Gunnedah second road over rail bridge

July 2015

Submissions report – Review of environmental factors (REF)
Executive summary

The proposal

Roads and Maritime Services (Roads and Maritime) is proposing to build a second road bridge over the railway line in Gunnedah to provide an unrestricted Higher Mass Limit (HML) truck route through the town and significantly improve local traffic efficiency and road safety.

The proposed bridge would remove a missing link in the HML network in Gunnedah, facilitating an unrestricted route for HML freight vehicles between the New England and Newell highways. The proposal would connect the Oxley Highway roundabout with the Kamilaroi Highway via a road bridge over the railway line to the west of the Gunnedah Maize Mill (the Mill).

The proposal also includes upgrading the Oxley Highway roundabout and a new intersection that provides access to Barber Street. A new roundabout at the intersection of Conadilly and Warrabungle streets, currently being built and the subject of a separate review of environmental factors (REF), is also linked to this project.

The key features of the proposal are:

• Building a new road bridge over the railway line west of the Mill, connecting the Oxley Highway with Warrabungle Street
• Rebuilding the existing roundabout at the intersection of the Oxley Highway, and New and View streets
• Building an intersection to provide access to Barber Street where the new route meets Warrabungle Street
• Acquiring two residential properties in Barber Street to build the intersection at Barber and Warrabungle streets
• Acquiring parcels of land from the Mill and Marcroft Caravan Park
• Closing and removing the New Street level crossing.

The proposal forms part of the NSW Government’s Bridges for the Bush program.

Purpose of this report

This submissions report summarises the issues raised following the public display of the REF prepared for the proposal and provides responses to each issue (chapter 2).

REF public exhibition

Roads and Maritime prepared a REF to assess the environmental impacts of the proposed work. The REF was displayed for a three-week period between 9 June 2015 and 29 June 2015 and public comment was invited.

Roads and Maritime advised the community and key stakeholders about the REF and their opportunities to provide feedback by:

• Displaying the Community Update (appendix A) and REF in four locations (table 1.1 outlines locations)
• Advertising in local newspapers:
  o early general news section of the Tamworth Northern Daily Leader (10 and 15 June 2015)
  o early general news section of the Gunnedah Namoi Valley Independent (11 and 16 June 2015)
• Updating the Roads and Maritime website with the Community Update and REF, details about the community drop-in sessions, and an online feedback form (9 June 2015)
• Distributing a Community Update including details of planned community drop-in sessions to every residential and business address in Gunnedah (by Australia Post during week beginning 8 June 2015)
• Posting the Community Update to 166 stakeholders including all property owners in the study area and others who registered for postal updates on the project (9 June 2015)

• Emailing the project distribution list (77 stakeholders who had registered for project updates) with a link to the website (10 June 2015)

• Emailing relevant government organisations to inform them the REF was available for comment (11 June 2015)

• Meeting with some affected property owners and Gunnedah Shire Council (18 and 19 June 2015)

• Holding two community drop-in sessions at the Gunnedah Civic Centre (4pm–7pm, 18 June 2015 and 9am–12pm, 19 June 2015)

• A media release issued by the NSW Minister for Roads, Maritime and Freight, the Honourable Duncan Gay (10 June 2015).

Key issues raised in submissions on the REF

Roads and Maritime received 21 submissions, accepted up until Friday 1 July 2015, including:

• One submission from a government agency that raised no issues

• Twenty (20) submissions from community members and businesses that raised the issues documented in this report.

The issues raised in submissions related to:

• Design of the proposal

• Property acquisition

• Access across New Street level crossing

• Building activities

• Flow-on traffic impacts

• Funding

• Flooding

• Business impacts

• Alternative solutions

• Koala habitat

• Timing.

Revised environmental management measures

After consideration of the issues raised in the submissions, no changes to the proposal have been made. Therefore, the management and mitigation measures for the proposal remain the same as those outlined in the REF and, should the proposal proceed, environmental management will be guided by the framework and measures in that document.

Next steps

Roads and Maritime will assess the proposal and then make a determination. Roads and Maritime would continue to consult with community members, government agencies and other stakeholders during detailed design and construction phases of the proposal.
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A - Community Update, June 2015

B - Land Acquisition Information Guide (Roads and Maritime, 2014)
1 Introduction and context

1.1 Purpose

This submissions report relates to the review of environmental factors (REF) prepared for the Gunnedah second road over rail bridge and should be read in conjunction with that document.

The REF was placed on public display and Roads and Maritime Services (Roads and Maritime) received submissions relating to the proposal and the REF. This submissions report summarises the issues raised and provides responses to each issue (chapter 2).

Since the REF was finalised there have been no further detailed investigations, changes to the proposal, additional assessments of environmental impact or revisions to the environmental management measures.

1.2 The proposal

Roads and Maritime is proposing to build a second road bridge over the railway line in Gunnedah to provide an unrestricted Higher Mass Limit (HML) truck route through the town and significantly improve local traffic efficiency and road safety.

The proposed bridge would remove a missing link in the HML network in Gunnedah, facilitating an unrestricted route for HML freight vehicles between the New England and Newell highways.

The proposal forms part of the NSW Government’s Bridges for the Bush program.

The objectives of the proposal are to:

- Provide a grade-separated crossing to facilitate a HML route through Gunnedah
- Improve local traffic efficiency
- Improve road safety
- Improve road transport productivity, efficiency and reliability of travel
- Minimise the impact on the natural, cultural and built environment
- Provide value for money.

The proposal would connect the Oxley Highway roundabout with the Kamilaroi Highway via a road bridge over the railway line to the west of the Gunnedah Maize Mill (the Mill).

The proposal also includes upgrading the Oxley Highway roundabout and a new intersection to provide access to Barber Street. A new roundabout at the intersection of the Kamilaroi Highway and Warrabungle Street, currently under being built and the subject of a separate REF, is also linked to this project.

The key features of the proposal are:

- A seven-span, about 198-metre long bridge, with a width varying from two to three lanes to accommodate right turns into Barber Street
- A shared path
- Bridge construction based on pre-cast concrete girders about 25 to 30 metres long and concrete piers and deck cast in situ (on site)
- Bridge foundation construction based on piles that would be most likely bored
- A northern road approach embankment (about 70 metres long) and southern road approach embankment (about 200 metres long)
- A temporary building compound, stockpiles and material laydown area
- Upgrading existing utilities such as streetlights, 11 kilovolt and 22 kilovolt overhead and underground electricity supply, water mains and communications
- Realigning a 0.5-metre diameter bulk water main
• Pedestrian paths
• Stormwater drainage work along the new route
• Multi-stage building and traffic management upgrade of the existing Oxley Highway roundabout intersection to a 25-metre radius inscribed circle roundabout, including a 100-metre realignment of South Street
• A new T-intersection with Barber Street
• Acquiring two residential properties in Barber Street to build the T-intersection
• Acquiring parcels of land from the Mill and Marcroft Caravan Park
• Closing and removing the New Street level crossing.

The exact dimensions of the bridge girders and associated work may be refined during detailed design.

Work has started to build a new roundabout at the intersection of Conadilly and Warrabungle streets. The new roundabout was assessed under a separate minor work REF, as the work was required to improve existing traffic safety and efficiency as well as maximise traffic flow associated with the predicted increase in traffic volumes following completion of the current proposal. Roads and Maritime is working with Gunnedah Shire Council to deliver this work.

1.2.1 Proposal history

In 2013, Roads and Maritime displayed three options — A, B and C — for community comment. During this time, Gunnedah Shire Council, the Australian Rail Track Corporation (ARTC), and Transport for New South Wales were also consulted. Feedback gave further insight into stakeholder views on the advantages and disadvantages of the options. The Community Submissions Report (Roads and Maritime, 2013) summarises the feedback received. It remains available for download on the Roads and Maritime website.

After considering this community feedback and the findings of further technical studies, Roads and Maritime identified a refinement of Option C as the recommended option. Option C (Refined) was displayed for community comment in August 2014. The feedback provided was used to guide Road and Maritime’s decision about the preferred option, which was then confirmed in November 2014. The Community Submissions Report (Roads and Maritime, 2014) and the Preferred Option Report (Roads and Maritime, 2014) are available for download from the Roads and Maritime website.

Since confirming the preferred option, Roads and Maritime has progressed the concept design, carried out further technical and environmental investigations, and prepared a REF for the proposed second road over rail bridge.

In October 2014, relevant government organisations were informed via email that the REF was being prepared. The organisations included: Gunnedah Shire Council, ARTC, Department of Primary Industries, Office of Environment and Heritage and Office of Water. At this time, the organisations were invited to comment and advise of any interests, concerns or statutory requirements relating to the proposal. Comments received were considered in the REF (section 5.5).

In June 2015, the community was invited to provide feedback on the published REF. The Review of environmental factors (Roads and Maritime, 2015) is available for download from the Roads and Maritime website. The feedback received during the three-week consultation period is collated in this report and will be considered as project planning and design are completed.

1.2.2 REF display

Roads and Maritime prepared a REF to assess the environmental impacts of the proposed work. The REF was displayed for community and stakeholder comment over a three-week period between 9 and 29 June 2015.

