



98G1395

Director Major Infrastructure Assessment
Department of Planning
22-33 Bridge Street
SYDNEY NSW 2001

Attention: Kylie Seretis

**SAPPHIRE TO WOOLGOOLGA PACIFIC HIGHWAY UPGRADE
PROPOSED AMENDMENTS TO THE CONDITION OF APPROVAL TO BIODIVERSITY
OFFSET & MITIGATION STRATEGY**

Dear Kylie,

As you are aware, the RTA is currently undertaking utility relocation works for the Sapphire to Woolgoolga project to enable the major road construction works to commence later this year. The utility relocation works are on critical path and are essential to enable major construction component to commence within the contract programme time frame. These works will very soon impact on a total of 1.44 hectares of Coastal Floodplain Forest, an Endangered Ecological Community (EEC) listed under the NSW *Threatened Species Conservation Act 1995*.

Under the current Minister's Condition of Approval No. 2.12 (MCoA 2.12) for Sapphire to Woolgoolga a Biodiversity Offset and Mitigation Strategy is required to be prepared and approved prior to disturbance of Endangered Ecological Communities (EEC) or threatened fauna species habitat. The conditions require that this must occur within 12 months of project approval.

The condition states:

"The Proponent shall develop and submit for the approval of the Director-General, a Biodiversity Offset Strategy. The Strategy shall provide a framework for developing the Biodiversity Offsets Package required by Condition and shall be developed in consultation with the DECC. The Strategy shall....."

Unless otherwise agreed, the Biodiversity Offset Strategy shall be submitted to the Director-General for approval no later than 6 weeks prior to the commencement of any construction that would result in the disturbance of Endangered Ecological Communities or threatened fauna species' habitat or not later than 12 months from the date of this approval. To avoid any doubt, disturbance of Endangered Ecological Communities or threatened fauna habitat cannot commence until the Director-General has approved the strategy.

Nothing in this condition or this approval precludes the Proponent from implementing a suitable offsets package which addresses impacts from multiple Pacific Highway Upgrade Projects (including the Kempsey-Eungai Upgrade) within the North Coast Bio-region

Roads and Traffic Authority

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(Manning-Macleay sub region). Any such agreement made with the Department of Environment and Climate Change must be made in consultation with the Department and approved by the Director-General."

As DoP is aware, the Roads and Traffic Authority (RTA) has been consulting with Department of Environment Climate Change and Water (DECCW) over the last 12 months on a Biodiversity Offset and Mitigation Strategy for the Sapphire to Woolgoolga project. This strategy is expected to be finalised in the near future and in turn may lead to a broader agreement on the manner in which offsets are calculated for other projects. At this point, it is proposed to meet early February 2010 to progress discussions following RTA's submission to DECCW of the draft Biodiversity Offset & Mitigation Strategy on 8 December 2009.

In view of the forthcoming discussions on developing offsets and to limit any impacts on the construction programme, the RTA is seeking an amendment to the condition of approval to allow the minor clearing of ECC. Specifically, it would enable the clearing of 1.44 hectares of ECC associated with the utility relocation works for Sapphire to Woolgoolga. DECCW has indicated in-principle support for this amendment and I understand has written to you separately in support of this approach. Details of the nature and extend of clearing in ECC are provided in Attachment A.

Timely completion of the investigation and utility relocation works is essential and without a modified condition of approval there is likely to be a delay to the completion of the Sapphire to Woolgoolga upgrade.

In addition, it is suggested that the phrase "...not later than 12 months from the date of this approval..." be deleted to reflect that the strategy has been prepared but not formally submitted.

I would suggest the following wording for a modified MCoA 2.12 for your consideration::

Unless otherwise agreed, the Biodiversity Offset Strategy shall be submitted to the Director-General no later than 6 weeks prior to the commencement construction activities (excluding utility relocation and investigation works) that will impact on Endangered Ecological Communities or threatened fauna species' habitat

The RTA believes that the adoption of a modified condition of approval, as described above, will not materially affect the outcomes of the Biodiversity Offset Strategy. It is important to note that the Sapphire to Woolgoolga Draft Biodiversity Offset and Mitigation Strategy submitted to DECCW demonstrates RTA's commitment to meeting and exceeding the minimum native vegetation offsets required by the Ministers Condition of Approval.

