

Modification of Approval

Section 115BA of the *Environmental Planning & Assessment Act 1979*

I, the Minister for Infrastructure and Planning, modify under Section 115BA of the *Environmental Planning and Assessment Act 1979* the Approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Dated this day of 2003 G96/00354

SCHEDULE 1: DESCRIPTION OF APPROVAL

The Approval of the Minister for Urban Affairs and Planning for the “Duplication of Brunswick Heads Bypass and Upgrade of Pacific Highway between Brunswick River to Yelgun” dated the 19 August 1999.

SCHEDULE 2: CONDITIONS OF MODIFICATION

The Approval is modified as follows. Insertions to conditions are presented in “italics” (eg. *italics*) and deletions are “struck through” (eg. ~~struck through~~).

a. Add the following Glossary to the Conditions of Approval:

GLOSSARY:

<i>Construction</i>	<i>All work but does NOT include survey, acquisitions, fencing, test drilling/test excavations, building/road dilapidation surveys, minor surveys, minor clearing (except where endangered ecological communities or threatened flora or fauna species would be impacted), establishment of site compounds in generally cleared, highly disturbed or non-environmentally sensitive areas, or other activities certified by the EMR to have minimal environmental/community impact activities (e.g. minor access roads, minor adjustments to services/utilities and noise mitigation measures).</i>
<i>Substantial Construction</i>	<i>Has the same meaning as construction.</i>

b. Modify Condition of Approval No. 1:

1. The proposal shall be carried out ~~in accordance with~~ *consistent with*:
 - (i) the proposal contained in the environmental impact statement ‘Proposed Duplication of the Brunswick Heads Bypass and Upgrade of the Pacific Highway Brunswick River to Yelgun’ dated 14 July 1998, (the EIS), prepared for the Roads and Traffic Authority (RTA) by Sinclair Knight Merz Pty Ltd, subject to modifications to the proposal as described in the ‘Representations Report Duplication of Brunswick Heads Bypass and Pacific Highway Upgrade Brunswick River to Yelgun’ (the Representations Report) prepared for the RTA by RTA Technology, dated 24 February 1999;
 - (ii) *the proposal as modified in the Environmental Impact Assessment ‘Brunswick Heads to Yelgun Upgrade, Modifications to Approved Project’ dated 1 November 2002, prepared for the RTA by Connell Wagner, the ‘Submissions Report’ prepared for the RTA by RTA Environmental Technology Branch, dated 1 April 2003, and the RTA’s ‘Decision Report’, approved on 6 May 2003;*
 - ~~(ii) all identified procedures, safeguards and mitigation measures identified in the EIS and Section 8 of the Representations Report;~~
 - (iii) the conditions of concurrence granted by the Director-General of the NPWS; and
 - (iv) the conditions of approval granted by the Minister.

Despite the above, in the event of any inconsistency, the conditions of approval by the Minister shall prevail.

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.

c. Modify Noise Conditions 26 and 27

26. A detailed **Noise and Vibration Management Sub-plan** shall be prepared as part of the EMP (Construction Stage) ~~and EMP (Operation Stage) respectively~~, to the satisfaction of the EPA. The Sub-plan shall provide details of noise and vibration control measures to be undertaken during the construction ~~and operation~~ stages, sufficient to address the technical requirements for any EPA approvals/licences. The Sub-plan shall include, but not be limited to:

- (i) tests for ascertaining acoustic parameters;
- (ii) identification of noise and vibration catchments and predicted noise and vibration levels;
- (iii) impacts from site compounds/construction depots;
- (iv) location, type and timing of erection of temporary and permanent noise barriers and/or other noise mitigation measures;
- (v) specific physical and managerial measures for controlling noise and vibration;
- (vi) noise and vibration monitoring, reporting and response procedures; and
- (vii) the urban design issues relating to noise and vibration control measures.

With respect to sub-clause (iv), the Proponent shall consider the use of a range of structural and non-structural noise mitigation measures including barriers, acoustic treatment of residences, scheduling of construction activities and temporary relocation of affected residents.

27. ~~Where considered relevant or appropriate by the EPA, a Noise Impact Statement(s) shall be prepared consistent with the Noise Management Sub-plan and shall include:~~

- ~~(a) description of proposed processes and activities;~~
- ~~(b) valid background levels;~~
- ~~(c) examination of alternative methods that would potentially reduce noise impact;~~
- ~~(d) assessment of potential noise from proposed construction methods;~~
- ~~(e) description of and commitment to work practices which limit noise;~~
- ~~(f) description of specific noise mitigation treatments and time restrictions, and consideration of their effectiveness;~~
- ~~(g) justification for any activities outside the normal hours;~~
- ~~(h) consideration of construction vehicle movements;~~
- ~~(i) compliance with EPA criteria;~~
- ~~(j) monitoring of construction activities; and~~
- ~~(k) community consultation and notification.~~

The Proponent must prepare an Operation Noise Management Report detailing its investigation of reasonable and feasible operation noise mitigation methods. The Proponent must obtain the approval of the Director-General for the Report prior to construction commencing or within any other time agreed to by the Director-General. The report and investigation must be conducted in accordance with the NSW Government's Environmental Criteria for Road Traffic Noise and the RTA's Environmental Noise Management Manual. The report and investigation must include:

- (a) identification of operation noise criteria;

- (b) *predictions of noise levels at noise sensitive locations;*
- (c) *the location, type and timing of erection of permanent noise barriers and/or other noise mitigation measures (including road surface) demonstrating best practice;*
- (d) *details of specific physical and managerial measures for controlling noise;*
- (e) *details of reasonable and feasible noise mitigation measures. To assist in selecting noise mitigation options for road traffic noise an analysis for the entire Project must be undertaken in accordance with Practice Note IV of the RTA Environmental Noise Management Manual. The importance applied to aesthetic impacts (visual, shadowing etc.) and noise mitigation along the Project must be determined in consultation with the CLG and owners of noise affected, noise sensitive land uses. Among other options consideration should be given to the inclusion of clear panels within noise barriers to reduce visual and overshadowing impacts;*
- (f) *the urban design issues relating to noise control measures;*
- (g) *details of noise monitoring, reporting and complaint response procedures; and*
- (h) *consideration of noise mitigation for sensitive receptors predicted to have “future existing” noise levels in the year 2016 at an acute level or above. Acute noise levels are 65 dB(A) $L_{eq(15hr)}$ (day) and 60 dB(A) $L_{eq(9hr)}$ (night).*

The Proponent must install all reasonable and feasible noise mitigation measures identified in the Operation Noise Management Report to the satisfaction of the Director-General.

d. Insert new Indigenous Heritage Condition 49a

- 49a) *The Proponent must ensure that a qualified archaeologist is present prior to and during initial site clearance for construction of the project in the vicinity of SEPP 14 Wetlands No. 62 and 65 and the Brunswick Heads Nature Reserve (i.e. between chainages 44600 and 45400 shown on Figure 4.5 of the REF). The Proponent must also ensure that a representative of the Tweed-Byron Local Aboriginal Land Council is invited to be present during the same works.*