Roads and Maritime advised the community and stakeholders about the REF and their opportunities to provide feedback by:
• Displaying the Community Update (appendix A) and REF in four locations (table 1.1)
• Advertising in local newspapers:
  o early general news section of the Tamworth Northern Daily Leader (10 and 15 June 2015)
  o early general news section of the Gunnedah Namoi Valley Independent (11 and 16 June 2015)
• Updating the Roads and Maritime website with the Community Update and REF, details about the community drop-in sessions, and an online feedback form (9 June 2015)
• Distributing a Community Update including details of planned community drop-in sessions to every residential and business address in Gunnedah (by Australian Post during week beginning 8 June 2015)
• Posting the Community Update to 166 stakeholders including all property owners in the study area and others who registered for postal updates on the project (9 June 2015)
• Emailing the project distribution list (77 stakeholders who had registered for project updates) with a link to the website (10 June 2015)
• Emailing relevant government organisations to inform them the REF was available for comment (11 June 2015)
• Meeting with some affected property owners and Gunnedah Shire Council (18 and 19 June 2015)
• Holding two community drop-in sessions at the Gunnedah Civic Centre (4pm–7pm, 18 June 2015 and 9am–12pm, 19 June 2015)
• A media release issued by the NSW Minister for Roads, Maritime and Freight, the Honourable Duncan Gay (10 June 2015).

Table 1.1. Display locations

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<thead>
<tr>
<th>Location</th>
<th>Address</th>
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<tr>
<td>Gunnedah Shire Council</td>
<td>63 Eligin Street, Gunnedah</td>
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<tr>
<td>Gunnedah Shire Library</td>
<td>291 Conadilly Street, Gunnedah</td>
</tr>
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<td>Gunnedah Motor Registry</td>
<td>387 Conadilly Street, Gunnedah</td>
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<tr>
<td>Gunnedah Civic Centre*</td>
<td>83 Chandos Street, Gunnedah</td>
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*Only on display during community drop-in sessions on 18 and 19 June 2015
2 Response to issues

Roads and Maritime received 21 submissions, accepted up until Friday 1 July 2015. Table 2.1 lists the respondents and each respondent’s allocated submission number. The table also indicates where the issues from each submission have been addressed in chapter 2 of this report.

Table 2.1 Respondents

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<th>Respondent</th>
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2.1 Overview of issues raised

A total of 21 submissions were received in response to the display of the REF, comprising one government agency submission and 20 community submissions.

The submissions were received via:

- Feedback forms completed at the community drop-in sessions (seven submissions)
- Feedback forms posted to project team (10 submissions)
- Feedback forms emailed to project team (three submissions)
- Email without feedback form attached (one submission).

No submissions were made using the online feedback form on the Roads and Maritime website.

Each submission has been examined individually to understand the issues being raised. The issues raised have been extracted and collated, and corresponding responses to the issues have been provided. Where similar issues have been raised in different submissions, only one response has been provided. The issues raised and Roads and Maritime’s response to these issues forms the basis of this chapter.
Of the 21 submissions received:

- Eight (38 per cent) supported the proposal
- Four (19 per cent) objected to the proposal
- Nine (43 per cent) did not offer a position on the proposal.

No issues were raised by government organisations.

Figure 2.1 shows that issues raised by community respondents and the number of respondents that raised the issue.

![Figure 2.1 Issues raised by respondents](image)

### 2.2 Design of proposal

Respondents raised four issues related to the design of the proposal:

- Why was a bridge chosen instead of an underpass?
- What provisions have been made for heavy, wide, high and long vehicles?
- Concerns the brakes of trucks coming off the bridge could fail, creating a safety issue for adjacent residential properties
- The current design of the proposal is supported.

#### 2.2.1 Why was a bridge chosen instead of an underpass?

**Submission number**

11

**Issue description**

The respondent wanted to know why a bridge solution had been chosen and not an underpass, similar to one at Muswellbrook, in place of the New Street level crossing.
A rail underpass was investigated during the options development phase. Option 13, a rail underpass that involved realigning and lowering the rail line to provide a minimum clearance for trains under New Street, was considered in early 2013 as one of the 19 preliminary options. An initial assessment that considered the likely impact and feasibility found that the option did not address the fundamental requirements and objectives of the proposal and should not be continued. Lowering the railway line would require significant work beyond the study area due to urban property clearances, track geometry and flood drainage issues.

A road underpass that vertically realigned and lowered the road so that it passed under the rail line would not be possible due to the design geometry of the site, required clearances and grades, and the height of the water table that would be intercepted and cause flooding of the underpass.

Further information on the preliminary options is available in the *Gunnedah second road over rail bridge Preliminary Concept Options Report* (Roads and Maritime Services, May 2013).

### 2.2.2 What provisions have been made for heavy, wide, high and long vehicles?

**Submission numbers**
2, 3, 10

**Issue description**
Respondents raised the following issues:

- What provisions have been made for wide loads approaching the bridge and on the bridge itself?
- Concern that the design of the proposal is too tight for HML vehicles, and roll overs and road damage will occur as has happened at other intersections around town
- How has the design accounted for B-double and B-triple trucks turning (without roll-overs):
  - Left from Barber Street to the new bridge?
  - Right from bridge to Oxley Highway?

**Response**
The project team completed several road safety reviews as part of the concept option development. The proposed new route, including the bridge, roundabouts and intersections, has been designed to accommodate heavy vehicles, including wide and high loads. The design allows for the turning movements of B-double trucks as a key component of facilitating a HML route through Gunnedah. It has also been checked for B-triples. Achieving an acceptable grade on the roads was an important safety design criteria to accommodate heavy vehicle turning movements.

It should be noted that 12- to 14-metre wide loads are not permissible on the approach roads to Gunnedah as most bridge clearance widths are nine to 10 metres maximum.

The left turn from Barber Street to the new bridge has been assessed for B-double truck turning movements. This turning movement is on to a T-intersection and would be taken at very low speed.

The design of the right turn at the Oxley Highway roundabout was the result of extensive research in to a roundabout design in relation to truck overturning safety.

### 2.2.3 Brake failure as trucks come off the bridge

**Submission number**
12

**Issue description**
The respondent raised concerns that truck brakes could fail as they come off the bridge, creating a safety issue for adjacent residential properties.
Response
The project team completed several road safety reviews as part of the concept option development. The proposed bridge and approach road meet the required design standards in order to maintain public safety.

2.2.4 The current design of the proposal is supported

Submission numbers
4, 5, 6, 7, 17, 18, 19, 21

Issue description
Respondents indicated that they supported the current design of the proposal.

Response
Roads and Maritime appreciates community members and stakeholders taking the time to provide feedback.

2.3 Property acquisition

Respondents raised one issue related to property acquisition.

Submission numbers
11, 12, 13, 14, 21

Issue description
Respondents raised the issue of respectful, fair, transparent and/or equitable property acquisition for residents/businesses affected by the proposal.

Response
Roads and Maritime acknowledges the process for acquiring land can be at times stressful on property owners and will endeavour to work closely with affected property owners.

In accordance with the Land Acquisition Information Guide (Roads and Maritime, 2014) (appendix B), all land acquisition carried out by Roads and Maritime is governed by the Land Acquisition (Just Terms Compensation) Act 1991 together with the Roads Act 1993. Roads and Maritime will continue to liaise directly with all affected property owners as the proposal progresses.

2.4 Access across New Street level crossing

Respondents raised two issues related to access across the New Street level crossing:

- Pedestrian access should be maintained as is or via an underpass
- The crossing should remain open for agricultural tractors and equipment.

2.4.1 Pedestrian access across New Street should be maintained at level crossing or via an underpass

Submission numbers
5, 7, 15

Issue description
Respondents suggested that:

- Pedestrian access at the New Street level crossing should be maintained
- A pedestrian underpass at New Street should be considered in place of the level crossing.
**Response**

To meet the objective of this proposal to improve safety, pedestrian access at the New Street level crossing would be closed. Alternative routes proposed for pedestrians and cyclists are:

- Over the new bridge via the 2.5-metre shared path. This would be separated from the road by railings, however, given the constraints of the proposal it is not possible to design the route so that the grade meets current accessibility guidelines.
- The Marquis Street level crossing that has recently been upgraded to meet current accessibility guidelines.

A pedestrian underpass at the New Street level crossing is outside the scope of this proposal. A pedestrian underpass would not meet current Crime Prevention Through Environmental Design standards that encourage safe urban environments by enabling casual surveillance in areas where people walk or cycle. The proposed shared pathway would be overlooked by vehicular traffic and present a safer walking environment.

### 2.4.2 The New Street level crossing should remain open for agricultural tractors and equipment

**Submission number**

16

**Issue description**

The respondent suggested the New Street level crossing should remain open for agricultural tractors, and big and oversized equipment to cross the rail line.

**Response**

The proposed new route is a replacement for the existing New Street level crossing. The project team thoroughly investigated requests for the New Street level crossing to remain open. However, to meet objectives of this proposal to improve safety and traffic efficiency, the level crossing would be permanently closed.

The proposed new route has been designed to accommodate heavy vehicles, including wide and high loads. It should be noted that 12-14 metre wide loads are not permissible on the approach roads to Gunnedah as most bridge clearance widths are 9-10 metres maximum.

### 2.5 Building activities

Respondents raised four issues related to building activities:

- Preservation of survey marks
- Communication of construction impacts
- Traffic delays
- Contractor engagement.

#### 2.5.1 Preservation of survey marks

**Submission number**

6

**Issue description**

The respondent raised the issue that the REF does not cover the documentation and preservation of state-level or local-level survey marks. The question of what will be done to address the issues caused by survey marks being destroyed by construction was asked. It was identified that two state-level and numerous local-level survey marks may be affected.
Response
Any survey marks that are affected by the proposal would be identified during detailed design. During construction, the marks in question would be reinstated in accordance with current practice.

