

5 February, 2014

Director General  
NSW Department of Planning and Infrastructure  
GPO Box 39  
Sydney NSW 2001

Attention: Michael Young

**WARRELL CREEK TO URUNGA PACIFIC HIGHWAY UPGRADE PROJECT –  
MODIFICATION 6 REQUEST – COA C15.**

Dear Michael,

As you are aware, the Warrell Creek to Urunga Pacific Highway Upgrade Project ('the Project') was approved by the Minister for Planning and infrastructure under Part 3A(now repealed), Section 75J of the *Environmental Planning and Assessment Act 1979* on 19 July 2011 subject to the Minister's Conditions of Approval being met. In accordance with Schedule 6A of the Act, the Project is considered a transitional Part 3A project. I refer to Condition of Approval C15 of the Warrell Creek to Urunga Pacific Highway Upgrade instrument of approval (MP\_07\_0112).

The matter below has been discussed in email correspondence between the Department of Planning and Infrastructure 23 January 2014 from Roads and Maritime Services to the Department, and 28 January 2014 from the Department of Planning and Infrastructure to Roads and Maritime Services (Correspondence provided in Attachment 1).

Condition of Approval C15 of the Project instrument of approval states "*The Proponent shall not destroy, modify or otherwise physically affect the following historic sites: the ferry/punt crossing at Boulton Hill; old municipal tip; Valla Gold Mine; former stock route; tramway and quarry, Martells Road; the native swamp conservation area; and 'vegetation group remnant forest' conservation area.*"

Table 19-3 of the Warrell Creek to Urunga Environmental Assessment ('the EA') identified the 'vegetation group remnant forest' conservation area as follows;

No	Item name	Address	Heritage significance	Construction impacts
14	Vegetation group remnant forest	AMG 500300/669200	Local significance. Identified as a Conservation Area by Bellingen Shire Council.	Nil. Located approximately 40 metres southeast of proposed road alignment

The 'Vegetation Group Remnant Forest' Conservation Area was incorrectly identified in the EA for the project as not being impacted by the project (and no mitigation measures were proposed as a result). It is now clear that when this conservation area is plotted it lies within the impact zone of the project.

The vegetation group remnant forest was identified as a conservation area in the *Bellingen Shire Council Local Environment Plan 2003*.

Further enquiries with Bellingen Shire Council in regards to the heritage status of the vegetation group remnant forest conservation area has identified that this item is not included in the *Bellingen Local Environment Plan 2010*. The attached correspondence from Bellingen Shire Council Officer's provides background information as to why the vegetation group remnant forest did not warrant inclusion in the *Bellingen Local Environmental Plan 2010*. The correspondence also advises "There is no other information in Council's records to indicate that this site retains any heritage significance".

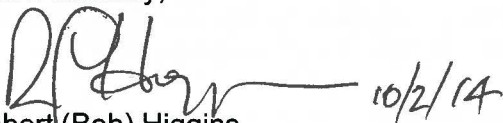
Although the project will impact on a former conservation area (that is no longer listed in the current *Bellingen Local Environmental Plan 2010*), Condition of Approval C15 states that *'the Proponent shall not destroy, modify or otherwise physically affect the following historic sites: ...'vegetation group remnant forest' conservation area.'*

As suggested by the Department, Roads and Maritime Services would now like to apply for a modification to Condition of Approval C15 to delete the reference to the conservation area from Condition of Approval C15 given the prescriptive wording of the condition and to avoid any uncertainty surrounding the interpretation of this condition at a later date.

Roads and Maritime Services are seeking Condition of Approval C15 to be revised to: *"The Proponent shall not destroy, modify or otherwise physically affect the following historic sites: the ferry/punt crossing at Boulton Hill; old municipal tip; Valla Gold Mine; former stock route; tramway and quarry, Martells Road; and the native swamp conservation area."*

Please do not hesitate to contact the Nambucca Heads to Urunga Upgrade Environment Officer Belinda Bock on 6640 1033 or 0439 453 279 should you require any further information with regards to this matter.

Yours faithfully,



Robert (Bob) Higgins 10/2/14  
General Manager, Pacific Highway

Attachment 1: Correspondence between Roads and Maritime Services; Department of Planning and Infrastructure; and Bellingen Shire Council.

## Attachment 1 – Consultation records.

### Consultation between Roads and Maritime Services and the Department of Planning and Infrastructure

**From:** Andrew Beattie [mailto:Andrew.Beattie@planning.nsw.gov.au]  
**Sent:** Tuesday, 28 January 2014 2:14 PM  
**To:** BOCK Belinda  
**Cc:** brett.hoffman@; Chris McGillick; LAWRENCE Scott B; Michael Young  
**Subject:** Re: Pacific Highway upgrade, Nambucca Heads to Urunga - MCoA C15

Belinda,

Thanks for your email. I have discussed this matter with the department's legal services branch and also Karen Jones.

The department notes that the 'Vegetation Group Remnant Forest' Conservation Area was incorrectly identified in the EA for the project as not being impacted by the project (and no mitigation measures were proposed as a result). It is now clear that when this conservation area is plotted it lies within the impact zone of the project.

It is further noted that the *Bellingen Local Environmental Plan 2010* (BLEP 2010) no longer lists this conservation area as a local heritage item, possibly due to *'no other heritage significance associated with it (eg built, association, use) or where the vegetation was protected by other legislation (eg Native Forest) or if it no longer retained characteristics that warranted listing in the LEP (as a result of redevelopment, degradation etc).'*

While the department acknowledges that the project will impact on a former conservation area (that is no longer listed in the BLEP 2010), the Minister's Condition of Approval (MCoA) C15 states that *'the Proponent shall not destroy, modify or otherwise physically affect the following historic sites: ... 'vegetation group remnant forest' conservation area.'*

The department is of the opinion that a modification should be submitted to delete the reference to the conservation area from MCoA C15, given the prescriptive wording of the condition and to avoid any uncertainty surrounding the interpretation of this condition at a later date. The department provides its in principle support for such a modification.

