



1. Introduction

1.1 Background

As of the end of 2006, a total of 254 kilometres are now double-lane divided road. A further 87 kilometres are now under construction, or have had a construction contract awarded, with the remaining kilometres of highway approved for construction, or have had a preferred route identified.

The Pacific Highway is an AusLink National Network road. The NSW and Australian governments have committed \$1.3 billion for the next three years to upgrade the highway. This is in addition to the \$2.2 billion committed since 1996 to upgrade the Pacific Highway, of which the NSW Government committed \$1.66 billion.

Both governments are jointly examining how the entire length of the highway can be upgraded to dual carriageway in the next 10 years.

1.2 Purpose of this report

The proposed project is the upgrade of the Pacific Highway between the Oxley Highway and Kempsey (Figure 1.1).

This *Project application report* has been prepared for the Director General of the Department of Planning under Section 75E of Part 3A of the *Environmental Planning and Assessment Act* 1979 (EP&A Act).

In accordance with Section 75F(2) of the EP&A Act, it is anticipated that the information in this *Project application report* will be used by the Department of Planning to prepare formal requirements for the environmental assessment of the project. As the RTA intends to proceed with the implementation of the Oxley Highway to Kempsey project as soon as funding is committed, a project approval (as distinct from a concept approval) is being sought.

1.3 Planning and development process

1.3.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

All development in NSW is assessed in accordance with the provisions of the EP&A Act and *Environmental Planning and Assessment Regulation 2000* (the Regulation).

Changes to the EP&A Act

The NSW Parliament passed the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005* No 43 on 16 June 2005. The amendment introduces a new Part 3A to the EP&A Act to cover the assessment of major infrastructure development. This type of development was previously assessed under Part 4 and / or Part 5 of the EP&A Act.

Ministerial order

On 5 December 2006 the Minister for Planning declared a number of Pacific Highway upgrade proposals to be, together, a single project to which Part 3A of the EP&A Act applies (the declared project). The proposed Oxley Highway to Kempsey upgrade forms part of the declared project. The minister's declaration was made in accordance with section 75B(1) of the EP&A Act and was published in NSW Government Gazette No. 175 on 8 December 2006.

The Minister for Planning also formed the view that the declared project is essential to the state for economic and social reasons and declared it to be a critical infrastructure project. The minister's critical infrastructure declaration was made in accordance with section 75C of the EP&A Act and was published in NSW Government Gazette No. 175 on 8 December 2006.

Part 3A of the EP&A Act allows approval to be sought and granted for part of a declared Part 3A project. In this context, the *Project application report* supports the RTA's application for approval under Part 3A for the Oxley Highway to Kempsey upgrade section of the declared project.

This report also proposes the scope for the project's environmental assessment, which is to be prepared following submission of this *Project application report*.

1.3.2 Local government authorities

The study area is located within two local government areas. These are Port Macquarie–Hastings and Kempsey local government areas. Two local environmental plans apply to the study area – *Hastings Local Environmental Plan 2001* and the *Kempsey Local Environmental Plan 1987*.

1.3.3 State environment planning policy

One state environmental planning policy (SEPP) is relevant to the project.

State Environmental Planning Policy No. 14 – Coastal Wetlands (SEPP 14)

There are two SEPP 14 wetlands within the study area, these being located on Dalhunny Island within the Wilson River, and on the northern bank of the Wilson River adjacent to Dalhunny Island.

Subject to concept design, there may be some minor impacts on these SEPP 14 wetlands.

1.3.4 Other approvals

NSW legislation

As the project would be assessed under Part 3A of the EP&A Act, the following range of other approvals under section 75U of the EP&A Act are no longer applicable. For a project that has been approved under Part 3A, the following approvals or permits would not be required. Furthermore, the provisions of any act, which prohibits an activity without the approvals or permits, also do not apply;

- ▶ Minister's concurrence under Part 3 of the *Coastal Protection Act 197*.
- ▶ Permits under section 201, 205 or 219 of the *Fisheries Management Act 199*.
- ▶ An approval under Part 4, or an excavation permit under section 139 of the *Heritage Act 1977*.
- ▶ A permit under section 87 or consent under section 90 of the *National Parks and Wildlife Act 1974*.
- ▶ An authorisation referred to in section 12 of the *Native Vegetation Act 2003* to clear native vegetation.
- ▶ A permit under Part 3A of the *Rivers and Foreshores Improvements Act 1948*.
- ▶ A bush fire safety authority under section 100B of the *Rural Fires Act 1997*.
- ▶ A water use approval under section 89, a water management work approval under section 90 or an activity under section 91 of the *Water Management Act 2000*.