2.5.2 Communication of construction impacts

Submission numbers
18, 4

Issue description
The respondents asked how construction methods and potential construction impacts, including traffic delays, would be communicated.

Response
Roads and Maritime would proactively communicate with affected and interested stakeholders about construction methods and potential construction impacts, including traffic delays, before and throughout the construction period. Such methods could include phone calls, letterbox drops, email, regular website updates and signage.

2.5.3 Traffic delays due to construction

Submission number
4

Issue description
The respondent raised the issue of traffic delays as a result of building activities.

Response
The proposed construction methods have been developed to minimise road closures as far as practicable, though some are still required (section 6.12.3 of REF). Minor increases in travel times may potentially occur due to reduced speed limits relating to roadwork and temporary road closures.

During construction, all traffic would be managed in accordance with a traffic management plan (TMP) in the Construction Environmental Management Plan (CEMP) and the Traffic Control at Work Sites Manual V4 (Roads and Traffic Authority, 2010). The TMP would be prepared based on the findings of section 6.12 of the REF.

2.5.4 Contractor engagement

Submission number
17

Issue description
The respondent raised the issue that a reputable contractor should be selected to build the proposed bridge.

Response
Roads and Maritime would implement a rigorous tender process to identify and engage a suitable construction contractor once detailed design has been completed. Construction contractors need to be pre-qualified to carry out work for Roads and Maritime.

2.6 Flow-on traffic impacts

Respondents raised five issues related to flow-on traffic impacts as a result of building the proposal:

• Safety on Bloomfield Street with HML vehicles being directed past schools
• Bloomfield Street should be made into four lanes
• Will there be more State Government funding for the maintenance of Bloomfield Street?
• Where will the Gunnedah Shire Council locate de-coupling areas for trucks?
• Roads and Maritime assisting Gunnedah Shire Council with traffic management for major events (eg AgQuip in August).

2.6.1 Safety on Bloomfield Street with HML vehicles being directed past schools

Submission number
10

Issue description
The respondent raised the issue of safety on Bloomfield Street with HML vehicles being directed past the schools as a result of the proposal.

Response
It is not anticipated that HML vehicles will cause additional traffic safety issues on Bloomfield Street. Bloomfield Street is part of the long established heavy vehicle bypass of Gunnedah. It is a B-double truck route that has been previously assessed and approved for heavy vehicles. HML vehicles have the same dimensions, performance and safety outcomes as B-double trucks, with a marginal increase in vehicle mass.

2.6.2 Bloomfield Street should be made into four lanes

Submission number
9

Issue description
The respondent made the suggestion that Bloomfield Street should be made into four lanes to accommodate traffic being directed along it as a result of the proposal.

Response
The anticipated traffic volumes that would use the proposal would not require upgrade of Bloomfield Street to four lanes.

2.6.3 Will there be more State Government funding for the maintenance of Bloomfield Street?

Submission number
8

Issue description
The respondent asked if the State Government would be providing more funding towards the maintenance of Bloomfield Street.

Response
The current heavy vehicle bypass route, via Bloomfield Street, caters for heavy vehicles passing through the town and Gunnedah Shire Council is committed to the ongoing upgrade and maintenance of this route. The route is currently a Local Road and is the responsibility of Gunnedah Shire Council. It has been agreed between Roads and Maritime, and Gunnedah Shire Council that this route will become a Regional Road, which would attract Regional Road Block Grant and REPAIR funding for future maintenance.
2.6.4 Where will the Gunnedah Shire Council locate de-coupling areas for trucks?

**Submission number**
8

**Issue description**
The respondent asked where de-coupling areas for trucks would be located on the outskirts of Gunnedah.

**Response**
The provision of de-coupling areas is outside the scope of this proposal and is a matter for Gunnedah Shire Council.

2.6.5 Roads and Maritime assisting Gunnedah Shire Council with traffic management for major events (eg AgQuip in August)

**Submission number**
9

**Issue description**
The respondent asked if Roads and Maritime would be providing ongoing traffic management assistance to Gunnedah Shire Council for major events such as AgQuip in August.

**Response**
Traffic management during events, such as AgQuip, would be carried out through normal procedures, and include traffic management plans to manage event traffic. Roads and Maritime provides feedback on detailed traffic management plans. Responsibility for implementing these plans lies with the event organiser.

2.7 Funding

Respondents raised three issues related to funding for the proposal:

- Concerns that funding the proposal would mean that the town doesn't get state funding for other things because they have already received their share
- Proposal is seen as an inappropriate use of state funding
- Question why the proposal budget has increased from $15 million to $35 million.

2.7.1 Concerns that funding the proposal will mean that the town doesn't get state funding for other things because they have already received their share

**Submission number**
8

**Issue description**
The respondent raised concerns that funding the proposal would mean that the town doesn't get state funding for other things because they have already received their share.

**Response**
The cost of the proposal is included in the NSW Government’s Bridges for the Bush program, which funds projects in regional NSW to improve transport access and road safety.
2.7.2 Proposal is seen as an inappropriate use of state funding

Submission numbers
3, 20

Issue description
Respondents raised the issue that the proposal is an inappropriate use of state funding because:
- A four minute traffic delay to wait for trains at the New Street level crossing was not significant
- It creates no extra employment opportunities once building is complete.

Response
The key objectives of the proposal are to:
- Provide a grade separated HML route through Gunnedah
- Improve local traffic efficiency
- Improve road safety
- Improve road transport productivity, efficiency and reliability of travel
- Minimise the impact on the natural, cultural and built environment
- Provide value for money.

The work will be funded under the Bridges for the Bush program, which is specifically aimed at improving road freight productivity by replacing or upgrading bridges at 17 key locations in regional NSW.

Traffic delays at the level crossing have increased since the introduction of longer and more frequent coal trains. When traffic queues reach the existing Oxley Highway roundabout, local and state road traffic is disrupted. In the future, if nothing is done, delays will increase with expected increases in the number and frequency of coal trains and growth in the residential areas to the south of the railway.

With regard to future employment opportunities, the contribution this project makes is to improve infrastructure within Gunnedah that will support business in the region.

2.7.3 Question why the proposal budget has increased from $15 million to $35 million

Submission number
20

Issue description
The respondent raised the issue of the proposal budget increasing from $15 million to $35 million.

Response
Roads and Maritime Services acknowledges the current estimate for the proposal is higher than the initial strategic estimate, which was prepared several years ago before the selection of the preferred option. The estimate has increased as the scope of the proposal has been refined in consultation with the community and other key stakeholders.

2.8 Flooding

Respondents raised two issues related to flooding:
- Concern that the intersection of Conadilly and Warrabungle streets is the first point to go under water in a flood
- Future-proofing the proposal for the potential future realignment of the Oxley Highway.
2.8.1 Concern that the intersection of Conadilly and Warrabungle streets is the first point to go under water in a flood

Submission numbers
10, 14

Issue description
The respondents raised the issue that the intersection of Conadilly and Warrabungle streets is the first point to go under water in a flood.

Response
Section 5.3.4 of the Recommended Option Report (Roads and Maritime Services, August 2014) describes the flood study that was completed for the proposal. The proposed height and extent of the new bridge minimises the potential impact of flooding.

2.8.2 Future-proofing the proposal for the potential future realignment of the Oxley Highway

Submission number
6

Issue description
The respondent raised the issue of the proposal being future-proofed to account for flooding changes due to the potential future realignment of the Oxley Highway.

Response
The new bridge has been designed to have flood immunity at a 1:100 year average recurrence interval flood event.

If realignment of the Oxley Highway was carried out in the future, a flood impact assessment of these changes would be completed. Typically, a flood impact assessment would examine the existing situation, potential impacts on the flood regime and any measures that would be put in place to manage potential impacts.

2.9 Business impacts

Respondents raised six issues related to business impacts:
- Accuracy of section 6.12.3 of REF dealing with traffic management and access to the Mill
- Sensitive nature of the Mill site
- How will property security be maintained at the Mill?
- Visual amenity of the Mill site from the westerly aspect
- Electricity supply to the Mill
- Through traffic to businesses on Barber Street.

2.9.1 Accuracy of section 6.12.3 of REF dealing with traffic management and access to the Mill

Submission number
18

Issue description
The respondent raised the issue that the part of section 6.12.3 of the REF that deals with traffic management and access to the Mill is based on incomplete and incorrect information, and the suggested
alternative routes for when the right hand turn from the Mill into Barber Street is no longer possible are not suitable to support long-term operation and development of the Mill.

Response
The REF acknowledges that the proposal would affect access to the Mill and right hand turns from the Mill into Barber Street would no longer be possible. Throughout the project, Roads and Maritime has worked closely with the Mill to identify and understand potential impacts on their operations. Consultation and property acquisition negotiations with the Mill will continue as the proposal moves into detailed design to ensure that business operations overall are not adversely impacted.

2.9.2 Sensitive nature of the Mill site

Submission number
18

Issue description
The respondent raised the issues that:

- The sensitive nature of the Mill site had been recognised and reflected in the REF
- Building activity could cause property/infrastructure damage at the Mill.

Response
Roads and Maritime will continue to liaise closely with the Mill as the proposal progresses. With the agreement of the Mill, Roads and Maritime will arrange for pre- and post-construction dilapidation surveys, as well as monitoring of vibration during construction.

2.9.3 How will property security be maintained at the Mill?

Submission number
18

Issue description
The respondent raised the issue of maintaining property security at the Mill during the construction period.

