


# Modification of Minister's Approval

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

I, the Director General of the Department of Planning, in accordance with the Instrument of Delegation issued by the Minister for Planning on 4 March 2009, 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.

  
Sam Haddad  
Director General

Sydney, 20<sup>th</sup> March 2009

File No: G96/00201

### SCHEDULE 1

**Project Approval:**

granted by the Minister for Planning on 22 May 2003.

**For the following:**

upgrade of a 12.5 kilometre section of the Pacific Highway to four-lane dual carriageway, between approximately 600 metres south of the Bruxner Highway and 400 metres north of Ross Lane, bypassing the township of Ballina, in the Ballina Shire local government area.

**Modification:**

changes to the design of the southern section of the Ballina Bypass (Bruxner Highway Intersection to the Teven Road Interchange) and its development in two stages.

## **SCHEDULE 2**

The approval is modified by:

1. deleting the definitions for “DLWC”, “EPA”, “NPWS” and “REA”, and inserting in alphabetical order the following:

<b>Council</b>	Ballina Shire Council
<b>DECC</b>	Department of Environment and Climate Change
<b>DPI (AHPU)</b>	Department of Primary Industries (Aquatic Habitat Protection Unit)
<b>DWE</b>	Department of Water and Energy
<b>REA</b>	Relevant Environmental Assessment documents. These include the EIS, Representations Report, Director-General's Report and Environmental Assessment as described in Condition 1.

2. deleting all references to “EPA” and “NPWS” and replacing with “DECC”
3. deleting all references to “DLWC” and replacing with “DWE”
4. deleting all references to “NSW Fisheries” and replacing with “DPI (AHPU)”
5. replacing existing condition 1 with new condition 1, as follows:

1. The project shall be carried out consistent with:
  - a) the proposal contained in the Environmental Impact Statement (EIS ‘Pacific Highway Ballina Bypass’ prepared for the Roads and Traffic Authority (RTA) by Connell Wagner and dated February 1998 and the Representations Report ‘Pacific Highway Ballina Bypass’ prepared by RTA Environmental Technology for the RTA and dated December 2001;
  - b) all identified procedures, safeguards and mitigation measures identified in the EIS and Representations Report;
  - c) the Director-General's Report;
  - d) the RTA's modification request dated 18 January 2008 (08\_0019 MOD 1);
  - e) the RTA's modification request and assessment information dated 25 August 2008 and 9 December 2008 supplemented by correspondence the RTA provided between 28 August 2008 and 8 January 2009 for the Ross Lane Earthworks (08\_0019 MOD 3);
  - f) the RTA's modification request dated 25 August 2008 and Environmental Assessment (‘Modification of the Ballina Bypass Environmental Assessment Report’ (August 2008)), supplemented by correspondence the RTA provided between 18 February and 24 February 2009 for the design modifications between the Bruxner Highway Interchange and Teven Road Interchange (08\_0019 MOD 2);
  - g) the Conditions of Approval granted by the Minister; and
  - h) the Conditions of this Approval.

In the event of an inconsistency between the conditions of this approval and any document listed from condition 1(a) to 1(h) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency. In the event of an inconsistency between any documents listed from condition 1(a) to 1(h) inclusive, the most recent document shall prevail to the extent of the inconsistency.

These conditions do not relieve the Proponent of the obligation to obtain all other approvals and licences from all relevant authorities required under any other Act. Without affecting the generality of the foregoing, the Proponent shall comply with the terms and conditions of such approvals and licences.

It shall be the ultimate responsibility of the RTA to ensure compliance with all conditions of approval granted by the Minister.

- 6. inserting in existing condition 15(c) immediately after the word “EIS” the following:**

, Modification of the Ballina Bypass Environmental Assessment (August 2008)

- 7. inserting in existing condition 16 immediately after the word “operation” in the second line, the following:**

or of any part of the project (or defined stages of the project)

- 8. inserting in existing condition 17 immediately after the word “project” in the third line, the following:**

or of any part of the project (or defined stages of the project)

- 9. inserting in existing condition 17 immediately after the word “EIS” in the sixth and eighth lines, the following:**

, Modification of the Ballina Bypass Environmental Assessment (August 2008)

- 10. replacing existing condition 18 with new condition 18, as follows:**

18. The Proponent shall prepare an updated construction program and staging report for the Stage 2 works as identified in Modification of the Ballina Bypass Environmental Assessment (August 2008). The report shall be provided to the Director-General for information prior to Stage 2 construction work commencing.

- 11. inserting new condition 18A immediately after existing condition 18, as follows:**

18A If construction of any part of the project has not commenced by 2016, environmental impact assessment for those project elements shall be updated to the satisfaction of the Director-General prior to construction commencement. This assessment shall address all relevant issues identified in the REA and shall take into account any changes to land uses and surrounding environments as applicable at the time. The updated assessment shall be based on relevant environmental standards and criteria applicable at that time.

- 12. inserting new condition 33A immediately after existing condition 33, as follows:**

33A The Sub Plan shall clearly detail how the mitigation measures identified in Section 4.5.6 of the Modification of the Ballina Bypass Environmental Assessment (August 2008) will be implemented during construction of the modified project.

- 13. inserting new condition 40A immediately after existing condition 40, as follows:**

40A. Within 12 months of the date of approval of the design modifications (or such period as otherwise agreed by the Director General), the Proponent shall submit an updated Wetlands Management Sub Plan to the Director General for approval. The Plan shall include details of coastal wetland restoration and Compensatory Wetland Agreement for the additional 1 hectare of SEPP 14 wetlands that would be directly impacted under the Stage 1 and Stage 2 modified design.

- 14. inserting in existing condition 57(e) immediately after the numerals “108” the following “, 108A”**