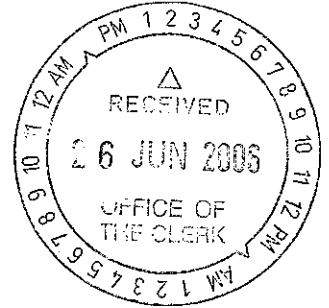




Minister for Commerce
Minister for Finance
Minister for Industrial Relations
Minister for Ageing
Minister for Disability Services
Leader of the Government in the Legislative Council

26 June 2006

Mr John Evans
Clerk of the Parliaments
C/- Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000



Dear Mr Evans

I refer to the Parliamentary Inquiry which was undertaken by the Legislative Council General Purpose Standing Committee No. 4 Interim Report No. 14 on Pacific Highway Upgrades: Ewingsdale to Tintenbar and Ballina to Woodburn.

Enclosed is the New South Wales Government's response to the recommendations of the Committee's report.

I trust that the Government response will be of assistance to the Committee.

Yours sincerely

John Della Bosca MLC

General Purpose Standing Committee No. 4's Inquiry into Pacific Highway Upgrades

Response to Interim Report Recommendations

Recommendation 1:

Based on the experience of the Ewingsdale – Tintenbar and Ballina – Woodburn Highway upgrades, that the RTA substantially improve its community consultation process and its stated objectives of open and transparent consultation in relation to Highway upgrades by:

- *Advising all residents in a timely manner of planned information sessions;*
- *Regularly updating the RTA website;*
- *Providing a comprehensive and detailed information package to all affected residents on the day that route options are announced;*
- *Forewarning residents of the timing for the announcement of short-listed and preferred routes;*
- *Liaising with property owners in advance to explain their rights and the purpose of any proposed site visits to or tests on their property; to request permission to conduct such site visits or tests, and provide property owners with any reports on their properties.*

Response:

In his December 2005 *Review of Future Provision of Motorways in NSW*, Professor David Richmond AO addresses community and stakeholder consultation and makes recommendations which have been endorsed by the Government.

Improvements are being made to the RTA's community and stakeholder consultation processes in accordance with Professor Richmond's recommendations.

- **Community Consultation Strategy**

Some background information is provided before specifically addressing the elements of this recommendation. The report does not recognise the effort undertaken by the Roads and Traffic Authority (RTA) to consult with local communities during the route selection phase for the Tintenbar to Ewingsdale and Woodburn to Ballina projects. The RTA placed extensive evidence before the Committee on the consultation program. The Committee should recognise that community consensus on highway proposals is not always possible. There are usually different, and on occasion, competing, views. The purpose of RTA community consultation is to:

- Canvass issues and options on the items in a project that are negotiable (e.g. safety cannot be debated, it is not a 'negotiable').
- Obtain community feedback.
- Consider the issues raised by communities in subsequent decision making.
- Provide feedback to communities on how their issues were addressed.
- Keep them informed of study progress.

- **Community Consultation Actions**

The Committee heard a large body of evidence that this is happening on RTA projects. Techniques used to involve the community, include the following.

- Holding community information evenings.
- Widely disseminating regular community information by way of newsletters containing information on:
 - the study area
 - the stages in the highway planning process
 - the route options
 - the preferred route
 - key community issues that may arise.
- Displaying route options for public comment, including staffed and static displays.
- Meeting with potentially affected property owners (along any of the options).
- Providing extensive information on the RTA's website.
- Holding government planning focus groups.
- Facilitating a community liaison group.
- Holding value management workshops, at which community and Government representatives attend.
- Announcing route options and then preferred routes with supporting documentation outlining the basis for the determining the options/preferred route.
- Meeting with government stakeholders whenever issues arise.

It is noted Appendix 3 of the Interim Report provides a detailed chronology of the consultation activities on both the Tintenbar to Ewingsdale and Woodburn to Ballina projects.

The RTA understands that a highway route selection process provides uncertainty for local communities and potentially affected property owners.