Response
Consultation with the Mill will continue as the proposal moves into detailed design and construction to ensure that business operations overall are not adversely impacted.

2.9.4 Visual amenity of the Mill site from the westerly aspect

Submission number
18

Issue description
The respondent raised the issue that impacts on the visual amenity of the Mill site from the westerly aspect, in particular the view of the Mill from the new over rail bridge, will need to be considered and discussed as the proposal progresses.

Response
Roads and Maritime will consult with the Mill on urban design and landscaping plans that will be refined during detailed design.

2.9.5 Electricity supply to the Mill

Submission number
18
Issue description
The respondent stated that minimal disruptions to the electricity supply to the Mill to enable construction could be accommodated with adequate communication and planning. Long or unplanned power disruptions are not acceptable to the Mill.

Response
Noted.

2.9.6 Through traffic to businesses on Barber Street

Submission number
19

Issue description
The respondent stated that the proposal successfully maintains through traffic to businesses on Barber Street.

Response
In response to community feedback, the proposed route has been designed to maintain through traffic to the businesses on Barber Street.

Further discussion of this issue is included in the *Community Submissions Report* (Roads and Maritime Services, November 2014).

2.10 Alternative solutions

Submission numbers
11, 12

Issue description
Respondents suggested that alternative solutions may have been more cost effective than the proposal. Suggested alternatives were:

- Modifying train operations by adjusting signalling and scheduling
- Overpasses in areas outside of Gunnedah (eg Scone, Werris Creek, Quirindi).

Response
The key objectives of the proposal include:

- Providing a grade-separated HML route through Gunnedah
- Improving local traffic efficiency
- Improving road safety
- Improving road transport productivity, efficiency and reliability of travel
- Minimising the impact on the natural, cultural and built environment
- Providing value for money.

The modification of train operations is outside the scope of this proposal and does not fulfil the objectives of the proposal. Train schedules are a function of the transport effort and capacity of the coal receiving facilities at Newcastle. The frequency of train movements is expected to increase in the future. Adjusting signalling would not address the anticipated increase in disruption to local traffic.

An overpass in areas outside of Gunnedah would not fulfil the proposal objective of the project to facilitate HML access through Gunnedah nor address traffic efficiency within the town. Separately, Roads and

---

RMS 15.453
Maritime is planning for a New England Highway bypass of Scone. Details are available from the Roads and Maritime website.

### 2.11 Koala habitat

**Submission number**

10

**Issue description**

The respondent raised the issue that the koala habitat content in the REF is questionable as most of the trees in Black Jack Creek area were only planted 20 years ago.

**Response**

Section 6.5 and appendix A – Biodiversity Assessment of the REF – describes the study area as extensively modified since European settlement. Field evidence suggests that the urban parkland (regularly maintained open grassy woodland along Black Jack Creek) has been planted with native and exotic tree species, the majority of which are about 20 to 30 years of age, with a few that may be about 40 to 50 years old.

The biodiversity assessments carried out determined that koalas may possibly occur periodically within the study area. No primary koala feed tree species occur within or directly next to the site, but are found more abundantly throughout the locality. The presence of secondary koala feed trees in the study area infers that habitat is present within the study area. However, given the fragmented nature of the habitat within the study area and the limited habitat values compared to larger and more favourable habitats in the surrounding landscape that are further removed from the urban area of Gunnedah, this area is only likely to be used periodically by transient koalas moving and dispersing throughout the locality. Further, the potentially impacted area does not constitute habitat critical to the survival of the koala.

### 2.12 Timing

**Submission number**

17

**Issue description**

The respondent raised the issue that the process is taking too long.

**Response**

The development of the proposal has taken time to ensure adequate consultation with the community and other stakeholders, and to address and fully explore unforeseen issues.

Subject to proposal approval, Roads and Maritime will next complete detailed design and prepare for construction. Construction is expected to start in 2016.
3 Environmental management

The REF for the Gunnedah second road over rail bridge identified the framework for environmental management, including management and mitigation measures that would be adopted to avoid or reduce environmental impacts (section 7 of REF).

After consideration of the issues raised in the public submissions, no changes to the REF or proposal have been made. Therefore, the management and mitigation measures for the proposal remain the same as those outlined in the REF and should the proposal proceed, environmental management will be guided by the framework and measures in that document.
4 References


Appendix A – Community Update, June 2015
The NSW Government is funding the Gunnedah second road over rail bridge to improve local traffic efficiency and road safety. Roads and Maritime Services invites the community to provide feedback on the Review of Environmental Factors for the project.

**In this community update:**
- Map of proposed second road over rail bridge
- Summary of the Review of Environmental Factors (REF)
- Upcoming consultation activities.

**Current status**

The preferred option for a second road over rail bridge (map over page) was confirmed in November 2014 following an extensive assessment of potential options and consultation with the community.

Since then, Roads and Maritime Services has progressed the concept design and published a REF for the proposed second road over rail bridge. The community is invited to provide feedback on the REF. Feedback will be considered as decisions for the project are made going forward.


**Early work**

Work has started to build a new roundabout at the intersection of Conadilly and Warrabungle Streets as part of the project. The new roundabout was assessed under a separate REF and will improve traffic movements through the intersection and support Gunnedah's heavy vehicle route strategy.

The roundabout work is expected to take about nine months to complete (weather permitting) and will involve temporary road closures. Roads and Maritime is working with Gunnedah Shire Council to deliver this part of the project.

**Review of Environmental Factors**

The REF assessed the potential environmental and social impacts of the proposal (summarised below). The assessment found the proposal would not significantly affect the environment or the community. The REF also describes measures that would be put in place to manage potential impacts. The community is invited to comment on the REF by 29 June 2015.

**Biodiversity**

An assessment of the biodiversity values within the project site was carried out. It identified a small area of koala feed trees and some threatened fauna species that may potentially occur within the area.

Overall, the project was assessed as unlikely to result in a significant impact on the ecological values within the area. This is because the project’s design has been refined to:
- Minimise vegetation clearing
- Protect and retain a number of koala feed trees
- Avoid Blackjack Creek, therefore minimising floodplain impact
- Avoid the Wandobah Reserve.
Traffic
The key objectives of a second road over rail bridge are to enable Higher Mass Limit (HML) freight vehicle access through Gunnedah, and to improve local traffic efficiency and road safety. The REF assessed traffic impacts and identified that the proposal would:

- Improve overall traffic efficiency in Gunnedah
- Eliminate delays at the Oxley Highway roundabout by the removing the New Street level crossing
- Improve road safety by removing the New Street level crossing
- Provide direct access into Barber Street from Warrabungle Street.

Heritage
The new bridge has been designed to minimise impacts to the Gunnedah Maize Mill. The refined design reduces impact by adopting an alignment that minimises the property acquisition area, and by employing urban design principles which enhance visual amenity. There is however a small area that would need to be acquired for the new bridge and some minor construction impacts. These impacts would not affect the heritage significance of the Mill. Roads and Maritime is liaising with the owners of the Mill to minimise these impacts.

Socio-economic
The proposed new bridge has been designed to minimise negative impacts on the local community and contribute to the long term connectivity and accessibility of the town. However, two residential properties would need to be acquired to build a safe intersection with Barber Street. Roads and Maritime is liaising directly with the affected property owners. The need for access to Barber Street, following the closure of the New Street level crossing, was a key concern raised by Gunnedah Shire Council and Barber Street businesses during community consultation in 2013 and 2014.

Seeking feedback from the community on the new bridge has been an important part of the proposal's development. Roads and Maritime will continue to liaise with the local community as the project progresses.

Construction
Building the new bridge would start after detailed design is completed. There would be temporary road closures during the road work. Roads and Maritime will continue to keep the community informed as the project progresses.
**Background**

The second road over rail bridge would provide an unrestricted HML freight route through Gunnedah and significantly improve local traffic efficiency and road safety. The new route would replace the existing New Street level crossing which would be permanently closed as part of this project. This project is part of the Bridges for the Bush program which is a NSW Government commitment to improve road freight productivity by replacing or upgrading bridges across regional NSW.

A range of technical, environmental and social investigations and concept designs were undertaken to develop and assess the options for a second road over rail bridge. The local community as well as Gunnedah Shire Council, Australian Rail Track Corporation (ARTC) and Transport for NSW were engaged throughout the process and provided helpful feedback. Previous feedback and Roads and Maritime's responses to each issue raised is summarised in the Community Submissions Report (November 2014) that is available on the Roads and Maritime project website.

**The proposed second road over rail bridge**

The new bridge for the second road over rail bridge would extend west of the Gunnedah Maize Mill from the Oxley Highway before joining Warrabungle Street. In addition to building a new bridge, the project would include the following:

- Upgrade of the Oxley Highway roundabout
- New roundabout at intersection of Warrabungle Street and Conadilly Street (already underway)
- Intersection into Barber Street from Warrabungle Street
- Shared path for cyclists and pedestrians.
Feedback form

Roads and Maritime is now seeking feedback on the *Review of Environmental Factors* for the Gunnedah second road over rail bridge.

Do you have any feedback on the Review of Environmental Factors for the proposed second road over rail bridge?

---

Do you have any other comments about the project?

---

Please provide feedback by 29 June 2015

Name

Organisation:

Postal address:

Suburb:

Phone number:

Email address:

Would you like to be added to our distribution list to receive email updates about this project?  Yes  No
To mail this feedback form first fold line A and then B so the Reply Paid address is on the outside. Seal with clear tape and mail (no stamps required) your completed form to the address below.