In accordance with section 75V of the EP&A Act the following approvals are still required but cannot be refused if they are necessary for carrying out an approved Part 3A project, and are substantially consistent with a Part 3A approval;

- ▶ An environment protection licence under chapter 3 of the *Protection of the Environment Operations Act 1997*.
- ▶ Consent under section 138 of the *Roads Act 1993*.

Commonwealth legislation

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* requires proposals, which are likely to result in a significant impact on a matter of national environmental significance, to be referred to the Department of Environment and Water Resources. If the project is subsequently determined to be a 'controlled action' then approval from the relevant commonwealth minister is required.

The matters of national environmental significance are:

- ▶ World heritage properties,
- ▶ National heritage places,
- ▶ Wetlands of international importance (RAMSAR wetlands).
- ▶ Threatened species and ecological communities,
- ▶ Migratory species,

- ▶ Commonwealth marine areas,
- ▶ Nuclear actions (including uranium mining).

Based on investigations undertaken to date by the RTA for the project, it is possible that referral to Department of Heritage under the *Environment Protection and Biodiversity Conservation Act 1999* may be required for the potential impacts on listed threatened species and migratory species. Subject to further detailed investigations if it is determined that a significant impact is likely, the project will be referred to the Department of Environment and Water Resources.

1.4 Consultation

1.4.1 Consultation with the community

A program of consultation and stakeholder involvement has been implemented for the project. The program has involved on-going communication and consultation with the local community and other stakeholders since the commencement of the project. The program has included the following key activities:

- ▶ Government stakeholder meeting;

The government stakeholder meeting was undertaken on 16 December 2004 at the Telegraph Point School of Arts, 7 Cooperabung Drive, Telegraph Point. The government stakeholder meeting was convened as an early part of the consultation process. Representatives from the organisations were invited to the government stakeholder meeting prior to providing written advice on any interests, concerns or requirements it has, statutory or otherwise, regarding this study. Nomination of a contact officer from the organisation also assisted in maintaining regular liaison with the RTA. The contact organisations are: Ambulance Service NSW; Mid North Coast NSW Police; Port Macquarie- Hastings Council; Department of Environment and Climate Change, formerly Department of Environment and Conservation ; Department of Primary Industries ; Department of Natural Resources ; Department of Planning; Kempsey Shire Council; and the Roads and Traffic Authority and its professional services provider, GHD.

- ▶ Community information sessions;

The first community information session was held on 30 November 2004 at the Telegraph Point School of the Arts. Approximately 65 community members attended the evening. This information session was convened to provide the community with an appreciation of the project and the study process, with an understanding of the scope of the studies to be undertaken, to listen to and gather community concerns and to begin the process of defining the issues to be assessed and considered by the study team.

A second community information session was held on Tuesday 28 November 2006 at the Telegraph Point School of the Arts. Approximately 30 residents attended this session. The intent of the evening was to present and receive input on five proposed intersection/interchange locations and access/service road arrangements, for the section between Sancrox Road and Blackmans Point Road.

▶ Formation of a community liaison group;

The community liaison group was formed in December 2004 to provide input into the investigations into route options. The group has met regularly to discuss the routes, and the constraints and opportunities. The community liaison group has been one of the many ways the community has contributed to the route development and assessment process.

Group members represent sectors of the community and have been communicating project information discussed at the community liaison group meetings with those sections of the community they represent.

The community liaison group has met six times: 16 December 2004, 3 March 2005, 21 July 2005, 31 October 2005, 10 May 2006 and 6 September 2006.

▶ Formation of an ecological focus group;

The ecological focus group was formed to help identify, communicate, represent and consider the ecological interests of the local community and other stakeholders potentially affected by the project.

