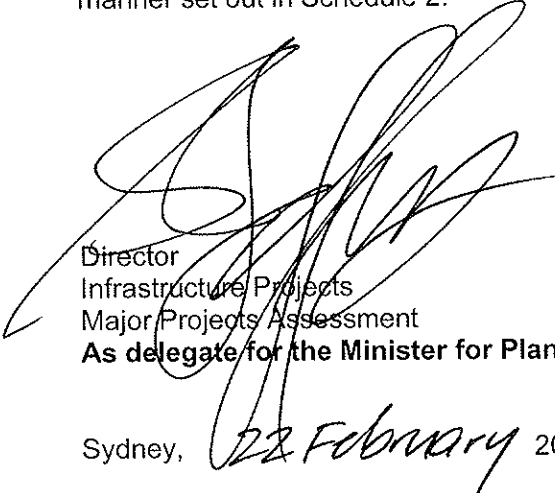


Modification of Minister's Approval

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

I, the Director, Infrastructure Projects, Major Projects Assessment of the Department of Planning, in accordance with the Instrument of Delegation issued by the Minister for Planning, on 25 January 2010, 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.



Director
Infrastructure Projects
Major Projects Assessment
As delegate for the Minister for Planning

Sydney, *22 February* 2010

SCHEDULE 1

| | |
|---------------------------|---|
| Project Approval: | granted by the Minister for Planning on 13 January 2009 |
| For the following: | Pacific Highway Upgrade – Sapphire to Woolgoolga (06_0293) |
| Modification: | modification to the Minister's approval in relation to the timing of minor clearing of Endangered Ecological Communities and threatened species' habitat, the salvage of Aboriginal objects and submission of the Biodiversity Offset Strategy. |

SCHEDULE 2

The approval is modified by:

1. Replacing the definitions for "construction", "DECC", "DPI", with the following:

| | |
|---------------------|--|
| Construction | Includes all work in respect of the project other than survey; acquisitions; fencing; investigative drilling or excavation; building/road dilapidation surveys; minor clearing (except where Endangered Ecological Communities or threatened species' habitat would be affected, unless otherwise approved by the Director General, in consultation with DECCW); the salvage and storage of Aboriginal objects where a strategy has been approved by the Director General in consultation with DECCW; establishing ancillary facilities in locations meeting the criteria stated in these Conditions; or other activities determined by the Environmental Representative to have minimal environmental impact (e.g. minor access roads, adjustments to services / utilities, etc.). |
| DECCW | NSW Department of Environment, Climate Change and Water (including the NSW Office of Water) |
| I&I NSW | Industry and Investment NSW |

2. Deleting the definition of "DWE"
3. Replacing all references to "DECC" with "DECCW"
4. Replacing all references to "DPI" with "I&I NSW"
5. Replacing existing condition 1.1 with the following:
 - 1.1 The Proponent shall carry out the project generally in accordance with the:
 - a) Major Projects Application 06_0293;
 - b) *Coffs Harbour Highway Planning – Sapphire to Woolgoolga section - Environmental Assessment* (volumes 1, 2 and 3), prepared by Connell Wagner Pty Ltd and dated November 2007;
 - c) *Coffs Harbour Highway Planning – Sapphire to Woolgoolga section – Environmental Assessment Submissions Report*, prepared by Connell Wagner Pty Ltd and dated June 2008, including the revised Statement of Commitments contained therein;
 - d) correspondence from the NSW Roads and Traffic Authority to the Department of Planning dated 29 October 2008 withdrawing the proposed Arrawarra Rest Area from the project;
 - e) Modification Application dated 21 October 2009 (06_0293 MOD 1), and request for modification dated 20 October 2009; and
 - f) Modification Application dated 22 January 2010 (06_0293 MOD 2), and request for modification dated 22 January 2010; and
 - g) the conditions of this approval.
6. Replacing existing condition 1.2 with the following:

- 1.2 In the event of an inconsistency between:

- a) the conditions of this approval and any document listed from condition 1.1a) to 1.1f) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
- b) any document listed from condition 1.1a) to 1.1f) inclusive, and any other document listed from condition 1.1a) to 1.1f) inclusive, the most recent document shall prevail to the extent of the inconsistency.

7. Replacing condition 2.12 with the following:

2.12 The Proponent shall develop and submit for the Director General's approval, a Biodiversity Offset and Mitigation Strategy. The Strategy shall provide a framework for developing the Biodiversity Offsets and Mitigation Package required by Condition 2.13 and shall be developed in consultation with the DECCW. The Strategy shall:

- a) include a minimum requirement to provide 98.8 hectares of native vegetation to offset direct and indirect impacts of the project;
- b) identify the extent and types of habitat/vegetation communities that would be lost or degraded as a result of the project;
- c) describe the quality of habitat/vegetation communities identified in point b);
- d) identify the objectives and outcomes to be met by the final Biodiversity Offset and Mitigation Package;
- e) consider the biodiversity management measures or activities identified in the documents set out in condition 1.1 or elsewhere in these Conditions of Approval, including:
 - i. fauna crossing measures, including vegetated medians, fauna structures and associated fauna fencing to be installed as part of the project;
 - ii. revegetation measures;
 - iii. translocation plans;
 - iv. any other fauna mitigation measures such as nest boxes and frog breeding ponds; and
 - v. any ongoing biodiversity or threatened species monitoring requirements;
- f) provide details of available compensatory habitat in the region to offset the loss of Endangered Ecological Communities and habitat for threatened fauna species as a result of the project. This may include other non land-purchase management measures or actions to deliver a beneficial outcome for the region;
- g) provide a decision-making framework to be used in selecting the priority ranking of compensatory habitat options available in the region; and
- h) a process to address additional impacts associated with unforeseeable impacts including:
 - i. changes to footprint due to design changes;
 - ii. changes to predicted impacts resulting from changes to mitigation measures; and
 - iii. additional impacts associated with ancillary facilities.

Unless otherwise agreed by the Director General, the Biodiversity Offset and Mitigation 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 species' habitat.

Nothing in this condition prevents minor clearing of Endangered Ecological Communities and threatened species habitat prior to approval of the Strategy, where the clearing does not compromise biodiversity outcomes and has been approved by the Director General, in consultation with DECCW.

Nothing in this condition or this approval precludes the Proponent from implementing a suitable offset package which addresses impacts from multiple Pacific Highway Upgrade projects (including the Sapphire to Woolgoolga Upgrade)

within the North Coast Bio-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.

Note: A request for minor clearing of Endangered Ecological Communities and threatened species habitat prior to approval of the Biodiversity Offset and Mitigation strategy shall consider the requirements of the relevant ecological conditions of this approval.

8. Adding the following sentence to condition 2.32.

The salvage and storage of Aboriginal objects may proceed in the absence of an approved Construction Environmental Management Plan, subject to the activities being undertaken in accordance with a strategy, prepared in consultation with relevant Aboriginal stakeholders and DECCW, and approved by the Director General.