Planning a major highway upgrade requires consideration and balancing of social, economic, environmental and cost factors. These are to be fully considered through desktop studies, community meetings, field investigations and project workshops before route options can be selected and planned. It takes time to ensure the best outcome is achieved and that all the legal requirements of the planning process are met.

Following this period of investigation and consultation, route options are developed. The process proceeds with further studies and survey work and the public display of feasible options for the community to consider and comment on. There is further community discussion and additional fieldwork to help clarify any outstanding issues. The culmination of these activities is the announcement of a preferred route for a project. This process has been documented in the route option development reports, and preferred route reports, for these projects on the Pacific Highway.

In relation to the specific elements highlighted in Recommendation 1:

Advising all residents in a timely manner of planned information sessions

- The RTA will consider the use of the electronic media (e.g. paid radio advertisements) and targeted community flyers to inform the local community of upcoming information sessions in their area.

Regularly updating the RTA website

- The RTA's website for the Pacific Highway will continue to be improved/updated. The RTA's website is one of the most visited sites in Australia with an average of 250 visits per day to Pacific Highway sites. It is updated monthly, and more when major announcements are made/milestones reached.

Providing a comprehensive and detailed information package to all affected residents on the day that route options are announced;

Forewarning residents of the timing for the announcement of short-listed and preferred routes; and

Liaising with property owners in advance.

- The RTA considers carefully the process of announcing route options and preferred routes and employs strategies to ensure information is consistent and timely. There are principles of equity (of community access to information about options/preferred routes) and also of individual privacy.

The RTA recognises it is important to be fair and transparent in its dealings with affected residents. It is essential that people have certainty. It is not often possible to predict in advance when an announcement will be made, due to a number of factors including legal obligations, Government requirements and uncertainty about the timing of the decision. Decisions can be delayed due to factors beyond RTA's control. In order to provide people with certainty, decisions are communicated as soon as possible after the decision is made.

The RTA endeavours to inform those community members on the day of the announcement or as soon after as possible that they are (potentially) affected. Phone calls are made and wherever possible home visits undertaken to discuss what this announcement means for that landowner. Letters are dispatched to affected property owners – if possible posted just prior to the day of the announcement.

Public notices, media announcements, displays, meetings and community updates are all then disseminated to the community in the following days/weeks.

The RTA endeavours to ensure contact is made with each landowner directly affected by an option; by phone and if possible in person, either at a residence or another nominated venue.

Liaising with property owners in advance to explain their rights and the purpose of any proposed site visits to or tests on their property

- In relation to liaison with property owners regarding site investigations, the RTA is developing an information kit for property owners. This will describe the RTA's processes and a property owner's rights when approached by representatives of the RTA.

In all cases the RTA explains the purpose of any proposed site visits to, or tests on, private property. When RTA project teams approach a property owner about visits to their property, this information kit will be provided to the property owner. The fact sheets on property access and the property acquisition process will be uploaded onto the Pacific Highway Upgrading website.

Recommendation 2:

That the RTA substantially reform the way in which Community Liaison Groups (CLGs) are established and operated by:

- *Publicising the selection criteria and appointment process for CLG members;*
- *Publicising the CLG Charter, outlining the role of CLGs and member's rights and responsibilities;*
- *Producing detailed minutes of CLG meetings and ensuring they are placed on the RTA's website within one week of the meeting date;*
- *Responding in full to all minuted CLG action items;*
- *Considering the ending of the requirement for CLG members to keep information relating to proposed routes and the timeframes attached to the announcement of short-listed route options and preferred routes confidential;*
- *If the RTA refuses to end the requirement for such information to be kept confidential, it should ensure that prospective CLG members and the broader community are fully briefed on the type of information to be kept confidential, and the reasons why.*

Response:

The RTA is actively looking at ways to improve community involvement. Community liaison groups are one of many ways to create constructive dialogue. Some communities prefer other ways to be involved.

In regard to calling for nominations for groups like these, the RTA advises communities of the intended formation of a group through a variety of ways:

- community updates;
- advertisements;
- community information sessions; and
- media releases and flyers.