As always, please feel free to contact me should you wish to discuss.

Regards,

Andrew

#### **Andrew Beattie**

##### **A/Team Leader**

Infrastructure Projects - Roads

Development Assessment Systems & Approvals

NSW Department of Planning and Infrastructure

GPO Box 39 | Sydney NSW 2001 | T 02 9228 6384 | E [andrew.beattie@planning.nsw.gov.au](mailto:andrew.beattie@planning.nsw.gov.au)





>>> On 23/01/2014 at 3:36 pm, in message  
<098B3814669A684C92F6D61D074ACDC802894762B365@COREXC02.corp.rta.nsw.gov.au>,  
BOCK Belinda <Belinda.BOCK@rms.nsw.gov.au> wrote:  
Hi Andrew,

Minister's Condition of Approval C15 of the Warrell Creek to Urunga, Project Approval states  
"The Proponent shall not destroy, modify or otherwise physically affect the following historic  
sites: the ferry/punt crossing at Boulton Hill; old municipal tip; Valla Gold Mine; former stock  
route; tramway and quarry, Martells Road; the native swamp conservation area; and  
'vegetation group remnant forest' conservation area."

Table 19-3 of the Warrell Creek to Urunga Environmental Assessment identified the  
'vegetation group remnant forest' conservation area as follows;

No	Item name	Address	Heritage significance	Construction impacts
14	Vegetation group remnant forest	AMG 500300/669200	Local significance. Identified as a Conservation Area by Bellingen Shire Council.	Nil. Located approximately 40 metres southeast of proposed road alignment

The vegetation group remnant forest was identified as a conservation area in the *Bellingen Shire Council Local Environment Plan 2003*.

Further enquiries with Bellingen Shire Council in regards to the heritage status of the vegetation group remnant forest conservation area has identified that this item is not included in the *Bellingen Local Environment Plan 2010*. The attached correspondence from Bellingen Shire Council Officer's provides background information as to why the vegetation group remnant forest did not warrant inclusion in the new LEP. The correspondence also advises "There is no other information in Council's records to indicate that this site retains any heritage significance".

Please accept this correspondence as evidence of Roads & Maritime Services satisfaction of the Minister's Condition of Approval C15.

Thanks and Kind Regards,

**Belinda Bock**  
Environmental Officer  
Pacific Highway Environmental | Environment Branch  
T 02 6640 1033 | F 02 6640 1001 | Mobile. 0439 453 279  
[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au)

Roads and Maritime Services  
21 Prince Street Grafton NSW 2460 |



**Transport**  
Roads & Maritime  
Services

## Consultation between Roads and Maritime Services and Bellingen Shire Council.

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**From:** EVERINGHAM Stefan  
**Sent:** Tuesday, 12 November 2013 10:17 AM  
**To:** Belinda Bock  
**Cc:** HOFFMAN Brett; Admin; GREEN Shane  
**Subject:** FW: Local Heritage Significance - Remnant Forest

Belinda,

This is the e-mail correspondence that I received from Bellingen Council regarding the heritage – remnant vegetation that we discussed last week. Can you provide advice on what needs to occur to have this removed from the sensitive area plans. Area included on SAPs as pink colour at chainage 82500 and 82800 and within Project EA as an area that is not impacted by the N2U upgrade.

Regards,  
Stefan

**From:** Emma Anderson [<mailto:EAnderson@bellingen.nsw.gov.au>]  
**Sent:** Thursday, 7 November 2013 1:06 PM  
**To:** EVERINGHAM Stefan  
**Cc:** John Starr; Barry Fenning  
**Subject:** RE: Local Heritage Significance - Remnant Forest

Dear Stefan,

Your enquiry relating to the heritage status of remnant forest located south of the Waterfall Way Interchange at Raleigh has been referred to me. Part of my role with Council is to manage Council's heritage strategy. I was involved in establishing the list of heritage items in the current LEP.

The area on your map correlates with heritage mapping held in Council's records for Item BGO 280 of the Shire Heritage Inventory (SHI) which was compiled in 1990-91. Attached for your reference is a copy of the listing from the 1991 SHI which describes the item and provides a Statement of Significance (SOS). The SOS (pg5) refers to *'Remnant stand of tall eucalypt and swamp forest beside Pacific Highway forming important scenic element in local landscape.'*

Prior to the gazettal of *Bellingen Local Environmental Plan 2010* the main focus for heritage items was to 'roll-over' existing items from the 1990 SHI (which at the time did not have any legal status) into the new LEP. This process involved numerous inspections and liaison with property owners, partly to determine whether items still existed and warranted listing in the new LEP. There were many Landscape items similar to BGO 280 which were located on State Forest Land, NPWS land, Road Reserves etc. There was a decision made during the process to not include some of these items where there was no other heritage significance associated with it (eg built, association, use) or where the vegetation was protected by other legislation (eg Native Forest) or if it no longer retained characteristics that warranted listing in the LEP (as a result of redevelopment, degradation etc).

I think it likely that this particular item was not included in the new LEP for the above reasons. Also attached is an extract from the original 1990 heritage map identifying the location highlighted in 1990.

There is no other information in Council's records to indicate that this site retains any heritage significance.

I trust that assists with your enquiry. Please contact me if you require any further information.

Regards  
Emma

**Emma Anderson**  
**Development Planner**  
**Ph: 02 6655 7304**  
**[www.bellingen.nsw.gov.au](http://www.bellingen.nsw.gov.au)**