



08-0019 MOD1

18 January 2008

Director-General
NSW Department of Planning
GPO Box 39
Sydney NSW 2001

Attention: Dinuka McKenzie

Dear Dinuka,

The Roads and Traffic Authority (RTA) is currently in the processes of forming the Ballina Bypass Alliance (BBA) for the construction of the Ballina Bypass, Pacific Highway Upgrade.

Following the meeting between the Department of Planning (DoP), the RTA and the BBA on December 12 on a range of matters, including the matter below, I am writing to request changes to a number of the Minister's Conditions of Approval (MCoA) for the Ballina Bypass Project (the Project).

Following design development in the costing stage of the Project, the BBA has identified the following MCoA that are not generally consistent with the MCoA imposed on recent RTA projects and that, in their current form will place significant constraints on construction of the Project. The BBA and RTA consider these changes to be consistent with current best practice and do not result in a decrease in environmental performance standards applied to the project.

The RTA and BBA consider that the intent of the Minister's conditions, to provide for positive outcomes for a range of potential environmental impacts, will not alter as a result of the proposed revisions. The revisions would assist to achieve construction goals while not impacting on the environmental outcomes that the RTA and BBA are committed to.

The attached table provides the existing conditions, the proposed revisions and a discussion detailing the justification associated with each proposed revision.

It is requested that the Director-General consider revising the MCoA to reflect the changes proposed in the attached table. We are happy to discuss the issues further with DOP. If any further information or clarification is required please contact Mr Shane Higgins (on 0419 415 280 or shane.higgins@ballina.incite.com.au) in the first instance.

Yours faithfully,


Bob Higgins
General Manager Pacific Highway
18/1/08



Existing Condition		Proposed Revision		Discussion
	All	Update regulatory agency references		
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 24 hour, toll free telephone number listed with a telephone company and advertised. This telephone number shall 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 Ballina Shire Council, 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	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 24 hour, toll free telephone number listed with a telephone company and advertised. This telephone number shall 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 Ballina Shire Council, 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 offered to the complainant 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	The current condition refers to a "required" verbal response to a complaint within 2 hours during night-time works. The RTA's Ballina Bypass Alliance notes that through past experience, some complainants may prefer to go back to sleep after making a complaint rather than be disturbed again by a response from the project team. The RTA's Ballina Bypass Alliance proposes to offer complainants the option of a 2 hour turnaround response, or to be contacted at a more convenient time to the complainant, for example, the next day. The RTA considers that by replacing "required" with "offered" that this response mechanism will ultimately provide a more flexible stakeholder outcome, whilst maintaining a strict standard of response for those stakeholders who demand it.

	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 six-monthly Construction Compliance Report required by Condition 15 and shall be made available upon request.		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 six-monthly Construction Compliance Report required by Condition 15 and shall be made available upon request.	
11	A Community Liaison Group shall be formed prior to the commencement of substantial construction to discuss detailed design issues and methods for minimising the impact on the local community and businesses during the construction stage. The Group shall include the Environmental Management Representative, representatives from the RTA, the contractor, relevant local community and business groups and Ballina Shire Council unless otherwise agreed by the Director-General. Issues for discussion shall include, but not be limited to: flora and fauna controls; noise control measures; property access arrangements, air and water quality; landscaping requirements and any other issues considered relevant by the Group. Appropriate facilities and information shall be provided by the Proponent to assist the Group in carrying out its functions. The Group may make comments and recommendations about the design and implementation of the project, which shall be considered by the Proponent. In the event of any dispute between the Group and the Proponent, the Proponent's decision shall be considered as final so long as it is consistent with these Conditions of Approval.		No action requested by RTA yet	The RTA's Ballina Bypass Alliance consider that the formation of a Community Liaison Group (CLG) as detailed in MCoA 11 for the Ballina Bypass Project, will not be necessary to obtain suitable environmental and community outcomes. As a result of changing technology and lifestyles, major projects are increasingly moving away from the traditional CLG model to broader and more innovative methods of community engagement. RTA's Ballina Bypass Alliance proposes to take the opportunity to develop a more proactive and community based approach to community engagement. Instead of a CLG, a stakeholder engagement program is proposed that will: • Develop mechanisms that enable linkages to the broader community communication processes; • Enable the dissemination of new information as it comes to hand; • Provide a mechanism for the RTA to receive feedback on the issues of concern from the community on specific operational aspects of the Ballina Bypass; and • Provide for more efficient and timely dissemination of information to the broader community. We are reviewing this condition and will develop a proposal that will provide a strategy to achieve more suitable, proactive community outcomes for the construction and operation of the Ballina Bypass. We will provide this proposal to DoP in the near future.

