



***MODIFICATION REQUEST:
Princes Highway Upgrade
Foxground to Berry Bypass Project***



Amendment to Condition of Approval C13

Secretary's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

January 2015

Cover Photograph: Existing Princes Highway looking south towards Berry (Source: EA)

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Published January 2015
NSW Department of Planning & Environment
www.planning.nsw.gov.au

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1. BACKGROUND

The Princes Highway Upgrade – Foxground to Berry Bypass Project was approved by the Minister for Planning and Infrastructure on 22 of July 2013 under Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act). The approved project involves an 11.6km upgrade of the Princes Highway between Toolijooa Road north of Foxground and Schofields Lane to the immediate south of Berry. The project runs through Kiama and Shoalhaven local government areas. Construction involves a dual carriage highway in both directions with a wide median to allow for a future upgrade to six lanes. Other major features of the project include:

- bypasses of the bends at Foxground and Berry;
- five new grade separated interchanges;
- four new bridges, including three bridges spanning Broughton Creek and a bridge at Berry;
- a 900m long cutting at Toolijooa Ridge approximately 26m deep;
- two new roundabouts at the southern interchange for Berry and the existing Princes Highway / Woodhill Mountain Road intersection; and
- the creation of public open space with shared pedestrian/cycle facilities between North Street and the new highway.

Construction is expected to commence in early 2015. The project location and layout is shown in **Figure 1**.