Members of the ecological focus group represent a variety of ecological and environmental organisations and agencies. Members have been communicating project information discussed at the meetings with those they represent.

The first ecological focus group meeting was held on 22 September 2005. Subsequent meetings were held on 31 October 2005 and 15 September 2006.

▶ Consulting the local Aboriginal community and forming an Aboriginal focus group;

The project area lies within the boundaries of the Birpai Local Aboriginal Land Council and the Kempsey Local Aboriginal Land Council, and within an area of interest to the Dunghutti Elders Aboriginal Corporation. Consultation has been undertaken with these groups in the process of selecting the preferred route.

Expressions of interest have been called for Aboriginal individuals and/or organisations to be included in the Aboriginal focus group. The Aboriginal focus group is to be formed from these individuals or groups who register an interest. Members of the Aboriginal focus group will take place in the detailed field assessments to be undertaken by the qualified archaeological team.

▶ Conducting a two-day value management workshop;

A two-day workshop was conducted on 12 and 13 December 2005 and was used to review and assess the four route options that were placed on public display. The group used a set of assessment criteria to develop a preferred direction for the further investigations.

Participants at the workshop included representatives from:

- Port Macquarie Hastings Council;
- The Department of Planning;
- The Department of Environment and Climate Change;
- Kempsey Local Aboriginal Land Council;
- Members of the community liaison group;

- NRMA;
 - Kempsey Shire Council;
 - The Department of Natural Resources;
 - The Department of Primary Industries;
 - Dunghutti Elders;
 - Members of the ecological focus group; and
 - The RTA and its professional services contractor GHD Pty Ltd.
- ▶ Establishment of the project website and e-mail address:
 - www.rta.nsw.gov.au/pacific (click on Oxley Highway to Kempsey);
 - communityinput@ghd.com.au;
 - ▶ Establishment of the free call 1800 number – ph: 1800 154 724;
 - ▶ Advertised open information sessions;
 - ▶ Staffed and static displays;
 - ▶ Invitations for written submissions;
 - ▶ Distribution of community / progress updates;

Information has been provided to the public at key stages and milestones of the project. The first community update was provided in November 2004. The second was supplied at the route options display time in October 2005 and an August 2006 update at the preferred route stage; and

- ▶ Public notices and media coverage;

In addition to the distribution of the community/progress updates, public notices and media releases have been utilised to inform members of the public of project developments. Advertisements were placed in local and regional newspapers at various times and radio advertisements have been placed on local radio stations during the breakfast, morning and drive timeslots.

The *Oxley Highway to Kempsey Route Options Submissions Report* (GHD 2006) is a record of comments received at the route options stage. Community feedback was a key consideration in the preferred route selection process.

Following completion of the project team route selection workshop, the Minister for Roads considered the recommended preliminary preferred route, and announced the preferred route on 28 August 2006. This was followed by a six-week display period (static and staffed) until Friday 13 October 2006. After the announcement of the preferred route by the minister, further consultation with the community included:

- Establishment of static and staffed public displays at the preferred route announcement stage (see Appendix B for the display locations);
- Public notices and media coverage;
- Invitations for written submissions; and
- Project team meetings with affected landowners and businesses.

The project team undertook a total of 41 meetings.

1.4.2 Key community issues

Below is a summary of the main issues that were raised in community and other stakeholder submissions and during meetings with potentially affected parties. Respondent's comments have been summarised to provide an overview of the key issues, therefore it is not a verbatim record of community comments.

Summary of issues raised by the general community

The following key issues were raised by a range of community stakeholders through submissions, community meetings and general comments / enquiries to the project team.

