

State Environmental Planning Policy (ARTC Rail Infrastructure) 2004

[2004-624]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

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State Environmental Planning Policy (ARTC Rail Infrastructure) 2004



New South Wales

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 Infrastructure and Planning.

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

1 Name of Policy

This Policy is *State Environmental Planning Policy (ARTC Rail Infrastructure) 2004*.

2 Aims of Policy

- (1) The aim of this Policy is to facilitate development for the purposes of rail infrastructure facilities that are subject to arrangements between the Australian Rail Track Corporation Ltd and State rail authorities.
- (2) This Policy provides that development for the purposes of certain rail infrastructure facilities 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:

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

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

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.

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).

development for the purposes of ARTC rail infrastructure facilities includes development 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.

extractive material means sand, clay, gravel, turf, soil, rock, stone, sediments, mud, silt or similar substances, including substances obtained by dredging.

rail authority means the State Rail Authority, Rail Infrastructure Corporation or RailCorp.

rail infrastructure facilities means any of the following facilities:

- (a) railway track and associated track structures, cuttings, drainage works, track support earthworks and fences, tunnels, bridges, level crossings and service roads,
- (b) signalling systems, train control systems, communication systems, overhead power supply systems, power and communication cables,
- (c) rolling stock maintenance facilities, maintenance depots, storage yards,
- (d) platforms, stations (other than buildings used for residential, retail or commercial purposes unrelated to railway purposes), associated car parks, bus interchanges, public amenities, station access facilities (other than facilities in a building not part of a railway station),
- (e) freight centres or freight depots.

the Act means the [Environmental Planning and Assessment Act 1979](#).

(2) Notes included in this Policy do not form part of this Policy.

4 Land to which Policy applies

This Policy applies to the State.

5 Relationship with other environmental planning instruments

- (1) 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 and subclause (2).
- (2) Nothing in this Policy permits development to be carried out without consent on land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies, other than development that:
 - (a) is or is part of a project listed in Schedule 1, or
 - (b) is part of a project consisting substantially of activities to which Part 5 of the Act applies and for which an environmental impact statement is required under that Part.

6 ARTC rail infrastructure facilities that are permitted without development consent

Development may be carried out for the purposes of ARTC rail infrastructure facilities without development consent if:

- (a) the whole or any part of the development is permitted with or without development consent by any other environmental planning instrument and it is not development to which clause 7 applies, or
- (b) the whole or any part of the development would be permitted with or without development consent under any other environmental planning instrument if ARTC were a public authority for the purposes of that environmental planning instrument and it is not development to which clause 7 applies, or
- (c) the development is or is part of a project listed in Schedule 1, or
- (d) it is for the purposes of the maintenance or operation of ARTC rail infrastructure facilities permitted without consent under this Policy.

Note—

The effect of this provision and clauses 7 (2) and (3) and 8 is that development for the purposes of any such rail infrastructure facilities or necessary or incidental purposes becomes an activity that is governed by Part 5 of the Act. ARTC is prescribed under the regulations as a public authority for the purposes of that Part. This Policy does not affect the operation of any other environmental planning instruments that provide that development for the purposes of rail infrastructure facilities is permissible without consent. That development also, by operation of those instruments, becomes an activity governed by Part 5 of the Act.

7 Development for the purposes of railway sidings, freight centres or freight depots

(1) This clause applies to development:

- (a) that is for the purposes of ARTC rail infrastructure facilities that consist of railway sidings (not being sidings on land subject to an ARTC arrangement), freight centres or freight depots and that is permitted with development consent or prohibited under another environmental planning instrument, and
- (b) that is not development to which clause 6 (c) or (d) applies.

(2) Development to which this clause applies is permissible without development consent if it is part of a project consisting substantially of activities to which Part 5 of the Act applies and for which an environmental impact statement is required under that Part.

(3) Any other development to which this clause applies that would otherwise be prohibited and that is to be carried out on land zoned for industrial purposes under an environmental planning instrument may be carried out with development consent.

(4) The consent authority for development permitted with consent under this clause is the council of the local government area in which the land on which the development is to be carried out is situated, except where otherwise provided by or under the Act.

8 Incidental development permitted without development consent

The following development may be carried out without development consent if the development is necessary for or incidental to the carrying out of development permitted without consent under this Policy or the carrying out of development for the purposes of rail infrastructure activities that is permitted without development consent under any other environmental planning instrument:

- (a) the clearing or removal of vegetation and any cutting, lopping, topping, ringbarking, pruning, removal or destruction of trees,
- (b) the winning or obtaining of extractive material if the extractive material is won or obtained on land subject to an ARTC arrangement as part of the construction work or maintenance activities for ARTC rail infrastructure facilities,
- (c) the modification, demolition, removal or alteration of any item listed or defined as an item of environmental heritage in an environmental planning instrument.

Schedule 1 Development for rail infrastructure facilities permitted without consent

(Clause 6 (1) (c))

1 Southern Sydney Freight line

Development for the purposes of the Southern Sydney Freight line, being a rail track

adjacent to the Main South line between east of Sefton Park junction and south of Macarthur via Cabramatta, and all infrastructure and services that form part of the new line.