Interested community members are invited to phone the freecall project information lines to obtain information including nomination forms and information about what the group should/could achieve and individual roles and responsibilities.

A group's charter outlines the role of the group and the responsibilities of participants. Charters adopted by the groups on Pacific Highway projects are usually posted on the RTA's website. The discussion regarding the development and adoption of a charter is recorded in the minutes of the relevant meeting and again, posted on the relevant project's website.

The format of the meeting notes is considered by the group participants. Usually people do not want transcripts as it takes a considerable proportion of the groups' efforts to then review them and such detail does not add value to the process. The RTA endeavours to ensure meeting notes containing the issues and agreed actions are placed on the website within two weeks of a meeting and to respond in full to the action items listed.

The issue of confidential information is usually addressed in the group charter. It arises where the groups wants to discuss project developments that would directly affect other members of the community. The privacy rights of others *outside the discussion group* must be respected.

It also recognises that some of the information provided to a group for feedback is 'work in progress' and will be modified/updated before being released to the wider community. It is confusing, disruptive and potentially distressing for the wider community to receive such information in an ad hoc way.

Recommendation 3:

That the RTA develop a Policy and Procedures Manual for all future Highway upgrades. At the beginning of the upgrade process, affected residents should be advised that the Manual will be made available to them on request. The manual should include information on:

- *Steps in the upgrade process, with clear indications of timing for the specific upgrade;*
- *Landowners' rights, including procedures for visiting consultants;*
- *The RTA's policy on property acquisition and financial compensation;*
- *Explanation of the role of CLGs and the process for selecting and appointing members.*

Response:

The RTA has a Community Involvement Practice Notes and Resource Manual, found on the RTA's website. This manual clearly describes the principles the RTA seeks from the community involvement process:

- efficiency,
- equity,
- accountability,
- participation,
- flexibility,
- integrity,
- representative of views/issues,
- cost effectiveness,
- certainty.

The steps in the project planning process in relation to each project are provided as part of community information for that project. They can be found on the websites for Tintenbar and Ballina.

Landowners' rights will be provided now as part of an information kit.

The RTA policy on property acquisition is on the Pacific Highway website and provided to all potentially affected landowners.

Community liaison groups may or may not be appropriate for other projects. Other tools may be more useful to exchange information with the community on other projects. The consultation program depends on the issues to be resolved, how the community wants to be consulted, and the stakeholders that are required to be part of discussion and decision-making.

Recommendation 4:

That the RTA review its process for expanding the Ewingsdale – Tintenbar study area, and publicise both the rationale for expanding the study area, and the documentation relied upon in making the decision.

Response:

The issue of expanding the area of study in which an upgrade route is likely to be located was raised (and continued to be raised) very early in the planning process by the community. In response, the RTA undertook an internal desktop investigation to see if there were feasible routes outside of the original study area. The desktop study revealed that there were feasible route options to the east of the original study area and, as a consequence, a decision was taken to expand the study area. Following announcement of the expanded study area, the RTA engaged the community and potentially newly affected residents in a wide range of consultation activities.

The RTA based its decision to expand the study on a report prepared by its professional services contractor, Arup Pty Ltd. While this report was not made publicly available, the basis of the decision was explained to residents and community groups following the announcement.

The RTA will arrange for a copy of the report, entitled *Tintenbar to Ewingsdale Pacific Highway Upgrade Study Area Review*, to be uploaded onto the Pacific Highway website.

Recommendation 5:

That the NSW Government establish a Working Party to explore ways to expedite the payment of financial compensation to people whose properties are to be acquired by the RTA. The Working Party should include representatives of the RTA, Department of Planning, NSW Treasury and other relevant stakeholders.

Response:

The Government does not support this recommendation.

The RTA acquires land under the terms of the *Roads Act 1993* when a project has been assessed and approved. Payment for the acquired land is assessed in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.

