

Clarence River Crossing

SSI-6103 – Response to Covid19

Transport for NSW | July 2020



Document control

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Contents

1. Introduction	4
1.1. Purpose of this report.....	4
Appendix 1: Environmental Planning and Assessment (COVID-19 Development—Infrastructure Construction Work Days) Order 20207	
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 Clarence River Crossing is State Significant Infrastructure TfNSW completed an environmental assessment of the Additional Crossing of the Clarence River at Grafton (the Project EIS) in August 2014. The Project EIS was publicly exhibited in August 2014 for a period of 30 days. Following public exhibition, submissions from stakeholders were received and addressed by TfNSW in the Submissions Report which was lodged with the Secretary of the Department of Planning Industry and Environment (DPIE) in October 2014.

After consideration of the Project EIS and Submissions Report, the Minister for Planning approved the Additional Crossing of the Clarence River at Grafton Project under Section 115ZB of the Environmental Planning and Assessment Act 1979 (EP&A Act) on 19 December 2014 subject to the Minister's Conditions of Approval (CoA) being met (hereafter referred to as the Project Approval). Therefore the Clarence River Crossing project is required to prepare, submit and publish a Response to COVID-19.

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.

Table 1 below provides information on the:

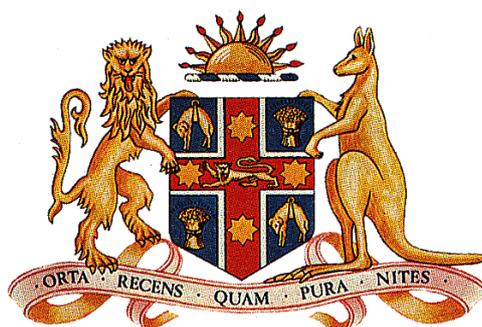
1. requirements of the project conditions of approval;
2. whether any changes are required in response to the COVID 19 circumstances and
3. any measures being put in place to achieve the same objectives as set out in conditions of approval/consent and relevant post approval documentation.

Table 1: Response to COVID19

MCoA	Condition	Changes required	Mitigation Measures
Part E - Operational Environmental Management, Reporting and Auditing			
E3	<p>The Proponent shall undertake operational noise monitoring, to compare actual noise performance of the SSI against noise performance predicted in the review of noise mitigation measures required by condition D11 within 12 months of the commencement of operation of the SSI, or as otherwise agreed by the Secretary. The Proponent shall subsequently prepare an Operational Noise Compliance 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 D11 and documents listed in condition A2; b) a review of the operational noise levels in terms of criteria and noise goals established in the NSW Road Noise Policy 2011; c) methodology, location and frequency of noise monitoring undertaken, including monitoring sites at which SSI noise levels are ascertained, with specific reference to locations indicative of impacts on sensitive receivers; d) details of any complaints and enquiries received in relation to operational noise generated by the SSI between the date of commencement of operation and the date the report was prepared; e) any required recalibrations of the noise model taking into consideration factors such as noise monitoring and actual traffic numbers and proportions; f) an assessment of the performance and effectiveness of applied noise mitigation measures together with a review and if necessary, reassessment of feasible and reasonable mitigation 	<p>No – Depending on duration of the COVID 19 Pandemic and the opportunity to determine a suitable time within the 12 month requirement to undertake the monitoring. This is due to the project opening sections of the project on 12th December 2019 and which has commenced the 12 month requirement to undertake the monitoring.</p>	<p>TfNSW will seek an extension of time from DPI&E to undertake the monitoring should the Covid 19 Pandemic result in a non-conformance with this condition.</p>

MCoA	Condition	Changes required	Mitigation Measures
	<p>measures; and</p> <p>g) identification of additional feasible and reasonable measures to those identified in the review of noise mitigation measures required by condition D11, that would be implemented with the objective of meeting the criteria outlined in the NSW Road Noise Policy 2011, when these measures would be implemented and how their effectiveness would be measured and reported to the Secretary and the EPA.</p> <p>The Proponent shall provide the Secretary and the EPA with a copy of the Operational Noise Report within 60 days of completing the operational noise monitoring referred to in (a) above or as otherwise agreed by the Secretary.</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)).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website (www.legislation.nsw.gov.au) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

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.
