

Warrell Creek to Urunga Pacific Highway Upgrade

Response to Covid19

Transport for NSW | May 2020

Document control

Report name	Warrell Creek to Urunga Pacific Highway Upgrade Response to Covid19
Document version	Revision 01
Date	May 2020



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**Appendix 1: Environmental Planning and Assessment (COVID-19 Development—
Infrastructure Construction Work Days) Order 2020**

Appendix 2: Frequently Asked Questions



1. Introduction

On Thursday 9 April 2020, the NSW Government gazetted the Environmental Planning and Assessment (COVID-19 Development—Infrastructure Construction Work Days) Order 2020 (refer Appendix 1). This was accompanied by a Frequently Asked Questions information sheet (refer Appendix 2).

The FAQs advise that all proponents of development falling under::

- Part 4 of the Environmental Planning and Assessment Act 1979 including State Significant Development and complying development
- already approved State Significant Infrastructure projects (including Critical State Significant Infrastructure)
- other public authority activities already assessed under Part 5 of the Environmental Planning and Assessment Act 1979
- drought relief projects authorised under the Water Supply (Critical Needs) Act 2019

are required to prepare a 'Response to COVID-19'. This should identify all the necessary changes required in response to the current circumstances and what measures they are putting in place to make sure they achieve the same objectives as set out in conditions of approval/consent and relevant post approval documentation. A project's Response to COVID-19 should be submitted to the Department of Planning Industry and Environment for information prior to any alternative measures being undertaken. It should also be communicated on each project website, so communities are kept informed.

For the purposes of the Order, the Warrell Creek to Urunga (WC2U) Pacific Highway Upgrade was declared to be critical infrastructure under section 75C of the Environmental Planning and Assessment Act 1979, by virtue of an Order made by the then Minister for Planning and gazetted on 5 December 2006. The Order was amended by the then Minister for Planning on 3 December 2010 and gazetted on 10 December 2010.

Therefore the WC2U project is required to prepare, submit and publish a Response to COVID-19. It is important to note that the project Construction Completion has been achieved however there are remaining works on the Warrell Creek to Nambucca Section of the project that involve defect repairs where agreed and the final rehabilitation of TfNSW residual land including those parcels used as temporary stockpiles.

1.1. Purpose of this report

This report has been prepared to fulfil the requirements of COVID-19 Development - Infrastructure Construction Work Days Order 2020 and the accompanying FAQs. Section two outlines changes in response to COVID-19 operational restrictions and measures implemented by TfNSW to meet the project's conditions of approval and post approval documentation.

2. Changes to operation

In general, the principal impact to the project is the management and monitoring of appropriate social distancing and hygiene protocols for personnel carrying out work on site. This includes

liaising with the community, including any private property access. Any procedures require community consultation will now include the option for alternative consultation methods such as telephone calls or video conferencing as an alternative to face to face meetings.

Table 1 identifies:

1. project conditions of approval that may require changes
2. measures being put in place to achieve the same objectives as set out in the condition of approval and relevant post approval documentation.

