



***MODIFICATION REQUEST:
Pacific Highway Upgrade
Bulahelah Upgrade***



***Modification request to incorporate the
project into the existing management
system (05_0044 MOD 1)***

Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979
October 2012

Cover Photo - Southern end of the project looking north (RMS, June 2012)

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EXECUTIVE SUMMARY

The Pacific Highway Upgrade – Bulahdelah Bypass Project (05_0044) was approved by the then Minister for Planning on the 9 July 2007 under Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act). The Approved project, referred to as the Bulahdelah Upgrade, involves the construction of about 8.6 kilometres or dual carriageways in an eastern bypass of Bulahdelah township in the Great Lakes local government area.

Construction of the project commenced in August 2010 and is expected to be completed by March 2013 (weather permitting).

The Roads and Maritime Services has submitted a modification request (05_0044 MOD 1) under section 75W of the Act to modify condition 6.5 in relation to the Operation Environment Management Plan (OEMP) for the Bulahdelah Upgrade.

The proposed modification does not consider changes to the environment management of the project during the operation stage, it focuses only on administrative and system related aspects of the Minister's approval.

The modification request was forwarded to the Department of Primary Industries, NSW Office of Water, Great Lakes Shire Council and the Environment Protection Authority. Comments were received from the Department of Primary Industries, Great Lakes Council and the Environment Protection Authority in support of the modification.

The Department has undertaken a comprehensive assessment of the modification request and considers the modification to be acceptable. The administrative change to the management system does not change the environmental management obligations of the Proponent. The Department is satisfied that the modification request is justified and therefore has recommended its approval.

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The Pacific Highway Upgrade – Bulahdelah Upgrade Project (05_0044) was approved by the then Minister for Planning on 9 July 2007 under Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act). The Approved project, referred to as the Bulahdelah Upgrade, involves the construction of about 8.6 kilometres of dual carriageways in an eastern bypass of Bulahdelah township in the Great Lakes Local Government area.

The project location and layout is shown in Figure 1.

Map Labels:

- Proposed Upgrade
- Existing Pacific Highway
- Booral Road
- Exit to Booral Road
- Southern interchange
- Realignment of Keels Road/Pacific Highway intersection
- Realignment of Booral Road/Pacific Highway intersection
- Bombah Point Road Overbridge
- Myah Street
- Richmond Street
- Stuart Street
- Princ Street
- Alexandra Street
- Jackson Street
- Stuart Street
- Crawford Street
- Bombah Point Street
- Lea Street
- Caravan park
- Water reservoir
- Pedestrian Underpass
- Pedestrian and vehicle connection to mountain
- Realignment of access track for powerline easement
- Mountain Park
- Church Street
- Ann Street
- Maude Street
- Blanch Street
- Existing Pacific Highway
- Bombah Point Road
- Proposed easement
- Access to waste facility and sewage treatment plant
- Waste facility
- Sewage treatment plant
- Reconstruction of northbound carriageway
- Powerline easement
- Golf course
- 5m Coast
- The Lake Way
- Bulbeldah State Forest
- Bulbeldah (Alum) Mountain

Inset Map Labels:

- Turkey
- Nahla
- Coolongook
- Tuncurry Forest
- Bushdellah
- Kerush
- Haxhem
- Newcastle

Scale: 1:50,000

SEPP 14
Watland
No. 593

The project traverses rural and urban land uses, recreational land uses (golf course and Mountain Park) and infrastructure uses (water and sewerage treatment facilities and waste facility).

2. PROPOSED MODIFICATION

2.1 Modification Description

The proponent of the project, the Roads and Maritime Services (RMS) has submitted a request (05_0044 MOD 1) under section 75W of the Act to modify condition 6.5 to the following:

"Prior to the commencement of operation, the proponent shall incorporate the project into its existing management systems."

This condition relates to the requirement for an Operation Environment Management Plan (OEMP). The proposed modification does not consider changes to the environmental management during the operational stage; it focuses only on administrative and management systems related aspects of the Minister's approval.

Condition 6.5 currently states:

Operation Environmental Management Plan

6.5 *Prior to the commencement of operation of the project, or each stage of the project, the Proponent shall prepare and submit for the approval of the Director-General an **Operation Environmental Management Plan** to detail an environmental management framework, practices and procedures to be followed during the operation of the project. The Plan shall be consistent with the Department's Guideline for the Preparation of Environmental Management Plans (DIPNR 2004), and shall include, but not necessarily be limited to:*

- a) *a description of all activities to be undertaken during operation of the project including an indication of stages of operation, where relevant;*
- b) *statutory and other obligations that the Proponent is required to fulfil during operation including all approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;*
- c) *details of how the environmental performance of the operations will be monitored, and what actions will be taken to address identified adverse environmental impacts. In particular, the following environmental performance issues shall be addressed in the Plan:*
 - i) *measures to monitor and manage ecological factors, including effectiveness and maintenance of relocated hollows, nest boxes and aerial crossings;*
 - ii) *measures to monitor and manage heritage sites, including objects that have been moved off-site for keeping as a result of the proposal;*
 - iii) *measures to monitor and manage noise impacts;*
 - iv) *measures to monitor and minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters;*
- d) *a description of the roles and responsibilities for all relevant employees involved in the operation of the project; and*

- e) *complaints handling procedures during operation.*

Nothing in this approval restricts the Proponent from incorporating the above operational environment plan into existing management systems administered by the Proponent.

