



New South Wales

# **State Environmental Planning Policy No 63—Major Transport Projects (Amendment No 4)**

under the

**Environmental Planning and Assessment Act 1979**

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning.

FRANK SARTOR, M.P.,  
Minister for Planning

**2006 No 55**

Clause 1

State Environmental Planning Policy No 63—Major Transport Projects  
(Amendment No 4)

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Transport Projects (Amendment No 4)**

under the

Environmental Planning and Assessment Act 1979

**1 Name of Policy**

This Policy is *State Environmental Planning Policy No 63—Major Transport Projects (Amendment No 4)*.

**2 Aims of Policy**

The aims of this Policy are to amend *State Environmental Planning Policy No 63—Major Transport Projects* to:

- (a) ensure that development does not impede the construction and operation of the City of Sydney section of the Redfern to Chatswood Rail Link, and in particular:
  - (i) to remove the requirement for development consent to preliminary geotechnical investigations and surveys for railway purposes, and
  - (ii) to require the concurrence of RailCorp to development applications that may affect land within rail corridors for that rail expansion project, and

**Note.** Preliminary geotechnical investigations and surveys for railway purposes will, as a consequence of the removal of the requirement for development consent under Part 4 of the Act, be subject to the environmental assessment approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.

- (b) make other consequential amendments.

**3 Land to which Policy applies**

This Policy applies to the land shown coloured green on the maps marked “Redfern to Chatswood Rail Link (City of Sydney section) Map No 1” and “Redfern to Chatswood Rail Link (City of Sydney section) Map No 2”, deposited in the head office of the Department.

**4 Amendment of State Environmental Planning Policy No 63—Major Transport Projects**

*State Environmental Planning Policy No 63—Major Transport Projects* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 4)

**[1] Clause 2 Aims and objectives of Policy**

Insert “or, if applicable, Part 3A of the Act” after “Part 5 of the Act” in clause 2 (1) (b).

**[2] Clause 2 (1) (e)**

Insert after clause 2 (1) (d):

- (e) to ensure that development does not impede the construction and operation of rail expansion projects, and in particular:
  - (i) to remove the requirement for development consent to preliminary geotechnical investigations and surveys for railway purposes, and
  - (ii) to require the concurrence of RailCorp to development applications that may affect land within specified rail corridors for those projects.

**[3] Clause 2 (2)**

Insert “or preliminary geotechnical investigations and surveys for railway purposes for a rail expansion project” after “major transport project”.

**[4] Clause 2 (2)**

Insert “or, if applicable, Part 3A of the Act” after “Part 5 of the Act”.

**[5] Clause 3 Definitions**

Insert in alphabetical order in clause 3 (1):

***Metropolitan Rail Expansion corridor*** means land shown coloured green, on the maps marked “Redfern to Chatswood Rail Link (City of Sydney section) Map No 1” and “Redfern to Chatswood Rail Link (City of Sydney section) Map No 2”, as deposited in the head office of the Department on the commencement of this definition.

***RailCorp*** means Rail Corporation New South Wales.

**[6] Clauses 10–13**

Insert after clause 9:

**10 Certain development in Metropolitan Rail Expansion corridors permissible without consent**

- (1) A person may carry out development on land within a Metropolitan Rail Expansion corridor without development consent for the purposes of preliminary geotechnical investigations and surveys for railway purposes.
- (2) In this clause, *development consent* includes any consent, licence or permission, or any form of authorisation, required by an environmental planning instrument (such as an approval to remove a tree that is subject to a tree preservation order).

**Note.** As referred to in clause 2 (2), preliminary geotechnical investigations and surveys for railway purposes will, as a consequence of the removal of the requirement for development consent under Part 4 of the Act, be subject to the environmental assessment approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.

**11 Referral of and concurrence to development applications affecting land within Metropolitan Rail Expansion corridors**

- (1) This clause applies to a development application for development on land within a Metropolitan Rail Expansion corridor that involves excavation, or other penetration of the ground, to a depth of 2 metres or more measured vertically from the best assessment of natural ground level.
- (2) The consent authority must not grant consent to development to which any such development application applies unless it obtains the concurrence of RailCorp.
- (3) In deciding whether to grant concurrence, RailCorp must take into consideration the likely effect of the development on:
  - (a) the practicability and cost of carrying out development for the purposes of the rail expansion project concerned on the land in the future, and
  - (b) without limiting paragraph (a), the structural integrity or safety of, or ability to operate, the project, and
  - (c) without limiting paragraph (a), the land acquisition costs and the cost of the construction, operation or maintenance of the project.

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**Note.** Division 2 of Part 6 of the *Environmental Planning and Assessment Regulation 2000* sets out requirements relating to concurrence provisions, including requirements for the period within which the concurrence authority must be notified of an application and for the making and notification of concurrence decisions.

**12 Notification by public authorities of development**

A public authority that proposes to carry out development of a kind referred to in clause 11 (1) for which concurrence is not required under clause 11 must notify RailCorp in writing of particulars of the proposed development.

**13 Review of land within Metropolitan Rail Expansion corridors**

The Minister must, in consultation with the Minister for Transport, as soon as practicable after 2 years after the commencement of this clause and every 2 years after that, review the Metropolitan Rail Expansion corridors to determine whether any of the land included in the corridors should be excluded from the operation of this Policy on the basis that it is no longer required for railway purposes.