85	The Proponent shall only construct concrete batching plants and construction compounds under these Conditions of Approval in those locations that satisfy the following criteria: (a) sites to be located within the road corridor assessed in the EIS and Representations Report to the greatest extent possible; (b) sites to be located with ready access to the local road network; (c) sites to be located to minimise the need for heavy vehicles to travel through Ballina; (d) sites on relatively level land; (e) sites to be separated from nearest residences by at least 200 m unless it can be demonstrated to the satisfaction of the Director-General that there will be no adverse noise, visual and air quality impacts; (f) sites are not to be permitted within 100 m of, or drain directly to, SEPP 14 wetlands; (g) sites are not to be located within 100 m of waterways unless adequate erosion and sediment controls are implemented to protect water quality; (h) sites must be above the 20 ARI flood level unless a contingency plan to manage flooding issues is prepared and implemented; (i) sites are to have low conservation significance for flora, fauna or heritage and they are not to require any clearing of native vegetation beyond that which must be cleared for the project in any case; and, (j) sites are to be selected so that the operation of the plant does not impact on the land use of adjacent properties. The location of any concrete batching plants/construction compounds considered under these Conditions of Approval shall be detailed in the Construction EMP and shall include demonstration that the above criteria have been met.	83	The Proponent shall only construct concrete batching plants and construction compounds under these Conditions of Approval in those locations that satisfy the following criteria: (a) sites to be located within the road corridor assessed in the EIS and Representations Report to the greatest extent possible; (b) sites to be located with ready access to the local road network; (c) sites to be located to minimise the need for heavy vehicles to travel through Ballina; (d) sites on relatively level land; (e) sites to be separated from nearest residences by at least 200 m unless it can be demonstrated to the satisfaction of the Director-General that there will be no adverse noise, visual and air quality impacts; (f) sites are not to be permitted within 100 m of, or drain directly to, SEPP 14 wetlands; (g) sites are not to be located within 100 m of waterways unless adequate erosion and sediment controls are implemented to protect water quality; (h) sites must be above the 20 ARI flood level unless a contingency plan to manage flooding issues is prepared and implemented; (i) sites are to have low conservation significance for flora, fauna or heritage and they are not to require any clearing of native vegetation beyond that which must be cleared for the project in any case; and, (j) sites are to be selected so that the operation of the plant does not impact on the land use of adjacent properties. The location of any concrete batching plants/construction compounds considered under these Conditions of Approval shall be detailed in the Construction EMP and shall include demonstration that the above criteria have been met or that the locations have been agreed to by the Director-General.	The RTA's Ballina Bypass Alliance, to date, have had large difficulty identifying suitable areas to locate proposed concrete batching plants and construction compounds that satisfy all of the criteria of Condition 85 due to presence of either steep topography or floodplain lands. Therefore the RTA propose the addition of the clause "or that the locations have been agreed to by the Director-General." to provide for consultation between RTA/BBA and DoP to establish suitable locations for the above mentioned facilities. If the current criteria of Condition 85 cannot be met and such consultation is required, the RTA will clearly demonstrate to DoP how it will effectively manage any potential environmental impacts associated with any facility location not being in compliance with criteria a) to j).
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