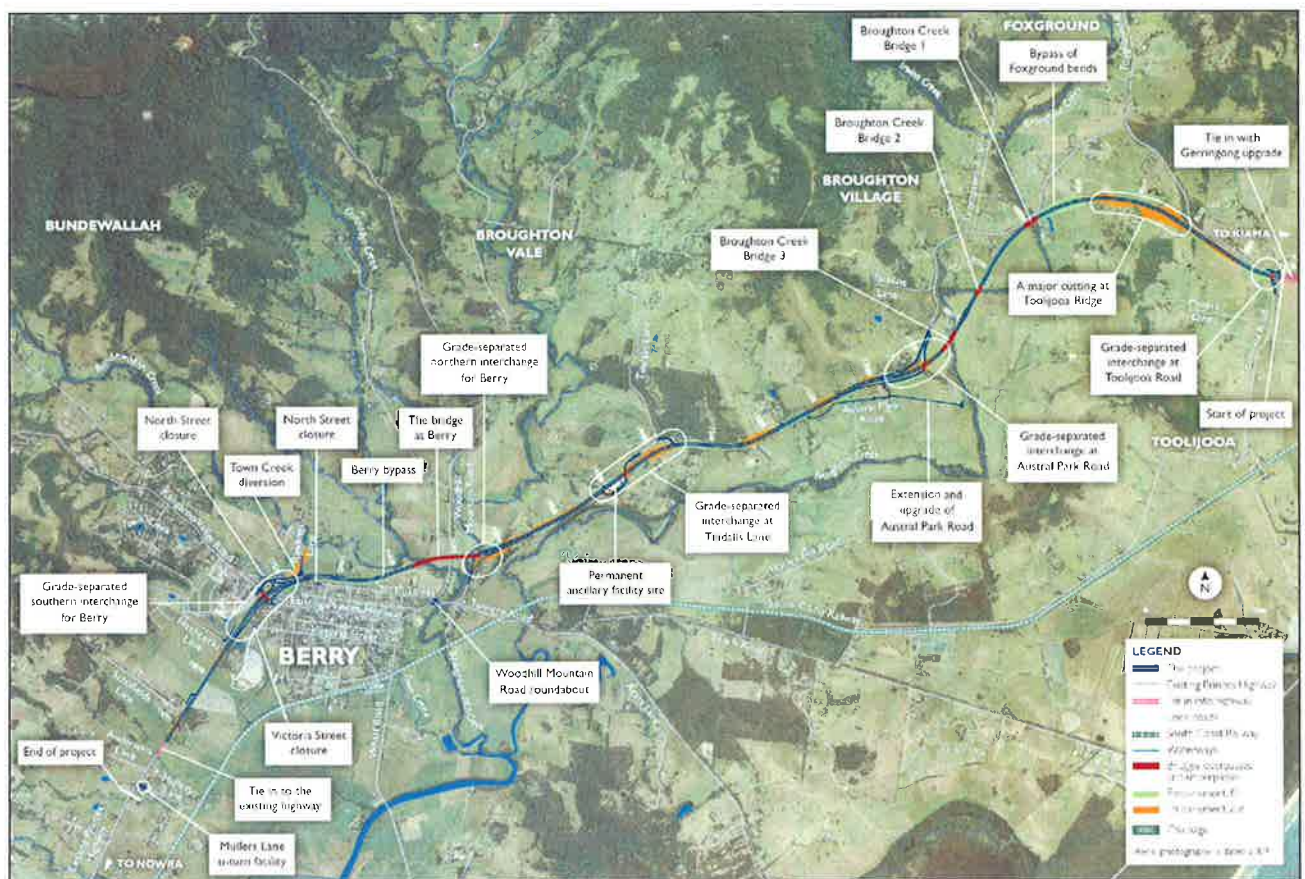


Figure 1: Project Layout

The project area is characterised by a range of uses including residential, rural/agricultural, commercial, a railway corridor, light industrial, nature reserves and a National Park. To the north of the project area, the Gerringong urban area consists mostly of low density housing and retail services. To the south of the project area, the Bomaderry Nowra urban area contains residential, commercial and light industrial land uses. Urban settlement in Berry also comprises residential,

commercial and light industrial land uses. The South Coast Rail Line lies to the east of the project site, with a station located at Berry.

Nature reserves located in the area include Barron Grounds, Rodway and Cambewarra Range. The Budderoo National Park is located to the west of the project area. In the east, a ridgeline separates the project from the flat coastal areas. Coomonderry Swamp, Foy's Swamp and Seven Mile Creek National Park are located along the coastline.

2. PROPOSED MODIFICATION

Roads and Maritime Services (RMS) has submitted a request (MP 10_0240 MOD 1) under Section 75W of the Act to modify the Minister's approval to amend condition C13 to allow blasting limits to be increased for non-Aboriginal heritage items with the agreement of the landowner. This is the first modification to the Foxground to Berry Bypass project.

2.1 Condition C13

Condition C13 permits the criteria for blasting stipulated in condition C10 and C11 to be exceeded with the agreement of the EPA and the landowner and the approval of the Secretary (Director General). However, this does not apply where the property is a non-Aboriginal heritage item. Condition C13 states

C13.

The blasting criteria identified in conditions C10 and/or C11 may be exceeded where the Proponent has written approval from the Director General. In obtaining the Director General approval for any such exceedance the Proponent shall submit to the Director General:

- (a) a written agreement from the EPA and the relevant landowner to exceed the criteria;*
- (b) details of the proposed blasting program and justification for the proposed increase to blasting criteria including alternatives considered (where relevant);*
- (c) an assessment of the environmental impacts of the increased blast limits on the surrounding environment and most affected residences or other sensitive receivers including, but not limited to noise, vibration and air quality and any risk to surrounding utilities, services or other structures;*
- (d) details of the blast management, mitigation and monitoring procedures to be implemented; and*
- (e) details of consultation undertaken (including clear identification of proposed blast limits and potential property impacts) and agreement reached with the relevant landowners and EPA (including a copy of the agreement in relation to increased blasting limits).*

Unless otherwise agreed by the Director General, the following exclusions apply to the application of this condition:

- (a) any agreements reached may be terminated by the landowner at any time should concerns about the increased blasting limits be unresolved; and*
- (b) the blasting limit agreed to under any agreement can at no time exceed a maximum Peak Particle Velocity vibration level of 25 mm/s or maximum Airblast Overpressure level of 125 dBL.*

The provisions under condition C13 (to increase applicable blast criteria in agreement with the relevant landowners) do not apply where the property is a non-Aboriginal heritage item.

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 may

request the Minister to modify the approval of a transitional Part 3A 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 does not constitute a project in its own right, and therefore a modification in accordance with Section 75W of the Act is considered appropriate.

3.2 Delegated Authority

An application to modify a transitional Part 3A project approval may be determined by the Director, Infrastructure Projects of the Department of Planning and Environment under delegation from the Minister for Planning, dated 10 November 2014, where the local council does not object, a political disclosure statement has not been made in relation to the application, and there are no public submissions in the nature of objection. This proposed modification meets the terms of this delegation.

4. CONSULTATION AND SUBMISSIONS

Under Section 75X(2)(f) of the Act, the Secretary is required to make the modification request publicly available. Accordingly, the Department placed a copy of the modification request on its website and forwarded a copy to the Environment Protection Authority (EPA) and Heritage Division of the Office of Environment and Heritage (OEH).

The EPA advised it only regulates noise and vibration where there are potential impacts to human health and comfort. The EPA has no comments in relation to the proposed modification.