The Plan shall be submitted for the approval of the Director-General no later than one month prior to the commencement of operation of the project, or within such period otherwise agreed by the Director-General. Operation of the project shall not commence until written approval has been received from the Director-General.

Condition 6.5 outlines the requirements for the preparation of an Operation Environmental Management Plan. The requirements include the details of activities, statutory and other obligations, monitoring of environmental performance and roles and responsibilities and complaints handling.

While the Modification seeks to remove the requirement to develop an OEMP, a suite of plans have already been approved for the Bulahdelah Upgrade that address environmental management during the operational phase. No changes are proposed to the following plans:

- Wallum Froglet Management Plan.
- Squirrel Glider Management Plan.
- Orchid Management and Translocation Plan.
- Alunite Mine Site Management Plan: Bulahdelah Pacific Highway Upgrade.
- Urban and Landscape Design Supplementary Report.
- Urban and Landscape Design Report.
- Bulahdelah Bypass Detail Design Noise Assessment.

The RMS has noted that recent Pacific Highway Upgrade project approvals, e.g. Tintenbar to Ewingsdale (07_0051), and Warrell Creek to Urunga (07_0112) included a streamlined approval process for operation environmental management by incorporating the project into existing environmental management systems. Further it is noticed the Minister's delegate has recently approved a modification request for the Banora Point Project (07_0059 MOD6) to incorporate the operation of the project into the existing environmental management system.

RMS has requested that a similar condition be adopted for the Bulahdelah upgrade project. RMS suggest this would reduce the workload associated with the preparation and assessment of an Operation Environmental Management Plan, in addition to removing unnecessary duplication of documentation and management processes.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

In accordance with clause 3 of schedule 6A of the Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by schedule 6A, continues to apply to transitional Part 3A projects.

Section 75W of the Act provides that a proponent can request the Minister to modify the approval of the project. 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 would not result in a radical transformation and therefore an assessment in accordance with section 75W of the Act is considered appropriate.

Consequently, this report has been prepared in accordance with the requirement of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75W of the Act.

3.2 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the Act to the Directors in the Major Projects Assessment division where:

- The relevant local council has not made an objection and;
- A political disclosure statement has not been made; and
- There are less than 10 public submissions in the nature of objections.

The proposal satisfies all of the above criteria as no submissions were received from the public, Great Lakes Council have not objected to the modification request and there has been no political disclosure statements made for this application or for any previous related applications.

Accordingly the application is able to be determined by the A/Director, Infrastructure Projects under delegated authority.

4. CONSULTATION AND SUBMISSIONS

In accordance with section 75W of the Act and clause 8G of the EP&A Regulation, the modification request was made available on the Department's website
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5587

Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means.

The modification request was referred to the Environment Protection Authority, the Department of Primary Industries (Fisheries), New South Wales Office of Water and the Great Lakes Council. The Department of Primary Industries, Great Lakes Council and the Environment Protection Authority did not object to the modification request.

5. ASSESSMENT

The Department has considered the modification request and agency comments and notes that the management of operation of the Bulahdelah Upgrade is proposed to be incorporated into the proponent's existing environmental management systems. The key issue is consideration of whether the proposal to incorporate operational environment management practices into an existing environmental management system is a viable alternative that would ensure appropriate environment management/mitigation measures are in place.

The Roads and Maritime Services, has advised the Infrastructure Asset Management section is responsible for managing the maintenance of the state road network and Roads and Fleet Services (RFS) provide the maintenance services.

RFS manages routine road maintenance activities under the Road Services Management Plan (2012) and the RFS Environmental Management System (2008). These documents describe how RFS manages the environmental impacts of their activities. The RFS EMS has been developed to satisfy the ISO 14001:2004 requirements for environmental management systems. It includes environmental policy, legal and other requirements, communicating and reporting structures, staff training, as well as environmental management of maintenance and construction activities.

The Department notes that ISO 14001: 2004 is an internationally recognised standard that exists to help organisations:

- Minimise how their operations impact the environment.
- Comply with applicable laws, regulations, and other environmental requirements.
- Continually improve on the above measures.