Gunnedah second road over rail project
Reply Paid 633
Brisbane QLD 4001
Dec 2012 – Announced project start, displayed study area and consulted with the community in selecting one recommended option for the bridge

Dec 2012 – Held two community drop-in sessions to identify local priorities and issues

Feb 2013 – Explored a range of options based on community, environment and other constraints

May 2013 – Displayed shortlisted options for community feedback

Considered submissions and carried out environmental and technical investigations

Roads and Maritime and the Minister for Roads, considered and decided recommended option

Aug 2014 – Announce and display recommended option for community feedback (Recommended Option Report)

Aug 2014 – Hold two community information sessions and attend AgQuip Field Days

Sep/Oct 2014 – Consider community feedback

Nov 2014 – Preferred option announced

Carried out concept design for the preferred option

Display the Review of Environmental Factors

Carry out detailed design and construction

Community consultation

The project team will be available to answer your questions and receive your comments at two community drop-in sessions:

When: 18 June 2015
4–7pm (session 1)
19 June 2015
9am – 12pm (session 2)

Where: Gunnedah Civic (Mooki Room)
83 Chandos Street, Gunnedah

There will be no formal presentation.

The Review of Environmental Factors will be on display at the following locations until 29 June 2015.

Gunnedah Shire Council
63 Eligin Street

Gunnedah Shire Library
291 Conadilly Street

Gunnedah Motor Registry
387 Conadilly Street

www.rms.nsw.gov.au

An electronic form will be made available on the project webpage for people that would prefer to submit comments online.

Please provide feedback by 29 June 2015.

Next step

Feedback on the REF will be considered and a submissions report published.

Subject to approval of the project, Roads and Maritime will complete detailed design and prepare for construction.

Contact us

For more information please contact the project team at:
Phone: 1800 029 585 (toll free)
Email: secondroadoverrailbridge@kbr.com
Post: Gunnedah second road over rail bridge project
Reply Paid 633
Brisbane QLD 4001

Roads and Maritime Services

Privacy: Roads and Maritime Services is subject to the Privacy and Personal Information Protection Act 1998 ("PPIP Act") which requires that we comply with the Information Privacy Principles set out in the PPIP Act.

All information in correspondence is collected for the sole purpose of assisting in the assessment of this proposal. The information received, including names and addresses of respondents, may be published in subsequent documents unless a clear indication is given in the correspondence that all or part of that information is not to be published. Otherwise Roads and Maritime will only disclose your personal information, without your consent, if authorised by the law. Your personal information will be held by Roads and Maritime Services at 76 Victoria Street, Grafton NSW 2460. You have the right to access and correct the information if you believe that it is incorrect.
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Cover image: Great Western Highway upgrade, Faulconbridge, 2001
Land acquisition and you

Roads and Maritime Services is the government body responsible for providing a safe and efficient road transport system in NSW.

In order to carry out road upgrades and construction, Roads and Maritime may need to acquire private land, which may contain buildings. We will refer to this as ‘property.’ It may be the property of residents, business owners, or various other legal interests such as lessees.

For property acquisition, a property is said to be directly affected by roadwork proposals (requiring the acquisition of land) when Roads and Maritime needs to acquire part or all of the property, in order to construct the project.

Property owners that are directly affected by roadwork proposals are generally made aware of these proposals, either through:

- Enquiries made when purchasing the property
- From proposals shown on local planning schemes
- Roads and Maritime community consultation for new projects.

Depending on the requirements for the proposed roadwork, it may be necessary to acquire the whole of a property or only part of a property. The terms ‘total’ or ‘partial’ are used to describe these situations. These situations are discussed on pages 10 to 13.

Please note Roads and Maritime is not required to acquire more property than is necessary for the roadwork.

When the acquisition of property is required, the relevant landowners will be contacted for consultation and negotiation. Roads and Maritime strives to work with landowners and prefers to achieve a mutually acceptable agreement for purchase. Reaching an agreement with landowners is central to Roads and Maritime’s land acquisition procedures. However, if agreement is not reached, the property may be acquired by compulsory acquisition.

Entitlement to compensation is identical whether the property is purchased by agreement or compulsorily acquired.


This guide describes the process that Roads and Maritime follows when it acquires land. Individual circumstances vary and if you feel you need specific information you should contact Roads and Maritime.
Using this guide

This guide explains what happens when Roads and Maritime need to acquire private land to either upgrade roads, build new roads or maintain existing roads.

Its' purpose is to give people an understanding of what to expect if their property is to be acquired. However, it is not legal advice nor a statement of legal rights and should not be relied on as such.

This guide is divided into seven sections. Each section deals with a particular aspect of the land acquisition process.

Section 1
Property acquisitions that are initiated by Roads and Maritime

Section 2
Acquisition by agreement

Section 3
Goods and Services Tax (GST)

Section 4
Entry for roadwork by agreement

Section 5
Compulsory acquisition

Section 6
Owner initiated acquisition (commonly called hardship acquisition)

Section 7
Owner initiated acquisition under the ‘preferred option’ policy

A glossary is provided at the end of each section. This glossary explains the technical or otherwise unclear terminology used in that section.

Appendices at the end of this guide provide extracts of those sections of the Land Acquisition (Just Terms Compensation) Act 1991 which are relevant to the acquisition process explained in this guide.
1. Property acquisition initiated by Roads and Maritime Services

Property acquisition, under the Land Acquisition (Just Terms Compensation) Act 1991, may be by purchase or by compulsory acquisition. This section describes what happens when Roads and Maritime need to purchase land for roadwork.

How do I know if my property will be required for a road project?

A property is directly ‘affected’ by a road project when Roads and Maritime need to acquire or purchase part or all of a property, in order to construct the project.

There are a number of ways land owners can find out if their land is required for a road project.

1. Roads and Maritime community information/consultation process

During the planning and design of a project, route and/or design options may be displayed and a preferred route or design may be chosen. These displays are sometimes accompanied by brochures, letters to residents and advertisements. Maps may show that some private property may need to be acquired if the project goes ahead. The Roads and Maritime website often shows draft road project plans.

Please note: Roads and Maritime may decide to adopt or alter any of these plans or not to proceed at all.

If a project proceeds to detailed planning assessment or design stage, Roads and Maritime will notify the property owner before the purchase process starts.

2. The land owner may go to their council

Sometimes land shown or reserved for a road may be shown on the map in your council’s local environmental plan or other planning documents. However, road proposals are not always shown on council plans.

Please note: A prospective purchaser can apply to the relevant council for information about land (called a Section 149 Certificate) for a fee. For example, your property may be within a town planning zone for future road purposes.

3. The land owner may approach Roads and Maritime

You are welcome to visit a Roads and Maritime office, to view plans or discuss a project that may affect your property.

Where a property is being sold or purchased, it is good practice for owners or prospective purchasers to make a written enquiry to Roads and Maritime about their property (for a fee). This is called a property inquiry. Roads and Maritime’s written response will indicate any potential land acquisition.
There are three key steps:

**Step 1**
The property acquisition process is initiated when Roads and Maritime contacts the owners of affected property by letter. This letter is to:

- Advise owners that a valuer representing Roads and Maritime will make arrangements to inspect the property and carry out a valuation
- Advise that on the basis of this valuation Roads and Maritime will submit a formal offer to purchase the property
- Advise owners that they are entitled to engage a registered valuer to value their property. Provided the valuation fees have been reasonably incurred, Roads and Maritime will reimburse the fees on settlement. Roads and Maritime will provide a guide as to what amount it believes would be costs reasonably incurred for the conveyancing or legal advice. If the owner believes costs will be above the estimated amount, owners are advised to consult with Roads and Maritime

**Step 2**
Once the valuation assessment has been carried out, Roads and Maritime will provide owners with a letter of offer. This letter will contain the conditions of Roads and Maritime’s offer to purchase the property.

- Advise owners that they are entitled to engage a registered valuer to value their property. Provided the valuation fees have been reasonably incurred, Roads and Maritime will reimburse the fees on settlement. Roads and Maritime will provide a guide as to what amount it believes would be a fee reasonably incurred for the valuation. If the owner obtains a quotation from a valuer that is above the estimated amount, owners are advised to consult with Roads and Maritime

**Step 3**
If the owner accepts the conditions of purchase, Roads and Maritime and the owner proceed to a conveyancing process, in a similar way to the process of a property sale in the open market. The primary difference is that Roads and Maritime’s solicitor will prepare the contracts.

- Advise that for purchase contracts, the reimbursement of the valuer’s fee is subject to conditions. These conditions are listed in Appendix A. The valuation report prepared by the valuer is required to be in accordance with the information in Appendix B called ‘Basic Content of Valuation Reports’. Roads and Maritime requires that the valuer act as an expert and not as an advocate on behalf of the owner
- Advise owners that they are entitled to obtain conveyancing or legal advice in relation to the acquisition. Roads and Maritime will provide a guide as to what amount it believes would be costs reasonably incurred for the conveyancing or legal advice. If the owner believes costs will be above the estimated amount, owners are advised to consult with Roads and Maritime

1.1 Payment and the Land Acquisition (Just Terms Compensation) Act 1991

The acquisition process is governed by the Land Acquisition (Just Terms Compensation) Act 1991. Division 4 of Part 3 of the Act, in particular section 55, outlines the matters that are considered when assessing compensation. These can be summarised as follows:

- Market value (the market value of the property as unaffected by the road proposals)
- Special value
- Severance
- Disturbance
- Solatium
- Any increase or decrease in the value of adjoining or severed land (as affected by the road proposals)

Please refer to Appendix C, which contains an extract of sections 55-62. Matters that are considered for compensation remain the same whether the acquisition is a negotiated purchase or is by compulsory process.
1.2 Glossary

**Acquisition (or acquire)**
Where the property is purchased by agreement or compulsorily acquired.

**Adjoining land**
Land in the same ownership that directly adjoins a land parcel which is acquired, or part of which is acquired, for roadwork.

