impacts upon threatened species must reflect the conservation

value of the feature including its formal state as a critically endangered, endangered or vulnerable species, population or ecological community.

Step 5.Key thresholds. The assessment needs to contain justification of the preferred option based on:
• whether or not the project, including actions to avoid or mitigate impacts or compensate to prevent unavoidable impacts would maintain or improve biodiversity values. *(However, there is an admission that a significant impact remains likely in spite of offsets*).
• Whether or not the project is likely to reduce the long-term viability of a local population of the species, population or ecological community.
• Whether or not the project is likely to accelerate the extinction of the species, population or ecological community or place it at risk of extinction.

These thresholds and adherence to them, were key criteria in the Director General's requirements for this assessment. Disregard for them in practice by insistence on the route selected and the abovementioned information gaps should result in an assessment of the proposed project as unacceptable.

Impacts on Koala

I am very disappointed with the route selection in relation to its likely impacts on North Coast Koalas. I wish to add my voice in support of the submission made by Friends of the Koala in respect of this species.

Road Use Statistics and Road Maintenance Costs

Due perhaps to time limits and sheer information volume, I was unable to find statistical information such as was provided in the earlier concept plan EA regarding the breakdown of estimates of local / through traffic anticipated to use this road. I recall that 35% of road users were predicted to be through traffic on the new road, while 65% of local and regional traffic would remain users of the old highway. S.1.14 outlines that most of the through traffic on the new highway will be heavy vehicles. My concern is that such a massive costly project with major environmental impacts is ultimately going deliver benefits only to such a minor proportion of road users, who it seems, are the heavy transport industry for who road usage is a business. Should it be assumed that the cost of upkeep of the old highway is to become the concern of Clarence Valley Council's ratepayers, which on the above basis, will be needing to produce a budget for the repair and maintenance of the current highway at the level of about 70% of its current repair budget footed by State government? This does not seem equitable to me. The trade offs of biodiversity and economic impact and amenity loss through the Pillar Valley and Tyndale areas for several minutes worth of reduced travel time largely for the heavy transport industry is highly unfair.

Timing, Scale and Complexity of Project Documents

This EIA should not have been put on public exhibition throughout the Christmas holiday break. I understand the exhibition period was extended, but the public need a real opportunity to attend public information nights or consider and prepare submissions. It is generally not until children are back at school that there is time to consider things that require such a detailed level of analysis, particularly when presented on the scale that these documents have been. It really would have been preferred if the project was presented as separate projects that represent the areas and scales in which people live, work and can understand. DoPI should ensure that the public have adequate time and realistically manageable information chunks. Many would simply be overwhelmed at the sheer information volume and possibly this perception of a juggernaut is in itself is a disincentive to even begin to attempt a submission.

Conclusion

The environmental costs of this proposal are too great for very little gain. The key reason that this part of the world contains so many of our important ecological communities, threatened species and habitats, is that the highway has historically deviated inland. This will impact on a scale that cannot be replaced in any meaningful sense. There will not be a 'maintain or improve outcome' as required by agencies and as expected by adherence to the Director Generals' Requirements pertaining to the assessment process for this project. The true project costs (in terms of the losses to be sustained by the environment and/or the costs of 'offsetting' them) are not fully articulated, and the comparison between this route and the inland upgrade option are therefore not properly made.

I therefore call on the determining authorities to reject the preferred route throughout the Clarence Valley and to reconsider upgrading the existing route, which will be a much less damaging option that will allow threatened species and their habitats to continue to exist in accordance with the legislation that was designed to protect them.

Yours sincerely

Dr. Adrian Deville
Minnie Water NSW 2462.