Table 1: Response to COVID19

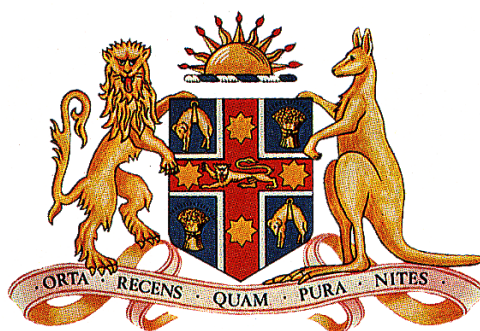
MCoA	Requirement	Mitigation Measures
B10	<p>Prior to the commencement of any construction work that would result in the disturbance of any native vegetation, the Proponent shall develop an Ecological Monitoring Program to monitor the effectiveness of the mitigation measures implemented as part of the project. The program shall be developed in consultation with EPA and prepared by a suitably qualified ecologist and shall include but not necessarily be limited to:</p> <ul style="list-style-type: none"> a an adaptive monitoring program to assess the effectiveness of the mitigation measures identified in condition B1 to B6, B7(b), B7(d), B21(c) and B31(b) and allow amendment to the measures if necessary. The monitoring program shall nominate appropriate and justified monitoring periods and performance targets against which effectiveness will be measured. The monitoring shall include operational road kill surveys to assess the effectiveness of fauna crossing and exclusion fencing implemented as part of the project; b mechanism for developing additional monitoring protocols to assess the effectiveness of any additional mitigation measures implemented to address additional impacts in the case of design amendments or unexpected threatened species finds during construction (where these additional impacts are generally consistent with the biodiversity impacts identified for the project in the documents listed under condition A1; c monitoring shall be undertaken during construction (for construction-related impacts) and from opening of the project to traffic (for operation/ongoing impacts) until such time as the effectiveness of mitigation measures can be demonstrated to have been achieved over a minimum of five successive monitoring periods (i.e. 5 years) after opening of the project to traffic, unless otherwise agreed to by the Director General. The monitoring period may be reduced with the agreement of the Director General in consultation with EPA, depending on the outcomes of the monitoring; d provision for the assessment of the data to identify changes to habitat usage and if this can be attributed to the project; e details of contingency measures that would be implemented in the event of changes to habitat usage patterns directly attributable to the construction or operation of the project; and 	<p>Potentially changes to ecological monitoring program.</p> <p>The approved road kill monitoring methodology included in the approved ecological monitoring program requires a two-person team vehicle being driven along the entire length of the highway Warrell Creek to Nambucca Heads stage of the project.</p> <p>As part of the WHS response to COVID19 social distancing by the project ecologist undertaking the road kill monitoring, only one person is permitted in work vehicles at any one time, unless they are of the same family / house hold. If for any reason that only a single person is available for road kill monitoring, the following measures are in place to achieve the same objectives:</p> <ul style="list-style-type: none"> • the driver will drive at a safe slower speed to enable road kill to be observed • the driver will inspect the entire project length twice rather than once to maximise the opportunities to observe road kill • the driver will undertake all other monitoring responsibilities as per the approved plan.

MCoA	Requirement	Mitigation Measures
	<p>f provision for annual reporting of monitoring results to the Director General and EPA, or as otherwise agreed by those agencies.</p> <p>The Program shall be submitted for the Director General's approval prior to the commencement of any construction work that would result in the disturbance of any native vegetation. Unless otherwise agreed, the Program shall be submitted to the Director General for approval no later than 6 weeks prior to the commencement of any construction that would result in the disturbance of any native vegetation.</p>	
B21	<p>Prior to the commencement of construction (unless otherwise agreed to by the Director General), the Proponent shall prepare and implement an Urban Design and Landscape Plan for the project. The plan shall be prepared in consultation with the relevant Council and shall present an integrated urban design for the project. The plan shall include, but not necessarily be limited to:</p> <ul style="list-style-type: none"> a a principle goal of achieving the urban design objectives outlined in Section 13.4 of Volume 1 of the Environmental Assessment; b sections and perspective sketches; c locations along the project corridor directly or indirectly impacted by the construction of the project (e.g. temporary ancillary facilities, access tracks, watercourse crossings, etc.) which are proposed to be actively rehabilitated, regenerated and/ or revegetated to promote biodiversity outcomes and visual integration. Details of species to be replanted/ revegetated shall be provided,, including their appropriateness to the area and considering existing vegetation and habitat for threatened species; d location of existing vegetation and proposed landscaping, including use of indigenous and endemic species where possible. The plan shall assess the visual screening effects of existing vegetation and the proposed landscaping at residences and businesses, which have been identified as likely to experience high visual impact as a result of the project. Where high residual impacts are identified to remain (including in relation to headlight intrusion), the plan shall in consultation with affected receptors, identify opportunities for providing at-receptor landscaping to further screen views of the project. Where agreed to with the landowner, these measures shall be implemented during the construction of the project; 	<p>Potentially changes to UDLP Landscape Management Plan implementation.</p> <p>The UPLD (and its reference to the TfNSW specification R178) requires a Landscape Maintenance Plan. The approved plan requires monthly site meetings and group inspections for progress landscape maintenance and priority issues.</p> <p>A number of the members of the transport/contractor Landscape Maintenance team including the project verifier, the TfNSW representative and some of the landscaping contact staff live remotely from the project and may not be able to attend site inspections and meetings due to travel restrictions.</p> <p>Measures that have been put in place to achieve the same objectives include:</p> <ul style="list-style-type: none"> • Arranging group meetings through remote MS Teams • Staggering separate site inspections for the contractor, the project verifier and TfNSW. • Preparing detailed inspection report and meeting minutes to follow agreed actions more closely during the month. • Regional and on site TfNSW staff will tasked with surveillance operations to inspect works on the ground <p>Priority works for the next 6 months were agreed prior to the commencement of the maintenance period. Transport is confident these measures will achieve the same objectives as set out in Landscape Maintenance Plan and UPLD during the current restrictions.</p> <p>Pacifico (the TfNSW construction contractor responsible for the works) has</p>