**Directly affected property**
A landowner’s property that requires all or some part of it to be acquired for roadwork.

**Disturbance**
This may include legal costs, valuation fees, relocation costs, stamp duty costs, mortgage discharge and execution fees and some other financial costs reasonably incurred. These costs must be reasonably incurred and are set out in section 59 of the Land Acquisition (Just Terms Compensation) Act 1991.

**Market value**
The Act notes this to mean: the amount that would have been paid for the land if it had been sold at that time by a willing but not anxious seller to a willing but not anxious buyer. This disregards any increase or decrease in value caused by the road proposal. A definition is found in section 56(1) and (2) of the Land Acquisition (Just Terms Compensation) Act 1991.

**Purchase**
Property is sold to Roads and Maritime by contract with the agreement of the owner.

**Severance**
The Act notes this to mean: the amount of any reduction in the market value of any other land of the person entitled to compensation, which is caused by that other land being severed from other land of that person.

**Severed land**
Land that is severed from the main land parcel as a result of a land acquisition.

**Solatium**
The Act notes this to mean: financial compensation to a person for non-financial disadvantage resulting from the necessity of the person to relocate his or her principal place of residence as a result of the acquisition.

**Special value**
The Act notes this to mean: the financial value of any advantage, in addition to market value, to the person entitled to compensation, which is incidental to the person’s use of the land.

2. Acquisition by agreement

This section describes the process of the acquisition of property when Roads and Maritime and the owner agree, which is referred to as ‘purchase’.

As noted in the introduction, there are two types of purchase by agreement:

- Partial and
- Total.

Depending on the extent, requirements, size and need of the proposed roadwork, it may be necessary to purchase a part of the property or the total property. The terms ‘partial’ or ‘total’ are used to describe these situations. Please note that Roads and Maritime is not required to purchase or acquire more property than is necessary for roadworks.

This section will firstly consider issues surrounding partial purchase, and then consider issues relating to total purchase.

2.1 Partial property purchase

This section outlines the process followed when purchasing part of a property.

The initial letter sent by Roads and Maritime to the owners will include a plan that shows the proposed new boundary of that property.

That is, the new road boundary that will result from the purchase of the required land. This plan will also include the dimensions and area of the required part of the property.

2.1.1 Assessing the value of part of a property

It is often appropriate to use a ‘before and after’ method of valuation to assess the amount to be paid for the part of the property.

This method requires two valuations to be carried out. The first valuation is of the total property, as unaffected by the road proposal, known as the ‘before valuation’.

The second valuation, known as the ‘after valuation’, which will be undertaken at the same date, is of the remaining land as if the new road has been completed and in use.

The difference between the ‘before’ and ‘after’ valuations is the basis for the payment for the property to be purchased.

2.1.2 Property adjustments resulting from a partial purchase

If part of a property is acquired, services and public utilities as needed will be adjusted by and at the cost of Roads and Maritime. These adjustments will take place...
prior to or during roadwork. In addition, Roads and Maritime will relocate fencing and, where appropriate, reinstate access to the road network. Fencing along the new property boundary will be relocated or if necessary built new to a standard similar to the existing fence on the property.

If necessary, a plan detailing property adjustments will be prepared for consideration by the land owner. If this plan is acceptable it may form part of the contract for sale.

2.1.3 Conditions under which partial purchase of property may become a total purchase of the property

On occasion, Roads and Maritime will purchase the total property although only part of it is required for the proposed road. This occurs when the effect of the proposed road on the remaining land is considered so significant that it warrants total purchase.

In this case, Roads and Maritime will agree to purchase the whole property and will consider all the relevant elements of compensation for the total property being purchased, within section 55 of the Land Acquisition (Just Terms Compensation) Act 1991.

For an extract of the elements of compensation see sections 55 - 62 of the Act, which are reproduced in Appendix C of this document.

Where Roads and Maritime proposes partial purchase, but an owner requests total purchase, relevant circumstances will be considered. This may include whether the current owner purchased the property prior to Roads and Maritime formally indicating that the property is to be directly affected.

The decision as to whether Roads and Maritime will agree to a total purchase is at Roads and Maritime’s sole discretion having regard to all the relevant circumstances.

If a mutual agreement cannot be reached on the conditions of total purchase, Roads and Maritime may proceed with the acquisition of only the land required for roadwork.

2.2 Total property acquisition

This section describes a number of issues that owners may wish to consider when Roads and Maritime purchases a total property.

First, Roads and Maritime strongly recommend that the property owner make no commitment to purchase a replacement property until contracts are exchanged on the sale of their existing property to Roads and Maritime.

Second, if the owner requires a deposit for a replacement property, Roads and Maritime will make an advance payment of up to 10% of the total purchase price of the property that Roads and Maritime is purchasing. The advance payment will be made any time after the exchange of contracts. The advance payment will be subject to conditions specified by Roads and Maritime’s solicitor.
Third, when assessing the market value of the total property, the value of prime cost items and inclusions, that is, all items that are normally included in the sale of a property, are taken into account. If the owner intends to retain any of the included items, he or she is requested to inform the Roads and Maritime valuer at the time of the inspection which item/s he or she wishes to exclude from the sale so that a correct assessment of the value of the property can be made. Requests made after the valuation inspection to retain items may be refused. Alternatively, the valuation will be reduced by the value of the item/s.

Fourth, Roads and Maritime requires vacant possession on the date of settlement. This means that all belongings, animals, vehicles and other items have been removed from the land. The purchased property must be left in a clean and tidy condition. Roads and Maritime will carry out an inspection on the date of settlement to ensure that the property has been left in a clean and tidy condition and that all items included in the sale are intact. Last, swimming pools should be clean on the day of settlement. Further, swimming pools need to be left in a condition that complies with any relevant statutory or council requirement, including fencing and signage.

2.3 Glossary

Public utilities
Public service infrastructure such as, but not limited to, water, power and telephone lines.

Remaining land
Land that is not acquired for the roadwork, but which forms part of the owner’s original land parcel.

Prime cost items and inclusions
These are items that normally pass with the sale of the property and are noted in the contract for sale.

Vacant possession
Land that is no longer occupied by the person who is selling the land. This means that all belongings, animals, vehicles and other items have been removed from the land.

3. Goods and services tax (GST)

When Roads and Maritime begins the process of purchasing a property by sending a letter to the owner (see page 7), this letter will include a GST questionnaire. The owner is requested to complete this questionnaire and return it to Roads and Maritime.

If the completed questionnaire indicates that the owner, known as a ‘vendor’, is registered for GST and thinks that GST is payable to the Australian Taxation Office as a result of the sale, then Roads and Maritime will ensure that the purchase price it offers for the property includes GST. In this case the owner will be required to supply Roads and Maritime with a tax invoice.
5. Compulsory acquisition

This section describes the process that Roads and Maritime generally follow when an agreement with the owner has not been reached for the purchase of land required for roadwork.

Compulsory acquisition is a statutory process under the Land Acquisition (Just Terms Compensation) Act 1991. The Act sets out the process that Roads and Maritime must follow when it is necessary to acquire land using a compulsory process. The statutory process also provides the means for resolving disputes about the amount of compensation that is payable to the landowner.

Generally, the compulsory acquisition process followed by Roads and Maritime is as described in the following sections.

The owner of the land is entitled to obtain independent legal and valuation advice in relation to the compulsory acquisition process and their entitlement to compensation. The owner is also entitled to costs reasonably incurred in obtaining such legal and valuation advice and those costs are included in the compensation.

5.1 Approval

Roads and Maritime recommends that the Minister seeks the Governor’s approval to compulsorily acquire land.

5.2 Notification of the proposed acquisition

If the Governor approves, Roads and Maritime issues a proposed acquisition notice to those parties with a:

- Known legal or equitable interest in the land, (for example a registered proprietor, mortgagee, lessee, trustee)
- Right or privilege over the land, or in connection with it (for example an easement beneficiary, occupant or licensee).

This notice states Roads and Maritime’s intention to acquire the land after 90 days. However, a shorter period of time can be agreed to by the owner and Roads and Maritime, or be approved by the Minister if the Minister is satisfied that it is impracticable to give any longer period of notice. Note that a proposed acquisition notice is accompanied by a compensation claim form.

When Roads and Maritime issues a proposed acquisition notice, it is recorded on the relevant title registers at the Land and Property Management Authority (formerly known as the Land Titles Office).
5.3 Negotiations to purchase continue
During the 90-day (or shortened) period after the issue of the proposed acquisition notice (the notice period), Roads and Maritime and the owner may continue to negotiate to purchase the land by agreement.

5.4 Compulsory acquisition
If contracts for purchase have not been exchanged within the notice period, an acquisition notice is published in the NSW Government Gazette. This must happen within 120 days of the issue of the proposed acquisition notice, unless a longer period is agreed to in writing by the owner and Roads and Maritime.

An extract of the acquisition notice is published in a local newspaper.