The measures to minimise impacts to flora and fauna, including ECC are outlined in Attachment A below and will be incorporated into a final Contractors Environmental Management Plan for the utility relocation works. DECCW, Marine Parks Authority and Department of Industry and Investment has provided input to the development of these mitigation measures. The attached comment and response table developed in the preparation of the CEMP details the issues raised and how they have been addressed.

Your consideration of these matters at your earlier convenience is appreciated. If any further information or clarification is required please contact Mr Scott Lawrence (on 02 6640 1375 or scott_lawrence@rta.nsw.gov.au)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'W. Stevenson', with a long horizontal flourish extending to the right.

Wesley Stevenson
Acting General Manager Pacific Highway

22.1.2010

Enclosed Modification form

Attachment A Details on Clearing of Endangered Ecological Community and Associated Mitigation Measures

The utility relocations involve the clearing of a total 1.44 hectares of Coastal Floodplain Forest-Broad Leaved Paperbark an Endangered Ecological Community (EEC) listed under the NSW Threatened Species Conservation Act. The table below shows the breakdown of the clearing of EEC by utility relocation type.

Relocation type	Area of EEC Coastal Floodplain Forest (Broad Leaved Paperbark) Hectares
Water and sewer utilities	0.857
Telstra	0.3831
Country Energy	0.2
TOTAL	1.44

Figures on BP09, BP10, BP11 and BP 22 below detail the location of the utility relocation works in relation the mapped EEC.

Mitigation Measures to reduce impacts of native vegetation, including EEC to be implemented via an Environmental Management Plan include:

- Where vegetation removal is required it is to be strictly controlled and clearing would be restricted to the minimum area required to undertake the works.
- A pre-clearing survey will be undertaken by a qualified ecologist. Searches will include nets and large hollow-bearing trees and target habitat of hollow-dwelling species, koalas and frogs. In the unlikely event that hollows need to be removed, nest boxes would be installed as per the Nest Box Management Plan.
- The limits of vegetation clearing disturbance will be signposted clearly, delineated on site and recorded on work plans prior to clearing
- No service relocation works (including storage of plant, equipment, materials) or access by unauthorised personnel is permitted in native vegetation areas outside of the flagged works footprint.
- Prior to commencement of the service relocation works, threatened flora species are to be identified, tagged and mesh barrier fencing erected where they are located in close proximity to the proposed service relocation works
- All staff entering the worksite shall be made aware of the location of threatened species and environmentally sensitive areas.
- To secure any small to medium weight animal, which may be accidentally injured during the clearing process, it is to be covered with a towel or blanket and secured in a bin or box with exiting air holes. This will be undertaken by a qualified ecologist or experienced WIRES carer. DECCW shall be informed if any threatened species are identified on site.

- Larger trees identified for removal would be cut by chainsaw, using the services route as the drop zone.
- Trees <300mm diameter breast height would be removed with a mulch head excavator and the mulch would be stockpiled in a bund along the edge of the designated services route.
- Permanent creek crossings (Class 1 and 2 under NSW Fisheries Guidelines) would be under-bored reducing the level of disturbance to riparian vegetation.
- Access to the service relocation sites will be via existing roads and/or tracks where possible. All access routes shall be kept to a minimum width length and number.
- Declared noxious weeds are to be managed according to requirements under the *Noxious Weeds Act 1993*.
- The movement of wildlife into trench sections, particularly at night, shall be prevented by appropriate means such as 'night caps' placed over open trenches. Where fauna is found in trench section, a suitably qualified ecologist or person with experience and training in the handling of wildlife would be contacted to attend to the removal of the specimen.
- Sites shall be stabilised and reinstated with vegetation cover at the completion of works
- Draft Environmental Management Plans for the all utility relocation works have been prepared to incorporate these mitigation measures into a working document with allocation of contract personal responsible for the implementation of control measures. The EMPs have been developed in consultation with DECCW, Marine Parks Authority and Department of Industry and Investment (Fisheries). All native vegetation that is proposed to be cleared will be included in biodiversity offset calculations.