MCoA	Requirement	Mitigation Measures
	<ul style="list-style-type: none"> e strategies for progressive landscaping incorporating other environmental controls such as erosion and sedimentation controls, drainage, noise mitigation; f location and design treatments for built elements including retaining walls, cuttings, bridges, and noise barriers; g location and design treatments for any associated footpaths and cyclist elements, and other features such as seating, lighting (in accordance with AS 4282-1997 Control of the Obtrusive Effect of Outdoor Lighting), fencing, and signs; h evidence of consultation with the community on the proposed urban design and landscape measures prior to its finalisation; and i monitoring and maintenance procedures for the built elements and landscaping (including weed control) including responsibilities, timing and duration and contingencies where landscaping measures fail. j The Plan shall be submitted for the approval of the Director General prior to commencement of construction of the project. The Plan may be submitted in stages to suit the staged construction program of the project. 	<p>engaged a Queensland consultancy to undertake certain soil amelioration works. These works will be delayed until an alternative contractor can be procured. This delay is not expected to impact on the objective of the plans.</p>
E1	<p>Within 12 months of the commencement of operation of the project, or as otherwise agreed by the Director General, the Proponent shall undertake operational noise monitoring to compare actual noise performance of the project against noise performance predicted in the review of noise mitigation measures required by condition C12 and prepare an Operational Noise Report to document this monitoring. The Report shall include, but not necessarily be limited to:</p> <ul style="list-style-type: none"> a noise monitoring to assess compliance with the operational noise levels predicted in the review of operational noise mitigation measures required under condition C12 and documents specified under condition A1 of this approval; b a review of the operational noise levels in terms of criteria and noise goals established in the Environmental Criteria for Road Traffic Noise (EPA, 1999); c methodology, location and frequency of noise monitoring undertaken, including monitoring sites at which project noise levels are ascertained, with specific reference to locations indicative of impacts on sensitive receivers; 	<p>Potential changes to implementation to Operational Noise Report recommendations and community consultation.</p> <p>Measures that have been put in place to achieve the same objectives include:</p> <p><u>WC2NH Project.</u></p> <p>At the time of this report, The WC2NH Operational Noise Report is under review by the EPA and DPIE. Once the report has been accepted by DPIE/EPA, TfNSW has agreed to meet face to face with a number of residents to discuss the report findings. Once the Operational Noise Report has been reviewed by EPA and DPIE and published, TfNSW officers will contact the residents that already have or will request face to face meetings by phone. TfNSW will offer to meet at a later stage or discuss the report using video technology.</p> <p><u>2NH Project.</u></p> <p>TfNSW is working with the Sydney based building company responsible for rectification works to identify a suitable local qualified building company to</p>

MCoA	Requirement	Mitigation Measures
	<p>d details of any complaints and enquiries received in relation to operational noise generated by the project between the date of commencement of operation and the date the report was prepared;</p> <p>e any required recalibrations of the noise model taking into consideration factors such as actual traffic numbers and proportions;</p> <p>f an assessment of the performance and effectiveness of applied noise mitigation measures together with a review and if necessary, reassessment of all feasible and reasonable mitigation measures; and</p> <p>g identification of any additional feasible and reasonable measures to those identified in the review of noise mitigation measures required by condition C12, that would be implemented with the objective of meeting the criteria outlined in the Environmental Criteria for Road Traffic Noise (EPA, 1999), when these measures would be implemented and how their effectiveness would be measured and reported to the Director General and the EPA.</p> <p>The Proponent shall provide the Director General and the EPA with a copy of the Operational Noise Report within 60 days of completing the operational noise monitoring referred to a) above and no later than 12 months after the date of the commencement of operation, or as otherwise agreed by the Director General.</p>	<p>subcontract to undertake the works. This will eliminate the travel of Sydney based builders to the region.</p> <p>At the time of this report, one resident has requested repairs to defective at house treatments. This will require assessments by building companies and in house works.</p>