Roads and Maritime owns the land from the date of publication of the acquisition notice in the Government Gazette. The (former) owner’s legal and equitable interests in the land are converted to an entitlement to compensation.

5.5 Compensation
This section outlines the process to lodge a claim for compensation with Roads and Maritime.

Anyone who receives a proposed acquisition notice can lodge a claim for compensation with Roads and Maritime. Also, people who did not receive a proposed acquisition notice, but believe that they are entitled to compensation, can lodge a claim. When a person lodges a claim, they must use the prescribed claim form, and fill this out in the correct manner.

The Valuer General determines the amount of compensation that is offered. If agreed by Roads and Maritime and the owner, compensation may also involve other land or works.

A compensation notice is issued within 30 days after notification of the compulsory acquisition in the Government Gazette. This notice is issued whether or not a claim for compensation has been lodged. However, the Minister may approve a delay in the issue of a compensation notice by up to an extra 60 days. In the case of competing claims, Roads and Maritime may delay issuing a compensation notice until entitlement is resolved.

If the person lodging the claim accepts the amount of compensation being offered, they will need to fill out the necessary settlement papers and claim form. Once these are returned to Roads and Maritime, compensation will be paid within 28 days of receiving these papers. Interest will also be paid on the compensation from the date of acquisition to the date of payment.

If the person lodging the claim does not accept the amount of compensation offered, they are entitled to lodge an objection to the amount of compensation with the NSW Land and Environment Court. This objection should be lodged with the Court within 90 days of having been given the compensation notice. This ensures that the Court will hear the objection and determine the amount of compensation to be paid.

The claimant must then give Roads and Maritime notice of the institution of proceedings. Within 28 days of this notice being given, Roads and Maritime will pay the claimant 90% of the compensation offered in the compensation notice, if the claimant agrees to accept such payment. This payment is an advance on account of compensation. Roads and Maritime will also pay interest on the advance for the period from the date of the publication of the acquisition notice in the Government Gazette to the date that the advance is made. If the advance is not accepted by the claimant, the advance and interest will instead be deposited into a trust account pending the Court decision.

If the amount offered in the compensation notice has not been accepted within 90 days of the compensation notice being issued, and an objection has not been lodged with the Land and Environment Court, the offer is deemed under the Act to have been accepted.

When this situation occurs, Roads and Maritime will then deposit the amount offered plus interest into a trust account where it is held until it is accepted or until an objection is lodged with the Court. Money earned by the trust account deposit becomes part of the compensation.

If the compensation remains in a trust account for six years after the date of acquisition and a claim has still not been received, the compensation is paid to the State Treasurer and held in the Treasury until paid to an entitled claimant. Interest is not paid on the compensation for the time that it is held in the Treasury.

5.6 Advance payment
Once the acquisition notice has been published in the Government Gazette, Roads and Maritime advises affected owners of the acquisition. At this point in time, Roads and Maritime may offer an advance payment in return for vacant possession of the land, particularly to assist land owners who need to relocate their residence or business.
5.7 Ongoing occupation of the property that has been compulsorily acquired

This section describes the terms and conditions under which people who are lawfully entitled to occupy land, which has been compulsorily acquired by Roads and Maritime, are permitted to continue to occupy that land for a limited period of time.

When a person is lawfully occupying land that has been compulsorily acquired by Roads and Maritime, and is entitled to compensation, they are entitled to remain on the land, until:

• The compensation is paid
• An advance payment of not less than 90% of the amount offered in the compensation notice is paid
• Not less than 90% of the amount offered in the compensation notice is deposited into a trust account due to a deemed acceptance, court action, or competing claims whichever occurs first.

Furthermore, anyone who lawfully occupies a building as their main place of residence or place of business is entitled to continue to occupy the building for a period of three months after it has been compulsorily acquired. This is the case regardless of whether any of the abovementioned payments have been made. However, the Minister may shorten that period.

5.8 Terms of continued or ongoing occupation of the property

When Roads and Maritime acquires land by the compulsory acquisition process, it is entitled to charge rent for the land from the date of notification in the Government Gazette until possession is obtained. If there is no agreement between Roads and Maritime and the claimant regarding the terms of occupancy, then reasonable terms, including rent, are determined by Roads and Maritime. If there is unpaid rent, this can be offset against any compensation payable by Roads and Maritime.

People who are entitled to receive compensation are paid interest on the amount of compensation they are offered. This interest is calculated from the date the acquisition notice is published in the Government Gazette up until the date of payment of compensation.

Once one of the above scenarios has occurred, Roads and Maritime becomes entitled to ‘vacant possession’ of the land. If the occupant has not vacated the land Roads and Maritime is then entitled to direct the Sheriff to deliver possession of the land to Roads and Maritime. The Sheriff’s costs may then be recovered as a debt or deducted from any compensation payable.

5.9 Glossary

Vacant possession
Land that is no longer occupied by the person from whom the land has been acquired. This means that all belongings, animals, vehicles and other items have been removed from the land.

Proposed acquisition notice
A notice under section 11 of the Act of intention to acquire land by compulsory process.

Acquisition notice
A notice under section 19 of the Act, published in the Government Gazette, declaring that land described in the notice is acquired by Roads and Maritime by compulsory process.

Land and Environment Court
A specialist NSW environmental and planning Court which has the authority to hear claims for compensation arising from land acquisitions.

Compulsorily acquired
Land that has been acquired by acquisition notice in the Government Gazette.
6. Owner initiated acquisition (commonly called hardship acquisition)

In certain circumstances, some landowners may request Roads and Maritime to purchase all or some of the owners property that is designated for future acquisition.

For example, some owners may experience difficulty in selling their property if part or the total of the property is designated for future acquisition. If an owner is unsuccessful in attempting to sell this property and is experiencing some financial or personal hardship as a result of this, they can make a written application to Roads and Maritime requesting acquisition under the ‘hardship’ provisions of the Act.

To be eligible for consideration for ‘hardship’ acquisition a property must be designated for acquisition within the meaning of the Act. A property is designated for acquisition if:

• Roads and Maritime has, in connection with an application for development consent or building approval, given written notice that the property has been designated for road and future acquisition by Roads and Maritime; or

• The property is reserved in an environmental planning instrument for a public purpose and Roads and Maritime is specified as the body responsible for acquiring the property.

To meet the Act’s criteria for ‘hardship acquisition’ an owner must demonstrate:

• That it has become necessary to sell the property for pressing financial, personal, domestic or social reasons or to avoid a loss in income

• That their attempts to sell the property have been unsuccessful, because the land has been designated for future acquisition by Roads and Maritime.

If an owner meets the criteria for hardship to Roads and Maritime’s satisfaction, Roads and Maritime agrees to purchase the property. In effect Roads and Maritime becomes the purchaser that cannot be found in the market place.

Roads and Maritime prefers to complete hardship acquisitions by negotiated purchase. However, it is also possible to complete the acquisition by a compulsory acquisition process (see page 16), if this is the landowner’s preference.

When Roads and Maritime acquires a property under the hardship provisions of the Act, the payment for the property is based on the market value of the property as if it was unaffected by the road proposal.

No additional costs or items of compensation are included in the payment as the owner’s willingness to sell the property in the market place is taken as a preparedness to accept the normal costs associated with selling a property. It should be noted that in most circumstances an owner will not be responsible for a sales commission that would otherwise be payable if the property had been successfully marketed and sold through a real estate agent.
7. Owner initiated acquisition under the ‘preferred option’ policy

This section outlines circumstances in which Roads and Maritime may consider purchasing property where a preferred route option has indicated that (all or part of) the surface of a property may be required for roadwork. This policy does not apply to a property affected by a subsurface acquisition only. In these circumstances owners of property potentially affected by the future acquisition of land are permitted to request that Roads and Maritime acquire their property. In the process of considering the location of a new road, Roads and Maritime often examines several possible routes or design options and may then select a preferred option.

Once the location of this preferred option becomes public knowledge (through Roads and Maritime information or consultation), this could frustrate attempts by owners to sell their property, if it is potentially affected by the future acquisition of land.

Unless Roads and Maritime has made known that the proposal is its preferred option, then this policy does not apply.

Properties potentially affected by a preferred option proposal may not be classified as designated land because the project design has not been finalised or approved. Where the land is not designated for future acquisition, the owners of such properties cannot have their property acquired under the owner initiated acquisition provisions of the 


Roads and Maritime is, however, prepared to separately consider the purchase of property following a request from the owner. It should be noted that this process is at Roads and Maritime’s discretion, and is not under the Land Acquisition (Just Terms Compensation) Act 1991.

While Roads and Maritime is under no obligation to, it will, however, consider a request for acquisition if an owner can meet the hardship criteria specified on page 22. The acquisition is subject to the availability of Roads and Maritime funds. Each party is responsible for all their own costs. Purchase price is determined by an assessment of the market value of the property as if unaffected by the road proposal.

The market value is determined by a valuation undertaken by Roads and Maritime at its cost. A formal offer is issued to the owner including a purchase price.

Where an acquisition is proceeding on this basis, compulsory acquisition (see page 16) is not an option.

Where Roads and Maritime and the landowner do not agree on the purchase price, the following procedure is available:

a. The offer is withdrawn.

b. The owner chooses a valuer from a panel of independent valuers. These valuers are nominated by the Australian Property Institute and referred to the owner by Roads and Maritime for selection. In this way the valuer chosen is mutually acceptable to both the owner and Roads and Maritime.

c. The selected valuer acts as an independent expert and is commissioned by Roads and Maritime to carry out a valuation of the property.