Accordingly, the Department accepts that the EMS implemented in accordance with ISO 14001:2004 would result in a fundamentally sound system of environmental management. It is further noted that the Department is not aware of any adverse issues arising out of any previous RMS projects that have utilised an EMS in lieu of an OEMP.

Condition 6.5 requires the OEMP to provide details of how the environmental performance of the project would be monitored. The table below considers there requirements and existing approval conditions.

Condition 6.5 requirement	Comments on proposed modification:
a) ecological factors	<p>RMS states that measures to monitor and manage ecological factors would be undertaken in accordance with the Biodiversity Offset and Mitigation Strategy for the project, (condition 2.4). All operational management obligations in relation to squirrel glider management are represented in the Upgrade of the Pacific Highway at Bulahdelah: Squirrel Glider Management Plan (2010). This plan was approved by the Director-General on 18 December 2009.</p> <p>A Wallum Froglet Management Plan (2008) has been developed for the project which includes operational management measures. This plan was approved by the Director-General as part of the Baulderstone Construction Environmental</p>

	<p>Management Plan (CEMP) on 16 July 2010.</p> <p>All operational management obligations in relation to orchid management are represented in the Upgrade of the Pacific Highway at Bulahdelah: Orchid Management and Translocation Plan (2010). This plan was approved by the Director-General in January 2010. The RMS continues to manage and monitor impacts on the threatened species in accordance with the approved management plans.</p>
b) heritage sites	<p>All operational management obligations in relation to European heritage management are represented in the Alunite Mine Site Management Plan: Bulahdelah Pacific Highway Upgrade (2010). In accordance with CoA 6.2 this plan was developed in consultation with the former Heritage Office and the DPI and was approved on 25 August 2009. Further amendments have been made to the plan, which were approved as part of the Baulderstone CEMP on 16 July 2010 and then on 25 May 2012 for changes to Mountain Park.</p> <p>The management of Aboriginal heritage artefacts would be undertaken in accordance with an approved care and control agreement with OEH. Discussions on the final location of the salvaged guardian tree and signage in Mountain Park are ongoing with the Karuah Local Aboriginal Land Council and the Aboriginal Focus Group.</p>
c) noise impacts	<p>An Operational Noise Report (2009) was developed for the Bulahdelah upgrade and approved by the Director-General on 3 September 2009, in accordance with CoA 2.24. Additional operational noise requirements include:</p> <p>CoA 3.3 - A noise auditing program will be undertaken within one year of commencement of operation of the project.</p> <p>CoA 3.4 - An operational noise audit report would be submitted to the D-G within 60 days of completing the operational noise monitoring program.</p> <p>SoC 6.1 - St Brigid's church would be monitored 6 months after construction is completed.</p> <p>In the event that compliance with the noise goals is not achieved, additional feasible and reasonable mitigation measures would need to be investigated and implemented</p>
d) soil erosion and the discharge of sediment and other pollutants	<p>Measure to minimise soil erosion would be managed through the Urban Design and Landscape Management Plan. All exposed areas</p>

	would be landscaped prior to the completion of works which will assist to minimise risk of soil erosion and discharge of sediment to surrounding lands and/or waters.
e) landscaping	All operational management obligations in relation to landscaping and rehabilitation management are represented in the Urban and Landscape Design Report (2009) and the Urban and Landscape Design Supplementary Report (2010). These reports were approved by the Director General on 16 July 2010.
f) complaints handling procedures during operation	The project hotline will be operational for up to 12 months after the commencement of operation and the RMS environmental Hotline for the entire operation period.

With the inclusion of these requirements within the existing EMS, the Department is satisfied that adequate operational monitoring and management would be undertaken.

The Department also notes, that recent approvals for road projects include a condition that requires the Proponent to incorporate the project into its existing environmental management systems prior to operation commencing. This Application is consistent with this streamlined approach to the operational environmental management.

The Department considers that the RMS maintains a sufficient existing environmental management system to allow the inclusion of the above condition, in an expanded form, to replace the requirement to prepare an OEMP.

In summary, the Department is satisfied that the modification would result in lessening duplication and would streamline the regulatory process for the preparation of operational environmental management systems. It is considered that existing conditions of approval would adequately ensure that appropriate operational monitoring and management is undertaken, whilst the existing EMS, which has been prepared in accordance with ISO 14001:2004 and which would incorporate the relevant operational matters, would provide an adequate system of environmental management.

6. CONCLUSION AND RECOMMENDATIONS

The Department has considered the modification request and is satisfied that the proponent has demonstrated in its assessment of the proposal that the incorporation of the operation of the project into the existing management system is justified and would ensure an effective operational system is implemented to manage the residual impacts of the infrastructure project.

In conclusion, the department is satisfied that with the implementation of the mitigation and management measures proposed by the proponent and considers, the proposal would have minimal impacts on the surrounding community and environment, and therefore recommends the approval of the modification request.

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