



Environmental Planning and Assessment Amendment (ARTC Rail Infrastructure) Regulation 2004

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

CRAIG KNOWLES, M.P.,
Minister for Infrastructure and Planning

Explanatory note

The object of this Regulation is to amend the *Environmental Planning and Assessment Regulation 2000* for the following purposes:

- (a) to make the Australian Rail Track Corporation Ltd (*ARTC*) a public authority under the *Environmental Planning and Assessment Act 1979* for the purposes of being able to deal under Part 5 of the Act with activities for the purposes of rail infrastructure facilities permitted without consent by *State Environmental Planning Policy (ARTC Rail Infrastructure) 2004* or any other environmental planning instrument,
- (b) to require ARTC to prepare, and comply with, a Code approved by the Minister containing certain requirements for dealing with rail infrastructure activities for which an environmental impact statement is not required to be furnished or obtained,
- (c) to set out requirements for the Code,
- (d) to provide for transitional arrangements pending approval of the Code.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 4 (1), 112 and 157 (the general regulation-making power). This Regulation is also made under section 88R of the *Transport Administration Act 1988*.

2004 No 620

Clause 1

Environmental Planning and Assessment Amendment (ARTC Rail Infrastructure) Regulation 2004

**Environmental Planning and Assessment Amendment
(ARTC Rail Infrastructure) Regulation 2004**

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (ARTC Rail Infrastructure) Regulation 2004*.

2 Amendment of Environmental Planning and Assessment Regulation 2000

The *Environmental Planning and Assessment Regulation 2000* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] Clause 3 Definitions

Insert in alphabetical order:

Australian Rail Track Corporation Ltd means the Australian Rail Track Corporation Ltd (ACN 081 455 754).

[2] Part 14, Division 8

Insert after Division 7 of Part 14:

Division 8 Special provisions relating to Australian Rail Track Corporation Ltd

244D Definitions

In this Division:

activities for the purposes of ARTC rail infrastructure facilities includes activities (within the meaning of Part 5 of the Act) for any one or more of the following purposes:

- (a) development for the purposes of the construction, maintenance or operation of ARTC rail infrastructure facilities,
- (b) geotechnical investigations relating to ARTC rail infrastructure facilities,
- (c) environmental management and pollution control relating to ARTC rail infrastructure facilities,
- (d) access for the purpose of the construction, maintenance or operation of ARTC rail infrastructure facilities,
- (e) temporary construction sites and storage areas, including temporary batching plants, the storage of plant and equipment and the stockpiling of excavated material.

approved Code means a Code prepared by ARTC and approved by the Minister under this Division.

ARTC means the Australian Rail Track Corporation Ltd.

ARTC arrangement means a lease, licence or other arrangement under Part 8A of the *Transport Administration Act 1988*.

ARTC lease or licence means a lease or licence under Part 8A of the *Transport Administration Act 1988*.

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Schedule 1

Amendments

ARTC rail infrastructure facilities means rail infrastructure facilities owned by ARTC or a rail authority that are:

- (a) situated on land subject to an ARTC arrangement, or
- (b) subject to an ARTC arrangement.

rail infrastructure facilities has the same meaning as it has in Part 8A of the *Transport Administration Act 1988*.

244E Code required for rail infrastructure facilities except where environmental impact statement required

- (1) ARTC must comply with the requirements of an approved Code in respect of an activity for the purposes of ARTC rail infrastructure facilities for which it is not required to furnish or obtain an environmental impact statement.
- (2) However, ARTC is not required to comply with subclause (1) if the Minister gives written notice to ARTC that the activity is not required to be covered by, or dealt with in accordance with, an approved Code.
- (3) An exemption under subclause (2) may be made subject to conditions and may be revoked or varied at any time.
- (4) Nothing in this Division affects any obligation of ARTC, or a determining authority other than ARTC, to obtain or be furnished with an environmental impact statement in respect of an activity or a proposed activity under Part 5 of the Act.

244F Approved Code

- (1) ARTC must prepare a Code and make an application to the Director-General for approval of the Code.
- (2) The Director-General is to assess an application for approval of a Code and to provide a report to the Minister on any such application as soon as practicable after receiving an application.
- (3) The Minister may approve a Code prepared by ARTC for the purposes of this Part and may specify the period for which the approval is in force.
- (4) The Minister must give ARTC written notice of any approval or refusal to approve a Code. In the case of a refusal, the notice is to set out reasons for the refusal.
- (5) An approval may be made subject to conditions and may be revoked or varied at any time.

- (6) A Code approved for the purposes of this clause must contain the following matters:
- (a) classes of activities for the purposes of the application of the Code,
 - (b) assessment requirements for specified activities or classes of activities,
 - (c) procedures for carrying out assessments,
 - (d) protocols for consultation,
 - (e) requirements for consideration of any advice by the Director-General,
 - (f) requirements for consideration of environmental management procedures in relation to effects on the environment of activities,
 - (g) requirements for documentation,
 - (h) protocols for the availability of documentation to the Minister, the Director-General and the public,
 - (i) protocols for auditing the performance of and compliance with the Code,
 - (j) any other matters required by the Minister.

244G Transitional arrangements

- (1) This clause applies until a Code is approved under this Division or until the end of 6 months (or such further period as the Minister may approve) after the commencement of this Part, whichever occurs first.
- (2) For the purposes of section 112 (1) of the Act, an activity for the purposes of ARTC rail infrastructure facilities is a prescribed activity for which an environmental impact statement must be furnished or obtained.
- (3) However, an activity for those purposes is not a prescribed activity for the purposes of section 112 (1) of the Act, if the Minister gives written notice to ARTC that the activity is not an activity covered by subclause (2).
- (4) An exemption under subclause (3) may be made subject to conditions and may be revoked or varied at any time.

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Schedule 1 Amendments

[3] Clause 277 Public authorities

Insert at the end of the clause:

- (2) For the purposes of the definition of *public authority* in section 4 (1) of the Act, the Australian Rail Track Corporation Ltd is prescribed, but only so as to allow the corporation to be a determining authority within the meaning of Part 5 of the Act in relation to:
 - (a) development permitted without consent under *State Environmental Planning Policy (ARTC Rail Infrastructure) 2004*, and
 - (b) any other development for the purposes of rail infrastructure facilities within the meaning of that Policy that is permitted without consent under any other environmental planning instrument.

BY AUTHORITY
