

Submissions Report for amendments to State Environmental Planning Policy (Transport and Infrastructure) 2021

This document captures key themes raised in submissions relating to the proposed amendment to State Environmental Planning Policy (Transport and Infrastructure) 2021. Selected proposals were exhibited across two Explanation of Intended Effect documents from December 2021 to February 2022.

Introduction

The NSW Government continues to introduce reforms to create a better planning system. Work is underway to improve assessment timeframes and reduce complexity.

Proposed amendments to the State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) have been identified to streamline the delivery of infrastructure.

Two separate Explanation of Intended Effect documents were exhibited:

- Proposed amendments to transport provisions relate to requested changes by Transport for NSW, and were publicly exhibited from 15 December 2021 to 11 February 2022.
- Proposed amendments to Division 25 (Waterway and foreshore management activities) relate to landscape rehydration infrastructure, and were publicly exhibited from 20 December 2021 to 28 February 2022.

The proposed amendments to the transport provisions have been split into two groups:

1. Group 1 amendments were made in the State Environmental Planning Policy (Transport and Infrastructure) 2021 (Miscellaneous (No 2)) in 2022.
2. The remaining proposed amendments have been prioritised. This Submissions Report covers the highest priority proposals. The remaining proposed amendments will be part of a separate submissions report.

Public exhibition

The department received 9 submissions in response to the Explanation of Intended Effect for the proposed transport-related amendments. This feedback informed the proposed amendment to State Environmental Planning Policy (Transport and Infrastructure) Amendment 2022. One submission was received for the priority proposed amendment.

The department received 24 submissions during the public exhibition period for the proposed Division 25 Waterway and foreshore management activities proposed amendments. The respondents were classified as:

- 12 public individuals
- 3 local government
- 1 organisations

- 1 private company
- 7 State government.

Breakdown of key issues raised in submissions

The issues raised in each submission and the department’s responses are summarised in the table below.

Proposed amendment	Issues raised in submissions and the department’s response
<p>Amend Section 2.94 (Railways and rail infrastructure facilities) - exempt development by adding a provision for bush regeneration and a definition.</p>	<p>Issues raised:</p> <ul style="list-style-type: none"> • Submission supports the proposed new definition of "Bush regeneration". • Submitter requested the definition is included in '<i>Schedule 1 Exempt development—general</i>' and is limited to the removal of weeds by hand and does not include the use of machinery. • Submitter requested stated that fencing should be included in definition as they are important tools in bush regeneration. • Submitter suggested the following changes for the proposed definition (changes underlined), <i>Bush regeneration means the practice of <u>ecological restoration</u> aimed at reinstating and reinforcing an <u>ecosystem’s</u> ongoing natural <u>resilience</u> including carrying out of the following works: weed removal <u>either</u> by hand or <u>through herbicide application</u>, assisted revegetation with <u>locally indigenous plants</u>, <u>minor erosion control without soil disturbance</u>, and <u>installation of temporary fencing to protect regrowth and ecosystem recovery</u>.</i> <p>Response:</p> <ul style="list-style-type: none"> • Support noted • In response a redraft of the proposed definition reads: bush regeneration would mean <i>the practice of ecological restoration aimed at reinstating and reinforcing an ecosystem’s ongoing natural resilience including carrying out of the following works: weed removal by hand, assisted revegetation with locally indigenous or native plants, minor erosion control with minimal soil disturbance, and installation of temporary fencing to protect regrowth and ecosystem recovery. The creation of access tracks or use of machinery is not included</i> • Support including fencing in the definition of bush regeneration

Proposed amendment	Issues raised in submissions and the department's response
<p>Providing a definition of landscape rehydration infrastructure (LRI).</p>	<p>Issues raised:</p> <ul style="list-style-type: none"> • Submission supports proposed new definition with various amendments and guide is needed. • Submission considered the existing term 'environmental protection works' covers landscape rehydration infrastructure. • Submission requests that LRI include only "low impact and small-scale structures". • Submission does not support engineering and infrastructure solutions. • Submission expresses concern about potential inadvertent non-compliance and subsequent legal action. <p>Response:</p> <ul style="list-style-type: none"> • The proposed definition has been amended to read: landscape rehydration infrastructure works means works involving placing permeable structures on the bed of a stream to reduce erosion and maintain or restore flows for ecological purposes, not including works designed to impound water or impede the passage of fish. • Where proposal does not fit the definition other planning approval pathways may be available and discussions with council are advisable.
<p>Providing the planning pathway - development permitted without consent - for LRI.</p>	<p>Issues raised:</p> <ul style="list-style-type: none"> • 9 submissions supported the proposed planning pathway. • 5 submissions supported the proposed planning pathway but qualified as follows: <ul style="list-style-type: none"> ○ REF assessment needs to be site specific and design requires expertise. ○ consideration could be given to exempt development pathway ○ design needs to avoid exacerbating the Key Threatening Processes listed under Schedule 6 of the FM Act, and design may require fish passage. ○ only where it is located more than 50 m from a property boundary. ○ if waterway repair was made easier. • Submission welcomes objective to restore degraded catchments but LRI may be narrow in scope. • Submission is concerned that the red tape and associated costs will be prohibitive to farmers • Submission does not support engineering and infrastructure solutions. • Submission does not support Natural Sequency Farming as it is detrimental.

Proposed amendment	Issues raised in submissions and the department's response
	<p>Response:</p> <ul style="list-style-type: none"> • No change to the proposed “development without consent” planning pathway in order to achieve a consistent planning regime for LRI in NSW. • The proposed LRI Guide includes information requirements for the REF, as well as State government agency license or approval requirements.
<p>Including notification provisions for proposed LRI.</p>	<p>Issues raised:</p> <ul style="list-style-type: none"> • 6 submissions support notification with the following qualifications: <ul style="list-style-type: none"> ○ owners of adjoining land rather than occupiers should be notified. ○ should be assessed to ensure potential impacts on neighbouring land will be adequately mitigated. ○ if response to submission is not adequate is there an appeal process. ○ the time period for responses should be 28 days. ○ the responsibility for consulting with council and neighbouring occupiers should be by the determining authority. <p>Response: The proposal for notification is to be deleted as part of the amendment. The department considers that the proponents would be discussing the proposal with neighbours on a less formal basis.</p>
<p>Provide prescribed zones for the purposes of LRI.</p>	<p>Issues raised:</p> <p>Submission requested that the prescribed zones be broadened to include W1 Natural Waterways, E3 Environmental Management [now C3], and possibly W2 Recreational Waterways zones.</p> <p>Response: Noted. The zones will remain as exhibited. Additional zones may be considered in the future based on any review of the operation of LRI.</p>

All submissions received have been made available on the department's website.

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