The OEH recommended a number of conditions specifically pertaining to works affecting a specific heritage item being a 19th Century dry stone wall and these will be incorporated into the approval requirements for this non-Aboriginal heritage item. No public submissions were received.

5. ASSESSMENT

5.1 Modification of Condition C13

Conditions of approval C10 and C11 provide the criteria that blasting impacts associated with the project must meet. Condition C13 provides requirements for any deviations from these criteria. The final paragraph of condition C13 details that properties containing non-Aboriginal heritage items are not eligible for exceptions to blasting criteria. The Proponent proposes to amend condition C13 by removing the final paragraph thereby allowing exceedances of blasting criteria in relation to non-Aboriginal heritage items.

Early stages of project construction require excavation for the major cutting at Toolijooa Ridge and the new interchange at Austral Park. The Proponent has determined the use of explosives for excavation (blasting) is the most appropriate process for construction of the new road alignment at these locations. The alternative process of rock breaking with a hydraulic hammer would increase the duration of excavation and result in ongoing noise impacts.

Three non-Aboriginal Heritage items are located in close proximity to the proposed blasting works, a remnant 19th Century dry stone wall and two homes. The environmental assessment for the project presented the dry stone wall as locally significant. This was based on Kiama Local Environmental Plan 2011 listing of all dry stone walls in the Foxground area and the Proponents heritage significance assessment.

The Proponent expects that blasting in the vicinity of the two heritage houses is not likely to exceed Peak Particle Velocity (PPV) of 3 mm/s, the maximum limit permitted for a non-Aboriginal heritage item.

The property containing the dry stone wall has been identified as a sensitive receiver in the vicinity of the proposed blasting works at Toolijooa Ridge. These blasts are expected to exceed PPV of 3mm/s.

Blasting at the Toolijooa Ridge is considered critical to the construction program because of the size of the cut and the volume of material. Restricting the blast size to ensure PPV levels do not exceed 3 mm/s would result in a longer construction process involving a combination of rock breaking (using a hydraulic hammer) for 34 weeks and blasting for 100 weeks. Hammering is generally continuous while blasting is intermittent with each blast creating vibration lasting 2-3 seconds. Approximately 100 blasts would be required over the 100 week period. Comparatively, if the restriction on blasting limits is amended, 50 weeks of blasting involving 75 blasts will be sufficient.

Department's consideration

The Department has considered the modification request to remove the last paragraph of condition C13 in order to allow increased blasting at the Toolijooa Ridge blasting zone and at the Austral Park Road for non-Aboriginal heritage items.

The Department has also noted the EPA and the OEH do not have any objections regarding the modification.

In making a decision, the Department has considered the benefits of increasing blasting limitations in the context of potential impacts to the identified non-Aboriginal heritage items. The reduction in construction times and noise and vibration related impacts have also been taken into consideration.

To ensure non-Aboriginal heritage items are subject to assessment requirements if blasting criteria is to be exceeded, condition C13 will include requirements for assessment of non-Aboriginal heritage impacts in relation to an item in the vicinity of blasting limitation increases. The Secretary's approval will still be required

Although the modification request originated from the proximity of the dry stone wall to the proposed blasting, the conditions required for blasting works will facilitate the assessment and consideration of potential heritage impacts on an ongoing case by case basis.

The additional requirement will be subject to existing exclusions that apply to the application of the condition. These include the landowners ability to terminate any agreements reached and a limitation on blasting increases of PPV 25 mm/s or Airblast Overpressure level of 125 dBL.

6. CONCLUSION AND RECOMMENDATIONS

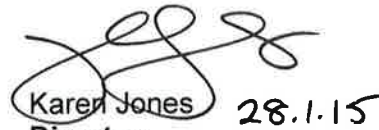
In conclusion, The Department is satisfied that, with the implementation of the additional requirement, a landowner and the Secretary would have sufficient information to make an informed decision on an agreement to increase blasting limits for a non-Aboriginal heritage item. This revised outcomes based approach is preferable and will provide sufficient flexibility to allow the orderly construction of the project. Therefore, approval of the modification request is recommended.

Endorsed by

A blue ink signature of Glenn Snow, with the date 28/1/15 written in blue ink to the right of the signature.

Glenn Snow
**Team Leader—Roads
Infrastructure Projects**

Approved by

A blue ink signature of Karen Jones, with the date 28.1.15 written in blue ink to the right of the signature.

Karen Jones
**Director
Infrastructure Projects**

APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6810

APPENDIX B RECOMMENDED MODIFYING INSTRUMENT