This procedure is subject to the following conditions:

• Each party is to be responsible for the payment of 50% of the expert’s fee

• The expert’s decision will be binding on both parties if the owner wishes to proceed

• No further valuations will be obtained and the offer to acquire at the value determined by the expert will remain open for a period of three (3) months, after which time the offer will lapse.

If the offer lapses and then at a later date a decision is made to proceed with the project, Roads and Maritime will recommence negotiations to acquire the part of the property required for roadwork.

7.1 Glossary

Preferred option

Roads and Maritime may investigate various route options when planning for a new road project. After various studies have been undertaken Roads and Maritime may decide upon what is called a ‘preferred option’ for the project. However, this does not fix the final boundaries for a project.
Appendix A
Reimbursement of valuation fees – conditions of payment

The purpose of the reimbursement of valuation fees is to provide the owner with the opportunity to obtain an independent valuation report from a registered valuer. The role of the valuer is to provide a valuation report as to the owner’s entitlement to compensation in accordance with the Land Acquisition (Just Terms Compensation) Act 1991. In some cases the valuation will form the owner’s claim to Roads and Maritime and in other cases the valuation report may act to verify that the compensation offered by Roads and Maritime is fair and reasonable. Roads and Maritime requires that the valuer must act as an expert and not as an advocate for the owner. The valuation must comply with professional standards.

Roads and Maritime will reimburse valuation fees which are reasonably incurred in obtaining a valuation report subject to receipt of a tax invoice substantiating the amount claimed. The amount Roads and Maritime considers is appropriate to reasonably incur for a valuation report shall be in accordance with Appendix ‘B’ basic contents of valuation reports. The valuer must be prepared to support the valuation in discussions with Roads and Maritime’s valuers. It is expected that inclusive of Roads and Maritime’s fee allowance, the valuer will attend at least one meeting with Roads and Maritime valuers.

1. A copy of the report in its final form signed by the valuer is to be supplied with and in support of the asking price.

2. Reimbursement will take place upon settlement of the acquisition, however Roads and Maritime will, under direction from the land owner, make a payment of 50% of the fee directly to the valuer following the valuation report being made available to Roads and Maritime.

Roads and Maritime recommends that landowners engage a valuer who is prepared to provide a valuation report in accordance with the conditions outlined above and is also prepared to accept a fee equal to or less than the amount specified by Roads and Maritime for guidance purposes in the letter opening negotiations. If the valuer does not accept the conditions outlined above or provides a quotation above the amount indicated by Roads and Maritime, you should contact Roads and Maritime at the earliest opportunity to discuss the situation and provide a copy of the quotation and any other relevant information that supports the additional fees.

In the event that it is considered necessary to engage some other consultants such as accountants, town planners, surveyors, etc., prior approval in writing must be obtained if it is intended to seek reimbursement of these fees from Roads and Maritime.

Sheahan Bridge duplication, Gundagai, 2009
Appendix B

Basic content of valuation reports
1. Evidence that the valuation was undertaken by the valuer who signed the report and disclosed his/her registration number together with a statement that he/she is registered to value the subject class of property.
2. Date of valuation and date of inspection.
3. Areas/dimensions and legal particulars of the land. Any legal constraints which would restrict development should be noted.
4. A description of the improvements.
5. A site plan showing position of improvements in relation to boundaries.
6. A floor plan showing accurate areas, date and the north point.
7. Specific list of inclusions.
8. An outline of permitted land use under current relevant environmental planning instrument and/or local government codes.
9. A description of the class of land valued and the current or potential use of the land together with its location.
10. Details of the sales/rental information relied upon to arrive at the valuation, together with analysis and calculations.
12. Valuation rationale.
14. The rental value of the property.
15. Details of any people, companies or businesses in occupation of the property.

Appendix C

Selected extract from the Land Acquisition (Just Terms Compensation) Act 1991, as at February 2012

Relevant matters to be considered in determining amount of compensation.

55. In determining the amount of compensation to which a person is entitled, regard must be had to the following matters only (as assessed in accordance with this Division):

(a) the market value of the land on the date of its acquisition;

(b) any special value of the land to the person on the date of its acquisition;

(c) any loss attributable to severance;

(d) any loss attributable to disturbance;

(e) solatium;

(f) any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

Market value

56. (1) In this Act: ‘market value’ of land at any time means the amount that would have been paid for the land if it had been sold at that time by a willing but not anxious seller to a willing but not anxious buyer, disregarding (for the purpose of determining the amount that would have been paid):

(a) any increase or decrease in the value of the land caused by the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired; and

(b) any increase in the value of the land caused by the carrying out by the authority of the State, before the land is acquired, of improvements for the public purpose for which the land is to be acquired; and

(c) any increase in the value of the land caused by its use in a manner or for a purpose contrary to law.

(2) When assessing the market value of land for the purpose of paying compensation to a number of former owners of the land, the sum of the market values of each interest in the land must
not (except with the approval of the Minister responsible for the authority of the State) exceed the market value of the land at the date of acquisition.

Special value

57. In this Act:

‘special value’ of land means the financial value of any advantage, in addition to market value, to the person entitled to compensation which is incidental to the person’s use of the land.

Loss attributable to severance

58. In this Act:

‘Loss attributable to severance’ of land means the amount of any reduction in the market value of any other land of the person entitled to compensation which is caused by that other land being severed from other land of that person.

Loss attributable to disturbance

59. In this Act:

‘loss attributable to disturbance’ of land means any of the following:

(a) legal costs reasonably incurred by the persons entitled to compensation in connection with the compulsory acquisition of the land;

(b) valuation fees reasonably incurred by those persons in connection with the compulsory acquisition of the land;

(c) financial costs reasonably incurred in connection with the relocation of those persons (including legal costs but not including stamp duty or mortgage costs);

(d) stamp duty costs reasonably incurred (or that might reasonably be incurred) by those persons in connection with the purchase of land for relocation (but not exceeding the amount that would be incurred for the purchase of land of equivalent value to the land compulsorily acquired);

(e) financial costs reasonably incurred (or that might reasonably be incurred) by those persons in connection with the discharge of a mortgage and the execution of a new mortgage resulting from the relocation (but not exceeding the amount that would be incurred if the new mortgage secured the repayment of the balance owing in respect of the discharged mortgage);

(f) any other financial costs reasonably incurred (or that might reasonably be incurred), relating to the actual use of the land, as a direct and natural consequence of the acquisition.

Solatium

60. (1) In this Act:

‘solatium’ means compensation to a person for non-financial disadvantage resulting from the necessity of the person to relocate his or her principal place of residence as a result of the acquisition.

(2) The maximum amount of compensation in respect of solatium is:

(a) except as provided by paragraph (b) -$15,000; (see note at end of Extract) or

(b) such higher amount as may be notified by the Minister by notice published in the Gazette.

(3) In assessing the amount of compensation in respect of solatium, all relevant circumstances are to be taken into account, including:

(a) the interest in the land of the person entitled to compensation; and

(b) the length of time the person has resided on the land (and in particular whether the person is residing on the land temporarily or indefinitely); and

(c) the inconvenience likely to be suffered by the person because of his or her removal from the land; and

(d) the period after the acquisition of the land during which the person has been (or will be) allowed to remain in possession of the land.

(4) Compensation is payable in respect of solatium if the whole of the land is acquired or if any part of the land on which the residence is situated is acquired.

(5) Only one payment of compensation in respect of solatium is payable for land in separate occupation.

(6) However, if more than one family resides on the same land, a separate payment may be made in respect of each family if:

(a) the family resides in a separate dwelling-house; or

(b) the Minister responsible for the authority of the State approves of the payment.

(7) If separate payments of compensation are made, the maximum amount under subsection (2) applies to each payment, and not to the total payments.

Special provision relating to market value assessed on potential of land

61. If the market value of land is assessed on the basis that the land had potential to be used for a purpose other than that for which it is currently used, compensation is not payable in respect of:

(a) any financial advantage that would necessarily have been forgone in realising that potential; and

(b) any financial loss that would necessarily have been incurred in realising that potential.
Special provision relating to acquisition of easements or rights, tunnels etc.

62.

(1) If the land compulsorily acquired under this Act consists only of an easement, or right to use land, under the surface for the construction and maintenance of works (such as a tunnel, pipe or conduit for the conveyance of water, sewage or electrical cables), compensation is not payable except for actual damage done in the construction of the work or caused by the work.

(2) If land under the surface is compulsorily acquired under this Act for the purpose of constructing a tunnel, compensation is not payable (subject to subsection (1)) unless:

(a) the surface of the overlying soil is disturbed; or

(b) the support of that surface is destroyed or injuriously affected by the construction of the tunnel; or

(c) any mines or underground working in or adjacent to the land are thereby rendered unworkable or are injuriously affected.

(3) If the land compulsorily acquired under this Act consists of or includes an easement or right to use the surface of any land for the construction and maintenance of works (such as canals, drainage, stormwater channels, electrical cables, openings or ventilators), the easement or right is (unless the acquisition notice otherwise provides) taken to include a power, from time to time, to enter the land for the purpose of inspection and for carrying out of any additions, renewals or repairs. Compensation under this part is payable accordingly.

Note in respect to Solatium

In accordance with Section 60(2) (b) the maximum amount of solatium was increased to $26,260 effective from 1 April 2014. There may be further increases in the maximum amount of solatium from time to time and it is suggested that you speak with Roads and Maritime Property Acquisition staff for the latest information.