- ▶ Access to the highway – the community expressed their expectation that access to the highway will be made safer and easier through the construction of better quality intersections, particularly around the Sancrox Road, Telegraph Point and Kundabung areas. Maintaining access for bushfire control, and other emergency vehicles was also raised;
- ▶ Access to properties – various opinions were raised regarding access to private properties with general support for use of the existing highway as a local service road, particularly around Telegraph Point, to improve safety and functionality for local traffic;
- ▶ Addressing maintenance needs – the need to address immediate highway maintenance needs was raised as a concern;
- ▶ Air quality – concerns were raised regarding pollutants that could be emitted into the environment, particularly within Telegraph Point;
- ▶ Business impacts – potential impacts to local businesses that rely on passing traffic;
- ▶ Community severance and disruption of community services – ‘connectivity of towns’ was identified as a key issue eg. crossing one side of the highway to the other, particularly around Kundabung and Telegraph Point, in relation to accessing local services, such as the post office and general store;
- ▶ Compensation and property values – concerns were raised that adequate compensation should be provided for those affected by the upgrade, including costs to cover re-establishment;
- ▶ Construction impacts – the community identified concerns about potential construction impacts, and requested information about how these would be minimised, including potential noise impacts, air quality impacts and any inconvenience that would be experienced during the construction period;
- ▶ Flooding protection – concern was raised in relation to crossing the floodplain and over wetlands, and the damage to properties from flooding and water levels associated with a new highway;
- ▶ Highway design and layout – a number of comments were received that related to the highway design and layout including overtaking and turning lanes, shoulder widths, location of intersections and interchanges, improving signage, establishing more bus stops / bus bays at appropriate locations, improving the location of pedestrian crossings managing the needs of cyclists;

- ▶ Rest areas – improving the facilities provided at rest areas and the location of rest areas (it was reported that some truck drivers use the car park opposite the Telegraph Point School of Arts as a rest area);
- ▶ Impacts on areas of environmental value – concerns were raised over the impacts on koala habitat, endangered ecological communities, nature reserves and other native species;
- ▶ Water quality and wetlands – water quality in surface runoff and local watercourses was identified as a concern, and that adequate planning would need to take place to prevent damage to sensitive wetland areas and minimise impacts to threatened and protected species;
- ▶ Indigenous and non-indigenous heritage – items of historical significance were identified as important to the community, including the heritage aspects of the Telegraph Point village and areas and sites of value to the local Aboriginal community;
- ▶ Local agricultural land – minimising impacts to and loss of local agricultural land. Concerns regarding potential impacts on groundwater were also raised;
- ▶ Noise (operational) – noise was raised as a concern, particularly within Telegraph Point but also in rural areas;
- ▶ Property acquisition and property impacts – a number of queries were raised about the acquisition process, including if there was a set price for purchasing properties, when would the land acquisition process take place and how would it be managed;
- ▶ Recreational impacts – concerns were expressed regarding the impact to community facilities such as the community hall at Telegraph Point and the local picnic areas;
- ▶ Safety – safety for road users and the local community was raised as a priority in many submissions. Using the existing highway as a service road was considered by the community to be a safer option, particularly with respect to the Telegraph Point Primary School;
- ▶ Timing of upgrade – residents expressed their desire for the upgrade works to be carried out as soon as possible;
- ▶ Traffic concerns – one of the major concerns raised was the need to separate through and local traffic;
- ▶ Travel time – many comments expressed support for reduced travel time for highway users. However, concerns were raised over the potential increase in travel time for the local community to access the highway to travel north or south; and
- ▶ Visual impact – the potential visual impact of the upgrade was raised as a concern.

Summary of issues raised in meetings with potentially affected property owners

Many of the concerns raised during meetings with potentially affected property owners and businesses were specific to individual circumstances, however they generally included:

- ▶ Loss of productive land, livelihood and incomes;
- ▶ Loss of investment – some were concerned over investment they had put into their land and/or property;

- ▶ Uncertainty of level of impact – some expressed insecurity of not knowing if, how and when they will be ultimately be affected;
- ▶ Uncertainty about the amount of land to be acquired for the upgrade and the potential that they would not be able to sell land - division of land into small unmarketable parcels;
- ▶ The process, eligibility for and timing of land acquisition;
- ▶ Restriction/modification of access to properties/businesses – concerns over indirect access to the highway, emergency vehicle access and whether they would be consulted over access arrangements;
- ▶ How the upgrade would affect their plans to develop/subdivide their land;
- ▶ Where the service roads would be located and the impact of these on people's lifestyle;
- ▶ Noise, drainage and structural impacts – how these issues would be addressed should the highway move closer to their properties; and
- ▶ Loss of exposure to passing trade (businesses) – in particular visibility from the highway and ability to access businesses.