Appendix 1: Environmental Planning and Assessment (COVID-19 Development— Infrastructure Construction Work Days) Order 2020



Government Gazette

of the State of

New South Wales

Number 75

Thursday, 9 April 2020

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, non-government and other notices.

Each notice in the Government Gazette has a unique reference number that appears in parentheses at the end of the notice and can be used as a reference for that notice (for example, (n2019-14)).

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To submit a notice for gazettal, see Gazette Information.

Environmental Planning and Assessment (COVID-19 Development—Infrastructure Construction Work Days) Order 2020

I, the Hon. Rob Stokes, MP, the Minister for Planning and Public Spaces, make the following Order under section 10.17 of the *Environmental Planning and Assessment Act 1979*.

I am satisfied this Order is necessary to protect the health, safety and welfare of members of the public during the COVID-19 pandemic, as it will facilitate social distancing by spreading infrastructure construction work over more days in a week.

I have consulted with the Minister for Health and Medical Research in relation to the making of this Order.

1 Name of Order

This Order is the *Environmental Planning and Assessment (COVID-19 Development—Infrastructure Construction Work Days) Order 2020*.

2 Commencement

This Order commences on the day it is published in the Gazette and remains in force for the prescribed period within the meaning of section 10.17 of the Act.

3 Definitions

(1) In this Order—

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

Note. The Act and the Interpretation Act 1987 contain definitions and other provisions that affect the interpretation and application of this Order.

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

4 Relationship with orders under the *Public Health Act 2010*

To the extent that this Order is inconsistent with an order under Part 2 of the *Public Health Act 2010*, the order under that Part prevails.

5 Development authorised by this Order

The development specified for this Order may be carried out without the need for any approval under the Act if it complies with the conditions specified for the development.

6 Infrastructure construction work days

- (1) The carrying out of any building work or work, or the demolition of a building or work, on a Saturday, Sunday or public holiday is development specified for this Order.
- (2) The conditions specified for the development are that the development must—
 - (a) must be the subject of an approval granted before the commencement of this Order, and
 - (b) must comply with all conditions of the approval other than any condition that restricts the hours of work or operation on a Saturday, Sunday or public holiday, and
 - (c) for work or operation on a Saturday, Sunday or public holiday—
 - (i) comply with the conditions of the approval that restrict the hours of work or operation on any other day as if the conditions applied to work or operation on a Saturday, Sunday or public holiday, and
 - (ii) not involve the carrying out of rock breaking, rock hammering, sheet piling, pile driving or similar activities during the hours of work or operation that would not be permitted but for this Order, and
 - (iii) take all feasible and reasonable measures to minimise noise.

- (3) In this clause—

approval means:

- (a) a State significant infrastructure approval,
- (b) an approval within the meaning of Division 5.1 of the Act that is granted in relation to an activity the subject of environmental assessment under Division 5.1 of the Act, and
- (c) an authorisation under Part 3 of the *Water Supply (Critical Needs) Act 2019*.

condition includes a limitation on the carrying out of an activity required by the determining authority when granting an approval in relation to the activity.

7 Suspension of regulatory instruments

- (1) For the purpose of enabling development to be carried out in accordance with clause 6 of this Order, the following regulatory instruments do not apply to the extent necessary to serve that purpose:
- (a) any agreement, covenant or other similar instrument that restricts the carrying out of that development, and
 - (b) an environment protection licence under the *Protection of the Environment Operations Act 1997* that was issued before the commencement of this Order.

Note. All other conditions of an environment protection licence continue to apply.

