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Environmental Planning and Assessment (COVID-19 Development—Construction Work Days) Order 2022

I, Anthony Roberts, the Minister for Planning, make the following Order under section 10.17 of the *Environmental Planning and Assessment Act 1979*.

I am satisfied the Order is necessary to protect the health, safety and welfare of members of the public during the COVID-19 pandemic. I have also consulted with the Minister for Health in relation to the making of this Order.



The Hon. Anthony Roberts, MP
Minister for Planning

Dated: 4/2/22

Explanatory note

The object of this Order is to permit building work, or the demolition of a building or structure on a Saturday between the hours of 8 am and 5 pm and quiet building work on a Sunday between the hours of 9 am and 5 pm.

Environmental Planning and Assessment (COVID-19 Development—Construction Work Days) Order 2022

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Order

This Order is the *Environmental Planning and Assessment (COVID-19 Development—Construction Work Days) Order 2022*

2 Commencement

This Order commences on the day it is published in the Gazette and remains in force until the end of 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*,

background noise level the underlying level of noise present in ambient noise, excluding the noise associated with the building work, when extraneous noise is removed.

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.

Part 2 Authorised development

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 Construction work

- (1) The carrying out of building work or the demolition of a building or structure on a Saturday is development specified for this Order.
- (2) The carrying out of building work on a Sunday is development specified for this Order.
- (3) The conditions specified for the development are that the development must—
 - (a) be the subject of a development consent, and
 - (b) comply with all conditions of the development consent other than any condition that restricts the hours of work or operation on a Saturday or a Sunday, and
 - (c) not be carried out unless the person carrying out the building work or the demolition of a building or a structure has taken all steps to reduce noise, and
 - (d) for building work, or the demolition of a building or structure on a Saturday, – must not -
 - a. be carried out before 8 am, or after 5 pm, or
 - b. involve blasting, rock or line drilling, vibratory rolling, rail tamping, bitumen milling or profiling, jackhammering, rock hammering, rock breaking, impact piling, sheet piling, pile driving or similar activities, unless the activity would otherwise have been permitted under the development consent but for this Order, and
 - (e) for building work on a Sunday, – must not -
 - a. be carried out before 9 am, or after 5 pm, or
 - b. involve blasting, rock or line drilling, vibratory rolling, rail tamping, bitumen milling or profiling, jackhammering, rock hammering, rock breaking, impact piling, sheet piling, pile driving or similar activities, or
 - c. be carried out if the noise and vibration threshold levels from the carrying out of the development at the site boundary exceeds the 'background noise level' by 5 dB or more, or
 - d. involve the:

- i. use of a power tool within the meaning of the *Protection of Environment Operations (Noise Control) Regulation 2017*, section 51, or
- ii. playing of music from radios or other electronic devices by workers or other persons on site.

Note. In the *Protection of the Environment Operations (Noise Control) Regulation 2017*, section 51 a **power tool** means any tool actuated by an additional power source and mechanism other than manual power and includes any of the following—

- (a) a powered garden tool (that is, a tool powered by a petrol engine or an electric motor), including a lawn mower, a lawn trimmer, a blower or sweeper, a garden mulcher, an edge-cutter or a chipper or shredder,
- (b) an electric power tool (including battery-operated power tools),
- (c) a pneumatic power tool,
- (d) a chainsaw,
- (e) a circular saw,
- (f) a gas or air compressor.

7 Suspension of regulatory instruments

For the purpose of enabling development to be carried out in accordance with clause 6, 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. The other conditions of an environment protection licence continue to apply.