1.4.3 Consultation with government agencies

Consultation with government agencies has been an ongoing feature of the route development process and in the development of the preferred route for the project.

During the course of the project, project team members have met with representatives of government agencies, and Port Macquarie–Hastings and Kempsey Councils to discuss route development, route refinement and preferred route selection processes.

Members of government agencies (for example Department of Environment and Climate Change, Department of Planning and Department of Primary Industries) together with councils have participated as members of the community liaison group, the ecological focus group and have attended site meetings and route development site inspections.

Key issues raised through formal submissions and meetings with government agencies are summarised below:

Department of Environment and Climate Change

- ▶ Biodiversity – Department of Environment and Climate Change expressed preference for an upgrade that would have the least potential to adversely impact on the ecological integrity, persistence and long-term survival of threatened and protected flora and fauna and their habitat within the local and regional landscape. Minimising impacts to SEPP 14 wetlands, endangered ecological communities, threatened species and fauna movement corridors. Minimising impacts to Department of Environment and Climate Change estate including Kumbatine National Park, Cooperabung Creek Nature Reserve and Rawdon Creek Nature Reserve, including maintaining emergency access while not increasing unauthorised public access. Ensuring mitigation measures are carefully assessed and designed to reduce potentially adverse impacts during the construction and operation phases of the project. Where impacts cannot be satisfactorily mitigated, compensatory measures may be required;
- ▶ Aboriginal and European cultural heritage – Noted that significant Aboriginal and cultural heritage material occurs throughout the study area. Kumbatine National Park contains convict limekilns, which are some of the earliest convict constructions in Australia;
- ▶ Noise – Noted that while a bypass of Telegraph Point may result in noise impacts to fewer receivers, it would impact on receivers who currently experience low background and local traffic noise levels;
- ▶ Water – Noted that bridge construction and floodplain crossings can pose a risk to the environment during the construction phase; and
- ▶ Space required for mitigation measures – Ensuring sufficient corridor width is allowed for the installation and maintenance of appropriate mitigation measures for noise, water quality and fauna during both the construction and operation phases of the upgrade.

Department of Primary Industries

- ▶ Forests NSW – Prefer an upgrade that minimises encroachment on productive estate and avoids fragmentation that could make smaller parcels unviable. Maintaining access to the highway for up to B-double semi-trailers is required for logging and fire control. Further fragmentation of the forest areas will also impact on conservation values, particularly on the movement of koalas. Noted that a number of estates are potentially impacted in the study area;
- ▶ NSW Agriculture – Minimising impacts to agricultural lands, including maintaining access, connectivity and viability was expressed as a concern. Avoiding significant impacts to better quality lands and larger enterprises such as tea tree plantations was also raised. Ensuring that detailed land use, productivity and economic information is collected and assessed during the design and environmental assessment phases so that impacts can be minimised and/or mitigated;
- ▶ Fisheries – prefer that the upgrade should have the least impact upon fishing activity, fish and aquatic habitat such as wetlands, especially SEPP 14 wetlands, mangroves and seagrass beds; and
- ▶ Minerals – concerned over transport access, resource access and safety issues (maintaining buffer zones) in relation to the Yarrabee Road Quarry, Sancrox Quarry and Dows Quarry at Telegraph Point.

Port Macquarie-Hastings Council

- ▶ A number of issues were raised including ensuring compatibility of the upgrade with existing and future land uses, council inheriting assets that they would be responsible for maintaining, construction constraints, property acquisition, and social impacts, the benefits of a bypass of Telegraph Point, impacts on economic development, ecological impacts, visual impacts and impacts on the estuarine environment.

Kempsey Shire Council

Kempsey Shire Council raised the following issues:

- ▶ Connectivity – A concern to improve the current connectivity within Kundabung;
- ▶ Local access – That access from adjoining properties and existing access roads needs to be considered and provided;
- ▶ Bus stops – That future design should examine existing and future needs of public transport in the area, specifically in relation to school bus routes/stops;
- ▶ Ecological significance – That endangered ecological communities within the study area should be protected; and
- ▶ Yarrabee Road quarry – That design of the highway should consider and not detract from available resource material in this area and maintain access.