The RTA does not normally acquire more land than is necessary for roadworks and the exact amount of land required is not known until the concept design and environmental assessment is finalised for a project. However, the RTA has a policy of giving consideration of purchasing a property ahead of construction where the owner of the land is able to demonstrate a need to sell the property for pressing personal, domestic or social reasons. For highway upgrading projects, the RTA has established funding allocations to assist in purchasing properties on this basis.

Recommendation 6:

That the NSW Government consider establishing a Property Value Guarantee Scheme to assist people whose properties are very close to a preferred route identified by the RTA, but who are not eligible for financial compensation under the Land Acquisition (Just Terms Compensation) Act 1991.

Response:

The Government does not support this recommendation.

The *Land Acquisition (Just Terms Compensation) Act 1991* does not provide for compensation to landowners whose properties are not required for roadworks.

However, the RTA as the proponent is required under Environmental and Planning legislation to identify the impacts of a highway proposal on adjoining property owners and propose measures as part of the proposal to mitigate any adverse impacts, including on the natural and human environment. The nature of impacts, together with the mitigation measures, is detailed in the environmental impact assessment, which is forwarded to the Department of Planning for consideration and approval by the Minister for Planning.

Recommendation 7:

That, as the Department of Planning puts the highest value on State Significant farmland under its Far North Coast Farmland Protection Project, the RTA be required to recognise the significance of such farmland and avoid including it in route options, and, that Regionally Significant farmland be a substantial constraint in developing route options.

Response:

The Government notes the RTA put evidence to the Committee demonstrating that the impact on agricultural farmland is a key consideration in selecting route options and preferred routes for both the Tintenbar to Ewingsdale and Woodburn to Ballina highway projects.

The RTA has considered the outcomes including planning principles from the Northern Rivers Farmland Project, which outlines a number of key recommendations to protect farmland and maps areas of state and regional significance. It is noted that public infrastructure is permitted on land mapped as state or regionally significant but must assess the agricultural importance of the land and select alternative sites where possible.

For both projects, the RTA engaged specialists to assist in the evaluation of agricultural land and established an agricultural focus group on the Tintenbar to Ewingsdale project and a sugar industry focus group on the Woodburn to Ballina project. The outcomes of these investigations are documented in various reports and minutes of meetings, which have been made available to the public. In addition, and due to the importance of agriculture on the Tintenbar to Ewingsdale project, an additional detailed agricultural investigation was undertaken on the short listed route options. This additional investigation, as well as the outcomes from Northern Rivers Farmland Protection Project, was used by the RTA as one of a number of considerations in selecting a preferred route for this section of the highway.

Recommendation 8:

That the RTA ensure that the various levels of survey undertaken at differing stages of the planning process, including environmental impact studies, are clearly explained and identified to the community in the initial stages of the Highway upgrade process.

Response:

The RTA undertakes ecological assessments in accordance with normal practice for major infrastructure projects of this kind.

For the route selection phase, the RTA and its consultants

- o undertake a desktop and literature review,
- o gather locally available information and
- o undertake sufficient field investigations

in order to provide an understanding of the ecological issues within the study area and likely impacts on the various route options under consideration. The RTA undertakes a more rigorous and robust ecological assessment once a preferred route is selected and announced. This approach is similar with all disciplines (eg. geological, heritage, agricultural, social impacts, etc), ensuring the public funds are used wisely.

The process used and outcomes are documented in reports, which are publicly available at the end of the each phase.

Recommendation 9:

That the NSW Government urgently commission a cost/benefit study of upgrading an alternative route incorporating the Summerland Way between Tyagarah/Ewingsdale and Grafton. This study should be conducted independently of the RTA, and provide a basis for comparison with the RTA's current options for upgrading the Pacific Highway.

Response:

At the direction of the former Minister for Roads, a technical review of the Summerland Way proposal as an alternative route to the Pacific Highway is being undertaken by the RTA.

A report on the findings is currently being finalised by the RTA. No recommendation on an inland route has been determined.

The assessment is being conducted by the RTA with the assistance of independent experts in the area of estimating cost and flora and fauna, and will provide a basis for comparison with the RTA's current options for upgrading the Pacific Highway.