

State Environmental Planning Policy No 63—Major Transport Projects (2001 EPI 45)

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New South Wales

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State Environmental Planning Policy No 63—Major Transport Projects (2001 EPI 45)



New South Wales

1 Name of Policy

This Policy is *State Environmental Planning Policy No 63—Major Transport Projects*.

2 Aims and objectives of Policy

- (1) The aims and objectives of this Policy are as follows:
 - (a) to facilitate the following major transport projects:
 - (i) Parramatta Rail Link,
 - (ii) Liverpool–Parramatta Transitway,
 - (iii) Cross City Tunnel,
 - (iv) Bondi Beach Rail Link,
 - (b) to co-ordinate the orderly and economic development of land by providing for the assessment of those projects under Part 5 of the Act,
 - (c) to require development applications involving excavation, or other penetration of the ground, that may affect any of those projects to be referred for comment to the proponent of the project,
 - (d) to suspend the operation of certain laws for the purpose of enabling the carrying out of those projects.
- (2) This Policy provides that development for the purpose of a major transport project to which this Policy applies may be carried out without development consent. Consequently, that development will be assessed under Part 5 of the Act.

3 Definitions

- (1) In this Policy:

extractive material means sand, gravel, clay, turf, soil, rock, stone, sediments, mud,

silt or similar substances, including such substances obtained by dredging.

major transport project means a project described in Schedule 1.

the Act means the *Environmental Planning and Assessment Act 1979*.

(2) Notes in this Policy and the table of contents do not form part of this Policy.

4 Where Policy applies

This Policy applies to the local government areas of Auburn, Baulkham Hills, Fairfield City, Holroyd City, Hornsby, Ku-ring-gai, Lane Cove, Liverpool City, Parramatta City, Ryde City, South Sydney City, Sydney City, Waverley, Willoughby City and Woollahra.

5 Relationship to other environmental planning instruments

In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency, subject to section 36 (4) of the Act.

6 Development permissible without development consent

- (1) A person may carry out development for the purposes of a major transport project without development consent.
- (2) A person may carry out development for the purpose of winning or obtaining extractive material without development consent if the extractive material is won or obtained as part of the construction work for a major transport project.
- (3) A person may carry out the following development without development consent if the development is necessary for or incidental to the carrying out of development for the purposes of a major transport project:
 - (a) the clearing or removal of vegetation and any cutting, lopping, topping, ringbarking, pruning, removal or destruction of trees,
 - (b) the modification, demolition, removal or alteration of any item listed or defined as an item of environmental heritage in an environmental planning instrument,
 - (c) any development in a heritage conservation area as defined in an environmental planning instrument.
- (4) 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 a consequence of this clause, the effect on the environment of the development for the purposes of a major transport project described in Schedule 1 (including the winning or obtaining of extractive material as part of the

construction work for the project) will be subject to assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*. This clause (including subclause (3)) applies only to remove requirements for consent under planning instruments made under that Act and does not affect any requirements that may apply under the *National Parks and Wildlife Act 1974*, the *Native Vegetation Conservation Act 1997*, the *Rivers and Foreshores Improvement Act 1948* or the *Heritage Act 1977*.

7 Development for shops or other commercial premises excluded from the application of this Policy

This Policy does not authorise development for the purposes of shops or other commercial premises to be carried out without development consent.

8 Referral of development applications likely to affect major transport projects

(1) This clause applies to a development application for development that involves excavation, or other penetration of the ground, to the relevant depth on:

- (a) land in the transport corridor of a major transport project, or
- (b) land that is the site of a project facility outside any such transport corridor, being a transport corridor or project facility that has been notified in writing by the proponent of the project to the consent authority for the development application.

(2) For the purposes of this clause:

- (a) the **relevant depth** is:
 - (i) in the case of land in the City of Parramatta—2 metres or more measured vertically from the best assessment of natural ground level, or
 - (ii) in any other case—3 metres or more measured vertically from the best assessment of natural ground level, and
- (b) the **transport corridor** of a major transport project is the land within 25 metres (measured horizontally) of the centreline of:
 - (i) the alignment (or proposed alignment) of the project, or
 - (ii) each alignment (or proposed alignment) of the project for any section having a diverging dual carriageway or duplicated track that do not run immediately side by side, or
 - (iii) any divergent alignment (or proposed divergent alignment) of the project, such as a ventilation tunnel, and
- (c) the **alignment** of a major transport project is the path (or proposed path) of the project, and
- (d) a **project facility** is any of the following facilities (or proposed facilities) that is incidental or ancillary to the construction or operation of a major transport project:

- (i) structures for ventilation,
 - (ii) structures for access,
 - (iii) structures for emergency services,
 - (iv) structures for communications and other utility services,
 - (v) stub tunnels and sidings, and
- (e) a **proposed** project facility or alignment in respect of a major transport project is a facility or alignment:
- (i) proposed in the environmental impact statement for the project (unless subparagraph (ii) or (iii) applies), or
 - (ii) proposed in the application for the Minister's approval of the project under Division 4 of Part 5 of the Act (unless subparagraph (iii) applies), or
 - (iii) so approved by the Minister.
- (3) Within 2 days after receiving a copy of a development application to which this clause applies, the consent authority must:
- (a) send a copy of the development application to the proponent of the major transport project, and
 - (b) notify that proponent in writing of the date it received the development application.
- (4) The consent authority must not grant development consent to the development application unless it has taken into consideration any comments it has received from the proponent of the major transport project within 21 days after the proponent received a copy of the development application from the consent authority.
- (5) This clause continues to apply to a major transport project after its construction.
- (6) This clause ceases to apply to a major transport project if it is not approved by the Minister under Division 4 of Part 5 of the Act within 2 years after the environment impact statement for the project is first exhibited. However, this clause applies again to the project:
- (a) if the project is later approved by the Minister or the approval of the Minister is again sought, or
 - (b) if another environment impact statement for the project is exhibited.

9 Suspension of certain laws

- (1) For the purpose of enabling development referred to in clause 6 to be carried out in

accordance with this Policy:

(a) items 1 and 2 of Part A, Part B, Part C, item 1 of Part D, Part E and item 1 of Part F of the Table to section 68 of the *Local Government Act 1993*, and

(b) sections 86, 87 and 91 (b) of the *Public Works Act 1912*,

to the extent necessary to serve that purpose, do not apply to the development.

(2) In accordance with section 28 of the Act, before the making of this Policy, the Governor approved the making of this clause on the recommendation of the Minister for Urban Affairs and Planning:

(a) in the case of subclause (1) (a), with the concurrence in writing of the Minister administering the *Local Government Act 1993*, and

(b) in the case of subclause (1) (b), with the concurrence in writing of the Minister administering the *Public Works Act 1912*.

Schedule 1 Major transport projects to which Policy applies

(Clause 3)

1 Parramatta Rail Link

A heavy railway from Parramatta to Chatswood. The project would commence in the general vicinity of the Main Western Railway line west of Parramatta Station and would then proceed via Parramatta, Camellia, Carlingford, Epping, the vicinity of Macquarie University, the vicinity of Delhi Road, the vicinity of the University of Technology Ku-ring-gai Campus to Chatswood (including a bridge over or a tunnel under the Lane Cove River). The project would include all associated or ancillary works, activities, uses, structures and facilities, including (but not limited to) works, activities, uses, structures or facilities for the following:

(a) geotechnical investigations for the project,

(b) construction (including any demolition works), maintenance or operation of the project,

(c) access for construction, maintenance or operation of the project, including access for pedestrians, public transport and vehicles,

(d) environmental management and pollution control,

(e) stations, including car parks, bus interchanges, public amenities and intermodal facilities.

2 Liverpool-Parramatta Transitway

A passenger transport system between Liverpool and Parramatta via Bonnyrigg, Wetherill

Park, Smithfield and Wentworthville. The project would be made up of bus-only road and bus priority lanes on existing roads, and all associated on-ramps, off-ramps, interchanges, intersections, bridges, tunnels and culverts. The project would include all associated or ancillary works, activities, uses, structures or facilities, including (but not limited to) works, activities, uses, structures or facilities for the following:

- (a) geotechnical investigations for the project,
- (b) construction (including any demolition works), maintenance or operation of the project,
- (c) access for construction, maintenance or operation of the project, including access for pedestrians, public transport and vehicles,
- (d) environmental management and pollution control,
- (e) stations, including car parks, bus interchanges, public amenities and intermodal facilities.

3 Cross City Tunnel

A tollway comprising twin two-lane tunnels from William Street, Sydney, near the western end of the Kings Cross Tunnel to the Western Distributor near Harbour Street. The project would include all associated or ancillary works, activities, uses, structures or facilities, including (but not limited to) works, activities, uses, structures or facilities for the following:

- (a) geotechnical investigations for the project,
- (b) construction (including any demolition works), maintenance or operation of the project,
- (c) access for construction, maintenance or operation of the project, including access for pedestrians, public transport and vehicles,
- (d) environmental management and pollution control,
- (e) tolling facilities.

4 Bondi Beach Rail Link

A heavy railway extension from Bondi Junction Station to Bondi Beach. The project would include all associated or ancillary works, activities, uses, structures or facilities, including (but not limited to) works, activities, uses, structures or facilities for the following:

- (a) geotechnical investigations for the project,
- (b) construction (including any demolition works), maintenance or operation of the project,

- (c) access for construction, maintenance or operation of the project, including access for pedestrians, public transport and vehicles,
- (d) environmental management and pollution control,
- (e) stations, including car parks, bus interchanges, public amenities and intermodal facilities.