The Hon. Rob Stokes, MP
Minister for Planning and Public Spaces

Reference number:(n2020-975)

Appendix 2: Frequently Asked Questions

April 2020

FAQ for Ministerial Orders: COVID-19 Development – Construction Workdays

What construction activities can now occur on weekends and public holidays?

Construction work that was approved to occur during standard workdays (typically Monday to Friday, and for some projects part of Saturday) is now approved to also occur on Saturday, Sunday and public holidays. Exception to this include activities such as rock breaking, rock hammering, sheet piling, pile driving or similar noisy activities unless an existing consent or approval already allows these works to occur on any of the extended days. Any non-standard additional out of hours work will need to be approved as normal. Proponents and applicants should use a cautionary approach when considering what may constitute a similar noisy activity.

Compliance with the Orders will be monitored.

What development types do these extended hours apply to?

They apply to all development falling under:

- Part 4 of the Environmental Planning and Assessment Act 1979 including State Significant Development and complying development
- already approved State Significant Infrastructure projects (including Critical State Significant Infrastructure)
- other public authority activities already assessed under Part 5 of the Environmental Planning and Assessment Act 1979
- drought relief projects authorised under the Water Supply (Critical Needs) Act 2019

The Orders apply to demolition, building and construction activities for projects.

For SSI/SSD - Do I need to update my post approval documentation to reflect these changes?

No, post approval documentation will not need to be updated. However, proponents are required to prepare a 'Response to COVID-19'. This should identify all the necessary changes required in response to the current circumstances and what measures they are putting in place to make sure they achieve the same objectives as set out in conditions of approval/consent and relevant post approval documentation. A project's Response to COVID-19 should be submitted to the Department for information prior to any alternative measures being undertaken. It should also be communicated on each project website, so communities are kept informed.

What background noise levels will be used for work on Saturday, Sunday and Public Holidays?

Background noise levels for Saturdays, Sundays and Public Holidays will be taken from those modelled during the preparation of the Statement of Environmental Effects or the Environmental Impact Statement or in the development of any post approval documentation.

What should proponents and applicants be aware of during this period?

Proponents and applicants must be mindful that background noise levels are likely to be reduced. With residents working from home, children off school and a heightened sense of anxiety in the community, they need to consider what additional measures they can take to reduce noise levels, including regular communication with their surrounding communities on their activities.

Any direction provided by NSW Health takes priority. It is also important that proponents and applicants can demonstrate that the intent of the conditions and the commitments made in the Environmental Impact Statement and post-approval documents are continuing to be achieved.

My project requires a changes of work hours to respond to COVID19. Do I still need to seek Out of Hours works approval?

Existing conditions of the approval / consent, including hours of work during the day, still apply.

If demolition, building or construction works are required outside of the extended workdays, proponents need to seek Out of Hours approval through the relevant approval pathway.

What do the Orders mean for Environmental Protection Licence requirements?

The Orders override Environmental Protection Licence requirements as they relate to extended workdays only (clause 6 of the Orders). All other conditions of an Environmental Protection Licence continue to apply.

Are there any changes to other conditions of approval or consent?

No. Other conditions of the approval or consent have not been changed. Projects must comply with any existing conditions, except for those that restrict weekend and public holiday works.

Are there any changes to the limits of materials allowed to be brought on-site?

The limit of materials allowed to be brought onsite are the same as would apply on a standard workday. Proponents and applicants should seek to minimise any large deliveries requiring temporary road closures on the extended days, where possible.

Can I continue with construction works on external roads as approved under conditions of approval / consent?

If works are only permitted on external roads on weekdays and public holidays, it is recommended proponents and applicants consult with Transport for NSW (TfNSW) to determine if the restriction would still apply on a weekend or Public holiday.

Do the Orders allow for support business and industries that supply construction sites, to work on Saturdays, Sundays and public holidays?

Ministerial Orders: COVID-19 Development Construction Work Days



Frequently Asked Questions

At this stage, the Orders relate to extending on site workplaces only. They do not apply to support industries such as concrete batching plants or waste facilities. These businesses continue to operate under the terms of their existing consents and approvals.

How long with these extended hours be in place for?

This Orders will be in place for six months from 25 March 2020 and may be extended if needed.
